

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

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

Report 18.4 - Area B
Northern Basin

Commissioners

Denis Nugent (Chair)

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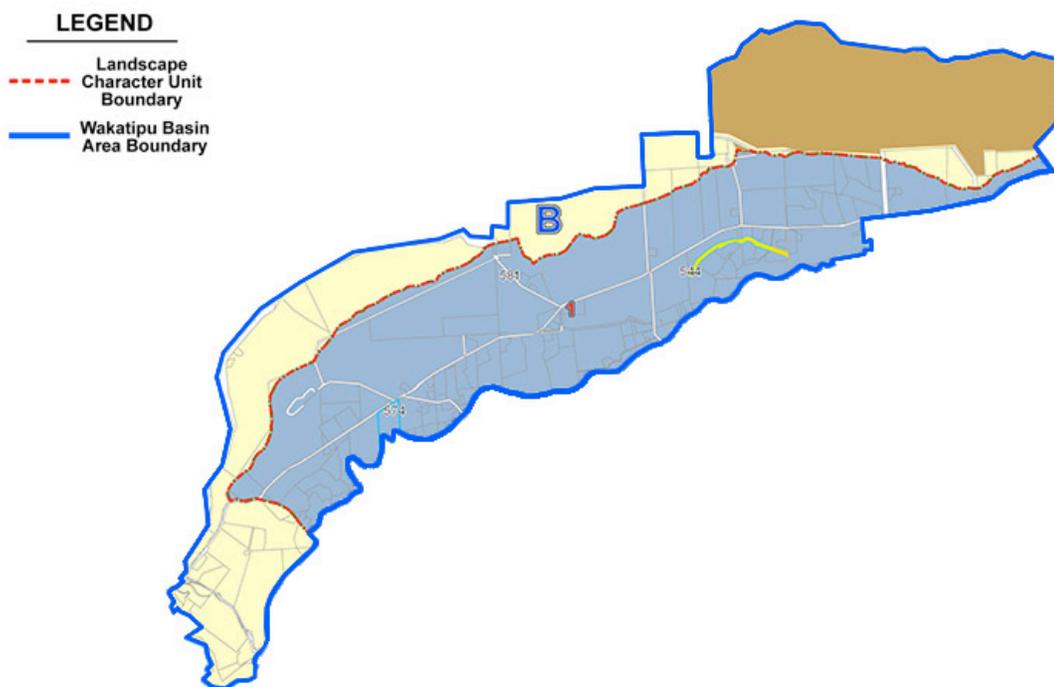
1. INTRODUCTION

1.1 Preliminary

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

1.2 Overview

4. This report deals with the area we have called Northern Basin. This area contains LCU 1 Malaghans Valley and the portion of land zoned Rural in Stage 1 identified as ONL running from the Shotover River and Arthurs Point along the face of Coronet Peak to the Arrowtown urban area. This area is shown on Figure 1 below.
5. As notified, LCU 1 was wholly zoned Rural Amenity, apart from a strip of Nature Conservation Zone, which applies to esplanade reserves adjacent to Mill Creek. At the eastern end of this area, the Coronet Forest, which is within the identified ONL, was rezoned in Stage 2. Submissions on that zoning have been dealt with in Stream 15.
6. Land use in this area is mainly rural, with some rural residential development occurring predominantly on the southern side of Malaghans Road. There are comparatively few approved building platforms that are yet to be built upon.
7. The notified version of Chapter 24 listed the capability of this area to absorb further development as very low.



Area B – Northern Basin

Figure 1 – the Northern Basin

1.3 Submissions covered in This Report

8. The first part of this report discusses the submissions relating to ONL boundaries and Landscape Feature lines; and the second part discusses the submissions relating to the zoning of the land.
9. This report includes the submission by M McGuinness¹, which relates to the property at 66 Dalefield Road. This property straddles the boundary of our Areas A and B. As this submission relates to land that it is mostly within our Area B, we have discussed it in this report. Although Mr Brown presented evidence for a group of submitters which included Mr McGuinness, no evidence was presented in support of the McGuinness submission seeking rezoning of this property. As the only evidence we received was that from Mr Langman and Ms Gilbert, which we accept, we recommend that submission be rejected.
10. This report does not address the submission of Hamilton & Hayden², which relates to a property at 55 Dalefield Road. This property straddles the boundary of LCU 1 Malaghans Valley and LCU 6 Wharehuanui Hills. This submission is discussed in Report 18.5: Area C - Central Basin.

¹ Submission 2292

² Submission 2422

2. OUTSTANDING NATURAL LANDSCAPE BOUNDARY AND LANDSCAPE FEATURE LINES

2.1 ONL Boundary Amendments Requested

11. Two submissions³ requesting amendments to the ONL boundary at Arthurs Point Basin, near the western end of Littles Road, were the subject of legal submissions or evidence.
12. Additionally, M McGuinness⁴ requested the removal of the Landscape Feature line from the property at 66 Dalefield Road. Again, Mr Brown, appearing in support of the McGuinness submission, presented no evidence in support of this specific submission. As the only evidence we received was that of Mr Langman and Ms Gilbert, we accept their reasoning and recommend the submission be rejected.

2.2 Submission 570 – Shotover Hamlet Investments Limited

13. This submission related to a 25.6 ha property on the southwest corner of the Littles Road-Arthurs Point Road intersection. The submitter sought that the upper (northern) part of the site be removed from the ONL and classified RCL. The submitter did not appear and no evidence was provided in support of the submission.
14. Ms Vanessa Robb appeared for Mr Robert Stewart⁵, a further submitter in opposition to Submission 570. She told us that the evidence produced by the Council did not support the change to the ONL boundary requested by the submitter. We agree with Ms Robb and recommend there be no change to the ONL boundary between Littles Road and the Shotover River and that Submission 570 be rejected.

2.3 Submission 526 - Michaela Meehan

15. This submission related to the location of the ONL boundary at the western end of the Wharehaunui Hills where there is a series of cliffs and rock faces above and east of Littles Road. The ONL boundary as notified followed a line from Littles Road to the south of the crest of the ridge before turning at right angles and running on a northwest-southeast line across the western end of the Northridge subdivision to meet Malaghans Road. The submission sought that the ONL boundary be moved west so that it ran along the top of the rocky cliffs in an almost constant north-south line, meeting Malaghans Road at the same point as the notified line.
16. Mr Patrick Baxter gave landscape evidence for Michaela Meehan. He contended that there was little logic to the notified ONL boundary. His conclusion was that the presence of houses, driveways and tree planting did not reflect the character of an ONL, which is open and natural landscape devoid of structures, with minimal modification and natural plant patterns.⁶ The ONL boundary as recommended by Mr Baxter is shown in yellow in Figure 2, below. The notified line is shown in red.

³ Submissions 526 and 570 (opposed by FS1297)

⁴ Submission 2292

⁵ FS1297

⁶ P. Baxter, EiC at paragraph 21

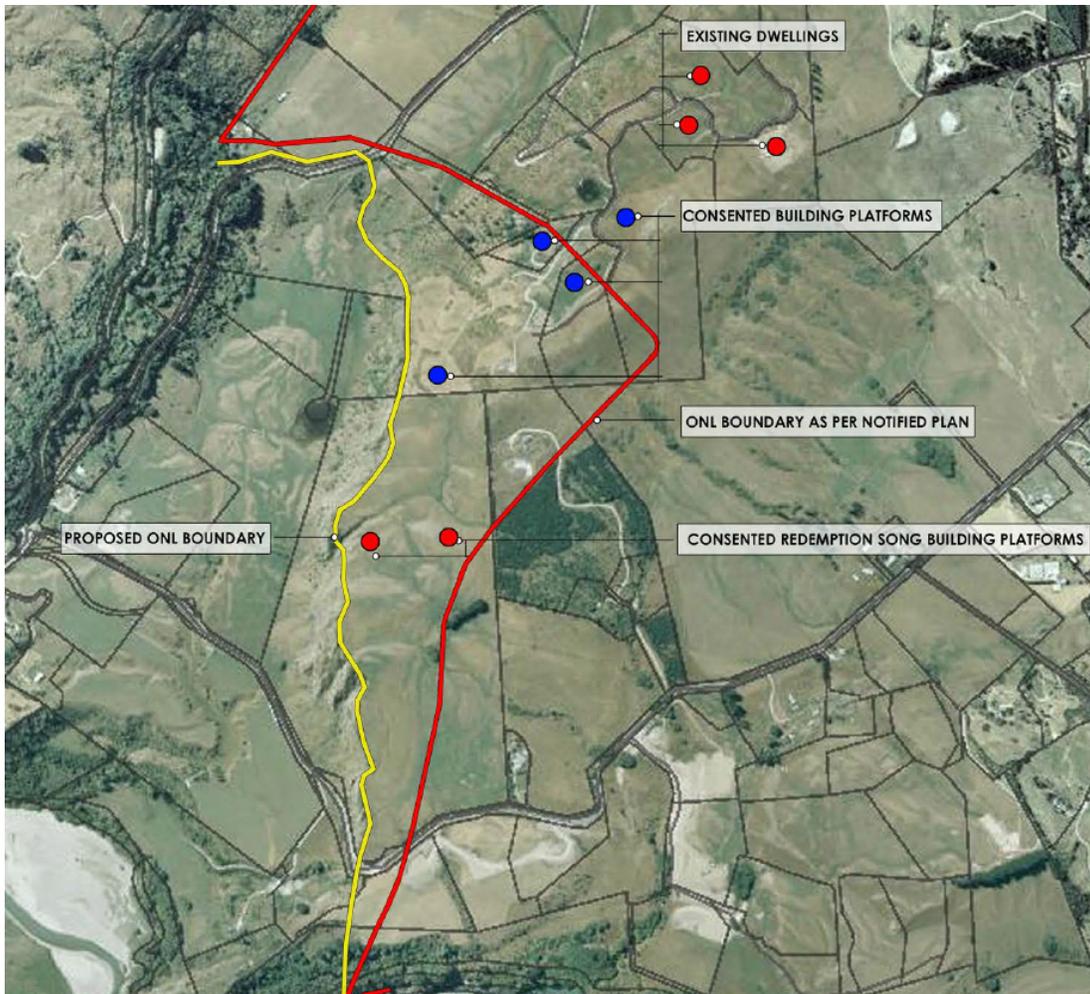


Figure 2 – Proposed ONL boundary, as per Attachment A of Mr Baxter’s Evidence in Chief

17. Ms Mellsoop disagreed with Mr Baxter. In her rebuttal evidence, she told us that the ONL boundary identified by the Environment Court⁷ remains valid. She considered the presence of additional development since the Court’s decision and assessed this as not having degraded the natural character or other landscape values of the land. She clarified in her rebuttal evidence that while she did not specifically mention the Meehan dwelling, she still maintained that this did not change her previous conclusions. She said:
‘... development since 2002 has not degraded the natural character or other landscape values of the land to the extent that it could no longer be considered part of an ONL.’⁸
18. Mr Goldsmith, legal counsel for Michaela Meehan, handed up a copy of plans and other materials from the Court’s 2002 decision⁹ suggesting that the landscape line in both the ODP and as notified in the PDP did not capture the location of the line the Court intended. Mr Goldsmith provided us with a map showing a dashed black line that would put two Northridge building platforms outside the ONL, as the Court intended. Mr Goldsmith told us that, even accepting that the notified ONL

⁷ *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* C3/2002 [2002] NZEnvC 11

⁸ H. Mellsoop, Rebuttal Evidence, at paragraph 8.2

⁹ *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* C3/2002 [2002] NZEnvC 11

boundary should be taken to be the location he had shown as dashed, there were no obvious ‘on the ground’ factors to justify that boundary. He also submitted that the approval of three additional residential building platforms or houses is a significant relevant factor¹⁰. In response to our questions, Mr Goldsmith provided further information in a memorandum dated 26 July 2018. He attached copies of the relevant resource consent decisions and appended a set of maps giving examples of land classified as a Rural Character Landscape and located between an ONL boundary and a zone boundary¹¹.

19. Ms Mellsop advised us in her Reply Evidence that Mr Goldsmith was correct and that the notified ONL boundary in the PDP did not correspond with the boundary shown in Environment Court decision C3/2002. She provided a map showing the ONL boundary determined in C3/2002 and her recommended ONL boundary (refer Figure 3, below). She drew our attention to the fact that part of the ONL boundary above Littles Stream also did not accord with the decision but advised there was no submission seeking to change this and therefore recommended no change to the notified ONL boundary at this location. We agree with Ms Mellsop that there is no scope to amend the ONL boundary to the position shown by the white line in Figure 3.

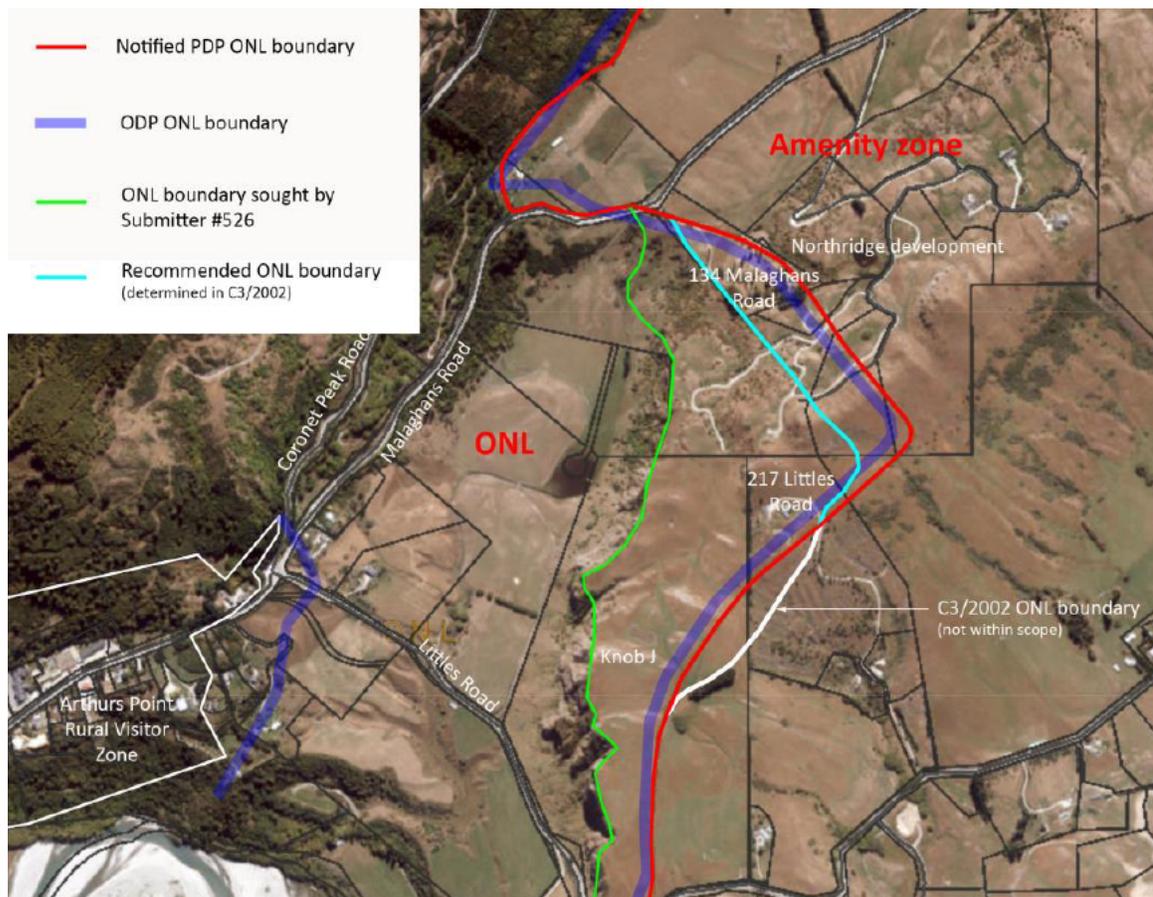


Figure 3 – Amended ONL boundary, as per Figure 4 of Ms Mellsop’s reply evidence

¹⁰ W. Goldsmith, Legal Submission, at [25(c)]

¹¹ W. Goldsmith, Memorandum on Submission 526 Michaela Meehan, dated 26 July 2018

20. Having read the resource consent decisions attached to Mr Goldsmith's memorandum¹², we note those decisions recorded that the consented development would not constitute inappropriate subdivision, use and development in section 6(b) terms. We further note that Policy 6.3.12 of the PDP contemplates development in ONLs in exceptional circumstances where the landscape can absorb the change and where the changes are reasonably difficult to see from beyond the boundary of the site. We rely on the evidence of Ms Mellsop that the consented buildings will not be visible from the valley below¹³. Thus, we find that the presence of the consented building platforms can be distinguished from the situation the Court faced, which prompted it to direct the ONL boundary be moved to skirt the Northridge development. The more recently consented building platforms do not therefore provide a reason to move the ONL boundary so as to place those building platforms outside of the ONL.
21. We agree with Ms Mellsop that it is appropriate to move the ONL boundary where it runs through the Northridge land so that it accords with the intent of the Environment Court decision in C3/2002. We note that we were rather surprised when undertaking our site visit to see that the notified ONL boundary ran through the middle of a building platform where a dwelling was under construction. We thank Mr Goldsmith for bringing this discrepancy to our attention.
22. We therefore find that the ONL boundary should be amended as shown on Figure 4 below and recommend the maps be amended accordingly. We recommend that Submission 526 be accepted in part.

¹² Ibid

¹³ H. Mellsop, Rebuttal Evidence at paragraph 8.2

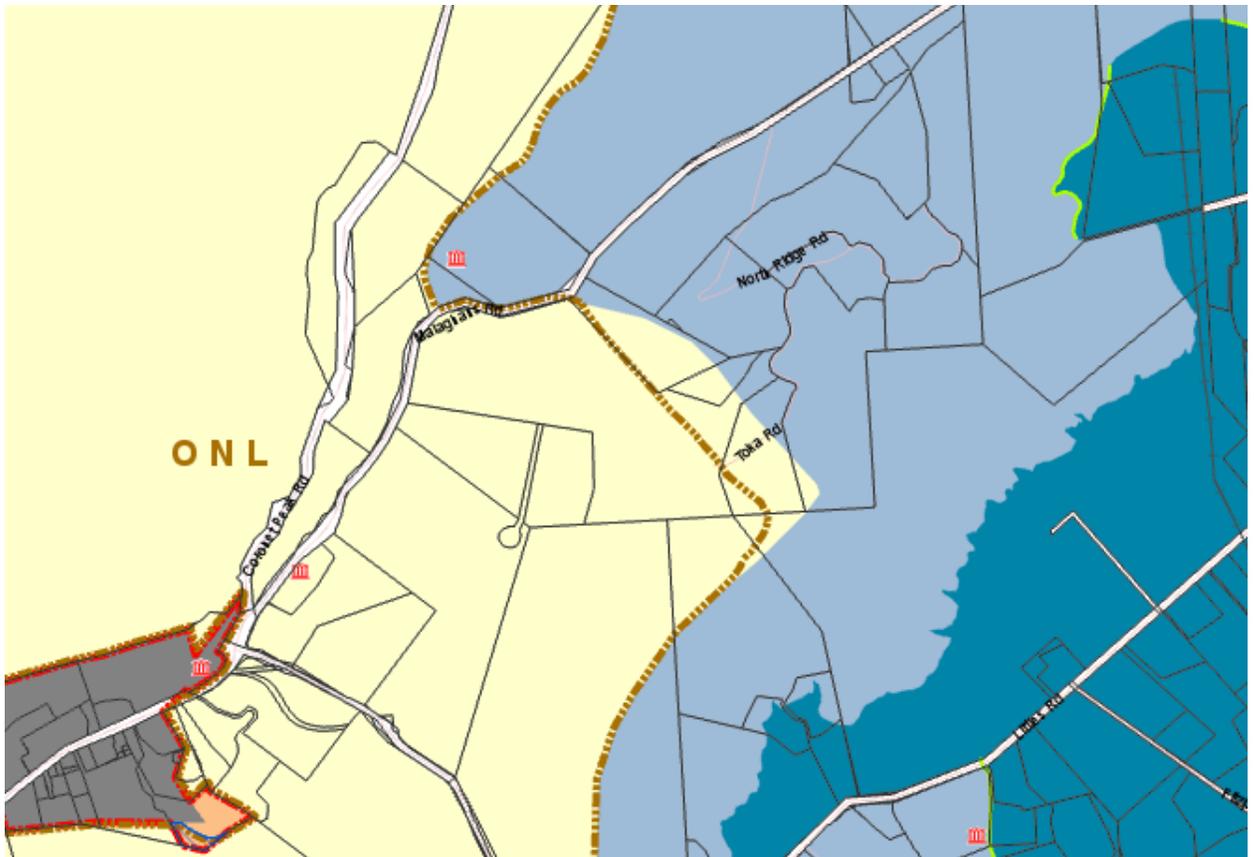


Figure 4: Recommended ONL Boundary

3. ZONING AMENDMENTS

23. Submission 526, discussed above, did not request any zone changes. We discussed with Mr Goldsmith the zoning situation that would result from moving the ONL boundary as sought. Mr Goldsmith told us that we did not have scope to extend the Rural Amenity Zone beyond the boundary of the land that is subject to Stage 2 as notified¹⁴. Mr Langman recommended in his reply evidence that land no longer in an ONL should remain Rural Zone, but a consequential amendment should be made to identify it as Rural Character Landscape. We have discussed the scope issue more generally in Section 2.6 of Report 18.1, but in summary we agree with Mr Langman. We therefore recommend that land retain the Rural Zone, as notified in Stage 1 and that any land zoned Rural that is no longer classified ONL is identified as Rural Character Landscape on the planning maps.
24. The only evidence we received in respect of the remainder of the zoning in this area was that of Mr Langman and Ms Mellsoy. We are satisfied, based on that evidence, that the Rural Amenity Zone and the Rural Zone as notified would implement the Strategic Direction of the PDP and our recommended objectives for Chapter 24.

¹⁴ W. Goldsmith, Memorandum on Submission 526 Michaela Meehan, dated 26 July 2018 at paragraph 12

4. OVERALL RECOMMENDATIONS

25. For the reasons given above, we recommend that:
- a. Submission 2292 by M McGuinness be rejected;
 - b. Submission 570 by Shotover Hamlet Investments Limited be rejected and Further Submission 1297 by Robert Stewart be accepted;
 - c. Submission 526 by Michaela Meehan be accepted in part;
 - d. The ONL boundary at the western end of Northridge be amended as shown in Figure 4 above;
 - e. All other ONL boundary lines and Escarpment, Ridgeline and River Cliff Feature lines in Area B be adopted as notified;
 - f. The Rural Amenity Zone and Rural Zone in Area B be adopted as notified.

For the Hearing Panel



Denis Nugent, Chair

Dated: 15 February 2019