

**Queenstown Lakes District Proposed District Plan**  
**Section 32 Evaluation**  
**Variation to Proposed District Plan**

**For:**  
**Variation to Chapter 27 Subdivision**  
**27.3 Location-specific Subdivision Provisions**

**Report dated: August 2019**

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## 1. EXECUTIVE SUMMARY

- 1.1. A recommendation from the Planning and Strategy Committee suggested the review of the location-specific subdivision provisions in the plan (Ch. 27.3), to ensure that they are up-to-date with, and reflect, the level of development that has already occurred in the corresponding locations. The recommendation singles out Policy 27.3.1.1 and Policy 27.3.5.1 as requiring particular attention, which this variation seeks to address.

**A wider review of all subdivision policy would be best addressed at a later date, following monitoring, when future potential issues have become apparent.**

- 1.2. This review found that Policy 27.3.1.1 was redundant and should therefore be deleted, and that Policy 27.3.5.1 required additional wording to ensure that there

### **Peninsula Bay:**

Policy 27.3.1.1: Ensure that before any subdivision or development occurs within the Peninsula Bay Lower Density Suburban Residential Zone, a subdivision consent has been approved confirming easements for the purposes of public access through the Open Space Zone.”

Policy 27.3.1.1 is out-of-date and is no longer required in the plan. This proposal recommends its removal, by way of variation to the PDP. This is further set out in Section 1.3 of this report.

### **Wyuna Station Lifestyle Zone**

Policy 27.3.5.1: Prohibit or defer development of the zone until such a time that:

- a. the zone can be serviced by a reticulated wastewater disposal scheme within the property that services both the township and proposed zone. This may include the provision of land within the zone for such purpose; or

b. the zone can be serviced by a reticulated wastewater disposal scheme located outside of the zone that has capacity to service both the township and proposed zone; or

c. the zone can be serviced by an on-site (individual or communal) wastewater disposal scheme no sooner than two years from the zone becoming operative on the condition that should a reticulated scheme referred to above become available and have capacity within the next three years then all lots within the zone shall be required to connect to that reticulated scheme.

The variation text to amend this conflict follows (in Section 1.3 of this report).

1.3. **Variations to Chapter 27** (Also provided in Appendix A):

Underlined text for additions and ~~strike through~~ text for deletions.

*Peninsula Bay*

Objective 27.3.1: Ensure effective public access is provided throughout the Peninsula Bay land

~~Policy 27.3.1.1: Ensure that before any subdivision or development occurs within the Peninsula Bay LDSRZ, a subdivision consent has been approved confirming easements for the purposes of public access through the Open Space Zone~~

### *Wyuna Station Rural Lifestyle Zone*

Objective 27.3.5: Provision for a deferred rural lifestyle zone on the terrace to the east of, and immediately adjoining, the Glenorchy Township

Policy 27.3.5.1: Prohibit or defer development of the zone, until such time that:

- a. The zone can be serviced by a reticulated wastewater disposal scheme within the property that services both the township and the proposed zone. This may include the provision of land within the zone for such purposes; or
- b. The zone can be serviced by a reticulated wastewater disposal scheme located outside the zone that also services ~~has the capacity to service~~ the township ~~and the proposed zone~~; or
- c. The zone can be serviced by an on-site (individual or communal) wastewater disposal scheme no sooner than two years from the zone becoming operative on the condition that should a reticulated scheme for both the township and the zone, referred to above become available and have capacity within the next three years, then all lots within the zone shall be required to connect to that reticulated scheme.

- 1.4. This variation to Chapter 27 Subdivision and Development will assist the Council to fulfil its statutory functions and responsibilities as required by the Resource Management Act 1991 ('**the Act**' or '**the RMA**').

## **2. INTRODUCTION**

- 2.1. This report fulfils the requirements of Section 32 of the Act, which requires the objective(s) of proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness and risk in achieving the objectives.

- 2.2. The purpose of this proposal is to amend/update the objectives and policies relating to subdivision in specific locations to have regard to the development that may have already occurred within the respective zones/locations, or to reflect servicing requirements.
- 2.3. This proposal is a variation to Chapter 2 of the Proposed District Plan, through a Schedule 1 process.

### 3. STRUCTURE OF THE REPORT

- 3.1. This report provides an analysis of the policy response proposed by the variation as required by s32 of the RMA, using the following sections:
- a) **Consultation** undertaken, including engagement with iwi authorities on the proposal.
  - b) An overview of the applicable **Statutory Policy Context**.
  - c) A description of the **Resource Management Issues** being addressed by the proposal.
  - d) An assessment of the **scale and significance** of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.
  - e) An **Evaluation** against s32 of the RMA, including
    - Whether the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (Section 32(1)(a)).
    - Whether the provisions (policies and methods) are the most appropriate way to achieve the objectives of the proposal (Section 32(1)(b)), including:
      - (i) identifying other reasonably practicable options for achieving the objectives
      - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of risk of acting or not acting, and
      - (iii) summarising the reasons for deciding on the provisions.

#### **4. CONSULTATION**

4.1. The following consultation was undertaken in the development of the proposal:

An outline of the proposed changes for additional variations to the PDP as part of Stage 3 of the District Plan Review, including the variation to the definition of Residential Flat, as given in Section 1.2 of this report, was circulated to Kāi Tahu (Aukaha), on 10 July 2019.

4.2. The following advice was received by the relevant iwi authorities:

A statement was received from Aukaha on 21 July 2019 confirming that they had no issues or comments in relation to this variation as part of Stage 3 of the Proposed District Plan.

4.3. Therefore, there is no feedback to consider or incorporate into this report.

#### **5. STATUTORY POLICY CONTEXT**

5.1. The relevant requirements of the RMA, the Local Government Act 2002, and the two iwi management plans that apply in the District<sup>1</sup> have been given appropriate regard in the preparation of this proposal. There are no relevant National Policy Statements or National Environmental Standards.

5.2. The relevant provisions of the Otago Regional Policy Statement, both operative and proposed, have been considered in the preparation of this proposal. This proposal is required to give effect to the operative provisions of the RPS and have regard to the proposed provisions.

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<sup>1</sup> *The Cry of the People, Te Tangi a Tauira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008), and *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005)

5.3. The relevant provisions of the Otago Regional Policy Statement, both operative and proposed, have been considered in the preparation of this proposal. This proposal is required to give effect to the operative provisions of the RPS and have regard to the proposed provisions.

### Partially Operative Regional Policy Statement 2019

Reference	Detail
<i>Issue</i>	<i>The social and economic wellbeing of Otago's communities depends on use and development of natural and physical resources. Loss or degradation of resources can diminish their intrinsic values and constrains opportunities for use and development now and into the future. Some of Otago's resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.</i>
<b>Objective 1.1</b>	<b>Otago's resources are used sustainably to promote economic, social and cultural wellbeing for its people and communities</b>
Policy 1.1.1	Economic Wellbeing – Provide for the economic wellbeing of Otago's people and communities by enabling the resilient and sustainable use and development of natural and physical resources.  <i>Methods: Regional, City and District Council Relationships, Regional Plans and City and District Plans</i>
Policy 1.1.2	Social and cultural wellbeing and health and safety - Provide for the social and cultural wellbeing and health and safety of Otago's people and communities when undertaking the <u>subdivision</u> , use, development and protection of natural and physical resources by all of the following: a) Recognising and providing for Kāi Tahu values; b) Taking into account the values of other cultures; c) Taking into account the diverse needs of Otago's people and communities; d) Avoiding significant adverse effects of activities on human health; e) Promoting community resilience and the need to secure resources for the reasonable needs for human wellbeing;
<i>Issue</i>	<i><u>Natural and physical resources are interconnected, complex and should be managed in an integrated, sustainable, consistent and effective way because the use of one resource may adversely affect another. Inefficient and ineffective responses or unexpected adverse effects can occur when activities affecting a resource are undertaken by different resource users, governed by different legislation, or administered by different local authorities. Plans need to address diverse and conflicting interests.</u></i>

<b>Objective 1.2</b>	<b>Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago</b>
Policy 1.2.1	Integrated resource management - Achieve integrated management of Otago's natural and physical resources
<i>Issue</i>	<i>Unplanned urban growth and development risks exceeding the carrying capacity of existing infrastructure and services, adversely affecting community resilience. Unanticipated growth places pressure on adjoining productive land, and risks losing connectivity with adjoining urban areas. Urban development has not always had regard for the local environment or the needs of the community.</i>
<b>Objective 4.5</b>	<b>Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments</b>
Objective 5.1	Public access to areas of value to the community is maintained or enhanced
Policy 5.1.1	Public access - Maintain or enhance public access to the natural environment, including to the coast, lakes, rivers and their margins, and where possible areas of cultural or historic significance, unless restricting access is necessary for one or more of the following: a) Protecting public health and safety; b) Protecting the natural heritage and ecosystem values of sensitive natural areas or habitats; c) Protecting identified sites and values associated with historic heritage or cultural significance to Kāi Tahu; d) Ensuring a level of security consistent with the operational requirements of a lawfully established activity.

### Partially Operative Regional Policy Statement 1998

Reference	Detail
Objective 5.4.1	To promote the sustainable management of Otago's land resources in order: (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and (b) To meet the present and reasonably foreseeable needs of Otago's people and communities.
Objective 5.4.2	To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.
Objective 5.4.3	To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.
Policy 5.5.2	To promote the retention of the primary productive capacity of Otago's existing high class soils to meet the reasonably foreseeable needs of future generations and the avoidance of uses that have the effect of removing those soils or their life-supporting capacity and to remedy or

	mitigate the adverse effects on the high class soils resource where avoidance is not practicable.
Policy 5.5.4	To promote the diversification and use of Otago's land resource to achieve sustainable land use and management systems for future generations.
Policy 5.5.5	To minimise the adverse effects of land use activities on the quality and quantity of Otago's water resource through promoting and encouraging the: (a) Creation, retention and where practicable enhancement of riparian margins; and (b) Maintaining and where practicable enhancing, vegetation cover, upland bogs and wetlands to safeguard land and water values; and (c) Avoiding, remedying or mitigating the degradation of groundwater and surface water resources caused by the introduction of contaminants in the form of chemicals, nutrients and sediments resulting from land use activities.
Objective 6.4.2	To maintain and enhance the quality of Otago's water resources in order to meet the present and reasonably foreseeable needs of Otago's communities.
Issue 9.3.1	The adverse effects of urban development and settlement can impact upon the quality of the built environment and on the use of natural and physical resources.  Explanation: It is important that a balance is achieved in maintaining the quality of the built environment as a place to live, while providing opportunities for economic change, growth and residential choice

### **Proposed Regional Policy Statement 2015**

- 5.4. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall "have regard to" any proposed regional policy statement. The Proposed Otago Regional Policy Statement (PRPS) was notified for public submissions on 23 May 2015, and decisions on submissions were released on 1 October 2016. A number of provisions were appealed. Consent orders have been issued for most appeals and these now form the PORPS 19.
- 5.5. The following outlines the relevant PRPS where appeals remain active. Accordingly, limited weight can be provided to the Decisions Version of the PRPS.

5.6. There are no relevant objectives and policies from the PRPS Decision version: 1 October 2016.

### **Proposed District Plan**

5.7. The following objectives and policies of the PDP are relevant and have been given due regard in the development of proposal:

### **Strategic Direction Chapter 3**

<b>Plan Reference</b>	<b>Provision</b>
<b>Objective 3.3.2</b>	<b>Urban growth is managed in a strategic and integrated manner</b>
Policy 3.2.2.1	Urban growth occurs in a logical manner so as to: <ul style="list-style-type: none"> <li>a. promote a compact, well designed and integrated urban form;</li> <li>b. build on historical urban settlement patterns;</li> <li>c. achieve a built environment that provides desirable, healthy and safe places to live, work and play;</li> <li>d. minimise the natural hazard risk, taking into account the predicted effects of climate change;</li> <li>e. protect the District’s rural landscapes from sporadic and sprawling development;</li> <li>f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;</li> <li>g. contain a high quality network of open spaces and community facilities; and</li> <li>h. be integrated with existing, and planned future, infrastructure.</li> </ul>
<b>Objective 3.2.5</b>	<b>The retention of the District’s distinctive landscapes.</b>
Policy 3.2.5.1	The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.
Policy 3.2.5.2	The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.

<b>Objective 3.2.6</b>	<b>The District's resident and communities are able to provide for their social, cultural and economic wellbeing and their health and safety.</b>
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**Urban Development Chapter 4** (relevant to the Peninsula Bay location)

<b>Plan reference</b>	<b>Provision</b>
Objective 4.2.2A	<b>A compact and integrated urban form within the Urban Growth Boundaries that is coordinated with the efficient provision and operation of infrastructure and services.</b>
Objective 4.2.2B	<b>Urban development within Urban Growth Boundaries that maintains and enhances the environment and rural amenity and protects Outstanding Natural Landscapes and Outstanding Natural Features, and areas supporting significant indigenous flora and fauna.</b>
Policy 4.2.2.1	Integrate urban development with the capacity of existing or planned infrastructure so that the capacity of that infrastructure is not exceeded and reverse sensitivity effects on regionally significant infrastructure are minimised.
Policy 4.2.2.2	Allocate land within urban growth boundaries into zones which are reflective of the appropriate land use having regard to: <ul style="list-style-type: none"> <li>d. Connectivity and integration with existing urban development</li> </ul>

**Tangata Whenua Chapter 5**

No objectives and policies in this Chapter were identified as relevant to this proposal.

## 6. RESOURCE MANAGEMENT ISSUES

- 6.1. The following key issue has been identified as the central themes associated with the proposal:

### Key Issues

**Issue 1** – Location-specific policies that have been rolled over from the Operative District Plan may not be aligned with the level of development that has already occurred, or the type of development envisaged for these locations (by the Proposed District Plan) has changed and the rolled-over provisions require updating.

## 7. SCALE AND SIGNIFICANCE EVALUATION

- 7.1. The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provisions. In making this assessment, regard has been had to the following, namely whether the proposed objectives and provisions:

- Result in a significant variance from the existing baseline in Proposed District Plan Chapter 2 Definitions
- Have effects on matters of national importance.
- Adversely affect those with specific interests.
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

- 7.2. The level of detail of analysis in this report is **low**. The change proposed to the Proposed District Plan Chapter 27 Subdivision are focused on the Location-specific subdivision provisions in Section 27.3 of the PDP.

## **8. BROAD OPTIONS**

8.1. In the preparation of this proposal, for the Peninsula Bay and Wyuna locations, the following options have been identified:

**Option 1** – Do nothing/retain the status quo

**Option 2** – Delete policies

**Option 3** – A variation to the policy.

8.2. The costs, benefits, efficiency and effectiveness of each of these options for Peninsula Bay and Wyuna, are presented in the following tables:

*Peninsula Bay (Policy 27.3.1.1)*

	<b>Option 1</b> Do nothing (status quo)	<b>Option 2</b> Delete policy	<b>Option 3</b> A variation to the policy
<b>Costs</b>	This will create confusion when assessing applications, and could cause time delays from overly lengthy policies.	Financial and time costs in preparing the guideline and the additional costs of a of plan variation (Schedule 1 process).  Introduces possibility for the degradation of the environment in Peninsula Bay effects of development in this location is sufficiently managed through the definition and other mechanisms in the District Plan and RMA.	Financial and time costs in preparing the guideline and the additional costs of a of plan variation (Schedule 1 process).  Not clear how best this policy would be varied.
<b>Benefits</b>	No financial or time cost associated with developing the guidelines and any associated schedule 1 process.	Removes ambiguity and confusion, and streamlines the policies associated with developing Peninsula Bay.	This could remove ambiguity and confusion, but other mechanisms in the Plan and RMA require subdivision consent to be granted, prior to any development.
<b>Efficiency and Effectiveness</b>	Time delays in processing of applications are likely to result from the ambiguity of the existing provision that does not reflect the current baseline.	Removing a redundant policy will increase efficiency in consenting processes, as assessments will not need to consider a policy that is no longer relevant.	The level of development that has already occurred has made the policy redundant, and amending it with additional wording, would not address this issue.
<b>Ranking</b>	<b>3</b>	<b>1 (PREFERRED)</b>	<b>2</b>

Wyuna Station Rural Lifestyle Zone (Policy 27.3.5.1)

	<b>Option 1</b> Do nothing (status quo)	<b>Option 2</b> Delete policy	<b>Option 3</b> A variation to the policy
<b>Costs</b>	This will create confusion when assessing applications, and could cause time delays from overly lengthy policies.	Financial and time costs in preparing the guideline and the additional costs of a of plan variation (Schedule 1 process).  Introduces possibility for the introduction of unanticipated wastewater options, and the effects of wastewater produced in this location may not be sufficiently managed and adversely affect the receiving environment.	Financial and time costs in preparing the guideline and the additional costs of a of plan variation (Schedule 1 process).
<b>Benefits</b>	No financial or time cost associated with developing the guidelines and any associated schedule 1 process.	Removes ambiguity and confusion in ensuring that there is <u>not</u> an opportunity to move to a different wastewater option when a reticulated scheme is available.	Removes ambiguity and confusion in ensuring that there is <u>not</u> an opportunity to move to a different wastewater option when a reticulated scheme is available.  Also ensures that wastewater infrastructure aligned with the type and staging of development anticipated in the zone, and therefore could be can be managed effectively.
<b>Efficiency and Effectiveness</b>	Time delays in processing of applications are likely to result from the ambiguity of the existing provision.	This would be a relatively straightforward change to complete as part of a schedule 1 process.	This ensures that the policy can be implemented as intended so that development can be managed in line with infrastructure capacity.
<b>Ranking</b>	<b>2</b>	<b>3</b>	<b>1 (PREFERRED)</b>

## **9. EVALUATION OF PROPOSED OBJECTIVES**

9.1. Section 32(1)(a) requires an examination of the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act. This variation does not propose any new objectives or changes to existing objectives. In this case, an examination of the extent to which the purpose of the proposal is the most appropriate way to achieve the purpose of the Act is required (s32(6)).

9.2. There are no new objectives or changes to objectives proposed as part of this variation.

## **10. EVALUATION OF THE PROPOSED PROVISIONS**

10.1. The proposed provisions are set out in Section 1.2 of this report.

10.2. Section 32(1)(b) of the Act requires an assessment of whether the proposed provisions (policies and methods) are the most appropriate way to achieve the objective or purpose of the proposal. This assessment must:

- identify other reasonably practicable options for achieving the objectives
- assess the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of the benefits and costs anticipated from the implementation of the provisions, and the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- summarise the reasons for deciding on the provisions

10.3. The assessment of the provisions against the objectives requires an assessment against the purpose of the proposal, and also against the relevant objectives of the PDP (in accordance with s32(3)). The relevant objectives of the PDP are identified in Section 5 of this report.

### Reasonably practicable options

10.4. The following table identifies other reasonably practicable options for achieving the purpose of the variation and the relevant objectives of the PDP:

#### *Peninsula Bay*

Option	Achieves objective?
1. Status quo	3.3.2: Irrelevant as the growth has occurred (N/A) 3.2.5: Wider area has been significantly developed with distinctive landscapes retained (Y) 3.2.6: Residents and communities are able to provide for their wellbeing and health and safety. 4.2.2A: Achieves the current urban form which is within the urban growth boundary (Y)
2. Delete Policy	It can be argued that these objective have already been achieved in Peninsula Bay, and that the policy has been given effect in full.
3. A variation to the policy	A variation may not be effective as the policy has been “spent”. The best way to vary the policy is unclear, and is not required.

10.5. Having considered these options, Option 2 is the preferred option because it achieves the purpose of the relevant objectives of the PDP.

10.6. Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is considered that the information about wastewater options for Wyuna and the public access through Peninsula Bay is certain and sufficient, and there is no need to assess the risk of acting or not acting.

### Reasons for deciding on the provisions

10.7. The proposed provisions are considered the most appropriate because:

- a) They are efficient and effective at achieving the purpose of the variation and the relevant objectives of the PDP.
- b) The provisions are in accordance with objectives and policies in Chapter 27 Subdivision of the Proposed District Plan.
- c) They are in accordance with the functions of territorial authorities in s31 of the RMA and the sustainable management purpose of Part 2 of the RMA.
- d) The proposed provisions implement an existing objectives that gives effect to the operative Otago PRS.
- e) Regard has been had to the Proposed Otago RPS and account has been taken of the two relevant iwi management plans, which are not considered to have significant bearing on this proposal

## Variation Text

### Variation to Chapter 27 Subdivision & Development

#### 27.3 Location Specific Objectives and Policies

##### Peninsula Bay

**27.3.1 Objective - Ensure effective public access is provided throughout the Peninsula Bay land**

~~27.3.1.1 Ensure that before any subdivision or development occurs within the Peninsula Bay LDSRZ, a subdivision consent has been approved confirming easements for the purposes of public access through the Open Space Zone~~

##### Wyuna Station Rural Lifestyle Zone

**27.3.5 Objective - Provision for a deferred rural lifestyle zone on the terrace to the east of, and immediately adjoining, the Glenorchy Township**

27.3.5.1 Prohibit or defer development of the zone, until such time that:

- a. The zone can be serviced by a reticulated wastewater disposal scheme within the property that services both the township and the proposed zone. This may include the provision of land within the zone for such purposes; or
- b. The zone can be serviced by a reticulated wastewater disposal scheme located outside the zone that also services has the capacity to service the township and the ~~proposed zone~~; or
- c. The zone can be serviced by an on-site (individual or communal) wastewater disposal scheme no sooner than two years from the zone becoming operative on the condition that should a reticulated scheme for both the township and the zone, referred to above become available and have capacity within the next three years, then all lots within the zone shall be required to connect to that reticulated scheme