

2012

Monitoring Report for Section 20 of the District Plan

Open Space Zone – Landscape Protection



Policy and Planning

Queenstown Lakes District Council

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Executive Summary

This report assesses the effectiveness and efficiency of the Open Space Zone – Landscape Protection (Section 20) of the Queenstown Lakes District Plan. The zone was not originally in the 1995 Proposed District Plan, but has been introduced through two plan changes at Riverside (Albert Town) and Peninsula Bay (Wanaka).

The zone purpose is to protect the landscape values, natural character and informal open space of the zoned area. It is intended to keep such areas in a natural state and free of buildings and structures. Overall, monitoring has found the majority of the objectives, policies and rules for the Open Space Zone – Landscape Protection to be effective. However a number of areas within Section 20 were identified where the rules and assessment matters could be refined to improve the effectiveness and efficiency of the District Plan provisions.

The reference to ‘Landscape Protection’ after the heading Open Space Zone could be dropped, as the zone purpose states that landscape protection is just one of three things that the zone seeks to achieve:

The purpose of the Open Space Zone is to protect landscape values, natural character and informal open space of the area.

The Open Space Zone could also be a useful tool to apply to other development areas, for example those promoted through future plan changes.

Only one consent for an underground gas storage facility has been granted in the Open Space Zone – Landscape Protection since it was created. It is therefore not possible to assess how efficiently the zone delivers consents compared to other zones.

1. Introduction

Section 35 of the Resource Management Act states that:

***Every local authority shall monitor-
...[(b)] the efficiency and effectiveness of policies, rules, or other methods....***

and take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.

This report fulfils the requirements of section 35(b) in relation to the Section 20 of the Queenstown Lakes District Plan, which relates to the Open Space Zone – Landscape Protection. This report monitors the effectiveness and efficiency of the Section 20 objectives, policies and rules. The assessment matters and notification provisions are also considered.

Findings in this report will assist in informing the review of the Queenstown Lakes District Plan, due to be publicly notified in October 2013.

2. What is Section 20 of the District Plan

Section 20 sets out objectives, policies and rules for the Open Space Zone – Landscape Protection. The ‘purpose’ statement for section 20 states:

The purpose of the Open Space Zone is to protect landscape values, natural character and informal open space of the area. It is intended to keep such areas in a natural state and free of buildings and structures. Such areas may however, be utilised for types of passive recreation that do not require intrusive buildings or structures, such as walking, running and biking.

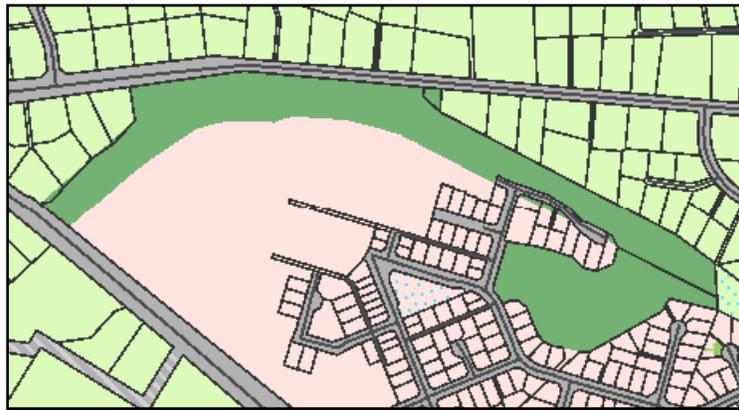
The areas zoned Open Space Zone – Landscape Protection are not reserves. They are privately owned no-build areas with restrictions on activities to retain the open character and ecological values, and also areas where public access for informal recreation is encouraged. They are relatively recent alterations to the District Plan, reflecting the provisions of agreed structure plans for specific development areas.

There are just two areas where the zone is located, as shown in the figures below:

Figure 1: Open Space Zone – Landscape Protection, shown in dark green at Peninsula Bay



Figure 2: Open Space Zone – Landscape Protection, shown in dark green at Albert Town



3. How was Section 20 created?

The Open Space Zone – Landscape Protection was not originally in the 1995 Proposed District Plan, but has been introduced through two plan changes:

1. Riverside (Albert Town) – operative on 5 April 2007.
2. Peninsula Bay (Wanaka) – operative on 14 March 2008.

4. How much activity does Section 20 enable?

A summary of what is currently enabled by Section 20 as a permitted or controlled activity is set out below:

Permitted Activities

- i* Passive or informal recreation (e.g. walking, running, biking, picnics).

- ii Maintenance activities associated with permitted activities, or those activities that have a resource consent.
- iii Removal/control of weeds and wilding trees.
- iv Fencing of ecologically valued areas.
- v Fencing on the boundary of the Zone where it bounds privately owned land.

Controlled Activities

- i Light Stock Grazing
- ii Cycling and Walking Trails

Other activities require a restricted discretionary or non-complying resource consent application.

Point v above is not good grammar and can be reworded as part of the District Plan Review.

5. How many Section 20 temporary activities have occurred?

A search of Council records indicates just one resource consent in the Open Space Zone – Landscape Protection. This reflects that the provisions of the plan are relatively new, and by their nature, do not anticipate a large number of consent applications. The consent application was for:

- RM081031 – undertake earthworks for the installation of an underground LPG storage tank within an Open Space Zone, Aubrey Road.

Figure 3: The aerial photography below illustrates the level of development around the Open Space zoned land at Peninsula Bay



Figure 4: The aerial photography below illustrates the current level of development around the Open Space zoned land at Albert Town



6. What does Section 20 seek to achieve?

Section 20 has two objectives that seek to:

- protect and maintain natural ecological values and the open appearance of the Open Space Zone, and
- to enable public use of the Open Space Zone for passive or informal recreational activities.

7. How effective are the Section 20 Objectives, Policies, Rules and Assessment Matters?

7.1 Effectiveness of the Objectives

The first objective for Section 20 is considered below:

Objective 1:

To protect and maintain natural ecological values and the open appearance of the Open Space Zone.

This objective is effective. The land zoned for Open Space has largely retained its 'open appearance' and the natural ecological values that were present (such as regenerating native vegetation and a man-made wetland) were being maintained.

Objective 2:

To enable public use of the Open Space Zone for passive or informal recreational activities.

This objective is effective. A number of walking and cycling trails have been created through the Open Space zone at both Albert Town and Peninsula Bay. Areas of open space for picnicking and passive recreational activities such as dog walking are also available. Public use was freely available.

7.2 Effectiveness of the Policies

The policies for Section 20 of the District Plan are set out below with a comment on each.

1.1 *By restricting the development of buildings and structures and ensuring that those that are built do not detract from the open character of the zone.*

This policy is effective. A site inspection confirmed the areas zoned Open Space Zone – Landscape Protection are almost completely free of buildings and structures.

The only consent that is identified as being within the Open Space zone was for a gas storage facility (RM081301). The consent decision is very clear in that it gives approval "*to locate an LPG storage facility under ground*". No elevations were 'stamped as approved as part of the decision, presumably because none were submitted with the application because there would not be any visible elevations above ground.

However Figure 5 below shows the gas storage facility that has been constructed features 20 large gas bottles located above ground on a concrete pad. These were quite visible from Albert Town as it is prominently located at the top of a ridge.

This consent has not yet been monitored by Lakes Environmental so may well require a variation or fresh application as it does not appear to be in accordance with what was approved by RM081301. This is a consent compliance or enforcement matter rather than a problem with the policy.

However this consent has highlighted the fact that the Open Space zone – Landscape Protection, is not listed in Section 16 of the District Plan which specifies limits on quantities of hazardous substances. Furthermore the Section 16 hazardous substances

rules have precedence over the rules of the Open Space zone, meaning what has been constructed (which did not require an earthworks consent) is almost entirely permitted under the Open Space zone rules. Consent may still be required for the fence, slab and vehicle access. Further investigation is continuing.

Figure 5: Photos of gas storage facility in the Open Space Zone off Aubrey Road, Albert Town



1.2 By protecting, and where appropriate enhancing, ecological values and indigenous vegetation.

This policy is effective. Existing native vegetation is protected through the provisions of the Open Space zone. A wetland area has been created within the Open Space zone which will enhance ecological values. Native planting has occurred around the wetland.

1.3 *By protecting the open appearance of the zone.*

This policy is closely related to Policy 1.1, which seeks to ensure buildings do not detract from the open character of the zone. The policy is effective as the zone has retained its open appearance.

1.4 *By limiting the types of activities that can take place within the Open Space Zone.*

This policy is effective. The zone rules do limit the types of activities that can take place. While a consent was granted for a non-complying activity, being the gas storage facility, it was meant to be underground and so would not have had an adverse effect on the environment. It has subsequently been constructed above ground.

1.5 *By ensuring effective maintenance, including pest control, is undertaken within the Open Space Zone.*

The appearance of the Open Space zone was that it was being maintained. Whether pest control was being undertaken was difficult to determine. However no wilding pines were present in the Open Space zone, while they are prominent on Mt Iron and other adjoining areas.

The policies related to Objective 2 are set out below.

2.1 *By ensuring public access is available to land within the zone.*

This policy can only be moderately effective, because public access depends on ownership as the land zoned Open Space is held in private ownership. The land is currently owned by the developer, but the District Plan is not able to prevent it being on-sold. A legal mechanism is required to be added to the certificate of title at the time of subdivision to ensure that it remains accessible to the public in perpetuity.

2.2 *By providing for the creation of a limited number of passive recreation facilities, e.g. walking and cycling trails, picnic and barbeque areas.*

As with Objective 2, this policy is effective. A number of walking and cycling trails have been created through the Open Space zone at both Albert Town and Peninsula Bay.

Figure 6: Mountain biking on trails in the Peninsula Bay Open Space zone



2.3 By limiting recreation activities to informal or passive type activities.

This policy is effective. Recreational activity appeared limited to only passive and informal activities, no evidence of commercial recreational activity was evident. No commercial recreational activities have been consented in the zone.

7.3 Summary with regard to effectiveness of the objectives and policies

The objectives and policies are effective. It is noted that the objectives and policies are not phrased in the same manner as the rest of the District Plan. Whilst it is clear as to what they aim to achieve, the way they are written is that objectives read as policies and policies read as methods. There is not an issue with what they are seeking to deliver; however, the style they are written in could be improved to ensure consistency with the remainder of the plan. The formatting of objectives and policies throughout the plan is to be reviewed and these formatting issues could be dealt with through that process.

7.4 Effectiveness of the Rules

A number of matters have been identified that can be addressed to enhance the effectiveness of the Section 20 rules:

1. 20.2.2.1 iv & v - Fencing is listed as a permitted activity for ecologically valued areas and on the zone boundary, but in terms of the fencing permitted there are

- no restrictions in scale and/or appearance. Other types of fencing do have controls on the location, type and form of fencing.
2. 20.2.2.2 ii - Cycling and walking trails are listed as controlled activities, but are referred to as having a Restricted Discretionary Activity status under the matters for assessment (20.2.3 ii). The controlled status is appropriate and 20.2.3 ii should be corrected accordingly.
 3. 20.2.2.3 v & 20.2.2.6 viii (a) - Specific rules have been added in relation to areas of Peninsula Bay or Riverside, but it is unclear as to what the areas under discussion are. Additional text to clarify the location of these pieces of land would be of assistance.
 4. 20.2.2.3 ii – The matters of discretion for car parking and associated vehicle access construction do not include associated earthworks. Earthworks not associated with cycling and walking trails are provided for, however the rules mean any earthworks for car parking and vehicle access are a non-complying activity (see 20.2.2.5). These should be assessed in the same manner as the cycling and walking trails.
 5. 20.2.2.3 v – (Vehicle access) - reference to Rule 7.5.3.3.vi is incorrect. This rule doesn't exist, it should instead be a reference Rule 7.5.3.3 iii.
 6. 20.2.2.5 i – Non-complying activities – the reference to earthworks doesn't include those associated with vehicle access addressed as a Restricted Discretionary Activity under 20.2.2.3 v
 7. The rules could be amended to make it absolutely clear who has the ongoing responsibility for maintenance and upkeep of land zoned Open Space. Specific subdivision rules could be added requiring a legal mechanism to be added at the time of subdivision.

7.5 Effectiveness of the assessment matters

A number of issues have been identified with regard to the effectiveness of the assessment matters as described below:

1. Assessment matter 20.2.3 i sets out the assessment matters for 'Light Stock Grazing'. Point (e) is repetitive as fencing is addressed separately later on in the assessment matters, and contains bad grammar ("low effect on the environment"). Minor rewording to points a-c could remove the need for the last two points.
2. Assessment matter 20.2.3 ii sets out the assessment matters for 'Cycling and Walking Trails'. Point (c) looks for connectivity to the road network, but makes no reference to connecting the trails to any existing or proposed walking/cycling facilities. Point (g) copies exactly what is said in the following section on 'Picnic and Barbecue Areas' and as worded, it doesn't provide the impetus for trails to link to picnic and barbecue areas.
3. Assessment matter 20.2.3 v sets out the assessment matters for 'Fencing'. Points (a) and (c) effectively repeat one another.

4. Assessment matter 20.2.3 vi sets out the assessment matters for stock yards. Similar to the matter above, points (a) and (c) effectively repeat one another.
5. Assessment matter 20.2.3 vi sets out the assessment matters for 'Stock Yards'. Point (e) refers to "the proposed fence" but it is unclear if this refers to any fence proposed or a specific feature.

7.6 Notification / non-notification provisions

Unlike other sections of the District Plan, Section 20 does not have any guidance on notification or non-notification of applications.

8. How efficient are the Section 20 provisions?

The financial cost of administering the provisions of Section 20 and processing resource consents has been evaluated based on an assessment of:

- Number of resource consents triggered by the rules
- Average cost of processing resource consents triggered by the rules; and
- Number of Environment Court appeals

8.1 How many resource consents have been triggered?

Only one resource consents have been identified within the Open Space Zone – Landscape Protection.

8.2 Average cost of processing resource consents

The total consent costs (including GST) are as follows:

Consent	Cost
RM081301	\$2056

8.3 Notification / Non-notification / Appeals to applications

RM081301 was processed on a non-notified basis. There were no appeals to the Environment Court.

8.4 Summary with regard to efficiency

Due to only one resource consent being processed it is difficult to make any firm conclusions about the efficiency of the zone provisions at delivering consents.

9. Conclusion

This monitoring report has identified that the objectives and policies are effective. However a number of areas within Section 20 were identified where the rules and assessment matters could be refined to improve the effectiveness and efficiency of the District Plan provisions.

The reference to 'Landscape Protection' after the heading Open Space Zone could be dropped, as the zone purpose states that landscape protection is one of three things that the zone seeks to achieve:

The purpose of the Open Space Zone is to protect landscape values, natural character and informal open space of the area.

The Open Space Zone could also be a useful tool to apply to other development areas, for example those promoted through future plan changes.