

**Full Council**

**27 June 2024**

**Report for Agenda Item | Rīpoata moto e Rāraki take [7]**

**Department: Planning & Development**

**Title | Taitara: Upper Clutha Landscape Schedules Variation to the Proposed District Plan**

**Purpose of the Report | Te Take mō te Pūroko**

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The purpose of this report is to seek Council approval to notify the Upper Clutha Landscape Schedules Variation to the Proposed District Plan (PDP). The Variation introduces landscape schedules to be included in Chapter 21 *Rural Zone* of the PDP. This also includes several other amendments to policies and assessment matters in the PDP (as outlined in the report). Council approval is sought to notify the Proposal as a Variation to the PDP.

The purpose of the Upper Clutha Landscape Schedules Variation is to:

- a. Implement the requirements of the PDP relating to Priority Areas by introducing a landscape schedule for the Mata-au Clutha River ONF; and
- b. Better achieve the objectives and policies of Chapter 3 *Strategic Direction* and Chapter 6 *Landscapes – Rural Character* of the PDP by outlining the values that need to be protected for ONFs, and maintained or enhanced for RCLs.

**Executive Summary | Whakarāpopototaka Matua**

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- Landscapes are an important part of the Queenstown Lakes District. The Proposed District Plan (PDP) contains objectives, policies and rules for Outstanding Natural Features (ONF), Outstanding Natural Landscapes (ONL), and for Rural Character Landscapes (RCLs).
- The Upper Clutha Landscape Schedules Variation proposes introducing landscape schedules for one ONF and 12 RCLs. Landscape schedules outline the values of landscapes and provide clarity on what needs to be protected, maintained or enhanced and make it easier to understand how a proposal for development might affect the identified values.
- This Variation follows the Priority Area Landscape Schedules Variation to the PDP. This was subject to a Council decision at the 6 June 2024 Council meeting. That Variation introduced 29 landscape schedules for 'Priority Areas'.
- The Upper Clutha Landscape Schedules Variation came about through an appeal to the High Court regarding how the PDP would manage landscapes in the Upper Clutha (i.e., the remaining areas that had not been identified as priority area landscapes). That appeal was resolved through

mediation, with Council agreeing to undertake a landscape assessment for other areas (i.e., not identified as priority areas) of the Upper Clutha.

- The landscape schedules were intended to be notified as part of one variation to the PDP. However, further time was required to assess areas in the Upper Clutha, and one of the Priority Areas was subject to an Environment Court case. This resulted in the landscape schedules being separated into two variations to the PDP.
- This report therefore seeks a resolution to notify the Upper Clutha Landscape Schedules Variation to the PDP.

### Recommendation | Kā Tūtohuka

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That the Council:

1. **Note** the contents of this report;
2. **Approve** for notification pursuant to section 79(1) and clause 5 of the First Schedule of the Resource Management Act 1991 the Upper Clutha Landscape Schedules Variation to the Proposed District Plan (PDP); and
3. **Authorise** the Manager of Planning Policy to make any minor edits and changes to the proposal and section 32 report necessary to improve clarity and correct errors prior to notification.

**Prepared by:**



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**Title:** Senior Policy Planner  
30 May 2024

**Reviewed and Authorised by:**



**Name:** David Wallace  
**Title:** General Manager, Planning & Development  
30 May 2024

## Background Context | Horopaki

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1. The Upper Clutha Landscape Schedules Variation introduces additional landscape schedules for the Mata-au Clutha River Outstanding Natural Feature (ONF) and 12 non-Priority Area Rural Character Landscapes (RCLs) within the Upper Clutha Basin. The new schedules will be included in Schedule 21.22 and 21.23 of Chapter 21 *Rural Zone* of the PDP.
2. This Variation follows the Priority Area Landscape Schedules Variation to the PDP which was subject to a decision to accept the recommendations from the Independent Hearings Panel at the 6 June 2024 Council meeting. The Priority Area Landscape Schedules Variation (i.e. the previous Landscape Schedules Variation) introduced 29 Priority Area (PA) landscape schedules to schedules 21.22 and 21.23 of Chapter 21 *Rural Zone*.
3. The intention is that the schedules proposed for inclusion by the Upper Clutha Landscape Schedules Variation (i.e. the current Variation subject of this report) will sit alongside the landscape schedules that were introduced by the previous Variation.
4. 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.
5. The Mata-au Clutha River was also intended to be part of the PA Landscape Schedules Variation. However, when that Variation was notified, there was an Environment Court case<sup>1</sup> concerning this feature and whether it should be classified as an ONF (as opposed to an ONL) and whether the boundaries of the feature needed to be amended to reflect landscape features. This ultimately led to delays finalising the Mata-au Clutha River landscape schedule, meaning that it could not be notified with the other PA landscapes and would instead be notified with the Upper Clutha Landscape Schedules Variation (the subject of this report).

## Background

6. 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).
7. 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

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<sup>1</sup> [2022] NZEnvC 198

RCLs using the same methodology as the Priority Area Landscape Schedules Variation (i.e., the previous Variation) and the appeal was withdrawn.

### **What is a Priority Area Landscape?**

8. The Environment Court directed that Council create landscape schedules to identify the values of ONL/F and RCLs that need to be protected or maintained or enhanced. However, given that the District is 97% ONL/F the Court acknowledged that this would be a significant undertaking.
9. The Court then went through a process with landscape architects and planners involved in the Hearing to identify 'priority areas' (PAs) to be included in the schedules first. Determining whether or not a landscape was classified as a PA was based on a number of criteria but essentially on where development pressure was more likely, which in turn could result in cumulative effects on those landscapes.
10. Classification as a 'priority area' does not imply that a given landscape is more or less important than another.

### Content of the Upper Clutha Landscape Schedules Variation

11. The Upper Clutha Landscape Schedules Variation includes:
  - a. Landscape schedules for 12 x non-Priority Area RCLs and 1 x Priority Area ONF (Mata-au Clutha River);
  - b. An amendment to Strategic Policy SP 3.3.36 of Chapter 3 (Strategic Directions) to include reference to the Mata-au Clutha River;
  - c. Introduction of Policy 21.2.1.17 to Chapter 21 *Rural Zone* and amendments to the Application of assessment matters 21.21.1 to 21.21.3 to include reference to the new policy;
  - d. Amendment to the pre-amble for Schedule 21.23 of Chapter 21 (Rural Zone) to remove reference to 'Priority Areas' and instead refer to RCLs generally; and
  - e. A Clause 34 process (under Part 2 of Schedule 1 of the RMA) to introduce the maps for 12 x RCLs and 1 x PA and incorporate these maps into the PDP by reference.
12. The amendment to SP 3.3.36 of Chapter 3 is intended to make it clear that the Mata-au Clutha River ONF is an identified Priority Area (PA). Further, the introduction of a new policy to Chapter 21 and amendments to assessment matters is to ensure that the landscape schedules are engaged for non-PA RCLs for resource consents and plan changes. The amendment to Schedule 21.23 of the PDP will ensure that the pre-amble is relevant to all RCLs, and not just those identified as PAs.

### Maps Incorporated by Reference

13. This Variation is accompanied by maps that will be incorporated into the Plan by reference. Incorporating material by reference is achieved by following the process set out in Part 3 of the First Schedule of the Resource Management Act 1991.
14. One of the process steps under Clause 34 requires the Council to consult the public on a proposal to incorporate material by reference (i.e. the mapping). In order to provide opportunities for the public to make comments, the Council must make this material available for public feedback in Council offices and online.
15. The Planning Policy Manager has delegated authority to consult on material incorporated by reference and considers these comments under the Delegations Register. This includes notification of the material for public feedback and considering any comments made.
16. The Material Incorporated by Reference will be notified on 1 July 2024. We note that the Material (i.e., the maps) has adopted the same format and approach as the Priority Area Variation mapping undertaken previously.
17. Council staff propose that the comments on the material (i.e., comments received on the maps to be incorporated by reference) be considered by staff and experts and then by the Independent Hearings Panel (IHP) alongside this Variation. The IHP can then make recommendations on the material received in the Recommendation report, which will then be subject to a Council decision. This will ensure that the comments received can be considered in the context of the Variation, and its broader objectives.

### Analysis and Advice | Tatāritaka me kā Tohutohu

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18. Two reasonably practicable options are set out below. These include notifying the Proposal (Option 1), or not notifying the Proposal (Option 2).
19. **Option 1:** Approve the notification of the Proposed Upper Clutha Landscape Schedules Variation with a minimum 20 working day submission period. It is proposed that the Variation would be notified on the 18 July 2024 with the submission period closing 15 August 2024.

#### *Advantages:*

- Notifying the Proposal would help to provide certainty that the objectives and policies relating to landscape in the PDP can be achieved. The landscape schedules are intended to assist in implementing the policies of the PDP that seek the protection of ONL/Fs and the maintenance or enhancement of RCLs from inappropriate subdivision, use or development.
- Notifying the Proposal would result in consistency with the management of other landscapes in the Upper Clutha and the rest of the District (i.e., it would be consistent with the management of PAs);

- The Mata-au Clutha River was identified as a PA and notifying the proposal would meet the directions set out in Chapter 3 relating to PAs;
- Notifying the proposal would allow submissions to be received that include opposing views on the content of the schedules. The submissions process followed by further submissions and a hearing will allow a clear pathway for contrasting options to be fairly considered.
- The methodology applied was confirmed by the IHP as part of the Priority Area Landscape Schedules Variation, and this has been applied consistently to this Proposal.

*Disadvantages:*

- There are not considered to be any disadvantages with Option 1.

**20. Option 2:** Do not approve the proposal for notification.

*Advantages:*

- It is considered that there are no advantages with Option 2.

*Disadvantages:*

- This would result in an inconsistency with the management of landscapes in the Upper Clutha with PAs having detailed schedules and the remaining areas in the Upper Clutha having no schedules. This would not provide certainty that the objectives and policies in the PDP relating to landscape would be achieved.
- The Mata-au Clutha River was identified as a PA and not notifying the UCL Variation would be inconsistent with the previous PA Landscape Schedules Variation. This would also not meet the requirements in Chapter 3 of the PDP relating to PAs.

21. This report recommends **Option 1** for addressing the matter because it will help achieve the landscape outcomes in the PDP, including meeting the direction in Chapter 3 of the PDP. It provides a reasonable notification period and will give interested parties an opportunity to be part of the process through a Clause 34 process, submissions, further submissions and a hearing if one is required.

**Consultation Process | Hātepe Matapaki**

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**Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka**

22. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2021.
23. The landscapes are an important part of the District's wellbeing and are of broad interest to the community.

24. 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 Proposal will impact residents and ratepayers of the District, property owners within the identified landscape areas (both PAs and non-PAs), members of the community seeking to protect these landscapes, and people (including visitors to the District) using these areas for recreational purposes.
25. The Council has undertaken public consultation in preparing the Proposal 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 to 6 August 2023 and at a community drop in evening on 4 July 2023. Further detail on consultation undertaken is set out in the attached Section 32 report. The feedback received has been considered in the development of the Proposal.
26. The Policy Planning Team presented a workshop to the councillors on the UCL Variation on 14 December 2023. The purpose of the workshop was to provide an overview of the Variation, explain how it worked with Priority Area Landscape Schedules Variation and what the next steps were. No decision making or direction from Council was sought by staff.
27. Notification of the proposal will allow for a submissions process and allow the community to make submissions on the proposal.

#### **Māori Consultation | Iwi Rūnaka**

28. The Council has undertaken consultation with Aukaha and Te Ao Marama throughout the process of developing the landscape schedules. The detail of consultation with mana whenua as part of this Proposal is outlined in the Section 32 report. The preparation of the Proposal has given regard to the views of iwi authorities throughout the process.
29. Iwi will also have the opportunity to submit on the Variation once notified.

#### **Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka**

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30. 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.
31. The approval of the recommended option will allow Council to implement additional controls for this risk. This Variation will 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 RCLs are protected from inappropriate subdivision, use or development, and that their values are protected, or maintained or enhanced.

#### **Financial Implications | Kā Riteka ā-Pūtea**

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32. There are no budget or cost implications arising from the decision. The recommended approach can be implemented through current funding under the Long Term Plan and Annual Plan.

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

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33. The following Council policies, strategies and bylaws were considered:

- Spatial Plan
- Significant and Engagement Policy
- Proposed District Plan

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

35. 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

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36. The First Schedule of the Resource Management Act 1991 (RMA) sets out the process for undertaking variations to the PDP.

37. Section 74 of the RMA sets out the matters to be considered when preparing a plan change. This includes preparation of a section 32 evaluation report. The section 32 report has been attached to this report that sets out the evaluation in support of the proposal.

38. The proposal does not include rules, and therefore consideration of whether notification of the proposal under section 86B(3) of the RMA would result in rules having immediate legal effect is not relevant.

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

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39. 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.

40. 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.

### Attachments | Kā Tāpirihaka

A	Attachment A – Section 32 Report – Circulated separately
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