

Section 32 Evaluation Report

Definitions

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Section 32 Evaluation Report: Definitions Review

1. Strategic Context

This report has been prepared in accordance with s32 of the Resource Management Act 1991 (“RMA”) to analyse the issues associated with several operative definitions, identify various options and determine the most effective option to resolve the issues.

This plan change has district-wide application and includes the following proposed changes, described in general terms:

- substantive changes to the definitions of *Residential Flat*, *Building*, *External Appearance*, *Domestic Livestock*, *Adjoining* and *Trade Wastes*
- addition of a definition of *Relocated Building*
- addition of a definition of *Dwelling* which refers to the operative definition of *Residential Unit*, and accordingly a minor change to the definition of *Residential Unit* to include reference to *Dwellings*
- addition of a definition of *Building Height* (with interpretive diagrams that are cross-reference in the definition of *Ground Level*)
- addition of interpretive diagrams to the operative definition of *Recession Line*, as well as a reference to *Recession Plane*
- deletion of the operative definitions of *Site-Front* and *Site-Rear*
- amendments to the following definitions to either update references or correct a minor typographical error: *Access*, *Liquor*, *Lot*, *Potable Water Supply*, *Restaurant*, *Retail Sales/Retail/Retailing*, *Registered Holiday Home*, *Registered Homestay*.

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

5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Resolving the various issues with the definitions reviewed here-in, and ensuring that the definitions that are clear, unambiguous and ultimately useful to Plan users, will enable effective sustainable management. Accordingly, this plan change has been prepared as a means to achieve the purpose of the Act.

2. Regional Planning Documents

The Regional Policy Statement [“RPS”] is currently under review, and was released for formal public notification on the 23 May 2015. The District Plan must *give effect* to the operative RPS and must *have regard* to the proposed RPS.

The changes to definitions considered here-in are for administrative purposes. They enable more effective and efficient implementation of the objectives and provisions considered in the various s32 analyses for Stage 1 of the District Plan review, which include assessments of the degree of consistency with the RPS and proposed RPS. As such, it is not considered necessary to duplicate that analysis, other than to confirm that the proposed changes give effect to the operative RPS and have regard to the proposed RPS.

3. Resource Management Issues

The resource management issues set out in this section have been identified from the following sources:

- Monitoring and review of Operative District Plan

- Legislative changes

The Issues for each definition are set out below:

Operative definition	Issues
Residential Flat Means a residential activity that: • Consists of no more than one flat in the same ownership as the residential unit; and • Is contained within the same residential unit; and • If attached to a detached accessory building does not cover more than 50% of the total Gross Floor Area of the building containing the flat and detached accessory building; and • Contains no more than one kitchen and one laundry; and • Does not cover more than 35% of the total Gross Floor Area of the building(s) containing the residential unit and flat (but excluding accessory buildings).	• The operative definition enables the construction of residential flats with substantial floor areas in instances where the flat accompanies a large dwelling. For instance under the current regime a flat attached to a 350m² dwelling could have a gross floor area of 122m², which is akin to a modest 3 bedroom house. • The definition is confusing as to the way it prescribes different criteria for Gross Floor Area (GFA) in different scenarios, i.e. whether the flat is attached to a residential unit or a detached accessory building. • It is unclear whether a residential flat can be a detached, stand-alone structure. • The definition mentions the presence of a <i>kitchen</i> and <i>laundry</i>, but no mention of bathrooms. One would presume that for a flat to be self contained a bathroom would be required, whereas it wouldn't necessarily need a dedicated laundry room. • The drafting of the definition lacks clarity insofar as it provides a list of criteria that all need to be complied with, however the list cannot be implemented in this way as it mentions different options for flats attached to residential units and accessory buildings.
Building Shall have the same meaning as in the Building Act 1991, but does not include: - Fences or walls of 2m in height or less above ground level or retaining walls or 2m in height or less below ground level, not used for a sign or for any purpose other than as a fence, retaining wall or wall. - Structures less than 5m² in area and in addition less than 2m in height above ground level. - Radio and television aerials (excluding dish antennae for receiving satellite television which are greater than 1.2m in diameter), less than 2m in height above ground level. - Masts and poles less than 2m in height above ground level. - The upgrading and extension to the Arrow Irrigation Race provided that this exception only applies to upgrading and extension works that involve underground piping of the Arrow Irrigation Race. Building includes the construction, erection, alteration, relocation or placement on a site of a building.	• The 1991 Act has been repealed and replaced by the Building Act 2004. If we continue with the current structure and amend the definition to refer to the 2004 Act the wording needs to be clear that the Building Act definition applies, including the exemptions detailed therein. • Schedule 1 of the Building Act 2004 lists buildings that are exempt from Building Consent – consider whether any of these exemptions should apply to the Plan definition (in addition to the exemptions set out in the Building Act 2004 definition). • Consider including an exemption for uncovered decks and pergolas under a specified height. • Structures more than 2m above ground level are captured by the operative definition – consider what, if any, such structures should be exempt (e.g. flag poles, satellite dishes etc). • From time to time issues arise with vehicles being used for accommodation on a long term basis. In this regard the 2004 Act only includes the following in its definition of <i>building</i>... (s8(1)(b)(iii)) “...a vehicle or motor vehicle (including a vehicle or motor vehicle as defined in section 2(1) of the Land Transport Act 1998) that is immovable and is occupied by people on a permanent or long-term basis.” [emphasis added]. This leaves a gap in how the Plan deals with moveable vehicles that are occupied on a site on a long-term basis.

Operative definition	Issues
External Appearance In relation to buildings means the bulk and shape of the building including roof pitches, the materials of construction and the colour of exterior walls.	• Provides a very narrow list, whereas in practice, additional elements that are fixed to the exterior of a building are considered when assessing the 'external appearance' of a building. • Consider amending to include all the exterior building elements considered when assessing the external appearance of buildings, including external fixtures and the colour of roofs.
Domestic Livestock Means: - Not more than 2 sows and their progeny up to weaner stage or not more than 5 weaned pigs; and not more than 12 adult poultry in an Urban or Residential Zone or not more than 50 adult poultry in a Rural or Rural Living Zone; bred, reared and/or kept on a property; and - Any number of livestock bred, reared and/or kept on a property for family consumption, or as pets, or for hobby purposes and from which little or not financial gain is derived.	• This definition is referenced in the definition of <i>Residential Activity</i>, so it forms part of the baseline for what is expected on sites where residential activities are enabled. • The definition is out of step with what could be expected to occur on a residential site. • Presently Council does not have a bylaw covering the keeping of roosters, which can be the cause of noise complaints, particularly in the Residential and Rural Residential Zones. In the absence of such a bylaw, this issue may be able to be addressed in by reviewing the definition. • The definition does not currently provide guidance for instances when an activity fails to fall within the ambit of the definition. It therefore warrants consideration of explaining how the activity would then be classed if it is not <i>domestic livestock</i>.
Adjoining Land shall be deemed to be adjoining other land, notwithstanding that it is separated from the other land only by a road, railway, drain, water race, river or stream.	• The wording of this definition derives from s220(2)(b) of the RMA, which specifically applies to subdivision. • The District Plan definition does not limit its application to subdivision only, therefore any Plan standard applied at an 'adjoining' site or zone boundary should be interpreted in this manner. In practice, however, such standards are only applied at the interface where the boundaries physically adjoin. • Consider limiting the application of this term to subdivision only, which aligns with its use in the Act, and how it is used in practice when implementing Plan standards.
Trade Wastes Shall have the same meaning as in the Local Government Act 1974.	• No definition of <i>Trade Wastes</i> in the Local Government Act 1974. • Align with the Council's Trade Waste Bylaw that (at the time of writing) is currently being drafted.
Relocated Building (currently no definition)	• Currently the Plan does not make a distinction between older relocated structures and new structures that are prefabricated prior to being moved onsite. • Including a definition would enable new prefabricated structures to be excluded from the requirements for relocated buildings, and therefore be able to be treated in the same manner as any other new building.
Dwelling (currently no definition) Residential Unit Means a residential activity which consists of a single self contained household unit,	• Revised Plan provisions seek to introduce the term <i>dwelling</i> to the provisions for the Residential zones. • To ensure that the term is interpreted and applied in a consistent manner, it is proposed to link it to the operative definition of <i>residential unit</i>, which is an overarching

Operative definition	Issues
whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.	definition that captures various means of providing residential activities.
Building Height (currently no definition)	• The Plan includes rules that specify maximum heights for buildings; however there is currently a gap in the guidance provided in the Plan insofar as it does not make clear the fact that building height is determined in conjunction with the operative definition of <i>Ground Level</i>. • Inserting a definition that explicitly links to the operative definition of <i>Ground Level</i> will assist Plan users. Furthermore, interpretive diagrams will provide a visual explanation of the application of these terms. • Changes to address these issues would not result in a change to the way building height is currently determined, they simply seek to assist with explaining the status quo approach in a clearer manner.
Recession Lines/Recession Planes	• The concept of <i>Recession Lines</i> is difficult to encapsulate in words and, despite the fact that the Plan defines this term; it often requires further explanation through enquiries to the Duty Planner. • The insertion of diagrams that provide a visual interpretation of the operative definition would assist Plan Users and subsequently reduce public enquiries.
Site – Front Means a site having one or more frontages to a road or private road, at least one such frontage to be not less than 6m.	• This is a duplication of the definition of <i>Front Site</i>. Consider deleting as the duplication isn't necessary.
Site - Rear Means a site which is situated generally to the rear or another site, both sites having access to the same road or private road, and includes sites which have no frontage to a road or private road of 6m or more.	• This is a duplication of the definition of <i>Front Site</i>. Consider deleting as the duplication isn't necessary.
Access Means that area of land over which a site or lot obtains legal vehicular and/or pedestrian access to a legal road. This land may include an access leg, a private way, common land as defined on a cross-lease or company-lease, or common property as defined in section 2 of the Unit Titles Act 1972.	• The Unit Titles Act 1972 was repealed in October 2012 by the Unit Titles Act 2010. • 'Common property' was defined by the 1972 Act (in the context of subdivision of land into units) as being: "...so much of the land as is not comprised in any unit." • The 2010 Act defines 'common property' as: (a) all the land and associated fixtures that are part of the unit title development but are not contained in a principal unit, accessory unit, or future development unit; and (b) in the case of a subsidiary unit title development, means that part of the principal unit subdivided to create the subsidiary unit title development that is not contained

Operative definition	Issues
	<i>in a principal unit, accessory unit, or future development unit</i> The Unit Titles Act 2010 definition provides greater detail as to the application of the term 'common property' and is the most up to date reference. Consider updating the definition to refer to replace the current reference to the Unit Titles Act 1972 with a reference to the 2010 Act.
Liquor Means any fermented, distilled, or spirituous liquor (including spirits, wine, ale, beer, port, honey mead, stout, cider the sherry) that is found on analysis to contain 1.15% or more alcohol by volume.	- This definition comes from the Sale of Liquor Act 1989, and includes a typographical error – “the sherry” should read “and perry”. - The Sale of Liquor Act 1989 was repealed in December 2013 by the Sale and Supply of Alcohol Act 2012, which defines ‘alcohol’ as: <i>“...a substance—</i> <i>(a) that—</i> <i>(i) is or contains a fermented, distilled, or spirituous liquor; and</i> <i>(ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or</i> <i>(b) that—</i> <i>(i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and</i> <i>(ii) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or</i> <i>(c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people</i> Consider replacing the operative wording with a reference to the Sale and Supply of Alcohol Act 2012.
Lot For the purpose of subdivision means a lot, two or more adjoining lots to be held together in the same ownership, or any balance area, shown on a subdivision consent plan, except that in the case of land being subdivided under the cross lease or company lease systems or the Unit Titles Act 1972, lot shall have the same meaning as site.	The Unit Titles Act 1972 was repealed by the Unit Titles Act 2010, consider altering the reference accordingly.
Potable Water Supply Means a water supply that meets the criteria of the ‘Drinking Water Standards for New Zealand 1995’ – Ministry of Health or later editions or amendments of the standards.	The standard referred to has been replaced by the “Drinking-Water Standards for New Zealand 2005 (Revised 2008)”, consider altering the reference accordingly.
Restaurant Means any land and/or buildings, or part of a building, in which meals are supplied for	The Sale of Liquor Act 1989 was revoked in December 2013 by the Sale and Supply of Alcohol Act 2012, amend the reference accordingly.

Operative definition	Issues
sale to the general public for consumption on the premises, including such premises which a licence has been granted pursuant to the Sale of Liquor Act 1989.	
Retail sales/Retail/Retailing Means the direct sale or hire to the public from any site, and/or the display or offering <u>for</u> sale or hire to the public on any site of goods, merchandise or equipment, but excludes recreational activities. (<i>emphasis added</i>)	• Correct the typographical error.
Registered Holiday Home Means a stand-alone or duplex residential unit which has been registered with the Council as a Registered Holiday Home pursuant to Part 2.1.13 of the Plan. For the purpose of this definition: (a) A stand-alone residential unit shall mean a residential unit contained wholly within a site and not connected to any other building; (b) A duplex residential unit shall mean a residential unit which is attached to another residential unit by way of a common or party wall, provided the total number of residential units attached in the group of buildings does not exceed two residential units; (c) Where the residential unit contains a residential flat, the registration as a Registered Holiday Home shall apply to either the letting of the residential unit or the residential flat but not to both. Advice Notes: (i) To obtain registration as a Registered Holiday Home the owner of the property must make an application for registration in accordance with Part 2.1.13 of the District Plan. (ii) There is no requirement to obtain registration for the non-commercial use of a residential unit by other people (for example making a home available to family and/or friends at no charge). Registered Homestay Means a Homestay used by up to 5 paying guests which has been registered as a Registered Homestay by the Council pursuant to Part 2.1.13 of the Plan.	• References to Part 2.1.13 of the Operative Plan will become redundant due to the criteria for registering a holiday home or homestay being removed from the Plan.

Operative definition	Issues
Advice Note: (i) To obtain registration as a Registered Homestay the owner of the property must make an application for registration in accordance with Part 2.1.13 of the District Plan.	

4. Purpose and Options

The overarching purpose of the Definitions Chapter of the District Plan is to provide clear interpretation of specific terms used in the Plan. This assists with interpretation of Plan rules and standards by removing any ambiguity as to how the terms are able to be applied, while also assisting with the enforceability of Plan standards.

Providing clear interpretation of how Plan standards are correctly applied is important for the overall effectiveness and efficiency of the Plan. The Definitions Chapter has a wide-ranging influence, however in particular it reflects the intent of the following parts of the proposed Strategic Directions Chapter:

Goal 1: To develop a prosperous, resilient and sustainable economy.

Goal 2: The strategic and integrated management of urban growth.

Goal 3: A quality built environment taking into account the character of individual communities.

Goal 6: To enable a safe and healthy community that is strong, diverse and inclusive for all people.

Determining the most appropriate methods to resolve the issues identified above will enable the Plan to give effect to the relevant parts of the Strategic Directions Chapter through managing development in a manner that meets the purpose of the Act.

Broad options considered to address issues

Three broad options were considered to address the issues:

Option1: Status Quo / No change: Retain the current definitions.

Option 2 (recommended): Amend definitions to address the various issues.

Option 3: Remove the definitions: delete the definitions and rely on a 'layman's' interpretation.

The costs and benefits of these options are evaluated in the table below:

	Option 1: Status quo/ No change	Option 2: Amend definitions to address the various issues	Option 3: Remove the definitions
Costs	Does not address the identified issues. Definitions with outdate references may be open to challenge, decreasing the enforceability of Plan standards.	Costs associated with critically examining the definitions and determining the best solution to addressing issues. In some instances the best solution may result in substantive changes, which Plan users will need to familiarise with.	Removing the definitions entirely would decrease the Plan's operability and provide less certainty for Plan users. Decreased efficiency for Council Officers, who would need to provide interpretation on an ad hoc basis. Would undermine the ability for Plan standards to be effectively implemented and enforced, with greater scope for interpretation to be challenged.
Benefits	Retains the established approach which parties are familiar with.	Broadly retains the established approach but improves where necessary for clarity and to assist implementation. Provides certainty as to how the terms are correctly and consistently applied in the specific context of this District. Enables consideration to be given to making substantive changes to the definitions reviewed herein. Enables any references to legislation to be updated, where necessary.	Would reduce the volume of text in the Plan, which may increase general legibility.
Ranking	2	1	2

5. Scale and Significance Evaluation

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

- Result in a significant variance from the existing baseline.
- Have effects on matters of national importance.
- Adversely affect those with specific interests, e.g, Tangata Whenua.
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

In this case the scale of the proposed amendments is minor; however the significance is moderate, given that the terms are applied throughout the Plan.

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

Council is required to undertake an evaluation of the proposed objectives of a proposal. In this instance no District Plan 'objectives' are being considered for review, however the objective of this plan change is to provide definitions that are clear, easy to understand and unambiguous, as well as overcoming the various issues highlighted in Section 3 of this report.

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

The proposed changes to definitions are detailed in **Appendix 1** to this report, and should be read in conjunction with the table below which considers the costs, benefits, effectiveness and efficiency of the proposed amendments.

(See also Table of options in Section 5 above.)

Proposed Provisions	Costs	Benefits	Effectiveness and Efficiency
<u>Revised definition:</u> Residential Flat	The proposed changes would restrict residential flats to a maximum floor area of 70m² (excluding garages and carports). This is a shift from the current regime that sees the maximum floor area dictated by the gross floor area of the structure the flat is attached to. As a result the revised definition will result in more restrictive limits in some instances. There would be a continuation of the status quo in respect of the taking of development contributions and additional rates for residential flats. This regime is in place because of the ability for residential flats to be leased to another party for financial gain. Development contributions are taken irrespective of whether the developer intends to lease the residential flat.	The revised definition seeks to ensure that residential flats are built to a limited scale to ensure they remain ancillary to the main residential unit. The 70m² limit is still enabling enough to ensure that a basic 1 to 2 bedroom flat can be constructed. Excluding garages and carports from the 70m² limit means that the limit only applies to the 'habitable' floor area of a residential flat. This enables additional storage areas to be accommodated within a garage where necessary. It means that a garage or carport does not need to be dedicated to either the residential flat or the residential unit – thus enabling flexibility in the use of accessory buildings on the site as a whole. The requirement for the residential flat to contain no more than one kitchen seeks to restrict any ability for the flat to be further separated into self-contained units. The requirement that the flat remain in the same ownership and on the same site as the residential unit, but can be leased to another party, is a continuation of the status quo approach. It seeks to strike a balance between enabling diverse and affordable forms of housing and	The proposed changes are effective and efficient insofar as they address the issues with the operative definition. The revised definition still enables residential flats to be leased to another party, adding to the diversity of housing options without undermining density standards.

<i>Proposed Provisions</i>	<i>Costs</i>	<i>Benefits</i>	<i>Effectiveness and Efficiency</i>
		maintaining Plan density standards. Traditionally, residential flats provide accommodation that supplements that provided by a main dwelling – usually for a family member, with no limit on whether occupation of the structure is on a long term or intermittent basis. As such, occupation of a flat by a tenant is not considered to cause effects over and above their ‘traditional’ use. The taking of development contributions and additional rates for residential flats is a continuation of the status quo approach. This requirement dovetails with the ability for flats to be rented out, thereby providing a source of income for the site owner, and enabling accommodation for an additional household unit. Providing a note that clarifies that development contributions and additional rates apply is an ‘up-front’ approach aimed to assist Plan users with understanding the costs associated with establishing a residential flat. Residential flats, even if listed as a permitted activity in the Plan, would still be required to comply with the relevant bulk and location standards applied through the zone provisions. In particular, site coverage, setbacks and onsite parking requirements will influence the scale and location of flats. This has particular relevance for more densely developed residential areas. In considering the effects on residential amenity, the operative definition (last reviewed by Plan Change 7, which	

Proposed Provisions	Costs	Benefits	Effectiveness and Efficiency
		became operative in March 2008) has not achieved what it set out to. Regarding the amenity effects, of particular note is the arm of the operative definition that enables flats to be “<i>attached to a detached accessory building [but] does not cover more than 50% of the Gross Floor Area of the building containing the flat and detached accessory building</i>”. With the absence of a limit on the scale of the flat, instances have occurred on sites with sufficient site coverage capacity where an oversized garage is constructed in order to maximise the floor area of the attached flat. The resultant development reads as a dwelling with a large attached utility area. There is clearly appetite for residential flats to be able to be physically separate from the main residential unit on a site. The proposed amendments enable this. Placing a limit on the maximum floor area seeks to ensure that a flat is at a lesser scale than the main dwelling. A flat could still be attached to a large accessory building, however the scale of the flat (or the resultant ‘habitable’ part of the overall structure) would remain at a limited scale. This is considered to be a more appropriate method of addressing the amenity effects that arise from residential flats, when compared to the status quo approach.	
<u>Revised definition:</u> Building	Plan users would need to become familiar with the proposed changes. Costs associated with researching and	The overarching benefits of the proposed changes are that they enable the definition to be updated to reference the Building	This is an effective and efficient means of clarifying which structures are to be considered within the ambit of a ‘building’.

Proposed Provisions	Costs	Benefits	Effectiveness and Efficiency
	implementing the proposed changes. Maintaining the same structure as the operative definition requires a Plan user to refer to the Building Act 2004, rather than including the full wording of the definition within the Plan itself.	Act 2004, and for consideration to be given to certain structures to be exempt from the definition. The definition is structured in the same manner as the operative definition, and as such has a degree of familiarity for Plan users. Providing a reference to the Building Act 2004, rather than reproducing the relevant part of the Act within the definition assists with avoiding Plan clutter. The Building Act 2004 is readily available to be viewed online. The structures that are exempted by the revised definition have been identified through Plan monitoring as those that currently technically require consent when there is a catch-all rule requiring consent for all buildings. However, these are structures that are either anticipated or have limited effects. In sensitive locations, such as Outstanding Natural Landscapes (ONLs), the construction and location of <i>structures</i> is still able to be considered, so the exemptions to the revised definition of <i>building</i> would not apply in that instance.	Exempting some anticipated structures from the definition enables Plan standards that apply to 'buildings' to be implemented in an efficient manner that avoids repetition and unnecessary clutter in the Zone chapters.
<u>Revised definition:</u> External Appearance	Plan users would need to become familiar with the proposed changes; however the changes will have little effect, as they formalise the status quo. Costs associated with researching and implementing the proposed changes.	The proposed changes add consideration of the materials of construction and colour of roofs, joinery and any external fixtures to buildings, which aligns the definition with the building elements considered in practice when assessing resource consent applications. This enables current practice to be formalised.	Enables policies and rules that seek to influence the external appearance of buildings to be effectively and efficiently implemented by removing any ambiguity regarding the application of the term.

<i>Proposed Provisions</i>	<i>Costs</i>	<i>Benefits</i>	<i>Effectiveness and Efficiency</i>
<u>Revised definition:</u> <i>Domestic Livestock</i>	Plan users would need to become familiar with the proposed changes. Costs associated with researching and implementing the proposed changes. The changes would limit the number and gender of chickens permitted in the non-rural zones and place a limit of one adult rooster in the Rural Residential Zone. The limits may be considered by some people to be too restrictive.	The operative definition is out of step with the livestock that could be appropriately accommodated within the District's non-rural and rural-residential environments. The changes in particular focus on the keeping of chickens and roosters, which are not currently adequately addressed either by the District Plan or a Council Bylaw. The revised definition clarifies the status of an activity that fails to meet the parameters of the definition. This gives Plan users greater certainty as to the correct application of the term. Other methods that sit outside the Plan would be relied on to ensure that any requirements to provide for animal welfare are met.	The proposed changes would increase the effectiveness and efficiency of the definition by updating it to address the issues arising from livestock, particularly in the Residential and Rural Residential Zones.
<u>Revised definition:</u> <i>Adjoining</i>	Plan users would need to become familiar with the proposed changes. Costs associated with researching and implementing the proposed changes. The proposed changes limit the scope of the definition so it applies only in the context of subdivision. Relies on a plain meaning of the term when applying it to other matters addressed by the Plan, which may open it up to ambiguous interpretations.	Enables the term to be aligned with its use in the RMA, which is limited in scope to apply to subdivisions. Aligns the application of the term with its use in practise. The changes are minor, of a corrective nature, and would not result in a substantive change to the way the term is applied in practice. Enables Plan performance standards applied at an 'adjoining' boundary to be applied at the point where the sites connect, which is consistent with the plain meaning of the term.	The proposed changes would see the operative definition of <i>adjoining</i> brought into line with the scope of its application in the RMA. Aligning the application of the term in the Plan with that of the RMA would increase the effectiveness and efficiency of its application, and also enable the term to align with its use in practise.

<i>Proposed Provisions</i>	<i>Costs</i>	<i>Benefits</i>	<i>Effectiveness and Efficiency</i>
<u>Revised definition:</u> <i>Trade Waste</i>	None.	Currently the Plan refers to a definition of Trade Wastes detailed in the Local Government Act 1974, however no such definition exists. The proposed definition is the same as that being introduced through Council's draft Trade Waste Bylaw (at the time of writing. Incorporating the same definition into the Plan is an opportunity to streamline Council's application of the term. Enables Plan standards that refer to Trade Waste to be effectively implemented.	The proposed changes assist with the effective and efficient implementation of Plan standards relating to Trade Waste.
<u>New definition:</u> <i>Relocated Building</i>	None – inclusion of the new definition formalises the status quo and does not result in any change in policy.	Providing a definition enables a distinction to be made between 'used' relocated buildings and new ones that are prefabricated off-site. Acknowledges that prefabricated buildings are becoming an affordable and increasingly popular option for new development. The wording of the definition aligns with Plan standards that refer to consent being sought when the relocated building is moved to <i>another site</i> i.e. consent is not automatically required when moving a building within a site. This approach aligns with Council's Practice Note 7/2015.	Enables the operative policy approach to relocated buildings to be effectively and efficiently implemented.
<u>New definition:</u> <i>Dwelling</i>	None.	Facilitates the inclusion of the term <i>dwelling</i> in District Plan provisions.	The proposed changes are mainly administrative, however they are considered to increase the effectiveness

Proposed Provisions	Costs	Benefits	Effectiveness and Efficiency
<u>Revised definition:</u> Residential Unit		Anchors the term to the existing definition of <i>Residential Unit</i>. This ensures that Plan users are aware that a dwelling must meet the same parameters as a residential unit, including the limit of one kitchen. Ensures a consistent approach to how the term <i>dwelling</i> is interpreted.	and efficiently of the Plan by ensuring that Plan users are aware how the term <i>dwelling</i> should be correctly applied.
<u>Definition to be added:</u> Building Height <u>Definition to be amended:</u> Ground Level	The inclusion of diagrams adds length to the Definitions Chapter, which makes it less compact and concise.	Seeks to take a clearer and more transparent approach to how building height is determined in conjunction with the definition of ground level. Interpretive diagrams assist with explaining these concepts. The terms have relevance to any proposal for a building, as buildings are subject to the maximum building height rules detailed in the respective Zone Chapters. Therefore articulating these concepts in a manner that is clearer and more accessible to Plan users will increase the legibility of the Plan and reduce the need for further explanation to be provided by the Duty Planner.	The proposed changes enable the operative definitions to be more effectively and efficiently articulated.
<u>Definition to be amended:</u> Recession Lines/<u>Recession Plane</u>	The inclusion of diagrams adds length to the Definitions Chapter, which makes it less compact and concise.	Seeks to articulate how recession lines are applied by showing the process in diagrams. Many Zone Chapters have a rule requiring buildings to be within prescribed recession lines. Therefore articulating this concept in a manner that is clearer and more accessible to Plan users will increase the legibility of the Plan and reduce the need	The proposed changes enable the operative definition to be more effectively and efficiently articulated.

<i>Proposed Provisions</i>	<i>Costs</i>	<i>Benefits</i>	<i>Effectiveness and Efficiency</i>
		for further explanation to be provided by the Duty Planner. Including a reference to <i>Recession Plane</i> acknowledges that the term is often used interchangeably with the term <i>Recession Line</i>.	
<u>Definitions to be deleted:</u> <i>Site – Front</i> <i>Site – Rear</i>	None.	The definitions are a duplication of the definitions <i>front site</i> and <i>rear site</i> . The duplication is considered to be unnecessary and of little benefit to Plan users.	The proposed changes are administrative, however they are considered to increase the effectiveness and efficiency of the Plan by removing unnecessary duplication.
Changes required to address outdated references and correct typographical errors <u>Revised definitions:</u> <i>Access</i> <i>Liquor</i> <i>Lot</i> <i>Potable water supply</i> <i>Restaurant</i> <i>Retail sales /Retail/ Retailing</i> <i>Registered Holiday Home</i> <i>Registered Homestay</i>	The changes are made to correct outdated references and typographical errors, therefore they will have minor costs, if any. In instances where the updated reference refers to a definition included in legislation that has been amended, and the definition wording used there-in has been revised, the revised meaning of the term will apply. Plan users will therefore need to become familiar with the updated reference and any subsequent alterations to the definition caused as a result.	The purpose of these changes is either for administrative or technical, non-policy purposes.	The proposed changes effectively and efficiently address the issues by ensuring that the correct reference is used.

8. Efficiency and effectiveness of the provisions.

The above definitions are amended to specifically address the identified resource management issues. Through the inclusion of the proposed changes the provisions of the Plan are strengthened, and the terms will continue to be applied consistently throughout the Plan and to assist Plan users. In particular, the substantive changes to the definitions of *building* and *residential flat* enable the definitions to be updated and simplified where possible to address the identified issues.

9. The risk of not acting.

The changes proposed here-in seek to assist the District Plan's ability to effectively address the known resource management issues and ultimately assist with giving effect to the purpose of the Act. Stage 2 of the District Plan Review will provide a further opportunity to amend the District Plan definitions that have not been specifically reviewed in this assessment.

It is considered that there is sufficient information available on which to base the above evaluation.

Appendix 1

Chapter 2: Definitions to be amended

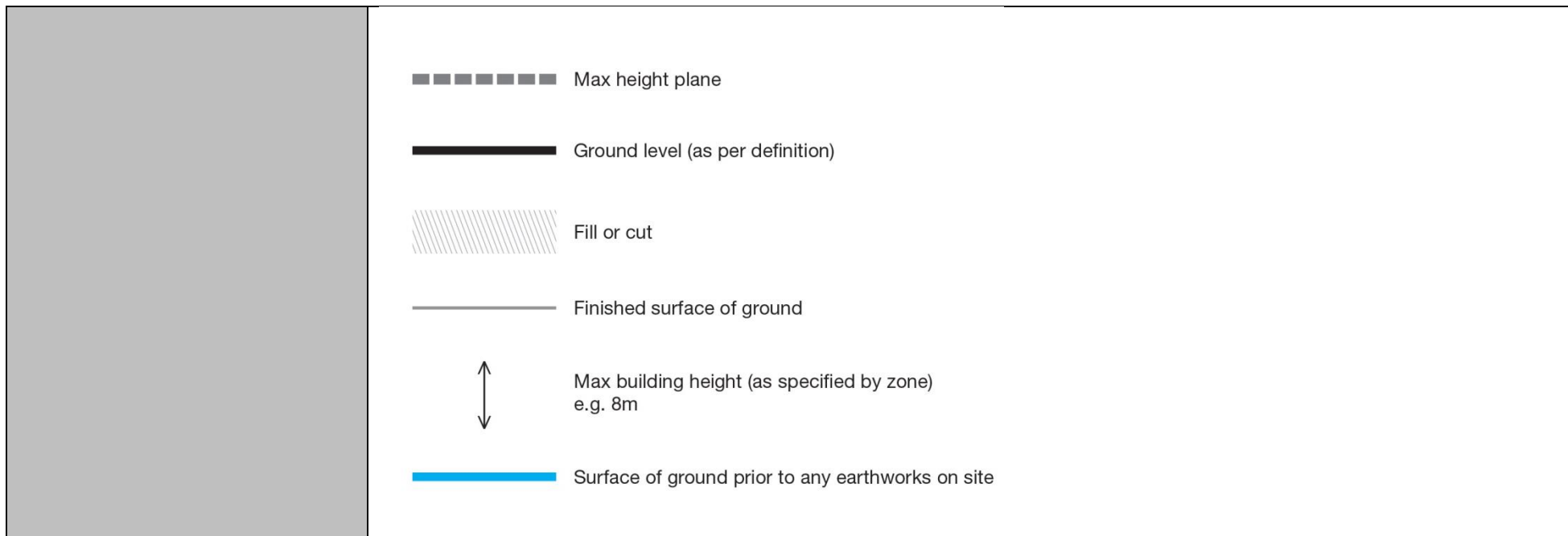
Strike-through means text to be deleted

Underline means new text to be added

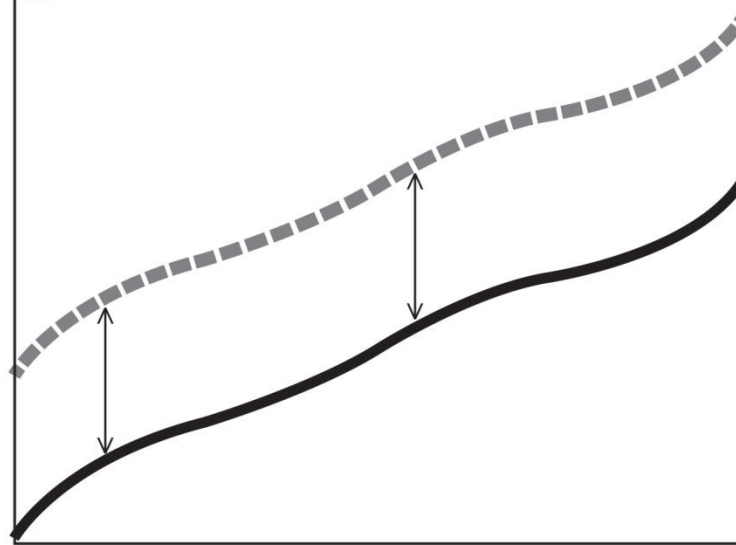
RESIDENTIAL FLAT	Means a residential activity that: • Consists of no more than one flat in the same ownership as the residential unit; and • Is contained within the same residential unit; and • If attached to a detached accessory building does not cover more than 50% of the total Gross Floor Area of the building containing the flat and detached accessory building; and • Contains no more than one kitchen and one laundry; and Does not cover more than 35% of the total Gross Floor Area of the building(s) containing the residential unit and flat (but excluding accessory buildings). <u>Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:</u> <u>a) Has a total floor area not exceeding 70m², not including the floor area of any garage or carport;</u> <u>b) contains no more than one kitchen facility;</u> <u>c) is limited to one residential flat per residential unit; and</u> <u>d) is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.</u> <u>Notes:</u> <u>1. A proposal that fails to meet any of the above criteria will be considered as a residential unit.</u> <u>2. Development contributions and additional rates apply.</u>
BUILDING	Shall have the same meaning as in the Building Act 1991, but does not include: — Fences or walls of 2m in height or less above ground level or retaining walls or 2m in height or less below ground level, not used for a sign or for any purpose other than as a fence, retaining wall or wall. — Structures less than 5m² in area and in addition less than 2m in height above ground level. — Radio and television aerials (excluding dish antennae for receiving satellite television which are greater than 1.2m in diameter), less than 2m in height above ground level. — Masts and poles less than 2m in height above ground level. — The upgrading and extension to the Arrow Irrigation Race provided that this exception only applies to upgrading and

	extension works that involve underground piping of the Arrow Irrigation Race. Building includes the construction, erection, alteration, relocation or placement on a site of a building. <u>Shall have the same meaning as the Building Act 2004, with the following exemptions in addition to those set out in the Building Act 2004:</u> • <u>Fences and walls not exceeding 2m in height.</u> • <u>Retaining walls that support no more than 2 vertical metres of earthworks.</u> • <u>Structures less than 5m² in area and in addition less than 2m in height above ground level.</u> • <u>Radio and television aerials (excluding dish antennae for receiving satellite television which are greater than 1.2m in diameter), less than 2m in height above ground level.</u> • <u>Uncovered terraces or decks that are no greater than 1m above ground level.</u> • <u>The upgrading and extension to the Arrow Irrigation Race provided that this exception only applies to upgrading and extension works than involve underground piping of the Arrow Irrigation Race.</u> • <u>Flagpoles not exceeding 7m in height.</u> • <u>Building profile poles, required as part of the notification of Resource Consent applications.</u> • <u>Public outdoor art installations sited on Council-owned land.</u> • <u>Pergolas less than 2.5 metres in height either attached or detached to a building.</u> <u>Notwithstanding the definition set out in the Building Act 2004, a building shall include:</u> • <u>Any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on a site for residential accommodation for a period exceeding 2 months.</u>
EXTERNAL APPEARANCE	In relation to buildings means the bulk and shape of the building including roof pitches, the materials of construction and the colour of exterior walls, <u>joinery, roofs and any external fixtures.</u>
DOMESTIC LIVESTOCK	Means: — Not more than 2 sows and their progeny up to weaner stage or not more than 5 weaned pigs; and not more than 12 adult poultry in an Urban or Residential Zone or not more than 50 adult poultry in a Rural or Rural Living Zone; bred, reared and/or kept on a property; and Any number of livestock bred, reared and/or kept on a property for family consumption, or as pets, or for hobby purposes and from which little or not financial gain is derived. <u>means the keeping of livestock, excluding that which is for the purpose of commercial gain.</u> • <u>In all Zones, other than the Rural General, Rural Lifestyle and Rural Residential Zones, it is limited to 5 adult poultry, and does not include adult roosters; and</u> • <u>In the Rural General, Rural Lifestyle and Rural Residential Zones it includes any number of livestock bred, reared and/or kept on a property in a Rural Zone for family consumption, as pets, or for hobby purposes and from which no financial gain is derived, except that in the Rural Residential Zone it is limited to only one adult rooster per site.</u>

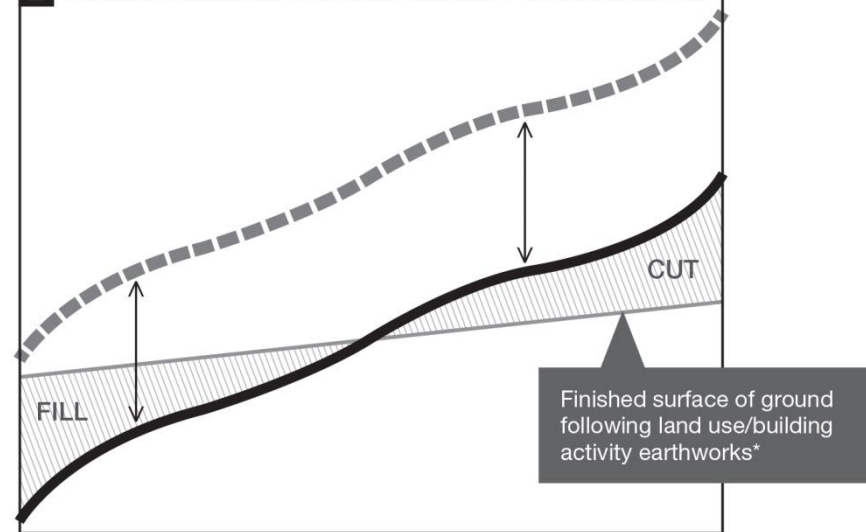
	<u>Note: Domestic livestock not complying with this definition shall be deemed to be commercial livestock and a farming activity as defined by the Plan.</u>
<u>ADJOINING LAND</u>	<u>In relation to subdivision, Land shall be deemed to be adjoining other land, notwithstanding that it is separated from the other land only by a road, railway, drain, water race, river or stream.</u>
<u>TRADE WASTES</u>	Shall have the same meaning as in the Local Government Act 1974. <u>Means any water that is used in a commercial or industrial process, and is then discharged to the Council's waste water system.</u>
<u>RELOCATED BUILDING</u>	<u>means a building which is removed and re-erected on another site, but excludes new buildings that are purpose built for relocation.</u>
<u>DWELLING</u>	<u>See definition of RESIDENTIAL UNIT.</u>
<u>RESIDENTIAL UNIT</u>	<u>Means a residential activity (including a dwelling) which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.</u>
<u>BUILDING HEIGHT</u>	<u>Means the finished height of a building or structure measured from ground level. See interpretive diagrams below and definition of GROUND LEVEL.</u>



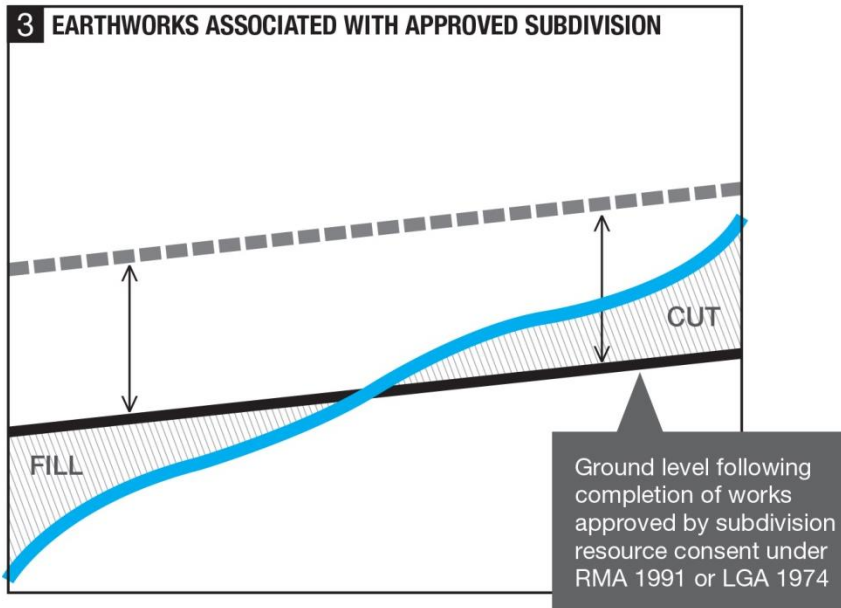
1 NO EARTHWORKS



2 EARTHWORKS ASSOCIATED WITH LAND USE / BUILDING ACTIVITY



*Note earthworks may require resource consent



GROUND LEVEL

Ground Level means:

The surface of the ground prior to any earthworks on the site, except that where the surface of the ground has been altered through earthworks carried out as part of a subdivision under the Resource Management Act 1991 or Local Government Act 1974 “ground level” means the finished surface of the ground following completion of works associated with the most recently completed subdivision.

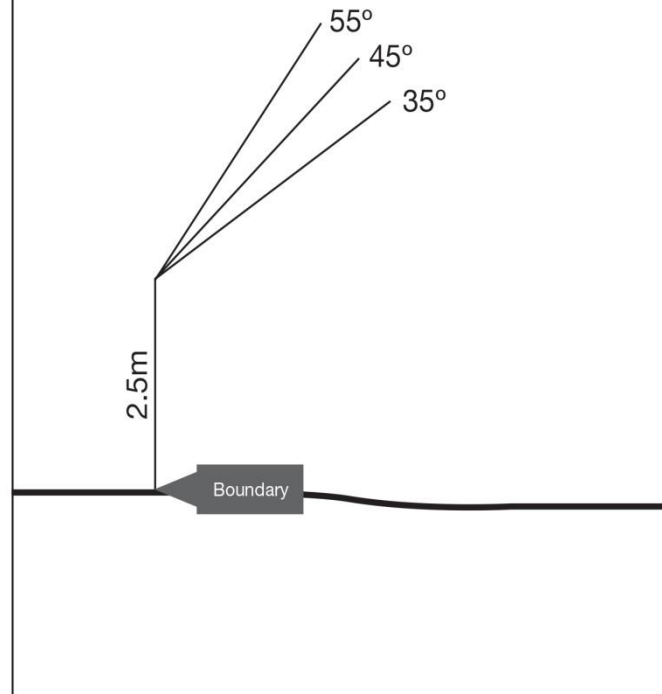
- “Earthworks” has the meaning given in the definition of that term in this Plan and includes earthworks carried out at any time in the past.
- “Completed subdivision” means a subdivision in respect of which a certificate pursuant to section 224(c) of the Resource Management Act 1991 or a completion certificate under the Local Government Act 1974 has been issued.
- “Earthworks carried out as part of a subdivision” does not include earthworks that are authorized under any land use consent for earthworks, separate from earthworks approved as part of a subdivision consent.
- This definition does not apply to Rules 10.6.5.1 (xi)(a) and (b), which set out special height rules for the area bounded by Man, Hay, Brecon and Shotover Streets in the Queenstown town centre.

Note

1. See interpretive diagram in the definition of BUILDING HEIGHT.

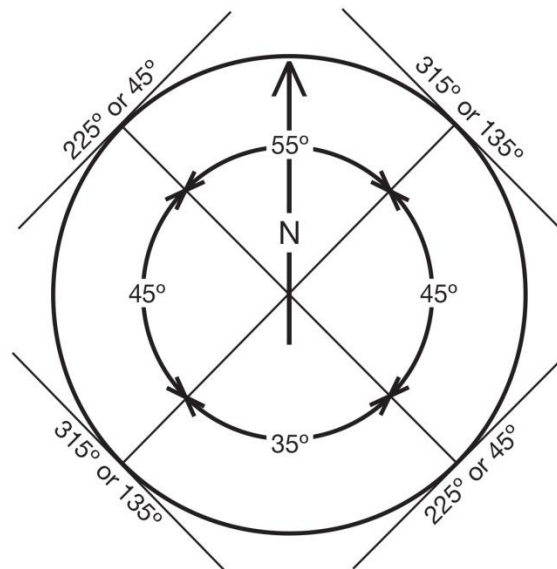
	2. Ground level interpretations are to be based on credible evidence including existing topographical information, site specific topography, adjoining topography and known site history. 3. Changes to the surface of the ground as a result of earthworks associated with building activity do not affect the “ground level” of a site. 4. Subdivision that does not involve earthworks has no effect on “ground level”. 5. Special height rules apply in the area bounded by Man, Hay, Brecon and Shotover Streets, where “original ground level” is used. “Original ground level” is not affected by the definition of “ground level” above, which applies elsewhere. This definition does not affect or supersede the definition of “Ground Level” for the Remarkables Park Zone or the Industrial B Zone (Connell Terrace Precinct).
RECESSION LINES / <u>RECESSION PLANE</u>	Means the lines constructed from points or above a boundary surface or a road surface, the angle of inclination of which is measured from the horizontal, at right angles to a site boundary and in towards the site. <u>See interpretive diagrams below.</u>

1 RECESSION LINE APPLICATION



2 RECESSION LINE INDICATOR

Place outside of circle to inside of site boundary



NOTE: North is True North.
Bearings on the circle increase in a clockwise direction.
Where a boundary is on a line between two directions, the more restrictive recession plane shall apply.

SITE FRONT

~~Means a site having one or more frontages to a road or private road, at least one such frontage to be not less than 6m.~~

SITE REAR

~~Means a site which is situated generally to the rear of another site, both sites having access to the same road or private road, and includes sites which have no frontage to a road or private road of 6m or more.~~

ACCESS

Means that area of land over which a site or lot obtains legal vehicular and/or pedestrian access to a legal road. This land may include an access leg, a private way, common land as defined on a cross-lease or company-lease, or common property as defined in section 2 of the Unit Titles Act ~~1972~~ 2010.

LIQUOR	Means any fermented, distilled, or spirituous liquor (including spirits, wine, ale, beer, port, honey mead, stout, cider the sherry) that is found on analysis to contain 1.15% or more alcohol by volume. <u>Shall have the same meaning as <i>alcohol</i> as defined in the Sale and Supply of Alcohol Act 2012.</u>
LOT	For the purpose of subdivision means a lot, two or more adjoining lots to be held together in the same ownership, or any balance area, shown on a subdivision consent plan, except that in the case of land being subdivided under the cross lease or company lease systems or the Unit Titles Act 1972 <u>2010</u> , lot shall have the same meaning as site.
POTABLE WATER SUPPLY	Means a water supply that meets the criteria of the 'Drinking Water Standards for New Zealand 1995 <u>2005 (revised 2008)</u> ' – Ministry of Health or later editions or amendments of the standards.
RESTAURANT	Means any land and/or buildings, or part of a building, in which meals are supplied for sale to the general public for consumption on the premises, including such premises which a licence has been granted pursuant to the Sale of Liquor Act 1989 <u>Sale and Supply of Alcohol Act 2012</u> .
RETAIL SALES/RETAIL/RETAILING	Means the direct sale or hire to the public from any site, and/or the display or offering for <u>for</u> sale or hire to the public on any site of goods, merchandise or equipment, but excludes recreational activities.
REGISTERED HOLIDAY HOME	Means a stand-alone or duplex residential unit which has been registered with the Council as a Registered Holiday Home pursuant to Part 2.1.13 of the Plan. For the purpose of this definition: (a) A stand-alone residential unit shall mean a residential unit contained wholly within a site and not connected to any other building; (b) A duplex residential unit shall mean a residential unit which is attached to another residential unit by way of a common or party wall, provided the total number of residential units attached in the group of buildings does not exceed two residential units; (c) Where the residential unit contains a residential flat, the registration as a Registered Holiday Home shall apply to either the letting of the residential unit or the residential flat but not to both. Advice Notes: (i) To obtain registration as a Registered Holiday Home the owner of the property must make an application for registration in accordance with Part 2.1.13 of the District Plan. (i) <u>A formal application must be made to the Council for a property to become a Registered Holiday Home.</u> (ii) There is no requirement to obtain registration for the non-commercial use of a residential unit by other people (for example making a home available to family and/or friends at no charge).

REGISTERED HOMESTAY	Means a Homestay used by up to 5 paying guests which has been registered <u>with the Council</u> as a Registered Homestay. by the Council pursuant to Part 2.1.13 of the Plan. Advice Note: (i) <u>A formal application must be made to the Council for a property to become a Registered Homestay.</u> _____ To obtain registration as a Registered Homestay the owner of the property must make an application for registration in accordance with Part 2.1.13 of the District Plan.
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