

1. Introduction

1.1 Purpose of the District Plan

The Resource Management Act 1991 (the Act) requires the Council to have a District Plan through which the Council is responsible for managing the adverse effects of land use activities, natural hazards, the subdivision of land, and the effects of noise and activities on the surface of the lakes and rivers.

In preparing and reviewing the District Plan, the Council is required to consider a range of other plans and policy documents of relevance to the District (Section 74). The Council is also required, under Section 55 of the Act, to implement any national policy statement and the District Plan must not be inconsistent with the Regional Policy Statement.

The District Plan is not the only method that the Council may use to promote sustainable management for the District. The District Plan is one component of the Council's integrated management of the environment.

Refer Part 3

1.2 Relationship with Takata Whenua

The Act contains specific obligations in relation to the Treaty of Waitangi and Maori interests. The Act identifies, as a matter of national importance, the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taoka. The Act also states that the principles of the Treaty of Waitangi must be taken into account when managing the use, development and protection of natural and physical resources. Consultation by the Council with takata whenua in the preparation of the District Plan is also required by the Act.

To discharge its obligations, the Council has to maintain an ongoing working relationship with the takata whenua. This involves not only consultation in the preparation of the District Plan (and any change or review of the Plan) but also ascertaining the interests and views of the takata whenua on resource

consent applications and taking active steps to promote and protect the interests values, culture, traditions and taoka of the takata whenua.

Ongoing information sharing between the takata whenua and Council representatives will ensure the principles of the Treaty of Waitangi are clarified and given the recognition required under the Resource Management Act.

To this end the Council is undertaking consultation with takata whenua who have a traditional interest in the Queenstown-Lakes District. These are all the nine Kai Tahu (Ngai Tahu) from Arowhenua (Temuka) south to Murihiku (Southland).

Refer also Policies Part 4.3

1.3 Cross Boundary Issues

In the District Plan the Council is required to set out the processes to be used in dealing with issues which cross territorial boundaries.

1.3.1 Issues

- (i) The activities in one district may have an effect in an adjoining district.
- (ii) Activities may cross territorial boundaries.
- (iii) Activities within the District may have regional or national significance.
- (iv) Activities within the District may require a resource consent from the Regional Council.
- (v) Activities outside the District may have environmental effects within the District.
- (vi) National and Regional Policy Statements, Regional Plans, and the plans of adjoining territorial authorities may have implications for the District.

1.3.2 Objective and Policies

Objective 1 - Cross-boundary Issues

Identify and resolve, efficiently and effectively, resource management issues which have cross boundary effects.

Policies

- 1.1 *To establish efficient and effective ways of dealing with other agencies affected by or with an interest in resource management issues having significance outside the District.*
- 1.2 *To respond effectively and efficiently to resource management issues outside the District, including at a regional or national level which impinge upon the District.*
- 1.3 *To recognise and provide for the effects of national and regional policy statements, regional plans and the plans of territorial authorities in adjoining districts, during the review of the plan, when considering applications for resource consents and when carrying out the Council's resource management functions.*

1.3.3 Methods

- i Monitoring**
To identify resource management issues which have cross boundary implications.
- ii Consultation**
To consult with central government, the Regional Council and adjoining territorial authorities on cross boundary issues.
- iii Protocols**
To establish, in conjunction with central government, the Regional Council and adjoining territorial authorities, mechanisms for the identification, discussion and resolution of cross boundary issues.
- iv Liaison**
To establish, where appropriate, with central government and other local authorities joint working groups, joint committees and other co-operative systems for dealing with and resolving cross boundary issues.
- v Resource Consent Applications**

Using, where appropriate, the provisions in the Act for joint hearings when applications are made to two or more consent authorities for resource consents for the same activity.

vi Advocacy

Promoting the District perspective on resource management issues to adjoining local authorities, the Regional Council, and central government, including, where appropriate, making submissions on any proposed national or regional policy statements, regional plans, district plans of adjoining territorial authorities and on applications for resource consents.

vii Transfer of Functions

Transferring, where appropriate in the interests of expertise and efficiency, functions to or from the Council under Section 33 of the Act.

1.4 Zoning Standards and Guidelines

The Council has adopted through its District Plan a zoning technique based on standards and guidelines to avoid, remedy or mitigate potential adverse effects of activities and to achieve the Plan's objectives and policies.

The District Plan adopts a two-tier system of standards in each zone.

Site Standards are specified in relation to matters which tend to impact on the use of the particular site or adjacent areas. While these standards are important, they are not considered fundamental to the integrity of an area as a whole and so are specified in a way that if development does not comply with these standards the Council will consider the matter of non-compliance by way of a resource consent for a discretionary activity. This enables the Council to consider the implications of non-compliance on the use and enjoyment of the site involved and on neighbouring sites.

Zone Standards are standards which are fundamental to environmental standards or character which are to be attained for a zone or area. Because of their importance all activities which fail to meet these standards are non-

complying activities which face a more rigorous assessment if they are to obtain a resource consent (as compared with a discretionary activity).

The District Plan also contains tests and guidelines for the determination of landscape category within the Rural General Zone. The application of these tests and guidelines can be found in Parts 5.4 and 15.2.3.

Appendix 8 of this District Plan contains maps:

- (a) defining the extent of outstanding natural landscapes in the Wakatipu Basin and in the Inner Upper Clutha Area; and
- (b) indicating in some cases where the Environment Court has provisionally found the boundaries of the other categories of landscape.

1.5 Legal Framework

1.5.1 Obligation to Comply with the Act

No person may use land in a manner that contravenes a rule in the District Plan, unless they have existing use rights or a resource consent granted by the Council (Sections 9, 10 and 10A). In the context of the Act such use includes the use of the surface of lakes and rivers (Section 9(5)). No person may subdivide land unless expressly allowed by a rule in the District Plan or a resource consent (Section 11).

1.5.2 Existing Use Rights

Sections 10 and 10A of the Act provide for the existing and continued use of land and the surface of water in a manner which contravenes a rule in the District Plan, subject to the following:

- the use was lawfully established (including by designation) before the rule became operative or the proposed Plan was notified; and

- the effects of the use are the same or similar in character, intensity and scale to those which existed before the Plan became operative or the proposed Plan was notified or the designation was removed; and
- if the activity involves the use of the surface of water in lakes and rivers, the person carrying out the activity applies for a resource consent within 6 months of the rule in the Plan becoming operative.

If the activity is already authorised by a resource consent, no further resource consent is necessary in relation to this provision.

Existing use rights do not apply if:

- the use of land has been discontinued for a continuous period of more than 12 months, unless the Council has granted an extension by way of application; or
- reconstruction, alteration or extension of any building that contravenes a rule in the District Plan increases its degree of non-compliance.

Those rules set out in Utilities 17.2.3.2 Discretionary Activities do not apply to existing lines and support structures which are protected by Section 10 of the Act.

1.5.3 Status of Activities

Within the context of this District Plan, "activity" shall involve the use of land (and the surface of water), and/or the erection and/or use of buildings or structures thereon.

Activities have been grouped according to their common characteristics, based on the premise that there is no need to distinguish between activities of similar environmental effects. For example, "residential activity" includes a range of uses from detached dwellings to apartments.

Within each zone, these activities are further classified according to their status under the Act, being either: permitted; controlled; discretionary; non-complying; or prohibited.

- i **Permitted activities** are allowed by the Plan without a resource consent, providing they comply in all respects with the rules specified in the Plan. In respect of any particular zone, these rules include both the relevant site and zone standards.
- ii **Controlled activities** require a resource consent. They shall comply with standards in the Plan and will be assessed according to those matters in the District Plan over which the Council has reserved control. The Council must grant consent to a controlled activity, but in granting consent the Council may impose conditions relating to matters specified.
- iii **Discretionary activities** require a resource consent, and may be subject to standards specified in the Plan. Activities have been afforded such status:
 - (i) where there is a potential that they may not be suitable in all locations in a zone; or
 - (ii) where the effects of the activity on the environment are so variable that it is not possible to prescribe appropriate standards to cover all circumstances in advance of an application; or
 - (iii) because in or on outstanding natural landscapes and features the relevant activities are inappropriate in almost all locations within the zone, particularly within the Wakatipu basin or in the Inner Upper Clutha area; or
 - (iv) because in visual amenity landscapes the relevant activities are inappropriate in many locations; or
 - (v) because in other rural landscapes the relevant activities may be inappropriate because the amenities of neighbours will be significantly affected.
 - (vi) because, in the residential subzones of the Three Parks Zone, the potential effects of non-residential activities are so variable that it is not appropriate to prescribe standards to cover all circumstances and that, whilst such activities will be inappropriate in many circumstances those uses that preserve or enhance residential amenity and sustainability are likely to be acceptable.

Alternatively, activities may be listed as permitted activities but cannot meet all the site standards for that zone, in which case they shall be discretionary activities only in respect of those matters of non-compliance. The Council may grant or refuse consent for a discretionary activity and, if granting consent, may impose conditions.

- iv **Non-complying activities** are those which contravene a rule in the District Plan. A resource consent is required for a non-complying activity. The Council may grant or refuse consent to a non-complying activity and, if granting consent, may impose conditions.
- v **Prohibited activities** are those which a rule in the Plan expressly prohibits in the District or a particular zone. No application may be made for such activities and no resource consent will be granted.

1.5.4 Resource Consents

The District Plan provides for two types of resource consent: land use and subdivision. Various resource consents and permits are also issued by the Otago Regional Council particularly in relation to the use of beds of lakes and rivers.

A resource consent from the Queenstown-Lakes District Council is required by any person proposing to undertake an activity classified in the District Plan as:

- a controlled activity;
- a discretionary activity; or
- a non-complying activity.

An application for resource consent must be made in accordance with Section 88 of the Act. Forms and accompanying information for land use and subdivision consent are available from the Council offices. An Assessment of Effects on the Environment prepared in accordance with the 4th Schedule of the Act must also be prepared. In preparing an assessment of effects for subdivision and/or development proposals in the Rural General Zone applicants are additionally directed to the landscape assessment criteria contained in either Part 5 Rural Areas and/or Part 15 Subdivision of the Plan.

Section 94 of the Act provides the opportunity for applications not to be publicly notified. In most situations this will require the written approval of affected persons. The District Plan specifies in the Rules those resource consents which shall be non-notified, i.e. without the written approval being required of persons affected by the proposal. Section 94(5) provides for a consent authority to require an application to be notified in accordance with Section 93 even if a relevant plan expressly provides that it not be notified, where the Council considers special circumstances exist.

A publicly notified application is open to public submission in accordance with Section 96 of the Act.

Section 104 sets out those matters to which the Council must have regard to in considering a resource consent application. In considering a subdivision and/or development application in the Rural General Zone the Council shall have particular regard to the landscape assessment criteria contained in either Part 5 Rural Areas and/or Part 15 Subdivision of the Plan.

The Council will exercise its discretion in determining an application in accordance with Sections 104 and 105 of the Act.

Section 106 specifies circumstances in which the Council shall not grant a subdivision consent.

Notwithstanding these circumstances, the Council may grant a consent if it is satisfied that these effects will be avoided, remedied or mitigated, by a rule in this Plan, any conditions of the consent, or in any other way including works.

The Council may impose conditions on consent in accordance with Sections 108 and 220 of the Act.

1.5.5 Designations

A designation is a provision made in the District Plan to give effect to a requirement made by a requiring authority. These requirements apply to a public work or a particular project or utility network.

The effect of a designation is that:

- the requiring authority may do anything in accordance with the designation; and
- nobody may do anything which would hinder or prevent the public work or project or work to which the designation relates.

Any Minister of the Crown or local authority is automatically a requiring authority. Other network utility operators (as defined in Section 166 of the Act) may apply to the Minister for the Environment for approval as a requiring authority. A requiring authority may give notice to the Council in respect of a requirement. Although the Council has called for such notices in preparing the District Plan, the Act makes provision for similar procedures throughout the life of the operative District Plan.

Designations are shown on the District Plan Maps, and in Appendix 1, together with the name of the requiring authority which has the benefit of the designation. These designations, therefore, limit the use of the land, overriding the provisions of the Plan and any resource consent, in favour of the designated purpose. The underlying zone indicates the purposes for which the land may be used, for other than the designated work, either by, or with the consent of, the designating authority.

Designations are not the only means of providing for public works or public utility operations. The District Plan contains general rules for utilities not designated, providing for these in a manner similar to other general activities.

1.5.6 Heritage Orders

A heritage order is a provision in the District Plan to give effect to a requirement made by a heritage protection authority, Section 187 of the Act.

A heritage order is issued to protect features or places of special interest, character, intrinsic or amenity value or visual appeal, or of special significance to the takata whenua, and such area of land surrounding these places as is necessary to protect and afford reasonable enjoyment of them. No person may undertake work in a manner contrary to the heritage order.

The effect of a heritage order is that no person may do anything that would wholly or partly nullify the effect of the Heritage Order without first obtaining the written consent of the Heritage Protection Authority named in the Order.

1.5.7 Enforcement

The Council will use its powers under Part XII of the Act in requiring persons to cease or not commence activity which is or is likely to:

- contravene the Act, any regulations, a rule in the District Plan, or any resource consent; or
- be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

Under Part XII of the Act, the Council has recourse to several enforcement tools, including enforcement orders, abatement notices, prosecutions for offences, and the power to enter and inspect land in respect of ascertaining compliance, seizing and obtaining evidence, and carrying out emergency works.

1.5.8 Monitoring

The Council has increased responsibilities for gathering information, monitoring and maintaining records on resource management matters. These responsibilities will allow the Council to consider refinements to the content of the Plan as well as enabling the community to be informed about how the Plan's provisions are performing.

The monitoring process of the Council has three components:

- Compliance with the provisions of the Plan and compliance with conditions of consent. In particular the Council will monitor compliance with approved resource consents. Where appropriate the consent conditions will be reviewed as provided for in Section 128 of the Act.
- The state of the environment.

- The suitability and effectiveness of the provisions of the Plan.

Refer also Policies Part 4.10

1.6 Changes to the Plan

The Council is committed to a plan which is current and relevant and which addresses issues and concerns as they arise. Therefore, the provisions of the Plan may be varied as necessary. Such change may be in response to new or revised National or Regional Policy Statements or Regional Plans. Further, as the development of the District takes place, the Plan will be subject to continuous review by the Council so that the ongoing and evolving resource management requirements of the community may be acknowledged and provided for.

Any person may formally request the Council to change the Plan. The procedure is set out in the First Schedule to the Act. Applications must clearly define the proposed change so that it can be readily understood, and describe the environmental results anticipated from the implementation of the change.

The Council's requirements in terms of Section 32 of the Act on a privately requested Plan Change do not commence until after the hearing of submissions. (Refer Clause 29(4), First Schedule and Section 32(2)(c)(iii)).