

Queenstown Lakes District Council

Proposed District Plan – Stage 2 Submission Form

Clause 6 of First Schedule, Resource Management Act 1991
FORM 2

Correspondence to:
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For office use only

Submission No:

Receipt Date:

1. Submitter details:

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2. Scope of submission

2.1 This is a submission to the Queenstown Lakes District Proposed District Plan (“PDP”) Stage 2, notified 23 November 2015

2.2 Summary and purpose of the submission:

The submitters generally support the inclusion of their property, Lot 3 DP20693 (the **site**), in the proposed Wakatipu Basin Lifestyle Precinct (**WBLP**) but seek modifications to some of the provisions of that Zone, including:

- Modify the minimum lot size provisions to enable a subdivision layout that is more practicable and would provide for better amenity outcomes for the site and for nearby landowners; and
- Change the status of dwellings from Restricted Discretionary activity to Controlled activity, to better provide for certainty for property owner(s);
- Various other modifications to enable more efficient use of land.

The submitters generally support the proposed earthworks Chapter 25, insofar as it relates to the WBLP.

The details of the submission and the reasons for the submission are set out in Parts 3.1 – 3.5 below.

2.3 The specific provisions that my submission relates to are:

- (a) Planning maps, including maps 13d and 26;
- (b) Chapter 24 – Wakatipu Basin;
- (c) Chapter 27 – Subdivision (Variation)
- (d) Chapter 25 – Earthworks;
- (e) Chapters 3 and 6 (Stage 1), and Chapter 6, Rule 6.4.1.3 (Variation)
- (f) Any other provisions relevant to this submission.

2.4 Site description

The site is approximately 21.5 hectares in size. A large gully dissects the site centrally, running north-south, and the Arrow Irrigation race crosses the land entering towards the north-western edge of the land, continuing south to and around a pond located in the southwest corner.

The landscape is a plateau form, of similar elevation to and directly south of the Millbrook Resort. Millbrook also borders the eastern and western boundaries of the site. Consented residential development is located on the Millbrook land, joining the north and east boundaries of the site. The Millbrook land is substantially developed, with completed dwellings and infrastructure in place, with some lots yet to be built on. To the west of the site is the land known as Dalgleish Farm which is now within the Millbrook Zone and will be used for a mix of golf course development and residential development. Construction is underway for these purposes.

3. Submission

3.1 Planning maps, including maps 13d and 26

3.1.1 Wakatipu Basin Lifestyle Precinct

The Submitters **SUPPORT** the inclusion in the WBLP of Lot 3 DP20693 (21.6090ha) located west of Mill Vista Lane and south of the southern end of Ishii Lane, Millbrook.

The reason for the support is that the WBLP is an appropriate zone for the site, taking into account:

- (a) the location of the site within a wider plateau and topography of the land, and the ability to easily absorb new rural residential development at a scale and form that:
 - would not adversely affect the amenity values of neighbouring properties;
 - is compatible with nearby development; and
 - would not adversely affect landscape and visual amenity values of the wider Wakatipu Basin;
- (b) the proximity of the site to the Millbrook Resort Zone, which lies to the west, north and east of the site, and the generally urban character of development within the Millbrook zone;

- (c) the existing roading to the boundary of the site (via Millbrook roading including Ishii Lane and Mill Vista Lane) over which there are rights of access from Malaghans Road;
- (d) The ability for development within the site to connect to Millbrook's existing infrastructure services (by way of existing agreements with Millbrook);

The relief that the Submitters seek is:

- (a) the adoption of the WBLP over the site, as shown on Planning Maps 13d and 26; or
- (b) the adoption of any other zone, including a zone with the primary purpose of enabling rural residential / rural lifestyle development (such as the legacy Rural Residential Zone, or similar), should such a zone be found to be preferable to the WBLP.

3.2 Chapter 24: Wakatipu Basin

The Submitters generally **SUPPORT** the provisions set out in Chapter 24 but seek the modifications set out in 3.2.1 – 3.2.8 below.

3.2.1 Part 24.1: Zone Purpose

Modify the Zone Purpose as follows:

...

In the Precinct ~~a limited opportunity for~~ subdivision is provided for, with a range of minimum lot sizes to suit the locational attributes of the particular part of the Precinct of 6000 ~~in conjunction with an average lot size of one hectare (10,000m²)~~. Controls on the location, nature and visual effects of buildings are used to provide a flexible and design led response to the landscape character and visual amenity qualities of the Precinct.

...

The reasons for this modification are:

- (a) The words "... *limited opportunity for subdivision* ..." should be deleted because the primary purpose of the WBLP is rural residential living, and therefore the opportunity for subdivision for this purpose should be encouraged and enabled;
- (b) The minimum lot size of 6000m² and average lot size of 1ha would not enable a "*flexible and design led response* ..." as is intended by the purpose statement. Rather, the similarity in the minimum and average lot sizes would yield a standard, uniform, "cookie-cutter" subdivision outcome, across the WBLP, with lots generally between 6000m² and 1.4ha. This range may not be the best fit for the particular natural features, landscape character or amenity values of a particular area, and may yield a more fragmented appearance overall;
- (c) Across the WBLP there is a wide variety of locational attributes, topographies, and degrees of potential visibility from other areas. The most appropriate intensity in some areas may be a 6000m² minimum lot size / 1ha average, but in other areas this may not be the case; a smaller minimum lot size, and perhaps no average, may be more appropriate, to achieve:
 - greater flexibility and innovation in subdivision design; and

- design that integrates lots and development with the natural features, landscape character or amenity values of a site and wider surrounds;
 - the ability to design subdivisions that promote smaller lot sizes and clustering of development with more opportunities for contiguous open spaces and landscape management;
- (d) Areas within which new development is able to be absorbed into the landscape without adverse effects on the wider landscape values of the Basin – as generally delineated by the WBLP – are, collectively, a finite resource. More efficient use of these areas, for the WBLP’s primary purpose of rural residential development, should be enabled; the provisions should generally promote a greater intensity of rural residential lots while maintaining development standards to appropriately manage external effects;
- (e) There is no clear section 32 evaluation that justifies the 6000m² / 1ha regime across the entire WBLP.

3.2.2 Objective 24.2.5

Modify this objective as follows:

24.2.5 ~~*Objective – The landscape character and visual amenity values of the Precinct are maintained and enhanced in conjunction with enabling rural residential living opportunities. Enable rural residential living opportunities while managing effects of subdivision and development on the landscape character and visual amenity values of the Precinct.*~~

The reason for the modification is: the premise of the notified objective is flawed because the WBLP is intended to provide for rural residential living which will inevitably change the landscape character and visual amenity of a site (and, potentially, the wider surrounding area). The wording of the notified objective could be interpreted to mean that landscape character and visual amenity values should not change. In particular, “maintain” implies “do not change”, and “enhance” implies “improve”. The premise of the objective should be reversed, in that the purpose of the Precinct – having found to have high capacity for absorption of development – is rural residential living, enabled in a way that effects on landscape character and visual amenity values are properly managed;

3.2.3 Policies 24.2.5.1 – 24.2.5.6

Modify the policies as follows:

- | | | |
|-----------------|-----------------|--|
| Policies | 24.2.5.1 | <i>Provide for rural residential subdivision, use and development only where it protects, maintains or enhances <u>while taking into account and avoiding, remedying or mitigating any potential adverse effects on the landscape character and visual amenity values as described within the landscape character unit as defined in Schedule 24.8.</u></i> |
| | 24.2.5.2 | <i>Promote design-led and innovative patterns of subdivision and development that maintain and enhance <u>take into account</u> the landscape character and visual amenity values of the Wakatipu Basin overall as defined in Schedule 24.8.</i> |
| | 24.2.5.3 | <i>Provide for non-residential activities, including restaurants, visitor accommodation, and commercial recreation activities while ensuring these are appropriately located and of a scale</i> |

and intensity that ensures that the amenity, quality and character of the Precinct is retained.

- 24.2.5.4** Implement ~~minimum and average~~ lot size standards in conjunction with ~~building coverage and height standards~~ **development standards** so that the landscape character and visual amenity qualities ~~of the Precinct as defined in Schedule 24.8~~ are not compromised by cumulative adverse effects of development.
- 24.2.5.5** Maintain and enhance a distinct and visible edge between the Precinct and the Zone.
- 24.2.5.6** Retain vegetation where this contributes to landscape character and visual amenity values of the Precinct and is integral to the maintenance of the established character of the Precinct.

The reasons for the modifications are:

- (a) The modification to Policy 24.2.5.1 is necessary to reflect the changes to the objective, as discussed in 3.2.2 above, and for the same reason as the changes to the objective.
- (b) The modifications to Policy 24.2.5.2 are necessary for the reasons set out above in relation to the objective: subdivision and development for rural residential living purposes will inevitably change landscape character and visual amenity values. The words “maintain” and “enhance” imply, respectively, “do not change”, and “improve”, which may be interpreted to be contrary to the WBLP’s primary purpose of rural residential living. Rather, change should be anticipated and properly managed, and development should be required to take into account the specific values of the landscape character units, as recorded in Schedule 24.8;
- (c) The modifications to Policy 24.2.5.4 are necessary, as follows:
- (i) Given the wide variety of locational attributes, topographies, and degrees of potential visibility from other areas, the “one size fits all” approach, with a minimum and average area, is not appropriate for the WBLP. Some areas may be able to absorb smaller sites, some not, and in some areas an average may be appropriate. Accordingly, the words “minimum and average” are deleted from the policy;
- (ii) “Building coverage” and “height standards” are only two of the relevant standards that play a role in regulating development for the purpose of managing effects on landscape and visual amenity values. Setbacks from roads and other properties are also relevant standards. The policy should take into account all of the relevant standards, and the modification reflects this;
- (iii) The words “... of the Precinct ...” are deleted because landscape and visual amenity values are not constant across all areas within the Precinct; there is a wide variety of locational attributes, topographies, and degrees of potential visibility. Each area within the Precinct is addressed in the Landscape Character Unit descriptions in Schedule 24.8, and it is appropriate that these descriptions, rather than an assumed generic set of values are the subject of the Policy.

3.2.4 Part 24.4: Rules – Activities – Table 24.2

Modify Table 24.2 by adding a new row as follows:

Table 24.2	Activities in the Wakatipu Basin Lifestyle Precinct	Activity Status
...		
24.4.25	<p>The construction of new residential buildings and the exterior alteration to existing residential buildings located within an existing approved/registered building platform area.</p> <p>Control is restricted to:</p> <ul style="list-style-type: none"> • <u>Building scale and form.</u> • <u>External appearance including materials and colours.</u> • <u>Accessways.</u> • <u>Servicing and site works including earthworks.</u> • <u>Retaining structures.</u> • <u>Infrastructure (e.g. water tanks).</u> • <u>Fencing and gates.</u> • <u>External lighting.</u> • <u>Landform modification, landscaping and planting (existing and proposed).</u> • <u>Natural hazards.</u> <p>Excludes farm buildings as provided for in Rule 24.4.8</p>	<u>C</u>
24.2.26	The construction of new residential buildings located outside an existing approved/registered building platform area.	<u>NC</u>
[renumber accordingly]	...	

The reasons for the modifications are:

- (a) The subdivision rules require (or should require) that a residential building platform (**RBP**) is nominated on a scheme plan at the time of subdivision so that the consent authority and other parties can assess the likely effects of a future dwelling on the new lot. The location and effects of a future dwelling, along with other associated works such as access and landscaping, will be sufficiently apparent, at the time of subdivision, to allow certainty of the right for a future dwelling and to preclude any need for Council discretion to refuse an application for a dwelling¹;
- (b) The Restricted Discretionary Activity (**RDA**) status for a dwelling within a RBP creates too much uncertainty for property owners and is unnecessary, particularly so in the WBLP because the purpose of the WBLP is to create lots for rural residential purposes;
- (c) The Controlled activity status is more appropriate because it provides certainty for landowners while still allowing the Council to manage the effects of a dwelling within the RBP, and associated works, through imposing conditions in relation to the matters of control, as set out in the rule;
- (d) The planning method of creating a RBP at the time of the discretionary activity / restricted discretionary subdivision, with controlled activity status for subsequent buildings within the RBP, is well-established in the District, and there is no evidence or section 32 evaluation suggesting that the method has generated adverse effects and is inappropriate;

¹ Provided other appropriate development standards are met

- (e) The default status of non-complying is appropriate for any proposed building not located within an existing approved/registered building platform area, because it sets very clear guidance on the expected density of dwellings in the WBLP.

3.2.5 Part 24.5: Rules – Standards – Table 24.3

Modify Table 24.3 as follows:

	Table 24.3 – Standards	Non-compliance Status
24.5.1	<p>Building coverage</p> <p>The maximum building coverage for all buildings shall be:</p> <p>For lots greater than 4000m²: 15% of lot area, or 500 1000m² gross floor area whichever is the lesser.</p> <p><u>For lots less than 4000m²: 25% of lot area</u></p> <p>Discretion is restricted to ...</p>	RD
...		
24.5.3	<p>Building height</p> <p>The maximum height of any building shall be 6 8 m.</p> <p>Discretion is restricted to ...</p>	RD
...		
24.5.5	<p>Setback from identified landscape features</p> <p>Any building or accessway shall be located a minimum of 50m from the boundary of any identified landscape feature as identified on the planning maps.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> • Building location, character, scale and form. • External appearance including materials and colours. • Landform modification/planting (existing and proposed). 	RD C
...		
24.5.15	<p>Residential visitor accommodation</p> <p>The commercial letting of one residential unit or residential flat per site for up to 3 lots not exceeding a cumulative total of 28 nights per 12 month period</p>	D

The reasons for the modification are:

- (a) In relation to Rule 24.5.1:
- (i) The reference to “gross floor area” (GFA) is redundant as the rule is targeting a limit on building footprint, not GFA;
 - (ii) The maximum allowed size of a RBP is 1000m² so this should be the maximum coverage, including dwelling and accessory buildings, or 15% of lot area, for lots larger than 4000m². The effects of the location of these buildings within the RBP will have been addressed at the time of subdivision, and there is no further need to address effects of the location of the building;
 - (iii) For lots smaller than 4000m², 15% coverage may be too small to comfortably accommodate a dwelling and accessory buildings, therefore a 25% coverage limit is proposed.

- (b) In relation to Rule 24.5.3:
- (i) The building height of 6m is too restrictive and may only enable 1 – 1.5 floors in a dwelling;
 - (ii) A building height of 8m is more appropriate as it enables two levels. The 8m height limit has existed for many decades without significant problems;
 - (iii) If at the time of subdivision any potential adverse effects arising from the height of a building in a specific location are identified (as addressed in the assessment of the RBP location) then a specific height limit can be imposed by way of consent notice on the title of the lot. This is well-established practice.
- (c) In relation to Rule 24.5.5:
- (i) In the WBLP any setback from identified landscape features should be controlled, to manage any landscape effects, because the purpose of the WBLP is rural residential development.
 - (ii) Alternatively, this rule should be deleted insofar as it relates to the WBLP;
- (d) In relation to Rule 24.5.15:
- (i) The rule should be deleted because the issue of visitor accommodation is addressed in the Visitor Accommodation Variation (introduced in Stage 2 of the PDP) and does not need to be replicated in Chapter 24;
 - (ii) In any case the rule is a significant market intervention without environmental justification.

3.2.6 Rule 24.7: Assessment matters – Restricted Discretionary Activities

Modify the rule as follows:

24.7 Assessment Matters – Controlled and Restricted Discretionary Activities

24.7.1 In considering whether or not to grant consent and/or to impose conditions on a resource consent, regard shall be had to the assessment matters set out at 24.7.3 to 24.7.13.

24.7.2 All proposals for restricted discretionary activities will also be assessed as to whether they are consistent with the relevant objectives and policies for the Zone or Precinct as well as those in ~~Chapters 3-Strategic Direction; Chapter 4- Urban Development; Chapter 6-Landscapes and Chapter 28- Natural Hazards.~~

The reason for the modification to 24.7.1 is: the modification is a consequential amendment arising from the submission in 3.2.4 above, in relation to the status of dwellings within a RBP.

The reason for the modification to 24.7.2 is: it is inappropriate to require assessment of an RDA against the higher order objectives and policies of the Plan, as this opens up the discretion to practically any matter, rather than restricting it to the matters for which the rule is designed. The costs to the applicant and the Council of requiring such an assessment would be unreasonably high. The only reasonable exception is the provisions for natural hazards.

3.2.7 Rule 24.7.3 Assessment matters

Modify Rule 24.7.3 as follows:

	Assessment matters
24.7.3	<p>New buildings (and alterations of existing buildings), residential flat, building coverage and building height infringements:</p> <p>Landscape and visual amenity</p> <p>a. Whether the location, form, scale, design and finished materials including colours of the building(s) adequately responds to the identified landscape character and visual amenity qualities of the landscape character units set out in Schedule 24.8 and the criteria set out below.</p> <p>b. The extent to which the location and design of buildings and ancillary elements and the landscape treatment complement the existing landscape character and visual amenity values, including consideration of:</p> <p>...</p> <ul style="list-style-type: none"> • Design, <u>and</u> size and location of accessory buildings <p>...</p>
...	

The reason for the submission is that the location of buildings will have been addressed at the time of subdivision

The relief the Submitters seek is the adoption of the modifications as set out above.

3.2.8 Schedule 24.8 – Landscape Character Unit 6: Wharehuanui Hills

The Submitters **SUPPORT** the descriptions for Landscape Unit 6 in the Table in Schedule 24.8.

3.3 Variation to Stage 1 Subdivision and Development Chapter 27

3.3.1 Rule 27.5.1

The Submitters **OPPOSE** the proposed amendments to Rule 27.5.1 and seek modifications to the rule, as follows:

Zone		Minimum Lot Area
Rural	...	
	Wakatipu Basin Lifestyle Precinct	<p>...</p> <p><u>Lot 3 DP20693 (south of Ishii Lane, Millbrook): 2500m² minimum provided that no more than 15 lots in total are created</u></p>

The reasons for the opposition and the modification are as follows:

- (a) The reasons set out in 3.2.1 above;
- (b) The site is subject to agreements with neighbouring landowners, including that a maximum of 15 lots may be created on the site. The proposed modifications are consistent with those agreements;

(c) The site has varied topography and features which collectively enable an innovative subdivision response that takes into account:

- the topography;
- views;
- neighbouring properties and their various land uses, including the urban development at Millbrook to the east, north and west;
- the access arrangements to Malaghans Road, through Millbrook.

Such a subdivision response would potentially include areas of open space, to contribute to pastoral uses and amenity, with smaller lots around these open space areas;

(d) The rigidity of the 6000m² / 1ha average subdivision configuration, and the non-complying status for breaching these minima, would inhibit such an innovative design approach and would likely lead to an inferior environmental outcome, for the future lot owners and neighbours;

(e) The 6000m² / 1ha average rules are contrary to the various provisions seeking flexible and innovative subdivision design, for example:

- Policy 24.2.5.2: “*Promote design-led and innovative patterns of subdivision and development ...*”;
- Assessment matters for subdivision, such as Rule 27.7.6.2(f): “*Whether clustering of future buildings would offer a better solution for maintaining a sense of openness and spaciousness, or the integration of development with existing landform and vegetation patterns.*”

3.4 Chapter 25 – Earthworks

The Submitters **SUPPORT** the proposed provisions of Chapter 25 – Earthworks, insofar as they relate to the WBLP.

3.5 Variation to Stage 1 Landscapes – Chapter 6 – Rule 6.4.1.3

Modify the rule as follows:

6.4.1.3 *The landscape categories assessment matters do not apply to the following within the Rural Zones:*

- a. *Ski Area Activities within the Ski Area Sub Zones.*
- b. *The area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps.*
- c. ~~*The Gibbston Character Zone.*~~ **The Gibbston Character Zone**
- d. ~~*The Rural Lifestyle Zone.*~~ **The Rural Lifestyle Zone**
- e. ~~*The Rural Residential Zone.*~~ **The Rural Residential Zone**
- f. **The Wakatipu Basin Lifestyle Precinct**

The reasons for the submission are:

- (a) The zones that have been deleted from the exemptions for assessment under the landscape categories in Chapter 6 (Gibbston Character, Rural Lifestyle and Rural Residential) should be reinstated in the list of exemptions because:
- these zones have already been determined to have certain landscape values and ability to absorb certain activities and development densities; and
 - the zones have their own sets of objectives, policies, rules and assessment matters, formulated for the specific attributes and circumstances of those zones. The matters of discretion and assessment matters are sufficient to properly guide the determination on specific applications;
 - there is no adequate justification for removing these zones from the exemptions.
- (b) The WBLP should be added to the list of exemptions for the same reason as in (a) above – the WBLP zones has its own set of objectives, policies, rules and assessment matters, formulated for the specific attributes and circumstances of the zone.

3.6 Variation to higher order Chapters of the PDP

The Submitter considers that the various modifications are necessary to Chapter 3 (Strategic Direction) and Chapter 6 (Landscapes) of the PDP, so that the WBRAZ and the WBLP are integrated with and have higher order authority from those chapters. This will include new objectives and policies within those chapters.

3.7 Part 2 and section 32 of the Act

3.7.1 Section 5

Taking into account the attributes of the Submitters land, the most appropriate way to achieve the purpose of the Act is to adopt the WBLP with the modifications sought in this submission. The WBLP with these modifications achieves the sustainable management purpose of the Act by enabling appropriate activities and development, and accordingly social and economic well-being, in a manner that: sustains the potential of the natural and physical resources of the site and the wider environs, for future generations; will continue to safeguard the life-supporting capacity of air, water, soil, and ecosystems; and will avoid or mitigate potential adverse effects including effects on landscape and visual amenity values.

3.7.2 Section 7

The modifications sought in this submission are directly relevant to achieving the following matters to which particular regard must be given:

- (b) the efficient use and development of natural and physical resources;*
- (c) the maintenance and enhancement of amenity values;*
- (f) maintenance and enhancement of the quality of the environment;*
- (g) any finite characteristics of natural and physical resources;*

The WBLP zoning, with modifications, is the most efficient use and development of the land given the physical attributes of the land, in close proximity to existing services and amenities, and taking into account the landscape values of the site and the wider area.

The WBLP provisions will maintain and enhance the amenity values and the quality of the environment, because of the location and the potential for high quality design afforded by the modifications to the provisions.

Land that has the various attributes of the subject land is a finite resource in the Basin and the zoning should reflect these attributes.

3.7.3 Summary – Part 2 of the Act

The WBLP, with the modifications sought in this submission, achieves the purpose and principles of the Act, for the reasons set out above.

3.7.4 Section 32

In summary, the Submitters consider that, subject to the modifications sought in this submission:

- (a) The WBLP objectives are the most appropriate way to achieve the purpose of this Act, in relation to the resources of Lot 3 DP20693 and wider surrounds; and
- (b) The WBLP provisions with the modifications sought are the most appropriate, practicable, effective and efficient method for achieving the relevant objectives; and
- (c) The provisions will have benefits, from:
 - better enabling certainty for WBLP property owners and thereby reducing potential transaction costs;
 - better enabling flexible and innovative subdivision design, and better environmental outcomes; and
- (d) There is no risk of acting (by adopting the modifications sought in this submission) because there is no uncertainty or insufficient information about the subject matter of the provisions.

4. The Submitters seek the following decision from the Queenstown Lakes District Council:

- 4.1 The relief set out in Parts 3.1 – 3.6 of this submission.
- 4.2 The Submitter seeks in the alternative additional or consequential relief necessary or appropriate to address the matters raised in this submission and/or the relief requested in this submission, including any such other combination of plan provisions, objectives, policies, rules and standards provided that the intent of this submission, as set out in Parts 2 and 3 of this submission, is enabled.

The Submitters **DO** wish to be heard in support of this submission.

If others make a similar submission, the Submitters will consider presenting a joint case with them at a hearing.

Signature of Submitter



J A Brown
Authorised to sign on behalf of R & M Donaldson

Date: 23 February 2018

Telephone: 03 409 2258

Notes to person making submission:

If you make your submission by electronic means, the email address from which you send the submission will be treated as an address for service.

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6 (4) of Schedule 1 of the Resource Management Act 1991.

The submitter could NOT gain an advantage in trade competition through this submission