

Appendix B - A copy of the Appellants' submission

Submission on the Proposed Queenstown Lakes District Plan 2015 (Stage 1)

Pursuant to Clause 6 of Schedule 1, Resource Management Act 1991

To: Queenstown Lakes District Council

Address: Sent via email to: services@qldc.govt.nz

Name of submitter: Cook Adam Trustees Limited, C & M Burgess (“Burgess”)

About the submitter: Burgess is the owner of Lot 1 DP 425385, an 8 Ha block on the corner of Lower Shotover and Slopehill Roads. The site is zoned Rural General under the operative District Plan but is proposed to be Rural Lifestyle under the Proposed District Plan.

Trade Competition: The submitter cannot gain an advantage in trade competition through this submission.

Submission and decisions sought: The proposed district plan provisions this submission relates to, and the decisions sought, are as set out in the attached table.

Hearings: The submitter wishes to be heard in support of this submission.

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Date: 23rd October 2015

Submission point	Plan Provision	Relief sought (amended wording sought shown in <u>underline</u> strikeout)	Reasons
1	All provisions	Alternative, amended, or such other relief deemed more consistent with or better able to give effect to these submissions or the provisions referred to by these submissions.	
2	Whole Plan	Retain all provisions in the plan not otherwise submitted upon in this submission as notified unless they duplicate other provisions in which case they should be deleted.	
3	Rural Lifestyle Zoning	Retain Lot 1 DP 425385 within the Rural Lifestyle Zone as per the notified version of the proposed district plan.	The proposed zoning is appropriate.
4	Rural Lifestyle Zoning	Include Lot 1 DP 425385 within the Rural Lifestyle Zone.	Burgess agrees that this land contains the appropriate characteristics to be rezoned Rural Lifestyle and supports the Council intention to change the zoning.
5	Section 3.2.5	Delete Section 3.2.5	This section only serves to repeat matters covered in Section 6 of the Proposed Plan. This is inefficient and can be ineffective as large numbers of objectives and policies on similar matters can serve to delete the importance given to wording within individual policies. The plan can be consolidated by deleting this section (or alternatively incorporating Proposed Section 6 into 3.2.5).
6	Section 6	Delete all objectives and policies in proposed Section 6 and consider replacing with those that already exist in Section 4.2 of the Operative District Plan (while making minor wording amendments such as replacing “visual amenity landscapes” with “rural landscape category”).	<p>The RMA correctly anticipates that a legitimate outcome of a Plan Review is to find that there is no need to amend existing provisions (see Section 79(3)).</p> <p>The landscape objectives and policies were heavily scrutinised by submitters, Council and the Court over several years before the Operative Plan was settled. They set out clear principles for managing development which are appropriate to the local context and the weighting of matters set out in Part 2 of the RMA. They have been applied for many years with practitioners being familiar with how they should be applied. This aids consistent interpretation and raises the risk of inefficiencies if they are changed. Burgess agrees with the following statement from page 10 of the s32 assessment on the Strategic Directions Chapter (to the extent that it applies to Section 4.2 of the Plan):</p>

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			<p><i>“Fundamentally, however the landscape provisions in the ODP are considered to function well.”</i></p> <p>By comparison the proposed landscape chapter objectives suffer from the following issues:</p> <ul style="list-style-type: none"> - Long winded and excessive numbers of objectives and policies - Ambiguous wording (e.g. reference to “rural zones”) - Repetition of matters covered in objectives and policies in other chapters - Wording that inappropriately restricts development - Excessively elevating landscape matters in areas where they are but one of many valid considerations (for example by not properly distinguishing the distinct tests appropriate for different landscape categories. <p>Overall, it would be significantly more efficient and effective in achieving the purpose of the Act to continue to apply Section 4.2 of the Operative District Plan in Section 6 with no more than minor and inconsequential amendments.</p>
7	Rule - 6.4.1.2	Clarify that landscape classification objectives and policies do not apply to zones such as the Rural Lifestyle Zone.	This rule ambiguous. For example, should it be interpreted that objective 6.3.5 and the policies that follow are not applicable to the Rural Lifestyle Zone? Burgess submits that they should not apply. The Rural Landscape Category provisions as proposed impose a considerable emphasis on landscape management and provide little certainty as to whether development is appropriate. Such emphasis on landscape values has been found by the Court to be unwarranted in many parts of the proposed Rural Lifestyle Zone and was not a characteristic of the previous Rural Lifestyle Zone. By virtue of these areas being zoned for rural lifestyle purposes it should be acknowledged that the area has potential to absorb further development.
8	22.1	Either Delete this entire section or delete those parts after the first two paragraphs.	There is little if any weight that can be given to text such as this and it therefore adds unnecessarily to the length of the Plan. Much of the section is long winded, unclear or repeats matters already covered throughout the zone. If it is not deleted entirely the first two paragraphs should provide a sufficient overview.

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9	22.2.1	<p>Delete</p> <p>Maintain and enhance the district's landscape quality, character and visual amenity values while enabling rural living opportunities in areas that can avoid detracting from those landscapes.</p> <p>And replace with:</p> <p><u>Rural living opportunities are enabled in identified appropriate areas.</u></p>	<p>There is no grammatical distinction in this section between objectives and policies which fails to recognise their different statutory status. It would be useful for a succinct overall objective to encapsulate the key purpose of this zone, which, it is submitted, is to enable rural living opportunities.</p>
10	22.2.1.2	<p>Set minimum <u>maximum</u> density and building coverage standards so as to maintain the open space, natural and rural <u>amenity values</u> qualities of the District's distinctive landscapes are not reduced.</p>	<p>It is presumed that the proposed policy stated "minimum" in error.</p> <p>Burgess considers that maximum density standards are not an effective method for developing rural land and can lead to inefficient use. This is an important issue as it efficient use of land zoned rural lifestyle can alleviate pressure to develop other more landscape sensitive rural parts of the District. The new policy proposed below is considered to set out a more appropriate purpose for minimum density provisions.</p> <p>By virtue of zoning areas Rural Lifestyle it is understood that such areas have been identified as appropriate to absorb change. It is therefore problematic to describe such places as "distinctive landscapes" where qualities are not to be reduced. The proposed wording is considered to better encapsulate the reasons for such controls on building coverage.</p>
11	New policy in 22.2.1	<p><u>Establish maximum density standards so as to indicate what at a minimum is a reasonable development density in the Rural Lifestyle Zone.</u></p>	<p>This policy would be consistent with 22.2.1.3 where flexibility in the application of density standards is (appropriately) anticipated.</p>
12	Policy 22.2.1.3	<p>Amend as follows:</p> <p>Allow for flexibility of the density provisions, where design-led and innovative patterns of subdivision and residential development, roading and planting would enhance the character of the zone and</p>	<p>It is a reasonable resource management principle that if a proposal which breaches a rule can be shown to have no greater effects than an alternative proposal which complies with that rule, it should be able to be approved. Maximum density rules are for the most part an outdated and ineffective method in managing landscape character. Some of the more successful</p>

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		<p>the District's landscapes, effects on landscape and amenity values would be no worse than that of a proposal which complies with the maximum density provisions</p>	<p>elements of the discretionary Rural General regime that applies in the Operative District Plan are the ability to cluster development and create small lots in a rural setting.</p> <p>This policy as amended is designed to guide a discretionary regime that enables such outcomes over and above the standard maximum density rules that should be viewed as what can be achieved as of right. Such a regime would allow for innovation in development patterns and the efficient use of the Rural Lifestyle Zone, potentially alleviating pressure on the more landscape sensitive parts of the District.</p>
13	Objective 22.2.2	Replace/Renumber as a policy	It would be useful to reduce the number of objectives in the Plan. For the reasons set out in relation to objective 22.2.1 above, this could become a policy.
14	Objective 22.2.3 And Policy 22.2.3.1	<p>Delete:</p> <p>Objective – Manage new development and natural hazards</p> <p>Policy – Parts of the Rural Residential and Rural Lifestyle zones have been, and might be identified in the future as susceptible to natural hazards and some areas may not be appropriate for residential activity if the natural hazard risk cannot be adequately managed.</p>	These objectives and policies appear to duplicate matters covered in Chapter 28 of the Plan. Furthermore, the policy is unusually phrased and reading more as explanatory or advisory text. They can be deleted without detracting from the effectiveness of the Plan.
15	Rule 22.4.1	<p>Any other activity not listed in Tables 1-7: <u>NC_P</u></p> <p>And make consequential amendments to list non-complying activities.</p>	This zones breaks with the convention of most other zones in the District Plan in making all activities not otherwise stated non-complying, as opposed to permitted. Such inconsistencies risk confusing readers and can lead to unintended consequences where unanticipated activities with negligible effects require a resource consent.
16	22.4.2	Retain as notified	Burgess supports the move to permitted buildings subject to standards to control colours and material etc. This is significantly more efficient approach than is currently the case under the Operative Plan.
17	22.5.10	Amend as follows:	The proposed rules with respect to achieving average lot sizes etc (being similar to what exists in the Operative District Plan) are

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	And 22.5.11	<p>Residential Density: Rural Residential Zone Not more than one residential unit per 4000m² net site area.</p> <p>Residential Density: Rural Lifestyle Zone <u>Not more than one residential unit per 1 Ha net site area.</u></p> <p>One residential unit located within each building platform.</p> <p>On sites less than 2ha there shall be only one residential unit. —</p> <p>On sites equal to or greater than 2 hectares there shall be no more than one residential unit per two hectares on average. For the purpose of calculating any average, any allotment greater than 4 hectares, including the balance, is deemed to be 4 hectares.</p> <p>And make the status for breaching these rules Restricted Discretionary with discretion limited to:</p> <ul style="list-style-type: none"> • <u>Effects on landscape, rural amenity and character values, privacy, infrastructure capacity and road safety and efficiency</u> 	
18	Policy 28.3.1.2	<p>Amend policy 28.3.1.2 as follows:</p> <p>28.3.1.2 Restrict the establishment of activities which have the potential to increase <u>significant</u> natural hazard risk, or which may have an impact upon the community and built environment.</p>	<p>There are widespread areas in identified on Council's hazard database as being subject to at least some natural hazard risk (for example the lowest risk categories of liquefaction risk). It would be inefficient and unjustified for all resource consents in such locations to be required to assess natural hazard risks. A more practical approach is to focus on the avoidance or mitigation of significant natural hazard risk.</p>
19	Objective 28.3.2	<p>Amend objective 28.3.2 as follows:</p> <p>Development on land subject to <u>a significant</u> natural hazards only occurs where the risks to the community and the built environment are <u>satisfactorily</u> avoided or appropriately managed or mitigated.</p>	<p>There are widespread areas in identified on Council's hazard database as being subject to at least some natural hazard risk (for example the lowest risk categories of liquefaction risk). It would be inefficient and unjustified for all resource consents in such locations to be required to assess natural hazard risks. A more practical approach is to focus on the avoidance or mitigation of significant natural hazard risk.</p>

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20	Policy 28.3.2.2	<p>Amend Policy 28.3.2.2 as follows:</p> <p>Allow subdivision and development of land subject to <u>significant</u> natural hazards where the proposed activity it does not:</p> <ul style="list-style-type: none"> • Accelerate or worsen the natural hazard <u>risk and/or its potential impacts</u>. • Expose vulnerable activities to intolerable natural hazard risk. • Create an unacceptable risk to human life. • Increase the natural hazard risk to other properties. • Require additional works and costs that would be borne by the <u>public community</u>. 	<p>There are widespread areas in identified on Council's hazard database as being subject to at least some natural hazard risk (for example the lowest risk categories of liquefaction risk). It would be inefficient and unjustified for all resource consents in such locations to be required to assess natural hazard risks. A more practical approach is to focus on the avoidance or mitigation of significant natural hazard risk.</p> <p>Other minor amendments are requested for the purpose of shortening the provision and/or removing unnecessary text.</p>
21	Policy 28.3.2.3	<p>Amend Policy 28.3.2.3 as follows:</p> <p>Ensure <u>new subdivision or land development all proposals to subdivide or develop land that is at threat from a subject to significant natural hazards risk (identified on the District Plan Maps) is assessed in terms of provide an assessment covering:</u></p> <ul style="list-style-type: none"> • The type, frequency and scale of the natural hazard <u>and the effects of a natural hazard event on the subject land</u>. • The type of activity being undertaken and its vulnerability of the activity in relation to the <u>natural hazards</u>. • The effects of a natural hazard event on the subject land. • The potential for the activity to exacerbate <u>the natural hazard risk both in and off the subject land</u>. • The potential for any structures on the subject land to be relocated. • The <u>location, design and construction of buildings and structures to mitigate the effects of natural hazards, such as the raising of floor levels</u>. • Site layout and m- <u>Management techniques that to avoid or minimise the adverse effects of natural hazards, including access and egress during a hazard event.</u> 	<p>There are widespread areas in identified on Council's hazard database as being subject to at least some natural hazard risk (for example the lowest risk categories of liquefaction risk). It would be inefficient and unjustified for all resource consents in such locations to be required to assess natural hazard risks. A more practical approach is to focus on the avoidance or mitigation of significant natural hazard risk.</p> <p>To improve certainty and efficiency in the application of the district plan, it is important that significant natural hazards are identified on the District Plan Maps.</p> <p>Other minor amendments are requested for the purpose of shortening the provision and/or removing unnecessary text.</p>