

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 2

Report and Recommendations of Independent Commissioners Regarding
Chapter 1, Chapter 5 and Section 3.2.7

Commissioners

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1. PRELIMINARY MATTERS

1.1 Terminology in this Report

Throughout this report, we use the following abbreviations:

Act	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
Clause 16(2)	Clause 16(2) of the First Schedule to the Act
Council	Queenstown Lakes District Council
KTKO	Kāi Tahu Ki Otago ¹
Ngā Rūnanga	Kati Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Te Rūnanga o Moeraki, Hokonui Rūnanga
NPSET 2008	National Policy Statement for Electricity Transmission 2008
NPSFM 2014	National Policy Statement for Freshwater Management 2014
ODP	The Operative District Plan for the Queenstown Lakes District as at the date of this report
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
Proposed RPS	The Proposed Regional Policy Statement for the Otago Region Decisions Version dated 1 October 2016, unless otherwise stated
QPL	Queenstown Park Ltd
RMA	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
RPL	Remarkables Park Ltd
RPS	The Operative Regional Policy Statement for the Otago Region dated October 1998
TAMI	Te Ao Marama Incorporated

¹ We note that in the southern dialect of the Maori language 'ng' is frequently replaced with 'k'. Both the Operative and the Proposed RPS employ the latter. Chapter 5 was developed in collaboration with Ngāi Tahu and uses the former. Our use of Maori words reflects that interchangeability.

1.2 Topics Considered

1. The subject matter of the Stream 1A hearing was Chapters 1 and 5 of the PDP, together with Section 3.2.7 (Hearing Stream 1A).
2. Chapter 1 is a high level introductory chapter to the PDP as a whole.
3. Section 3.2.7 is the section of the strategic directions for the PDP related to Tangata whenua matters. As notified it consisted of a goal and two objectives.
4. Chapter 5 is the chapter of the PDP dealing specifically with Tangata whenua matters (it is noted that other chapters of the Plan also refer to Tangata whenua issues as they arise in the context of the management of the natural and physical resources of the district). Those latter references are addressed in the report covering the chapter(s) concerned.

1.3 Hearing Arrangements

5. Hearing of Stream 1A overlapped with the hearing of Stream 1B (the balance of Chapter 3 and Chapters 4 and 6). Stream 1B was heard by a differently constituted panel of commissioners and is the subject of a separate report. Stream 1A matters were heard on 7-9 March 2016 inclusive in Queenstown and on 10 March 2016 in Wanaka. They were also the subject of written submissions and evidence in reply on behalf of the Council dated 7 April 2016.
6. Parties heard from on Stream 1A matters were:

Council

- James Winchester and Sarah Scott (Counsel)
- Tony Pickard
- Matthew Paetz

TAMI²

- Michael Skerrett
- Dr Jane Kitson (also on behalf of Te Rūnanga o Ōraka-Aparima)

Ngā Rūnanga³

- Matapura Ellison
- Maree Kleinlangevelsloo
- Timothy Vial

Upper Clutha Environmental Society⁴

- Julian Haworth

Christine Byrch⁵

7. In addition, a letter from Beca (Aileen Crow – Planner) dated 3 March 2016 was tabled on behalf of Transpower New Zealand Limited⁶.

² Submission 817

³ Submission 810

⁴ Submission 145/Further Submission 1034

⁵ Submission 243

⁶ Submission 805

8. Ms Louise Taylor (Planner) also circulated a statement of evidence on behalf of Peninsula Bay Joint Venture⁷.
9. Neither Ms Crow nor Ms Taylor appeared at the Stream 1A hearing in relation to these documents.
10. Lastly, legal submissions were pre-circulated on behalf of RPL and QPL⁸ - refer the discussion in the following section of this report.

1.4 Procedural Steps and Issues

11. The hearing of Stream 1A proceeded on the basis of the pre-hearing general directions made in the memoranda summarised in Report 1.
12. Specific directions relevant to Stream 1A were made by the Chair in a Memorandum dated 26 February 2016 waiving the failure of the Council to provide 10 working days' notice of the hearing on 7 March 2016 to TAMI and extending the time for TAMI to lodge evidence in consequence.
13. Also relevant to the Stream 1A hearing, Counsel for RPL and QPL filed a Memorandum dated 4 March 2016 advising that those parties withdrew the parts of their submissions relating to Chapter 5 of the PDP and consequently gave notice of their wish to withdraw in their entirety the legal submissions dated 26 February 2016, which had been pre-circulated in support of those submissions.
14. As a result, we have given no further consideration either to those parts of the submissions of RPL and QPL related to Chapter 5 or to the pre-circulated legal submissions. However, the withdrawal of the RPL and QPL submissions on Chapter 5 gives rise to a legal issue that requires further consideration. Because the RPL and QPL submissions were still live at that point, the summary of submissions duly noted their existence and Real Journeys Limited⁹ filed a further submission supporting the relief sought by QPL in relation to Sections 5.4.3, 5.4.5, 5.4.1.3 and 5.4.3.2 (that those objectives and policies be deleted or amended and/or that this part of Chapter 5 be deferred to Stage 2 of the PDP process once the mapping of Wāhi Tupuna is complete). The withdrawal of the QPL submission means the status of the Real Journeys Limited further submission is potentially called into question. Counsel for the Council submitted in their submissions in reply dated 7 April 2016 that Real Journey Limited's further submissions "*have no status*"¹⁰.
15. Counsel for the Council did not cite any authority for this proposition (and indeed, we are not aware of any direct authority ourselves).
16. As counsel for the Council pointed out, Real Journeys Limited did not appear or call evidence in relation to its further submissions in support of the now withdrawn QPL submissions. While this fact affects the weight that might be given to the Real Journeys' further submissions, it has no bearing on their status and if that was the implication of counsel for the Council's submissions in this regard, we do not accept it.

⁷ Submission 378/Further Submission 1336

⁸ Submission 807/Further Submission 1117 and Submission 806/Further Submission 1097 respectively

⁹ Further submitter 1341

¹⁰ Reply Legal Submissions for Council dated 7 April 2016, paragraph 8.5

17. The logic of the submissions on behalf of the Council was that the purpose of a further submission *“is to enable a person to have a standing to have their views considered on an original submission that may affect that person in some way, either beneficially or negatively.”* The argument is developed that where a further submission opposes the relief sought in an original submission and the original submission is withdrawn, the further submission falls away, because there is no longer anything left to oppose, and applies the same logic to a further submission in support of an original submission that is withdrawn. Although, as noted by counsel for the Council, the public participatory nature of the Act might point in the opposite direction, counsel’s argument was that the further submitter had the opportunity to lodge an original submission *“and if they did not, then that was at their own risk”*.
18. While, as Brookers Resource Management commentary observes¹¹, further submissions are often called cross submissions, clause 8(2) of the First Schedule states that:

“A further submission must be limited to a matter in support of or in opposition to the relevant submission made under clause 6”. [emphasis added]
19. The reference to the subject matter of a further submission was added by an amendment to clause 8 in 2009. It follows in our view that while the subject matter of a further submission is constrained by clause 8.2, it is still a submission on a matter before us, notwithstanding the subsequent withdrawal of the original submission that gave rise to the opportunity for Real Journeys Limited to join issue on the point.
20. By analogy with *Mullen v Parkbrook Holdings Limited*¹², by lodging a further submission, Real Journeys Limited became a party to the proceedings (as a submitter) rather than just someone with the ability to appear and be heard, and therefore it was not susceptible to having the ground pulled out from under it by the actions of others, over whom it had no control.
21. In summary, we have proceeded on the basis that Real Journeys Limited’s further submissions remain valid and we are therefore required to consider whether the relief sought should be granted and make a recommendation on that question.

1.5 Statutory Considerations

22. The Hearing Panel’s Report 1 contains a general discussion of the statutory framework within which submissions and further submissions on the PDP have to be considered, including matters that have to be taken into account, and the weight to be given to those matters. We have had regard to that report when approaching our consideration of submissions and further submissions on the matters before us.
23. Some of the matters identified in Report 1 are either irrelevant or only have limited relevance to the objectives, policies and other provisions we had to consider. The NPSET 2008, the National Policy Statement for Renewable Electricity Generation 2011, and the recently issued National Policy Statement on Urban Development Capacity 2016 are all in this category. The NPSFM 2014 does, however, potentially have some relevance to the matters before it before us. We discuss that further below.
24. The Section 42A Reports on the matters before us did not draw our attention to any specific provisions either of the RPS or the Proposed RPS of relevance to our deliberations.

¹¹ ASch 1.08.01

¹² CA263/98

25. In the case of the RPS, its provisions are relatively general. The objectives in 4.4 of the RPS seek “*recognition*” of a number of matters related to Tangata whenua. Policy 5.5.1 of the RPS provides somewhat more direction, indicating that recognition and provision for the relationship Kāi Tahu have with Otago’s land resources should, among other things, be through protection, where practicable, of archaeological sites from disturbance.
26. The Proposed RPS, by contrast, is much more detailed and directive in nature. We discuss its provisions at some length in the body of our report.
27. We note also that the relevant Iwi management plans are the subject of specific provisions in Chapter 5 that we have discussed below.
28. The tests posed in Section 32 form a key part of our review of the objectives, policies, and other provisions we have considered. We refer to and adopt the discussion of Section 32 in the Hearing Panel’s Report 3. In particular, for the same reasons as are set out in Report 3, we have incorporated our evaluation of changes we have recommended into the report that follows rather than provide a separate evaluation meeting the requirements of Section 32AA.

2. CHAPTER 1 - INTRODUCTION

2.1 Overview

29. As previously noted, Chapter 1 serves as a general introduction to the PDP. It is framed as a succinct and objective guide both to the legal framework for the PDP, and the manner in which the PDP should be read. As notified, it deliberately avoided statements of policy, which are to be found in the subsequent chapters. The intention was clearly to provide a much more succinct introduction than that in the ODP.
30. All of these are issues of drafting style and we see no basis to embark on a substantial revision or expansion of Chapter 1, even assuming the submissions on the Chapter provided jurisdiction to do so.
31. Accordingly, we do not support submissions seeking, for instance, to alter the emphasis being placed on economic well being¹³ which, to the extent that it is mentioned in Chapter 1, accurately sets out the purpose of the Act.
32. Mr Pickard, giving evidence for the Council, recommended that reference to the “RMA” be amended to refer to the “Act” as a global change. We view this as a drafting issue, with the suggested change having no substantive effect and recommend the amendment accordingly.

2.2 Section 1.1 - Purpose

33. To the extent that the drafting of Section 1.1 is criticised¹⁴ this is an accurate restatement of the Act. To redraft the text would risk unintentionally altering the meaning. That said, we think there is some value in referring at this initial stage to the way the PDP is structured (that is to say with the strategic chapters setting out higher level provisions, supported by the more detailed chapters). To that extent, we accept the submission¹⁵ seeking some cross-reference to Chapter 3. We do not consider it helpful to describe Chapter 3 as setting forward a ‘vision’¹⁶. The suggested addition to Section 1.1 is shown in Appendix 1.

¹³ Submission 339

¹⁴ Submission 243

¹⁵ Submission 115

¹⁶ See *St Columba’s Environmental House Group v Hawke’s Bay RC* [1994] NZRMA 560

2.3 Section 1.2 – Legal Framework

34. These provisions summarise the effect of Sections 9, 10 and 10A of the Act. Federated Farmers¹⁷ sought that the first bullet point in Section 1.2.4 be clarified as to when discontinuance might run from so as to exclude the operation of existing use rights. The existing text might mislead readers and so we recommend that the suggested amendment be adopted, with a minor amendment to better identify what rule is being referred to.

2.4 Section 1.3 – Cross Boundary Issues

35. Section 1.3 seeks to provide guidance on how the Council will approach cross boundary issues. Transpower New Zealand Limited¹⁸ sought specific recognition of infrastructure networks, such as the national grid, that cross regional or district boundaries. The submitter sought that in such cases the Council “*will apply a consistent and co-ordinated approach to the provisions*”. In our view, the submitter drew attention to a legitimate issue that is raised, not just by the national grid, but also by local electricity line networks and State Highway network. In the case of the national grid though, these matters have added force by virtue of the NPSET 2008.
36. The preamble of the NPSET 2008 identifies that the national grid “*is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities*”. That recognition is not, however, reflected in the operative parts of the NPSET 2008, and nor is it within any one local authority’s ability to address. It is something that needs to be addressed by Council through consultation, seeking co-ordination with other territorial authorities (although the Transpower submission seeks recognition of infrastructure that crosses regional boundaries, co-ordination at a regional level is a matter for the regional councils concerned). We recommend that the text be amended to reflect that position.

2.5 Section 1.5 – Review Procedures/Changes to the Act

37. Section 1.5 accurately summarises the legal and practical position that the District Plan is required to be reviewed periodically, that the Council may in practice wish to change the plan for reasons that cannot currently be foreseen and that third parties have rights to initiate private plan changes under the First Schedule. We see no basis for amending the provisions as they stand.

2.6 Section 1.6 – How to use this Plan

38. This section of Chapter 1 addresses a variety of matters related to the implementation of the PDP. Having reviewed the text as notified in the light of the submissions on it, we recommend the following changes.
39. The reference to the Act and to other legislation in the discussion of definitions in Section 1.6.5 is difficult to understand. The point being made (we think) is that definitions have been sourced from the legislation that have specialised meanings. We recommend a minor amendment to say that¹⁹.
40. The discussion of controlled activities in Section 1.6.9 stated, among other things, that the Council must ‘generally’ grant consent to a controlled activity. As one submitter²⁰ noted, this

¹⁷ Submission 600

¹⁸ Submission 805

¹⁹ Under Clause 16(2). Other references to minor corrections or amendments in this report are intended to be read as a reference to changes made in accordance with Clause 16(2).

²⁰ Submission 243

varied from the general understanding that applications for controlled activities must be granted. It also implied that the discretion to refuse controlled activity applications was broader than is in fact the case. In our view, this section might usefully identify the sole exception to the general rule, namely when an application does not meet the required information standards and is rejected under section 88 of the Act.

41. Section 1.6.11 is entitled "*National and Regional Rules*" and discusses the hierarchy of policy statements, plus standards and rules that the PDP must reflect, or which apply alongside the PDP. The subtitle for this section is not correct. It is not just about rules and we recommend that this be addressed as a minor correction not altering the meaning or effect of the substantive provisions.
42. Transpower New Zealand Limited²¹ suggested both that an explanatory diagram be inserted to indicate the relationship between the District Plan and other RMA plans and policy documents, and that the description in the text of that relationship be expanded. We do not see there is any great value in recording the legal obligations the Council is under when finalising the District Plan (summarised in the Introductory Report) either in a diagram or in expanded text. Any diagram would be complex and difficult to follow because of the number of other documents and the differing requirements. The text Transpower has suggested is incomplete (it does not cover the requirements in relation to regional policy statements and plans) and unsatisfactory as a result. The reality is that at the point when users read the PDP it will already give effect to/have had particular regard to/not conflict with the relevant higher level policy statements, plans and standards (as applicable), and the text need only record that fact. We do think, however, there is value in explaining more clearly to readers that the Regional Council has a separate jurisdiction over activities and that they should not assume that the PDP sets out all relevant legal requirements under the Act. We regard amendments to clarify that relationship as within the scope of the Transpower submission since that is one thing a diagram of the relationship between the District Plan and other documents would show.
43. Section 1.6.14, as notified, related to the role of consultation in the implementation of the PDP. Transpower New Zealand Limited²² supported the existing recognition that an applicant may need to undertake consultation and sought additional wording that encourages applicants to notify and consult with the owners and operators of infrastructure. The Transpower submission prompted Mr Pickard to the view that the notified text implied there was a legal obligation to consult in some circumstances, which is not correct²³. We felt, however, that the revised wording suggested in Mr Pickard's Section 42A Report pushed the text too far in the other direction, dissuading readers from the merits of consultation when this is recognised to be good practice under the Act. It also might mislead readers because in a practical sense, consultation might be required in order to properly assess the adverse effects of a proposal. Activities raising cultural issues are an obvious example, already referred to in Section 1.6.14. We also think that Transpower made a fair point that there may be a particular need to consult in situations other than those raising cultural issues. We therefore recommend that effects on matters of interest to the Tangata whenua be posed as an example of a practical need for consultation.
44. We do not think that specific reference to infrastructure is required in this context (the longer the list of examples, the greater the risk that it might be seen to be comprehensive). Nor do

²¹ Submission 805

²² Submission 805

²³ Refer section 36A of the Act

we think that the reference in Section 1.6.14 to “*Special Consultation Procedures*” is helpful. We see it as far too similar to the Local Government Act concept of special consultative procedures²⁴. The level of consultation undertaken, and the process for consultation will vary according to the nature of the issues, the extent of the effects and the counterparty. We think it is safe, for instance, to assume that consultation with Tangata whenua regarding potential adverse effects on a site of cultural significance might be undertaken in a different way to consultation with Transpower regarding potential adverse effects on the national grid.

45. Ngā Rūnanga²⁵ also sought amendments to this section to refer to Manawhenua rather than Tangata whenua, to delete the implication that the Council would not have Iwi management plans available, and to direct applicants to the Manawhenua environmental consultancies (currently KTKO and TAMI). At the hearing of their submission as part of Stream 1A, the representatives of Ngā Rūnanga withdrew their global request that references in the Plan to Tangata whenua should instead refer to Manawhenua and so we have not taken that request any further. Iwi management plans have a particular role under the Act, and we suggest that they might properly be referred to as documents that can guide applicants and which the Council will have available for applicants to review. We do not recommend that reference be made to the environmental consultancies in this context. While the Proposed RPS takes a different approach²⁶, this is in the context of an introductory discussion and we regard the administrative arrangements that Ngā Rūnanga (and the other Rūnanga of Ngāi Tahu with an interest in the Queenstown Lakes District) make as being something that may change within the life of the Plan. Advice of the availability of particular environmental consultancies as a conduit to Tangata whenua is in our view better held within Council and /or covered in Iwi management plans, if the Iwi deem that to be appropriate.
46. We have taken the opportunity to reframe the section in a way that we believe is clearer, but of the same substantive effect, while taking account of the valid points in the Transpower submission.
47. As notified, Sections 1.6.15-1.6.18 dealt with notification of resource consent applications. During the course of Mr Pickard’s evidence, we queried, and Mr Pickard accepted, that the way in which Section 1.6.17 was framed might inadvertently mislead readers as to the correct legal position under s95A(3) by separating two considerations that are intended to be read cumulatively. In his reply evidence, Mr Pickard recommended that this might be addressed by a simple drafting change. We agree and regard this as a minor correction. We note that while the relevant provisions have now been altered by the Resource Legislation Amendment Act 2017, the transition provisions of that Act require us to finalise our recommendations without reference to the amended provisions. Council will, however, need to consider whether the description in this part of the PDP needs to be changed as a consequence of the altered legislative framework.
48. Upper Clutha Environmental Society Inc²⁷ sought an amendment to Section 1.6.18 to specify that non-notification would only occur “*in very exceptional cases*” in the case of subdivision and/or development within outstanding natural landscapes or on outstanding natural features. In effect, the Society sought to fetter the discretion conferred on the Council by s95A(4) of the Act without using the mechanism provided for in the Act (s95A(2)(c)) of a rule requiring public notification. The submitter has not sought such a rule and we can foresee

²⁴ Local Government Act 2002, s.83

²⁵ Submission 810

²⁶ See Proposed RPS at page 6

²⁷ Submission 145

difficult practical issues implementing the relief sought by the submitter²⁸, quite apart from the administrative law considerations surrounding fettering of discretions. We do not recommend the amendment sought be accepted.

49. Finally, under this heading, we note that when counsel for the Council opened the hearing, the lack of clarity on the face of the PDP as to matters covered in it, as opposed to those deferred to Stage 2 of the District Plan review or omitted from the District Plan review altogether, was the subject of some discussion²⁹. We queried and counsel initially accepted that it might be appropriate to shift the information currently buried in Section 27.3.3.1 forward into Chapter 1 (more precisely into Section 1.6). In reply, however, counsel expressed doubts as to whether this would be advisable³⁰ because it would represent a snapshot in time and would rapidly become out of date. While we would have thought exactly the same comment could have been made about Section 27.3.3.1, having reflected on the point, we have doubts as to whether we have scope to add a paragraph outlining the matters not covered in the PDP. The way Section 27.3.3.1 is written does not lend itself to copying the text over into Section 1.6. It would need amendments and given the information provided by the maps, as discussed in the Commissioners' Introductory Report, it is not complete in any event. Also as discussed in the Introductory Report, it has been overtaken by subsequent Council resolutions as to the extent of the matters covered by the PDP and/or to be addressed in the Stage 2 review process. For these reasons we have not recommended that Section 1.6 be amended. We do, however, recommend that Council improve the information available to the public online and on paper regarding the staging of the District Plan review process and the inter-relationship of the review with the ODP.

2.7 Section 1.7 – Information to be Submitted

50. We recommend a minor stylistic change to Section 1.7.3, as shown in Appendix 1.
51. Section 1.7.5 as notified contained detailed information required to be considered with a Notice of Requirement. New Zealand Transport Agency³¹ opposed the section as not correctly stating the requirements of the Act. Mr Pickard recommended that the entire section be deleted as being unnecessary and we concur. The qualifications for having the status of requiring authority under Section 166 of the Act mean that detailed guidance as to what information should be submitted with a notice of requirement is unnecessary.
52. Section 1.7.6 related to use of poles or other similar devices to identify the bulk of proposed buildings. It was the subject of two submissions: one³² seeking to prohibit erection of height poles beyond the period of Council assessment; and the other³³ seeking to retain the approach of the ODP in substance, where height poles are mandatory in the case of resource consent applications to establish buildings in the rural zones and discretionary in other zones.
53. The terms in which Submission 42 was framed raised questions in our minds as to what exactly the status of Section 1.7.6 was (as notified it was framed as if it was a rule but Mr Pickard's evidence was that Chapter 1 was not intended to have regulatory effect) and how it integrated with the balance of the PDP (does the erection of height poles itself require a resource consent?).

²⁸ Determining at an administrative level what is an exceptional case

²⁹ Refer the discussion in the accompanying Introductory Report (Report 1)

³⁰ Counsel for the Council's Reply Legal Submissions dated 7 April 2016 at 6.9

³¹ Submission 719

³² Submission 42

³³ Submission 145

54. These issues were answered by counsel for the Council in their reply dated 7 April 2016. In summary, we were advised that Section 1.7.6 was not intended to be a trigger for resource consent (and Mr Pickard separately suggested a minor clarification to make that clear) and did not trigger rules relating to buildings and/or structures within the Zone chapters because building profile poles were specifically excluded from the definition of “*building*”.
55. Consistent with the role of Chapter 1 as an introductory chapter with no substantive effect, we do not believe it is appropriate to reframe Section 1.7.6 as a rule, prohibited or otherwise.
56. As regards the request that height control poles should be mandatory in the case of resource consent applications in the rural zones, and discretionary elsewhere, while height control poles might be of particular value in the rural environment (as Mr Haworth suggested in evidence), we think there is force in Mr Pickard’s observation³⁴ that they may not always be necessary. That would suggest that it is more efficient for the Council to retain a discretion as to when such poles are in fact required as part of the information submitted with a resource consent application. We recommend, however, clarifying how long such poles should remain in place, if required.
57. Reviewing our recommended changes to Chapter 1 of the PDP as shown in Appendix 1 to this Report, we consider that individually and collectively, they are the most appropriate way to achieve the objectives of the PDP, and hence the purpose of the Act, given the role of this introductory section and the alternatives open to us.

3. SECTION 3.2.7

3.1 Overview

58. Section 3.2.7 sits within Chapter 3 but because of its overlap with Chapter 5 matters, was dealt with as part of the Stream 1A hearing. Its status, however, as part of Chapter 3 means that a large number of general submissions regarding the role of Chapter 3, providing a strategic direction to the PDP as a whole (whether for instance there should be such a chapter) and the status and role of the ‘goals’ in Chapter 3 apply to it. Those general issues are discussed at length in the Stream 1B Report (Report 3). Report 3 recommends that there be a strategic chapter, the issues that the ‘goals’ and objectives are addressing be identified as part of the purpose of Chapter 3, that the goal (in this case of Section 3.2.7) be converted to a higher level objective, supported by more specific objectives and that the layout of Chapter 3 be altered to collect together all of the suggested strategic objectives followed by all of the strategic policies. Those matters are not discussed further in this report.

3.2 Wording of Goal

59. As notified, the suggested goal in Section 3.2.7 was:

“Council will act in accordance with the principles of the Treaty of Waitangi and in partnership with Ngāi Tahu.”

60. Submissions on it varied from seeking its deletion³⁵ to support for the goal as notified³⁶. Scope for its amendment accordingly exists within those two outer limits.

³⁴ In his s42A Report

³⁵ Submission 807 – noting that the memorandum of 4 March 2016 already referred to did not extend to submissions on provisions related to Tangata whenua matters other than those in Chapter 5.

³⁶ Submissions 21, 199, 600 and 817

61. Looking at the ‘the issue’ this goal seeks to address, the Section 32 evaluation identified the relevant issue as:

“Tangata whenua status and values require recognition in the District Plan, both intrinsically in the spirit of partnership (Treaty of Waitangi), but also under statutes.”

62. It seems to us that the second part of the issue the Section 32 evaluation identifies is superfluous – the reasons why Tangata whenua status and values require recognition are matters of background that can be deleted.

63. Accordingly, we recommend that the relevant issue added to Section 3.1 be:

“Tangata whenua status and values require recognition in the District Plan.”

64. Turning to how this goal might be reframed as a higher level objective, the notified focus was on Council actions, adherence to the principles of the Treaty of Waitangi and its partnership with Ngāi Tahu. The objectives in turn focussed on how Ngāi Tahu values, rights and interests might be recognised and in enabling the expression of Kaitiakitanga. It appears to us that a well-functioning partnership with Ngāi Tahu would necessarily operate in accordance with the principles of the Treaty of Waitangi (from that point of view, the existing goal might be considered to contain an element of repetition) and be at the heart of achievement of the stated objectives.

65. Reframing it as a higher level objective that might then serve as the basis for the existing more specific objectives (that we are about to discuss), we recommend that the wording be altered to:

“The partnership between Council and Ngāi Tahu is nurtured.”

3.3 Section 3.2.7.1

66. As notified, Objective 3.2.7.1 read:

“Protect Ngāi Tahu values, rights and interests, including taonga species and habitats, and Wāhi Tupuna.”

67. Submissions on this objective varied widely from seeking its deletion³⁷, its amendment to insert *“recognise and provide for”* rather than *“protect”*³⁸, to insertion of the words *“from inappropriate subdivision, use and development”* after *“interests”*³⁹. The scope for its amendment is accordingly reasonably broad, but not unlimited. The submissions, in various ways, all sought to confine rather than expand the ambit of the objective.

68. The Section 42A Report authored by Mr Pickard recommended that this objective be *‘softened’* to read:

“Recognise and provide for Ngāi Tahu values, rights and interests, including taonga species and habitats, and Wāhi Tupuna.”

³⁷ Submissions 806 and 807.

³⁸ Submissions 519

³⁹ Submissions 607, 615, 621

69. When Mr Pickard gave evidence, he explained that his recommendation sought to move the objective away from absolute protection, meaning protection of everything at all costs, particularly having regard to potentially competing values and interests.
70. We had an issue with this objective both as originally framed and as Mr Pickard recommended it be amended, because it is not in fact framed as an objective – *“an end state of affairs to which the drafters of the document aspire, and is the overarching purpose that the policies and rules of the document ought to serve”*⁴⁰.
71. Rather, by commencing with a verb, it reads more like a policy – a course of action⁴¹ (to achieve an objective).
72. Mr Pickard was unable to assist us when we queried him on the framing of objectives, but as a result of a discussion we had with Mr Paetz in the context of Chapter 3 more generally, Counsel for the Council submitted suggested amended objectives under cover of a memorandum dated 18 March 2016. The version of Objective 3.2.7.1 suggested with that memorandum was:
- “Provide for Ngāi Tahu values, rights, and interests, including taonga species and habitats, and Waahi Tūpuna”.*
73. This reframed objective addressed another one of the concerns we had about the objective recommended by Mr Pickard, namely that an objective focussed on recognising (or more correctly, recognition of) something does not identify an environmental end result. Understanding may be improved by such recognition, but the natural and physical resources of the District are not affected or altered as a result (or at least not identifiably so).
74. Even as reframed to remove the element of *‘recognition’*, we still have concerns about whether the objective specifies an environmental end point. To address this issue, it should be framed:
- “Provision for Ngāi Tahu values, rights and interests, including taonga species and habitats, and Wāhi Tupuna”.*
75. So restated, the suggested objective merely highlights another problem. An objective of provision for something (in this case for “Ngāi Tahu values, rights and interests”) is essentially meaningless without some further statement as to the extent of provision and/or the desired end result of that provision.
76. Returning to where the objective started, corrected to a statement of the desired environmental outcome (Ngāi Tahu values, rights and interests, including taonga species and habitats, and Wāhi Tupuna are protected), we do not think that the objective is improved materially by inserting reference to inappropriate subdivision, use and development. While restating the objective as protection of specified matters from inappropriate subdivision, use and development allows for the possibility that there may be some forms of appropriate development, the Supreme Court has held that where the term *“inappropriate”* is used in the context of protecting areas from inappropriate subdivision, use or development, “the natural

⁴⁰ *Ngāti Kahungunu Iwi Incorporated v Hawkes Bay Regional Council* [2015] NZEnvC50 at paragraph 42

⁴¹ *Auckland Regional Council v North Shore City Council* CA29/95 at page 10

meaning is that “*inappropriateness*” should be assessed by a reference to what it is that is sought to be protected.”⁴²

77. In other words, subdivision, use and development is inappropriate if it fails to protect (in this case) Ngāi Tahu values, rights and interests. As such, the amendment sought by submitters did not address the problem identified by Mr Pickard, that this objective might be seen as taking an absolutist position of protection against the effects of all subdivision use and development.
78. We do not think absolute protection for Ngāi Tahu values, rights and interests is required by Section 6(e) of the Act, which requires us to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, Wāhi tapu, and other taonga, or by the RPS, which we are required to give effect to. Chapter 4 of the latter is framed relatively generally and in practice affords us considerable discretion. In terms of the spectrum described by the Supreme Court in its King Salmon decision, the RPS provisions are at a high level of abstraction meaning that they are correspondingly less prescriptive than would have been the case if they had been framed in a specific and unqualified way⁴³.
79. The Proposed RPS, to which we are required to have regard, states as Objective 2.2:
*“Kāi Tahu values, interests and customary resources are recognised and provided for.”*⁴⁴
80. Policy 2.2.2 of the Proposed RPS is stated as:
“Protecting sites of cultural significance. Recognise and provide for Wāhi Tupuna as described in Schedule 1C⁴⁵ by all of the following:
a. Avoiding significant adverse effects on those values which contribute to Wāhi Tupuna being significant; and
b. Avoiding remedying or mitigating other adverse effects on Wāhi Tupuna; and
c. Managing those landscapes and sites in a culturally appropriate manner.”
81. Mr Vial, giving evidence for Ngā Rūnanga, constructively suggested that the wording from the notified version of Policy 2.2.2 quoted above⁴⁶ might be utilised in the PDP objective to provide the ‘softening’ effect that Mr Pickard was seeking, and thereby meet the concerns expressed by submitters on it. He made it clear that Ngā Rūnanga were not seeking absolute protection for cultural sites⁴⁷.

⁴² *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38 at paragraph 101 (*King Salmon*)

⁴³ Refer [2014] NZSC38 at paragraph 80

⁴⁴ As previously discussed, both the Operative and Proposed RPS employ the Ngāi Tahu alternative option of replacing the ‘ng’ with ‘k’. Because Chapter 5 was developed in collaboration with Tangata whenua, and the Tangata whenua witnesses who appeared for Nga Rūnanga and TAMI did not express concern about it, we do not think it necessary to make a global change to the PDP.

⁴⁵ Schedule 1C describes the characteristics of Wāhi Tupuna rather than identifying the specific sites and landscapes that qualify as such.

⁴⁶ Policy 1.2.3 of the Proposed Otago Regional Policy Statement as notified, dated 23 May 2015. Mr Vial was of course giving evidence before the release of decisions on submissions on that version of the document and so did not have the provisions of the Proposed RPS available to him

⁴⁷ Mr Skerrett, giving evidence for TAMI, similarly recognised that absolute protection for all cultural sites and interests was impossible to achieve.

82. We are of the view that these matters are better dealt with as policies, as is the case in the Proposed RPS. Mr Vial agreed that they might equally be framed as policies.
83. We need to address another aspect of the Proposed RPS at this point. The reference in the Objective 3.2.7.1 to Ngāi Tahu “values, rights, and interests” was consistent with the notified version of the Proposed RPS, which used the same terminology. The proposed RPS has now shifted to refer to “values, interests and customary resources” in the relevant objective, with a corresponding shift in policy focus to place the greater emphasis on support for customary uses, cultural values and on Wāhi Tupuna. The decisions of the Regional Council record a desire to ensure that the way Ngāi Tahu issues are addressed aligns with the requirements of the Act and avoid elevating Ngāi Tahu’s status above that provided for in the Act. Deletion of reference to Ngāi Tahu ‘rights’ is explained on the basis that the term did not appear in any of the policies or methods⁴⁸ and so (we infer) it was felt inappropriate that it be referred to in the relevant objective.
84. The question we need to consider is whether, having regard to the (revised) Proposed RPS, as we are bound to do, we should recommend a parallel change in terminology in Objective 3.2.7.1.
85. Relevantly, while this part of the Proposed RPS is the subject of multiple appeals to the Environment Court, our reading of those appeals does not suggest that the decisions on the Proposed RPS might be reversed, so that the document might revert to the form in which it was notified; to the extent that the appeals bear upon the wording of Objective 3.2.7.1, the relief sought indicates that if anything the approach evident in the decisions on the Proposed RPS might be extended further. We have therefore placed more weight on the Proposed RPS than perhaps might have been the case had the appeals on it had the potential to result in a greater range of potential outcomes.
86. Also, to the extent that the Proposed RPS seeks to make it clear that Ngāi Tahu’s interests are cultural in nature, and do not extend to the Iwi’s commercial interests (e.g. through the tourism and property companies it owns), this accords with the evidence we heard. Mr Skerrett for TAMI and Mr Ellison for Ngā Rūnanga confirmed that it was not the intention of either submitter that provisions in the PDP as notified providing for Ngāi Tahu’s rights, values and interests should extend to the activities of companies like Shotover Jet⁴⁹.
87. This suggests a need to amend the PDP to make that clear. More generally, we recommend that consequent on the changes to the Proposed RPS, the focus of Objective 3.2.7.1. be on Ngāi Tahu “values, interests and customary resources.” For similar reasons, we recommend that the policy inserted to clarify and implement the objective focus on Wāhi Tupuna.
88. The Proposed RPS focusses on the values that make Wāhi Tupuna significant: it is significant effects on those values that have to be avoided. To our mind, a significant effect on a Wāhi Tupuna is a significant effect on the values of that Wāhi Tupuna and so we do not regard it as being necessary to carry over that clarification.
89. The third RPS-related amendment relates to the concept of cultural appropriateness. We suggest that some guidance as to what this might mean would be advisable. Direct and early

⁴⁸ Otago Regional Council, Decisions on Submissions on Proposed Otago Regional Policy Statement, 1 October 2016 at page 37

⁴⁹ Noting that Mr Ellison did point out that commercial and cultural interests might overlap in relation to activities in culturally significant areas

consultation with the Tangata whenua is the obvious means to assist in achieving culturally appropriate outcomes and we recommend that reference to consultation be inserted in this context.

90. In summary, we recommend that Objective 3.7.1 read:

“Ngāi Tahu values, interests and customary resources, including taonga species and habitats, and wāhi tupuna, are protected.”

91. And that it be supplemented by three new policies as follows:

- a. *“Avoid significant adverse effects on wāhi tupuna within the District.*
- b. *Avoid, remedy or mitigate other adverse effects on wāhi tupuna within the District.*
- c. *Manage wāhi tupuna within the District, including taonga species and habitats, in a culturally appropriate manner through early consultation and involvement of relevant Iwi or hapū.”*

3.4 Section 3.2.7.2

92. As notified, this objective read:

“Enable the expression of Kaitiakitanga by providing for meaningful collaboration with Ngāi Tahu in resource management decision making and implementation.”

93. Some submissions⁵⁰ sought that this objective be deleted. A number of other submissions⁵¹ sought that the wording be amended to:

“Enable the expression of Kaitiakitanga by providing for meaningful collaboration with Ngāi Tahu in significant resource management decision-making and plan implementation.”

94. As with Objective 3.2.7.1, the objective needs to be framed as an objective. The suggestion of counsel for the Council in their memorandum of 18 March 2016 was that this be done by rewording the objective to read:

“Enable the expression of Kaitiakitanga by providing for meaningful collaboration with Ngāi Tahu.”

95. We think the suggestion from counsel had two problems. First it does not actually address the issue, because it still starts with a verb and still reads like a policy.

96. Secondly, as already noted, the submissions on this objective sought either to delete it or to place limits on the areas in which meaningful collaboration with Ngāi Tahu occurs. The recommendation from counsel for the Council would expand its scope, by deleting any reference to the areas in which collaboration is intended to occur. We do not believe that we have scope to amend the objective in that manner.

97. Consideration of this objective takes place against the background of the instruction in Section 7(a) of the Act that we shall have particular regard, among other things, to Kaitiakitanga.

98. Objective 4.4.5 of the RPS (that we are required to give effect to) states:

⁵⁰ Submissions 806 and 807

⁵¹ Submissions 607, 615 and 621, supported by FS1105 and FS1137

“Kaitiakitanga (guardianship)

To incorporate the concept and spirit of Kaitiakitanga in the management of Otago’s natural and physical resources in a way consistent with the values of Kāi Tahu.”

99. In the proposed RPS (which we must have regard to) Kaitiakitaka (i.e. Kaitiakitanga) is identified in Schedule 1A as a Kāi Tahu value that must be considered in resource management decision-making processes and implementation⁵² and recognised and provided for⁵³. The Proposed RPS also identifies the exercise of Kaitiakitaka as something to which particular regard must be had⁵⁴.
100. The combination of these provisions, and the legal obligations on us in relation to them, means that in our opinion, it would not be appropriate to delete the objective.
101. None of the submitters or further submitters who sought to amend the objective appeared at the Stream 1A hearing to advance reasons why their suggested amendment was appropriate and none of the submissions or further submissions provide reasons for the relief sought.
102. In the circumstances, we recommend that the only amendment to Objective 3.2.7.2 be a minor change to reframe it as an objective, as follows:

“The expression of kaitiakitanga is enabled by providing for meaningful collaboration with Ngāi Tahu in resource management decision making and implementation.”

103. In summary, in relation to Section 3.2.7 of the PDP, we regard the combination of objectives recommended as being the most appropriate way to achieve the purpose of the Act in this context, given the more detailed provisions of Chapter 5 (which we discuss next) and the alternatives open to us. The suggested new policies are, in our view, the most appropriate way to achieve those objectives given the more detailed provisions of Chapter 5.
104. These recommended objectives and policies are set out in Appendix 1 of Report 3.

4. CHAPTER 5 – TANGATA WHENUA

4.1 Heading and Overview

105. Chapter 5 contained more detailed provisions expanding on and seeking to achieve the notified Objectives 3.2.7.1 and 3.2.7.2. The Chapter provided background on Ngāi Tahu, in its capacity as the Mana whenua of the Queenstown Lakes District, including an outline of issues and outcomes sought by Ngāi Tahu, together with five objectives, a series of policies to implement those objectives and a number of methods to assist resource management decisions.
106. Mr Pickard’s evidence was that the Chapter was developed in collaboration with TAMI and KTKO, between them representing the Rūnanga of Ngāi Tahu with an interest in Queenstown Lakes District. Consistent with that position, TAMI⁵⁵ supported the Chapter as notified and

⁵² Proposed RPS, Policy 2.1.2(c)

⁵³ Proposed RPS, Objective 2.2

⁵⁴ Proposed RPS, Policy 2.1.2(f)

⁵⁵ Submission 817

Ngā Rūnanga⁵⁶ supported it with suggested amendments, principally to the discussion in Sections 5.2 and 5.3.

107. As noted above, QPL and RPL withdrew their submissions on Chapter 5 prior to the Stream 1A hearing. In addition, at the hearing, the representatives of Ngā Rūnanga advised that they no longer wished to pursue Ngā Rūnanga's submissions seeking a global change to substitute "*Manawhenua*" for "*Tangata whenua*" where that term appeared in Chapter 5.
108. Ngā Rūnanga drew attention in their submission to various typographical errors in the notified version of Chapter 5. We recommend that those submissions be accepted with the result that:
 - a. Manawhenua is capitalised where it appears⁵⁷;
 - b. Whakawhanaungatanga is correctly spelled on page 5-3.
109. Mr Pickard also picked up typographical errors that he recommended be corrected - the spelling of Wāhi Tupuna and Ngāi Tahu on pages 5-3 and 5-4. These are minor non-substantive corrections, which we recommend be made.
110. In the submission for TAMI⁵⁸, an amendment to the heading of this chapter, and Chapters 4 and 6 was sought, to add the word "*Strategic*" to the heading in each case. The submission made the point that otherwise it might appear that Chapter 3 is the only strategic chapter in Part 2 of the PDP, contrary to the advice TAMI has received from Council that Chapter 5 at least is a strategic chapter.
111. Mr Skerrett addressed the point further in his evidence.
112. The concern underlying the submission is obviously that without appropriate labelling, the Tangata whenua chapter might get relegated to being an afterthought and/or largely ignored in the implementation of the Plan.
113. The Hearing Panel considering the balance of Chapter 3 (Stream 1B) has considered other submissions seeking clarification of the relationship between the chapters in Part Two of the PDP and has recommended an amendment to Section 3.1 to address the point. We think that this suggested amendment, if accepted, would make it clear that Chapters 4-6 inclusive have an important role to play, along with Chapter 3 in providing the direction for the more detailed chapters in the Plan. Accordingly, we do not think that the title of Chapter 5 needs to be changed to reinforce its strategic (and district-wide) application.

4.2 Section 5.1 - Purpose

114. With the withdrawal of the QPL and RPL submissions as above, the only submissions on Section 5.1 were in support of the purpose as stated, and therefore require no further discussion.
115. A consequential amendment flowing from our recommendations in relation to Objective 3.2.7.1 is that the purpose should refer to protection of Ngāi Tahu's values, interests and cultural resources.
116. There was one other aspect of the purpose that we thought, however, might merit clarification. As already noted, we enquired of both Mr Skerrett (for TAMI) and Mr Ellison (for

⁵⁶ Submission 810

⁵⁷ In one place, Manawhenua is used in juxtaposition with 'Rangātiratanga'. To be consistent, the Hearing Panel recommends that be capitalised also.

⁵⁸ Submission 817

Ngā Rūnanga) whether we could proceed on the basis that references in the PDP to the values, rights and interests of Ngāi Tahu should not be read to extend to the commercial interests of companies like Shotover Jet that are owned or controlled by Ngāi Tahu. Both confirmed that this was the position as they saw it (although Mr Ellison noted that commercial issues might overlap with cultural issues at sites of cultural significance). We recommend that a sentence to that effect be inserted at the end of Section 5.1, but reframed to focus on Ngāi Tahu's values, interests and cultural resources to reflect the recommended change to the previous sentence. Given the agreement of the senior representatives of the Tangata whenua, we regard this as a minor non-substantive change that is consistent with the changes made to the Proposed RPS.

4.3 Section 5.2 – Ngāi Tahu/Kāi Tahu

117. Although not the subject of submission, we thought that the introduction to this section merited clarification because although Chapter 5 is entitled Tangata whenua, the discussion in Section 5.2 moves directly to the role of Ngāi Tahu as Manawhenua of the Queenstown Lakes District. We recommend that a sentence be inserted to explain that Tangata whenua are the Iwi or hapū that hold Manawhenua in a particular area, to fill that gap in logic. We regard this as a minor non-substantive change given that it merely repeats in the text the definition of "*Tangata whenua*" in Section 5.6.
118. Ngā Rūnanga's submission sought that the subsections of Section 5.2 entitled '*Mana whenua*' and Association with the Queenstown Lakes District' be combined and redrafted.
119. The major substantive change sought in the narrative appeared to us to be an extension of the discussion of Kāinga and greater emphasis on Ngāi Tahu's contemporary relationships within the District. The representatives of Ngā Rūnanga did not address this aspect of Ngā Rūnanga's submissions in their evidence and when we asked Mr Skerrett, he said that Ngā Rūnanga had not consulted with TAMI regarding the relief sought in their submission. We do not therefore consider we have an evidential basis for substantive amendments to this part of the Chapter. However, having reviewed it afresh, we have identified a degree of overlap in these subsections of Section 5.2. We consider that there would be value in combining them under a single heading (Ngāi Tahu Associations with the Queenstown-Lakes District) as Ngā Rūnanga suggest, which in turn produces a need for consequential changes – reordering of paragraphs into a logical order. The suggested changes are shown in Appendix 2.
120. Ngā Rūnanga also sought amendments to the subsection of Section 5.2 entitled '*Te Rūnanga o Ngāi Tahu and the Papatipu Rūnanga*'. The substantive changes sought appeared to us to be adding emphasis to the Rūnanga being a contemporary focus for whānau and hapū and removing reference to the Rūnanga having a 'shared' interest in the district. We discussed the nature of the relationship between the Rūnanga with both Mr Skerrett and Mr Ellison. Their descriptions of the relationship did not appear to us to be inconsistent with the current description in Section 5.2. Given the absence of any specific evidence for Ngā Rūnanga explaining why they sought changes to the discussion and the absence of any consultation with TAMI on the subject, we do not recommend that the changes sought be made.

4.4 Section 5.3 – Issues and Outcomes sought by Ngāi Tahu

121. Ngā Rūnanga's submissions sought additions to both the issues and the outcomes listed. When Ngā Rūnanga appeared at the Stream 1A hearing, Mr Vial's evidence reduced the number of additions previously sought to one (Effects of land use change and development on Wāhi Tupuna, Mahinga kai and water quality) and sought to add a new issue of "Access to

Nohoanga". Mr Vial explained that Ngā Rūnanga sought amendments to the Statement of Issues because they appeared perfunctory to the Rūnanga, but advised that Ngā Rūnanga's representatives had not discussed the additional issues and outcomes with TAMI. The Ngā Rūnanga submission was the subject of two further submissions⁵⁹. Federated Farmers⁶⁰ lodged a separate submission seeking that the issues be rewritten to specify the environmental effects of concern to Ngāi Tahu, not simply specifying particular land uses.

122. If this section purported to state issues for the PDP as a whole, we might have been inclined to agree with Federated Farmers that they should be more closely orientated towards effects. As it is however, these are issues for Ngāi Tahu and in our view, it is for Ngāi Tahu to tell us what its issues are. We do not therefore recommend that the issues and outcomes be amended in the manner sought.
123. It also follows that for us to recommend these issues, we need to be satisfied first that the amendment is the subject of a submission and secondly, that it represents the views of Ngāi Tahu as a whole (or at least all of the relevant Rūnanga of Ngāi Tahu).
124. While Mr Skerrett agreed that protection of Nohoanga was important, this was not the subject of a submission and we do not therefore believe we can take the matter further. As regards the other new issue sought by Mr Vial, which was the subject of a submission, this fails because of the lack of consensus in the evidence we heard from Ngāi Tahu. Accordingly, we do not recommend the amendment sought by Ngā Rūnanga be made.

4.5 Section 5.4 – Objectives and Policies

125. Objective 5.4.1 as notified read:

"Promote consultation with tangata whenua through the implementation of the Queenstown Lakes District Plan."

126. As with the notified versions of Objective 3.2.7.1 and 3.2.7.2 discussed earlier, this does not state an environmental outcome. Rather, it is framed as a policy.

127. To address this part, we recommend the objective be amended to read:

"Consultation with tangata whenua occurs through the implementation of the Queenstown Lakes District Plan".

128. This expresses an outcome that while procedural in nature, is relevant to achieving the purpose of the Act. We regard this as a minor non-substantive change.

129. In the course of her evidence for TAMI, Dr Kitson drew our attention to the provisions of the NPSFM 2014⁶¹ related to involvement of Iwi and hapū in the management of freshwater and freshwater ecosystems, identification of values and interests in freshwater and freshwater ecosystems, and reflecting Tangata whenua values and interests in the management and decision-making regarding freshwater and freshwater ecosystems. Dr Kitson did not identify any amendments required to be made to Chapter 5 in order to give effect to these provisions of the NPSFM 2014. We have, however, reviewed the policies of Chapter 5 and satisfied

⁵⁹ FS1034 (opposing) and FS1209 (supporting)

⁶⁰ Submission 600

⁶¹ Specifically, Objective D1 and Policy D1

ourselves that the provisions of Section 5.4.1 in particular do provide the degree of Tangata whenua involvement that the NPSFM directs.

130. Policy 5.4.1.3 as notified read:

“When making resource management decisions, ensure that functions and powers are exercised in a manner that takes into account iwi management plans.”

131. Real Journeys Limited sought that this policy either be deleted⁶² or amended to reference Iwi management plans “as of 2015”⁶³.

132. In his Section 42A Report on Chapter 5, Mr Pickard stated that iwi management plans had been incorporated by a reference under clause 30 of the First Schedule at notification⁶⁴. He also suggested⁶⁵ that the legal obligation in Section 74(2A) of the Act that preparation of the PDP “take into account” iwi management plans, creates a higher onus than “having regard to” the same documents. In Mr Pickard’s view, the latter requirement would not create an obligation to incorporate all or part of the Iwi management plans into the District Plan (only that they be materially considered). It appeared to us that he was implying that the actual requirement to take into account iwi management plans would carry with it that obligation.

133. We discussed both points with counsel for the Council. Counsel accepted that Iwi management plans do not fit comfortably into the clause 30 criteria of documents that may be incorporated by reference into a District Plan. In their tabled reply submissions, counsel suggested that it was arguable that iwi management plans might sit within clause 30(1)(c), but that in the context of a cross reference in a policy (like 5.4.1.3), it was not considered appropriate for them to be incorporated by reference in any event, that being more a matter for rules rather than policies.

134. We think it is dubious at best as to whether an Iwi management plan “deals with technical matters” in terms of clause 30(1)(c) of the First Schedule, but given the position taken in reply, we think it is academic in any event.

135. As regards the second point, counsel for the Council could not identify any substantive difference for us between the competing phrases “take into account” and “have regard to”. Counsel advised us that if there is a difference, it’s not much of a difference, a view with which we agree. Counsel captured the essence of both requirements as being one of turning one’s mind to the issue, weighing it, and not giving it lip service. We agree with that submission also. It follows that we do not accept the logic in Mr Pickard’s Section 42A Report as forming the basis as to why iwi management plans need to be incorporated by reference, even assuming there is jurisdiction to do so. Having said that, the legal obligation to take the existing Iwi management plans into account means, in our view, that some good reason would be required to delete reference to Iwi management plans in Policy 5.4.1.3. Real Journeys Limited however, did not appear at the Stream 1A hearing and did not present any reason for that position. We do not recommend that the policy be deleted.

⁶² FS1341

⁶³ Submission 621

⁶⁴ Section 42A Report at paragraph 4.5

⁶⁵ Ibid at Section 7.7

136. By presentation of the Council reply, Mr Pickard had come to the view that Real Journeys' primary submission be accepted in substance and that the policy should specifically reference the existing iwi management plans by name.
137. The RPS does not provide us any guidance on this point, but Policy 2.1.1(h) of the Proposed RPS seeks to ensure that local authorities exercise their functions and powers, inter alia, by taking into account "*iwi management plans*". That would not support a limitation as to which iwi management plans are considered under Policy 5.4.1.2. The reality is that the existing Iwi management plans will almost inevitably change over the life of the PDP, and that even if not referred to in the policies of the District Plan, successor Iwi management plans would likely be referred to as relevant and reasonably necessary to determine resource consent applications under Section 104(1)(c) where they bear upon the subject matter of the application.
138. In summary, therefore, we recommend that the policy remain as notified, and not specifically reference the current iwi management plans either as at notification, or as at the date of this report.
139. As notified, Policy 5.4.1.4 read:
- "Recognise that only tangata whenua can identify their relationship and that of their culture and traditions with their ancestral lands, water sites, wāhi tapu, tōpuni and other taonga."*
140. The first point of note is that as this policy is clearly derived from Section 6(e) of the Act, a comma should be inserted between water and sites. We recommend that change as a minor correction.
141. More substantively, Real Journeys Limited⁶⁶ sought that this policy should be reworded as follows:
- "Recognise that, unless identified in a relevant planning document, only tangata whenua can identify their relationship and that of their culture and traditions with their ancestral lands, water sites, wāhi tapu, topuni and other taonga"*.
142. Once again, we note that Real Journeys Limited did not appear to support this submission and its submission did not contain detailed reasons for the relief sought. Nevertheless, the logic of the relief sought appears to be that if the PDP identifies, for instance, tōpuni and other taonga, it is not necessary to seek further input from Tangata whenua as to the nature of their relationship with that tōpuni or taonga.
143. The evidence presented for Ngā Rūnanga, in particular that of Ms Kleinlangevelsloo, as to the operation of similar provisions in the context of the proposed Dunedin City District Plan, is that mapping provides a signpost as to the possible interest of Tangata whenua, and therefore to the need for direct consultation to establish the nature and extent of the cultural site or landscape in question, and the nature and extent of the adverse effects the proposed activity would have on it.
144. For these reasons, we recommend that Real Journeys Limited submission not be accepted.
145. Objective 5.4.2 as notified read:

⁶⁶ Submission 621

“Provide for a Ngāi Tahu presence in the built environment.”

146. Following the withdrawals of submissions as noted above, the only submission on this objective was in support. However, it suffered from the same problem as already noted, namely that it did not actually state an environmental outcome.

147. We recommend that it be reframed as:

“Ngāi Tahu have a presence in the built environment.”

148. Objective 5.4.3 raised the same issue. We recommend that it be amended to read:

“Ngāi Tahu taonga species and related habitats are protected.”

149. For the same reasons as for Objective 5.4.3, we recommend that Objective 5.4.4 be amended to read:

“The sustainable use of Maori land.”

150. In each case, we view these as desirable minor non-substantive corrections in order to ensure that the objectives are the most appropriate way to achieve the purpose of the Act.

151. Policy 5.4.4.1 related to use of Maori land. As notified, it referred specifically to Papakāinga housing. The Ngā Rūnanga submission sought that that latter reference be deleted. The evidence for Ngā Rūnanga did not explain why the Rūnanga took this position. Given that the reference to Papakāinga is only an example of how Maori land might be used, we do not see any value in deleting reference to it. We recommend that Policy 5.4.4.1 remain as notified.

152. Objective 5.4.5 does not require reframing as an objective. As notified it read:

“Wāhi tupuna and all their components are appropriately managed and protected.”

153. The further submission from Real Journeys Limited⁶⁷ sought that both this and Objective 5.4.3 either be deleted or deferred to Stage 2 of the PDP process once the mapping of wāhi tupuna is complete.

154. As previously, our consideration of Real Journeys’ position is hampered by the lack of any supporting reasons or evidence. In summary, for the reasons set out above in relation to Objective 3.2.7.1, we do not recommend that these objectives be deleted. They recognise and provide for matters made relevant by Section 6(e) of the Act and are consistent with Objective 2.2 and Policy 2.2.2 of the Proposed RPS.

155. Turning to the Policies implementing Objective 5.4.5., as notified, Policy 5.4.5.1 read as follows:

“Identify wāhi tupuna and all their components on the District Plan maps and protect them from the adverse effects of subdivision, use and development.”

156. The background to this policy is that the planning maps as notified did not identify wāhi tupuna (colloquially, cultural landscapes). Map 40 did identify three tōpuni (Tititea/Mount Aspiring,

⁶⁷ FS1341

Te Koroka/Dart (Slip Stream) and Pikirakatahi/(Mount Earnslaw)). Tōpuni was defined in Section 5.6 as being named for the tōpuni cloak worn by Ngāi Tahu Rangatira. The Ngā Rūnanga witnesses explained to us that tōpuni are specific sites, some of which were identified in the Ngāi Tahu Claims Settlement Act 1998⁶⁸. From that evidence, we understand that they are not the same thing as wāhi tupuna but are likely to overlap in practice. They are also likely to overlap in practice with identification of outstanding natural features and outstanding natural landscapes, as is certainly the case with the three tōpuni shown on Map 40.

157. From the evidence of Mr Pickard and the representatives of Tangata whenua, it was common ground that the actual mapping of wāhi tupuna would occur as part of the Stage 2 PDP process⁶⁹. Notwithstanding that, Policy 5.4.5.1 establishes the policy in respect of those areas yet to be mapped.
158. This staged approach prompted the Real Journeys Limited further submission⁷⁰ that this part of Chapter 5 should be deferred to Stage 2 of the PDP process once the mapping of Wāhi Tupuna is complete. Real Journeys own primary submission⁷¹, along with that of Transpower New Zealand Ltd⁷² sought that Policy 5.4.5.1 be amended so that mapped Wāhi Tupuna be protected from the adverse effects of *“inappropriate subdivision, use and development”*.
159. As discussed in greater detail in the Hearing Panel’s Report 3 (considering the balance of the strategic chapters), the Supreme Court’s King Salmon decision has clarified the ordinary meaning of *“inappropriate”* in the context of something being protected from inappropriate subdivision, use and development (that inappropriateness should be assessed by reference to what it is that is sought to be protected). Accordingly, we do not think that its use in this context would add value.
160. We believe that there are two material issues raised by the staged approach to identification of wāhi tupuna. The first is that, as Mr Pickard accepted when we put it to him, it is not possible to undertake any quantification of the costs and benefits of Policy 5.4.5.1 for the purposes of Section 32 if one does not know what landscapes or areas fall within that phrase.
161. Secondly, by relying on the yet to be undertaken mapping exercise, the PDP might be interpreted to provide no policy protection for Wāhi Tupuna in the interim, other than (possibly) for the three mapped tōpuni (most of which are in Mount Aspiring National Park, and well *‘protected’* as a result).
162. We do not believe that the policy can remain as it is in the absence of any ability to assess its costs and benefits in terms of Section 32⁷³.
163. To address this position, we recommend that Policy 5.4.5.1 be amended to read:

⁶⁸ The three sites are in this category – refer Schedules 87, 91 and 92 of the Settlement Act.

⁶⁹ We note that this has not been included in the provisions notified as Stage 2 of the PDP and assume that it will now form part of a later stage in the review process.

⁷⁰ FS1341

⁷¹ Submission 621

⁷² Submission 805

⁷³ We do not consider that our recommended policies in Chapter 3 covering effects on Wāhi Tupuna raise the same issue, or at least not as acutely, because they do not seek to restrict third party activities to the same extent.

“Identify wāhi tupuna and all their components on the District Plan maps in order to facilitate their protection from the adverse effects of subdivision, use and development.”

164. This should be supplemented by a new Policy 5.4.5.2 as follows:

“Pending their identification on the District Plan maps, encourage direct consultation with tangata whenua when iwi management plans indicate that proposals may adversely affect sites of cultural significance.”

165. We do not believe the same issues arise for the balance of the policies in Section 5.4.5.

166. Giving evidence for Ngā Rūnanga, Mr Vial suggested that we amend Policy 5.4.5.4 to make specific reference to the effects of cemeteries, crematoriums and landfills to support the associated method in Section 5.5. The Ngā Rūnanga submission did not, however, seek such relief and we do not believe we have scope to consider Mr Vial’s request.

167. In summary, therefore we do not recommend any changes to the other policies of Section 5.4.5.

4.6 Section 5.5 - Methods

168. Ngā Rūnanga sought, as one aspect of their submission, that the implementation method for Nohoanga be amended to read:

“Nohoanga sites mapped in the District Plan, with corresponding provisions to provide for the use of nohoanga for their intended purpose including access.”

169. Although Mr Vial did not specifically address this aspect of the Ngā Rūnanga submission in his evidence, Mr Skerrett speaking for TAMI emphasised the importance of nohoanga, making the point that there is no point protecting them if tangata whenua have no access to them.

170. We note that mapping nohoanga sites, while important, would not achieve the preservation of Ngāi Tahu’s use of nohoanga sites. Equally, however, it is beyond the function of the PDP to secure access where it is not currently available (or does not become available in future). Accordingly, we recommend that the implementation method for nohoanga be amended to read as follows:

“Nohoanga sites be mapped in the District Plan, with corresponding provisions to preserve the use of and access to nohoanga for their intended purpose to the extent that is enjoyed by Ngāi Tahu.”

4.7 Section 5.6 – Glossary

171. We note that the definition of ‘Kaitiakitanga’ contains a typographical error that we recommend be corrected.

4.8 Section 5.7 – Ngāi Tahu Taonga Species

172. Section 5.7 lists a number of flora and fauna species that are taonga to Ngāi Tahu. TAMI sought in its submission⁷⁴ that the list of taonga species be updated to include freshwater fish species and other land based animals. Dr Kitson gave evidence for TAMI in support of this submission. She gave the example of tuna (eels) and Waikakahi (fresh water mussels) as two species that have been omitted.

⁷⁴ Submission 817

173. We asked Dr Kitson if she could provide a complete list of species that should be included, including the appropriate scientific names, as well as species that might be omitted, given Mr Pickard's evidence that he understood some of the species listed were found only in coastal habitats.
174. In the event, Dr Kitson did not provide us with any further information and so we are not in a position to recommend acceptance of TAMI's submission.

4.9 Other Related Provisions

175. Submissions 663⁷⁵ and 672 sought deletion of Policy 12.2.2.7, related to incorporation of cultural heritage in the design of public places where appropriate. The submission was transferred to Hearing Stream 1A.
176. The submitter did not appear to support its submission and we accept Mr Pickard's recommendation that it be rejected on the basis that this a useful and pertinent reminder, given the Council's partnership with Tangata whenua.
177. Submission 810 sought addition of another assessment matter in Rule 12.4.7 related to effects on Wāhi tupuna values. We agree with Mr Pickard's recommendation that the addition is unnecessary given the policy guidance in Policy 12.2.2.7.

5. OVERALL RECOMMENDATIONS

178. Summarising the position, we have concluded that the Chapter 5 objectives recommended in this report, taking account of our recommendations in relation to Section 3.2.7 of the PDP, are the most appropriate objectives to achieve the purpose of the Act in this context, given the alternatives open to us. Similarly, we have concluded that the recommended policies and other provisions are the most appropriate way to achieve those objectives.
179. For all the reasons set out above, we recommend:
- a. That Chapter 1 Introduction be adopted in the form set out in Appendix 1;
 - b. That notified Section 3.2.7 be adopted as Objectives 3.2.7, 3.2.7.1 and 3.2.7.2 and Policies 3.3.33, 3.3.34 and 3.3.35 as set out in Appendix 1 of Report 3;
 - c. That Chapter 5 Tangata Whenua be adopted in the form set out in Appendix 2; and
 - d. That the relevant submissions and further submissions be accepted, accepted in part, or rejected as set out in Appendix 3.
180. It should be noted that if the recommendations of the Hearing Panel on the balance of Chapter 3 are accepted, the formatting of that Chapter will change. As a result, the version of the Chapter 3 attached to Report 3 shows the recommended amendments to what was Section 3.2.7 embedded with the balance of the changes recommended to Chapter 3 with the objective and policy numbers as set out in the previous paragraph.
181. Lastly, we note that in our review of Chapter 5, and to a lesser extent Chapter 1, we identified a number of inconsistencies in grammatical expression, capitalisation of words and the like that were not the subject of submission. We recommend that prior to finalisation of the Council's decisions, Council undertake a comprehensive proofreading exercise of the entire PDP, correcting such inconsistencies pursuant to clause 16(2) of the First Schedule.

⁷⁵ Opposed by FS1139 and FS1191

For the Hearing Panel



Denis Nugent, Chair
Dated: 16 March 2018

Attachments:

Appendix 1: Chapter 1 Introduction as Recommended

Appendix 2: Chapter 5 Tangata Whenua as Recommended

Appendix 3: Recommendations on Submissions and Further Submissions

Appendix 1: Chapter 1 Introduction as Recommended

1 INTRODUCTION

1.1

Purpose

The purpose of the preparation, implementation and administration of this District Plan is to assist the Queenstown Lakes District Council to carry out its functions in order to achieve the purpose of the Resource Management Act (Act) 1991¹.

The purpose of the Act² is to promote the sustainable management of natural and physical resources.

In the 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 well-being and for their health and safety while:

- a. sustaining the potential of natural and physical resources (excluding minerals), to meet the reasonably 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 way the District Plan seeks to assist achievement of the purpose of the Act is through setting out higher level objectives and policies in Chapters 3-6, which are supported by the more detailed objectives, policies and rules in the balance of the Plan.

1.2

Legal Framework

Obligation to Comply with the Act

1.2.1 No person may use land in a manner that contravenes a rule in the District Plan, unless they have existing use rights or a resource consent granted by the Council (Sections 9, 10 and 10A). In the context of the Act such use includes the use of the surface of lakes and rivers (Section 10A).

1.2.2 No person may subdivide land unless expressly allowed by a rule in the District Plan, a National Environmental Standard or a resource consent (Section 11).

Existing Use Rights

1.2.3 Sections 10 and 10A of the Act provide for the existing and continued use of land and the surface of water in a manner which contravenes a rule in the District Plan, subject to the following:

1. *S72 Resource Management Act 1991*
2. *S5 Resource Management Act 1991*

- a. land may be used in a manner that contravenes a rule in a district plan or proposed district plan if either:
 - i. the use was lawfully established before the rule became operative or the proposed plan was notified; and
 - ii. the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified:

Or

- b. the use was lawfully established by way of a designation; and
- c. the effects of the use are the same or similar in character, intensity, and scale to those which existed before the designation was removed.

1.2.4 Existing use rights do not apply if:

- a. the use of land has been discontinued for a continuous period of more than 12 months after the rule in the District Plan the use contravenes took legal effect, unless the Council has granted an extension by way of application;

Or

- b. reconstruction, alteration or extension of any building that contravenes a rule in the District Plan increases its degree of non-compliance.

Enforcement

1.2.5 The Council will use its powers under Part 12 of the Act in requiring persons to cease or not commence activity which is or is likely to:

- a. contravene the Act, any regulations, a rule in the District Plan, or any resource consent; or
- b. be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

1.2.6 Under the Act, the Council has recourse to several enforcement tools, including enforcement orders, abatement notices, prosecutions for offences, and the power to enter and inspect land in respect of ascertaining compliance, seizing and obtaining evidence, and carrying out emergency works.

1.3

Cross Boundary Issues

The District sits within the Otago Region, and has borders with the Canterbury, West Coast and Southland Regions, and Southland, Central Otago, Waitaki and Westland Districts.

Cross-boundary issues refer to situations where an activity takes place on or near a territorial boundary or where the effects of a particular activity impact on the territory of an adjacent authority.

- 1.3.1** The following procedure will be followed for cross-boundary issues:
- a. Council will consider whether any resource consents are required from any other consent authorities;
 - b. Reference to the provisions of the Act that relate to joint hearings will be made where an activity requires consent from two or more authorities;
 - c. Applicants for resource consent for activities which might have effects on an adjoining territory will be encouraged to consult with that authority.
- 1.3.2** In the case of infrastructure networks crossing the territorial boundary, Council will consult with the relevant territorial authority and endeavour to arrive at a planning framework that provides a consistent approach to the network.

1.4

Environmental Monitoring

- 1.4.1** The Council has responsibilities for gathering information, monitoring and maintaining records on resource management matters. These responsibilities will allow the Council to consider refinements to the content of the Plan as well as enabling the community to be informed about how the Plan's provisions are performing. The monitoring process of the Council has three components:
- a. Compliance with the provisions of the Plan and compliance with conditions of consent. In particular the Council will monitor compliance with approved resource consents;
 - b. The state of the environment;
 - c. The suitability and effectiveness of the provisions of the Plan

1.4.2 Monitoring of the Plan will reflect the grouping of chapters within each Part being:

Part One	Introduction
Part Two	Strategic Matters
Part Three	Urban Environment
Part Four	Rural Environment
Part Five	District Wide Matters
Part Six	Special Zones
Part Seven	Maps

1.5

Review Procedures/Changes to the Plan

1.5.1 The Act requires that the Queenstown Lakes District Council have at all times, a District Plan. The Council is obliged to commence a full review of its District Plan not later than 10 years after this Plan becomes operative. It is, therefore envisaged this document will be in force for at least the next decade.

However, as changes occur to the environment it may be desirable to make amendments to this Plan in order to respond to new issues and conditions. This can be done either in part by introducing a Plan Change or in full by way of a total review.

1.5.2 Any person may apply for a change to this Plan, or the Queenstown Lakes District Council may itself initiate a change.

1.6

How to use this Plan

- 1.6.1** The Plan is arranged in seven Parts (see para 1.4.2 above).
- 1.6.2** The key to using the Plan is to start with the maps. Firstly, identify the site to which any development relates. Zone information will be shown, as well as any other resources or restrictions.
- 1.6.3** Secondly, refer to the relevant Chapter for the zone provisions (objectives, policies and rules) or District Wide Matters. Development may breach several rules across more than one Chapter and all will need to be addressed.
- 1.6.4** Thirdly, if resource consent is required to undertake an activity, complete the relevant application documents provided by Council and include the information required (see below).

Definitions

- 1.6.5** Definitions are provided within this Plan and have specific meanings. Generally, plain English interpretations of words are encouraged but there are definitions included within the Resource Management Act, and other legislation such as the Building Act that need to be applied.

In this Plan where a word or phrase has been expressly defined, it has primacy over other definitions elsewhere.

Resource Consents

- 1.6.6** The District Plan provides for two types of resource consent: land use and subdivision. Various resource consents and permits are also issued by the Otago Regional Council particularly in relation to the use of beds of lakes and rivers.
- 1.6.7** An application for resource consent must be made in accordance with the Act. Forms and accompanying information for land use and subdivision consent are available from the Council offices or on the Council's website. An Assessment of Effects on the Environment and other relevant information prepared in accordance with Schedule 4 of the Act must also be provided.
- 1.6.8** Applications may be made by anyone, however for complex matters, professional assistance may be required.

Status of Activities

- 1.6.9** Within the Plan, different levels of activity that relate to the development of land or subdivision are used to set rules. These are:

Permitted activities are allowed by the Plan without resource consent, providing they comply in all respects with the rules specified in the Plan.

Controlled activities require resource consent. They shall comply with standards in the Plan and will be assessed according to those matters in the District Plan over which the Council has reserved control. The Council must grant consent to a controlled activity if the application meets the required information standards, but in granting consent the Council may impose conditions that relate only to those matters specified.

Restricted Discretionary activities require resource consent but the Council will have limited its discretion to certain stated matters. Applications can be granted or refused.

Discretionary activities require resource consent, and may be subject to standards specified in the Plan. All effects of the proposal can be considered by Council and the application can be granted or refused

Non-complying activities are those which are not anticipated in the Plan. A resource consent is required and may be granted or refused.

Prohibited activities are those which a rule in the Plan expressly prohibits in the District or a particular zone. No application may be made for such activities and no resource consent will be granted.

Zones and District Wide Rules

- 1.6.10** The District is split into several zones to allow different provisions to apply to each. This allows development in each zone to be reflective of the effects anticipated by this Plan. District Wide Matters apply over all zones.

National and Regional Provisions

- 1.6.11** The District Plan must give effect to higher national and regional level policy statements and standards. Otago Regional Council has a separate jurisdiction over developments that in some cases overlaps with the District Council's jurisdiction. Applicants for resource consent are responsible for ensuring that their development complies with the requirements in relevant regional plans, as well as, the district plan.

Designations and Heritage Orders

- 1.6.12** Part 8 of the Act defines those authorities that have power to become a requiring authority and provide for their works through designations in the District Plan.

- 1.6.13** A heritage order is a provision in the District Plan to give effect to a requirement made by a heritage protection authority.

A heritage order is issued to protect features or places of special interest, character, intrinsic or amenity value or visual appeal and such area of land surrounding these places as is necessary to protect and afford reasonable enjoyment of them. No person may undertake work in a manner contrary to the heritage order.

Consultation

1.6.14 There is no legal duty for an applicant or the Council to consult any person about a resource consent application³. However, consultation is recognised as good practice under the Act and it is usually in an applicant's interests to undertake consultation in order to identify potential issues and ways in which those issues might be addressed, potentially saving costs and reducing time delays as a result. In some cases such as where cultural issues are involved, consultation with tangata whenua may be the only way in practice for the applicant to properly assess the potential adverse effects of a proposal and an applicant risks prejudicing the outcome of their application if they do not undertake consultation. Iwi management plans, which Council will have available for applicants to review will assist in enabling identification of situations where cultural issues may be triggered by an application.

The appropriate level of consultation will likely depend on the effects or impacts of the proposal.

Notification

1.6.15 The Council may decide whether to publicly notify an application for resource consent for an activity.

1.6.16 Council must publicly notify the application if:

- a. it decides that the activity will have or is likely to have adverse effects on the environment that are more than minor; or,
- b. the applicant requests public notification; or,
- c. a rule in the Plan, or National Environmental Standard (NES) requires public notification.

1.6.17 Despite the above, Council must not publicly notify the application if;

- a. a rule in this Plan, or NES standard precludes public notification of the application; and,
- b. the applicant has not requested public notification.

1.6.18 Despite the above, Council may publicly notify an application if it decides that special circumstances exist in relation to the application.

3. S36A of the Act

1.7

Information to be submitted

- 1.7.1** For the Council to process an application for resource consent an applicant must provide adequate information to enable the effects of the activity to be assessed in accordance with the Act and any assessment matters set out in the District Plan. The amount of detailed information needed depends on the type of resource consent.
 - 1.7.2** Where the Council considers insufficient information has been supplied further information will be requested and the application or plan change will not be processed until the information is supplied.
 - 1.7.3** Different types of applications require different details to be included with the application. Schedule 4 Act details all information requirements for resource consents and is not repeated here. Guidance on this information is available from Council on the web pages associated with resource consents and may change from time to time.
-

Further information

- 1.7.4** Further information may also be required from an applicant where it is considered necessary to better understand the nature of the activity, the effect it may have on the environment, or the ways in which adverse effects may be mitigated. The Council may also commission a report, at the applicant's expense, on any matters raised in relation to the application, or on any environmental assessment or effects. However, before commissioning such a report it shall notify the applicant.
-

Building Outline

- 1.7.5** Council may request that any application to establish a building is accompanied by the erection of poles or other similar devices to identify the bulk of the proposed building to be erected on the site, and when erected, such poles should remain in place until the Council decision is issued.
-

Costs

- 1.7.6** The Council policy involves cost recovery in respect of applications for Resource Consents or Plan Changes. Deposits will be required for all Resource Consents and Plan Change requests. In general terms the costs recovered will include:
 - a. any public notices; council officer's time;
 - b. postage and distribution costs;
 - c. costs for hearing time;
 - d. costs of any independent reports required by the Council.

Resource Consent process

- 1.7.7** The process for making, lodging, vetting and processing resource consent applications is deliberately not included in this Plan. This process is subject to change and amendments and details are available on the Council's website or direct from the Resource Consent Team.

Appendix 2: Chapter 5 Tangata Whenua as Recommended

5 TANGATA WHENUA



5.1

Purpose

Queenstown Lakes District Council will recognise and provide for Ngāi Tahu as a partner in the management of the District's natural and physical resources through the implementation of this District Plan. The Council will actively foster this partnership through meaningful collaboration, seeking formal and informal advice, providing for Ngāi Tahu's role as kaitiaki, and protecting its values, interests and customary resources. Ngāi Tahu's values, interests and customary resources in this context do not extend to the commercial interests of companies owned or controlled by Ngāi Tahu.

5.2

Ngāi Tahu¹ / Kāi Tahu

Introduction

Tangata whenua are the iwi or hapū that holds Manawhenua in a particular area. Ngāi Tahu are Manawhenua of the Queenstown Lakes District. Although Waitaha were the first people of Te Wai Pounamu (the South Island), Kāti Māmoe and then Ngāi Tahu followed². Through warfare, intermarriage and political alliances a common allegiance to Ngāi Tahu was forged. Ngāi Tahu means the 'people of Tahu', linking them by name to their common ancestor Tahu Pōtiki. The Ngāi Tahu tribal area extends from the sub Antarctic islands in the south to Te Parinuiowhiti (White Cliffs, Blenheim) in the north and to Kahurangi Point on Te Tai o Poutini (the West Coast).

Ngāi Tahu Associations with Queenstown-Lakes District

Waitaha, Kāti Mamoe and Ngāi Tahu, nowadays collectively referred to as Ngāi Tahu, are a network of peoples closely connected by whakapapa, trade and their shared history who constantly traversed Te Wai Pounamu. Tūpuna had considerable knowledge of traditional trails, places for gathering food and other taonga, ways in which to use the resources of the land, the relationship of people with the land and their dependence on it, and tikanga for the proper and sustainable utilisation of resources. All of these values remain important to Ngāi Tahu today.

Ngāi Tahu have centuries' long customary associations and rights and interest in the Queenstown Lakes District and its resources. These associations are both historical and contemporary and include whakapapa, place names, mahinga kai, tribal economic development and landholdings. Ngāi Tahu has the customary authority to make decisions concerning the resources and places in their takiwā in accordance with Ngāi Tahu resource management traditions.

Traditionally the Lakes region of Otago has been important to Ngāi Tahu whānui. Hapū would travel to pre-determined sites throughout the region to gather mahinga kai resources for their own use, as well as for trade. The hunting of birds, eels, the digging of fern root and ti root, and the gathering of taramea, and precious stone resources such as pounamu and silcrete, were the main focus of activity.

Ngāi Tahu had permanent and seasonal kāinga (villages and campsites) around the interior lakes Whakatipu Wai Māori, Wānaka and Hāwea. A number of Māori ara tawhito (trails) traversed the inland area of what is now the Queenstown Lakes District.

The routes went inland from the coastal settlements of Otago and Southland up the valleys and passes, and returned following the waterways.

1. *In the south of the South Island, the local Māori dialect uses a 'k' interchangeably with 'ng'.*
2. *The term Ngāi Tahu whānui encompasses Waitaha, Kāti Māmoe and Ngāi Tahu*

The naming of the land and linking of the tribal whakapapa to the land and resources is the essence of the tino rangatiratanga Ngāi Tahu enjoys over the whenua.

Ngāi Tahu has maintained its associations with the Queenstown Lakes District and continues to develop its economy through investment in tourism, landholdings and mahinga kai initiatives. Artworks, interpretation, stories and place names continue to reflect Ngāi Tahu's contemporary identity in the built and natural environment.

Manawhenua hold traditional customary rights and maintain contemporary relationships within an area determined by whakapapa (genealogical ties), resource use and ahikāroa (the long burning fires of occupation). These rights are traceable and defined by tradition, whakapapa and practice. Papatipu Rūnanga are the focus for whānau and hapū (extended family groups) who have Manawhenua status within their area.

Queenstown Lakes District Council acknowledges the special relationship Ngāi Tahu has with the District through the Treaty partnership.

Te Rūnanga o Ngāi Tahu and the Papatipu Rūnanga

Te Rūnanga o Ngāi Tahu (the iwi authority) is made up of 18 papatipu rūnanga.³ Located predominantly in traditional coastal settlements, papatipu rūnanga are a focus for whānau and hapū (extended family groups) who have Manawhenua status within the Queenstown Lakes District. The papatipu rūnanga that have a shared interest in the Queenstown Lakes District are:

- a. Te Rūnanga o Moeraki;
- b. Kāti Huirapa Rūnaka ki Puketeraki;
- c. Te Rūnanga o Ōtākou;
- d. Hokonui Rūnaka;
- e. Te Rūnanga o Oraka-Aparima;
- f. Te Rūnanga o Awarua;
- g. Waihopai Rūnaka.

Ngāi Tahu Environmental Management

Ngāi Tahu do not see their existence as separate from Te Ao Tūroa (the natural world), but as an integral part of it. Through whakapapa (genealogy), all people and life forms descend from a common source. Whakapapa binds Ngāi Tahu to the mountains, forests and waters and the life supported by them, and this is reflected in traditional attitudes towards the natural world and resource management.

Whakawhanaungatanga (the process of establishing relationships) embraces whakapapa, through the relationship between people, and between people and the environment. The nature of these relationships determines people's rights and responsibilities in relation to the use and management of taonga of the natural world.

All things have the qualities of wairua (spiritual dimension) and mauri (essential life force, or life supporting capacity), are living

3. *These papatipu rūnanga were established as a result of the Te Rūnanga o Ngāi Tahu Act 1996, and hold the rights, interests and responsibilities to defined areas of land and waters within the Ngāi Tahu rohe.*

and have a genealogical relationship with each other. Mauri provides the common centre between the natural resources (taonga), the people or guardians who care for the taonga (the kaitiaki), and the management framework (tikanga) of how taonga are to be managed by the kaitiaki. It is through kawa (protocol) that the relationship between taonga, tikanga and kaitiakitanga is realised.

This political and operational authority over an area is undertaken by Manawhenua and encompasses kaitiakitanga and rangatiratanga.

Kaitiakitanga

Kaitiakitanga entails the active protection and responsibility for natural and physical resources by tangata whenua. To give effect to kaitiakitanga it is important to engage meaningfully with the appropriate papatipu rūnanga. Kaitiakitanga means “the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship.” This RMA definition of kaitiakitanga is, however, only a starting point for Ngāi Tahu, as kaitiakitanga is a much wider cultural concept than pure guardianship.

Kaitiakitanga is fundamental to the relationship between Ngāi Tahu and the environment. The responsibility of kaitiakitanga is twofold: first, there is the ultimate aim of protecting life supporting capacity and, secondly, there is the duty to pass the environment to future generations in a state that is as good as, or better than, the current state. To Ngāi Tahu, kaitiakitanga is not passive custodianship, nor is it simply the exercise of traditional property rights, but it entails an active exercise of rights and responsibilities in a manner beneficial to the resource. In managing the use, development, and protection of natural and physical resources, decision makers must have regard to kaitiakitanga.

Taonga

In the management of natural resources, it is important that the habitats and wider needs of taonga are protected and sustainably managed and enhanced.

All natural resources - air, land, water, and indigenous biodiversity - are taonga. Taonga are treasures, things highly prized and important to Ngāi Tahu, derived from the atua (gods) and left by the tūpuna (ancestors) to provide and sustain life. Taonga include sites and resources such as wāhi tapu, tauranga waka and kai mataitai, other sites for gathering food and cultural resources, tribally significant landforms, features and cultural landscapes (wāhi tūpuna). Taonga may also be intangible, such as tikanga and te reo (Maori language). All taonga are part of the cultural and tribal identity of an iwi.

The protection of the relationship of tangata whenua and their taonga is included in Article II of the Treaty of Waitangi, Section 6(e) of the RMA, and more recently the Ngāi Tahu Claims Settlement Act 1998.

To ensure taonga are available for future generations, resource management decision-making processes need to recognise tikanga (Maori protocol and customs) and have the conservation and sustainability of resources as their focus.

Mahinga Kai

Mahinga kai is one of the cornerstones of Ngāi Tahu cultural identity. Mahinga kai is a term that refers to the customary gathering of food and natural materials and the places where those resources are gathered or sourced. The term also embodies the traditions, customs and collection methods, and the gathering of natural resources for cultural use, including raranga (weaving) and rongoā (traditional medicines). Maintaining mahinga kai sites, gathering resources, and continuing to practice the tikanga that governs each resource, is an important means of passing on cultural values and matauranga Maori (traditional knowledge) to the next generation.

Wāhi tūpuna

Wāhi tūpuna are landscapes and places that embody the relationship of Ngāi Tahu and their culture and traditions with their ancestral lands, water, sites, wahi tapu and other taonga. The term refers to places that hold the respect of the people in accordance with tikanga.

In addition to urupā, physical resources such as landforms, mountains and ranges, remaining areas of indigenous vegetation, springs, and waterways are examples of wāhi tapu.

Ngāi Tahu Claims Settlement Act 1998

In 1998, after years of negotiations between Ngāi Tahu and the Crown to mitigate and remedy breaches of the Treaty of Waitangi, the Ngāi Tahu Claims Settlement Act was enacted. The Act includes a number of mechanisms that are to be implemented through the Resource Management Act to recognise and provide for areas and species of particular importance to Ngāi Tahu including Statutory Acknowledgements, tōpuni, nohoanga and taonga species.

The Ngāi Tahu Claims Settlement Act 1998 relates to remedying breaches of the Treaty of Waitangi and does not cover Maori Freehold and South Island Landless Natives Act lands.

Ngāi Tahu's rights and interests in the Queenstown Lakes District extend beyond the areas and resources identified as statutory redress. The effects on Ngāi Tahu values, rights and interests are addressed through the mechanisms below and the related provisions in the District Plan.

Statutory Acknowledgements

Statutory Acknowledgements recognise the special relationship Ngāi Tahu has with specific areas. The Council must have regard to Statutory Acknowledgements when considering resource consent applications and advise Ngāi Tahu of any application that may affect Statutory Acknowledgement areas.

Tōpuni

The concept of tōpuni comes from the traditional Ngāi Tahu custom of rangatira extending their mana over areas and people by placing their cloak over them.

Tōpuni are a public symbol of Ngāi Tahu Manawhenua and Rangatiratanga over some of the most prominent landscape features and conservation areas in Te Wai Pounamu. Tōpuni have been laid over 14 areas of public conservation land of significance to Ngāi Tahu.

Nohoanga

The term 'nohoanga' traditionally refers to the seasonal occupation sites which were an integral part of the mobile lifestyle of Ngāi Tahu. Contemporary nohoanga are identified seasonal or temporary campsites established adjacent to lakes and rivers to facilitate customary fishing and the gathering of other natural resources. They provide Ngāi Tahu with a means of experiencing the landscape as their tūpuna did, and promoting customary practices associated with mahinga kai.

Ngāi Tahu has the right to erect camping shelters or similar temporary dwellings on nohoanga during the statutory occupation period.

Taonga species

Ngāi Tahu has many taonga species that are recognised to have a cultural, spiritual, historic and traditional relationship. The species are integral to mahinga kai and nohoanga, and can be also used as tohu (or indicators in this context) of environmental health and Ngāi Tahu values, uses and associations. A list of these taonga species is given later in this chapter. Ngāi Tahu do not see this list of species as exhaustive.

5.3

Issues and Outcomes sought by Ngāi Tahu

Key environmental issues for tangata whenua in the Queenstown Lakes District identified in these plans include:

Issues

- Increasing land use intensification, especially increasing dairying and subdivision.
- Taonga species and related habitats.

Outcomes Sought

- Recognition and implementation of the cultural redress components of the Ngāi Tahu Claims Settlement Act 1998, especially around Statutory Acknowledgements, place names and nohoanga.
- Protection of wāhi tūpuna⁴ and all their components including wāhi tapu and mahinga kai.
- Provision for a strong Ngāi Tahu presence in the built environment

Iwi management plans are a primary tool to assist in identifying and addressing the issues of resource management significance to Ngāi Tahu. Ngāi Tahu recognises the following iwi management plans that relate to the Queenstown Lakes District:

- Kāi Tahu ki Otago Natural Resource Management Plans 1995 and 2005.
- Te Tangi a Taurira: The Cry of the People, the Ngāi Tahu ki Murihiku Iwi Management Plan for Natural Resources 2008.

5.4

Objectives and Policies

5.4.1 **Objective - Consultation with tangata whenua occurs through the implementation of the Queenstown Lakes District Plan.**

- | | |
|----------|---|
| Policies | <p>5.4.1.1 Ensure that Ngāi Tahu Papatipu Rūnanga are engaged in resource management decision-making and implementation on matters that affect Ngāi Tahu values, rights and interests, in accordance with the principles of the Treaty of Waitangi.</p> <p>5.4.1.2 Actively foster effective partnerships and relationships between the Queenstown Lakes District Council and Ngāi Tahu Papatipu Rūnanga.</p> |
|----------|---|

4. *Landscapes and places that embody the relationship of Ngāi Tahu and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.*

- 5.4.1.3** When making resource management decisions, ensure that functions and powers are exercised in a manner that takes into account⁶ iwi management plans.
- 5.4.1.4** Recognise that only tangata whenua can identify their relationship and that of their culture and traditions with their ancestral lands, water sites, wāhi tapu, tōpuni and other taonga.

5.4.2 Objective - Ngāi Tahu have a presence in the built environment

- Policies
- 5.4.2.1** Collaborate with Ngāi Tahu in the design of the built environment including planting, public spaces, use of Ngāi Tahu place names and interpretive material.

5.4.3 Objective - Ngāi Tahu taonga species and related habitats are protected.

- Policies
- 5.4.3.1** Where adverse effects on taonga species and habitats of significance to Ngāi Tahu cannot be avoided, remedied or mitigated, consider environmental compensation as an alternative.

5.4.4 Objective - The sustainable use of Māori land.

- Policies
- 5.4.4.1** Enable Ngāi Tahu to protect, develop and use Māori land in a way consistent with their culture and traditions, and economic, cultural and social aspirations including papakainga housing.

5.4.5 Objective - Wāhi tūpuna and all their components are appropriately managed and protected.

- Policies
- 5.4.5.1** Identify wāhi tūpuna and all their components on the District Plan maps in order to facilitate their protection from adverse effects of subdivision, use and development.
 - 5.4.5.2** Pending their identification on the District Plan maps, encourage direct consultation with tangata whenua when iwi management plans indicate that proposals may adversely affect sites of cultural significance.
 - 5.4.5.3** Identify threats to wāhi tūpuna and their components in this District Plan.
 - 5.4.5.4** Enable Ngāi Tahu to provide for its contemporary uses and associations with wāhi tūpuna.
 - 5.4.5.5** Avoid where practicable, adverse effects on the relationship between Ngāi Tahu and the wāhi tūpuna.

5.5

Methods

When making resource management decisions, ensure that the following are recognised and provided for:

Matters of significance to Ngāi Tahu	Implementation method
Ngāi Tahu customary uses and practices relating to natural resources.	Map areas where customary uses are occurring and list threats to them (including loss of access).
Providing for the role of Ngāi Tahu as kaitiaki of natural resources within their rohe.	Through District Plan provisions triggering consultation.
Māori environmental health and wellbeing.	On a case by case basis.
Identify, recognise and protect landscapes and places that embody the relationship of Ngāi Tahu and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.	Identified in the District Plan through mapping, identification of threats, and through provisions that protect the relationship of Ngāi Tahu with wāhi tūpuna.
Preservation of Ngāi Tahu's use of nohoanga sites, and their settings and values, for their intended purpose, including vehicle and pedestrian access onto the sites and to adjacent waterbodies.	Nohoanga sites be mapped in the District Plan, with corresponding provisions to preserve the use of and access to nohoanga for their intended purpose to the extent that is enjoyed by Ngāi Tahu.
Activities creating sedimentation and the clearance of vegetation in or adjacent to water bodies including lakes, rivers, wetlands and tarns.	Consultation with Ngāi Tahu where these activities impact on waterbodies.
Subdivision of land adjacent to waterbodies. Subdivision within mapped wāhi tūpuna.	Consultation with Ngāi Tahu where subdivision impacts on wāhi tūpuna or waterbodies.
Only allow locations for cemeteries, urupā, crematoria, landfills and wastewater treatment plants, where any adverse effects on the relationship between Ngāi Tahu and sites of cultural importance to them are avoided or if avoidance is not possible, are no more than minor.	Consultation with Ngāi Tahu is required where cemeteries, urupā, crematoria, landfills and wastewater treatment plants are proposed within the Queenstown Lakes District.
Protection and/or restoration of taonga species and their habitats.	Ngāi Tahu will develop a schedule of taonga species and map related habitats.

5.6

Glossary

Ahi kā	Continued occupation according to the customary law of Māori tenure (“keeping the fires burning”).
Ara Tawhito	Trails and routes. A network of trails crossed the region linking the permanent villages with seasonal inland campsites and the coast, providing access to a range of mahika kai resources and inland stone resources, including pounamu and silcrete.
Hapū	Sub-tribe, extended whanau.
Iwi	Tribe.
Ngāi Tahu	The collective of individuals who descend from Ngāi Tahu, Kāti Māmoe and Waitaha who are Manawhenua in the Queenstown Lakes District.
Kaitiaki	Guardian.
Kaitiakitanga	The exercise of customary custodianship, in a manner that incorporates spiritual matters, by tangata whenua who hold Manawhenua status for a particular area or resource.
Ki Uta Ki Tai	Mountains to the sea.
Mahinga Kai	Mahinga kai refers to the gathering of food and natural materials, the places where those resources are sourced, and the traditions, customs and collection methods. Mahinga kai remains one of the cornerstones of Ngāi Tahu culture.
Manawhenua	Those who exercise customary authority or rangatiratanga.
Mauri	Life supporting capacity.
Maunga	Important mountains. Mountains are of great cultural importance to Ngāi Tahu. Many are places of spiritual presence, and prominent peaks in the District are linked to Ngāi Tahu creation stories, identity and mana.
Mōkihi	Raft made of bundles of raupō, flax stalks or rushes. These were used to navigate the inland lakes and rivers.
Nohoaka/ Nohoanga	A network of seasonal settlements. Ngāi Tahu were based largely on the coast in permanent settlements, and travelled inland on a seasonal basis. Iwi history shows, through place names and whakapapa, continuous occupation of a network of seasonal settlements, which were distributed along the main river systems from the source lakes to the sea.
Papakāinga	Permanent settlement or settlement on traditional land.
Papatipu Rūnaka/Rūnanga	Local Manawhenua representative group or community system of representation.
Pounamu	Nephrite, greenstone, jade.
Rāhui	Restriction on access to a specific resource for a particular time.
Rangātiratanga	Chieftainship, decision-making rights.
Repo Raupo	Wetlands or swamps. These provide valuable habitat for taonga species and mahinga kai resources.
Rohe	Boundary.
Tangata whenua	The iwi or hapū that holds mana whenua in a particular area.
Takiwā	Area, region, district.

Te Ao Tūroa	The natural environment
Tikanga	Lore and custom, customary values and practices.
Tōpuni	Named for the Tōpuni cloak worn by Ngāi Tahu rangatira.
Tuhituhi neherā	Rock art.
Tūpuna/tīpuna	Ancestor.
Umu-tī	Earth oven used for cooking tī kōuka (cabbage tree). These are found in a diversity of areas, including old stream banks and river terraces, on low spurs or ridges, and in association with other features, such as nohoaka/ nohoanga.
Urupā	Burial place.
Wāhi kōhatu	Rock outcrops. Rock outcrops provided shelters and were intensely occupied by Māori from the moa-hunter period into early European settlement during seasonal hikoī. Tuhituhi neherā may be present.
Wāhi taonga	Resources, places and sites treasured by tangata whenua. These valued places reflect the long history and association of Ngāi Tahu with the Queenstown Lakes District.
Wāhi Tapu	Places sacred to tangata whenua.
Wāhi tohu	Features used as location markers within the landscape. Prominent landforms formed part of the network of trails along the coast and inland. These acted as fixed point locators in the landscape for travellers and are imbued with history.
Wāhi Tūpuna	Landscapes and places that embody the relationship of manawhenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.
Wāi Māori	Freshwater areas valued by Ngāi Tahu including wai puna (springs), roto (lakes) and awa (rivers).
Wairua	Life principle, spirit.
Wānaka/ Wānanga	Customary learning method.
Whakapapa	Genealogy.
Whānau	Family.

5.7

Ngāi Tahu Taonga Species

Birds		
Name in Māori	Name in English	Scientific Name
Hoiho	Yellow-eyed penguin	<i>Megadyptes antipodes</i>
Kāhu	Australasian harrier	<i>Circus approximans</i>
Kākā	South Island kākā	<i>Nestor meridionalis meridionalis</i>
Kākāpō	Kākāpō	<i>Strigops habroptilus</i>
Kākāriki	New Zealand parakeet	<i>Cyanoramphus spp.</i>
Kakaruai	South Island robin	<i>Petroica australis australis</i>

Kaki	Black stilt	<i>Himantopus novaeseelandiae</i>
Kāmana	Crested grebe	<i>Podiceps cristatus</i>
Kārearea	New Zealand falcon	<i>Falco novaeseelandiae</i>
Karoro	Black backed gull	<i>Larus dominicanus</i>
Kea	Kea	<i>Nestor notabilis</i>
Kōau	Black shag	<i>Phalacrocorax carbo</i>
	Pied shag	<i>Phalacrocorax varius varius</i>
	Little shag	<i>Phalacrocorax melanoleucos brevirostris</i>
Koekoeā	Long-tailed cuckoo	<i>Eudynamys taitensis</i>
Kōparapara or Korimako	Bellbird	<i>Anthornis melanura melanura</i>
Kororā	Blue penguin	<i>Eudyptula minor</i>
Kōtare	Kingfisher	<i>Halcyon sancta</i>
Kōtuku	White heron	<i>Egretta alba</i>
Kōwhiowhio	Blue duck	<i>Hymenolaimus malacorhynchos</i>
Kūaka	Bar-tailed godwit	<i>Limosa lapponica</i>
Kūkupa/Kererū	New Zealand wood pigeon	<i>Hemiphaga novaeseelandiae</i>
Kuruwhengu/Kuruwhengi	New Zealand shoveller	<i>Anas rhynchos</i>
Mātātā	South Island Fernbird	<i>Bowdleria punctata punctata</i>
	Stewart Island Fernbird	<i>Bowdleria punctata Stewartiana</i>
	Codfish Island Fernbird	<i>Bowdleria punctata wilsoni</i>
	Snares Fernbird	<i>Bowdleria punctata caudata</i>
Matuku moana	Reef heron	<i>Egretta sacra</i>
Miromiro	South Island tomtit	<i>Petroica macrocephala macrocephala</i>
Miromiro	Snares Island tomtit	<i>Petroica macrocephala dannefaerdi</i>
Mohua	Yellowhead	<i>Mohoua ochrocephala</i>
Pākura/Pūkeko	Swamp hen/Pūkeko	<i>Porphyrio porphyrio</i>
Pārera	Grey duck	<i>Anas superciliosa</i>
Pateke	Brown teal	<i>Anas aucklandica</i>
Pīhoihoi	New Zealand pipit	<i>Anthus novaeseelandiae</i>
Pīpīwharau	Shining cuckoo	<i>Chrysococcyx lucidus</i>
Pīwakawaka	South Island fantail	<i>Rhipidura fuliginosa fuliginosa</i>
Poaka	Pied stilt	<i>Himantopus himantopus</i>
Pokotiwaha	Snares crested penguin	<i>Eudyptes robustus</i>
Pūtakitaki	Paradise shelduck	<i>Tadorna variegata</i>
Riroriro	Grey warbler	<i>Gerygone igata</i>

Roroa	Great spotted kiwi	<i>Apteryx haastii</i>
Rowi	Ōkārito brown kiwi	<i>Apteryx mantelli</i>
Ruru koukou	Morepork	<i>Ninox novaeseelandiae</i>
Tākāhe	Tākāhe	<i>Porphyrio mantelli</i>
Tara	Terns	<i>Sterna spp.</i>
Tawaki	Fiordland crested penguin	<i>Eudyptes Pachyrhynchus</i>
Tete	Grey teal	<i>Anas gracilis</i>
Tieke	South Island saddleback	<i>Philesturnus carunculatus carunculatus</i>
Titī	Sooty shearwater	<i>Puffinus griseus and</i>
	Muttonbird/Hutton's shearwater	<i>Puffinus huttoni and</i>
	Common diving petrel	<i>Pelecanoides urinatrix and</i>
	South Georgian diving petrel	<i>Pelecanoides georgicus and</i>
	Westland petrel	<i>Procellaria westlandica and</i>
	Fairy prion	<i>Pachyptila turtur and</i>
	Broad billed prion	<i>Pachyptila vittata and</i>
	White-faced storm petrel	<i>Pelagodroma marina and</i>
	Cook's petrel	<i>Pterodroma cookii and</i>
	Mottled petrel	<i>Pterodroma inexpectata</i>
Tititipounamu	South Island rifleman	<i>Acanthisitta chloris chloris</i>
Tokoeka	South Island brown kiwi	<i>Apteryx australis</i>
Toroa	Albatrosses and Mollymawks	<i>Diomedea spp.</i>
Toutouwai	Stewart Island robin	<i>Petroica australis rakiura</i>
Tūī	Tūī	<i>Prothemadera novaeseelandiae</i>
Tutukiwi	Snares Island snipe	<i>Coenocorypha</i>
aucklandica huegeli		
Weka	Western weka	<i>Gallirallus australis australis</i>
Weka	Stewart Island weka	<i>Gallirallus australis scotti</i>
Weka	Buff weka	<i>Gallirallus australis hectori</i>

Plants		
Name in Māori	Name in English	Scientific Name
Akatorotoro	White Rata	<i>Metrosideros perforata</i>
Aruhe	Fernroot (bracken)	<i>Pteridium aquilinum var. esculentum</i>
Harakeke	Flax	<i>Phormium tenax</i>

Horoekea	Lancewood	<i>Pseudopanax crassifolius</i>
Houhi	Mountain ribbonwood	<i>Hoheria lyalli</i> and <i>H glabata</i>
Kahikatea	Kahikatea / White pine	<i>Dacrycarpus dacrydioides</i>
Kāmahi	Kāmahi	<i>Weinmannia racemosa</i>
Kānuka	Kānuka	<i>Kunzia ericoides</i>
Kāpuka	Broadleaf	<i>Griselinia littoralis</i>
Karaeopirita	Supplejack	<i>Ripogonum scandens</i>
Karaka	New Zealand laurel/Karaka	<i>Corynocarpus laevigata</i>
Karamū	Coprosma	<i>Coprosma robusta</i> , <i>Coprosma lucida</i> , <i>Coprosma foetidissima</i>
Kātote	Tree fern	<i>Cyathea smithii</i>
Kiekie	Kiekie	<i>Freycinetia baueriana</i> subsp. <i>banksii</i>
Kōhia	NZ Passionfruit	<i>Passiflora tetrandra</i>
Korokio	Korokio Wirenetting bush	<i>Corokia cotoneaster</i>
Koromiko/Kōkōmuka	Koromiko	<i>Hebe salicifolia</i>
Kōtukutuku	Tree fuchsia	<i>Fuchsia excorticata</i>
Kōwahi Kōhai	Kōwahi	<i>Kowhai Sophora microphylla</i>
Mamaku	Tree fern	<i>Cyathea medullaris</i>
Mānia	Sedge	<i>Carex flagellifera</i>
Mānuka Kahikātoa	Tea-tree	<i>Leptospermum scoparium</i>
Māpou	Red Matipo	<i>Myrsine australis</i>
Mataī	Mataī / Black Pine	<i>Prumnopitys taxifolia</i>
Miro	Miro/Brown pine	<i>Podocarpus ferrugineus</i>
Ngaio	Ngaio	<i>Myoporum laetum</i>
Nīkau	New Zealand palm	<i>Rhopalostylis sapida</i>
Pānako	(Species of fern)	<i>Asplenium obtusatum</i>
Pānako	(Species of fern)	<i>Botrychium australe</i> and <i>B. biforme</i>
Pātōtara	Dwarf mingimingi	<i>Leucopogon fraseri</i>
Pīngao	Pīngao	<i>Desmoschoenus spiralis</i>
Pōkākā	Pōkākā	<i>Elaeocarpus hookerianus</i>
Ponga/Poka	Tree fern	<i>Cyathea dealbata</i>
Rātā	Southern rātā	<i>Metrosideros umbellata</i>
Raupō	Bulrush	<i>Typha angustifolia</i>
Rautāwhiri/Kōhūhū	Black matipo/Māpou	<i>Pittosporum tenuifolium</i>
Rimu	Rimu/Red pine	<i>Dacrydium cypressinum</i>

Rimurapa	Bull kelp	<i>Durvillaea antarctica</i>
Taramea	Speargrass, spaniard	<i>Aciphylla spp.</i>
Tarata	Lemonwood	<i>Pittosporum eugenoides</i>
Tawai	Beech	<i>Nothofagus spp.</i>
Tētēaweka	Muttonbird scrub	<i>Olearia angustifolia</i>
Ti rākau/Ti Kōuka	Cabbage tree	<i>Cordyline australis</i>
Tikumu	Mountain daisy	<i>Celmisia spectabilis and C semicordata</i>
Titoki	New Zealand ash	<i>Alectryon excelsus</i>
Toatoa	Mountain Toatoa, Celery pine	<i>Phyllocladus alpinus</i>
Toetoe	Toetoe	<i>Cortaderia richardii</i>
Tōtara	Tōtara	<i>Podocarpus totara</i>
Tutu	Tutu	<i>Coriaria spp.</i>
Wharariki	Mountain flax	<i>Phormium cookianum</i>
Whīnau	Hīnau	<i>Elaeocarpus dentatus</i>
Wī	Silver tussock	<i>Poa cita</i>
Wīwī	Rushes	<i>Juncus all indigenous Juncus spp. and J. maritimus</i>

Fish		
Name in Māori	Name in English	Scientific Name
Koeke	Common shrimp	<i>Palaemon affinis</i>
Kokopu/Hawai	Giant bully	<i>Gobiomorphus gobioides</i>
Kowaro	Canterbury mudfish	<i>Neochanna burrowsius</i>
Paraki/Ngaiore	Common smelt	<i>Retropinna retropinna</i>
Piripiripohatu	Torrentfish	<i>Cheimarrichthys fosteri</i>
Taiwharu	Giant kokopu	<i>Galaxias argenteus</i>

5.8

Ngāi Tahu Claims Settlement Act 1998 Cultural Redress Provisions

Cultural Redress elements of the Ngai Tahu Claims Settlement Act provided Ngai Tahu with an ability to express its traditional relationships with the natural environment and to exercise its Kaitiaki responsibilities. This ability is given practical effect through Statutory Acknowledgements, Nohoanga and Topuni.

The Statutory Acknowledgements within or adjunct to Queenstown Lakes are:

- a. Lake Hāwea;
- b. Lake Wanaka;
- c. Whakatipu-wai-māori (Lake Wakatipu);
- d. Mata-au (Clutha River);
- e. Pikirakatahi (Mount Earnslaw);
- f. Tititea (Mount Aspiring).

Nohoanga located in the Queenstown Lakes District are:

- a. Hāwea River – (Albert Town Recreation Reserve);
- b. Lake Hāwea – (Adjoining Hawea Camping Ground);
- c. Lake Hāwea – (Western Shore);
- d. Lake Hāwea – (Timaru Creek);
- e. Lake Wakatipu - (Wye Creek);
- f. Lake Wānaka – (Waterfall Creek);
- g. Lake Wānaka – (Dublin Bay);
- h. Shotover River, - (Māori Point);
- i. Shotover River - (Tuckers Beach).

The Tōpuni located in the Queenstown Lakes District are:

- a. Tititea (Mt Aspiring)
- b. Pikirakatahi (Mt Earnslaw)
- c. Te Koroka (Dart/Slipstream)

Appendix 3: Recommendations on Submissions and Further Submissions

Original Point No	Submitter	Commissioner Recommendation	Report Reference
19.4	Kain Fround	Accept in Part	4.3
21.1	Alison Walsh	Accept in Part	General
21.2	Alison Walsh	Accept in Part	General
21.24	Alison Walsh	Accept in Part	3.2
21.3	Alison Walsh	Accept in Part	2.2-2.6
21.37	Alison Walsh	Accept in Part	General
21.4	Alison Walsh	Accept in Part	2.3
21.5	Alison Walsh	Accept	N/A
21.6	Alison Walsh	Accept	2.4
21.7	Alison Walsh	Accept	2.4
21.8	Alison Walsh	Accept in Part	2.6
42.1	J, E & ML Russell & Stiassny	Accept in Part	2.6
86.1	Jeff Aldridge	Accept in Part	General
115.1	Florence Micoud	Accept in Part	2.1
145.1	Upper Clutha Environmental Society (Inc)	Accept in Part	2.6
145.17	Upper Clutha Environmental Society (Inc)	Reject	2.5
197.1	Jeffrey Hylton	Reject	2
197.19	Jeffrey Hylton	Reject	General
197.2	Jeffrey Hylton	Accept in Part	2.2-2.6
197.3	Jeffrey Hylton	Accept in Part	2.3
197.4	Jeffrey Hylton	Accept	N/A
197.5	Jeffrey Hylton	Reject	2.4
197.6	Jeffrey Hylton	Accept in Part	2.5
199.8	Craig Douglas	Accept in Part	3.2
243.2	Christine Byrch	Accept in Part	2.1
243.3	Christine Byrch	Accept	2.5
300.1	Rob Jewell	Accept in Part	General

Original Point No	Submitter	Commissioner Recommendation	Report Reference
335.4	Nic Blennerhassett	Accept in Part	General
339.1	Evan Alty	Reject	2
380.10	Villa dellLago	Accept in Part	4.2
380.11	Villa dellLago	Accept in Part	4.5
380.12	Villa dellLago	Accept in Part	4.5
380.13	Villa dellLago	Accept	4.8
380.9	Villa dellLago	Accept in Part	4.2
519.22	New Zealand Tungsten Mining Limited	Reject	3.3
519.22	NZ Tungsten Mining	Reject	3.3
600.3	Federated Farmers of New Zealand	Accept in Part	2.2
600.38	Federated Farmers of New Zealand	Accept in Part	3.2
600.40	Federated Farmers of New Zealand	Accept in Part	4.2
600.41	Federated Farmers of New Zealand	Reject	4.4
607.20	Te Anau Developments Limited	Reject	3.3
607.21	Te Anau Developments Limited	Reject	3.4
615.19	Cardrona Alpine Resort Limited	Reject	3.3
615.20	Cardrona Alpine Resort Limited	Reject	3.4
621.20	Real Journeys Limited	Reject	3.3
621.21	Real Journeys Limited	Reject	3.4
621.22	Real Journeys Limited	Reject	4.5
621.23	Real Journeys Limited	Reject	4.5
621.24	Real Journeys Limited	Accept in Part	4.5
621.25	Real Journeys Limited	Reject	4.5
663.7	IHG Queenstown Ltd and Carter Queenstown Ltd	Reject	4.9
672.7	Watertight Investments Ltd	Reject	4.9
711.4	Richard Lawrie Hewitt	No recommendation required	N/A
719.1	Tony MacColl	Accept	2.6

Original Point No	Submitter	Commissioner Recommendation	Report Reference
805.1	Transpower New Zealand Limited	Accept in Part	2.3
805.2	Transpower New Zealand Limited	Accept in Part	2.5
805.3	Transpower New Zealand Limited	Accept in Part	2.5
805.39	Transpower New Zealand Limited	Accept in Part	4.5
806.47	Queenstown Park Limited	Accept in Part	3.3, 3.4
806.47	Queenstown Park Limited	Reject	3.3,3.4
807.62	Remarkables Park Limited	Accept in Part	3.2-3.4
810.1	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept in Part	General
810.12	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
810.13	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept	General
810.14	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
810.15	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept in Part	4.3
810.16	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept in Part	4.3
810.17	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept	4.1
810.18	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept in Part	4.3

Original Point No	Submitter	Commissioner Recommendation	Report Reference
810.19	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept	4.1
810.20	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.4
810.2	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept	4,1
810.21	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
810.22	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
810.23	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Accept in Part	4.1, 4.5
810.24	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
810.25	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
810.26	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.5
810.27	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
810.28	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o	Reject	4.1

Original Point No	Submitter	Commissioner Recommendation	Report Reference
	Otakou and Hokonui Runanga collectively Manawhenua		
810.34	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.9
810.8	Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua	Reject	4.1
817.1	Te Ao Marama Inc	Accept in Part	3.2-3.4
817.2	Te Ao Marama Inc	Accept in Part	General
817.3	Te Ao Marama Inc	N/A- Not seeking relief in relation to wording of PDP	

Further Submission No	Submitter	Submission Further Submission Relates to	Commissioner Recommendation	Report Reference
FS1012.12	Willowridge Developments Limited	42.1	Accept in Part	2.6
FS1015.58	Straterra	519.22	Reject	3.3
FS1034.3	Upper Clutha Environmental Society (Inc)	600.3	Accept in Part	2.2
FS1034.38	Upper Clutha Environmental Society (Inc.)	600.38	Accept in Part	3.2
FS1040.38	Forest and Bird	600.3	Accept in Part	2.2
FS1097.151	Remarkables Park Limited	339.1	Accept	2
FS1097.36	Remarkables Park Limited	145.17	Accept	2.5
FS1105.19	Cardrona Valley Residents and Ratepayers Society Inc	615.19	Reject	3.3
FS1105.20	Cardrona Valley Residents and Ratepayers Society Inc	615.20	Reject	3.4

Further Submission No	Submitter	Submission Further Submission Relates to	Commissioner Recommendation	Report Reference
FS1106.1	Chorus New Zealand Limited	145.17	Accept	2.5
FS1117.235	Remarkables Park Limited	600.38	Accept in Part	3.2
FS1117.46	Queenstown Park Limited	339.1	Accept	2
FS1137.20	Kay Curtis	615.19	Reject	3.3
FS1137.21	Kay Curtis	615.20	Reject	3.4
FS1139.8	Carl & Lorraine Holt	663.7	Accept	4.9
FS1157.51	Trojan Helmet Ltd	145.1	Accept in Part	2.6
FS1160.25	Otago Regional Council	817.1	Accept in Part	3.2-3.4
FS1162.1	James Wilson Cooper	145.1	Accept in Part	2.6
FS1162.17	James Wilson Cooper	145.17	Accept	2.5
FS1191.7	Adam & Kirsten Zaki	663.7	Accept	4.9
FS1208.1	Vodafone New Zealand Limited	145.17	Accept	2.5
FS1209.3	Richard Burdon	600.3	Accept in Part	2.2
FS1209.38	Richard Burdon	600.38	Accept in Part	3.2
FS1209.40	Richard Burdon	600.40	Accept in Part	4.2
FS1209.41	Richard Burdon	600.41	Reject	4.4
FS1224.2	Matakauri Lodge Limited	243.2	Accept in Part	2.1
FS1224.3	Matakauri Lodge Limited	243.3	Reject	2.5
FS1253.1	Spark New Zealand Trading Limited	145.17	Accept	2.5
FS1300.1	Wanaka Trust	42.1	Accept in Part	2.6
FS1313.61	Darby Planning LP	145.1	Accept in Part	2.6
FS1336.1	Peninsula Bay Joint Venture	145.17	Accept	2.5
FS1341.19	Real Journeys Limited	806.52	Accept in Part	4.5
FS1341.20	Real Journeys Limited	806.53	Accept in Part	4.5
FS1341.21	Real Journeys Limited	806.50	Accept in Part	4.5

Further Submission No	Submitter	Submission Further Submission Relates to	Commissioner Recommendation	Report Reference
FS1342.3	Te Anau Developments Limited	600.3	Accept in Part	2.2
FS1356.22	Cabo Limited	519.22	Accept	3.3