

# Chapter 1

# Introduction

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*This table identifies provisions subject to and consequentially affected by appeals:*

Provision Subject To Appeal (identified in red text in the relevant chapter/s)	Appellant Court Number	Consequentially Affected Provisions
Rule 1.7.5	Upper Clutha Environmental Society Incorporated ENV-2018-CHC-56	

*Note: the annotations in this chapter reflect the Council's interpretation of the provisions affected by appeals.*

# 1.1 Purpose

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The purpose of the preparation, implementation and administration of this District Plan is to assist the Queenstown Lakes District Council to carry out its functions in order to achieve the purpose of the Resource Management Act (Act) 1991<sup>1</sup>.

The purpose of the Act<sup>2</sup> is to promote the sustainable management of natural and physical resources.

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

- a. sustaining the potential of natural and physical resources (excluding minerals), to meet the reasonably foreseeable needs of future generations; and
- b. safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- c. avoiding, remedying, or mitigating any adverse effects of activities on the environment.

The way the District Plan seeks to assist achievement of the purpose of the Act is through setting out higher level objectives and policies in Chapters 3-6, which are supported by the more detailed objectives, policies and rules in the balance of the Plan.

# 1.2 Legal Framework

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## Obligation to Comply with the Act

- 1.2.1 No person may use land in a manner that contravenes a rule in the District Plan, unless they have existing use rights or a resource consent granted by the Council (Sections 9, 10 and 10A). In the context of the Act such use includes the use of the surface of lakes and rivers (Section 10A).
- 1.2.2 No person may subdivide land unless expressly allowed by a rule in the District Plan, a National Environmental Standard or a resource consent (Section 11).

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## Existing use Rights

- 1.2.3 Sections 10 and 10A of the Act provide for the existing and continued use of land and the surface of water in a manner which contravenes a rule in the District Plan, subject to the following:

- 1. S72 Resource Management Act 1991
- 2. S5 Resource Management Act 1991

- a. land may be used in a manner that contravenes a rule in a district plan or proposed district plan if either:
  - i. the use was lawfully established before the rule became operative or the proposed plan was notified; and
  - ii. the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified:

Or

- b. the use was lawfully established by way of a designation; and
- c. the effects of the use are the same or similar in character, intensity, and scale to those which existed before the designation was removed.

1.2.4 Existing use rights do not apply if:

- a. the use of land has been discontinued for a continuous period of more than 12 months after the rule in the District Plan the use contravenes took legal effect, unless the Council has granted an extension by way of application;

Or

- b. reconstruction, alteration or extension of any building that contravenes a rule in the District Plan increases its degree of non-compliance.

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## Enforcement

1.2.5 The Council will use its powers under Part 12 of the Act in requiring persons to cease or not commence activity which is or is likely to:

- a. contravene the Act, any regulations, a rule in the District Plan, or any resource consent; or
- b. be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

1.2.6 under the Act, the Council has recourse to several enforcement tools, including enforcement orders, abatement notices, prosecutions for offences, and the power to enter and inspect land in respect of ascertaining compliance, seizing and obtaining evidence, and carrying out emergency works.

## 1.3

# Cross Boundary Issues

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The District sits within the Otago Region, and has borders with the Canterbury, West Coast and Southland Regions, and Southland, Central Otago, Waitaki and Westland Districts.

Cross-boundary issues refer to situations where an activity takes place on or near a territorial boundary or where the effects of a particular activity impact on the territory of an adjacent authority.

- 1.3.1 The following procedure will be followed for cross-boundary issues:
- a. Council will consider whether any resource consents are required from any other consent authorities;
  - b. Reference to the provisions of the Act that relate to joint hearings will be made where an activity requires consent from two or more authorities;
  - c. Applicants for resource consent for activities which might have effects on an adjoining territory will be encouraged to consult with that authority.
- 1.3.2 In the case of infrastructure networks crossing the territorial boundary, Council will consult with the relevant territorial authority and endeavour to arrive at a planning framework that provides a consistent approach to the network.

## 1.4

# Environmental Monitoring

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- 1.4.1 The Council has responsibilities for gathering information, monitoring and maintaining records on resource management matters. These responsibilities will allow the Council to consider refinements to the content of the Plan as well as enabling the community to be informed about how the Plan's provisions are performing. The monitoring process of the Council has three components:
- a. Compliance with the provisions of the Plan and compliance with conditions of consent. In particular the Council will monitor compliance with approved resource consents;
  - b. The state of the environment;
  - c. The suitability and effectiveness of the provisions of the Plan

1.4.2 Monitoring of the Plan will reflect the grouping of chapters within each Part being:

Part One	Introduction
Part Two	Strategic Matters
Part Three	urban Environment
Part Four	Rural Environment
Part Five	District Wide Matters
Part Six	Special Zones
Part Seven	Maps

## 1.5

# Review Procedures/Changes to the Plan

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1.5.1 The Act requires that the Queenstown Lakes District Council have at all times, a District Plan. The Council is obliged to commence a full review of its District Plan not later than 10 years after this Plan becomes operative. It is, therefore envisaged this document will be in force for at least the next decade.

However, as changes occur to the environment it may be desirable to make amendments to this Plan in order to respond to new issues and conditions. This can be done either in part by introducing a Plan Change or in full by way of a total review.

1.5.2 Any person may apply for a change to this Plan, or the Queenstown Lakes District Council may itself initiate a change.

# 1.6 How to use this Plan

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- 1.6.1 The Plan is arranged in seven Parts (see para 1.4.2above).
- 1.6.2 The key to using the Plan is to start with the maps. Firstly, identify the site to which any development relates. Zone information will be shown, as well as any other resources or restrictions.
- 1.6.3 Secondly, refer to the relevant Chapter for the zone provisions (objectives, policies and rules) or District Wide Matters. Development may breach several rules across more than one Chapter and all will need to be addressed.
- 1.6.4 Thirdly, if resource consent is required to undertake an activity, complete the relevant application documents provided by Council and include the information required (see below).

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## Definitions

- 1.6.5 Definitions are provided within this Plan and have specific meanings. Generally, plain English interpretations of words are encouraged but there are definitions included within the Resource Management Act, and other legislation such as the Building Act that need to be applied.

In this Plan where a word or phrase has been expressly defined, it has primacy over other definitions elsewhere.

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## Resource Consents

- 1.6.6 The District Plan provides for two types of resource consent: land use and subdivision. Various resource consents and permits are also issued by the Otago Regional Council particularly in relation to the use of beds of lakes and rivers.
- 1.6.7 An application for resource consent must be made in accordance with the Act. Forms and accompanying information for land use and subdivision consent are available from the Council offices or on the Council’s website. An Assessment of Effects on the Environment and other relevant information prepared in accordance with Schedule 4 of the Act must also be provided.
- 1.6.8 Applications may be made by anyone, however for complex matters, professional assistance may be required.

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## Status of Activities

- 1.6.9 Within the Plan, different levels of activity that relate to the development of land or subdivision are used to set rules. These are:

Permitted activities are allowed by the Plan without resource consent, providing they comply in all respects with the rules specified in the Plan.

Controlled activities require resource consent. They shall comply with standards in the Plan and will be assessed according to those matters in the District Plan over which the Council has reserved control. The Council must grant consent to a controlled activity if the application meets the required information standards, but in granting consent the Council may impose conditions that relate only to those matters specified.

Restricted Discretionary activities require resource consent but the Council will have limited its discretion to certain stated matters. Applications can be granted or refused.

Discretionary activities require resource consent, and may be subject to standards specified in the Plan. All effects of the proposal can be considered by Council and the application can be granted or refused

Non-complying activities are those which are not anticipated in the Plan. A resource consent is required and may be granted or refused.

Prohibited activities are those which a rule in the Plan expressly prohibits in the District or a particular zone. No application may be made for such activities and no resource consent will be granted.

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## Zones and District Wide Rules

- 1.6.10 The District is split into several zones to allow different provisions to apply to each. This allows development in each zone to be reflective of the effects anticipated by this Plan. District Wide Matters apply over all zones.

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## National and Regional Provisions

- 1.6.11 The District Plan must give effect to higher national and regional level policy statements and standards. Otago Regional Council has a separate jurisdiction over developments that in some cases overlaps with the District Council's jurisdiction. Applicants for resource consent are responsible for ensuring that their development complies with the requirements in relevant regional plans, as well as, the district plan.

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## Designations and Heritage Orders

- 1.6.12 Part 8 of the Act defines those authorities that have power to become a requiring authority and provide for their works through designations in the District Plan.
- 1.6.13 A heritage order is a provision in the District Plan to give effect to a requirement made by a heritage protection authority.
- A heritage order is issued to protect features or places of special interest, character, intrinsic or amenity value or visual appeal and such area of land surrounding these places as is necessary to protect and afford reasonable enjoyment of them. No person may undertake work in a manner contrary to the heritage order.

## Consultation

1.6.14 There is no legal duty for an applicant or the Council to consult any person about a resource consent application<sup>3</sup>. However, consultation is recognised as good practice under the Act and it is usually in an applicant's interests to undertake consultation in order to identify potential issues and ways in which those issues might be addressed, potentially saving costs and reducing time delays as a result. In some cases such as where cultural issues are involved, consultation with tangata whenua may be the only way in practice for the applicant to properly assess the potential adverse effects of a proposal and an applicant risks prejudicing the outcome of their application if they do not undertake consultation. Iwi management plans, which Council have available for applicants to review will assist in enabling identification of situations where cultural issues may be triggered by an application.

The appropriate level of consultation will likely depend on the effects or impacts of the proposal.

## Notification

1.6.15 The Council may decide whether to publicly notify an application for resource consent for an activity.

1.6.16 Council must publicly notify the application if:

- a. it decides that the activity will have or is likely to have adverse effects on the environment that are more than minor; or
- b. the applicant requests public notification; or,
- c. a rule in the Plan, or National Environmental Standard (NES) requires public notification.

1.6.17 Despite the above, Council must not publicly notify the application if;

- a. a rule in this Plan, or NES standard precludes public notification of the application; and,
- b. the applicant has not requested public notification.

1.6.18 Despite the above, Council may publicly notify an application if it decides that special circumstances exist in relation to the application.

3. S36A of the Act



- 1.7.1 For the Council to process an application for resource consent an applicant must provide adequate information to enable the effects of the activity to be assessed in accordance with the Act and any assessment matters set out in the District Plan. The amount of detailed information needed depends on the type of resource consent.
- 1.7.2 Where the Council considers insufficient information has been supplied further information will be requested and the application or plan change will not be processed until the information is supplied.
- 1.7.3 Different types of applications require different details to be included with the application. Schedule 4 Act details all information requirements for resource consents and is not repeated here. Guidance on this information is available from Council on the web pages associated with resource consents and may change from time to time.

## Further information

- 1.7.4 Further information may also be required from an applicant where it is considered necessary to better understand the nature of the activity, the effect it may have on the environment, or the ways in which adverse effects may be mitigated. The Council may also commission a report, at the applicant's expense, on any matters raised in relation to the application, or on any environmental assessment or effects. However, before commissioning such a report it shall notify the applicant.

## Building Outline

- 1.7.5 Council may request that any application to establish a building is accompanied by the erection of poles or other similar devices to identify the bulk of the proposed building to be erected on the site, and when erected, such poles should remain in place until the Council decision is issued.

Rule 1.7.5 and relief sought	Appellant Court Number	Consequentially Affected Provisions
Delete Rule 1.7.5 and replace with following: <u>Any applicant for resource consent to establish a building in the Rural Zone and the Rural Living Zones shall erect poles or other similar devices to identify the bulk of the proposed building to be erected on the site. The poles are to be in place prior to site assessment and must remain in place until the Council has completed the application. Poles or other similar devices may also be required for new development in other zones at the discretion of the Council.</u>	Upper Clutha Environmental Society Incorporated ENV-2018-CHC-56	

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## Costs

- 1.7.6 The Council policy involves cost recovery in respect of applications for Resource Consents or Plan Changes. Deposits will be required for all Resource Consents and Plan Change requests. In general terms the costs recovered will include:
- a. any public notices;
  - b. council officer's time;
  - c. postage and distribution costs;
  - d. costs for hearing time;
  - e. costs of any independent reports required by the Council.

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## Resource Consent process

- 1.7.7 The process for making, lodging, vetting and processing resource consent applications is deliberately not included in this Plan. This process is subject to change and amendments and details are available on the Council's website or direct from the Resource Consent Team.