

PLAN CHANGE 28

TRAILS



SECTION 32 REPORT

AS ADOPTED FOR NOTIFICATION

DECEMBER 2007

EXECUTIVE SUMMARY

There is currently a tension between the District Plan (the Plan) provisions that aim to protect landscape values, and the goals of the community associated with creating public access trails throughout the rural areas of the District.

In recent years the community has worked hard to enhance public access throughout the District, in accordance with the key community outcomes of the Council Community Plan. This public access is achieved through negotiations with landowners either at the time of resource consent, or as a result of an approach by the Queenstown Lakes District Council (the Council) or a trails trust or community association.

The maintenance of quality landscapes is achieved through the implementation of the Plan, particularly those sections relating to the management of subdivision and development within the rural areas. When considering subdivision and development in these areas, the Plan places emphasis on the visibility of development, particularly its visibility from public roads and public places.

The definition of 'public place' within the District Plan reads:

Means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the District Council, or other agencies.

This means that once a walkway is established, and is managed by the Department of Conservation (DOC) or by the council, it becomes a public place. If the landowner then wishes to undertake development on nearby land, any such development will be assessed against its visibility from the trail.

The purpose of this Plan Change is:

To remove impediments to the provision of trails, particularly in the rural area, while ensuring that the Plan provisions are not weakened, and the quality of the landscape values are maintained into the future.

Given the need to ensure that the provisions of the Plan as they relate to landscape values are not weakened, the Plan Change provides only for future trails, and it will not change the activity status of subdivision and development.

The term 'public place' is referred to in 74 different places within the Plan. Given the complexity associated with changing each policy or assessment matter that refers to 'public place', it is considered that the most appropriate option is to amend the definition of 'public place' so that it excludes new trails. This avoids the need to amend the Plan in 74 different locations.

The question then is how to amend the definition of 'public place' so that new trails are excluded. It is suggested that the following should be excluded from the definition:

- *trails formally protected after December 2007 (i.e. the date at which this Plan Change will be adopted by Council); and*
- *trails that are formally protected through voluntary negotiations and that are agreed between the landowner and the Council or DoC (either through negotiations on a resource consent application or negotiations between the landowner and a relevant agency); and*
- *trails formally protected through a legal process, and that have legal protection into the future.*

A discussion document containing a background to the Plan Change, potential options and the Council's preferred direction was circulated on 31 October 2007. 24 responses were received to the discussion document, 23 of which supported the Plan Change.

Key issues and points raised by submitters were:

- The Plan Change should apply only to future trails;
- The exclusion from public places should only apply to those trails that are 'gifted'; and whether or not trails resulting from tenure review should be provided for within the Plan Change;
- Those trails not formally protected should be provided for by the Plan Change;
- The amendments should recognize other Crown entities;
- The trails should provide for horse riding, walking and cycling, not motorised vehicles.
- The Plan Change unnecessarily weakens the provisions of the Plan.

Following detailed consideration of the aims of this Plan Change against relevant statutory and non-statutory documents, the comments received on the discussion document, and a detailed assessment of alternatives, this Section 32 analysis finds that in order to achieve the purpose of the Act, the most appropriate option is to amend the District Plan as follows:

Amend the definition of 'public place' as follows:

*Public place – means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the District Council, or other agencies. **Excludes any trail as defined in this Plan.***

Add the following definition of trail:

Trail – means any public access route (excluding roads) legally created by way of a grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the Queenstown Lakes District Council, the Crown or any of its entities.

Amend Policy 4.2.5(4) Visual Amenity Landscapes as follows:

4. Visual Amenity Landscapes

- (a) To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are:
- highly visible from public places and other places which are frequented by members of the public generally (**except any trail as defined in this Plan**); and
 - visible from public roads.

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1.0 PART1: INTRODUCTION

This report has been prepared in respect of Plan Change 28: Trails to fulfill the requirements of Section 32 of the Resource Management Act (RMA).

Section 32 of the Act requires that an evaluation be undertaken that examines:

- the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
- whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.

For the purpose of the above examination, the evaluation must take into account:

- the benefits and costs of policies, rules or other methods; and
- the risk of acting or not acting if there is insufficient information about the subject matter of the policies, rules or other methods.

In order to meet the requirements of the RMA, this report has been structured into 6 different parts.

Part 1 provides an introduction and introduces the format of the report.

Part 2 provides the framework for a Plan Change. It identifies the purpose of this report, and explains the context of the Plan Change.

Part 3 provides the legislative context for the Plan Change, identifying the provisions of relevant statutory documents that are pertinent to the consideration of the Plan Change.

Part 4 identifies provisions within non-statutory documents prepared or supported by the Queenstown Lakes District Council or other agencies that are of relevance to the consideration of the Plan Change.

Part 5 identifies the consultation undertaken by the Council in its preparation of the Plan Change, and summarises the feedback received.

Part 6 identifies and discusses the key options available to the Council when considering alternative approaches to resolving the resource management issue.

Part 7 provides conclusions to the above analyses.

2.0 PART 2: THE CONTEXT FOR A PLAN CHANGE

2.1 BACKGROUND

The tension between the Partially Operative District Plan (the Plan) provisions aiming to protect landscape values and the community's goals of creating public access trails was brought to the attention of the Queenstown Lakes District Council's (the Council) attention by the Gibbston Community Association and the Wakatipu Trails Trust, who have been experiencing difficulty in achieving public access routes.

In recent years the community has worked hard to enhance public access throughout the District, in accordance with the key community outcomes of the Council Community Plan (CCP). This public access is achieved through negotiations with landowners either at the time of resource consent, or as a result of an approach to the landowner by the Council or a trails trust or community association.

The maintenance of quality landscapes is achieved through the implementation of the Plan, particularly those sections relating to the management of subdivision and development within the rural areas. When considering subdivision and development in these areas, the Plan places emphasis on the visibility of development, particularly its visibility from public roads and public places.

The definition of 'public place' within the District Plan reads:

Means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the District Council, or other agencies.

This means that once a trail is established, and is managed by the Department of Conservation (DoC) or by the Council, it becomes a 'public place'. If the landowner then wishes to undertake development on nearby land, any such development will be assessed against its visibility from the trail, in accordance with the relevant policies and assessment matters of the Plan.

This has caused landowners to become reluctant to gift their land for public access purposes, and given that there are examples where development applications have been declined because of their visibility from nearby public places, this reluctance has become more widespread.

It is also noted that where public access is gained through informal arrangements, but where such access is not managed by DoC or the Council, such access is not included within the definition of 'public place'. It is however subject to Policy 4.2.5(4) relating to Visual Amenity Landscapes, which refers to 'places frequented by the public generally'.

2.2 RESOURCE MANAGEMENT ISSUE

The resource management issue can be defined as follows:

There is a conflict between the provisions of the District Plan which aim to achieve a high quality landscape through ensuring that consideration is given to the effects of development on public places, and the community outcome that aims to achieve enhanced public access throughout the District.

Explanation

A key community outcome identified in the Council Community Plan reads:

Quality landscapes and natural environment and enhanced public access

As identified above, there is currently a tension between achieving quality landscapes, and enhancing public access.

2.3 PURPOSE OF THE PLAN CHANGE

The purpose of the Plan Change can be defined as:

To remove impediments to the provision of trails, particularly in the rural area, while ensuring that the Plan provisions are not weakened, and the quality of the landscape values are maintained into the future.

2.4 SCOPE OF THE PLAN CHANGE

Given the importance of providing a trails network through the District's rural areas while providing appropriate management of landscape values, it is important that this Plan Change achieves its purpose without reducing the strength of the provisions for landscape values. The scope of the Plan Change is therefore limited to new trails within the District; and as such it will not affect those trails or other public places that are already established and formally protected.

3.0 PART 3: LEGISLATIVE FRAMEWORK

This section of the report identifies the relevant provisions of the Resource Management Act (the Act). It then identifies the documents referred to in the Act to which the Council must take into account when preparing the Plan Change. These include the documents prepared by the Otago Regional Council (Regional Policy Statement), and the relevant iwi management plan (Kai Tahu Ki Otago Natural Resource Management Plan). It also identifies other legislation relevant to the consideration of the Plan Change, including the Local Government Act (LGA) and the New Zealand Walkways Act (1990).

3.1 RESOURCE MANAGEMENT ACT 1991

This Plan Change has been prepared as a means of achieving the purpose of the Act, which is expressed in **section 5** as follows:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, “sustainable management” means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonable foreseeable needs of future generations; and*
 - (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
 - (c) *Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

The provision of trails assists in enabling people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. This needs to be balanced against the need to avoid, remedy or mitigate adverse effects of activities, including subdivision and development.

Section 6 identifies matters of national importance. Many of the trails throughout the District traverse Outstanding Natural Landscapes, and may provide access to Outstanding Natural Features, areas of significant indigenous vegetation, and the lakes and rivers of the District. Therefore, the following matters of national importance are relevant when considering the Plan Change:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.*
- (f) *The protection of historic heritage from inappropriate subdivision, use, and development.*

(g) *The protection of recognised customary activities.*

Importantly, Clause 6(d) identifies as a matter of national importance the provision of public access to the rivers and lakes of the District. As identified in the Report to the Minister of Rural Affairs dated March 2007, access to these areas often relies on the ability to achieve access through private property.

There is clearly a need to balance clause 6(b) and 6(d); i.e. achieving the protection of the Outstanding Natural Landscapes and Features of the District, while providing public access to the District's lakes and rivers.

Section 7 lists "other matters" that the Council must have particular regard to. The following subsections are of particular relevance to the Plan Change:

(b) *The maintenance and enhancement of amenity values:*

(f) *Maintenance and enhancement of quality of the environment:*

Section 8 states that:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Section 31 of the Act identifies the functions of territorial authorities. This Plan Change relates specifically to Council's functions under 31(a), which reads:

(a) *The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.*

Relevant clauses of **Section 32** of the Act read:

(3) An evaluation must examine—

(a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*

(b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

(4) *For the purposes of this examination, an evaluation must take into account—*

(a) *the benefits and costs of policies, rules, or other methods; and*

(b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*

(5) *The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.*

(6) *The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.*

This analysis meets the requirements identified above, and forms the report required by clauses 32(5) and (6).

Section 72 identifies the purpose of District Plans, and reads

The purpose of the preparation, implementation and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

Section 73 provides for the preparation and change of District Plans. It states that variations and plan changes must be prepared in accordance with the First Schedule of the Act. The First Schedule sets out the required process of consultation, notification, submissions, hearings and decisions.

Section 74 is of particular relevance, and identifies the matters to be considered by local authorities when preparing a change or variation to a district plan. Listed here are the clauses that are of relevance to the consideration of this Plan Change:

- (1) *A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, its duty under section 32, and any regulations.*
- (2) *In addition to the requirements of section 75(2), when preparing or changing a district plan, a territorial authority shall have regard to—*
 - (a) *Any—*
 - (i) *Proposed regional policy statement; or*
 - (ii) *Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*
 - (b) *Any-*
 - (i) *Management plans and strategies prepared under other Acts; and*
 - (iia) *Relevant entry in the Historic Places Register; and*
 - (..)

to the extent that their content has a bearing on resource management issues of the district; and

2(A) A territorial authority, when preparing or changing a district plan, must—

- (a) *Take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district; and*
- (3) *In preparing or changing any district plan, a territorial authority must not have regard to trade competition.*

Section 75 identifies the contents of District Plans. Of particular relevance, clause (3) reads:

A district plan must give effect to:

- (a) *any national policy statement*
- (b) *any New Zealand Coastal Policy Statement*
- (c) *any regional policy statement*

Clause 4 reads:

A district plan must not be inconsistent with

(b) a regional plan for any matter specified in section 30(1).

Part 10 'Subdivisions and Reclamations' of the RMA provides for the creation of esplanade reserves and easements and access strips. These provisions are relevant when considering the processes available for achieving public access routes across private land.

3.2 REGIONAL POLICY STATEMENT FOR OTAGO (OPERATIVE IN OCTOBER 1998)

Section 60 of the Act requires the Otago Regional Council to prepare a Regional Policy Statement. The purpose of a Regional Policy Statement is to promote the sustainable management of natural and physical resources. Otago's Regional Policy Statement does this by providing an overview of the resource management issues facing Otago, and by setting policies and methods to manage Otago's natural and physical resources. The Regional Policy Statement contains no rules.

Section 75 of the Act requires that the Plan Change gives effect to the provisions of the Regional Policy Statement. The provisions of most relevance to the consideration of this Plan Change are listed below.

Land

5.4 Land Objectives

Objective 5.4.3

To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.

Objective 5.4.4.

To ensure that public access opportunities exist in respect of activities utilising Otago's natural and physical land features.

5.5 Policies

5.5.1 *To recognise and provide for the relationship Kai Tahu have with Otago's land resources through:*

- (a) Establishing processes that allow the existence of heritage sites, waahi tapu and and waahi taoka to be taken into account when considering the subdivision, use and development of Otago's land resources; and*
- (...)*

5.5.6 *To recognise and provide for the protection of Otago's outstanding natural features and landscapes which:*

- (a) Are unique to or characteristic of the region; or*
- (b) Are representative of a particular landform or land cover occurring in the Otago region or of the collective characteristics which give Otago its particular character; or*
- (c) Represent areas of cultural or historic significance in Otago; or*
- (d) Contain visually or scientifically significant geological features; or*
- (e) Have characteristics of cultural, historical and spiritual value that are regionally significant for Tangata Whenua and have been identified in accordance with Tikanga Maori.*

5.5.7 *To promote the provision of public access opportunities to natural and physical land features throughout the Otago region except where restriction is necessary:*

- (i) To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna; or*
- (ii) To protect Maori cultural values; or*
- (iii) To protect public health or safety; or*
- (iv) To ensure a level of security consistent with the purpose of a resource consent or in circumstances where safety and security concerns require exclusive occupation; or*
- (v) In other exceptional circumstances sufficient to justify the restriction notwithstanding the importance of maintaining that access.*

9 Built Environment

9.4 Objectives

9.4.1 *To promote the sustainable management of Otago's built environment in order to:*

- (a) Meet the present and reasonably foreseeable needs of Otago's people and communities; and*
- (b) Provide for amenity values; and*
- (c) Conserve and enhance environmental and landscape quality; and*
- (d) Recognise and protect heritage values.*

9.4.2 *To promote the sustainable management of Otago's infrastructure to meet the present and reasonably foreseeable needs of Otago's communities.*

9.4.3 *To avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources.*

9.5 Policies

9.5.3 *To promote and encourage the sustainable management of Otago's transport network through:*

- (a) Promoting the use of fuel efficient modes of transport; and*
- (b) Encouraging a reduction in the use of fuels which produce emissions harmful to the environment; and*
- (c) Promoting a safer transport system; and*
- (d) Promoting the protection of transport infrastructure from the adverse effects of landuse activities and natural hazards.*

9.5.4 *To minimise the adverse effects of urban development and settlement, including structures, on Otago's environment through avoiding, remedying or mitigating:
(...)*

(c) Visual intrusion and a reduction in landscape qualities; and

9.5.5 *To maintain and, where practicable, enhance the quality of life for people and communities within Otago's built environment through:*

(a) Promoting the identification and provision of a level of amenity which is acceptable to the community; and

(b) Avoiding, remedying or mitigating the adverse effects on community health and safety resulting from the use, development and protection of Otago's natural and physical resources; and

(c) Avoiding, remedying or mitigating the adverse effects of subdivision, land use and development on landscape values.

In summary, some key issues relevant to the assessment of this Plan Change are dealt with by the Regional Policy Statement for Otago. These include objectives and policies that are intended to:

- Recognise the special relationship that Manawhenua has with land and water resources.
- Recognise and provide for outstanding landscapes and natural features.
- Protect the natural character and associated values of Otago's wetlands, lakes, rivers and their margins.
- Maintain and enhance the quality of life for people and communities. This is to be achieved through the identification and provision of an acceptable level of amenity, avoiding, remedying and mitigating adverse effects on community health and safety, and adverse effects of subdivision, land use and development on landscape values.
- Promote public access opportunities.
- Encourage the use of fuel efficient modes of transport.

3.3 PARTIALLY OPERATIVE DISTRICT PLAN (THE PLAN)

When considering the Plan Change it is important to ensure that it is not inconsistent with the existing and settled provisions of the Plan. This Section of the report identifies those provisions that are considered relevant to the consideration of this Plan Change, focusing on those provisions that provide for the protection of landscape values, and the provision of public access throughout rural areas.

Appendix 4 provides tables identifying all those provisions within the PODP that refer to 'public place'. This is an important reference when considering the most appropriate option to achieve the purpose of this Plan Change. Appendix 5 then identifies the relevant provisions of Parts 4 and 5 as they relate to landscape values within the rural areas of the District. These are relevant to the consideration of the Plan Change, given that they are used to assess potential development within the rural areas of the District. Appendix 5 also identifies those provisions relevant to the consideration of public access, and lists these in sequential order.

3.4 KAI TAHU KI OTAGO RESOURCE MANAGEMENT PLAN

Section 74(2)(A) of the Act requires that when preparing or changing the Plan, the Council must:

- (a) take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district, and*

The Kai Tahu Ki Otago Resource Management Plan (2005) (NRMP) is the principal planning document for Kai Tahu ki Otago (Kai Tahu Ki Otago is used to describe the four Papatipu Runanga and associated whanau and ropu of the Otago Region).

Chapter 5 of the NRMP identifies issues, objectives and policies for the Otago Region as a whole. Chapter 10 identifies issues, objectives and policies for the Clutha Mata-au catchment, in which the Queenstown Lakes District is located.

Section 5.6 provides for cultural landscapes. Of relevance, 5.6.2 identifies Objectives for Cultural Landscapes Objective, which of relevance include:

- i. The relationship that Kai Tahu ki Otago have with land is recognised in all resource management activities and decisions.*
- ii. The protection of significant cultural landscapes from inappropriate use and development.*
- iii. The cultural landscape that reflects the long association of Kai Tahu ki Otago resource use within the Otago region is maintained and enhanced.*

Cultural landscapes general policies include:

- 1. To identify and protect the full range of landscape features of significance to Kai Tahu ki Otago.*
- 3. To promote the control of visitor and recreational activities that impact on significant landscapes.*
- 6. To promote the identification of areas of historic heritage in collaboration with Local Government Agencies.*

Cultural Landscapes policies specific to subdivisions:

- 25. To discourage subdivisions and buildings in culturally significant and highly visible landscapes.*
- 29. To require public foot access along lakeshores and riverbanks within subdivisions.*

3.5 LOCAL GOVERNMENT ACT 2002

This section of the report identifies the relevant sections of the Local Government Act 2002 (LGA). It then identifies the relevant provisions of the Queenstown Lakes District Council's Long Term Community Plan, which has been prepared under the LGA.

Sections 76-82 of the LGA relate to decision making. Section 76 identifies that every decision made by a local authority must be made in accordance with Sections 77-82 of the LGA, as applicable.

Section 77 is entitled 'requirements in relation to decisions' and reads:

- (1) A local authority must, in the course of the decision-making process*
 - (a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and*
 - (b) assess those options by considering*
 - (i) the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; and*
 - (ii) the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and*
 - (iii) the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and*
 - (iv) any other matters that, in the opinion of the local authority, are relevant; and*
 - (c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.*
- (2) This section is subject to section 79.*

Section 78 is entitled community views in relation to decisions, and reads:

- 1) *A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.*
- (2) *That consideration must be given at*
 - a) *the stage at which the problems and objectives related to the matter are defined:*
 - b) *the stage at which the options that may be reasonably practicable options of achieving an objective are identified:*
 - (c) *the stage at which reasonably practicable options are assessed and proposals developed*
 - (d) *the stage at which proposals of the kind described in paragraph (c) are adopted*

Section 79 of the LGA is entitled 'Compliance with procedures in relation to decisions'. It identifies that it is the responsibility of the local authority to make, in its discretion, judgments on how to achieve compliance with Sections 77 and 78 of the LGA. These judgments are to be based largely on the significance of the matters affected by the decision, and determine the extent to which different options are to be identified and assessed, the extent and detail of information to be considered, and the written record to be kept. The judgment is also based on the nature of the decision, and the extent to which the circumstances in which the decision is made allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons. Clause 3 of section 79 states that the nature and circumstances of the decision include the requirements of other Acts (in particular, the Resource Management Act).

Section 80 of the LGA is entitled 'Identification of inconsistent decisions', and requires that the local authority identify where any decision is significantly inconsistent with a policy or plan of the local authority.

Section 81 of the LGA is entitled 'Contributions to decision making processes by Maori'. Of relevance, this requires that the local authority establish and maintain processes for involvement of Maori in decision making processes.

Section 82 of the LGA is entitled 'Principles of consultation', and requires that any consultation undertaken by the local authority is in accordance with the following principles:

- (c) *that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented:*
- (d) *that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons:*
- (e) *that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:*
- (f) *that persons who present views to the local authority should be provided by the local authority with information concerning both the relevant decisions and the reasons for those decisions.*

3.6 QUEENSTOWN LAKES DISTRICT COUNCIL- LONG TERM COUNCIL COMMUNITY PLAN

The Long Term Council Community Plan (CCP) for the Queenstown Lakes District has been prepared under the LGA. It identifies key community outcomes for the District. The following excerpt from the CCP identifies how those outcomes were established:

Over a period of two years, beginning in 2001, the Council went to its individual communities to hold a series of 2020 workshops. The communities looked ahead to the future and made decisions about the desired look and feel of their environments in 20 years time.

The community outcomes that arose out of this process are included on page 12 of Volume 1 of the CCP. Those of relevance to this Plan Change read:

- *Sustainable growth management;*
- *Quality landscapes and natural environment and enhanced public access;*
- *A safe and healthy community that is strong, diverse and inclusive of all age groups;*
- *A strong and diverse economy;*
- *Preservation and celebration of the district's local cultural heritage.*

Within pages 19-21 of Volume 1 of the CCP, the Council identifies key projects and initiatives for the implementation of the key community outcomes. The following identifies those of relevance to this Plan Change:

Managing Growth in a sustainable way:

- plan changes and variations to better align the District Plan with Community Outcomes (ongoing)

Quality landscapes and natural environment and enhanced public access

- Landscape values well protected through the District Plan and Environment Court

- Wakatipu Trails Trust Strategy 2004

- Upper Clutha Trails Strategy (Draft 2006)

Page 31 of the CCP identifies the following key issues for parks and recreation facilities:

A lot of activity has been focused on delivering walkways and work is ongoing with the Wakatipu Trails Trust to continue the development of a Queenstown to Arrowtown link. Exciting progress has been made with the opening in 2005 of the restored Lower Shotover Bridge, integral to connecting communities and the Lake Hayes and Fernhill Townlink tracks.

In Wanaka the Albert Town to Wanaka link has been completed. The ongoing work includes trails to link Lake Hayes to Lake Hayes Estate, Quail Rise and Frankton.

Capital expenditure on walkways projects in the district will total over \$2m over the next three years and reserve improvements \$5.4m over the next three years. These projects represent a significant investment in the "green network". The cost of these projects will be funded on a joint basis by Council, DOC, The Trails Trust and community funders. The Council is set to embark on consultation over the Upper Clutha Trails Strategy (Draft 2006) and the Wanaka Sports Facility Plan (2006).

Page 54, Volume 2 of the CCP provides an overview of the Council's provision of recreation facilities and parks. It identifies that the Council owns and maintains 230 hectares of designated reserve areas throughout the District.

The purpose of the Council's parks function is to provide accessible passive recreation and beautification areas throughout the District. The CCP identifies that the QLDC's annual Residents Survey has indicated that parks and reserves are essential. It also identifies the importance of parks in contributing to the health of the community, and providing a positive visual impact.

The principal objective is to promote the health and wellbeing of the community through the provision of facilities for sporting, leisure and recreational purposes.

3.7 NEW ZEALAND WALKWAYS ACT 1990

The purpose of the New Zealand Walkways Act 1990 (the Walkways Act) is

To establish walking tracks over public and private land so that the people of New Zealand shall have safe, unimpeded foot access to the countryside for the benefit of physical recreation as well as for the enjoyment of the outdoor environment and the natural and pastoral beauty and historical and cultural qualities of the areas they pass through.

The Walkways Act embodies a number of principles. The prime purpose of the walkways is for walking but other uses are not ruled out. Where conditions do not preclude it, activities such as horse riding, mountain biking and taking of dogs may be allowed.

In the case of walkways to be established over private land, the Walkways Act provides for access to be secured by the establishment of either easements or leases. These easements or leases require the agreement of the landholder.

Walkways were first legislated for in 1975, and were originally under the jurisdiction of a central Walkways Commission supported by district Walkways Committees. In 1990, the Walkways Commission and its Committees were abolished, and their functions transferred to DOC and Conservation Boards.

3.8 CROWN PASTORAL LAND ACT 1998

The Crown Pastoral Land Act 1998 provides a mechanism for the review of Crown pastoral leases (referred to as tenure review), and the conversion of land subject to these leases into freehold or conservation land. One of the objectives of tenure review is to secure public access to and enjoyment of "reviewable" land.

Tenure Review is a voluntary process carried out under Part 2 of the Crown Pastoral Land Act (CPLA) 1998. Tenure Review:

- enables land with 'significant inherent values' to be protected through a range of measures including protective covenants or restoring the land to full Crown ownership under Department of Conservation administration.
- enables leaseholders to gain freehold title of High Country land (except in those cases where all the land is proposed for conservation)
- improves public access to the High Country

Land Information New Zealand (LINZ) runs the Tenure Review process. They consult with pastoral leaseholders on the future ownership of their leasehold land. Leaseholders are generally farmers who have a lease with a perpetual right of renewal. Leases allow grazing of land for pastoral farming purposes. Leaseholders are subject to a range of restrictions on other use of the land.

During the Tenure Review process, Fish and Game, iwi and the public are asked for their views. All feedback is taken into account when final proposals for pastoral land are put in front of leaseholders. The leaseholder must accept the final proposal for their land before any can be restored to full Crown ownership, or freeholded.

3.9 LAND TRANSPORT MANAGEMENT ACT 2003

The purpose of the Land Transport Management Act (the Transport Act) is to contribute to the aim of achieving an integrated, safe, responsive, and sustainable land transport system. The Act identifies the purpose of Transit, which is to manage the State Highway network. Given that the focus of this

Act is on the management and funding of the road network, further consideration of its provisions are not necessary for the consideration of this Plan Change.

4.0 PART 4: RELEVANT NON-STATUTORY DOCUMENTS

This part of the report identifies the provisions of non-statutory documents that are of relevance to the consideration of the Plan Change.

4.1 GETTING THERE – ON FOOT, BY CYCLE- MINISTRY OF TRANSPORT (FEBRUARY 2005)

Central Government has placed a strong emphasis on the advancement of walking and cycling in New Zealand, as reflected in the Strategy entitled 'Getting there- on Foot, by Cycle' (Getting There). Getting There's vision is "A New Zealand where people from all sectors of the community walk and cycle for transport and enjoyment".

This vision is supported by three goals:

- Community environments and transport systems that support walking and cycling
- More people choosing to walk and cycle, more often
- Improved safety for pedestrians and cyclists.

4.2 OUTDOOR WALKING ACCESS REPORT TO THE MINISTER FOR RURAL AFFAIRS (MARCH 2007)

The Outdoor Walking Access Report (the Report) was published in March 2007, and contains the Walking Access Consultation Panel's recommendations for how New Zealanders' access to rivers, lakes, the coastline and public land can be improved and managed over the coming years.

The Walking Access Consultation Panel (the Panel) was appointed in 2005 to seek a consensus about solutions for formal access for recreational purposes.

The Report makes a number of findings in respect of walking access throughout New Zealand. The following are of relevance to the consideration of this Plan Change:

New Zealanders should have fair and reasonable access on foot to and along the coastline and rivers, around lakes and to public land.

There is a need for leadership, guidance and policy making at a national level in respect of walking access, and this will require the establishment of a new access organisation.

Where new access over private land is needed, it should be by negotiation and agreement with the landowner, and with appropriate compensation where necessary.

The New Zealand Walkways Act 1990 is a valuable existing statutory mechanism for the provision of walking access, and there is merit in transferring the management of this Act to the proposed access organisation.

The proposed access organisation (Te Ara o Papatuanuku) should work in harmony and cooperation with existing access initiatives and with local government.

There is a need for a widely accepted voluntary code of responsible conduct to protect the environment and the interests of landholders.

4.3 NEW ZEALAND WALKWAYS STRATEGY -DEPARTMENT OF CONSERVATION (APRIL 1995)

The New Zealand Walkways Strategy (The Walkways Strategy) was published in April 1995. It was prepared under section 4 of the Walkways Act 1990 and under section 17B of the Conservation Act 1987.

The Walkways Strategy provides for the administration of walkways in New Zealand. It specifically addresses the:

- Co-ordination and encouragement of the development of a national system of walking tracks in conjunction with tangata whenua, private landowners, local and regional authorities and government agencies.
- Provision of legal access to and over tracks by written agreement with the landowner.
- Gazettal of walkways where appropriate.
- Protection of the rights of property owners and occupiers in the establishment and management of walkways.
- Identification and promotion of public use of tracks for walking where legal rights of access exist.
- Provision of necessary facilities including accommodation and amenities where this will enhance public use of walkways.

4.4 PARKS STRATEGY – QUEENSTOWN LAKES DISTRICT COUNCIL- (OCTOBER 2002)

The Parks Strategy is intended to cover a planning period of 20 years (to 2021), with a full review to reflect actual growth and community needs/expectations in 10 years (2011). It identifies that the vision for the District is to:

Provide an abundance of quality parks for recreation, sport and amenity interlinked by green corridors providing safe walking & cycling routes while also providing wildlife refuge. The urban communities will have easy access to river, lake and mountain fringes as well as good access to developed parks & reserves.

The Council has developed the Parks Strategy as a high level document to identify existing land resources, the need for additional reserve land and to ultimately link with the Plan. The Parks Strategy will also link into the Councils long-term financial strategy through the Reserves Parks Asset Management Plan when updated.

Walkways and cycleways are not identified within the Parks Strategy as a separate category, given that they are to be the subject of specific strategies (Wakatipu Trails Strategy and Upper Clutha Trails Strategy). However, the Parks Strategy recognises that they do form an integral part of the overall reserve network. The high community value of linking parks and reserves and open space with communities and natural features is recognised and reinforced by the Parks Strategy.

Of note, page 20 of the Strategy states that ‘The acquisition of land for linking reserves and improving access to natural features together with the extension of walkway/cycleway networks is to be encouraged.’

4.5 WAKATIPU TRAILS STRATEGY (MAY 2004)

The Wakatipu Trails Strategy (WTS) was prepared to guide development of an integrated network of walking and cycling trails and cycle-ways in the Wakatipu Basin.

The vision for the WTS is to create a world class trail and cycle network, and reads:

Queenstown and the Wakatipu will be renowned for its network of quality trails providing, for visitors and the community, New Zealand's most comprehensive and diverse range of nonmotorised recreation opportunities in a rural and alpine setting.

Safe pedestrian access and cycle ways will link all communities in the Wakatipu. Residents will be able to commute and children will be able to go to school without having to be on a road or State Highway. New subdivisions will link to existing residential and commercial areas by way of internal and arterial trails. Residents living in Frankton will be able to cycle safely to Arrowtown via cycle lanes and trails. Visitors could ride from Queenstown to Jacks Point or even Wye Creek and be picked up by shuttle while a wine trail in the Gibbston area would link vineyards, the Kawarau River and the historic bridge and bungy operation.

The WTS identifies as a key issue that for all its adventure products, Queenstown is out-classed by other similar destinations when it comes to trails for walking, cycling, mountain biking, horse riding and other non-motorised activities.

The goals of the WTS are identified as:

- Undertake a 5 – 8 year intensive programme of trail upgrades and development.
- Trails should be linked through their community purpose, interesting features and associated standards. Creating a premium trail between Arrowtown and Queenstown could become a flagship project;
- Establish effective governance that integrates the community, tourism industry and statutory land management agencies;
- Coordinate marketing and information of the Wakatipu Trails Network;
- Engage active community participation in trail development, advocacy and projects that add value to the network; and
- Broaden the funding base for developing and maintaining an integrated trail network.

The WTS recommends that the main priority be given to establishing Arterial Trails that link towns and residential areas together throughout the Wakatipu Basin. These will provide the core pedestrian and cycling links.

The WTS identifies the following likely long term benefits that result from its implementation.

- *Enhanced community wellbeing in physical, social and mental health;*
- *Strengthening of Queenstown's position as New Zealand's premier tourism destination;*
- *Alternative non-motorised commuter routes;*
- *Increased economic spin-offs from transport services, guided tours, equipment hire and events.*

4.6 UPPER CLUTHA WALKING AND CYCLING STRATEGY (DECEMBER 2006)

Of relevance to this Plan Change, the introduction of the Upper Clutha Walking and Cycling Strategy (The Upper Clutha Strategy) identifies that:

As a community outcome, Queenstown Lakes District Council seeks to nurture healthy communities in a sustainable environment. Greater participation in cycling or walking as a recreational activity or as an alternate means of transport can help to achieve this. To facilitate this, the Council plans to improve and expand on the existing infrastructure such as footpaths, roading, multi use trails and purpose built tracks.

The intention is to provide an extensive network of routes for walkers and cyclists which are safe, convenient and encourage their use. A range of opportunities are required to satisfy the needs of differing users, from cycle commuters to recreational walkers.

Of relevance, the purpose of the Upper Clutha Strategy includes the following:

It (the Upper Clutha Strategy) aims to highlight the existing walking and cycling routes and to propose improvements. To determine the gaps within the network and propose new links to ensure the vision is met.

The following identifies the goals and policies of the Upper Clutha Strategy relevant to the consideration of this Plan Change:

Goal 1: Make walking and cycling an attractive and safe option for getting around the Upper Clutha area.

- 1.1 To continue to expand the network of walking and cycling infrastructure in the Upper Clutha area using this Strategy as guidance, but also responding to emerging needs and opportunities.*
- 1.3 Develop safe walk and cycle-ways to schools in Hawea and Wanaka, and work with schools to promote walking and cycling to school.*
- 1.5 To link all communities in the Upper Clutha basin by trails.*
- 1.7 Work with landowners, statutory agencies and interested parties to provide practical public access along specific unformed legal roads and other routes of significance to the network.*
- 1.8 Secure tenure where an existing walking or cycling facility within the network is currently on private land.*

Goal 2: Promote the opportunities for walking and cycling in Upper Clutha.

- 2.4 Encourage promotion of walkways as a visitor attraction in the Upper Clutha, particularly during the summer months.*

Goal 3: Ensure that the needs of pedestrians and cyclists are always fully taken into account in the Council's land use and transport planning, recreation planning, urban design, engineering and land development processes.

- 3.3 Ensure new subdivisions allow for pedestrian and cycle links that are easy to use and safe.*
- 3.4 Contribute to the District Plan process so that the rules facilitate greater cycling and pedestrian use, and encourages private landowners to allow public access.*

Goal 4: Deliver a consistent approach to walkways in the Upper Clutha by working in partnership with other landowner agencies and interested parties.

- 4.4 Work with private landowners to secure access where required to develop the network, and to provide access to and along waterways where possible.*

Section 2 of the Strategy identifies the benefits associated with providing a trails network. It is important to recognise these benefits when considering the Plan Change.

Recreational benefits

- *Provides infrastructure for recreational use by a large proportion of community.*
- *Enhance involvement in recreation for a wide range of users.*

- *Provides for safe, easily accessible recreation close to people's "backdoors".*
- *Provides access to lakes and rivers, and other significant natural features.*

Environmental benefits

- *Encourages community involvement in protection and conservation of the environment.*
- *Enhances public appreciation of the natural environment and landscapes.*
- *Benefits from improved open space and urban design*
- *Facilitates walking and cycling as an alternate means of transport.*
- *Reduction in vehicle emissions/pollutants*

Social benefits

- *Improvements to health and mental well-being by higher level of physical activity*
- *Helps to cultivate an outdoor culture*
- *Enhances community interaction*
- *Improves the living environment of a community*
- *Builds on the sense of community by providing important access links*

Economic benefits

- *Provides another attraction for tourists and visitors to the area.*
- *Adds value to living in the Upper Clutha area.*
- *Provides a cheaper alternative to car use.*
- *Alternate transport system resulting in reduced impact on infrastructure maintenance.*
- *Improved physical activity reduces healthcare costs.*

4.7 COMMUNITY PLANS

This section identifies the provisions of the community plans relevant to the consideration of the Plan Change, principally, provisions focusing on management of the rural environment (in terms of subdivision and development) and the provision of trails and access. As identified in Part 3 above, the key outcomes of these plans have been used to assist in the development of the CCP.

4.7.1 TOMORROW'S QUEENSTOWN (JULY 2002)

Tomorrow's Queenstown identifies a vision and prioritised issues for Queenstown and its surrounds that will be achieved through:

- *Managing growth in a way which is sustainable*
- *Respecting the dominance of our magnificent mountain, lake and rural landscape*
- *Building a strong diverse and inclusive community for people of all ages and income levels*
- *Improving access to and through our rural and urban areas with good roads, the green network, walkways and public transport*
- *Providing infrastructure to keep pace with growth and protect the environment and health and safety*
- *Creating high quality urban environments where safe healthy community life can flourish*
- *Growing the strength and diversity of our economy*

Strategic Goal 8 is titled 'Respecting our landscape and Natural Environment'. The specific principles and strategies of relevance to this Plan Change are:

Principles:

1. Follow the water - the rivers and the lakes – where opportunities exist with the Queen's Chain.
2. Realise opportunities where there is potential high amenity, high points and views.

3. Realise opportunities for adding ecological, amenity and economic value to the district through the network.
4. As well as being an important recreational resource, walkways and cycleways also provide an alternative means of getting about.
7. Improve the ecological values of the outstanding natural landscape areas of the Wakatipu.
8. Protect iconic views and vistas from State Highways, Scenic Rural Roads and other viewing points (examples: SH6 to Lake Hayes, Malaghan Road to Walter Peak, all vistas from CBD).
9. Protect and enhance views and landscape values along Scenic Rural Roads and at the entrances to Queenstown and along main transport routes to maintain and enhance the experience of arrival and appreciated of the wider environment.
10. Protect the character of the rural areas of the Wakatipu.

Key Strategies:

1. Map the green network and trails network so we can understand what we have and the gaps in the network. Identify future opportunities to create better linkages and the priority for closing the gaps.
2. Identify easy and early opportunities to close gaps and form more trails.
3. Progressively secure access needed to close the gaps in the green network.
4. Encourage partnerships between organisations such as the Wakatipu Trails Trust, QLDC, DoC, landowners and others to implement these strategies.
5. Use landscaping to frame important view corridors at the entrances to Queenstown, and to screen development and infrastructure (eg: sewage treatment ponds) from view.
6. Define and strengthen the edges of the town by reinforcing the individual character of each entrance and forming a buffer between the rural and urban landscape.

4.7.2 WANAKA 2020 (May 2002)

The following key points were established for the rural landscape and pedestrians and walkways, and views and vistas:

Rural Landscape

- Increased density of the town was favoured rather than sprawl into rural areas.
- Some extension of existing town boundaries was seen as acceptable
- New developments should be more dense to slow spread through growth
- Respect natural boundaries eg ridges
- Retain a rural working landscape round town – “real farms” are part of the Wanaka character. (This included the idea that planning should support the viability of farming activities).

Pedestrians and Walkways

- A network of linked walkways and cycleways was seen as highly desirable for both locals and tourist use (Having cycle and walkways together is acceptable)
- The route should be declared now to plan for the future. Acquisition should include requirements through the subdivision process
- An outer walkway/cycleway rim track with radial routes to the town centre was favoured.
- A map of tracks with colour coding and times would make the network a feature for tourists.

- The range of walkways should include some provision for wheelchair access.

Special Views and Vistas

- Key views were identified on the map
- It was recognized that the foreground was often equally important in framing view
- Views from lake should be considered
- Identification of key views was seen as important to ensure future protection as development progresses

4.7.3 CARDRONA COMMUNITY PLAN (December 2003)

The Cardrona Community Plan was adopted by the Council in December 2003. The following identifies the key outcomes relevant to the consideration of this Plan Change.

Rural Character:

Vision: To retain the general character of the landscapes surrounding the townships.

Key Strategies:

The rural character of the land immediately surrounding Cardrona and in the area between Cardrona and Wanaka is dominated by open farm land, with minimal buildings.

The area south of Cardrona is highly natural, as is much of the uplands with the exception of the ski areas. There are no urban characteristics such as curb and channelling, street lighting etc.

Houses should be located away from the roads and be secondary to the farmland and rural character of the area.

To create and maintain walkways and reserve areas adjacent to the Cardrona River and between and around the towns for the enjoyment of residents and visitors.

Development that does occur in the Rural General area should not be highly visible from public places, such as roads. It is not considered as important that development is totally screened from walkways. Should development be visible, then it could occur as clusters with approximately 50 –100 hectares of farmland in between in order to retain the rural character of the area.

Walkways and cycleways

Vision: Walkways should be established and maintained to connect the two parts of Cardrona, and accessing the river. These are shown in Figure 3.

Key Strategies:

A walking track associated with historic mining sites and locations should be established and appropriate signage demonstrating the history of the area could also be included.

The linkage of Cardrona with Wanaka for pedestrian/cycleways as proposed by the Trails Trust is also encouraged.

A walking track up to the lookout above the hall.

4.7.4 KINGSTON COMMUNITY PLAN (November 2003)

The Kingston Community Plan was adopted by the Council in November 2003. The following identifies the key outcomes relevant to the consideration of this Plan Change.

Rural Character:

Key Community Outcomes:

(a) To retain the low-key character of Kingston by ensuring that future development respects the location, character and scale of the township.

(b) To maintain a strong urban boundary by confining future expansion to the north western side of the highway.

Walkways and cycle ways:

Key Community Outcome:

(d) To enhance the existing trails and foreshore through improved maintenance, expansion, signage and design for multiple users where possible.

Key Strategies

- *There is an existing trail along the foreshore and some DOC trails in the mountains surrounding Kingston. The existing foreshore trail is well used by residents and should be extended at either end of the foreshore. Along the eastern foreshore the trail should be extended along the foreshore to the rest stop on the Highway or alternatively through the Cemetery, along the Highway and to the commercial precinct at the top of Kent Street.*
- *Along the western foreshore a track should be developed from the wharf to Half Way Bay.*
- *A proposed track could also start at Oxford Street following the paper roads that currently define the township boundary, through the golf course and link up with the existing Allandale Valley track that is currently managed by DOC.*
- *Tracks should be well maintained, have appropriate signage and be appropriate for a variety of users, with parts available for wheel chair access.*

4.7.5 ARROWTOWN COMMUNITY PLAN (March 2003)

The Arrowtown Community Plan was adopted by the Council in March 2003. Of relevance, the Plan states:

Beyond the town limits, rural tracks are sought to provide routes and circuits into the wider landscape (see map, town surrounds paths, sheet 3/2).

4.7.6 HAWEA COMMUNITY PLAN (July 2003)

The Hawea Community Plan was adopted by the Council in July 2003. The following identifies the key outcomes relevant to the consideration of this Plan Change.

Key Community Outcomes:

- Retaining the rural character of land surrounding the established settlements.
- The openness of the landscape should be maintained.
- Any future buildings should fit into the character of the landscape through appropriate design and plantings.
- Establishing pedestrian and cycle links throughout the Hawea area, in particular, establishing public access to and along the Hawea River, and maintaining and enhancing public access to Lake Hawea.
- Pedestrian/cycleways throughout the area should be increased.
- Pedestrian/cycle and bridle linkages are extremely important to the Hawea Community. Currently, there is access along the Lake from the township area. Additional access throughout the whole area is needed to link the residential areas with each other, community facilities and the River and Lake.

4.7.7 GLENORCHY COMMUNITY PLAN (August 2001)

The Glenorchy Community Plan was prepared in August 2001. The following identifies the key outcomes relevant to the consideration of this Plan Change.

Outcome 3: Rural – Wilderness Environment and Landscape to Remain Unspoilt and Spectacular

- Visual landscape, vistas and wilderness atmosphere retained / unspoilt
- The productive farm landscape to be retained
- Rural subdivision and other rural developments to be inconspicuous in the visual landscape

- Rural subdivision to be limited and to not impact on the special characteristics and qualities of the area
- No satellite townships or large developments
- Heritage and cultural values and sites retained (refer Outcome 9)

The view from Bennett's Bluff must be maintained

Outcome 8: Recreation Opportunities and Access to be Retained

- A network of public walking and bridle-ways on private land to be established.

4.7.8 LUGGATE COMMUNITY PLAN (October 2003)

The Luggate Community Plan was adopted by the Council in October 2003. The following identifies the key outcomes and strategies relevant to the consideration of this Plan Change.

Key community outcomes

- Create and maintain walkways to and along Luggate Creek and the Clutha River.
- Ensure that esplanade reserves adjoining the hydrogenation reserve are taken at the time of subdivision to ensure there is long term access to the river.
- Ensure that any new subdivisions are linked to the existing residential areas by roads and walkways.
- Ensure that the ridgeline north east of Hopkins Street is maintained free of built form.
- Retain the rural character of the surrounding rural land.

Key Strategies- walkways

- Walkways should be established and maintained accessing the Luggate Creek and Clutha River, as illustrated in Figure 3.
- Paper roads should be retained for public use as walkways/cycleways.
- Any new developments should provide new walkways/cycleways providing linkages between residential areas, the rivers and surrounding rural areas.
- There should be a linked walking track around the village utilising existing creek and reserves where possible. In particular, a walkway should access the Nook, and link back to the main road.
- Walkways should link Luggate to Wanaka and Cromwell.
- Fishing accesses should be formalised.

Key Strategies- Rural Character

- The rural environment surrounding Luggate should be retained, and residential development kept within the boundaries of the town.
- It should be recognised that the activities within the rural area are changing from pastoral land use to lifestyle, and vineyards. This raises the issue of preserving the natural environment while enabling development.
- It is important to retain the open, working landscape, and to clearly define an urban boundary within which more intensive development is possible.
- The open character of the mountain sides should be retained, these areas may not be able to absorb development.

4.7.9 MAKARORA COMMUNITY PLAN (January 2004)

The Makarora Community Plan was prepared in January 2004. The following identifies the key outcomes relevant to the consideration of this Plan Change.

Key Community Outcomes:

- To retain the general character of the landscapes surrounding Makarora and to avoid sprawl through the valley.

Key Strategies: Walkways

- There should be a cycle track and/or walkway along the State Highway between the three townships. This could link up with a cycle track and/or walkway along the Makarora River. An additional possibility could be a jet boat ride back down the river to remove the need for walking and/or cycling adjacent the State Highway. (See Figure 2)
- Three places have been identified as suitable for access from Makarora to the Makarora River: Wilkin Vale Road; Dump Road (Or Mt Albert Road); Adjacent to Flaxmill Creek
- There should be a walkway/bridle track from Makarora to the Matukituki Valley.

Key Strategies: Rural Character

- The protection of the rural areas surrounding the Valley should be promoted.

4.8 GROWTH MANAGEMENT STRATEGY- QUEENSTOWN LAKES DISTRICT COUNCIL (MAY 2007)

The Growth Management Strategy (adopted on 25 May 2007) has been prepared to help guide the Council and the community in planning for the future growth and development of the District. Of relevance, its main purposes include:

- *Provide a context for landowners and developers, stating what type of growth is wanted and where.*
- *Help inform the community of likely changes to the District over the next 20 or so years and the steps Council will take to manage this growth.*

The Growth Management Strategy is a non-statutory document and provides an overview of the Council's growth management policy, not the detail, which is found in other existing plans, or will be progressively included in future revisions and updates of these plans.

Of relevance to this Plan Change, the Growth Management Strategy lists the following growth management principles:

- *Growth is located in appropriate areas to protect the environment, reduce pressure on already congested areas and to support new growth areas where these are needed.*
- *The type and mix of growth is appropriate to long term needs, enabling a balanced more stable community and a more diverse economy.*
- *The quality of the environment is improved through good design of individual developments and precincts.*
- *Integrated planning processes are followed that involve the community and stakeholders in identifying issues, solutions and actions. Infrastructure and land uses are planned together. The Council closely monitors development trends.*

The main strategies to implement the principle of locating growth in the right places that are of relevance to the consideration of this Plan Change are:

- 1a *All settlements are to be compact with distinct urban edges and defined urban growth boundaries.*
- 1e *The landscape values and the character of rural areas surrounding the urban areas and townships are to be protected from further urbanisation (i.e. changes from a predominantly rural character to an urban character)*
- 1h *Green networks are developed to support settlements, helping to define edges, as well as linking activity areas within settlements, and helping to provide a respite to more intensive development.*

Principle 3: 'Infrastructure is provided which is sustainable and supports high quality development in the right places'. Of relevance, strategy 3.6 reads:

- 3.6 *Subdivision layouts that respect the landscape, and promote compact and connected neighbourhoods are required.*

5.0 PART 5: CONSULTATION PROCESS

Through the preparation of this Plan Change consultation has been undertaken in order to meet the requirements of both the RMA and the LGA.

Section 78 of LGA provides useful guidance on the required consultation process, and reads:

- 1) *A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.*
- (2) *That consideration must be given at*
 - a) *the stage at which the problems and objectives related to the matter are defined:*
 - b) *the stage at which the options that may be reasonably practicable options of achieving an objective are identified:*
 - (c) *the stage at which reasonably practicable options are assessed and proposals developed*
 - (d) *the stage at which proposals of the kind described in paragraph (c) are adopted*

The following identifies the consultation undertaken at each stage of the process, in accordance with clauses 78(a)-(d) above.

- (a) *the stage at which the problems and objectives related to the matter are defined:*

Consultation was first undertaken for the purposes of preparing the Community Plans for individual communities. As identified above, each Community Plan identified key outcomes and strategies relating to management of the rural area, and the provision of public access routes.

Prior to the initiation of this Plan Change preliminary consultation was undertaken with Tina Haslet (Wakatipu Trails Trust) and Susan Stevens (Gibbston Community Association). This assisted in identifying the need for the Plan Change.

- (b) *the stage at which the options that may be reasonably practicable options of achieving an objective are identified:*

Once the Plan Change was initiated, a meeting was held with representatives of the Upper Clutha Walkways Trust, the Wakatipu Trails Trust, and the Gibbston Community Association. A technical report was then sent to relevant planners, legal counsel and parks and reserves staff for feedback.

- (c) *the stage at which reasonably practicable options are assessed and proposals developed:*

A discussion document was circulated for comment on 31 October 2007. This was sent to all interested parties, and was made available on the Council website. A press release and public notice were also published.

A total of 24 comments were received. All bar one of these were in support of the Council initiating a Plan Change. The comments received are summarised in Appendix 3, and are discussed further in Part 6 of this report.

- (d) *the stage at which proposals of the kind described in paragraph (c) are adopted.*

This clause is provided for through the statutory process of submissions, hearings and decisions as determined by the First Schedule of the RMA.

6.0 PART 6: CONSIDERATION OF KEY OPTIONS FOR THE PLAN CHANGE

This part of the report provides an assessment of the general options available to the Council when considering the appropriateness of a Plan Change. The assessment meets the requirements of both Section 32 of the RMA and Section 77 of the LGA.

The relevant requirements of Section 32 of the Act read:

(3) An evaluation must examine –

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

(4) For the purposes of the examinations referred to in subsections (3) and (3A), an evaluation must take into account –

- (a) the benefits and costs of policies, rules, or other methods; and*
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*

Relevantly, Section 77 of the LGA reads:

- (1) A local authority must, in the course of the decision-making process*
 - (a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and*
 - (b) assess those options by considering*
 - (i) the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; and*
 - (ii) the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and*
 - (iii) the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and*
 - (iv) any other matters that, in the opinion of the local authority, are relevant; and*
 - (c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.*
- (2) This section is subject to section 79.*

6.1 ASSESSMENT OF BROAD ALTERNATIVES

The following provides an assessment of each of the two broad options available to the Council. Each option is assessed in terms of its effectiveness in achieving the objective for the Plan Change, its costs and benefits, and appropriateness.

OPTION 1: STATUS QUO

Explanation

Under this option the Council would not undertake a Plan Change, retaining the provisions of the Plan as they currently exist.

Effectiveness

While the status quo is considered effective in achieving the settled objectives and policies of the Plan as they relate to the management of the rural landscape, it has been brought to the Council's attention that currently the Council and community are unable to achieve its objectives for providing public access throughout the rural areas of the District. The Act identifies as a matter of national

importance the provision of public access, and this is reflected in both statutory and non-statutory documents of relevance to the District.

This option is not effective in achieving the settled objectives and policies of the Plan as they relate to the provision of public access. Objective 4.4.3(4) reads:

Effective use and functioning of open space and recreational areas in meeting the needs of the District's residents and visitors.

Of relevance, Policy 4.4.3(3.3) reads

3.3 *To encourage and support increased use of private open space and recreational facilities in order to help meet the recreational needs of the District's residents and visitors, subject to meeting policies relating to the environmental effects of recreational activities and facilities.*

Additionally, Policy 4.4.3(4.1) reads:

4.1 *To negotiate access strips to lakes and rivers.*

This option is not effective in achieving the key outcomes of the community plans, settled objectives and policies of the Plan relating to provision of public access, or Clause 6(d) of the RMA.

Costs and Benefits

Costs

There is difficulty in providing future trails throughout the rural areas of the District. This has associated flow-on effects, including reducing the ability to use alternative modes of travel, reducing the District's ability to create and maintain a resource available for both tourists and locals- with the economic spin-off effects this provides, and reducing amenity values associated with living in a well connected community.

Benefits

If there are no amendments made to the Plan provisions there is no risk of weakening the provisions as they relate to the District's landscape values.

Appropriateness

Given the community's clear desire to establish a network of trails throughout the District, and the benefits associated with such a network, this option is not considered appropriate. It is noted however that any options that propose to amend the District Plan provisions must as far as possible avoid weakening the Plan provisions as they relate to landscape values, so that a balance can be achieved between the provision of access and the maintenance of landscape values.

OPTION 2: PLAN CHANGE TO AMEND THE DEFINITION OF PUBLIC PLACE

Explanation

The definition of public place reads:

Means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the District Council, or other agencies.

'Public place' is referred to numerous times throughout the Plan. Specifically, it is referred to within policies and assessment matters relating to the management of future subdivision and development in the Rural General zone. This requires that any subdivision or development proposals are assessed in light of their visibility from public places, which includes trails.

The amendment is for the purposes of ensuring that new trails are excluded from the definition of 'public place'. This would give landowners the certainty that they would not be penalised by providing access through their property.

Effectiveness

Amending the definition would be effective in achieving the objectives for the Plan Change. It would also be effective in achieving the settled objectives and policies of the Plan relating to the provision of public access (Part 4.4 of the Plan).

However, care needs to be taken in the drafting of the definition to ensure it is legally robust, and avoids unforeseen consequences. As identified above, it is a case of achieving a balance between maintaining landscape values and providing public access.

Costs and Benefits

Costs

There is the potential to weaken the Plan provisions as they relate to the management of landscape values within the rural areas of the District, given that a number of policies and assessment matters would no longer apply to new trails.

Benefits

There is the potential to reach a compromise between the maintenance of landscape values and the ability to provide trails throughout the District.

The benefits associated with increasing the ability to provide a comprehensive network of trails through the rural areas of the District are numerous, and include economic benefits associated with increased tourism, increased amenity values, and reduction in the use of private motor vehicles.

Appropriateness

Given the importance of providing a comprehensive network of trails through the rural areas of the District, and the current difficulties in achieving this as a consequence of the existing Plan provisions, it is considered appropriate that a Plan Change is undertaken that amends the definition of 'public place' within the District Plan.

6.2 ASSESSMENT TO DETERMINE THE MOST APPROPRIATE OPTION

6.2.1 ANALYSIS OF THE PREFERRED OPTION

The above analysis of the two key alternatives available to the Council has found that the most appropriate option is to progress a Plan Change that amends the definition of 'public place' within the Plan.

The following identifies the preferred option as identified in the discussion document, and then discusses the comments received, in order to assess whether the preferred option is the most appropriate.

The preferred option as circulated in the Discussion Document was to make the following amendments:

Amend the definition of public place to read: (addition in **bold underline**)

*Public place – means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the District Council, or other agencies. **Excludes any trail created by a registered easement or similar legal mechanism after December 2007.***

Add the following definition of trail:

Trail – means any public access route that is formally protected by way of an easement for public access in favour of the Queenstown Lakes District Council or the Crown.

Amend Policy 4.2.5(4) Visual Amenity Landscapes as follows:

4. Visual Amenity Landscapes

- (b) *To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are:*
- *highly visible from public places and other places which are frequented by members of the public generally **(except any trail created by a registered easement or similar legal mechanism after December 2007)**; and*
 - *visible from public roads.*

Explanation

The suggested amendments only exclude those trails established after December 2007 from the definition of 'public place'. This means that any application for future development will still be assessed in terms of its visibility from these existing trails.

Policy 4.2.5(4) relates to all visual amenity landscapes in the District, and requires that when considering future development, consideration is given not only to the visibility of that development from public places, but also its visibility from places frequented by the public generally.

If the definition of 'public place' were to exclude new trails, such trails would no longer be a 'public place', and could therefore be included within the term 'other places frequented by the public generally'. It is therefore suggested that Policy 4.2.5(4) needs to be amended if this Plan Change is to be effective within the visual amenity landscapes of the District.

This option does not differentiate between trails that result from negotiations at the time of resource consent and those that are volunteered, or those negotiated through tenure review process; it simply requires that the trail is formally protected by way of access easement in favour of the Council or the Crown.

Only those trails that have legal protection, having been formally established by way of an easement, are excluded from the definition. Therefore, those areas of land made available to the public through informal arrangements are not excluded from the definition of 'public place'. It is noted however that those trails not managed by DoC or the Council are not in fact encompassed by the definition of 'public place'.

Effectiveness

This Option would be effective in ensuring that those trails formally protected after December 2007 would no longer be included within the definition of 'public place'. It also ensures that those trails are not considered as 'other places frequented by the public generally' where they are located within the visual amenity landscapes. To this end, it is considered that this option would be effective in achieving the purpose of the Plan Change, by removing impediments to the provision of new trails.

By providing only for those trails established after December 2007 it also ensures that those public places that already exist would not be adversely affected by this Plan Change. Specifying that a trail is defined as an access easement in favour of the Council or the Crown ensures that this change does not affect other public places such as reserves, esplanade strips or lakes.

Costs and Benefits

Costs

The suggested amendment could be considered unfair to those landowners who have already volunteered trails through their land, given that future development proposals will be assessed in terms of their visibility from the previously volunteered trails.

Only those trails formally protected are excluded from the definition of 'public place'. The legal requirements associated with gaining legal protection for a trail may be off-putting to landowners.

There is concern that trails negotiated at the time of resource consent should not be excluded, given that they are a negotiation tool. Likewise, the change includes new trails provided through tenure review process.

Benefits

Given that the trails established prior to December 2007 have legal protection there is no risk of their removal because of the Plan Change.

There are three benefits associated with excluding only those trails formally protected by way of a legal process:

- 1) To enable clarification as to when the trail was established, so that it can be easily determined as to whether the exclusion (from the definition) applies; and
- 2) To ensure that the status of the trails remains consistent into the future, and there are no uncertainties as to whether or not the trail is a 'public place'; and
- 3) To ensure that only those trails agreed to by the landowner and the Council and or the Crown are excluded from the definition.

This option excludes from the definition of 'public place' trails established either through negotiations at the time of resource consent, or through the landowner volunteering public access. In both cases the trail provides a community benefit that may not have otherwise occurred. A balance between the benefits of providing the trail and the fact that future development visible from that trail would not be assessed in light of its visibility would be made at the time of reaching agreement.

If the exclusion only applies to those trails that are legally protected, there is certainty that they are appropriate. This avoids the potential for public access routes to be established as part of a subdivision that are not beneficial or appropriate; if they are not appropriate the Council or DoC would not agree to their formal protection.

The term 'formally protected' refers to trails that are established by way of legal process; so that if a trail is currently used but not formed legally, it can in future be formally protected through the appropriate process, and therefore become excluded from the definition of 'public place'.

The amendment to Policy 4.2.5(4) means that assessment of those places frequented by the public generally, i.e. those trails that do not have formal protection, and are not managed by either DoC, the Council or another agency, would remain unaltered. This may encourage landowners to formalise such access routes so that they are excluded from the definition of 'public place', and the term 'frequented by the public generally'. This is beneficial to both the landowner and the community, who gain certainty as to the future management and availability of the access route.

Appropriateness

This option is considered appropriate. However, further consideration of the wording of the suggested changes may be needed to ensure that they are legally robust.

6.2.2 FURTHER ANALYSIS- COMMENTS RECEIVED IN RESPONSE TO THE PREFERRED OPTION

The preferred option identified above was circulated for comment in a discussion document on 31 October 2007. 23 of the 24 submissions received support the suggested changes. The following discusses some of the points raised, including alternatives that were suggested.

Suggestion	Comments/Discussion
<p><i>The Plan Change unnecessarily weakens the landscape provisions</i></p> <p>It is submitted that the preferred</p>	<p>Appendix 4 identifies the objectives, policies and assessment matters of the Plan relevant to the consideration of potential development within the Rural General Zone, and identifies those provisions that would be affected by the suggested</p>

<p>option:</p> <ul style="list-style-type: none"> - <i>Prevents establishment of any new trails and places with secure enjoyment of quality landscapes. As from 2007 only those trails and places legally protected before that date would have some certainty over protection of the landscape values enjoyed from it. We should be focussing on providing quality trails with certainty over their values into the future.</i> - <i>Do not accept the argument that it's better to have a second rate trail than no trail at all.</i> - <i>The exclusion would defeat the purpose of creating some trails and places, as the very reason for their establishment could be undermined by insensitive development permitted.</i> - <i>If the Plan Change became operative a situation of unacceptable development would certainly arise.</i> - <i>The proposal is anathema to sustainable and integrated use and management of the landscape</i> 	<p>amendments. This can be used to identify the level of assessment still required should the Plan Change proceed as per the preferred option.</p> <p>For each landscape category, the majority of policies and assessment matters are not altered by the Plan Change.</p> <p>The policies specific to Visual Amenity Landscapes (VAL) are both affected. Of the 20 assessment matters that apply specifically to VAL, only 3 are affected. It is noted that assessment matter (3)(b)(2) refers to visibility from public and private views, and therefore while relating to visibility of development, does not relate to visibility from a 'public place'.</p> <p>None of the policies relating specifically to Outstanding Natural Landscapes (District Wide) (ONL-DW) are affected by the Plan Change. Of the 20 assessment matters for ONL-DW, 2 are affected by the Plan Change.</p> <p>Of the two policies specific to Outstanding Natural Landscapes (Wakatipu Basin) (ONL-WB) one is affected in part, in that one of the 6 sub-clauses refers to public places. Likewise, the policy specific to Outstanding Natural Features (ONF) contains one sub-clause referring to public places.</p> <p>Of the 26 assessment matters relating to ONL-WB and ONF, 2 will be affected by the Plan Change.</p> <p>These findings show that the Plan Change will have an effect on the assessment of future development that is visible from a new trail excluded from the definition of 'public place'. However, they also show that there are still a significant number of policies and assessment matters that apply to any development proposal that ensure appropriate consideration is given to the potential to adversely affect landscape values. The provisions unchanged by the Plan Change will ensure that insensitive development does not occur, and still require consideration of the effects of development on the surrounding landscape.</p> <p>Consequently, while the Plan Change would result in a potential for development to be visible from a new trail, it is highly unlikely that the development would be insensitive to the surrounding landscape.</p>
<p><i>Trails established prior to December 2007</i></p> <p>It is suggested that excluding only those trails established after December 2007 is inequitable, given that it penalises those who have already agreed to provide trails through their private property.</p>	<p>The Plan Change aims to remove impediments to the provision of new trails. In order to avoid weakening the Plan provisions, those that are already protected are deemed to be public places, and the views experienced from them should be protected into the future.</p> <p>It is believed that if the Plan Change were to change the status of existing public places the balance between maintaining landscape values and providing public access would not be achieved.</p>
<p><i>Plan Change should not apply to public land.</i></p>	<p>The wording suggested in the preferred option ensures that it is only those new trails that are established by way of an access</p>

	<p>easement that are excluded from the definition of 'public place'. Therefore, existing public lands, or future reserve land, is not excluded from the definition of 'public place'. This is because reserve land is established under the Reserves Act, not an access easement in favour of the QLDC or the Crown.</p>
<p><i>Only those trails that are 'gifted' should be excluded from the definition of public place</i> It is suggested that only those trails gifted, with no benefit to be gained by the landowner in doing so, should be excluded from the definition. This means that any trail negotiated through the resource consent or tenure review process would not be excluded from the definition of 'public place'.</p>	<p>The aim of this Plan Change is to encourage the provision of trails throughout the rural areas of the District. It therefore focuses on removing impediments to their provision.</p> <p>Where a trail is mandatory; i.e. its provision is a requirement, it should not be excluded from the definition of 'public place'.</p> <p>However, in the case of trails that result from tenure review or from resource consent applications, their provision is not mandatory, given that they are the result of negotiations.</p> <p>If trails negotiated through tenure review are not excluded from the definition of 'public place' this may be reflected in tenure review negotiations. For instance, a landowner may be less willing to accept a proposal to provide public access by way of easement through future freehold land. There is therefore potential to lose the opportunity for additional trails. It is noted that a tenure review will only proceed if accepted by the leaseholder.</p> <p>On the other hand, if trails established through tenure review are excluded from the definition of 'public place', the landowner may be more willing to accept proposals for public access easements. However, once those easements are established, there is the potential for future development to be accepted that is visible from that access easement.</p> <p>In the case of resource consents, the landowner may put forward a proposal for a trail as part of a subdivision. In the assessment of that subdivision, the trail would be seen as a positive effect. It is noted that the assessment matters do not refer to the provision of access routes or trails as a positive effect.</p> <p>If such a trail were not excluded from the definition of 'public place', as is currently the case, the landowner would weigh up their options, and may be unlikely to put forward the trail. While trails are often created as a result of an approach by a Trails Trust, in many cases they result from negotiations on resource consent applications. It is then a question of whether the community would prefer to have the trail knowing that they might be able to see development from it in the future, or forego the trail and avoid that risk.</p> <p>Once the trail is established and is not included within the term 'public place' the policies and assessment matters would be less stringent on ensuring that future development is not visible from those trails. It does not mean that all of the other assessment matters, or in fact the assessment from existing public places and roads, would be changed.</p>

	<p>The risk then is considered minor; it is that future development may be visible from a new trail that is established as a result of tenure review or resource consent. Given the community's desire to provide trails, this risk is considered to be acceptable.</p> <p>It has also been suggested that trails should only be excluded from the definition of public place where there is no benefit to the landowner. It has been identified by other submitters that in addition to providing the land for a trail, the landowner also loses privacy, runs the risk of stock damage, and spread of pests and weeds. If there is any benefit of that trail provision to the landowner, is that an issue? It is believed that the policies and assessment matters unchanged by this Plan Change are robust enough to ensure that insensitive development would not suddenly be approved because a trail is provided.</p>
<p><i>The Plan Change should apply to access over public land where there is no formal agreement</i></p> <p>It is suggested that access routes over private land that are not legally established through way of access easement or the like should also be covered by the Plan Change.</p>	<p>If there is no formal agreement regarding access over land, then it is unlikely that such an access route is managed by DoC or the Council. It is therefore not incorporated within the definition of 'public place', and would more likely be incorporated within the term 'places frequented by the public generally'. The Policy referring to 'places frequented by the public generally' only applies in the VAL. Therefore, the changes proposed by the Plan Change would not affect this situation.</p> <p>It is preferable that trails are formally protected so that the community has certainty that they will be provided into the future, and the landowner has certainty over their management. In addition, DoC or the Council will not accept the management of any trail that does not have legal protection.</p> <p>The Plan Change will exclude new trails (that are excluded from the definition of 'public place') from the term 'frequented by the public generally'. Therefore, if informal trails are located within the VAL they will continue to be used in any assessment of visibility. If the landowner wished to change that situation, they could formalise the trail. Such a situation is considered positive, given that it ensures protection into the future.</p> <p>It is noted that trails provided informally that are not managed by DoC or the Council, and that are located within the ONL, would be unchanged by this Plan Change, given that they are not considered a 'public place'. However, it is noted that this issue could be a point of debate. If the landowner wished to remove the potential uncertainty, they could formally protect the trail. As identified above, such formal protection would give greater certainty for both the landowner and the community.</p>
<p><i>The amendments should recognise other Crown entities</i></p>	<p>It has been recognised that other Crown entities often have a role in the provision of trails, such as Fish and Game. This should be recognised and provided for within the amendments.</p>
<p><i>The trails should provide for horse riding, walking and cycling, not motorized vehicles</i></p>	<p>This issue would be resolved at the time of drafting the access easement, which would specify the uses allowed on the trail.</p>

7.0 CONCLUSIONS

Having undertaken an assessment of the provisions of relevant statutory and non-statutory documents, and considered different options to achieve the purpose of the Plan Change, it has been found that the most appropriate option to achieve the purpose of the Act, the objectives and policies of the Plan, and the community outcomes as identified in the CCP, is to undertake a Plan Change to amend the definition of 'public place', insert a new definition of trail, and amend Policy 4.2.5(4).

These amendments achieve a balance between the need to manage the landscape values of the District, and the need to establish new trails.

APPENDIX 1: PROPOSED AMENDMENTS TO THE PARTIALLY OPERATIVE DISTRICT PLAN

Additions shown in bold and underlined.

Amend the definition of public place to read:

*Public place – means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the District Council, or other agencies. **Excludes any trail as defined in this Plan.***

Add the following definition of trail:

Trail – means any public access route (excluding roads) legally created by way of a grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the Queenstown Lakes District Council, the Crown or any of its entities.

Amend Policy 4.2.5(4) Visual Amenity Landscapes as follows:

4. Visual Amenity Landscapes

- (c) To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are:
- highly visible from public places and other places which are frequented by members of the public generally (**except any trail as defined in this Plan**); and
 - visible from public roads.