

Upper Clutha Environmental Society

Proposed District Plan-Entire Plan

Submission

1. This Submission

1. In this submission I address only the issue of public notification and changes to s.95A of the Act as discussed in the Society's evidence at paragraph 17.
2. Amendments to the Resource Management Act are going through parliament this week. The latest version of s.95A, after amendments suggested by the select committee¹ is set out below. I have underlined key parts and excluded the tracking of changes since the last version for clarity:

95A Public notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.

Step 1: mandatory public notification in certain circumstances

(2) Determine whether the application meets any of the criteria set out in subsection (3) and,

- (a) if the answer is yes, publicly notify the application; and
- (b) if the answer is no, go to step 2.

(3) The criteria for step 1 are as follows:

- (a) the applicant has requested that the application be publicly notified;
- (b) public notification is required under section 95C;
- (c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.

Step 2: if not required by step 1, public notification precluded in certain circumstances

(4) Determine whether the application meets either of the criteria set out in subsection (5) and,

- (a) if the answer is yes, go to step 4 (step 3 does not apply); and
- (b) if the answer is no, go to step 3.

(5) The criteria for step 2 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;
- (b) the application is for a resource consent for 1 or more of the following, but no other, activities:
 - (i) a controlled activity;
 - (ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity;
 - (iia) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;
 - (iii) a prescribed activity (see s.360G(1)(a)(i)).

(6) In subsection (5), **residential activity** means an activity that requires resource consent under a regional or district plan and that is associated with the

¹ The Society submitted to the amendments and spoke to the select committee on this issue

construction, alteration, or use of 1 or more dwelling houses on land that, under a district plan, is intended to be used solely or principally for residential purposes.

Step 3: if not precluded by step 2, public notification required in certain circumstances

(7) Determine whether the application meets either of the criteria set out in subsection (8) and,—

- (a) if the answer is yes, publicly notify the application; and
- (b) if the answer is no, go to step 4.

(8) The criteria for step 3 are as follows:

- (a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;
- (b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

Step 4: public notification in special circumstances

(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—

- (a) if the answer is yes, publicly notify the application; and
- (b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under section 95B.

3. My reading of the latest version (remembering that this may still change) is that under Step 2, part 5(b)(ii) (where it refers to “discretionary activity” and “subdivision of land”) discretionary subdivision meets the criteria set out there such that it is precluded from going to Step 3. The discretionary subdivision regime in the District Plan means that no rural subdivision will be able to be publicly notified in the Queenstown Lakes District. Rural subdivision will only be able to be publicly notified under special circumstances; Step 4.
4. My understanding is that no specific criteria have been defined for “special circumstances” and that this section is seldom used, and so under this section rural subdivision is seldom if ever likely to be publicly notified. It follows that under s.95A as it stands rural subdivision will seldom, if ever, be able to be publicly notified in the Queenstown Lakes District.
5. The only solution I can see for this is to make all rural subdivision non-complying in the District Plan, per the Society’s submission (evidence paragraph 17).
6. Another possibility would be to have a specific rule in the District Plan stating that all Rural Zone subdivision must be publicly notified, but this would not work in relation to s.95A and is also inconsistent with s.95D and so this is not an option.