

PART 2: 2.14 PLAN CHANGE 5N : RURAL RESOURCE AREA : VISUAL EFFECTS OF BUILDINGS AND STRUCTURES

Scope of Plan Change: Plan Change 5N as publicly notified amends Rules 4.7.6D(a), 4.7.6D(b), 4.7.3(iii) and 4.7.4(i). Rule 4.7.6D(a) is amended by introducing a rule with respect to the finish of buildings, and an expanded rule with respect to the colours of exterior walls, accents and trim for all buildings and structures, and with respect to roofs of buildings. A colour palette is provided for the exterior walls, accents and trim of all buildings and structures. Rule 4.7.6D(a) is to apply to all buildings including new, relocated and repainted buildings and structures (excluding post and wire fences). A breach of Rule 4.7.6D(a) is to be a discretionary activity in terms of Rule 4.7.4(i).

Rule 4.7.6D(b) is to be amended to require that buildings and structures (excluding post and wire fences) shall not protrude onto a skyline or above a ridgeline when viewed from a public road or other public place. This amendment protects skylines as viewed from any public road or public place, rather than limiting the rule to views from an adjacent public road or public place. A breach of Rule 4.7.6D(b) is to be a discretionary activity in terms of Rule 4.7.4(i).

Related Plan Changes: 5G.

Submissions & Further Submissions: Submitters and Further Submitters are listed in the Summary of Submissions and Further Submissions and in the Council Decision below.

Submission Summary: See Summary of Submissions and Further Submissions pages 1101-1264.

Decision 5N/2.1.2
The topic of this decision is all provisions of proposed Plan Change 5N that are not subject to Decision 5N/2.1.1.

The topic of that decision is Rule 4.7.6D(a)(i)(iii) that proposes the exclusion of Oamaru stone and Rule 4.7.6D(a)(i)(iv) relating to the use of unpainted zinalume, unpainted corrugated iron and concrete cladding.

Discussion & Reasons:

The Council's Hearings Panel considered submissions and further submissions on those parts of proposed Plan Change 5N subject to Decision 5N/2.1.2 in the period 19 May to 10 August 2010. The following appeared before the Hearings Panel in support of their submissions and/or further submissions on these matters:

- JCF Rowley
- Cromwell Community Plan Group (Mr Galvin)
- L English aka Bennett
- Pioneer Generation Limited (Ms Newall & Ms Crawford)
- LJ & NM McGregor & LJ McGregor as Director Rocky Glen Limited (Mr McGregor)
- Otago Fish & Game Council (Mr Watson)
- Federated Farmers of NZ (Messrs Harcombe & P Hore)
- J Douglas
- Paterson Pitts Partners Ltd, MN Frost & Minaret Resources Ltd, The Mud House Wine Group, Northburn Ltd, J Perriam, Waterforce Ltd, Central Otago Winegrowers Association, K & J Furniss and SR Worrill (Mr Dymock)
- AJ Campbell (of Watty)
- S Crosswell on behalf of Dulux New Zealand (Mr Riddle)
- Horticulture New Zealand (Ms Wharfe & Messrs van Beek, Hiscock, McIntosh & Mathers)

Glaister Ennor for Real Estate Institute of New Zealand Inc forwarded written material that has been considered by the Hearings Panel.

Plan Change 5N as publicly notified amends Rule 4.7.6D(a) and (b). These rules, as stated in the Operative District Plan, state as follows:

D. Visual Effect of Buildings and Structures

- (a) New and relocated buildings and structures (excluding post and wire fences, building trims and non-residential

buildings and structures associated with farming activity) shall be finished in tones and colours in the range of browns, greens, grey blue, greys, creams, terracotta, tussock and dark reds.

- (b) Buildings and structures (excluding post and wire fences) shall not protrude onto a skyline when viewed from an adjacent public road or public place.

A breach of Rule 4.7.6D(a) and/or (b) is a discretionary (restricted) activity in terms of Rule 4.7.3(iii).

Proposed Plan Change 5N as publicly notified amends Rule 4.7.6D(a) to remove the exclusion for non-residential buildings, to provide a list of materials for the finish of buildings and to provide a specific colour palette for buildings. Proposed Plan Change 5N as publicly notified also amends Rule 4.7.6D(b) to avoid protrudence above a ridgeline, and to delete the reference to views from an adjacent public road or public place. Proposed Plan Change 5N provides for any breach of Rule 4.7.6D(a) and (b) to be a full discretionary activity, rather than a discretionary (restricted) activity.

Proposed Plan Change 5N has attracted a considerable number of submissions, in addition to those addressed in Decision 5N/2.1.1 which relates to the exclusion of Oamaru stone; and to the use of unpainted zincalume and unpainted corrugated iron and concrete in the exterior of buildings.

Submitters have responded to the various elements of proposed Plan Change 5N discussed above. In these circumstances this decision addresses each of the three elements ie. Rule 4.7.6D(a), Rule 4.7.6D(b), and the status of any breach of these rules. For convenience each of the elements is addressed separately in the body of this decision, and amendments made to these provisions are presented at the conclusion of this decision.

Rule 4.7.6D(a)

The submissions range from those who support the amendments proposed to Rule 4.7.6D(a) to those who wish to see the rule deleted. Such deletion falls outside the scope of remedies available to the Council, given that Rule 4.7.6D(a) exists in the Operative District Plan (as presented above).

The submissions by the **Black Poplar Trust (14.6/1)** opposed by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/47)**, **Central Otago Recreational Users Forum (304/19)** and **Pioneer Generation Limited (332/91)**, opposed in part by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/46)**, and supported by **Horticulture New Zealand (317/93)** and other similar submissions promote specific amendments to Rule 4.7.6D(a). In essence these specific amendments are:

- To remove the reference to “repainted” buildings in the amended rule; and to insert a reference to “unpainted” buildings instead.
- To insert an exclusion for non-residential buildings and structures associated with farming, horticulture and viticulture.
- To include a generic list of colours, rather than specifying a list of materials and colours.
- Requiring that all colours and materials have a reflectivity value of less than 38%.

Submitters including **A J Campbell (24/1)** have expressed concern at the specific reference to Resene colours in the proposed rule. Mr Campbell appeared at the hearing and confirmed that he represented the paint manufacturer Wattyl. Mr Riddle appeared in support of the submission of **S Crosswell on behalf of Dulux New Zealand (54/1-54/4)**. Mr Riddle also expressed concern at the specific reference to Resene colours.

The amendment to Rule 4.7.6D(a) as stated in proposed Plan Change 5N is intended to ensure that all buildings (and not just non-farming buildings) are subject to control with respect to exterior finish and colours. The intention is to achieve a consistent approach to all buildings in the rural landscape.

The Council considers that the reference to repainting in the amended rule is appropriate, as this addresses the situation where a building may already be in existence and where repainting is proposed. The reference to repainting in the rule will ensure that all buildings will be subject to the same colour palette (the nature of which is discussed further below). Breach of the colour palette will require resource consent.

The intention of the plan change is to require that all buildings, and not just residential buildings, are to be subject to the controls with respect to building materials and colour. The Council considers that such an approach is appropriate, given that non-residential buildings found in the Rural Resource Area can have a significant effect on the landscape.

Mr Harcombe appeared in support of the submission by **Federated Farmers of New Zealand (Inc) (64/33)** supported by **L English aka Bennett (310/4)**, **Horticulture New Zealand (317/7 & 317/8)** and **Waterforce Limited (344/9)** and opposed in part by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/53 & 302/54)**. Mr Harcombe supported the current exemption for buildings and structures associated with farming activity from Rule 4.7.6D(a). He suggested potential alternatives of providing for farm buildings as a controlled activity on ONL and that the costs of consent processing should be limited to a particular percentage (being 5%) of building cost. Ms Wharf appeared for Horticulture New Zealand and promoted that either Rule 4.7.6D(a) [and (b)] apply to buildings in areas of Extreme, High or Significant sensitivity as identified in Schedule 19.22 (proposed to be introduced by proposed Plan Change 5R as publicly notified); or that all buildings ancillary to primary production be provided for as a permitted activity in areas other than areas of Extreme, High or Significant sensitivity as identified in Schedule 19.22. The Council does not support these amendments given that the Landscape Assessment Maps are no longer to be inserted in the District Plan as Schedule 19.22 (see Decision 5R/2.1.1) and as a building may be located outside an area identified as ONL but may still have a significant effect on the landscape. The Council also does not accept a percentage cost approach, as suggested by Mr Harcombe, as such an approach does not reflect the cost of processing applications for resource consent.

Submitters have raised issues with respect to structures, equipment and fixtures incidental to agriculture, horticulture and viticulture that should be excluded from the rule. The submission of the **Central Otago District Council (28.5/1)** lists various structures incidental to agriculture, horticulture and viticulture for exemption. The Council considers, on reflection, that water tanks should not be exempted as these can have an adverse visual effect and can be distinguished from other equipment and fixtures incidental to agriculture, horticulture and viticulture. The Council also notes that water tanks are available in natural tones to mitigate effects on the landscape.

Mr Dymock appeared for Paterson Pitts Partners Limited and other submitters as listed above. Mr Dymock promoted that instead of listing materials that are acceptable in Rule 4.7.6D(a)(i); such rule could be rewritten to identify those materials that are not acceptable, and he nominated unpainted zincalume and unpainted corrugated iron as such materials. The Council has given consideration to this suggestion and considers that the status quo should be maintained to avoid a situation where an unacceptable material (eg. glass) could be omitted from the list of excluded materials. Ms L English aka Bennett provided photographs that demonstrated that weathered corrugated iron is an appropriate material in the context of the Central Otago vernacular. The Council considers that provision should be made for weathered corrugated iron in the context of Rule 4.7.6D(a)(i) and has amended this rule accordingly, as a consequence of this decision and Decision 5N/2.1.1.

Mr Galvin appeared in support of the submission by **Cromwell Community Plan Group (39/1)** supported by **Cromwell Community Planning Committee (307/1)** and opposed by **Real Estate Institute of New Zealand Inc (335/157)**. The Council concurs with Mr Galvin's opinion that the exterior cladding materials are of secondary importance to building colour. The Council does not consider it appropriate to delete Rule 4.7.6D(a)(i)(iii) as stone has proven to be a popular building material in Central Otago and schist stone in particular blends well with the environment on many sites.

The colour palette introduced by Plan Change 5N was compiled by Mary Buckland, the author of the Landscape Assessment Maps which were prepared as part of the Rural Study. A range of natural tones with low reflectivity values are specified in Plan Change 5N as notified, to provide certainty to those who wish to erect buildings in the landscape.

The Council acknowledges the concerns expressed by several submitters relating to the specific reference to Resene colours. In essence the amended Rule 4.7.6D(a)(ii) (as provided for in proposed Plan Change 5N as notified) explicitly identifies colours (by reference to the Resene range) which are acceptable in the various generic colour groups. The intention was to be as specific as possible, rather than utilising the more generic range of colours specified in Rule 4.7.6D(a) as presented in the Operative District Plan.

Note 2 to the rule specifies that:

“Like colours from other manufacturers colour charts are acceptable provided that they also have a RV less than 38%”.

Mr Campbell (for Wattyl) and Mr Riddle (for Dulux) considered that the reference to “Like colours” in Note 2 (or an alternative that gives greater prominence to such a reference to other manufacturers) still gives a commercial advantage to Resene as those painting buildings are likely to adopt the most straightforward approach which is to utilise Resene colours.

The Council has some sympathy for the concerns expressed by Mr Dymock that manufacturers' colour charts are to some extent fashion items that change constantly as part of the marketing of product. Those submitters who appeared in the context of Rule 4.7.6D(a)(ii) all expressed support for a generic approach to the colour palette, rather than utilising a list of specific colours provided by Resene or some other manufacturer, or listing colours presented in BS5252. Mr Campbell (for Wattyl) and Mr Riddle (for Dulux) expressed strong support for a simple generic list of colours, provided that the reflectivity value (RV) was less than 38%.

The Council has concluded that Rule 4.7.6D(a)(ii) as contained in proposed Plan Change 5N as publicly notified should be substantially amended to provide as follows:

- A generic description of colours based on that stated in the Operative District Plan (Rule 4.7.6D(a)) subject to the omission of the colour “cream”.
- All generic colours to have a RV of 38% or less.
- A Note to relate to Rule 4.7.6D(a)(ii) that states the BS5252 colours that are acceptable in terms of the generic range specified in Rule 4.7.6D(a)(ii) as amended.

Ms Newall who appeared in support of various further submissions by Pioneer Generation Limited and others referred to a decision of the Environment Court in Wakatipu Environmental Society Inc v QLDC [2000] NZRMA 59. Ms Newall inferred from that decision that the Court wished to avoid being too prescriptive with respect to a colour palette in order to reflect that the RMA is concerned with effects. The Council considers that the adoption of a generic colour palette

(rather than the detailed colour palette introduced by Plan Change 5N (as publicly notified)) is consistent with avoiding an unduly prescriptive approach. The Council also acknowledges Mr Dymock's opinion that the existing generic colour palette (as contained in the Operative District Plan) has worked perfectly adequately in practice.

The Council notes that Mr Dymock expressed concerns with respect to proposed restrictions on reflectivity. The Council has noted that both Mr Campbell (for Wattyl) and Mr Riddle (for Dulux) supported a maximum reflectivity of 38%; and the Council therefore considers it appropriate to retain this provision. Mr Riddle (for Dulux) provided information with respect to Light Reflectance Values (LRV) Colours and Heat Generation for NZ Wood. This information indicates to the Council that the RV may need to increase in instances where natural timber is to be used. A Note to this effect is to be included in Rule 4.7.6D(a)(ii). Mr Campbell (for Wattyl) indicated that a reference to "matt finish" in Rule 4.7.6D(a)(ii) is inappropriate as paints are not produced as "matt finish". The Council is therefore satisfied that the words "matt finish" should be deleted and replaced with the words "low sheen".

Following consideration of the submissions the Council considers that Rule 4.7.6D(a)(iii) which relates to the colour of roofs is appropriate, subject to deletion of the term "matt finish" and insertion of the term "low sheen" instead. This is consistent with the information provided by Mr Campbell (for Wattyl) at the hearing.

Mr Galvin promoted that Note 1 of Rule 4.7.6D(a)(ii) and Rule 4.7.6D(a)(iii) include words to the effect that all colours should be similar to and darker than the surrounding landscape colours. Mr Riddle (for Dulux) expressed support for a generic phrase to this effect. In these circumstances the Council has made such a change to Note 1 of Rule 4.7.6D(a)(ii) and to Rule 4.7.6D(a)(iii).

Rule 4.7.6D(b)

The amendment to Rule 4.7.6D(b) is intended to overcome an anomaly in the existing Rule 4.7.6D(b) which refers to an adjacent public road or public place. This reference to "adjacent" means that Rule 4.7.6D(b), as contained in the Operative District Plan cannot be applied in some instances notwithstanding that a significant skyline breach occurs when viewed from a nearby public road or public place.

The amendment to Rule 4.7.6D(b) provided for in proposed Plan Change 5N as publicly notified has attracted a wide range of submissions. Amendments proposed by the **Black Poplar Trust (14.6/2)** opposed by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/47)**, **Central Otago Recreational Users Forum (304/19)**, and **Pioneer Generation Limited (332/91)**, opposed in part by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/46)** and supported by **Horticulture New Zealand (317/93)** and other similar submissions promote the following:

- The rule to apply to all buildings and structures.
- The rule to contain an exemption for non-residential buildings and structures associated with farming, horticulture and viticulture.
- The deletion of the term "ridgeline" and insertion of a reference to "terrace edge" instead.
- A reference to views from a "formed legal public road" rather than from a public road or other public place".
- A distance to be specified with respect to such view, being less than 1 kilometre from the building or structure.

The Council considers that the suggested reference to "all" buildings at the commencement of Rule 4.7.6D(b) is appropriate as this is consistent with Rule 4.7.6D(a).

The Council does not consider that a distinction should be drawn between residential and non-residential buildings for the purposes of Rule 4.7.6D(b). A

large non-residential building on a skyline will have adverse visual effects which are no less than those associated with a residential building of similar scale. The Council therefore does not support a distinction being made between residential and non-residential buildings in Rule 4.7.6D(b).

It is appropriate to exclude certain structures, equipment and fixtures which are part of agricultural, horticultural and viticultural activity. Such an amendment has been suggested in the submission by the **Central Otago District Council (28.5/3)**. As discussed above in the context of Rule 4.7.6D(a) such an amendment is acceptable, provided that the words “and water tanks” are deleted. The Council acknowledges that water tanks can have an adverse effect on skylines.

Several submitters have expressed concern at the introduction of the term “ridgeline” to Rule 4.7.6D(b). The Council acknowledges in this context the concerns expressed by Mr Dymock who appeared in support of the submission by Paterson Pitts Partners Limited and other submitters as listed above. Mr Dymock observed that buildings present throughout Central Otago breach a ridgeline to some extent.

The Council acknowledges the practical difficulties that exist in determining where a ridgeline is, as compared to a “skyline”, the latter being a term which has worked in practice in the context of the Operative District Plan. Several submitters have suggested that the term “terrace edge” should be included, and the Council considers that such an amendment is appropriate. Buildings on terrace edges when viewed from below can have significant adverse effects in terms of landscape values.

The Council considers that it would be inappropriate to amend the viewpoint specified in Rule 4.7.6D(b) as proposed in the plan change. A reference to “formed legal public road” is too restrictive. The public has the right to pass over unformed public roads, and the Council does not consider that the rule should apply simply because a legal road is formed. It is also noted that unformed legal roads are often found adjacent to waterways within the District and that recreational activity is often concentrated in such riparian areas.

Reference to a “public place” is appropriate. Such a term is wide enough to embrace the surface and margin of waterbodies and reserves. The Otago Central Rail Trail (which is a recreation reserve) is an example of a public place which is used by members of the public who enjoy views of the surrounding landscape, but which is not a legal road.

As noted above the amendment to Rule 4.7.6D(b) was prompted, in significant part, because of the difficulty in interpreting what an “adjacent” public road is. The Council acknowledges, at the other extreme, that it is appropriate to provide some linear distance within which the rule applies. The Council finds that a range of 2 kilometres would be appropriate in this context and it is noted that Mr Dymock supported an amendment to this effect at the hearing.

R V McNamara (114/2), D V Scott (170/3 and 170/4) and S R Worrill (216.2/1 and 216.2/2) have promoted that existing building platforms that have been granted consent should be exempt the rules in proposed Plan Change 5N.

The submissions by **R V McNamara (114/2)** and **S R Worrill (216.2/1 and 216.2/2)** relate to the Rural Resource Area (3) that applies to land at Conroys Road. Rule 4.7.2(ia) provides for residential activity in the Rural Resource Area (3) as a controlled activity. Specific rules relate to building platforms as shown on the concept plan attached as Schedule 19.20 (Rule 4.7.2(ia)(a)) and the colour and finish of buildings in the Rural Resource Area (3) (Rule 4.7.2(ia)(d)). Rule 4.7.2(ia)(g) states that:

*“The relevant standards set out in Standard 4.7.6 shall be complied with
...”*

Given the specific nature of the controls in Rule 4.7.2(ia)(a) and (d), the Council does not consider that the broader controls provided for in Rule 4.7.6D(a) and (b) are particularly relevant to the Rural Resource Area (3). This matter can be put beyond doubt by a suitable amendment to Rule 4.7.2(ia)(g) and Mr Dymock confirmed at the hearing that **SR Worrill (216.2/1 & 216.2/2)** was supportive of such an amendment.

The submission by **D V Scott (170)** raises the wider issue of subdivision consents that have been granted in the Rural Resource Area. Where land use consent for a dwelling has been granted prior to the public notification of proposed Plan Change 5N, the amendments to Rule 4.7.6D(a) and (b) will not have effect. The amendments to the rule will apply where subdivision consent only has been granted, but land use consent has not. The Council considers that it would be inappropriate to exempt such subdivisions from control in terms of the amendments to Rule 4.7.6D(a) and (b). In essence such subdivision consents were granted on the basis that any future building would have to comply with the relevant rules that apply to land use activity when a dwelling is proposed, or the future owner would have to obtain the relevant resource consent. This was the situation irrespective of whether proposed Plan Change 5N had been publicly notified.

E Omblor (137/1) opposed by **Real Estate Institute of New Zealand Inc. (335/159)** has promoted an amendment to Rule 4.7.6D(b) to include “areas where buildings and structures cannot be visually absorbed within the landscape”. Such wording is subjective and would be void for lack of certainty. The Council is satisfied that reference to “skyline” and “terrace edge” provide greater certainty than the wording promoted by the submitter.

The submission by the **Otago Fish & Game Council (141/29)** supported in part by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/60)** and opposed by **Pioneer Generation Limited (332/176)** promotes an amendment to Rule 4.7.6D(b) which would have the effect of rendering all buildings and structures located in Significant or Moderate sensitive areas as identified on the Landscape Assessment Maps contained in Schedule 19.22 as a discretionary activity. The Council does not support this amendment as the intent of Rule 4.7.6D(b) is to control development on skylines and other prominent places, rather than providing a control that applies to certain parts of the district as identified in the maps at Schedule 19.22. The Council has also decided not to include the Landscape Assessment Maps in Schedule 19.22 in the context of its decision on proposed Plan Change 5R (see Decision 5R/2.1.1).

Discretionary v Discretionary (Restricted) Status

Submitters such as **Black Poplar Trust (14.6/3)** and **(14.6/4)** opposed by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/47)**, **Central Otago Recreational Users Forum (304/19)** and **Pioneer Generation Limited (332/91)**, opposed in part by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/46)** and supported by **Horticulture New Zealand (317/93)** and other similar submissions have promoted that discretionary (restricted) activity status is more appropriate, on the basis that the Council should restrict the exercise of its discretion to the visual effects of buildings and structures.

Plan Change 5G (as amended by Decision 5G/2.1.1) provides for residential activity and accommodation facilities in the Rural Resource Area as a discretionary (restricted) activity, with such development on approved building platforms (and existing building platforms subject to conditions subject to a consent notice) now being provided for as a controlled activity. The intent of proposed Plan Change 5N as notified was to provide for a breach to be a discretionary activity, as this is a more stringent category in the resource consent hierarchy.

Whether a breach of Rule 4.7.6D(a) and/or (b) is a discretionary activity or a discretionary (restricted) activity is of limited consequence, to the extent that the

Council will have the discretion whether to grant or refuse consent, and to apply appropriate conditions of consent. The key difference is that if such a breach is a discretionary (restricted) activity the local authority must specify in the rule the matters over which it has restricted its discretion in relation to the activity (section 77B(4) of the Act); and a consent authority must only consider those matters when considering an application for a resource consent and may impose conditions only for those matters (section 104C(1) and (3) of the Act).

Rule 4.7.6D relates to the visual effects of buildings and structures. In these circumstances the Council considers that the thrust of the amendments sought by **Black Poplar Trust (14.6/3 and 14.6/4)** opposed by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/47)**, **Central Otago Recreational Users Forum (304/19)** and **Pioneer Generation Limited (332/91)**, opposed in part by **Central Otago-Lakes Branch Royal Forest & Bird Society (302/46)** and supported by **Horticulture New Zealand (317/93)** and others are appropriate, on the basis that discretion is restricted to visual effects.

Some submitters have promoted that a geographical area within the District, being the Teviot Valley, be subject to separate plan provisions. **K A Bain (6.2/1)** promotes that the Teviot Valley should have its own territorial section within the District Plan. **J C F Rowley (161.8/1 and 161.8/2)** supported by **J C F Rowley (336/1)** promotes that Rules 4.7.6D(a) and (b) be permitted activities within the Teviot Valley; and that an independent section be established in the District Plan as allowed for in section 73(3) of the Act. Mr Rowley promoted this at the hearing, noting that a District Plan may be prepared in territorial sections.

The Rural Resource Area provisions of the District Plan apply to all rural land within the District, and no distinction is made between different geographical areas such as the Teviot Valley, or, say, the Upper Clutha Valley. In these circumstances the Council has determined that the amendments promoted by the submitters are inappropriate. The Council favours the approach of amending the Rural Resource Area plan provisions to recognise concerns raised by submitters, rather than introducing territorial sections within the District Plan, which relates to different parts of the rural area within the District.

The Council's overall conclusion is that proposed Plan Change 5N, subject to the amendments as detailed below, is appropriate.

In terms of section 32 the use of alternative and non-regulatory methods are not considered appropriate as the Operative District Plan already contains rules relating to the visual effect of buildings and structures. Proposed Plan Change 5N as amended is considered to be efficient and effective as it provides for built development in a manner which will mitigate or avoid effects on the environment. Proposed Plan Change 5N as amended is considered to be the most appropriate method to achieve the purpose of the Act and is considered to be the most appropriate alternative, being superior to the status quo.

Council Decision:

1. That the submissions by the following be accepted. **A J Campbell (24/1)**, **S Crosswell on behalf of Dulux New Zealand – (Dulux) (54/1, 54/2, 54/3 & 54/4)**, **J C Manning (116/1)**, **Telecom New Zealand Limited (191)** opposed by **Central Otago Environmental Society Inc. (303/1 & 303/2)**, **Te Runanga o Moeraki, Kati Huirapa Runanga ki Puketeraki and Te Runanga o Otakou (193)** supported by **NZ Historic Places Trust (324/1)** and **TrustPower Limited (198)** opposed by **Central Otago Environmental Society Inc. (303/1 & 303/2)** and **W J Whelan (208/1)**.
2. That the submissions by the following be accepted in part to the extent that the relevant rules are amended as stated below. **Amisfield Estates Limited, Amisfield Wine Company Limited, Big River Lodge Limited Georgian Apiaries Limited, Rosebriar Hill Limited and Waterrace Holdings Limited (“Amisfield”) (1/1, 1/17 & 1/18)** supported by **L English aka Bennett (310/1)** and **Pioneer**

Generation Limited (332/173) and supported in part opposed in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/45)*, B A Annan (2/2), W Arthur (4/1), Beaumont Station Ltd; A, J, R & A Hore (9), Black Poplar Trust (14.6/1, 14.6/2, 14.6/3 & 14.6/4) opposed by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/47)*, *Central Otago Recreational Users Forum (304/19)*, and *Pioneer Generation Limited (332/91)* opposed in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/46)*, and supported by *Horticulture New Zealand (317/93)*, Briar Ridge Limited (19/1), BTW South Ltd (21/1) opposed by *Central Otago District Council (301/3, 301/4 & 301/5)* and *Real Estate Institute of New Zealand Inc. (335/155)* and supported by *Waterforce Ltd (344/1)*, Campbell Family Trust (25.3/1, 25.3/2 & 25.3/3) opposed by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/48)*, Central Otago District Council (28.1/1, 28.5/1 & 28.5/3) supported by *BTW South Ltd (300/13)* and *Waterforce Ltd (344/2)* and supported in part by *Horticulture New Zealand (317/92)*, Central Otago Environmental Society Inc. (29/18) opposed by *Federated Farmers of New Zealand (312/2)*, *Horticulture New Zealand (317/93)* and *Real Estate Institute of New Zealand Inc. (335/156)*, Central Otago Wine Growers Association (31.7/1, 31.7/2 & 31.7/3) supported by *Horticulture New Zealand (317/94)*, and *Waterforce Ltd (344/3)* and opposed in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/49)*, Chard Farm Ltd (32.3/1 & 32.3/2) opposed by *Central Otago District Council (301/6 & 301/7)* and *Central Otago-Lakes Branch Royal Forest & Bird Society (302/51)*, supported by *L English aka Bennett (310/2)* and *Waterforce Ltd (344/4)* and opposed in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/50)*, C A Crawford (38.5) opposed by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/52)*, Cromwell Community Plan Group (39/1) supported by *Cromwell Community Plan Committee (307/1)* and opposed by *Real Estate Institute of New Zealand Inc. (335/157)*, M Davidson (43.4/1) supported by *Waterforce Ltd (344/5)*, R H M Dicey (45.1/1, 45.2/1) & 45.3/1) supported by *Waterforce Ltd (344/6)*, J & S Elliot (58/6) supported by *Federated Farmers of New Zealand (312/5)* and *Waterforce Ltd (344/7)*, S E R & E J Elworthy (59/6), J P Evans (61/4) supported by *Waterforce Ltd (344/8)*, Federated Farmers of New Zealand (Inc) (64/33) supported by *L English aka Bennett (310/4)*, *Horticulture New Zealand (317/7 & 317/8)*, and *Waterforce Ltd (344/9)* and opposed in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/53 & 302/54)*, M T Flannery (66/1), M N Frost (69/1), K & J Furniss (70/2), Geordie Hill Station (71.3/1, 71.3/2, 71.3/3, 71.3/4, 71.3/5 & 71.3/6) supported by *Waterforce Ltd (344/10)* and supported in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/56)* and *Pioneer Generation Limited (332/175)*, Golden Road Otago Ltd (74.3/1, 74.3/2, 74.3/3 & 74.3/4) opposed by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/57)* and supported by *Waterforce Ltd (344/11)*, Harsteph Farm Ltd (80.3/1, 80.3/2, 80.3/3 & 80.3/4) supported by *Waterforce Ltd (344/12)* and supported in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/58)*, M & F Hayman (82.5/1, 82.5/2, 82.5/3, 82.5/4, 82.5/5, 82.5/6 & 82.5/7) opposed by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/59)* and supported by *Waterforce Ltd (344/13)*, Horticulture New Zealand (90/23 & 90/24), P Jolly (93.4/1), Kawarau Estate Limited (94.5/1, 94.5/2, 94.5/3 & 94.5/4) supported by *Waterforce Ltd (344/14)*, J M Kerr (96.3/1), L & R Knowles (97.3/1 & 97.3/2) supported by *Waterforce Ltd (344/15)*, Lindisburn Trust (100.3/1, 100.3/2, 100.3/3 & 100.3/4) supported by *M & K Garmonsway (315/4)*, *SJ & SA Millard (323/2)* and *Waterforce Ltd (344/16)*, Lowburn Community Action Group (104) opposed by *Real Estate Institute of New Zealand Inc. (335/158)*, B McCrostie (105/7) supported by *L English aka Bennett (310/6)*, N McCrostie (106/7)

supported by *L English aka Bennett (310/7)*, *L J & N M McGregor*; *L J McGregor as Director Rocky Glen Limited (109/1)*, *R V McNamara (114/2)*, *F Mathieson (119/1)*, *Melview (McArthur Ridge) Limited (120.10/1 & 120.10/2)*, *Meridian Energy Limited (121)* opposed by *Central Otago Environmental Society Inc. (303/1 & 303/2)*, *J D Morrison & M E Wood (126.4/1 & 126.4/2)* supported by *Waterforce Ltd (344/17)*, *The Mud House Wine Group (128/3, 128/4 & 128/6)* supported by *L English aka Bennett (310/5)*, *Horticulture New Zealand (317/95)* and *Waterforce Ltd (344/18)*, *N C Norman (131/1)*, *Northburn Ltd (132.4/1 & 132.4/2)* supported by *Waterforce Ltd (344/19)*, *NZ Historic Places Trust (236/18)* opposed by *L English aka Bennett (310/18)* and *Paterson Pitts Partners Ltd (330/3)*, *NZ Windfarms Limited (134/9)*, *E Ombler (137/1)* opposed by *Real Estate Institute of New Zealand Inc. (335/159)*, *Otago Conservation Board (140)* opposed by *Real Estate Institute of New Zealand Inc. (335/160)*, *Otago Fish & Game Council (141/29, 141/30 & 141/31)* supported in part by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/60)* and opposed by *Pioneer Generation Limited (332/176)*, *Paterson Pitts Partners Ltd (145.8/1, 145.8/2, 145.8/3, 145.8/4 & 145.8/5)* supported by *BTW South Ltd (300/14)*, *R Ibbotson (318/4)* and *Waterforce Ltd (344/20)* and opposed by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/61)*, *J & H Perriam (148.3/1 & 148.3/2)* supported by *Waterforce Ltd (344/21)*, *N Perry (149/1)*, *L Purvis (152/1)*, *Quartz Reef Ltd (153.3/1 & 153.3/2)* supported by *Waterforce Ltd (344/22)*, *D Reeves & A Allison (157/14 & 157/15)*, *H Reinecke (158/1)*, *Royal Forest and Bird Protection Society of New Zealand Inc (162)* opposed by *Federated Farmers of New Zealand (312/8)* and *Real Estate Institute of New Zealand Inc. (335/161)*, *D Russel (163)*, *A A Rutherford (165.7/1)*, *M Sangster (167/7)*, *T Sangster (168/7)*, *Scope Resources Limited (169/19 & 169/20)* opposed by *Central Otago District Council (301/8)* and *Horticulture New Zealand (317/13)*, *Shirlmar Station (174.3/1, 174.3/2, 174.3/3, 174.3/4, 174.3/5 & 174.3/6)* supported by *Waterforce Ltd (344/23)*, *I K & S L Smith (177/1)* opposed by *Real Estate Institute of New Zealand Inc. (335/162)*, *M J Sole (178/11)* opposed by *Real Estate Institute of New Zealand Inc. (335/163)*, *G R Somerville (180/1)*, *T Stevenson (185.3/1 & 185.3/2)*, *B J Swale (187)* supported by *Paterson Pitts Partners Ltd (330/6)*, *C Tamblyn (188.4/1)* opposed by *Central Otago-Lakes Branch Royal Forest & Bird Society (302/62)*, *R Tamblyn (189.1 & 189.4/1)* supported by *Waterforce Ltd (344/24)*, *J Templeton (192.5/1 & 192.5/2)* supported by *Waterforce Ltd (344/25)*, *Totalspan Limited (195/1 & 195/2)*, *N & A Trevathan (197.3/1)* supported by *Waterforce Ltd (344/26)*, *Upper Clutha Branch, Royal Forest & Bird Protection Society Inc (199/30, 199/31, 199/32, 199/33 & 199/34)* opposed by *Real Estate Institute of New Zealand Inc. (334/164)*, *T Van Kempen (200/3)*, *J Van T Veen (201.4/1 & 201.4/2)* supported by *Waterforce Ltd (344/27)*, *Waterforce Ltd (205/1 & 205/2)* supported by *BTW South Ltd (300/15)*, *R W Weatherall (207)* supported by *Waterforce Ltd (344/28)*, *B S Williams (215.5/2)*, *S R Worrill (216.2/1 & 216.2/2)* and *D J Wright (218/1)*.

3. That the submissions by the following be rejected.
K A Bain (6.2/1), **CRT Real Estate Limited (40/1)**, **Real Estate Institute of New Zealand Incorporated (156/1)**, **J C F Rowley (161.8/1 & 161.8/2)** supported by **J C F Rowley (336/1)** and **D V Scott (170/4 & 170/3)**.

Plan Amendments:

4. That the provisions of proposed Plan Change 5N be amended to state as follows:

(i) Rule 4.7.6D(a) is to be amended to state:

“D. Visual Effect of Buildings and Structures

(a) All buildings including new, and relocated and repainted buildings and structures (excluding post and wire fences; bird netting and support structures, wind machines, pivot irrigators and sprinklers and other equipment and fixtures incidental to agriculture, horticulture and viticulture), building trims and non-residential buildings and structures associated with farming activity) shall be finished in tones and colours in the range of browns, greens, grey blue, greys, creams, terracotta, tussock and dark reds. are subject to the following:

Breach:
discretionary
(restricted)
activity see
Rule 4.7.3(iii)

(i) Finish

All buildings shall be finished in any of the following materials:

(i) Timber/Composite Weatherboard (vertical and horizontal).

(ii) Plaster/Adobe/Rammed Earth/Masonry Products/Concrete.

(iii) Stone.

(iv) Coloured steel excluding unpainted zincalume and unpainted corrugated iron.

(v) Weathered corrugated iron

(vi) Brick

(ii) Colour : Exterior Walls, Accents and Trim

The exterior walls, accents and trim for all buildings and structures shall be in a colour or colours selected from the following colour palette, provided that the colours of exterior walls shall be in a low sheen:

Browns, greens, grey blue, greys, terracotta, tussock and dark reds provided that such colours shall have a Reflectivity Value (RV) of less than 38%.

Notes: 1. Colours of exterior walls are to be similar to and darker than the surrounding landscape colours.

2. It is acknowledged that RV may need to increase due to the use of natural timber.

3. Unpainted surfaces such as brick shall be finished in colours consistent with those specified in Rule 4.7.6D(a)(ii).

4. BS 5252 colours that are acceptable in terms of Rule 4.7.6D(a)(ii) are:

00A07	22B21	08B29	04C40
02A07	04B23	10B29	06C40
06A07	08B23	12B29	08C40
10A07	10B23	18B29	12C40
16A07	12B23	22B29	14C40
00A09	18B23	04C37	16C40
10A09	22B23	06C37	18C40
00A11	04B25	08C37	08D44
02A11	08B25	10C37	04D45
06A11	10B25	02C39	06D45
10A11	12B25	04C39	08D45
16A11	18B25	06C39	12D45
00A13	22B25	08C39	14D45
08A14	04B27	10C39	16D45
18A14	08B27	12C39	02E58
04B21	10B27	14C39	04E58
08B21	12B27	16C39	14E58
10B21	18B27	18C39	24E58
12B21	22B27	20C39	
18B21	04B29	02C40	

(iii) Colour : Roofs

The roofs of all buildings shall be in a low sheen in any colour that has a RV of less than 32% or shall be unpainted natural products such as timber shingles or slate.

Note: Colours of roofs are to be similar to and darker than the surrounding landscape colours.

(ii). Rule 4.7.6D(b) is to be amended to state:

“(b) All buildings and structures (excluding post and wire fences, bird netting and support structures, wind machines, pivot irrigators and sprinklers and other equipment and fixtures incidental to agriculture, horticulture and viticulture) shall not protrude onto a skyline or above a terrace edge when viewed from ~~an~~ a adjacent public road or other public place at a distance not exceeding 2 kilometres from the building or structure.

Breach:
discretionary
(restricted)
activity see
Rule 4.7.3(iii)

Reason

The District’s landscape has been identified as an important resource. Buildings have the potential to compromise the value of this resource and care must be taken with their finish, colour and location. The colour range identified has been selected to avoid colour contrast with the surrounding landscape and to provide certainty for resource users. The colours selected are background colours of the land rather than colours associated with vegetation (particularly its seasonal variation) or other isolated features of the landscape. Colours listed above may not be appropriate in all landscape settings and such appropriateness must therefore be assessed on a site specific basis. For the avoidance of any doubt as to what colours comply, the Council shall hold colour charts of appropriate colour ranges at Council’s offices.”

(iii). Rule 4.7.3(iii) is to be amended to state:

“(iii) Any activity that does not comply with **Rule 4.7.6D Visual Effects of Buildings and Structures** is a discretionary (restricted) activity.

Council shall restrict the exercise of its discretion to the effect on landscape and amenity values following matters:

1. Whether or not the building or structure can be appropriately screened from public view by topographical features, appropriate planting or other screening having regard to the open space, landscape, natural character and amenity values of the rural environment.
2. Whether the building or structure will breach the form of or be visually prominent in public view on any skyline or terrace edge.
3. The colour scheme for the building or structure which should in general be darker than the background in which it is set.”

For the avoidance of doubt Rule 4.7.4(i) is not amended by proposed Plan Change 5N.

(iv). Rule 4.7.2(ia) is to be amended to state:

“(ia) **Residential Activity in Rural Resource Area (3)**

Residential activity ~~is~~ is a controlled activity in the Rural Resource Area (3) provided the following standards are complied with:

...

(g) **General Standards**

The relevant standards set out in Standard 4.7.6 shall be complied with provided that a building is permitted to encroach into the yards provided for in a Rule 4.7.6A(a) and is exempt Rule 4.7.6D(a) and (b) if such building is to be erected on a building platform or erected within the Development Zone shown on the concept plan attached as Schedule 19.20....”

Note: Text to be included is double underlined and text to be deleted is struck out.