

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

For:

**Addition to 26.8 Inventory of Listed Heritage Features in Chapter 26
Historic Heritage and Map 21**

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1. EXECUTIVE SUMMARY

- 1.1. The purpose of this variation is to recognise the heritage values of Chalmers' Cottage, located at 41 Warren Street, Wānaka, in the Proposed District Plan and afford it the protection provided to similar heritage items. The variation would list the Cottage as a Category 3 item in the Inventory of Listed Heritage Features in Chapter 26 Historic Heritage of the PDP and identifying it on the planning maps. This would mean that the objectives, policies and rules in Chapter 26 that manage effects on historic heritage will apply to the cottage.
- 1.2. This report assesses the variation in accordance with section 32 of the Resource Management Act 1991. The purpose of the variation is considered to be an appropriate way to achieve the sustainable management purpose of the Act, particularly as it will recognise and provide for the protection of historic heritage, which is a matter of national importance. Identifying the Cottage in the PDP Inventory and on the planning maps is considered to be the most appropriate way to achieve the purpose of the variation. It would be effective in recognising and protecting the heritage values of the Cottage, in an efficient way that comes at a low potential cost to the landowner and provides a high benefit to the wider public.

2. INTRODUCTION

- 2.1. This report fulfils the requirements of Section 32 of the Resource Management Act 1991 (**'the Act'** or **'the RMA'**), 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 efficiency and effectiveness in achieving the objectives.
- 2.2. The purpose of this proposal is to recognise the heritage values of Chalmers' Cottage (**'the Cottage'**), located at 41 Warren Street, Wānaka, in the Proposed District Plan (**PDP**) and afford it the protection provided to similar heritage items. The proposal is a variation to Chapter 26 Historic Heritage of the PDP to add the Cottage to the Inventory of Listed Heritage Features (**'the PDP Inventory'**) at section 26.8 of the PDP as a **Category 3** item, and identify it as a heritage item on PDP Map 21 (Central Wānaka).
- 2.3. The effect of the proposal is that the rules that manage the effects of activities on Category 3 heritage items would apply to the cottage. In summary, repairs and maintenance and internal alterations are permitted activities, but other activities such as external alterations and additions, relocation, and total or partial demolition would require a resource consent as a restricted discretionary activity. The objectives and policies in Chapter 26, along with the evaluation criteria for heritage values set out in section 26.6, set the framework for the assessment of any resource consent application.

- 2.4. The proposal has been prompted by notice from Heritage New Zealand Pouhere Taonga (HNZ), received by Council in December 2017, that the Cottage had been confirmed as a Category II feature on the New Zealand Heritage List/Rārangī Kōrero. The notice included a recommendation from HNZ that the Cottage be scheduled in the Queenstown Lakes District Plan. The report from HNZ, attached as Appendix 1 to this report, concluded that the Cottage is a rare surviving example of a colonial cottage and has a picturesque quality, a high degree of authenticity with respect to construction methods and form, and the potential to reveal further evidence about construction methods and materials through building archaeology.
- 2.5. As part of the process of developing this proposal, Council commissioned Origin Consultants Ltd to undertake an assessment of the heritage values of the Cottage to determine which PDP category the cottage falls into. Origin Consultants was provided with the HNZ report and visited the cottage as part of the assessment. The report is attached as Appendix 2. The cottage is assessed as a Category 3 heritage item.
- 2.6. The PDP contains existing objectives, policies and rules for the purpose of managing and protecting historic heritage. The proposal is not altering or re-litigating any of these provisions. This evaluation report does not evaluate any of the existing provisions, and focuses on the addition of the Cottage to the Inventory.

3. STRUCTURE OF THE REPORT

- 3.1. This report provides an analysis of the proposal 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

Landowner

- 4.1. Consultation with the landowner of the Cottage, Dr John Elliott, has been undertaken in the development of this proposal. Dr Elliott and his wife have owned the cottage since 1994 and have done significant internal and external work to restore and upgrade the cottage. Dr Elliott initiated the registering of the cottage with HNZ.
- 4.2. Dr Elliott was notified by letter of Council's intention to list the cottage in the PDP Inventory and provided with a copy of Chapter 26 of the PDP. This was followed by a telephone conversation with Council's Senior Planner Emily Grace working on the proposal. Dr Elliott kindly agreed to the Council's heritage consultant visiting the cottage to undertake an assessment of the heritage values of the cottage. A copy of the draft report from the heritage consultant was provided to Dr Elliott, along with a basic explanation of which rules in Chapter 26 would apply to the cottage, as a result of the report identifying the cottage as a Category 3 item for the purposes of the PDP. A further conversation and email exchange with Council's Senior Planner followed.
- 4.3. In summary, Dr Elliott is not adverse to the idea of the heritage values of the cottage being recognised and protected by the PDP. Dr Elliott expressed some uncertainty about how the provisions of Chapter 26 might apply in practice for any further works, including how 'repairs and maintenance' and 'alterations and additions' might be interpreted and applied in the future. He is also mindful of future expenses for any resource consent that may be required for future work. Each of these concerns is addressed in turn.
- 4.4. Dr Elliott's apprehensions about the resource consent process are understandable. However, it is not possible to provide any greater certainty for the outcome of potential future resource consent applications. The objectives, policies and rules in Chapter 26 of the PDP have been subject to scrutiny through the Schedule 1 process, including a public hearing and consideration of the planning framework by independent hearing commissioners. The provisions in Chapter 26 have been considered reasonable and appropriate and to give effect to Part 2 of the RMA. The Cottage has been assessed as being a Category 3 heritage item by Council's heritage consultant, and as a result, should this variation be approved, the provisions of Chapter 26 that apply to Category 3 items would apply. The requirement to go through a resource consent process for particular activities related to the cottage is considered to be a justified way to manage the heritage values of the cottage, given it is what is required by the already scrutinised Chapter 26 of the PDP. Any future application for resource consent will not be assessed arbitrarily. Rather,

the assessment will be guided by the objectives and policies in the PDP, which seek to recognise, protect, maintain and enhance heritage values.

- 4.5. If resource consent is required for future works, there would be a compliance cost associated with an application. Costs are discussed in more detail later in this report. It is noted that a resource consent would not be needed for all works on the Cottage, as repairs and maintenance and internal alterations and additions are permitted activities and could be undertaken without the need for a resource consent. This compliance cost would therefore only arise if more significant works were proposed.

Iwi Authorities

- 4.6. 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.

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. Section 6 of the RMA is relevant to this proposal. It requires that the protection of historic heritage from inappropriate subdivision, use and development is recognised and provided for. In relation to this, section 88B(3) of the RMA states that a rule in a proposal plan has immediate legal effect if the rule protects historic heritage. The proposal to list the Cottage in the PDP Inventory would result in the rules in Chapter 26 for Category 3 heritage items applying to the Cottage. As these rules protect historic heritage, they would have immediate legal effect over the Cottage on notification of the variation.
- 5.3. The relevant heritage provisions of the Otago Regional Policy Statement ('RPS'), 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. It is considered that the objectives, policies and rules of Chapter 26 of the PDP give effect to the RPS provisions relating to historic heritage, which seek to identify and protect significant historic

¹ *The Cry of the People, Te Tangi a Tauira: 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)*

heritage resources². If it is determined that the proposal to list the Cottage in the PDP Inventory is in accordance with the planning framework in Chapter 26, this proposal will also give effect to the RPS.

- 5.4. Regard has also been given to the entry of The Cottage as a Category II item on the New Zealand Heritage List/Rārangi Kōrero by HNZ, and Council’s Heritage Strategy 2010. The vision of the Heritage Strategy is that *“Heritage values, places and items are identified, promoted and sustainably managed for the appreciation of present and future residents and visitors.”* It has two goals relevant to this proposal, being: *“the District’s heritage values, places and items are identified and documented,”* and *“heritage values, places and items are protected.”*

Proposed District Plan

- 5.5. The policy document of most relevance to the proposal is the PDP. 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
SO 3.2.3	A quality built environment taking into account the character of individual communities.
SO 3.2.3.1	The District’s important historic heritage values are protected by ensuring development is sympathetic to those values.
SP 3.3.16 Heritage	Identify heritage items and ensure they are protected from inappropriate development.

Historic Heritage Chapter 26

Plan Reference	Provision
26.2.2 Description of listed Heritage Features Categories 1-3	<p>Category 1: Category 1 Heritage Features warrant the highest level of protection as they are very significant nationally or regionally. Category 1 shall include all places of the highest historical or cultural heritage significance including, but not limited to, all features in Category 1 of the Heritage New Zealand ‘New Zealand Heritage List/ Rarangi Kohero’.</p> <p>Category 2: Category 2 Heritage Features warrant permanent protection because they are very significant to the District and/or locally.</p> <p>Category 3: Category 3 Heritage Features are significant to the District and/or locally and their retention is warranted. The Council will be more</p>

² Objective 5.2 of the Partially Operative RPS is that “historic heritage resources are recognised and contribute to the region’s character and sense of identity”

	flexible regarding significant alterations to heritage features in this Category. Category 3 shall include all other places of special historical or cultural value.
Objective 26.3.1	The District's historic heritage is recognised, protected, maintained and enhanced.
Policy 26.3.1.1	Ensure historic heritage features within the District that warrant protection are recognised in the Inventory of Protected Features in Section 26.8.
Policy 26.3.1.3	Protect historic heritage values while managing the adverse effects of land use, subdivision and development, including cumulative effects, taking into account the significance of the heritage feature, area or precinct.
Policy 26.3.1.7	Promote the retention of Category 3 heritage features, or where the partial demolition of a Category 3 heritage feature is proposed, reduce adverse effects on its overall heritage values.
Policy 26.3.1.9	Where the relocation of Category 3 heritage features either beyond or within the site is proposed, to have regard to: <ul style="list-style-type: none"> a. the ongoing use or protection of the heritage feature, or to ensure public safety; b. measures to minimise the risk of damage to the heritage feature; c. the heritage values of the heritage feature in its new location; <p>within a Heritage Precinct, the effects on the heritage integrity of that precinct including adjoining structures and the precinct as a whole.</p>
Objective 26.3.2	The sustainable use of historic heritage features
Policy 26.3.2.2	Encourage the maintenance of historic heritage features by allowing minor repairs and maintenance.
Objective 26.3.3	The diversity of historic heritage features, heritage precincts, heritage overlay areas and values associated with them, are recognised
Policy 26.3.3.1	Identify the heritage values of heritage precincts, heritage features, sites of significance to Maori, and areas of heritage significance and in conjunction with Heritage New Zealand archaeological sites

5.6. In summary, the policy framework for managing historic heritage in the PDP requires protection of heritage features in line with the significance of the values of the feature. It identifies three categories of protection, with Category 1 items warranting the highest level of protection, and Category 3 items warranting the least degree of protection. Evaluation criteria are provided in section 26.6 for assessing the heritage values of the item and determining what category to assign to the item. Listing of the item in the PDP Inventory is critical for the objectives, policies and rules that manage historic heritage to be applied to an item.

- 5.7. The heritage assessment undertaken by Origin Consultants Ltd (see Appendix 2) for the purposes of this proposal followed the evaluation criteria in section 26.6 of the PDP. The assessment determined that the Cottage is a Category 3 heritage item.

6. RESOURCE MANAGEMENT ISSUE

- 6.1. The key resource management issue is whether the heritage values of the Cottage warrant protection under the PDP.
- 6.2. The letter from HNZ recommended that the Cottage be listed in the PDP, and the assessment by Origin Consultants Ltd determines that the cottage is a Category 3 heritage item. These two factors suggest that the heritage values of the Cottage do warrant protection under the PDP.
- 6.3. A review of the New Zealand Heritage List/Rārangī Kōrero has revealed that, as at April 2019, 100 records are identified as being located with the Queenstown-Lakes District. Of these records, 83 entries are included within the Inventory. The remaining 17 records are either included within Heritage Precincts (26.7) or Heritage Overlay Areas (26.10) and are therefore afforded a level of protection within the PDP, or are archaeological sites that are currently being sought to be included via Heritage New Zealand's appeal on Chapter 26³. The only exception is the Cottage.
- 6.4. The absence of the Cottage from the PDP Inventory is down to timing. The decision to include the Cottage on the New Zealand Heritage List/Rārangī Kōrero was made in December 2017, after Stage 1 of the PDP review (including Chapter 26) was notified in August 2015, with submissions closing in October 2015.

7. SCALE AND SIGNIFICANCE EVALUATION

- 7.1. The level of detail in this evaluation is low. This has been determined by an assessment of the scale and significance of the implementation of the proposed provisions. The proposal to include the Cottage on the PDP Inventory has the potential to adversely affect only one landowner, through the imposition of greater restrictions, and potentially greater compliance costs, than exist now. The fact that the protection of historic heritage is a matter of national importance has also been taken into account in the assessment of scale and significance.

³ ENV-2018-CHC-070

8. EVALUATION OF PROPOSED OBJECTIVES

- 8.1. 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)).
- 8.2. The purpose of this proposal is to recognise the heritage values of the Cottage in the PDP and afford it the protection provided to similar heritage items. Protecting the heritage values of the cottage is consistent with the purpose of the RMA as it seeks to provide for the sustainable management of historic heritage. The addition of the Cottage to the Inventory in the PDP will provide for the use, development, and protection of this physical resource to be managed in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being, and for their health and safety.
- 8.3. Section 6 of the RMA requires that the protection of historic heritage from inappropriate subdivision, use and development is recognised and provided for. Listing of the cottage in the PDP Inventory is an appropriate method to do this. Through addition to the PDP Inventory, historic heritage features are subject to the objectives, policies and rules in Chapter 26 of the PDP. These provisions allow for the management of the effects of activities on the heritage values in order to protect them from inappropriate subdivision, use and development.
- 8.4. An assessment of the heritage values of the Cottage has been undertaken and the Cottage has been identified as being a Category 3 item. This assessment provides justification for including the Cottage in the PDP Inventory, and for the level of protection that would be afforded by the Chapter 26 provisions. Identifying the cottage as a Category 3 item in the PDP Inventory accords with the intent of the policy framework of Chapter 26, which is that the level of protection of heritage features reflects the significance of the values of the feature.
- 8.5. Overall, the purpose of the proposal, to recognise the heritage values of the Cottage in the PDP and afford it the protection provided to similar heritage items, is considered to be an appropriate way to achieve the purpose of the RMA.

9. EVALUATION OF THE PROPOSED PROVISIONS

- 9.1. The proposed provisions are set out in Appendix 3 of this report. They include listing the Cottage as a Category 3 heritage item in the Inventory in section 26.8 of Chapter 26, and annotating Map 21 with the heritage item symbol over the item.
- 9.2. 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
- 9.3. 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

- 9.4. The purpose of this proposal is to recognise the heritage values of the Cottage in the PDP and afford it the protection provided to similar heritage items, and this is consistent with the relevant PDP objectives. The following table identifies other reasonably practicable options for achieving the purpose of the variation:

Option	Achieves objective?
1. Status quo (not listing the Cottage in the PDP Inventory)	Retaining the status quo would not achieve the purpose of the proposal as it would not recognise or protect the heritage values of the cottage. It would avoid the potential compliance costs to the landowner in the future.
2. Variation to include the Cottage in the Inventory	Listing the cottage in the PDP Inventory would achieve the purpose of the proposal as it would identify and protect the heritage values of the Cottage. The cottage would be identified on the planning maps and the objectives, policies and rules that govern the management of Category 3 heritage items would apply to it. This protection would come with a potential compliance cost to the landowner, should works happen in the future that need a resource consent.

- 9.5. Having considered these options, Option 2 is the preferred option because it would achieve the purpose of the variation and the relevant PDP objectives.

Efficiency and effectiveness

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

<p>Purpose of the proposal: to recognise the heritage values of the Cottage in the PDP and afford it the protection provided to similar heritage items</p> <p>SO 3.2.3.1: The District's important historic heritage values are protected by ensuring development is sympathetic to those values.</p> <p>Objective 26.3.1: The District's historic heritage is recognised, protected, maintained and enhanced.</p>			
<i>Provisions</i>	<i>Costs</i>	<i>Benefits</i>	<i>Efficiency & Effectiveness</i>
Identify the Cottage as a Category 3 heritage item	<p>There would be a compliance cost to the landowner, should future work done on the cottage trigger the need for a resource consent. This would be work that went beyond the permitted activities of repair and maintenance and internal alterations. Currently, the application lodgement fee would be in the order of \$2000, with the possibility of the final fee being higher than this. This would be an additional cost of top of other costs and fees associated with doing significant works to a dwelling. Overall, it is considered to be a low cost in this wider context.</p> <p>The social cost to the landowner would be neutral, in that there would be no impact on the landowner's ability to continue to use and maintain the cottage.</p> <p>There are not considered to be any environmental, social or cultural costs.</p>	<p>The key cultural benefit for society of the provisions would be the protection of the heritage values of the Cottage, to the level considered appropriate for Category 3 heritage items by the PDP. This benefit results from the appropriate management of the effects of future works on the heritage values of the cottage. This benefit extends to future generations. This benefit is considered to be high.</p> <p>There are not considered to be any economic, environmental or social benefits.</p>	<p>The provisions are considered to be efficient and effective at achieving the purpose of the proposal and the objectives of the PDP. They are efficient because they will have a low potential cost on the landowner (compliance cost) for a high benefit to society generally (preservation of historic heritage). They are effective as they will achieve the purpose of the proposal and the objectives of the PDP by recognising and protecting the heritage values of the Cottage.</p> <p>Overall, in the statutory planning context of historic heritage being a matter of national importance, listing the Cottage in the PDP Inventory and identifying it on the maps is considered to be the most appropriate way to achieve the purpose of the proposal and the objectives of the PDP.</p>

- 9.7. 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 heritage values of the Cottage is certain and sufficient, and there is no need to assess the risk of acting or not acting.

Reasons for deciding on the provisions

- 9.8. The proposed provisions are considered the most appropriate because:
- a) The heritage values of the Cottage have been assessed at a level that warrants protection (Category 3 of the PDP).
 - b) They are efficient and effective at achieving the purpose of the variation.
 - c) The provisions are in accordance with the objectives and policies of Chapter 26 Historic Heritage of the Proposed District Plan, which give effect to the operative Otago PRS.
 - d) 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, particularly the protection of historic heritage in section 6 of the RMA.
 - e) Regard has been had to 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.
 - f) Regard has also been given to the entry of The Cottage as a Category II item on the New Zealand Heritage List/Rārangī Kōrero by HNZ, and Council's Heritage Strategy 2010, and the provisions are consistent with these.

Appendices

Appendix 1

Heritage New Zealand Assessment

Appendix 2

Origin Consults Ltd Assessment

Appendix 3

Variation to Historic Heritage Chapter 26:

Pursuant to Section 86B(3) of the RMA, the rules in Chapter 26 have immediate legal effect over Chalmers' Cottage.

Underlined text for additions.

26.8 Inventory of listed Heritage Features

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
<u>553</u>	<u>21</u>	<u>Chalmers' Cottage, 41 Warren Street/corner of Helwick Street, Wānaka (excluding carport)</u>	<u>Section 16 Block XXX Town of Wānaka (2905316100)</u>	<u>2/9045</u>	<u>3</u>

Variation to Map 21:

Heritage item annotation on 41 Warren Street.