

**QLDC Council
8 November 2017**

Report for Agenda Item: 2

Department: Planning & Development

Stage 2 Proposed District Plan Notification – Wakatipu Basin

Purpose

- 1 The purpose of this report is to present the new Chapter 24 Wakatipu Basin and associated Wakatipu Basin Rural Amenity Zone and Wakatipu Basin Lifestyle Precinct for approval to proceed to statutory public notification. The new Chapter 24 Wakatipu Basin and zones will be a variation to the Proposed District Plan (PDP) and also includes consequential variations to the PDP chapters and definitions notified in August 2015.
- 2 References to “Stage 2” of the PDP in this report refer to both the introduction of new chapters and provisions into the PDP and to proposed variations to existing parts of the PDP introduced with Stage 1 of the district plan review.

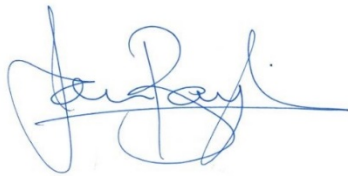
Recommendation

That Council:

1. **Note** the contents of this report.
2. Having particular regard to the section 32 evaluation reports, **approve** pursuant to section 79(1) and clause 5 of the First Schedule of the Resource Management Act 1991 the Stage 2 provisions of the Queenstown Lakes District Council Proposed District Plan 2015 for notification:
 - a) Chapter 24 Wakatipu Basin
3. Having particular regard to the section 32 evaluation reports, **approve** pursuant to clauses 5 and 16A of the First Schedule of the Resource Management Act 1991 the following variations to the Stage 1 provisions of the Queenstown Lakes District Council Proposed District Plan 2015 for notification:
 - a) Changes to Planning Maps varying the Wakatipu Basin shown in Attachment 3 to Council Agenda Item: 1, Stage 2 Proposed District Plan Notification – Transport, 8 November 2017.
 - b) Chapter 2 Definitions: in relation to the definition of *site*;
 - c) Chapter 22 Rural Residential and Rural Lifestyle: parts 22.1 Zone Purpose, Rule 22.3.2.10 , Table 6 and the Ferry Hill Rural Residential Sub Zone and concept plan by deleting text and rules relating to areas that will be replaced by the Wakatipu Basin Rural Amenity Zone and Wakatipu Basin Lifestyle Precinct;

- d) Chapter 27 Subdivision and Development amending Rules 27.4.2, 27.4.3, 27.5.1, and 27.7, and deleting Rule 27.8, 27.13;
 - e) Chapter 36 Noise amending Rule 36.5 .5.1 General Standards and noise limits.
4. **Authorise** the Manager Planning Policy to make minor edits and changes to the chapters, maps and section 32 reports to improve clarity and correct errors and to notify Stage 2 of the Queenstown Lakes District Council Proposed District Plan 2015 in accordance with clause 5 of the First Schedule of the Resource Management Act 1991.
 5. **Note** that the (Stage 2) Planning Maps contain all the changes applicable to notification of Stage 2 of the Proposed District Plan including the Wakatipu Basin Variation, Open Space and Recreation Zones , Visitor Accommodation Sub-zones and roads applicable to the Transport Chapter
 6. **Note** the zones and mapping notations notified in Stage 1 that are not amended by the Stage 2 changes remain part of the Proposed District Plan.

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30/10/2017

Reviewed and Authorised by:



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31/10/2017

Background

- 3 Stage 1 of the review commenced with 30 key chapters including the strategic direction and landscape, residential, rural and commercial zones, designations and maps. Matters raised in submissions have been considered at a series of 13 hearings the last of which was completed in September 2017 with the notable omission of Stream 14 Wakatipu Basin Mapping.
- 4 A number of changes have been made to the Operative District Plan (ODP) which have not been duplicated in the Proposed District Plan¹. Council instead agreed on 29 September 2016, to separate the new plan conceptually and by

¹ Plan Change 52 Mount Cardrona Station, Plan Change 51 Peninsula Bay North; Plan Change 50 - Queenstown Town Centre Zone Extension; Plan Change 46 Ballantyne Road Industrial and Residential Extension; Plan Change 45 – Northlake; Plan Change 44 – Hanley Downs,

geographic area into two volumes, which at the end of the staged review process will contain:

- **Volume A**, the geographic areas that have been notified into the PDP, and District Wide chapters to cover these areas, including the strategic chapters and PDP definitions; and
 - **Volume B**, the ODP as it relates to geographic areas that are excluded from the partial review, and the operative district wide chapters to cover these areas, including ODP definitions.
- 5 The intent of this conceptual two-volume approach is to manage areas of land within the District that were subject to a plan change since the Proposed District Plan was notified in August 2015. As the PDP provisions become operative the equivalent provisions in Volume B will cease to apply for that land².
 - 6 District plan subdivision and development controls in the Wakatipu Basin have been subject to extensive changes in approach over the last 20 years and the development one sees in the Wakatipu Basin has been approved under a range of different planning regimes and zones.
 - 7 The notified 1995 Proposed District Plan applied a Rural Uplands and a Rural Downlands zone in the Wakatipu Basin with defined areas of landscape importance, rural residential areas and other living and tourist-related zones including a 20 ha minimum lot size. Following decisions on submissions in 1998, a large number of lots between 4 and 20 hectares were approved between 1998 and 2001.
 - 8 Through a series of decisions on appeals to the decisions version of the 1995 Plan, the Environment Court changed the provisions substantially to apply a Rural General Zone and Rural Living Areas and a number of special zones have been created. In the Rural General Zone, a discretionary consent is required for subdivisions and residential building platforms with no minimum lot sizes and assessment matters addressing development on the basis it falls within outstanding natural landscapes Wakatipu Basin and outstanding natural features, visual amenity landscapes, and other rural landscapes. Over the period of the ODP being in effect, the majority of resource consent applications for subdivision and development was within the floor of the Wakatipu Basin, most of which is zoned Rural General and classified as a visual amenity landscape.
 - 9 The notified Proposed District Plan 2015 (the PDP) retained the discretionary consent regime with a Rural zone covering the majority of the valley floor and identified Outstanding Natural Features, and Outstanding Natural Landscapes on the planning maps. Rural Lifestyle and Rural Residential Zones were identified that allow for 4,000 m² sites in the Rural Residential zone and 2 ha minimum average 1 ha minimum site sizes in the Rural Lifestyle Zone.

² Volume B chapters (including district-wide operative chapters) will however remain in the district plan where they apply to provisions not being reviewed such as Remarkables Park Zone the Queenstown Town Centre extension and Frankton Flats B.

10 A large number of submissions were received on the notified PDP for the Wakatipu Basin many of which are seeking additional opportunities for subdivision and development, golf resort and rural visitor resort type zonings. Notification of this proposed variation will mean that these submissions will be transferred to be considered alongside submissions on the variation. Any person can make a submission on the Wakatipu Basin Variation.

Monitoring and the need for Review

11 A 2009 'Rural Monitoring Report 2009', noted the high number of resource consent applications and approvals for subdivision and development in the Wakatipu Basin and questioned whether the existing provisions were effectively managing cumulative effects of residential subdivision and development. The report noted the effect of private plan changes enabling rural lifestyle living, and resort activities and accommodation.

12 The Hearings Panel for the QLDC PDP, following the hearing of submissions on the Strategic Direction, Landscape, Urban Development and Rural Zone chapters of the PDP Stage 1 of the PDP review issued a minute in July 2016 stating:

"continuation of the fully discretionary development regime of the Rural General Zone of the ODP, as proposed by the PDP, was unlikely to achieve the Strategic Direction of the PDP in the Wakatipu Basin over the life of the PDP. We are concerned that, without careful assessment, further development within the Wakatipu Basin has the potential to cumulatively and irreversibly damage the character and amenity values which attracts residents and other activities to the area. In addition, we consider there is some merit in the proposition that the rural character and amenity values of the Wakatipu Basin do not derive predominantly from farming and agricultural practices".

13 The minute set out specific matters for the Council to address including to:

- a) *Identify the environmental characteristics and amenity values of the area that should be maintained and enhanced, noting that these will vary across the Wakatipu Basin floor;*
- b) *Identify those areas able to absorb development without adversely affecting the values derived in (a) and without adversely affecting the values associated with the surrounding Outstanding Natural Landscapes and Outstanding Natural Features;*
- c) *Identify those areas that are unable to absorb such development;*
- d) *Determine whether, given the residual development already consented, there is any capacity for further development in the Wakatipu Basin (WB) floor and, if there is, where it should be located and what form it should take.*

14 The Wakatipu Basin Variation arises from the Wakatipu Basin Land Use Planning Study March 2017 (the Wakatipu Basin Study) which was commissioned by the Council between September 2016 and March 2017. The study addressed the above and recommended methods to manage the character and amenity of the Wakatipu Basin over the long term.

Comment

Proposed Provisions

- 15 The proposed new Wakatipu Basin Rural Amenity zone (Zone) and new Wakatipu Basin Lifestyle Precinct (Precinct) will replace the existing Rural Zone, Rural Residential and Rural Lifestyle Zones in the Wakatipu Basin.
- 16 Within the Zone residential activity is permitted on every site, however all residential buildings except small farm buildings, including buildings within previously approved building platforms will require resource consent as a restricted discretionary activity. These resource consent applications will focus on preserving both the local and wider landscape and rural amenity values of the Wakatipu Basin as well as the setting of its outstanding natural features. For any future subdivision, new sites will require a minimum area of 80 hectares, which is intended to halt the subdivision of rural land where it has been identified in the Wakatipu Basin Study that there is a low capacity for additional subdivision and development.
- 17 Within the Zone, areas have been identified as the Precinct where the Wakatipu Basin Study identified there is additional capacity to absorb higher levels of development without detracting from the landscape and visual amenity values of the Precinct, and the wider Zone and Wakatipu Basin area. The Precinct covers 22% of the Zone and the minimum allotment size will be 6000m² (0.6ha) with a maximum average density of one residential unit per 10,000m² (1 hectare). Notwithstanding these allotment sizes and averages, all buildings require a restricted discretionary activity consent and a strong emphasis will be on ensuring the visual effects of buildings and residential activity are appropriately managed, including the effects of development from public places and the outstanding natural landscapes and features.
- 18 An evaluation report prepared under section 32 of the RMA accompanies the chapter (see **Attachment 1** – Section 32 Evaluation). This evaluation has helped determine the appropriateness of objectives to achieve the purpose of the RMA in light of the issues.
- 19 The section 32 evaluation report considers whether the proposed provisions are the most appropriate way to achieve the relevant objectives. The proposed policies, rules and other methods are examined for their costs, benefits, efficiency, effectiveness and risk in terms of achieving the objectives, and a range of alternative approaches and methods are considered.
- 20 The report concludes that the proposed Variation (see **Attachment 2** – Chapter 24 Wakatipu Basin) will assist the Council to fulfil its statutory functions and responsibilities through objectives, and associated policies and rules summarized in the following lists of key elements:

Wakatipu Basin Rural Amenity Zone (WBRAZ) key elements:

- Covering 68% of the Wakatipu Basin Study area
- Objectives and policies specific to the Wakatipu Basin
- Minimum lot size of 80 ha

- All buildings except small farm buildings 50m² area require consent (Restricted Discretionary)
- Landscape (or location) driven assessment criteria
- Landscape Character Units derived from the Wakatipu Basin Study are used to assist with the assessment of development proposals (Schedule 24.8)
- Introduce setbacks and controls to minimise adverse building impact:
 - 20 m from any public road (Rule 24.5.4)
 - 50m from Identified Landscape Features (Rule 24.5.5)

Wakatipu Basin Lifestyle Precinct (WBLP) key elements:

- Covers 22% of the Wakatipu Basin Study Area
- WBRAZ Objectives and Policies also apply to the WBLP
- Objectives and policies specific to the WBLP
- Average lot size of 1ha with minimum lot size of 6,000m²
- Stringent controls to ensure the special qualities of the Wakatipu Basin are preserved
- All buildings require consent (Restricted Discretionary)
- Landscape (or location) driven assessment criteria
- Landscape Character Units derived from the Wakatipu Basin Study are used to assist with the assessment of development proposals (Schedule 24.8)
- Introduce setbacks and controls to minimise adverse building impact:
 - 75 m from any public road (Rule 24.5.4)
 - 50m from Identified Landscape Feature (Rule 24.5.5)

21 The proposed Wakatipu Basin Chapter results in a consequential need to notify a variation to Stage 1 PDP provisions, located in the following Stage 1 chapters:

- Chapter 2 Definitions in relation to the definition of *site*, which is also tailored to address the entire PDP, not just the Wakatipu Basin;
- Chapter 22 Rural Residential and Rural Lifestyle 22.1 Zone Purpose and Rule 22.3.2.10 deleting paragraphs and rules addressing rural areas in the Wakatipu Basin, deleting Table 3 Rural Lifestyle Deferred Buffer zones, and deleting Table 6 Ferry Hill Rural Residential Sub Zone and concept plan;
- Chapter 27 Subdivision and Development amending Rules 27.4.2, 27.4.3, 27.5.1, and 27.7, and deleting Rule 27.8, 27.13;

- Chapter 36 Noise amending Rule 36.5 .5.1 General Standards and noise limits.

Consultation preceding the Variation

22 The development of the Variation has built on previous public consultation undertaken to develop the PDP both before and after its notification. In addition to this:

- Submissions on Stage 1 of the district plan review addressing the Wakatipu Basin were consolidated and carefully considered;
- Other statutory agencies (the Minister for the Environment, neighbouring district councils, the Otago Regional Council and Iwi Authorities) were informed of the development of these proposed changes, and offers were made to meet and discuss the proposals.

23 Any feedback received from statutory agencies after the close of the agenda item will be tabled on 8 November along with any changes that may result from this feedback.

Legal effect of these decisions

24 As the proposed provisions proceed through the review process from notification, to decisions on submissions, to resolution of any appeals, and to being made operative, the legal effect of these provisions will change.

25 Following notification, an application for resource consent on land affected by the Stage 2 provisions, will need to be assessed considering all relevant Operative District Plan (ODP) provisions, and the Stage 1 and 2 PDP objectives policies and definitions can also be considered. If no submissions are made on a PDP rule, after the close of submissions it must be treated as operative and any previous rules must be treated as inoperative. For all rules except those in the following paragraph, the proposed Stage 1 and 2 rules will have legal effect when a decision on submissions relating to the rules is publically notified.

26 Under section 86B(3) of the RMA a number of the Stage 2 provisions will take immediate legal effect including all rules that protect or relate to water, air, or soil (for soil conservation), significant indigenous vegetation habitats and fauna and historic heritage. Although there are PDP provisions addressing these matters in the Wakatipu Basin which will continue to apply the Variation does not apply new rules that have immediate legal effect.

27 Submissions and Hearings

The submission period, indicative hearing timeline and communications plan are set out in Council Agenda Item: 1, Stage 2 Proposed District Plan Notification – Transport, 8 November 2017.

Options

28 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

29 **Option 1** Approve the PDP (Stage 2) Wakatipu Basin Variation for public notification

Advantages:

30 Progresses the PDP, which addresses a number of fundamental shortcomings in the Operative District Plan.

31 Responds to statutory requirements of the Resource Management Act 1991. In particular, Section 79(1) requires local authorities to commence a review of provisions in its District Plan if the provisions have not been the subject of a review or change during the previous 10 years. Many of the provisions in the Operative District Plan have now been operative for more than 10 years. While no explicit specification exists as to timeframes for notification following commencement of a review, the requirement under section 21 to avoid unreasonable delay applies.

Disadvantages:

32 None

Option 2 Not proceed to approve Stage 2 of the PDP Wakatipu Basin Variation for notification (for example to enable more consultation or analysis to occur).

Advantages:

33 Given the breadth of the issues addressed in the Variation, and the number of potentially interested parties, it is considered unlikely that substantial material progress would result from further pre-notification consultation or discussions such that a delay would be warranted.

34 A large amount of analysis has been undertaken which builds on the Stage 1 chapters of the plan review, for which extensive non-statutory consultation occurred prior to and after notification. Submissions on Stage 1 of the plan have also been considered.

35 The public notification process allows for careful and informed consideration of submissions to be undertaken and for the issues raised to be addressed in a managed and transparent process.

Disadvantages:

36 Would unnecessarily delay progression of the PDP. Further, it would delay the introduction of parts of the PDP that are considered necessary to have a well-functioning and integrated PDP.

37 This report recommends **Option 1** for addressing the matter.

Significance and Engagement

38 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because the PDP impacts on a large number of residents and ratepayers and residents, many of whom will be specifically affected by the proposed provisions.

Risk

39 This matter relates to the strategic risk SR1 'Current and future development needs of the community (including environmental protection), as documented in the Council's risk register. The risk is classed as high. This matter relates to this risk because the District Plan, along with the 10 Year Plan and Asset Management Plans, is central to the current and future development needs of the community.

40 The recommended option considered above mitigates the risk by providing the necessary regulatory framework to provide for these needs.

Financial Implications

41 Costs associated with the recommended decisions are accounted for in operational budgets.

Council Policies, Strategies and Bylaws

42 A number of Council policies, strategies and bylaws have been considered in developing the PDP, including:

1. Wakatipu Land use Planning Study March 2017 [link](#)
2. Council Reply Evidence on the PDP [link](#)
3. Read Landscapes Limited 'Report to Queenstown Lakes District Council on appropriate landscape classification boundaries within the District, with particular reference to Outstanding Natural Landscapes and Features' 2014. - [link](#)
4. Read Landscapes Limited 'Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment' June 2014 - [link](#)
5. District Plan Monitoring Report, Monitoring the Effectiveness and Efficiency of the Rural General Zone, April 2009 - [link](#)
6. District Plan Monitoring Report, Rural Living Zones of the Queenstown Lakes District Plan, January 2010 - [link](#)

43 These policies and strategies are of varying age, currency and continued relevance, and are also referenced in the supporting s32 evaluation reports.

44 This matter is included in the 10-Year Plan/Annual Plan.

Local Government Act 2002 Purpose Provisions

45 The recommended option:

- Will help meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Consultation: Community Views and Preferences

46 The persons who are affected by, or interested in this matter are residents and ratepayers of the District, Iwi, the Otago Regional Council, neighbouring district Council's and other statutory bodies.

47 A range of views were expressed during consultation and submissions on Stage 1 of the proposed district plan review and these views have been taken into account when developing the provisions. Additionally, it is noted that Council has a duty under both the Local Government and Resource Management Acts to consider the wellbeing of people and communities into the future (i.e. Council's decision making has a strong intergenerational component).

48 Public notification of the PDP provides people with the opportunity to make submissions, to be heard at hearings, and ultimately, if not satisfied with decisions, to appeal to the Environment Court.

Legal Considerations and Statutory Responsibilities

49 Development of the PDP Stage 2 has occurred in accordance with the requirements of the RMA. Particular clauses of relevance include Sections 5-11, 31 and 32, 79 and Schedule 1.

50 The Local Government Act has also informed the review.

51 The process for notifying the PDP Stage 2 is stipulated by and will follow the procedures of the RMA.

Attachments

Attachment 1. Section 32 Evaluation Report – Proposed District Plan Chapter 24 Wakatipu Basin

Attachment 2. Proposed District Plan - Chapter 24 Wakatipu Basin

Attachment 1:

**Section 32 Evaluation Report – Proposed District Plan Chapter
24 Wakatipu Basin**

Attachment 2:

Proposed District Plan - Chapter 24 Wakatipu Basin