

Appendix G

A copy of the relevant part of the Decision

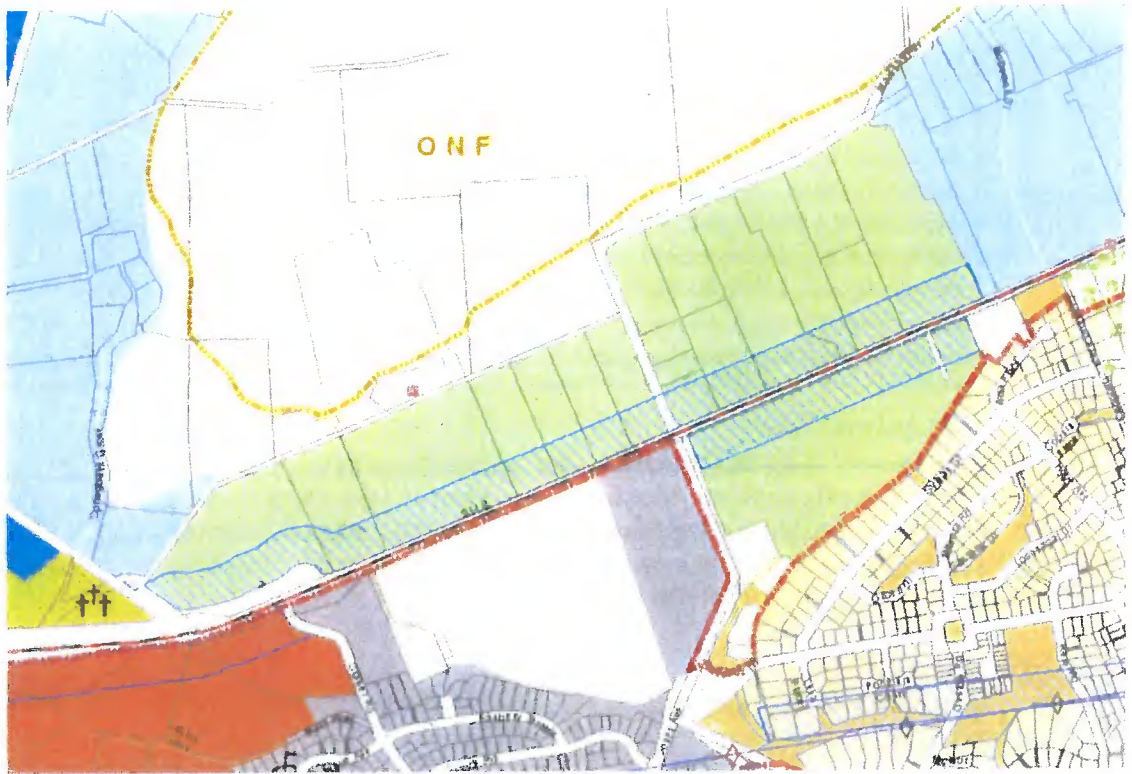


Figure 11: Recommended Zoning and Map Notations along Ladies Mile

4. PLANNING MAP NOTATIONS AND ZONING OF LAND ADJOINING THE SOUTHERN BOUNDARY OF LAKE HAYES ESTATE

4.1. Description of Relevant Areas and Issues

72. Bridesdale Farm Developments Ltd³⁹ and S. Crawford⁴⁰ requested the land shown in Figures 12 and 13 below, be zoned Medium Density Residential.

³⁹ Submission 655, opposed by FS1064, FS1071, FS1340

⁴⁰ Submission 842, opposed by FS1340

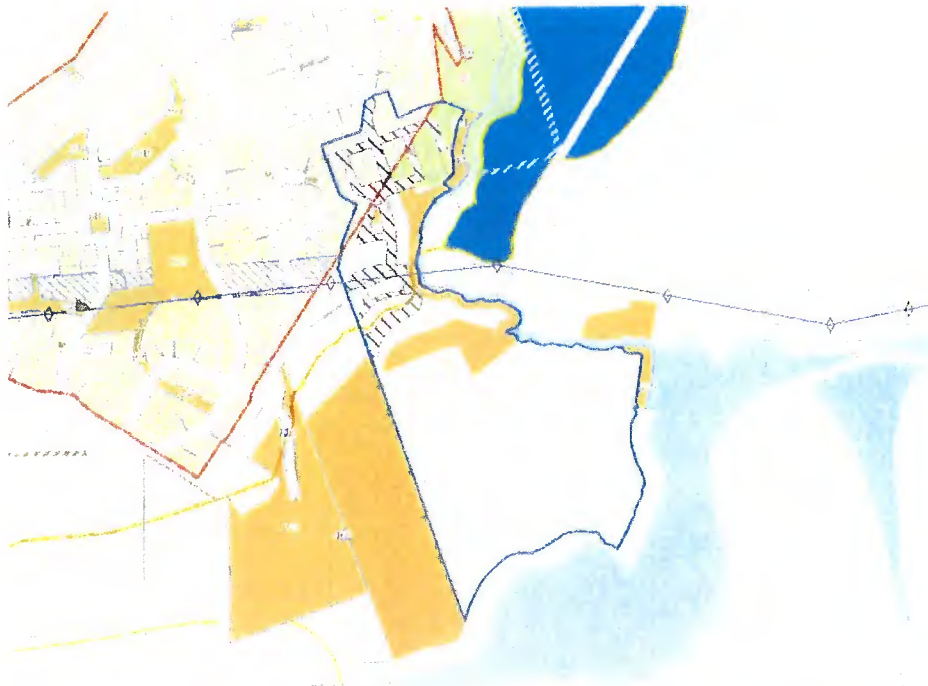


Figure 12: The area outlined in blue denotes the extent of the rezoning request in Submission 655, as per A. Vanstone, Section 42A Report, Figure 22

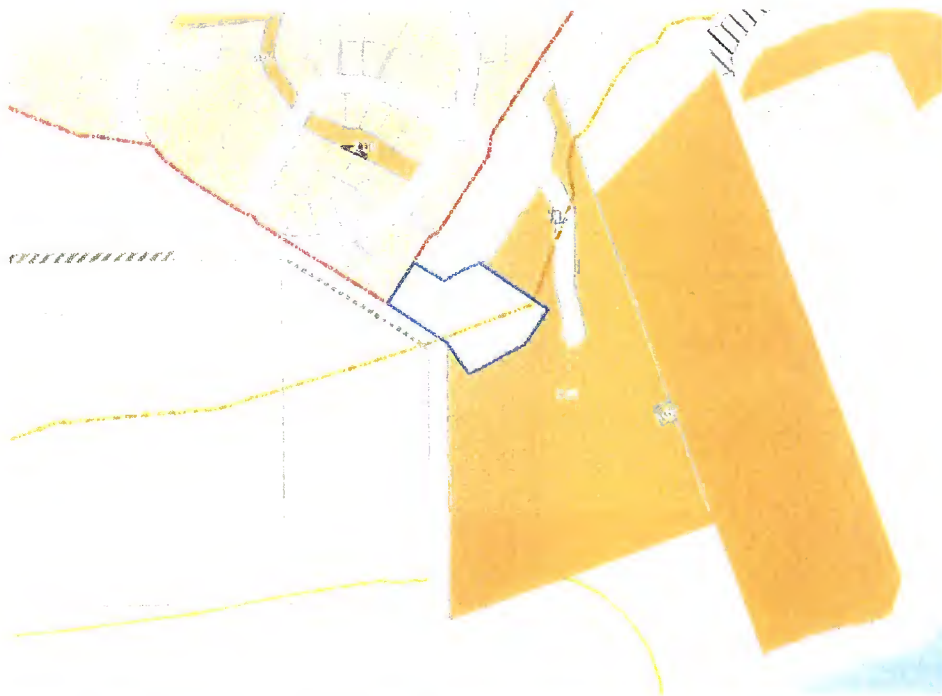


Figure 13: The area outlined in blue denotes the extent of the rezoning request in Submission 842, as per A. Vanstone, Section 42A Report, Figure 33

73. J. & R. Barnford⁴¹ requested the land shown in Figure 14 below either retain the rural zoning as notified or alternatively, be zoned either Rural Living or low density urban to be consistent with the Bridesdale Farm outcome.

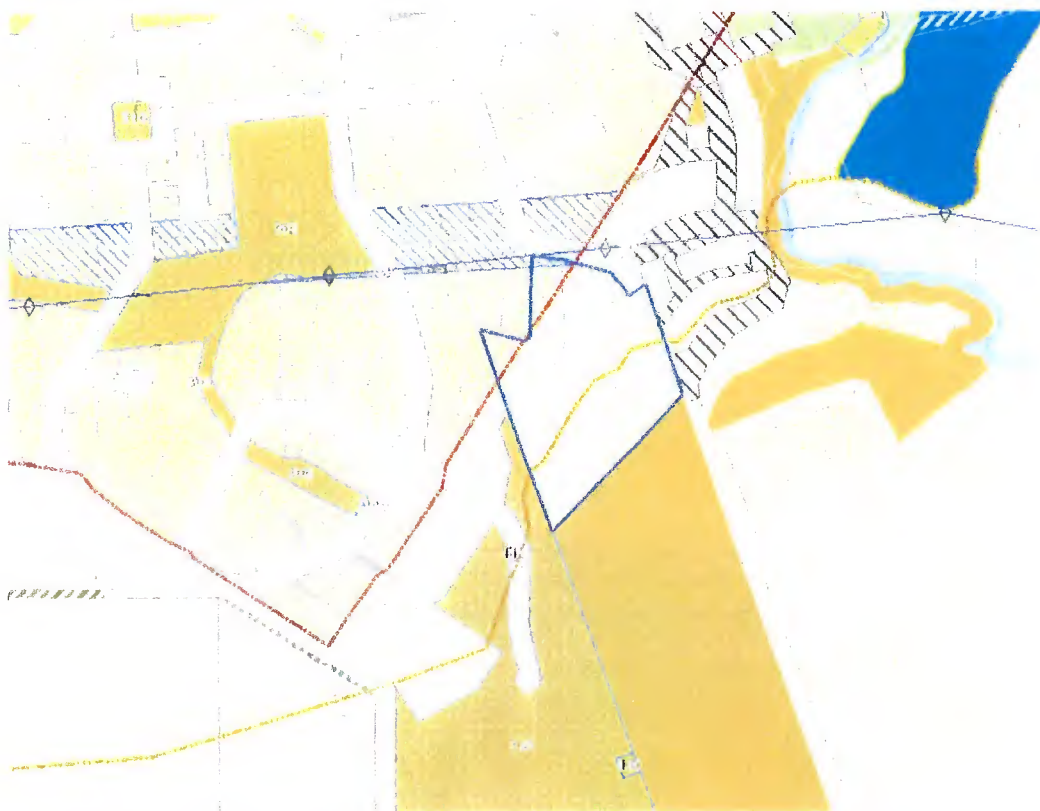


Figure 14: The area outlined in blue denotes the extent of the rezoning request in Submission 492, as per A. Vanstone, Section 42A Report, Figure 27

74. M. McDonald and S. Anderson⁴² requested that the Stage 1 zoning be retained and that the zoning of the properties at 45A-C Erskine Street reflect the private covenants applying to these properties that restrict any further development.
75. The key areas of disagreement between the parties who appeared at the hearing related to aircraft noise effects, landscape values and planning.

4.2. Aircraft noise effects

76. Mr Kyle, the planning witness for QAC, considered that Ms Vanstone had not afforded appropriate weight to aircraft noise effects. Nonetheless, he supported her overall recommendation to reject the zoning requests. We have discussed this issue in Section 2.10 of Report 18.1.
77. We accept Mr Kyle's evidence insofar as we agree that it is not appropriate for land in the Outer Control Boundary (OCB)⁴³ for the airport to be zoned Lower Density Suburban Residential or

⁴¹ Submission 492, opposed by FS1261

⁴² Submission 451, opposed by FS1261

⁴³ As sought in submission 850

any other zone that would lead to activities sensitive to aircraft noise being established within the OCB.

4.3. Landscape

78. Mr Skelton was the only landscape expert to give evidence in support of one of the submissions⁴⁴ to rezone land in this area. No other submitters called landscape evidence in support of their requests.

79. We have already discussed Mr Skelton's evidence in relation to the request to amend the ONL boundary adjacent to Kawarau River. We turn now to his evidence in support of the zoning request.

80. There was no issue, from a landscape perspective, concerning the rezoning request for the part of the land outside the ONL which had been developed for residential purposes under consent SH150001. However, the submission also sought that an area along the escarpment south of the road built down the escarpment also be zoned Medium Density Residential. This land is within the ONL as notified and as recommended. We note that the submitter also sought the rezoning of the river flats as Active Sport and Recreation. That submission was heard in Stream 15 and reported on in Report 19.6.

81. Mr Skelton asserted that Ms Mellsop and Ms Vanstone used the landscape category boundary as the key reason to reject the requested Medium Density Residential zoning⁴⁵. For this reason, he provided an assessment in support of the rezoning on the escarpment as if it were part of an ONL and considered the effects of a potential 9 – 10 houses at his location.

82. He considered that the river flats were transitioning from a pastoral character to an urban parkland character and instanced the presence of the garden allotments and sheds, together with the trails and parking areas. He stated that⁴⁶:

"I walked this land on several occasions and the natural character of the lands east of the site associated with Morven Hill and Hayes Creek are significantly more appreciable in their natural character. I acknowledge that the natural character of the escarpment will be enhanced as native planting matures, however it will continue to be wedged between an urban and urban park like landscape character."

83. Mr Skelton concluded that the Medium Residential Density Zone was appropriate and future houses would be viewed from the riverside trail against the backdrop of the escarpment. The view towards the Remarkables ONL would be in the context of the sheds in the garden allotments and in his view would not adversely affect the overall visual amenity of the landscape.

84. We turn now to the evidence we heard from Ms Mellsop in relation to the rezoning requests. She advised us that her assessment had considered the increasing urbanisation in the Ladies Mile area generally and in respect of specific sites.

⁴⁴ Submission 655

⁴⁵ S. Skelton, Evidence in Chief at 41

⁴⁶ Ibid. at 44

85. Ms Mellsoy opposed the request for Medium Density Residential zoning of the Crawford⁴⁷ land and recommended Low Density Residential Zone⁴⁸ for those parts of the site outside the ONL.
86. Ms Mellsoy opposed the request for Low Density Residential of the Bamford land, both within and outside the ONL. She considered the topography of the escarpments and terraces adjacent to the ONL to be sensitive to the level of urban development that would be enabled by this zone. In her view Rural Lifestyle, Rural Residential or Large Lot Residential zoning could be absorbed.
87. Ms Mellsoy also opposed the Medium Density Residential zoning of the Bridesdale Farm Development's land within the ONL. She commented that housing on the escarpment has been considered previously as part of the hearing for SH150001 and was rejected. She outlined her involvement in SH150001 as the landscape expert for the Council and advised that she held to her opinion that housing at this location would be visually prominent and incongruous⁴⁹. She disagreed with Mr Skelton about the visibility from the riverside trail and advised that the evidence at the hearing for SH150001 showed the dwellings would be clearly visible⁵⁰.
88. Mr John Duthie, who gave planning evidence for Bridesdale Farm Developments Ltd, supplied a set of bespoke planning provisions to address concerns raised by Ms Mellsoy and Ms Vanstone. These concerns related to the level of development enabled by the Medium Density Residential zone and its impact on the natural character of Hayes Creek and the adjacent ONL. Ms Mellsoy considered these provisions would go some way to addressing the concerns but did not consider they went far enough. She advised that the rezoning as requested would result in the removal of native planting that was required by the conditions attached to SH150001. She also observed that the 'landscaped permeable surface' referred to in the provisions could consist of lawn or any combination of trees and shrubs and was concerned about the potential for solid fencing to detract from the natural character of the area.
89. In her reply evidence, Ms Mellsoy reiterated her view that the escarpment and floodplain are within the Kowarau River corridor ONL and that therefore, Medium Density Residential zoning would be inappropriate.

4.4. Planning

4.4.1 Bamford Submission

90. Mr Carey Vivian gave planning evidence in support of the Bamford's submission⁵¹. His evidence included a map, reproduced at Figure 13 below, showing the amendments that he supported.

⁴⁷ Submission 842

⁴⁸ As we have already discussed, the Stage 1 decisions renamed this Lower Density Suburban Residential Zone

⁴⁹ H. Mellsoy, Rebuttal Evidence at 9.5 to 9.8

⁵⁰ Ibid. at 9.7

⁵¹ Submission 492

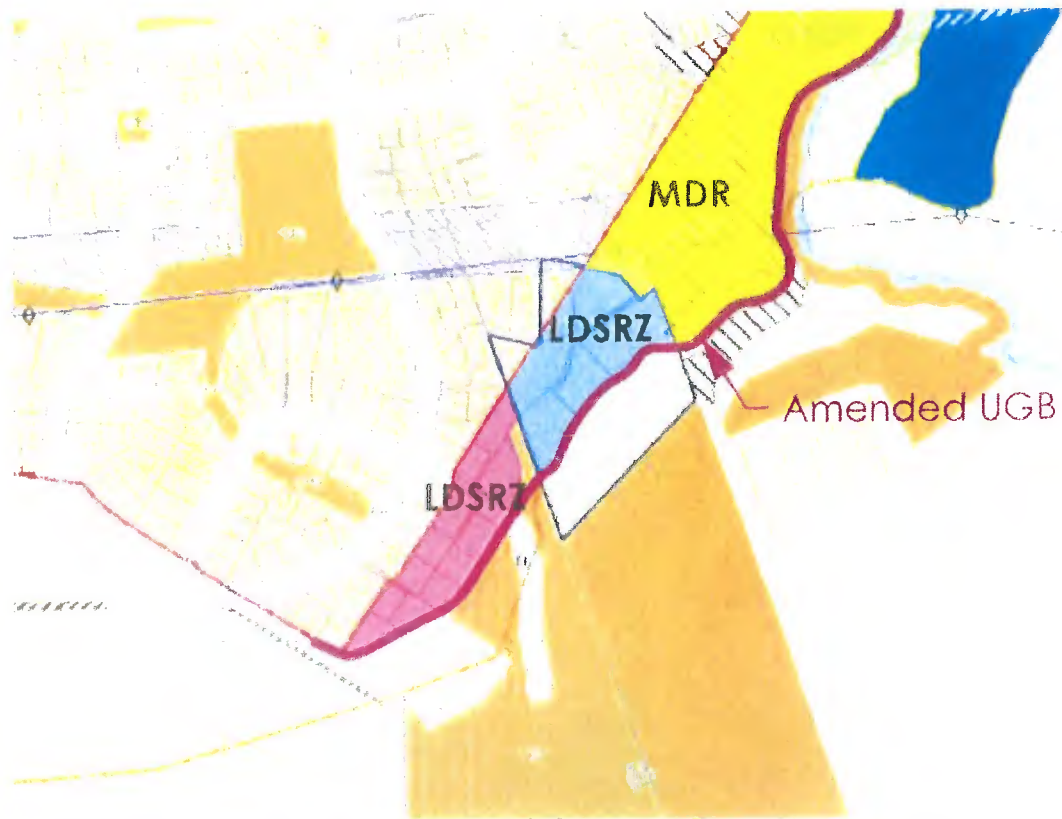


Figure 15: Bamford property shown outlined in blue, as per C. Vivian, EIC, Figure 27

91. Mr Vivian considered that the extent of medium density development to the east had changed the receiving environment and that Ms Mellsoy's concerns could be addressed at the time of subdivision, given the applicable matters of discretion. We discussed this with Mr Vivian at the hearing and queried whether this was in fact the case, given the absence of any matters of discretion relating to landscape values.

4.4.2 McDonald and Anderson Submission

92. Mr Vivian advised that these submitters agreed with Ms Vanstone's recommendation to reject their submission⁵².

4.4.3 Crawford Submission

93. Ms Vanstone's Section 42A Report provided details of the approved qualifying development SH160140⁵³. She described how the approved development achieved outcomes similar to those promoted for the Low Density Suburban Residential zone. However, she agreed with Ms Mellsoy that site specific controls would be needed to protect the integrity of the adjacent ONL. She advised that the submitter had not provided any such provisions and for this reason, recommended that the zoning request be rejected.

4.4.4 Bridesdale Submission

94. As noted above, Mr John Duthie gave planning evidence for Bridesdale Farm Developments Ltd. Mr Duthie relied on Mr Skelton's evidence that the ONL should be shifted.

⁵² C Vivian, EIC in relation to Submissions 451 and 454, paragraphs 2.5-2.7

⁵³ Relating to the land the subject of Submission 842

95. He helpfully provided a diagram showing the areas where rezoning was requested, which we have reproduced in Figure 14 below.



Figure 16: Land requested to be rezoned Medium Density Residential and Lower Density Suburban Residential⁵⁴, as per J. Duthie, EiC, Diagram 4

96. Mr Duthie proposed a suite of site specific controls to work in tandem with the requested Medium Density Residential Zone⁵⁵. These controls included a special density control, landscape yard control and fencing control. He also proposed a site specific rule to enable retail activities including café or restaurant on the site identified as the "Red Cottage". When we discussed these controls with Mr Duthie, he told us that he was equally comfortable with a

⁵⁴ We note that this land was in fact zoned Lower Density Suburban Residential as notified so no rezoning of that land is necessary.

⁵⁵ J. Duthie, Evidence in Chief at pages 31 and 32

Building Restriction Area to address the issue of the sensitivity of the adjacent ONL and of the Hayes Creek corridor.

- 97. Ms Vanstone recommended that Building Restriction Areas be applied to that portion of the lots approved by SH150001 which were within the ONL or adjoining Hayes Creek⁵⁶. She also recommended that an overlay apply and that additional standards be included in Chapter 8 to control fencing, including fencing in building restriction areas in order to protect the amenity of Hayes Creek and the landscape values of the ONL⁵⁷.
- 98. Ms Vanstone did not support the site specific rule to enable the commercial use of the "Red Cottage". She advised that existing resource consents already provided for the use as a café or restaurant.

4.5. Discussion and Conclusions

- 99. We agree with Ms Vanstone and Mr Duthie that the existing development authorised by qualifying development approval SH150001 should be zoned Medium Density Residential and that the Urban Growth Boundary be extended to include the land outside the ONL. However, we can find no reason why a special rule should be included in the Medium Density Residential Zone in relation to fencing. There are no fencing rules in the Medium Density Residential Zone provisions, although there is a matter of discretion relating to fences in the rule for residential units⁵⁸.
- 100. We accept Ms Vanstone's evidence that building restriction areas are required to protect the amenity values of Hayes Creek and the landscape values of the ONL. While we do not agree that standards are required generally for fences in the zone, we do agree that it is appropriate to include a standard to control fences in the building restriction areas. We recommend the following be included in Chapter 8, Section 8.5:

8.5.19	No fencing shall be constructed in a building restriction area adjoining Hayes Creek and the Outstanding Natural Landscape at Bridesdale.	RD Discretion is restricted to: a. Visual amenity values; b. Landscape character.
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- 101. We do not consider it necessary to provide a site specific rule to enable the commercial use of the "Red Cottage". Its use as a café or restaurant is authorised by an existing resource consent. Further, Rule 8.4.13 provides for commercial activities as a discretionary activity. We can see no justification for the restricted discretionary activity status promoted by Mr Duthie.
- 102. We agree with Ms Vanstone's analysis⁵⁹ that it is not appropriate to determine zoning based on the presence of private covenants. On this basis, we recommend the properties at 45A-C Erskine Street retain the Lower Density Suburban Residential zoning as notified.
- 103. We note that the Stream 15 Panel has recommended the flood plain land remain zoned Rural as notified and the adjoining Council reserve land retain its notified Informal Recreation zoning.

⁵⁶ A. Vanstone, Section 42A Report, Figure 24 at page 78 and Figure 25 at page 80

⁵⁷ A. Vanstone, Rebuttal Evidence at [9.34]

⁵⁸ Rule 8.4.10 in Chapter 8 Medium Density Residential

⁵⁹ A. Vanstone, Section 42A Report at [22.7 and 22.8]

This confirms Ms Mellsoy's opinion that future development within the reserves in the flood plain is likely to maintain the landscape values of the Kawarau River corridor ONL⁶⁰.

104. Based on our findings relating to the ONL boundaries in this area⁶¹, we do not consider it appropriate to extend the urban growth boundary beyond the boundary of the ONL to encompass the entire site shown in Figure 12, above. Nor do we find it appropriate to include the escarpment and floodplain on Bridesdale Farm within the Medium Density Residential zone.
105. We agree that the Bamford land on the upper terrace should be zoned Lower Density Residential. However, we were not persuaded that Lower Density Residential should extend over the lower terraces and escarpments. This is particularly so given the absence of any relevant matters of discretion in relation to landscape values. We were not presented with any site specific rules on which to base a Section 32AA analysis and therefore find that the Rural Zone should be retained. We do however find that it is appropriate to shift the urban growth boundary to accord with the boundary of the ONL. The ONL boundary provides a defensible boundary to contain urban development and this gives effect to Objective 4.2.1.

5. OVERALL RECOMMENDATIONS FOR AREA I

106. For the reasons set out above, we recommend that:
 - a. Submission 2398 be accepted and the Landscape Feature line on the western edge of LCU 14 be deleted as shown Map I1 below;
 - b. Submission 688 be accepted in part by amending the boundary of the Slope Hill Outstanding Natural Feature as shown on Map I2 below;
 - c. Submission 842 be accepted in part by amending the boundary of the Outstanding Natural Landscape on the true left bank of the Kawarau River to be in the location shown on Map I3 below;
 - d. That Submissions 532, 535 and 2426, and Further Submissions 1068, 1071, 1092, 1259, 1267, 1322 and 1340 be accepted in part by amending the boundary of the Slope Hill Outstanding Natural Feature and zoning the land the north side of Ladies Mile between Lower Shotover Road and Threepwod, and Lot 4 DP 22156 on the south side of Ladies Mile to Rural Lifestyle Zone with a Building Restriction Area as shown on Map I4 below;
 - e. Submissions 134 and 2567 be rejected;
 - f. Submission 404 and Further Submissions 1004, 1259, 1267, 1340 and 1357 be allowed in part by amending the urban growth boundary to include Lot 500 DP 470412 as shown on Map I4 below;
 - g. Submission 850 and Further Submissions 1071 and 1340 be allowed in part by applying Large Lot Residential A along with a Building Restriction Area to the land on the southern side of Frankton-Ladies Mile Highway north of Shotover Country between Old School and Stalker Roads, and amending the urban growth boundary to include this land as shown on Map I5 below;
 - h. Submissions 451 and 655, and Further Submissions 1064, 1071, 1261 and 1340 be allowed in part by applying the Medium Density Residential Zone to land adjoining the southern edge of Lake Hayes Estate outside of the Kawarau River Outstanding Natural Landscape, and amend the urban growth boundary to include that land, and apply Building Restriction Areas as shown on Map I6 below, and by amending Chapter 8 as set out in Appendix 1;

⁶⁰ H. Mellsoy, Reply Evidence at 7.7

⁶¹ Refer to discussion at section 1.1

- i. Submission 492 and Further Submission 1261 be allowed in part by applying the Lower Density Suburban Residential Zone to the land at the top of the terrace adjoining Judge and Jury Drive, and amending the urban growth boundary to correlate with the ONL boundary in the area south of Judge and Jury Drive, as shown on Map 17 below;
- j. Submission 454 be rejected and the further submission in opposition be accepted;
- k. The zoning of all other land in Area I, except for that subject to a proposed Open Space and Recreation Zone, and all other map notations in Area I, be adopted as notified.

For the Hearing Panel

A handwritten signature in cursive script, appearing to read "Nugent".

Denis Nugent, Chair

Dated: 15 February 2019

Map 14: Amended boundary of Slope Hill Outstanding Natural Feature, amended location of urban growth boundary, application of Rural Lifestyle Zone and Building Restriction Areas along Ladies Mile



Map 15: Application of Large Lot Residential A Zone and Building Restriction Area, and amended location of urban growth boundary at south west end of Ladies Mile



Map 16: Application of Medium Density Residential Zone and Building Restriction Areas, and amended location of the urban growth boundary at Bridesdale



Landscape - Reference: PA16183 IS02
Scale 1:1500 @ A3



Additional land requested to be rezoned MDR

35. Photograph 1 below illustrates the topography and character of this land. The land is on the lower part of the embankment between the lower and middle terrace. It sits just outside and above the flood plain. A road cuts diagonally down the embankment to connect the main residential part of Bridesdale to the rural flats and then across to the Kawarau River and the recreational walkways. The upper part of the embankment is