

Before the Hearings Panel
For the Proposed Queenstown Lakes District Plan

Under the	Resource Management Act 1991
In the matter	of a variation to Chapter 21 Rural Zone of the Proposed Queenstown Lakes District Plan, to introduce Priority Area Landscape Schedules 21.22 and 21.23

**REBUTTAL EVIDENCE OF RUTH EVANS ON BEHALF OF QUEENSTOWN LAKES
DISTRICT COUNCIL**

29 September 2023



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1. PROFESSIONAL DETAILS

1.1 My name is Ruth Christine Cameron Evans. I am a planner at Barker & Associates. My qualifications and experience are set out in my s42A Report dated 11 August 2023 (**s42A report**).

Code of Conduct

1.2 While this is a council hearing, I confirm that I have prepared this evidence in accordance with the Code of Conduct for Expert Witnesses contained in Part 7 of the Environment Court Practice Note 2023. The issues addressed in this rebuttal statement are within my area of expertise except where I state that I am relying on the evidence or advice of another person. The data, information, facts and assumptions I have considered in forming my opinions are set out in the part of this evidence in which I express my opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

2. SCOPE OF MY REBUTTAL EVIDENCE

2.1 My rebuttal evidence responds to the following briefs of evidence filed for the submitters listed:

- (a) Nikki Smetham (landscape) for Hawthenden Trust (OS3), Duncan White (planning) for Glen Dene (OS47), Richard Burdon (OS49) and Sunnyheights (OS42 and FS235) Ben Espie (landscape) for Sunnyheights Ltd and others (OS42)
- (b) John Edmonds (planning) for Second Star Limited (OS48)
- (c) Blair Devlin (planning) for McIntock Topp Family Trust (OS76), TPI 1 Ltd (OS78), The Milstead Trust (OS82), Sir Robert Stewart (OS84), Hyrdo Attack Ltd (OS135)
- (d) Ben Farrell (planning) evidence for Tucker Beach Residents Society (OS90), Offroad Adventures (OS138), 165 NZSki (OS165), 166 RealNZ (OS166) and Queenstown Adventure Park (1993) Limited (OS189)

- (e) Scott Freeman (planning) for Treespace No. 1 Ltd Partnership (OS96)
- (f) Emily McDonald and Eleanor Linscott (planning)(for Federated Farmers (OS98 and FS240)Morgan Shepherd (planning) for Mount Cardrona Station Limited (OS124 and FS231), Gertrude’s Saddlery Limited (OS200 and FS244) and Northlake Investments Limited (OS126)
- (g) Scott Edgar (planning) for Alpine Deer NZ LP (OS146), Upper Clutha Transport Limited (OS149), Silverlight Studios Ltd (OS175) and Cardona Distillery Limited (OS185)
- (h) Chris Ferguson (planning) for Henley Downs Farm Holdings Ltd (OS183 and FS220), Glendhu Bay Trustees Ltd (OS176 and FS222), Soho Ski Area Ltd & Blackmans Creek Holdings No. 1 LP (OS178 and FS221), 177 Glencoe Station Ltd (OS177)
- (i) Stephen Skelton (landscape) for Passion Development Limited (OS186)
- (j) Richard Kemp (planning) for Passion Development Limited (OS186)
- (k) Rachael Pull (planning) for Te Rūnanga o Ngāi Tahu (OS188)
- (l) Brett Giddens (planning) for Gibbston Valley Station (OS93)
- (m) Brett Giddens (planning) for Cardrona Cattle Company Limited (OS94 and FS233)

2.2 In preparing this rebuttal statement I refer to and rely on the rebuttal evidence of the following expert landscape architects for Queenstown Lakes District Council (**the Council**):

- (a) Ms Bridget Gilbert
- (b) Mr Jeremy Head

3. EXECUTIVE SUMMARY

- 3.1** This evidence is in response to the briefs of evidence filed for submitters in relation to the Priority Area (**PA**) landscapes variation to the Queenstown Lakes Proposed District Plan (**PDP**).
- 3.2** I have responded to a number of points raised by submitters' experts in relation to statutory considerations associated with the variation.
- 3.3** A number of planning and landscape experts are of the view that the PA mapping formed part of the notified variation and that there is scope to make mapping changes. I remain of the view that mapping changes are not within scope. I have recommended that the Kimiākau (Shotover River) PA revert to the notified labelling.
- 3.4** In response to evidence on the applicability or otherwise of the schedules to the Ski Area Sub Zones (**SASZ**), I consider there is no policy hook that directs that the schedules be considered in resource consent applications in the SASZ.
- 3.5** I have responded to a number of points raised by submitters' experts in relation to various Chapter 3 policies and how they relate to the PA schedules.
- 3.6** I have responded to a number of points raised by submitters' experts in relation to various definitions. I remain of the view that tourism related activities and urban expansion are appropriate, for the reasons set out in my s42A report.
- 3.7** I have recommended a number of further changes to the preambles to improve clarity and assist with the efficient application of the PA schedules.

3.8 I note that there are a number of topics arising from submitter evidence which will benefit from expert conferencing, including the application of the schedules to exception zones, various definitions, and the preamble text.

4. STATUTORY CONSIDERATIONS

Part 2 of the RMA (section 8)

4.1 Ms Rachael Pull for Te Rūnanga o Ngāi Tahu (OS188) considers¹ that the s42A report fails to recognise the relevance of section 8 of the Resource Management Act 1991 (**RMA**), in taking into account the principles of Te Tiriti o Waitangi. Ms Pull's evidence is concerned with the Sticky Forest block (which is described in the submission by Te Rūnanga, which remains subject to a Stage 1 (PDP) appeal seeking to achieve a degree of urbanisation through rezoning from Rural Zone to a combination of urban zones).

4.2 In summary, I agree that section 8 is a relevant consideration for this proposed variation. While I have not made specific reference to section 8 in the overview of statutory considerations in my s42A report, I did note in paragraph 5.5 of my s42A report that the proposed variation is to give effect to (and implement) the strategic objectives and policies of Chapter 3 of the PDP, which has itself been prepared to give effect to Part 2 – including section 8.

4.3 For completeness, I note that this proposed variation is limited to the content of the PA schedules (a point Ms Pull acknowledges in paragraph 28 of her evidence), and to the extent that there are other planning and landscape related issues yet to resolve for the Sticky Block land, those issues are before the Environment Court for determination in light of the usual statutory framework for plan appeals.

¹ Paragraph 30(e) of Ms Pull's evidence

National policy statements and regulations

- 4.4** Mr Richard Kemp (OS186) considers that the National Policy Statement on Urban Development 2020 (**NPSUD**) is also a relevant national policy statement (**NPS**) to consider for this proposed variation², particularly in the context of including a capacity rating for urban expansion.
- 4.5** Given Mr Kemp’s evidence I have considered the relevance of the NPSUD. In my view the NPSUD direction is not material to the variation, even though the proposed schedules refer to capacity for urban expansion. This is because the focus of the variation is on section 6 and 7 landscapes (Part 2 of the RMA) and implementing the strategic direction set in Chapter 3 of the PDP.
- 4.6** Mr Kemp has outlined the parts of the NPSUD that relate to planning decisions affecting the urban environment. The urban environment is described in the NPSUD as land that is or is intended to be predominantly urban in character. The Rural Zone (to which the PA schedules directly apply) is not part of the urban environment. In addition, the relevant landscapes are – other than limited exceptions – entirely outside the existing urban environment in the District, which is defined by the mapped Urban Growth Boundary. For these reasons, I consider that the NPSUD has very limited relevance to the proposed variation.
- 4.7** As Ms Gilbert and Mr Head have described³, their expert landscape view is that the ‘no landscape capacity’ rating for urban expansions should be retained, on the basis that urban development within an ONF/L will materially compromise the naturalness of the landscapes concerned (and create tension with the direction to protect landscape values, as required by section 6(b) of the RMA).

² Richard Kemp evidence paragraph 5.2-5.4.

³ Bridget Gilbert rebuttal evidence section 6, including paragraph 6.14(a); Jeremy Head rebuttal evidence section 2, including paragraph 2.3(a).

Iwi planning documents

4.8 Ms Pull for Te Rūnanga o Ngāi Tahu (OS188) considers that the consideration of iwi planning documents is missing from the s42A report,⁴ and that the variation needs to consider the iwi planning documents separately to the District Plan, instead of just referring to the chapters within the PDP that are out of scope for the consideration of this variation.

4.9 At paragraph 5.9 of my s42A report I noted the relevant iwi planning documents and that the preparation of the PDP had taken into account the outcomes of these documents. The s32 report confirms at paragraph 6.3 that the preparation of this variation has had regard to the two iwi planning documents, and that the objective of the proposal has been informed by these documents.

Regional Policy Statement

4.10 Ms Pull for Te Rūnanga o Ngāi Tahu (OS188) notes that section 74(2)(a) requires that when changing a District Plan, Council shall have regard to any proposed regional policy statement (**RPS**) and that it is unclear how the variation has achieved the partially operative and proposed Otago RPSs that require District Councils to give effect to the Ngāi Tahu Claims Settlement Act 1998 and/or provide for the use of native reserves with regard to the Hāwea/Wānaka – Sticky Forest.

4.11 As noted above, this proposed variation is limited to the content of the PA schedules, and does not seek to change or include any new provisions that could enable land use (in terms of zoning or rules) at Sticky Forest, or elsewhere. The role of the PA schedules is to provide guidance for applications involving land in the Rural Zone, and so the proposed variation cannot, in practice, achieve the outcomes that Ms Pull is

⁴ Rachael Pull evidence paragraph 30(b).

seeking. Those outcomes are at issue in the Stage 1 appeal before the Environment Court.

- 4.12** Following on from his comments on the relevance of the NPSUD to the variation, Mr Kemp (OS186) refers to the proposed Otago RPS UFD-P8(2) and the direction to *avoid establishing rural lifestyle or rural residential development where it would foreclose or reduce efficient realisation of land with urban development potential where it is identified for that purpose.*
- 4.13** I do not consider this one limb of the policy should be read in isolation to the other limbs of this policy, the UFD chapter, or the other objectives and policies of the proposed RPS (including those focussed on ONF/Ls). I also note that there is nothing in the PDP or Queenstown Spatial Plan that identifies the land Mr Kemp is referring to as being identified for future urban development, or being reasonably likely to be required for future urban development potential. I further note that Ms Gilbert's recommendation on rural living development in the Western Whakatipu is 'extremely limited' which does not conflict with UFD-P8(2) as it is clear that with respect to landscape capacity (at a PA scale) that rural living of a scale that could compromise future opportunity for urban development is not supported.
- 4.14** Related to this matter, I do not share Mr Kemp's view that the landscape capacity ratings for rural living and urban expansion are in 'stark contrast' to one another in terms of the 'firm line' for urban expansion⁵. These two activities are only one capacity level removed from each other on the landscape capacity scale, which I do not consider to be "stark" contrast.

⁵ Richard Kemp evidence paragraph 5.6.

5. MAPPING

- 5.1 A number of experts and counsel for submitters have filed evidence relating to mapping changes⁶. The evidence broadly covers:
- (a) Requested minor amendments to correct mapping errors;
 - (b) Substantive amendments to change the mapping of landscape classification lines; and/or
 - (c) Mapping amendments to PA boundaries.
- 5.2 In terms of minor corrections, as mentioned in my s42A report I will be able to update the hearings panel on the progress with this at the hearing.
- 5.3 In terms of changes to landscape classification lines, as outlined in my s42A report at paragraph 7.4, mapping changes to landscape classification lines (Outstanding Natural Landscape (**ONL**), Outstanding Natural Feature (**ONF**) and Rural Character Landscape (**RCL**)) are outside the scope of the proposed variation. I have therefore not considered the substance of any mapping requests of this nature further.
- 5.4 In terms of the PA mapping, a number of the submitters' experts⁷ hold the view that the PA mapping was notified as part of the proposed variation. For example, Mr Devlin states at paragraph 74 that '...when the PA maps were notified for the formal submission process...'; and Mr Espie at paragraph 6 notes that the webpage linked to in the Council's public notice for the variation included a link to a GIS map of the PAs. Mr Espie further explains at paragraph 7 that during informal consultation there was a similar GIS link provided by the Council and that changes to the PA mapping occurred between the consultation stage and notification. He then points out that Ms Gilbert's evidence in chief describes the process for notification of the PA schedules through to June 2022.

⁶ Including Blair Devlin for Sir Robert Stewart (OS84), Morgan Shepherd for Northlake Investments Limited (OS126) and Gertrude's Saddlery Limited (OS224), Richard Kemp and Stephen Skelton (OS186).

⁷ Including Blair Devlin for McIntock Topp Family Trust (OS76), TPI 1 Ltd (OS78), The Milstead Trust (OS82), Sir Robert Stewart (OS84), Hyrdo Attack Ltd (OS135), Ben Espie for Sunnyheights Ltd and others (OS42), Brett Giddens for Gibbston Valley Station (OS93), Richard Kemp and Stephen Skelton for Passion Development Limited (OS186).

- 5.5** Similarly, at paragraph 24 of his landscape evidence for Passion Development Limited (OS186), Mr Steve Skelton notes that because the GIS mapping link was provided with the notification documents many submitters were under the impression that mapping changes could be made, following the attributes and values assessment. I understand from reading the Environment Court decisions on Topic 2, including Decisions 2.2 and 2.5, that it was not intended that the PA scheduling process would extend to revisiting the ONF/L boundaries shown on the plan maps. The ONF/L mapping was confirmed through Stage 1 of the PDP, including appeals allocated to Topic 2.
- 5.6** I also note that the inclusion of the GIS link to the PA mapping in the public notice does not mean that the PA mapping boundaries were a part of the notified proposal. I understand the link to the GIS mapping was included for ease of reference for potential submitters, so that the text of the PA schedules could be read in the context of the spatial extent of the associated PAs.
- 5.7** I addressed this matter in my s42A report, including at paragraph 7.3 where I note that paragraph 1.6 of the s32 report states that the variation does not change any aspect of the identification or mapping of the PAs themselves, and that: *Identification and mapping of the Priority Areas has already occurred and is already set out in Chapter 3 of the PDP and the web mapping application.*
- 5.8** I remain of the view that the PA boundaries are not in scope, and that the focus of the variation is to develop the content of the schedules which are required to be included in the PDP to support the mapped PAs.

Gibbston Character Zone, Gibbston Valley Resort Zone

5.9 Mr Brett Giddens' evidence for Cardrona Cattle Company Limited (OS94 and FS233) is that the Gibbston Character Zone (GCZ) at Victoria Flats has not been considered an ONL in either the Operative District Plan (ODP) or the PDP.

5.10 I have reviewed various iterations of the PDP mapping to confirm the location of the ONL in proximity to the GCZ and consider that the GCZ is within the ONL. The Stage 1 notified map⁸ (see Figure 1 below) shows the ONL notation adjacent to the GCZ boundary, with no separate boundary or delineation that removes the GCZ from the ONL.

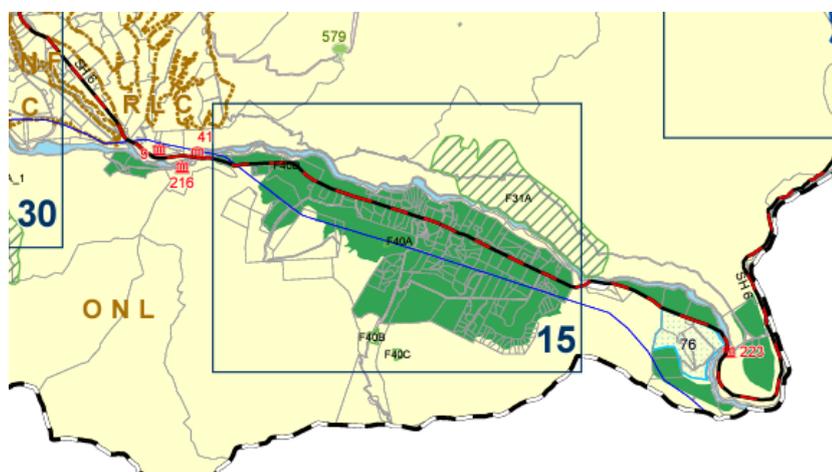


Figure 1: Snip from Notified Stage 1 PDP Map 13. GCZ shown in green, ONL notation to the west

5.11 In the Stage 1 decisions version of the map⁹ the ONL boundary was added as a brown dot-dash line, with the Victoria Flats area shown as being within the ONL.

⁸ Available at the following link under the heading/button 'Notified maps from 2015 (as part of Stage One of the review)', Map 13: <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/notification-and-submissions>

⁹ Available at the following link under the heading/button 'Decisions of Council maps, Maps – 2018', Map 13: <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/decisions-of-council>

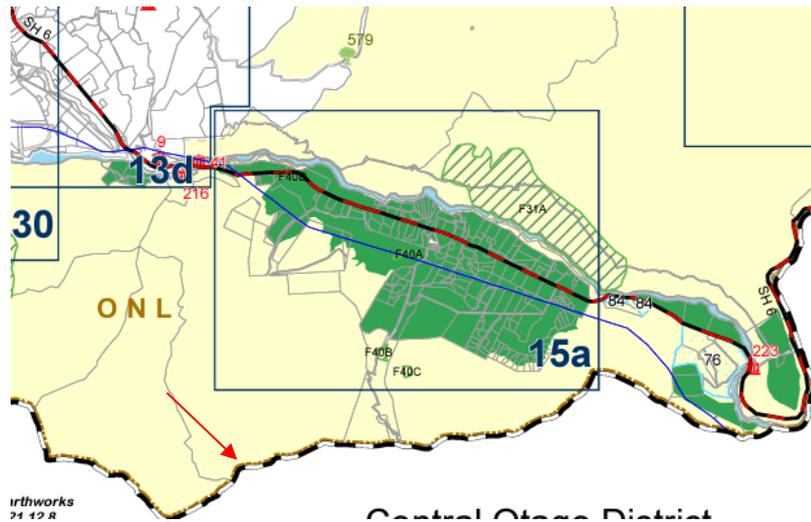


Figure 2: Snip from Decisions Version Stage 1 PDP Map 13. GCZ shown in green, ONL notation to the south west and brown ONL line to the south (and annotated by a red arrow)

- 5.12** Notably the ONL boundary is not clipped to the GCZ and therefore does not exclude the GCZ. This serves to distinguish the GCZ from other zones that are excluded from the ONL, by way of the brown dot-dash line.
- 5.13** I am aware there is a live rezoning appeal over the zoning of the submitters land at Victoria Flats that would have the effect of removing the ONL classification line, however there has been no hearing or decision on this appeal.
- 5.14** I also note that the GCZ is an exception zone (as per 3.1B.6), which would not be needed if it was not subject (either all or in part) to an ONF or ONL. The exception zone framework is designed to provide exemptions from various ONL and ONF related objectives and policies for the activities anticipated by exception zones. It would make no sense for these exemptions to apply to zones that are not within the ONL or ONL, as there would be no need for any exemption at all.
- 5.15** While I agree with Mr Giddens that there is no mention of ONF/Ls in the Chapter 23 (GCZ) provisions¹⁰, this does not automatically mean that protection of the ONL is not required, or that there is no ONL in this

¹⁰ Brett Giddens evidence for Cardrona Cattle Company (OS94 and FS233) paragraphs 32-39.

location. Instead, and as set out in my s42A report (paragraphs 9.36-9.39), I understand the intention for the exception zone regime was to recognise that certain zones, within the ONF/L, provide for a level of activity in a way that already protects the ONF/L. Where activities are not provided for by those zones, the regime engages relevant provisions to ensure that subdivision, use and development achieves the landscape related directions of the PDP for the relevant ONF or ONL. I therefore disagree with Mr Giddens' paragraphs 30 and 39 that the ONL and ONF policies under Chapter 6 (Landscapes) do not apply, or that there is no direction or requirement to consider section 6 landscapes, noting that these are designed to elaborate on the Chapter 3 Strategic Objectives (SO) and Strategic Policies (SP).

5.16 I also refer back to my s42A report and how the schedules apply to the GCZ, where I reached the conclusion (at paragraph 9.48(c)) that the schedules could be used to inform landscape assessments and landscape capacity. To clarify, I am not suggesting that they 'must' be used, nor that there is any policy direction in the PDP that expressly requires that the schedules are to be relied on for proposals in the GCZ. This is because the GCZ is not part of the Rural Zone, a point that Mr Giddens also makes. This is further clarified in the s42A version of the preambles, which includes a paragraph on how the PA schedules apply to different zones. I have recommended further edits to this section of the preambles in response to submitter evidence on the applicability to the SASZ.

5.17 Mr Giddens (in his paragraph 12) contends that I have justified the placement of the Victoria Flats PA over land zoned GCZ on the basis that the GCZ is one of the rural zones of the PDP. He does not agree with this approach. My analysis of the how the PA schedules apply for different zones (and my overall conclusion that they only directly apply to the Rural Zone) is not justification for the PA mapping to include the GCZ. The extent of the PAs was confirmed by the Environment Court,¹¹ with the Victoria Flats PA including the GCZ.

¹¹ S42A paragraph 7.3 – the PA mapping boundaries were determined by the Environment Court in Decision 2.5.

- 5.18** In his evidence for Gibbston Valley Station (OS93), Mr Giddens expresses the view that the Gibbston Valley Resort Zone (**GVRZ**) is not within an ONL or ONF. A snip from the Council’s GIS maps (below) shows the wider ONL and the Kawarau River ONF PA along the northern boundary of the GVRZ. This indicates the GVRZ is within the ONL and ONF. However, as zone that is not a Rural Zone or an exception zone, the PA schedules are not directly engaged for proposals within the GVRZ.

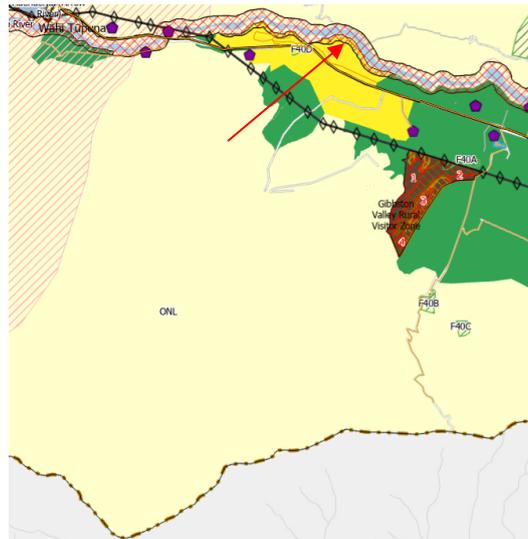


Figure 3: Snip from the Council’s GIS viewer showing the ONL brown dot dash line, and red arrow showing the Kawarau River PA overlapping with the GVRZ (yellow)

Arthurs Point

- 5.19** Ms Shepherd (planning) and Mr Espie (landscape) for Gertrude’s Saddlery Limited (OS200) have raised concerns with the Council’s recommended ‘re-labelling’ of the Kimiākau (Shotover River) PA as ONF/L¹².
- 5.20** At the time of preparing the Council’s s42A report and landscape evidence in chief, this was considered to be a sensible reflection of the Council’s recent decision on the landscape boundaries associated with the Shotover Loop at Arthurs Point. The Council’s decision, which was publicly notified on 29 June 2023, was that the land is ONL. The submitters’ position, including in their recently lodged appeal against the

¹² Ben Espie evidence paragraphs 31-41, Morgan Shepherd Section 11.

Council's decision, is that the Shotover Loop land is not ONL. The appeal process is at an early stage with no directions yet confirmed in relation to case management.

5.21 Ms Gilbert and I have reflected on the landscape related issues associated with the submitters' land, which are complicated by the ONL categorisation of the subject land, and presence of the Kimiākau Shotover River ONF PA.

5.22 In effect, there are two separate processes in play for the area, with the Schedule 1 appeal concerning the ONL boundary, zoning and location of the Urban Growth Boundary (the Council decisions, including mapping, being subject to appeal), and this variation, which is for the purpose of confirming the content of the PA schedule for the Kimiākau Shotover River ONF. As the Panel will be aware, it is my view that mapping amendments are outside the scope of this variation.

5.23 As a result of our discussions, I now recommend that the Kimiākau Shotover River ONF PA revert to its notified title, i.e. that it is described as an ONF PA.

5.24 Whether the appeal process will be successful in altering the landscape category for the subject land or not is a matter for the Environment Court. If the appeal is successful in this way, it will also be for the Environment Court to determine whether a subsequent change to the Kimiākau Shotover River ONF schedule (and mapping) is possible.

Dublin Bay

5.25 While not a requested mapping line amendment, Mr Duncan White for Sunnyheights Limited (OS26) has suggested that a sub-area (flanks of Mount Brown) of the PA be identified spatially on the mapping link, similar to how the PDP contains areas where 'specific provisions apply'.

5.26 Relying on Ms Gilbert’s evidence in chief (paragraphs 6.1-6.9) in relation to submissions seeking landscape character units or identification of smaller landscape units within the PA, and her opinion that localised nuances can be sufficiently described in the PA schedules, I do not consider a mapping notation to be appropriate.

6. APPLICATION OF THE SCHEDULES

PA Schedules application outside the Rural Zone/application to exception zones

6.1 I note that several experts¹³ have indicated their support for the revised preambles, which includes explanation of how the PA schedules apply outside the Rural Zone. This is acknowledged.

6.2 A number of experts¹⁴ have provided evidence addressing how they consider the PA schedules apply outside the Rural Zone, with the application of the PA schedules to the exception zones a particular area of focus.

6.3 My conclusion (at paragraphs 9.34-9.41 of my s42A report)) from the various Chapter 3 SOs and SPs is that the PA schedules directly apply to the Rural Zone, including the Rural Industry Sub-Zone. I also concluded that they are applicable to the SASZ for development that is not provided for by the SASZ, I will return to this shortly. For the other exception zones, including the Rural Residential, Rural Lifestyle, Jacks Point Zone and GCZ, I concluded that as these zones are outside the Rural Zone, the PA schedules do not directly apply, but could be referred to when undertaking a landscape assessment for a proposal within those zones. The same applies to proposals within all other PDP and ODP zones, if the

¹³ Ducan White for Glen Dene (OS47), Richard Burdon (OS49) and Sunnyheights Limited (OS235), John Edmonds for Second Star (OS48), Scott Edgar for Alpine Deer NZ LP (OS146), Upper Clutha Transport Limited (OS149), Silverlight Studios Ltd (OS175) and Cardona Distillery Limited (OS185), Blair Devlin forMcIntock Topp Family Trust (OS76) and others, and a number of landscape architects.

¹⁴ Including Chris Ferguson for Henley Downs Farm Holdings Ltd (OS183 and FS220), Glendhu Bay Trustees Ltd (OS176 and FS222), Soho Ski Area Ltd & Blackmans Creek Holdings No. 1 LP (OS178 and FS221), 177 Glencoe Station Ltd (OS177), Morgan Shepherd for Northlake Investments Limited (OS126) and Brett Giddens for Cardrona Cattle Company Limited (OS94 and FS233).

schedules could be some relevance. Other than for exception zones, this does not appear to be challenged in submitter evidence.

6.4 Submitter evidence in relation to the exception zones is summarised as follows:

- (a) Mr Farrell considers that the PA schedules should not apply to resource consent applications in exception zones (paragraph 36).
- (b) Ms Shepherd considers (at paragraph 6.6) that it is *unclear as to how these relate to the Exception Zones as the SPs and SOs don't subsequently provide a policy 'hook' to require assessment of the scheduled values for 'any activities that are not provided by those zones', as suggested in the s42A report.*
- (c) Mr Ferguson (paragraphs 40-49) outlines that he cannot find a policy basis for *requiring activity within any Exception Zone to protect the landscape values or landscape capacity listed within the relevant Landscape Schedule.* (My emphasis added).
- (d) Mr Ferguson accepts that the values identification framework (VIF) applies to all ONF/Ls and requires the schedules to identify values and capacity for each PA. He goes on to note that *"This creates an anomalous situation where the landscape schedules are required to identify landscape values and landscape capacity for Exceptions Zones but where future activity, including activity not provided for by the Exception Zone, is not required to protect the landscape values specified on the landscape schedules"*. He further notes that *"In practice, this will not be an issue however as the schedule will include a broader description of all land within it (values and capacity) and where guidance for the application of the schedules to resource consent applications is clearly stated within the PDP"*.
- (e) Mr Ferguson has the same opinion as me in that, while it may not be required by the PDP policy framework, a landscape

assessment could refer and take guidance from the PA schedules (for example, his discussion at paragraphs 45 and 52).

- (f) Mr Ferguson disagrees with my statement at paragraph 9.40 of my s42A report that the exception zone framework in Chapter 3 does not extend to development that is not provided for within the Exception Zones, in which case all relevant SOs and SPs will apply (SO 3.2.5.4). (My emphasis added). He notes (paragraph 48) that he cannot find a policy basis that all SOs and SPs apply to activities not provided for within any exception zone.
- (g) Mr Giddens, in his evidence for Gibbston Valley Station (OS93)¹⁵ and Cardrona Cattle Company (OS94 and FS233)¹⁶, is also of the view that the PA schedules do not apply to non-Rural zone land. I agree with him in relation to the applicability of the schedules to resource consents in the GCZ and GVRZ for the reasons set out in my s42A report.

6.5 In light of the submitter evidence on the applicability of the PA schedules to the exception zones, and the lack of a direct policy ‘hook’, I have reflected on my conclusion that the PA schedules are required to be engaged with for activities not anticipated in the SASZ (i.e. my s42A paragraph 9.40 and 9.47(c)).

6.6 While SO 3.2.5.4 requires that landscape values be protected for activities not provided for by the exception zone, I acknowledge that it does not directly state that it is the values set out in the PA schedules that are to be protected. Nor does it state that all the SOs and SPs apply to development not provided for. SO 3.2.5.4 simply refers to protecting landscape values “of the relevant” ONF or ONL. In this way it is implicit that if an exception zone is within a PA, then the schedules will seek to articulate the landscape values that should be protected (the overlap between the exception zone and PA must make that clear). For this

¹⁵ Brett Giddens evidence paragraph 13.2 and 15

¹⁶ Brett Giddens evidence paragraph 13 and 52

reason, I consider that the PA schedules will be of some use, but acknowledge that there is no direct policy hook created by SO 3.2.5.4.

6.7 One of the nuances with the SASZ (compared to the other exception zones) is that the SASZ are also technically a part of the Rural Zone. While the SASZ are listed as an exception zone, as a part of the Rural Zone they also engage with the PA schedules. It could therefore be interpreted that because the SASZ relies on Chapter 21 objectives and policies (compared to other zones that have their standalone objectives and policies in a separate chapter), the SOs and SPs directing the application of the schedules to the Rural Zone includes the Ski Area Subzone given the construct of Chapter 21.

6.8 I acknowledge that that the PDP is not clear on this matter, and the application or otherwise of the SOs and SPs becomes somewhat circular. On balance, I agree with the position advanced by Ms Shepherd and Mr Ferguson (and others) that the PA schedules cannot be directly engaged with for the SASZ due to the absence of a direct policy hook. Like the other exception zones, the schedules could be referred to (and it would appear to make sense for this to happen), but it would not be mandatory.

6.9 One point of clarification is required in relation to Mr Ferguson's paragraph 48, where he refers to 3.1B.6 as being a 'complete carve out' from a range of SO and SPs. This is not the case as this clause includes a statement that the identified SOs and SPs apply to plan development, including plan changes, and so it is not a complete carve out.

6.10 To summarise my view on the relevance of the schedules to different zones:

- The PA schedules apply to the Rural Zone, including the Rural Industry Sub Zone.
- There is no direct policy hook to the application of the schedules for other zones, therefore the PA schedules do not directly apply to any other zone, including the SASZ and other exception zones.

- Chapter 3 SOs and SPs require the identification of values and associated landscape capacity for the wider PA.
- The PA schedules may provide guidance for resource consent applications in other zones.

6.11 Ms Shepherd and Mr Ferguson both consider that more explicit preamble text (in addition to the s42A recommended amendments) would assist in addressing the applicability or otherwise of the PA schedules to exception zones. Ms Shepherd outlines (paragraph 6.8) that the preamble amendment could “*clarify that, while the schedules may include (by way of map or description) non-Rural Zone land within PAs, the subsequent application of those to future planning and consenting decision will be limited to only the Rural Zone, and exclude Exception Zones*”. Mr Ferguson has provided specific wording for consideration in his marked up version of the preambles.

6.12 I note that this is a topic identified for the planners’ expert conferencing and invite further discussion on this matter, both in terms of the policy context for applying the PA schedules to the exception zones (or not) and how the preambles can provide appropriate clarity on this. I have noted potential amendments to the preambles in **Appendix 1** as a basis for discussion at expert conferencing.

6.13 Notwithstanding my revised conclusion on the SASZ reached in paragraph 6.7 above, I expect to be in a position to make an updated recommendation to the panel following expert conferencing and prior to the commencement of the hearing. I anticipate that updated preambles will be provided to the Panel and submitters with either the JWSs following expert conferencing, or as attached to legal submissions ahead of the hearing. I can address any changes to the preambles in my summary statement, to assist the Panel.

Content of the PA schedules / broader issues

No landscape capacity

- 6.14** In their evidence, planning and landscape experts for the submitters' have continued to express concern over the 'no landscape capacity' rating.
- 6.15** In her rebuttal evidence, Ms Gilbert (paragraph 6.6) has carefully scrutinised this evidence, and the appropriateness of the 'no landscape capacity' rating. Ms Gilbert, and Mr Head, have recommended a softening of this capacity rating in certain cases, but also that it be retained where needed, including with or without qualification.
- 6.16** This level of scrutiny has given me further comfort from a planning perspective that in the rebuttal versions of the schedules 'no landscape capacity' has only been used where there is a high degree of comfort that the activity is not appropriate in an ONL/F when considered at a PA scale.

Plan implementation

- 6.17** Ms Shepherd¹⁷ raises a concern that there may be a plan implementation issue arising from the reference to 'little capacity' in SP 3.3.31, and this not carrying through to the language used in the landscape capacity scale proposed in the PA schedules. I note that there is a broader set of SOs and SPs that direct the preparation and inclusion of the PA schedules in the PDP, none of which set the language for the landscape capacity scale. The reference to 'little' in this policy has a degree of subjectivity that would be of limited guidance in the landscape capacity scale. Further, the SOs and SPs need to be read as a whole in preparing the schedules. I also note Ms Gilbert's comments at paragraph 7.41 of her rebuttal evidence that from a landscape perspective, the nature of the PAs as section 6 and

¹⁷ Morgan Shepherd paragraph 2.1-2.3

7 landscapes is such that the landscape capacity scale covers varying degrees of 'little capacity'.

- 6.18** I note that the descriptions of each capacity rating is carefully worded to assist the plan user in interpreting 'little capacity'. I therefore do not share Ms Shepherd's concern that plan implementation issues may arise from not using the term 'little capacity' in the landscape capacity scale.
- 6.19** Other concerns expressed by Ms Shepherd (at paragraph 4.8) are: that there are no provisions in Chapter 3 *"that require a plan user to consider or further assess the identified "landscape capacities" once they have been identified in the schedule"*; and there appears to be no clear policy 'hook' to require the consideration of capacity for each of the listed activities. I disagree. SO 3.3.45 sets out requirements for landscape assessments, including assessing effects on values and related landscape capacity, and SO 3.3.46 that sets out when a landscape assessment methodology is to be implemented. This would include the landscape capacity as described in the PA schedules.
- 6.20** Ms McDonald and Ms Linscott from Federated Farmers (OS98 and FS240) consider that the schedules do not recognise the significance of farming activities within the district (paragraph 9), and that the schedules impose a 'regulatory drag' on everyday farming (paragraph 12). As explained in my s42A report the variation does not change any of the existing PDP provisions including objectives, policies and rules. Farming is a permitted activity in the Rural Zone, and I therefore do not agree that the schedules will result in regulatory drag. It is only where resource consent is required (for a restricted discretionary activity, or a more restrictive status), that the schedules will likely be engaged at all.
- 6.21** Ms McDonald and Ms Linscott also outline at paragraph 19 that Federated Farmers maintains that the schedules need to be updated to allow for flexibility and future opportunity for proactive change and technology improvements. On this matter I note that it is difficult for the

schedules to provide this flexibility when the type of change/technology, and related potential effects on landscape values, is unknown. To the extent that the schedules are intended to be forward looking in this way, that is limited to the capacity section and ratings.

6.22 As acknowledged in their evidence, the Federated Farmers submission did not include any specific text changes, and Ms McDonald and Ms Linscott have not expanded on the submission or provided any additional specific detail or potential drafting that would address their concerns. I invite them to do so during planning conferencing.

6.23 At paragraph 7.39 of Ms Gilbert's rebuttal evidence she discusses Mr Kruger's suggestion for the development of a quantitative system and I defer to her on whether this is appropriate from a landscape perspective. I note there are number of standards in the subdivision and Rural Zone chapters that address bulk form of development. This includes controls over the size of building platforms, maximum height of buildings, maximum ground floor area of buildings, and boundary and road setbacks. I note that these rules already control some of the matters Mr Kruger considers could be part of a quantitative system.

PA preambles

6.24 A number of planners have included specific amendments to the preambles by way of mark-ups appended to their evidence.

6.25 Mr Devlin has provided recommended amendments to the preamble for 21.22 in his Appendix A. His amendments (as summarised at his paragraph 28) include:

- (a) Replacing 'should' with 'shall' in two locations to provide greater clarity regarding schedules not being taken as prescribing the attributes and values of specific sites; and
- (b) Changing the capacity scale to align with the capacity scale preferred by Ben Espie.

- 6.26** I understand Mr Devlin’s explanation that ‘shall’ is more certain, with ‘should’ reading as more of a suggestion. However, replacing ‘should’ with ‘shall’ is not supported as there may be PAs where the capacity is representative of specific sites, even if unintentional.
- 6.27** I have made a further amendment in the Rebuttal versions of the preambles (both 21.22 and 21.23 for consistency) attached at **Appendix 1**. This amendment deletes the word ‘should’ and adjusts the wording to state: ‘are not intended to describe the relevant capacity of specific sites within a PA.’
- 6.28** In relation to Mr Devlin’s other change, this alternative scale is not supported by Ms Gilbert¹⁸, and I accept her advice in this regard. These proposed amendments are therefore not recommended to be included in the preamble.
- 6.29** Mr Ferguson, for various submitters,¹⁹ has provided extensive mark-ups to the preamble for the ONL schedules at his Annexure A.
- 6.30** This includes amendments to address the application of the preambles to the SASZ. As outlined in paragraph 6.6 to 6.10 above, I agree with the evidence of a number of submitters that there is no direct policy hook that requires that the schedules be engaged with for activities not provided for in the SASZ. I have amended the preamble accordingly and have retained the existing structure rather than incorporating Mr Ferguson’s text changes, however I consider the overall explanation to align with the intent of Mr Ferguson’s changes on this matter. This is in recognition that there is a reasonable level of support for the s42A version of the preambles.

¹⁸ See Bridget Gilbert rebuttal evidence on Mr Espie’s landscape capacity rating scale paragraphs 7.2-7.16

¹⁹ Henley Downs Farm Holdings Ltd (OS183 and FS220), Glendhu Bay Trustees Ltd (OS176 and FS222), Soho Ski Area Ltd & Blackmans Creek Holdings No. 1 LP (OS178 and FS221), 177 Glencoe Station Ltd (OS177)

- 6.31** For the same reasons as for Mr Devlin, I do not support the alternative scale proposed by Mr Ferguson, and have not included those proposed changes in the preamble.
- 6.32** I consider the proposed links back to the SPs suggested by Mr Ferguson (his paragraphs 68 and 69) that relate to the landscape assessment methodology to be helpful for plan users, and have included these links in the amended version of the preambles. I agree with Mr Ferguson's point that 'site'-specific assessments do not just include effects confined to the site itself, but also effects that may extend to the broader landscape values.
- 6.33** With regard to Mr Ferguson's proposed amendment to the activities and definitions section of the preamble:
- (a) I do not agree with the additional text: *Not all activities are defined and there is a deliberate openness to the language to allow for landscape assessments to apply, as necessary, to the context required for any particular proposal.* Many submitters sought that the activities addressed in the schedules be defined. I agree that landscape assessments will apply as necessary to the context of each particular proposal (including for those that may not be listed in SP 3.3.38 or SP 3.3.41 as this list is not exhaustive), as this is required by SP 3.3.43 and SP 3.3.45. In my view, this does not need to be explained in relation to the definitions associated with each activity.
 - (b) I do not support the proposed amendment to the definition of 'tourism related activities' for the reasons set out in paragraphs 7.5 and 7.6 above.
 - (c) I agree that replacing the words 'known to be of relevance at the time of the drafting of the schedules' with 'prescribed by SP 3.3.38' is helpful as this SP is the driver for what activities are required to be addressed (noting that additional ones can be added). I have included this change in Preamble 21.23, but

changed the reference to SP 3.3.41 to reflect the equivalent RCL SP.

7. TERMINOLOGY AND DEFINITIONS

- 7.1** Several experts for submitters have commented on specific definitions, and how these are recommended to be addressed in the preambles (s42A version). I note that this is a matter for expert conferencing and welcome further discussion on each of the points noted below before I make a final recommendation to the Panel.
- 7.2** Mr White for Glen Dene (OS47), Richard Burdon (OS49) and Sunnyheights (OS42 and FS235) is of the view²⁰ that the SOs should be amended, or as a second preference that the definitions should be in Chapter 2. While I do not disagree that these are both options that would assist plan users, rather than relying on the preambles, as set out in my s42A report the scope of the proposed variation is confined to the content of the schedules.
- 7.3** As a result, I do not consider that either of these options are available. I also note that, if new definitions were to be included in Chapter 2, there would need to be careful thought given to how the definitions should apply (i.e. should they be limited to the Rural Zone, Rural Zone and exemption zones, or only limited to the PA schedules in Chapter 21). This complexity is avoided if they are only included in the PA schedules.
- 7.4** I therefore consider the preambles to be the best place to set out definitions for the activities listed in SP 3.3.38 and SP 3.3.41.

²⁰ Duncan White evidence paragraph 18

Definition of tourism related activities/resorts

7.5 A number of planners have commented on the recommendation to define ‘tourism related activities’ as ‘resort’. As set out in the s42A report (paragraph 10.10), this recommendation was made because the landscape architects assumed tourism related activities to be resorts.

7.6 Evidence of submitters on this definition includes the following points:

- (a) Mr White considers the definition of resort to be too broad (paragraph 21). This is noted, although the same could be said for ‘tourism related activities’. I understand that both Ms Gilbert and Mr Head have carefully reviewed the capacity for tourism related activities/resorts, and included qualifiers with respect to scale where appropriate in the rebuttal versions of the schedules, which may address Mr White’s concern.
- (b) Ben Farrell for various submitters²¹ is of the view that where the term ‘tourism related activities’ is used this should be changed to ‘resort’ so it is not confusing for plan users (paragraph 27). I agree this could be helpful, however SP 3.3.38 and SP 3.3.41 both require that landscape capacity for ‘tourism related activities’ be included in the schedule. As these SPs cannot be amended through this variation, I consider it important to use the same terminology in the schedules, and note that these equate to resorts.
- (c) Also at his paragraph 27 Mr Farrell notes the more common understanding of tourism related activities are the actual activities such as skiing, boat rides and guided use of trails. I agree with this. I note that commercial recreation activities are another of the activities where capacity is required to be listed.
- (d) Mr Farrell observes that there is no scale element or metric within the definition of resort, and that scale is important when considering capacity ratings for resorts in the Rural Zone. As

²¹ Ben Farrell evidence for Tucker Beach Residents Society (OS90), Offroad Adventures (OS138), 165 NZSki (OS165), 166 RealNZ (OS166) and Queenstown Adventure Park (1993) Limited (OS189)

noted above Ms Gilbert and Mr Head have included qualifiers where appropriate with respect to resorts in their respective rebuttal versions of the schedules, including with respect to scale.

- (e) Scott Freeman for Treespace No. 1 Ltd Partnership (OS96) (paragraph 49) outlines his view that: *While I consider it best practice to define a certain activity, I do not consider that a tourism related activity comfortably sits under the umbrella definition of a 'resort'. While I am not opposed to labelling this activity as a resort, the better approach might be to just delete tourism related activities from the landscape capacity ratings, because other categories capture activities such as visitor accommodation and commercial recreational activities (which in my opinion are tourism related activities).* Similar to my responses above, as tourism related activities are one of the activities which the PA schedules must specify capacity for (as directed by SP 3.3.38 and SP 3.3.41), there is no opportunity to simply delete it. I agree with Mr Freeman that other activities such as visitor accommodation and commercial activities also fall under the common meaning of tourism related activities. These two are also activities for which landscape capacity is listed.
- (f) Similarly, Ms Shepherd is of the view (paragraph 3.6) that tourism related activity should not have the same meaning as resort, and suggests that commercial recreation activity is used instead. I have explained the reason for equating tourism related activity to resort above and in my s42a report (paragraphs 10.10 and 10.11). I also note that commercial recreation activity is one of the activities for which landscape capacity is required to be listed.
- (g) Mr Ferguson, for various submitters,²² has amended the definition of tourism related activities in his amended preamble

²² Henley Downs Farm Holdings Ltd (OS183 and FS220), Glendhu Bay Trustees Ltd (OS176 and FS222), Soho Ski Area Ltd & Blackmans Creek Holdings No. 1 LP (OS178 and FS221), 177 Glencoe Station Ltd (OS177).

to be “*the use of land or buildings to provide services and entertainment for people who are visiting a place for pleasure*”, although he has not provided any explanation for the change in his evidence. Given the previous explanation of tourism related activities equating to resorts when the schedules were prepared, I do not consider his proposed definition appropriate. I also note that his description is similar to the already defined terms of visitor accommodation and commercial recreation activities, which would lead to overlap and potential uncertainty when determining which capacity rating should be relied on.

Definition of urban expansion

7.7 Mr White (paragraphs 23 and 24) outlines that the recommended definition of urban expansion seems to capture general urban development rather than an expansion of an existing urban area, and that the change from a rural activity to urban development does not constitute urban expansion. He considers the definition of urban expansion should be amended to reflect the nature of ‘expansion’ rather than *just urban development* and has included some potential rewording.

7.8 Again it is important to consider the context for how the landscape architects considered each of the SP 3.3.38 and SP 3.3.43 terms when preparing the PA schedules. As outlined in my s42A report, the PA authors considered urban expansions to encompass both a rezoning to an urban zone, or a resource consent or plan change application for urban development. On this basis I do not support confining the definition of ‘urban expansion’ to just expansion, as suggested by Mr White. I do acknowledge that this is not perfect given the use of the term ‘expansion’ in the Chapter 3 listed activities, however there is no scope to change SP 3.3.38 and SP 3.3.43.

Definition of intensive agriculture

7.9 Emily McDonald and Eleanor Linscott for Federated Farmers (OS98 and FS240) have expressed concern (their paragraphs 34-36) about the definition of ‘intensive’ agriculture’ having the same meaning as ‘factory farming’ (an activity defined in Chapter 2 of the PDP). They consider that it is appropriate for ‘intensive agriculture’ to be provided with a distinct and separate definition within the PDP, but have not provided any suggested wording in either the Federated Farmers submission or their evidence.

7.10 I contacted Ms McDonald prior to preparing this rebuttal to invite her to prepare a definition for consideration. At the time of finalising this rebuttal statement, Ms McDonald has just sent through a potential definition. Given that I have not had time to consider prior to finalising, I suggested we discuss this issue further during expert conferencing.

7.11 Again, the definitions must also be considered in the context of how the PA schedule authors understood them when preparing the schedules. I refer back to my explanation in my s42A report at paragraph 10.14 that Ms Gilbert has explained the most appropriate equivalent PDP definition (taking into account how the schedules were prepared) is factory farming.

8. AMENDMENTS TO THE COUNCIL’S RECOMMENDATIONS ON RELIEF SOUGHT IN SUBMISSIONS (ACCEPT/REJECT TABLE)

8.1 Ms Gilbert and Mr Head have made various amendments to the schedules in response to submitter evidence and I adopt those recommendations.

8.2 The following correction to the s42A version of the Accept Reject Table is required:

(a) The recommendation for OS95.1 and OS95.2 were recommended as 'Accept – refer to Bridget Gilbert evidence' and 'Accept – refer to s42A report' respectively in the spreadsheet. As per my s42A report, including at paragraphs 3.5, 4.5 and 7.5, my recommendation was to reject this mapping request, as mapping requests are out of scope. The recommendations have been corrected in the Accept Reject Table to 'Reject – refer to s42A report'. This error was brought to my attention by the submitter's planner and the submitter is aware that the Council is making this correction.

8.3 As outlined in this rebuttal statement, and in the rebuttal evidence of Ms Gilbert and Mr Head, there are a number of live issues that will be discussed at expert conferencing.

8.4 Given that expert conferencing could result in further changes to recommendations on submissions, and consequently additional changes to the Accept / Reject Table, it is intended that an updated version of that table be provided either at the opening of the hearing, or with Council's reply evidence. In my view, either option would be most useful for the Panel and submitters, rather than filing a version with my rebuttal that may become out-of-date.

8.5 RECOMMENDED CHANGES AND SECTION 32AA OF THE RMA

8.6 Section 32AA of the RMA requires a further evaluation of recommended changes.

8.7 Recommended changes to the preambles arising in response to submitter further amendments to improve clarity of the purpose of the schedules, links back to key SPs, an adjustment to the landscape capacity scale, and

further clarity on the application of the schedules to reflect that they do not directly apply to the SASZs.

- 8.8** Recommended changes arising in response to submitter evidence to individual schedules are set out in the rebuttal statements of Ms Gilbert and Mr Head. This includes further amendments to the descriptions of the PA areas, landscape attributes and values and associated landscape capacity for various activities.
- 8.9** With respect to the Kimiākau (Shotover PA), it is recommended to revert to the notified labelling.
- 8.10** The recommended amendments to the preambles are considered to improve effectiveness with regard to the implementation of the schedules and achieving the directions of Chapter 3. The rebuttal versions will be more efficient in terms of providing clarity with respect to where and how they apply within the broader context of the PDP. The recommended amendments result in a better overall approach to achieving the Objectives of the Chapter 3 and the purpose of the RMA.
- 8.11** In terms of recommended changes to the content of the schedules, similar to the s42A versions of the schedules these changes are typically to include additional information provided by submitters in order to better reflect the local context with respect to attributes and values. A Changes to landscape capacity ratings and the landscape capacity scale are also recommended, including in response to submitter evidence on the 'no landscape capacity' category. There are no significant or wholesale changes recommended. The recommended changes to the notified proposal are considered to be more efficient and effective at achieving the relevant objectives of Chapter 3, and the purpose of the RMA.
- 8.12** With respect to mapping at Arthurs Point, this change improves overall efficiency and effectiveness of implementing the PDP and achieving the

purpose of the RMA because it reflects that there is now an appeal on the Council's decision in this area. It is more efficient for the PDP landscape mapping and any potential consequential changes to the PA mapping and schedules to be determined in that separate process.

9. CONCLUSION

9.1 On the basis of the analysis set out in this rebuttal evidence, I recommend that the changes set out in the preambles in **Appendix 1**, and the changes set out in the schedules appended to Ms Gilbert's and Mr Head's rebuttal evidence be accepted by the Hearings Panel.

9.2 The recommend changes will give better effect to strategic objectives and policies of the PDP, will lead to greater efficiency and effectiveness, and are considered the most appropriate to achieve the purpose of the RMA.

Ruth Evans

Date: 29 September 2023