

## Queenstown Lakes District Proposed District Plan – Stage 1

### Section 42A Hearing Report For Hearing commencing: 25 July 2016

Report dated: 29 June 2016

### Report on submissions and further submissions Chapter 27 Subdivision and Development

File Reference: Chp. 27 S42A

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

Mr Ulrich Glasner, Engineer – statement dated 29 June 2016; and  
Mr Garth Falconer, Urban Design – statement dated 29 June 2016.

I also refer to and rely on the evidence of Dr Marion Read, Landscape – statement dated 6 April 2016, filed in the Rural Hearing Stream 2.

## 1. EXECUTIVE SUMMARY

1.1. The structure of the Proposed District Plan (**PDP**) Chapter 27 Subdivision and Development (**Chapter 27**) has been changed from the notified version, as follows:

- (i) section 27.3 has been reformatted to include the Location Specific Objectives and policies; and
- (ii) section 27.5 has been reformatted from paragraphs to a table structure, to more closely align with the other chapters of the PDP.

1.2. I have recommended a number of significant amendments to Chapter 27 provisions in response to submissions. The most significant amendments include:

- a. The deletion of the default Discretionary Activity status for subdivision under notified Rule 27.4.1, in favour of a Restricted Discretionary Activity status particularly geared towards subdivision within rural living and urban zones (with two separate rules to cater for subdivision in urban areas, new Rule 27.5.5 and rural living, new Rule 27.5.6);
- b. Inserting a Controlled Activity status in the PDP for certain subdivision activities such as subdivision that is in accordance with a structure plan or spatial layout plan attached to the subdivision chapter (new Rule 27.7.1), and boundary adjustments (new Rule 27.5.3) (excluding boundary adjustments within Arrowtown's urban boundary and within more sensitive areas of the District, which is addressed through new Rule 27.5.4);
- c. Amending a number of objectives to read more like outcome statements;
- d. Providing stronger, and more directional policies;
- e. Deleting those zones that are referenced within the Minimum Site Area provisions that form part of Stage 2 to the District Plan Review; and
- f. Integrating a new policy and method to respond to reverse sensitivity effects associated with existing high voltage transmission corridors.

1.3. I consider that the amendments to the Chapter 27 planning provisions are more effective and efficient than the equivalent provisions in Chapter 27 as notified. In addition, I consider that the amendments are more effective and efficient than the existing Operative District Plan (**ODP**), and better meet the purpose of the Resource Management Act 1991 (**RMA**).

1.4. I further consider that the Discretionary Activity rule framework is not the most effective method in providing for subdivision activity within the District's urban and rural living

zones. A Restricted Discretionary Activity framework provides for a narrower and more transparent rule framework for developers and applicants to advance through, whilst still providing for the ability to decline an application should it be determined that it doesn't achieve the desired outcomes of the PDP.

- 1.5. The proposed changes to the provisions are shown in the Revised Chapter attached as **Appendix 1 (Revised Chapter)**.

## 2. **INTRODUCTION**

- 2.1. My Name is Nigel Roland Bryce. I am employed by Ryder Consulting Limited as an Environmental Planner and I am a Full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Resource and Environmental Planning Degree from Massey University, 1996.

- 2.2. I have 19 years' experience as a resource management practitioner in New Zealand and in the United Kingdom, which includes both public and private sector planning roles. I have a broad range of planning and process management experience and have been engaged by the Queenstown Lakes District Council (**Council**) to undertake a variety of reporting roles, including section 42A report officer for Plan Change 50 and Plan Change 46, recently approved in Queenstown and Wanaka, respectively. I have also been the section 42A reporting officer for the subdivision of the Lakes Hayes Estate subdivision, adjoining Walnut Grove Rural residential subdivision, extensive LDRZ and HDRZ and more recently processed the Shotover Park Industrial subdivision in Frankton.

- 2.3. I was recently engaged by the Timaru District Council to assist with the Council's Rural Residential Growth Strategy. This work included making recommendations to the Council on rezoning options for the District's Rural Residential Zone land supply and involved a comprehensive literature review on what constitutes a rural residential activity (and the differentiation between a rural residential and rural lifestyle property).

## 3. **CODE OF CONDUCT**

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

#### 4. SCOPE

- 4.1. My evidence addresses the submissions and further submissions received on the purpose statement, objectives and provisions of Chapter 27.
- 4.2. I discuss issues raised under broad topics, and where I recommend substantive changes to provisions I have assessed those changes in terms of s32AA of the RMA. The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, out of scope or deferred/transferred to another hearing stream.
- 4.3. Although this evidence is intended to be a stand-alone document and also meet the requirements of s42A of the RMA, the s32 Subdivision and Development report is attached as **Appendix 3** for information and reference purposes. This report links to supporting documents referenced in the s32 (on page 11 of that report), along with Monitoring reports that can be found on the Council's website at [www.QLDC.govt.nz](http://www.QLDC.govt.nz).
- 4.4. Due to the breadth of issues addressed in the PDP and submissions, the hearing of submissions has been separated into the respective chapters, or grouped into themes as much as practical. Specific new provisions that would only be necessary if a rezoning submission was successful, are not addressed in this evidence, as they are directly related to the rezoning submission itself. The relevant submissions specifically include:
  - a. Garry Strange (Submitter 168 and submission point 168.1);<sup>1</sup>
  - b. Grant Hylton Hensman, Sharyn Hensman & Bruce Herbert Robertson, Scope Resources Ltd, Granty Hylton Hensman & Noel Thomas van Wichen, Trojan Holdings Ltd (Submitter 361 and submission point 361.6, 361.7);<sup>2</sup>
  - c. Infinity Investment Group Limited (Submitter 703 and submission point 703.3);
  - d. Jeremy Bell Investments (Submitter and submission point 820.2);
  - e. NZIA Southern and Architecture + Women Southern (Submitter 238 and submission point 238.113);<sup>3</sup>
  - f. Trojan Helmet Limited (Submitter 443 and submission points 443.6, 443.7);
  - g. Trojan Helmet Limited (Submitter 452 and submission points 452.6 and 452.7);
  - h. Woodlot Properties Limited (Submitter 501 and submission points 501.21, 501.22);<sup>4</sup>
  - i. Dan Egerton (Submitter 234 and submission point 234.7);<sup>5</sup>

1 And associated further submission FS1157.43.

2 And associated further submissions FS1118.7, FS1229.7, FS1296.7, FS1102.21, FS1289.21, FS1270.101, FS1071.90, FS1071.91, FS1118.6, FS1229.6, FS1296.6, FS1102.20, FS1270.100, FS1071.89.

3 And associated further submissions FS1157.44, FS1107.118, FS1226.118, FS1234.118, FS1239.118, FS1241.118, FS1248.118, FS1249.118.

4 And associated further submissions FS1112.5, FS1102.22, FS1289.22, FS1270.102.

- j. Jillian Egerton (Submitter 346 and submission point 346.7);<sup>6</sup>
  - k. Boundary Trust (Submitter 541 and submission point 541.6);<sup>7</sup>
  - l. J M Martin (Submitter 565 and submission point 565.4); and
  - m. Glendhu Bay Trustees Limited (Submitter 583 and submission points 583.3, 583.4, 583.5).<sup>8</sup>
- 4.5. These submissions and further submissions will be addressed at the hearing on mapping (this is set out in the Recommendation Table in **Appendix 2** to this evidence).
- 4.6. A number of submissions also seek to modify the lot sizes and density rules for particular zones set out in the Subdivision Chapter. While these submissions are within scope of this hearing, I consider it significantly more efficient to the Council and submitters in terms of preparing evidence and calling experts, and to the Hearings Panel in terms of being presented with a comprehensive full consideration of the issues, if these submission points are heard in the respective hearings on those zone chapters.
- 4.7. The minimum allotment sizes for each zone is often a critical determinant of the environmental outcomes of that zone. It is often more efficient to address the merits of the zone, any submissions on the density provisions of the zone, and the associated subdivision rules within the one hearing. It is therefore recommended that those submissions and further submissions that seek changes to minimum lot areas are deferred to the relevant zone specific hearings. An example of this relates to those submitters<sup>9</sup> who have sought that the Large Lot Residential Zone is amended such that the minimum site area is reduced to 2,000m<sup>2</sup>. Further, a submission to the Jacks Point Special Zone<sup>10</sup> has sought changes to the density references within the provisions, which seek to provide for greater intensification of the Jacks Point Special Zone. These submission points have been deferred to the Hearing Streams for Residential and Special Zones, respectively.
- 4.8. The exceptions to this approach are the Rural Zone (Chapter 21), Rural Residential and Rural Lifestyle Zones (Chapter 22) and Gibbston Character Zone (Chapter 23) as these chapters have already been heard in Hearing Stream 2 in May 2016. The submissions on the allotment sizes of these zones cannot be transferred to that hearing as it has already occurred. Therefore, these submissions will be heard in the Subdivision and Development hearing.

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5 And associated further submission FS1266.8.

6 And associated further submission FS1266.17.

7 And associated further submission FS1266.25.

8 And associated further submission FS1094.3, FS1034.235, FS1094.4, FS1125.37, FS1034.236, FS1094.5, FS1034.237.

9 Submission points 166.10, 335.30, 293.1.

10 Submission points 632.61 and 632.64.

- 4.9. It is acknowledged that once the Hearings Panel has heard the submissions on minimum allotment sizes in other hearings (with the exception of those submissions relating to Chapters 21, 22 and 23), the Hearings Panel will need to retrofit any changes to the relevant supporting provisions of subdivision chapter. However these changes are not substantive to the subdivision chapter and are considered to be consequential changes to a District Wide Chapter, informed by the submissions of the respective zone chapter.
- 4.10. In responding to the submission by Submitter 145 (Upper Clutha Environmental Society (Inc))<sup>11</sup> who expresses concern regarding the Discretionary activity status for subdivision and development within Outstanding Natural Landscapes (**ONLs**) and Outstanding Natural Features (**ONFs**) and a desire for subdivision and development within these areas to be a non-complying activity, I have relied upon the conclusions reached by Mr Barr (section 42A Officer to Chapter 21 – Rural Zone).<sup>12</sup>
- 4.11. I have read, referred to, and relied on the evidence of Mr Garth Falconer (Urban Designer) and Mr Ulrich Glasnor (Council's Chief Engineer) both dated 29 June 2016 in preparing this report. I have also relied upon the Landscape evidence prepared by Dr Marion Read (Landscape Architect Consultant) that was prepared for Hearing Stream 2 dated 19 February 2016, as this relates to the minimum site area requirements applicable to the Rural Lifestyle Zone.

## 5. **BACKGROUND - STATUTORY**

- 5.1. The s32 analysis document is attached as **Appendix 3** to this evidence and provides a detailed overview of the higher order planning documents applicable to the Subdivision and Development Chapter. In summary, the following documents have been considered:

### **RMA**

- a. In particular the purpose and principles in Part 2, which emphasise the requirement to sustainably manage the use, development and protection of the natural and physical resources for current and future generations, taking into account the 'four well beings' (social, economic, cultural and environmental). The following provisions of the RMA are particularly relevant to subdivision:
- i. Section 11 (Restrictions on subdivision of land) sets out that no person may subdivide land unless expressly allowed by a rule or a resource consent; and

11 Submission point 145.32.

12 Paragraphs 11.15 to 11.24 of the Chapter 21 section 42A report.

- ii. Section 106 (Consent authority may refuse subdivision consent in certain circumstances) provides the Council the ability to refuse a subdivision consent or may grant a subdivision consent subject to conditions if:
  - (a) *'the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source'*;
  - (b) any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land, or structure by the matters set out (a); and
  - (c) if sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

### **Local Government Act 2002**

- b. In particular s14, principles relating to local authorities. Sections 14(c), (g) and (h) emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a future focussed policy approach, balanced with considering current needs and interests. Like the RMA, the provisions also emphasise the need to take into account social, economic and cultural matters in addition to environmental ones.

### **Iwi Management Plans**

- c. When preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Councils 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)*.

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

- d. Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "*give effect to*" any operative Regional Policy Statement. The Operative RPS contains a number of objectives and policies of relevance to the Rural Residential and Rural Lifestyle Zones, specifically Objectives 5.4.1 to 5.4.4 (Land) and related policies which, in broad terms promote the sustainable management of Otago's land resource by:
- i. Objective 5.4.1: To promote the sustainable management of Otago's land resources, in order:
    - (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and
    - (b) To meet the present and reasonably foreseeable needs of Otago's people and communities.
  - ii. Objective 5.4.2: To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.
  - iii. Objective 5.4.3: To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.
- e. These objectives and policies highlight the importance of the land resource being appropriately managed (so as not to compromise the District's amenity landscapes and ONLs and ONFs in terms of section 6(b) and matters under section 7(c), (f) and (g) of the RMA).
- f. Objective 9.3.3 and 9.4.3 (Built Environment) and related policies are relevant and seek to avoid remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources, and promote the sustainable management of infrastructure.

### **Proposed Otago Regional Policy Statement 2015 (Proposed RPS)**

- g. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority must "*have regard to*" any proposed Regional Policy Statement. The

Proposed RPS was notified for public submissions on 23 May 2015, and contains the following objectives and policies of relevance to Chapter 27 of the PDP:

<b>Proposed RPS 2015 Objective</b>	<b>Objectives</b>	<b>Policies</b>	<b>Relevance to the PDP subdivision and development chapter as recommended to be revised in Appendix 1.</b>
The principles of Te Tiriti o Waitangi are taken into account in resource management decision.	1.1	1.1.1, 1.1.2	The Ngāi Tahu Claims Settlement Act 1998 and several associated Statutory Acknowledgement Areas within the Queenstown Lakes District
Kai Tahu values, rights and customary resources are sustained.	1.2	21.2.1, 1.2.2, 1.2.3	Subdivision and development can affect land that is of interest and value in terms of culture and practices, ancestral lands, water, site, wahi tapu and other taonga.
The values of Otago's natural and physical resources are recognised, maintained and enhanced.	2.1	2.1.1, 2.1.2, 2.1.5, 2.1.6, 2.1.7	<p>Subdivision is a precursor to land use activities and the management of resources through subdivision includes the management of activities with regard to freshwater values, margins of water bodies, soil values, ecosystem and biodiversity values, recognising values of natural features and landscapes.</p> <p>The Subdivision chapter as notified and in the recommended revised chapter in <b>Appendix 1</b> contains objectives, policies and rules to manage natural and physical resources.</p>
Otago's significant and highly-valued natural resources are identified, and protected or enhanced.	2.2	2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.2.14, 2.2.15. Schedule 4, Schedule 5	Subdivision facilitates future land uses that can impact on resources including significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and landscapes and highly valued soil resources.

<b>Proposed RPS 2015 Objective</b>	<b>Objectives</b>	<b>Policies</b>	<b>Relevance to the PDP subdivision and development chapter as recommended to be revised in Appendix 1.</b>
Protection, use and development of natural and physical resources recognises environmental constraints.	3.1	3.1.1	Subdivision involves land that contains areas of varying sensitivity that may create opportunities or constraints for activities seeking to utilise the respective resource. Primarily this matter would be addressed through the respective zone provision, however the subdivision chapter contains policies and rules that recognise the resource management issues of the respective zones.
Risk that natural hazards pose to the communities are minimised.	3.2	3.2.1, 3.2.2, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, 3.2.10, 3.2.11	<p>A critical component of subdivision is addressing natural hazards. The RMA directly facilitates this, including through Sections 5 and 106.</p> <p>The Subdivision chapter relies on the RMA and the PDP Natural Hazards Chapter as an overarching framework to manage natural hazards.</p> <p>The policies of the PDP subdivision chapter and the recommended revised matters of control and discretion allow the Council the ability to manage natural hazards and subdivision.</p>

<b>Proposed RPS 2015 Objective</b>	<b>Objectives</b>	<b>Policies</b>	<b>Relevance to the PDP subdivision and development chapter as recommended to be revised in Appendix 1.</b>
<p>Good quality infrastructure and services meet community needs.</p> <p>Infrastructure of national and regional significance is managed in a sustainable way.</p> <p>Energy supplies to Otago's communities are secure and sustainable.</p>	3.4 and 3.5	3.4.1, 3.4.2, 3.4.3, 3.4.4, 3.5.1, 3.5.2, 3.5.3	<p>Subdivision and land development is often coupled with the design, location and installation of infrastructure.</p> <p>Subdivision is typically the primary mechanism for the construction of new infrastructure associated with new development. The PDP subdivision chapter contains objectives, policies, and rules in certain circumstances and matters of control and discretion to ensure that infrastructure designed and constructed associated with subdivision is of an appropriate standard and fit for purpose.</p> <p>Objective 3.5 and Policy 3.5.1 of the Proposed RPS recognises that the National Grid is of regional and national significance whilst Policy 3.5.3 is dedicated to protecting infrastructure of national and regional significance from adverse effects.</p> <p>Of particular relevance to the issue of reverse sensitivity effects on existing infrastructure, Policy 3.5.3(a) of the Proposed RPS Restricting the establishment of activities that may result in reverse sensitivity effects and (e) seeks the protection of infrastructure corridors for infrastructure needs, now and for the future.</p>

<b>Proposed RPS 2015 Objective</b>	<b>Objectives</b>	<b>Policies</b>	<b>Relevance to the PDP subdivision and development chapter as recommended to be revised in Appendix 1.</b>
Energy Supplies to Otago's communities are secure and sustainable	3.6	3.6.1, 3.6.2, 3.6.3, 3.6.4, 3.6.5, 3.6.6	<p>The development pattern and infrastructure location can affect both large and small scale energy supply and demand.</p> <p>The PDP subdivision chapter and the urban design guidelines encourage efficiencies through good neighbourhood connections that amongst other benefits, can reduce vehicle dependence or at least make neighbourhood layout more efficient in terms of connections and efficient roading.</p>
Urban areas are well designed, sustainable and reflect local character	3.7	3.7.1, 3.7.2, 3.7.4	<p>Subdivision design is a fundamental component of how people and communities provide for their social, economic, and cultural well-being and for their health and safety (Section 5(2) RMA).</p> <p>The PDP subdivision chapter contains objectives and policies, and the design guidelines that encourage good basic urban design principles including solar orientation of allotments, reduced vehicle dependence, good connection with community facilities and other neighbourhoods.</p>
Urban growth is well designed and integrates effectively with adjoining urban and rural environments.	3.8	3.8.1, 3.8.2, 3.8.3	Subdivision in conjunction with the respective PDP zone chapters and the Urban Development Chapter provides the provisions to manage the location or urban growth and the efficient use of infrastructure.
Public access to areas of value to the community is maintained or enhanced.	4.1	4.1.1	Esplanades and opportunities for public access are facilitated through subdivision.

Proposed RPS 2015 Objective	Objectives	Policies	Relevance to the PDP subdivision and development chapter as recommended to be revised in Appendix 1.
Sufficient land is managed and protected for economic production.	4.3	4.3.1, 4.3.2, 4.3.6	Subdivision can fragment rural land through changes in ownership and landholding sizes. These can result in both opportunities and constraints for utilising land for economic production.  I consider that the subdivision chapter is consistent with the purpose of the respective zone chapters.

### Council's Economic Development Strategy 2015:

- h. The Council's Economic Development Strategy 2015 states:

*'The outstanding scenery makes the District a highly sought after location as a place to live and visit.'*<sup>13</sup>

And

*'The environment is revered nationally and internationally and is considered by residents as the area's single biggest asset.'*<sup>14</sup>

- i. The Queenstown Lakes District (**District**) is one of the fastest growing areas in New Zealand<sup>15</sup> and a strategic policy approach is considered essential to manage future growth pressures in a logical and coordinated manner to promote the sustainable management of the valued landscape resource.
- j. The following goals, objectives, and policies of the Strategic Directions, chapter of the PDP<sup>16</sup> are relevant to Chapter 27:

3.2.3 Goal - *A quality built environment taking into account the character of individual communities*

13 QLDC Economic Development Strategy, 2015, Page 10 paragraph 5.

14 QLDC Economic Development Strategy, 2015, Page 10 paragraph 4.

15 Bird, C (2016). Statement of Evidence of Clinton Arthur Bird on Behalf of Queenstown Lakes District Council, Urban Design, page 6 paragraph 4.2.

16 Revised Chapters - Council's right of reply version 7-4-16

- 3.2.3.1 Objective - *A built environment that ensures our urban areas are desirable and safe places to live, work and play.*
- 3.2.3.2 Objective - *Development is sympathetic to the District's cultural heritage values*
- 3.2.4 Goal - *The protection of our natural environment and ecosystems*
- 3.2.4.1 Objective *Ensure development and activities maintain indigenous biodiversity, and sustain or enhance the life-supporting capacity of air, water, soil and ecosystems.*
- 3.2.4.2 Objective *Protection of areas with significant Nature Conservation Values.*
- 3.2.4.6 Objective *Maintain or enhance the water quality and function of our lakes, rivers and wetlands.*
- 3.2.4.6.1 Policy *That subdivision and / or development be designed so as to avoid adverse effects on the water quality of lakes, rivers and wetlands in the District.*
- 3.2.5 Goal - *Our distinctive landscapes are protected from inappropriate development.*
- 3.2.5.1 Objective *Protection of the Outstanding Natural Features and Landscapes from inappropriate subdivision, use and development.*
- 3.2.6 Goal - *Enable a safe and healthy community that is strong, diverse and inclusive for all people.*
- 3.2.6.3 Objective *A high quality network of open spaces and community facilities.*
- 3.2.6.4 Objective *Safe and healthy communities through good quality subdivision and building design.*
- 3.2.8 Goal – *Provide for the ongoing operation and provision of infrastructure*
- 3.2.8.1 Objective - *Maintain and promote the efficient and effective operation, maintenance, development and upgrading of the District's existing infrastructure and the provision of new infrastructure to provide for community wellbeing.*
- 3.2.8.1.1 Policy *Ensure that the efficient and effective operation of infrastructure is safeguarded and not compromised by incompatible development."*

## 6. **BACKGROUND – OVERVIEW OF THE ISSUES**

- 6.1. The purpose of the Subdivision and Development Chapter is to ensure that subdivision is well designed, located in the appropriate areas anticipated by the PDP and with the appropriate capacity for servicing and integrated transportation.
- 6.2. The section 32 report identifies a number of issues with the current subdivision provisions of the ODP. For reference, these are summarised and grouped as follows:

**A framework that provides certainty, efficiency and effective management of subdivision (Issue 1)**

- a. *The Operative District Plan subdivision chapter contains a lack of certainty for plan users and is inefficient for plan administrators. This stems from the controlled activity status class of resource consent,<sup>17</sup> which governs the 'guaranteed right' to subdivide property for the majority of zones within the District.<sup>18</sup> The subdivision chapter attempts to address all possible eventualities associated with a controlled subdivision. In addition to the objectives and policies there are approximately 29 pages of control and matters of discretion for controlled and restricted discretionary activities.<sup>19</sup> As a consequence, the Operative District Plan's subdivision chapter is overly complicated and the provisions lack clarity for plan users and administrators. As with other Operative District Plan chapters, the subdivision chapter is arranged based on the class of activity. The result is that a reader needs to trawl through nearly every page of the chapter to determine the status and framework for a particular activity.*

**Provisions to encourage good neighbourhood design and amenity (Issue 2)**

- b. *The quality and 'liveability' of neighbourhoods contained within the District's urban areas is dependent on the subdivision process. The Operative District Plan subdivision chapter is considered to fall short of encouraging good subdivision design, particularly in the context of creating good neighbourhoods for residents and taking opportunities to integrate with existing neighbourhoods and facilities. There is insufficient emphasis on the critical design elements of subdivision and development such as roading and allotment layout, open spaces, inter-subdivision and external connections and vegetation management.*

**Subdivision provisions that are accessible and efficient (Issue 3)**

- c. *The Operative District Plan subdivision chapter contains unnecessary text and qualifiers of rule status in the provisions. Provisions are repeated within the subdivision chapter or are repeated in other zone chapters. The review provides an opportunity to consolidate and better coordinate the provisions.*

17 A controlled activity status requires the Council must grant consent but can impose conditions with regard to matters set out as specific matters of control.

18 With an exception being the Rural General Zone.

19 Parts 15.2.6-15.2.19 of the Operative District Plan.

**Protection of significant natural, cultural and historic heritage through subdivision (Issue 4)**

d. *The district has many places of natural, cultural and heritage value. Subdivision can have either temporary or permanent effects on these, including the positive effect of protection. Many of these places require recognition or protection under Sections 6 or 7 of the RMA. Provisions can be included to reflect this and statutory changes that have occurred since the chapter was made operative.*

**7. RESTRUCTURE OF CHAPTER 27**

7.1. Following notification of Chapter 27, a number of submissions<sup>20</sup> were received from submitters requesting that Chapter 27 be amended so that it is consistent with other Chapters in the PDP, including through using tables and ensuring that all objectives and policies are located at the beginning of the section.

7.2. I have therefore restructured the chapter to pull forward the Location specific objectives and policies under the District Wide Objectives and policies and included the rules into a table format. Set out below is an index of where the main changes to the provisions have moved to within the Chapter. I expand upon this in Issue 13 (paragraph 21.1 to 21.17) of this evidence. This rearranging is not marked up in the Revised Chapter attached at **Appendix 1**, however any changes to the provisions themselves are marked up.

<b>Notified Provision number</b>	<b>Provision number in Appendix 1</b>
27.2 - Object/Policies – Dist Wide	27.2 - Object/Policies – Dist Wide
27.8 - Location specific Object/Policies	27.3 - Location specific Object/Policies
27.3 - Other Provisions	27.4 -Other Provisions
27.4 – Rules – Subdivision	27.5 – Rules - Subdivision
27.5 – Rules – Subdivision Standards	27.6 – Rules – Subdivision Standards
27.8 – Location Specific Rules	27.7 – Location Specific Rules

**8. SUBMISSIONS**

8.1. The RMA, as amended in December 2013 no longer requires the Council decision or a report prepared under section 42A to address each submission point. Instead, it requires a summary of the issues raised in the submissions.

20 Submission points 632.4, 636.11, 643.16, 688.10, 693.16, 702.13.

- 8.2. 1519 points of submission (both primary and further submissions) have been coded to Chapter 27.<sup>21</sup>
- 8.3. Submissions are considered by issue, or as they relate to a specific Chapter 27 provision. Some submissions contain more than one issue, and will be addressed where most relevant within this evidence. Where applicable submissions are considered by provision. I have not sought to address any submissions relating to zones that form part of Stage 2 of the District Plan Review.
- 8.4. 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 another future hearing is attached as **Appendix 2**. I have read and considered all submissions, including further submissions.
- 8.5. The PDP was notified on 26 August 2015. The submission period closed on 23 October 2015. A summary of submissions was notified on 3 December 2015. The further submission period closed on 16 December 2015.
- 8.6. A further summary of submissions was notified on 28 January 2016 following the identification of several submissions that were not summarised in the initial period.

## 9. ANALYSIS

- 9.1. The following key issues have been raised in the submissions and are addressed broadly below:

<b>Issue 1</b>	Controlled Activity for Subdivision Activity.
<b>Issue 2</b>	Controlled Activity for Subdivision in Accordance with Structure Plan.
<b>Issue 3</b>	Controlled Activity for Boundary Adjustments.
<b>Issue 4</b>	Minimum lot sizes for subdivision under Rule 27.5.1, where stage 2 district plan review zones are referenced.
<b>Issue 5</b>	Minimum lot sizes for subdivision under Rule 27.5.1.
<b>Issue 6</b>	Infill development provisions (notified rule 27.5.2 and 27.5.3).
<b>Issue 7</b>	Infill Development within Airport's Noise boundaries (ANB and Outer Control Boundary (OCB)).
<b>Issue 8</b>	Changes to the Purpose in Section 27.1.

21 I note that some of the submission points are on rezoning, and/or seek relief relating to the addition or removal of provisions to Chapter 27 that are specifically related to a rezoning, as discussed earlier in this report these submission points will be addressed in the Planning Maps hearing later in this process.

<b>Issue 9</b>	Changes to the Objectives and Policies in Section 27.2.
<b>Issue 10</b>	Changes to Non-Complying Activity Standards.
<b>Issue 11</b>	Changes to Standards for Subdivision Activities.
<b>Issue 12</b>	Changes to Standards Relating to Servicing and Infrastructure.
<b>Issue 13</b>	Changes to Location –Specific Objectives, Policies and Methods.
<b>Issue 14</b>	Amendments to Rule 27.9.1 and 27.9.2.
<b>Issue 15</b>	New Provisions.
<b>Issue 16</b>	New Zealand Fire Service and NZFS Code of Practice SNZ PAS 4509:2003.
<b>Issue 17</b>	Responses sought by Submitters deferred from other Hearing Streams.

9.2. In addition to the above, an analysis of the key issues identified by submitters is provided for each objective and related policy. Where a policy has not been submitted on or where the submission is without any coherent basis, the submission point is unlikely to have been directly discussed in this report (although a recommendation for the latter is set out in **Appendix 2**). I have set out my analysis of the provisions by issue (as above) and then by objective.

## 10. **ISSUE 1 – CONTROLLED ACTIVITY STATUS FOR SUBDIVISION ACTIVITY**

10.1. A number of submitters seek a variety of relief related to the default Discretionary Activity status under notified Rule 27.4.1. I have sought to respond to these submissions collectively as they broadly seek the same relief, being either retention of the existing Controlled Activity rule framework under the ODP, or the replacement of existing Discretionary Activity status under Rule 27.4.1, with a new Controlled Activity status. There are also submissions seeking Restricted Discretionary Activity status as it relates to the District's rural living and residential areas.

10.2. The relief sought by submissions can be broadly categorised into the following headings:

- a) Deletion of Chapter 27 and retention of ODP Subdivision and Development Standards;
- b) Combination of the objectives, policies and rules of the ODP Chapter 15 and the PDP Chapter 27;
- c) Deletion of Discretionary Activity Rule 27.4.1 and replacement with New Controlled Activity Rule for Subdivision Activity across the District;
- d) Amend Rule 27.4.1 and replacement with New Controlled Activity for Rural Residential and Rural lifestyle Zones; and

e) Amend Rule 27.4.1 and replacement with New Controlled Activity or Restricted Discretionary Rule for Rural Living and Residential Areas.

10.3. A number of submitters<sup>22</sup> have sought the deletion of Chapter 27 and retention of the ODP Subdivision and Development Chapter. The key outcome sought by these submitters is the retention of the Controlled Activity status for subdivision activity under the ODP.

10.4. A number of submitters<sup>23</sup> have sought that Chapter 27 be amended in such a manner, incorporating any combination of the objectives, policies and rules of the ODP Chapter 15 and PDP Chapter 27, as is considered appropriate provided that the default subdivision consent status (if minimum standards are met) is a controlled activity status.

*Deletion of Discretionary Activity Rule 27.4.1 and replacement with New Controlled Activity Rule for Subdivision Activity across the District*

22 Submitters (Arcadian Triangle Limited (497), The Estate of Norma Kreft (512), Dato Tan Chin Nam (FS1260), Mount Crystal Limited (FS1331), Jenny Barb (513), Wakatipu Equities (515), Fred van Brandenburg (520), Kristie Jean Brustad and Harry James Inch (522), Robert and Elvena Heywood (523), F S Mee Developments Limited (525), Larchmont Developments Limited (527), Lakes Edge Development Limited (529), Byron Ballan (530), Crosshill Farms Limited (531), Bill & Jan Walker Family Trust (532), Wayne Evans, G W Stalker Family Trust, Mike Henry (534), G W Stalker Family Trust, Mike Henry, Mark Tylden, Wayne French, Dave Finlin, Sam Strain (535), Wanaka Trust (536), Slopehill Joint Venture (537), Darby Planning LP (608), specifically submission and further submission points 497.16, 512.12, FS1260.34, FS1331.19, FS1260.36, FS1331.20, 513.42, 515.36, 520.4, 522.39, 523.13, 525.1, 527.3, 529.4, 530.13, 531.26, 532.31, 534.32, 535.32, 536.12, 537.37, 608.55, FS1260.35, FS1331.21.

23 Submitters 408 (Otago Foundation Trust Board), 497 (Arcadian Triangle Limited), 513 (Jenny Barb), 523 (Robert and Elvena Heywood), 525 (F S Mee Developments Limited), 527 (Larchmont Developments Limited), 529 (Lakes Edge Development Limited), 531 (Crosshill Farms Limited), 534 (Wayne Evans, G W Stalker Family Trust, Mike Henry), 535 (G W Stalker Family Trust, Mike Henry, Mark Tylden, Wayne French, Dave Finlin, Sam Strain), specifically submission points 408.27, 497.19, 513.45, 523.16, 525.4, 527.6, 529.6, 531.29, 534.34, 535.34.

- 10.5. Over 130 submission points have sought the deletion of the Discretionary Activity status under Rule 27.4.1 and to replace it with either the ODP rules or the introduction of a new controlled activity rule. This includes Submitters 294 (Steven Bunn), 408 (Otago Foundation Trust Board), FS1270.56 (Hansen Family Partnership), 497 (Arcadian Triangle Limited), 512 (The Estate of Norma Kreft), 513 (Jenny Barb), FS1117.198 (Remarkables Park Limited), 520 (Fred van Brandenburg), FS1164.7 (Shotover Park Limited), FS1117.200 (Remarkables Park Limited), 522 (Kristie Jean Brustad and Harry James Inch), FS1292.90 (Roger and Carol Wilkinson), 523 (Robert and Elvena Heywood), FS1164.8 (Shotover Park Limited), FS1256.16 (Ashford Trust), 525 (F S Mee Developments Limited), FS1164.9 (Shotover Park Limited), 527 (Larchmont Developments Limited), 529 (Lakes Edge Development Limited), 531 (Crosshill Farms Limited), 534 (Wayne Evans, G W Stalker Family Trust, Mike Henry), 535 (G W Stalker Family Trust, Mike Henry, Mark Tylden, Wayne French, Dave Finlin, Sam Strain), amongst others.

*New Controlled Activity Rule 27.4.1*

- 10.6. A number of Submitters including 497 (Arcadian Triangle Limited), 512 (The Estate of Norma Kreft), 513 (Jenny Barb), 515 (Wakatipu Equities), 520 (Fred van Brandenburg), 523 (Robert and Elvena Heywood), 525 (F S Mee Developments Limited), 529 (Lakes Edge Development Limited), 530 (Byron Ballan), 531 (Crosshill Farms Limited) and as well as other submitters<sup>24</sup> have sought the inclusion of a replacement Rule 27.4.1 that provides for subdivision activities as a controlled activity, with a generic rule submitted as follows:

*"All subdivision activities are ~~discretionary~~ controlled activities, except as otherwise stated:*

*Council's control is limited to:*

- *Lot sizes, averages and dimensions*
- *Subdivision design*
- *Property access*
- *Esplanade provision*
- *Natural hazards*
- *Fire fighting water supply*
- *Water supply*

<sup>24</sup> Specifically submission points 610.17, 613.17, 497.17, 512.13, 513.43, 515.37, 520.5, 522.40, 523.14, 525.2, 529.5, 530.14, 531.27, 532.33, 534.33, 535.33, 536.13, 537.38, 608.56, 761.29, 762.2, 763.14, 767.16.

- Stormwater disposal
- Sewage treatment and disposal
- Energy supply and telecommunications
- Open space and recreation
- Easements
- The nature, scale and adequacy of environmental protection measures associated with earthworks"

10.7. I note, for completeness, that the submitters (identified within footnote 24) have sought the retention of subdivision in the Rural General Zone as a Discretionary Activity.

*Controlled or Restricted Discretionary Activity Rule for Rural Living and Residential Areas*

10.8. Submitters 177 (Universal Developments Limited), FS1061.15 (Otago Foundation Trust Board), 277 (Alexander Reid), 748 (Jodi Todd) seek a Controlled Activity or Restricted Discretionary Activity status for Rule 27.4.1, where this relates to rural living and residential zones. In addition to this, and if deemed necessary, they seek the addition of design controls to be classified as controlled or restricted discretionary activity rules, to ensure good urban design outcomes are provided for.

10.9. Similarly, submitters 249 (Willowridge Developments Limited) and 336 (Middleton Family Trust) seek the addition of a new rule that provides for subdivision in the residential zones as a controlled activity.<sup>25</sup> Submitter 395 (Trustees of the Gordon Family Trust) seeks that subdivision of land zoned Medium Density Residential and Low Density Residential be a Controlled Activity.<sup>26</sup>

*Controlled Activity Rule for Subdivision within Rural Residential Zones*

10.10. Submitters 473 (Mr Richard Hanson), 219 (Juie Q.T. Limited), 396 (James Canning Muspratt), 401 (Max Guthrie), 403 (Banco Trustees Limited, McCulloch Trustees 2004 Limited, and others), 415 (Trustees of the Lake Hayes Investment Trust), FS1164.3 (Shotover Park Limited), FS1097.278 (Queenstown Park Limited), 467 (Mr Scott Conway), 476 (Keith Hindle & Dayle Wright), 500 (Mr David Broomfield) seek a controlled activity rule under Rule 27.4.1 for subdivision activity within the Rural Residential Zone.

<sup>25</sup> Submission points 249.15 and 336.4.

<sup>26</sup> Submission points 395.3.

*Controlled Activity Rule for Subdivision within Rural Lifestyle Zones*

- 10.11. Similarly, Submitters 402 (Leslie Richard Nelson and Judith Anne Nelson), 594 (Alexander Kenneth & Robert Barry Robins & Robins Farm Limited), 631 (Cassidy Trust), 157 (Miles Wilson), 283 (Sophie James), 345 (K John McQuilkin), 350 (Dalefield Trustee Ltd), 360 (Stuart Clark), 430 (Ayrburn Farm Estate Ltd), 486 (Temple Peak Ltd), 820 (Jeremy Bell Investments) seek a controlled activity rule under Rule 27.4.1 for subdivision activity within the Rural Lifestyle Zone.

*Controlled Activity Rule for Subdivision within Business and Local Shopping Centre Zone*

- 10.12. Submitter 399 (Peter and Margaret Arnott) seek that subdivision of the Medium Density Zone, Business Zone and the Local Shopping Centre Zone be a Controlled Activity.<sup>27</sup>

*Discussion*

- 10.13. The key grounds for many submitters' objections to Chapter 27 is that the section 32 evaluation does not establish that the notified provisions (including the Discretionary Activity rule framework under Rule 27.4.1) are the most appropriate methods of achieving the purpose of the RMA, and that the evaluation does not adequately assess alternative provisions.
- 10.14. In reviewing the Chapter 27 section 32 evaluation and submissions, I believe there to be three key matters that require addressing with regard to the rule framework relevant to subdivision. These are:
1. *The activity status of rules and the ability to respond to subdivision variability and design;*
  2. *Efficiencies of administration; and*
  3. *Ability to decline substandard subdivision.*

- 10.15. I address each of these matters, and the submissions that relate to them, below.

*The activity status of rules and the ability to respond to subdivision variability and design*

27 Submission points 399.10.

- 10.16. A key issue identified within the section 32 evaluation is that the ODP contains insufficient emphasis on the critical design elements of subdivision and development, such as roading and allotment layout, open spaces, inter-subdivision and external connections, and vegetation management. The s32A evaluation considers that the ODP subdivision chapter is ineffective at encouraging good subdivision design, particularly in the context of creating good neighbourhoods for residents and taking opportunities to integrate with existing neighbourhoods and facilities.<sup>28</sup> It goes on to state that the proposed Discretionary Activity framework is able to respond to the variable nature of subdivision and the magnitude of issues that need to be addressed, recognising that there is no single prescribed design for every subdivision. It concludes that a Discretionary Activity regime helps focus the importance of good quality subdivision design.<sup>29</sup>
- 10.17. I understand that there has been no direct monitoring reports prepared for the ODP Subdivision Chapter to ascertain how effective the ODP provisions were. However, from my review of the monitoring reports supporting the District's urban zones, it is evident that the effectiveness of the current controlled activity regime at driving good subdivision design is an issue, particularly within the District's Low Density Residential Zone (**LDRZ**).
- 10.18. A detailed qualitative analysis of the LDRZ included an urban design critique of a number of greenfield subdivisions undertaken by Boffa Miskell. The review concluded:
- "[o]verall, it found that the qualitative aspects of subdivisions at Lake Hayes Estate, Fernhill, Goldfields, and two subdivisions in Arthurs Point (including Atley Downs) ranged from Successful to Acceptable, but with room for improvement....".<sup>30</sup>*
- 10.19. As I will expand upon at paragraph 10.20 below, the key information from this urban design critique was that good quality subdivision design was not being achieved throughout all of the subdivisions reviewed.

28 At page 10 of the Chapter 27 section 32 evaluation.

29 At page 35 of the Chapter 27 section 32 evaluation.

30 "Urban Design Critique of Subdivisions in Queenstown Lakes District" (Appendix 1 of Garth Falconer's evidence).

- 10.20. In the case of the Wanaka LDRZ Monitoring Report, a similar urban design assessment undertaken by Boffa Miskell found that the qualitative aspects of subdivisions at Mt Iron Estate ranged between less successful and not successful. Further, subdivisions at Meadowstone ranged between successful and acceptable. The conclusion of this was that these examples show subdivision design under the ODP provisions was not achieving good design outcomes.
- 10.21. Following the urban design critique, the monitoring reports included a recommendation that during the District Plan Review, the Council clearly articulate what outcomes can be expected for neighbourhoods within the LDRZ. As a consequence, the Council introduced the QLDC Subdivision Design Guidelines into the PDP with the main aim to deliver good urban design outcomes within the District's urban areas (as reflected within Policy 27.2.1.2).
- 10.22. In the case of the Rural Residential and Rural Lifestyle Zones, the Rural Living Zones Monitoring Report, dated January 2010, did not identify any specific weaknesses in the ODP subdivision provisions. That said, as I will discuss, the Rural Lifestyle Zones are also sensitive due to their relationship with the ONLs (for example, the Makarora and Mt Barker Rural Lifestyle Zones), as a consequence there may be instances where a higher quality design response is required to address landscape sensitivities.

- 10.23. As indicated above, the section 32 analysis and monitoring reports have identified that the existing provisions are ineffective in delivering good subdivision design responses throughout the District's urban zones, particularly the LDRZs. As such, I agree with the section 32 evaluation that retaining a controlled activity status would not represent the best means of giving effect to Objective 27.2.1 or higher order policy outcomes such as Strategic Directions 3.2.3 and Objective 3.2.6.4 of the PDP.
- 10.24. While it could be argued that a controlled activity status for subdivision can deliver effective urban design responses, ultimately, a controlled activity status only allows the Council to impose conditions over those matters of control. Should subdivision design not accord with the principles and objectives set out in the Subdivision Guidelines then consent cannot be declined. In touching upon this matter, Mr Glasner (Council's Chief Engineer) highlights that while he is comfortable with a controlled activity status (on the basis that infrastructure related matters can be covered through conditions on a subdivision consent), he favours a restricted discretionary activity status where a subdivision may result in substandard road and access width configuration.<sup>31</sup>
- 10.25. Mr Glasner provides an example of where a controlled activity status may not achieve good subdivision design outcomes is where a road of insufficient width is proposed by an applicant. He notes that if a road is proposed in a subdivision that is too narrow to meet anticipated traffic numbers, then imposing conditions to widen the road as a matter of control will result in the entire subdivision layout and lot configuration changing, making the original consent and subdivision layout assessed impossible to exercise. This situation can be overcome if QLDC were able to decline consent. At the very least it would provide QLDC with sufficient scope to recommend that an application be declined on this basis and discourage the applicant from advancing inappropriate roading widths, which also raise safety concerns. While this is just one example of where the application of a controlled activity status may result in poor subdivision design outcomes, it is nonetheless helpful and demonstrates the limitations of a controlled activity status in being able to adequately respond to subdivision design issues at the time of subdivision.
- 10.26. Therefore, I do not support those submissions seeking a controlled activity status under Rule 27.4.1, or the range of various responses seeking a controlled activity rule framework for rural living and residential zoned areas within the District.

<sup>31</sup> At paragraphs 5.1 and 5.2 of his evidence



- 10.27. The Chapter 27 section 32 evaluation states that the design response in terms of both layout and provision of services for subdivision activity will vary based on the scale, location, and site specific opportunities and constraints associated with a subdivision proposal.
- 10.28. The chapter as notified has promoted a Discretionary Activity regime for the management of subdivision activity in all zones. I agree that a Discretionary Activity regime will provide Council with the ability to respond to the different requirements of subdivision and the appropriateness of their design. However, I do not consider that the section 32 analysis has demonstrated that a Discretionary Activity regime is necessarily the best mechanism to respond to subdivision in all zones. In particular, I believe that subdivision in the Rural Residential and Rural Lifestyle zones and within the District's urban areas do not require the broad assessment required of a Discretionary Activity. Collectively, these zones have been identified as being suitable for urban and rural living purposes. As a consequence, I generally consider that consideration for how development on this land occurs does not require the full spectrum of consideration provided by a Discretionary Activity rule as proposed.
- 10.29. I do note that, based on my experience, which includes over 10 years processing subdivision consents within the District, greater variability in subdivision activity is likely to exist between rural living areas and urban areas. Urban areas are likely to be serviced with community infrastructure and are less likely to raise landscape and visual amenity concerns. Conversely, Rural Living zones can generate landscape and rural amenity effects, be located in areas that are not readily serviced and can also raise more challenging matters relating to natural hazards. A case in point is the Makarora Rural Lifestyle Zone, which raises both landscape and natural hazard related issues, and in both cases generates the need for more detailed zone specific responses.<sup>32</sup> A number of submitters<sup>33</sup> have sought a Discretionary Activity rule framework be retained for the Rural General Zone and in other areas that raise sensitive landscape, natural character, cultural and heritage values (as reflected within Rules 27.5.1.4 to 27.5.1.7). I agree with the matters raised and believe that a Discretionary Activity rule framework within these areas more effectively enables the Council to respond to the section 6 and 7 matters of the RMA.

32 Refer to Plan Change 14 to the partial Operative District Plan that addressed landscape and natural hazard issues retrospectively after the area was zoned Rural Lifestyle through submissions on the Proposed District Plan 1995. <http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-14-makarora-rural-lifestyle-zone/>

33 Specifically submission points 610.17, 613.17, 497.17, 512.13, 513.43, 515.37, 520.5, 522.40, 523.14, 525.2, 529.5, 530.14, 531.27, 532.33, 534.33, 535.33, 536.13, 537.38, 608.56, 761.29, 762.2, 763.14, 767.16

- 10.30. Given the conclusions I have reached above, I do not consider that either a default Controlled Activity rule or default Discretionary Activity rule are particularly effective at generally responding to subdivision development within the District.
- 10.31. I consider that a controlled activity status is likely to be appropriate when the subdivision application is undertaken in accordance with a structure plan or spatial layout plan that is included in the PDP. In these circumstances there is a level of certainty to both proponents and decision makers of what is expected in terms of subdivision design and the plan change process that the structure/spatial layout plan is derived from has identified opportunities, constraints and effects of the future subdivision and land use activities.
- 10.32. Because of this level of certainty derived from a structure/spatial layout plan, I consider that it is appropriate that these types of subdivision activities have a controlled activity status on the basis that if the subdivision is in accordance with the structure plan, it is unlikely to be substandard and the necessity for the Council to have to decline a resource consent application is unlikely. I have therefore included a new controlled activity at 27.7.1 in **Appendix 1**.
- 10.33. Making subdivision in these circumstances a controlled activity also serves to provide an incentive to plan change proponents to offer structure/spatial layout plans for inclusion in the subdivision chapter. This is considered to be good planning practice.

*Efficiencies of administration*

- 10.34. The section 32 evaluation sets out that the use of a Discretionary Activity framework removes the requirement for the Council to specify matters of control or discretion.<sup>34</sup> It further identifies that this is one of the ODP's current complexities, which frustrates its implementation. Currently, in addition to the objectives and policies, there are 29 pages containing matters of control and discretion (Parts 15.2.6-15.2.19 of the ODP). The section 32 evaluation states that the management framework of the ODP results in significant complexities in terms of confirming the class of activity and the multiple elements of assessment that both the applicant and Council officers are required to consider at the time of resource consent.

<sup>34</sup> At page 32 of the Chapter 27 section 32 evaluation report.

- 10.35. Consequently, the section 32 evaluation concludes that the discretionary activity status significantly improves efficiency, by removing the requirement for the Council to specify the matters of control or discretion. It also considers that the proposed provisions are, as a result, significantly more effective and efficient than the existing ODP subdivision provisions.<sup>35</sup> However, I do not consider that a smaller District Plan in terms of text, will necessarily result in a more efficient document to use, nor result in better environmental outcomes.
- 10.36. The section 32 evaluation sets out that the removal of many of the matters of control/assessment will ensure that consideration of applications focuses the assessment on matters at issue. It considers that these matters are better addressed in the general and specific policies, the QLDC Land Development and Subdivision Code of Practice (**Code of Practice**), and the QLDC Subdivision Design Guidelines (**Subdivision Guidelines**) than as assessment criteria or matters of control.
- 10.37. In terms of efficiencies delivered through the removal of assessment matters within the ODP, I note that other zone chapters supporting Stage 1 of the District Plan Review have been streamlined by removing assessment criteria, yet still retain both Controlled and Restricted Discretionary Activity classes. As such, I believe that a Discretionary Activity regime is not necessarily required in order to make Chapter 27 more efficient to use and administer. I consider that a Restricted Discretionary Activity regime for subdivision, where matters of discretion are targeted to address specific issues could also introduce efficiencies. Further, this alternative regime is likely to be more effective in guiding plan users as to those matters that are central to achieving good subdivision design, appropriate infrastructure and servicing requirements, and consequently appropriate environmental outcomes.
- 10.38. The section 32 evaluation sets out that guidance for designing a subdivision and assessing whether it is appropriate under Chapter 27 will be achieved by:
- a) Having regard to the objectives and policies in the subdivision chapter (both high level and fine grained);
  - b) Referencing as an 'other matter' under s104(c) of the RMA the Code of Practice and the Subdivision Guidelines; and
  - c) Providing specific policy to assist with assessing applications, derived from the ODP's specified matters of control.<sup>36</sup>

35 At page 35 of the Chapter 39 section 32 evaluation.

36 At page 35 of the Chapter 27 section 32 evaluation.

- 10.39. Some submitters raised the concern that a Discretionary Activity rule regime may not provide the necessary guidance for plan users on the relevant issues to be addressed and the outcomes sought by development. Delivering effective guidance on subdivision design is clearly expressed within the relief sought by a number of submitters to Rule 27.4.1.
- 10.40. In particular, Submitter 370 (Paterson Pitts Group) seeks to ensure that clear guidance material is provided to Council planning officers processing applications, to ensure consistency and transparency in how the discretionary activity classes are designed to be administered, and generally understood by the community.<sup>37</sup> Similarly, Submitters 177 (Universal Developments Limited), FS1061.15 (Otago Foundation Trust Board), 277 (Alexander Reid), and 748 (Jodi Todd) seek the addition of design controls (to either a Controlled or Restricted Discretionary Activity) that will ensure good urban design outcomes are provided for in both the rural living and residential zoned areas of the District.
- 10.41. In my opinion, there is a need for subdivision activity to be guided by planning provisions that provide greater direction as to the desired subdivision outcomes within the District's Rural Living and Urban zones. This conclusion has partly been reached by the review of the monitoring reports discussed in paragraph 10.17. While avoiding the reintroduction of an exhaustive list of assessment matters into the subdivision chapter, I agree with the relief sought by submitters that seek a change to the framework by providing guidance through an alternative Restricted Discretionary Activity rule regime.
- 10.42. The Subdivision Guidelines are only intended to apply to urban areas, given that it is within these urban areas that the greatest level of urban intensification is to occur. As a consequence, I consider that it is appropriate that the Subdivision Guidelines are applied to the urban areas in order to achieve good subdivision design. In my opinion, providing a Restricted Activity rule framework with specific reference to the Subdivision Guidelines as a matter of discretion as this relates to the urban areas of the District will promote plan effectiveness and administration. This approach also avoids the need for the Subdivision Guidelines to be referred to as an 'other matter' under section 104 of the RMA, which may be less effective than referencing the Subdivision Guidelines within the rule framework itself.<sup>38</sup>

37 Refer to submission point 370.6.

38 This is similar to the approach already advanced under the PDP in Arrowtown where the Arrowtown Design Guidelines 2006 are specifically referenced as a matter of discretion for resource consents in the Arrowtown Town Centre Zone, and Arrowtown Residential Historic Management Zone, the LDRZ and proposed MDRZ under the PDP.

10.43. I do acknowledge that the section 32 evaluation concluded that a Restricted Discretionary Activity was less effective in responding to the ODP efficiency issues than a Discretionary Activity status. However, I consider that by removing existing assessment criteria and introducing a Restricted Discretionary Activity rule framework that provides a more targeted response to subdivision activity within the District's rural living and urban areas, the plan efficiency issues the Council sought to deliver within Chapter 27 are still able to be achieved.

10.44. As discussed in paragraph 10.27 above, variability in subdivision activity is likely to exist between rural living areas and urban areas. Consequently, I consider it would be more effective for Chapter 27 to be amended to provide a separate Restricted Discretionary Activity rule framework that responds to the variability in subdivision activities within the District's rural living and urban areas. I therefore recommend that the following Restricted Discretionary Activity rule apply to the urban zones<sup>39</sup> located within the District's urban growth boundaries (shown in **Appendix 1**):

*27.5.5 All subdivision activities contained within urban areas identified within the District's Urban Growth Boundaries and includes the following zones:*

1. *Low Density Residential Zones;*
2. *Medium Density Residential Zones;*
3. *High Density Residential Zones;*
4. *Town Centre Zones;*
5. *Arrowtown Residential Historic Management Zone;*
6. *Large Lot Residential Zones;*
7. *Local Shopping Centres;*
8. *Business Mixed Use Zones;*
9. *Queenstown Airport Mixed Use Zone.*

*Discretion is restricted to all of the following:*

- *Lot sizes, averages and dimensions, including whether the lot is of sufficient size and dimensions to effectively fulfil the intended purpose of the land use;*
- *The extent to which the subdivision design achieves the subdivision and urban design principles and outcomes set out in QLDC Subdivision Design Guidelines;*
- *Property access and roading*

39 Low Density Residential Zones, Medium Density Residential Zones, High Density Residential Zones, Town Centre Zones, Arrowtown Residential Historic Management Zone, Large Lot Residential Zones, Local Shopping Centres, Business Mixed Use Zones, Queenstown Airport Mixed Use Zone

- *Esplanade provision*
- *Natural hazards*
- *Fire fighting water supply*
- *Water supply*
- *Stormwater disposal*
- *Sewage treatment and disposal*
- *Energy supply and telecommunications*
- *Open space and recreation, and*
- *Easements*

10.45. The matters of discretion are broadly consistent with the controlled activity matters identified by submitters in paragraph 10.6 of this evidence. In the case of the urban areas I have expanded upon the matters of discretion to address lot configuration and linkage back to the subdivision and urban design principles and outcomes set out in QLDC Subdivision Design Guidelines. These matters of discretion, along with the supporting policy framework supporting Chapter 27 are fundamental in guiding good subdivision design.

10.46. Within the District's Rural Residential and Rural Lifestyle Zones, I also recommend the following Restricted Discretionary Activity rule (shown in **Appendix 1**):

27.5.6 **All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones**

*Discretion is restricted to all of the following:*

- *In the Rural Lifestyle Zone the location of buildings platforms;*
- *Lot sizes, averages and dimensions, including whether the lot is of sufficient size and dimensions to effectively fulfil the intended purpose of the land use;*
- *Subdivision design including:*
  - *the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;*
  - *the extent to which the location of building platforms could adversely affect adjoining non residential land uses;*
  - *orientation of lots to optimise solar gain for buildings and developments;*
  - *the effects of potential development within the subdivision on views from surrounding properties;*
  - *In the case of the Makarora Rural Lifestyle Zone, the concentration or clustering of built form to areas with high potential to absorb development, while retaining areas which are more sensitive in their natural state;*
  - *In the Rural Residential Zone at the north end of Lake Hayes, whether and to what extent there is the opportunity to protect and restore wetland areas in order to assist in reducing the volume of nutrients entering Mill Creek and Lake Hayes;*
- *Property access and roading*
- *Esplanade provision*
- *Natural hazards*
- *Fire fighting water supply*
- *Water supply*
- *Stormwater disposal*
- *Sewage treatment and disposal*
- *Energy supply and telecommunications*
- *Open space and recreation*
- *Easements*

10.47. The central difference between the lists of discretion in new rules 27.5.5 and 27.5.6 relates to the Council's Subdivision Guidelines specified within the urban areas (which as I have noted, in paragraph 10.40 of this evidence, the Subdivision Guidelines do not apply to the rural living areas), as well as the need to consider matters of discretion relating to the location of building platforms in the Rural Lifestyle Zone and broader rural amenity and rural character considerations that are applicable to rural living areas.

*Ability to decline substandard Subdivision*

10.48. As identified above, the monitoring undertaken in association with the section 32 evaluation identified that historically the design of subdivisions has not achieved good design practice. As the applications have been considered as Controlled Activities, the Council has not had the ability to decline them, even if it is considered that they do not represent good design outcomes.

10.49. In response to this, the PDP has proposed a Discretionary Activity regime in order to allow Council to decline a resource consent application if considered necessary. The analysis within the section 32 assessment identifies that the District has many places of natural, cultural and heritage value and that a discretionary activity regime will help focus the importance of these values through better subdivision design. Further, it avoids instances where the controlled activity status establishes an unrealistic expectation where a site may be constrained by hazards (acknowledging section 106 of the RMA also provides scope for this irrespective of the activity status) or the applicant and the Council cannot reach agreement over the design. This includes the provisions of services or whether the roading widths and layout are considered to be substandard.

- 10.50. A number of submitters, including Submitters 634 (Trojan Holdings Limited) and 556 (Skyline Enterprises Limited)<sup>40</sup> consider that a Discretionary Activity regime will impose significant uncertainty, cost and time delays on simple subdivisions and does not represent sustainable management. I appreciate that the ability to decline consent elevates the consent risk to developers, which can then result in uncertainty for investment decisions and can in turn constrain development. In touching upon this, the section 32 analysis sets out that a review of the activity status of granted subdivision consent applications processed from 2009 to 2015 under the ODP subdivision chapter identifies that 31% of applications processed and granted had a controlled activity status. The majority of applications (69%) had an activity status that enabled the Council the ability to decline consent, and therefore represented an elevated risk to developers. As such, the ability to decline consent is a feature of the existing ODP subdivision chapter.
- 10.51. As acknowledged within the section 32 analysis, it is anticipated that even under a Discretionary Activity regime, very few applications would be declined, in line with current practice. Rather, the Council's approach to development is co-operative, which includes working with the applicant to reach a suitable outcome, as opposed to declining an application outright. While a Discretionary Activity rule regime may be effective in addressing instances where the applicant and the Council cannot reach agreement over the design, including the provisions of services, this can also be achieved through the use of a Restricted Discretionary Activity rule regime. Such a regime would need to include matters of discretion that are sufficiently broad to respond to (i) design, (ii) subdivision infrastructure considerations, and (iii) environmental issues, as I have set out above.
- 10.52. In relation to the submissions raising concerns regarding certainty for developers, I note that the ODP dispenses with the need to notify applications for controlled or restricted discretionary activities (Rule 15.2.2.6(i)). This is a feature in Chapter 27, albeit applying to discretionary activity subdivision in the urban zones and the Rural Lifestyle and Rural Residential Zones under Rule 27.9.1. I consider this to be an important tool and can assist in alleviating some of the issues raised by submitters relating to uncertainty.
- 10.53. I have considered the submissions regarding the potential to generate unnecessary complexity, cost and time delays in relation to a Discretionary Activity subdivision rule. In my experience preparing and assessing Discretionary Activity subdivision applications invariably leads to greater costs associated with the preparation and assessment of an application, given that discretion or control is not limited. Applications require a broader

40 Submission point 556.11.

assessment of environmental effects, and in the case of a more complex subdivision proposal could result in significant additional costs and delays in advancing a subdivision application. These costs are likely to be passed onto future lot purchasers, and could further add to increased section costs. The economic costs of preparing subdivision applications under a Discretionary Activity rule regime are discussed within the section 32 evaluation. Specifically, it is acknowledged that the removal of specified criteria could result in a loss of direction or guidance in the application and processing of subdivision proposals, where the status allows for the application to be declined.<sup>41</sup>

- 10.54. In my opinion, the economic costs to the applicant and potential social costs to the community (through increased section costs) could be reduced in those areas identified as being suitable for development (being the Rural Lifestyle and urban zoned area) by adopting a Restricted Discretionary Activity regime. Such a regime would require the matters of discretion over which the Council is considering an application to be specified, and as such provide certainty to applicants yet appropriate control to Council. This may better focus the range of matters that are to be considered and therefore make the provisions more effective for plan users (both in terms of preparing applications and processing them).
- 10.55. While I do not support the replacement controlled activity rule sought in the submitters' alternative relief to Rule 27.4.1, I do support utilising the matters of control set out by submitters in paragraph 10.6 of this evidence as the basis for the alternative Restricted Discretionary Activity rule framework set as out in this evidence.

#### *Recommendation*

- 10.56. I accept the relief of Submitters 177 (Universal Developments Limited), FS1061.15 (Otago Foundation Trust Board), 277 (Alexander Reid), and 748 (Jodi Todd) that subdivision activity be a Restricted Discretionary Activity in the District's rural living and urban areas.
- 10.57. In terms of matters over which the Council has restricted its discretion, I accept (in part) the relief sought by submitters set out in paragraph 10.6 of this evidence, and adopt and expand upon the matters of control suggested in their proposed controlled activity rule as the basis for the matters over which the Council has limited its discretion.
- 10.58. I accept (in part) the relief of Submitters 277.1, 610.17, 613.17, 497.17, 512.13, 513.43, 515.37, 520.5, 522.40, 523.14, 525.2, 529.5, 530.14, 531.27, 532.33, 534.33, 535.33,

41 At page 13 and 39 of the Chapter 27 section 32 evaluation.

536.13, 537.38, 608.56, 761.29, 762.2, 763.14, 767.16 that subdivision within the Rural General Zone be retained as a Discretionary Activity under renumbered Rule 27.5.8.

10.59. Consequently, I recommend the following amendments to notified Rule 27.4.1:

- (a) Two separate Restricted Discretionary Activity rules for subdivision activity in the District's urban (new Rule 27.5.5) and rural living areas (new Rule 27.5.6), where matters of discretion are specified, including integration of the Council's Subdivision Guidelines as a matter of discretion to be applied to the District's urban zones;
- (b) Retaining a Discretionary Activity regime for more sensitive areas (as is already the case under notified Rules 27.5.1.4 to 27.5.1.7) and within the Rural Zone (and now renumbered 27.5.9, 27.5.10, 27.5.11 and 27.5.12);
- (c) Retaining non-notification clause under notified Rule 27.9.1 as this relates to a) above.

10.60. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

## 11. **ISSUE 2 – RULE 27.4.3 - CONTROLLED ACTIVITY STATUS FOR SUBDIVISION IN ACCORDANCE WITH A STRUCTURE PLAN**

11.1. Three Submissions by Submitters 456 (Hogans Gully Farming Limited), 632 (RCL) and 696 (Millbrook Country Club Ltd (**MCCL**)) seek that notified Rule 27.4.3 (Restricted Discretionary Activity for subdivision in accordance with a structure plan) be changed to a controlled activity.<sup>42</sup> RCL's submission was supported by further submission FS1097.638 (Queenstown Park Limited) and opposed by seven further submissions.<sup>43</sup>

### *Discussion and Recommendation*

11.2. Submitter 632 (RCL) sets out that in situations such as the Jacks Point Zone where there is a structure plan in place, the ability to undertake a controlled activity subdivision is reasonable. Similarly, Submitter 696 (MCCL) considers that it is sufficient for subdivision to be a controlled activity within the Millbrook Zone. The Submitter considers that the outcomes provided for are prescribed by a detailed structure plan and the certainty controlled activity status provides a landowner or developer (over restricted discretionary status) is an economic benefit which provides confidence for investment. MCCL seeks

<sup>42</sup> Submission points 456.30, 632.63, 696.20.

<sup>43</sup> FS1217.64, FS1219.64, FS1252.64, FS1277.67, FS1316.63, FS1275.237, FS1283.177.

the following amendments to notified Rule 27.4.3 (deletions shown in ~~struckthrough text~~ and additions shown in underlined text):

a. Subdivision undertaken in accordance with a the Millbrook Structure Plan ~~or spatial layout plan that is as set out in Section 43 identified in of the District Plan.~~

~~Discretion Control~~ is restricted to:

- Allotment sizes and configuration.
- Property access.
- Landscaping and vegetation.
- Heritage.
- Infrastructure and servicing (including stormwater design).
- Natural and other hazards.
- Open space or reserves.
- Earthworks.
- Easements.

11.3. As I have discussed under Issue 1 (paragraph 10.29 to 10.30 of this evidence), I support a controlled activity status where the subdivision application is undertaken in accordance with a structure plan or development plan that is included in the PDP through this review of a plan change / variation. In these circumstances there is a level of certainty to both proponents and decision makers of what is expected in terms of subdivision design and the plan change process that the structure/development plan is derived from has identified opportunities, constraints and effects of the future subdivision and land use activities.

11.4. I accept, in part, the submission by MCCL relating to the need for matters of control to be specified and consider that the relief sought within the submitters relief could be extended to cover a default rule that applies under notified Rule 27.4.3 (renumbered 27.7.1), subject to minor amendments set out in **Appendix 1** to this evidence. I also note that other submitters have sought amendments to the Zone Specific provisions, which I have responded to separately under Issue 12 (paragraph 21.1 to 21.17) of this evidence. I accept, in part, the submission points 456.30, 632.63, 696.20 and FS1097.638 and reject further submission points FS1217.64, FS1219.64, FS1252.64, FS1277.67, FS1316.63, FS1275.237, and FS1283.177.

11.5. I note, for completeness, that I have also recommended that notified Rule 27.4.3 (now renumbered to Rule 27.7.1) be transferred into a rule table along with a number of

Location specific standards). This change responds to Submitters<sup>44</sup> who request that Chapter 27 be amended so that it is consistent with other Chapters in the PDP, including through using tables and ensuring that all objectives and policies are located at the beginning of the section. I expand upon this in Issue 12 (paragraph 21.1 to 21.17) of this evidence.

11.6. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

## 12. **ISSUE 3 – NEW RULE 27.5.5 – CONTROLLED ACTIVITY STATUS FOR BOUNDARY ADJUSTMENTS**

12.1. A number of submitters<sup>45</sup> seek a new rule 27.5.5 be inserted to provide for a controlled activity for boundary adjustments.<sup>46</sup> The submitters proposed new rule provides:

*"Where there are two or more existing lots which have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:*

- (i) the building platform is retained.*
- (ii) no additional separately saleable lots are created.*
- (iii) the areas of the resultant lots comply with the minimum lot size requirement for the zone."*

12.2. I note that a number of submitters have sought to provide for controlled activity boundary adjustment relief to other provisions of Chapter 27. By way of example, Submitter 806 (Queenstown Park Limited) has sought that Objective 27.2.8 provide for boundary adjustments as a controlled activity, and recognise that they do not create a demand for services.<sup>47</sup>

### *Discussion*

12.3. Chapter 27 provides for a limited range of boundary adjustment subdivision activities under notified Rule 27.6.1.1 as a permitted activity.<sup>48</sup> Beyond the confines of the limitations of notified Rule 27.6.1.1, boundary adjustment subdivision activity is a

44 Submission points 632.4, 636.11, 643.16, 688.10, 693.16, 702.13.

45 Submitters 532 (Bill & Jan Walker Family Trust), FS1157.59 (Trojan Helmet Ltd), 535 (G W Stalker Family Trust, Mike Henry, Mark Tylden, Wayne French, Dave Finlin, Sam Strain), 762 (Jacks Point Residential No.2 Ltd, Jacks Point Village Holdings Ltd, Jacks Point Developments Limited, Jacks Point Land Limited, Jacks Point Land No. 2 Limited, Jacks Point Management Limited, Henley D), 763 (Lake Hayes Limited), 767 (Lake Hayes Cellar Limited).

46 806.176, 806.190, 532.34, 534.35, FS1157.59, 535.35, 762.3, 763.15, 767.17.

47 Submission point 806.190.

48 An adjustment to existing cross-lease or unit title due to an alteration to the size of the lot by alterations to the building outline, the conversion from cross-lease to unit title, the addition of an accessory building, or the relocation of accessory buildings providing the activity complies with all other provisions of the District Plan or has obtained resource consent.

Discretionary Activity under notified Rule 27.4.1. It is noted that the ODP provides for boundary adjustments within the Rural General Zone as a controlled activity.<sup>49</sup>

- 12.4. The section 32 evaluation identifies that of the 677 subdivisions advanced between 2009 to 2015, 125 were boundary adjustments. Of these, 54% were processed as a controlled activity.
- 12.5. The section 32 evaluation provides for little commentary justifying why a Discretionary Activity regime is required to support boundary adjustments that extend beyond the limitations of notified Rule 27.6.1.1. In relation to this form of subdivision activity, boundary adjustments do not typically generate adverse effects. The only example of concerns being raised during monitoring of the ODP provisions related to the amalgamation of urban lots in Arrowtown (relating predominantly to the LDRZ), which then resulted in potentially larger scale dwellings being erected close to Arrowtown's more sensitive Old Town Residential area.
- 12.6. In justifying the relief in its submission, Queenstown Park Limited, sets out that boundary adjustments are an important mechanism and the policy supporting provisions for them should be reflected in the rules. Notified Objective 27.2.8 and supporting policies 27.2.8.1 and 27.2.8.2 seek to facilitate boundary adjustments. I agree that boundary adjustments are an important mechanism that should be provided for within the PDP as they enable efficient use of land and ownership without increasing density, and provide for the ability to respond to changes in cross lease and unit title structures within a variety of development scenarios. Provided they are governed by an appropriate rule framework that limits potential adverse effects I am satisfied that Chapter 27 should be supported with a more enabling rule framework to support boundary adjustments.
- 12.7. I therefore generally support the relief sought by Submitters seeking the introduction of a new Rule 27.5.5 to Chapter 27 (renumbered 27.5.3). The relief sought broadly aligns with existing Rule 15.2.6.3(i)(b) of the ODP.
- 12.8. In my opinion, it is both effective and efficient that boundary adjustment subdivision is provided for as a controlled activity in areas of the District where it is unlikely that the boundary adjustment will result in any adverse effects on the receiving environment. I consider it important, however, that a greater level of control/discretion is placed on boundary adjustments that have the potential to impact upon the District's ONLs and

49 Rule 15.2.3.2(b)(i).

ONFs, Significant Natural Areas scheduled in the PDP and special character areas, such as Arrowtown, where boundary adjustments can result in:

- (a) the introduction of arbitrary lines in sensitive landscape settings;<sup>50</sup> and
- (b) large scale buildings being development close to areas of historic importance.

12.9. As such, to ensure that boundary adjustments do not erode matters under section 6(b), (c), and (f) of the RMA, I recommend that boundary adjustments involving land within areas identified in notified Rules 27.5.1.5 to 27.5.1.7 (being Heritage Landscape, archaeological Site, Significant Natural Area) be retained as a discretionary activity (under renumbered Rules 27.5.9, 27.5.10, 27.5.11 and 27.5.12). Given the issues raised during monitoring of the Arrowtown Historic Residential Management Zone relating to the creation of larger scale properties bordering the Old Residential Town Area, I consider it appropriate that boundary adjustments within the Arrowtown urban growth boundary be a restricted discretionary activity (under new Rule 27.5.4).

12.10. Further, Submitters 672 (Watertight Investments Ltd) and 688 (Justin Crane and Kirsty Mactaggart) made submissions on notified Rule 26.6.2. As they relate to matters associated with subdivision, the submissions were deferred to the Chapter 27 Hearing. I discuss these submissions in more detail under section 16 of this evidence (at paragraphs 25.1 to 25.9). The submitters sought that subdivision of any site containing all or part of a protected feature be a restricted discretionary activity, with restriction being limited to the impact of the proposed subdivision on the heritage values of the protected item(s).<sup>51</sup> As I have discussed in paragraph 12.5 in relation to boundary adjustments located within Arrowtown's urban boundary, as well as a site that contains a heritage or any other protected item or schedule in the District, I believe that it is appropriate for these to be considered as a restricted discretionary activity, with matters of discretion being limited to the impact of the proposed boundary adjustment on the heritage values of the protected item(s) or adjoining heritage character areas.

#### *Recommendation*

12.11. I accept (in part) the relief of Submitters 806.176, 806.190, 532.34, 534.35, FS1157.59, 535.35, 762.3, 763.15, 767.17 that boundary adjustments are provided for by a controlled activity rule (under new Rule 27.5.3), with the exception of boundary adjustments within Arrowtown's urban boundary and on a site that contains a heritage or any other protected

<sup>50</sup> Through the establishment of fencing lines.

<sup>51</sup> Submission points 672.23 and 688.19.

item or schedule in the District, which are to be dealt with under a separate restricted discretionary activity (under new Rule 27.5.4).

12.12. I recommend areas identified under notified Rules 27.5.1.5 to 27.5.1.7 be retained (renumbered Rules 27.5.9, 27.5.10, 27.5.11 and 27.5.12) as a discretionary activity (including as this relates to boundary adjustments).

12.13. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

13. **ISSUE 4 – MINIMUM LOT SIZES FOR SUBDIVISION UNDER NOTIFIED RULE 27.5.1, WHERE STAGE 2 DISTRICT PLAN REVIEW ZONES ARE REFERENCED**

13.1. I note that notified Rule 27.3.3.1 sets out a list of zones that are not part of PDP: Stage 1 (at the date of notification: 26 November 2015). The intent of the guidance set out in this rule is to reinforce that the zones listed are not affected by the Stage 1 subdivision provisions set out in Chapter 27. However, I note that there are a number of specific zones listed within the Minimum Lot Area requirements under Rule 27.5.1 that are not part of Stage 1 and will form part of Stage 2.

13.2. I note, for completeness, that some submitters have sought clarification that the subdivision chapter does not apply given that the zones they are interested in form part of Stage 2. Submitter 806 (QPL) seeks clarification confirming that the subdivision chapter does not apply to Queenstown Park Special Zone in its entirety.<sup>52</sup>

13.3. In my opinion, it is not good practice for Stage 2 zones to be referenced within the Minimum Lot Area table under notified Rule 27.5.1, given that minimum site sizes (for subdivision) for Stage 2 zones should be considered alongside that zone's relevant standards which are to be considered in Stage 2.

13.4. I, similarly note, that 'Township and All Other Zones' is referenced under notified Rule 27.5.1.2 as this relates to minimum dimensions. The Township Zone forms part of Stage 2 and reference to this zone in Chapter 27 is inappropriate given the intent of Chapter 27 to only apply to Stage 1 zones. This is a matter that is to be addressed by Council within legal submissions for Chapter 27.

13.5. Given the above, I recommend that notified Rules 27.5.1 and 27.5.1.2 be amended as follows:

52 Submission point 806.164.

Minimum Lot Area table under Rule 27.5.1

<b>Industrial</b>	Industrial A	200m <sup>2</sup>
	Industrial B	4000m <sup>2</sup>  Except that the minimum lot size shall be 200m <sup>2</sup> where the subdivision is part of a complying combined land use/ subdivision consent application or where each lot to be created, and the original lot, all contain at least one business unit.
<b>Township</b>	Makarora	4000m <sup>2</sup>
	Kingston	800m <sup>2</sup>
	Glenorchy	800m <sup>2</sup>
	Lake Hawea	800m <sup>2</sup>
	Luggate	800m <sup>2</sup>
	Kinloch	800m <sup>2</sup>
	Albert Town	600m <sup>2</sup>
	Riverside Stage 6 Subzone A	50-55% of lots will be developed to a minimum area of 400m <sup>2</sup> Average lot size: 600m <sup>2</sup> Maximum lot size: 800m <sup>2</sup>
	Riverside Stage 6 Subzone B	Average lot size: 800m <sup>2</sup> (minimum 700m <sup>2</sup> , maximum 1000m <sup>2</sup> )
	Riverside Stage 6 Subzone C	Minimum 1,000m <sup>2</sup> , maximum 2000m <sup>2</sup>

Minimum Dimensions table under Rule 27.5.2

<b>Zone</b>		<b>Minimum Dimension (m = metres)</b>
<b>Residential</b>	Medium Density	12m x 12m
	Large Lot Urban	30m x 30m
	Township and All others	15m x 15m
<b>Rural Residential</b>	Rural Residential (inclusive of sub-zones)	30m x 30m

#### 14. ISSUE 5 – MINIMUM LOT SIZES FOR SUBDIVISION UNDER RULE 27.5.1

- 14.1. The minimum lot area provisions under notified Rule 27.5.1 generated a significant number of zone specific responses by submitters. As set out in paragraphs 4.6 and 4.7

above, all zones except the Rural, Rural Residential, Rural Lifestyle and Gibbston Character Zones are transferred to the respective hearing stream of the zone.

### **Rural Lifestyle Zone Minimum site Area**

- 14.2. A number of submitters<sup>53</sup> seek that the two hectare average requirement under notified Rule 27.5.1 be reduced to a 1ha average, or in the alternative, a one hectare minimum lot size for the Rural Lifestyle Zone is provided for.<sup>54</sup>
- 14.3. Other submitters<sup>55</sup> seek that the minimum lot size for the Rural Lifestyle Zone is amended to one hectare under notified Rule 27.5.1.<sup>56</sup> The relief sought by the above submitters was opposed by Lake Hayes Estate Community Association through further submissions.<sup>57</sup>
- 14.4. Submitter 414 (Clark Fortune McDonald & Associates Ltd), similarly seeks that the Rural Lifestyle minimum lot size standard in notified Rule 27.5.1 be amended to a 1ha average.
- 14.5. Submitter 350 (Dalefield Trustee Ltd) seeks that the average lot size of not less than 2ha is reduced to 1.5ha.<sup>58</sup> Further, Submitter 514 (Duncan Fea) seeks that the minimum site area for the Rural Lifestyle Zone is reduced to 4,000m<sup>2</sup> in area.<sup>59</sup>
- 14.6. Submitter 157 (Miles Wilson) supports the existing Rural Lifestyle Density rules that require a minimum allotment size of 1ha, with an average of 2ha.<sup>60</sup>

### *Discussion*

- 14.7. The key issue raised by submitters in relation to the Rural Lifestyle Zone (and as set out by Submitter 414 (Clark Fortune McDonald & Associates Ltd)) is that the proposed minimum site area under notified Rule 27.5.1 does not promote integrated management, sound resource management nor does it meet the reasonably foreseeable needs of future generations. The submitters seeking a 1ha average consider that a greater

53 Submitters 513 (Jenny Barb), 515 (Wakatipu Equities), 523 (Robert and Elvena Heywood), 530 (Byron Ballan), 532 (Bill & Jan Walker Family Trust), 534 (Wayne Evans, G W Stalker Family Trust, Mike Henry), 535 (G W Stalker Family Trust, Mike Henry, Mark Tylden, Wayne French, Dave Finlin, Sam Strain), 537 (Slopehill Joint Venture), 497 (Arcadian Triangle Limited) and 522 (Kristie Jean Brustad and Harry James Inchall).

54 Submission points 513.47, 515.39, 523.18, 530.16, 532.36, 534.37, 535.37, 537.41, 497.21, 522.43.

55 Submitters 231.2 (Antony Strain, Sarah Strain and Samuel Strain), 232 (Don Andrew, Kathleen Andrew and Roger Macassey), 233 (Dean Gallagher), 235 (Graeme Sim), 239 (Don Moffat), 248 (Shotover Trust), 314 (Wakatipu Holdings), 328 (Noel Gutzewitz), 331 (The Station at Waitiri), 348 (Mrs M K Greenslade), 350 (Dalefield Trustee Ltd), 351 (Sam Strain), 367 (John Borrell).

56 Submission points 231.2, 232.5, 233.2, 235.2, 239.1, 248.20, 314.5, 328.4, 331.2, 348.5, 350.9 350.10, 351.3, 367.6.

57 Further submissions FS1071.98, FS1071.57, FS1071.107, FS1071.93, FS1071.94, FS1071.49, FS1071.50.

58 Submission point 350.10.

59 Submission point 514.6.

60 Submission point 157.1.

density will provide for a better planning outcome through the effective use of resources. They also consider a greater density will give effect to the higher order policies and objectives of the PDP, such as the provision for housing and land supply. Further, the submitters argue that the section 32 evaluation does not adequately consider alternatives to the 2ha average rule.

14.8. I note that the relief sought by submitters listed at paragraphs 14.2 to 14.4 above raises similar relief sought by submitters to the Rural Lifestyle Zone (Hearing Stream 2) and the residential density provisions set out under notified Rule 22.5.12.2, (which requires a maximum of 1 residential unit on sites less than 2ha) with submitters seeking this provision be removed and a density limit of 1 residential unit per hectare introduced.

14.9. The purpose of the Rural Lifestyle Zone is identified at section 22.1 of Chapter 22, which states:

*"The Rural Lifestyle zone provides for rural living opportunities, having a development density of one residential unit per hectare with an overall density of one residential unit per two hectares across a subdivision. Building platforms are identified at the time of subdivision to manage the sprawl of buildings, manage adverse effects on landscape values and to manage other identified constraints such as natural hazards and servicing. The potential adverse effects of buildings are controlled by height, colour and lighting standards.*

.....

*Many of the Rural Lifestyle zones are located within sensitive parts of the district's distinctive landscapes. While residential development is anticipated within these zones, provisions are included to manage the visual prominence of buildings, control residential density and generally discourage commercial activities. Building location is controlled by the identification of building platforms, bulk and location standards and, where required, design and landscaping controls imposed at the time of subdivision."*

14.10. I have reviewed the section 42A Officer's report for Chapter 22 prepared by Mr Craig Barr, which addresses the change in density sought by Submitters. At paragraph 8.4 of the Chapter 22 section 42A report, Mr Barr states:

*"8.4 I do not consider the location of many of the Rural Lifestyle Zones to be in locations that support a density of 1 residential unit per hectare. The average of 2ha anticipated across the zone is important at providing a design led response in terms of subdivision design that is sympathetic to the landscape, flexibility in terms of creating a range of lot sizes for the market, while maintaining rural living*

*character and amenity values. This is especially the case where the Rural Lifestyle Zones are located in what would otherwise be included within an ONL on the planning maps (for example, the Makarora and Mt Barker Rural Lifestyle Zones), or amidst Rural Landscape Classification<sup>9</sup> parts of the Rural Zone where the landscape is vulnerable to change (for example, the Hawea Flat and Slope Hill Rural Lifestyle Zone). The Rural Lifestyle Zones are part of a wider Rural Zone area and changes to these areas have the potential to impact wider landscape values.*

- 8.5 *I refer to and rely on Dr Read in section 10 of her evidence that also states that the 2ha is the minimum size that ensures a sense of spaciousness and the maintenance of other aspects of rural amenity.*
- 8.6 *Dr Read considers that the Hawthorn Triangle could absorb development at the density of 1ha allotments, but considers that the same increase in the density of development in other Rural Lifestyle Zones would result in adverse effects.<sup>10</sup> I do not consider it worthwhile to replicate this development right by way of provisions in Chapter 22 because this area has reached a development capacity. One of the reasons for making this land Rural Lifestyle is because the consented outcome is significantly less than that contemplated in the Rural Zone (despite their not being a minimum allotment size associated with residential development) but a lower density than the Rural Residential Zone that is 4000m<sup>2</sup> in most areas.*
- 8.7 *Given the above, I consider that the removal of the 2 ha average would reduce the ability of these areas to maintain a sense of rural living character and amenity and the contribution that the spaciousness of the zone makes to the wider Rural Zoned landscapes. Therefore I recommend the submissions should be rejected and the standard as proposed retained.*
- 8.10 *In terms of providing accommodation options, I note that although non-complying, a case for a resource consent could be made on its merits. Submitter 497 (Arcadian Triangle Limited) has cited Strategic Direction Objective 3.2.6.1 on multiple occasions as leverage for increasing density in the Rural Lifestyle Zone. I consider that this is overextending the intent of this Objective. When considered with all the zoning and housing options available throughout the PDP, the Rural Lifestyle Zone as notified is appropriate and is but one of many housing options available. The Strategic Direction and Urban Development s32 and s42A reports set out and confirm that the place for increasing density is within the mapped Urban*

*Growth Boundary (UGB). In addition, the PDP has made Residential Flats more efficient to establish and further enabling them through use of permitted activity status (Rule 22.4.6). This is considered sufficient to provide for a range of housing opportunities within the Rural Lifestyle Zone. I consider that the provisions as notified are appropriate and recommend that the limit of one residential unit within a building platform be retained.*<sup>61</sup>

- 14.11. I also refer to and rely upon the landscape evidence of Dr Marion Read, which responds to the Rural Lifestyle Zone density issue from a landscape perspective. Dr Read's evidence states:

*"10.2 The Rural Lifestyle zones are intended to provide for rural living opportunities Policy 22.2.1.2 of the PDP states that the purpose of establishing minimum density standards is 'so the open space, natural and rural qualities of the District's distinctive landscapes are not reduced'.*

*10.3 It is my general observation that 2ha enables the keeping of animals and other productive land uses which are characteristic of the broader rural landscape and which cannot be sustained on smaller lots. Such an area ensures a sense of spaciousness and the maintenance of some other aspects of rural amenity such as quietness.*

*10.4 The PDP includes several new areas of Rural Lifestyle zoning. In part this is intended to direct residential development into parts of the landscape better able to absorb development and away from the more sensitive areas which have remained Rural Landscape. From a pragmatic point of view, if subdivision to 1ha is allowed in the Rural Lifestyle zones (and more than one submitter has said they consider two dwellings could be constructed on each building platform making the density of a Rural Lifestyle zone almost indistinguishable from the Rural Residential zone) then people wishing to have a few horses, raise a few sheep or alpacas or grow a few olives will have to move, again, to the Rural Landscape zone. I consider the effects of this on the landscape, particularly in the Wakatipu Basin, would be adverse."<sup>62</sup>*

- 14.12. Further, in the Officer's written reply to Chapter 22, Mr Barr sets out:

*"3.1 Submitters represented by Mr Fergusson<sup>1</sup> support the concept of increasing the density of the Rural Lifestyle Zone to 1ha, with no minimum allotment size. In*

61 Paragraphs 8.4 to 8.7 of the Chapter 22 section 42a report.

62 Paragraphs 10.2 to 10.4 of the Dr Marion Read's Landscape evidence, dated 6th April 2016.

addition, submitters represented by Mr Farrell<sup>2</sup> seek a similar change to Rule 22.5.12.3 so that on sites of two hectares you can have two residential units on average.

.....

3.3 *I also disagree with Mr Fergusson where he states in the written evidence, that he considers all the Rural Lifestyle Zones throughout the District can absorb a density of 1ha. This does not just include the Rural Lifestyle areas within the Wakatipu Basin where additional submissions from landowners, legal counsel and landscape evidence were submitted. I consider that accepting a higher density such as that proposed would require a greater emphasis on managing the adverse effects of contemplated development. In addition, many of the Rural Lifestyle zoned areas are located amidst the Outstanding Natural Landscape (ONL) area.<sup>3</sup> On this basis I consider that the PDP framework of a permitted building regime may not suit the nature and density of residential development that these submitters are requesting.*

3.5 *I consider that the majority of submitters seeking a higher density across the entire Rural Lifestyle zone have not provided expert evidence that supports this density district wide. I also refer to and rely on the evidence of Dr Read where she supports the retention of a density of 2 ha."<sup>63</sup>*

14.13. I agree with the conclusions reached by both Mr Barr in his right of reply and Dr Read in her landscape evidence that the relief sought by submitters to the minimum site area requirements of the Rural Lifestyle Zone has the potential to generate adverse landscape and rural amenity effects on areas zoned for Rural Lifestyle purposes.

14.14. I agree with Dr Read (at paragraph 10.3 of her evidence), where she states that "*2ha enables the keeping of animals and other productive land uses which are characteristic of the broader rural landscape and which cannot be sustained on smaller lots.*"

14.15. The Selwyn District Council Rural Residential Strategy 2014 sets out that land holdings that range in size from between 0.3ha to 2ha, are better able to demonstrate the residential and rural character elements that typify rural residential environments. Properties that are greater than 2ha in size generally continue to be productive and are predominantly retained for rural purposes, small holdings, or hobby farms.<sup>64</sup>

63 Paragraphs 3.1 to 3.5 of the Chapter 22 Officer's reply dated 3 June 2016.

64 At paragraph 4.34 of the Selwyn District Council Rural Residential Strategy Report, June 2014.

- 14.16. I have referred to the above document because it assists in identifying a clear point at which the reduction in site size results in a movement away from a Rural Lifestyle property to a Rural Residential property, which results in greater density and less opportunity to utilise properties for rural related activities. Whilst its particular assessment considers the relevant trigger point for this movement in the Selwyn District, I believe that the concept is also applicable to the Queenstown Lakes District. Further to this, I believe that the assessments of Mr Barr and Dr Read have identified the relevant trigger points relative to the Queenstown Lakes District as is demonstrated in the comments of Dr Read at paragraph 10.3 of her evidence, and as identified at paragraph 14.11 above.
- 14.17. Lastly, I note that the submitters who are seeking the minimum lot size be reduced to a 1ha average, are seeking this relief as they consider it will provide for greater housing and land supply. As I have set out above, this was a matter that was responded to by Mr Barr as part of his section 42A report to Chapter 22 and which he addressed at paragraph 8.10 of his s42A report. Having considered Mr Barr's response, I agree with his conclusion, that the Strategic Directions Chapter seeks greater intensification of areas contained within the District's urban growth boundaries. Given this, I do not support the submissions and do not believe that the relief sought is consistent with the direction proposed by the PDP.

*Recommendation*

- 14.18. Based on the evidence of Dr Read, I do not support the submissions proposing the minimum lot size for the Rural Lifestyle Zone be amended to 1ha. I consider that such an outcome has the potential to compromise the District's overall landscape quality and undermine the rural character of the Rural Lifestyle zoned areas. As a consequence, I reject submission points 513.47, 515.39, 523.18, 530.16, 532.36, 534.37, 535.37, 537.41, 497.21, 522.43, 231.2, 232.5, 233.2, 235.2, 239.1, 248.20, 314.5, 328.4, 331.2, 348.5, 350.9 350.10, 351.3, 367.6.

**Rural Residential Zone Minimum site Area**

- 14.19. Submitter 26 (David Clarke) supports the retention of the North Lake Hayes Rural Residential Rules, however questions the reduction in block sizes to 1 acre (4,000m<sup>2</sup>) as identified under notified Rule 27.5.1. Mr Clarke requests that a rule from the ODP that was specific to the Rural Residential Zone at the north of Lake Hayes is 'reinstated'.<sup>65</sup>

65 Submission point 26.3.

*Discussion*

- 14.20. Mr Clarke sets out that the philosophy behind averaging was to ensure some areas were 4,000m<sup>2</sup> and others 8,000m<sup>2</sup>. This was to ensure variety, good setbacks between sites and provide better amenity and ensure sufficient infrastructure provision.
- 14.21. Mr Clarke's submission draws attention to the existing provisions of the ODP under rule 15.2.6.2(iv), that the Rural Residential Zone at the north of Lake Hayes requires a lot average to be 8,000m<sup>2</sup> in area. In addition, it requires, for the purposes of calculating any average, the following three titles at the north of Lake Hayes include the area previously taken from those titles (at their southern end) as a Wildlife Management Reserve, as described below:

<b>Legal Description of land owned</b>	<b>Land taken from these lots as Wildlife Management Reserve</b>
Lot 1 DP 27445	Lot 4 DP 15096
Lot 1 DP 26803 Lot 2 DP 26803	Lot 5 DP 15096

- 14.22. Further, ODP Rule 15.2.6.2(iv)(c) states that the total lots to be created by subdivision, other than lots for access, utilities, reserves and roads, shall not be greater than the average specified for each zone.
- 14.23. There appears to be limited explanation within the section 32 evaluation discussing the implications of a more intensive minimum site area within the Rural Residential Zone at the north of Lake Hayes. Given the zone was originally promulgated on a lot average of 8,000m<sup>2</sup>, I do not believe that the proposed 4,000m<sup>2</sup> minimum site area requirement has sufficient justification. Further, following a detailed examination of the above referenced lots within ODP Rule 15.2.6.2(iv) it would appear that these lots do not exist any longer and it is assumed that they have already been subdivided. As such I believe that it is appropriate to retain the extent of the existing provision of the ODP provision as proposed by the submitter.

*Recommendation*

- 14.24. I recommend that the minimum site area applicable to the Rural Residential Zone under notified Rule 27.6.1 (is amended to retain the 4000m<sup>2</sup> provided that the total lots to be created by subdivision, including balance lots, shall not be less than an 8,000m<sup>2</sup> lot average). As a consequence, I accept the submission by Mr Clarke. I note that Mr Barr recommends accepting a corresponding change to Chapter 22 Rural Residential Zone.

## Minimum Lot Size in Rural General Zone

- 14.25. Two submitters have sought the introduction of a minimum lot size to the Rural General and Gibbston Character Zones. Submitter 719 (NZ Transport Agency) seeks an amendment to notified Rule 27.5.1 so that it provides a minimum lot size for subdivisions within the Rural Zone and Gibbston Character Zone.<sup>66</sup> Submitter 38 (Stewart Mahon) seeks to allow a minimum allotment size of 5 acres in the Rural Zone.<sup>67</sup>

### *Discussion*

- 14.26. NZ Transport Agency seeks the introduction of a minimum lot area for subdivision within the Rural General and Gibbston Character Zones on the basis that with no minimum lot area it is difficult to establish likely demand for new or enhanced infrastructure, and that it encourages ad hoc development with no strategic direction/overview. NZ Transport Agency's relief was opposed by Mt Rosa Wines Ltd's further submission.<sup>68</sup>
- 14.27. Submitter 38 (Stewart Mahon) seeks a minimum lot size of 5 acres on the basis that such a size is not compacted to smaller lots in keeping with the rural feel while allowing the ability to subdivide.
- 14.28. The section 32 evaluation for Landscape, Rural and Gibbston Character Zones sets out that the planning rules for managing subdivision and development in the Rural General Zone are unique compared to many other parts of rural New Zealand. Specifically, that there is no minimum allotment size for landholdings in the Rural General Zone. What this does is prevent any 'development right' for residential subdivision and development associated with a minimum landholding area, but requires proposals for subdivision and development to prove that the proposal would be appropriate in terms of effects on the landscape.<sup>69</sup>
- 14.29. Further, the section 32 report sets out that *"whilst the existing provisions place emphasis on whether a proposal will be appropriate in terms of adverse effects on the landscape resource, on the other hand, the absence of a minimum allotment size (along with associated plan provisions) does not establish an easily measurable baseline on the potential limit of the capacity of the landscape to absorb development."* This is essentially the issue raised by NZ Transport Agency, but its concern is linked to an inability to determine likely demand for new or enhanced roading infrastructure.

66 Submission point 719.141.

67 Submission point 38.4.

68 Further submission FS1155.4.

69 Page 12 of the section 32 evaluation report for Landscape, Rural and Gibbston Character Zones.

- 14.30. The 'no minimum lot size' provision under the Rural General and Gibbston Character Zones is largely driven by landscape considerations. A study by Read Landscapes Limited, titled 'Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment 2014' (which is attached as Appendix 5 to this evidence) suggested that the existing 'discretionary regime' is the best way to manage subdivision and development in the Wakatipu Basin. It also suggested that the existing assessment criteria should be clarified, with the inclusion of performance standards to help assess the merits of subdivision and development.
- 14.31. The section 32 evaluation for the Landscape, Rural and Gibbston Character Zones considers that introducing a minimum lot size for subdivision and development would not be more effective in responding to the resource management issues raised for these zones.<sup>70</sup> On this basis, I reject the relief sought by submitters.

*Recommendation*

- 14.32. I recommend that submissions by Submitter 719 (NZ Transport Agency) and Submitter 38 (Stewart Mahon) in relation to minimum allotment size in the General Rural zone and the Gibbston Character Zone be rejected.

**Jacks Point Zone Minimum Lot Area**

- 14.33. Submitter 762 (Jacks Point Residential No.2 Ltd, Jacks Point Village Holdings Ltd, Jacks Point Developments Limited, Jacks Point Land Limited, Jacks Point Land No. 2 Limited, Jacks Point Management Limited, Henley D) seeks an amendment to notified Rule 27.5.1 to clarify that it is "all other activity areas" which are required to comply with the average density requirements set out in Rule 41.5.8.<sup>71</sup> This submission was opposed by five further submissions<sup>72</sup> and supported by one further submission.<sup>73</sup>

70 Pages 66 and 67.

71 Submission point 762.4.

72 FS1217.116, FS1219.116, FS1252.116, FS1283.108, FS1316.113.

73 FS1277.152.

*Discussion and Recommendation*

14.34. The relief sought by the submitter is considered effective in cross-referencing the subdivision provisions to the Jacks Point Zone under Chapter 41. This promotes efficient and effective plan administration for plan users and as a consequence submission point 762.4 is accepted.

15. **ISSUE 6 – INFILL DEVELOPMENT PROVISIONS (NOTIFIED RULE 27.5.2 AND 27.5.3)**

15.1. A number of Submissions<sup>74</sup> have been received that relate specifically to the wording used within notified Rules 27.5.2 and 27.5.3.

15.2. Submitters 166 (Aurum Survey Consultants) and Submitter 169 (Tim Proctor) seek to remove reference to code of compliance within Rule 27.5.2.1 and seek to simply make reference to roof installation. A similar response has been received by Submitter 389 (Body Corporate 22362).

*Discussion*

15.3. Submitters 166 (Aurum Survey Consultants) seeks the amendments to Rule 27.5.2.1 to enable subdivision in this situations where code of compliance may not be issued and the submitter considers that this will improve funding opportunity and facilitate the completion of the development.

15.4. Submitter 389 (Body Corporate 22362) and Submitter 391 (Sean and Jane MacLeod) support Rule 27.5.2.1, in general, however consider that the wording '(established meaning a Building Code of Compliance Certificate has been issued)' be removed. The submitter points out that Code of compliance certificates (**CCC**) have only been in effect since July 1992 and residential units constructed earlier will have established residential use but will not have a CCC.

15.5. In considering the relief sought by Submitters 166, 169 and 389 (and other submitters such as Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd)) I agree with the intent of the rules, however consider that the wording of these provisions could be made more practical. The submitters raise a valid issue that the CCC was introduced under the Building Act in 1992 and as a consequence the rule creates ambiguity as to how the rule

74 Submission points 370.7, 453.4, 453.5, 166.11, 169.9, 389.1, 391.14.

would apply to dwelling units established before this date or to those dwelling units that have been constructed but have not had a CCC formally issued.

### *Recommendation*

15.6. The relief sought by the submitters is considered effective in removing any uncertainty that exists under Rule 27.5.2.1. As a consequence, I accept, in part, submission points 370.7, 453.4, 453.5, 166.11, 169.9, 389.1, and 391.14.

### 16. **ISSUE 7 – INFILL DEVELOPMENT WITHIN AIRPORT'S NOISE BOUNDARIES (ANB) AND OUTER CONTROL BOUNDARY (OCB)**

16.1. Two Submissions have been received that relate specifically to the density provisions of LDRZ land that bounds the Queenstown Airport. Submitter 271 (Board of Airline Representatives of New Zealand (**BARNZ**)) seeks the addition of a new line to the activity table at notified rule 27.5.1 that provides that land within the Queenstown Airport outer control boundary (which includes land within the air noise boundary) should have a minimum lot area of 600m<sup>2</sup>.<sup>75</sup> BARNZ's submission was opposed by two further submissions from Queenstown Park Limited and Remarkables Park Limited.<sup>76</sup> Further, Submitter 433 (Queenstown Airport Corporation) seeks the retention of the operative minimum allotment size of 600m<sup>2</sup> for subdivision within the LDRZ.<sup>77</sup> This submission was opposed by further submissions.<sup>78</sup>

16.2. Further, Submitter 433 (Queenstown Airport Corporation), in response to 27.4.1 Discretionary activities, considers it necessary for subdivision proposals to respond positively to the PDP provisions relating to Activities Sensitive to Airport Noise (**ASAN**) and that this will require the inclusion of a rule specifying a non-complying activity status for subdivisions that create lots at higher densities than the ODP.<sup>79</sup>

16.3. Further still, Queenstown Airport Corporation seeks that Rules 27.5.2 and 27.5.3 (Subdivision associated with infill development) be deleted.<sup>80</sup>

### *Discussion*

75 Submission point 271.18.  
76 FS1117.38 and FS1097.121.  
77 Submission point 433.99.  
78 FS1097.382 and FS1117.144.  
79 Further submission FS1340.41.  
80 Submission points 433.97 and 433.98.

- 16.4. The key issue for Queenstown Airport Corporation is that Chapter 27 (and similar concerns with Chapter 7 – Low Density Residential) and the associated minimum lot size for subdivision in the LDRZ (under notified Rule 27.5.1) and the infill provisions (under notified Rules 27.5.2 and 27.5.3) is inconsistent with the outcomes of Plan Change 35 (**PC35**).
- 16.5. Queenstown Airport Corporation helpfully sets out that the purpose of PC35 was to put in place an appropriate management regime for land use around Queenstown Airport while providing for the predicted ongoing growth of the Airport. Accordingly, the Plan Change updated the Airport's noise boundaries (ANB and OCB) to provide for predicted growth in airport operations to 2037, and amended various zone provisions relating to land within those updated boundaries likely to be affected by increased airport noise.
- 16.6. By way of background, Queenstown Airport Corporation sets out that PC35 was adopted and confirmed by the Council on 1st November 2010 following the hearing of submissions. PC35 was the subject of a number of appeals to the Environment Court, which were largely resolved by agreement in early 2012. The agreement was jointly presented to the Court during the course of two hearings and the filing of subsequent memoranda. Except for the decision on the location of the noise boundaries in the vicinity of Lot 6, the appeals on PC35 have been resolved. Queenstown Airport Corporation states that there is no opportunity for any further debate as to the content or wording of the objectives, policies and rules addressed by PC35, and that the Court is *functus officio* in respect its decisions on these provisions.
- 16.7. Queenstown Airport Corporation's primary submission sets out that a central aim of the Company is to ensure that the number of ASAN occurring within the PC35 OCB is maintained as far as can be achieved at the levels currently anticipated by the ODP. Therefore, avoiding an increase in the number of sensitive receivers being exposed to aircraft noise within the OCB.
- 16.8. As I understand PC35, it sought to retain development rights for properties located within the Air Noise Boundary (**ANB**) and OCB for the Queenstown Airport, subject to requirements for sound insulation and mechanical ventilation. Namely, the ODP provides for development of 1 unit per 450m<sup>2</sup> net site area (ODP Rule 7.5.5.3(iii)) as a permitted activity, provided other site and zone standards are met. As set out within Queenstown Airport Corporation's primary submission, the Company also wishes to ensure that the submission provisions within Chapter 27 are consistent with the existing ODP provisions of a minimum lot area of 600m<sup>2</sup> per lot in the LDRZ bordering Queenstown Airport.

- 16.9. Having considered Queenstown Airport Corporation's submission I support the need for Chapter 27 provisions to accord with the rule framework set out in PC35. Strategic Direction 4.2.6 Objective seeks to manage urban growth issues on land in proximity to Queenstown Airport to ensure that the operational capacity and integrity of the Airport is not significantly compromised. In my opinion, advancing a subdivision standard under notified 27.5.1 for the LDRZ down to 450m<sup>2</sup> minimum lot area, provides for further intensification below that currently provided for under the ODP. Consequently, I accept submission point 433.99 and seek that the Minimum Lot Area table supporting notified Rule 27.5.1 be amended to specifically retain the 600m<sup>2</sup> for subdivision in the LDRZ overlaid by the Queenstown Airport Air Noise Boundary and OCB.
- 16.10. Similarly, Queenstown Airport Corporation seeks that notified rules 27.5.2 and 27.5.3 (Subdivision associated with infill development) be deleted. This is due to the potential for further intensification given the exemptions provided for under notified rules 27.5.2 and 27.5.3, and the maximum site density provided for under notified Chapter 7 of the PDP (specified under Rule 7.5.6) is one residential unit or dwelling per 300m<sup>2</sup> net site area. For the reasons set out above, it would appear that notified rules 27.5.2 and 27.5.3 have the potential to override the density provisions anticipated under PC35. In my opinion, this is an oversight, and would not give effect to the Strategic Directions policy framework, discussed above.

#### *Recommendation*

- 16.11. Given the above, I accept in part, the relief sought by Queenstown Airport Corporation to notified rules 27.5.2 and 27.5.3. However, I recommend introducing a new rule that specifies that notwithstanding the exemptions provided for under notified rules 27.5.2 and 27.5.3, that the maximum site density to be provided for within the LDRZ subject to the Queenstown Airport Air Noise Boundary and OCB shall be per 450m<sup>2</sup> net site area. These amendments are shown in the Revised Chapter at **Appendix 1**. I note that this recommendation will have implications for similar relief made by Queenstown Airport Corporation to Chapter 7.

### **17. ISSUE 8 - CHANGES TO THE PURPOSE OF SECTION 27.1**

- 17.1. A number of submitters specifically sought amendments to Section 27.1 - Purpose of Chapter 27.<sup>81</sup>

- 17.2. Submitter 806 (Queenstown Park Limited) has sought that the purpose statement be amended as follows:

"The control of subdivision is a specific matter of relevance to District Plans. The principal feature of subdivision is that it produces a framework of land ownership which provides the basis for land use development and activities. Subdivision and land use are, therefore, closely related.

Subject to standards, all subdivision requires resource consent as a discretionary controlled activity. It is recognised that subdivisions will have a variable nature and scale with different issues to address. Good subdivision design, servicing and the management of natural hazards are underpinned by logic and a shared objective to create healthy, attractive and safe places.

Good subdivision can help to create neighbourhoods and places that people want to live or work within, and should also result in more environmentally responsive development that reduces car use, encourages walking and cycling, and maximises access to sunlight. Subdivision provides the framework of service provision for land use including roading, water supply, sewage treatment and disposal, energy, telecommunication, stormwater and trade waste.

Good subdivision design will be encouraged by the use of the QLDC Land Development and Subdivision Code of Practice, and the QLDC Subdivision Design Guidelines. These are guiding principles to give effect to the objectives and policies of the Subdivision and Strategic Directions Chapters, in both designing and assessing subdivision proposals. Proposals at odds with these documents are not likely to be consistent with the policies of the Subdivision and Strategic Directions chapters, and therefore, may not achieve the purpose of the RMA.<sup>82</sup>

- 17.3. Submitter 383 (Queenstown Lakes District Council) sought that the words "logic and" be deleted from the second paragraph of the purpose statement.<sup>83</sup>

#### *Discussion*

- 17.4. The rationale for Queenstown Park Limited seeking extensive changes to the Purpose statement is largely centred on the submitter's desire to see a controlled activity rule framework relating to subdivision included in the PDP. Further, the submitter considers that referencing separate subdivision guidelines will add complexity and cost to obtaining consents and undertaking development. The submitter considers that any cross

82 Submission point 806.168.

83 Submission point 383.47.

referencing to the Subdivision Guidelines should be made in full so that plan users can identify what version of the document is relevant and has legal status.

- 17.5. I note that the Council notified by reference a range of material in the PDP (Stage 1), pursuant to Clause 34(1) of the First Schedule to the RMA. This included the QLDC Land Development and Subdivision Code of Practice, and the QLDC Subdivision Design Guidelines. Because both documents are included within the PDP by reference, any future changes to these documents will need to be advanced as a variation (while the PDP is not fully operative) or by way of a plan change.
- 17.6. I consider that the integration of Subdivision Guidelines into Chapter 27 is an effective means of improving the quality of subdivision design in the District's urban areas. In addition, it provides application certainty regarding the standard of design and construction. As a consequence, I do not support the relief sought by Submitter 806.
- 17.7. I agree with the Council that the words "logic and" be deleted from the second paragraph of the Purpose statement. Reference to "logic" in this paragraph could result in divergent interpretation of the intent of this sentence and I support its deletion to provide for greater clarity.
- 17.8. It is noted that as a consequence of the proposed Controlled and Restricted Discretionary Activity rules in 27.5 (proposed in sections 10, 11 and 12 of this evidence), subsequent changes are required to Section 27.1 Purpose, to reflect the additional activity status.

#### *Recommendation*

- 17.9. I therefore recommend, in light of my discussion above, that the second paragraph of section 27.1 Purpose statement of Chapter 27 be amended as follows (this change is shown in the Revised Chapter at **Appendix 1**):

*"..... All subdivision requires resource consent unless specified as a permitted activity as a discretionary activity. It is recognised that subdivisions will have a variable nature and scale with different issues to address. Good subdivision design, servicing and the management of natural hazards are underpinned by ~~logic and~~ a shared objective to create healthy, attractive and safe places. .... "*

## 18. ISSUE 9 – CHANGES TO THE OBJECTIVES AND POLICIES IN SECTION 27.2

- 18.1. A number of submitters<sup>84</sup> including 586 (J D Familton and Sons Trust), 775 (H R & D A Familton) and 803 (H R Familton) have sought retention of the Objectives 27.2.1 - 27.2.8 and Policies 27.2.8.1 - 27.2.8.2 as notified.
- 18.2. Submitters 702 (Lake Wakatipu Stations Limited), 688 (Justin Crane and Kirsty Mactaggart), 636 (Crown Range Holdings Ltd) seek that notified section 27.2 objectives and policies be reordered and relabelled to make it clear which are solely applicable to urban areas.<sup>85</sup>

### Objective 27.2.1

- 18.3. A number of submissions have been received on Objective 27.2.1, with three submissions seeking specific amendments to the objective as outlined below.
- 18.4. Submitter 238 (NZIA Southern and Architecture + Women Southern) seek that the objective be amended with reference to "high" to read "high quality environments".<sup>86</sup>
- 18.5. Submitter 806 (Queenstown Park Limited) seeks that the objective be amended with reference to "will create" to read "help create quality environments".<sup>87</sup>
- 18.6. Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) seeks that Objective 27.2.1 be comprehensively amended,<sup>88</sup> which was opposed by a number of further submissions.<sup>89</sup> The submitter requests the following amendments:

*"27.2.1 Objective – The formative role of subdivision will in creating equality environments that ensures the District is a desirable place to live, visit, work and play is recognised through attention to design and servicing needs."*

### Discussion

- 18.7. In my opinion, the wording of Objective 27.2.1 is effective in promoting the policy outcomes of Strategic Goal 3.2.3 and supporting 3.2.6.4 Objective and supporting higher order Objectives and Policies of the PRPS. Objective 3.7 of the PRPS, by way of

84 Submission points 586.1, 586.2, 775.1, 775.2, 803.1, 803.2.

85 Submission points 636.12, 688.11, 702.14.

86 Submission point 238.114.

87 Submission point 806.169.

88 Submission point 632.42.

89 Further submitters FS1217.43, FS1219.43, FS1252.43, FS1277.46, FS1316.42, FS1275.216.

example, seeks to ensure that urban areas are well designed, sustainable and reflect local character.

- 18.8. The way in which subdivision activity is designed is a cornerstone for providing for communities and their social, economic, and cultural well-being and for their health and safety (Section 5(2) RMA). The wording of Objective 27.2.1 is considered effective in directing the need for quality environments that are commensurate with the expectations of the District's communities. As a consequence, I do not recommend any changes to this objective.

#### *Recommendation*

- 18.9. Consequently, I recommend that Objective 27.2.1 be retained as notified. I recommend that submission points 632.42, 806.169, and 238.114 be rejected.

#### **Policies 27.2.1.1 and 27.2.1.2 and Referencing to Code of Practice and Subdivision Guidelines**

- 18.10. A number of submitters including 453 (Paterson Pitts Partners (Wanaka) Ltd), 248 (Shotover Trust) and 567 (Wild Grass Partnership, Wild Grass Investments No 1 Limited & Horizons Investment Trust), 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks), 806 (Queenstown Park Limited) have sought the deletion of Policies 27.2.1.1 and 27.2.1.2 on the basis that the Code of Practice and the Subdivision Guidelines are documents that have not been consulted on and can be changed at any time, seemingly without public consultation.<sup>90</sup> Furthermore, the documents directly inform and support Rule 27.4.1 making all subdivision activities discretionary.<sup>91</sup>

#### *Discussion*

- 18.11. Policy 27.2.1.1 links directly to the Council's adopted Code of Practice and seeks to ensure that subdivision is consistent with this document. The Subdivision Guidelines are identified within Policy 27.2.1.2, which seeks to encourage good subdivision design outcomes.
- 18.12. The evidence of Mr Glasner (Council's Chief Engineer) touches upon the importance of the Council's Code of Practice to ensure that land development and subdivision infrastructure is designed and constructed utilising best practice. As set out by Mr

90 Submission 453.11, FS1117.190.

91 Submission points 248.9, 567.16, FS1117.225, 806.170, 632.6, 806.171.

Glasner,<sup>92</sup> the Code of Practice provides the standards and requirements for all Land Development and subdivision work that is carried out in the District and as a consequence is an important reference document to guide consistent application of good engineering and construction practices for the District.

- 18.13. One of the issues identified by Mr Glasner (see paragraph 4.2 of his evidence dated 29 June 2016) is that the Code of Practice was adopted by the Council in June 2015. However, the Code of Practice is an ever-changing document. Mr Glasner estimates that within the next three months it is anticipated that the Code of Practice will be amended and re-adopted by Council to take into consideration learnings over the past 12 months.
- 18.14. Because both documents are included within the PDP by reference, as the chapter is drafted, any future changes to these documents will need to be advanced as a variation or by way of a plan change). This approach ensures that any changes are required to go through the RMA First Schedule public process and enables submission and discussion on their appropriateness at that time.
- 18.15. By referencing the Code of Practice into Policy 27.2.1.1, this has the potential to introduce inefficiencies to the plan administration process given the need to advance a plan change/variation to accommodate changes to the Code of Practice.<sup>93</sup> As a consequence, there could be significant costs to the community in directly referencing the Code of Practice in Policy 27.2.1.1, and as a consequence, I recommend that the reference to the Code of Practice be deleted and the policy amended to articulate the intent that subdivision infrastructure is designed and constructed to an appropriate standard.
- 18.16. Policy 27.2.1.2 also references the Council's Subdivision Guidelines. However, in my opinion, a distinction can be made with this document in that it is unlikely that the Subdivision Guidelines will need to be updated as regularly as the Code of Practice. As such, it is less likely that referencing the Subdivision Guidelines will raise the same inefficiency issue as the Code of Practice. An example within the ODP where existing guideline document are referenced is the Arrowtown Design Guidelines 2006 and the last time these guidelines were updated was 10 years ago.<sup>94</sup>

92 At section 4.0 of his evidence.

93 If the Code of Practice or parts of it are subsequently modified, the updated version (or simply the modifications to the Code if they are relatively discrete) will then need to be incorporated under a Plan Change or Variation and would be relevant to the section 32 exercise/test that must be met by the Council.

94 Referenced within District Wide Section 4.9 –Urban Growth at Policy 7.10.1 and the ADG 2006 is currently being updated under Variation 1 to the PDP.

- 18.17. Submitter 370 (Paterson Pitts Group) seeks clear guidance material for Council planning officers processing applications, to ensure consistency, and transparency in how the discretionary activity classes are designed to be administered and are to be generally understood by the community. I agree with Paterson Pitts Group and note that Chapter 27, through the removal of assessment criteria, has sought to integrate both the Code of Practice and Subdivision Guidelines into the Plan itself, so as to maintain an appropriate level of guidance to plan users and administrators. Notwithstanding the issues I have raised above regarding the Code of Practice, I consider that the Subdivision Guidelines are an integral component of the PDP planning provisions supporting good subdivision design. Consequently, I consider it would be neither effective nor efficient to remove the Subdivision Guidelines, which would also remove the desired guidance from the PDP.
- 18.18. To ensure that the Subdivision Guidelines are able to promote good subdivision design responses for a wider range of subdivision activity, and not just greenfield subdivision, Mr Garth Falconer (urban design consultant) has undertaken an independent peer review of the Subdivision Guidelines. Mr Falconer sets out at paragraph 6.7 of his evidence that the Subdivision Guideline is a high level document that is intended to instil good practice and he considers that it compares well with other districts' guidelines. Further, Mr Falconer (at paragraph 7.4 of his evidence), concludes that the guidelines, with the objectives and policies in the Subdivision and Development Chapter, will advance good urban design principles. I agree with Mr Falconer, and as I have set out in paragraphs 10.43 to 10.44 of this evidence, I have recommended a restricted discretionary rule regime that specifically references the Subdivision Guideline as a matter of discretion including that subdivision design achieves the subdivision and urban design principles and outcomes set out in Guidelines.

*Recommendation*

- 18.19. Consequently, I recommend that Policy 27.2.1.1 be amended to remove the reference to the Code of Practice. I recommend that Policy 27.2.1.1 be amended by including the word 'infrastructure' following the word 'subdivision' as this better aligns with the terminology used within the Code of Practice, and in particular NZS 4404:2010, which form part of the Code of Practice.
- 18.20. To ensure that Policy 27.2.1.1 still provides for suitable guidance on the need to adopt best practice for subdivision infrastructure, I recommend that the words "constructed to an appropriate standard that is fit for purpose" be inserted into Policy 27.2.1.1. Further, I

recommend that Policy 27.2.1.2 be retained as notified. These amendments are shown in the Revised Chapter at **Appendix 1**.

- 18.21. I recommend submissions points 248.9, 453.10, 567.16, 632.5, 806.170, 248.10, 453.11, 632.6, 806.171 which seek the deletion of the Code of Practice and Subdivision Guidelines from the PDP be accepted, in part (as this relates to the recommendation to delete reference to the Code of Practice from Policy 27.2.1.1).

#### **Policies 27.2.1.3 to 27.2.1.7**

- 18.22. Two submitters seek minor amendments to Policy 27.2.1.3. Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) seeks the policy be amended as follows:

*"27.2.1.3 Require that allotments are a suitable size and shape, and are ~~able to be serviced and developed to~~ for the anticipated land use of the applicable zone."<sup>95</sup>*

- 18.23. Submitter 806 (Queenstown Park Limited) seeks that the policy be amended as follows:

*"27.2.1.3 ~~Require that~~ allotments are a suitable size and shape, and are able to be serviced and developed to the anticipated land use of the applicable zone."<sup>96</sup>*

- 18.24. In relation to Policy 27.2.1.4, 27.2.1.5 and 27.2.1.6, Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) sought deletion of these policies. This submission point was opposed by 21 further submitters.<sup>97</sup>

- 18.25. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) questioned whether the word 'proposed' within Policy 27.2.1.4 should be replaced with 'achieved'.<sup>98</sup> Similarly, the same submitter has questioned whether Policy 27.2.1.5 be amended so that the wording 'required of anticipated' be replaced with 'required by anticipated'.<sup>99</sup>

- 18.26. Submitter 806 (Queenstown Park Limited) seeks that Policy 27.2.1.4 be amended as follows:<sup>100</sup>

*"27.2.1.4 ~~Where minimum allotment sizes are not proposed the~~ Where small lot sizes are proposed, the extent any adverse effects are mitigated or compensated by achieving:...."*

<sup>95</sup> Submission point 632.43.

<sup>96</sup> Submission point 806.172.

<sup>97</sup> FS1217.8, FS1219.8, FS1252.8, FS1316.7, FS1277.11, FS1275.181, FS1283.121, FS1217.9, FS1219.9, FS1252.9, FS1316.8, FS1277.12, FS1275.182, FS1283.122, FS1316.9, FS1217.10, FS1219.10, FS1252.10, FS1277.13, FS1275.183, FS1283.123.

<sup>98</sup> Submission point 453.12.

<sup>99</sup> Submission point 453.13.

<sup>100</sup> Submission point 806.173.

18.27. In relation to Policy 27.2.1.7, Submitter 806 (Queenstown Park Limited) seeks that Policy 27.2.1.7 be amended to ensure that boundary adjustments are not subject to the discretionary activity rule, and are exempt from policies relating to the provision of services.<sup>101</sup>

*Discussion*

18.28. In relation to Policy 27.2.1.3 I do not consider the submitters suggested amendments to this policy are any more effective than the policy as notified and I support the retention of the words 'require' at the front end of this policy and retention of the word 'development' given that both provide clearer guidance on the intent of the policy.

18.29. In relation to Policy 27.2.1.4, I agree with Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) that the policy wording through the incorporation of the word "proposed" is confusing and would be easier to interpret with the word 'achieve' being included. As such I support the amendment proposed and accept submission point 453.12.

18.30. I do not support the amended wording set out by Submitter 806 (Queenstown Park Limited) to Policy 27.2.1.4. In my opinion, the relief sought compromises the intent of the policy by removing reference to 'minimum allotment size'. I therefore recommend rejection of submission point 806.173.

18.31. In relation to Policy 27.2.1.5, I agree with Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) that the policy wording 'required of anticipated' can be improved by replacing with 'required by anticipated'. The changes will improve the clarity and administration of the Plan.

18.32. I support the retention of Policy 27.2.1.6 as notified. While it could be argued that the policy is not necessary in order to give effect to Objective 27.2.1, I consider that the policy is helpful in guiding plan users on the need to consider requirements of other relevant agencies at the time of subdivision.

18.33. In relation to Policy 27.2.1.7, Submitter 806 (Queenstown Park Limited) seeks amendments to ensure that boundary adjustments are not subject to the discretionary activity rule and provisions of servicing. I note that the wording of the Policy already states that boundary adjustments will not require provision of services. I have addressed

101 Submission point 806.176.

the activity status for boundary adjustments at Section 12 (paragraph 12.1 to 12.13 of this evidence), where I recommend that in certain circumstances boundary adjustments should be advanced as a controlled activity. In light of the above, I do not consider that the proposed amendments are required in order to achieve the relief sought.

### *Recommendation*

- 18.34. As a consequence, I recommend that Policy 27.2.1.3 be retained as notified. I recommend that submissions 632.43 and 806.172 be rejected.
- 18.35. I recommend that Policy 27.2.1.4 be amended to replace the word 'proposed' with 'achieved' and as a consequence the word 'achieving' be replaced with 'providing' and that submission 453.13 be accepted.
- 18.36. I recommend that Policy 27.2.1.5 be amended by replacing 'required of anticipated' with 'required by anticipated' and that submission 453.13 be accepted.
- 18.37. I recommend that Policy 27.2.1.6 and 27.2.1.7 be retained as notified.
- 18.38. These amendments are shown in the Revised Chapter at **Appendix 1**.

### **Objective 27.2.2 and Policies 27.2.2.1 to 27.2.2.9**

- 18.39. A number of submissions have been received on Objective 27.2.2. Submitters 524 (Ministry of Education) and 806 (Queenstown Park Limited) seek that the objective be retained. Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) seeks that this objective be deleted,<sup>102</sup> which was opposed by seven further submitters.<sup>103</sup>
- 18.40. Submitters 671 (Queenstown Trails Trust) and 625 (Upper Clutha Track Trust) seek that Objective 27.2.2 be supported with a new policy, which recognises the need for trails to be contemplated as part of the subdivision process. The submitter requests the following be included:<sup>104</sup>

*"Policy 27.2.2.10: To ensure the provision of trails and trail connections are considered at the time of subdivision."*

<sup>102</sup> Submission point 632.10.

<sup>103</sup> Further submitters FS1217.46, FS1219.46, FS1252.46, FS1277.49, FS1316.45, FS1275.219, FS1283.159.

<sup>104</sup> Submission points 671.5 and 625.13.

18.41. Submitter 433 (Queenstown Airport Corporation) seeks that Objective 27.2.2 be supported with a new policy that reads as follows:<sup>105</sup>

"Policy 27.2.2.X - Discourage activities that encourage the congregation of birds within aircraft flight paths."

18.42. I note the relief sought by Queenstown Airport Corporation is opposed by further submissions FS1097.380 and FS1117.142.

18.43. In relation to supporting policies, there have been a range of submissions to Policies 27.2.2.1 to 27.2.2.9.

18.44. Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) seeks the deletion of Policies 27.2.2.6 and Policies 27.2.2.8 and amendments to Policies 27.2.2.1, 27.2.2.3, 27.2.2.4, 27.2.2.5 and 27.2.2.9. This was opposed by 42 further submitters.<sup>106</sup> Submitter 632 seeks the following amendments to the policies set out below:

~~"27.2.2.1 Ensure subdivision design provides a high level of amenity for future residents by Encourage Aligning roads and allotments to align in a manner that maximises sunlight access."~~<sup>107</sup>

~~27.2.2.3 Locate Open spaces and reserves are located in appropriate locations having regard to topography, accessibility, use and ease of maintenance, and are a practicable sizes for their intended use."~~<sup>108</sup>

~~27.2.2.4 Subdivision will have good and integrated connections and accessibility to existing and planned areas of Design subdivisions to achieve connectivity between employment locations, community facilities, services, recreation facilities trails, public transport and adjoining neighbourhoods."~~<sup>109</sup>

<sup>105</sup> Submission point 433.94

<sup>106</sup> Further submissions FS1217.57, FS1219.57, FS1252.57, FS1277.60, FS1316.56, FS1275.230, FS1283.170, FS1217.45, FS1219.45, FS1252.45, FS1277.48, FS1316.44, FS1275.218, FS1283.158, FS1217.58, FS1219.58, FS1252.58, FS1277.61, FS1316.57, FS1275.231, FS1283.171, FS1217.59, FS1219.59, FS1252.59, FS1277.62, FS1316.58, FS1275.232, FS1283.172, FS1217.12, FS1219.12, FS1252.12, FS1277.15, FS1316.11, FS1275.185, FS1283.125, FS1217.13, FS1219.13, FS1252.13, FS1277.16, FS1316.12, FS1275.186, FS1283.126, FS1217.60, FS1219.60, FS1252.60, FS1277.63, FS1316.59, FS1275.233, FS1283.173.

<sup>107</sup> Submission point 632.56.

<sup>108</sup> Submission point 632.44.

<sup>109</sup> Submission point 632.57.

~~27.2.2.5 Encourage Subdivision design will provide for safe walking and cycling and discourage vehicle dependence through safe connections that reduce vehicle dependence between and within neighbourhoods the subdivision.~~<sup>110</sup>

~~27.2.2.9 Encourage informal surveillance for Promote safety by ensuring through overlooking of open spaces and transport corridors from are visible and overlooked by adjacent sites and dwellings and effective lighting.~~<sup>111</sup>

18.45. Submitter 809 (Queenstown Lakes District Council) has sought amendments to Policy 27.2.2.3 as follows:<sup>112</sup>

~~"Open spaces and reserves are fit for purpose and are located in appropriate locations having regard to topography, accessibility, use and ease of maintenance., and are a practicable size for their intended use."~~

18.46. Submitter 524 (Ministry of Education) has sought amendments to Policy 27.2.2.4 to include reference to community 'activities'.<sup>113</sup>

18.47. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) has sought amendments to Policy 27.2.2.7 to delete the word 'innovative'.<sup>114</sup>

#### *Discussion*

18.48. I support Objective 27.2.2 as notified, as this gives effect to Objectives 3.4<sup>115</sup> and 3.7<sup>116</sup> of the PRPS and Strategic Directions Objective 3.2.3.1<sup>117</sup> and Objective 3.2.6.3<sup>118</sup> which seeks to promote a built environment that ensures our urban areas are desirable and are safe places to live, work and play.<sup>119</sup> As a consequence I recommend Objective 27.2.2 be retained as notified and that submission point 632.10 be rejected.

18.49. I support (in part) the relief sought by Submitters 671 (Queenstown Trails Trust) and 625 (Upper Clutha Track Trust) who seek a new policy which recognises the need for trails to be contemplated as part of the subdivision process. Referencing to 'trails' aligns with

110 Submission point 632.58.

111 Submission point 632.59.

112 Submission point 809.20.

113 Submission point 524.45.

114 Submission point 453.14.

115 Good quality infrastructure and services meet community needs.

116 Urban areas are well designed, sustainable and reflect local character.

117 'A built environment that ensures our urban areas are desirable and safe places to live, work and play', Revised Chapters -Council's right of reply version 7-4-16.

118 'A high quality network of open spaces and community facilities.' - Revised Chapters -Council's right of reply version 7-4-16.

119 Revised Chapters -Council's right of reply version 7-4-16.

Strategic Direction 3.2.6.3 and supporting policies. I note, however that Policy 27.2.2.4 already refers to trails and as a consequence, I consider that it may be more efficient for Policy 27.2.2.4 to be specifically amended to refer to 'trails and trail connections'.

- 18.50. I support Submitter 632's (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) suggested amendment to Policy 27.2.2.3 and support (in part) the amendments to Policy 27.2.2.9. In both cases, the suggested amendments provides for a clearer meaning to the policy intent. I recommend, however, that reference to 'informal surveillance' is retained, given that this provides greater clarity to the policy intent. The changes will improve the clarity and administration of the PDP.
- 18.51. I do not support Submitter 632's (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) relief to policies 27.2.2.1, 27.2.2.4, and 27.2.2.5 given that in my opinion, the suggested amendments weaken the outcome sought within the respective policies and are not any more effective than the policies as notified. The wording of Policies 27.2.2.1, 27.2.2.4 and 27.2.2.5 as notified accords with Strategic Direction Objective 3.2.6.3 and supporting policies. Therefore, I recommend that they be retained as notified.
- 18.52. In relation to the amendments sought to Policy 27.2.2.3 by Submitter 809 (Queenstown Lakes District Council) deleting reference to 'intended use', I do not support this deletion. My reason for this is that the size of reserve land can invariably dictate the future use of this land and as such I consider that this is a central component of the policy.
- 18.53. Similarly, I am unable to support the relief sought by Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) to Policy 27.2.2.7 seeking the deletion of the word 'innovative'. I believe that the framework should allow for the assessment of applications and subdivision design to be able to respond to evolving urban design practices. In my opinion, the suggested amendments would weaken the outcome sought within Policy 27.2.2.7 and as a consequence is not supported.
- 18.54. With respect to the relief sought by Submitter 433 (Queenstown Airport Corporation), I do not believe that the practical application of this policy will achieve the outcomes sought. While I appreciate the issue is responded to by the submitter's proposed relief, my concern is that the submitter is wholly reliant upon the policy outcome to deliver this relief, with no recommended method to assist with guiding plan users. I consider that it would be appropriate for the submitter to respond to this matter at the hearing.

### *Recommendation*

- 18.55. I recommend that Objective 27.2.2 be retained as notified.
- 18.56. I recommend that Policy 27.2.2.4 be specifically amended to refer to 'trails and trail connections' and as a consequence accept (in part) the relief in submission 671.5 and 625.13.
- 18.57. I accept the relief sought by Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) to Policy 27.2.2.3 and accept (in part) the amendments to Policy 27.2.2.9.
- 18.58. I accept Submitter 524 (Ministry of Education) amendment to Policy 27.2.2.4. The change will improve the clarity and administration of the PDP.
- 18.59. These amendments are shown in the Revised Chapter at **Appendix 1**. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

#### **Objective 27.2.3 and Policies 27.2.3.1 and 27.2.3.2**

- 18.60. Submitter 208 (Pounamu Body Corporate Committee) seeks that objective 27.2.3 is amended to read "...*design may, in some instances, be are limited.*"<sup>120</sup>
- 18.61. Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) seeks that Objective 27.2.3 be changed into a policy, with the amendment to read "...*while acknowledging that in such instances the opportunities to...*"<sup>121</sup> The submitter also seeks that Policy 27.2.3.2 be deleted. The relief sought by the submitter is opposed by 14 further submissions.<sup>122</sup>
- 18.62. Submitter 691 (Aaron and Rebecca Moody) supports both Objective 27.2.3 and supporting Policy 27.2.3.1.<sup>123</sup>
- 18.63. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) seeks amendments to Policy 27.2.3.2 so the text of the third bullet point reads "*Where possible, ~~avoid~~ and practical minimise the creation of multiple rear sites*".<sup>124</sup>

120 Submission point 208.36.

121 Submission point 632.60.

122 Further submissions FS1217.61, FS1219.61, FS1252.61, FS1277.64, FS1316.60, FS1275.234, FS1283.174, FS1217.14, FS1219.14, FS1252.14, FS1277.17, FS1316.13, FS1275.187, FS1283.127.

123 Submission 691.2.

124 Submission point 453.15.

### *Discussion*

- 18.64. I consider that Objective 27.2.3 reads like a policy, which is the direction sought by Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks). As such, I have recommended amendments to the objective, so it is more directive. This amendment reflects good planning and resource management practice and avoids the objective starting with an 'active phrase'.
- 18.65. I support the relief by Submitter 691 (Aaron and Rebecca Moody) that Objective 27.2.3 and Policy 27.2.3.1 be retained. Policy 27.2.3.1 provides clear guidance and is effective in guiding plan users as to the intent of Objective 27.2.3.
- 18.66. In relation to Policy 27.2.3.2, the suggested amendment by Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) is accepted in part. I consider that bullet point three could be recast as follows; '*Avoid the creation of multiple rear sites, unless this is not practicable*'. The intent of this change achieves the outcome that the submitter was seeking, however removes the words 'where possible', which in my opinion is vague and subjective as to when this may apply.

### *Recommendation*

- 18.67. I accept that Objective 27.2.3 as notified does not read like an outcome statement and I have recommended amendments to ensure that it better accords with adopted resource management and planning practice. I consider my amended wording to Objective 27.2.3 is more effective than the relief sought by Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) and Submitter 208 (Pounamu Body Corporate Committee).
- 18.68. I accept the relief by Submitter 691 (Aaron and Rebecca Moody) that Policy 27.2.3.1 be retained, given that the policy provides clear guidance and is effective in guiding plan users as to the intent of Objective 27.2.3.
- 18.69. I accept, in part, the suggested amendment by Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) to Policy 27.2.3.2.
- 18.70. These amendments are shown in the Revised Chapter at **Appendix 1**.

#### **Objective 27.2.4**

- 18.71. Sixteen submissions and further submissions were received on Objective 27.2.4. Submitters 117 (Maggie Lawton), 339 (Evan Alty), 426 (Heritage New Zealand), 706 (Forest and Bird NZ) supported the objective as notified and sought its retention.<sup>125</sup>
- 18.72. Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) sought that the objective be deleted, which was opposed by seven further submitters.<sup>126</sup>
- 18.73. Submitter 806 (Queenstown Park Limited) sought that Objective 27.2.4 be amended given that, in the submitters opinion, it may not always be practicable to enhance these features or values. The relief sought by the submitter is as follows:<sup>127</sup>

*"Objective 27.2.4- Identify and where possible incorporate and enhance natural features and heritage values within subdivision design."*

#### *Discussion*

- 18.74. I do not support the deletion of Objective 27.2.4 as sought by Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks). The objective gives effect to Strategic Direction Objective 3.2.3.2 which seeks to "[p]rotect the District's cultural heritage values and ensure development is sympathetic to them." As a consequence, I recommend rejection of submission 632.14.
- 18.75. I support, in part, the relief sought by Submitter 806 (Queenstown Park Limited) to Objective 27.2.4 and consider that the objective would be clearer if it referred to 'heritage values' as opposed to just 'heritage'. I also consider that referencing to 'within subdivision design' better integrates with Strategic Objective 3.2.5.1 of the PDP.
- 18.76. Lastly, I note that the term 'natural features' is open to interpretation and is not immediately clear that this relates solely to ONFs or the term encapsulates a broader range of natural features. The supporting policies to Objective 27.2.4 provide for indigenous biodiversity values and as a consequence, I recommend that the objective is amended to ensure that it avoids any ambiguity for plan users.
- 18.77. I have also amended Objective 27.2.4 to be structured more like an outcome statement, through the removal of verbs at the front of the Objective. This amendment reflects good planning and resource management practice.

<sup>125</sup> Submission points 117.23, 339.68, 426.18, 632.14, 706.60.

<sup>126</sup> Further submitters FS1217.15, FS1219.15, FS1252.15, FS1277.18, FS1316.14, FS1275.188, FS1283.128.

<sup>127</sup> Submission point 806.180.

### *Recommendation*

- 18.78. I accept, in part, submission points 117.23, 339.68, 426.18, 632.14, 706.60, and 806.180. These amendments are shown in the Revised Chapter at **Appendix 1**.
- 18.79. I recommend rejection of submission 632.14.
- 18.80. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

### **Policies 27.2.4.1 to 27.2.4.7 and New Policy 27.2.4.8**

- 18.81. Submitters 339 (Evan Alty) and 706 (Forest and Bird NZ) support Policies 27.2.4.1, 27.2.4.2, 27.2.4.3, 27.2.4.7 as notified.<sup>128</sup> Submitter 378 (Peninsula Village Limited and Wanaka Bay Limited) supports Policy 27.2.4.7.<sup>129</sup>
- 18.82. Submitter 806 (Queenstown Park Limited) seeks that Policy 27.2.4.1 be amended given that, in the submitter's opinion, it is not always possible to achieve the enhancement of biodiversity, riparian, and amenity values. The submitter seeks that the policy be amended as follows:<sup>130</sup>

*"27.2.4.1 ~~Enhance biodiversity, riparian and amenity values by incorporating~~ Incorporate existing and planned waterways and vegetation into the design of subdivision, transport corridors and open spaces, as a means of mitigating effects and where possible enhancing biodiversity, riparian and amenity values.*

- 18.83. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) seeks that Policy 27.2.4.1 be amended so the text reads "Where possible and practical enhance ...".<sup>131</sup>
- 18.84. Submitter 809 (Queenstown Lakes District Council) seeks that Policy 27.2.4.1 be amended to include the words "and protecting" into the policy.<sup>132</sup>
- 18.85. Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks) seeks that Policies 27.2.4.2, 27.2.4.3, 27.2.4.4, 27.2.4.5, 27.2.4.6 be deleted, which was

128 Submission points 339.69, 339.70, 339.71, 339.72 and 706.61, 706.62 706.63, 706.64.

129 Submission point 378.72.

130 Submission point 806.182.

131 Submission point 453.16.

132 Submission point 809.21.

opposed by 35 further submissions.<sup>133</sup> Submitter 806 (Queenstown Park Limited) also seeks the deletion of Policy 27.2.4.5.

18.86. Submitter 806 (Queenstown Park Limited) seeks that Policy 27.2.4.3 be amended to delete the prescriptive nature of this policy through deleting the words "The Council will support" and include the word "Encourage" at the front of the policy.<sup>134</sup>

18.87. Submitter 117 (Maggie Lawton) seeks that Policy 27.2.4.3 be amended to add reference to the "protection of areas and features of significance" and to provide for the "passive solar design of dwellings".<sup>135</sup>

18.88. With respect to Policy 27.2.4.4, Submitter 806 (Queenstown Park Limited) seeks clarification as to the meaning of "unacceptable loss" and considers that the relative significance of the site should be a consideration.<sup>136</sup>

18.89. Further, Submitter 806 seeks that Policy 27.2.4.6 be amended as follows:<sup>137</sup>

*"27.2.4.6 Encourage subdivision design to ~~protect and~~ incorporate and where possible protect archaeological sites or cultural features, recognising these features can contribute to and create a sense of place. Where applicable, have regard to Maori culture and traditions in relation to ancestral lands, water, sites, wahi tapu and other taonga."*

18.90. Policy 27.2.4.7 is supported by Submitters 378 (Peninsula Village Limited and Wanaka Bay Limited) and 706 (Forest and Bird NZ).

18.91. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) seeks that Policy 27.2.4.7 be amended so that the second bullet point reads "... landscape features that the value of land so reserved be off-set against the development contribution...".<sup>138</sup>

18.92. Submitter 806 (Queenstown Park Limited) seeks that Policy 27.2.4.7 be extended so that it also encourages initiatives for provision of public access to natural features and heritage.<sup>139</sup>

133 Further submitters FS1217.16, FS1219.16, FS1252.16, FS1277.19, FS1316.15, FS1275.189, FS1283.129, FS1217.17, FS1219.17, FS1252.17, FS1277.20, FS1316.16, FS1275.190, FS1283.130, FS1217.18, FS1219.18, FS1252.18, FS1277.21, FS1316.17, FS1275.191, FS1283.131, FS1217.19, FS1219.19, FS1252.19, FS1277.22, FS1316.18, FS1275.192, FS1283.132, FS1217.20, FS1219.20, FS1252.20, FS1277.23, FS1316.19, FS1275.193, FS1283.133.

134 Submission point 806.183.

135 Submission point 117.24.

136 Submission point 806.184.

137 Submission point 806.186.

138 Submission point 453.17.

139 Submission point 806.187.

18.93. Submitter 809 (Queenstown Lakes District Council) seeks that Policy 27.2.4.7 be amended so that the second bullet point reads:<sup>140</sup>

- *"Where a reserve is to be set aside to provide protection to vegetation and landscape features, but whether the value of ~~the~~ that land reserved should not be off-set against the development contribution to be paid for open space and recreation purposes."*

18.94. Further, Submitter 809 seeks that a new Policy 27.2.4.8 be included to support Objective 27.2.4 which would read:<sup>141</sup>

*"27.2.4.8 Ensure that new subdivisions and developments recognise, incorporate and where appropriate, enhance existing established protected vegetation and where practicable ensure that this activity does not adversely impact on protected vegetation."*

#### *Discussion*

18.95. Strategic direction 3.2.3 Goal provides for the protection of our natural environment and ecosystems. In my opinion, the wording of Policy 27.2.4.1 is effective in responding to the outcomes of Strategic direction 3.2.3 Goal and accords with the outcomes afforded under section 6(a) and section 7(c) of the RMA. I consider that including reference to "Where possible and practical enhance...", as sought by Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd), would weaken the intent of the policy.

18.96. The amendment sought by Submitter 809 (Queenstown Lakes District Council) to include the words 'and protecting' is however considered necessary in order to make the policy more effective, given that Objective 27.2.4 only seeks to identify, incorporate and enhance the values listed.

18.97. Policy 27.2.4.2 directly responds to Objective 27.2.4 and as such, deleting it, as sought by Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks), is not considered effective in responding to the outcomes of the objective.

18.98. While I support the policy direction of Policy 27.2.4.3, the direction afforded by the policy relates to the use of joint stormwater and flood management networks and in my opinion will be more effective in giving effect to the direction afforded under Objective 27.2.5,

140 Submission point 809.22.

141 Submission point 809.5.

than the outcomes reflected within Objective 27.2.4. As a consequence, I consider that Policy 27.2.4.3 be relocated so as to integrate with the infrastructure provisions supporting Objective 27.2.5.

18.99. In relation to the relief sought by Submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks), I do not support the deletion of Policy 27.2.4.4 given that it seeks to respond to matters under section 6(f) of the RMA. However, I question whether the existing policy wording is effective in directing the protection of historic heritage from inappropriate subdivision, use, and development, required under section 6(f) of the RMA and the higher order Strategic Policy outcomes of the PDP. The use of the word 'encourage' at the front of this policy does not, in my opinion, correlate with the direction afforded under section 6(f) of the RMA, which, I believe, is more explicit. I note that Objective 26.5.1 and supporting policies 26.5.1.1 and 26.5.1.2 of Chapter 26 (Historic Heritage)<sup>142</sup> reflect a stronger policy direction than Policy 27.2.4.4. In my opinion, there should be consistency in how each responds to matters under section 6(f) of the RMA. As a consequence, I recommend amendments to Policy 27.2.4.4 to ensure that it is more effective in achieving the purpose of the RMA by starting the policy with the words 'provide for'.

18.100. While I agree with Submitter 806 (Queenstown Park Limited) that reference to "unacceptable loss" of archaeological sites within Policy 27.2.4.4 may not be easily defined, the intent of the policy to avoid unacceptable loss of archaeological sites is particularly strong and in my opinion should be retained.

18.101. I do not believe that Policy 27.2.4.5 is required to be retained, in order to respond to the resource management issues raised within the section 32 evaluation and is already addressed by Policy 27.2.1.6. Policy 27.2.4.5 simply duplicates a process that is already entrenched in the RMA and other legislation. Policy 27.2.4.5 seeks to ensure opportunity for the input of the applicable agencies where the subdivision and resultant development could modify or destroy an archaeological site. In my opinion, the outcome of this policy is replicating the statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014 ('**HNZ Act**'). Should a subdivision application generate the potential to modify or destroy an archaeological site or heritage item listed under the HNZ Act, then a determination will be required on a case by case basis as to whether Heritage NZ is considered an affected party or not. This process is provided for under Rule 27.9.2 (which does not exempt notification).

142 As recommended within Appendix 1 to the section 42 officers report to Chapter 26.

- 18.102. In my opinion, Policy 27.2.4.6 is effective in implementing the outcomes of Objective 27.2.4. As a consequence I do not support its deletion as requested by submitter 632 (RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, RCL Jacks).
- 18.103. In my opinion, the relief sought by Submitter 806 (Queenstown Park Limited) is not any more effective than Policy 27.2.4.6 as notified. In addition to this, I do not believe that the proposed amendment adequately responds to matters raised under section 6(e) and (f) of the RMA.
- 18.104. I support the intent of Policy 27.2.4.7 as notified, which gives effect to Strategic Direction 3.2.4 Goal through encouraging initiatives that provide for the protection of the District's natural environment and ecosystems. The amendments sought by Submitters 453 (Paterson Pitts Partners (Wanaka) Ltd), 806 (Queenstown Park Limited), and 809 (Queenstown Lakes District Council) are not considered to make Policy 27.2.4.7 any more effective. As such, I do not support the amendments proposed.
- 18.105. I have considered Submitter 809's (Queenstown Lakes District Council Parks Team) proposed Policy 27.2.4.8 which would support Objective 27.2.4. I consider that the proposed policy broadens the scope of the policy framework under Objective 27.2.4 to better give effect to Strategic Direction 3.2.4 Goal, through the protection of the District's natural environment and ecosystems. As a consequence, I recommend that an amended version of this policy be included in support of Objective 27.2.4, with the exception that the policy is amended so that it seeks to *'ensure that subdivision and development recognises, incorporates and where appropriate, enhances existing established protected indigenous vegetation'*.

#### *Recommendation*

- 18.106. I recommend that Policy 27.2.4.1 be retained as notified. The relief sought by Submitters 806, 809 and 453 do not make the policy more effective in achieving the outcomes of the Strategic Directions Chapter, or purpose of the RMA. As a consequence, I recommend rejection of submission 806.182 and 809.21.
- 18.107. I recommend that Policy 27.2.4.2 be retained as notified. As a consequence, I recommend rejection of submission 632.15.
- 18.108. I recommend that Policy 27.2.4.3 be retained as notified. However I recommend that it is relocated so as to inform the policy direction under Objective 27.2.5. I do not support

the amendments sought by submitters to this policy. In the case of Submitter 117 (Maggie Lawton), the relief sought by this submitter is already covered by Policy 27.2.4.7 and issues relating to passive solar design of dwellings is a matter covered under the Subdivision Guidelines referred to under Policy 27.2.1.2. As a consequence, I recommend rejection of submission points 632.16 and 117.24.

- 18.109. For the reasons I have set out in paragraph 18.100 of this evidence, I recommend that Policy 27.2.4.4 be retained as this accords with Strategic Direction Objective 3.2.3.2, section 6(f) of the RMA.
- 18.110. Given that Policy 27.2.4.5 duplicates a process that is already entrenched in the RMA and other legislation, I agree with Submitters 632 and 806 that Policy 27.2.4.5 be deleted.
- 18.111. I recommend that Policy 27.2.4.6 be retained as notified. As a consequence, I recommend rejection of submission points 632.19 and 806.186.
- 18.112. I recommend that Policy 27.2.4.7 be retained as notified and therefore reject submission points 453.17, 806.187 and 809.22.
- 18.113. I recommend adoption of the Council Parks Teams' proposed new Policy 27.2.4.8, in part, included to support Objective 27.2.4, subject to the amendment set out in paragraph 8.105 of this evidence. As a consequence, I recommend that submission point 809.5 be accepted.
- 18.114. The above recommended amendments are set out in the Revised Chapter at **Appendix 1**. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

#### **Objective 27.2.5 and Policies 27.2.5.1 to 27.2.5.18**

- 18.115. Objective 27.2.5 received a number of submissions, including three submissions seeking amendments.

18.116. Submitter 805 (Transpower NZ Ltd) seeks the following amendments:<sup>143</sup>

*"Require provision of infrastructure and services ~~are provided~~ to lots and developments whilst ensuring that subdivision or development does not adversely affect the safe, effective or efficient functioning of regionally significant infrastructure, such as the National Grid, ~~in anticipation of the likely effects of land use activities on these lots and within overall developments.~~"*

18.117. Further, Submitter 805 (Transpower NZ Ltd) seeks the following additional policy be added in support of Objective 27.2.5:<sup>144</sup>

*To manage the effects of subdivision on the safe, effective and efficient operation, maintenance, upgrading and development of the National Grid by ensuring that subdivision is managed around the National Grid to avoid subsequent land use from restricting the operation, maintenance, upgrading and development of the National Grid.*

18.118. Submitter 635 (Aurora Energy Limited) seeks the following amendments to Objective 27.2.5:<sup>145</sup>

*"Require infrastructure and services ~~to be~~ ~~are~~ provided to ~~new lots and subdivision and developments, within the District. in anticipation of the likely effects of land use activities on these lots and within overall developments.~~"*

18.119. Further, Submitter 635 (Aurora Energy Limited) seeks the following additional policy be added in support of Objective 27.2.5:<sup>146</sup>

*Policy xxx - Avoid, remedy or mitigate reverse sensitivity effects on infrastructure.  
Explanation: Subdivision and subsequent land use and development can increase the potential for reverse sensitivity effects on infrastructure. Infrastructure and network utility operators provide an important essential service to the Queenstown Lakes District and Wider National Networks. To ensure the continuation of this essential service the presence and function of the infrastructure should be recognised and careful consideration given to preventing the establishment and expansion of sensitive activities located in the vicinity of infrastructure.*

143 Submission point 805.62.

144 Submission point 805.64.

145 Submission point 635.35.

146 Submission point 635.35.

- 18.120. Submitter 632 (RCL) seeks that Objective 27.2.5 and Policies 27.2.5.17 and 27.2.5.18 be deleted,<sup>147</sup> which was opposed by 21 further submitters.<sup>148</sup> Further, Submitter 632 recommends a number of additional policies and include:

New policy *Manage stormwater to provide for public safety and where opportunities exist to maintain and enhance water quality*<sup>149</sup>

New policy – *When connecting to Council reticulated infrastructure ensure that there is sufficient capacity for the proposed development or that necessary upgrades can be reasonably expected to be undertaken.*<sup>150</sup>

New policy *Have regard to the design, location and direction of lighting to provide for public safety and reduce upward light spill*<sup>151</sup>

- 18.121. In relation to Policy 27.2.5.1, Submitter 805 (NZ Transport Agency) seeks amendments to the policy to add the words "a safe and".<sup>152</sup>

- 18.122. Submitter 798 (Otago Regional Council) requests that in considering subdivisions and development, provisions require the inclusion of links and connections to public transport services and infrastructure, not just walking and cycling linkages.<sup>153</sup>

- 18.123. Submitter 632 (RCL) seeks that Policies 27.2.5.2, 27.2.5.4, 27.2.5.13 are amended as follows:

*27.2.5.2 Ensure safe and efficient pedestrian, cycle and vehicular access along roads and to is provided to all lots created by subdivision and to all developments.*"

*27.2.5.4 Encourage the design of subdivision and roading networks to recognise and accommodate pre-existing topographical features where this will not compromise design outcomes and the efficient use of land to ensure the physical and visual effects of subdivision and roading are minimised.*<sup>154</sup>

147 Submission point 632.20, 632.27, 632.28.

148 Further submitters FS1217.21, FS1219.21, FS1252.21, FS1277.24, FS1316.20, FS1275.194, FS1283.134, FS1217.28, FS1219.28, FS1252.28, FS1277.31, FS1316.2, FS1275.201, FS1283.141, FS1217.29, FS1219.29, FS1252.29, FS1277.32, FS1316.28, FS1275.202, FS1283.142.

149 Submission points 632.49.

150 Submission points 632.51.

151 Submission point 632.53.

152 Submission point 719.134.

153 Submission point 798.49.

154 Submission points 632.47 and 632.47.

~~27.2.5.13 Treating and disposing of sewage is provided for in a manner that is consistent with maintains ing public health and avoids or mitigates adverse effects on the environment.~~<sup>155</sup>

~~"27.2.5.16 To e Ensure adequate provision is made for the supply and installation of reticulated energy, including street lighting, and communication facilities while: • Providing flexibility to cater for advances in telecommunication and computer media technology, particularly in remote locations and • Ensure the method of reticulation is appropriate for the having regard to effects on visual amenity values of the area by generally requiring services are underground;"~~<sup>156</sup>

18.124. Submitter 289 (A Brown) seeks amendments to Policy 27.2.5.5 to require all new and replacement lighting in the District to be downward facing using energy efficient light bulbs.<sup>157</sup> Further, the submitter supports Policy 27.2.5.12 and seeks that collection of stormwater from roads be designed so that it does not run into our lakes and rivers.

18.125. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) has made a number of submissions to the infrastructure policies and seeks the following:

- (a) Opposes Policy 27.2.5.4 as the submitter considers that the policy is too open to differing interpretation;<sup>158</sup>
- (b) Amendments to Policy 27.2.5.5 by adding "... in accordance with Council's transport strategies" in the final bullet point;<sup>159</sup>
- (c) Opposes Policy 27.5.2.9 as the submitter considers that water recycling is better addressed as part of building not at the time of subdivision;<sup>160</sup>
- (d) Opposes Policy 27.2.5.11 as these matters are covered by development contributions;<sup>161</sup>
- (e) Amendments to Policy 27.2.5.12 to add "... where possible and practical";<sup>162</sup> and
- (f) Amendments to 27.2.5.15 to add "... with upgrades credited against development contributions."<sup>163</sup>

155 Submission points 632.50.  
156 Submission point 632.52.  
157 Submission point 289.18.  
158 Submission point 453.18.  
159 Submission point 453.19.  
160 Submission point 453.20.  
161 Submission point 453.21.  
162 Submission point 453.22.  
163 Submission point 453.23.

## *Discussion*

- 18.126. In relation to the submissions received on Objective 27.2.5, I accept, in part, the submission by Submitter 635 (Aurora Energy Limited). The objective as notified does not read like an outcome statement. I consider that the suggested amendments will better align the Strategic Objectives 3.2.8 Goal and 3.2.8.1 of the Strategic Directions chapter.
- 18.127. The relief sought by Submitter 805 (Transpower NZ Ltd) to Objective 27.2.5 is not supported, as it changes the outcome of the objective. That said, I support the intent of the submitter's relief and consider that it would be effective for Chapter 27 to cross reference to the policy outcomes set out in Chapter 30 (Utilities and Renewable Energy). I discuss this in more detail in the paragraphs to follow.
- 18.128. Transpower NZ Ltd's proposed new policy seeks to ensure that subdivision is managed to avoid subsequent land use from restricting the operation, maintenance, upgrading and development of the National Grid. I recommend that the relief sought by both Submitter 805 (Transpower NZ Ltd) and Submitter 635 (Aurora Energy Limited) be accepted, in part. However, I consider that it is more appropriate for the relief to be directed under Objective 27.2.2 as opposed to the Infrastructure policies. This is because the issue raised relates to the siting and design of subdivision close to transmission networks, not the establishment of new infrastructure. Protecting infrastructure of national and regional significance from adverse effects (including reverse sensitivity effects) is entrenched within the higher order National Policy Statement on Electricity Transmission 2008 (**NPSET**),<sup>164</sup> and Objective 3.5 and Policy 3.5.1 of the PRPS. As a consequence, I recommend a new Policy 27.2.2.10 be included which reads as follows:

*"Policy 27.2.2.10 - Manage subdivision within or near to electricity transmission corridors to facilitate good amenity and urban design outcomes, while minimising potential reverse sensitivity effects on the transmission network."*

- 18.129. The recommended relief ensures that Chapter 27 gives effect to Strategic objective 3.2.8 Goal which seeks to provide for the ongoing operation and provision of

<sup>164</sup> Policy 10 - In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.

infrastructure, and supporting Objective 3.2.8.1 and Policy 3.2.8.1.1,<sup>165</sup> while cross referencing to policy outcomes set out in Chapter 30 (Utilities and Renewables).

- 18.130. In relation to Policy 27.2.5.1, the Code of Practice<sup>166</sup> states "development design shall ensure connectivity to properties and roads that have been developed, or that have the potential to be developed in the future." Given that the Code of Practice considers the potential of infrastructure capacity at the time of subdivision, I recommend that Policy 27.2.5.1 is amended to delete the word 'expected' in the second line and be replaced with the word 'potential'. This better aligns with the manner in which infrastructure is considered at the time of subdivision.
- 18.131. Further, I support the amendment to Policy 27.2.5.1 sought by Submitter 805 (NZ Transport Agency), which provides for a clearer meaning to the policy intent.
- 18.132. I recommend that Policy 27.2.5.2 be retained as notified. In my opinion, none of the suggested amendments make the policy more effective.
- 18.133. Submitter 798 (Otago Regional Council) requests that in considering subdivisions and development, provisions require the inclusion of links and connections to public transport services and infrastructure. I note that this outcome is already referenced within Policy 27.2.5.3. I consider that the relief sought by the submitter can be achieved through the repositioning of 'public transport linkages' to the front of the policy. I believe that this proposed amendment will make the intent of the policy clearer. The submitter has also requested a similar outcome with regard to Policy 27.2.5.5, and I recommend changes to the ninth bullet point in this policy to also reflect the relief sought by the Otago Regional Council.
- 18.134. I accept, in part, the amendments to Policy 27.2.5.4 recommended by Submitter 632 (RCL), as I believe that the proposed amendments will improve the clarity and administration of the policy. I recommend that the policy be recast in order to achieve these efficiencies.
- 18.135. With respect to Policy 27.2.5.5, this policy covers a range of design matters that seek to give effect to the direction of Objective 27.2.5. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) seeks reference to the Council's transport strategies in the final bullet point of this policy. I do not consider that this addition is necessary at this point in time,

<sup>165</sup> Revised Strategic Directions Chapter -Council's right of reply version 7-4-16.

<sup>166</sup> At section 3.2.5, page 69 of the Code of Practice.

given that these matters will likely be integrated within the PDP as part of the Stage 2 Review process once the Transport Chapter is notified. I also consider that the amendment recommended to Policy 27.2.5.3 (as sought within the submission by the Otago Regional Council and discussed in paragraph 18.133 above) will achieve enhanced focus on links and connections to public transport services and infrastructure.

- 18.136. I have considered the matters raised in relation to the amendment sought by submitter 289 (A Brown) to Policy 27.2.5.5 to require all new and replacement lighting in the District to be downward facing using energy efficient light bulbs. I believe that the outcome sought by the submitter is impractical and would constitute a significant policy shift. In addition to this, I consider that this change would require a significantly more detailed section 32 evaluation prior to it being adopted. In terms of managing the effects of light spill, the Council has a strategy to manage the impact of street and public space lighting on the night sky.<sup>167</sup> I note that the fifth bullet point to Policy 27.2.5.5 references 'the provision for and standard of street lighting, having particular regard to the avoidance of upward light spill'. I consider that the policy would be improved by adding the words 'siting', 'location' and referencing 'night sky' as suggested by the submitter.
- 18.137. I note that submitter 632 (RCL) seeks that a new policy be added,<sup>168</sup> which essentially reflects the outcomes in the fifth bullet point to Policy 27.2.5.5. However, the submitter seeks inclusion of the words 'provide for public safety', which I support. Collectively, the changes will improve the clarity and administration of the PDP and better align with the intent of the policy. As a consequence, I accept, in part, the relief sought within submission point 632.53
- 18.138. I support Policies 27.2.5.6, 27.2.5.7, 27.2.5.8, 27.5.2.9, 27.2.5.10 as notified and consider these give effect to the direction of Objective 27.2.5, through requiring reticulated water supply, stormwater disposal, sewage treatment and disposal systems, and consideration of water conservation measures at the time of subdivision. Further, Policy 27.2.5.10 seeks to ensure that appropriate water supply, design and installation is provided to meet the capacity and demand needs of lots within the subdivision (including for fire fighting purposes). Therefore it is important to respond to subdivision activities within rural living zones. In light of the above, I do not believe that the amendments proposed are more effective or efficient, therefore I do not support the proposed changes.

<sup>167</sup> Southern Light: A lighting strategy for the Queenstown. QLDC. Adopted 15 December 2006.

<sup>168</sup> Submission point 632.53.

- 18.139. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) is opposed to Policy 27.5.2.9 as the submitter considers that water recycling is better addressed as part of building not at the time of subdivision. I disagree with the submitter, as there may be times (including where subdivisions are undertaken in locations which are not connected to Council water infrastructure) when water conservation measures are an appropriate consideration at subdivision stage. Submitter 632 (RCL) seeks the words 'where practicable' inserted at the beginning of Policy 27.5.2.9. However as the policy only seeks to 'encourage', or help to achieve water conservation measures, I do not consider the relief sought by this submitter is necessary to make the policy more effective. As a consequence, I reject these submission points and recommend that Policy 27.5.2.9 be retained as notified.
- 18.140. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) is opposed to Policy 27.5.2.11 as the submitter considers these matters are covered by development contributions. Development contributions are defined by the provisions of Part 8 Sub-part 5 and Schedule 13 of the Local Government Act 2002 (**LGA 2002**). To make use of these provisions Council must adopt a Policy on Development Contributions as Part of the Council's Ten Year Plan (**'TYP Development Contribution Policy'**). The policy is annually updated to ensure that it is aligned with fiscal implications of growth within the District over any given year. From a policy perspective, the ODP is supported with an existing policy framework that references the Council's Long Term Community Plan Development Contributions Policy.<sup>169</sup> While I consider that referencing the Council's TYP Development Contribution Policy within Policy 27.5.2.11 is not necessarily required, given that development contributions are determined under the LGA 2002, I consider that the guidance provided to plan users by retaining Policy 27.2.5.11 assists with the implementation of the Plan. As a consequence, I do not accept this submission point and recommend that Policy 27.5.2.11 be retained as notified.
- 18.141. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) seeks amendments to Policy 27.2.5.12 to add "... where possible and practical" at the front of the policy. I do not consider that the amendment to the policy is appropriate given that the policy provides for a broad range of stormwater design options, including consideration of viable alternative designs for stormwater management. As a consequence, I do not support the relief sought by the submitter. I do, however, consider that the first bullet point to the policy could be improved by deleting the words 'Recognise and encourage'. I

<sup>169</sup> Refer to Section 15.1.3 and Objective 1 and supporting policies 1.6 and 1.7 of the ODP.

consider that the policy would have a clearer intent if it read 'having regard to:....Viable alternative design...'

- 18.142. Further, Submitter 289 (A Brown), while supporting Policy 27.2.5.12, seeks that stormwater collection from roads should be designed, so that it does not run into lakes and rivers. I do not consider the relief sought by the submitter to be practicable (and is a matter reinforced by Mr Glasner), given the volumes of stormwater generated during high rainfall events and the existing design of the roading network's stormwater system. However, the fifth bullet point in this policy requires consideration of disposal of stormwater run-off, including the control of water-borne contaminants, litter and sediments, and the control of peak flow. As such, I consider that the Policy as proposed is providing much of the relief that the submitter is seeking.
- 18.143. Submitter 632 (RCL) seeks a new policy, which provides for the management of stormwater to provide for public safety and where opportunities exist to maintain and enhance water quality.<sup>170</sup> In my opinion, part of the relief sought by RCL can be achieved through the inclusion of the words 'maintain and enhance water quality' to Policy 27.2.5.12. Presently none of the infrastructure policies under Objective 27.2.5 refer to the 'maintenance and enhancement of water quality'. This is a central outcome of Strategic Directions Objective 3.2.4.6 and as a consequence, Policy 27.2.5.12 would be more effective by including the suggested relief.
- 18.144. Further, Submitter 632 (RCL) seeks that Policy 27.2.5.14 be amended to make the policy more concise, while maintaining the central thrust of the policy. In my opinion, the changes provide for a clearer meaning to the policy intent and as a consequence will improve the clarity and administration of the PDP. I therefore accept the relief sought.
- 18.145. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) seeks amendments to Policy 27.2.5.15 to add "... with upgrades credited against development contributions". The intent of Policy 27.2.5.15 is to ensure that the design and provision of any necessary infrastructure at the time of subdivision takes into account the requirements of future development on land in the vicinity. The intent of this policy accords with the way in which subdivision design is advanced under the Code of Practice, which states "development design shall ensure connectivity to properties and roads that have been developed, or that have the potential to be developed in the future."<sup>171</sup> I consider that

170 Submission points 632.49.

171 At section 3.2.5, page 69 of the Code of Practice.

Policy 27.2.5.15 is appropriately worded as it stands and aligns with the Code of Practice. As a consequence, I reject this submission point and recommend that Policy 27.5.2.15 be retained as notified.

- 18.146. Submitters 179 (Vodafone NZ), 191 (Spark Trading NZ Limited), 781 (Chorus New Zealand Limited) and 421 (Two Degrees Mobile Limited) seek that Policy 27.5.2.16 be retained as notified. Submitters 632 (RCL)<sup>172</sup> and 635 (Aurora Energy Limited)<sup>173</sup> seek specific amendments to Policy 27.5.2.16. In particular submitter 635 seeks amendments to bullet point two, to only require the placement underground where this is 'technically and operationally feasible'. I do not accept this relief. The policy as notified reads '..generally requiring services are underground', which implies that it may not be required in all instances. I accept the relief of those submitters seeking that Policy 27.5.2.16 be retained as notified. This is on the basis that the policy provides for clear guidance on the need to for energy and telecommunications to be provided at the time of subdivision and therefore gives effect to the direction of Objective 27.2.5.
- 18.147. Submitter 632 (RCL) seeks that Policies 27.2.5.17 and 27.2.5.18 be deleted. I support Policies 27.2.5.17 and 27.2.5.18 as notified and consider these give effect to the direction of Objective 27.2.5, by ensuring easements are provided and are an appropriate size, location and length for intended uses.

#### *Recommendation*

- 18.148. With respect to Objective 27.2.5, I accept, in part, the submission by Submitter 635 (Aurora Energy Limited). The objective as notified does not read like an outcome statement, and I have recommended further amendments, broadly in line with Submitter 635's suggested amendments.
- 18.149. I accept (in part) the submission by submitter 805 (Transpower NZ Ltd) relating to the addition of a policy identifying the need to appropriately manage the reverse sensitivity effects associated with development adjoining infrastructure corridors. As such, it is recommended that Policy 27.2.2.10 be inserted under Objective 27.2.2, generally in accordance with the direction identified in the submission.
- 18.150. I recommend that Policy 27.2.5.1 is amended to delete the word 'expected' in the second line and be replaced with the word 'potential', which better aligns with the manner in which infrastructure is considered at the time of subdivision via the Code of

172 Submission point 632.52.

173 Submission point 635.36.

Practice. I accept the amendment to Policy 27.2.5.1 sought by Submitter 805 (NZ Transport Agency), which provides for a clearer meaning to the policy intent.

- 18.151. I recommend amendments to Policy 27.2.5.3 in response to Submitter 798's (Otago Regional Council) request that in considering subdivisions and development, provisions require the inclusion of links and connections to public transport services and infrastructure. The Submitter has also requested a similar outcome to Policy 27.2.5.5, and I recommend changes to the ninth bullet point in this policy to also reflect the relief sought by the Otago Regional Council. As a consequence, I accept submission points 798.49 and 798.50.
- 18.152. I accept, in part, the amendments to Policies 27.2.5.4 and 27.2.5.5 recommended by Submitter 632 (RCL). I accept the amendments to Policy 27.2.5.13 as sought by Submitter 632. As a consequence, I accept, in part, submission point 632.47 and 632.53 and accept submission point 632.50.
- 18.153. As I have set out in paragraph 18.138 of this evidence, I support the retention of Policies 27.2.5.6, 27.2.5.7, 27.2.5.8, 27.5.2.9, 27.2.5.10, 27.2.5.11, 27.2.5.12, 27.5.2.16, 27.2.5.17 and 27.2.5.18.
- 18.154. The amendments explained above are shown in the Revised Proposal at **Appendix 1**. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

#### **Objective 27.2.6 and Policies 27.2.6.1 to 27.2.6.2**

- 18.155. Submitter 632 (RCL) seeks that Objective 27.2.6 and supporting Policy 27.2.6.1 be deleted,<sup>174</sup> which was opposed by 14 further submissions.<sup>175</sup>

#### *Discussion and Recommendation*

- 18.156. I consider that Objective 27.2.6 and supporting Policy 27.2.6.1 are important mechanisms that assist in making Plan users aware of the need for development contributions and the upgrading of existing infrastructure as a consequence to subdivision and development activity. However, I consider that Policy 27.2.6.2 is largely redundant if the 'Council's TYP Development Contribution Policy' was referred to within Policy 27.2.6.1. I believe that combining these two policies would result in a more

<sup>174</sup> Submission points 632.29 and 632.30.

<sup>175</sup> Further submitters FS1217.30, FS1219.30, FS1252.30, FS1277.33, FS1316.29, FS1275.203, FS1283.143, FS1217.32, FS1219.32, FS1252.32, FS1277.35, FS1316.31, FS1275.205, FS1283.145.

efficient Chapter. Therefore, I recommend that Objective 27.2.6 be retained as notified, however Policy 27.2.6.1 be amended to integrate reference to the 'Council's TYP Development Contribution Policy' and that Policy 27.2.6.2 be deleted. Hence, I recommend that the submission of Submitter 632 (RCL) be rejected.

#### **Objective 27.2.7 and Policies 27.2.7.1 to 27.2.7.2**

- 18.157. Submitter 632 (RCL) seeks that Objective 27.2.7 and supporting Policy 27.2.6.2 be deleted,<sup>176</sup> which was opposed by 14 further submissions.<sup>177</sup>
- 18.158. Submitters 378 (Peninsula Village Limited and Wanaka Bay Limited) and 373 (Department of Conservation) support Objective 27.2.7.
- 18.159. Submitter 632 (RCL) seeks that Policy 27.2.7.1 is amended as follows:<sup>178</sup>

*"Policies 27.2.7.1 Create esplanades reserves or strips ~~where opportunities exist, particularly where they would provide nature conservation, natural character, natural hazard mitigation, infrastructural or recreational benefits~~" (with remaining text in policy recommended to be deleted)*

#### *Discussion and Recommendation*

- 18.160. I do not support the deletion of Objective 27.2.7 and Policy 27.2.7.2 as sought by Submitter 632 (RCL). Both provisions provide guidance on relevant matters identified in sections 229 and 230 of the RMA, which set out the purpose of and meaning of esplanade reserves and strips. As a consequence, I consider that the objective and policy are effective responses in guiding plan users on these provisions of the RMA, and the need to provide for consideration to esplanade requirements at the time of subdivision.
- 18.161. The amendments sought to Policy 27.2.7.1 by RCL, while making the policy more concise, reduces the extent of the guidance provided within the six bullet points supporting this policy. These bullet points are largely promulgated on the purpose structure set out in section 229 of the RMA, which set out a broad range of matters where Council may consider when taking esplanade reserves and strips at the time of subdivision. In my opinion, the amendments proposed by RCL to Policy 27.2.7.1 provide for a clearer policy. However I also consider that the bullet points should be

<sup>176</sup> Submission point 632.32 and 632.33.

<sup>177</sup> Further submitters FS1217.33, FS1219.33, FS1252.33, FS1277.36, FS1316.32, FS1275.206, FS1283.146, FS1217.34, FS1219.34, FS1252.34, FS1277.37, FS1316.33, FS1275.207, FS1283.147.

<sup>178</sup> Submission point 632.55.

retained. Collectively, the changes proposed will make the policy clearer and therefore be more effective to administer. As a consequence, I accept, in part, submission point 632.55.

18.162. I consider that collectively, Objective 27.2.7 and Policies 27.2.7.1 and 27.2.7.2 are effective in responding to matters raised under section 229 and 230 of the RMA and therefore should be retained.

18.163. These recommended amendments are shown in the Revised Chapter at **Appendix 1**.

#### **Objective 27.2.8 and Policies 27.2.8.1 to 27.2.8.2**

18.164. Submitter 632 (RCL) seeks that Objective 27.2.8 be deleted,<sup>179</sup> which was opposed by seven further submissions.<sup>180</sup>

18.165. Submitter 383 (QLDC Corporate Submission) seeks the deletion of the words: "and where appropriate, provide exemptions from the requirement of esplanade reserves" from Objective 27.2.8.<sup>181</sup>

18.166. As I have already discussed under Issue 2 (at section 12 of this evidence) Submitter 806 (QPL) has sought that Objective 27.2.8 provide for boundary adjustments as a controlled activity, and I have recognised that they do not create a demand for services.<sup>182</sup>

18.167. Submitter 719 (NZ Transport Agency) seeks amendments to the fourth bullet point of Policy 27.2.8.2 to include the words "The location of existing or proposed accesses and easements for access and services."<sup>183</sup>

#### *Discussion and Recommendation*

18.168. I do not support the deletion of Objective 27.2.8, as sought within the submission by Submitter 632 (RCL). The objective, as amended is effective in guiding boundary adjustment subdivisions. As a consequence, I reject submission point 632.34.

179 Submission point 632.34.

180 Further submitters FS1217.35, FS1219.35, FS1252.35, FS1277.38, FS1316.34, FS1275.208, FS1283.148.

181 Submission point 383.48.

182 Submission point 806.190.

183 Submission point 719.140.

- 18.169. In relation to the submissions received on Objective 27.2.8, I accept the submission by Submitter 383 (QLDC Corporate Submission) that the words "and where appropriate, provide exemptions from the requirement of esplanade reserves" be deleted. The objective as notified does not read like an outcome statement, rather, it reads more like a policy. As such, I have recast the objective and accept the deletion of the identified words on the basis that the intent of the objective and supporting Policy 27.2.8.1 is to provide for cross lease and unit title subdivision. This is governed by rule 27.6.1.1 (proposed rule 17.4.1 as included in **Appendix 1**) (which are a permitted activity) and consequently are unlikely to generate the need for esplanade reserves.
- 18.170. I support the relief sought by NZTA to Policy 27.2.8.2 on the basis that it is consistent with the reference to "existing and proposed accesses in bullet point two". Consequently, the amendment maintains a more effective linkage between the two bullet points. Given the foregoing, I accept the relief sought by NZTA under submission point 719.140.
- 18.171. I have addressed the recommended controlled activity rule for boundary adjustments under Issue 2 of this evidence. I note, for completeness, that I have broadly adopted the four bullet points under Policy 27.2.8.2 as the matters that Council has restricted its control in my recommended rule (set out under **Appendix 1** of this evidence).

## 19. **ISSUE 10 CHANGES TO NON-COMPLYING ACTIVITY STANDARDS UNDER RULE 27.4.2**

- 19.1. The following section addresses submissions to the non-complying activities listed under Rule 27.4.2.
- 19.2. Submitter 762 (Jacks Point) generally supports Rule 27.4.2(a), where it exempts Jacks Point from the default position of non-complying activity status. An addition is sought to insert restricted discretionary activities to more correctly reflect the status of the location specific rules 27.8.9.1 and 27.8.9.2, which trigger discretionary and restricted discretionary activities status respectively.<sup>184</sup> I note that Submitter 632 (RCL)<sup>185</sup> seeks similar relief to submitter 762. The relief sought by both submitters was opposed by 13 further submissions.<sup>186</sup>

<sup>184</sup> Submission point 762.1.

<sup>185</sup> Submission point 632.62.

<sup>186</sup> Further submissions FS1217.113, FS1219.113, FS1252.113, FS1277.149, FS1283.105, FS1316.110, FS1217.63, FS1219.63, FS1252.63, FS1277.66, FS1316.62, FS1275.236, FS1283.176.

- 19.3. Submitters 166 (Aurum Survey Consultants), 350 (Dalefield Trustee Ltd), 631 (Cassidy Trust) seek to exclude Rural Residential zone or their own properties from rule 27.4.1(b), which relates to the further subdivision of an allotment that has been used to calculate the average the minimum average densities of a subdivision.<sup>187</sup>
- 19.4. Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) highlights that Rule 27.4.2(d), lacks clarity.<sup>188</sup>
- 19.5. Submitter 166 (Aurum Survey Consultants) also seeks separate relief that Rule 27.4.2 and Rule 27.4.2 (e) be deleted.<sup>189</sup>

#### *Discussion and Recommendation*

- 19.6. I acknowledge the issue raised by Submitter 762 (Jacks Point), however note that the relief sought by the Submitter would reduce non-compliance with either rules 27.8.9.1 and 27.8.9.2 to a restricted discretionary activity. Under Rule 27.8.9.1 a subdivision activity that fails to comply with the Jacks Point Structure Plan located within Chapter 41 is a Discretionary Activity. Conversely, subdivision failing to comply with standards for the Jacks Point Zone Conservation Lots (namely the Farm Preserve 1 (FP-1) Activity Area) is a restricted discretionary activity. In my opinion, non-compliance with the Jacks Point Structure Plan should be retained as a discretionary activity as this provides for greater control should subdivision activity not accord with this Structure Plan. In terms of the issue raised by submitter 762, relating to the differing activity statuses in the location specific Rules 27.8.9.1 and 27.8.9.2, this matter has now been addressed through the integration of these rules into a new table supporting rules for Zone and Location Specific Standards (refer renumbered Rules 27.6.11.1 and 27.6.11.2). Submission points 762.1 and 632.62 are therefore rejected.
- 19.7. In relation to those submitters seeking the exclusion of the Rural Residential, Rural Lifestyle zone averages or where this relates to their own property from Rule 27.4.2(b), for the reasons that I have set out in Section 14 of this evidence, I do not support changes to the minimum lot sizes (including the removal of the calculation of the minimum allotment densities for the Rural Lifestyle and Rural Residential Zones). The minimum lot area provisions for each of these respective zones are considered effective for managing rural living opportunities with each of these respective zones. As a consequence, I reject submission points 166.9, 350.8, 631.5.

187 Submission points 166.9, 350.8, 631.5.

188 Submission point 453.24.

189 Submission points 166.17 and 166.18.

- 19.8. I do not support the relief sought by Submitter 166 (Aurum Survey Consultants) who seeks the deletion of Rule 27.4.2 and Rule 27.4.2 (e).<sup>190</sup> In my opinion, these rules are effective in managing potential adverse effects associated with non-compliance with the standards set out under Rule 27.4.2. For this reason, I do not support the deletion of these rules and reject submission points 166.17 and 166.18.
- 19.9. In relation to the issues raised by Submitter 453 (Paterson Pitts Partners (Wanaka) Ltd) regarding Rule 27.4.2(d), that they lack clarity, I note that a similar rule exists under Rule 15.2.3.4(ii) of the ODP, which states that the subdivision of a residential flat from a residential unit is a non-complying activity. I note that the definition of residential flat<sup>191</sup> under the PDP specifically refers to a residential flat being on the same site and held in the same ownership as the residential unit. Under the LDRZ provisions (set out in Chapter 7 of the PDP) the only instance where a residential flat is permitted to be subdivided off from a main dwelling that it is ancillary to is when the residential flat is considered to be a residential unit.<sup>192</sup> Therefore it may be considered under rules 7.4.9, 7.4.10.1 and 7.4.10.2, subject to compliance with other performance standards. Given the definition of 'residential flat' which requires the flat to be on the same site and held in the same ownership as the residential unit, I consider that the rule could be made clearer by removing reference to 'except where this is permitted in the LDRZ', which would align with existing 15.2.3.4(ii) of the ODP. Given this, I accept, in part, submission point 453.24.
- 19.10. The above amendments are set out in the Revised Chapter in **Appendix 1**.

## 20. **ISSUE 11 CHANGES TO 27.5 RULES – STANDARDS FOR SUBDIVISION ACTIVITIES**

- 20.1. The following section addresses submissions to 27.5 Rules – Standards for Submission Activities from 27.5.1.1 to 27.6.1 as notified.

190 Submission points 166.17 and 166.18.

191 Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

- Has a total floor area not exceeding 70m<sup>2</sup>, not including the floor area of any garage or carport;
- contains no more than one kitchen facility;
- is limited to one residential flat per residential unit; and
- is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party. Notes:
  - A proposal that fails to meet any of the above criteria will be considered as a residential unit.
  - Development contributions and additional rates apply.

192 Means a residential activity (including a dwelling) which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.

### **Rule 27.5.1.1 – Identification of Building Platforms at the time of Subdivision**

- 20.2. Submitter 367 (John Borrell) seeks amendments notified rule 27.5.1.1 so that the building platform in the Rural Lifestyle zone has a maximum area of 600m<sup>2</sup>.<sup>193</sup> This was opposed by two further submissions.<sup>194</sup>

#### *Discussion and Recommendation*

- 20.3. Submitter 367 (John Borrell) considers that the building platform in the Rural Lifestyle Zone should be smaller than the Rural Zone reflecting the smaller building size permitted and the more closely settled environment. The submitter considers that a smaller platform enables a more accurate assessment, both by neighbours and planners, of the effects of future buildings.
- 20.4. Further submitters (ORFEL Limited) and FS1325.13 (Lake Hayes Cellars Limited, Lake Hayes Limited and Mount Christina Limited) oppose the suggested change to this rule to limit the size of any building platform created at the time of subdivision to 600m<sup>2</sup>. Both further submitters support the proposed 1,000m<sup>2</sup> maximum building platform size, leaving the discretion for the subdivider/applicant to create smaller platforms if necessary and that the 1,000m<sup>2</sup> maximum area is an appropriate area to accommodate building within this zone.
- 20.5. I agree with the further submitters that the residential building platform size should be considered at the time of subdivision and should be of a size that is suitably flexible to enable suitable site-specific responses. Based on my own experience, it is often the case that developers/subdividers require the flexibility in building platform sizes when advancing subdivision applications. When dealing with sites that are less sensitive it is typical for residential building platforms to be identified at 1,000m<sup>2</sup> in area, while in more sensitive landscape settings, it is more common for platform sizes to be reduced in size so as to ensure that the effects of buildings can be suitably contained.
- 20.6. Having considered the monitoring reports for both the Rural Lifestyle Zone and Rural General Zones, there were no issues identified regarding the need to reduce the size of residential building platforms. As a consequence, I consider that this rule is effective in providing suitable flexibility and certainty for future lot owners and the relief sought by Submitter 367 (John Borrell) could reduce this with respect to the Rural Lifestyle Zone.

<sup>193</sup> Submission point 367.5.

<sup>194</sup> FS1150.13 and FS1325.13.

20.7. I recommend that Rule 27.5.1.1 be retained as notified and reject submission point 367.5.

21. **ISSUE 12 CHANGES TO 27.5.4 STANDARDS RELATING TO SERVICING AND INFRASTRUCTURE**

21.1. The following section addresses submissions to the Rules – Standards relating to Servicing and Infrastructure under notified rule 27.5.4.

21.2. Submitter 166 (Aurum Survey Consultants) seeks clarification as to whether it is the intention of the Council to revert from 2100L/day back to 1000L/day, given that notified rule 27.5.4.3 refers to a minimum 1,000L/per day. The submitter seeks clarification on what the minimum supply will be where a communal supply does exist.<sup>195</sup>

21.3. Submitters 179 (Vodafone NZ), 191 (Spark Trading NZ Limited), 781 (Chorus New Zealand Limited) seek a new standard that "*The provision of telecommunications services to each allotment to the requirements of the telecommunications network provider.*"<sup>196</sup>

21.4. Further, Submitters 191 (Spark Trading NZ Limited) and 179 (Vodafone NZ) seeks the inclusion of a new standard as follows:<sup>197</sup>

*"27.5.4.5 That each building be able to connect to the electricity and telecommunications networks to ensure occupants have access to network services of their choice. The minimum connection standard is the installation of separate ducting for each network between the building termination point to the exit pit for each network or overhead when connecting to an existing overhead network."*

21.5. Submitter 421 (Two Degrees Mobile Limited) seeks additional standards for the following:<sup>198</sup>

*"Telecommunication reticulation to all allotments in new subdivisions.  
Insert a new standard requiring that connection to the telecommunication network be provided for each building."*

*Discussion and Recommendations*

195 Submission point 166.13.

196 Submission points 179.13, 191.11, 781.12.

197 Submission point 191.12 and 179.14.

198 Submission point 421.11.

- 21.6. Mr Glasner (the Council's Chief Engineer) has responded to Submitter 166 (Aurum Survey Consultants) who questions the Council's intent under notified rule 27.5.4.3. The notified rule refers to a minimum 1,000L/per day.
- 21.7. Mr Glasner sets out that the Code of Practice requires 2,100 L/day (based on 700l/person x average of 3 people/dwelling) per dwelling.<sup>199</sup> This covers potable and irrigation water supply. Mr Glasner explains that if a person provides a potable supply of 1000L/day they will meet the Council's requirement provided they can demonstrate what supply will be available for irrigation. The 2,100L/day referenced by Aurum Survey Consultants is the requirement for a reticulated system where use outside of potable water, such as irrigation, must be considered. Where a system is not reticulated then the uses outside of potable water use are not considered and therefore the requirement is to provide for 1000l/day of potable water per dwelling. Based on the above, I am satisfied that Rule 27.5.4.3 be retained as notified and that any additional requirements for the provision for irrigation demand will need to be addressed at the time of subdivision approval.
- 21.8. Policy 27.2.5.16 (fourth bullet point) seeks to generally require connections to electricity supply and telecommunications systems to the boundary of the net area of the lot, other than lots for access, roads, utilities and reserves. Given the intent of Policy 27.2.5.16, I agree with Submitters 179 (Vodafone NZ), 191 (Spark Trading NZ Limited), and 781 (Chorus New Zealand Limited) who seek a new standard that telecommunications services to each allotment be provided to the requirements of the telecommunications network provider. Currently, notified rule 27.5.4 is not supported by such a method and therefore does not adequately respond to Objective 27.2.5 and Policy 27.2.5.16. I therefore recommend that a new rule be included that requires telecommunications services to each allotment (other than lots for access, roads, utilities and reserves). I do not support a rule requiring buildings to be connected to telecommunication networks, as this extends beyond the scope of the policy framework supporting subdivision. As a consequence, I accept, in part, submission points 179.13, 191.11, 781.12.
- 21.9. These amendments are shown in the Revised Chapter at **Appendix 1**.

199 At paragraph 7.4.

22. **ISSUE 13 CHANGES TO LOCATION – SPECIFIC OBJECTIVES, POLICIES AND PROVISIONS**

22.1. The following section addresses submissions to the Location – Specific Objectives and Policies and Provisions.

**Amendments to the Subdivision Chapter Layout**

22.2. A number of submitters including 632 (RCL), 636 (Crown Range Holdings Ltd), 643 (Crown Range Enterprises), 688 (Justin Crane and Kirsty Mactaggart), 693 (Private Property Limited), 702 (Lake Wakatipu Stations Limited)<sup>200</sup> have sought that Chapter 27 be amended so that it is consistent with other Chapters in the PDP, including through using tables and ensuring that all objectives and policies are located at the beginning of the section.

200 Submission points 632.4, 636.11, 643.16, 688.10, 693.16, 702.13.

*Discussion and Recommendation*

- 22.3. I accept, in part, the relief sought by these submitters as it relates to the rule framework under the District Wide Rules in part 27.4 and the Location Specific Standards under rule 27.8.1 (and supporting rules 27.8.2, 27.8.3, 27.8.5, 27.8.6, 27.8.7, and Rule 27.8.9). In my opinion, the rule framework would be easier to administer if the relevant rules were relocated to a table format so that the following structure was used:
- (a) District Wide (under supporting Table 27.5);
  - (b) Minimum Site Areas (under Table 27.6); and
  - (c) New Table 27.7 (to include the Location Specific Standards from relocated Rule 27.8.1 and supporting Rules 27.8.2, 27.8.3, 27.8.5, 27.8.6, 27.8.7, and Rule 27.8.9).
- 22.4. I consider that setting the rules out in this manner makes them more effective for plan administration and for plan users.
- 22.5. Further, in terms of efficiencies in plan administration, I support the relocation of the location specific objectives and policies to the start of the Chapter (so as to sit beneath the District Wide Objectives and policies). This is on the proviso that it is clear to plan users that the location specific policy framework is in addition to the District wide objectives and policies in Part 27.2. On this basis, I support the relocation of the Location specific objectives and policies from Section 27.7 (as notified) to Section 27.2.
- 22.6. Further, I note that a number of the location specific objectives and policies are worded with reference to matters of discretion (examples include 27.7.3, Policy 27.7.6.1, 27.7.7.4, Policy 27.7.14.2 to 27.7.14.8, 27.7.18.1, and 27.7.20). It is difficult to determine whether these are policies or rules and in my opinion, would benefit from being transferred to the new Table 27.6 (to include the Location Specific Standards). This will remove any uncertainty as to their purpose and provide better clarity for plan users.
- 22.7. Given the above, I accept, in part, submission points 632.4, 636.11, 643.16, 688.10, 693.16, 702.13. These amendments are shown in the Revised Chapter at **Appendix 1**. I note that the restructuring of the chapter has not been shown in tracked changes, only amendments to the specific provisions due to other submissions.

## Kirimoko, Wanaka

- 22.8. Submitter 809 (Queenstown Lakes District Council Parks Team) seeks amendments to Policy 27.7.2.8 as follows:<sup>201</sup>

~~Minimise~~ Avoid disturbance of existing native plant remnants and enhance areas of native vegetation by providing linkages to other open space areas and to areas of ecological value.

- 22.9. Submitter 656 (Crescent Investments Limited) seeks that the existing matters of discretion set out under 27.7.3 are amended as follows:<sup>202</sup>

- *"Any earthworks required to create any road, vehicle accesses ~~of~~, building platform or modify the natural landform;*
- *The design of the subdivision including lot configuration, servicing and roading patterns and design (including footpaths and walkways);*
- *Creation and planting of road reserves;*
- *The provision and location of walkways and the green network as illustrated on the Structure Plan for the Kirimoko Block in part 27.13;*
- *The protection of native species as identified on the structure plan as green network."*

- 22.10. Further, Submitter 656 (Crescent Investments Limited) seeks Rule 27.8.3.4 be amended so that any subdivision shall be designed so as to achieve, during a 1 in 100 year flood event, a rate of post development stormwater runoff that is no greater than the pre-development situation.<sup>203</sup>

### *Discussion and Recommendation*

- 22.11. While I support the intent of the relief sought by submitter 809 (Queenstown Lakes District Council Parks Team) to Policy 27.7.2.8, in my opinion, the change is not required for the policy to adequately give effect to Objective 27.7.2. Further, the need to 'avoid' all disturbance to existing native plant remnants may not be achievable in all instances and as a consequence may unduly fetter the implementation of this area. As a consequence, I reject submission point 809.23.

- 22.12. I accept the amendments sought by Submitter 656 (Crescent Investments Limited) to 27.7.3 (which has been relocated to new Table 27.6 - Location Specific Standards) as

201 Submission point 809.23.

202 Submission point 656.1.

203 Submission point 656.2.

this provides greater clarity to the plan user and more effectively responds to Objective 27.7.2 and supporting policies.

- 22.13. Mr Glasner (Council's Chief Engineer) provides a response to Submitter 656's (Crescent Investments Limited) suggested amendments to Rule 27.8.3.4. Mr Glasner considers that the Code of Practice currently requires developments to achieve, during a 1 in 20 year event, a rate of post development stormwater runoff that is no greater than the pre-development situation.<sup>204</sup> Mr Glasner considers that if the Council required all infrastructure to be designed to ensure post development stormwater runoff is no greater than the pre-development situation in a 1 in 100 year event then systems would be over designed for the vast majority of the time.<sup>205</sup> He notes that this may add significantly to Council maintenance costs for these over designed systems, consequently, I reject submission point 656.2.

### **Jacks Point Zone**

- 22.14. Submitter 762 (Jacks Point) seeks amendments to the Jacks Point provision by inserting a new heading below Policy 27.7.14.1, to read as follows "*27.14.2 Matters of discretion for subdivision within the Jacks Point Zone*". This was opposed by five further submissions and gained support from one further submitter.<sup>206</sup>
- 22.15. Submitter 632 (RCL) seeks that provision 27.7.14.7 be deleted and considers that the matters of control/discretion provided to the Council means that this rule is unnecessary.<sup>207</sup> This relief was opposed by seven further submissions.<sup>208</sup> Further, RCL also seeks the deletion of provision 27.7.14.8 on the basis that the submitter considers that the provisions covered within this provision are covered elsewhere.<sup>209</sup> This relief was opposed by seven further submissions.<sup>210</sup>

### *Discussion and Recommendation*

- 22.16. I have already discussed my concerns about the lack of clarity around the provisions referenced as matters of discretion (examples include 27.7.3, Policy 27.7.6.1, 27.7.7.4, Policy 27.7.14.2 to 27.7.14.8, 27.7.18.1, and 27.7.20). This is a matter that Submitter 762 (Jacks Point) has sought to resolve by inserting a new heading below Policy 27.7.14.1, to read as follows "*27.14.2 Matters of discretion for subdivision within the*

204 At paragraph 7.1.

205 At paragraph 7.4.

206 FS1217.117, FS1219.117, FS1252.117, FS1277.153, FS1283.109, FS1316.114.

207 Submission point 632.65.

208 FS1217.66, FS1219.66, FS1252.66, FS1277.69, FS1316.65, FS1275.239, FS1283.179.

209 Submission point 632.66.

210 FS1217.67, FS1219.67, FS1252.67, FS1277.70, FS1316.66, FS1275.240, FS1283.180.

*Jacks Point Zone*". As I have discussed at paragraph 22.3 above, I consider that the clarity of these provisions would be greatly enhanced through being transferred to the new Table 27.6 (to include the Location Specific Standards). This will remove any uncertainty as to their purpose and provide better clarity for plan users. As a consequence, the relief sought by the submitter should be adequately addressed by my suggested amendments, which are shown in the Revised Chapter at **Appendix 1**.

22.17. I do not support the deletion of provisions 27.7.14.7 and 27.7.14.8 and consider that the provisions are effective in guiding good subdivision and design outcomes for the Jacks Point Zone. I reject submission points 632.65 and 632.66.

### 23. **ISSUE 14      AMENDMENTS TO RULE 27.9.1 AND 27.9.2**

23.1. A number of submission points have been received on the Non-Notification of Applications rule 27.9.1 and the exemption clause under rule 27.9.2.

23.2. Submitters 613 (Treble Cone Investments Limited) and Submitter 610 (Soho Ski Area Limited and Blackmans Creek No. 1 LP) seek amendments to rule 27.9.1 to provide for an exemption for subdivision within the Ski Area Sub Zone.<sup>211</sup>

23.3. Further, Submitter 433 (Queenstown Airport Corporation) seeks amendments to Rule 27.9.2 to provide for the normal test for notification to be applied to subdivision applications that are "*located within the Air Noise Boundary or Outer Control Boundary at Queenstown or Wanaka Airports.*"<sup>212</sup> This relief was opposed by the further submissions of FS1097.385 (Queenstown Park Limited) and FS1117.147 (Remarkables Park Limited).

#### *Discussion and Recommendation*

23.4. In relation to the request by Submitters 613 (Treble Cone Investments Limited) and Submitter 610 (Soho Ski Area Limited and Blackmans Creek No. 1 LP) to exempt subdivision activities undertaken within the Ski Area Sub Zone from notification under notified rule 27.9.1, I do not support the submitter relief. While I appreciate that the activities undertaken within the Ski Area Sub Zone are relatively permissive under Chapter 21 of the PDP, I still consider that there is the potential for subdivision activities within these areas to create arbitrary lines in these sensitive landscape settings. As a consequence, there is a need for the effects of subdivision activities within the sub-zone to be considered on a case-by-case basis. I reject submission points 613.18 and 610.18.

211 Submission points 613.18 and 610.18.

212 Submission point 433.99.

- 23.5. In its submission, QAC considers that in some instances, such as the subdivision of land within close proximity to Airports, it would be appropriate for the subdivision consent application to be served on QAC. As noted, this relief is opposed by Queenstown Park Limited and Remarkables Park Limited. While I acknowledge the reverse sensitivity concerns raised by QAC, the relief sought to Rule 27.9.2 has the potential to place constraints on subdivision activities that could be appropriately advanced within urban zones adjoining the Queenstown Airport where issues around reverse sensitivity have already been well catered for via amendments under PC35. I do consider that there may be instances, such as development around Wanaka Airport where such an approach could be warranted. However, as it stands I do not support the 'catch all response' advanced by QAC. In addition, subdivision of Rural Zoned land around Wanaka would in most circumstances be a discretionary activity, and could be notified. In my opinion, the suggested amendment has the potential to unnecessarily constrain subdivision activity around the Queenstown Airport. I consider that it would be appropriate for QAC to respond to this matter at the hearing.
- 23.6. As a consequence of amendments made to the rule framework under Rules 27.4 and 27.6, I have sought further amendments to rule 27.9.1(a) to specifically exempt controlled activity boundary adjustments from being notified or limited notified. Further, I have amended rule 27.9.1(b) to specifically exempt controlled activity and restricted discretionary subdivision activities from being notified or limited notified.
- 23.7. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

#### 24. **ISSUE 15      NEW PROVISIONS SOUGHT THROUGH SUBMISSIONS**

- 24.1. I have already responded to submissions seeking specific relief to the District Wide objectives and policies at Section 18 of this evidence. The following section responds to submissions that specifically seek the inclusion of objectives, policies or methods that are not otherwise provided for in Chapter 27.
- 24.2. Submitter 805 (Transpower New Zealand Limited) seek an additional objective in section 27.2 to respond to reverse sensitivity effects on regionally significant infrastructure. This relief was supported by further submissions by Aurora Energy Limited and New Zealand Defence Force.<sup>213</sup> The wording of such an Objective is suggested to be:

213 Further submissions FS1121.20 and FS1211.31.

"To avoid subdivision and the establishment of land use activities that could adversely affect (including through reverse sensitivity) the operation, maintenance, upgrading and development of regionally significant infrastructure, such as the National Grid."

- 24.3. Further, Submitter 635 (Aurora Energy Limited) seeks a new method to respond to the policy framework sought within their policy responses to Chapter 27. Transpower New Zealand Limited through further submission FS1301.12 sought that the term 'critical electricity line' referred to in Aurora submission below be amended to refer to the term 'electricity distribution line corridor'. Aurora's suggest method reads as follows:<sup>214</sup>

"Insert new Rule in subdivision section as follows:

Rule XX

Restricted Discretionary Activity - Subdivision

1. Subdivision within 32m of the centre line of a Critical Electricity Line, or within 32m from the designation boundary of a substation shall be a restricted discretionary activity.

(See submission for diagram)

Classification of Subdivision in Vicinity of Critical Electricity Lines

When considering any restricted discretionary activity under Rule xxx, discretion will be restricted

to:

i. the safe and efficient operation and maintenance of the electricity supply network, including:

a. The use, design and location of buildings; and

b. The mature size, growth rate, location, and fall zone of any associated tree planting, including landscape planting and shelterbelts; and

c. Compliance with NZECP 34:2001; and

d. Effects on public health and safety; and

e. Effects on access to CEL's, designated substations and associated infrastructure for maintenance purposes.

For restricted discretionary activities under Rule xxx the relevant network utility operator will be considered an affected party under s 95E of the Resource Management Act, 1991."

- 24.4. I note that the relief sought by Aurora is similar to the relief sought by Transpower to Chapter 30 – Utilities and Renewable Energy.<sup>215</sup> I consider that Transpower's relief to Chapter 30 is relevant to the consideration of the relief sought by Aurora under its

214 Submission point 635.42.

submission point 635.42. As a consequence, I have considered Transpower's relief in submissions points 805.95 and 805.13 under this section of my evidence.

24.5. Transpower seeks the following relief to Chapter 30 – Utilities and Renewable Energy:<sup>216</sup>

Add New Rule Rule 30.5.15

Subdivision of land in any zone within the National Grid Subdivision Corridor is a restricted

discretionary activity if it complies with the following standard:

a) All allotments shall identify a building platform for the principal building and any dwelling, to

be located outside the National Grid Yard.

Matters of Discretion:

a) Impacts on the operation, maintenance, upgrade and development of the National Grid.

b) The ability of future development to comply with NZECP34:2001.

c) Technical details of the characteristics and risks on and from the National Grid infrastructure.

d) The ability of the applicant to provide a complying building platform.

e) Location, design and use of the proposed building platform or structure as it relates to the

National Grid transmission line.

f) The risk of electrical hazards affecting public or individual safety, and the risk of property

damage.

g) The nature and location of any vegetation to be planted in the vicinity of the National Grid

transmission lines.

Add new Rule:

Rule 30.5.16

Any subdivision of land in any zone within the National Grid Subdivision Corridor which does

not comply with the restricted discretionary activity standard (a) under Rule 1 is a non-complying activity."

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215 Submission point 805.95.

216 Submission point 805.95.

- 24.6. Further, Transpower seeks the following relief to Chapter 2 – Definitions as this relates to the definition of 'National Grid Corridor':<sup>217</sup>

"Amend the definition to:

National Grid Subdivision Corridor: means the area measured either side of the centreline of

above ground National Grid line as follows:

16m for the 110kV lines on pi poles

32m for 110kV lines on towers

37m for the 220kV transmission lines

Note: The National Grid Corridor and National Grid Yard does not apply to underground cables or any transmission lines (or sections of line) that are designated."

*Discussion and Recommendation*

- 24.7. I support, in part, the relief sought by Submitter 805 (Transpower New Zealand Limited) who seek an additional objective be included within section 27.2 to respond to reverse sensitivity effects on regionally significant infrastructure at the time of subdivision. However, as I have set out in paragraph 18.127 to 18.128 of this evidence, I recommend that the relief sought by submitter 805 (Transpower NZ Ltd) be achieved through a new Policy 27.2.2.10 to be inserted under Objective 27.2.2.
- 24.8. I accept, in part, the submission by submitter 635 (Aurora Energy Limited) who seeks a new method to respond to the policy framework sought within its policy responses to Chapter 27. As notified Chapter 27 does not include methods controlling subdivision activity within close proximity to the National Grid Corridor. In my opinion, it is more effective for Chapter 27 to regulate subdivision activities than have these controls solely imbedded within a separate chapter of the PDP, as there is the potential that they could be overlooked by plan users. I also consider that it is more effective for a method to be included within Chapter 27 to ensure that this gives effect to the policy direction set out within the NPSET, Objective 3.5 and Policy 3.5.1 of the PRPS and Strategic Direction 3.2.8 Goal and supporting 3.2.8.1 Objective and 3.2.8.1.1 Policy, which seek to provide for the ongoing operation and provision of infrastructure. I also note, for completeness, that a method included within Chapter 27 would assist with informing the Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009 (**NESETA**), which itself does not impose controls on subdivision activity.

217 Submission point 805.13.

- 24.9. I note that existing Rule 15.2.3.3(viii) of the ODP provides for a similar restricted discretionary activity rule framework as this relates to the Frankton – Cromwell A 110kV high voltage transmission line that extends through Shotover Country Special Zone. While the Shotover Country Special Zone does not form part of Stage 1 of the District Plan Review, I do consider that a similar restricted discretionary activity rule that applied to all subdivision activity within 32 metres of 'National Grid Corridor'<sup>218</sup> would be effective in responding to Strategic Direction 3.2.8 Goal. I therefore accept, in part, the relief advanced by Submitter 635 (Aurora Energy Limited) and the amendment suggested by Submitter 805 (Transpower New Zealand Limited). This change is shown in the Revised Chapter at **Appendix 1**.
- 24.10. Aurora's proposed method contains terminology that does not appear to be defined under the PDP. Their method refers to 'Critical Electricity Line', which is open to interpretation. I consider that Transpower's submission to Chapter 30 – Utilities and Renewable Energy<sup>219</sup> is more precise in that it links back to the definition of 'National Grid Corridor' (albeit the submitter seeks to integrate reference to 'subdivision' within this existing definition to ensure that the definition is consistent with the NPSET). Further, Transpower's suggested method also refers to the need for "*All allotments shall identify a building platform for the principal building and any dwelling, to be located outside the National Grid Yard*".
- 24.11. While I support the intent of this rule, I consider that it would be appropriate for the submitter to respond to both the need for the amendment to the definition of 'National Grid Corridor' and any implications of the above clause (including amendments to the definition of 'Regionally Significant Infrastructure'<sup>220</sup>) at the hearing.
- 24.12. Subject to further clarification by Submitter 805 (Transpower New Zealand Limited) on the matters discussed above, I agree that non-compliance with the matters of discretion listed in Transpower's submission to Chapter 30 – Utilities and Renewable Energy<sup>221</sup> be adopted into the District Wide standards that support subdivision activity and subject to amendments to this provision to ensure that it does not result in implications for subdivision boundary adjustments.

218 As defined under the PDP.

219 Submission point 805.95.

220 Revised Chapters -Council's right of reply version 7-4-16.

221 Submission point 805.95.

24.13. This change is shown in the Revised Chapter at **Appendix 1**. A further evaluation of the recommended provisions has been undertaken pursuant to section 32AA and is included in **Appendix 4** to this evidence.

## 25. **ISSUE 16 – NEW ZEALAND FIRE SERVICE (NZFS) SUBMITTER 438**

25.1. The NZFS requests that standards are inserted into 27.4 Rules – Subdivision that require compliance with the NZFS Code of Practice SNZ PAS 4509:2003<sup>222</sup> in relation to water supply and access in non-reticulated areas. The requested relief would provide for the insertion of a new standard and matter of discretion which includes the requirement to comply with the NZFS Code of Practice SNZ PAS 4509:2003.<sup>223</sup>

25.2. Further, NZFS also seeks amendments to Policy 27.2.5.10 to make specific reference to the NZFS Code of Practice SNZ PAS 4509:2008.<sup>224</sup>

25.3. NZFS has also made a significant number of further submissions<sup>225</sup> to those submitters seeking a controlled activity status for subdivision under Rule 27.4.1. The NZFS within these further submissions seeks the inclusion of fire fighting water supply as a matter over which Council will restrict its control, and seeks specific reference be made to the NZFS Code of Practice SNZ PAS 4509:2008.

25.4. While I support the relief sought in principle by NZFS, I question whether this is necessary. The QLDC and NZFS have a memorandum of understanding (**MOU**) that sets out the requirements for firefighting provisions in non-reticulated areas. The MOU requires 20,000 litres of water for a firefighting reserve, whilst the Code of Practice requires 45,000 litres. Most subdivision activity undertaken within the District is assessed in accordance with SNZ PAS 4509: 2008, which is set out in the Code Practice and in all cases subdivision approvals are supported with conditions that link back to the Code of Practice.

### *Recommendation*

25.5. I have recommended that subdivision activity be a Restricted Discretionary Activity under Rule 27.4.1 (as notified). One of the recommended matters over which I recommend Council restricts its discretion is 'water supplies for fire fighting purposes'. This accords

222 Note that the Standards referenced in the submission, and those used by the QLDC for assessing subdivision and development is: SNZ PAS 4509: 2008.

223 Refer primary submission 438.39.

224 Refer primary submission 438.38.

225 Refer further submission points FS1125.13, FS1125.39, FS1125.40, FS1125.20, FS1125.22, FS1125.23, FS1125.24, FS1125.25, FS1125.26, FS1125.27, FS1125.28, FS1125.29, FS1125.30, FS1125.31, FS1125.32, FS1125.33, FS1125.34, FS1125.35, FS1125.38, FS1125.15, FS1125.16, FS1125.18, FS1125.19, FS1125.37.

with the ODP matter of control under rule 15.2.11.1 (Controlled Subdivision Activities – Water Supply) and accords with Policy 27.2.5.10 (bullet point two) of the PDP. This goes some way to provide for part of the relief sought by the NZFS in its further submissions listed under footnote 225.

25.6. As a consequence, I recommend that submission point 438.38 and 438.39 be rejected and that further submissions listed in footnote 225 be accepted (in part) on the basis that 'water supplies for fire fighting purposes' is listed as a matter of which the Council has restricted its discretion. Importantly, in the event that inadequate water supply is provided at the time of subdivision to achieve the standards set out in the Council's Code of Practice, the Council can refuse consent.

25.7. These recommended amendments are shown in the Revised Chapter at **Appendix 1**.

## 26. **ISSUE 17 - SUBMISSIONS DEFERRED FROM OTHER HEARING STREAMS**

26.1. A number of submission points have been deferred from other hearing streams so that they can be determined as part of Chapter 27. I address these in turn below.

26.2. Firstly, Submitter 383 (Queenstown Lakes District Council) has sought the deletion of the (subdivision) rules from chapter 26 (Historic Heritage) and include them within Chapter 27 (include reference to chapter 27 as a new rule in the Historic Heritage chapter – 26.4.1.5).<sup>226</sup> These rules include:

- (a) Rule 26.6.2 Subdivision of any site containing all or part of a protected feature is a Discretionary Activity; and
- (b) Under Table 6 (Heritage Landscapes), Rule 26.6.21 sets out that subdivision within a Heritage Landscape is Discretionary Activity.

26.3. The above rules duplicate rules 27.5.1.4 and 27.5.1.5 and as a consequence the section 42A Officer for Chapter 26 (Historic Heritage) has recommended that the relief sought by Submitter 383 be accepted. However, as a consequence there are a number of submissions points to rule 26.6.2 that are now more appropriately dealt with as part of Chapter 27.

26.4. Submitters 672 (Watertight Investments Ltd) and 688 (Justin Crane and Kirsty Mactaggart) seek that rule 26.6.2 be amended so that subdivision of any site containing all or part of a protected feature is a restricted discretionary activity, restricted to the

226 Submission point 383.45.

impact of the proposed subdivision on the heritage values of the protected item(s).<sup>227</sup> Given the identical nature of rule 27.5.1.4 with rule 26.6.21 it is appropriate that the relief sought by these submitters be addressed as part of Chapter 27.

- 26.5. Submitter 560 (Spruce Grove Trust) seeks that 'complying' subdivision within the Arrowtown Residential Historic Management Zone (**ARHMZ**) provisions are processed as a controlled activity consent, as per the ODP provisions.<sup>228</sup>
- 26.6. Submitter 423 (Carol Bunn) in the context of Chapter 26 sought to allow subdivision of historic buildings so that they can be maintained, upgraded or restored to residential buildings.<sup>229</sup> This is a general submission to Chapter 26, which has been deferred to Chapter 27.

*Recommendation*

- 26.7. As I have set out in paragraph 10.58 of this evidence, I support the retention of rules 27.5.1.4 to 27.5.1.7 as retaining a discretionary activity status and as a consequence recommended that submission points 672.23 and 688.19 be rejected.
- 26.8. As I have set out in paragraph 10.58 of this evidence, I support a restricted discretionary activity regime applying to subdivision activities under rule 27.4.1 (as notified), which also applies to the ARHMZ. As a consequence, the relief sought by Submitter 560 is supported (in part).
- 26.9. As I have set out in paragraph 10.58 of this evidence, I support the retention of rules 27.5.1.4 to 27.5.1.7 as retaining a discretionary activity status and as a consequence recommend that submission points 423.4 be rejected.

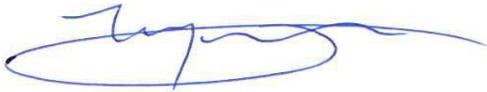
227 Submission points 672.23 and 688.19.

228 Submission point 560.3.

229 Submission point 423.4.

27. **CONCLUSION**

- 27.1. On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in **Appendix 1** are accepted.
- 27.2. 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.



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29 June 2016