

**QLDC Council  
7 March 2019**

**Report for Agenda Item: 4**

**Department: Planning & Development**

**Proposed District Plan Decisions on Stage 2 Chapters**

**Purpose**

To provide the reports and recommendations of independent commissioners on provisions and matters raised in submissions for the variations and chapters of the Proposed District Plan that make up Stage 2 of the district plan review and to seek ratification as a Council decision. A resolution from Council is sought to notify a decision on chapters 24, 25, 29, 31 and 38 along with variations to Chapters 2, 7, 8, 9, 10, 11, 16, 21, 22, 23, 41, 42, and 43 in accordance with Clause 10 and 11 of the First Schedule of the Resource Management Act 1991.

**Recommendation**

That Council:

1. **Notes** the contents of this report;
2. **Adopts** the Independent Commissioners reports and recommendations as the Council's decision and directs staff to notify the decision in accordance with Clause 10 and 11 of the First Schedule of the Resource Management Act 1991;
3. **Directs** staff to alter the Proposed District Plan provisions to reflect the Independent Commissioners' recommended chapters, to correct minor errors and to make changes of minor effect in accordance with Clause 16(2) of the First Schedule of the Resource Management Act 1991 as recommended in the reports and recommendations;
4. **Notes** that adopting the reports and recommendations on submissions as the Council's decision means the Council also adopts the independent hearing panel's reasons for those decisions on groups of submissions and individual submissions as set out in the recommendation reports; and
5. **Notes** that adopting the reports and recommendations as the Council's decision does not mean Council has formed a view on possible future variations, possible withdrawal of areas of land from the current review and other possible future decisions mentioned in the reports and recommendations.

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## Background

### Proposed District Plan – Stage 1

- 1 The District Plan is an important lever for promoting sustainable growth and managing economic development in the Queenstown District (District) in a way that achieves economic, social and environmental outcomes. Completing the District Plan review is a matter of some urgency as most of the Operative District Plan (the ODP) which is the current statutory planning instrument being used in the District, was 10 years old when this review formally commenced in April 2014. Section 79(1) of the Resource Management Act 1991 (RMA) requires that a review of the provisions of the District Plan be commenced within 10 years of being made operative.
- 2 The Proposed District Plan (PDP) is the result of a review of the ODP under section 79(1) of the RMA. It is being developed and reviewed in stages as an activity based plan intended to be a “streamlined document that is easier to understand, provides for greater certainty and better planning outcomes”<sup>1</sup>.
- 3 Stage 1 of the review commenced with notification of 32 chapters in August 2015 including the residential, rural and commercial zones, designations and maps. Submissions on Stage 1 were considered at a series of 13 hearings (streams 1-13) and decisions on Stage 1 were issued in May 2018. Many of the Stage 1 provisions have been appealed to the Environment Court, however some Stage 1 chapters are effectively operative or operative in part.

### Scope of Stage 2 of the PDP

- 4 The scope of the PDP is determined by the document itself - that is, the chapters and the planning maps that form the PDP.
- 5 Stage 2 includes five new chapters (24 Wakatipu Basin, 25 Earthworks, 29 Transport, 31 Signs and 38 Open Space and Recreation) along with variations to 14 Chapters from Stage 1 including chapter 2 Definitions, 7 Lower Density Suburban Residential, 8 Medium Density Residential, 9 High Density Residential, 10 Arrowtown Residential Historic Management, 11 Large Lot Residential, 16 Business Mixed Use, 21 Rural, 22 Rural Residential, 23 Gibbston Character, 41 Jacks Point, 42 Waterfall Park, and 43 Millbrook. The Stage 2 planning maps

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<sup>1</sup> QLDC Council Agenda Report, District Plan Review, 17 April 2014

include variations to zones included in Stage 1 pertaining to council controlled open space and recreation areas.

- 6 Figure 1 below shows the Stage 2 provisions along with the 33 chapters addressed in Stage 1 and the 8 potential topics that are proposed for stage 3.

<b>Stage 1</b>	Introduction	Definitions	Strategic Direction
	Urban Development	Tangata Whenua	Landscapes
	Low Density Residential	Medium Density Residential	High Density Residential
	Large Lot Residential	Arrowtown Residential Historic Management Zone	Queenstown Town Centre
	Wanaka Town Centre	Arrowtown Town Centre	Local Shopping Centre Zone
	Business Mixed Use	Airport Mixed Use	Rural Zone
	Rural Residential/Lifestyle	Gibbston Character Zone	Historic Heritage
	Subdivision and Development	Natural Hazards	Energy and Utilities
	Protected Trees	Indigenous Vegetation	Wilding Exotic Trees
	Temporary Activities	Noise	Designations
	Jacks Point	Waterfall Park	Millbrook
	<b>Stage 2</b>	Open Space and Recreation	Transport
Wakatipu Basin Zone		Signs	Visitor Accommodation
<b>Stage 3</b>	Township Zones	Sites of Significance to Iwi	Gorge Road Natural Hazards
	Development Design Guidelines		Industrial and Business Zones
	Affordable and Inclusionary Zoning	Rural Visitor Zones	Three Parks Zone

**Figure 1. Proposed District Plan Chapters – Stages 1-3**

### Consultation and Plan Development

- 7 The development of the Stage 2 provisions built on previous public consultation undertaken to develop the PDP. A substantial amount of monitoring of the District Plan, policy development and community consultation occurred between 2012 and 2015, when the PDP was notified. This included developing a series of monitoring reports, holding an extensive range of meetings with stakeholders and wider community meetings, issuing a series of brochures on specific issues and locations and compiling substantial written feedback.

- 8 In addition to this for Stage 2, meetings with relevant industry representatives and stakeholders were conducted and consultation took place with statutory agencies and iwi authorities. Feedback from consultation prior to notification formed part of the section 32 Evaluation Reports that underpinned the subsequent plan changes.
- 9 Leading up to public notification a series of 'drop-in' meetings were organised in different parts of the district at different times to provide information about the proposed changes and about how to participate in the process.

### **Submissions.**

- 10 Stage 2 of the PDP was publicly notified on 23 November 2017. The summary of submissions was notified on 12 April 2018. The summary of submissions was notified for an additional 5 working days on 11 May 2018 to correct an oversight in the wording of the original summary.
- 11 650 submissions and 100 further submissions were received on the notified Stage 2 provisions. The submissions contained 15,602 submission points which have been addressed in the recommendation reports, sometimes individually and sometimes in groups.

<b>Topic</b>	<b>No. of Submissions</b>	<b>Hearing Stream</b>
Wakatipu Basin Chapter	244	14
Map changes/rezonings	208	14
Visitor Accommodation	366	15
Earthworks	71	15
Transport	69	15
Open Space and Recreation	61	15
Signs	35	15

### **Independent Hearings Panel**

- 12 Two independent panels of commissioners were appointed by Council resolution on 23 March and 3 May 2018 to hear the submissions and to make recommendations to the Council on those matters. Denis Nugent was appointed to chair the panels for Streams 14 and 15 with delegated authority to hear and determine procedural and jurisdictional matters. Councillor Quentin Smith sat on the Stream 14 Hearing alongside commissioners Rachel Dimery and Trevor Robinson. Deputy Mayor Calum Macleod sat on the Panel for Stream 15 with commissioners Sarah Dawson and Robert Nixon.

### **Hearings**

- 13 The Stream 14 hearing was held in Queenstown over eleven days from 9 July 2018. Stream 15 was heard over 13 days from 4 September 2018 concluding on 24 October in Queenstown and Wanaka.

## Comment

### Recommendations from the Panel

- 14 The hearings Commissioners have heard the submissions on the PDP, considered written and oral evidence and submissions, taken advice from a large number of experts, questioned participants and tested evidence in the open public forum of the hearings and undertaken site visits. Their recommendations are set out in detail in a series of reports covering the two hearing streams and include the following components that make up the recommended decisions:
  - a. recommendations on all submission points relating to Stage 2 of the PDP (see reports in Attachment 1 for details);
  - b. reasons for accepting and rejecting individual submissions or groups of submissions (see Attachment 1 reports);
  - c. recommended changes to provisions that are of minor effect or correct minor errors (see Attachment 1 reports);
  - d. further evaluation of recommended amendments to provisions under section 32AA of the RMA (see Attachment 1 reports).
  - e. the text of the recommended plan provisions contained in a set of chapters (see Attachment 2);
  - f. a set of planning maps setting out zones, designations, overlays and other notations (see Attachment 3).
- 15 The suite of recommendations contained in the above reports reflect the Panel's consideration of the plan and issues raised by submissions as a whole and an intention to create an integrated workable planning document. The recommendations themselves do not constitute a decision as under the RMA a local authority must give a decision on the provisions and matters raised in submissions.
- 16 As discussed in the Options section of this report, for the Council to adopt some aspects of the recommendations and seek to amend others carries a high risk of creating procedural unfairness. Unlike the Panel, Councillors have not considered the full breadth of submissions, or tested the substantial body of evidence that has informed these recommendations. Piecemeal decision making at this point is likely to be unfair on submitters who have participated in the process in good faith. It could create decisions that are incompatible with sound resource management practise and therefore difficult or impossible to defend if they were to be challenged.
- 17 The reports and recommendations discuss a number of possible future variations and investigations to address issues highlighted in considering the submissions. The Panel can't require that Council undertake future plan changes and adopting the recommendations does not mean Council agree to these suggestions. Council will in due course make its own decision about if, when and how this work will be done.

## **Effect of these decisions on the PDP rules**

- 18 In most circumstances, once a decision on submissions relating to rules on the PDP is made and is publicly notified, those rules will have legal effect. However, some exceptions include:
- a. rules that had immediate legal effect on notification because they protect or relate to water, air or soil conservation, significant indigenous vegetation fauna and habitats, historic heritage or protected trees; or
  - b. the Council resolves that the rule has legal effect once the PDP becomes operative; or
  - c. the Environment Court orders a different date.
- 19 “Legal effect” means people undertaking land use activities will both benefit from and need to comply with the rules of the PDP, or seek consent to breach or infringe them. Consent will also need to be obtained under any relevant rule in the ODP until the equivalent provisions in the PDP are made operative or treated as operative.
- 20 There have been no relevant Environment Court orders or Council resolutions made on the timing that the Stage 2 PDP rules have legal effect. As such, with the exception of rules that had immediate legal effect at notification, the Stage 2 rules will have legal effect from the date that the Council’s decisions are notified.

## **Implementing the decisions**

- 21 Provisions in the PDP can’t be treated as operative until all submissions in opposition and appeals on that particular provision have been determined. This means decisions on these recommendations will bring the Stage 2 provisions of the PDP into legal effect but where an appeal is lodged on a provision the current ODP provision will continue to apply to the evaluation of applications for resource consent or enforcement action for some time.
- 22 Most Council staff and external users of the District Plan are used to carrying out functions under the RMA where more than one set of district plan provisions are relevant. However, further training is being provided and online guidance material is being produced to help plan users and to ensure the District Plan is administered consistently and correctly.

## **Wakatipu Basin**

- 23 The Wakatipu Basin Chapter 24 variation was developed and introduced to better manage the special character of the Wakatipu Basin. Following hearings for the Proposed District Plan Strategic and Rural chapters in July 2016, the Hearings Panel felt that the existing and proposed rules for the Wakatipu Basin would be unlikely to achieve the strategic direction of the PDP. The panel also noted that without careful assessment, further development within the Wakatipu Basin could potentially cause irreversible damage to the character and amenity values which make the area special.

- 24 In response, the Council undertook a study to understand whether the Wakatipu Basin could absorb further development and to recommend methods to ensure the special character and amenity of the area is appropriately managed. The new zone which resulted from this review distinguishes the Wakatipu Basin from the rest of the District's rural and rural living areas and is notable for the way it seeks to restrict rural subdivision and development in many areas identified as a Rural Amenity Zone and to allow more development in areas considered to be more capable of absorbing the effects of development identified as a Lifestyle Precinct (and replacing the Rural Residential and Rural Lifestyle Zones in the ODP).
- 25 Over 200 submissions were received on both the Chapter 24 text and on the zoning of land as part of this hearing. The hearing traversed an extensive body of evidence about appropriate management of key characteristics of the Basin including its open landscapes, its more confined and wooded areas, its vulnerable lakes and rivers, the extent of already consented development in the area, and the potential for incremental change to further erode its appeal.
- 26 The recommendations by the Panel are to retain the key objectives and policies of the Wakatipu Basin chapter, with its distinctly different approach to resource management from that in the Rural Zone, along with the vast majority of its rules and other methods. However, a number of notable changes were made to the application of the Lifestyle Precinct and Rural Amenity Zone.

*Lake Hayes Water Quality:*

- 27 Within the Lake Hayes catchment area which makes up a substantial portion of the Wakatipu Basin the Hearings Panel recommend removal of the notified Lifestyle Precinct zoning and recommend it be zoned Rural Amenity Zone (see Figure 2 below for details). The Panel accepted that Lake Hayes is a degraded water body which higher order documents require be improved which would be best achieved through restriction of further subdivision and development.
- 28 While the Hearings Panel agreed with Council that it is not a function of the QLDC to impose rules on wastewater discharges (this being a function of the Regional Council), the Panel considered that the Regional Plan is not currently being enforced in a manner that gives confidence that requirements for water quality under the NPS Freshwater Management will be achieved. On this basis the Panel did not support residential intensification in areas without a reticulated wastewater system and have removed the Lifestyle Precinct from several substantial areas.

*Transport:*

- 29 The Hearings Panel heard evidence from NZTA and QLDC on the limited capacity of the Shotover Bridge to absorb additional growth in trips across the bridge over the medium and long-term. NZTA felt that the bridge was already reaching capacity at times and that zoning land for an activity should only occur where the necessary infrastructure to support that activity exists or there is a commitment to provide it. This means that zoning that promotes additional urban growth and lifestyle development east of the Shotover Bridge is very problematic without also implementing steps to achieve increased use of alternate transport modes and reduction in vehicle trips at peak times.

- 30 NZTA stressed that intensification of land use in the Basin would not necessarily form a case to enhance transport links over the Shotover River bridge as there is no current funding for this purpose in the Regional Land Transport Plan and no “quick fixes” that could be readily implemented in a timely manner to solve these issues. However, NZTA acknowledged that, as eventually happened with the Kawarau River Bridge for example, upgrades to key parts of the transport infrastructure network are made when the existing infrastructure is not adequate. Such upgrades should (in the view of the agency) only be relied on when commitment to doing them is firm.
- 31 The Panel indicated that this matter was partly a matter of scale and that transport constraints should be of greater relevance for larger-scale intensification proposals, but that incremental development could still occur.
- 32 The only area where transport constraints clearly directed the recommendations on zoning was Mooney Road near Speargrass Flat where the notified Lifestyle Precinct was removed because of the narrow road width and replaced with Rural Amenity Zoning.

*Site Sizes and Subdivision:*

- 33 The Hearings Panel recommend that the notified subdivision regime with its 80ha minimum size in the Rural Amenity zone and 1 ha average site size in the Lifestyle Precinct be retained. The Panel noted that the 80ha minimum site size in the Rural Amenity Zone is not a dead-hand preventing any future change and that a case can be made within a context where any cumulative impacts of further subdivision and development will be a key consideration.
- 34 The Panel agreed that the 6,000m<sup>2</sup> minimum and 1ha average was appropriate in the Lifestyle Precinct but also recommend a new discretionary rule that enables sites as low as 4,000m<sup>2</sup> so long as the 1ha average is retained.

*Controls on Buildings:*

- 35 The hearing involved substantial discussion of concerns about how the new provisions affected what submitters referred to as property rights. The Panel ultimately found that with the support of the Wakatipu Landscape Study, previous provisions had resulted in unsatisfactory consequences and that cumulative effects were approaching a threshold that warranted a greater level of restriction.
- 36 The Hearing Panel have recommended a new controlled activity rule for buildings in a registered building platform created prior to the date of decisions on Chapter 24. The Panel did not agree to create a rule framework to identify new building platforms as a land use. The Panel retained the restricted discretionary framework for new buildings outside of building platforms and have made alterations up to a certain scale permitted.

*Controls on Vegetation Removal:*

- 37 The Hearing Panel have retained the rule requiring a consent for removal or significant trimming of exotic vegetation over 4m in height in the Lifestyle Precinct that was notified. This ultimately comes back to the Panel’s view about a high level

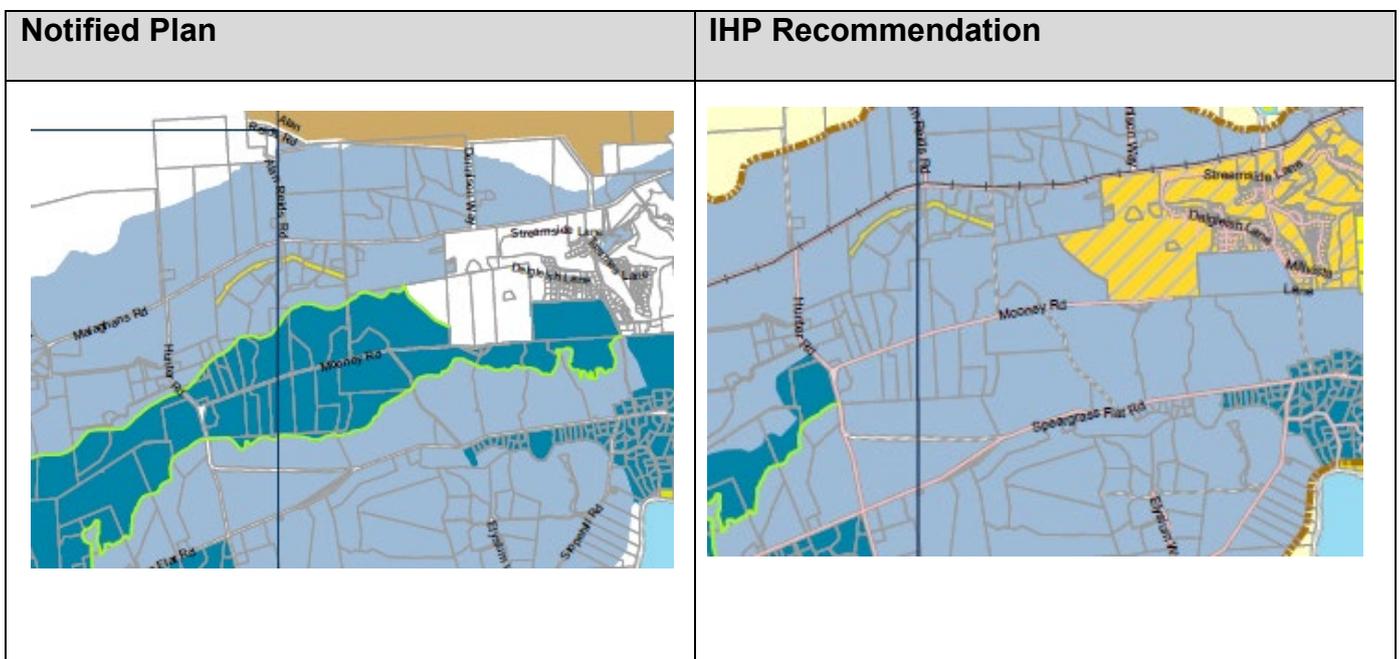
of regulatory intervention being required to integrate new subdivision and development into the environment appropriately.

*Reverse Sensitivity Effects on Queenstown Airport:*

38 The Hearings Panel confirmed the approach of the Panel for Stream 13 of the district plan review as being equally applicable in the Wakatipu Basin. The Panel previously determined that it would be inappropriate to limit development that could be sensitive to air noise based on uncertain potential future growth of Queenstown Airport's operations beyond the constraints of its current designation.

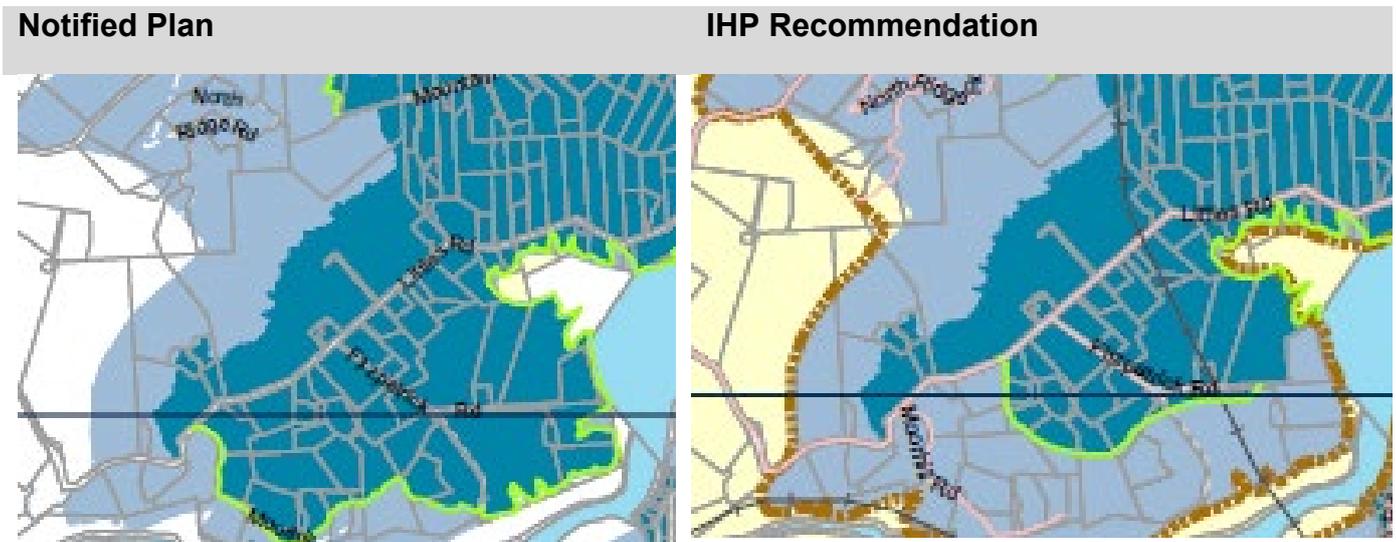
*Rezoning Decisions:*

39 Figure 2 below shows a significant reduction of the Lifestyle Precinct along Mooney Road:



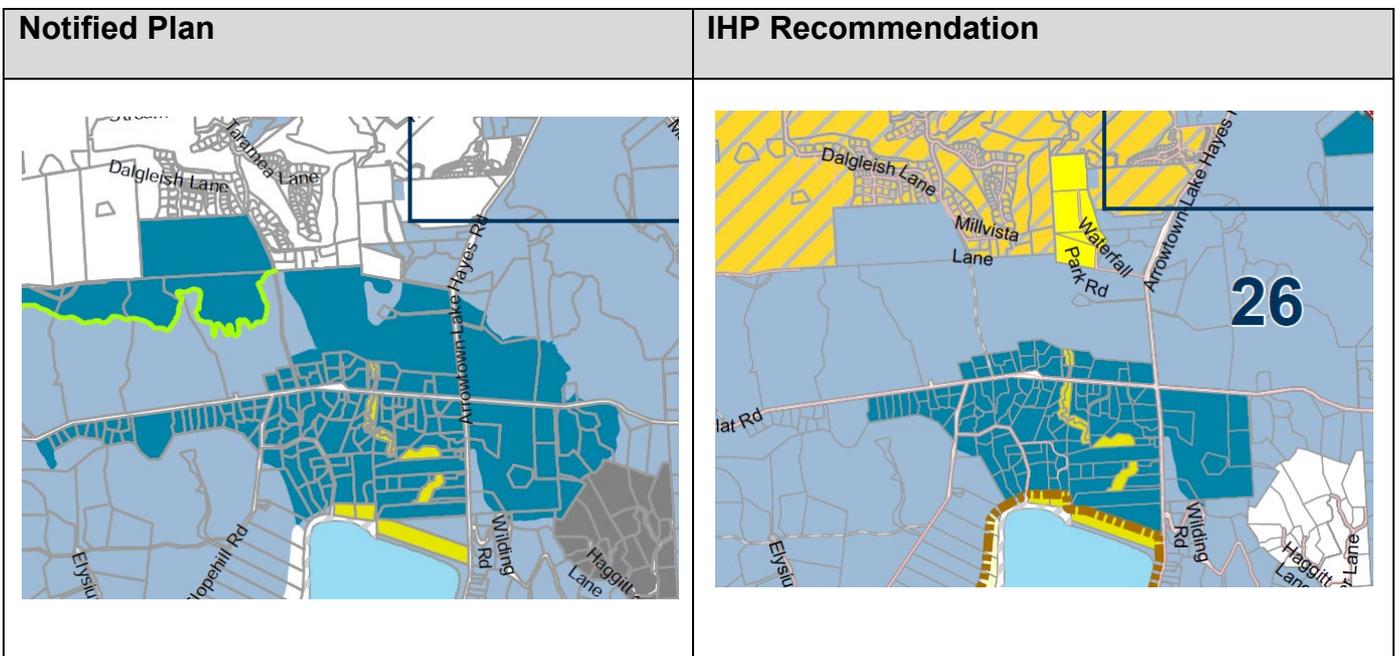
**Figure 2. Mooney Road Change to Precinct Boundary**

40 Figure 3 below shows a significant reduction of the Lifestyle Precinct along Fitzpatrick Road:



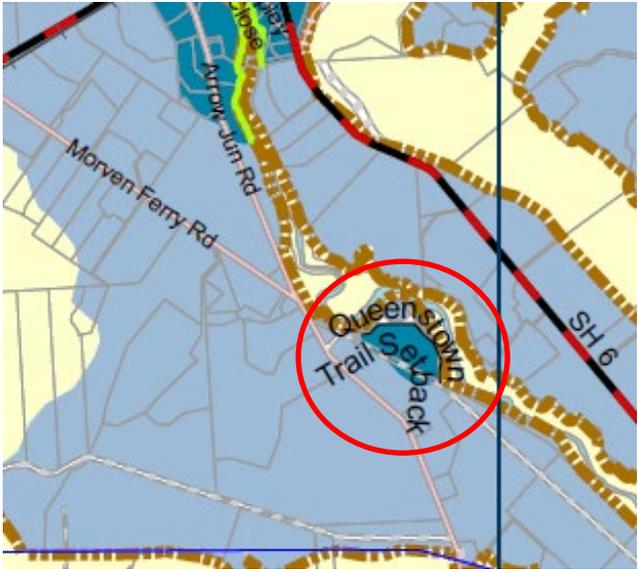
**Figure 3. Fitzpatrick Road Change to Precinct Boundary**

41 Figure 4 below shows a significant reduction of the Lifestyle Precinct along Speargrass Flat Road and Hogans Gully Road:



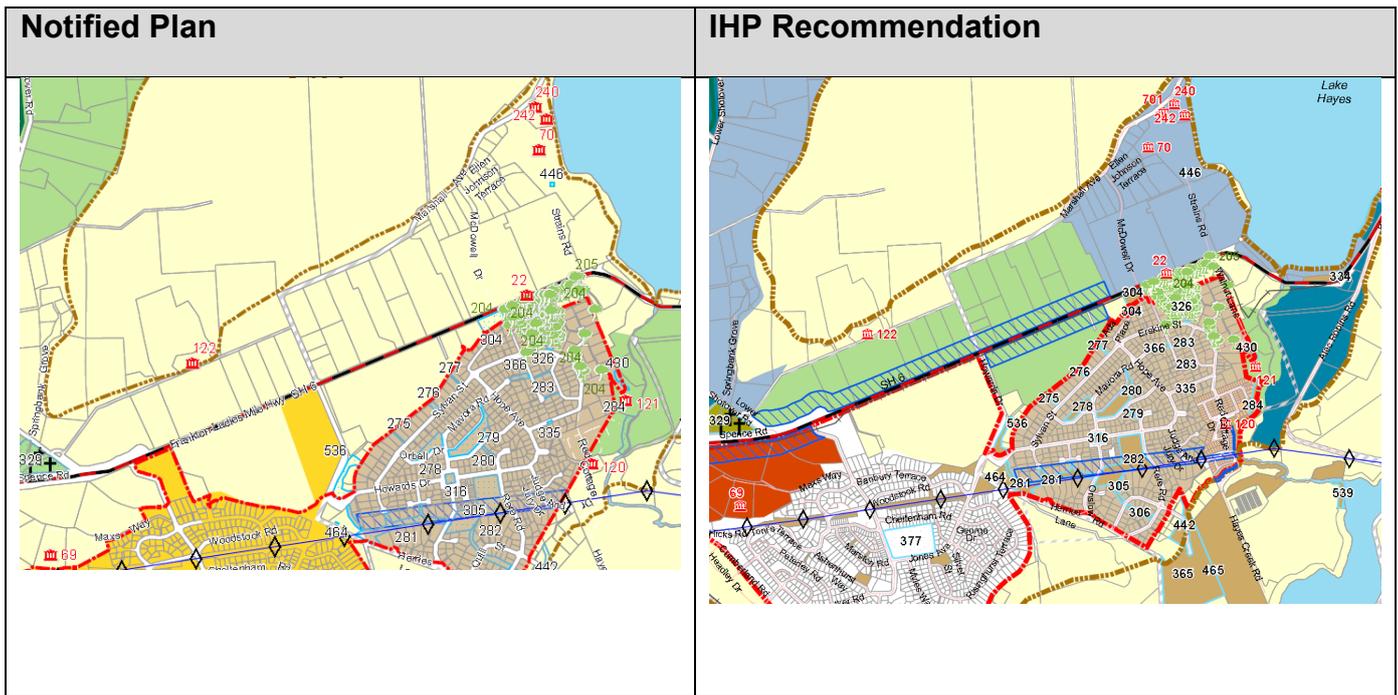
**Figure 4. Hogans Gully Speargrass Flat Roads Change to Precinct Boundary**

42 Figure 5 below shows new areas in the Lifestyle Precinct at McDonnel Road and Morven Ferry Road within the areas outlined with red circles.

IHP Recommendation	IHP Recommendation
 <p>A map showing the Morven Ferry Rd area. A red circle highlights a specific area labeled 'Queenstown Trail Selback'. Other roads visible include Morven Ferry Rd, Arrowtown Jun Rd, and SH 6.</p>	 <p>A map showing the McDonnel Rd area. Two red circles highlight specific zones. The map includes roads such as Butel Rd, Arrowtown Lake Hayes Rd, Cottey Ave, Central Ave, and Tobins Track. A large blue number '26' is visible on the map.</p>

**Figure 5. McDonnel Road and Morven Ferry Road New Areas of Lifestyle Precinct**

43 Figure 6 below shows new areas of Rural Residential Zone and a 75m Building Restriction Area along Ladies Mile north of State Highway 6 and east of Howards Drive. It also shows the new area of Wakatipu Basin Lifestyle Precinct proposed along Alec Robins Road was confirmed as was the Rural Amenity Zone around and adjoining Threepwood. Along Maxes Way (over and below the highway from Spence Road) the land has been zoned Large Lot Residential A. In Bridesdale the land has been zoned Medium Density Residential with a building restriction area adjoining the edge of the zone.

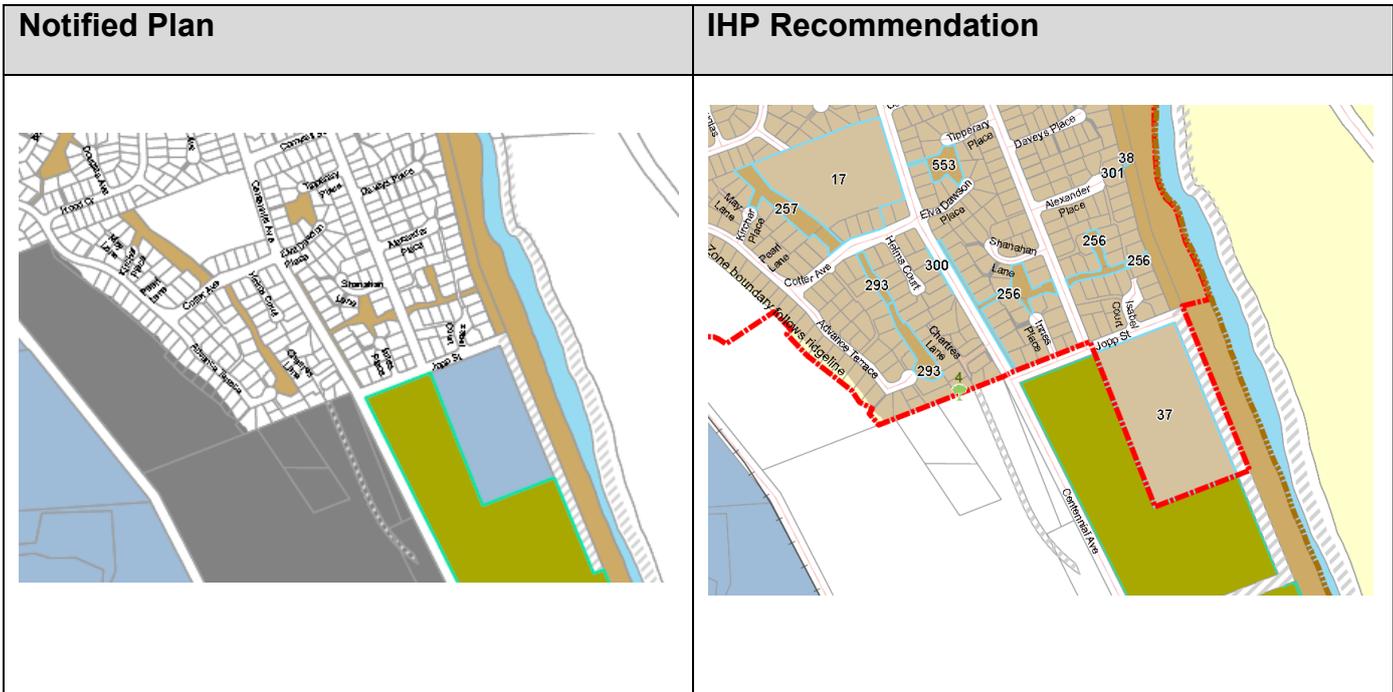


**Figure 6. Ladies Mile – New Areas of Large Lot Residential, Rural Lifestyle and Rural Amenity Zone and Lifestyle Precinct**

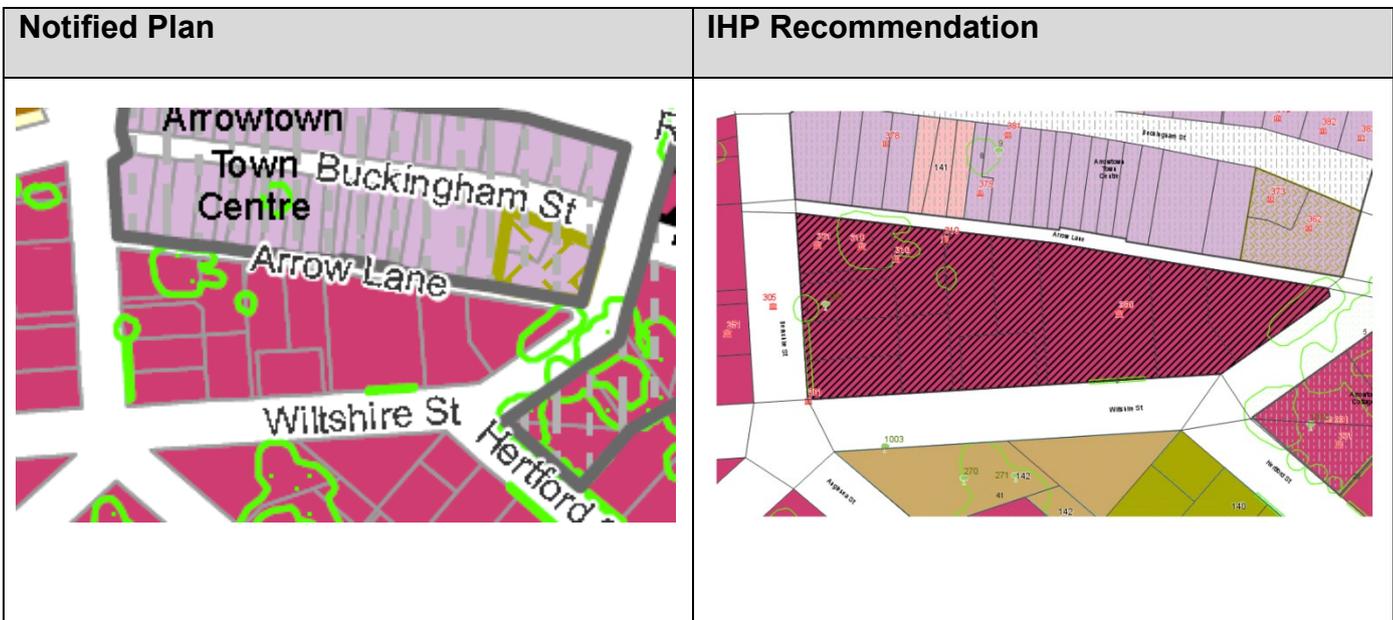
### Arrowtown

44 The Hearing Panel considered a number of rezoning requests in and around the urban areas of Arrowtown and have recommended the following:

- that the notified Medium Density Residential Zone in Arrowtown be retained as notified;
- that land adjoining Jopp Street be rezoned from Wakatipu Basin Rural Amenity Zone (outside the Urban Growth Boundary) to Lower Density Suburban Residential Zone (inside the Urban Growth Boundary). See figure 7 below for details;
- that the Arrowtown Town Centre Transition Overlay has been applied over the Arrowtown Residential Historic Management Zone at Arrow Lane, Wiltshire and Berkshire Streets. This overlay allows for non-residential uses such as commercial businesses (although the decision restricts the hours of operation for any new licensed premises in this area). See figure 8 below for details;
- that the Wakatipu Basin Rural Amenity Zone be retained south of the intersection of Arrowtown-Lake Hayes Road, Malaghans road, Berkshire Street and Derby Street.



**Figure 7 Jopp Street Change to Urban Growth Boundary**



**Figure 8 Arrow Lane Wiltshire and Berkshire Streets Change to Arrowtown Town Centre Transition Overlay**

## Visitor Accommodation Variation

- 45 When notified, the Visitor Accommodation variation proposed a number of significant changes to the existing rules in the ODP that manage short stay, commercial and residential visitor accommodation and homestay activities. These changes were aimed at maintaining housing supply in residential zones, at maintaining residential character, cohesion and amenity, and at addressing the significant growth of short term letting activities occurring in many parts of the district.
- 46 Submissions and evidence on the proposals from submitters contained a significant level of outright opposition, a small amount of support and a large amount of support for some form regulation and better management. Submitters presented on the role that short term letting plays in improving the affordability of living in the district and that it was unlikely the proposed rules would change owners from short term letting their properties to providing long term rental accommodation. Other than the analysis provided by Council, the Panel received little information about the potential adverse effects of high levels of short-term letting in residential rural or semi-rural areas and a significant weight of evidence opposed both the substance of Council's case and its intentions.
- 47 Fundamentally, the Panel did not agree there is sufficient evidence that short term letting activities are having an adverse effect on housing affordability or the supply of residential accommodation capacity that would necessitate the approach being proposed. The Panel did however agree that monitoring, enforcement and maintaining residential amenity were issues that the plan provisions should seek to manage. Accordingly, the recommendations are to remove policies on maintaining housing supply and to make changes to a large number of the rules and standards from what was proposed in council's evidence (See the full recommendations report from the Independent Hearing Panel in **Attachment 1** for details).
- 48 In residential zones the Panel are recommending that:
- a. the proposed 28 night permitted standard for Residential Visitor Accommodation in residential zones (Low Density Suburban Residential, Medium Density, Arrowtown Residential History Management, Large Lot Residential) be changed to a 90 nights per year controlled activity, a 90-180 nights per year restricted discretionary activity, and a non-complying activity for letting of over 180 nights per year.
  - b. the High Density Residential and Business Mixed Use zones allow 90 nights as a permitted activity, a restricted discretionary activity consent after 90 nights in High Density Residential Zones and a controlled activity resource consent in the Business Mixed Use Zone after 90 nights.
- 49 The Rural Zone and Wakatipu Basin Rural Amenity Zone, Rural Residential and Rural Lifestyle, Gibbston Character Zone have been recommended by the Panel to have a 90 night permitted threshold above which the Rural zone and WBRAZ requires a controlled activity resource consent. The other rural zones require a discretionary consent over the 90 night permitted threshold for Residential Visitor Accommodation.

50 Interestingly the recommendations for Jacks Point Zone are to allow 42 nights as a permitted activity after which the activity is discretionary. The resort zones of Waterfall Park and Millbrook are recommended to have 179 nights as a permitted activity after which a controlled activity consent is required on the basis that this activity is consistent with the purpose of the zone.

51 Some of the recommended changes were supported by Council's representatives such as removing the restriction on the number of separate lets per year and removing the control on the number of daily vehicle movements. The Panel introduced a common set of standards for residential Visitor Accommodation and Homestay activities which could assist with monitoring and enforcement:

- the council must be notified in writing prior to commencing the activity
- up to date records of letting must be kept and made available to the Council at short (24 hrs) notice.

52 The recommendations also set direction for what Council should be considering when processing applications for Residential Visitor Accommodation and Homestay activities:

- the nature of the surrounding residential context
- residential amenity, character and 'cohesion' within the 'neighbourhood'
- the 'cumulative effect' of the activity and other surrounding activities on the 'neighbourhood'
- The number of guests on site per night
- The number of nights operating per year
- Keeping and availability of records
- Monitoring requirements and ability to impose a monitoring charge.

53 Standards allowing Homestays are largely unchanged with a 5 guest per night limit, a no heavy vehicles control and no limit on the number of nights per year. Council representatives suggested reducing the permitted standard to 3 guests per night but the Panel didn't support this change. The Panel also removed the stipulation that Homestays couldn't be operated in both the main residential unit and in a flat at the same time.

### **Visitor Accommodation Subzones**

54 Visitor Accommodation Subzones (VASZ) were shown in the notified Stage 2 maps and the notification public notice provided for submissions to identify further VASZ areas. The Hearings Panel used the same zoning principles as were used previously when making recommendations on zoning submissions. Proposals where no evidence was filed were rejected on the basis that not able to meet obligations under section 32AA of the RMA to consider the costs and benefits and effectiveness of different options for achieving relevant objectives.

55 The VASZ have been limited to urban residential zones where visitor accommodation is otherwise restricted (Low Density Suburban, Medium Density Residential, Arrowtown Residential Historic Management and Large Lot

Residential). Requests for VASZ where the underlying zoning was Rural were rejected. The High Density Residential Zone provides for VA and as such, no VASZ are contained within this zone.

- 56 The VASZ enables residential amenity values (such as character, traffic, and noise) to be addressed through restricted discretionary activity consents, with limits on notification. In addition, the Panel recommend that Council should continue to investigate additional areas for a VASZ in the MDRZ around the Town Centre of Wanaka to meet future requirements of VA to accommodate visitor growth.
- 57 The amended definition of Visitor Accommodation allows for recreational facilities, dining, conference and bar facilities and others of a similar nature within VASZ areas provided such facilities are associated with, and ancillary to the visitor accommodation. Because of this the VASZ will essentially override the rules in the underlying zone that would otherwise apply to these facilities.
- 58 Subzones at Broadview Rise and Chandler Lane, Fernhill and Sunshine Bay, along with 139 Fernhill Rd, 18-20 Aspen Grove and 10-16 Richards Park Lane were retained and extended. New subzones were recommended at 9, 69 and 634 Frankton Road, Arthurs Point Holiday Park, 185 Upton Street, Aubrey and Anderson Road and Kiwi Holiday Park Wanaka.
- 59 A proposed subzone at 9 Southberg Ave was rejected on the basis that the small, compact residential nature of the cul-de-sac, the small size of the site itself, and the proximity of the adjoining residential area, means there is heightened potential for adverse effects on residential character, cohesion and amenity values from further VA development.
- 60 The proposed subzone at Lake Hawea Campground and Glen Dene Station was rejected because the Panel were not convinced it was consistent with the objectives and policies of the PDP and for lack of information regarding potential effects of a VASZ.
- 61 A subzone at Glenorchy-Paradise Road in Upper Dart Valley was recommended to be rejected because the Panel found that the plans objectives and policies to strongly protect the natural character and landscape values of the area were contrary to the proposals.

## **Earthworks**

- 62 The proposed earthworks chapter generally maintains the same rules for permitted volumes of earthworks and triggers for resource consent as the Operative District Plan but new rules were developed intended to improve erosion and sediment management for medium and large scale urban subdivision and development activities and works in the vicinity of water bodies. The new provisions included requiring:
  - resource consent for earthworks over 2,500m<sup>2</sup> on sloping sites (over 10 degrees) and for earthworks over 10,000m<sup>2</sup> on flat sites
  - preparation and implementation of erosion and sediment measures by suitably qualified persons required for large scale earthworks.

- Earthworks involving more than 5m<sup>3</sup> of material located within 10m of a waterbody require consents and consents will require people to prepare and implement erosion and sediment control management plans.

63 The submissions to Chapter 25 Earthworks were relative few in number (71) but were detailed and addressed an extensive range of technical matters.

64 Considerable discussion took place on how the earthworks provisions of the district plan should manage effects of the development of land and effects of activities in relation to the surface of water (both of which the RMA requires territorial authority plans to address) without duplicating or overtaking the functions of the Otago Regional Council, which include the maintenance and enhancement of the quality of water and the integrated management of natural and physical resources in the region. The Panel found that management of earthworks and effects associated with it are a function of both councils and that it was reasonable and appropriate for the PDP to address them, given the scope of current regional planning instruments and the significance the PDP places on protecting the values associated with the District's lakes and rivers.

65 Other challenges to the provisions included the extent to which Ski Area Subzones (SASZ's) should be exempt from or have more permissive standards than those that apply elsewhere. The Panel found that the flexibility and exemptions from the majority of the rules and standards for earthworks in SASZs, appropriately recognises the scale of earthworks required in ski areas and that their adverse effects can be managed internally or through the consents under the Rural Zone provisions. However, they did not agree to exempting earthworks within SASZs from standards designed to manage and minimise adverse effects of earthworks that extend beyond the sub-zones or to sensitive areas, including riparian areas and waterbodies. They recommend that activities in SASZs should have to comply with standards for erosion and sediment control, dust management, and setbacks from waterbodies and groundwater.

66 The Panel also rejected a request to exempt areas at Millbrook from controls on earthworks volumes on the basis that there is evidence that the earthworks provisions of the ODP are not working effectively to control earthworks effects on water quality in the Lake Hayes Catchment.

67 Overall the recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 1** for details) so the main changes being introduced in the recommendations are as notified:

- a. new rules require a resource consent for earthworks over 2,500m<sup>2</sup> area on sloping sites where the gradient is over 10 degrees, and 10,000m<sup>2</sup> area on flat sites;
- b. specific requirements for erosion and sediment management required to mitigate effects of earthworks consistent with recognised industry best practise;
- c. requirements that activities involving earthworks ensure that soil erosion is minimised and that sediment doesn't enter other properties or bodies of water;

- d. rules generally maintain the same volume rules as the Operative District Plan recognising that earthworks are a necessary part of almost any development activity.

## Transport

68 The proposed transport chapter involved a significant reconfiguration and update of the provisions in the ODP intended to introduce:

- new rules to better enable new carparking, park and ride, ferry services and public transport facilities
- reduced parking requirements for most residential and business zones and for playing fields, industrial activities and schools and increased parking requirements for hospitals and day care facilities
- requiring specific consents for high traffic generating activities and rental vehicle businesses
- updating the road classification and the rules relating to access, parking and loading.

69 The submissions to Chapter 29 Transport were relative few in number (69) but were detailed and addressed an extensive range of technical matters and the particular challenges of managing transport in Queenstown and Wanaka. The recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 1** for details) so the main changes being introduced in the recommendations are as notified:

- a. New objectives policies and standards promoting better accessibility, more active transport and better provision for a full spectrum of active and vehicle based transport modes.
- b. Reducing the onsite residential parking required in most of the High Density Residential, Medium Density Residential, and Business Mixed Use zones (e.g. the recommended new standards require 0.25 parks per studio unit/flat and 1 bedroom unit/flat and 0.5 per unit/flat for other units in the High Density, and Medium Density Residential zones between park and suburb streets; 0.25 per studio visitor accommodation unit and 1 bedroom and 0.5 for all other visitor accommodation units; and 1 coach park per 30 units in the High Density and Business Mixed Use zones).
- c. Reducing the onsite parking required for playing fields (e.g. 12.5 per hectare of playing area, which still equates to more parking than is currently provided at Queenstown Events Centre), industrial activities, and schools (e.g. 1 per 2 staff).
- d. Increasing onsite parking required for hospitals (11 per 5 beds) and day care facilities (1 per 10 children/elderly and 0.5 per staff).
- e. Adding a new rule requiring developments and subdivisions that generate a lot of traffic (e.g. over 50 res units, 150 rooms for visitor accommodation, or 1000m<sup>2</sup> of retail floor area) to obtain a specific High Traffic Generating Activity consent which addresses transport matters on a more comprehensive basis.

- f. Adding new rules relating to the establishment of new carparking areas, park and ride, public transport facilities including ferry services.
- g. Adding new rules permitting a wide range of transport activities and public amenities within 'roads' and requiring consent for other activities.
- h. Aligning the rules relating to access, parking, and loading with the QLDC Land Development and Subdivision Code of Practice 2018 and with relevant current national standards, and/or good practice around NZ, except where a local approach is justified.
- i. Adding a new rule requiring rental vehicle businesses to obtain a specific consent addressing amongst other things, the effects of vehicle storage.
- j. Updating the road classification (Road Hierarchy) to reflect the current function of roads and updating the planning maps to show all 'roads' throughout the district as of November 2018.

### **Open Space and Recreation**

- 70 The proposed Open Space and Recreation plan variation was developed to enable and manage recreation activities and provide for associated infrastructure on Council-controlled reserves while protecting, maintaining and enhancing landscape values, nature conservation values, ecosystem services and amenity. Chapter 38 Open Space and Recreation was a major departure from the Operative District Plan, creating a suite of new zones for land previously zoned General Rural and managed through designations and reserve management plans.
- 71 Submissions to Chapter 38 Open Space and Recreation were relative few in number (61) and focussed on matters relating to particular reserves. No major changes to the policy direction of the chapter are recommended by the Panel however two rezoning requests were accepted against staff recommendations which will result in a change in approach for those areas:
- a. A Ben Lomond Sub-Zone was extended into Rural-zoned DOC land to enable a future helipad to allow for Skyline's future development plans. This is at odds with the Council's approach to only apply to Open Space zones to council controlled reserves.
  - b. 8-10 Stewart Street Frankton which is part of the Frankton Campground site was rezoned from Community Purposes – Camping Ground to Low Density Suburban Residential. This change was promoted by a submission and evidence from neighbouring property owners.
- 72 With regards to the extension of the Ben Lomond Sub-Zone, one of the recommended new rules relating to this rezoning contains an error. The recommended rule for Informal Airports in the Sub-Zone refers to a 'Future Helipad Area' which is not shown on the maps. The Chair of the Hearing Panel has confirmed via email dated 15 February 2019 that this is an error, and that the provision should refer to 'the Bob's Peak Area of the Ben Lomond Sub-Zone' and not refer to a 'Future Helipad Area'.
- 73 The recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 1** for details). The

Hearings Panel did have some concerns about the application of the zones, and in particular noted that:

- a. a bespoke zone should be developed to apply to recreation land in private ownership that could carefully control outcomes where appropriate
- b. the Informal Recreation Zone was a somewhat generic, unspecific and broadly applied zone and the permissive standards in the Active Sport and Recreation Zone were somewhat at odds with the purpose of this zone, both of which made them hard to apply in several locations.

## Signs

74 The proposed signs chapter was largely consistent with the purpose, objectives and rules of the Operative District Plan. 35 submissions were received which raised 207 submission points including a number of large submissions from sign and media companies and local businesses. Key features of Chapter 31 include strong prohibitions on large billboard signs and digital signs. Changes promoted in the notified Chapter 31 Signs included:

- introduction of a 5m<sup>2</sup> maximum sign area per tenancy at ground floor level in commercial areas beyond which discretionary activity resource consent is needed
- flexibility for signage on Council reserves, allowing for parks information, way-finding and to support temporary events
- hoardings/billboards to be a prohibited activity
- formalised management of signs in road reserves and roading corridors, for road network activity, public amenities temporary events and filming and electioneering signage.

75 A main point of contention was the activity status of hoardings/billboards and digital signage. The Panel have recommended to allow billboards in town centres but limit them to 2m<sup>2</sup> as a discretionary activity and otherwise make them a prohibited activity, which means that they can't be consented (beyond the permitted envelope of 2m<sup>2</sup>). Digital signage is limited to signs of less than 5m<sup>2</sup>, 15% of the façade and 50% of the glazing, located in digital signage platforms at ground floor level in town centres. Digital signage is otherwise non-complying or prohibited.

76 The recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 4** for details). The Panel agreed to changes recommended by representatives of Council and submitters to allow for operational, safety and directional signage in Ski Area Sub-Zones and recommended the following variations be considered:

- a. make specific provision for digital signage for information purposes such as signage associated with public transport
- b. make provision for Rule 31.5.22 which makes signs on protected features a discretionary activity apply to Heritage Overlay Areas scheduled in Chapter 26 as well;

- c. specific signage provisions for Wanaka Airport that take into account its rural location.

## Options

77 In this instance the status quo is not considered a viable option because a decision to either adopt the recommendations or require them to be reheard is required.

**Option 1 - Accept the recommendation to adopt the recommendations of the Panel on the Stage 2 provisions as set out in Attachments 1 - 3 as the Council's decision, with the exception of Rule 38.11.8 which should be amended to state "Informal Airports Located within the Future Helipad Area Bob's Peak Area of the Ben Lomond Sub-Zone.**

### *Advantages:*

- 78 These provisions of the PDP recommended by the Panel have been through a thorough process of consultation, public notification, submissions, evaluation of costs and benefits under section 32 and consideration against the relevant legal tests set out in the RMA.
- 79 Experienced Commissioners had the benefit of considering submissions and further submissions including professional assistance from submitter representatives as well as assistance from Council officer's, technical experts and legal counsel. The Panel have arrived at their recommended decisions based on well-informed consideration including appropriate consideration of the relevant legal tests and higher order planning documents.
- 80 The submissions and hearing process gave the public the opportunity to either support or oppose the proposals contained within the PDP and be heard in relation to their submissions.
- 81 Adopting the recommendations will bring the Stage 2 PDP rules into legal effect and move towards the Stage 1 chapters being made operative.
- 82 Amending the wording in Rule 38.11.8 is in line with the confirmed intent of the Panel's decision and corrects an error that would otherwise result in a rule having no practical effect.

### *Disadvantages:*

- 83 A number of options are available to address the potential disadvantages. The Council may not agree with some of the Panel's recommendations in which case it can
- initiate a variation to the Proposed District Plan, or
  - join an appeal that seeks changes consistent with Council's position.
- 84 Should the Council reach a view that aspects of the recommendations are incorrect, inappropriate, or in other ways contrary to sound resource management, Council could undertake a variation to the PDP that addresses the concern. This option will take time and resources but could be entirely controlled by the Council.

85 If an appeal against the requested decision is made that raises similar concerns the Council could align its position with that appeal and potentially reach a resolution through mediation. However, this option relies on appeals and will place the decision on the matter in the hands of the Court.

**Option 2 - Reject the Panel's recommendations and rehear submissions on this aspect of the PDP**

*Advantages:*

86 Would allow Council to appoint new Commissioners onto the Panel to re-hear submissions on aspects of the decision it was unhappy with.

*Disadvantages:*

87 The Council has not heard the evidence presented at the hearing or read the submissions on Stage 2 of the PDP. This means that before the Council can make a decision on Stage 2 of the PDP, all submitters' submissions, Council officer recommendations and evidence will need to be re-heard at another hearing.

88 To change the recommendations without undertaking a further hearing would not demonstrate procedural fairness or natural justice to those who have inputted into the process, and submitters who have participated in good faith.

89 Reviewing the district plan in stages makes for a complex planning framework that is difficult to administer. Option 2 is likely to increase this complexity and make the plan more difficult for users of the plan to understand and comply with.

90 Additional Council, applicant and submitter resources will be required to rehear the relevant aspects of the PDP.

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

***Significance and Engagement***

92 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because the matter relates to the appointment of Councillors and Commissioners to hear, deliberate and make recommendations on the submissions on the Proposed District Plan, which is a very significant statutory document in terms of the social, economic and environmental wellbeing of the District.

***Risk***

30. 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 it is considered to be of significant importance in terms of the managed growth and regulation of development for the District.

31. The recommended options considered above mitigate the risk by: Treating the risk - putting measures in place which directly impact the risk. The recommended option

considered above mitigates the risk by adopting the decision of the Panel who heard all the evidence before them and made a decision based upon that evidence.

### **Financial Implications**

93 There is no budget or cost implications resulting from the decision.

### **Council Policies, Strategies and Bylaws**

94 The following Council policies, strategies and bylaws were considered:

- Operative District Plan
- Proposed District Plan

95 The recommended option is consistent with the principles set out in the named policies.

96 This matter is not included in the 10-Year Plan/Annual Plan.

### **Local Government Act 2002 Purpose Provisions**

97 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 by making the decision in a timely fashion;
- 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**

98 The persons who are affected by or interested in this matter are the submitters, visitors to and residents within the resort and the wider Arrowtown and Wakatipu Basin community. Submissions from these parties were considered by the appointed Panel.

### **Legal Considerations and Statutory Responsibilities**

99 The process for dealing with plan changes is set out in the First Schedule of the Resource Management Act.

**Attachments** (circulated separately)

- A Reports and Recommendations of Independent Commissioners (including recommendations on Submissions – Streams 14-15)
- B Proposed District Plan Stage 2 Chapters (Recommendations Version)
- C Proposed District Plan Stage 2 Planning Maps (Recommendations Version)