

BEFORE THE ENVIRONMENT COURT

Decision No. [2010] NZEnvC 187

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of the First
Schedule to the Act

BETWEEN BROOKLYNNE HOLDINGS LIMITED

(ENV-2009-CHC-27)

Appellant

AND

QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Court: Environment Judge J R Jackson (presiding)
Environment Commissioner H-A McConachy
Environment Commissioner C E Manning

Hearing: at Queenstown on 26, 27 and 30 November and 1 December 2009
site inspections on 1 and 2 December 2009
Final submissions received 5 February 2010

Appearances: R B Enright and M Davenport for Brooklynne Holdings Limited
G M Todd and L Barnett for Queenstown Lakes District Council
L J Semple and P E M Walker for Mt Cardrona Station Limited
A Ritchie for Cardrona Valley Residents and Ratepayers
Association Incorporated as a section 274 party
J R Haworth for Upper Clutha Environmental Society Incorporated
as a section 274 party

Date of Decision: 1 June 2010

Date of Issue: 2 June 2010



DECISION

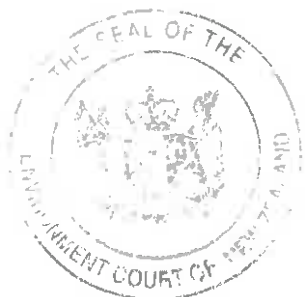
- A: Under section 290 of the RMA the Environment Court confirms the decision of the Queenstown Lakes District Council as amended below.
- B: Plan Change 18 is confirmed subject to:
- (1) the changes identified during the hearing, or in the closing submissions of Mount Cardrona Station Limited or required by paragraphs [130] – [151] of this decision, being made; provided that:
 - (2) if there is any conflict between any of the matters in (1) the paragraphs in the decision must prevail.
- C: (1) Mt Cardrona Station Ltd must serve and lodge an amended set of objectives, policies, rules and structure plans for the Mt Cardrona Station Special Zone to give effect to the directions in the Reasons for this decision, within three (3) calendar months of the issue of this decision or such longer period as the court may grant on application.
- (2) The amended provisions may contain such corrections or improvements to those suggested by the court so as to give effect to the spirit and intent of the decision.
- (3) If any party considers that the court's decision is not given effect to in any document served under (1) and (2) it may lodge and serve a notice of objection specifying grounds, within 30 working days of receipt of the documents from Mt Cardrona Station Ltd. (The court will then hold a judicial conference to plan a hearing or programme of submissions to resolve the outstanding matters).
- D: Costs are reserved, as is leave to call evidence relevant to the issues raised by Mr Todd at the hearing. A timetable is set as follows:



- (1) any application, supporting affidavit(s) and submissions should be lodged and served by 11 July 2010;
- (2) any notice of opposition, supporting affidavit (if any) and submissions should be lodged and served by 2 August 2010.

REASONS

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1 Introduction

1.1 The issue

[1] This case concerns the location, form and extent of settlement to be established on Mount Cardrona Station some 1.5 kilometres north of Cardrona township in the Queenstown Lakes District.

[2] Some 15.7 hectares of Mount Cardrona Station is currently zoned rural visitor zone (“RVZ”) in the district plan. It is located immediately west of Cardrona Valley Road, on the valley floor and extends up a steep escarpment and over onto the sloping terrace that is above it. It extends across about a third of the terrace. The zoned area has the shape on maps of a running man, and was referred to by this name in much of the evidence.

[3] At issue is a proposal to relocate the proposed settlement in a new zone largely on the terrace. The full extent of the zone would be 131.6 hectares, although 93.1 hectares of it would be set aside as open space. The new zone would have its own provisions and be called the Mount Cardrona Station special zone (“MCSSZ”). In addition to accommodation for visitors and permanent residents at a variety of densities, the MCSSZ would provide for a variety of commercial activities, including restaurants and facilities attractive to tourists as well as for educational and community facilities.

1.2 The parties

[4] The Queenstown Lakes District Council considers the effects of development as permitted by the current rural visitor zoning potentially adverse. For that reason, after extensive consultation with both the existing Cardrona community and the company that owns Mount Cardrona Station, it promulgated Plan Change 18 which provides for the new zone. It holds that such a zoning change better achieves the landscape and urban growth objectives of the partly operative district plan. Its first instance decision on the proposed plan change states:



On balance we find the Plan Change is more appropriate than the RVZ. It provides an opportunity to create a coherent, well designed development that responds to its landscape setting and provides a mix of activities and densities within a well designed structure.

It defended that position on appeal. In what follows, we have regard to that decision and the reasoning which supports it, as we are required by the Act to do¹.

[5] Mount Cardrona Station Limited is the owner of the land in both the present rural visitor zone and the proposed Mount Cardrona Station special zone. It supports the proposed plan change. Its submissions to the court were that the proposed new plan provisions represent a carefully considered and appropriate response to likely growth in the valley and the unsatisfactory location and provisions of the rural visitor zone (“RVZ”).

[6] The Cardrona Valley Residents and Ratepayers Association is the representative organisation of Cardrona Valley residents which the Council consulted during the process of drawing up the plan change. A number of its members participated in various workshops and forums on proposals for development in Cardrona. These workshops were identified in the evidence of the chairman of the association, Mr J M Scurr. The Association also supports the proposed plan change. A number of its members provided written briefs of evidence which we have read and were entered into the court record. Mr Scurr’s view was that the relocation of the zone provided a better visual perspective of the valley, enabling tourists to absorb its rural atmosphere. Further, he considered the plan change was better for the community because of the opportunities it provided for residents.

[7] Brooklynne Holdings Limited is the appellant in these proceedings and opposes the proposed relocation and other changes to the form of the zone. Brooklynne itself owns land on the eastern side of Cardrona Valley Road, on which it has resource consents to create a range of visitor and residential accommodation which counsel, in

¹ Section 290A of the RMA



questioning witnesses, suggested might provide for around 500 residents and visitors. It called evidence from an experienced landscape architect, Mr S K Brown, to the effect that, while the RVZ was less than ideal, the new zone would expand the frontiers of urban development within the Cardrona Valley and generate an even greater level of adverse effect. As Mr Enright acknowledged in submissions, Brooklynne's case as put to the court is concerned solely with landscape effects and their relative importance in comparison with other statutory considerations.

[8] The Upper Clutha Environmental Society (UCESI), a group with a long record of interest in the environment of Wanaka, Hawea and the Upper Clutha generally, supports Brooklynne's position. Mr J R Haworth, the secretary of the society, gave evidence on its behalf. He considered that the urban design benefits associated with the plan change were likely to be minor and would be outweighed by the adverse effects on the landscape it would cause.

1.3 Special zones and rural visitor zones

Special zones in the Queenstown Lakes District Plan

[9] Given the importance of tourism and holiday makers to the Queenstown Lakes District, chapter 12 of the district plan provides for 'Special Zones'. Well-known examples are Millbrook and Jacks Point, each of which has their own special zone. The chapter also contains several 'Rural Visitor Zones'.

[10] The purpose of the special zone for Mount Cardrona Station in Plan Change 18 includes the relocation of settlement on Mount Cardrona Station in the way we have indicated. It would also involve providing for that settlement in a significantly different way. We outline the provisions of the existing rural visitor zone and then describe those of the Mount Cardrona Station special zone proposed by Plan Change 18.

Rural visitor zones in the district plan

[11] The existing Cardrona rural visitor zone is one of a number of such zones provided for in the operative district plan ("the district plan"). Other such zones are provided in the existing Cardrona Village, at Cecil Peak, Walter Peak, Arthurs Point, Arcadia Station, Blanket Bay and Windermere. The plan describes these zones as containing important recreation and visitor facilities including accommodation and other



visitor attractions. It notes that these areas make an important contribution to the economic wellbeing of the district, providing employment opportunities, operating a significant part of the visitor industry, and sustaining local heritage values and resources².

[12] The objective for these zones is stated as follows:

Provision for the ongoing operation of the existing visitor areas, recognising their operational needs, and avoiding remedying or mitigating adverse effects on landscape, water quality and natural values. Scope for the extension of activities in Rural Visitor Zones³.

There are supporting policies to recognise existing and proposed visitor and recreation facilities in rural visitor areas and to provide for their continued operation and expansion, and also to ensure that development has regard to the landscape surrounding these areas, and that expansion occurs in a manner consistent with the maintenance of the rural resources and amenities of the area⁴.

[13] Environmental results anticipated for the zones include: providing the potential for consolidated areas to be used for visitor facilities and providing for a range of accommodation and recreational buildings; that the quality of the local environment and in particular its predominant rural character will be maintained; that the visual appearance of recreational buildings will complement their rural location; and that site standards will exclude activities which cause adverse effects⁵.

[14] In the RVZ all buildings are controlled activities. Apart from control to ensure servicing and to avoid danger or damage from natural hazards, control is limited to⁶:

... the coverage, location, external appearance of the buildings and associated earthworks, access and landscape, to avoid or mitigate adverse effects on landscape and visual amenity values, nature conservation values and the natural character of the rural environment; and ...

² The district plan p. 12-30.
³ The district plan objective 12.3.4.
⁴ The district plan policies 12.3.4. 1-3.
⁵ The district plan 12.3.5 (i)-(iv).
⁶ The district plan 12.4.3.2 (iii)(a)(i)



However, the zone standards set no limit on allotment size or building coverage. Maximum height limits are set at 12 metres for buildings to be used as visitor accommodation, eight metres for those of commercial, recreation and residential activities and seven metres for all other buildings and structures⁷. Commercial and retail uses are a discretionary activity⁸.

[15] There are existing resource consents for development of the RVZ. They would allow a total of 844 units comprising 472 residential units, 325 hotel rooms and 47 visitor accommodation units. There is an agreement between Mount Cardrona Station Limited and the Council that these consents cannot be exercised by the company until it has indicated whether it wishes to implement Plan Change 18 or the RVZ consents⁹. This decision relies on the existence of that agreement. Mr J Brown, a planner called by Mount Cardrona Station Limited gave uncontested evidence that if Plan Change 18 is refused by the court, the RVZ consents will be implemented.

Plan change 18

[16] By contrast the MCSSZ proposed by Plan Change 18 is site specific. The purpose of the special zone is stated as:

to create a Village that provides for a sustainable community accommodating permanent residents, seasonal workers and visitors with supporting commercial, community and educational activities¹⁰.

[17] There are eight objectives proposed for the zone. The first¹¹ of these is to provide a community that minimises its effects on the environment and provides for the social and economic wellbeing of the people living within. A series of supporting policies gives content to the meaning of sustainable management within the context of the zone and relates to the sustainability of the ecology, social and economic conditions, heritage, energy and infrastructure within the zone¹², along with policies on the

⁷ The district plan 12.4.5.2(i).

⁸ The district plan 12.4.3.3(i).

⁹ J Brown. evidence-in-chief para 4.9 [Environment Court document 9].

¹⁰ Plan Change 18, 12.21.1.

¹¹ Plan Change 18, 12.21.3.

¹² Plan Change 18, 12.21.3, 1.1-1.5.



sustainable management of landscape values and growth¹³ within the zone which are particularly important in this case given the issues raised by the appellant. These require:

Sustainable management of landscape values

... achiev[ing] a built environment that has a limited footprint when viewed within the wider landscape context, and to encourage built form that harmonises with the landscape rather than competing with it.

Sustainable growth management

... creat[ing] a Zone that provides for future growth of the Queenstown Lakes District in a contained location, avoiding inappropriate urban sprawl and providing a critical mass that enables effective infrastructure provision.

[18] A specific series of landscape objectives propose to pursue development which recognises and responds to the values and character of the landscape and which is contained within a defined urban edge to avoid urban sprawl. Landscaping within the site is to respond to the opportunities and constraints of the site and to reinforce cultural patterns in the wider Cardrona Valley¹⁴. The first of a series of implementing policies is for a structure plan which will achieve¹⁵:

- an overarching design framework, facilitating the establishment of a coherent built environment that responds to the natural environment and existing landscape values of the site and its surrounds;
- clear boundaries to the Zone that relate to topography and landscape features;
- areas of open space throughout the Zone that provide a relationship between built form and the surrounding open landscape, reinforce natural patterns in the landscape and protect the areas of visual prominence such as the escarpment face.

[19] The third objective is to enable a complementary mix of uses within the zone to create an integrated and sustainable community. The mix of uses is to include residential, visitor accommodation, educational, commercial, recreational and community activities including open space and walkway linkages¹⁶.

¹³ Plan Change 18. 12.21.3. 1.6-1.7.

¹⁴ Plan Change 18. 12.21.3.2 objectives 1-3.

¹⁵ Plan Change 18. 12.21.3 policy 2.1

¹⁶ Plan Change 18. 12.21.3 policy 3.1



[20] The next objective is to establish a coherent site layout that provides a heart to the village¹⁷. Supporting policies of this latter objective relate to a framework for locating activities and for building volumes and densities and to the design of individual buildings. These provide for a number of different activity areas and underpin the structure planning which we detail shortly. In particular we note a policy to promote higher density development and commercial activities within areas 1 and 2 and to reduce densities towards the perimeter of the zone¹⁸. We also note that a new Activity Area, Area 8 has been introduced which focuses exclusively on the Cardrona Valley Ski Field Access Road.

[21] Then there are objectives¹⁹ which relate to the improvement of ecological values of the area, the recognition of the Cardrona Valley's cultural history and protection of its heritage features. These appear to expand upon the sustainability policies outlined in Objective One. They include identifying suitable areas for protection and ecosystem management, and integrating heritage and ecological values into the urban design and open space areas of the zone.

[22] The remaining objectives deal with the sustainability of the village infrastructure and provision for recreational activities²⁰. Policies relate to the sustainable management of roading which includes vehicle, pedestrian, bridle and cycling networks, water management, and energy efficiency techniques in design and construction. The recreational objective is to provide for and encourage opportunities within the zone and their linkages with recreational activities in the Cardrona Valley and surrounding area.

[23] The structure plan, on which the objectives and policies largely rely for implementation, establishes a series of activity areas in the zone which are set out in the explanation and principal reasons for adopting objective 4 and its associated policies. These activity areas are shown on the "Overall Plan of Proposed Plan Change 18"

¹⁷ Plan Change 18. 12.21.3. 3 and 4.

¹⁸ Plan Change 18. 12.21.3.4.19.8.

¹⁹ Plan Change 18. 12.21.3 objectives 5-6.

²⁰ Plan Change 18. 12.21.3 objectives 7-8.



produced by Mr Brown²¹, which is attached to this decision as Attachment 1. The various activity areas are then described in Plan Change 18 as follows²²:

Activity Area 1 – Village Centre

Activity Area 1 is located at the entrance to the Village, and is where the greatest scale and intensity of development is provided. Activity Area 1a will become the Village focal point, providing commercial activities that support the residential, visitor accommodation, worker accommodation, recreational and community activities within the Village. Buildings and activities are encouraged to front the Village Green, and are provided with views of Mount Cardrona to the northwest. Commercial activities are encouraged to locate in Activity Area 1a, which also provides for visitor and worker accommodation and residential activities. *The combined total gross floor area of specific activities in Activity Area 1a is restricted to ensure that the commercial function of the Village is appropriately proportional to the overall population capacity of the Zone, and to ensure that the Village complements the commercial potential of the Rural Visitor Zone at Cardrona Village.*

Activity Area 1b provides larger scale visitor accommodation activities and is located on the periphery of Activity Area 1.

Activity Area 2 – Living Areas A and B

Activity Area 2 provides for visitor accommodation and residential development. The section sizes and density provisions reflects its proximity to the Village Centre, and its relationship to the open space areas, which provides for clear viewshafts from individual allotments and assists in retaining high amenity values.

Activity Area 2a (Living Area A) is largely located within the Village Precinct and provides compact living environment that fronts public open space. Activity Area 2b (Living Area B) is located further from the Village Centre, and has a slightly lower density than Area 2a.

Activity Area 3 – Living Areas B, C and D

Activity Area 3 (Living Area C) provides for residential development. It is located on the periphery of Area 2, and therefore is further from the Village Centre. Visitor accommodation is a discretionary activity within this area, reflecting the need to encourage permanent residents.

²¹

J Brown, exhibit 10.2 [Environment Court document 10].

²²

The description includes an addition to the zone provisions offered in the evidence-in-chief of Mr J A Brown (at para 6.11] which is italicised, and changes made in response to questions raised by the court and the parties during the hearing. These latter changes are underlined.



Activity Area 3a (Living Area D) is located on the eastern and southern boundaries of the Zone. In order to reduce visibility from surrounding areas the height of buildings within this Area are is restricted, and buildings must be set back from the edge of the Zone.

Activity Area 3b is an educational and community precinct, providing for the potential demand for educational or community facilities. The associated rules ensure that this land is set aside for educational and/or community purposes for 15 years from the notification of the Plan Change creating the Zone. If, after 15 years, there is no proven demand for educational facilities or community activities on all or part of the site, the land reverts to Activity Area 3a providing for residential housing.

Activity Area 4 – Living Area E

Activity Area 4 (Living Area E) is located at the upper boundary of the Zone, and provides a buffer between the higher density areas of the Village and the surrounding open space areas. It requires larger sections, low building coverage and limits buildings to 5.5m in height. These controls reflect the location of the Area and its relationship to the surrounding open space.

Activity Area 5 – Woolshed and Homestead Sites

Activity Area 5 provides for limited commercial and recreational development at the woolshed and homestead sites. The woolshed site (Area 5a) is visible from the Cardrona Valley Road, and is therefore considered the reference for the Village. Rules for this Area ensure that any future buildings are at a similar scale and character to the existing woolshed. Consequently, building heights are restricted to 6m.

The homestead site (Area 5b) is located within the Homestead Valley, and is located on the site that had previously contained the historic Cardrona Station homestead. Provisions for this area reflect its use for horse trekking and other commercial recreation operations, and anticipate small scale residential activities that are ancillary to the commercial recreation or farming activities.

Activity Area 6 – Commonage

Activity Area 6 provides for both formal and informal recreation activities open to the public. This open space extends through the Village, providing an important recreational, visual and environmental resource for both residents within the Zone and the wider community. Buildings are strongly discouraged, other than those associated with the functioning of the Village. Buildings that may occur within this Activity Area are therefore restricted to those associated with the provision of access to the surrounding recreational activities, the provision of gas storage facilities, a recycling station, and the provision of small scale buildings associated with potential sports fields located within the Indicative Education Precinct.



Activity Area 6a provides for some small scale buildings associated with commercial activities and community facilities. The Village Green is located within Activity Area 6a and provides an area of open space as a key focus and activity area for the Village Centre. Some built form is expected within the Village Green providing for activities such as farmers markets. However, its principal purpose is to provide communal open space.

Activity Area 7 – Heritage Area

Activity Area 7 provides for the protection of heritage features within the site, and the future protection of the open space surrounding the Village. Access easements ensure the public can walk throughout this area, however, unlike the commonage; in some areas access is restricted to specific easements. This ensures the safe operation of farming activities, the horse trekking business, provision for ecological enhancement, and protection of the water races. This area is more natural in character than the commonage, reflecting the surrounding rural landscape. Similar to the Commonage, buildings are discouraged, other than those associated with the provision of access to the surrounding recreational activities.

Activity Area 8a:

Activity Area 8a is located at the base of the Cardrona Ski Field Access Road. The provisions for Activity Area 8a acknowledge that the existing and future uses anticipated within the road primarily relate to provision of access, parking, road maintenance equipment storage, chain hire and ticketing. Given the functional use of the road and its prominent location adjacent to the Cardrona Valley Road, activities and buildings will be of a small scale, and control over external appearance and potential screening will be necessary.

Activity Area 8b

Activity Area 8b consists of the Cardrona Ski Field Access Road where it runs through the zone. Previously zoned Rural General, this section of road provides access to the Cardrona Ski Field, and therefore no buildings or structures are anticipated.

[24] The structure plan shows a series of bare areas – “green fingers” – running downhill through the proposed development in a broadly west-east direction following the topography of the site. Each of these is shown as being within AA6. Access to the zone for vehicles will be provided by a through road which will leave Cardrona Valley Road and ultimately join Cardrona Ski Field Road. A series of walkways is shown providing not only connections between the various parts of the new development but also a link through the Pringles Creek subdivision to the existing village. One of these walkways is to run along the eastern boundary of development within the MCSSZ



towards the top of the escarpment, and a rule provides that until it is constructed no buildings can be erected in area 3(a), the area of proposed housing nearest to it²³.

[25] Structure Plan D is one of a series of structure plans which accompanied the plan change application. It is a plan showing earthworks and planting by which it is proposed to mitigate adverse visual effects of the development authorised by Plan Change 18. This also shows mitigatory landscaping in the form of a mound on part of the top of the escarpment and planting along this area and also along the southern boundary where otherwise the development would be fully exposed to the Pringles Creek rural-residential subdivision. Along this boundary the planting is proposed to include *Quercus ilex*, an evergreen oak, planted relatively densely. For amenity, as opposed to screening purposes, the structure plan provides for the planting of broadleaf species in the gullies. We attach Structure Plan D as Attachment 2.

[26] The design of individual buildings, their relationship to each other and the neighbouring open space is considered integral to the sustainable development of the MCSSZ²⁴. It is proposed to establish a design review board including members qualified in landscape architecture, architecture, resource management planning and urban design and agreed to by the Council and developer to assess all proposed buildings. An addition to the subdivision rules is proposed which in the case of the Mount Cardrona Station special zone would require a covenant to be registered on the title of each allotment within the zone in favour of the Council. The covenant would specify that any building must be assessed by the design review board and constructed in terms of the design review board's approval for it²⁵. The Council would have additional control in activity areas 1 and 5, because in those areas buildings would have controlled rather than permitted activity status.

[27] The rules of the zone provide for reduced proportions of development to open space where development is further from the village centre by a rule controlling subdivision density and by site and zone standards controlling site coverage by buildings, set-back of buildings from boundaries and maximum height of buildings.

²³ Plan Change 18, rule 12.22.5.2(viii)

²⁴ See policies 12.2.4.3 and 12.2.4.7.

²⁵ Rule 15.2.6.3(i)(h).



The proposed minimum lot sizes are set out in the following table²⁶ which is to be added to **Zone Standard 15.2.6.3(i)(a) Lot Sizes**:

Activity Area	Minimum allotment size
1	No minimum
2a	200 m ²
2b	250 m ²
3	500 m ²
4	1000 m ²
5(a)	No minimum
5(b)	No minimum
6	No minimum
7	No minimum

[28] As lot sizes increase, so the extent of permitted site coverage proposed is to be reduced by a rule which specifies²⁷:

The maximum building coverage for all activities on any site shall be:

Activity Area	% site coverage	% site coverage – dwelling and secondary unit
1a	95%	N/A
1b	80%	N/A
2	65%	75%
3	45%	55%
4	35% except that where the site is greater than 1000 m ² in size, the maximum site coverage shall be 35% or 400 m ² , whichever is the lesser	N/A
5a (woolshed)	40%	N/A
5b (homestead)	30%	N/A

[29] Similarly, there is in broad terms a reduction in maximum building heights the further a site is removed from the village centre under a proposed rule which states²⁸:

²⁶ Plan Change 18. proposed addition to standard 15.2.6.3(i)(a)
²⁷ Plan Change 18. 12.22.5.2(iv).
²⁸ Plan Change 18. 12.22.5.2(iii)



Activity Area	Maximum Height
1	15 m
2	10 m
3	7 m
3a and 3b	5.5 m
4	5.5 m
5(a) (woolshed)	6 m
5(b) (homestead)	8 m
6a	4 m
8a	7 m

Site standards prescribing the set-back from internal boundaries and roads, and provision of open space on site follow a similar pattern of reduced building density the further the site is from the village centre²⁹.

1.4 The matters to be considered

[30] A territorial authority must prepare and change its plan in accordance with its functions under section 31, the provisions of Part 2, its duty under section 32 and any regulations³⁰.

[31] The district plan must give effect to any national policy statement, any New Zealand Coastal Policy Statement and any regional policy statement³¹. It must not be inconsistent with a water conservation order or with a regional plan for any matter specified as a regional council function in section 30(1) of the Act³². It must have regard to any proposed regional policy statement; or proposed regional plan on any matter of regional significance, or for which the regional council has primary responsibility³³. It must also have regard to management plans or strategies prepared under other acts and relevant entries in the historic places register. It must not have regard to trade competition or the effects of trade competition³⁴.

²⁹ The district plan 12.22.5, 1(ii) – (iv).

³⁰ Section 74(1) of the RMA.

³¹ Section 75(3) of the RMA.

³² Section 75(4) of the RMA.

³³ Section 74(2)(a) of the RMA.

³⁴ Sections 74(2)(b) and 74(3) of the RMA.



[32] Territorial authorities are required to evaluate, in the case of objectives, whether each objective is the most appropriate way to achieve the purpose of the Act³⁵, and in the case of policies and rules, whether they, or other methods, are the most appropriate for achieving the objectives, having regard to their efficiency and effectiveness³⁶. These evaluations must take into account the benefits and costs of policies or rules or other methods, and the risk of acting or not acting if there is insufficient information about their subject matter³⁷. In *Suburban Estates Limited v Christchurch City Council* the court held³⁸ that the appropriate test in determining whether a plan provision was ‘necessary’ in achieving the purpose of the Act was whether it was ‘better’ than alternatives³⁹. Although there have been subsequent changes to the wording of section 32 since that decision, and we are now required to consider whether a provision is most appropriate for its purpose, we hold that that is still the correct test.

[33] We refer at this point to Mr Enright’s submission on the question of the extent to which the existing environment including unimplemented consents, and the planning environment including zoning provisions, should dictate the outcome in a zoning case where the court is not limited by the legal tests set out in section 104 of the Act. We accept that the use of phrases such as ‘permitted baseline’ by a number of witnesses (and counsel) during the course of the hearing was not helpful, and that it is not mandatory to consider unimplemented resource consents in all cases before deciding an appeal on a plan change. However, the court is required to consider under section 32(3):

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

A determination of what is “most appropriate” necessarily involves a consideration of other ways of achieving the purpose of the Act and the objectives of the plan.

³⁵ Section 32(3)(a) of the RMA.

³⁶ Section 32(3)(b) of the RMA.

³⁷ Section 32(4) of the RMA.

³⁸ *Suburban Estates Limited v Christchurch City Council* C217/2001.

³⁹ *Suburban Estates Limited v Christchurch City Council* C217/2001 at para [276]



[34] In this case two potential courses of action were seriously argued before the court: endorsing the Council's decision to change the plan in accordance with Plan Change 18, or making no changes to the existing plan. Doing nothing, that is continuing with the existing provisions of the plan, might result in implementation of the existing resource consent as a possible, and on the unchallenged evidence of Mr J Brown, a probable outcome. We consider it helpful in this case to consider what the resource consent allows as one of the environmental outcomes possible if Plan Change 18 is not adopted. We accept that is one of a range of possible outcomes. We consider it reasonable in this case to make a comparison of the environmental outcome(s) made possible by Plan Change 18 with those enabled by the existing provisions of the district plan and any resource consent, to determine which 'better' and most appropriately achieves the purpose of the Act.

[35] A district plan is required to state the objectives for the district, the policies to implement the objectives and the rules, if any, to implement the policies⁴⁰. Thus a hierarchy of objectives, policies and rules is established. In the case of rules, we are required, standing in the place of the territorial authority, to have regard to the actual or potential effect on the environment of activities, including in particular any adverse effect ...⁴¹. Where there are higher level objectives which the proposed plan change does not seek to alter *Suburban Estates v Christchurch City Council*⁴² held that Part 2 RMA considerations are largely subsumed in the settled objectives of the district plan.

[36] In this case there is no challenge to the district-wide objectives set out in section 4 of the district plan. Following *Suburban Estates* we accept that those provisions largely represent the application in the context of the Queenstown Lakes District of the purpose and principles of the Act set out in Part 2, although we will complete a check against Part 2 of the Act at the end of this decision.

[37] The Council in its section 32 analysis gave consideration to:

⁴⁰ Section 75(1) of the RMA.

⁴¹ Section 76(3) of the RMA.

⁴² *Suburban Estates Limited v Christchurch City Council* C217/2001 at paragraphs [36] [40].



- the National Environmental Standards : Air Quality;
- the Otago Regional Policy Statement;
- the Otago Regional Water Plan;
- the Otago Regional Air Plan⁴³.

No witness suggested to us that the district-wide objectives and policies of the district plan failed to give effect to the National Environmental Standard : Air Quality.

[38] Nor was there any suggestion that the district wide objectives and policies failed to give effect to the Otago Regional Policy Statement or that they were inconsistent with any regional plan. In other words the district-wide policies of the district plan fulfil their obligations in terms of the relevant regional statutory documents which are stated at a high level of generality. We therefore find that a proposal which better achieves the purpose of the Act and the higher-order objectives and policies of the district plan satisfies the requirements of the relevant national standard and regional documents and consider those no further except for a brief discussion of the Otago Regional Policy Statement.

[39] The evidence called by the parties opposed to the plan change largely concentrated on landscape effects, though we note that Mr Haworth also commented upon market demand and the extent of perceived urban design benefits. As a consequence whether the proposed plan change better achieves the landscape objectives of the plan and section 6(b) of the Act than the existing RVZ is a significant issue for us, and in fact Mr J Brown accepted that it was the most important issue⁴⁴. We accept that too. But the case is not confined solely to landscape effects. A consideration of section 6(b) of the Act must be integrated with all the other matters set out in Part 2 which are to inform our broad overall judgment. In terms of whether the MCSSZ or the RVZ better achieves the district-wide objectives set out in the plan, it is not only the

⁴³ J Brown, evidence-in-chief para 8.1 [Environment Court document 9].
⁴⁴ Transcript p. 345.



landscape objectives and policies that are relevant, but also those relating to energy efficiency, urban growth, transport, amenity and nature conservation values.

[40] In determining any appeal against a plan change, the Environment Court is required to have regard to the decision which is the subject of the appeal⁴⁵. We have cited the nub of that decision at paragraph [4] and as we indicate in what follows, we concur with it, and found its discussions of submissions clear and economical.

2. The existing environment

2.1 The site

[41] Mount Cardrona Station Limited owns some 650 hectares of land around 1.5 kilometres north of the existing Cardrona Village immediately to the west of Cardrona Valley Road. As we have indicated, some 15.7 hectares of that site, located on the valley floor, on a steep escarpment and part of a sloping terrace on the top of it, is zoned rural visitor zone and has an existing resource consent for comparatively dense development. The plan change proposes to remove development from the Homestead Gully Slopes, Cardrona valley floor and escarpment and expand that which is located on the terrace.

[42] The overall slope of the terrace is comparatively gentle, rising from around 550 masl in the north and east to well over 800 masl in the south and west. Although the zone extends in that direction, the structure plan confines development to below the 606 metre contour. As well as the land above this height, the escarpment and flat land close to the road are also included in the zone but earmarked as open space in the structure plan⁴⁶. The effect of the plan change would be to extend development some 450 metres to the south and 400-450 metres west of the present RVZ boundaries⁴⁷.

[43] The terrace is broadly fan-shaped. The eastern boundary runs along the top of the escarpment which rises close to Cardrona Valley Road. At the northern end of the terrace is Homestead Gully, the northern face of which rises to Cardrona Ski Field Road. This broad gully, whose sides contain active landslide areas, runs from west to east the

⁴⁵ Section 290A of the RMA.

⁴⁶ Structure Plan D. E J Kidson, evidence-in-chief para 29 [Environment Court document 2].

⁴⁷ S K Brown, evidence-in-chief para 8 [Environment Court document 7].



length of the site separating the terrace land from the Cardrona Ski Field Road.. The majority of it is classified as a heritage area in the structure plan and it to be the subject of planting for ecological enhancement. It has a variable water flow with swampy areas approximately 50 metres wide narrowing into a more defined creek towards the east. Also located to the northeast of the site is a restored woolshed, and mature trees in close proximity. The southern boundary of the site abuts the Pringles Creek subdivision, a subdivision of 12 lots varying in size from 0.8 to 8 hectares. The structure plan incorporates a 100 metre buffer on the MCSSZ land separating development from the Pringles Creek subdivision⁴⁸. In the west, the slope of the terrace steepens, forming part of a slope that runs up to Mount Cardrona.

[44] While in general the terrace is gently rising to the west, there are some well formed undulations, some of which carry ephemeral streams. The land is crossed by a number of water races, including two of historic significance, the Cardrona water race and the Walter Little water race. There is a gold mining tunnel at the upper terrace entrance⁴⁹. The predominant landscape character is that of open grassland with occasional fence lines. Boulders of some size are strewn across the land. On the lower part of the terrace, between the existing RVZ and Pringles Creek subdivision, these have been collected into rock piles.

[45] Before human occupation it is likely that the area was covered by a closed forest of native broadleaf species, with beech forest and small wetland communities⁵⁰. The main vegetative cover presently on site is introduced pasture grass. The upper terrace also supports hard tussock (*Festuca rubra*), a variety of native species and a number of exotic weeds including mouse ear and tussock hawkweed (*Hieracium pilosella*, *H. lepidulum*). There is a stand of *Pinus radiata* in the northeastern corner of the terrace and an assortment of other tree species such as willow, douglas fir and poplar are found along the spurs and gullies of the Cardrona escarpment. Along the valley floor at the base of the escarpment and in Homestead Valley a range of exotic and native wetland species are found. Introduced shrubs (some classed as weeds) such as hawthorn and sweet briar (*Rosa rubiginosa*) as well as a limited range of other native species including

⁴⁸ E J Kidson, evidence-in-chief para 60 [Environment Court document 2].

⁴⁹ J Carter, evidence-in-chief, attachment 1, section 32 report 2.7 figure 3.

⁵⁰ J Carter, evidence-in-chief, attachment 1 section 32 report. N C Simpson. 7 0



matagouri (*Discaria toumatou*) are found scattered on the site particularly on steeper slopes.

[46] Lizard species are present especially around rock outcrops where there is some remnant vegetation. We read no evidence of other fauna, although we observed South Island Pied Oyster Catchers and New Zealand Pipits on site as well as introduced finches (*Carduelis spp*).

[47] The basement rock of the site comprises coarsely foliated schist of the Haast Schist Group, overlain by quaternary deposits of outwash gravel and alluvial fan talus. The majority of the soils are of Gladbrook type. The climate is described as cool, with a median temperature of 5.6 degrees centigrade in winter and 16.5 degrees in summer. The land has an easterly aspect and overlooks the Cardrona Valley in the direction of Mt Pisa. It loses the sun between 3 and 4 pm in winter months. Yearly rainfall averages 600-700 mm⁵¹.

[48] The site has been grazed over an extended period by sheep and by breeding cows. The soil type and the aspects of the climate we have described limit its productivity⁵².

[49] Access to the site is currently available from Cardrona Ski Field Road. Access is able to be provided to the area to be developed by a road from Cardrona Valley Road skirting round the base of the escarpment. Typically the Cardrona Valley Road/Crown Range Road has between 9,000 – 12,000 traffic movements per week in both directions. Traffic movements appear to be broadly consistent through winter and summer months⁵³. There is also an unformed legal (paper) road which crosses the site linking the Pringles Creek subdivision to Cardrona Ski Field Road.

2.2 Cardrona Village

[50] While Cardrona Village has a colourful and populous history (which we summarise shortly) the present village is a small settlement some 1.5 kilometres to the south of the proposed plan change area, straddling Cardrona Valley Road just north of

⁵¹ J Carter. evidence-in-chief. attachment 1 section 32 report 2.6 para 4.1.4.

⁵² J Carter. evidence-in-chief. attachment 1 section 32 report 2.12 p. 5.

⁵³ J Carter. evidence-in-chief Attachment 1: Section 32 Market Demand Study para 4 1.4



where that road begins to climb over the Crown Range. In the 2001 census its permanent residents were recorded as 66. Existing development largely comprises a mix of short-stay and permanent residential accommodation. There is an historic hotel still operating and an additional link to the past provided by a school/hall, not in use for educational purposes, and historic plantings. Current buildings are confined to the valley floor area.

[51] To the west and east of the main road are two ski fields, the Cardrona Ski Field to the west and Cardrona Snow Farm and Snow Park to the east. Both facilities have access which leaves Cardrona Valley Road close to the subject site. In total the Cardrona Valley provides for approximately one-third of all skier-days in the Queenstown Lakes District⁵⁴. The Cardrona Ski Field employs approximately 350 people and the Snow Farm and Snow Park up to 130 in peak season⁵⁵.

[52] While the population of the existing village is currently small, there are a number of resource consents which, if implemented, would equate to some 319 lots/units or accommodation for 650 residents or visitors⁵⁶. We note that that is not an indication of the total amount of resident/visitor accommodation which the Cardrona Village RVZ is capable of providing⁵⁷.

[53] Immediately south of the site is a relatively recent subdivision and development called the Pringles Creek subdivision. The highest house in this subdivision is owned by a Mr and Mrs Roberts.

2.3 History of the Cardrona Valley

[54] Prior to European settlement, the Cardrona Valley provided an access route for Maori between Haast and Wanaka to the north and west, and Central Otago. The route continued over the Kawarau River and the Nevis Valley⁵⁸. European settlement began in the 1850s when the area was divided into large pastoral runs. However, the area was soon overtaken by the gold rush and by the early 1870s the population of the

⁵⁴ Queenstown Lakes District Council section 32 report, p. 4.

⁵⁵ J Lee. evidence-in-chief para 2.10 [Environment Court document 11].

⁵⁶ J Brown. evidence-in-chief Appendix B [Environment Court document 9].

⁵⁷ Transcript p. 334.

⁵⁸ J Carter. evidence-in-chief, attachment 1 section 32 report p. 3.



township peaked⁵⁹ at between 3,000 and 4,000 predominantly Chinese miners. An important element in the village lifestyle was the availability of ‘commonage’ – several thousand acres set aside for miners use to run their sheep and cattle⁶⁰. The town boasted four hotels, seven stores, a baker, a blacksmith, a bank, school, police headquarters and a jail. Interestingly, there appear to have been two settlements, one around the existing village and the other further north in the vicinity of the Waiorau Snow Park access road⁶¹.

[55] The gold rush era was comparatively short-lived, and during its last phases in the late nineteenth, early twentieth centuries dredges were used to mine the riverbeds⁶². There are important extant links to this era, notably in the restored Cardrona Hotel in the village. The site of the proposed plan change contains two historic water races and at least one gold mining tunnel⁶³. By the end of the nineteenth century, however, pastoral farming was again in the ascendant, and the population of Cardrona much reduced.

[56] Mr John Lee, a resident of the valley all his life (73 years) gave evidence of a continuing decline in population in the first 70 years of the twentieth century, despite subdivision of the miner’s commonage to provide small farms for ex-miners, and despite rabbit harvesting between 1930 and 1950. He noted a rapid decline in the Cardrona Valley economy in the late 1960’s accompanied by further population loss. In this period the school bus service was lost, rural (postal) delivery reduced to two days a week, and the Crown Range Road closed during the winter months.

[57] Since that time tourist-related activities, particularly the Cardrona Ski Field and the Waiorau Snow Park – Mr Lee was a prime mover in both – have produced an economic revival in terms of the visitors and workers we have described, though in 2001 the number of permanent residents remained small. However the history of resource consent applications during the last ten years, which we have described, suggests that both the number of residents and the amount of visitor accommodation may well rise

⁵⁹ J Lee, evidence-in-chief para 2.1.

⁶⁰ J Lee, evidence-in-chief para 2.1.

⁶¹ R A Skidmore, Urban Design Study attached to section 32 report p. 9 [Environment Court document 1].

⁶² R A Skidmore, Urban Design Study attached to section 32 report p. 9 [Environment Court document 1].

⁶³ J Carter, evidence-in-chief, attachment 1, section 32 report 2.7, figure 3



rapidly in the next two decades. The question of how best to accommodate that growth in a sensitive landscape setting is at the heart of this case. We were not told whether or to what extent the number of permanent residents had increased beyond the 66 recorded in the 2001 census.

2.4 The wider landscape

[58] The Cardrona Valley follows the course of the Cardrona River from the saddle between Mount Scott and Mount Hocken to the relatively open landscape around Wanaka. South of Cardrona township there is no discernible floor to the valley, but as the river flows north the floor area widens to around 700 metres in the northern part of the valley. To the east of the valley is the Criffel/Pisa mountain range topped by a large undulating plateau. From the plateau the range descends to the floor in what appear to be a series of spurs. The western side of the valley is defined by the eastern edge of the Harris Mountains. The peaks of this range are more jagged than those of the Criffel/Pisa Range, and its slopes descend to the valley floor in a much more variable way than those to the east.

[59] The Cardrona Valley road runs through the valley, connecting the Crown Range with Wanaka. Those driving along this road are never further than approximately 600 metres from the valley's steep glacially moulded walls. The valley floor displays a pastoral character. Ecologically the dominant vegetation is introduced pasture grass, although in the vicinity of the river willows also feature prominently. The mountain slopes that form the valley's walls are generally open, and the landform is the dominant element in their appearance. This road is one of the most important scenic routes in the district – made so by the drama of the land form but also because of the sweep of golden speargrass and tussock mountain sides as the road rises to the crest of the Crown Range.

[60] Outside the township, this is a large and sparsely inhabited landscape, even though, as we have indicated, the township areas have enjoyed periods when they were significantly occupied. High on the slopes tourist facilities have developed, as we have described. Mr B Espie, a landscape architect called by Mount Cardrona Station Limited, suggests⁶⁴ that these facilities form part of the perceived character of the landscape.

⁶⁴ B Espie, evidence-in-chief para 4.11 [Environment Court document 8]



3. The law

3.1 The operative district plan

[61] Following an introductory section and two sections which set out the information required for resource consents and discuss at a broad level the concept of sustainable management, the district plan sets out in section 4 a series of district-wide issues and the objectives and policies for addressing them. The following sections of the plan then set out the resource management issues, objectives, policies and methods, including rules, in particular zones within the district (sections 5-12, and 20) or as they relate to specific and limited matters (sections 13-19) such as heritage, transport and the like. There is a hierarchy in the plan in which the sections following section 4 set out the way in which the high-level district-wide policies in that section are to be achieved. We accept that some of the objectives and policies in sections 13-19 are also of district-wide application, though we consider them to be subordinate to those set out in section 4.

[62] In broad terms we consider that one of the matters we are required to determine in this case is whether the combination of rural-general zone provisions and RVZ provisions applying to the different parts of the site shown in the district plan as it stands now, or the combination of rural-general and MCSSZ provisions as they are proposed by Plan Change 18 to apply to different parts of the site, better achieve the unchallenged, high-level principle, objectives and policies set out in section 4 of the plan. We make this point since Mr S K Brown⁶⁵ set out in his evidence objectives 5.2.1 and 5.2.3 which apply in the rural-general and rural ski area sub-zone, along with a number of their related policies and goes on to consider them (among other objectives and policies) as objectives and policies against which MCSSZ provisions can be assessed. We hold that approach is wrong. The test must be which of the proposed combinations of provisions better achieves the objectives and policies of section 4 of the district plan (and ultimately section 5 of the RMA itself).

[63] We also note that previous decisions of the Environment Court have considered the whole of the Cardrona Valley, outside the RVZ zones, as an outstanding natural landscape. This position appears to have been established by consent and is

⁶⁵ S K Brown, evidence-in-chief paragraphs 60-62 [Environment Court document 7].



subsequently referred to in *Wakatipu Environmental Society Incorporated v Queenstown Lakes District Council*⁶⁶ and confirmed in *Upper Clutha Environment Society v Queenstown Lakes District Council*⁶⁷ and *John Scurr v Queenstown Lakes District Council*⁶⁸.

[64] The district plan provides that in considering resource consent applications in the rural-general and rural ski area sub-zones, the consent authority must determine the landscape category in which the proposed site sits. It is not required to do so in the case of other zones, though as the court pointed out in *Wakatipu Environmental Society Incorporated v Queenstown Lakes District Council*⁶⁹, it is not precluded from doing so. Mr Espie considered that the level of development envisaged by the plan and authorised by existing resource consent made it inappropriate to classify the landscape of the RVZ, because it would not be rural or natural in any sense when developed. We agree with that. That leaves open the possibility, given the MCSSZ includes 93 hectares or so of open space, that part of that open space might be considered part of the outstanding natural landscape, not of course areas like the proposed sportsfield or the ‘green fingers’ which are an integral part of the proposed MCSSZ settlement, but possibly some of the open space higher and to the west of the proposed settlement, or north of Cardrona Ski Field Road now covered by the RVZ zoning. That is not a matter the court can decide now, and depends on expert evaluation, but landscapes and zone boundaries are not always identical. We add that the land on which it is proposed to locate development in the MCSSZ is not itself an outstanding natural landscape, but a small part of a much wider outstanding natural landscape.

The district-wide objectives and policies

[65] We now identify a series of district-wide policies which we consider relevant and significant in terms of the assessment of the plan change. We have already identified landscape as a significant issue in this case. It was certainly the most contested. The landscape objective states rather generally⁷⁰:

⁶⁶ *Wakatipu Environmental Society Incorporated v Queenstown Lakes District Council* C124/2003.

⁶⁷ *Upper Clutha Environment Society v Queenstown Lakes District Council* C147/2003.

⁶⁸ *John Scurr v Queenstown Lakes District Council* C60/2005.

⁶⁹ *Wakatipu Environmental Society Incorporated v Queenstown Lakes District Council* C90/2005.

⁷⁰ Objective 4.2.5.



Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.

Various witnesses identified a number of policies deriving from this objective, relating to future development, district-wide outstanding natural landscapes, urban development, urban edges, avoiding cumulative degradation, and structures as relevant to the assessment of the plan change.

[66] There are three elements to the policy on future development⁷¹. The first of these is to avoid, remedy or mitigate adverse effects of development and/or subdivision in areas where landscape and visual amenity values are vulnerable to degradation. This element has a natural counterbalance that subdivision and/or development are to be encouraged in areas where they can be absorbed without diminishing these values. The final element of the policy is to ensure subdivision and development is, to the extent possible, in harmony with local topography, ecological systems and nature conservation values.

[67] The policy for district-wide outstanding natural landscapes⁷² is to maintain the openness of outstanding natural landscapes where that character already exists, to avoid subdivision and development in those parts of the outstanding natural landscape with little or no capacity to absorb change, but, by contrast, to allow limited subdivision and development in those areas with higher capacity in that respect. A further aspect of the policy, of some significance for this case, is to recognise the importance of protecting the naturalness of views from public roads, and enhancing their amenity.

[68] Relevant parts of the policies on urban development⁷³ and urban edges⁷⁴ are to discourage urban subdivision and development in district-wide outstanding natural landscapes, and where it does occur in such landscapes, to avoid, remedy or mitigate the adverse effects of urban subdivision and development by maintaining the openness of those landscapes which were open at the time the plan became operative. The edges of

⁷¹ Policy 5.2.4.1.
⁷² Policy 4.2.5.2.
⁷³ Policy 4.2.5.6.
⁷⁴ Policy 4.2.5.7.



new urban areas are to be clearly identified, using design solutions. Both policies emphasise the need to avoid sprawling development along the district's roads.

[69] There is a policy of avoiding cumulative effects which relates to the application of the policies we have just described. This is to ensure that the density of subdivision and development does not reach the point where the benefits from building and planting are outweighed by the adverse effect on landscape values of over-domestication. However, sympathetic and comprehensive development is to be encouraged⁷⁵.

[70] The policy on structures⁷⁶ in outstanding natural landscapes is to preserve the visual coherence of such landscapes. The means of achieving this goal are stated as encouraging structures to be of the kind and to be so located that they are in harmony with the landscape and to be finished in colours that complement the dominant colours of the landscape, promoting the use of natural local materials in construction, and avoiding, remedying or mitigating any adverse effect structures may have on skylines, ridges and prominent slopes and hilltops.

[71] A number of policies deriving from a district-wide objective⁷⁷ of the conservation and efficient use of energy, and the use of renewable energy sources relate to the urban form of settlements. There are policies to promote compact urban forms and the compact location of community, commercial and service activities in order to reduce the length of and need for vehicle trips⁷⁸. There are also policies of encouraging residential sites to be of sufficient size for buildings to be constructed to take greatest advantage of solar energy, of controlling the location of buildings and outdoor living spaces to reduce impediments to access to sunlight and encouraging the use of energy-efficient and non-polluting forms of heating such as solar energy⁷⁹.

[72] The district-wide energy objectives and policies are complemented by objectives and policies within the transport section of the district plan. The objective of efficient

⁷⁵ Policy 4.2.5.8.
⁷⁶ Policy 4.2.5.9.
⁷⁷ Objective 4.5.3.1.
⁷⁸ Policies 4.5.3.1.1 and 4.5.3.1.2.
⁷⁹ Policies 4.5.3.1.3, 4.5.3.1.4 and 4.5.3.1.5



use of the district's transport resource and fossil fuel use associated with transportation⁸⁰ is supported by policies to encourage efficiency in the use of motor vehicles, to do so by providing for a district-wide policy of consolidated urban areas and promoting the consolidation of new areas of residential development⁸¹. We also note a policy in this section of the plan of supporting the development of pedestrian and other similar links within and between settlements and the surrounding rural area for the purpose of improving the amenity of settlements and the surrounding rural environment⁸².

[73] The growth which would occur in either the RVZ or the MCSSZ, though often described as 'a village' is clearly urban in scale and density. The district-wide objectives on urban growth are clearly significant in this case. There is an objective⁸³ of growth and development consistent with the maintenance of the quality of the natural environment and landscape values. An important policy⁸⁴ flowing from that is to ensure new growth occurs in a form which (relevantly) protects the visual amenity and avoids urbanisation of land which is of outstanding landscape quality

[74] A further objective⁸⁵ is to provide for residential growth sufficient to meet the district's needs. The implementing policies are⁸⁶:

To enable urban consolidation to occur where appropriate.

To encourage new urban development, particularly residential and commercial development, in a form, character and scale which provides for higher density living environments and is imaginative in terms of urban design and provides for an integration of different activities, e.g. residential, schools, shopping.

The first of those policies would suggest that consolidation around the surviving part of Cardrona Village would be a better way of achieving the district plan's urban growth objectives. However, given the existence of the Mount Cardrona Station RVZ (and the resource consents granted in respect of it), that is not an option now before us. We

⁸⁰ Objective 14.1.3.1.
⁸¹ Policies 14.1.3.1.1, 14.1.3.1.5 and 14.1.3.1.6.
⁸² Policy 14.1.3.3.3.
⁸³ Objective 4.9.3.1.
⁸⁴ Policy 4.9.3.1.1.
⁸⁵ Objective 4.9.3.3.
⁸⁶ Policies 4.9.3.3.1 and 4.9.3.3.2.



discuss the RVZ in more detail next. Also relevant is an objective for a pattern of land use which promotes a close relationship between living, working and leisure environments⁸⁷.

[75] Given the range of higher level objectives and policies relevant to the application, it is unlikely that all of these will be better achieved by one of the two zones which would result from endorsing or rejecting the Council's decision. In deciding whether the plan change better achieves the settled objectives of the plan than leaving the RVZ in place, we approach the task by considering their thrust as a whole, while acknowledging that some policies may reasonably be given greater weight than others in reaching that overall conclusion.

The Mount Cardrona Station Rural Visitor Zone

[76] We have already described how the proposed MCSSZ includes an area currently included in a Rural Visitor Zone. Ms J J Carter, a planner called by QLDC, told us that "the running man" form of the existing RVZ first came into being in the Lakes-Queenstown Wakatipu combined district scheme 1981 when as a consequence of negotiations between the landowner and the Council the land was zoned REC (Recreation) A and REC A1. Those zones provided, amongst other things, for houses, ski lodges and retail activities with a floor area of less than 200 m² as controlled activities subject to a comprehensive development plan, and provision of reticulated water and sewerage. In the 1995 plan, this same area of the Mount Cardrona Station site was zoned rural tourist zone, and as a result of decisions on submissions, 'rural visitor zone' in 1998 with provisions as they currently stand.

[77] As Mr J Brown told the court⁸⁸, the provisions, and the location of the RVZ on Mount Cardrona Station were determined prior to the substantial revision of the district-wide landscape objectives and policies of the district plan in *Wakatipu Environment Society Incorporated v Queenstown Lakes District Council*⁸⁹. A consequence, in his view, is that the level of consistency of the RVZ provisions with the present district-

⁸⁷ Objective 4.9.3.4.

⁸⁸ J Brown, evidence-in-chief para 5.15 [Environment Court document 9].

⁸⁹ *Wakatipu Environment Society Incorporated v Queenstown Lakes District Council* Decision C180/1999



wide landscape policies has not been the subject of any formal evaluation and is questionable. This was also the view of Mr B Espie, a landscape architect called by Mount Cardrona Station Limited. Strictly that is of historical interest only: the question for us is whether the provisions of the existing plan, or those of Plan Change 18 'better' implement the higher order objectives and policies and achieve the purpose of the Act.

3.2 The Otago Regional Policy Statement

[78] As we indicated in paragraph [37] relevant sections of the Otago Regional Policy Statement are set out in the Council's analysis of the proposal under section 32 of the Act⁹⁰. Apart from Mr J Brown's evidence that the Council's section 32 analysis had addressed the document⁹¹, no witness gave direct evidence to the court on it. We have examined the RPS carefully. We draw attention to a policy which seeks to implement an objective that deals with outstanding natural landscapes by copying section 6(a) of the RMA. It is:

Policy 5.5.4 ...

To recognise and provide for the protection of Otago's outstanding natural features and landscapes which:

- (a) Are unique to or characteristic of the region; or
- (b) Are representative of a particular landform or land cover occurring in the Otago region or of the collective characteristics which give Otago its particular character; or
- (c) Represent areas of cultural or historic significance in Otago; or
- (d) Contain visually or scientifically significant geological features; or
- (e) Have characteristics of cultural, historical and spiritual value that are regionally significant for Tangata Whenua and have been identified in accordance with Tikanga Maori.

[79] We also note that objectives for the built environment include avoidance, remedy or mitigation of the adverse effects of Otago's built environment on Otago's natural and physical resources. The objectives are supported by a policy promoting efficient development of Otago's infrastructure, through, among other means, encouraging a reduction in the use of fuels which produce emissions harmful to the environment⁹². The section of the policy statement on energy contains an objective of encouraging the

⁹⁰ J Carter, evidence-in-chief, attachment 1, p. 12-19.

⁹¹ J Brown, evidence-in-chief 8.1.

⁹² Objective 9.4.3 and policy 9.5.2



use of renewable resources to produce energy. The energy objectives are supported by a policy of promoting energy efficiency by, among other means, encouraging energy efficient transport modes⁹³.

[80] These and the other objectives and policies of the Regional Policy Statement are couched in somewhat general terms. They are given specific expression in the district-wide policies of the Queenstown Lakes District Plan which we find give effect to the RPS. We hold that the outcome which is more appropriate in terms of the Queenstown Lakes District Plan's district-wide objectives and policies will also give better effect to the Otago Regional Policy Statement.

4. Predictions as to the effects of implementing the options

4.1 Landscape

[81] There was a considerable measure of agreement between the various landscape architects who gave evidence in this case. In preparing a landscape report for the Council's analysis of the plan change, Ms Kidson assessed the relative visibility of the RVZ and the MCSSZ from a variety of viewpoints. The key findings of that report were⁹⁴:

- (1) The [MCSSZ] will have a notable reduction in visibility compared to the current position of the existing RVZ from Cardrona Valley Road. There will be some increase in visibility from the Cardrona Village, however this view is partially mitigated by topography and distance and planting could successfully screen the [MCSSZ] from view.
- (2) The existing RVZ will be more visible in the lower reaches of the Waiorau Snowfarm Access Road due to its partial location on the Cardrona Valley escarpment and the Homestead Valley escarpment which will increase the dominance of built form.
- (3) The existing RVZ will enable buildings that will break the skyline and will be visually prominent [from the Paper Road and along the Cardrona Valley floor to the east of Cardrona Valley Road] due to the bulk of the buildings possible. The [MCSSZ] will be visible along a greater extent of the escarpment edge, however generally only the roof tops

⁹³ Objective 12.4.3 and policy 12.5.3(d).

⁹⁴ E J Kidson, landscape assessment for section 32 analysis pages 27-32 (attachment 1 to the evidence of J J Carter)



and top of walls will be visible due to the reduction in height of development to 4.5 metres. Mitigation planting would reduce the potential visual effect. This would not be possible for the existing RVZ as the escarpment does not form part of the Zone. The Resource Consent has however extended mitigation on to the adjoining land to mitigate this effect. This road is currently used as an access way for residents that have a residential dwelling adjoining the road. The general public do not currently use this road.

- (4) The [MCSSZ development] will be more visible along the stretch of the paper road that cuts across the MCS Village Terrace [from Pringles Creek through to Mount Cardrona Ski Field Road] and the viewer will be considerably closer which will create an adverse visual effect on the currently natural environment. However the view of the [MCSSZ] will appear more integrated into the landscape due to stronger design controls and guidelines. The existing RVZ will be visible from a greater distance but is likely to appear disjointed from the environment. This road is currently not used by the public and is likely to be stopped.
- (5) The MCS Village Terrace Top will be more prominent than the existing RVZ from the lower reaches of the Roaring Meg Pack Track. Good design would aid in the mitigation of this.
- (6) The existing RVZ would be highly visible in the lower reaches of Cardrona Ski Field Road until the Road runs above the Study Area due to the proximity of the RVZ to the Road and the fact that the existing RVZ will sit both to the north and south of the Road; the bulk and height of the buildings, with the bulk and height of buildings appearing out of context with the natural and historic setting. The development within the [MCSSZ] will be wholly located to the south of the Cardrona Ski Field Road, has only a discrete pocket adjacent to Homestead Creek and is otherwise located on the MCS Village Terrace and separated from the Cardrona Ski Field Road by the Homestead Valley. Once parallel to Mount Cardrona Village Terrace, the development on the terrace area will be more visible due to the extension of the [MCSSZ] up the MCS Village Terrace, however this visibility will be in an area more suited to development, due to the angle at which the Study Area is viewed (as the Study Area will not break the skyline or ridgeline and is located near the base of a gently sloping terrace that appears connected to the Cardrona Valley floor).
- (7) Further development on The MCS Village Terrace Top will be more prominent than the existing RVZ from the periphery of the Pringles Creek subdivision. A substantial buffer is required between these two areas to provide privacy. Planting within this buffer should be incorporated into any development on the MCS Village Terrace to mitigate from this view. This would also aid in screening mid ground views of some of the proposed [MCSSZ] from the Cardrona Township.

We have cited this report extensively because Mr Espie either concurred or at least generally agreed with these findings, and Mr S K Brown concurred or generally concurred with findings (1), (2), (3), (4), (5) and (7)⁹⁵.

[82] Mr S K Brown's chief concern was that this report had not identified relevant viewing points in Cardrona Village, including the Brooklynne land on which there were consents for development, and in dealing with Cardrona Valley Road had concentrated on views available from the north of the site⁹⁶. It was Mr Brown's evidence that while development within the current RVZ would not be visible from the centre of the existing Cardrona Village, nor from the Cardrona Valley Road at that point⁹⁷, the plan change, if implemented, would introduce a solid band of wholly urban development to the crest of the terrace; when viewed from Cardrona Road and land slightly to the east of it, that development would be a highly intrusive and disturbing feature of the backdrop to Cardrona Village⁹⁸. However, when cross-examined by Mr Todd, he acknowledged in terms of the Brooklynne site that there are sites immediately to the north of Brooklynne's land – within the Cardrona Village RVZ – where buildings could occur as part of a controlled activity which could have a much more immediate and significant impact on those views⁹⁹. As Mr Espie indicated, the RVZ, which extends on both sides of the road through Cardrona township, allows for buildings 12 metres high¹⁰⁰. In that context we agree with Mr Espie that development as envisaged by the MCSSZ would not be highly intrusive or disturbing in such views.

[83] We detect two significant areas of disagreement between Mr Brown on the one hand, and Mr Espie and Ms Kidson on the other. It is accepted that the MCSSZ is significantly larger than the RVZ which it replaces, and allows development over something like 400 x 450 metres more than that contemplated on the terrace by the existing RVZ. For Mr Brown the expansion of the area of development¹⁰¹ is significant. For Mr Espie and Ms Kidson that is outweighed by the greater ability of

⁹⁵ S K Brown, evidence-in-chief paragraphs 31, 44, 49, 50, 51 [Environment Court document 7].

⁹⁶ S K Brown, evidence-in-chief para 24 [Environment Court document 7].

⁹⁷ S K Brown, evidence-in-chief para 30 [environment Court document 7].

⁹⁸ S K Brown, evidence-in-chief para 26 [Environment Court document 7].

⁹⁹ Transcript p. 236.

¹⁰⁰ B Espie, rebuttal evidence para 3.14 [Environment Court document 8].

¹⁰¹ Transcript p. 245.



the gently sloping terrace to absorb development than the existing RVZ. Secondly, while it is agreed that generally the views in which the MCSSZ is more prominent are more distant from the development site, Mr Brown's evidence is that these distant, more elevated locations are set in more natural sub-alpine surrounds where the landscape is significantly more sensitive¹⁰².

[84] Having viewed the K2vi images of consented development shown by Mr E J van der Leden, a computer programmer with experience in the production of 3D models, to represent proposed developments, we understand the evidence of Mr Espie that the effects of developing the existing RVZ would be substantial¹⁰³. Plans of the consented RVZ development produced by Mr J Brown show accommodation buildings, potentially 12 metres high, close to the entrance of Cardrona Ski Field Road, on the valley floor between the escarpment and the road, and on top of the escarpment¹⁰⁴. If constructed these would be highly prominent in views from the north on Cardrona Valley Road. We also accept Mr Espie's unchallenged evidence that the consented development does not represent a worst case scenario for development of the RVZ, and that development of that zone has the potential to create an area of high dense buildings and activity associated with visitor accommodation immediately adjacent to Cardrona Valley Road in a configuration unrelated to landform¹⁰⁵.

[85] We accept the consensus of the landscape architects that the MCSSZ will be more visible than the RVZ from a number of elevated viewpoints. While these viewpoints do have the sensitivity that accompanies remote location, Ms Kidson's and Mr Espie's evidence is that from these viewpoints development will be seen in a wide context where vast panoramas of the Cardrona Valley landscape are evident¹⁰⁶. In these elevated views development on the terrace will not intrude on ridgelines or skylines¹⁰⁷. Further, it will be seen in conjunction with existing development on the valley floor, including Cardrona village and the Pringles Creek subdivision¹⁰⁸. Our own

¹⁰² S K Brown, evidence-in-chief para 45 [Environment Court document 7].

¹⁰³ B Espie, evidence-in-chief para 5.2 [Environment Court document 8].

¹⁰⁴ J Brown, evidence-in-chief Annexure C [environment Court document 9].

¹⁰⁵ B Espie, evidence-in-chief para 5.2 [Environment Court document 8].

¹⁰⁶ B Espie, evidence-in-chief para 7.7 [Environment Court document 8].

¹⁰⁷ E J Kidson, evidence-in-chief para 75 [Environment Court document 2].

¹⁰⁸ B Espie, evidence-in-chief para 7.7 [Environment Court document 8]; E J Kidson, evidence-in-chief para 75 [Environment Court document 2].



observations from higher up Cardrona Ski Field Road on the court's site inspection confirmed this evidence.

[86] There is a further matter that weighs with us. The structure plan that accompanies the proposed MCSSZ imposes a clear limit on residential activity within that zone. By contrast the boundary of the RVZ on the terrace has little apparent logic, as Mr S K Brown accepted. Mr Espie was concerned¹⁰⁹ that that lack of logic would make it difficult for the Council to refuse development proposals beyond the RVZ boundaries. When asked Mr S K Brown appeared to have similar concerns¹¹⁰. When we came to evaluate the effects in terms of the objectives and policies of the district plan, we shall see that the greater certainty provided by the MCSSZ in terms of development is not without significance.

4.2 Effects on C and J Roberts

[87] It will be recalled that Mr and Mrs Roberts own the highest house in the Pringle Creek subdivision. As Ms Kidson's analysis undertaken to assist the Council in preparing a report under section 32 indicates, development on the terrace under the MCSSZ will occur considerably closer to the Pringles Creek subdivision than would be the case under the RVZ. On most of the lots in that subdivision the building platforms will be at least partially screened by landform from the MCSSZ site. However, the Roberts' building platform has elevated views over the terrace on which the MCSSZ is proposed. Mr and Mrs Roberts were submitters in opposition to the plan change. They appealed against the Council's decision to this court, but withdrew from proceedings prior to the hearing. Nevertheless, it is appropriate for us to consider any adverse effects the plan change might have on them.

[88] Ms Kidson notes that the development boundary of the MCSSZ is 320 metres from the Roberts' building platform whereas the RVZ boundary is 750 metres away. She indicates that there is a height restriction of 5.5 metres on that part of the plan change area nearest the Roberts' lot, and that views will be from above, largely of rooflines. However, she accepts that the Roberts will lose some of their views over open land, experience reduced rural amenity and reduced privacy. She considers some

¹⁰⁹ B Espie. evidence-in-chief para 7.25 [Environment Court document 8]
¹¹⁰ Transcript p. 272



amelioration could be provided by additional landscaping close to the southern boundary, and we discuss that subsequently. Our view is that the plan change will bring an adverse effect to the Roberts which must be had regard to when reaching our overall judgment.

4.3 Effects on Cardrona Village

[89] We have already considered the landscape and visual amenity effects of the proposed MCSSZ provisions on Cardrona Village. Section 74(3) in the form it existed prior to the Resource Management Amendment Act 2009 provides that in changing district plans a territorial authority (and on appeal this court) must not have regard to trade competition. So questions concerning the relative attractions of development on the proposed site and potential development within the existing village and consequent effects on the value of land within the village do not come within the scope of our inquiry.

[90] In fact the evidence in this case was that development on the MCSSZ site was likely to complement that in the existing village. Mr K Mentz, an urban designer called by Mount Cardrona Station Limited, told us that whereas the existing village, straddling the main road, would always be a better location for commercial activities which would be assisted by the ability to attract the passing trade¹¹¹, activity in the commercial area of the MCSSZ settlement would be more likely to be directed towards the convenience needs of local residents and accommodate such activities as a dairy, a café, an equipment rental store, and possibly one-off tourist destinations such as a health spa¹¹².

[91] It was also Mr Mentz' evidence that if businesses were to be sustained in the local area, there needed to be a core of permanent residents outside the tourist season. In his view the mix of densities provided by the MCSSZ was more likely to produce this result than the proposed development under the RVZ. This would be of advantage to commercial activities based in the existing village¹¹³. Similarly, he considered the provision of land in the MCSSZ for an educational activity, if Cardrona grew to the size where one could be supported, is also a benefit to the village area.

¹¹¹ K Mentz. evidence-in-chief para 4.11 [Environment Court document 4].

¹¹² K Mentz. evidence-in-chief paragraphs 7.12 and 7.14 [Environment Court document 4].

¹¹³ K Mentz. evidence-in-chief para 9.84 [Environment Court document 4].



[92] We also note that the structure plan provides not only good internal pedestrian links, but also a direct pedestrian link to the existing village through the Pringles Creek subdivision. Mr Mentz also indicated that the site would assist in providing walking trail links towards Macetown in the west, and the Cardrona River and Roaring Meg Track to the east¹¹⁴.

[93] There is presently an unformed legal road crossing the site which provides legal access from Cardrona Valley Road through Pringles Creek subdivision and Mount Cardrona Station to Cardrona Skifield Road. We accept that formed pedestrian links in the MCSSZ will, as Mr Mentz indicates, improve the facilities for walkers and trampers, and could, depending on how they are formed, provide opportunities for other recreational activities such as cycling and horse riding. We include in part 6.2 of this decision some amendments we consider necessary to ensure that the opportunities provided by these linkages are achieved.

4.4 Urban amenity effects

[94] Both Mr Mentz and Ms R A Skidmore, gave evidence that development in accordance with the provisions of the MCSSZ would produce better urban amenity and higher levels of urban sustainability than development within the RVZ. Neither Mr Mentz nor Ms Skidmore considered that a settlement reflecting good design could be achieved on the RVZ site. Mr Mentz considered that the overall combination of development potential and zone shape of the RVZ did not lend itself to integrated, environmentally responsive urban form¹¹⁵. Ms Skidmore told us that development within those boundaries would result in a fragmented settlement pattern with poor amenity¹¹⁶. When pressed on this point by Mr Enright, both witnesses held strongly to their position that appropriate urban design outcomes could not be achieved in the RVZ 'running man'¹¹⁷.

¹¹⁴ K Mentz, evidence-in-chief paragraphs 7.10 and 7.11 [Environment Court document 4].

¹¹⁵ K Mentz, evidence-in-chief para 4.16 [Environment Court document 4].

¹¹⁶ R A Skidmore, evidence-in-chief para 4.4 [Environment Court document 1]

¹¹⁷ Transcript pp 40-41, 147.



[95] A number of the urban amenity effects of the MCSSZ have been noted in our discussion of effects on Cardrona Village. Mr Mentz added that the mix of uses around a neighbourhood centre provided the opportunity for more sustainable lifestyles and transport use. He drew particular attention to the ability of people to live within an easy distance of local shops and much closer to Cardrona based employment, and for users of the ski field to find accommodation in Cardrona; all these factors would reduce the kilometres people would need to travel by car¹¹⁸. There is, of course, nothing in the rules to ensure that commercial activity develops in the MCSSZ, but up to 3,000 m² floor area of commercial activity is a permitted activity in activity area 1, whereas in the RVZ commercial activity is discretionary.

[96] In cross-examination, Mr Enright put to Ms Skidmore and to Mr J Brown the resource consents granted for land use and earthworks on the RVZ site, and the applications that gave rise to them¹¹⁹. The land use consent was granted on a non-notified basis, so that the Council must have considered the effects of the activity minor¹²⁰, and in the case of the earthworks consent, the assessment of environmental effects, submitted by Brown and Pemberton Limited, of which Mr Brown is a director, had stated¹²¹:

... it is considered that all the potential effects on the environment arising from the proposal are minor and can be adequately mitigated.

Mr Enright pressed the point in closing submissions that the evidence given and decisions reached on the resource consent applications in the RVZ undermined the credibility of witnesses who asserted that the adverse effects of development in the RVZ were significant.

[97] We accept the evidence of the witnesses that those assessments were made in the context of what was permitted in the RVZ and in the context that many of the activities for which consent was applied were controlled activities. What we have to decide in

¹¹⁸ K Mentz, evidence-in-chief para 8.2 [Environment Court document 4].

¹¹⁹ Transcript pp 43, 338-40.

¹²⁰ Exhibit 4.2 [Environment Court document 9].

¹²¹ Exhibit 10.7 [Environment Court document 9]



this case is whether the RVZ provisions or the MCSSZ provisions in their different but overlapping locations better achieve the purpose of the Act and implement the higher order objectives and policies of the district plan. Whether a particular proposal was considered to have minor effects in the context of the RVZ provisions does not necessarily bear upon that inquiry. We do not find the credibility of Mount Cardrona Station Limited's witnesses is undermined.

[98] We find that the overwhelming evidence in this case is that the MCSSZ is likely to produce a settlement with much greater amenity for its residents and with a higher level of sustainability than the RVZ.

5. Overall assessment

5.1 Does the plan change better achieve the district-wide objectives than the existing provisions?

[99] In terms of the landscape policy on future development, an easy, but incorrect, assumption would be that land within an outstanding natural landscape would always be more vulnerable to the degradation of its landscape and visual amenity values and less able to absorb change without detracting from them than land outside it. In general terms the court noted that the assumption may not always be correct. In *Wakatipu Environmental Society v Queenstown Lakes District Council*¹²² it stated:

... there are some particularly sensitive VALs along the candidate scenic rural roads such as Cardrona Road, the Mt Aspiring Road, and State Highway 6 up the Makarora Valley. We envisage there may be places in these three areas where subdivision and development could be more easily absorbed in the ONL.

The history of the plan, adverted to previously¹²³, also causes us to pause before assuming that development can more easily be absorbed in the RVZ than on the terrace, even though that is part of an outstanding natural landscape.

[100] In assessing which of the two zones, the RVZ or the MCSSZ, can better absorb development we take into account the district plan's view of the terraces, including the

¹²²

Wakatipu Environmental Society v Queenstown Lakes District Council C129/2001 at para [46]

¹²³

At paragraphs [76] - [77] of this decision



Cardrona terraces, as a main component of the landscape¹²⁴. Nevertheless we consider Ms Kidson had a balanced approach to this question¹²⁵. The most obvious views of the development on the terrace will be from a distance, and largely from above. In these views it will be absorbed at least in part by existing development. From the Cardrona Village RVZ it is anticipated that views of the MCSSZ site will at some future time in most cases be filtered by dense development. On the other hand the views of the RVZ from the valley floor are from much closer, and in that respect the RVZ is less capable of absorbing development. We also agree with Ms Kidson¹²⁶ in terms of the third element of the future development policy that the proposed MCSSZ offers more in terms of protection of the escarpment faces, Homestead Valley and the watercourses running down through the terrace. It thus harmonises better with local topography, ecological systems and nature conservation values.

[101] In terms of the specific district-wide outstanding natural landscapes policy, there is some discomfort between this policy and Plan Change 18. The plan change extends development into a part of the terrace which, under the RVZ, would retain an open character unless subsequent resource consents allowed development on it. Mr S K Brown estimates this area to be approximately 400 x 450 metres (18 hectares). Although we have indicated that this is an area with some capacity to absorb change, and greater capacity to do so than the RVZ, it is difficult to characterise what is proposed by Plan Change 18 as limited subdivision and development. However, not too much weight should be given to that factor because the MCSSZ includes almost all of the Mount Cardrona Station RVZ and that, not being classified as an outstanding natural landscape, is not strictly subject to these parts of the policy.

[102] In terms of the importance of protecting naturalness and enhancing amenity values of views from public roads, we consider that development of the RVZ would reduce the amenity values of views of the outstanding natural landscape, from Cardrona Valley Road, and the paper road on the valley floor to a greater extent than the RVZ, though naturally the MCSSZ would have greater effect on the naturalness and amenity

¹²⁴ The district plan p. 4/7. Mr Enright rightly drew this to our attention in cross-examination and submissions.

¹²⁵ E J Kidson, evidence-in-chief paragraphs 69, 74-75 [Environment Court document 2].

¹²⁶ Transcript p. 63.



values of views from the paper road that runs through the site. Overall we consider the district-wide outstanding natural landscape policy is at least ambivalent with regard to the plan change.

[103] There are also ambivalences in the landscape policy on urban development in relation to plan change 18. The plan change does not discourage urban subdivision in the outstanding natural landscapes of the district, other than the Wakatipu basin. Development of the RVZ would not contravene this aspect of the policy. Likewise the plan change does not maintain the open character of a landscape which was open at the time the plan became operative, although it does avoid development sprawling along roads. Once again this policy does not apply to development in the RVZ, so that in this case the policy favours the RVZ rather than the extra land in the MCSSZ.

[104] We consider the policy on urban edges clearly favours the MCSSZ. There was a measure of agreement among the landscape architects that the boundaries of the RVZ lacked logic, and for that reason we recognise that the Council may find them difficult to defend. We also note and agree with the comment in the evaluation of the RVZ contained in an attachment to the Council's section 32 analysis that development in the RVZ has the potential to create the effect of sprawl along Cardrona Valley Road¹²⁷, particularly in conjunction with the RVZ in the existing village area. By contrast the MCSSZ removes most development from Cardrona Valley Road, and has a structure plan which locates predominantly open space between development in that zone and the rural general zone. It thus limits the potential for residential development in the rural-general zone to be regarded as a logical extension of the MCSSZ and assists in the clear definition of an urban edge. In this respect, as we explain in more detail later, we consider it important that the provisions of the MCSSZ are sufficiently strongly worded that residential development does not spread into open space areas of the zone.

[105] In terms of the policy on cumulative effects, we consider the existing resource consent provides for comprehensive development of the RVZ, although the rules of the plan do not insist that it be developed that way. Further, the limited control the Council has on the bulk and location of buildings within the RVZ restricts its ability to ensure

¹²⁷ J Carter, evidence-in-chief, attachment 1 section 32 report annexure 1, p 7.



that development will be sympathetic to the rural landscape surrounding it. On the other hand, under the MCSSZ provisions, the structure plan, together with the covenants on titles offered by Mount Cardrona Station Limited to ensure buildings are constructed in accordance with designs approved by a design review board, and the requirement for buildings to gain resource consent in specific parts of the zone, give the Council better means to achieve sympathetic development. Beyond those points we share Ms Carter's opinion that in the light of the existing consents and development rights in the RVZ it is difficult to assess the first part of the policy on avoiding cumulative degradation¹²⁸.

[106] We consider that the relevant parts of the landscape policy on structures are likely to be better achieved under the MCSSZ than the RVZ. Under the RVZ, the Council has retained control over location, external appearances of buildings and associated earthworks, access and landscaping. This would clearly enable the Council to encourage structures in harmony with the line and form of the landscape and of a colour which complemented the dominant colours of the landscape and to promote the use of natural local materials in construction. But the lack of control over building density, and the absence of a standard dealing with site coverage, together with the location of the zone along the escarpment beside Cardrona Valley Road, leaves the potential for buildings to break the skyline when viewed from Cardrona Valley Road¹²⁹ and the paper road running along the Cardrona Valley floor¹³⁰.

[107] As we indicated in discussing the policy on cumulative effects, the MCSSZ provides a range of mechanisms to ensure that structures are in harmony with the line and form of the landscape and to deal with potential adverse effects of structures breaking skylines, ridgelines or otherwise affecting prominent slopes and hilltops.

[108] The overall objective which the district-wide landscape policies are designed to achieve is expressed in very general terms:

¹²⁸ J J Carter. evidence-in-chief para 9.7 [Environment Court document 3].

¹²⁹ Section 32 report Appendix 2.1, p. 27.

¹³⁰ B Espie. evidence-in-chief para 7.8 [Environment Court document 8].

Subdivision and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.

Not all the policies which implement this objective indicate the same outcome in terms of this case and we think the weighing between how well the options achieve them may be a little more delicate than some of the witnesses think. Nevertheless, our overall judgment is that by a still substantial margin the MCSSZ better implements the district-wide landscape objective and policies than the existing RVZ.

[109] In terms of the district-wide energy objectives and policies, we consider that the form of development promoted by both the RVZ and the MCSSZ could be properly regarded as compact. However, the MCSSZ makes provision in a way neither the RVZ rules nor the existing resource consents do for the location in close proximity to each other of commercial, community (education) visitor and residential activity with the intention of reducing the length of and need for vehicle trips. Similarly, there is a policy in the MCSSZ provisions to ensure that the zone is energy efficient, buildings are aligned to achieve maximum solar gain, and that where possible renewable energy sources, particularly solar heating, are used¹³¹. This provides for the implementation of district-wide policies to create sites large enough for buildings to be so constructed as to take most advantage of solar heating, and to control the location of buildings and outdoor living areas to reduce impediments to access to sunlight¹³². The covenants requiring design review board approval for dwellings to be constructed in the MCSSZ provide a means of implementing the policies of the zone and in consequence the district-wide policies in this area. We advert later to a change in the rules which would assist further in the achievement of these policies. We note that the RVZ does not make similar provision for maximising solar energy.

[110] The transport section of the plan, as we have described, contains policies which complement those of the energy section in terms of transport-related energy consumption. It follows from our discussion in the previous paragraph that these policies are better implemented by the MCSSZ than by the existing RVZ. The same applies to the urban growth objective and related policies which promote a close

¹³¹ Plan Change 18, policy 12. 21.3.1.4
¹³² Policies 4.5.3.4.3 and 4.5.3.1.4



relationship and good access between living, working and leisure environments and compact commercial centres accessible to and able to meet the needs of residential environments¹³³.

[111] In terms of the district-wide policies on residential growth, we accept that both the RVZ and the MCSSZ provide for higher density living environments, but only the MCSSZ enables the integration of such different activities as residential, education and retailing.

[112] It follows from our discussion of the landscape objective and policies of the plan that the MCSSZ would, overall, better implement the objective of growth and development consistent with the maintenance of landscape values¹³⁴.

[113] The only evidential challenge to the proposition that the urban design outcomes of the MCSSZ would be better than those of the RVZ came from Mr Haworth. His opinion was that the benefits of:

- a sustainable integrated community;
- positive ecological effects;
- positive heritage effects; and
- infrastructure;

– could all be achieved within the existing RVZ, provided the developer is responsive to the market when developing the 15 hectares. That runs counter to the strongly defended opinion of both Ms Skidmore and Mr Mentz that it would not be possible to produce a pattern of development consistent with good urban design within the RVZ. We consider Ms Skidmore and Mr Mentz more qualified to give evidence on that subject and we accept it. We consider that the various district-wide policies of the district plan which focus on urban growth and built form are better implemented by the MCSSZ than by the RVZ.

¹³³ Objective 4.9.3.4 and policy 4.9.3.4.1.
¹³⁴ Objective 4.9.3.1.



[114] Our overall conclusion is that Plan Change 18 would better implement the district-wide objectives and policies of the district plan than leaving the RVZ in place.

Evaluation under Part 2 of the RMA

[115] As we indicated earlier, the provisions of Part 2 can be largely assumed to have been incorporated in the settled higher order objectives and policies of the district plan. However, the various parties drew attention to a number of the provisions of Part 2, and we proceed to consider them. No party contended that the principles¹³⁵ of the Treaty of Waitangi are relevant to this case, so we consider them no further except insofar as they are incidentally raised in our discussion of section 6(c) of the RMA shortly.

[116] We identify the following relevant matters under section 7, to which we must have particular regard:

- (aa) the ethic of stewardship;
- (b) the efficient use and development of natural and physical resources;
- (bb) the efficiency of the end use of energy;
- (c) the maintenance and enhancement of amenity values;
- (d) the intrinsic value of ecosystems
- (f) maintenance and enhancement of the quality of the environment.

In this case an evaluation of the proposal in terms of section 7(f) will be influenced by our consideration of the relevant matters of national importance under section 6 and we consider that later.

[117] The ethic of stewardship and intrinsic value of ecosystems are better achieved by the MCSSZ especially in view of some of the amendments we suggest later. The MCSSZ is much better designed to sit in its ecological context than the RVZ which largely ignores the land around its boundaries.

[118] We read no quantitative analysis about the efficiency of the competing options. However, it appears to us that the high density of residential use that can be achieved under both the RVZ and the MCSSZ represents an efficient use of the land resources

¹³⁵ See section 8 of the RMA.



bearing in mind the remaining area of surrounding landscape which will not be affected. The mix of uses provided for as permitted activities by the MCSSZ suggests that the community to be created in the zone will function more effectively than a community under the RVZ provisions. That is certainly the case in terms of the end use of energy where the presence of commercial activities, and possibly a school in the MCSSZ, makes possible a considerable reduction in vehicle use and vehicle mileage. Mr M C Copeland, an economist called by Mount Cardrona Station Limited, referred to a report by Traffic Design Group accompanying the plan change application. It estimated a reduction during the winter season of some 14,000 kilometres per day of vehicle travel from Wanaka and Queenstown¹³⁶.

[119] As far as amenity values are concerned, the amenity of travelers along the Cardrona Valley Road and those using Cardrona Ski Field Road, particularly on the lower portions of that road, will be significantly better maintained by the MCSSZ than the RVZ. The benefits of the MCSSZ in this respect far exceed any disadvantages the plan change may have for those viewing potential development from higher elevations. From the point of view of residents of a new settlement on the Mount Cardrona Station site, it is clear from the evidence of Ms Skidmore and Mr Mentz that the topography of the RVZ site is such that any settlement on it is likely to have comparatively poor amenity. The proposed MCSSZ has a structure plan which provides for buildings to be controlled so as to provide access to sunlight and open space, for significant areas of open space within the settlement itself, and opportunities for commercial activities to develop to meet the needs of local residents. We acknowledge that this will involve a relatively small loss of amenity for Mr and Mrs Roberts in the Pringles Creek subdivision. Overall, however, we consider amenity values will be significantly better maintained if the MCSSZ is developed rather than the RVZ.

[120] The most significant concern amongst the matters of national importance which we are to recognise and provide for under section 6 is the protection of outstanding natural landscapes from inappropriate subdivision, use and development (section 6(b)). Ms Carter also considered relevant:

¹³⁶ M C Copeland, evidence-in-chief para 8 7 [Environment Court document 5].



Section 6(e): the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga; and

Section 6(f): the protection of historic heritage from inappropriate use, subdivision and development.

Ms Carter noted that a report prepared for the plan change by Kai Tahu ki Otago Limited identified few cultural values associated with the site. Nevertheless, she considered the greater protection of Homestead Valley and of ecological values on the site were in line with that report's recommendations. We add that the public ability to traverse trails which link to the wider landscape aligns with early usage. She also held that the containment of the principal heritage items on the site, the water races, within an open space activity area both protected these features and gave the public opportunity to enjoy them¹³⁷. In as far as the illogicality of the RVZ boundary on the terrace leaves the area open to some development pressure – albeit within an outstanding natural landscape – we accept the matters set out in sections 6 (e) and (f) are marginally better recognised and provided for under the MCSSZ.

[121] Turning to a consideration of recognition and provision for the protection of outstanding natural landscapes from inappropriate subdivision, use and development, we indicate that it is appropriate to give this consideration distinct from the district-wide landscape objective and policies in Part 4 of the district plan. That is because the relevant objective and policies are directed to all the landscapes of the district, whereas section 6(b) is concerned only with outstanding natural landscapes (and features). We also note that while we found that the landscape objective and policies as a whole favoured the MCSSZ, the policy specifically directed to outstanding natural landscapes, district-wide, was ambivalent between the options.

[122] Brooklynne's case is succinctly and helpfully summarised in Mr Enright's closing submissions as follows¹³⁸:

¹³⁷ J J Carter. evidence-in-chief paragraphs 8.13-8.14 [Environment Court document 3].
¹³⁸ R B Enright. closing submissions paragraphs 16-17



The starting point is that part of PC18 falls within a s6(b) outstanding natural landscape (ONL). An equally important concomitant is that the Rural Visitor zone (and running man site) does not fall within an ONL. Approval of PC18 will therefore require the partial transfer of development from land that is not ONL to land that is ONL. ...

By definition development under the existing running man consent will not compromise s6(b) values within the Rural Visitor zoned land. However it may affect s6(b) values on adjacent ONL land. Any such impact will be indirect rather than direct (affecting views of/over ONL classified land, rather than ONL land itself). Development under PC18 will involve direct impacts to ONL land.

That submission recognises the judgment of the Environment Court in *Rangitikei Guardians Society Incorporated v Manawatu-Wanganui Regional Council, Rangitikei District Council and Ruapehu District Council* which stated that a proposal does not need to be located within an outstanding natural landscape to have an effect on one¹³⁹.

[123] If Mr Enright intends to imply that an indirect effect is necessarily less significant than a direct effect, we do not agree. It is the outstanding natural landscape as a whole which we are required to recognise and provide for, not simply a part of it. Less sensitive development adjacent to but outside the boundary of an outstanding natural landscape may have a greater adverse effect on it when considered as a whole than more sensitive and clearly defined development within it. It may extend a 'blighting' effect further onto neighbouring land, as well as impacting on views of that land.

[124] In this case we consider the following matters are significant:

- (1) development of the RVZ will have greater impact on more proximate views of the outstanding natural landscape;
- (2) the RVZ extends intense development into the same landform as the outstanding natural landscape and draws a boundary to it with no apparent logic;



¹³⁹ *Rangitikei Guardians Society Incorporated v Manawatu-Wanganui Regional Council, Rangitikei District Council and Ruapehu District Council* [2010] NZEnvC 14 at para [94].

- (3) the absence of a logical justification for the boundary opens the possibility of further sporadic development on the terrace under the RVZ;
- (4) the structure plan of the MCSSZ provides firm boundaries to residential development.

After careful consideration we consider that section 6(b) will be better achieved by adopting Plan Change 18, with some of the modifications we outline in a subsequent section of this decision. It would also better maintain the quality of the environment under section 7(f) than the existing plan provisions.

[125] The matters we have considered under sections 6 and 7 are not matters to be achieved in and of themselves, but in achieving the overall purpose of the Act. That is, they are matters which inform the judgment we are to make in accordance with section 5. In this case all those considerations point in the same direction. Settlement as provided for by the MCSSZ, with the modifications we later describe, better enables the community of the Queenstown Lakes District and visitors to it to provide for their economic and social welfare than the RVZ; it would also better sustain the potential of natural and physical resources, including the landscape to meet the needs of future generations, and it would better avoid or mitigate adverse effects on the environment. We find the change better accords with the provisions of Part 2 than leaving the plan unchanged.

6. Outcome

6.1 General

[126] As we have indicated, we consider that Plan Change 18 will, if amended as outlined in the subsequent section of this decision, better implement the district-wide objectives and policies of the district plan and better achieve the purpose of the Act than leaving the RVZ in place. That conclusion depends on two of the outcomes put forward to justify Plan Change 18 being achieved, namely:

- (1) that the provisions are strong enough to confine residential development to the areas in which the structure plan provides for it; and



- (2) that the urban design gains in terms of efficient energy use promised by the plan change are actually achieved.

[127] MCSL suggested that its adoption would better protect ecological values and natural character, and produce a better ‘fit’ of built form into the landscape. We outline below the changes to the zone provisions, additional to those supplied in the closing submissions of Mount Cardrona Station Limited, which we consider necessary to ensure these outcomes. If they are made then we consider the proposed Mt Cardrona Station Special Zone is sustainable management of this terrace of the Cardrona River under section 5 of the Resource Management Act 1991. In particular the tight urban form and clustering of the proposed development around a proposed green and (very) small commercial centre is in our view precisely the kind of development which will in the longer term maintain and protect the outstanding natural landscape of the valley.

Locating a future school at Cardrona

[128] There is one other general matter we should address separately. It relates to the proposal to set aside land for an “educational facility” – likely to be a primary school. While the court endorses that, we wish to point out that there may well be better sites for schools.

[129] We earlier pointed out that the proposed MCSSZ is about 1.5 kilometres north of the Cardrona Hotel and, as we have said, on a terrace above the valley floor. The Cardrona Valley widens opposite the hotel. From there the willow-lined river generally runs through green fields, with the road on its true left side. If the MCSSZ is zoned and developed the Council and the local community will need to be very careful as to the development of the river flats. It is always tempting to develop such areas, not least because they do not require earthworks. However, in this situation sprawling development down the river is unlikely to accomplish the objectives and policies of the district plan as they currently stand. On the other hand a school set to the side of the valley and playing fields on the valley floor are, at first sight, suitable activities for those areas. Thus if other land nearby in the Cardrona Valley is zoned or designated for schools and playing fields we consider Activity Area 3b can be changed to Living Area.



6.2 Amendments to provisions of the MCSSZ zone

[130] While we think that in general terms the provisions of the zone and the structure plan define well the areas in which various activities and buildings are anticipated in the MCSSZ, we consider some strengthening of the wording of policies 4.14 and 4.15 is necessary to give policy support to keeping urban type activities out of areas 6 and 7. We consider the third bullet point in policy 4.14 should read:

- to restrict buildings in the Activity Area to those buildings associated with the functioning of the Village, the provision of access to the surrounding recreational activities, the provision of gas storage facilities, a recycling station, and the provision of small-scale buildings associated with potential sports fields located within the education precinct.

Likewise the third bullet point in policy 4.15 should read:

- to restrict buildings to those associated with the provision of access to the surrounding recreational activities.

Similarly, in the proposed explanation and principal reasons for adopting the policies, the last sentence in the paragraph on Activity Area 7 should read:

Similar to the commonage, buildings are restricted to those associated with the provision of access to the heritage area.

We also have some concerns about residential activity on the Homestead site. It is separated from other areas in which residential activity occurs. While we accept that it is an area used in connection with horse-trekking, we do not consider that this activity requires a residence on site. We consider the natural qualities of the gully would be better protected if no residential activities were provided for in area 5b. Those who work in the recreational activities that use the site can find accommodation, if they wish, in Activity Areas 1-4. Provision for residential activity in area 5b should be deleted from the plans.

[131] In terms of the mix of activities appropriate to achieve desirable urban form outcomes we have noted that provision for educational activities in the MCSSZ is helpful. As presented to the court the structure plan provides for an educational and/or



community facility in Activity Area 3b for a period of up to 15 years. The proposed plan change says of this area¹⁴⁰:

Activity Area 3b is an educational and community precinct, providing for the potential demand for educational or community facilities. The associated rules ensure that this land is set aside for educational and/or community purposes for 15 years from the notification of the Plan Change creating the Zone. If, after 15 years, there is no proven demand for educational facilities or community activities on all or part of the site, the land reverts to Activity Area 3a, providing for residential housing.

Answering questions from the court, Mr J Brown agreed that development of the MCSSZ might take longer than anticipated because of prevailing economic circumstances; nevertheless provision for an educational/community facility would remain useful if there remained any prospect of the population of Cardrona reaching 3,000-4,000. As a result we hold that the reference in the plan to this area being provided for educational or community facilities for 15 years only should be deleted.

[132] We note that in response to the discussion between Mr Brown and the court, Mount Cardrona Station Limited in closing submissions proposed an amendment to zone standard 12.22.5.2(vii) to replace the reservation of area 3b for educational facilities and community activities for a period of 15 years with a reservation for 25 years¹⁴¹. We are anxious that the opportunity for community and educational facilities in Cardrona is not lost with the result that future residents can only obtain access to facilities of this sort by travelling to Queenstown or Wanaka. That would be inconsistent with district-wide policies on transport as well as the objectives of the MCSSZ. However, we accept that a better location for such facilities may be on the flat land in the existing village or near the valley floor between the village and the MCSZ. We find that the rule should provide for area 3b to be reserved for educational and community facilities unless alternative land for these facilities is zoned in the existing Cardrona village or near the valley floor.

[133] As a result of a discussion towards the end of the hearing the court was supplied with detailed plans of a scaled sports field. This illustrates that the area provided for

¹⁴⁰ Plan Change 18 p. 12-185.

¹⁴¹ Plan Change 18 p. 12-199.



educational and community facilities would not be sufficient for a sportsfield and school or community buildings. This educational component was strongly supported by the community and put forward as a positive effect of the development¹⁴². It therefore should remain as part of the total package subject to our general comments above about finding preferable playing field and school sites on the valley floor below and south of the MCSZ. We consider the structure plan should be redrawn to provide for this. As suggested above, if zoning provision or a designation is able to be made for any or all of these facilities elsewhere in Cardrona, land set aside for them in the MCSSZ may revert to residential use at the densities provided for in the structure plan proposed in the Plan Change.

[134] There was discussion in the evidence of provision for secondary housing units in areas 2 and 3 of the zone. The proposed subdivision rules set as a zone standard a minimum allotment size of 200 m² in area 2(a)¹⁴³. The evidence of Mr Mentz was that he did not consider it possible to design configurations of a dwelling plus secondary unit below a lot size of 230 m² given the associated site and zone standards for gross floor area, car-parking and outdoor living space¹⁴⁴.

[135] Breach of a site standard in the Queenstown Lakes District Plan results in an activity's status becoming discretionary, with the Council's discretion limited to the matter of non-compliance¹⁴⁵. We consider some stronger provision is necessary to ensure reasonable amenity provision for residents in Activity Area 2a and to ensure that the district-wide policy of encouraging residential sites to be large enough to accommodate buildings designed to make maximum use of solar heating can be achieved¹⁴⁶. We add that there is a proposed policy for the MCSSZ that buildings are aligned to achieve maximum solar gain¹⁴⁷. We therefore hold that an addition should be made to the proposed zone standard 12.22.5.2(iv)¹⁴⁸ in the form of a sentence at the end of the table:

¹⁴² L J Semple, P E M Walker, closing submissions 3.8.

¹⁴³ Standard 15.2.6.3(i)(a).

¹⁴⁴ K. Mentz, evidence-in-chief para 9.43 [Environment Court document 4].

¹⁴⁵ The district plan 1.5.3(iii).

¹⁴⁶ Policy 4.5.3.1.3.

¹⁴⁷ Plan Change 18 policy 12.21.3.1.4.

¹⁴⁸ Plan Change 18 p. 12-198



In area 2(a) secondary units on sections less than 230 m² are a non-complying activity.

Other changes and corrections to the Mt Cardrona Station Special Zone maps and rules

[136] The second issue is to direct certain changes and corrections to the Mt Cardrona Station Special Zone maps and rules.

Mitigating effects on the Pringles Creek Subdivision

[137] We predicted earlier that the plan change is likely to have an adverse effect on the rural amenity of Mr and Mrs Roberts who own the highest site on the adjacent Pringles Creek subdivision to the south. To ameliorate that Ms Kidson made the following suggestions¹⁴⁹:

... Additional mitigation could be incorporated along this southern boundary to further reduce visibility of development in a manner similar to that proposed along the boundary of Activity Area 1 on Structure Plan A. Earthworks could increase the height of the natural roll in the landscape to create a bund that ran east west along the watercourse in the vicinity of the Southern boundary, and additional planting could be incorporated on to its side. This would increase the height of screening along this boundary (of Activity Areas 4 and 3). Grey Shrubland planting could also be bolstered above the western development boundary which would reduce visibility of Activity Area 4 which is closest to the Roberts residence.

We consider that Mitigating Planting Areas M4 and particularly M5 should be planted at the first stage so that the planting will be serving its screening function by the time residential development in Living Areas D and E spreads across to it.

[138] One of the underlying premises of the proposed MCSSZ is that its design is based on the topography of the site. There are several places where the plans are not consistent. One example is that the proposed placement of a substantial bund along the water course near the southwestern boundary of the MCSSZ runs counter to that concept. A more sympathetic suggestion is to plant greyland shrubs as detailed in the Conservation Consultancy Limited Report¹⁵⁰. The inclusion of indigenous trees known

¹⁴⁹ E J Kidson, evidence-in-chief para 55 [Environment Court document 2]

¹⁵⁰ J Carter, evidence-in-chief Attachment 1: Section 32 Market Demand Study Conservation Consultancy Ltd pp 11-12.



to grow on the site or in the locality would further reduce visibility. We also consider that the district-wide and specific zone policies on ecology and nature conservation values would be better maintained by planting indigenous evergreens rather than Holm Oaks. There would also be additional mitigation provided for the Roberts if this planting occurred early in the development at the same time as the priority screening at the top of the terrace. Structure Plan D should be modified to show these changes.

The escarpment between the Cardrona Valley Road and the terrace

[139] In terms of the escarpment face, an area where the court agrees that development is unacceptable, Mount Cardrona Station Limited proposes¹⁵¹ the creation of a new Activity Area, 7(a), in which buildings would be a prohibited activity. This Activity Area would apply to the escarpment. This will require:

- an amendment to the Structure Plans;
- an insertion on p. 12.183 of the plan after policy 4.15 to set out the policies for the new Activity Area;
- a new paragraph in the explanation and reasons for adopting the policy on p. 185;
- an addition to subdivision rule 15.2.6.3(i)(b) to prohibit subdivision in this activity area.

Homestead gully

[140] An ecological report was provided as part of the section 32 analysis conducted by the Council. This report outlined the plants found or formerly found on the Homestead Gully floor and its faces. The report recommends various generic planting in these areas, and suggestions for planning management and maintenance of the species planting including the management of weed species¹⁵². This report formed part of the Council's evidence.

¹⁵¹ L J Semple, P E M Walker, closing submissions 7.7.

¹⁵² J Carter, evidence-in-chief, attachment 1 section 32 analysis 2.4 sections 7-10



[141] Mr J Brown referred in his evidence to recommendations from Conservation Consultancy Limited that a specific mechanism be established to protect the ecological values of Homestead Gully. He recommended a mechanism for doing this which required an addition to the zone standards requiring fencing and planting in that area. That mechanism is specifically included in rule 12.22.5.2 as zone standard xi. We have no doubt that this planting will add significantly to the ecology of the site and the applicant is to be commended for this undertaking. Understandably that change has not yet been shown on Structure Plan D. We consider Structure Plan D should be amended to show the requirements of the new zone standard.

[142] As indicated we consider the proposed rehabilitation of Homestead Gully a considerable environmental benefit. We recognise that Homestead Gully is large and that the process of rehabilitating the whole area may take some time. Clearly, given the harsh climate of the area, some adaptive management may be necessary, and because of that we consider that to impose a detailed planting plan at this stage may be counter-productive. However, we consider the benefits of the planting need to be secured. To that end we consider that it is appropriate that prior to development commencing, the Council and the landowner should prepare a staged ecological enhancement programme for this area, setting out a long-term goal, and the various stages by which that goal is to be achieved, including removal of weed species. It would also be sensible, given the possibility of changes in land ownership during the course of development for responsibilities for implementing such a plan to be agreed. Such an outcome could be achieved by way of a change to the rules of Area 7, but we invite the parties to agree an appropriate mechanism.

[143] We consider the proposed midslope track in Homestead Gully as shown on Structure Plan 'C' is unlikely to be workable for two reasons: first the slopes are steep so extensive earthworks will be required; secondly the path appears to be at about the seepage line, which might cause ongoing problems for construction, use and maintenance.

[144] We judge that in respect of Homestead Gully the rules should provide for:



- (a) the higher slopes on the south side – above the groundwater seep levels – to be maintained and extended in matagouri/grey shrubland;
- (b) a three metre wide walking track on and along the terrace within the MCSSZ above the gully for the length of activity areas 2(b), 3 and 4;
- (c) in respect of the area at and below the seepage line about halfway down the southern face of the creek, the land below this to have a different planting regime to the land above the line;
- (d) complete fencing off of the gully from the grassy slope to the northeast;
- (e) careful design of the edge (e.g. retaining walls) of activity area 1B especially since it faces the lower part of the access road to the ski field.

Structure plan

[145] In the final submissions sent to us, Structure Plans A-D were appended at the end of the various plan provisions. We take it from this that they are intended to be included in the plan as part of the provisions of the zone. In any case we direct that they be included – amended in the ways we have outlined. In particular Structure Plan C is to be amended to indicate the approximate width of pedestrian, cycling and bridle accessways, together with their suitability for these uses. We also consider that their development should be required to proceed at the same time as the various stages of development.

The gully in the escarpment

[146] The face (“the escarpment”) of the terrace above the Cardrona Valley Road is fairly regular except for a gully immediately to the left of the words ‘Mitigation Bund’ on the ‘Overall Plan of Proposed Change 18 ...’¹⁵³. We have some concerns about this area.

[147] In respect of the area marked M1 on Plan 1¹⁵⁴, we are uneasy with the boundaries of the proposed activity area 1 north of the gully which breaks the otherwise relatively straight line of the escarpment above the road. MCS is proposing another mitigation bund to reduce, perhaps even eliminate, visibility of buildings in the adjacent village centre Activity Area (1b). The concept of a bund on a downslope does not appeal. It

¹⁵³ Exhibit 10.2.

¹⁵⁴ Exhibit 10.2 – Mt Cardrona ref 9486/13.



seems to us that the better management options are to set back or bevel the AA(1b) edge so that a track can follow the contour around more or less at the terrace height rather than drop steeply into the gully. We attach an A4 (i.e. reduced) size copy of the 'Terrace Planting and Walkway Detail' plan showing the amended boundaries and walkway alignments.

[148] Also in respect of the mitigation planting area M1 there are existing matagouri bushes either just inside or outside of the western edge of this area which are not acknowledged. It would be useful to ensure their retention (by rule or otherwise).

[149] Another necessary change to the Overall Plan is to reinstate the building setback lines (amended as above to reflect the beveled corner on the northern side of the gully) which have somehow been left off the plans.

Other minor changes

[150] Other changes to the structure plans and rules may [in the case of (1) below] and must [for (2) *et ff*] be made so as to provide for:

- (1) a thin (so as not to cause shading) tower in Activity Area 1;
- (2) the management of the natural mound immediately northeast of the northern village centre activity area by:
 - (a) providing for progressive removal and replacement of the existing pines by non-weed species;
 - (b) providing a mitigation planting and landscape plan;
- (3) natural contours and soil conditions outside the activity areas:
 - (a) there shall be no earthworks of any kind on the remainder of the land unless:
 - (i) authorised by separate notified resource consent; or
 - (ii) it is on one of the roads marked on the zone plan (noting that some road connections are missing from Exhibit 10.2 Sheet 1);
 and
 - (b) there shall be a rule prohibiting parking of vehicles and machinery on these areas both during construction and afterwards:



- (4) in respect of the water races above the activity areas the following actions on the part of the landowner to be completed:
 - (a) prepare a management plan for approval by the QLDC;
 - (b) fill in any breaches in the water races except for drainage to the AA6 lines;
 - (c) plant the downhill side of the water races in *Chionochloa* ecosystem species;
- (5) a weed management plan to be approved by the Council as a condition of the first subdivision consent;
- (6) no residential or accommodation in activity area AA5;
- (7) rules for the Open Space – Activity Area 7 – area above the water races to include:
 - (a) no buildings except for necessary farm buildings approved (location and materials) by the design review board;
 - (b) no motorised vehicles;
 - (e) no bikes except on marked and surveyed tracks;
 - (f) pedestrians to roam at will except when the area is closed for grazing;
- (8) amendment to rule 12.22.3.4 so that the numbers 6, 7 and 8 are deleted from subsection (iii). Subsection (iv) should be deleted. A new subsection should be inserted in rule 12.22.3.5 (prohibited activities) (viii) visitor accommodation and residential activities in Activity Areas 6, 7 and 8. This is consistent with the provisions proposed for Area 7(a).

[151] The following changes should be made to the structure plans:

Structure Plan A (Overall Plan of Proposed Plan Change 18)

- retain and label the sports ground area to dimensions as in Drawing Number 13, 1 of 3, 30.11.09;
- extend indicative educational precinct into a 3 area to show additional area 3b educational building precinct. The current area is required for sports field and planting and it lies within the 100 metre separation distance from Pringles Creek subdivision so cannot be used for further buildings;



- if this is to be the 'main' structure plan the helpful but now redundant RVZ and Cardrona Community Plan RVZ can be removed;
- add to the overall plan the further walkways as proposed in Structure Plan C;
- include planting of Homestead Gully;
- upgrade timing of M4 planting area;
- show roading;
- remove bunding – gully
- building set back lines to north of gully are to be reinstated on Master Plan (as in Terrace Planting and Walkway Detail; as amended), indicated and labelled.

Structure Plan B (Village Height Restriction lines)

- Drawing 13, 30.11.09, 3 of 3, Terrace Planting and Walkway Detail provides a simplified detail of the Height Restriction Lines which now extends to the appropriate boundaries of Activity Area 1b. We view this as an improvement which should be adopted as Structure Plan B.

Structure Plan C in its present form is not consistent with the overall plan (Structure Plan A). It needs to be adjusted in the following ways:

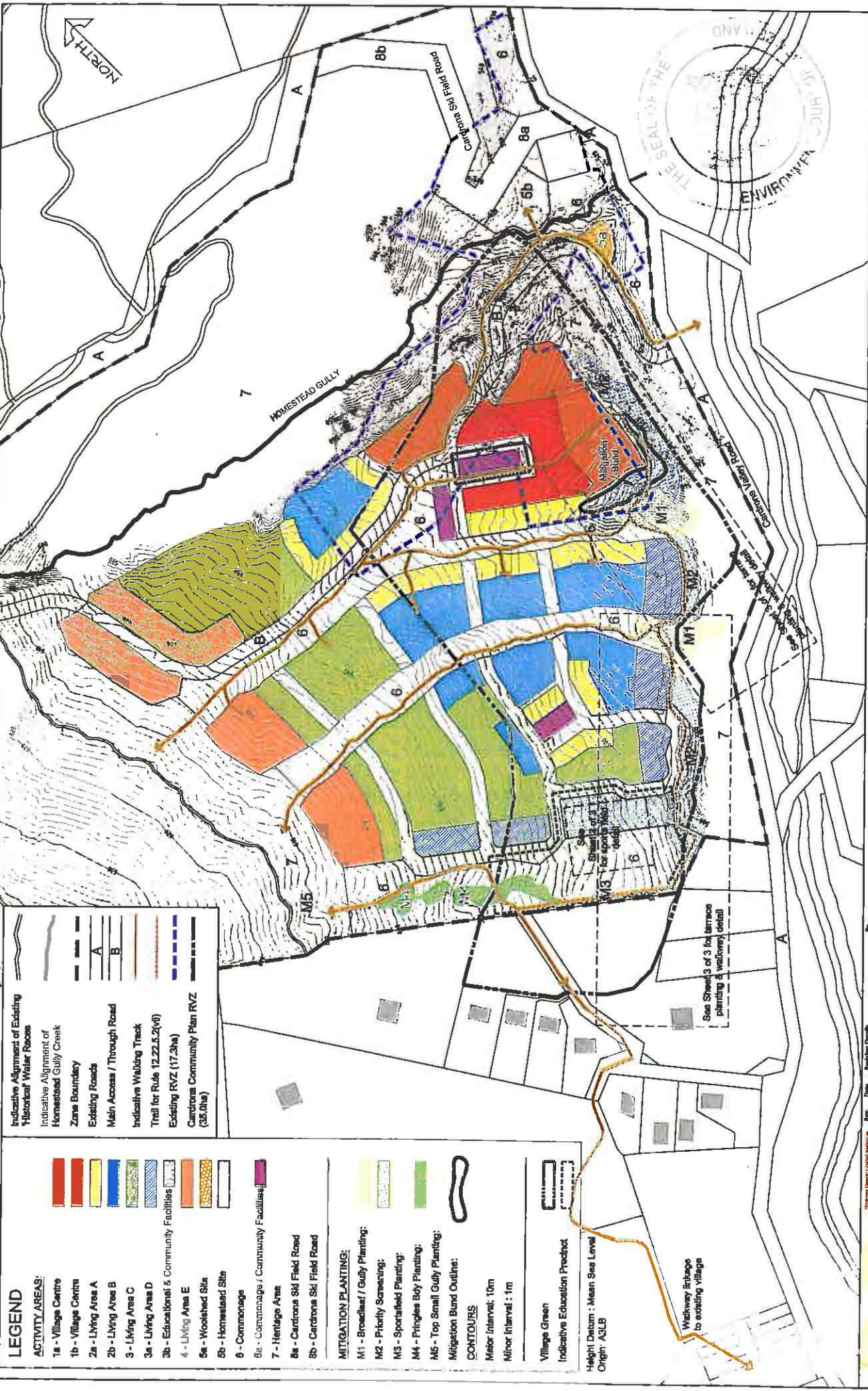
- the sportsfield is to be shown to dimensions provided in plans attached to MCS's closing submissions;
- the legend is to be adjusted to incorporate the amendments required in paragraphs [143] to [145];
- the 6a area to the west of the road leading into the village centre is to be shown.

Structure Plan D

- correctly label areas 5a and 5b;
- redraw 3b and 6 Sportsfield Area and relabel;
- correctly label 6 not 7 in the northeast corner;
- add 6a to the legend under Activity Areas;
- remove bunding;
- add Homestead Gully planting;



ATTACHMENT 1



	Indicative Alignment of Existing 'Historical' Water Races
	Indicative Alignment of Homestead Gully Creek
	Zone Boundary
	Existing Roads
	Main Access / Through Road
	Indicative Walking Track
	Trail for Rule 12.22.5.2(vf)
	Existing RVZ (17.3ha)
	Cardrona Community Plan RVZ (35.0ha)

	1a - Village Centre
	1b - Village Centre
	2a - Living Area A
	2b - Living Area B
	3 - Living Area C
	3a - Living Area D
	3b - Educational & Community Facilities
	4 - Living Area E
	5a - Woodshed Sites
	5b - Homestead Sites
	6 - Commonage
	6a - Commonage / Community Facilities
	7 - Heritage Area
	8a - Cardrona Ski Field Road
	8b - Cardrona Ski Field Road

	M1 - Broadleaf / Gully Planting
	M2 - Priority Screening
	M3 - Sportfield Planting
	M4 - Pongas Body Planting
	M5 - Top Small Gully Planting
	Mitigation Bund Outline

	Village Green
	Indicative Education Predicted

Height Datum : Mean Sea Level
Origin : A31B

Wayway / Inlayage by existing village

See Sheet 3 of 3 for Terrace planting & walkway detail

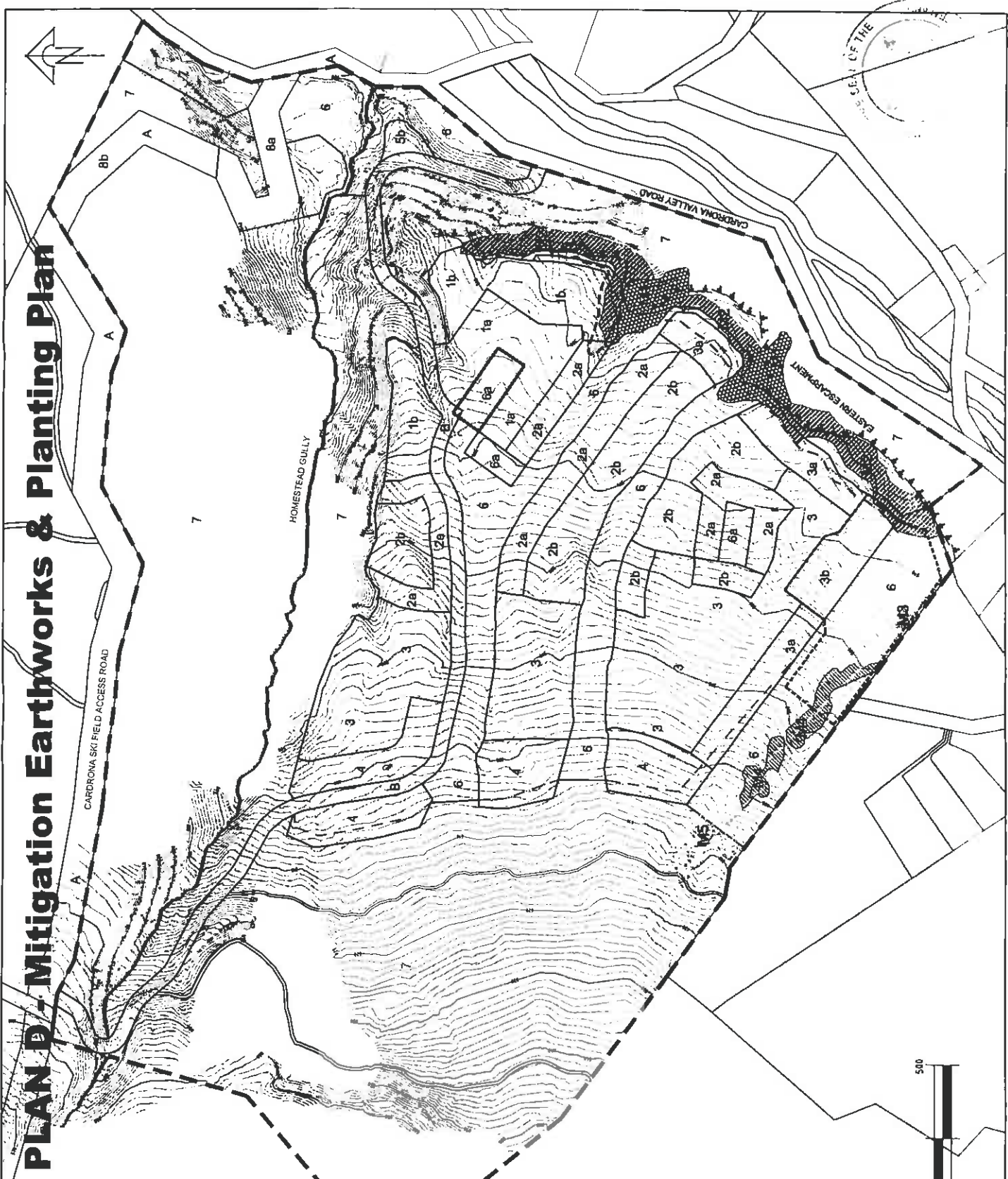
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MT CARDRONA STATION
 9486
 DATE: 2011.08
 SCALE: 1:2500 @ A1
 1:5000 @ A3
 PROJECT & DRAWN BY: JACQUES & LEWIS
 PROJECT NO: NZCG/2000

**OVERALL PLAN OF PROPOSED PLAN CHANGE 18:
 MOUNT CARDRONA STATION**

SHEET 1 OF 3

STRUCTURE PLAN D - Mitigation Earthworks & Planting Plan



LEGEND	
ACTIVITY AREAS:	
1a - Village Centre	1b - Village Centre
2a - Living Area A	2b - Living Area B
3 - Living Area C	3a - Living Area D
3b - Educational & Community Facilities	4 - Living Area E
5a - Woolshed Site	5b - Homestead Site
6 - Commonage	7 - Heritage Area
8a - Cardrona Ski Field Road (Activities & Access)	8b - Cardrona Ski Field Road (Access)
MITIGATION PLANTING:	
M1 - Broadleaf / Gully Planting	M2 - Priority Screening
M3 - Sportifield Planting	M4 - Principles Boy Planting
M5 - Top Small Gully Planting	Mitigation Bund Outline
CONTOURS	
Major Interval: 10m	Minor Interval: 1m
Village Green	
Indicative Education Precinct	
Indicative Alignment of Existing 'Historical' Water Races	
Indicative Alignment of Homestead Gully Creek	
Zone Boundary	
Existing Roads	
Main Access / Through Road	
Top of Eastern Escarpment	
Building Restriction Line	

