

**BEFORE THE HEARING PANEL  
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of Hearing Stream 14:  
Wakatipu Basin hearing  
and transferred Stage 1  
submissions related to  
Arrowtown and Lake  
Hayes

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**OPENING REPRESENTATIONS / LEGAL SUBMISSIONS FOR  
QUEENSTOWN LAKES DISTRICT COUNCIL**

**Hearing Stream 14 – Wakatipu Basin**

**10 August 2018**

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**MAY IT PLEASE THE PANEL:**

**1. INTRODUCTION**

**1.1** The purpose of these legal submissions is to assist the Hearing Panel (**Panel**) regarding legal issues that have arisen during the course of Hearing 14, and to provide the Council's position on specific issues of a legal nature.

**1.2** Filed alongside this right of reply are the planning replies of:

- (a) Craig Barr (Chapter 24 Wakatipu Basin text);
- (b) Marcus Langman (Wakatipu Basin – rezonings);
- (c) Luke Place (Arrowtown Urban - rezonings); and
- (d) Anita Vanstone (Ladies Mile - rezonings).

**1.3** Having considered matters raised and evidence produced during the course of the hearing, these planning replies (including the recommended PDP provisions) represent the Council's position.

**1.4** In addition, the following expert witnesses for the Council have provided reply evidence, which is also filed alongside these legal submissions:

- (a) Bridget Gilbert (landscape);
- (b) Helen Mellsop (landscape); and
- (c) Dave Smith (traffic).

**1.5** These submissions seek to address some matters raised by submitters where the Council considers that further analysis is required. Otherwise, these submissions do not, and feasibly cannot, respond to the detailed submissions filed by various legal counsel that work through the evidence relative to their particular client's interests, in great detail. The absence of a specific response in these submissions should not be regarded as acceptance of the points made by counsel for various submitters. Counsel encourages the Panel to consider and evaluate the evidence before it, as tested through questions asked of witnesses during the course of the hearing.

## **2. RECOMMENDATIONS ON HEARING STREAMS 14 AND 15**

- 2.1** At the hearing the Panel sought confirmation as to how they ought to issue their recommendations on Hearing Streams 14 and 15.
- 2.2** Council's preference is that the respective Panels hearing Streams 14 and 15 issue their recommendation reports at the same time. This will allow one appeal and section 274 period to run, for Stage 2 matters.

### **Renotification of Table 24.2**

- 2.3** On 9 August 2018, the Council publicly notified Table 24.2 – Activities in the Wakatipu Basin Lifestyle Precinct. The public notification, attached in **Appendix 1** to these legal submissions, explains the reason for this notification.
- 2.4** If any submissions are received from new parties, there may be a need to hold a hearing. That issue will be dealt with at the time.

## **3. PROPOSED OTAGO REGIONAL POLICY STATEMENT**

- 3.1** The status of the proposed Otago Regional Policy Statement (**PORPS**) and its relevance to this hearing was addressed in section 6 of Council's Opening Legal Submissions and also during the course of the hearing including on 25 July. As far as counsel is aware, no further consent orders (or decisions for that matter) have been issued by the Environment Court.
- 3.2** Following the adjournment of the hearing the Panel issued a Minute dated 31 July 2018. As the recently issued consent orders were made available at the start of the hearing and submitters have had an opportunity to give extensive submissions as to the impact of the consent memoranda on their particular case (if they chose to), the Panel determined it did not require further comment on the implications of the text of the amended PORPS, through a separate process.

**3.3** The Panel did however indicate that it anticipated that Council would include in its reply, a response to the various submitters' legal submissions presented during the course of the hearing. In general, the submitters are arguing a disconnect between the PORPS and Chapter 24.

### **The correct legal test**

**3.4** Counsel for Boxer Hills Trust and Trojan Helmet has submitted that once issued, consent orders have "full legal weight" and the Operative Policy Statement is no longer relevant.<sup>1</sup> This is with respect, incorrect. A consent order issued by the Environment Court updates the *proposed* RPS without any formal process. When relevant parts of the pORPS are beyond challenge, significant weight can be given to it. However, a consent order does not and cannot deem the proposed RPS to be approved and operative, like Ms Wolt's submissions suggest. There is no equivalent to Subpart 7 of the RMA for policy statements. Instead the Regional Council still needs to work through clauses 17(2) and (3) (approval) and clause 20 (notification of operative date) of Schedule 1 of the RMA. Until that actually happens, the correct legal test is that this Panel in its recommendations (and the Council in its decisions), must "have regard to" the PORPS (as amended by consent order) and "give effect to" the operative RPS.

**3.5** As discussed with the Panel during the course of the hearing, a lot of weight can be given to the PORPS as amended by consent orders, and little weight should be given to the equivalent parts of the operative RPS. Care must be given to using the correct legal test, as until the PORPS is made operative in part, the equivalent parts of the operative RPS must still be given effect to (albeit deserving little weight). In any event, Council's evidence is that its position does give effect to the operative RPS.

**3.6** We have been advised by counsel for Otago Regional Council that the council intends to make the PORPS (as currently amended by consent orders) operative in part, either at its August or late September Council meetings). It is anticipated therefore, that by the time the Panel

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<sup>1</sup> Legal submissions on behalf of Boxer Hills Trust and Trojan Helmet, dated 15 July 2018 at [38].

deliberates and issues its recommendations, the test for (at least) *part* of the PORPS, will have changed to “give effect to”.

- 3.7** When the Environment Court issues further consent orders and/or judgements that are relevant to this hearing, they will be provided to the Panel by cover of memorandum. Both submitters and council have had an opportunity to comment on the three consent memoranda (Exhibits 14.3, 14.4 and 14.5) that are currently with the Environment Court for its consideration. If they are confirmed with *no* changes, Council considers that all parties have had a fair opportunity to comment / provide submissions on their implications.
- 3.8** If the Environment Court does not accept the policy wording as agreed in the consent memoranda, as stated in the Panel’s minute, there may need to be an opportunity for comment from submitters and the Council. That will be considered if the situation arises.

### **Wakatipu Basin Rural Amenity Zone and the updated PORPS**

- 3.9** Ms Baker-Galloway and Ms Hill for various submitters (Lake Hayes Investments et al, Wakatipu Equities and Darby Planning et al) have made submitter that there is a “disconnect” between the Amenity Zone and the PORPS. For Lake Hayes Investments et al and Wakatipu Equities, they submit that one issued consent order (Chapter 1 – resource management in Otago is integrated) and another consent memorandum (Chapter 3 – natural resources, which has not yet been issued by the Environment Court), are of particular relevance. They make the same submissions for Darby Planning et al, although there they also draw attention to Chapter 4 of the PORPS – urban growth and development.
- 3.10** Ms Baker-Galloway and Ms Hill do not, at least in their written submissions, go as far as saying that Chapter 24 and the rezonings in question, do not give effect to the PORPS. They use terminology such as “provide no basis for *opposing* the rezoning” and “provide very little support for” Chapter 24.

- 3.11** Mr Barr addresses the issued consent order and three lodged consent memoranda, in detail in his right of reply. He has worked through the various relevant objectives and policies in the PORPS and his evidence is that that Chapter 24 gives effect to the PORPS (as the test will be, in time). Mr Langman, Ms Vanstone and Mr Place also provide detailed evidence that his recommendations give effect to the PORPS.

#### **ONL – assessment matters**

- 3.1** ONLs and the Rural Zone has some relevance to this hearing, as some of the land is proposed by Council to be Rural Zone with an ONL. Some submitters seeking the ONL be removed, while others such as Ms Robb's client Mr Stewart, seeking that the ONL remain.
- 3.2** In terms of the landscape assessment matters that apply to identified ONLs, Ms Robb in her written legal submissions has confirmed that she considers the landscape assessment matters in the PDP (decisions version, located in Chapter 21) to be consistent with the PORPS consent memoranda for natural resources (Exhibit 14.4).
- 3.3** In making this submission that the landscape assessment are consistent with the PORPS consent order (Ms Robb's reference should be to the draft consent order), she explains that the PORPS includes a new Schedule 3 criteria for the identification of outstanding natural features and landscapes of the region including; biophysical attributes (natural science factors, presence of water and vegetation), sensory attributes (legibility or expressiveness, aesthetic values and transient values) and associative attributes (values shared and recognised, cultural and spiritual values, historical and heritage associations).
- 3.4** Counsel is not aware of any other legal submissions presented by submitters that took a different view from Ms Robb, in terms of the PORPS and section 6 landscapes.

#### **4. USE OF THE WORD 'PROTECT'**

- 4.1** The Panel raised with Council witnesses and a number of submitters, the appropriateness of using the word 'protect' in the context of

managing rural amenity landscapes. This was also raised by a number of planning witnesses, and for example in legal submissions for Darby Planning at [13] to [23], and for Wakatipu Equities at [46] to [53].

**4.2** The Panel asked the Council to consider the part of their Stage 1 report on Strategic Directions Chapter 3, in particular the part that considered notified Goal 3.2.5.

**4.3** The legal submission for Trojan Helmet in that Stage 1 hearing<sup>2</sup> cited *Calveley*<sup>3</sup> as justification to ensure that *while section 6 concepts of landscape values and section 7 visual amenity values can overlap, the Act addresses them differently and they should not be conflated*.<sup>4</sup> Trojan Helmet considered that:<sup>5</sup>

*In seeking to 'protect' all rural landscapes...it [the Goal] conflates section 6 and section 7 landscapes and adopts the same management approach for both, when that is not mandated by the Act or appropriate in the circumstances.*

**4.4** These submissions were accepted by the Panel, where at [340] of the Report, the Panel stated:

*To that extent, we accept the point made in legal submissions for Trojan Helmet that section 6 and 7 matters should not be conflated by seeking to protect all landscapes.*

**4.5** Consequently notified Goal 3.2.5 was amended to remove the word 'protected' in the PDP Stage 1 decisions version.

**4.6** It is submitted that there is a disconnect between the previous legal submissions given on behalf of Trojan Helmet, and the decision made by the Panel in that Strategic hearing, and for that reason the Council urges the Panel to carefully reconsider the relevance of the case to Chapter 24. In her March 2016 legal submissions, Ms Wolt referred to *Calveley* as authority that only s6 landscapes require protection from

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2 Legal Submissions for Trojan Helmet Limited (Submitter 443, 452 and 1157) dated 7 March 2016. In the Matter of Chapter 3 (Strategic Direction) and Chapter 6 (Landscape).

3 *Calveley v Kaipara District Council* [2014] NZEnvC 182.

4 Legal Submissions for Trojan Helmet Limited at paragraph 58.

5 Legal Submissions for Trojan Helmet Limited at paragraph 59.

inappropriate use and development, while for landscapes that are not ONLs or ONFs, the focus should be on managing (ie. by avoiding, remedying or mitigating) the effects of subdivision, use and development.<sup>6</sup>

- 4.7** The Council submits that the Environment Court in *Calveley* was instead discussing the conflation of the two different concepts of *landscape values* and *visual amenity values*, rather than how to actually go about *managing the use, development, and protection*<sup>7</sup> of natural and physical resources, in the specific context it was considering.
- 4.8** While at paragraph 134 the Environment Court specified the different statutory directions between s6(b) and 7(c), (being ‘*To recognise and provide for*’ versus ‘*To have regard to*’), that discussion is not focused on how a natural or physical resource should be managed. Instead the case is submitted to be authority that a s6(b) landscape is different to a s7(c) amenity landscape, an issue which is understood to not be in dispute between the Council and submitters.
- 4.9** Council also notes the language, *in relation to managing the use, development, and protection of natural and physical resources*, forms part of the preamble of both sections 6 and 7, with s6 focused on matters of national importance. The maintenance and enhancement of amenity values are then one of the many matters that the Council shall have particular regard to, when managing the use, development and protection of a s7 landscape, in achieving the purpose of the Act. It is submitted that protection is still an option in determining how to best maintain and enhance the amenity value of a landscape.
- 4.10** The question then becomes whether the amenity landscape in question, requires that level of management. It is submitted that the context of Wakatipu Basin is significant in determining the level of management required for the relevant s7(c) amenity landscapes. The Wakatipu Basin is surrounded by, and has one located within, s6(b) landscapes. This increased sensitivity means that it is appropriate for the landscape character and visual amenity *values* to be protected,

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6 Legal Submissions for Trojan Helmet Limited at paragraph 60.

7 This phrase is used in the preamble to sections 6 and 7 of the RMA.



maintained and enhanced, and Mr Barr's reply evidence covers this issue in more detail.

- 4.11** Ms Baker-Galloway, in her submissions for Darby Planning, relies on an Environment Court case<sup>8</sup> that states that the Act does not necessarily protect the status quo and that a degree of subdivision into lifestyle blocks might significantly increase the overall naturalness of a landscape.<sup>9</sup> This is accepted by Council (the outcome sought in Objective 24.2.1 is of landscape character and visual amenity values, rather than protection of the landscape itself), however it is considered that the key thrust of the authority is that it is context dependent. The evidence before the Panel is that the Wakatipu Basin requires strict rules around subdivision to ensure the already compromised landscape is not further degraded.

## **5. MATTERS RELATING TO SCOPE TO MAKE CHANGES**

### **New policies in Chapter 6**

- 5.1** Both the Panel and counsel from Lane Neave queried the phrase in Council's opening submissions at para [2.4(d)] "*importantly, it is agreed that jurisdiction (and scope) exists to insert new provisions into Chapters 3 and 6 to the extent that such amendments do not impact the application of Stage 1 provisions, and apply to the area of land covered by the Zone*". The question was who the Council agreed with. As acknowledged at the hearing, this sentence is not clear. This should have been acceptance by the Council that there is scope for CIT (2307) to seek new policies in Chapter 3 and 6 (this submission was referenced in [2.2] of Council's opening submissions), where those policies relate only to the Wakatipu Basin. CIT was seeking policies that provide for rural living. The theme of the submissions (including others that seek to amend Chapter 3 and 6 decisions text) is that Chapters 3 and/or 6 require attention in order to integrate the Zone with the PDP and to provide higher order policy support. The submitters have emphasised that their request for higher order support, related to

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<sup>8</sup> *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* [2000] NZRMA 59 at [91].

<sup>9</sup> Legal Submissions for Darby Planning LP et al dated 20 July 2018, at paragraph 17.

higher order support for rural lifestyle living, rather than the Council's Wakatipu Basin, per se.

**5.2** As discussed with the Panel, Council is comfortable that the policies can be added into Chapter 6, provided they only relate to the land in question. Perhaps the question to be asked is, would there be scope for the policies to be located in Chapter 24? It is then a question of whether the policies deserve or need to be located in the Strategic chapter.

**5.3** In any event, Council also submits the following in relation to the relevance of the Chapter 6 Rural Landscape Character (**RLC**) policies in Chapter 6. The effect of the variation, at Stage 2 notification, meant that the Chapter 6 TLC policies applied to the Wakatipu Basin, as a section 7 landscape:

- (a) the effect of the Council's variation to parts 6.2 and 6.4 in Stage 2, was to remove the Stage 1 text that said that the landscape categories apply only to the Rural Zone. One of the landscape categories is of course, the RLC. The effect of the variation therefore, was that the RLC category (and therefore the relevant policies in Chapter 6) applied to land such as the Wakatipu Basin Zone (and other rural zones);
- (b) therefore the policies that Mr Barr recommends be added into Chapter 6, already applied to the Wakatipu Basin Zone, at notification of Stage 2. It was the Panel's Stage 1 recommendations, that meant that this changed. Mr Barr's recommendations take the PDP back to the position it was in, at the time that the variation on parts 6.2 and 6.4 was notified; and
- (c) It is also relevant that Mr Barr would prefer the simpler approach of adding "and Wakatipu Basin Zone" into PDP 6.3.3, but instead recommended the alternative of re-listing the policies, so that the Stage 1 appeal process could carry on.

## Morven Hill – Hamilton (666, 670), Rogers (644), Guthrie (401)

5.4 The Panel asked Council to confirm its view on whether it would be a consequential alteration to Council's recommendation to move the Outstanding Natural Landscape (ONL), to also rezone the underlying area that is no longer part of the ONL to Wakatipu Basin Rural Amenity Zone (Amenity Zone).

5.5 The land in question is located at Morven Hills and is shown in Figure 9 of Ms Mellsop's evidence in chief (the area between the Recommended ONL boundary and the Notified PDP ONL boundary) and copied below for convenience.

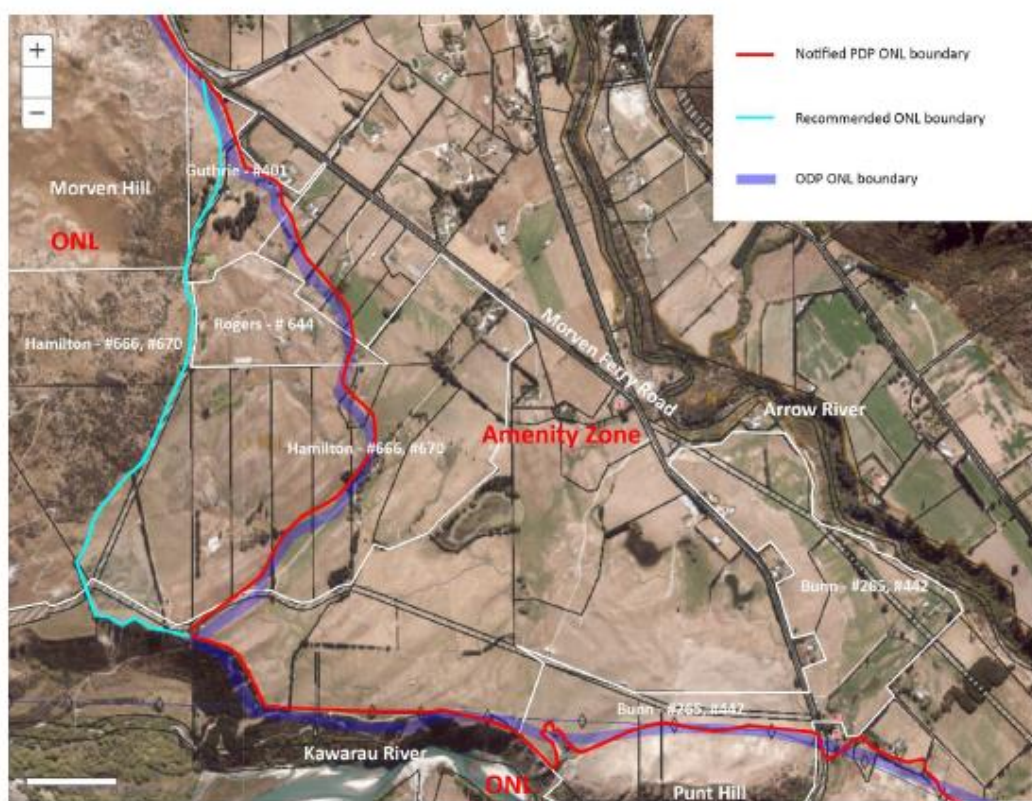


Figure 9: ONL boundaries on the eastern side of Morven Hill.

5.6 Given the land in question was not notified in Stage 2, there is no Stage 2 submission on the zoning of the land seeking Amenity Zone. The Stage 1 submissions ask for the ONL to be removed, and for a rezoning from Rural Zone, to a mix of Rural Visitor, Rural Lifestyle and Rural Residential for specific parts of the area in question. For clarity, there is no submission that seeks to rezone the entire area between the Recommended ONL boundary and the Notified PDP ONL boundary.

Mr Barr gave evidence during the hearing that he considers that the Amenity Zone does not sit within the 'spectrum' of Rural Zone at one end, and one of the more enabling rural zones, at the other.

**5.7** The Stage 1 submissions create a jurisdictional envelope from which the most appropriate outcome can be selected by the Panel. Consequential alterations to the PDP, arising from a submission, can also be made in decisions through clause 10(2)(b)(i) of Schedule 1 of the RMA.

**5.8** The test for what is "reasonably and fairly raised" was recently discussed in *Albany*.<sup>10</sup> The following principles assist in determining whether an amendment was reasonably and fairly raised in submissions:

- (a) it is to be approached in a workable fashion rather than from the perspective of legal nicety;
- (b) the "workable" approach requires Council to take into account the whole relief package detailed in submissions; and
- (c) it is sufficient if the change can fairly be said to be a foreseeable consequences of any changes directly proposed.

**5.9** Council's position is that changing the underlying zone to Amenity Zone, is not a consequential alteration arising from the Stage 1 submissions seeking that the ONL be moved of the land in question, particularly where the evidence before the Panel is that the Amenity Zone is more restrictive in nature.<sup>11</sup>

**5.10** While some of the submitters sought that their land be rezoned, in addition to the ONL moved, rezoning the land to Amenity Zone was not a foreseeable consequence of their submissions as the Amenity Zone did not even exist at that point in time.

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<sup>10</sup> *Albany North Landowners v Auckland Council* [2016] NZHC 138 at [115] to [118].

<sup>11</sup> Those submissions seeking that the ONL be moved are Maxwell Campbell GUthrie (401, 2412), Dennis M Rogers (644), Janice Margaret Clear (664, 2266), William Alan Hamilton (666, 2260), Lynette Joy Hamilton (670, 2268), Susan Mary Todd (690, 2439), Ann Hamilton (695, 2261) and Geoffrey Clear (2264).

## **Amend LCU Boundaries**

- 5.11** An issue that arose at the hearing was whether two changes could be made to Chapter 24 in relation to Landscape Character Units (**LCUs**):
- (a) Changes to the boundaries on the map in 24.8; and
  - (b) Changes to the text explaining each LCU, also located in 24.8.
- 5.12** Council's position is that these changes, when made in conjunction with an associated change arising from a submission, are consequential alterations to the PDP and are necessary (as provided for in clause 10(2)(a) of Schedule 1 of the RMA). The changes will reflect the same relief sought in the submissions, and ensure that Schedule 24.8 aligns with the recommended changes to the plan maps, between Precinct and Amenity Zone.

## **Boxer Hills Trust (2386) – Live Urban Zone or Future Urban Zone**

- 5.13** The Council foreshadowed this scope issue, in relation to the Future Urban Zone only, at section 5 of its Opening Legal submissions,<sup>12</sup> and noted that it expected that the submitter would identify or justify the scope in their submission to provide for a future urban zone over the land in question.
- 5.14** Mr Leckie in his written submissions for Boxer Hill Trusts accepts that there is no scope within his clients' submissions for either the Live Urban Zone or the Future Urban Zone.<sup>13</sup> In light of this concession, Council does not address this issue further.
- 5.15** Mr Leckie then submits that the Council should withdraw the land from Stage 1 and commence investigations for an urban type residential zoning. Council has no intention of withdrawing the land in question. If there was to be further consideration of the land in question, beyond the scope available to the Panel in this hearing, the better approach would be use of a variation, which could in theory happen up until the

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<sup>12</sup> Opening Representations / Legal Submissions for Queenstown Lakes District Council, Hearing Stream 14 – Wakatipu Basin, dated 5 July 2018.

<sup>13</sup> At paragraphs 195 and 208.

point in time that any appeals are disposed of, and the relevant part of the PDP is approved. However, that is not the Council's position on the land. Mr Langman's recommendation is that the land should retain its notified Amenity Zoning.

## **6. LAKES HAYES CATCHMENT – NPS FRESHWATER MANAGEMENT**

- 6.1** At the hearing the Panel queried whether its recommendation on Chapter 24 and associated zoning of land is required to give effect to the National Policy Statement for Freshwater Management 2014 (**NPSFM**), when management of water is a regional council function under s30 of the RMA.
- 6.2** The position expressed at the hearing is confirmed in that counsel is not aware of any case law on district councils' responsibilities as regulators (as opposed to network/asset operators) in relation to giving effect to the NPSFM, but s75(3) of the RMA quite clearly indicates that a district plan needs to give effect to all national policy statements, which includes the NPSFM.
- 6.3** As stated in Mr Barr's s42A Report<sup>14</sup> the NPSFM sets out objectives and policies for freshwater management under the RMA, and provides a National Objectives Framework to assist regional councils *and* communities to consistently and transparently plan for freshwater management. Mr Barr then briefly outlines the Council's approach to the NPSFM at paragraphs 5.24 to 5.26 of his s42A Report. This is further expanded on below.
- 6.4** Generally, the NPSFM uses a cascade of hierarchy, in that:
- (a) all of the objectives are worded broadly (not exclusive to regional councils), however most (if not all) policies are focused on what the regional councils need to do to achieve those objectives; and
  - (b) Policy C1<sup>15</sup> is exclusive to regional councils, however provides that "managing fresh water and land use and

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<sup>14</sup> At paragraph 5.23.

<sup>15</sup> *By every regional council:*

a) *by recognising the interaction, ki uta ki tai (from the mountains to the sea) between fresh water, land, associated ecosystems and the coastal environment; and*

development in catchments in an integrated and sustainable way to avoid, remedy or mitigate adverse effects, including cumulative effects".

**6.5** Objective C1 of the NPSFM is relevant to this discussion and provides:

*To improve integrated management of fresh water and the use and development of land in whole catchments, including the interactions between fresh water, land, associated ecosystems, and the coastal environment.*

**6.6** Counsel referred the Panel to The Guide on the NPSFM during the course of the Council's case. Following the 2017 amendments, the Guide provides in relation to Objective C1 (emphasis added):<sup>16</sup>

*This objective also supports provisions of the RMA and specific functions for regional councils, including sections 30(1)(a), 30(1)(c), 30(1)(g) and 59, and functions for territorial authorities in terms of integrated management of the effects of land use in section 31(1)(a).*

*While the RMA clearly sets out these functions for regional councils, the objective of the Freshwater NPS is not just to reiterate the importance of integrated management, but to improve the integrated management of fresh water, land use and associated interactions. The baseline and measure for improvement will be set through regional councils assessing their own regional situation, approaches and provisions to give effect to Policies C1 and C2. Regional policy statements and plans already contain freshwater, land-use and integrated management provisions. Councils will need to assess these provisions to determine whether they adequately reflect Objective C1 (see Policy C2) and particularly if regional policy statements provide a clear signal to district councils.*

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*Regional councils and territorial authorities will need to work together to determine how their respective plans will achieve Objective C1. Objective C1 is relevant for territorial authorities in*

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b) *managing fresh water and land use and development in catchments in an integrated and sustainable way to avoid, remedy or mitigate adverse effects, including cumulative effects.*

16 <http://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/nps-fm-guide-2017-final.pdf>

*consent decision-making for land use and subdivision, particularly considering the effects of these on freshwater quality and water yields (eg, the effects of residential development in terms of stormwater generation).*

*Policies C1 and C2 do not require territorial authorities to amend plans, but this may be necessary to ensure district plans give effect to amended regional policy statements and are not inconsistent with regional plans. Objective C1 will be relevant to city and district councils when they undertake district plan reviews to give effect to relevant direction in the regional policy statement and to exercise their function for integrated management under section 31(1).*

- 6.7** The guidance on Policy C1 also refers to district councils in a similar way.
- 6.8** It is submitted that the main focus of the NPSFM is clearly on regional councils to ensure that the NPS is given effect to, which is logical as water is a regional council function under s30 of the RMA.
- 6.9** However, there is still a role for territorial authorities to play, especially in light of s75(3), and the Preamble's statement that the NPS directs "local government" (which includes regional and district) to manage water in an integrated and sustainable way.
- 6.10** It is submitted that the Panel should ensure the land use enabled in the Wakatipu Basin (and specifically the Lakes Hayes catchment) is giving effect to the regional council's responsibilities for water quality/quantity, and that the zoning allowed under the district plan does not obstruct the regional council performing its obligations under the NPS. Mr Langman's reply addresses this matter in more detail.
- 6.11** Finally, it is noted that the Council provided by way of memorandum dated 27 July 2018, a map showing the outline of the Lake Hayes Catchment as referenced in the Otago Regional Plan: Water 2004 and the location of water and wastewater consents as provided by the Regional Council, as well as the Council's notified Wakatipu Basin Zone and Council's sewer sub scheme and private sewer sub scheme boundaries.



**6.12** The Council has very recently (today) accessed data that more accurately reflects the Lakes Hayes Catchment (as referenced in the Otago Regional Plan), than what was provided by the Regional Council. Council will get the additional information overlaid over this updated data, and file the map by memorandum, next week.

**7. BRIDESDALE (655, 2391)**

**7.1** Bridesdale has submissions being considered in both Hearing Streams 14 and 15 (655 and 2391).

**7.2** In preparing evidence for Stream 15, it has become apparent that the Stream 15 Panel is best placed to make the final recommendation on some of the land subject to 655. To that end, it is recommended that the Stream 14 Panel make an internal recommendation to the Stream 15 Panel as to the most appropriate zoning for this part of the site. The Stream 15 Panel will make the final recommendation, given that there is evidence being filed at this time, and an opportunity for both the Council and Bridesdale to appear and make submissions at that hearing.

**7.3** The specific land in question is both:

- (a) the Bridesdale owned land notified as Informal Recreation in Stage 2 (submission 655, seeking that it be rezoned to Medium Density Residential Zone, is deemed to be on this land); and
- (b) the Bridesdale owned land notified in Stage 1 as Rural, but not notified in Stage 2, which is subject to:
  - (i) submission 655 seeking that it be rezoned to Medium Density Residential Zone; and
  - (ii) submission 2391 that seeks it be rezoned to Active Sport and Recreation.

**7.4** For the avoidance of doubt, Council's rebuttal evidence for Stage 2 will be evaluating submission 2391 over the land described in 7.3(b)(ii).

## **8. ARROW IRRIGATION COMPANY LTD (852) – REQUEST FOR INDUSTRIAL ZONE**

**8.1** Submitter 852 has sought a rezoning from Rural Lifestyle to Industrial B zone, just outside of the Arrowtown UGB. In relation to this submission, the Council accepts the view expressed by the Panel (in two minutes relating to the Queenstown Hearing Stream 13 dated 29 May 2017<sup>17</sup> and 8 June 2017<sup>18</sup>) that where a submitter has chosen to pursue an ODP zoning, such as the Industrial B zone, the test of giving effect to and implementing the strategic directions chapters remains relevant. In addition, the two matters raised by the Panel in paragraph 5 of the 29 May 2017 minute are agreed with:

- (a) there is no evidence that the Industrial B zone will become part of the PDP; and
- (b) the Panel would need to understand the entire objective, policy and rule framework proposed, so the Panel can understand what actual and potential effects on the environment the rezoning would have and whether that was consistent with the overall objectives and policies of the PDP.

**8.2** Mr Place's evidence in chief recognises that the notified Rural Lifestyle zoning is not appropriate zoning for the site, but he does not agree with including the Industrial A or B zone into the PDP without a full review of the zone, which the submitter has not provided. The Panel asked whether the Council would consider accepting a submission on this land in the stage where the industrial topic is notified.

**8.3** The preferred avenue is for the Council to evaluate, alongside the review of the industrial topic, what is the most appropriate zoning for this site. If after completing that analysis, an industrial zone is considered appropriate, the Council could re-notify the site and submissions could clearly be made on it. If the Council chose not to notify the land with an industrial zone, which is the scenario the Panel

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17 <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Memorandums/General/General-Submissions-Seeking-ODP-Zones-29-5-17.pdf>

18 <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Memorandums/General/General-Further-Minute-re-ODP-zones-8-6-17.pdf>

has raised, it would seem fair that the Council would not oppose a submission seeking that an industrial zone be applied to this site, on the basis that the industrial topic is clearly being reviewed in that stage.

**DATED** this 10<sup>th</sup> day of August 2018



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S J Scott / C J McCallum  
Counsel for the Queenstown Lakes  
District Council

## **APPENDIX 1**

### **Public notices for Table 24.2 – Activities in the Wakatipu Basin Lifestyle Precinct**

## **PUBLIC NOTIFICATION OF A VARIATION TO THE PROPOSED QUEENSTOWN LAKES DISTRICT PLAN (STAGE 2)**

On 23 November 2017 Queenstown Lakes District Council publicly notified Stage 2 of the Proposed District Plan.

It has since been discovered that, due to an error, an incomplete version of Chapter 24 – Wakatipu Basin was made available at the date of notification. This incomplete version omitted Table 24.2 - Activities in the Wakatipu Basin Lifestyle Precinct. The incomplete version was available on the Queenstown Lakes District Council website from 23 to 28 November 2017 before it was corrected.

Due to this error Queenstown Lakes District Council now gives notice on Thursday 9 August 2018, of a Variation to Chapter 24 – Wakatipu Basin. This is to allow any person who was not aware of the proposed Table 24.2 to make a submission on these proposed provisions.

### **Where to view the variation provisions**

A copy of the relevant provisions subject to this variation can be found at:

[www.qldc.govt.nz/planning/district-plan/proposed-district-plan-stage-2](http://www.qldc.govt.nz/planning/district-plan/proposed-district-plan-stage-2).

Free online access to these documents is available at QLDC Libraries and Offices.

### **Submissions**

The Council invites any person to make a submission on the Variation to Chapter 24 – Wakatipu Basin.

Any submission that has already been received on this part of Chapter 24 as part of the original submission process will still be considered as a submission to this variation. It is important to note there has already been an exchange of evidence and a hearing on Chapter 24. There is no reason to submit on this variation if you accessed the Chapter 24 text between 28 November 2017 and 23 February 2018, or if you are not interested in or affected by the content of Table 24.2.

It is anticipated that this variation will merge with the PDP under clause 16B of the RMA as soon as the variation is at the same procedural stage as Chapter 24 of the PDP.

### **How do I make a submission?**

Submissions must follow Form 5 as prescribed by the Resource Management Act 1991. This form is available from the Council's website at the link above along with the variation documents.

Submissions may be made -

Via Email: [pdpsubmission@qldc.govt.nz](mailto:pdpsubmission@qldc.govt.nz) (subject line: Submission on Variation to Chapter 24)

By Post: Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348,  
Attention: District Plan Administrator

The closing date for submissions is **Thursday 6 September 2018**.

### **What happens next?**

After submissions close:

- We will prepare a summary of decisions requested by submitters and publicly notify the availability of this summary and where the summary and full submissions can be inspected;
- People who represent a relevant aspect of the public interest or have an interest greater than the interest of the general public may make a further submission, in the prescribed form within 10 working days of notification of the summary of decisions sought, supporting or opposing submissions already made;
- A copy of the further submission must also be served on the Council and the person who made the original submission;
- Council may hold a hearing if a submitter wishes to be heard after which time this variation will be at the same procedural stage as the rest of Chapter 24.

### **Want more information on the variation?**

A duty policy planner can help - just call Council on 03 441 0499 (Queenstown) or 03 443 0024 (Wanaka) or email [pdpenquiries@qldc.govt.nz](mailto:pdpenquiries@qldc.govt.nz)

*This notice is in accordance with clause 5 of Schedule 1 of the Resource Management Act 1991.*

Table 24.2 - Activities in the Wakatipu Basin Lifestyle Precinct		Activity Status
<b>24.4.25</b>	Residential Flat not exceeding 150m <sup>2</sup> gross floor area that is not attached to the principal Residential Unit but is not separated from the principal Residential Unit by more than 6 metres.	D
<b>24.4.26</b>	Residential Flat not exceeding 150m <sup>2</sup> gross floor area that is not attached to the principal Residential Unit and is separated from the principal Residential Unit by more than 6 metres.	NC
	<b>Non-residential activities</b>	
<b>24.4.27</b>	Panelbeating, spray painting, motor vehicle repair or dismantling, fibreglassing, sheet metal work, bottle or scrap storage, motorbody building, or any activity requiring an Offensive Trade Licence under the Health Act 1956.  Excludes activities undertaken as part of a Farming Activity, Residential Activity or as a permitted home occupation.	PR
<b>24.4.28</b>	Informal airports.	D
<b>24.4.29</b>	Clearance, works within the root protection zone or significant trimming of exotic vegetation that is of a height greater than 4 metres.  Discretion is restricted to: <ul style="list-style-type: none"> <li>• The extent of clearance.</li> <li>• Trimming and works within the root protection zone.</li> </ul>	RD