

## Queenstown Lakes District Proposed District Plan – Stage 1

### Section 42A Hearing Report For Hearing commencing: 13 March 2017

Report dated: 17 January 2017

Report on submissions and further submissions

### **Chapter 42 – Waterfall Park**

File Reference: Chp. 42 - S42A

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## 1. EXECUTIVE SUMMARY

- 1.1. Two primary submissions were received on Chapter 42 Waterfall Park (**Chapter**).
- 1.2. In accordance with the Council's approach to hearing of rezoning submissions, the submission of Ayrburn Farm Estate Ltd (430.14) and the associated further submissions seeking that additional land be rezoned Waterfall Park Zone, have been deferred to the hearing on mapping and rezoning requests in the Wakatipu Basin.
- 1.3. The remaining submission is that of Mr Kain Fround (19.25), which supports the Chapter as notified but does not state any reasons or suggest any specific relief. It is recommended this submission is accepted.
- 1.4. Several non-substantive changes are recommended to the Chapter as notified to improve readability and consistency with other PDP chapters.

## 2. INTRODUCTION

- 2.1. My name is Victoria (Vicki) Sian Jones. I am a private consultant contracted by the Queenstown Lakes District Council (**Council**) to prepare the Section 42A report on Chapter 42 of the Proposed District Plan (**PDP**).
- 2.2. I am a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Resource and Environmental Planning (first class honours), with a major in economics from Massey University. I have over 21 years' planning experience, and have worked as a planner in the Queenstown Lakes District (**District**) for 17 years. During my time in this District, I have held the positions of Consent Planner, Policy Planner, and Policy Manager with CivicCorp Limited; Strategy and Planning Manager with the Council and have worked as a planning consultant for the past 9 years. During that time, I have presented Environment Court evidence in the hearings on the Operative District Plan (**ODP**) and was responsible for dozens of variations and plan changes to that plan (either as the author or in a management role).
- 2.3. I note that I was not the author of the notified Chapter 42 in the PDP.
- 2.4. In this Evidence:
  - a. if I refer to a provision number without any qualification, it is to the notified provision number and has not changed through my recommendations; and
  - b. if I refer to a 'redraft' provision number, I am referring to the s 42A recommended provision number at **Appendix 1**.

### 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 OF THIS EVIDENCE

4.1. This evidence is limited to the submission made by Mr Kain Fround (19), lodged in support of the Chapter as notified.

4.2. A submission made by Ayrburn Farm Estate Ltd (430) seeks that the adjoining land to the south is also zoned Waterfall Park and similar provisions are provided for residential activities. The relief is part of a bundle of options presented by the submitter that also include a request to rezone the land from Rural Zone to Rural Residential Zone and promote an associated concept development Plan. The component of Ayrburn Farm Estate Ltd.'s submission (430.14) seeking rezoning from the Rural Zone to some form of Rural Residential Zoning was recommended to be deferred to the hearing on mapping, in the Rural Hearing Stream.<sup>1</sup>

4.3. This submission has also been coded against Chapter 42 because the relief sought as part of the extension to the south of the Waterfall Park Zone includes a request for new provisions in Chapter 42. These new provisions do not form part of the notified Chapter and are therefore intrinsically linked to the rezoning request. It is therefore appropriate to hear this submission in the hearing on mapping.

4.4. Several further submissions<sup>2</sup> have been made on Ayrburn Farm Estates submission. These are also transferred to the hearing on mapping as directed by the Panel.

4.5. There are not any other submissions recorded against this Chapter. A summary of the submissions is attached at **Appendix 2**.

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1 Appendix 2 of the S42A report 'Chapter 21 Rural'.

2 John Metherell (FS1010.5), Jan Andersson (FS1050.34), J and R Hadley (FS1082.31, Wendy Clarke F (FS1084), J Hadley (FS1086.17), Robyn Hart (FS1087.15), Mark McGuiness (FS1089.33), Brendon and Katrina Thomas (FS1099.14), Graeme Hill (FS1129.14), John Blair (FS1133.15), and Lee Nicolson (FS1146.32).

## **5. BACKGROUND – STATUTORY AND NON-STATUTORY DOCUMENTS**

5.1. The s32 evaluation for Chapter 42 provides an overview of the higher order planning documents application to the Waterfall Park Chapter (see **Appendix 3**, pages 2-3). I do not consider anything more needs to be added to that overview.

## **6. ANALYSIS OF SUBMISSIONS**

6.1. Mr Kain Fround supports the chapter as notified but does not provide any reasons why. It is recommended Mr Fround's submission is accepted subject to recommending a number of minor changes to ensure consistency in formatting and style with the rest of the PDP.

## **7. NON-SUBSTANTIVE RECOMMENDATIONS**

7.1. Several changes are recommended to the chapter as notified and these are attached as **Appendix 1**. The recommended changes are:

- a. Amending Policy 42.2.2 such that it is phrased as an outcome statement, consistent with the Panel's Fourth Procedural Minute dated 8 April 2016.
- b. Amend the table in Part 42.3.1 to refer to the correct chapter in the ODP, where a district-wide chapter has not been notified in Stage 1. The notified numbers in the table are a placeholder for the respective chapters to be notified in Stage 2 of the district plan review. It is considered superfluous to refer to chapters that do not yet exist. This change is not considered substantive and is for clarification purposes only. I understand that this table may well require further updating, given the Council's resolution for a 'two-volume' plan.
- c. The addition of the phrase 'Advice Notes' under Part 42.3.2 Clarification. This change is recommended to provide clarification as to the regulatory status of these provisions and whether they are advice notes or general rules. There are no changes to the text or regulatory impact and this recommended change is not considered substantive. In this chapter they are all 'Advice Notes', and therefore the 'General Rules' hearing recommended in other hearings, is not necessary.
- d. The matter of discretion relating to natural hazards in Rules 42.4.4, 42.4.5, and 42.4.6 is recommended to be amended so that the qualification-based assessment matters are separated from the matter of discretion. There are not any changes to the regulatory impact of the provision and the change will improve interpretation of the provision and make it consistent with similar rules in other chapters of the PDP.
- e. Rules 42.5.1 and 42.5.7 contain underlined text, presumably to either draw the matter to the readers' attention or to emphasise the importance of the qualifier/ text in the rule. I

recommend the underlining is removed because all rules are important and this drafting is inconsistent with the remainder of the PDP. The change is not considered substantive.

f. Removal of the words "all of" wherever the phrase "control is reserved to all of the following" is used in the chapter. This improves clarity in the chapter. In addition, in Rule 42.5.4 the phrase "**Glare** shall comply with all of the following" is used, which has a similar issue. I recommend that the words "all of" be removed here as well. These changes are not considered substantive.

g. Removal of the words "and so as" in Rule 42.5.4 to improve legibility. This change is not considered substantive.

7.2. There is no Section 32AA evaluation of the recommended changes because they are not considered significant.

## 8. CONCLUSION

8.1. On the basis of the above analysis, I recommend that the changes within the track changed version (**Appendix 1**) are accepted.

A handwritten signature in black ink that reads "V Jones". The signature is stylized with a large, sweeping initial "V" and a horizontal line underlining the name.

**Vicki Jones**  
**Consultant Planner**  
**17 January 2017**

## **Appendix 1. Recommended Chapter with tracked changes**

# WATERFALL PARK ZONE 42

## Key:

Recommend changes to notified chapter are shown in underlined text for additions and ~~strike-through text~~ for deletions. Section 42A report, Appendix 1, dated 17 January 2017.

## 42 Waterfall Park Zone

### 42.1 Purpose

The purpose of the Waterfall Park Zone is to provide for the development of a visitor resort comprising a range of visitor, residential and recreational facilities, sympathetic to the natural setting. The site lies within a high quality scenic environment adjacent to the Millbrook Resort Zone.

In terms of natural features the focus of the site is the waterfall located towards the centre of the site. The existing recreational areas and amphitheatre are located adjacent to the waterfall and continue along part of Mill Creek. Development limits are imposed in the zone given its scenic and environmental qualities. Development shall conserve and enhance the natural and scenic values contained within the property and its setting.

### 42.2 Objectives and Policies

**42.2.1 Objective – Visitor, residential and recreation facilities and activities developed in an integrated manner with particular regard for the natural and scenic values of the setting.**

#### Policies

42.2.1.1 Ensure that the external appearance of buildings and other structures are appropriate to the location with particular regard to the site's natural and scenic values.

42.2.1.2 Require all development to be located in accordance with the Structure Plan.

42.2.1.3 Protect and enhance the important natural features on the site.

**42.2.2 Objective – Development ~~will that avoids~~ adverse effects on Mill Creek and ecological values.**

#### Policies

42.2.2.1 Ensure sewage disposal, water supply and refuse disposal services are provided so as not to adversely impact on water or other environmental qualities on or off the site.

42.2.2.2 Protect and enhance Mill creek as an important brown trout spawning habitat.

### 42.3 Other Provisions and Rules

#### 42.3.1 District Wide

Attention is drawn to the following District Wide chapters. All provisions referred to are within Stage 1 of the Proposed District Plan, unless marked as Operative.

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes
<del>24 Signs (18 Operative)</del>	<del>25 Earthworks (22 Operative)</del>	26 Historic Heritage

**Comment [MSOffice1]:** Non substantive change as per the Panel's Fourth Procedural Minute dated 8 April 2016.

**Comment [MSOffice2]:** Non substantive change

## WATERFALL PARK ZONE 42

DP)	DP)	
27 Subdivision	28 Natural Hazards	29-Transport (14 <u>Operative DP</u> )
30 Utilities and Renewable Energy	31-Hazardous Substances (16 <u>Operative DP</u> )	32 Protected Trees
33 Indigenous Vegetation	34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings
36 Noise	37 Designations	Planning Maps

### 42.3.2 Clarification

#### Advice Notes

- 42.3.2.1 A permitted activity must comply with all the rules listed in the activity and standards tables, and any relevant district wide rules.
- 42.3.2.2 Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the Non-Compliance Status column shall apply. Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.
- 42.3.2.3 The following abbreviations are used within this Chapter.

P	Permitted	C	Controlled
RD	Restricted Discretionary	D	Discretionary
NC	Non Complying	PR	Prohibited

**Comment [CB3]:** Non substantive change to clarify the identification of methods and advice notes.

### 42.4 Rules - Activities

	Activities located in the Waterfall Park Zone	Activity status
42.4.1	Activities which are not listed in this table	NC
42.4.2	<b>In the Residences Area (R) of the Structure Plan</b> <b>Dwelling, Residential Unit</b>	P
42.4.3	<b>Dwelling, Residential Unit, Residential Flat</b> not otherwise identified	D
42.4.4	<b>In all Structure Plan Activity Areas</b> <b>Recreation Facilities</b> (noting that in areas shown as O/P on the Structure Plan recreation facilities shall not include buildings or structures) <b>Administration activities</b> for administering and servicing of other facilities within the zone, including storage, maintenance and depot facilities <b>Structures for the retention of water (not located within a waterbody)</b> Control is reserved to <u>all of</u> the following: <ul style="list-style-type: none"> <li>Location and external appearance of buildings</li> </ul>	C

**Comment [SG4]:** Non substantive and for improved legibility. This wording issue was raised by the Panel in the Business Hearing Stream.

## WATERFALL PARK ZONE 42

	Activities located in the Waterfall Park Zone	Activity status
	<ul style="list-style-type: none"> <li>• Setback from roads</li> <li>• Setback from internal boundaries</li> <li>• Vehicle access and street layout</li> <li>• Outdoor living space</li> <li>• Street scene including landscaping</li> <li>• Enhancement of ecological and natural values</li> <li>• Provision for internal walkways, cycle ways and pedestrian linkages</li> <li>• Noise</li> <li>• <del>Where a site is subject to any n Natural hazards and where the proposal results in an increase in gross floor area : an assessment by a suitably qualified person is provided that addresses</del></li> </ul> <p><u>Assessment matters relating to natural hazards:</u></p> <ul style="list-style-type: none"> <li>• the nature and degree of risk the hazard(s) pose to people and property,</li> <li>• whether the proposal will alter the risk to any site, and</li> <li>• <del>whether the extent to which</del> such risk can be avoided or sufficiently <del>mitigated</del> <u>reduced.</u></li> </ul>	
42.4.5	<p><b>In all Structure Plan Activity Areas (except for the Open Space, Landscaping and Passive Recreation Activity Area O/P)</b></p> <p>Buildings</p> <p>Control is reserved to the following:</p> <ul style="list-style-type: none"> <li>• the external appearance of the building and coherence with surrounding buildings</li> <li>• <del>Where a site is subject to any n Natural hazards and where the proposal results in an increase in gross floor area : an assessment by a suitably qualified person is provided that addresses</del></li> </ul> <p><u>Assessment matters relating to natural hazards:</u></p> <ul style="list-style-type: none"> <li>• the nature and degree of risk the hazard(s) pose to people and property,</li> <li>• whether the proposal will alter the risk to any site, and</li> <li>• <del>whether the extent to which</del> such risk can be avoided or sufficiently <del>mitigated</del> <u>reduced.</u></li> </ul>	C
42.4.6	<p><b>In the Village Area (V) of the Structure Plan:</b></p> <p><b>Visitor Accommodation</b></p> <p><b>Licenced Premises integrated with Visitor Accommodation</b></p> <p><b>Theatres, conference, cultural and resort facilities and office and administration activities that are ancillary to Visitor Accommodation</b></p>	C

**Comment [CB5]:** Re-phrasing to separate the matters of discretion from the assessment matters.

**Comment [CB6]:** Re-phrasing to separate the matters of discretion from the assessment matters.

## WATERFALL PARK ZONE 42

	Activities located in the Waterfall Park Zone	Activity status
	<p><b>Community Activities</b> (limited to creches and other child care facilities integrated with Visitor Accommodation)</p> <p><b>Educational Facilities</b></p> <p>Control is reserved to all of the following:</p> <ul style="list-style-type: none"> <li>• Location and external appearance of buildings</li> <li>• Setback from roads</li> <li>• Setback from internal boundaries</li> <li>• Vehicle access and street layout</li> <li>• Outdoor living space</li> <li>• Street scene including landscaping</li> <li>• Enhancement of ecological and natural values</li> <li>• Provision for internal walkways, cycle ways and pedestrian linkages</li> <li>• Noise</li> <li>• <del>Where a site is subject to any n Natural hazards and where the proposal results in an increase in gross floor area - an assessment by a suitably qualified person is provided that addresses</del></li> </ul> <p><u>Assessment matters relating to natural hazards:</u></p> <ul style="list-style-type: none"> <li>• the nature and degree of risk the hazard(s) pose to people and property,</li> <li>• whether the proposal will alter the risk to any site, and</li> <li>• <del>whether the extent to which such risk can be avoided or sufficiently mitigated reduced.</del></li> </ul>	
42.4.7	<b>Licenced Premises not otherwise identified</b>	PR
42.4.8	<b>Manufacturing and/or product assembling activities</b>	PR
42.4.9	<b>Fish or meat processing</b>	PR
42.4.10	<b>Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956.</b>	PR
42.4.11	<b>Factory Farming</b>	PR
42.4.12	<b>Any activity requiring an Offensive Trade Licence under the Health Act 1956</b>	PR

**Comment [MSOffice7]:** Non substantive and for improved legibility. This wording issue was raised by the Panel in the Business Hearing Stream.

**Comment [CB8]:** Re-phrasing to separate the matters of discretion from the assessment matters.

### 42.5 Rules - Standards

## WATERFALL PARK ZONE 42

	Standards for activities located in the Waterfall Park Zone	Non-compliance Status
42.5.1	<p><b>Setbacks</b></p> <p>No building or structure shall be located closer than 6m to the Zone boundary, and in addition:</p> <p>No building shall be located closer than 7m to Mill Creek.</p>	D
42.5.2	<p><b>Residential Capacity</b></p> <p>In the Waterfall Park Zone the maximum number of residential units shall be limited to 100.</p>	NC
42.5.3	<p><b>Building Height</b></p> <p>The maximum height of buildings shall be:</p> <ul style="list-style-type: none"> <li>• Visitor Accommodation, (including facilities integrated with and ancillary to Visitor Accommodation) – 8 m</li> <li>• Residential buildings - 8m</li> <li>• All other buildings and structures - 4m</li> </ul>	NC
42.5.4	<p><b>Glare</b> shall comply with all of the following:</p> <ul style="list-style-type: none"> <li>• All fixed lighting shall be directed away from adjacent roads and properties, and so as to limit effects on the night sky.</li> <li>• Any building or fence constructed or clad in metal, or material with reflective surfaces shall be painted or otherwise coated with a non-reflective finish.</li> <li>• No activity shall result in a greater than 3.0 lux spill, horizontal and vertical, of light onto any property located outside of the Zone, measured at any point inside the boundary of the adjoining property.</li> </ul>	NC
42.5.5	<p><b>Maximum Total Site Coverage</b></p> <p>The maximum site coverage shall not exceed 5% of the total area of the Zone. For the purposes of this Rule, site coverage <b>excludes</b> bridges and roads and parking areas.</p>	NC
42.5.6	<p><b>Fire Fighting</b></p> <p>A fire fighting reserve of water shall be maintained of a capacity sufficient to service the Zone. The storage shall meet the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008.</p>	NC
42.5.7	<p><b>Atmospheric Emissions</b></p> <p>There shall be no indoor solid fuel fires, except for:</p> <ul style="list-style-type: none"> <li>• feature open fireplaces in the clubhouse and other communal buildings including bars and restaurants.</li> </ul> <p>Note – Council bylaws and Regional Plan rules may also apply to indoor and outdoor fires.</p>	NC

**Comment [CB9]:** Underline removed for consistency.

**Comment [MSOffice10]:** Non substantive and for improved legibility. This wording issue was raised by the Panel in the Business Hearing Stream.

**Comment [CB11]:** Underline removed for consistency.

## WATERFALL PARK ZONE 42

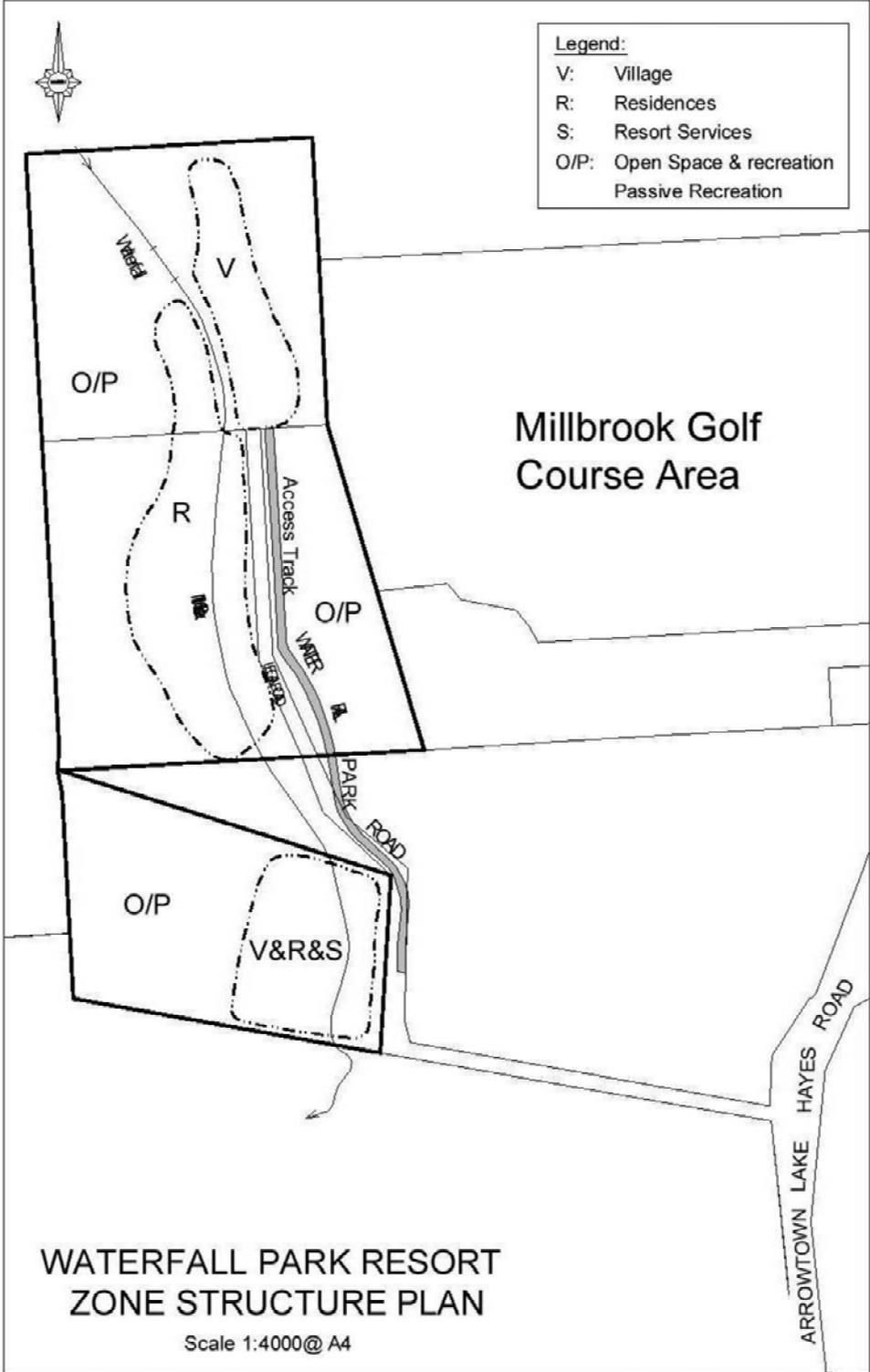
	<b>Standards for activities located in the Waterfall Park Zone</b>	<b>Non-compliance Status</b>
<b>42.5.8</b>	<b>Retail sales</b>  No goods shall be displayed, sold or offered for sale from a site except: <ul style="list-style-type: none"><li>• goods grown, reared or produced on the site;</li><li>• within those areas of the Structure Plan identified as the Village Centre.</li></ul>	NC

### **42.6 Rules - Non-Notification of Applications**

**42.6.1 All applications for Controlled activities and Restricted Discretionary shall not require the written consent of other persons and shall not be notified or limited-notified.**

# WATERFALL PARK ZONE 42

## 42.7 Structure Plan



## **Appendix 2. List of Submitters and Recommended Decisions**

**Appendix 2 to the Section 42A report for Chapter 42 - Waterfall Park Zone**

Original Point No	Further Submission No	Submitter	Lowest Clause	Submitter Position	Submission Summary	Planner Recommendation	Transferred	Issue Reference
19.25		Kain Fround	42 Waterfall Park Zone	Support	Supports the chapter generally.	Accept		Misc. General support
430.14		Ayrburn Farm Estate Ltd	42 Waterfall Park Zone	Other	<p>For the the Waterfall Park zoning extension option proposed by the submitter, the following amendments or inclusions to the Proposed District Plan are requested:</p> <ul style="list-style-type: none"> <li>•Expansion of the Structure Plan, and inclusion of the Ayrburn property in the "R" (residential) category of that structure plan, and to include a Concept Development Plan (as shown on Figure 4 of submission 430)</li> <li>•that Rule 42.5.2 (residential capacity standard) is modified to enable additional residential units as a result of the expansion of the Structure Plan. The modification is: <i>42.5.2 Residential Capacity</i> <i>In the Waterfall Park Zone the maximum number of residential units shall be limited to <del>400</del> 225, with 125 units allowed in the southern "R" area on the Structure Plan</i></li> <li>•seeks inclusion in the Waterfall Park Special Zone of the standards set out in Part 3.6.1(c) of submission 430 relating to Density, Building Height, Building Location, Design Standards and Landscaping (appropriately adapted to the Waterfall Park zone provisions).</li> <li>•Provisions requiring retention and adaptive reuse of the historic buildings on the site should be included.</li> </ul> <p>The inclusions sought are outlined in section 3.6.1 of submission 430.</p>		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1010.5	John Metherell	42 Waterfall Park Zone	Oppose	Oppose adoption of Waterfall Park zone extension option. Urban development is not appropriate beyond the urban boundary. The Waterfall Park Zone has not been successful, and should not be used as a basis for extending the urban zone. There are topographical constraints such that it is not logical to extend the urban area to incorporate the submitter site. If development is to occur, it should reflect the nearby developed zone (ie rural residential or rural lifestyle).		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1050.34	Jan Andersson	42 Waterfall Park Zone	Oppose	The submitter seeks that the whole of that submission be disallowed.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1082.31	J and R Hadley	42 Waterfall Park Zone	Oppose	Disallow the whole submission. The proposed rezoning will have significant adverse effects on the landscape and rural amenity of the surrounding properties; it will compromise the purpose and rural amenity of the North Lake Hayes Rural Residential Zone and destroy the existing settlement pattern and character of Arrowtown.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1084.15	Wendy Clarke	42 Waterfall Park Zone	Oppose	Seek that Submission #430 be rejected in its entirety and that the wording of Proposed District Plan as notified remains.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1086.17	J Hadley	42 Waterfall Park Zone	Oppose	Disallow the whole submission. The proposed rezoning will have significant adverse effects on the landscape and rural amenity of the surrounding properties; it will compromise the purpose and rural amenity of the North Lake Hayes Rural Residential Zone and destroy the existing settlement pattern and character of Arrowtown.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1087.15	Robyn Hart	42 Waterfall Park Zone	Oppose	I seek that the entire submission #430 be disallowed, and I support the current wording of the Proposed District Plan.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1089.33	Mark McGuinness	42 Waterfall Park Zone	Oppose	Opposes the submission and believes that this will compromise the purpose and rural amenity of the North Lake Hayes Rural Residential Zone and destroy the existing settlement pattern and character of Arrowtown. Seeks that the whole submission be disallowed.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing

**Appendix 2 to the Section 42A report for Chapter 42 - Waterfall Park Zone**

<b>Original Point No</b>	<b>Further Submission No</b>	<b>Submitter</b>	<b>Lowest Clause</b>	<b>Submitter Position</b>	<b>Submission Summary</b>	<b>Planner Recommendation</b>	<b>Transferred</b>	<b>Issue Reference</b>
430.14	FS1099.14	Brendon and Katrina Thomas	42 Waterfall Park Zone	Oppose	Residential intensification in this area will adversely affect the rural character and significantly compromise the amenity values. Matters associated with the provision of infrastructure to such a development is also not addressed and would need to be adequately resolved before an assessment of the appropriateness of residential development on the relevant land. We submit that the whole of the submission be disallowed.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1129.14	Graeme Hill	42 Waterfall Park Zone	Oppose	Seeks that all of the relief sought be declined. The land the subject of the submission is not land that should be rezoned as Rural Residential, Resort- Waterfall Park Special zone, or a zone that establishes further residential development as: 1. It is not suitable for such zoning given its location and characteristics. 2. The adverse cumulative effect development allowed by such zoning would have on the environment of itself and in association with other land for which such zoning has been sought in the immediate vicinity.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1133.15	John Blair	42 Waterfall Park Zone	Oppose	Agrees that the land should not be rezoned as Rural Residential, Resort - Waterfall Park Special zone, or a zone that establishes further residential development because it is not suitable for such zoning (given its location and characteristics) and believes that the adverse cumulative effect development allowed by such zoning would have on the environment of itself and in association with other land for which such zoning has been sought in the immediate vicinity. Seek that all of the relief sought be declined.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing
430.14	FS1146.32	Lee Nicolson	42 Waterfall Park Zone	Oppose	Seeks that the whole of the submission be disallowed. Of particular concern is relief sought to rezone land north of Lake Hayes and to extend the Arrowtown Urban Growth Boundary.		Transferred to the hearing on mapping	Re-zoning, the Arrowtown urban growth boundary, capacity, landscape building form and location, heritage values. Note: the retention and reuse of historic buildings on this site was considered in the historic heritage chapter (26) hearing

## **Appendix 3. Section 32 Evaluation**



# Section 32 Evaluation Report

## Waterfall Park Resort Zone

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# Section 32 Evaluation Report: Waterfall Park Resort Zone

## 1. Strategic Context

Section 32(1)(a) of the Resource Management Act 1991 ('the Act') requires that a Section 32 evaluation report must examine the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act.

The purpose of the Act requires an integrated planning approach and direction:

### *5 Purpose*

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

## 2. Regional Planning Documents

The Regional Policy Statement 1998 ["RPS"] is currently under review itself, and may be further advanced in that process by the time the District Plan Review is notified. Amendments to this evaluation may be required to accommodate that change. The District Plan must *give effect* to the operative RPS and must *have regard* to any proposed RPS.

The operative RPS contains a number of objectives that are relevant to this review, including:

- 4.4.1 to 4.4.5 (Manawhenua Perspective)
- 5.4.1 to 5.4.5 (Land)
- 6.4.2 to 6.4.7, 6.57 (Water)
- 7.4.1 (Air)
- 9.4.1 to 9.4.3 (Built Environment)
- 10.4.1 (Biota)

Each objective has related policies which have also been considered.

The proposed plan change provisions are consistent with, and give effect to, the relevant operative RPS provisions.

A district plan is required to be not inconsistent with a regional plan

The Regional Plan – Water for Otago is relevant to this proposal. The following objectives in particular are identified:

- 5.3.4 to 5.3.6;
- 5.3.8, and
- 7.A.1 to 7.A.3.

There are a number of related policies which have also been considered.

The other notably relevant regional level document is the Regional Plan – Air for Otago. It is noted that the Objectives 6.1.1 and 6.1.2 are relevant, as are a number of related policies.

Overall, it is assessed that this plan change is not inconsistent with relevant regional plans.

### 3. Background and Resource Management Issues

The Monitoring Report for the Resort Special Zones prepared in 2012 noted that the site has not been developed since the resort was established, and therefore the objectives, policies and rules of the District Plan have not been tested.

However, the provisions have been reviewed as part of the District Plan review and its goal of streamlining and simplifying the District Plan.

As a whole the Resort Zone provisions are considered to be difficult to navigate and interpret, being circular. There are no substantive policy issues or concerns with the Operative provisions, and essentially the provisions are being restructured to provide greater clarity and ease of use.

### 4. Purpose and Options

The proposed purpose of the Waterfall Park Resort Zone is ‘to provide for the development of a visitor resort comprising a range of potential facilities, sympathetic to the natural setting to provide for visitor resort of high quality’.

#### Strategic Directions

The following goals and objectives from the Strategic Directions chapter of the draft District Plan are relevant to this assessment:

**Table 1 – Assessment Against the Goals and Objectives of the Strategic Directions Chapter**

Goals and Objectives from the Strategic Directions Chapter	Assessment
<p><i>Goal 1: To develop a prosperous, resilient and sustainable economy</i></p> <p>Objective 3 To enable the development of innovative and sustainable enterprises that contribute to diversification of the District’s economic base and create employment opportunities.</p>	<p>Visitor accommodation and residential development provided for by the zoning would generate economic benefits.</p>
<p><i>Goal 3: A quality built environment taking into account the character of individual communities</i></p>	<p>The provisions require sympathetic development.</p>
<p><i>Goal 4: The protection of our natural environment and ecosystems</i></p> <p>Objective 1 To promote development and activities that sustain or enhance the life supporting capacity of air, water, soil and ecosystems.</p> <p>Objective 3 To maintain or enhance the survival chances of rare, endangered, or vulnerable species of indigenous plant or animal communities.</p> <p>Objective 5 To preserve or enhance the natural character of the beds and margins of the District’s lakes, rivers and wetlands.</p> <p>Objective 6 To maintain or enhance the water quality of our lakes, rivers and aquifers.</p>	<p>These objectives are achieved by policies on these matters.</p>

The following section outlines broad options considered to address the issues.

**Broad Options considered with respect to existing Waterfall Park Resort Zone (see Table 1, below)**

**Option 1** is to retain the current provisions (objectives, policies and rules) as they stand (do nothing). This option would not result in the greater clarity and ease of use sought by the District Plan, and would result in structural inconsistency with other sections.

**Option 2 (Recommended)** provisions to be largely unchanged but restructured into the new District Plan format.

**Option 3** requires comprehensive critical review and change of the provisions.

**5. Scale and Significance Evaluation**

The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provisions in the chapter. In making this assessment, regard has been had to the following, namely whether the objectives and provisions:

- Have effects on matters of national importance.
- Adversely affect those with specific interests, e.g., Takata Whenua, neighbours
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

As the changes essentially comprise restructuring and formatting the existing policy, the scale and significance of the proposed provisions is considered very minor.

As a result the analysis that follows is not highly detailed.

**6. Evaluation of proposed Objectives S32 (1) (a)**

**Table 4 – Assessment against objectives**

<b><i>Objective</i></b>	<b><i>Appropriateness</i></b>
<p><b>Objective 1:</b> Visitor, residential and recreation facilities and activities developed in an integrated manner with particular regard for the natural and scenic values of the setting.</p>	<p>No shortcomings with the operative objective were raised in Council monitoring.</p> <p>The objective is considered to be consistent with achieving the purpose of the Act.</p>
<p><b>Objective 2:</b> Development will avoid adverse effects on Mill Creek and ecological values.</p>	<p>No shortcomings with the operative objective were raised in Council monitoring.</p> <p>The objective is considered to be consistent with achieving the purpose of the Act.</p>

## 7. Evaluation of the proposed provisions S32 (1) (b)

The below table considers whether the proposed provisions are the most appropriate way to achieve the relevant objectives. In doing so, it considers the costs and benefits of the proposed provisions. (See also Table 1- Broad options considered, in Section 4 above.)

**Table 5 – Evaluation of proposed provisions**

<b>Proposed provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Other practical options considered</b>
<p><b>Policies</b> 12.3.1.1, 12.3.1.2, 12.3.1.3</p> <p>Rules: 12.4.1.1 through to 12.5.1.11</p>	<ul style="list-style-type: none"> <li>• Reduces flexibility for the landowner as to where they can develop and what they can develop</li> <li>• Can lead to administrative inefficiencies if the Structure Plan does not promote development in the best locations.</li> <li>• Maintaining a maximum number of 100 residential units limits the potential for more intensive development, foregoing potential profit for the owners.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides increased certainty that development will be well planned and managed in a way which accounts appropriately for the resource management issues listed in the objective.</li> <li>• The structure plan locates development and sets out areas where mitigation is expected in order to mitigate adverse effects that could be experienced from nearby properties.</li> <li>• The rules prescribing activities and locations are worded differently from the current Plan. This format change aligns with the rest of the District Plan.</li> <li>• The range of uses enabled in each activity area is fairly narrow. This provides some certainty. It also allows for the activities to be located in certain areas in a manner which achieves the amenity levels anticipated in the different parts of the Zone.</li> <li>• The maximum number of 100 residential units gives some assurance (to those who reside near the zone) that established amenity levels will not be affected by intensification. The maximum site coverage rule for all buildings in the zone of 5% is also maintained. Maintaining</li> </ul>	None.

<b>Proposed provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Other practical options considered</b>
		the overall cap at 100 residential units (as is currently prescribed in the Plan) also maintains a similar level of infrastructure demand to that which has been anticipated and provided for.	
<b>Policies 12.3.2.1 and 12.3.2.2</b>  Rules: 12.4.1.2 12.5.1.1	<ul style="list-style-type: none"> <li>Costs associated with appropriate infrastructure provision which does not adversely impact on ecological values</li> </ul>	<ul style="list-style-type: none"> <li>Protected ecological and environmental qualities of site</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>

## 8. Efficiency and effectiveness of the provisions.

In electing the preferred options regard has been given to their potential effectiveness and efficiency.

Overall, it is considered that the revised Waterfall Park Resort Zone:

- would be easier to read, aligning better with the rest of the District Plan
- would be more streamlined, with less provisions
- would achieve the purpose of the Act and the overarching objectives of the Plan through well managed and located development carried out in a responsible manner.

## 9. The risk of not acting.

Not acting would constitute a missed opportunity to:

- Address the lack of clarity and structural issues with the provisions

## Attachments

- Monitoring Report for the Resort Special Zones - [link](#)