

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report and recommendations of Independent Commissioners
regarding mapping of Wakatipu Basin and Arrowtown
(includes Stage 1 submissions not previously heard)

Report 18.8 - Area F
Southern Basin

Commissioners

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Table of Contents

- 1. INTRODUCTION 1**
 - 1.1 PRELIMINARY 1
 - 1.2 SOUTHERN BASIN AREA 1
 - 1.3 SUBMISSIONS COVERED IN THIS REPORT 2
- 2. OUTSTANDING NATURAL LANDSCAPE AND OUTSTANDING NATURAL FEATURE BOUNDARIES..... 2**
- 3. ZONING - MORVEN FERRY RURAL VISITOR ZONE 4**
 - 3.1 SUMMARY OF RELIEF SOUGHT 4
 - 3.2 EVIDENCE 4
 - 3.3 DISCUSSION AND CONCLUSIONS..... 7
- 4. ZONING – OTHER REQUESTS FOR ZONING AMENDMENTS 9**
 - 4.1 SUMMARY OF RELIEF SOUGHT 9
 - 4.2 EVIDENCE 9
 - 4.3 DISCUSSION AND CONCLUSIONS..... 10
- 5. RECOMMENDATIONS 11**

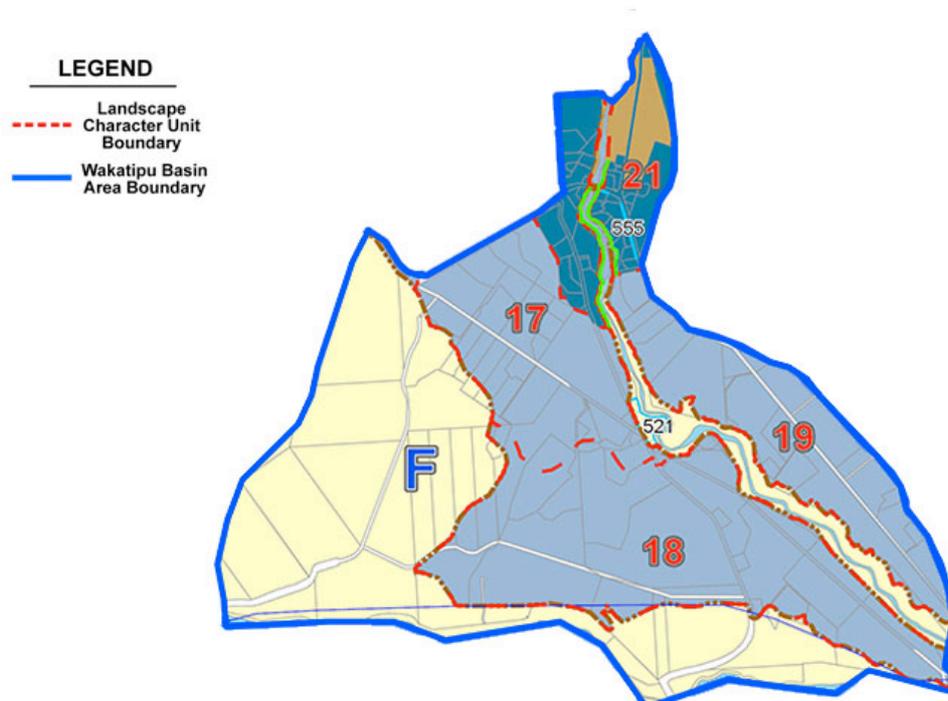
1. INTRODUCTION

1.1 Preliminary

1. This report needs to be read in conjunction with Reports 18.1 and 18.2. Report 18.1 sets out the overall hearing process for Stream 14 and the approach we have taken to assessing the submissions in terms of the statutory requirements. In addition, it contains the Stream 14 Hearing Panel's recommendations on Chapter 24 Wakatipu Basin and the various variations to the text in Stage 1 of the PDP notified in conjunction with Chapter 24.
2. The abbreviations we use in the report are set out in Report 18.1, as is the list of persons heard.
3. Report 18.2 set out the background to the zoning issues dealt with in Stream 14 and explains how we divided the area subject to our deliberations up for the purposes of preparing the recommendation reports.

1.2 Southern Basin Area

4. Figure 1 below shows the location of the area we have called the Southern Basin.



Area F – Southern Basin

Figure 1: Southern Basin

5. This area includes LCU 17 Morven Ferry south of State Highway 6, LCU 18 Morven Eastern 'Foothills', LCU 19 Gibbston Highway Flats and LCU 21 Arrow Junction Rural Residential. It also includes the eastern half of the ONL covering Morven Hill, the ONL along the true left bank of the Kawarau River to close to the confluence with the Arrow River and the Arrow River ONF. The eastern boundary of the area is the foot of the Crown Terrace face.
6. Most of this area outside the ONLs was notified as Rural Amenity in Stage 2, apart from the land at Arrow Junction, which was zoned Precinct and Informal Recreation.

7. This area has a mix of rural and rural residential land uses, with some larger rural properties and hobby farms. Approved building platforms that have yet to be built on are largely located in the Morven Ferry Triangle¹ and west of Morven Ferry Road.
8. The notified version of Chapter 24 listed the capability of this area to absorb additional development as follows:

LCU Number	LCU Name	Capability to Absorb Additional Development
17	Morven Ferry	Moderate-Low
18	Morven Eastern 'Foothills'	Low
19	Gibbston Highway Flats	Very Low
21	Arrow Junction Rural Residential	High

1.3 Submissions Covered in this Report

9. A group of Stage 1 submissions² sought amendments to the ONL boundaries on the eastern side of Morven Hill and on Punt Hill north of the Kawarau River. In addition, several submissions lodged on Stage 2 sought essentially the same relief as those lodged on Stage 1³. Some of these latter submissions⁴ were challenged by the Council as not being 'on' Stage 2. By a Procedural Minute dated 16 April 2018 the Panel Chair determined that as they essentially repeated the Stage 1 submissions, there was no point in striking them out. We deal with issues raised by all these submissions in Section 2 of this report.
10. The submissions we heard relating to zoning fell into two groups:
 - a. Those seeking that the land within the Morven Ferry Triangle and smaller blocks along Morven Ferry Road adjoining the Triangle be zoned for rural living (Precinct or Rural Lifestyle)⁵; and
 - b. Those submissions seeking that a large block of land (comprising several properties) south of the intersection of Morven Ferry Road and Arrow Junction Road be zoned a mixture of Rural Residential (or Precinct) and Rural Visitor⁶.
11. We deal with the second group of submissions in Section 3 and the first group in Section 4.

2. OUTSTANDING NATURAL LANDSCAPE AND OUTSTANDING NATURAL FEATURE BOUNDARIES

12. As noted above, some submitters challenged the boundary of the ONL on the eastern side of Morven Hill and north of the Kawarau River. Specific amendments were sought to the ONL

¹ The triangle of land bordered by State Highway 6 to the north, Morven Ferry Road to the southwest and Arrow Junction Road to the east.

² Submissions 265, 285 (supported by FS1221, supported in part by FS1097, opposed in part by FS1097), 442, 401, 644, 664, 666, 670 (supported by FS1310), 690 (supported by FS1310) and 695

³ Submissions 2260, 2261, 2264, 2266, 2268, 2412 and 2439

⁴ Submissions 2260, 2261, 2412 and 2439

⁵ Submissions 2412, 2482 (supported by FS2717) and 2609 (supported by FS2717, FS2734)

⁶ Submissions 626 (supported by FS1327, opposed by FS1070, FS1072, FS1124, FS1310), 629 (supported by FS1327), 2350 (supported by FS2734, FS2743, FS2749), 2449 (supported by FS2734, FS2749, FS2782, FS2783, FS2784) and 2509 (supported by FS2743, FS2734)

boundary to exclude the eastern faces of Morven Hill and Punt Hill adjacent to the Kawarau River.

13. We received no expert evidence on behalf of submitters in support of these requests.
14. Ms Mellsoop considered these requests and recommended that the ONL boundary should be amended to correspond to the change of gradient at the eastern toe of Morven Hill and to exclude an elevated plateau that adjoins the eastern side of Morven Hill. She advised that she was unclear of the exact ONL boundary sought in the vicinity of Punt Hill and considered that the boundary as notified was appropriate.
15. At the hearing, we asked Ms Mellsoop whether the escarpment on the north-eastern edge of the plateau was an ONF in its own right or part of the ONL. She told us that it is an important landscape feature, but that she did not consider it met the threshold to be classified as an ONF. Ms Mellsoop addressed this further in her reply evidence and advised that she remained of the view *'that the character of the plateau and escarpment is similar to that of the land to the north of SH6 that is not included in the ONL.'*⁷.
16. We adopt Ms Mellsoop's conclusions and recommend the ONL boundary is amended as shown in Figure 2 below. In the absence of any expert evidence supporting an amendment to the ONL boundary on Punt Hill, we accept Ms Mellsoop's uncontested evidence that the ONL boundary is in the appropriate location.

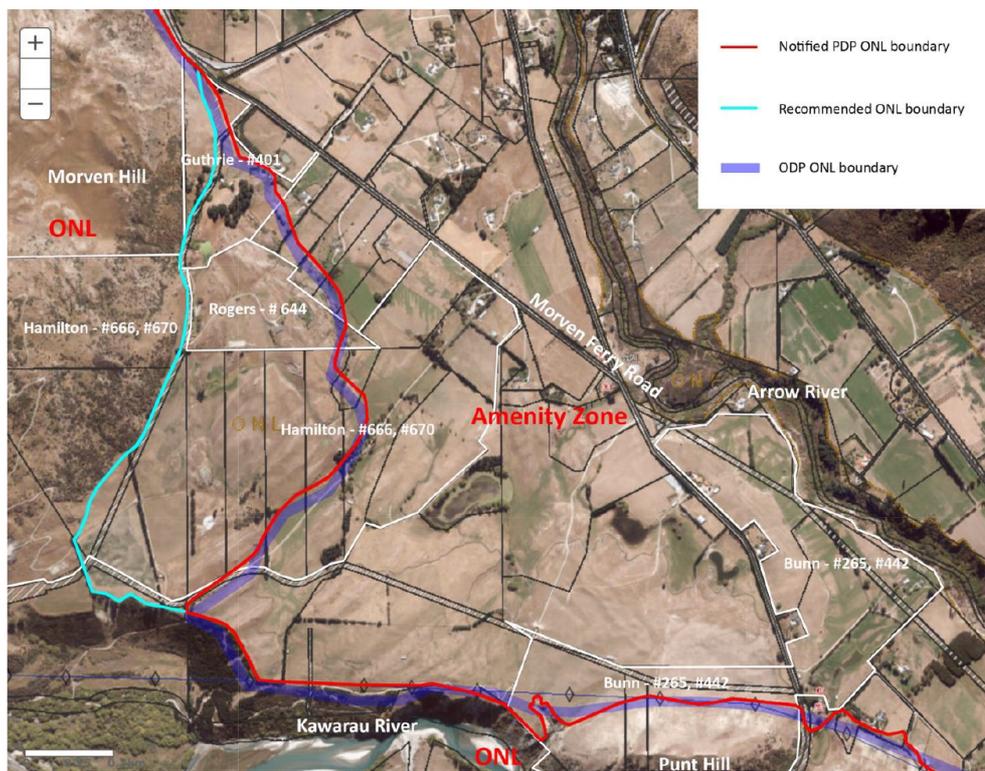


Figure 2: amended ONL boundary, as per Figure 9 of Ms Mellsoop's Evidence in Chief

⁷ H. Mellsoop, Reply Evidence at paragraph 4.3

17. We note that Section 2.6 of Report 18.1 discusses the scope issues relating to zoning that arise from amendments to ONL or ONF boundaries. We concluded there that we do not have scope to rezone the land, as it was not included in the variation. As a result of our recommendations, the land previously in the ONL will remain zoned Rural but be classified as Rural Character Landscape.

3. ZONING - MORVEN FERRY RURAL VISITOR ZONE

3.1 Summary of Relief Sought

18. As noted in Section 1.3 above, as part of the Stage 1 submission process, a group of landowners⁸ requested rezoning of their land as a combination of Rural Residential and Rural Visitor and that it be specified as a Morven Ferry Sub-zone. At Stage 2, they lodged fresh submissions⁹ opposing the variations and seeking the relief specified in their Stage 1 submissions. In the alternative, they sought a mixture of Precinct (with an average density standard of 4000m²) and Rural Visitor Zone, subject to amendments providing for separation of the Rural Visitor Zone into two areas, A and B.

3.2 Evidence

19. Mr Freeman gave planning evidence for the submitters and outlined some amendments to the relief sought in his evidence in chief. He advised that the relief sought had been amended to seek a 4,000m² minimum density if Precinct was to apply to the land. He also set out a complicated set of proposed amendments to the ODP provisions for the Rural Visitor Zone¹⁰. We agree with Mr Langman's comments that it would have been more helpful to provide a set of new provisions that could be incorporated into the PDP, given that the ODP provisions are now the subject of variation. When we discussed this with Mr Freeman, he agreed that this was not ideal now that the ODP is in the process of giving way to the PDP (Stage 2). To address this issue, we received an amended set of provisions and plan of the proposed precinct under cover of a Memorandum of Counsel on 26 July 2018.
20. Figure 3 below shows the proposed visitor precinct plan.

⁸ Submissions 626 and 629

⁹ Submissions 2449, 2350, 2355, 2356, 2509

¹⁰ S. Freeman, Evidence in Chief at 57

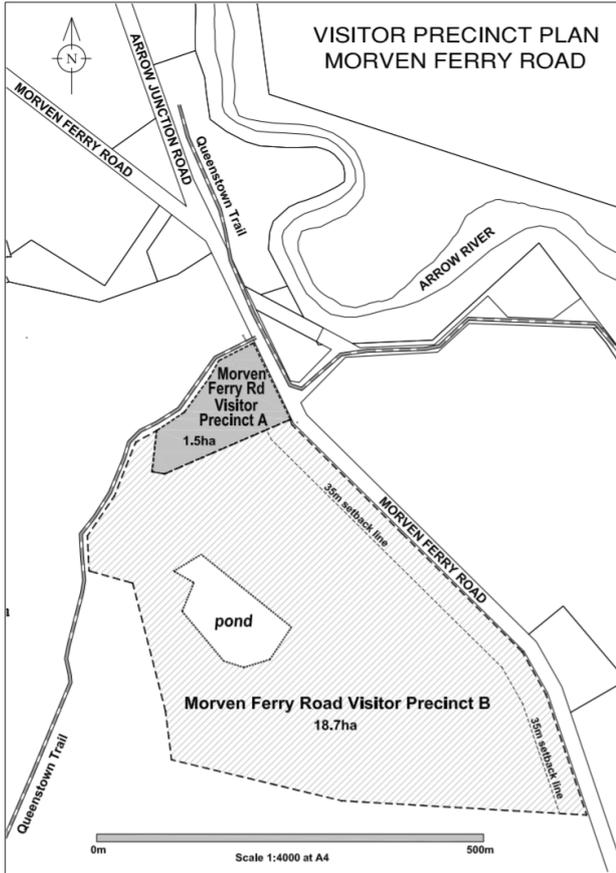


Figure 3: Morven Ferry Visitor Precincts A and B, as per Memorandum of Counsel, dated 26 July 2018, Appendix 2

21. Figure 4 shows the visitor precincts in the context of the broader rezoning proposal suggested by the submitters.



Figure 4: Morven Ferry Road zones proposed from S Freeman, Evidence in Chief, Appendix D

22. Mr Espie, giving evidence for the submitters, told us that the *'dead-end nature of Morven Ferry Road means that a relative lack of busyness, traffic and people is a relevant characteristic.'*¹¹ He disagreed with the 'low' capacity to absorb development ascribed in Schedule 24.8 to LCU 18 and considered 'moderate-low' to be a more appropriate descriptor¹². In particular, he disagreed with Ms Mellsop's assessment that the proximity to ONLs and/or ONFs necessarily decreases the absorption capability of an area.
23. Mr Espie noted Ms Mellsop's criticisms of the level of building coverage in Area B and advised that this had been reduced to 3000m². He observed that Area A was configured to present itself to Morven Ferry Road and to the intersection of the trails. He described the proposal in that area as being akin to the node of activity at Gibbston Valley Winery complex or Cardrona Hotel. He concluded that:
*"...a visitor related development as restricted by the proposed provisions can sit appropriately and proudly in the proposed location without inappropriately detracting from the landscape character and visual amenity of the Morven Ferry Road vicinity or the wider Wakatipu Basin."*¹³
24. Ms Mellsop advised that she agreed that small contained areas of Rural Residential zoning can be absorbed in appropriate locations. She emphasised that in most isolated locations, such as that proposed, Rural Residential zoning has undermined rural character and amenity of the surrounding landscape.¹⁴ She concluded that:
*"... isolated 'large lot residential' and dense rural visitor development within an otherwise strongly rural landscape would not in my opinion maintain the amenity and aesthetic coherence of public views towards the surrounding ONLs and ONFs."*¹⁵
25. Ms Mellsop was critical of the proposed provisions appended to Mr Freeman's evidence in chief and did not consider that the anticipated landscape outcomes were adequately described. Ms Gilbert's reply evidence responded to questions we asked during the hearing regarding landscape character and visual amenity effects of development on the Queenstown Trail. Ms Gilbert described the Queenstown Trail as a key recreational feature, which suggested a high sensitivity to landscape change¹⁶. She concluded that inappropriate development near the Trail had the potential to significantly detract from 'sense of place', which she described as 'getting away from it all' and the recreational values of the Trail generally.
26. Ms Gilbert's reply evidence also considered the issue of cumulative effects of the proposed Hills Resort Zone, Hogan Gully Zone, Ayrburn Zone, Millbrook Resort Zone and Morven Ferry Visitors Zone, which she called the 'resort proposals'. She told us that should these proposals be enabled, *'there would be a significant change in the character and identity of the landscape'*. She referred us to Ms Mellsop's evidence on the individual merits of the Morven Ferry proposal.
27. Ms Mellsop's reply evidence did not provided any further comment on the Morven Ferry proposal.

¹¹ B. Espie, Evidence in Chief at 5.2

¹² Ibid at 8.3

¹³ Ibid at 8.16

¹⁴ H. Mellsop, Rebuttal Evidence at 5.3

¹⁵ Ibid at 5.6

¹⁶ B. Gilbert, Reply Evidence at 9.11

28. Mr Freeman relied on Mr Espie’s evidence and considered that the proposal had been carefully designed and was based on the ability of the land to absorb future development. His evidence included a Section 32 evaluation of the proposal that concluded the proposed zoning to be the most appropriate. He concluded that the zoning was a *‘logical outcome for land that adjoins a key junction in the Queenstown Trail’*¹⁷.
29. Mr Langman’s rebuttal evidence continued to oppose both the Rural Visitor Zone and Precinct proposed in Mr Freeman’s evidence. He noted that Mr Freeman had not acknowledged the ability for many of the activities proposed in the Rural Visitor Zone to be undertaken by way of consent. He considered this to be *‘a far more efficient means of achieving visitor accommodation and a café or restaurant than retrofitting an entire zone from the ODP’*¹⁸. He maintained that Rural Amenity zone was the most appropriate zone.
30. We heard detailed evidence from Ms MacColl, Ms Cleaver and Ms Bunn about their aspirations for their land, which brought colour to the descriptions provided by Mr Freeman and Mr Espie. They considered that presence of the Trails made the locality ideal for a tourist operation and described a potential café, vineyard, art gallery and other amenities for trail users.
31. Ms MacColl discussed the difficulties in farming the land. She noted that it is not economically farmed at present and that they have been reliant on secondary sources of income for a significant time. Ms MacColl also told us that they have identified all of the potential building platforms. We record here that we were grateful to Ms MacColl for providing access to, and guiding us around, the properties on our two visits to the site.

3.3 Discussion and Conclusions

32. Section 2.1 of Report 18.1 sets out our recommendations on submissions opposing the variations and reversion to the Stage 1 zonings. For those reasons, we consider only the submitters’ alternative relief here.
33. We place limited weight on the visibility of the site from Queenstown Trail because in the area bisecting the site, it is a Trail as defined, and therefore not a “Public Place” for the purposes of assessing landscape character and visual amenity effects.
34. Our site visit confirmed also that the site would not be highly visible from the zigzag. However, it is clearly visible from the popular viewing point adjacent to Chain Bay 4 (on the Crown Range Road) and for passengers in vehicles driving down that road. We consider that this area is one of the two areas that remain in the Basin that are of true rural character (the other being Malaghans Road). Certainly, the views from these elevated vantage points have that character. These are of considerable significance given the importance of the visitor industry to the economic wellbeing of the District.
35. Even if we agreed with Mr Espie’s assessment that LCU18 might be categorized as having medium- low capability to absorb development (which we do not, for the reasons set out in section 3.19 of Report 18.1), this would still have been below the trigger Ms Gilbert applied when identifying areas of Lifestyle Precinct.

¹⁷ S. Freeman, Evidence in Chief at 171

¹⁸ M. Langman, Evidence in Chief at 24.10

36. We also consider that the extent of rural living covered too great an area given the lack of specificity as to the potential outcomes. The zoning proposed was too broad brush. For us to have been satisfied as to its appropriateness, we would have expected to see a detailed Structure Plan with building platform locations, road layouts, servicing and details on how the wetlands on the development sites would be integrated with the proposal. Similarly, the Rural Visitor Precincts covered extensive areas and the proposed provisions were too generic to ensure that the outcome was not some other type of commercial activity from that described to us in evidence.
37. It was clear to us that the submitters did have an overall plan for the site, but this was not shared with us. On the basis of the evidence received, we do not have sufficient confidence that the zone provisions proposed by the submitters are the most appropriate way to achieve the objectives of the PDP.
38. The exception to this is a relatively small area of 6ha on the lower terrace by the Queenstown Trail¹⁹. While Ms Mellsop considered the area highly visible from both the trail and Morven Ferry Road, we think her concerns were over-stated apart from the area where the trail connects Morven Ferry Road to the Arrow River margin. The trail is variously on public road and Crown land where it wraps around the proposed Precinct area, meaning that views from it are of relevance to an effects assessment. However, we observed during our site visits that the trail sits on a lower terrace, much of it well below the proposed development area where it runs alongside the river. In the area of potential concern, Ms Mellsop accepted that it might be screened, but observed that the location of the site adjacent to an ONF (the Arrow River corridor) produces landscape issues in itself. During our site visits, we also noted large houses sitting prominently on the terrace on the opposite side of the Arrow River from the site that do not appear to adversely affect to ONF (or at least Ms Mellsop did not identify them as doing so), presumably because the river is so deeply incised.
39. In summary, while we do not accept Mr Espie's categorization of the absorptive capacity of the balance of the site, for the reasons discussed above, we think he is on sounder ground in this particular corner of the site, provided there is a suitable setback from the trail. With that provision, we think that this area is suitable for inclusion in the Precinct. We therefore recommend that save for this area, the balance of the land remain Rural Amenity Zone as notified. We recommend the area identified as Morven Ferry Road RRZ/WBLP east of Morven Ferry Road on Figure 4 above, be zoned Precinct with a 'Queenstown Trail Setback' identified along the boundary of the area with the Trail, as shown on Figure 5 below. We also recommend the inclusion in Chapter 24 of Rule 24.5.9 requiring a 75m setback from any Queenstown Trail Setback identified on the Planning Maps.

¹⁹ See Figure 4 above. Although not separately named, it is shown as being 6.0ha in area.

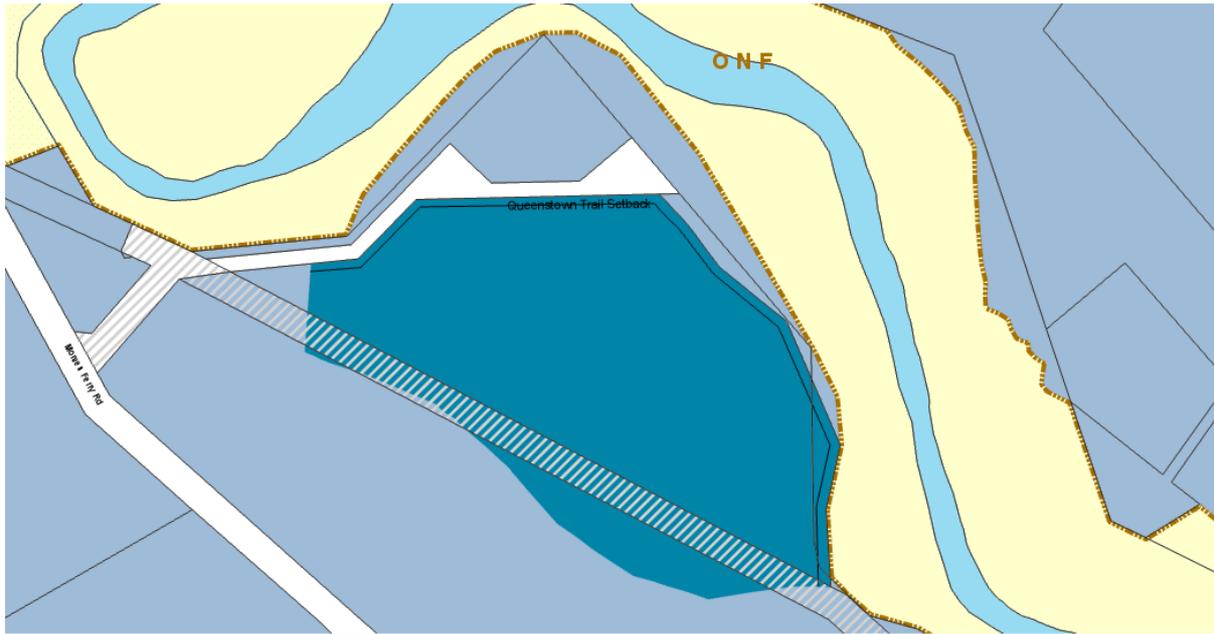


Figure 5: Recommended WB Lifestyle Precinct at Morven Ferry

4. ZONING – OTHER REQUESTS FOR ZONING AMENDMENTS

4.1 Summary of Relief Sought

40. WK & FL Allen²⁰ and KT Dunlop & SA Green²¹ sought that their properties and others in and adjoining the Morven Ferry Triangle be zoned Rural Lifestyle or some other zone to provide for rural living. MC Guthrie²² sought that his site on the western side of Morven Ferry Road be zoned Precinct. Mr Clear²³ sought that the zoning of 69 Morven Ferry Road (inside the Morven Ferry Triangle) retain the ODP zoning (Rural General).

4.2 Evidence

41. We heard evidence from Mr Clear, Ms Allen, Mr Allen and Ms Dunlop. Mr Allen highlighted the difficulties farming the land and his desire to be able to subdivide to share the land with his family. Ms Dunlop saw some similarities with Hawthorn Triangle and wanted to retain the ability to subdivide. Ms Allen advised us that she was giving evidence as a resident but noted that her views were informed by her knowledge and experience as a planner. She highlighted that the residents in the area no longer wish to farm the land.

42. Ms Gilbert opposed all of the requests. She advised that she was mindful of the decision RM160571 that approving a five-lot rural residential subdivision, as shown in Figure 4 below.

²⁰ Submission 2482
²¹ Submission 2609
²² Submission 2412
²³ Submission 2264

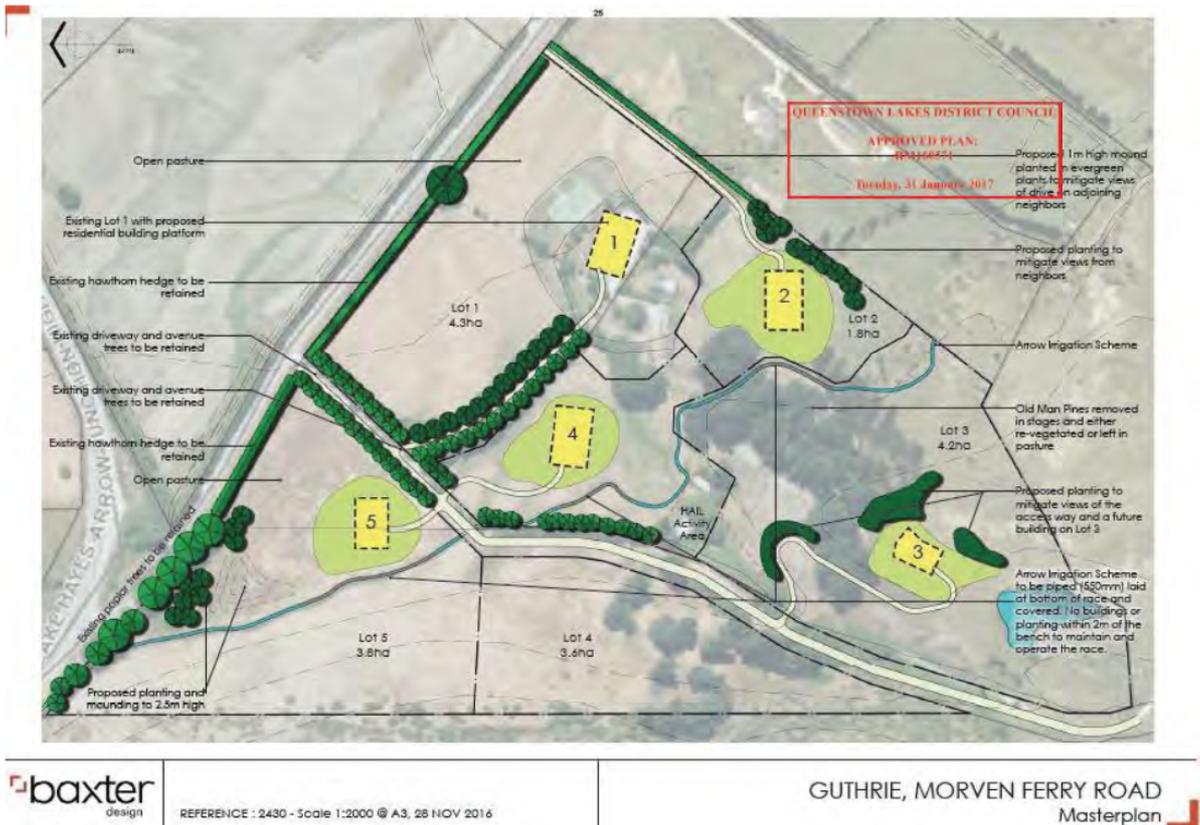


Figure 4: plan of approved subdivision of the Guthrie property, Morven Ferry Road, as shown in Figure 59 of Ms Gilbert’s evidence in chief.

43. Ms Gilbert noted the Commissioners’ findings that the application was finely balanced and that the approved consent should not form a cue for additional rural residential development in the area²⁴.
44. Mr Langman similarly opposed the requests. He relied on Ms Gilbert’s evidence that LCU 17 Morven Ferry has a Moderate to Low capability to absorb development, is visible from key scenic routes and the area would be vulnerable to development creep. He considered that the landscape values would be better maintained by Rural Amenity Zone²⁵.

4.3 Discussion and Conclusions

45. The application of a zone to enable subdivision and development in the northern part of Area F in a manner akin to the ‘Hawthorn Triangle’ was not supported by expert evidence. We do not consider that the Guthrie decision is determinative. However, it is relevant. We were persuaded by the landscape evidence of Ms Gilbert that the zoning requested is not appropriate. The area is highly visible from key scenic routes and would be vulnerable to development creep. We find that Rural Amenity Zone is the most appropriate zone.
46. As noted in Section 2 above, part of this area will include land zoned Rural and classified as a Rural Character Landscape. As noted in Section 2.6 of Report 18.1 we do not have scope to change the zoning of the land. We recommend therefore that Council undertake a variation to

²⁴ B. Gilbert, Evidence in Chief at 48.6

²⁵ M. Langman, Evidence in Chief at 46.2 to 46.6

tidy up the zoning of this and all other land affected by recommended amendments to the ONL/ONF boundaries.

5. RECOMMENDATIONS

47. For the reasons given above, we recommend that:

- a. Submissions 265 and 442 and Further Submission 1097 be accepted;
- b. Submissions 401, 626, 629, 644, 664, 666, 670, 690, 695, 2260, 2261, 2264, 2266, 2350, 2412, 2439, 2449 and 2509 the further submissions lodged on those submissions be accepted in part;
- c. Submissions 2482 and 2609 and Further Submissions 2717 and 2734 be rejected;
- d. The Morven Hill ONF boundary is amended as shown on Figure F1 below;
- e. The Wakatipu Lifestyle Precinct be applied to the land east of Morven Ferry Road shown on Figure F2 below;
- f. A Queenstown Trail Setback be applied to the land zoned Precinct in (e) above, as shown on Figure F2 below; and
- g. All other zones and map notations within Area F remain as notified.

For the Hearing Panel



Denis Nugent, Chair

Dated: 15 February 2019

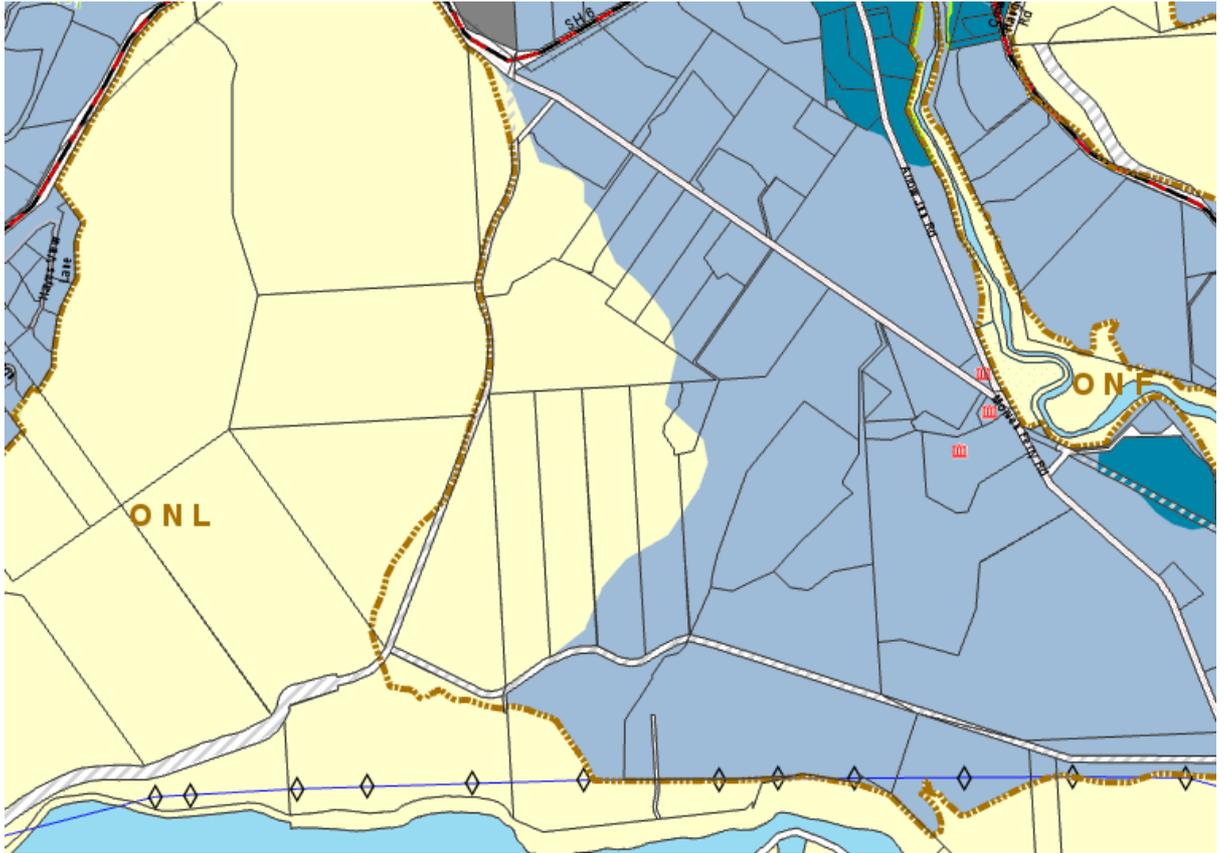


Figure F1: Recommended Amendment to ONL Boundary on east of Morven Hill

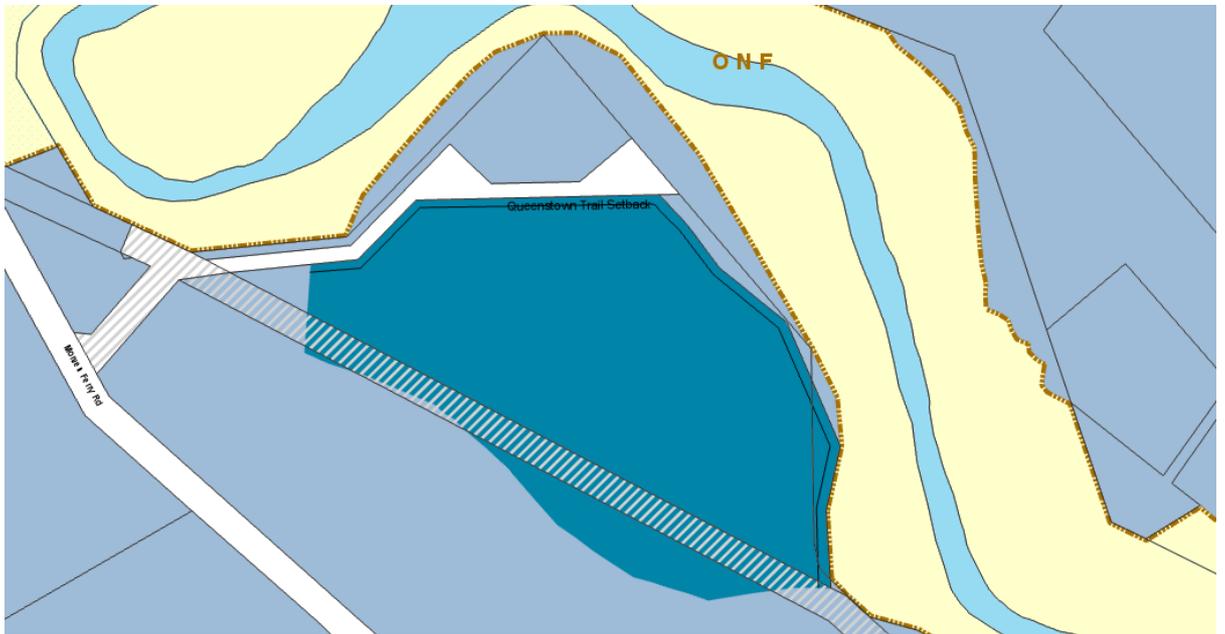


Figure F2: Recommended Wakatipu Lifestyle Precinct and Queenstown Trail Setback