

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes
Proposed District Plan

AND

IN THE MATTER of Hearing Stream 2: Rural

MEMORANDUM CONCERNING PDP PROVISIONS AFFECTING
WAKATIPU BASIN

1. The Hearing Panel has completed hearing submissions on Chapters 21, 22, 23, 33 and 34 (“Hearing Stream 2”). The Hearing Panel has already issued Minutes directing that certain submissions set down to be heard in Hearing Stream 2 be deferred to later streams.¹ There is a third group of submitters heard in Stream 2 that raised matters which, in our view, require further study and evidence before we can come to final conclusions in respect of the reliefs they sought. These matters were also ones which were closely related to changes sought to the planning maps and, we suspect, to Chapter 27 Subdivision and Development.
2. In the course of the hearing, the Panel discerned that there was clear distinction between those submitters who sought fine tuning of the provisions relating to the Rural and Rural Lifestyle Zones, and those submitters who sought significant changes to the provisions of those zones specifically as they applied to land in the Wakatipu Basin. It is this latter group of submitters who have submissions linked to subdivision and map provisions.
3. The essential arguments of this group of submitters were:
 - a) That the Rural Zone outside of the Outstanding Natural Landscapes and Outstanding Natural Features was largely used for rural living, not farming;
 - b) The policy direction of the District Plan incorrectly provided an emphasis on farming when farming is barely practised in the Wakatipu Basin;
 - c) The range of activities present in the Wakatipu Basin severely constrains the viability of farming in the Basin;

¹ *Hearing Process - Rescheduling Submission 433 re Wanaka Airport - 16-6-16 and Hearing Process - Rescheduling Submission 767 Lake Hayes Cellar Ltd - 17-6-16*

- d) More provision needs to be made for tourism activities, including small-scale visitor accommodation;
 - e) There remains the potential for carefully located development (rural-residential and other) within the Rural Zone;
 - f) The appropriate density for the Rural Lifestyle Zone is an average of 1 residential building platform per 1 hectare;
 - g) In both the Rural and Rural Lifestyle Zones provision should be made for more than 1 dwelling per residential building platform.
4. It was equally clear to the Panel that the submitters were applying these arguments largely to the floor of the Wakatipu Basin, rather than the surrounding mountains, or the Crown Terrace. We are also aware that much of the land on the floor of the Wakatipu Basin is subject to submissions seeking altered zonings. Indeed, many of the submitters referred to above included in their submissions and evidence discussion of the zoning amendments sought.
5. In the PDP the Council zoned much of this area Rural, Rural Lifestyle and Rural Residential, along with two Resort zones (Millbrook and Waterfall Park) and the urban areas of Arrowtown and Lake Hayes Estate. We note also a small area of Low Density Residential Zone along the eastern shore of Lake Hayes. There are, additionally, other areas not part of Stage 1 of the PDP, but will form part of Stage 2.
6. The zoning pattern appears in part to be based on the Dr Read's June 2014 report.² In a Minute dated 19 April 2016 the Panel requested that the map in Appendix 2 of Dr Read's report be overlaid with the Council's GIS records of consented and developed building platforms ("RBP"). This was received in a Memorandum from the Council on 29 April 2016.
7. Notwithstanding that questions were raised concerning the veracity of the records of consented but undeveloped RBPs³, it is apparent to us from those maps that a considerable residual potential to erect residential units on RBPs exists in the Wakatipu Basin at present. In part the PDP zoning pattern reflects this, and additionally, to a limited extent, provides for further development. However, where the zoning pattern does not reflect the consented RBPs, there is a strong likelihood that the existence of those consented RBPs will influence the existing environment

² *Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment*, June 2014

³ Mr Goldsmith, in particular, identified that, in certain instances, consents for RBPs had been overtaken by subsequent subdivision consents with replacement or additional RBPs, but the originals still remained on the GIS system.

such as to enable yet further development to obtain consent. We are also aware of a number of Special Housing Areas approved by the Council on the Wakatipu Basin floor. The implementation of these will have a similar influence on the consenting process by altering the existing environment.

8. In the course of the hearing, based on the evidence from the Council and submitters, we came to the preliminary conclusion that continuation of the fully discretionary development regime of the Rural General Zone of the ODP, as proposed by the PDP, was unlikely to achieve the Strategic Direction of the PDP in the Wakatipu Basin over the life of the PDP. We are concerned that, without careful assessment, further development within the Wakatipu Basin has the potential to cumulatively and irreversibly damage the character and amenity values which attracts residents and other activities to the area.
9. In addition, we consider there is some merit in the proposition that the rural character and amenity values of the Wakatipu Basin do not derive predominantly from farming and agricultural activities.
10. Having reached these preliminary conclusions, we note that the evidence presented to us to date is not adequate for us to address the various issues. While Dr Read's June 2014 report represents a good start at considering the issues, we consider it to be no more than that. Landscape evidence on behalf of the submitters either focussed on criticising Dr Read's work or was so general as to be unhelpful. Several planners provided the opinion that a 1-hectare average density of RBPs was preferable to the 2-hectare average with 1-hectare minimum proposed for the Rural Lifestyle Zone. However, those opinions were not founded on any data or analysis of the actual or potential effects on the environment within the Wakatipu Basin of such a rule change. Nor had any of these planners considered the effects of such a change on the Rural Lifestyle Zone elsewhere in the District.
11. Given that the hearings on map change requests will be heard by a differently constituted hearing panel, additional evidence provided at those hearings will not assist us, the Hearing Stream 2 Panel, in making recommendations to the Council.
12. The Hearing Panel has reached the preliminary view that what is required is a detailed study of the Wakatipu Basin floor so as to:
 - a) Identify the environmental characteristics and amenity values of the area that should be maintained and enhanced, noting that these will vary across the Wakatipu Basin floor;

- b) Identify those areas able to absorb development without adversely affecting the values derived in (a) and without adversely affecting the values associated with the surrounding Outstanding Natural Landscapes and Outstanding Natural Features;
 - c) Identify those areas that are unable to absorb such development;
 - d) Determine whether, given the residual development already consented, there is any capacity for further development in the Wakatipu Basin floor and, if there is, where it should be located and what form it should take.
13. The results should provide the basis for evaluating the extent to which the PDP as notified, as it affects the Wakatipu Basin floor, is the most appropriate method to manage the natural and physical resources within that area. If this study concluded an amended regime was required, this could form the basis of a variation and come back to the Hearing Panel prior to it hearing any of the submissions on zoning in the Wakatipu Basin.
14. Bearing in mind that the Wakatipu Basin already contains or abuts urban areas (e.g. Arrowtown, Lake Hayes Estate, Shotover Country, Quail Rise, Frankton), the conclusions reached should also inform the location of the Urban Growth Boundaries.
15. While we do not wish to pre-empt the outcome of any study, the preliminary conclusions we referred to in paragraph 8 above did lead us to consider that some finer tuned regulatory regime, such as a structure plan approach⁴, may be required. However, we make it clear that we have not determined this issue.
16. During the course of the hearing this matter was raised with counsel and witnesses of several submitters with interests in the Wakatipu Basin. The concept received general acceptance. We note that it was not addressed in the Council's reply.
17. The benefit to the Council of undertaking this study would be the provision of an evidential basis to rely on in dealing with the various zoning requests in the Wakatipu Basin. If alternative provisions were developed specifically for the Wakatipu Basin floor area it would avoid the possibility of provisions being tailored for that area having District-wide effect with the potential for unforeseen consequences in other parts of the District. It would also allow the PDP Rural, Rural Lifestyle and Rural Residential Zones to retain their generality of application. Additionally, it would enable the Hearing Panel (albeit differently constituted) to

⁴ See for instance *Robinson & Ors v Waitakere City Council*, A76/2006 at pages 4-8, and *Robinson & Ors v Waitakere CC A2/2009*, particularly pages 17-31

consider the overall planning/resource management regime for the Wakatipu Basin floor in a holistic and integrated manner using a single set of Hearing Commissioners.

18. Given that undertaking such a study as we judge necessary would impose a substantial cost on the Council we do not consider we can require it, but we do request that the Council give it serious consideration. If the Council did undertake to initiate the study, we could defer consideration of the submission points relevant to the list of issues set out in paragraph 3 above to the Hearing Panel hearing the map change requests in the Wakatipu Basin floor and any variation that may arise from the study. Similar deferment of submissions on Chapter 27 could also be appropriate but we realise that there is insufficient time prior to the Panel hearing Stream 4 for those to be excluded from the s.42A report work the Council is presently undertaking.
19. We request that the Council advise by Memorandum how it proposes to proceed by 8 July 2016.

For the Hearing Panel

A handwritten signature in blue ink, appearing to read 'Nugent', is written over a light blue horizontal line.

Denis Nugent (Chair)

1 July 2016