

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**RECOMMENDATIONS ON VARIATION TO CHAPTER 29 PROPOSED DISTRICT PLAN  
AND TO CHAPTER 14 OPERATIVE DISTRICT PLAN**

**AMENDMENTS TO ACCESSIBLE PARKING PROVISIONS**

**REPORT AND RECOMMENDATIONS OF HEARINGS COMMISSIONER ROBERT  
CHARLES NIXON**

## **Terminology in these Recommendations**

Queenstown Lakes District Council	'the Council'
The Proposed District Plan	'the PDP'
The Operative District Plan	'the ODP'
Resource Management Act 1991	'the RMA'
National Policy Statement on Urban Development Capacity 2020	'the NPS – UD'

## Introduction

This report and recommendations relate to amendments to the Accessible Parking Provisions contained in both the Operative and Proposed District Plans. The Variation to the Proposed Plan and the Change to the Operative Plan were notified on 28 October 2021 and a summary of submissions thereon was notified on 20 January 2022. Four submissions were received on the variation and plan change, but no further submissions were received<sup>1</sup>.

The submitters either did not request to be heard or withdrew their request to be heard. Accordingly, no hearing was required, and I have prepared this report and made my recommendation on the papers. The Section 42A report was prepared by Ms Tara Hurley, a Policy Planner at the Queenstown Lakes District Council.

### 1.0 DESCRIPTION OF PROPOSED VARIATION AND PLAN CHANGE

1.1. The origin of this Variation and Plan Change as notified results from the promulgation of the National Policy Statement on Urban Development (NPS – UD) 2020. This NPS has the effect of preventing District Plans from requiring a minimum number of carparks for activities and directed that provisions having that effect be removed from District Plans.

1.2. Policy 11 of the NPS – UD states as follows:

*In relation to car parking:*

*a) the district plans of Tier 1, 2 and 3 territorial authorities do not set minimum car parking rate requirements, other than for accessible car parks;*

*b) and Tier 1, 2 and 3 local authorities are strongly encouraged to manage effects associated with the supply and demand of car parking through comprehensive parking management plans.*

1.3. Queenstown Lakes District Council is a Tier 2 local authority<sup>2</sup>.

1.4. However, the NPS – UD also provides that District Plans are not prevented from containing minimum requirements for accessible car parks, reflecting the need for

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<sup>1</sup> Section 42A report, paragraph 3.2

<sup>2</sup> section 42A report paragraph 6.13

access to facilities for people who have restricted mobility<sup>3</sup>. It also enables the specification of standards where developers choose to provide parking. The difficulty faced by the Council arises from the fact that car parking requirements for accessible parking contained in both the ODP and the PDP were set out on the basis of these being required as a *proportion* of the total number of carparks to be provided by an activity. Accordingly, the removal of minimum car parking requirements generally would also have the effect of removing any requirements for accessible parking.

- 1.5. For this reason, the Council has initiated the Variation and Plan Change to address this problem by specifying standalone minimum standards for accessible parking. I note at this point that the scope of the Variation and the Plan Change is not to review the adequacy or otherwise of the accessible parking provisions, but rather to reintroduce (retain) the accessible parking provisions contained the ODP and the PDP. I understand the Council has also commenced work on a Comprehensive Parking Management Plan as envisaged under Policy 11 of the NPS – UD<sup>4</sup>.
- 1.6. The Variation to the PDP effects Table 29.3 – ‘Standards for activities outside roads’– and Rule 29.5.5. Although the variation addresses a very discrete component of the rules, these include a significant number of standards reflecting the number of different activities and zones. The accessible parking provisions in the Variation to the PDP are attached as **Appendix 1**, as amended by these recommendations. Similarly, the accessible parking provisions in the Change to the ODP (Rule 14.2.4.1 (viii) – Car Spaces for People with Disabilities and Table 1) are attached as **Appendix 2**, as amended by these recommendations.
- 1.7. The recommendations as to whether each of the four submissions be accepted or rejected, are contained in **Appendix 3**.
- 1.8. The PDP has now reached an advanced stage through the review and appeal process. The Section 42A report notes that in September 2016 the Council approved the separation of the PDP into two volumes, Volume A and Volume B. The former consists of the chapters notified in Stages 1, 2 and 3 of the PDP. Any other land falls within Volume B of the PDP and includes zones that have not yet been reviewed (i.e. land in the Gorge Road area, the Queenstown Town Centre expansion and a number of Special Zones). Any appeals against the provisions in Chapter 29 of the PDP have,

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<sup>3</sup> NPS – UD, Policy 11(a)

<sup>4</sup> Section 42A report, paragraph 4.9

with one exception, been resolved and this matter is not relevant to the subject of accessible parking<sup>5</sup>.

- 1.9. While Chapter 29 covers matters relevant to accessible parking in all but a small part of the zoning pattern within the District<sup>6</sup>, it is also necessary in the meantime for the provisions in the ODP to be amended to address those zones pending the completion of the PDP process.
- 1.10. The Variation was accompanied by a Section 32 Evaluation and a pre-circulated s42A report prepared by Ms Hurley dated April 2022. Ms Hurley added that she prepared the Variation and Plan Change, and the Section 32 Evaluation. Her S42A report focused on analysing the submissions and the amendments she considered would be appropriate in response to these.

## **2.0 STATUTORY CONSIDERATIONS**

- 2.1 In preparing or changing its District Plan, the matters to be considered by a territorial authority are specified under section 74 RMA. Relevantly, these include its functions under section 31, the provisions of Part 2, its obligations to prepare and have regard to an evaluation report under section 32, a national policy statement, and a regional policy statement.
- 2.2 With respect to the consultation required during the preparation of a proposed plan<sup>7</sup>, Aukaha and Te Ao Marama were consulted by the Council. The former had no objection to the proposals, and the latter did not provide any specific comment<sup>8</sup>. Apart from serving copies as required on statutory bodies, Ms Hurley noted that given the directives contained in the NPS – UD, community wide consultation was not undertaken.
- 2.3 I am satisfied that the approach taken by the Council with respect to consultation was appropriate having regard to the directive nature of the NPS – UD, and recognising that the narrow scope of the Variation and Plan Change which did not have the effect

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<sup>5</sup> Section 42A report, paragraph 3.1

<sup>6</sup> Ibid, paragraph 3.4

<sup>7</sup> Clause 3(1)(d) of Schedule 1 RMA

<sup>8</sup> Section 32 Evaluation, paragraphs 5.8 and 5.9

of significantly changing the provisions that previously existed in both plans with respect to accessible parking.

- 2.4 As required, the Council undertook a section 32RMA Evaluation. The section 32 Evaluation noted that<sup>9</sup>;

*The level of detailed analysis in this evaluation is low, to reflect the scale and significance of the effects of the implementation of the proposed provisions. The proposal seeks to ensure the continued provision of accessible parking, throughout the District, by maintaining the requirement for accessible parking at current levels, when non-accessible parking minimums have been removed from the district plans. This is only a change to how accessible parking provisions are expressed in the Operative District Plan and Proposed District Plan, not a change to the number required.*

- 2.5 I consider this approach that has been taken by the Council is appropriate. I note that there are no new objectives proposed or amendments required to existing objectives. It is entirely unsurprising that the existing provisions of the ODP and the PDP are supportive of the need to provide for accessible parking for the benefit of the disabled community. The Section 32 Evaluation<sup>10</sup> sets out the objectives and policies supporting such provision in the PDP<sup>11</sup> and within the ODP<sup>12</sup>, with which the Variation and Plan change are consistent. In addition, the Variation and Plan Change are also consistent with the provisions of the Partially Operative Regional Policy Statement 2019, and the Proposed Otago Regional Policy Statement 2021<sup>13</sup>.

- 2.6 The scope of the Variation and Plan Change is also very narrow and restricted to a specific component of car parking regulation. In the case of the Variation, the proposal amounts to a change to the existing proposed plan, which further narrows the scope of matters to be considered under Section 32. The proposal has been necessitated by the need to give effect to the necessary regulation of accessible car parking, where the amendments are a consequence of the way the rules were previously drafted.

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<sup>9</sup> Ibid, paragraph 9.1

<sup>10</sup> Section 32 Evaluation, paragraphs 6.23 and 6.24

<sup>11</sup> Strategic Objectives 3.2.6 and 3.2.6.1, and Policy 29.2.2.1(a)

<sup>12</sup> Section 14, Objective 2 and Policy 2.3; Objective 5 and Policy 5.3

<sup>13</sup> Section 32 Evaluation, paragraphs 6.16 to 6.20

- 2.7 There is no significant change to the content or scope of the accessible parking provisions. Finally, the amendments are necessitated by requirements mandated by the NPS – UD. I agree with the observation made in the Section 32 Evaluation, that retaining the ‘status quo’ (i.e., not amending the plans) is not an available option<sup>14</sup>.
- 2.8 Having regard to the provisions of Section 32(1)(b)(ii) I consider there is no prospect that the implementation of the Variation in Plan Change would have any adverse effects on economic growth or employment.
- 2.9 The Council’s s32 evaluation considered the ‘reasonably practicable options’ as being:
- (1) ‘uncoupling’ the required minimum number of mobility parking spaces from the total number of carparks as currently specified in the ODP and the PDP;
  - (2) a comprehensive re-evaluation of the accessible parking provisions.
- 2.10 I agree that these are the only two realistic alternatives. One submission specifically raises the desirability of adopting option (2) as discussed later in the assessment of the submissions. I support the Council’s preferred alternative adopting option (1) bearing in mind the relative urgency created by the otherwise unqualified deletion of the current parking provisions as required under the NPS – UD which would otherwise leave the parking needs of mobility impaired people unaddressed. A comprehensive review of accessible parking provisions is desirable, but would potentially be a significant and time-consuming exercise, and noting that the proposed plan provisions are broadly consistent with New Zealand Standard 4121 with respect to accessible parking standards<sup>15</sup>.

### **3.0 ASSESSMENT OF SUBMISSIONS**

- 3.1 There were 4 submissions made on the Variation and Plan Change.
- 3.2 A submission was lodged by Mr Duncan Edwards on behalf of Age Concern Southland. Mr Edward’s submission was specific to the matter of parking provision

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<sup>14</sup> Section 32 Evaluation paragraph 11.3

<sup>15</sup> Section 42A report, paragraphs 4.4 – 4.5

for the elderly with mobility problems, such as aged care residences and healthcare facilities. His contention was that the Variation and Plan change did not go far enough.

- 3.3 He observed that Queenstown Lakes District is entering a period of demographic change with an increasing number of retirees choosing to move into the District, a factor that needed to be taken into account. He considered that accessible parking provisions were in some cases ‘ludicrously low’ citing the example of hospitals and elderly persons housing, compared to other activities such as homestays. He was not persuaded that a later review of car parking standards, as suggested in the officer’s report, was sufficient because in his view developers would in the interim simply provide the minimum required, and it would too late to reallocate developed land at a later stage for accessible parking. However in the penultimate sentence of this submission he stated that:

*“All in all, I implore the QLDC to hold off on the mobility car parking proposals, and to give priority consideration to the needs of the community both now and in the future”.*

- 3.4 The officer’s report sought to compare accessible parking requirements under New Zealand Standard 4121 with those in both the ODP and the PDP. This indicated that with the exception of the required allocation where total carpark numbers were between 50 and 100 parks, the PDP met or exceeded the New Zealand Standard, although the ODP fell short of the standard in some cases. There are two points I think are important here. Some developments do not require a resource consent, and in these circumstances it would be the provisions of the New Zealand Standard 4121 which would apply and not the provisions in the District Plan. Secondly, I agree with the reporting officer that the review of the District Plan (which has been an enormous process in terms of resources) is moving to the point where the ODP will be completely supplanted by the PDP. The majority of zones of the District are now subject to the provisions of the PDP, so a comprehensive review of the accessible parking provisions in the ODP at this late stage would not seem justified.

- 3.5 The submitter’s suggestion that the Council hold off on the parking proposals would have the inevitable result that there would be no regulatory provision for accessible parking at all until such time that a variation to the PDP were undertaken. There may be some merit in the submitters concerns, although there is no evidential basis before me to determine whether providers of hospital facilities or elderly persons housing are making inadequate provision for accessible parking in this district. Similarly, there



is no evidential basis for me to consider what level of provision would be appropriate. To it least some degree, it would seem reasonable to assume that providers of elderly persons housing and hospital facilities would provide sufficient accessible parking because it is in their own interests, and in the interests of their patients and community to do so, not because they are forced to do so by provisions in the plan. This may not be the case with purely 'commercial' developments.

- 3.6 The thorough review suggested by the submitter, in the form of a Comprehensive Parking Management Plan, is encouraged under the NPS – UD, but will need to be an extensive undertaking requiring adequate research as to accessible parking demand for a range of activities. Given the time and resources that this is likely to involve, I consider that having no provision at all in the meantime for accessible parking in the ODP and the PDP would not be appropriate. For that reason, I recommend that this submission be rejected.
- 3.7 A submission from Jonathan Sanders opposes the provision for the application of accessible parking requirements for residential visitor accommodation (such as airbnb) on the basis that much of this accommodation consists of residential dwellings being used by travellers who are unlikely to generate demand for accessible parking.
- 3.8 From from reviewing the Section 42A report it appears that there may be a misunderstanding as to the application of accessible parking rules to residential visitor accommodation. Under the PDP (which now applies to most zones in the District) there is no requirement for accessible parking to be provided for residential units, which include residential visitor accommodation<sup>16</sup>. Under the ODP (which is gradually being fully supplanted by the PDP) accessible parking would only apply in circumstances where there are between 5 and 11 units on a site<sup>17</sup>, which is unlikely to apply to the kinds of small businesses outlined by the submitter. For these reasons I recommend that this submission be rejected.
- 3.9 Brian Fitzpatrick of Remarkables Park Ltd submitted on a specific rule (29.5.5.31) in Table 29.3 of the Proposed Variation, which relates to an 'unstaffed utility'. An example of such a facility might be an electricity substation. It appears that when this rule was drafted, an error may have occurred, because the rule refers to parking requirements for multiple utilities, an outcome which the submitter quite correctly points out is very unlikely to arise. A requirement for accessible parking for an

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<sup>16</sup> Section 42A report, paragraph 5.2

<sup>17</sup> Ibid, paragraph 5.3

unstaffed utility would seem to be an anomaly. The Section 42A report recommended that the submission be allowed, and I agree, as the application of an accessible parking requirement to an unmanned utility is arguably a nonsense.

3.10 The consequence of allowing this submission is that the Variation be amended by deleting Rule 29.5.5.31 from Rule 29.5.5 (Mobility Parking Spaces).

3.11 The final submission was lodged by Paterson Pitts Group which although supporting the Variation and Plan Change with respect to retaining accessible parking provisions, expressed opposition to the application of the provisions where there is more than one activity proposed on a site. As an example, it was noted that:

*“..... if a site was to be developed with three different activities such as unit style visitor accommodation (11 units), a commercial recreation activity (28 people) as well as a restaurant (over 250 m<sup>2</sup>) each of these activities will be considered separately and require a set number of mobility car parks”.*

3.12 It was noted that under the PDP rules prior to the Variation, under the above scenario 39 car parks would be required, of which two would be mobility spaces. As now proposed through the Variation seven mobility spaces would be required on the basis of each component of the activity being assessed separately. The submitters sought that an amendment be made to both the Variation and the Plan Change to add an exemption stating that:

*“.....where two or more activities are located on one site the activity with the greater mobility parking requirement is the number of mobility parks which are required”* (or similar wording).

3.13 The reporting officer was of the opinion that the submission had identified an unintended issue with the drafting of the provisions. Her preferred solution was to adopt an exemption, adopting the wording proposed by the submitter set out above.

3.14 I agree that the submission has raised a valid concern with the application of the rules and concur with the proposed wording being incorporated into the Variation and the Plan change as an exemption. This would be achieved by adding a new subclause 'b' under 29.5.5 'Mobility Parking Spaces' in the Variation to the PDP, and a corresponding new subclause 'b' under 14.2.4.1 (viii) 'Car Spaces for People with Disabilities' in the Plan Change to the ODP.

3.15 These amendments have been incorporated into Appendices 1 and 2 attached to this report and recommendations.

#### **4.0 CONCLUSIONS AND RECOMMENDATIONS**

4.1 The proposed Variation and Plan Change does not change any objectives of the PDP or the ODP. Both are consistent with the relevant objectives and policies of the PDP and the ODP.

4.2 I am satisfied that the Variation and Plan Change are a necessary consequence of the requirement to remove minimum parking standards from the PDP and the ODP as required under the National Policy Statement on Urban Development 2020.

4.3 The Variation and Plan change are an appropriate means of giving effect to Policy 11 of the NPS – UD and ensuring that provision is made for accessible parking for people in the community with restricted mobility. This is consistent with the purpose of the Act as specified in section 5 RMA, and in particular provision for the social well-being and the health and safety of the community. In making this comment, I note that the Council has commenced work on the preparation of a Comprehensive Parking Management Plan.

4.4 I consider the Variation and Plan Change, subject to minor amendment, satisfy the requirements of section 32 RMA.

4.5 The limited scope of the Variation and Plan Change does not impact on any of the relevant matters of national importance under section 6 RMA or offend against the principles of the Treaty of Waitangi under Section 8 of the RMA.

4.6 Overall, I consider that the Variation, as proposed to be amended by this section 42A report and recommendations, would achieve the purpose of the RMA in terms of Section 5.

4.7 I recommend that the Variation as amended and set out in attached **Appendices 1 and 2** be approved. Text to be removed is shown as ~~strikeout~~, and text to be added is shown as underlined.

4.8 My recommendations as to whether the submissions made on the Variation or the Plan Change be accepted or rejected, are set out in **Appendix 3**.

A handwritten signature in black ink, appearing to read "R. Ryan".

Hearings Commissioner

11 April 2022