

**Queenstown Lakes District Proposed District Plan
Section 32 Evaluation
Variation to the Proposed District Plan**

**For:
Variation to Map 39**

1. EXECUTIVE SUMMARY	3
2. INTRODUCTION	3
3. STRUCTURE OF THE REPORT	3
4. CONSULTATION	4
5. STATUTORY POLICY CONTEXT	4
6. RESOURCE MANAGEMENT ISSUES	6
7. SCALE AND SIGNIFICANCE EVALUATION	7
8. BROAD OPTIONS	8
9. EVALUATION OF THE PROPOSED OBJECTIVES	8
10. EVALUATION OF THE PROPOSED PROVISIONS	8

1. EXECUTIVE SUMMARY

- 1.1. As part of the Proposed District Plan (PDP) Stage 2 process, a map zoning omission was found at (Section 1 SO 329365), where a privately owned stopped road had not been zoned.
- 1.2. Having evaluated the costs, benefits, efficiency and effectiveness of applying different underlying zoning it is considered that the most appropriate zoning of the site would be Lower Density Suburban Residential Zone (**LDSRZ**). This will assist the Council to fulfil its statutory functions and responsibilities as required by the Resource Management Act 1991 (**the Act or the RMA**) through the following:
 - a. Provides for zoning consistency across one titled site
 - b. Protects against unanticipated development of the unzoned site.

2. INTRODUCTION

- 2.1. This report fulfils the requirements of Section 32 of the Act, which requires the objective(s) of proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness and risk in achieving the objectives.
- 2.2. The purpose of this variation is to provide for zoning of the site. The use of zones allows for the application of provisions to control the effects anticipated.
- 2.3. This proposal is a variation to Map 39 of the Proposed District Plan. The variation proposes to apply a zone to a small parcel of land which has no zone.

3. STRUCTURE OF THE REPORT

- 3.1. This report provides an analysis of the policy response proposed by the variation as required by s32 of the RMA, using the following sections:
 - a) **Consultation** undertaken, including engagement with iwi authorities on the proposal.
 - b) An overview of the applicable **Statutory Policy Context**.
 - c) A description of the **Resource Management Issues** being addressed by the proposal.
 - d) An assessment of the **scale and significance** of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.
 - e) An **Evaluation** against s32 of the RMA, including
 - Whether the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (Section 32(1)(a)).
 - Whether the provisions (policies and methods) are the most appropriate way to achieve the objectives of the proposal (Section 32(1)(b)), including:
 - (i) identifying other reasonably practicable options for achieving the objectives

- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of risk of acting or not acting, and
- (iii) summarising the reasons for deciding on the provisions.

4. CONSULTATION

Iwi Authorities

- 4.1. Aukaha, who also provide advice on behalf of Te Ao Marama, have confirmed that they have no comment or issue in relation to this proposal. Therefore it is not necessary to address any iwi feedback in this report.
- 4.2. No other consultation was undertaken in the development of this variation. As this proposal does not revisit the matters addressed in stage 1, and rather only seeks to provide an additional method to more effectively and efficiently implement the objectives of the PDP, formal consultation beyond what is prescribed by the Act was not considered necessary for this proposal.

5. STATUTORY POLICY CONTEXT

- 5.1. The relevant requirements of the RMA, the Local Government Act 2002, and the two iwi management plans that apply in the District¹ have been given appropriate regard in the preparation of this proposal. There are no relevant National Policy Statements or National Environmental Standards.
- 5.2. The relevant provisions of the Otago Regional Policy Statement, both operative and proposed, have been considered in the preparation of this proposal. This proposal is required to give effect to the operative provisions of the RPS and have regard to the proposed provisions.
- 5.3. The following objectives and policies of the PDP are relevant and have been given due regard in the development of the proposal:

Strategic Direction Chapter 3

Plan Reference	Provision
Objective 3.2.2 ²	Urban growth is managed in a strategic and integrated manner. Urban development occurs in a logical manner so as to: a. promote a compact, well designed and integrated urban form;

¹ *The Cry of the People, Te Tangi a Taurira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008), and *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005)

² Subject to appeals ENV-2018-CHC-114, ENV-2018-CHC-127, ENV-2018-CHC-150

	<p>b. build on historical urban settlement patterns;</p> <p>c. achieve a built environment that provides desirable, healthy and safe places to live, work and play;</p> <p>d. minimise the natural hazard risk, taking into account the predicted effects of climate change;</p> <p>e. protect the District’s rural landscapes from sporadic and sprawling development;</p> <p>f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;</p> <p>g. contain a high quality network of open spaces and community facilities; and.</p> <p>h. be integrated with existing, and planned future, infrastructure.</p>
Policy 3.3.1 ³	<p>Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District’s urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone.</p>

Lower Density Suburban Residential Zone Chapter 7

Plan Reference	Provision
Objective 7.2.7	Commercial development in the zone is small scale and generates minimal amenity value impacts
<p>Policies</p> <p>7.2.7.1</p> <p>7.2.7.2</p> <p>7.2.7.3</p> <p>7.2.7.4</p>	<p>7.2.7.1 Provide commercial activities, including home occupation activities, that directly serve the day-to-day needs of local residents, or enhance social connection and vibrancy of the residential environment, provided these do not undermine residential amenity values or the viability of any nearby centre.</p> <p>7.2.7.2 Ensure that any commercial development is of low scale and intensity, and does not undermine the local transport network or availability of on-street vehicle parking for non-commercial use.</p> <p>7.2.7.3 Ensure that the noise effects from commercial activities are compatible with the surrounding environment and residential amenity values.</p> <p>7.2.7.4 Ensure that commercial development is of a design, scale and appearance that is compatible with its surrounding residential context.</p>

³ Subject to appeals ENV-2018-CHC-150, ENV-2018-CHC-131, ENV-2018-CHC-138, ENV-2018-CHC-146, ENV-2018-CHC-127, ENV-2018-CHC-134, ENV-2018-CHC-092

6. **RESOURCE MANAGEMENT ISSUES**

- 6.1. A zoning omission was identified as part of the Independent Hearing Panel (IHP) findings for Stage 1 of the District Plan review⁴. The key resource management issue is: what is the most appropriate zoning for the site. The lack of a zone over a portion of the site does not provide a consistent approach with the surrounding area.
- 6.2. Two parcels are owned privately under one title and address, 70 Arthurs Point Road. The total land area of both parcels is 1.1369 hectares. 'Section 1 SO 329365' will be referred to as **Parcel One** and 'Part Lot 1 DP 15145', will be referred to as **Parcel Two**. Parcel One and Parcel Two combined will be referred to as '**the Site**'. The Site is currently used as a holiday park offering short term visitor accommodation and camping facilities.
- 6.3. Parcel Two has been zoned under both the ODP and the PDP. However, Parcel One is a privately owned stopped road which does not have a zone under either the ODP or PDP.
- 6.4. Parcel One is shown below in colour. Parcel Two is the large adjacent block.



⁴ IHP Report 19.2 Visitor Accommodation: <https://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Proposed-District-Plan/PDP-Stage-2-Decisions/Independent-Hearing-Panel-Recommendation-Reports/Report-19.2-Visitor-Accommodation.pdf>

- 6.5. The road which is now Parcel One was stopped in 2004 as notified in the New Zealand Gazette 9 January 2004⁵. Privately owned stopped roads should have zoning applied to ensure the objectives and policies of the District Plan and higher level planning documents are realised.
- 6.6. Under the ODP, the surrounding residential area and Parcel Two were zoned Low Density Residential Zone (**LDRZ**). Under the PDP Stage 2 decisions the zone was updated to become LDSRZ, and this was applied to Parcel Two.
- 6.7. A variation to the visitor accommodation provisions was notified as part of Stage 2 of the PDP on 23 November 2017. This included zoning of Visitor Accommodation Sub-Zone (**VASZ**), an overlay that provides for visitor accommodation.
- 6.8. Under Stage Two of the PDP, Submission 2617 by SJE Shotover Limited requested that a VASZ be applied to the site. The site contains a long-established existing commercial scale visitor accommodation business. No further submissions were received in opposition and the IHP accepted the Planner's advice to apply VASZ over the site, finding that VASZ was an appropriate way of providing for the continuation of the visitor accommodation land use.
- 6.9. There are two adjacent blocks that are Local Purpose Reserves and zoned Open Space and Recreation Zone (**OSRZ**) under the PDP.
- 6.10. OSRZ enables recreation activities and provides for infrastructure associated with these activities in a way that provides for values, including landscape and amenity values to be protected, maintained or enhanced. The zone predominantly applies to Council reserve land and other publically owned areas with limited numbers of private open space areas.

7. **SCALE AND SIGNIFICANCE EVALUATION**

- 7.1. The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provision. In making this assessment, regard has been had to whether the proposed variation:
- Result in a significant variance from the existing baseline in Proposed District Plan
 - Have effects on matters of national importance.
 - Adversely affect those with specific interests.
 - Involve effects that have been considered implicitly or explicitly by higher order documents.
 - Impose increased costs or restrictions on individuals, communities or businesses.

⁵ Gazette notice: [https://www.dia.govt.nz//Pubforms.nsf/NZGZT/NZGazette9Jan04.pdf/\\$file/NZGazette9Jan04.pdf#page=36](https://www.dia.govt.nz//Pubforms.nsf/NZGZT/NZGazette9Jan04.pdf/$file/NZGazette9Jan04.pdf#page=36)

7.2. The level of detail of analysis in this report is low given the limited area where the zoning applies and the extent of changes that would result from the difference in provisions.

8. BROAD OPTIONS

8.1. In the preparation of this proposal, the following options have been identified:

Option 1: apply LDSRZ to Parcel One

Option 2: apply another zone such as OSRZ to Parcel One

9. EVALUATION OF THE PROPOSED OBJECTIVES

9.1. Section 32(1)(a) requires an examination of the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act. This variation does not propose any new objectives or changes to existing objectives. In this case, an examination of the extent to which the purpose of the proposal is the most appropriate way to achieve the purpose of the Act is required (s32(6)).

9.2. The purpose of this provision is to provide for consistent zoning of the Site across Parcels One and Two. The use of zones allows for the application of provisions to control the effects anticipated and is the most appropriate means of achieving the purpose of the Act. This is an embodiment of section 2.

10. EVALUATION OF THE PROPOSED PROVISIONS

10.1. Section 32(1)(b) of the Act requires an assessment of whether the proposed provisions (policies and methods) are the most appropriate way to achieve the objective or purpose of the proposal. This assessment must:

- identify other reasonably practicable options for achieving the objectives
- assess the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of the benefits and costs anticipated from the implementation of the provisions, and the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- summarise the reasons for deciding on the provisions

10.2. The assessment of the provisions against the objectives requires an assessment against the purpose of the proposal, and also against the relevant objectives of the PDP (in accordance with s32(3)). The relevant objectives of the PDP are identified in Section 5 of this report.

Reasonably practicable options

10.3. The following table identifies other reasonably practicable options for achieving the purpose of the proposal and the relevant objectives of the PDP:

	Option 1 Apply LDSR	Option 2 Apply OSR
	<p>Option One achieves the purposes of the proposal by applying zoning to Parcel One that is appropriate on the Site in its entirety</p> <p>It will apply zoning to the land that is consistent with the surrounding area and control for activities on the site into the future</p>	<p>Option Two does not achieve appropriate zoning on the site as the OSR is not appropriate for the current or intended use of the Site as discussed by the IHP.</p> <p>Unusual use of the zone which predominantly applies to Council reserve land and other publically owned areas</p>
Ranking	1 (preferred)	2

10.4. The most efficient planning regime will be to provide for the existing visitor accommodation activities on the site while maintaining the surrounding residential amenity (Objective 7.27). As such, it is considered there is a case for zoning the site as LDSRZ with the IHP established VASZ. This will achieve continuity with the rest of the site and protect the surrounding residential amenity by applying a zone to land which presently has none.

10.5. Within the context of considering potential underlying zoning for Parcel One, there are adjacent areas which are zoned OSR and therefore this zoning could be considered. Applying OSR to Parcel One would be an unusual use of the zone which predominantly applies to Council reserve land and other publically owned areas. It would also impinge on the existing and future use options for the private owners of the Site and there is no basis for consideration of such a zone.

10.6. Having considered these options, **Option 1** is the preferred option because it achieves the purpose of the variation and the relevant objectives of the PDP by zoning Parcel One.

Efficiency and effectiveness

10.7. The following table considers the efficiency and effectiveness of the proposed provision, including their costs and benefits.

<u>Purpose of the proposal:</u>
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Apply LDSR to Parcel One		
Costs	Benefits	Efficiency & Effectiveness
<p>Environmental</p> <ul style="list-style-type: none"> There are no environmental costs to applying this zone in this location <p>Economic</p> <ul style="list-style-type: none"> There are no economic costs to applying this zone in this location <p>Social & Cultural</p> <ul style="list-style-type: none"> There are no social and cultural costs to applying this zone in this location 	<p>Economic</p> <ul style="list-style-type: none"> Applying LDSR will provide appropriate zoning for the private business currently in place <p>Environmental</p> <ul style="list-style-type: none"> Applying LDSR will provide appropriate zoning to control for future development <p>Social & Cultural</p> <ul style="list-style-type: none"> Applying LDSR will provide appropriate zoning for the private business currently in place and therefore mitigate unintended future consequences of unzoned land being used for commercial activities 	<p>It is effective in achieving the purposes of the Act as stated in Part 2 (c) through managing the use and development of the Site in a way in which provides for economic wellbeing while also avoiding remedying or mitigating any adverse effects of activities on the environment.</p>

10.8. Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is considered

that the information about the proposed variation to Map 39 is certain and sufficient, and there is no need to assess the risk of acting or not acting

Reasons for deciding on the provisions

- 10.9. The proposed provisions are considered the most appropriate because:
- a) They are efficient and effective at achieving the purpose of the variation.
 - b) The provisions are in accordance with the strategic direction of the Proposed District Plan.
 - c) They are in accordance with the functions of territorial authorities in s31 of the RMA and the sustainable management purpose of Part 2 of the RMA.
 - d) Regard has been had to the operative Otago PRS, and the Proposed Otago RPS and account has been taken of the two relevant iwi management plans, which are not considered to have significant bearing on this proposal.