

Full Council

27 November 2025

Report for Agenda Item | Rīpoata moto e Rāraki take [8]

Department: Planning & Development

Title | Taitara: Briefing and authorisation to seek approval from Minister for the Environment to progress the Upper Clutha Landscapes Schedules Variation

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to brief Councillors on the recently enacted “planstop” legislation and seek Council approval to apply to the Minister for the Environment for an exemption to continue to progress the Upper Clutha Landscapes Schedules Variation to the Proposed District Plan.

Executive Summary | Whakarāpopototaka Matua

This report presents three options for the next steps with the Upper Clutha Landscape Schedules Variation to the Proposed District Plan.

The Variation was notified on 15 November 2024. It is made up of two parts which include landscape schedules for 12 non-Priority Area Rural Character Landscapes and one landscape schedule for the Mata-au Clutha River Outstanding Natural Feature Priority Area¹(including maps).

The Resource Management (Consenting and Other System Changes) Amendment Act 2025 (**Amendment Act**) was passed into law on 20 August 2025. The Amendment Act includes new clauses in the Resource Management Act 1991 (**RMA**) that place tight parameters around councils’ ability to make changes to district plans until 31 December 2027. Central government’s intention is that this will provide the opportunity for Council staff to prepare for proposed changes to legislation and achieve greater efficiency for councils during the transition to new legislation that will replace the RMA.

The Amendment Act includes provision for exemptions to be granted by the Minister for the Environment (**Minister**)² for plan changes to continue, subject to meeting gateway criteria specified in the Amendment Act. Agreement from Council is sought to proceed with applying for an exemption for the Upper Clutha Landscape Schedules Variation to proceed.

¹ The Variation also makes minor amendments to Strategic Policy 3.3.36, the Preamble 21.23 and maps that accompany all landscape schedules.

² Whilst the application is required to be made to the Minister for the Environment, MfE staff have advised that the Minister for RM Reform has been assigned decision-making powers on exemption applications.

As the Upper Clutha Landscape Schedules Variation had already been notified³ (but not heard) when the Amendment Act was passed, it is classified as a 'proposed planning instrument'. Councils have until 15 January 2026 to either apply for exemptions to continue proposed planning instruments or withdraw them.

For all other QLDC plan changes that are subject to planstop, these are 'draft planning instruments' and exemptions can be sought until 31 December 2027. Plan changes that had already been heard when the Amendment Act was passed (including the Urban Intensification Variation) are not affected by the Amendment Act.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report; and
2. **Agree** to proceed with applying for the "planstop" exemption application that seeks approval from central government for Council to continue to progress the Upper Clutha Landscape Schedules Variation.

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6 November 2025

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14 November 2025

³ The background for the Upper Clutha Landscape Schedules Variation is set out in full in the [27 June 2024 Full Council report](#).

Context | Horopaki

Purpose

1. The purpose of this report is to set out three options for Council for the exemption application for the Upper Clutha Landscape Schedules Variation. In summary, the Variation is made up of two parts which include firstly the introduction of a landscape schedule for the Mata-au Clutha River Outstanding Natural Feature Priority Area and secondly 12 non-Priority Area Rural Character Landscapes (RCLs) (including maps for these areas).
2. The proposed options are:
 - Apply for an exemption for the entire Upper Clutha Landscape Schedules Variation i.e the two parts outlined above.
 - Apply for an exemption for just the Mata-au Clutha River Outstanding Natural Feature Priority Area and withdraw the non-Priority Area RCLs.
 - Do not apply for an exemption and withdraw the Upper Clutha Landscape Schedules Variation in its entirety.
3. These options, including the advantages and disadvantages, are set out in detail in the sections below.

Background

4. The Resource Management (Consenting and Other System Changes) Amendment Act 2025 (**Amendment Act**) was passed into law on 20 August 2025. The Amendment Act includes new clauses in the Resource Management Act 1991 (**RMA**) that place tight parameters around councils' ability to make changes to their district plans until 31 December 2027.
5. The purpose of the changes, as set out in the explanatory note to the Amendment Paper to the Resource Management (Consenting and Other System Changes Amendment Bill)⁴ is as follows (in summary):
 - a. Implements a central government policy intended to ensure that local authorities do not expend resources unnecessarily prior to the legislation to replace the RMA coming into force; and
 - b. This is achieved by stopping parts of the plan-making process and is intended to achieve greater efficiency for councils in view of the legislative changes expected to be in force by the end of 2027.

⁴ <https://www.legislation.govt.nz/bill/government/2024/0105/latest/whole.html>

6. The Amendment Act includes limited automatic exemptions, exemption criteria, requirements for the content of exemption applications, and sets out the process for applying for exemptions.
7. Automatic exemptions apply to plan changes on the following matters:
 - a. Streamlined planning processes, intensification streamlined planning processes, freshwater planning processes to implement the National Policy Statement on Freshwater Management;
 - b. Implementation of a National Policy Statement (**NPS**) published after commencement (i.e. 20 August 2025) when the NPS requires implementation before 31 December 2027;
 - c. Call-ins for proposals of national significance;
 - d. Minister-directed plan preparation or plan changes processes;
 - e. Plans, changes and variations that relate to natural hazards;
 - f. Plans, changes or variations directed by the Minister of Conservation to the regional coastal plan for the Kermadec and Subantarctic Islands; and
 - g. Plans, changes or variations to give effect to Treaty settlements, Marine and Coastal Area Act or Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act.
8. In addition to the above exemptions, private plan changes are not subject to the planstop requirements of the Amendment Act. Plan changes or variations for which hearings had commenced on the date of the Amendment Act commencement (including the Urban Intensification Variation) are also unaffected.
9. For exemptions, they must meet one or more of the following criteria in order to be eligible for an application to the Minister:
 - a. Better enable the provision of municipal drinking water, stormwater, or wastewater in accordance with the Water Services Act;
 - b. Fix plan provisions with unintended consequences, that are unworkable, or have led to inefficient outcomes;
 - c. To respond to a change in the RMA;
 - d. Better enable climate change to be managed;
 - e. Support the transition of high risk land so as to better manage the risk of erosion;
 - f. Better enable Treaty Settlements to be upheld;

- g. Enable a response to a recommendation from the Environment Court; and
- h. Anything else the Minister considers appropriate.

10. The process for exemption applications is as follows (in summary):

- a. The application must include certain information, and include sufficient detail to enable the Minister to assess whether and how the application meets the exemption criteria;
- b. Pre-application meetings are encouraged to occur with MfE staff regarding the information requirements;
- c. Once the application is formally submitted, the Minister may request further information or changes to the application, and the local authority may amend the application;
- d. The Minister's decision will be provided in writing, and may grant the exemption, or may decline it in whole or part; and
- e. The Amendment Act does not stipulate a timeframe for the Minister's decision.

Summary of the Upper Clutha Landscape Schedules Variation to the PDP

- 11. The Variation seeks to introduce landscape schedules for 12 non-Priority Area Rural Character Landscapes (RCLs) and one Outstanding Natural Feature (ONF) Priority Area. All areas are located in the Upper Clutha Basin.
- 12. Landscape schedules describe the landscape character, values and related landscape capacity for activities and development, so that plan users, landowners and the Council are able to more efficiently and effectively consider and respond to landscape considerations, including through the design of proposals and decision-making on consent applications.
- 13. The context for the Variation is to fulfil the Council's section 6 and 7 RMA responsibilities, and the PDP's policy intentions, by introducing landscape schedules that support the implementation of objectives and policies that relate to the protection, maintenance and/or enhancement of the areas of the district that have been classified as either: Outstanding Natural Features and Landscapes (ONF/L) (s6(b)), or Rural Character Landscapes (s7(c)).
- 14. This Variation follows the Priority Area Landscape Schedules Variation which was notified on 30 June 2023 with decisions made by the Council on 21 June 2024. This work (the additional RCL schedules and PA landscape schedule) was intended to be undertaken as one variation to the PDP. However, Council had a deadline to notify the PA Landscape Schedules Variation through Policy 3.3.42 in Chapter 3 Strategic Directions and more time was needed to ensure that the identification and assessment of the Upper Clutha RCLs (not identified as PAs) was undertaken in

a robust manner. This meant that the landscape schedules work was required to be split into two variations to the PDP.

15. The Upper Clutha Landscape Schedules Variation came about through an appeal to the High Court lodged by the Upper Clutha Environment Society Incorporated (UCESI). UCESI opposed the interim findings regarding how the PDP would manage landscapes in the Upper Clutha Basin (i.e., the remaining areas of the Upper Clutha that had not been identified as PAs).
16. This appeal was ultimately resolved through mediation with Council accepting that ongoing management of the Upper Clutha Basin's landscapes would benefit from a study that assesses their entire area. Council then committed to assessing the remaining areas of the Upper Clutha RCLs using the same methodology as the Priority Area Landscape Schedules Variation (i.e., the previous Variation) and the UCESI appeal was withdrawn.
17. The Mata-au Clutha River ONF Priority Area was directed by the Environment Court and was originally intended to be part of the Priority Area Landscape Schedules Variation. However, it was subject to a separate Environment Court s293 process⁵ meaning that it could not be notified alongside the other Priority Areas. It was instead notified with the non-Priority Area RCLs as part of the Upper Clutha Landscape Schedules Variation.
18. The Upper Clutha Landscape Schedules Variation was notified on the 15th of November 2024 and approximately 55 submissions and six further submissions were received. The Independent Hearings Panel has been appointed, and Council's section 42A report and evidence is near-complete. Prior to planstop, the hearing was scheduled to commence on 18 November 2025.
19. A broad range of matters were raised by submitters, the majority in opposition. This included submission points around the consultation undertaken for the Variation, submitters seeking that the Variation be rejected in part or in its entirety, relief sought on mapping and land exclusions, relief seeking specific amendments to Preamble 21.23 and specific schedules, as well as other miscellaneous relief.
20. As this variation had been notified (but not heard) on the date the Amendment Act came into force, the Council has until 15 January 2026⁶ to either withdraw the variation or apply for an exemption.

Analysis and Advice | Tatāritaka me kā Tohutohu

21. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.

⁵ [2022] NZEnvC 244

⁶ This timeframe only applies to plan changes or variations that had been notified (but not heard) on the 20 August 2025 when the Amendment Act became law. The Upper Clutha Landscapes Schedules Variation is the only QLDC variation required to comply with this timeframe.

22. As the Variation does not meet any of the automatic exemptions an application to the Minister is required in order for the Variation to proceed. The exemption criteria are set out in paragraph 6 above, and it is considered that the following criteria are relevant:

(b) rectify any provisions in a plan or policy statement that have had unintended consequences, are unworkable, or have led to inefficient outcomes;

(g) enable a response to be made to a recommendation from the Environment Court; and

(h) enable work to be progressed that, for any other reason, the Minister considers appropriate.

23. Criterion (b) is considered relevant as having schedules would help to make resource consenting more efficient by identifying the values to be protected (for the ONF) and the landscape character and visual amenity values to be maintained or enhanced for RCLs.

24. Criterion (g) directly applies to the Mata-au Clutha River ONF Priority Area, as it was directed by the Environment Court and originally intended to be part of the Priority Area Landscape Schedules Variation.

25. Criterion (h) is considered relevant as it would provide more clarity on the matters to be considered in landscape assessments, thereby providing more certainty for Plan users and assisting with a more efficient resource consent process.

26. **Option 1:** Apply to central government for an exemption to continue the entire Upper Clutha Landscape Schedules Variation

Advantages:

- There has been significant investment to date in this variation, as it has been notified and was programmed for a hearing in November 2025. Applying for an exemption would provide the opportunity for the Variation to continue (and Hearing and Decision to be completed) subject to the decision from the Minister.
- The exemption would enable Council to continue work that responds to the Environment Court Direction for the Mata-au Clutha River ONF Priority Area.
- Proceeding with the Variation would also mean that any person undertaking activities would have a clear picture of the landscape values that need to be protected for the Mata-au Clutha River ONF, and the landscape character and visual amenity values to be maintained or enhanced for the non-Priority Area RCL areas. This would provide more certainty for resource consent applications and landscape expert assessments, leading to higher degrees of consistency with the evaluation of landscape effects, and more accurately inform the understood landscape capacity for development and activities in these landscapes.

Disadvantages:

- The process for applying for exemptions is new and untested. It is uncertain on what types of applications the Minister will grant, and a risk that an exemption may only be granted to proceed with the Court-directed part of the Variation, or the Minister may decide to reject the Variation in full.
- The Amendment Act does not include a timeframe for the Minister's response. This will result in uncertainty for both Council and submitters involved in the Variation regarding the timing of the Minister's decision.

27. **Option 2:** Apply to central government for an exemption to continue only the part of the Upper Clutha Landscape Schedules Variation that is on the Mata-au Clutha River ONF, and formally withdraw the remaining parts of the variation

Advantages:

- An exemption would enable Council to continue work that responds to the Environment Court direction on the ONF Priority Area. As there is clear alignment with exemption criterion (g) there is a strong case for this part of the variation to gain an exemption.
- An approved exemption would enable a return on the investment made to date in the ONF Priority Area part of the variation.
- If the Minister granted the exemption, this would result in all Priority Area Landscapes identified as part of the Environment Court process having schedules in the PDP.

Disadvantages:

- Council has a mediation agreement with the Upper Clutha Environmental Society Incorporated (UCESI) who withdrew their appeal to the High Court on the basis that Council would notify a Variation to include schedules in the PDP for non-PA RCLs. This option would therefore not seek an exemption to follow through on that agreement.
- Uncoupling the Mata-au Clutha River ONF Priority Area from the remaining parts of the variation may not be straightforward. This option would only enable selected submissions to be heard, which may disadvantage those who have submitted on the non-ONL parts of the variation but still want to speak
- The Amendment Act does not include a timeframe for the Minister's response. This will result in uncertainty for both Council and submitters involved in the Variation regarding the timing of the Minister's decision.

28. **Option 3:** Withdraw the Upper Clutha Landscape Schedules Variation

Advantages:

- There would be no further resourcing needed on the Variation which would result in substantial cost savings as the hearing and appeals process would not continue.
- Work would continue on other planning policy projects, including on private plan change requests, plan changes undertaken using the Streamlined Planning Process, and plan changes that meet the automatic exemption criteria.
- There would still be the opportunity to apply for exemptions to continue other plan changes that align with central government priorities. Resources could be redirected to work on other exemption applications and variations which meet the Government's criteria.

Disadvantages:

- Council has a mediation agreement with the Upper Clutha Environmental Society Incorporated (UCESI) who withdrew their appeal to the High Court on the basis that Council would notify a Variation to include schedules in the PDP for non-PA RCLs. This option would therefore not seek an exemption to follow through on that agreement.
- Would not provide a return on the investment to date in the Upper Clutha Landscapes Schedules Variation, which was scheduled to be heard in November 2025.
- The Mata-au Clutha River ONF Priority Area is a direction from the Environment Court. Withdrawing the Variation would not be giving effect to the Court direction, particularly given this is a specific criterion under the Amendment Act.
- Withdrawing the Variation would mean that the PDP would not consistently apply landscape schedules to rural character landscapes in the Upper Clutha, providing less certainty that the policy direction of the PDP would be achieved.

29. This report recommends **Option 1** for addressing the matter because the exemption application would seek a pathway for the entire variation to continue. This option would enable all submissions received on the Variation the ability to be heard, rather than only selected submissions in Option 2.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi i kā Whakaaro Hiraka

30. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2024 because landscapes are an important part of the District's wellbeing and are of broad interest to the community.

31. The persons who are affected by or interested in this matter are broad given the prominence and importance of these landscapes within the District. The Variation will impact residents and ratepayers of the District, property owners within identified landscape areas (both Priority Areas and non-Priority Areas), members of the community seeking to protect these landscapes, and people (including visitors to the District) using these areas for recreational purposes.
32. The Council has undertaken public consultation in preparing the Variation for notification. Feedback was sought from the community on the values held for each of the landscape areas. This consultation was undertaken via the Council's Let's Talk page from 22 June 2023 to 6 August 2023 and at a community drop in evening on 4 July 2023. The Variation has also been subject to a submissions and further submissions process.

Māori Consultation | Iwi Rūnaka

33. The Council has not undertaken consultation with Rūnaka on this matter, however if exemptions are granted and plan changes are progressed, consultation will be undertaken as required by the First Schedule of the RMA.
34. The Council did undertake consultation with Aukaha and Te Ao Marama throughout the process of developing the landscape schedules for the Variation. The preparation of the Variation has given regard to the views of the iwi authorities throughout the process.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

35. This matter relates to the Strategic/Political/Reputation risk category. It is associated with RISK10056 Ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.
36. The approval of the recommended option will allow Council to implement additional controls for this risk. This will be achieved by allowing Council to put forward an application to progress the Variation. The Variation will then be subject to submissions which will allow for additional content to be included in the landscape schedules that can help ensure that the ONF and RCL values are protected from inappropriate subdivision, use or development, and their values are protected, or maintained or enhanced.

Financial Implications | Kā Riteka ā-Pūtea

37. The recommended option will enable applications to be made to the Minister to continue work on the variation. If an exemption is granted, the final stages of the variation (being the hearing stage and any subsequent appeals) will require funding. However, this would not require additional funding as it can be implemented through current funding under the Long Term Plan and the Annual Plan.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

38. The following Council policies, strategies and bylaws were considered when developing the variation.

- The Spatial Plan;
- Significance and Engagement Policy 2024; and
- Proposed District Plan.

39. The recommended option is consistent with the principles set out in the named policy/policies.

40. This matter is included in the Long Term Plan/Annual Plan as part of ongoing implementation and maintenance of the District Plan.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

41. The recent Amendment Act has placed significant restrictions on councils' ability to undertake changes to district plans. The Amendment Act acknowledges that there will be instances when it is appropriate for work on district plans to continue and provides for this via the exemption application pathway. **Option 1**, which seeks Council's agreement to apply for an exemption is recommended in order for Council to continue to progress the variation.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

42. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

43. The recommended option:

- Can be implemented through current funding under the Long Term Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.