

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**COMMITTEE MEMBERS**

**Councillor G Macleod (Chairperson)**

**Councillor C Kelly**

**Councillor R Pettit**

**Councillor J Mann**

**Councillor L Overton**

**Councillor S Middleton**

**Councillor L Alfeld**

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING OF WEDNESDAY 12 APRIL 2006**

Meeting of the Strategy Committee to be held in the Council Chambers, Civic Centre, 10 Gorge Road, Queenstown on Wednesday 12 April 2006 commencing at 9.00am

**A G E N D A**

<b>Time</b>	<b>Item No</b>	<b>Page No</b>	
			<b><u>PUBLIC FORUM</u></b>
			<b><u>ATTENDANCE AND APOLOGIES</u></b>
<b>9.00am</b>	<b>01</b>	<b>04</b>	<b><u>CONFIRMATION OF MINUTES OF 8 March 2006</u></b>
			<b><u>NOTIFICATION OF URGENT BUSINESS</u></b>
			<b><u>MATTERS LEFT LYING ON THE TABLE</u></b>
<b>9.15am</b>	<b>02</b>	<b>15</b>	<b><u>MONTHLY UPDATE FROM THE STRATEGY &amp; PLANNING MANAGER</u></b> The purpose of this report is to provide a brief summary of the progress that has been made on various strategic and community planning matters during the past month.
<b>9.25am</b>	<b>03</b>	<b>24</b>	<b><u>UPDATE REPORTS – NOTIFIED PLAN CHANGES AND ENVIRONMENT COURT PROCEEDINGS</u></b> The purpose of this report is to update the Strategy Committee on; the progress of notified Plan Changes to the Partially Operative District Plan, and the status of District Plan Environment Court proceedings.
<b>9.35am</b>	<b>04</b>	<b>29</b>	<b><u>THE PRESENTATION OF THE DRAFT ARROWTOWN DESIGN GUIDELINES</u></b> The purpose of this report is to present the Draft Arrowtown Design Guidelines to the Strategy Committee
<b>10.05am</b>	<b>05</b>	<b>33</b>	<b><u>QLDC TO BECOME A SIGNATORY TO THE NZ URBAN DESIGN PROTOCOL</u></b> The purpose of this report is to present to the committee a recommendation for Queenstown lakes District Council (QLDC) to become a signatory to the New Zealand Urban Design Protocol
<b>10.10am</b>	<b>06</b>	<b>40</b>	<b><u>HOPE STRATEGY- BUSINESS COMMUNITY SURVEY</u></b> The purpose of this report is to report on the findings of the 'Business Community Survey' conducted from 15 November 2005 to 15 February 2006.
<b>10.25am</b>	<b>07</b>	<b>45</b>	<b><u>HERITAGE INCENTIVES POLICY</u></b> The purpose of this report is to provide a policy that incentivises owners of listed heritage features to undertake the necessary upgrade, repair and maintenance of the item by providing a grant policy to partially mitigate the cost of resource consents required due to the heritage listing.

10.45am	08	51	<p><b><u>VISITOR ACCOMMODATION AND COMMUNITY HOUSING PLAN CHANGE BRIEF</u></b></p> <p>The purpose of this report is to present the attached brief to Strategy Committee for review. Consultants will be invited to submit detailed proposals based on this brief</p>
11.15am	09	83	<p><b><u>COMMUNITY HOUSING POLICY: ABC SYSTEM &amp; GENERAL ELIGIBILITY</u></b></p> <p>The purpose of this Policy is to: 1) Provide a planning framework that will enable Council to further define 'community housing' above and beyond terms put forth in the 'Housing Our People in Our Environment (HOPE)- Community Housing Strategy'; 2) to propose eligibility criteria that would apply as more detailed schemes are developed; and to 3) set forth the future work that staff are undertaking to define builder/developer guidelines and long-term affordability retention mechanisms.</p> <p>This planning framework and eligibility criteria are designed to result in positive outcomes for the community, including Applicants, Builders/Developers and Council, and be:</p> <ul style="list-style-type: none"> <li>▪ Fair &amp; reasonable</li> <li>▪ Measurable &amp; consistent</li> <li>▪ Robust</li> <li>▪ Understandable</li> </ul> <p>The planning framework set forth in this Policy establishes an overall system that, over time, improves the affordability of both ownership and rental housing for the permanent workforce that are essential for local economic vitality and quality of life.</p>
11.45am	10	107	<p><b><u>A PRECIS ON THE IMPLICATIONS OF THE INTERIM DECISION RELATING TO SCENIC RURAL ROADS (3 OCTOBER 2005)</u></b></p> <p>The purpose of this report is to present the attached précis which has been prepared by Jenny Parker to the Strategy Committee.</p>
12.05pm	11	149	<p><b><u>ARROWTOWN BOUNDARY – WESI REFERENCE</u></b></p> <p><b><u>PUBLIC EXCLUDED</u></b></p>

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**WEDNESDAY 8<sup>TH</sup> MARCH 2006**

Minutes of a meeting of the Strategy Committee held in the Council Chambers, Civic Centre, Gorge Road, Queenstown on Wednesday 8<sup>th</sup> March 2006 at 9.00am.

**PRESENT**

Councillors G Macleod (Chairperson), C Kelly, S Middleton, R Pettit, L Overton and L Alfeld

**IN ATTENDANCE**

Ms Vicki Jones (Manager Strategy and Planning), Ms Alyson Schuler (Policy Planner), Mr John Wilson, (Councillor), Jenny Parker (Arrow Planning), Rebecca Skidmore (Director Urban Design), Mark Kunath (General Manager of Utilities), Pat Bucelis (Committee Secretary), 3 Members of the Public, 3 Members of the Media.

**APOLOGIES**

Councillor J Mann, R Pettit (lateness apology accepted)

**CONFIRMATION OF MINUTES**

**On the motion of Councillors Macleod and Middleton it was resolved that the minutes of 8 February 2006 be confirmed as a true and accurate record, subject to amendments to the confirmed minutes of 8 December 2005:**

Page 3, Second Paragraph, read, Page 10, paragraph five "Councillor Middleton noted this document was important and required more study". Councillor Middleton wanted the sentence to read "more study as it was only delivered the day before the meeting".

It was agreed that this should read "more time to study".

Page 4, Third paragraph from the bottom from Matters Lying on the Table – Social Wellbeing Strategy, this reads "Mayor Geddes commented that this opens up the issue of social wellbeing, which is antidotal, this should read as anecdotal."

Page 11, from Urban Design Panels – Proposal to Amend the Terms of Reference, the paragraph that reads "Councillor Pettit commented that three members of the panel is too limited..... It was suggested that the paragraph reads "**Councillor Pettit commented that a three member panel is too limited...**"

It was noted by Councillor Middleton that the Agendas delivered by Wanaka Connections worked very well this time.

## **NOTIFICATION OF URGENT BUSINESS**

There was no urgent business.

## **MATTERS LYING ON THE TABLE**

N/A

## **PUBLIC FORUM**

N/A

## **MONTHLY UPDATE FROM THE MANAGER: STRATEGY AND PLANNING**

(Item 1)

Ms Jones spoke to her report and in addition to the items mentioned in the report noted that the comment regarding the Industrial and Business zones review should read “no further staff resources were being spent as a result of prioritising”.

There was a general discussion on the report and Ms Jones advised that there will be a meeting on 10<sup>th</sup> March to meet with all the members of the Urban Design Panel.

**On the motion of Councillors Pettit and Middleton it was resolved that the report be received.**

## **UPDATE REPORTS – NOTIFIED PLAN CHANGES AND ENVIRONMENT COURT PROCEEDINGS**

(Item 2)

Ms Schuler joined the table and stated that she had nothing further to add to the report and opened it up for discussion.

There was concern that in July there were an excess of plan change hearings. An extra meeting may need to be added outside of that time.

Regarding the new scenic roads as a result of the interim scenic rural roads decision, Councillor Pettit advised that you do not have to apply for resource consent to plant at the roadside. Only if you were to build you would then require consent. For trees planted after 2001 you cannot do anything about it.

Councillor Macleod asked if a summary of the Scenic Rural Roads decision could be prepared for the committee to assist in the understanding and interpretation of the decision. Ms Schuler replied that this would be prepared for the next Strategy meeting.

Councillor Pettit queried when the High Density summary of submissions were to be completed, to which Ms Schuler advised will be available by the 3<sup>rd</sup> of April.

There is no risk to the timeframe. All consultants tendering for these plan changes are to be given a copy of the proposed timetable to ensure that these timeframes can be met.

Councillor Pettit asked what the outstanding references were to Jacks Point. Ms Schuler replied that these were minor wording changes made in order to resolve the appeal. These will give the Council a greater level of assessment when processing resource consents. The changes had the approval of the councillors involved in the hearings process.

**On the motions of Councillors Macleod and Kelly it was resolved that the report be received.**

## **FRANKTON FLATS PROPOSED PLAN CHANGE**

(Item 3)

Mr Kunath joined the table.

Councillor Wilson stated that he felt there needed to be some thought to transport corridors. The roads around this area were difficult to cycle around.

Mr Kunath advised that he was working with Transit and that once the consultants were chosen this information will be passed on. They had not got to this level yet and the project was still in the early stages of getting the right people together.

Section 32 will address public walkways. There is a need to get together with all separate landowners to ensure all work together to provide a consistent walkway for the public.

Concern was expressed regarding the timeframe for completion of the transit project. It was noted that it could be a 2 year project and that it depends on proposals received and what tenders tell us they can do.

Councillor Pettit felt that there was a “stick the head in the sand” approach to this. Concern was that the longer this is dragged out the more the problems compound. This study is essential to get going.

Mr Kunath agreed that starting the first 3 steps of the transport study as soon as possible was essential.

There were further fears expressed that continuing to study this for two - three years may be too late.

Ms Schuler stated that plan change, growth demands and needs analysis is required to work out how much land of each zoning we actually need. Whilst it is of utmost importance to liaise with Transit and sort out the traffic issues, we also need to commission a demand study to determine the right amount of commercial business and retail areas.

Councillor Overton expressed concern that if we went ahead with a plan change and consequently Transit told us the road was inadequate then transit may be able to halt future development.

Ms Jones advised that what we need to do is to work with Transit and get to a point where Transit is happy with the rules that the Council has determined and is happy to let the Plan change process run from there. We need to agree with Transit as to what level of proof is required in order to be comfortable that the roading network will be able to be improved to cope with the development and that specifics can be confirmed at the Resource Consent stage.

Ms Schuler also advised that there could be a submission from Transit but this is our last greenfield site and we need to determine the direction that development will take

Councillor Alfeld asked how and where future roads are to be built? Mr Kunath advised that depends on the outcome of study, Transit and high level management. Boyd Road & Shotover Bridge, Urban type road will need upgrading. Long term view is that the Council will take over.

Councillor Macleod said that these studies are essential to our understanding of the plan change as the outcomes will articulate the plan change.

Ms Schuler said that the previous Growth Options Study has shown there to be a dire shortage of industrial land and currently we have no more space, i.e. Glenda Drive.

Ms Schuler said that Bi monthly meetings are to be held with Transit to incorporate comprehensive planning.

Councillor Alfeld agreed that there is a need to act quickly.

Ms Jones said that we need to ensure we have the section 32 report that demonstrates our intention of how we want to use the land, and how we intend to access it and that we have buy-in to the process and the level of information provided from transit. This seems necessary in order to avoid yet another high court appeal from Transit.

Councillor Macleod asked if Transit are doing something towards the section 32 report. Ms Jones advised that they will be consulted in an ongoing way throughout its drafting.

Mr Kunath said that the answer depends on the proposal and the level of detail from the study.

Councillor Macleod and Alfeld both said that they could not see the timeframe working, as the study from transit could not possibly be complete in that timeframe in order to make correct assumptions about a proposed roading and transport network in the section 32 report. How can it possibly work? Ms Jones reiterated that it was hoped that not every output of the wider transportation study would be needed prior to finalising a plan change for notification and that much of the finer detail should be able to be worked through at the Resource Consent stage.

Mr Kunath said that we need to look at growth demands, needs analysis, case issues and problems. Look at possibly zoning. Need to go away, start talking and come back with the answer.

Councillor Pettit said that it looks like the development will occur with or without a plan change. If it doesn't go ahead the area will be developed anyway through Resource Consent applications over time. Building will continue, town has enough capacity for 76,000 people. Need a transport study and plan change. Both have to go ahead.

Councillor Alfeld agreed with Councillor Pettit's comments.

Mr Wilson advised that we need a clear vision for growth demand, a needs analysis is an important part to get a vision of where you want to be.

Councillor Kelly said that it was important not to repeat the Kawarau Bridge problem.

Councillor Alfeld said that we require an Urban Design needs analysis.

Councillor McLeod felt it important that the Strategy Committee confirm that it is in support of proceeding with the plan change, to which councillor Pettit stated that such a resolution is not necessary as this decision was made by full council many months ago and it was now just a case of getting on with it.

**On the motion of Councillors Macleod and Middleton it was resolved**

- 1. That the report be received.**
- 2. That the Strategy Committee is still of the view that the plan change continue to be worked on as laid out in the report**

**Councillor Pettit voted against**



**AN URBAN DESIGN ASSESSMENT OF THE EXISTING CARDRONA VILLAGE AND KEY STRATEGIES IN THE CARDRONA COMMUNITY PLAN (2003)**

(Item 4)

Ms Skidmore joined the table.

Councillor Middleton expressed concern at the last bullet on this report ***“Buildings which come right up to the Crown Range Rd (enabled by a rear service lane, for instance) should be encouraged in order to slow traffic.”***. She thought that it would be better for the proposed development to be set back with a gap off the road a bit and not “come right up to the Crown Range Rd”

Ms Skidmore explained that the reasoning behind the suggestion of having buildings come right up to the road boundary was that it was in keeping with the traditional historic pattern and the gold mining history of the village. She compared it to Arrowtown Village and felt that it was important to give the Cardrona village area that same containment so when people came up to the Cardrona valley they saw something quite different when they reached the village.

Councillor Middleton wanted to know if there was to be any foot traffic. Ms Skidmore said that there should be a streetscape upgrade which would include footpaths etc.

Councillor Kelly felt that it was necessary to think about whether car parking should be allowed on the edges of the main road and questioned whether such parking could negatively affect the ambience.

Ms Skidmore said that street parking will help to slow down the traffic and is often seen as a positive in urban design terms as it helps keep the place active.

Councillor Alfeld wanted to know if the model was more like Winton than Arrowtown but it was agreed that it was not. Councillor Kelly said maybe more like McCrae's flat, which is a historic gold mining heritage area.

Councillor Pettit raised concerns about the speed of traffic coming through the village and whether Arrowtown was an accurate comparison to draw, i.e. in Arrowtown the actual traffic speed is probably around 10 kilometres per hour through the main street. He also questioned whether it would be practical to slow down the traffic considerably, given all the ski buses coming through the village in the winter? He suggested that maybe designing a bypass road could provide a solution. Ms Skidmore said that she would be very cautious about suggesting a bypass as many towns (in NZ) had suffered considerably as a result of these.

Councillor Overton said that there is bumper to bumper traffic in the winter along that road and that this did need to be considered.

Councillor Pettit felt that we should just be sure that we didn't try and create solutions that end up being a compromise and not achieving any of the objectives that are set out.

Councillor Pettit said that it needed to be looked at from a practical point of view. He also asked how this project relates to our priorities.

Ms Jones advised that it is in the current year's budget. If it goes ahead then it would be a priority as the budget is already there for this.

Councillor Pettit said that the time frame needs to be determined and an assessment of the risk involved if we do nothing.

Ms Jones advised that a report will be forthcoming in April and that would consider whether to do a plan change and the relative priority of this project.

**On the motion of Councillors Alfeld and Overton it was resolved that the report be received.**

The meeting was adjourned at 10.10am reconvening at 10.20am

On the motion of Councillors Middleton and Macleod it was resolved that the committee move into Public Excluded for the following parts of the proceedings of the meeting

**Item 5 Arrowtown Boundary Resolution of Reference.**

*The general subject of the matters to be discussed while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(a) of the Local Government Information and Meetings Act 1987 for the passing of this resolution is as follows:*

**Item 5**

General subject to be considered.	Reason for passing this resolution.	Grounds under Section 48 for the passing of this resolution.
<b>Arrowtown Boundary Resolution of Reference</b>	That the exclusion of the public from the whole or relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings before the local authority where a right of appeal lies to any Court or Tribunal against the final decision of those proceedings.	48(1)(d)

*This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above with respect to each item.*

## **ARROWTOWN BOUNDARY – RESOLUTION OF REFERENCES**

### **PUBLIC EXCLUDED**

(Item 5)

Jenny Parker joined the table and provided further amendments to **4.2.4 (5)**  
***Boundaries between urban areas and the surrounding rural areas.***

It was important to identify the best approach and Ms Parker felt that the two maps from WESI as supplied for this item would be clearer if combined together and she had recommended this approach to WESI.

The maps provided guidance as to where residential or rural developments should not occur in order to keep Arrowtown a distinct village, and keep the surprise of emerging from a rural to an urban environment.

A map was included to advise the location of the buffer and edge within which council should be careful of development.

Councillor Middleton said it was like putting a cap on the eventual size of Arrowtown. Ms Parker highlighted that WESI's suggestion of a "No Build Zone" was incorrect and beyond jurisdiction and therefore would not be agreed to. Ms Parker highlighted that the effect of the new provisions would be to retain general zoning to existing rules but to also add a new objective and policy. Need to be very careful with the edge.

Councillor Pettit asked why should we impose new rules? Why is Speargrass more astringent at the front of the road as opposed to the end?

Ms Parker advised it was adding to the existing policies regarding hard urban edges and that there was no new rule and that it would have only minimal effect.

Councillor Pettit asked so why have it? Arrowtown has three golf courses; it is a tiny area for development and therefore is already sufficiently contained.

Ms Parker advised that it is so that Arrowtown can be distinct from other areas of development so that when you drive into Arrowtown you are not met with other villages or hamlets on the way. The idea is to get the impact of a village when you arrive in Arrowtown.

Councillor Pettit felt that sectioning off a road could be a problem.

Councillor Macleod said that the policy is a good one. Arrowtown is a good example of a village amongst a rural setting. Need to ensure no other hamlets are set up in the zone.

Councillor Alfeld – You have to draw the line – there's a grey edge. It is an improvement on policy. It provides transition from one zone to the other.

Ms Parker made the comment that this is just one policy amongst 20 and that it would not be the deciding factor in saying yes or no to a development.

Councillor Pettit asked if you wanted to develop a house on the Slopehill Road what rules would apply?

Ms Parker replied that the rural general rule would apply and that if the property cannot be seen from the road and does not impact onto the landscape then it will probably be OK.

Councillor Macleod commented that the policy is a good strong indication as to what Arrowtown wanted from the charette process. Everything is assessed on a case by case basis to protect Arrowtown. It is very important.

Councillor Alfeld did not feel that the word “Enclaves” was correct and it was discussed whether this term actually meant a cluster. He said that the definitions were weak. If we mean a cluster of housing, we need a better way of defining it. He also said that the term “sprawling development” could be better worded, it needs to be specific.

Councillor Pettit asked what does “the buffer” actually mean. Ms Jones explained that it was as shown in the maps and that the visual guideline would in part help to define what is meant by the buffer.

Ms Jones explained that the paper would be reviewed by legal counsel (Graham Todd) and senior planners to ensure that the wording is as robust as possible.

Councillor Macleod asked if everyone agreed on the nature of the rural buffer zone.

Councillor Overton said that the outer zone should be evenly balanced for this to have any weight at all.

The panel all agreed.

**On the motion of Councillors Macleod and Kelly it was resolved that the report be received.**

**Councillor Pettit voted against.**

**Councillors Macleod and Kelly voted to move to come out of Public Exclusion**

*There being no further business the meeting closed at 10.55am.*

**CONFIRMED AS A TRUE AND CORRECT RECORD**

CHAIRPERSON: \_\_\_\_\_

DATE: \_\_\_\_\_

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING OF 12 APRIL 2006**

**REPORT FOR AGENDA ITEM: 2**

**REPORT PREPARED: 2 April 2006**

**SUBMITTED BY: Vicki Jones, Manager: Strategy and Planning**

**MONTHLY UPDATE FROM THE MANAGER: STRATEGY AND PLANNING**

**PURPOSE**

The purpose of this report is to provide a brief summary of the progress that has been made on various strategic planning matters during the past month.

This report specifically provides an update on strategic projects and District Plan review projects up to the point of notification. It is noted that the monthly report from Alyson Schuler provides an update of Plan Changes that have been notified and any Environment Court proceedings.

**WORK PROGRAMME**

The following work programme lists the key projects that the Council has scheduled and budgeted for the 2005/06 financial year. With the exception of the all-important Transportation Strategy I have intentionally only included those projects which fall under the Strategy Committee's direct responsibility. The projects are split into strategic projects and plan reviews/ plan changes and, within each sub-group, are listed in a very general order of priority (from highest to lowest<sup>1</sup>).

<b>Priority</b>	<b>Strategic Projects</b>	<b>Relevant Key Issue</b>	<b>Current Status</b>
High	CCP 2006	Growth management	The growth projections (Vol. 4) and the refinement of the Strategy and Planning budgets are now all complete. (V Jones)
High	Growth Management Strategy (strategic project).	Growth Management	The Draft Growth Management Strategy is due in May 2006. (Hill Young Cooper). V Jones

<sup>1</sup> With 1-3 being "high", 4-7 being "medium", and 8-10 being "low"

Priority	Strategic Projects	Relevant Key Issue	Current Status
High	Implementation of the Future Link Transportation Strategy (implementation).	Transport	Ongoing. M Kunath.
High	Signs bylaw.	Urban design	A hearing was held 16 & 17 March 2006 and the decision is expected to be ratified by Council on 28 April. V Jones
High	Arrowsmith Design Guidelines (implementation).	Urban design	Refer to the report in this agenda. The final Guidelines are to be adopted in May 2006, following a feedback period this month. V Jones
High	Implementing the HOPE Strategy, including the District Plan review (implementation & plan change).	Affordable housing	<p>The Business Community Survey &amp; the brief for the Visitor Accommodation/ Community Housing Plan Change are now complete (refer reports in this agenda). Following 2 successful councillor workshops, a report is also contained in this agenda seeking the adoption of eligibility criteria.</p> <p>Effort will now focus on:</p> <ul style="list-style-type: none"> <li>• Establishing the Community Housing Trust.</li> <li>• The further development of specific arrangements with developers contributing units as Community Housing</li> <li>• The preparation of more detailed financial analysis on how the Equity Gap programs will work initially and over time. S Figness.</li> </ul>
High	Establish, manage, and monitor the Urban Design Panels (UDPs) (implementation).	Urban Design	A meeting was held with Panel members on 10 March to discuss the Terms of Reference (TOR). The outcomes of the meeting are currently being considered in conjunction with additional suggestions raised by



Priority	Strategic Projects	Relevant Key Issue	Current Status
			Queenstown Chair, Lou Alfeld and other Council reps relating to ensuring that the panels' effectiveness is maximised. Lou Alfeld will bring a report to the Strategy Committee following additional research and obtaining further advice on the suggestions that have been made. G Davis.
High	Finalising the Wanaka Structure Plan. I.e. Rooding, review and updating of the structure plan and phasing given changes in circumstances, inserting plan & costs into the CCP, ongoing enquiries and advice.	Growth management	An analysis has been undertaken to determine residential land needs based on the updated population projections. This will be used to inform the type of zoning regime required to achieve the phased release of land as proposed in the Plan. A review is also being initiated into reserve and public open space requirements; landscape value; and roading and transport etc (with in-house feedback currently being obtained). G Davis
High	Strategic study into the future of the business and industrial zones	Economic diversity, and growth management	A scope and fee proposal to provide detailed information regarding projected demands for employment land has been obtained from David Mead. This is currently being reviewed in light of comments from Council staff. It is proposed that the study will be undertaken in conjunction with work that David Mead is doing for the Five Mile/Frankton Flats Plan Change and will also make use of analyses prepared for the Three Parks and Jack Point projects. The proposal will be taken to the Tenders Board in April to ensure that tendering requirements have been satisfied prior to commissioning the work. This project is

Priority	Strategic Projects	Relevant Key Issue	Current Status
			expected to be complete in May. G Davis.
High	Queenstown CBD Heritage issues. This project is to review the existing studies of the CBD, to hold a meeting with property owners and developers to discuss the issues with development (particularly within the heritage precincts), and to then develop guidelines regarding how to design and assess developments within the precincts.	Heritage/ Urban Design	A meeting was held with various parties. Brown and Pemberton have been requested to prepare a proposal to undertake this work and this is expected to be received by 7 April. Background information has been sent to Brown and Pemberton and Auckland examples reviewed by Council staff. G Davis.
Medium	Monitoring – preparing community outcomes reports. (Implementation).	Growth management	The database is being further refined and reports are being prepared. It is intended to have these complete by May 2006.
Medium	Monitoring the effectiveness & efficiency of the Rural General zone (implementation).	Rural	Ongoing. A further report is due to be presented to the Strategy Committee.
Medium	Dwelling capacity model review (implementation).	Growth management	The model has been re-run and a report will be brought to the Committee in May. This has regrettably been delayed due to other workloads. V Jones.
Medium	Follow-up on the Kingston urban design review (implementation).	Urban design	A community workshop was held 2 April and about 45 people attended. Rebecca Skidmore's presentation went well. The lack of water/wastewater facilities was a major concern and concerns were also raised in relation to the potential loss of the golf course to future development. Some residents were not in

Priority	Strategic Projects	Relevant Key Issue	Current Status
			favour of an extra 400 or so lots being developed but realised that it would bring improved infrastructure to the town that it would otherwise not be affordable. There were concerns that the character of the existing township was maintained through any new development. J Bergman.
Medium	Tenure review (implementation).	Rural	There have been no reviews for many months.
Low	Complete social wellbeing policy (strategic project).	Social	Submissions close for this on 14 April. So far Council has received 5 submissions so far (from individuals, various education providers, and kai tahu).
Low	Develop a policy to guide the provisions of incentives to landowners to encourage heritage preservation (strategic project).	Heritage	Refer to the report in this agenda. S Figenshow
Low	Preparation of an Economic Strategy (strategic project).	Economic diversity	This project has not commenced as yet.
Low	Monitoring – Landscape & rural character report (implementation).	Rural	This project has not commenced other than to start collecting information on building platforms and covenants relating to open space, etc.
Low	Preparation of design guidelines (implementation). NB: Will use feedback from the UDP's to develop brief for additional design guidelines.	Urban design	Guidelines are in train for Arrowtown and the Queenstown CBD. Others have not yet commenced. G Davis.

	<b>District Plan reviews and Plan Changes (pre Notification)</b>	<b>Relevant Key Issue</b>	<b>Current Status</b>
High	Visitor accommodation and Affordable Housing Plan Changes.	Urban design & growth management	Refer to the report contained in this agenda
High	Frankton Flats Proposed Plan Change	Growth management	A 4-day charrette regarding the small and large block developments was held 27 – 30 March and council staff attended much of it. The Plan Change is expected to be notified in August provided transportation issues can be worked through and the employment land study can be provided in a timely manner.
High	Review of rural living zones # 12  To review the effectiveness of the Makarora rural lifestyle zone and suggest plan amendments and other actions to improve the effectiveness of this zone.	Rural	This project has been on hold since mid 2005. Proposals to undertake this plan change have now been received from various consultants and the project will be commissioned shortly and work will commence soon thereafter.
High	Future urban zoning for Wanaka #20  To develop and implement a robust process for the rezoning of land within the outer growth boundary as identified in the Wanaka Structure Plan (identified as 'Phase 4')	Growth management	This is now being worked on in-house, in conjunction with the project (listed above) entitled "Finalising the Wanaka Structure Plan". G Davis
Medium	Cardrona Rural visitor zone # 18 (Mt Cardrona Station) – To amend the zoning of the Rural Visitor Zone at the base of Cardrona Ski Field. (Plan review/ change).	Urban design and rural issues	The first Working Party meeting as been held. Preliminary landscape, urban design, traffic assessments and visitor projections, and the consultation strategy have been prepared. A technical workshop is being held on 8/9 April to work on the design and

	<b>District Plan reviews and Plan Changes (pre Notification)</b>	<b>Relevant Key Issue</b>	<b>Current Status</b>
			masterplanning. Notification is scheduled for Dec 2006. G Davis.
Medium	Remaining residential issues plan change (resulting from the Council's resolutions in Dec 04). I.e. To change the Med Density Residential rules, encourage use of the Comprehensive Residential Development rules, & to re-test the 450m <sup>2</sup> density vs. 6-700m <sup>2</sup> min lot size. (Plan review/ change). Not yet commenced.	Growth management & Urban Design	This project has not commenced as yet. V Jones.
Medium	Cardrona rural visitor zone (existing village) # 17 – To review the findings of the Cardrona Community Plan and to identify and make the changes to the District Plan that are necessary to achieve the key outcomes as they relate to future development within Cardrona. (Plan review/ change)	Urban design	The matter of whether and, if so, when, a Plan Change will be commenced for the existing Cardrona township has been deferred to the May agenda due to other workloads. V Jones.
Medium	Riverside Plan Change		Two working party meetings have been held and a meeting had with the community association. The consultant team have also met on site with Kai tahu representatives and Transit have been contacted. The consultant team has been appointed and some draft technical reports have been prepared and are currently under review. Rebecca Skidmore is currently undertaking a character study of Albert Town and a draft masterplan is being prepared in accordance with Council's

	District Plan reviews and Plan Changes (pre Notification)	Relevant Key Issue	Current Status
			objectives, which will be reviewed at the next Working Party meeting on the 13 <sup>th</sup> April. G Davis.
Low	Identifying areas of Significant Indigenous Vegetation (implementation).	Rural	This project has not commenced as yet. In discussions with senior MfE staff it has been recommended that council defer this work until the government prepare the NZ standard on biodiversity. V Jones
Low	Review of industrial and business zones #13  To review the provisions for the Business and Industrial Zones to ensure that the land zoned for business and industrial activities is used effectively and efficiently, given the predicted demand for such land into the future.	Growth management	A letter has been sent to all those people who made comments on the discussion document advising that this project is not proceeding and that they should stay up to date with the Visitor Accommodation, Frankton Flats, and 3 Parks plan changes as they may be of interest. G Davis.
Low	Kirimoko Block #14. To make changes to the Plan consistent with the Wanaka Structure Plan which enable residential development of the Kirimoko Block in Wanaka	Growth management	Further landscape analysis and dwelling capacity analysis has been undertaken in recent weeks. A peer review of the Kirimoko Groups Urban Design report is being undertaken by Rebecca Skidmore.  It is intended to notify this plan change in July/August 2006. A Schuler.
Low	Glenorchy Industrial zone.	Growth management	This project has not commenced as yet. It is noted that the Strategy Committee agreed that a strategic project relating to determining the employment land supply and projected demands of all small communities should be

	District Plan reviews and Plan Changes (pre Notification)	Relevant Key Issue	Current Status
			undertaken prior to any individual plan changes to re zone land for such purposes. V Jones.
Low	Plan Changes resulting from the flood mitigation working party recommendations (i.e. minimum floor height in Town Centre).	Growth management & Urban Design	This project has not commenced as yet as it is awaiting the completion of an initial feasibility study first (which is due to commence in the near future). V Jones.

### **OTHER SIGNIFICANT PROJECTS**

Other relevant projects to keep track of include:

- Achieving a fully operative District Plan (Alyson Schuler)
- Development contributions relating to car parking and roading (Stewart Burns)
- Lakeview Project (Ken Gousmett)
- Remarkables Centre (Ken Gousmett)

### **LOCAL GOVERNMENT ACT**

The author has considered the requirements of the Local Government Act and is of the view that all relevant provisions have been complied with.

### **RECOMMENDATION**

1. *That the report be received.*

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING 12 APRIL 2006**

**REPORT FOR AGENDA ITEM: 3**

**SUBMITTED BY: Alyson Schuler (Senior Policy Analyst)**

**REPORT DATED: 29 March 2006**

**UPDATE REPORTS – NOTIFIED PLAN CHANGES AND ENVIRONMENT COURT PROCEEDINGS**

**PURPOSE**

The purpose of this report is to update the Strategy Committee on;

- The progress of notified Plan Changes to the Partially Operative District Plan, and
- The status of District Plan Environment Court proceedings.

**PLAN CHANGE STATUS – APRIL 2006**

<b>Notified Plan Changes</b>	<b>Relevant key Issues</b>	<b>Current Status</b>
Heritage II #3 To research the addition of heritage features to the District Plan, and ensure recognition of heritage landscapes, so that the Districts significant heritage values are effectively recognised and protected.	Heritage	Plan change notified on 10 June 2005. Submissions closed 22 July 2005. 77 original submissions were received. 22 further submissions received.  The planners report, organisation of the hearing, and drafting of planners report has been put out to tender. Tenders closed on 31 March 2006 and the successful tenderer will be chosen as soon as possible thereafter. A hearing is likely in June.
Bible Terrace #5 To amend the south-eastern boundary of the Glenorchy Township zone to correspond with the base of the Bible Terrace, so as to protect against inappropriate urban development of the terrace and the terrace riser.	Rural	Plan change notified on 9 March 2005. 3 submissions received. Following report to full Council 29 April 2005 Plan Change is on hold.
Access widths #6 To ensure the width of access ways is	Urban design	This Plan Change was notified on 12 October 2005 and the submission period closed on 9 December 2005. 64 submissions have been received.



Notified Plan Changes	Relevant key Issues	Current Status
appropriately designed for current and future use		<p>The summary of decisions requested will be notified mid April. The remainder of the process has been put out to tender. Tenders closed on 31 March 2006 and the successful tenderer will be chosen as soon as possible thereafter.</p> <p>Hearing is likely to take place July/August 2006.</p>
<p>Residential flats #7</p> <p>To clarify the definition of residential flat</p>	Growth management	<p>This Plan Change was notified on 12 October 2005 and the submission period closed on 9 December 2005. 11 submissions were received; a summary of decisions requested has been prepared and is being notified for further submission. It is likely that a hearing will be held in April 2006.</p> <p>The summary of decisions requested will be notified mid April. The remainder of the process has been put out to tender. Tenders closed on 31 March 2006 and the successful tenderer will be chosen as soon as possible thereafter.</p> <p>Hearing is likely to take place May 2006.</p>
<p>Car parking #8</p> <p><i>To ensure current and future residents and visitors, particularly in the High Density Residential Zone, have sufficient on-site parking space for their own and their guests' vehicles.</i></p>	Growth management	<p>This Plan Change was notified on 12 October 2005 and the submission period closed on 9 December 2005.</p> <p>97 submissions were received; a summary of decisions requested is currently being prepared.</p> <p>The summary of decisions requested will be notified mid April. The remainder of the process has been put out to tender. Tenders closed on 31 March 2006 and the successful tenderer will be chosen as soon as possible thereafter.</p> <p>Hearing is likely to take place July/August 2006.</p>
<p>Farm buildings on Outstanding Natural Features #9</p> <p>To determine the risk of current rules whereby they allow farm buildings as a controlled activity on outstanding natural features.</p>	Rural	<p>Re-notified on 10 June 2005. 6 submissions received. Report to Strategy Committee 10 August 2005.</p> <p>7 original submissions received. 11 further submissions were received. The planners report, organisation of the hearing, and drafting of planners report has been put out to tender. Tenders close on 31 March 2006 and the successful tenderer will be chosen as soon as possible thereafter. A hearing is likely in July 2006.</p>

Notified Plan Changes	Relevant key Issues	Current Status
		Hearing is likely to take place in May 2006.
<p>Residential issues #10 To review the bulk and location controls in the high density residential zone in order to improve amenity values.</p>	Urban design	<p>This Plan Change was notified on 12 October 2005 and the submission period closed on 9 December 2005. 130 submissions received.</p> <p>The summary of decisions requested will be notified mid April. The remainder of the process has been put out to tender. Tenders closed on 31 March 2006 and the successful tenderer will be chosen as soon as possible thereafter.</p> <p>Hearing is likely to take place July/August 2006.</p>
<p>Definition of ground level #11 To determine an enforceable definition for ground level.</p>	Urban design	<p>Notified 27 July 2005. Submission period closed 26 August 2005. 10 submissions received report to be presented on 12 October to gain approval for Stage II. 9 original submissions 13 further submissions received.</p> <p>The remainder of the process has been put out to tender. Tenders closed on 31 March 2006 and the successful tenderer will be chosen as soon as possible thereafter. A hearing is likely in May 2006.</p>
<p>Peninsula Bay #15 To initiate a change to the Plan that is informed by Wanaka 2020, the Wanaka Structure Plan, the Growth Options Study, the dwelling capacity model, other studies including landscape assessment, and the recent Environment Court decision to enable residential development on Peninsula Bay.</p>	Growth management	<p>160 original submissions have been received. 7 further submissions have been received.</p> <p>The hearing will commence 10 April 2006.</p>

**DISTRICT PLAN ENVIRONMENT COURT PROCEEDINGS STATUS –APRIL 2006**

Reference/ Appeal	Summary	Status
Valentine	Reference by BH Valentine requesting Rural Lifestyle zoning for property on Dalefield Road	Interim decision released. Submissions filed with Court, further discussions with referrer have been held. Memorandum for the Environment Court drafted, awaiting auctioning by counsel.
Financial contributions	References lodged by Contact Energy, Clark Fortune McDonald, Remarkables Park, Hensman Family Trust and Others, and WESI.	The Environment Court has given RPL and CFM until 31 January 2006 to lodge their proposed financial contribution rules for a Section 293 application. Both parties are working with Council to try and agree on these rules taking into account the 2005/2006 method for calculating development contributions. Agreement has been reached on the form of the Section 293 apart from four distinct points. A memorandum was prepared for the Environment Court for the pre hearing conference on 24 March 2006. The provisions in the District Plan rely on a document which sits outside of the District Plan containing all of the actual figures and differentials, these change on a yearly basis through the Annual planning process. Neville is to provide a memorandum to the Environment Court by 5pm Wednesday 5 April showing the jurisdiction for this within the framework of the RMA.
Wakatipu Environmental Society – Arrowtown Boundary Issue	Reference to the 1998 Plan seeking the insertion of a policy into the plan to provide a clear boundary to Arrowtown by a planted green belt.	<p><i>WESI needs to respond to the Council's memorandum by 7 April – this should include the jurisdiction for the addition of the map providing additional protection for the wider Arrowtown area.</i></p> <p><i>Council shall then respond to WESI's memorandum by 21 April. Clear Family Trust has a watching brief on this issue and may also lodge a memorandum on 21 April. Following the lodging of the memorandums the Environment Court will decide the issue "on the papers". An agenda is included within this agenda.</i></p>

Reference/ Appeal	Summary	Status
Jacks Point (Variation 16)	Reference by Shotover Park Limited and Naturally Best New Zealand Limited to the Homestead Bay part of the Jacks Point Variation.	<p><i>The majority of the references to the Jacks Point Zone have been resolved through mediation, consent orders have been issued and the Jacks Point Zone (excluding Homestead Bay) has been made operative.</i></p> <p>In relation to the Homestead Bay an agreement has been reached and signed off by the primary parties and a consent memorandum is to be lodged with the Environment Court once all Section 274 parties have signed. Subject to the Environment Court accepting the consent memorandum, this appeal is now resolved.</p>
Scenic Rural Roads (Variation 18)	To review the current provisions for SRR in the Rural General Zone, and identify the most appropriate mechanisms for maintaining the views from rural roads in the Rural General and Rural Living Zones. The Variation was appealed to the Environment Court by a number of parties.	<p>The Environment Court has released an interim decision; further work was required be undertaken and submitted to the Environment Court before a final decision could be issued.</p> <p><i>Legal submissions have been lodged with the Environment Court; a final decision will hopefully be released shortly. A summary of the interim Environment Court decision is included within this agenda.</i></p>

### **SIGNIFICANCE OF DECISION**

This agenda item is for up-date purposes only and does not affect the Council's Significance Policy.

### **LOCAL GOVERNMENT ACT**

The author has considered the requirements of the Local Government Act and is of the view that all relevant provisions have been complied with.

### **RECOMMENDATION**

***That the report be received.***

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING 12 APRIL 2006**

**REPORT FOR AGENDA ITEM: 4**

**SUBMITTED BY: Manager: Strategy and Planning**

**REPORT DATED: 2 April 2006**

**THE PRESENTATION OF THE DRAFT ARROWTOWN DESIGN GUIDELINES**

**PURPOSE**

The purpose of this report is to present the Draft Arrowtown Design Guidelines to the Strategy Committee.

**BACKGROUND**

The Arrowtown Design Guidelines have been developed over the past 15 months by a core team of consultants, comprising:

- Mary Wallace
- Max Wild
- Phillip Blakely
- Ralf Kruger

The Design Guidelines are a joint project between the Council and the Arrowtown Heritage Trust, with the Arrowtown Heritage Trust funding the majority of the project.

The preparation of the Guidelines is expected to contribute significantly to the achievement of the following **community outcomes**:

- *High quality urban environments respectful of the character of individual communities.*
- *Preservation and celebration of the district's local cultural heritage.*

**SIGNIFICANCE OF DECISION**

The decision sought in this report is not significant in terms of the Council's Significance Policy.

**CONSULTATION - INTERESTED OR AFFECTED PERSONS**

Consultation undertaken in respect of the preparation of the Guidelines has been limited to circulating the Guidelines at various draft stages to key council staff (including the writer, the Director of Parks and Open Space, and the General Manager: Utilities) and trustees of the Arrowtown Heritage Trust.

It has not been considered necessary to engage the wider public or professionals in the drafting of the Guidelines as it is the intention that the Guidelines be in keeping with and simply elaborate on parts of the Arrowtown Community Plan (2003).

That said, it is recommended in this report that the Draft Guidelines are now made public for a period of two weeks for any feedback, following which, amendments can be made where appropriate and the Council adopt the Guidelines as final for publication and widespread distribution.

Given the complexity of the Guidelines, it is also recommended that, once the Guidelines are final, a workshop is held for the public and professionals at which members of the team can present the Guidelines. The writer is also considering the merits of producing a summary (brochure) of the Guidelines but there needs to be careful thought as to whether this would undermine the Guidelines and prompt the public to refer to the brochure rather than the detailed Guidelines.

### **RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes District Council Policy Manual (2003)
- The Queenstown Lakes Partially Operative District Plan (2003)
- The Council's "policy of significance"

### **DISCUSSION**

The project brief was to provide Guidelines in terms of built form, planting, fencing, streetscape, and new subdivision for the whole of Arrowtown, including both public and private land. Notably, the Guidelines are non-statutory and do not impose any greater level of control on development than what currently exists. It is noted though that in the old area of Arrowtown the District Plan requires a full discretionary consent to be obtained for any building and, as such, these guidelines will assist both the applicant and Council's planners to better assess the appropriateness of the development proposal against the objectives and policies in the Plan.

Furthermore, the Guidelines contain a checklist of information that should be provided when lodging resource consent. In respect of all applications it is fair and reasonable to request sufficient information in order to enable the proper assessment of effects. Whilst the level of information that can be requested for controlled and limited discretionary activity consents is restricted by the matters listed in the District Plan, the level of information that can be sought for a full discretionary consent (such as for a building in the old areas of Arrowtown) is extensive. Having received legal advice on the matter, I am comfortable that the Council can request a level of information that is over and above that which is listed in the District Plan as being required.

The full set of Guidelines is attached to this agenda.

The Guidelines are broken down into the following Volumes and will be made available either as a full set or individually (albeit that every volume will include the introductory sections (1 – 3) and the 'materials lists':

Volume A:	River Environs
Volume B:	Town Centre
Volume C:	Old Town Residential

## Volume D: New Town Residential

It is intended that while designers, planners, etc would hold a full set of the Guidelines, others would obtain only the Volume that is relevant to their specific project.

It is noted that the Guidelines are more detailed and specific for the Town Centre and Old Residential areas as these are the areas where the District Plan provides considerable “teeth” to require appropriate design through the resource consent process.

Every endeavour has been made to ensure that the Guidelines are able to be understood by design professionals, planners, decision-makers, and the wider interested public. It is fair to say that this has been a challenge given the complexity of some of the design principles which need to be explained.

In addition to the Guidelines, the consultants are also providing advice to Council (to be completed in May) suggesting changes that should be made to the District Plan in order to better preserve the heritage values in the old town areas and to better reflect these values in the new town area.

### **OPTIONS IN TERMS OF THE DECISIONS TO BE MADE BY THE STRATEGY COMMITTEE TODAY**

The options available to the Strategy Committee are to:

1. Recommend to the full council that it approves the attached Guidelines as final
2. Approve the attached Guidelines as draft for the purpose of consultation and to request that the final Guidelines be brought back for approval at the May meeting

Whilst the Guidelines are non-statutory and do not impose any greater level of control on development than what currently exists it is still considered prudent to enable the public to make any comments or suggestions prior to finalising them and having council adopt them.

Option 2 is preferred and is recommended in this report. Whilst a consultation strategy has yet to be confirmed, it is expected to include the following:

- That the availability of the Guidelines be publicised in the media
- That the draft guidelines be able to be downloaded from the Council’s website
- The draft guidelines can be viewed and copies obtained from the Lakes District Museum in Arrowtown and the Council offices.
- That (2) copies of the guidelines be sent to the Arrowtown Village Association
- That a copy of the guidelines be provided to key council staff for final comment.
- As no specific questions are being asked, no feedback form will be produced but, rather, general comments will be sought over a two week period (closing 28 April).

Whilst two weeks is a short period, it is noted that this project has been ongoing for a considerable time and there is considerable urgency to get the Guidelines published and being actively used as a reference document.

### **FINANCIAL IMPACT**

There are no unforeseen financial implications of the decision being recommended in this report.

### **DELEGATIONS REGISTER**

No matters arise in relation to delegations as a result of this report.

### **RECOMMENDATION**

- *That the report be received.*
- *That the Draft Arrowtown Design Guidelines dated March 2006 (bound separately and circulated with this agenda) be approved for the purpose of consultation and that the final Guidelines be brought back to this committee and then to full Council for adoption in May 2006.*

A copy of the Draft Arrowtown Guidelines is available for review from the Committee Secretary, Cathy Walker.



**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING 12<sup>TH</sup> APRIL 2006**

**REPORT FOR AGENDA ITEM: 5**

**SUBMITTED BY: Gemma Davis**

**REPORT DATED: 30th March 2006**

**QLDC TO BECOME A SIGNATORY TO THE NZ URBAN DESIGN PROTOCOL**

**PURPOSE**

The purpose of this report is to present to the committee a recommendation for Queenstown Lakes District Council (QLDC) to become a signatory to the New Zealand Urban Design Protocol.

**BACKGROUND**

QLDC has been invited to become a signatory to the New Zealand Urban Design Protocol. The Urban Design Protocol is part of the NZ Government's Sustainable Development Plan of Action. The purpose of the Protocol is to signal the Government's commitment to urban design, to start debate and raise awareness of urban design across the country, to improve the exchange of learning and information, and to initiate a programme of action to result in quality urban design. The Protocol is attached to this agenda for your information.

All central and local government agencies as well as property investors, design professionals, educational institutions (etc) can become voluntary signatories to the Protocol.

Becoming a signatory to the Protocol means that QLDC would form part of a formal agreement with other signatories to support and demonstrate the principles outlined in the Urban Design Protocol document. It would be an agreement only and has no force in law.

**Relationship to Community Outcomes**

Becoming a signatory to the Urban Design Protocol will primarily assist Council in delivering the following Community Outcome:

- High quality urban environments respectful of the character of individual communities.

It will also contribute to the Council's achievement of the other community outcomes relating to sustainable growth management, a safe and healthy community that is strong, diverse and inclusive, a strong and diverse economy, and the preservation and celebration of the district's local cultural heritage.

**CONSULTATION**

This report and Action Plan has been forwarded to the Urban Design Panel Chairs and members for review. Comments from the Panel will be verbally reported to the Strategy Committee at the meeting for consideration.

## **SIGNIFICANCE OF DECISION**

This decision is not considered significant under the Council's significance policy.

## **RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes District Council Community Plan (2004)
- The Queenstown Lakes District Council's "policy of significance"
- The Queenstown Lakes District Council Delegations Register (July 2004)

## **DISCUSSION**

The Urban Design Protocol is a positive initiative aimed at supporting the development of successful towns and cities. The principles identified in the Urban Design Protocol document reflect general good practice and the types of principles that QLDC already promotes through the Urban Design Panels and Council projects.

Becoming a signatory to the Urban Design Protocol would formalise QLDC's commitment to create and facilitate quality urban design through the Council's own actions and to lead by example in encouraging other sector groups to contribute to creating quality urban environments. This would clearly identify Council as an advocate for and facilitator of high quality urban design in the District. It would also provide formal recognition of the importance of urban design in Council's decision making processes and in the broader context of ensuring that the Council contributes to the New Zealand Government's Sustainable Development Programme of Action.

There are currently 111 signatories to the Protocol across New Zealand, 25 of which are local authorities.

Signatories to the Protocol are required to appoint a Design Champion(s). The Champions should be a senior, influential people who can promote quality urban design in all areas of the organisation.

The Ministry for Environment has suggested that the Council appoint two Champions if possible to enable a high level of participation and communication in activities provided for signatories and to distribute responsibilities for implementing the Council's urban design actions. It was suggested that it would be appropriate for one Champion to be a Councillor and a second Champion to be a staff member.

It is also suggested by the Ministry that the Council identifies at least one person within Council staff to act as the key contact point for the Ministry and who is also invited to participate in the activities of the 'Champion's Network' which includes workshops, regular email updates and other activities aimed at creating better networks with other signatories in the region and around New Zealand.

It is proposed that Councillor Lou Alfeld is appointed as Council's Design Champion and that Vicki Jones Manager; Strategy and Planning is appointed as the second Design Champion. It is proposed that Gemma Davis, Senior Policy Analyst act as the key contact person.

As a signatory to the Protocol, Council must commit to develop, monitor and report on a set of actions specific to their organisation. Actions can range across all aspects of an organisation's activities, from strategy development to decision making to research and staff training. Signatories are required to complete and submit their Action Plans within 6 months of becoming signatories to the Protocol. A draft Action Plan is provided in Appendix A for the Strategy Committee's consideration.

The Action Plan aims to provide a wide range of actions that Council will undertake to promote urban design in the District. A significant proportion of these are already being undertaken by Council, however they have only been implemented relatively recently and,

as such, the purpose of the Action Plan will be to formalise these actions and to commit to ensuring effective implementation and ongoing improvement.

No financial commitments are required in order to become a signatory to the Protocol.

If the Council makes a decision to become a signatory to the Protocol, the Ministry for Environment has advised that they would be happy to arrange for Lindsay Gow, Deputy Chief Executive of the Ministry for Environment and the Ministry's Urban Design Champion to visit the Council to discuss how QLDC can maximise the opportunities provided by becoming a signatory to the Protocol.

### **FINANCIAL IMPACT**

The decisions sought in this report have no financial impact.

### **DELEGATIONS REGISTER REFERENCE**

The Strategy Committee does not have the authority to authorise Council's commitment to becoming a signatory to the Urban Design Protocol and, as such, it is being asked to recommend that Council becomes a signatory to the full Council. This approach is consistent with the Delegations Register.

### **RECOMMENDATION**

1. ***That the report be received.***
2. ***That the Strategy Committee recommend to full Council that QLDC becomes a signatory to the Urban Design Protocol.***
3. ***That the Strategy Committee recommend to full Council that Lou Alfeld is appointed as Design Champion; Vicki Jones is appointed as the second Design Champion; and Gemma Davis is appointed as Council's contact person.***

**APPENDIX A**

**DRAFT ACTION PLAN**

## URBAN DESIGN ACTION PLAN FOR QUEENSTOWN LAKES DISTRICT COUNCIL

Queenstown Lakes District Council (QLDC) has been invited to become a signatory to the Urban Design Protocol.

The Urban Design Protocol is part of the Government's Sustainable Development Plan of Action. It supports and builds on a range of government strategies for improving our urban environments. The purpose of the Protocol is signal the Government's commitment to urban design, to start debate and raise awareness of urban design across the country, to improve the exchange of learning and information and to initiate a programme of action to result in quality urban design.

By becoming a signatory to the Urban Design Protocol, QLDC will make a commitment to create and facilitate quality urban design through their own actions and to lead by example to encouraging other sector groups to contribute to creating quality urban environments.

Signatories to the Protocol commit to develop, monitor and report on a set of actions specific to their organisation. Actions can range across all aspects of an organisation's activities, from strategy development to decision making to research and staff training.

This Action Plan has been prepared to accompany QLDC's application to become a signatory to the Protocol. The Action Plan identifies the initiatives that QLDC will undertake in order to meet its commitment to being a leader in creating and promoting quality urban design.

A significant proportion of the actions identified in the plan are already being undertaken by the Council. In these cases it is the aim of the Council to further promote these initiatives and ensure that they are operating efficiently and effectively.

### Community Outcomes

Undertaking the actions identified in this plan will assist Council in achieving the Community Outcomes for the District as identified in the Long Term Council Community Plan.

Key Community Outcomes that this action plan will assist in delivering include:



Sustainable Growth Management



Quality landscapes and natural environment with enhanced public access.



High quality urban environments respectful of the character of individual communities.



Preservation and celebration of the district's local cultural heritage.

Objective	Action	Delivery
<b>Promote best practice urban design for all projects in the District</b>	Appoint a Council 'Design Champion' at a senior influential level to promote and champion quality design and to challenge existing approaches to the Council.	<b>2006</b>
	It is suggested that: Councillor Lou Alfeld is appointed Design Champion. Vicki Jones is appointed to act as a second Design Champion Gemma Davis will act as the key contact person.	
	Develop an awards scheme that recognises and celebrates quality urban design in the District.	<b>2007/08</b>
	Incorporate an educative component in the Council's communication material to raise the community's understanding of urban design issues and solutions and activities that Council is undertaking to promote best practice urban design in the District such as the Urban Design Panels.	<b>2006</b>

Objective	Action	Delivery
	This includes the Urban Design Panel brochure (currently in preparation), promotional material on the QLDC website and regular educational articles in local media and Skuttlebutt.	
	Initiate an Urban Design Speaker forum. This would aim to bring a world-class speaker to Queenstown each year to meet with the Urban Design Panel, community representatives, Councillors and Council staff and hold a one day workshop to discuss and develop urban design issues/ideas/opportunities for the District as well as provide a presentation on urban design best practice and issues facing the District.  Where possible these initiatives should be organised in collaboration with local branches of the Central Otago Branch of the Planning Institute and the Southern Branch of NZ Institute of Landscape Architects, Institute of Architects NZ; and other local and regional Councils who are also signatories to the Protocol.	2006/07
	Provide opportunities for all Councillors and staff who contribute to the planning and management of the built environment to undertake training and education programmes to increase their understanding of urban design issues.	2006/07
	Provide decision makers, Resource Consent and Strategic Planners with access to specialist urban design advice through the Urban Design Panel and educate them on the need for them to seek and consider this advice as part of the decision making process.	2006
	Document examples of developments that illustrate best practice in urban design and make this information available on the Council web site.	2006 /07
	Research existing examples of urban design best practice before beginning a major development project or policy development process.	2006/07
<b>Consider urban design in policy and strategy development</b>	Continue to work towards creating high quality urban design through the Long Term Council Community Plan.	Ongoing
	Consider urban design implications of all relevant draft council policy, at an early stage in the policy preparation process. This is currently being achieved either through review by the Urban Design Panel or by relevant Council staff /consultants.	2006
<b>Set a good example</b>	Deliver high quality urban design in all relevant Council projects by ensuring that all project teams include suitably qualified consultants or staff members or that the Urban Design Panel are an integral part of the project review process.	2006
	Ensure tender procedures for construction and maintenance are judged against value for money and quality rather than just least cost.	Ongoing
	Make a commitment that all briefs for design and construction should consider urban design issues and are appropriately reviewed by the Urban Design Panel or a suitably qualified consultant or staff member.	2006
<b>Consider urban design in the decision making process</b>	Ensure that urban design issues and the advice of the Urban Design Panel and/or design consultants are given appropriate weight in the decision making process.	Ongoing
<b>Be proactive in identifying urban design issues in the District</b>	Provide opportunities for design professionals (through the Urban Design Panels) to proactively identify and provide input into key urban design issues facing the District.	Ongoing
	Develop a 'town model' for the Queenstown and Wanaka CBD areas.	2007

Objective	Action	Delivery
	The model would be computer generated and permit a streetscape 'walk through' of design proposals.	
	Update existing Council aerial photography of the CDB areas and high density residential areas to enable a more complete assessment of the impact of development proposals on surrounding neighbourhoods.	2006/07
<b>Monitor Council's performance in achieving improved urban design outcomes in the District</b>	Actively monitor the effectiveness of the Urban Design Panel in influencing urban design outcomes in the District.	2006
	Monitor and report on Council's progress toward influencing urban design outcomes in the District as part of the Council's Monitoring Strategy for the Long Term Council Community Plan.	2006
<b>Work proactively with the private sector to achieve best practice design outcomes</b>	Encourage and promote opportunities for private sector developers to obtain the advice of the Urban Design Panels early in the design process for new development projects.	2006

# **QUEENSTOWN LAKES DISTRICT COUNCIL**

## **STRATEGY COMMITTEE**

**FOR MEETING OF 12 APRIL 2006**

**REPORT FOR AGENDA ITEM: 6**

**SUBMITTED BY: Scott Figenshow, Senior Policy Analyst-Housing**

**REPORT DATED: 28 March 2006**

### **HOPE STRATEGY- BUSINESS COMMUNITY SURVEY**

#### **PURPOSE**

The purpose of this report is to report on the findings of the 'Business Community Survey' conducted from 15 November 2005 to 15 February 2006.

#### **BACKGROUND**

The purpose of the survey is to gather information on the financial & other costs that businesses incur resulting from the lack of housing that is affordable to their employees. Developing and implementing the survey was identified as one of the top priorities for the first six-months of implementation work from the HOPE Community Housing Strategy, and was listed therein as action item #5. The Survey relates to goals 2, 3 and 4 of the HOPE Strategy:

- Goal 2: To facilitate initiatives to increase the supply of affordable quality housing for rent to seasonal workers, as an end in itself, as well as the flow- on benefits it will bring to the long term rental market.
- Goal 3: To significantly increase the supply of quality, affordable, and secure rental property to meet the needs of committed local residents, employed in key industries that are important to the economic and social wellbeing of the community.
- Goal 4: To support the development of the owner-occupier housing market for committed local residents, employed in key industries that are important to the economic and social wellbeing of the community, and to ensure the retention of this housing as affordable housing.

The survey was developed and implemented by in-house staff resource.

#### **SIGNIFICANCE OF DECISION**

The decision sought of the Committee through this report is not significant under Council's significance policy.

#### **CONSULTATION - INTERESTED OR AFFECTED PERSONS**

The survey was mailed to a total of 121 businesses, of which 32% were considered to be 'district wide'; 17% in Wanaka and its environs, and 51% in Queenstown and its environs.



The list was compiled from the following sources:

- The list of 81 businesses used for outreach during the development of the HOPE Strategy;
- The HR Managers Group, (via Rachel Reese) through attendance at their quarterly meeting, representing primarily the hospitality industry;
- Consultation with colleagues for the addition of key business leaders for survey distribution;
- Other businesses expressing an interest, or whom we felt had been overlooked.
- The survey was also posted on the QLDC website from 6 December to 31 January
- Two press releases were issued.

Out of the 118 surveys sent out by QLDC 17 were completed and returned reporting data on 641 positions. The results offer a 14% response rate, with the following sectors represented:

<b>Sector</b>	<b>Number of responses</b>	<b>% of Total Responses</b>
Tourism and hospitality	7	42%
Schools	3	18%
Retail	3	18%
Social services	2	11%
Construction	2	11%

The low survey response rate may be due to a set of factors:

- Employers reluctant to disclose pay rate information
- The survey was complex
- The survey was issued over December/January period

Staff considered doing more follow-up work, but further review of the relatively large number of positions reported (641) by the 17 respondents suggested that staff resource would be better applied to other priorities. Re-implementing a revised survey next year was deemed to be more beneficial.

The responses did cover a representative sample of the business community, and results appear to be statistically valid as they approximate similar results for wage information provided from Statistics New Zealand through the 2001 Census, as adjusted.

## **RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- Housing our People in Our Environment (HOPE)-QLDC Community Housing Strategy (2005)
- The Council's "policy of significance"

## **DISCUSSION**

### **Median Incomes**

The average hourly pay rate over all of the respondents is \$16.12, which equates to an annual full-time gross pay rate of approximately \$33,529. Given the low 14% return rate, and the fact that detailed wage information was reported by only 62% of respondents, this result can only be given limited weight. However, this rate seems generally consistent with, and not statistically different from, the 2006 estimate derived from the actual median income

for the District obtained from the 2001 Census of \$35,152. Also notable is that roughly half of the pay rates included in the returned surveys were manager's rates.

### Nature of Work

Ninety-five percent of positions listed by respondents are for over 35 hours/week, and are listed as 'full-time'.

Eighty-two percent of positions are for regular, ongoing positions, with 18% seasonal. It is noted, however, that the Survey received no detailed data from ski field operators.

### Proximity of Work to Home

In response to the question of distance between home and the workplace:

How close to the work location do your staff live? (Walk)	16%
3-10km	25%
<b>11-20km</b>	<b>48%</b>
20-50km	11%

This data suggests that the overwhelming majority of the workforce continues to live less than 20km from their work. The HOPE Strategy stresses the importance of local residents time being available for voluntary activities, and the shorter the distance people travel to and from work have a direct impact on reduced traffic and greater free time available.

### Employment Positions

The following four questions were asked about the particular positions:

How does your rate of pay compare with the same position type elsewhere in NZ?	2%	<b>51%</b>	<b>47%</b>
	Lower than	<b>Same As</b>	<b>Higher Than</b>

It is important to note that respondents were asked their opinion, and for those that provided wage information, this was not verified against national data to confirm the opinion expressed that wages paid were the same as or higher than elsewhere in New Zealand.

Skill Level/ Education &/or experience required	24%	<b>43%</b>	32%
	Entry-level Skill	<b>Moderate</b>	High Skill

This data suggests that the perception of the District as full of entry-level positions may in fact be countered by the 32% of positions reported as 'high skill'.

Ability to find qualified staff for this position	25%	<b>54%</b>	21%
	Easy	<b>Moderate</b>	Difficult

Likelihood of persons to settle permanently in the Lakes District	<b>53%</b>	40%	6%
	<b>Unlikely</b>	Medium	Highly likely

The above two items suggest that while finding qualified staff is only moderately difficult, retention may be the more difficult challenge, with 53% of persons unlikely to settle permanently in the lakes district. Anecdotal information collected in the survey that this is due to a combination of seasonal work, but also due to the lack of clear career paths, and

the ability to find housing affordable for a long term period that would make a permanent move economically viable.

### **Is the lack of affordable housing constraining business growth?**

While the majority of businesses (54%) did not express that their business was constrained by their ability to accommodate staff in suitable, affordable housing, it is certainly worth noting that 29% of respondents did feel that their business was constrained on this issue. This question is a key economic indicator for the region, which does suggest that the actions recommended in the HOPE Strategy continue to advance quickly before the issue becomes more critical for businesses.

### **Desired Housing Types**

In response to the question "What are the types and price levels of accommodation desired by your employees?" respondents reported on 608 positions with the following desired rental price information, by number of bedrooms.

House (# Bedrooms)	4	3	2	1
If Shared living (# people/bedroom)	1	1	1.5	2
Desired cost: (\$rent/week) per person	\$ 110	\$ 100	\$ 80	\$ 70
Equates to desired unit cost/week	\$ 440	\$ 300	\$ 240	\$ 140

The above chart summarises what employers perceive their employees would find to be affordable housing, paying between \$70-\$110 per week for a private room in a shared accommodation situation. Narrative responses indicated that couples and more senior professionals wanted their own apartment or flat, and would not be willing to share accommodation. Thus, the above desired rents were used to approximate a full rent of a one, two, three and four-bedroom house/apartment. Staff are continuing a separate study to determine a consistently accurate source for the median home price and rent for the district, yet the above desired costs appear to be below what the market is currently offering.

It is noted that employees early on in their career are willing to share accommodation, but express a strong desire for their own bedroom. Results from the 2001 Census-Household Survey suggest that two-bedroom data contain a couple plus one flatmate, and further suggests that the flatmate rent is assisting the couple to afford the apartment or house.

### **Turnover and associated costs**

A lack of affordable housing is an issue because it plays a part in creating high staff turnover and difficulty retaining workers.

The turnover rate is as follows:

How long have your staff been employed with you?	%
6 months	39%
1 year	17%
2 years	12%
3 years	7%
over 3 years	24%

Narrative responses reported that the 24% of staff who have been employed for over three years are largely managerial, and are likely to own their homes and are not facing housing affordability issues. The challenge is that for the 29% of businesses whose expansion is reported as 'hindered', recruiting these more highly trained or experienced positions may be problematic now and into the future (with the recent housing price increases). Further, the lack of affordable housing may be contributing to the trend reported above where the

significant drop off in tenure from 6 months, to 1 year, to 2 years and 3 years may be a result of people gaining skill, but not able to see a long-term viable future for themselves in the District.

This high turnover rate costs an employer in advertising, lost productivity and overtime to other employees every time an employee leaves. The responses also show that the turnover is a lot higher for shop floor workers/assistants (generally lower waged workers) than it is for the higher paid managers, although this may not be a Queenstown specific problem and is probably similar all over New Zealand.

Respondents provided data on recruitment costs for roughly half (371) of the positions, which totaled nearly \$260,000 annually, and equated to an annual cost of nearly \$700 per person. A similar total of retention costs was not available from the data.

### **Barriers to recruiting new staff**

The cost of establishing oneself in a rental property, which can be up around \$3000 or \$4000 (bond, letting fee etc.) was shown to be a barrier to attracting some staff. This cost is often too much for part time/ lower waged staff. Another reported barrier is that wages do not match the cost of living in Queenstown.

While 34% of respondents did report providing some form of accommodation assistance, this is often limited to assisting new staff search for housing. The respondents reported fewer than 50 employer-assisted housing are actually provided by employers, for 641 reported positions, or approximately 8%.

The amount an employee is paid seems to have a large effect on the length of stay in a job, with the highest turnover always seeming to be the lower paid employees. Employees with more incentives such as cash bonuses, non-cash incentives such as ski passes and better pay seem to have lower turnover and stay in their positions for longer.

### **General Comments**

One respondent's firm expressed that they have investigated the issue and could find 'no equitable solutions that make any sense'.

Social service agencies in particular see the fallout from high housing costs in the type of stresses and pressures that are presented to them by clients.

### **OPTIONS**

As staff further implement the HOPE Strategy, proposals to implement rental housing solutions will explore options around the high initial cost of renting market rate units, as well as the need for more affordable long term rental accommodation

This survey will be reviewed by Staff for the benefit it may offer if annually implemented in concert with the overall monitoring strategy. Further information would be brought forth separately at a later time.

### **FINANCIAL IMPACT**

This activity was carried out using in-house resource as part of a planned scope of work and there is no unforeseen financial impact.

### **DELEGATIONS REGISTER REFERENCE**

As no decision is being sought of the Strategy Committee the matter of delegations is not relevant.

### **RECOMMENDATION**

***That the Strategy Committee receives this report.***

**QUEENSTOWN LAKES DISTRICT COUNCIL****STRATEGY COMMITTEE****FOR MEETING 12 APRIL 2006****REPORT FOR AGENDA ITEM: 7****SUBMITTED BY: Scott Figenshow, Senior Policy Analyst-Housing****REPORT DATED: 28 March 2006****HERITAGE INCENTIVES POLICY****PURPOSE**

The purpose of this report is to provide a policy that incentivises owners of listed heritage features to undertake the necessary upgrade, repair and maintenance of the item by providing a grant policy to partially mitigate the cost of resource consents required due to the heritage listing.

**BACKGROUND**

As a result of Committee discussions around Heritage II/Plan Change 3, the Committee desired a policy to guide its expenditure of the approximately \$15,000 per year planned for in the LTCCP to encourage and facilitate heritage preservation.

**SIGNIFICANCE OF DECISION**

The decision sought of the Committee through this report is not significant under Council's significance policy.

**CONSULTATION - INTERESTED OR AFFECTED PERSONS**

No additional consultation has taken place. An incentives grant scheme that would reduce the impact of consent costs for heritage listed items has been suggested by some submitters in the Heritage II/Plan Change 3 as an appropriate mitigation for the costs of securing resource consent. The proposed policy is consistent with those suggestions.

**RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes District Council Policy Manual (2003)
- The Queenstown Lakes Partially Operative District Plan (2003)
- The Council's "policy of significance"
- The Council's proposed Tree Policy
- The Long Term Council Community Plan (LTCCP)

The proposed is a new policy.

## **DISCUSSION**

The author reviewed previously completed work on the issue as prepared by CivicCorp, which looked at a wider range of option for incentivising heritage protection. Further, the report “Reference Resource for Cooperative Community Historic Heritage” prepared by Opus, as published by the Ministry for the Environment, October 2004 detailed nine different types of incentives, including fee waivers, waivers of financial contributions, incentive grants, rates relief, heritage loans, loan guarantees, partial underwriting, advice, heritage awards, and support to encourage identification and recording.

***Incentive Grants*** – are one of the most measurably successful methods for local authorities to positively influence heritage management outcomes. Grants such as these are generally funded through rates through the Council Community Plan (CCP) process. Any funds can be applied to whatever projects the local authority chooses, but should be set up with a clear policy for management and allocation of funds.

*The table below shows a number of examples from different Councils within New Zealand and how some use a form of incentive to encourage the protection of heritage features within their local authorities. This is not a conclusive list and it is noted that other Councils not listed may be employing other incentives in their regions.*

Local Authority	Incentive
Manakau City Council	Manakau City Council has a Heritage Assistance Fund which covers the waiver of resource consents fees and gives grants towards the protection of scheduled heritage items.
Wellington City Council	Earthquake Risk Building Fund – provides financial and project management assistance for earthquake strengthening work.
Hurunui District Council	Has a heritage fund for the protection of heritage items.
Waimate District Council	Has a heritage fund for the protection of heritage items.
Environment Southland	Has a regional incentive fund which is contributed by the 3 district councils in the region which offers low-interest loans for heritage maintenance, retention and preservation.
New Plymouth District Council	Financially supports the preparation of a number of conservation plans for significant (Category 1) heritage buildings, supports and funds the NZ Archaeological Association's site upgrade project, has a widely advertised Heritage Protection Fund with broad application criteria relating to all types of heritage (\$50,000 per year).
Environment Bay of Plenty	Applications can be made for funding from the regional Council's Environmental Enhancement Fund for the preservation, enhancement or research into natural and physical resources.
Auckland City Council	Auckland uses a ranking system to determine the degree of heritage significance and the concomitant level of incentive the ranking provides.
Kapiti District Council	Voluntary and pro-active approaches to heritage management include rates relief, provision of funds, and services, education and awards and property right incentives.
North Shore City Council	Provides one off grants of up to \$5000 to help stabilise, repair or restore large homes or prepare conservations plans and protect sites.
Timaru District Council	The District Plan commits \$10,000 per year for a trust fund for conservation and pays for the first hour of conservation architect for any conservation work undertaken.

Due to the relatively small amount of Council funding available, the recommended policy (see Attachment 1) limited its scope to incentive grants to mitigate resource consent and related professional report costs.

In order to implement the recommended policy, Strategy & Planning staff will work with the Communications Manager to develop a user-friendly application form and information brochure. Staff will review submitted applications for completeness. It is suggested that Council appoint a committee to review completed applications. Such a committee is hereafter referred to as the 'Heritage Subcommittee', and may request input from specialist advisers as required.

**Heritage Celebration/Promotion-** Council can further incentivise owners to engage in heritage preservation through a heritage awards program, operated as part of the 'Heart of the District' awards program, or separately. Awards selection and further development of criteria would be made by the Heritage Subcommittee after a period of reviewing grant applications.

## **OPTIONS**

Pursuant to Section 79 of the LGA 2002, all reasonably practicable options for achieving the above purpose have been considered, with the level of assessment being directly relative to the significance of the effects of the decision.

1. Accept the proposed Heritage Incentives Grant Policy as further described on Attachment 1.  
This is the preferred option. Given the relatively small amount of Council funding available, a policy that includes other options would likely require additional funding. Should other options be desired, they could be explored in future years once the proposed policy has operated for some time, and a more detailed sense of demand for incentives is achieved.
2. Reject the proposed policy and request a policy that identifies other options. This would require additional staff time, as well as a likely recommendation of a policy that would require significantly greater Council financial support than currently budgeted.
3. Not have a policy at all and simply allocate the funds on a case by case basis. This would be the simplest option, but may open the Council to criticism that no formal process exists for awarding grant funds.

## **FINANCIAL IMPACT**

This activity was carried out using in-house resource as part of a planned scope of work.

The policy is mindful that approximately \$15,000 per year is the extent of the Council resource available for this purpose, which is budgeted annually in the LTCCP.

Currently, approximately \$20,000 is available for allocation, which is comprised of \$15,000 in the 05-06 budget year, and \$5,000 carried forward from the 04-05 budget year.

Any costs related to the Heritage Awards component are not budgeted from the above funds but, instead, would be sourced through the Heart of the District or other similar program.

**DELEGATIONS REGISTER REFERENCE**

There are no issues of delegations arising from this report.

**RECOMMENDATION**

- 1. That the Strategy Committee recommend to full Council that it adopt the Heritage Incentive Policy, attached as Appendix 1, acknowledging that the Communications Manager and Author will generate an application form and marketing materials to announce the policy.***
- 2. That the Strategy Committee recommend to Full Council that it appoint a subcommittee (the Heritage Subcommittee) to review and make decisions on applications for heritage incentive grants, and to propose modifications to the policy as required from time to time.***



## QUEENSTOWN LAKES DISTRICT COUNCIL

### HERITAGE INCENTIVE POLICY

#### Purpose

The Queenstown-Lakes District Council has adopted this policy in order to assist with the financial costs borne by owners of listed protected features and to encourage the protection, preservation and enhancement of the District's natural and built heritage. It applies to all Category 1, 2, and 3 historic buildings, sites and objects listed in the Inventory of Protected Features (Appendix 3) of the District Plan. Financial assistance is available in the form of Heritage Incentive Grants, and recognition of excellence in historic preservation will be offered through Heritage Awards.

This Policy is based on the principle that protection of such places is in the interests of the community as a whole, and that the community, through Council and other public agencies, should therefore do something to assist landowners to look after the places which are valued by the community.

#### Scope of Assistance

##### Heritage Incentive Grants

Two types of Heritage Incentive Grants are available, namely:

- **Professional Advice:** Monetary grants to help pay for professional advice on earthquake strengthening, building conservation plans, "adaptive re-use feasibility studies" or other studies on the preservation or conservation of the place.
- **Consents:** Reimbursing the landowner for land use consent and building consent fees incurred in preservation or adaptive re-use, to the extent these fees would not normally be required if the item were not designated historic.

##### General Grant Guidelines

- a) Assistance will be considered only for Historic buildings, sites and objects listed in Heritage Register of the District Plan
- b) Heritage Trees are eligible under the same criteria as Category 2 Items.
- c) Assistance for buildings will apply whether the building is an earthquake risk or not.
- d) Grants will be available for private property only.
- e) Assistance will not be made available retrospectively. Only those costs that occur after a project proposal is approved are eligible.
- f) Disbursement of grants will only be made on a reimbursement basis for eligible costs detailed in the approved project budget.
- g) Council will only consider making heritage incentive grants for planning or resource consent costs which are necessary for the preservation, conservation or safety of the building or place, that are above and beyond costs that would normally be incurred if the site were not listed in the district plan historic register.
- h) Applicants are encouraged to explore resources and funding that may be available from other sources to meet the project's needs. A good reference is the "Reference Resource for Cooperative Community Historic Heritage" prepared by Opus, as published by the Ministry for the Environment, October 2004
- i) Entitlement to heritage funding will not be automatic. A decision will be made in each case whether funds will be allocated or not.

### **Making an Application**

- a) Applications for assistance must be made in writing to the Council using the “Heritage Incentive Grant Application Form”.
- b) Applications are reviewed on a first-come, first served basis. Council staff will review the application for completeness, and if incomplete, request additional information from the applicant.
- c) Complete applications will be referred to the Heritage Sub-Committee for review, with a decision of either approval (and confirmation of the amount granted), rejection, or further information required issued to the applicant within 20 working days of the date the application is deemed complete.
- d) The Heritage Sub-Committee will utilise the guidelines as stated in this Policy when making its decision
- e) A greater amount of assistance will be available for buildings and places which are listed as Category 1 under the District Plan, vs. Category 2 and 3 places. This is shown in the table below.

<b>Type of Assistance</b>	<b>Cat 1 Item</b>	<b>Cat 2 Item And Heritage Trees</b>	<b>Cat 3 Item</b>
Grants for professional advice	100%, up to maximum	100%, up to maximum	50%, up to maximum
Reimbursement for Resource or Building Consent fees	100%, up to maximum	100%, up to maximum	50%, up to maximum
Maximum Grant (combination of 1. Professional Advice and 2. Consent Fees)	\$4,000	\$3,000	\$1,500

- f) In no case can a grant exceed the totals listed for each Category for the combination of professional advice or consent fees.
- g) Before approving a grant for professional fees the Committee must be satisfied with the calibre of the adviser concerned.
- h) In exchange for assistance Council may seek a “trade-off”, e.g. the owners taking down inappropriate signage or agreeing to have a “historic place” plaque on their building.
- i) Council's annual funding cycle is from July 1 to June 30. Applications will be processed as and when they're lodged until such time as the allocated annual funding is exhausted. Council assumes no liability for any future funding if it exhausts available funds prior to reviewing pending applications.

### **Heritage Awards**

From time to time the Council will confer heritage awards to recognise things like:

- An outstanding job of repairing a heritage building or restoring a bush area.
- An outstanding piece of research or other initiative that improves public knowledge and awareness of heritage places.
- New buildings or additions, which have been constructed to be sympathetic to the historic character of an existing building or area.

The Heritage Committee will work with existing Council initiatives to make and publicize heritage awards.

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING 12 APRIL 2006**

**REPORT FOR AGENDA ITEM: 8**

**SUBMITTED BY: Scott Figenshow, Senior Policy Analyst-Housing**

**REPORT DATED: 4 April 2006**

**VISITOR ACCOMMODATION AND COMMUNITY HOUSING PLAN CHANGE BRIEF**

**PURPOSE**

The purpose of this report is to present the attached brief to Strategy Committee for review. Consultants will be invited to submit detailed proposals based on this brief.

**BACKGROUND**

As a result of the Visitor Accommodation workshop held on 13 December 2005, which included presentations by David Collins and David Mead, councillors and council staff found sufficient merit in proceeding with plan changes described above. Further background is provided in Section 1 of the attached brief.

**SIGNIFICANCE OF DECISION**

The decision sought of the Committee through this report is not significant under Council's significance policy.

**CONSULTATION - INTERESTED OR AFFECTED PERSONS**

No additional consultation has taken place beyond that described in the attached brief.

**RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes District Council Policy Manual (2003)
- The Queenstown Lakes Partially Operative District Plan (2003)
- The Council's "policy of significance"
- The Long Term Council Community Plan (LTCCP)

**DISCUSSION**

Please see the attached brief for discussion of the issues. The purpose and desired outcomes of the changes are:

**Visitor Accommodation:**

- a. To resolve the consenting dilemma currently existing whereby a homeowner cannot advertise and rent their house on a short-term basis for even just a few days per year, while away on holiday, without having resource consent for visitor accommodation;

- b. To exclude new large scale, purpose-built Visitor Accommodation (VA) from the Low Density Residential zones in order to protect residential amenity for permanent residents;
- c. To control the development of new Visitor Accommodation in the High Density zones such that residential amenity for permanent residents is maintained and to ensure an appropriate mix of residential and VA uses throughout the district;

#### Community Housing:

- d. To implement a policy framework, new definitions, rules and other methods that establish the affordability of housing as an RMA issue for this District.
- e. Create an incentive for the development of affordable Community Housing (CH) appropriate by zone, throughout the district.

### **OPTIONS**

Pursuant to Section 79 of the LGA 2002, all reasonably practicable options for achieving the above purpose have been considered, with the level of assessment being directly relative to the significance of the effects of the decision.

- 4. Accept the proposed "Visitor Accommodation and Community Housing" Request for Proposals dated 4 April 2006 as further described on Attachment 1.  
This is the preferred option. Council has listed this item as one of its highest priority strategic projects, and in order to proceed in the quickest way possible, significant external consulting resource is needed. The brief advances the work to a level of detail which provides the consultant with a clear framework on which to advance the work done to date.
- 5. Defer the proposed Brief for further consideration before release for tender. In the event that Strategy Committee readers find the brief to have left out key issues, this option would allow their correction before the proposal process begins, and would ensure a high quality final product.
- 6. Reject the proposed brief and instruct staff to conduct the work in-house. This option would significantly delay achievement of the desired outcomes, as well as other high-priority projects and is unrealistic without employing fore senior planning resource.

### **FINANCIAL IMPACT**

The exact cost of the work outlined in the brief will not be fully known until tenders are received, but it is expected to be significant.

### **DELEGATIONS REGISTER REFERENCE**

There are no issues of delegations arising from this report.

### **RECOMMENDATION**

***That the Strategy Committee accept the attached "Visitor Accommodation and Community Housing" Request for Proposals dated 4 April 2006 and that consultants be invited to submit detailed proposals ASAP.***

**The following attachment, due to its length, is not included with the RFP, but is available for download at the QLDC website under "what's happening/ policy tenders":**

**Attachment 5: November 2004 Residential Issues Study**



## **REQUEST FOR PROPOSAL**

**TO PROVIDE PLANNING SERVICES FOR DISTRICT PLAN CHANGE PROJECTS  
RELATING TO**

**VISITOR ACCOMODATION AND COMMUNITY HOUSING**

**Dated 4 April 2006**

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Questions regarding this RFP should be forwarded to

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QUEENSTOWN

DDI (03) 441 0607  
Fax (03) 442 7334  
Email [scottf@qldc.govt.nz](mailto:scottf@qldc.govt.nz)

Responses to this RFP are due by **4:00 p.m. Monday 15 May 2006** to the attention of Manager: Strategy and Planning.

Where questions regarding this RFP are asked by any party, the question and response from the QLDC will be posted on the QLDC web site as soon as possible at the [www.qldc.govt.nz](http://www.qldc.govt.nz). On the home page select "Whats Happening". From the sub-menu select "Policy Tenders". Bidders can access the information from there and download as necessary.

## 1.0 INTRODUCTION, PURPOSE & BACKGROUND

This is a Request for a Proposal (RFP) to provide planning and associated professional services to assist the Queenstown Lakes District Council (QLDC) to initiate a number of plan changes. The plan change process to be followed is that set out in the First Schedule to the Resource Management Act 1991 (RMA).

Council and the community have spent a lot of effort and debate on Visitor Accommodation (VA), its benefits to the community, and its impacts on local residents. Further, the loss of housing affordable to local workers in the community (Community Housing, or CH) has been well-documented and requires further action on its own, as well as in relationship to VA. This brief starts from the premise that considerable work and thinking has been done to date and a political direction firmly established. The scope of work required of a successful consultant is therefore to further elaborate and test this work and deliver on the desired objectives. It is contemplated that this brief will result in changes to the Queenstown-Lakes District Partially Operative District Plan, and establishment of a Bylaw. The Bylaw is being done in parallel to this project by in-house staff.

The purposes and desired outcomes of the bylaw and plan changes are:

Visitor Accommodation:

- f. To resolve the consenting dilemma currently existing whereby a homeowner cannot advertise and rent their house on a short-term basis for even just a few days per year, while away on holiday, without having resource consent for visitor accommodation; (plan change and bylaw)
- g. To exclude new large scale, purpose-built VA from the Low Density Residential zones in order to protect residential amenity for permanent residents; (plan change)
- h. To control the development of new Visitor Accommodation in the High Density zones such that residential amenity for permanent residents is maintained and to ensure an appropriate mix of residential and VA uses throughout the district; (plan change)

Community Housing:

- i. To implement a policy framework, new definitions, rules and other methods that establish the affordability of housing as an RMA issue for this District. (plan change)
- j. Create an incentive for the development of affordable Community Housing (CH) appropriate by zone, throughout the district. (plan change)

Council's work to date has resulted in the view that achieving the above outcomes will significantly improve its ability to manage the development of Visitor Accommodation and strike a balance between the needs of the vitally important tourism industry, and the needs of the local community who work in and operate the local economy.

The council has obtained advice in order to get it this far in the process and it is the Council's view that an argument to distinguish (in terms of the type of resource consent required) between VA and residential activity on basis of the effect that VA has on:

- 1) Residential Coherence,
- 2) Urban Growth management and



### 3) Economic Impact

The chart below outlines the relationship of these issues to each other:

<b>Objectives:</b>	<b>Residential Coherence</b>	<b>Urban Growth Management</b>	<b>Economic Impact</b>
<b>A Balanced Mix of VA in HDR and a predominance of residential in LDR</b>	<b>X</b>	<b>x</b>	
<b>Facilitate high-quality design to ensure a world-class resort environment</b>	<b>X</b>		<b>X</b>
<b>Ensure that the development of zones achieve the community vision (as expressed in the various community plans)</b>	<b>X</b>		
<b>Ensure infrastructure is adequate to meet community needs</b>		<b>x</b>	
<b>Ensure health of local economy</b>			<b>X</b>

These effects are further detailed in Attachment 1 “Summary of Objectives”, which provides detail of the actions and policies that have been considered to date by Council and Staff.

Attachment 2 contains the advice provided by David Mead of 8 December 2005, titled “Review of Outcomes of Residential Issues Study”. Attachment 3 contains the advice provided by Commissioner David Collins dated 13 December 2005, both of which provide opinions on the strength of the Council’s case that VA has significantly different effects than residential activities.

As mentioned earlier, the scope of work required of a successful consultant is therefore to further elaborate and test this work and deliver on the desired outcomes.

## 1.1 Background

Research to date has resulted in the finding that visitor accommodation illegally operating in the low-density residential areas has contributed to a loss of long-term affordable rentals (i.e. where the rental does not exceed 30% of the household income) to local residents. In addition, visitor accommodation has been the predominant development type in the high-density residential areas, resulting in a lack of diversity in stock in that zone, a predominance of VA (in response to current market conditions) and a loss of high density permanent living opportunities. Currently, VA is controlled in HDR (and the market is driving it all into VA rather than residential use which was never the intention) and discretionary in LDR and many other urban living zones.

In regard to economic wellbeing and sustainable development, it is noted that the current situation with regard to visitor accommodation is not sustainable. Occupancy rates of less than 40% have become common due to the large amount of VA available, which in turn reduces the amount of business directed toward legally operating VA.

Council believes it has a responsibility to both the tourism industry (to ensure that the operations of existing providers are sustainable), and to the local community to ensure that they have a supply of teachers, fire, police, service management and other key workers to maintain an economically viable community. The significant reduction in rental and

ownership housing affordable to key community workers creates a situation that reduces overall community social and economic viability.

Residents have voiced concerns that virtually all new large-scale developments are entirely for visitor accommodation, which impose negative effects in the form of 1) inadequate parking, 2) scale inappropriate to the neighbourhood character, and 3) a loss of neighbourhood qualities relating to a sense of security and privacy which come from knowing one's neighbours. This sense should not be viewed as entirely anti-development. Instead, the concern is deteriorating residential neighbourhood amenity to the point that the rich history of a vibrant residential community for permanent and annually-recurring residents is being forever lost.

Plan Change 10, notified on 12 October 2005 for which original submissions closed 9 December with a hearing is tentatively scheduled for August 2006, seeks to improve residential amenity in the High Density Residential (HDR) zone largely by reducing building site coverage ratios, and improving Council's involvement in design and landscape review. Plan Change 10 aims to address issues regarding scale, parking and the imbedded incentives in the rules that previously encouraged VA over residential use (due to the more liberal rules that applied to VA). The remaining issues not yet being addressed are the loss of neighbourhoods, the effect on urban sprawl and economic sustainability.

Another issue for which this brief requests analysis is the ability for Council to incentivise through the District Plan the development of affordable housing throughout the district. For example, in the HDR zone, such an incentive would return most if not all of the density removed by Plan Change 10 so long as the overall development met urban design qualities specified and provided some percentage of units as affordable to key workers, with adequate retention mechanisms to ensure the units met their original purpose over time.

A Councillor workshop was held on 13 December, which included presentations by David Collins and David Mead. The result of the workshop was that Councillors and Council staff found sufficient merit in proceeding with plan changes described above.

## **1.2 Research Conducted**

Council has prepared the following:

1. A summary of objectives resulting from analysis of the effects of current visitor accommodation rules (see Attachment 1);
2. Various opinions which have been obtained on the relevant legislation (RMA, LGA, or other) that governs each issue, and the legal basis it provides for achieving the above purpose (see Attachments 2 and 3)
3. Proposed changes to District Plan definitions as they relate to Visitor Accommodation and length of stay (See Attachment 4)
4. A 'Residential Issues Study' for the District, which provides further background information (see Attachment 5)

It is anticipated that 3 separate (but aligned) plan changes will be required to achieve the project purpose, as well as a Bylaw to enable a Visitor Accommodation Licensing program. It is considered, from work done to date, that this combination of tools will be the most effective and appropriate means to achieve the purpose listed above.

The three plan changes shall be referred to as follows:

PC22: Definition of Visitor Accommodation et al  
 PC23: Visitor Accommodation & Residential Amenity  
 PC24: Community Housing

In order to require each operator to obtain a VA license, the Council must pass a Bylaw. This work is not part of the scope of this brief, but is included here simply to provide the full picture. The Rates Review Committee has recommended this method as the most effective way to gather information from owners and operators of visitor accommodation on their the intended use of the property, and to facilitate a mechanism for owners and operators to confirm their compliance with both district plan and rating requirements. Current definitions of 'residential activity', 'residential unit', 'visitor accommodation' differ between the rating and district plan systems. The proposed changes to the district plan definitions (see Attachment 4) attempt to better align them with those used for rating, and are necessary to proceed with the Bylaw.

The proposed tools have the following relationships to the originally stated purpose:

<b>Purpose</b> (as stated previously)	<b>Deliverable</b> (to achieve each purpose)
To resolve the consenting dilemma that currently exists whereby a homeowner cannot advertise and rent their house on a short-term basis while away on holiday without having resource consent for visitor accommodation;	PC22: Changes to the Definition of Visitor Accommodation et al; and  Visitor Accommodation Bylaw & License
To exclude new VA from the Low Density Residential zones to protect residential amenity for permanent residents;	PC23: Visitor Accommodation & Residential Amenity; and  Visitor Accommodation Bylaw & License
To control the development of new Visitor Accommodation in the High and Medium Density Residential zone such that residential amenity for permanent residents is maintained;	PC23: Visitor Accommodation & Residential Amenity; and  Visitor Accommodation Bylaw & License
To implement a policy framework, new definitions, rules and other methods that establish the affordability of housing as an RMA issue for this District, and to create an incentive for the development of affordable CH appropriate by zone, throughout the district.	PC24: Community Housing

### 1.3 Proposal Deliverables

Council seeks consulting services to complete the following: (Note: Item 1 is considered extremely urgent, and it is desired that this element proceed first if the consultant is satisfied that this will not cause difficulty downstream).

#### **With regard to Visitor Accommodation (VA):**

1. For Proposed Plan Change 22: Changes to the Definition of Visitor Accommodation in order to permit individual residences to be let for up to a total of 28 days/annum

- a. Review and advise on the proposed amendments to the definitions of Visitor Accommodation (Attachment 4);
- b. Advise whether such a proposed change to the definition should be handled separately from the wider VA & CH issues outlined for Plan Changes 23 & 24. The options to be considered shall include but not necessarily be limited to:
  - A new definition
  - A change to the existing definition, or
  - Other consequential changes as required.

If the findings from the above-listed analysis do indicate that a separate plan change is the most appropriate way of addressing the issue, then subject to Council's approval to proceed:

- c. Prepare a thorough Section 32 Analysis that complies with the Act, separate from the wider VA & CH issues. It is hoped that this early review will facilitate progress quickly on this deliverable.
2. For Proposed Plan Change 23: Visitor Accommodation & Residential Amenity :
    - a. Prepare a thorough Section 32 Analysis that complies with the Act. Optional solutions shall include but not necessarily be limited to:
      - i. Analysis to determine that the proposed objectives (see Attachment I) would achieve the desired outcome, and if not, proposal of a new objective;
      - ii. Analysis of the linkage between the growth in VA, the resulting residential issues, and the declining affordability of rental and ownership housing for the District workforce.

**With regard to Community Housing (CH):**

1. Establish what jurisdictional basis the RMA provides for implementing a plan change to give effect to a set of incentives designed to facilitate the development of affordable community housing; (i.e. make the case that this is an RMA matter and specify the sections and any case law relied upon).

Provided the above analysis establishes a jurisdictional basis to proceed, then subject to Council approval to proceed,

2. Prepare a thorough Section 32 Analysis for Plan Change 24 that complies with the Act. Optional solutions shall include but not necessarily be limited to:
  - a. Analysis to determine that the proposed objectives (see Attachment I) would achieve the desired outcome, and if not, proposal of a new objective;
  - b. Analysis of the future impact such incentives would have on the community.

## 2.0 THE LEGISLATIVE BACKGROUND AND LINKAGES TO OTHER LOCAL AND NATIONAL INITIATIVES

### Local and national direction

#### The LGA

The desired outcomes begin with the Council's statutory obligation under the Local Government Act (Section 3) –

*“...this Act...provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach”*

In quoting this section, it is noted that the section is empowering, not mandatory, encouraging the Council to assure that these needs are being addressed, rather than necessarily delivering the service themselves.

#### The RMA

The council has obtained advice from Commissioner David Collins, and David Mead of Hill, Young, Cooper with regard to the relationship of the issues at hand and the jurisdiction provided by the RMA to deal with them, which have been used in the Council's thinking to date that the methods set forth in this brief are the most effective and appropriate means to achieve the purpose listed above.

### Linkages to other Council projects:

#### COMPLETED PROJECTS:

This study will utilise the outputs of the Growth Options Study, the Residential Issues Study, the Council's Dwelling Capacity Model (most recently run in January 2006), the District Plan (through Plan Change 10), and the Council Community Plan. These projects will deliver the following outputs, which are relevant to this project:

#### The Growth Options Study

- A full description of how the district will look and feel like over the next 20 years.
- A “toolbox” of growth limiting methods.
- How growth will affect future infrastructure costs. For example, will encouraging peripheral growth lead to higher transport and roading costs; and a need for upgrades to wastewater, stormwater and water supply infrastructure?

#### Dwelling Capacity Model

- The dwelling capacity provided for through current zoning in the entire Queenstown Lakes District (area by area) and an estimate of the population that could be accommodated under the current zones

#### November 2004 Residential Issues Study (Attachment 5)

- An assessment of alternative residential densities and determination of optimal densities for various urban areas (e.g. Queenstown, Wanaka, Arrowtown, and Arthur's Point), considering the multiple desires of the communities (such as high amenity, densification rather than sprawl, better public transport, more affordable housing, etc).
- An assessment of how many car parks/ dwelling should be required in the High Density Residential zones and an appropriate width for private access ways

- An assessment of the best way of providing for growth in the visitor accommodation facilities (in a manner which protects residential amenity and enables the Council to manage visitor accommodation capacity).

#### Council Community Plan (Volume 4)

- Occupied and unoccupied dwellings
- Population estimate and projections
- Estimated visitors staying in private residences

#### **Projects Currently in Progress**

- Growth Management Strategy (due for completion May/June 2006)
- Visitor Accommodation Bylaw (due for completion June/July 2006)
- Community Housing Policy and Applicant Eligibility Criteria (due for Adoption by Council April 2006)

#### **Attachments to this Brief**

- Attachment 1: Summary of Objectives
- Attachment 2: "Review of Outcomes of Residential Issues Study" by David Mead, Hill Young Cooper, 8 December 2005.
- Attachment 3: "Residential Issues Workshop 13 December 2005: Discussion Paper" by Commissioner David Collins
- Attachment 4: DISTRICT PLAN DEFINITIONS WITH PROPOSED CHANGES: For Plan Change 22
- Attachment 5: November 2004 Residential Issues Study

#### **Further Appendices available**

Via the QLDC Website

- The Housing Our People in Our Environment (HOPE) Community Housing Strategy (June 2005)
- Future Link
- Wanaka 2020
- Tomorrow's Queenstown

Upon request: Source data used in the generation of the above reports.

### **3.0 PROJECT SCOPE & CONSULTATION**

The **geographic scope** of the study is all zones of the Queenstown Lakes District. It is expected that plan changes will result in changes to the District-wide issues, objectives and policies and that rule amendments will be made which will effect most if not all zones.

The study shall consider the **time period** from the present day through until 2026.

The issue of VA in the HDR zone is most prevalent in Queenstown, and the issue of VA in the LDR zone is most prevalent in Wanaka. Community Housing issues are district-wide, as are the definition of VA issues.

It is intended that community consultation will occur:

- Through public notice of the Strategy Committee meetings, at which reports will be presented;
- Through publication via the council website of a summary of the RFP distributed for tender;
- Pre-notification consultation, most likely in the form of a discussion document, feedback forms, and public open days;
- Through the statutory plan change submission process assuming plan changes are confirmed as appropriate method

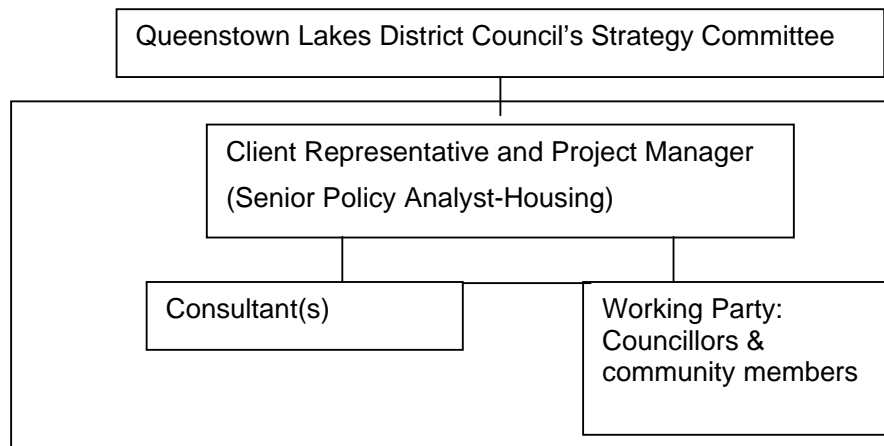
The purpose of the consultation (at various stages) will be to:

- Get input from the public
- Inform the community of the findings,
- Determine the level of community support for the recommended Council action and
- Allow a range of private and public organisations and individuals to participate to the relevant stage.

Consultants are requested to propose the outline of a consultation strategy as part of their proposal.

#### 4.0 PROJECT TEAM STRUCTURE

It is noted that the following structure is intended as a guide rather than a prescription and that the consultant's response should propose a structure.



#### 5.0 ROLES AND RESPONSIBILITIES: INTERNAL & EXTERNAL

The **Consultant's** role shall include:

1. Finalising (in consultation with the Project Manager) the detailed timetable for the project, including all working party meetings and council workshops and council agenda items, and consultation;
2. Undertaking all research in accordance with the agreed brief/ proposal
3. Liaising directly with the Council elected members (through workshops and agenda reports as appropriate), staff, and the working party involved in the project, wherever necessary;

4. In conjunction with the Project Manager, carry out the public consultation
5. Delivery of the project deliverables as outlined in Part 1 above
6. Management of any and all sub-consultants

The **Council's** role shall include:

1. Overall management of the project and quality assurance of the outcomes
2. Determining and approving the composition of the Working Party and their Terms of Reference
3. Approving the final deliverables and the consultation programme
4. Providing all available background (as outlined in Part 3 above)
5. Undertaking all media liaison unless express permission given to consultant to liaise directly
6. Providing any GIS maps that may be required (pursuant to the Council's GIS Protocol)
7. The 'running' of the dwelling capacity model (and other capacity models for other land uses as and when these become available) where these are required for the research and/ or public engagement
8. Providing resources and administration support (such as meeting rooms, data show, the organisation and minuting of working party meetings, etc) for working carried out on this project within the Queenstown Lakes District.

## 6.0 PROJECT TIMEFRAMES

This is one of the highest priority projects for the Council. Submitters are to provide a critical path project plan with their response.

## 7.0 THE PROPOSAL

In achieving the outcomes desired, the QLDC expects:

- High quality advice, administration and attendance to the processing of each plan change;
- High quality, robust, defensible decisions for each plan change; and
- A sound timely process that complies with the requirements of the RMA.

As a minimum, the Proposal should provide:

1. A description of the bidder's experience in providing the project, including a brief resume of the relevant skills and experience of the personnel being proposed for the project, and indicating the extent of their involvement (in terms of hours or day equivalents). The proposal should also include an overview of contingency plans in the event that key personnel become unavailable
2. Relevant organisational information (for e.g. – a copy of the corporate profile)
3. Detailed information of the process and methodology to be undertaken, including a description of all tasks and sub-tasks. It should also outline how you propose to liaise with the Council (elected members and relevant staff) and with the working party, and also the consultation programme for the project
4. Information on any significant issues relating to your (firm's) proposal (e.g. conflict of interest, policies, procedures, etc).
5. References for projects of similar nature and scale, which involved the key personnel identified in the proposal. Include the name of the organisation, summary of work, length of contract, and name and phone number of contact person.



6. A detailed project plan for each project setting out timeframes, milestones and deadlines for the various steps in the process, and methodology proposed for each of the projects that you are bidding for.
7. A detailed budget. The final estimated fee should specify the rates for all labour and other charges and totals; any activity intended to be sub-contracted to third parties; travel time; and vehicle expenses, and an estimate of anticipated total disbursements. Price estimates must be broken down into key project stages consistent with the proposed project plan. All assumptions are to be clearly stated.
8. Any exceptions to the general terms and conditions given in the RFP, clearly explaining your reasons and any proposed amendments.

Importantly, the Proposal must show:

- An understanding of the subject matter of the project and the process that will be undertaken to deliver the objectives
- Any problems you foresee in terms of implementation, timeframes, technical feasibility and how these can be addressed/ overcome or avoided

Proposal documents should be kept to the minimum length possible. They should clearly state the projects that are being bid for on the front page.

### **Performance and Payment**

The total fee shall be invoiced to the Council in increments on a monthly a time and costs basis. If it becomes apparent that the scale of the work is greater than initially estimated, then the successful bidder will be required negotiate any variation to the contract with the QLDC Manager, Strategy and Planning. Any changes to project scope will be negotiated between the successful bidder and the QLDC Manager, Strategy and Planning.

Note. Consultants should take care not to underbid the volume of work estimated in any project. The consultant's ability to be able to accurately estimate the volume of work will be taken into consideration in any evaluation of the consultants performance on the project and will be an input into the evaluation of any future RFP from the Council.

Progress reports shall be provided to the QLDC's Manager, Strategy and Planning in a timely manner (generally monthly, but detail to be provided in your proposal). The report should show cumulative costs billed to Council against the agreed fee. In the event that the Strategy and Planning Manager is dissatisfied with performance at any stage, discussion shall be entered into with the bidder. The QLDC reserves the right to withhold payment and to terminate the contract at any time due to justified dissatisfaction with the performance of the consultant.

## **8.0 CONSULTANT SELECTION PROCESS**

The consultant will be selected based on the following selection criteria:

1. An evident understanding of the subject matter of the project.
2. Proposed methodology, process, templates and report writing and evidence of process innovation or refinement.
3. Qualifications and experience of personnel, relevant to the project. It is envisaged that the successful consultant team will have a demonstrated understanding of:
  - The local situation (the Partially Operative District Plan and the referenced background material);
  - The RMA (processes and substance);
  - Significant experience in the area of the project(s) being bid for.

4. Project management approach including relationship management.
5. Availability of service provider (e.g. available hours/ days able to spent on the project and at what times during the duration of the project).
6. The quality of the proposal which includes being free from errors, structure etc and the approach to quality from the bidder.
7. Policies/procedures for ensuring confidentiality and handling conflicts of interest.
8. Price, including coverage and level of components included in the bid.

Non-price attributes will be weighted at 50% and price at 50%.

## 9.0 PROPOSAL FORMAT, TERMS AND CONDITIONS

The general terms and conditions of this RFP are:

1. The proposal shall be delivered to the QLDC by **4:00 p.m.** on **Monday 15 May 2006**, marked for the attention of The Manager, Strategy and Planning.
2. Proposals will be accepted by email [scottf@qldc.govt.nz](mailto:scottf@qldc.govt.nz) or fax, marked to the attention Strategy and Policy Manager on (03) 442 7334. Council will not be responsible for the receipt of bids sent by email or fax.
3. The QLDC reserves the right to accept or decline late proposals or proposals that do not conform to the requirements set out in this RFP, at its discretion.
4. The QLDC may not necessarily accept the lowest tendered price.
5. Respondents' proposals must include at least that information outlined in the under the "Proposal" section of this RFP.
6. This RFP shall not be taken as an offer but rather as an invitation to tender.
7. The QLDC may:
  - Enter into negotiations with one or more respondents based on the requirements included in this RFP.
  - Request that any/ all of the consultants present their proposal as part of the selection process.
  - Hold briefings with potential respondents.
  - Contract out only part of the programme described in each proposal.
  - Enter into arrangements or contracts with any one or more of those respondents.
  - Recommence or terminate the proposal process.
8. The requirements specified in the RFP reflect presently known requirements and preferred manner of purchasing the project. The QLDC reserves the right to vary final requirements.
9. The QLDC shall not be responsible for, or pay any expenses incurred by, a respondent in the preparation of the proposal or any costs incurred by a respondent in relation to the QLDC's selection process.
10. The QLDC will not disclose to third parties outside of its organisation any confidential or commercially sensitive information included in any proposal. Respondents must explicitly identify any information that should be regarded as confidential or commercially sensitive. Once any contract has been agreed to, certain data, such as total price, and quality measures, are unlikely to be regarded as confidential. This does not forgo any obligations under the Local Government Official Information and Meetings Act.
11. The QLDC may at any time before or after the closing time amend this RFP. The QLDC will notify all potential respondents or short-listed respondents of the changes and give reasonable time to amend proposals to reflect the changes.
12. All information and reports associated with the project shall be deemed to be the property of the QLDC.
13. No legal or other obligations shall arise between the Proposer and the QLDC in relation to the conduct or the outcome of the RFP and bid process unless and until that Proposer has received written notification of the acceptance of their bid.
14. Conditions to be included in any contract that may arise from this RFP.

Potential bidders should note that the following requirements will be incorporated into any contract that might result from this RFP:

- a. All materials produced by the successful bidder for any of the projects will remain the property of the QLDC at all times and shall be returned to the QLDC immediately upon request.
- b. If the successful bidder proposes to use their own templates for reports and decisions and/or their own database structure then the QLDC is to be permitted unlimited access to use those report templates and database structures at any time in relation to the project or any other projects that the Council may have at any other time.
- c. Any and all files (either in electronic or hard form) MUST be returned to the QLDC at the completion of the project.
- d. To the greatest extent possible files shall be created, maintained and exchanged between the successful bidder and the QLDC as electronic files.

## **10.0 APPENDICIES & ATTACHMENTS**

- Attachment 1: Summary of Objectives
- Attachment 2: “Review of Outcomes of Residential Issues Study” by David Mead, Hill Young Cooper, 8 December 2005.
- Attachment 3: “Residential Issues Workshop 13 December 2005: Discussion Paper” by Commissioner David Collins
- Attachment 4: DISTRICT PLAN DEFINITIONS WITH PROPOSED CHANGES: For Plan Change 22
- Attachment 5: November 2004 Residential Issues Study

## **ATTACHMENT 1: Summary of Objectives**

The below numbered objectives are outcomes sought to resolve significant resource management issues in the areas of:

- RESIDENTIAL COHERENCE
- URBAN GROWTH MANAGEMENT
- ECONOMIC IMPACT

Subheadings provide indicative examples of the issues, and options for further analysis that are thought would achieve the objective:

### **1. A Balanced Mix of VA in HDR and a predominance of residential in LDR**

#### **a. Issues in the environment**

- i. Additional trips by adventure tour operators to VA complexes
- ii. Lack of sufficient parking
- iii. Large number of empty houses
- iv. Few permanent residents as long term neighbours

#### **b. Options for further analysis**

- i. Determine maximum % of VA allowed in LD and HD residential neighbourhoods
- ii. Investigate rule requiring an on-site Residential Manager if development is over a certain # of units, for safety and for quality assurance
- iii. Overlay VA controls throughout the district; prohibit in LDR and monitor a less than critical mass in HDR

### **2. Facilitate high-quality design to ensure a world-class resort environment**

#### **a. Issues in the environment**

- i. Safety: Prevent need for additional police through quality design
- ii. Avoid lower building and site standards for VA, then find people live in them long term and suffer the consequences
- iii. More fences going up for privacy
- iv. Lack of variety in housing design
- v. Bedrooms with no direct external access/light/ventilation

#### **b. Options for further analysis**

- i. Scope: Applies to urban design, site design, building design
- ii. Establish clear Design Guidelines: Set a measurable design standard, achieve through education, design review process
- iii. Density/Site bonuses based on quality design; more attention to topography in design
- iv. Explore use of the Floor Area Ratio (FAR) in concert with other site coverage and setback rules to better facilitate intended design objectives
- v. Consider 'pattern language' rules to govern site design
- vi. Review HDR rules
- vii. Establish protocol for requiring Design Review of projects of a certain scale, scope
- viii. Facilitate building capacity for ongoing, formal design review
- ix. Set higher standard for green building, subdivision principles; enforce through Building Act, others

3. **Ensure that the development of zones achieve the community vision (as expressed in the various community plans)**
  - a. **Issues in the environment**
    - i. Lack of community understanding or agreement on what can be changed, and what must be preserved
    - ii. Town retains sense of community
    - iii. Permanent residents remain a majority of town population
    - iv. Permanent residents can earn their livelihood here
    - v. Town functions properly
  - b. **Options for further analysis**
    - i. Tight controls on # occupants allowed based on bedroom size of unit
    - ii. Monitor if Rules achieve intended result
    - iii. Balance areas slated for growth, and achieve the maximum density per zone to delay need for new growth areas
4. **Ensure infrastructure is adequate to meet community needs**
  - a. **Issues in the environment**
    - i. Managing utility demand: built for maximum capacity, 'empty town' syndrome means little actually used
    - ii. Traffic is greater for VA related uses than residential
  - b. **Options for further analysis**
    - i. Traffic: ensure VA-related trips provide no greater neighbourhood impact than if only residential
5. **Ensure health of local economy**
  - a. **Issues in the environment**
    - i. Business are viable long-term
    - ii. Residents are able to find suitable affordable housing
    - iii. Town functions properly
    - iv. Diversify economy
  - b. **Options for further analysis**
    - i. VA License under a Bylaw as a means to ensure the Tourism sector delivers a high-quality, world-class product:
      1. Ensure visitors have a quality experience commensurate with their price/quality level expectations
      2. Council has access to accurate information on VA occupancy level and location
      3. ensure properties legally operating are doing so without hindrance from illegally operating ventures
    - ii. CH Plan Change as a means to ensure businesses and their employees have access to quality housing affordable to their pay rates to facilitate their recruitment and retention of staff
      1. provide certainty in rules of what AH is and how its development is incentivised
      2. Linkage Fee Regulations
      3. Inclusionary Zoning
      4. Retention Mechanisms

## **ATTACHMENT 2: Review of Outcomes of Residential Issues Study**

### **Introduction**

Queenstown Lakes District Council has requested a review of the findings of the “Residential Issues Study” in relation to the management of visitor accommodation. The specific tasks are:

- Review the Residential Issues Study report and its conclusions reached relating to whether the Council should pursue a Plan Change to further distinguish between visitor accommodation and residential activities in the High Density Residential zone.
- Provide a short report discussing whether the Council could present a defensible case for enabling residential activity in the High Density Residential zone (as a permitted activity) whilst maintaining firmer control (as a discretionary activity, for example) over visitor accommodation.
- This work should also address the current definition of visitor accommodation and whether it is reasonable and defensible to require a discretionary consent for the letting of individually owned dwellings in the Low Density Residential and other zones.

### **Background**

The Residential Issues study looked at whether there was a case to manage the design and location of visitor accommodation. The background to the study was a two-fold concern relating to:

1. The design and amenity impacts of visitor accommodation units, as well as other intensive forms of development in the Higher Density Residential zone
2. The flow-on social and economic effects of the domination of visitor accommodation units within the Higher Density zone. In particular are concerns about the impact of a vigorous visitor accommodation sector on the:
  - affordability of residential units
  - mix of residents and visitors
  - rate of commercial accommodation development and its relationship to the rate of growth of other activities.

The report also recognised the equally important issue of the critical role the visitor accommodation sector plays in the economy of the Region.

After reviewing a range of issues, the Residential Issue Study concluded that:

- Additional and new design-related provisions should be placed on all multi-unit development in the Higher Density zone (permanent resident and visitor accommodation)
- That council make no change to the current District Plan policy relating to visitor accommodation, apart from the design issues outlined in the first bullet point and making visitor accommodation a Non-complying Activity in the Low Density Residential zone.

The last recommendation was based on analysis which stated that:

- Housing affordability issues could be tackled through a District Plan requirement for some form of worker accommodation to be provided, and/or inclusionary zoning provisions
- A desirable mix of residents and visitors could not be achieved through an effects-based approach to District Plan formulation as the effects of visitor units cannot be distinguished from visitor accommodation

- There were a range of unresolved issues that would make control of visitor accommodation within the Higher Density zone difficult to sustain, especially if the need for control was tied to managing the rate of growth of the Queenstown area.

The Council has now issued Proposed Plan Change 10 that has taken forward the design issues related to development in the Higher Density zone. Under the Proposed Plan Change, multi-unit development will be a Restricted Discretionary activity. Multi-unit development covers any visitor accommodation or residential development that involves a specified minimum number of units (between 3 to 7, depending upon the sub zone). Discretion is limited to the location, design and external appearance of development. As an activity, visitor accommodation remains a Controlled Activity in the High Density zone, with assessment in relation the location and design issues.

New policies have been added to support the provisions relating to the location of multi-unit development. Policy states that multi-unit development should be located within easy walking distance to:

- Shops offering a range of convenience stores
- Public transport services
- Substantial public reserve.

The extent to which these may policies influence the location of visitor accommodation (as opposed to resident accommodation) is yet to be seen. By its nature, the High Density zone covers areas which are likely to meet most of these criteria.

### **Effects of Visitor Accommodation**

The issue considered here is whether there is a RMA (effects-based) justification to distinguish between visitor accommodation and permanent residential development.

As a starting point, the District Plan already recognises a difference between non-residential and residential development in terms of the effects of non-residential development on the cohesion of residential areas as sustainable living areas. Policies associated with Objective 7.2. 3 (Queenstown Residential Areas) state:

*To provide for non-residential activities in residential areas providing they meet residential amenity standards and do not disrupt residential cohesion.*

*To ensure the scale and extent of any new visitor accommodation in the residential areas does not compromise residential amenity*

The explanation and reasons to the policies go on to state that:

*Policies seek to maintain the general character of the majority of the existing residential environment which will provide a degree of certainty and security for residents by limiting changes to the scale, density and type of activity in the residential areas. This policy recognises the importance of the living environment to the social well being of the District's residents.*

Anticipated environmental results include “residential coherence”.

Visitor Accommodation is defined as a non-residential activity.

While at a policy level the Plan draws a distinction between visitor accommodation and residential development, at an operational level, the Plan implements the policy in a partial way. As an activity, visitor accommodation is a discretionary activity within the low density zone (current visitor accommodation activities are protected within the visitor accommodation sub zone), while it is a controlled activity in the high density zone.

The Plan's statements about the intention of the High Density zone are therefore somewhat contradictory. The zone is set up as a "stable" residential zone, but considerable development and redevelopment potential is provided for within it, while a mix of residential and non-residential development is possible.

The explicit provision for visitor accommodation in the Higher Density zone (but not other non-residential activities) appears to be based on the point of view that from a design and appearance perspective at least, there is likely to be little difference between an intensive residential development (which may be owner occupied and/or rented) or a development targeted at the visitor accommodation market.

However, the Plan does not make any comment as to whether or not visitor accommodation may undermine the cohesiveness of the higher density residential areas as a living environment, although this is implicit in the discretionary activity status of visitor accommodation in the Low Density zone.

The Plan clearly provides for visitor accommodation in the higher density zone, but it may be that the extent of visitor accommodation that has recently developed in the higher density zone was not anticipated when the Plan was developed:

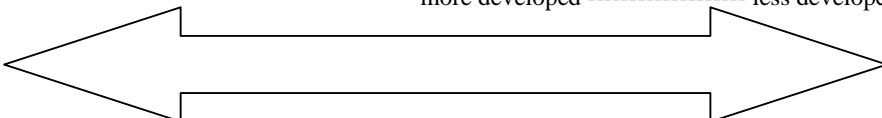
- The local economy has been through a sustained economic expansion over the past five years.
- A noticeable trend over the past five years has been the development of a large number of lettable apartments, and a relative decline in the importance of large scale hotel development. This trend has blurred the distinction between visitor accommodation and developments aimed at permanent residents. It is now possible for a development to contain a mix of permanent residents and units managed by a company for the purposes of short term accommodation. This has made the issue of the erosion of residential cohesiveness a more complex issue, as it can now be both a locality issue (a number of visitor units clustered in one area), as well as an issue within a development.
- There is a constricted supply of land in the CBD (town centre), and so from the point of view of appropriate zoning for visitor accommodation, other alternatives are now significantly limited. This puts more pressure on the higher density residential zone to be the location of developments aimed at the visitor market.

### **Other approaches to visitor accommodation**

It is common for District Plans to distinguish between visitor accommodation and residential activities.

As with other urban councils facing a range of development pressures and a greater mixing of activities, Auckland City is steadily adopting a more complex zoning pattern. The city is also experiencing pressure from non-residential activities to locate in some fringe residential areas of popular centres such as Newmarket. Both residential and non-residential development now has a continuum of opportunities that can be described as follows:



Activity	CBD / town centre*	Mixed use (former business areas)	High density residential	Moderate to low density residential
<div style="text-align: center;"> more developed ----- less developed   </div>				
Visitor accommodation	Permitted	Controlled – design / appearance	Discretionary in relation to scale intensity and concentration	Non-complying
Residential	Permitted, but within a highly urban and mixed environment	Controlled, but within an environment where residential cohesion is not a relevant issue	Controlled – design / appearance	Permitted

\* Recent changes propose design controls for all development in the CBD

The more refined zoning pattern allows for a more explicit set of objectives and outcomes as to expected environments.

For example, in Auckland City, Plan Change 26 has reviewed the provisions relating to visitor accommodation. In Auckland City Council's District Plan (Isthmus Section) visitor accommodation is a Discretionary Activity in the Residential 6 and 7 zones (higher density zones), and is a Non-complying activity in moderate to low density zones. It is a Permitted Activity in the Mixed Use zone.

Important assessment matters in relation to visitor accommodation in Residential 6 and 7 zones relate to the scale and intensity of development and the effect of this on residential cohesion. In the Mixed Use zone (which covers redeveloping business areas that now display a range of workplaces, new intensive residential development as well as some commercial type development) assessment is limited to design issues.

The following is an extract from the Decisions version of the Plan Change. It covers one of the assessment criterion that apply to visitor accommodation in the Res 6 and 7 zone.

*g) Intensity and scale*

*Particular consideration shall be given to the appropriateness of allowing the activity to be located in an area, given the presence of other activities in the area and their combined effect on the surrounding residential environment and the extent (if any) to which the establishment of the activity will result in an undesirable accumulation of activities in the area that may generate an adverse effect in respect of the following:*

- *Traffic - the capacity of the adjacent road to deal adequately with the cumulative effect of traffic generated from the concentration of these activities*
- *Amenity – the character of the surrounding residential area must not be adversely affected by the accumulation of activities so as to degrade the amenity of the area, in particular through the number of people involved in the activity, the size and location of buildings and associated parking, signs, noise generation and the effect on the residential streetscape*
- *Infrastructure – the surrounding areas drainage system must have the capacity to deal with the accumulated servicing needs of the activities*

*Development that generates large volumes of traffic, such as motels shall generally not be located on local roads*

*Developments shall be located in close proximity to public transport routes.*

Relevant questions for Queenstown are therefore:

- What is the role of the higher density residential zone? Is it primarily a residential area or should it be more of a mixed use type zone where there is an explicit acknowledgement of a residential and commercial function, but with this commercial function limited to accommodation activities?
- What opportunities are available for visitor accommodation in other parts of the urban area? What are the consequences of making visitor accommodation a discretionary activity in at least part of the Higher Density zone?

## **Possible Resource Management Framework**

### **Residential coherence**

The QLDC District Plan already provides a framework to consider the effect of visitor accommodation on residential cohesion. What is lacking is the association between residential cohesion and wider growth management objectives.

A close examination of the issues of residential cohesion issues in the higher density zone (which is already an explicit District Plan objective) could lead to a more explicit zoning and/or assessment framework that could help to address the mix of residential and non-residential activities in the higher density zone.

Thus the council could consider sub zones based on purpose – a residential higher density sub zone and a mixed resident / accommodation sub zone - or it could modify and extend the location criteria that it has begun to introduce, perhaps introducing different location criteria for visitor accommodation to that of development for permanent residents.

The variable bulk and location controls proposed are likely to see most visitor accommodation cluster in the A sub zone anyway, and other criteria could support this.

### **Growth management**

While the issue of cohesion provides a platform to assess the location (concentration) of visitor accommodation, there is a further issue of balance between residential, employment and commercial development, and the wider social and economic issues associated with this.

The Residential Issues Study has steered away from these issues, concerned about the impact of regulation on the performance of the local economy, preferring a non-regulatory approach instead.

On the face of it, there is a case to say that the District Plan should take a pro-active role in the location and type (mix) of growth within the urban sector. This stems from the growth management policies that the Council needs to pursue to protect the natural environment of the Wakatipu basin. An urban containment strategy (which will avoid the adverse effects of development on nationally significant resources) has the potential to disable some people's economic and social well being. Thus, there is a potential conflict between the two legs of Section 5 of the RMA (enabling and management).

Management responses are needed to ensure that people and communities retain a range of options to provide for their well being, within the overall framework of an urban containment strategy. Some of these responses could be regulatory in nature. Chief among the management responses would be a framework that ensures the different types of land use activities that a community needs to function

have the opportunity to locate within the urban area. Clearly, if a contained urban area cannot function then at some point, the containment strategy will be undermined, if not abandoned. In other words, a containment strategy needs to consider both how to slow or halt adverse development on the outside of the urban area, as well as how development should be managed within the containment boundary. Thus, the reason for managing the allocation of activities within a contained urban area is not solely for social and economic reasons in themselves, rather they are necessary supporting measures to ensure the sustainability of the containment strategy.

It is well understood that in an urban system, changes in one condition will flow onto changes in other conditions. Thus, an increase in employment in an area has the implication of more residential development to house workers, which in turn means more demand for retail, recreational and social activities.

The Growth Options report started to explore these linkages and noted that while in the short to medium term there appeared to be opportunities to accommodate anticipated residential and visitor accommodation demands within the urban boundaries (provided that enough land/development sites come onto the land market), longer term, however, competition between land uses would get much more intense. This competition would favour some land uses over others, and as a result would have adverse effects on the economic and social well being of the community. The most obvious consequence is the ever lessening opportunities for permanent residents, with reduced affordability and higher costs of land (and goods and services from less business land). This reduction in opportunities would undermine the performance of the local economy.

Thus there is a case that the development potential of the higher density residential zone (which represents that largest reservoir of development potential in the urban area) should be carefully managed and allocated in a way that ensures both the visitor accommodation and the residential sector are “enabled”. A sub-zone approach could be developed to provide for this approach, as is outlined in the above section on residential cohesion. Visitor accommodation could be encouraged to locate in one of the sub-zones through appropriate policy and assessment criteria, or through some sort of mixed use zone.

To support this approach the council would need to undertake more detailed work on the:

- Likely size of the visitor accommodation market in the future
- The zoning opportunities available to provide for this market
- The linkages between the market and residents and workers
- The consequences of current approaches and management options.

Non-regulatory techniques may be able to be used to help achieve the balance sought. For example the Council has moved to impose a targeted rate on commercial development which recognises that additional load such activities place on the infrastructure of the city. This targeted rate could be further extended and / or be supplemented with various development contributions. However this approach has limitations as the basis of the targeted rate is related to the benefit received in terms of provision of infrastructure. There is no direct link that can be made between targeted rates and the regulation of competition between land use activities for a scarce land resource. It is also not clear how high the charges would need to be to have a measurable effect on development rates. It may well be that to be effective, the charges become unreasonable.

An issue that the council will face (should it decide to pursue a direction that manages visitor accommodation on the basis of its potential to undermine growth management objectives) is that the District Plan does not strongly state the growth management issues and strategy that it wishes to follow. The Plan has sections on District-wide issues and rural and township issues, but no collective discussion of urban growth issues. Section 4 has a discussion of urban development, but it is very much focused on managing the spread of urban activities into identified areas. There are objectives related to managing growth within urban areas to help deliver viable, contained urban areas. However, as they currently stand, the main objectives for visitor accommodation are not directly related to urban development goals. This would need to be addressed.

In conclusion, there are RMA-based grounds for the council to manage visitor accommodation in the Higher Density Residential zone, from both a residential cohesion and growth management point of

view. However any additional controls, or new zones, need to be developed in the context of a growth management strategy which has a clear role and place for visitor accommodation.

### **Definition**

The Council has also requested advice on the current definition of visitor accommodation and whether it is reasonable and defensible to require a discretionary consent for the letting of individually owned dwellings in the Low Density Residential zone and a controlled activity consent in the High Density zone, especially where home owners rent out dwellings a few weeks over the holiday periods.

Visitor accommodation is defined as:

- 1. The use of land/or buildings for short-term, fee paying, living accommodation where the length of stay for any visitor is not greater than 3 months at any time. This definition does not exclude the letting of individually owned residential units.*
- 2. Includes such accommodation as camping grounds, motor park, hotels, motels, boarding houses, guest houses, backpacker's accommodation for up to four guests.*
- 3. Includes the letting of individually-owned residential units, in particular homestays for more than four guests but does not include homestay accommodation for up to four guests.*
- 4. Includes some centralised services or facilities, such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities are associated with visitor accommodation within the sense of (1) – (3) above.*

Homestay accommodation covers the use of an occupied residential unit for paying guests to a maximum of four.

On the face of it, it is unreasonable to require consent from all home owners to rent out their normal home for a few weeks each year. Such rentals provide a source of income for households, while also helping the local economy by providing for additional accommodation options. Such an activity could be described as a temporary activity, and provided it is intermittent over a year, could not be said to be undermining residential cohesion.

Just as the definition excludes homestays, the definition could exclude short term rental of permanent residences, for example allowing rental of up to a total of 6 weeks per year for the purposes of visitor accommodation.

There are compliance issues with such an approach, and it will be difficult to determine whether a property has been rented out on a short term basis for more than 6 weeks. However, there are also significant compliance issues with the current definition. Some form of exclusion is warranted

Prepared by:

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November 2005  
David Mead,  
Director

## ATTACHMENT 3: RESIDENTIAL ISSUES WORKSHOP 13 DECEMBER 2005 DISCUSSION PAPER

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## RESIDENTIAL ISSUES WORKSHOP 13 DECEMBER 2005

### DISCUSSION PAPER

#### The Brief

The Council's Manager: Strategy and Planning has asked me to review the Residential Issues Study (November 2004) and in particular consider:

1. *"...whether the Council should pursue a Plan Change to further distinguish between visitor accommodation and residential activities in the High Density Residential Zone."* and
2. *"...whether it is reasonable and defensible to require a discretionary consent for the letting of individually-owned dwellings as well as larger scale visitor accommodation in the Low Density Residential Zone."*

This Paper is intended to provide a framework for discussion, rather than attempting to give an "answer" to questions that involve policy choices as well as technical planning judgment. The opinions expressed are my views as a planner, and although those views are informed by my experience acting as a hearings commissioner in this District for about 10 years, it should be emphasized that in that role I have to put any pre-conceptions and professional judgements aside and assess each application on the evidence presented on the day. In other words, the opinions expressed below should not be seen as pre-judging future applications I may be appointed to consider.

As the focus of this discussion paper is District Plan provisions for visitor accommodation, I should mention that I have heard at least half a dozen applications for visitor accommodation proposals in the last few years, including one as recently as this week.

#### Overview

It is always important to be clear about what you are trying to achieve and/or prevent before considering mechanisms to achieve/prevent things. Essentially what you want to achieve/prevent is a "political" choice because it involves value judgements, while the best mechanisms to address these wishes (objectives) are a matter for technical advice.

The District Wide objectives in the District Plan, and the objectives for Residential Areas and Town Centres are the starting point for considering what you want to achieve/prevent. If these do not express your wishes, then they need to be changed as part of any Plan Change because a proposed Plan Change has to be assessed (initially by the Council, but probably later by the Environment Court) in terms of whether it will achieve these objectives. In other words, you cannot have any "bottom drawer" undisclosed objectives.

What you want to achieve and/or prevent can be informed by the community consultation exercises: *Tomorrow's Queenstown* (2002), *Wanaka 2020* (2002), and the *Long Term Council Community Plan 2004-2014* prepared under the Local Government Act. The desired outcomes from these are summarised in the Residential Issues Study. They are quite broad however- they could apply to

many places - and I think you are now engaged in taking these to a more specific level: e.g. what is “sustainable”? what is needed for “high quality urban environments”? There is a danger of assuming you, and the community, all share the same vision about what these concepts mean in your particular circumstances.

My impression is that there are real concerns about some of the development taking place in both the High Density and the Low Density Residential Zones. There are particular concerns about some visitor accommodation developments because they tend to be large scale. This has been addressed in the recently publicly notified Change 10 to the District Plan, but there may be concerns about other effects. I suggest that as part of this Workshop we try to pin down exactly what these concerns are.

#### Scope of the Resource Management Act

There are limits to what can be achieved under the Resource Management Act, and some of the Council's desired outcomes may be beyond these limits. For example, it is difficult to see how you can encourage the provision of low-cost housing through the District Plan. Plans just set the rules for new development; they cannot force new development to take place.

Most District Plan include rules limiting maximum site coverage for residential development and at least one I know of has rules limiting the maximum size of dwellings regardless of section size, but these rules are always directed at minimising adverse effects beyond the site, not the provision of low cost housing.

Zoning rules can be designed to create a disincentive to redevelopment by not allowing redevelopment at a higher density than what generally exists in an area, but such restrictions would probably have to be across the board. If only certain areas were proposed to have limited redevelopment potential in order to preserve existing relatively low-cost existing housing, landowners could challenge this on the grounds that their sites could be more efficiently used (section 7(b) of the Act) and that there is no resource management reason to prevent redevelopment.

The Residential Issues Study mentions (p35) that in some places overseas developers are required to provide a proportion of low cost housing within developments, but the Study rightly points out that it is unlikely that such a requirement could be imposed under the RMA.

It is valid though to distinguish between types of activities in district plans. For a time after the Act came into force the Ministry for the Environment argued against this and promoted “effects based” plans. Since then it has been appreciated that defining activities such as “visitor accommodation” is a shorthand way of focusing controls on effects. Most district plans now use a combination of controlling potential adverse effects through defining types of activities, and by directly controlling adverse effects such as noise with rules applying to all categories of activities. As a general rule I would say that it is usually best to control adverse effects directly, rather than having rules for particular types of land use such as visitor accommodation on the assumption that the land use will have adverse effects. The latter approach has difficulties where a particular development is not typical so controls may be too stringent or not stringent enough.

#### The Potential Adverse Effects of Visitor Accommodation

This raises the question of what the potential adverse effects of visitor accommodation are. If it can be shown that there are adverse effects that are specific to visitor accommodation, there are good grounds to distinguish this type of land use. If the potential adverse effects are just effects that could also arise with residential land use, then different rules for visitor accommodation can be challenged.

For example, if there has been a concern about the scale of the buildings currently being erected for visitor accommodation. That is being addressed through Proposed Change 10 to the Plan, which appropriately in my view addresses the issue of scale for any type of development, rather than singling out visitor accommodation. Rules will be more readily defended if they are clearly directed at specified potential adverse effects, and not just designed to counter a perceived problem that is mostly associated with a particular type of land use .

It would be useful to go through the perceived adverse effects of visitor accommodation one by one and see whether they could be addressed by rules applying equally to permanent accommodation.

The Residential Issues Study (page 32) articulates the Council's concerns and I will comment on these in turn below. I will not refer to the concern about "an improvement in the quality of design" as that is being addressed through Plan Change 10.

#### Managing the Growth of Visitor Accommodation

The Residential Issues Study (p32) quoted one desired outcome of regulation of visitor accommodation as being:

*"Improved management over the amount of visitor accommodation which is built. Council believes that if it could reduce the rate at which visitor accommodation beds increase, this could be an indirect way of managing the rate of growth and encourage beds to be filled up in the shoulder seasons."*

I am uneasy about that as a District Plan objective. Although the purpose of the RMA set out in section 5 of the Act is broad and certainly includes the social and economic consequences of resource use, the Act does not set up a land use licensing regime.

The next outcome listed on page 32 of the Study is:

*"Help internalise the costs of visitor accommodation through, for example, the mandatory provision of staff accommodation."*

Although this has an appropriate focus on the effects of visitor accommodation, again I would be concerned over whether such a requirement could be shown to be within the scope of the Act. District Plan requirements for some staff to live on site are normally justified by the need to ensure close control of guests (especially noise at night). A requirement for a resident caretaker/manager for all visitor accommodation in the residential zones could be considered for that sort of reason. A requirement to provide staff accommodation on what are particularly valuable sites where space is at a premium would however need more justification under the RMA than a desire to intervene in the rental accommodation market. One justification could be the demonstrable need to minimise commuting into central Queenstown, but I suspect that is insufficient.

Another desired outcome listed in the Residential Issues Study is:

*"Maintenance of the 50/50 ratio of residents to visitors in and around the CBD by encouraging more permanent residents living in close proximity to the QT Bay CBD..."*

Again I believe the Council needs to be quite explicit in the reasoning for this, if it is to be used as a basis for any controls on visitor accommodation. One reason could be a desire to maintain what is sometimes called "residential coherence". This is something more abstract than the physical effects of visitor accommodation such as traffic and noise. It refers to the social disruption when residential areas lose the feeling of being predominantly residential. Someone once referred to "residential coherence" as epitomised by having neighbours who would feed your cat when you go on holiday.

It is generally assumed that residential areas can absorb some non-residential land uses and retain cohesion, but they can reach a point where the remaining permanent residents start to feel isolated. The Christchurch City Plan addresses this with rules relating the acceptability of a proposed non-residential activity to the number of non-residential activities already in the immediate vicinity.

In Queenstown there is already an unusually high proportion of dwellings that are not used as traditional permanent homes. It may be considered that this means there is more need to protect what "residential coherence" there is. Alternatively the Council may consider that in some areas, basically the High Density Residential Zone, there is not enough "residential coherence" remaining to justify intervening in the market to protect it. I think it is really important to be sure that the residential character is still sufficient to warrant protection. Perhaps it is in some parts of the zone and not in others?

### Planning the Location of Visitor Accommodation

If some clear adverse environmental effects of visitor accommodation in the residential zones can be identified, such as the effect on “residential coherence”, then I think the Council can validly seek to influence the location of visitor accommodation. You would be relying on the overall purpose of the Act set out in section 5 of the Act, particularly the proviso in section 5(2)(c) about “*Avoiding, remedying or mitigating any adverse effects on the environment*” and section 7(c) which requires you to have “*particular regard*” to maintaining “*amenity values*”. Before going down the road of distinguishing visitor accommodation for special controls however, there are several matters that need to be considered.

First, there is probably no argument that it is desirable to concentrate visitor accommodation close to the central business districts of towns, particularly Queenstown and Wanaka. Apart from the convenience for visitors, high concentrations of visitors contribute to the vibrancy and viability of the centres. The distinction I would draw is between visitor accommodation that is within easy walking distance and accommodation that is not. If accommodation is beyond walking distance it makes little difference how far away it is because vehicles are involved and whether it is a 5 minute or a 10 minute journey does not matter. Some of the latest visitor accommodation developments along Frankton Road are beyond walking distance to the town centre.

The next best thing to being within walking distance is for visitor accommodation to be served by regular public transport. The linear development of visitor accommodation along Frankton Road will make more sense if a frequent service is provided.

Another factor is the need some types of accommodation have for large sites. Many years ago I assisted in stopping the then Tourist Hotel Corporation from building a hotel across Horne Creek and partly into the Gardens. THC’s case in the Court was that there were no other suitable sites in Queenstown. Several large hotels have been built since, which shows that sites can be put together, but it needs to be recognised that if the District Plan rules within the generally appropriate areas are too restrictive it paves the way for the argument that the District Plan does not provide for larger accommodation developments so Rural General sites have to be considered for them. This is a complex issue: there is no obligation to provide for every type of land use activity in localities where those activities would prefer to locate, but if something as predictable as large scale visitor accommodation is effectively excluded from urban zones by tight rules it could be argued that the enabling purpose of the Act can only be met by allowing a proposed large scale accommodation proposal outside those zones.

It can also be noted that there are all kinds of difficulties in defining what is and what is not “visitor accommodation”. Most of the large recent developments are managed apartment projects, where units are individually owned but are operated as visitor accommodation when not occupied by the owners. I gather there is a range of occupancy patterns. Some units can be expected to be permanent homes immediately or in time.

There is a suggestion in the Residential Issues Study (page 32) that more visitor accommodation should be located at Frankton. I agree that some provision should be made for visitor accommodation wherever there is likely to be demand (subject to necessary constraints), but there would need to be clear reasons to divert visitor accommodation away from areas preferred by the market. I gather visitor accommodation is intended to be included within master-planned new areas.

### Visitor Accommodation and the Residential Land Supply

The Residential Issues Study analyses the supply and demand for residentially zoned land in some detail. As visitor accommodation is provided for in the residential zones, it creates part of the demand for zoned land.

I am uneasy about the underlying assumption that the District Plan has to meet demand. At the macro, District-wide level it is true that there is no good reason to restrict total supply. That does not mean however that the District Plan should necessarily attempt to meet all demands in every locality. The Queenstown central area in particular is constrained by topography, as is the area within walking distance. It is already impossible to meet all demands for space within this area and the District Plan rules define the trade off that has to be made between the quality of the environment and the quantity



of redevelopment (the building envelopes) permitted. In this situation it is particularly important to ensure that the rules do not unnecessarily constrain development, and conversely that they are achieving the environmental results intended. For example, the way height is measured at present allows considerable volume to be gained through excavation. This has a consequence of allowing large front facades, while still meeting the height envelope. If the dominating effect of these facades is a concern, it is better in my view to address that specifically in the rules, rather than necessarily restricting excavation, which can be an efficient way of using sites.

### Affordable Housing

Another desired outcome listed in the Residential Issues Study is:

*“To increase the affordable and rental and owner-occupier housing stock for permanent residents (and seasonal workers), especially in the areas where it is needed e.g. around the CBD - where currently the housing stock for permanent residents (especially affordable) is shrinking as three cribs, for example, get replaced with 60 visitor accommodation apartments.”*

This is given as one of the possible reasons for regulating visitor accommodation. In my view this is an objective that can be justified under the RMA, but again there need to be clear reasons to intervene in the market. Would the intention be to re-direct visitor accommodation further away from the CBD, or to try to prevent some new development occurring at all? Restricting visitor accommodation would not necessarily lead to affordable housing being built in the prime location around the CBD; more likely it would just lead to high value permanent housing.

### Visitor Accommodation, Summary

The discussion above may seem a bit negative, but I am just trying to emphasise the need to be really clear about your reasoning if you want to regulate visitor accommodation in special ways. The RMA gives a wide scope for regulation - it is not limited to just the obvious physical environmental effects such as shading and noise – but section 32 of the Act requires you to be clear about the reasons for any restrictions imposed through the District Plan, and to consider all the possible means of addressing a concern.

### Short Term Letting of Dwellings

Turning to another matter altogether, you asked for my views on:

*“...whether it is reasonable and defensible to require a discretionary consent for the letting of individually-owned dwellings as well as larger scale visitor accommodation in the Low Density Residential Zone.”*

This must depend on whether there are clearly different effects on the environment when dwellings are occupied by visitors rather than permanent residents or used as holiday homes. The issue of “residential coherence” discussed above is relevant, but it is hard to see that coherence is better achieved by holiday homes being left vacant. The housing stock is a significant resource so there have to be good reasons to prevent owners making the best use of that resource in accordance with sections 5 of the Act (the overall enabling purpose of the Act) and section 7(b) (efficient use and development of resources).

There may be issues about contributions for services, but that is a rating matter.

David W Collins  
8 December 2005

## **ATTACHMENT 4 to Visitor Accommodation Brief**

### **DISTRICT PLAN DEFINITIONS WITH PROPOSED CHANGES: For Plan Change 22**

#### **A. Visitor Accommodation (District Plan): REVISED**

1. Means the use of land/or buildings for fee paying living accommodation where the length of stay for any visitor is not greater than 3 months at any time. Note: see also "Short-Term".
2. Includes such accommodation as camping grounds, motor park, hotels, motels, boarding houses, guest houses, backpacker's accommodation, bunkhouses, tourist houses and lodges.
3. Includes the letting of individually-owned residential units, in particular homestays for more than four guests but does not include homestay accommodation for up to four guests.
4. Includes some centralised services or facilities, such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are associated with the visitor accommodation within the sense of 1-3 above.

#### **B. Short-Term Visitor Accommodation (District Plan): NEW**

Means Visitor Accommodation rented for a period of 28 days or less per year (cumulative), whether rented on a nightly, fortnightly, weekly or monthly basis. When combined with the definition of Visitor Accommodation, and if such accommodation is an Individually-owned Residential Unit and not Commercially Operated, such Short-Term Visitor Accommodation shall not be required to have Resource Consent as otherwise required for Visitor Accommodation.

#### **C. Commercially Operated (District Plan): NEW**

Means the use of any land/or buildings which meets any one of the following tests:

- a. Operates as business as further defined by the Inland Revenue Department;
- b. Seeks a commercially viable return;
- c. Advertises the property, product or service on the internet, in publications, via telephone, or any other personal, print or electronic means;
- d. Exception: an owner's primary residence is not determined to be "commercially operated"

#### **D. Individually-owned (District Plan): NEW**

Means a form of ownership usually reserved for an individual or family, not registered as a corporation or trust.

**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING 12 APRIL 2006**

**REPORT FOR AGENDA ITEM: 9**

**SUBMITTED BY: Scott Figenshow, Senior Policy Analyst- Housing**

**REPORT DATED: 3 April 2006**

**COMMUNITY HOUSING POLICY: ABC SYSTEM & GENERAL ELIGIBILITY**

**PURPOSE**

The purpose of this Policy is to: 1) Provide a planning framework that will enable Council to further define 'community housing' above and beyond terms put forth in the 'Housing Our People in Our Environment (HOPE)- Community Housing Strategy'; 2) to propose eligibility criteria that would apply as more detailed schemes are developed; and to 3) set forth the future work that staff are undertaking to define builder/developer guidelines and long-term affordability retention mechanisms.

This planning framework and eligibility criteria are designed to result in positive outcomes for the community, including Applicants, Builders/Developers and Council, and be:

- Fair & reasonable
- Measurable & consistent
- Robust
- Understandable

The planning framework set forth in this Policy establishes an overall system that, over time, improves the affordability of both ownership and rental housing for the permanent workforce that are essential for local economic vitality and quality of life.

**BACKGROUND**

The HOPE strategy recommended further development of eligibility criteria to be used for all Affordable Housing programmes that may be implemented by either the Council or the Community Housing Trust. Incorporated by reference to this report is 'Document A: Proposed Applicant Eligibility Criteria for Affordable Housing'.

This Policy is a necessary outgrowth of the HOPE Strategy. In Section 2.2 the HOPE Strategy defined 'affordable housing' as meaning "housing that people can rent or buy without financially stretching themselves to a point where housing costs consume most of their income", and further defined 'affordable' as "spending a maximum of 30% of gross income" on adequate housing.

Whilst the above definition is clear, it is necessary to further describe how a person or household would qualify, and how such an affordability calculation would be made.

Additional clarity is also needed as to how houses and apartment unit prices would relate to the price that an eligible household can afford to pay. Further, Appendix D of the HOPE Strategy describes the number of affordable housing units needed in the District, with further

clarity needed as to how units deemed to be 'affordable' will be located and provided to the community.

The HOPE Strategy clearly outlines a policy role for QLDC in ensuring that units defined as 'affordable' to eligible households remain so over time. As a result, this Policy sets forth the scope of further work necessary to establish a set of retention mechanisms.

### **SIGNIFICANCE OF DECISION**

The decision sought of the Committee through this report is not significant under Council's significance policy.

### **CONSULTATION - INTERESTED OR AFFECTED PERSONS**

Consultation has been undertaken through two workshops with both the Strategy & Finance Committees present. Reference to the HOPE Community Housing Strategy is incorporated throughout the proposed policy, which draws heavily from the consultation undertaken as part of the strategy's development.

### **RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes District Council Policy Manual (2003)
- The Queenstown Lakes District Partially Operative District Plan (2003)
- The Council's "Policy of Significance"
- Housing our People in Our Environment (HOPE)- Community Housing Strategy (2005)

The proposed Community Housing Policy, including the 'ABC Affordability System' and 'Applicant Eligibility Criteria for Community Housing' represent a new policy for council adoption. It is envisaged that this Policy will be amended from time to time as further sections of the policy are developed.

### **DISCUSSION**

To set the context, there are three tools which comprise the planning framework, referred to hereafter as the 'A-B-C Affordability System':

**A: Applicant Eligibility Criteria:** This introduces the key methodology based on assessing the gap between Area Median Income (AMI) and Median home price, proposes who is eligible, the terms of eligibility, the programme/schemes available to fill the gap and how people will access the schemes;

**B: Builder/Developer Guidelines for Community Housing:** This outlines the targets of affordability for housing units (unit value priced as a % of AMI); sets goals for development contributions of permanently affordable units to be owned and operated by the Community Housing Trust; and proposes a series of guidelines for units that are 'affordable by design';

**C: Council-monitored Incentives and Retention Mechanisms:** This establishes parameters for the role of the Community Housing Trust and its relationship to Council; establishes the jurisdiction of the various planning mechanisms that give effect to the builder/developer guidelines and planning incentives; discusses planning incentives that encourage new affordable units to be incorporated into all future residential (and perhaps) commercial development; and sets out the legal process for ensuring

affordability is maintained over time through conditions of consent, covenants and other means. Many of the above require appropriate RMA and LGA jurisdiction, and once such jurisdiction is clarified, will become part of the District Plan through a Community Housing Plan Change, as well as through other legally-enforceable mechanisms.

Of this 'ABC Affordability System', only Document 'A' is attached here and recommended for inclusion in this Policy at this time. The other two documents, B and C will be brought forward separately to Strategy Committee, and it will be recommended that the policy be amended over time to include parts B and C as they are formulated.

The proposed planning framework requires a series of decisions to give effect to the primary desired outcome: that being to establish an overall system that, over time, improves the affordability of both ownership and rental housing for the permanent workforce that are essential for local economic vitality and quality of life.

### **Planning Framework: System Methodology**

The proposed planning framework sets forth the following key decision points:

1. That the Council publish an official District-wide AMI on an annual basis, based on existing data available from Statistics NZ and adjusted for inflation, and set bands based on percentage (%) of the AMI which will be used to set threshold eligibility for various housing schemes;
2. That the Council publish an official Median Home Price and Rents (MHPR) on an annual basis, based on existing data, and define this by unit size, home price, and unit rent;
3. That the core relationship to be monitored over time is the Gap between Area Median Income (AMI) and Median Home Price and Rents (MHPR)
4. That a variety of ways to address the Gap be thoroughly assessed, recognizing there is a need for a variety of approaches from the market, the alternative market, and a restricted market. Set forth are proposed schemes for homeownership at this time, with the need for future development of schemes for rental housing:
  - a. Currently Proposed:
    - i. Homeownership: Equity Gap scheme
    - ii. Homeownership: Accessing Community Housing Trust units
  - b. To be developed:
    - i. Rental housing
    - ii. Other schemes as necessary
5. That specific targets be established for:
  - a. The number and location of affordable units needed in the next 10 years, and
  - b. The units' levels of affordability (unit value priced as a % of AMI), with a methodology for adjusting price by unit size, amenity and location;
6. That further work proceed to establish the Community Housing Trust, with:
  - a. the roles of the Trust vs Council clarified;
  - b. the criteria for selection of Trustees established;
  - c. a business plan to give effect to its vision through governance and management.

These steps are not necessarily to be done sequentially. This report is further organized in relation to the above numbered paragraphs. Attachment 1, referred to as "Document A" details the proposed Applicant Eligibility Criteria.

## **1. Establishing the Area Median Income (AMI)**

### **a. What source data shall be used to set the Area Median Income?**

Statistics NZ provided 2001 census data, collected at a mesh-block level, aggregated into Census Area Units. The NZ Renumeration Review, September 2005 documented a 3.5% annual wage inflation rate, and suggested this was consistent with the past several years performance. Thus, 2001 data were inflated using a simple multiple of 5 years X 3.5% or 17.5%; 2006 figures become 117.5% of the 2001 figures. A more accurate annual compounding would be used in future years, but given the somewhat rounded nature of the rearward estimate, such effect is minimal. Once 2006 census data are available, these figures will be adjusted to actual, with annual compounding of inflation by the NZ Renumeration Review wage inflation rate used for each year between census. At such a time as an annually-adjusted AMI becomes available from a Central Government agency, the QLDC would no longer need to publish its own.

### **b. Should the median be set for the whole district, or by grouping of Census Area Unit?**

Attachment 2, 'QLDC Family Median Income-2006' shows a map of the district by Census Area Unit. Staff are considering recommendations to Statistics NZ that for the 2006 census, data be reported with additional mesh blocks included in particular Census Area Units. Further discussion of this topic is included below.

### **c. Should the Area Median Income be adjusted for household size?**

The AMI is often adjusted by household size, varying from the personal median income to a household of two with no children, up to households of five people. Such an adjustment facilitates wider eligibility and acknowledges widely varying circumstances for different households, but does add significant complexity to eligibility determinations. Further, it requires access to a pool of accurate data that is statistically relevant. It is important to note that the relatively small pool of 2001 census data available suggests that this method not be used initially, and re-evaluated after the 2006 census data are published.

The chart below shows the maximum available detail when the Area Median Income is adjusted by household size and Census Area Unit. Note that "Option A" shows the AMI adjusted only by Household Size, with "Option B" showing both Household Size and grouping by Census Area Unit.

**2006 AREA MEDIAN INCOMES (AMI): based on 2001 Census data + a 3.5%/yr inflation for 5 yrs**

117.5%

Source: NZ Renumeration Review Sept 2005 &amp; Strategic Pay March 2005

Census Area Unit	Area FAMILY Median Income	Area PERSONAL Median Income	Household: Couple w/ No Children	Household w/ One Child	Household w/ Two Children	Household w/ Three+ Children
<b>Option A: One AMI for the District</b>						
<b>Queenstown-Lakes District</b>	<b>\$67,329</b>	<b>\$35,152</b>	<b>\$64,837</b>	<b>\$64,379</b>	<b>\$72,877</b>	<b>\$78,157</b>
Hourly wage if full-time (40/hrs/week)	\$32	\$17	\$31	\$31	\$35	\$38
<b>Option B: AMI by 3 areas in the District</b>						
<b>Area 1: Wanaka, Cardrona, Hawea, Albertown, Luggate, Makarora</b>						
<b>Area 1 Median</b>	<b>\$60,030</b>	<b>\$29,881</b>	<b>\$54,070</b>	<b>\$55,083</b>	<b>\$63,215</b>	<b>\$75,893</b>
608304 Hawea	\$52,835	\$27,840	\$52,450	\$40,304	\$53,794	\$61,020
608800 Wanaka	\$59,479	\$28,865	\$55,941	\$58,785	\$62,295	\$70,620
609029 Matukituki	\$67,778	\$32,937	\$53,820	\$66,161	\$73,555	\$96,040
<b>Area 2: Glenorchy &amp; Kingston (similar issues in each)</b>						
609012 Glenorchy = Area 2 Median	\$58,447	\$29,162	\$51,951	\$60,165	\$63,518	\$66,872
<b>Area 3: Greater Wakatipu (including Gibbston, Jacks Point, urban and rural areas of the Basin)</b>						
<b>Area 3 Median</b>	<b>\$73,098</b>	<b>\$38,567</b>	<b>\$70,903</b>	<b>\$73,894</b>	<b>\$77,234</b>	<b>\$79,722</b>
609301 Queenstown Bay	\$63,719	\$33,556	\$62,079	\$63,736	\$68,337	\$72,508
609200 Arrowtown	\$65,781	\$36,183	\$63,498	\$63,466	\$65,495	\$79,206
608700 Frankton	\$67,338	\$36,387	\$64,872	\$68,636	\$74,952	\$59,462
609023 Sunshine Bay (Incl Fernhill)	\$68,364	\$39,057	\$70,353	\$61,853	\$70,788	\$78,724
609302 Earnslaw (N side Frankton Arm)	\$73,522	\$38,879	\$72,922	\$72,876	\$70,970	\$89,933
609028 Lake Hayes (EX Lake Hayes Estate)	\$78,962	\$40,480	\$82,591	\$94,624	n/a	\$84,122
609022 Kelvin Heights	\$80,262	\$40,271	\$72,220	\$81,520	\$95,499	\$88,394
609026 Skippers (Wakatipu Basin & LHE)	\$86,835	\$43,719	\$78,686	\$84,443	\$94,597	\$85,427

Note: Area 1,2,3 Median is the average of median incomes for the CAU's comprising the Area

Reasons for and against Option A: setting one AMI for the district, and Option B: setting three areas in the District are as follows:

Options:	A: AMI by District Median only	B: AMI by Census Area Unit
	Should the Council publish one chart annually of AMI for the District?	Should the Council publish 3 AMI charts annually, one for each of the 3 Areas as grouped by Census Area Unit?
Reasons For:	1. simplest method	1. common sense for local area; encourages people to live and work in the same area
	2. encourages people to live and work in different areas of the district	2. facilitates relationship to median home price, if also done by same area
	3. 'levelling effect' for the district; population #'s are small, variations in household size by area may not be relevant	3. grouping reflects areas in which people naturally commute (view Glenorchy & Kingston independent of each other and of Greater Wakatipu)
Reasons Against:	1. may create inequities - review policy annually for issues	1. more complicated to monitor
	2. may be inaccurate in areas of the district with highest growth	2. smaller samples mean anomalies may need further analysis
		3. may be confusing to the public

d. How shall % AMI levels be defined in bands?

Following the above recommendation to implement Option A with one District-wide AMI not adjusted for household size, the next step is to establish the % of AMI target bands to determine the level of income that can be earned to be eligible. Bands are defined as follows:

<b>Targeting Bands</b>		
	Upper	149%
<b>Band Level</b>	<b>140%</b>	
	Lower	130%
	Upper	129%
<b>Band Level</b>	<b>120%</b>	
	Lower	110%
	Upper	109%
<b>Band Level</b>	<b>100%</b>	
	Lower	90%
	Upper	89%
<b>Band Level</b>	<b>80%</b>	
	Lower	70%
	Upper	69%
<b>Band Level</b>	<b>60%</b>	
	Lower	50%

e. What band level should be used as an upper limit of eligibility?

In an ideal market, a median income household would pay no more than 30% of their monthly income toward monthly repayments on a median priced home, or if renting, in monthly rent. Variations in housing quality, size, and location then make up the key factors in housing choice.

The HOPE Strategy recommended setting eligibility for homeownership schemes at 120% of AMI. Should the target level prove incorrect, it can be adjusted on an annual basis. When the 2006 census data is available, it will be valuable to consider what % of the overall population are captured by the various targeting bands, and may require re-adjustment at that time. Few households below the 80% AMI band will be able to afford homeownership, unless market conditions change substantially, or substantial subsidy is provided.

For rental housing, the standard target level recommended by the HOPE strategy is 60% of AMI and below. Further work is needed before a corresponding Rental Housing Scheme can be put forth.

For the proposed Homeownership Schemes, a 120% band is considered viable as the upper limit of eligibility (to 129%).

Consideration has also been given to whether the Area Median Income should be published as 'Gross Income' (before tax) or 'Net Income' (after tax). At the median, the gross vs. net comparison is as follows:

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The HOPE Strategy goal is clearly to ensure that housing be affordable to a household not spending more than 30% of their income on housing. Similarly, research with lenders finds that when Net income is used, a factor of up to 45% of net income is a standard used for



measuring affordability. As shown by the following table, the two measures are very similar, with the 30% of gross figure lower than the maximum that banks would expect people to spend.

			27.2%		
NET:				41.3%	Debt Service Ratio
Post-tax	\$48,993	\$ 942		\$389	Available for Debt Service
	Annual	Monthly		Weekly	
Gross:					
Pre-tax	\$67,329	\$1,295		\$388	Available for Debt Service
				30.0%	Debt Service Ratio

As a result, there is little net effect on a households projected housing-related outgoings if either the gross or net Income factors are used, so long as the calculation requires use of no more than approximately 41.3% of the Net income or 30% of the Gross income for debt service costs.

Applying the targeting bands to the AMI for the District, provides the following results in respect of actual Gross and Net incomes:

		Area HOUSEHOLD Median Income	
		GROSS Income (Before Tax)	NET Income (after Tax)
Upper Median	129% AMI	\$ 87,526	\$ 63,719
	120%AMI	\$ 80,794	\$ 58,818
Median	100% AMI	\$ 67,329	\$ 49,015
Lower Median	80% AMI	\$ 53,863	\$ 39,212
	70% AMI	\$ 47,130	\$ 34,311
	60% AMI	\$ 40,397	\$ 29,409
	50% AMI	\$ 33,664	\$ 24,508
	40% AMI	\$ 26,931	\$ 19,606

The recommendation is to adopt a Gross Area Median Income for the entire District, and to defer further consideration of adjustments by household size until a review of the 2006 Census data can be undertaken.

## 2. Establishing the Median Home Price and Median Rent (MHPR)

Initial research has been conducted for the purpose of establishing a median home price and rent that would pertain to dwellings of an average size, grouped by unit size and type, yet source data reviewed to date does not easily allow for such detail. Further research is required to establish a median figure that can be supported by data, that excludes luxury dwellings, visitor accommodation, and units of an above average size and that facilitates price data by unit size and by census area unit. As a result, the Equity Gap examples below are based on a home/unit purchase price between \$300,000 and \$500,000, levels for which there appear to be product available in the marketplace, and that households would qualify for based on the Applicant Eligibility Criteria proposed.

### 3. The Gap between Area Median Income (AMI) and Median Home Price

The core relationship to be monitored over time is the Gap between AMI and the “amount” of housing a household can buy by spending 30% of its gross income on housing, and the income it takes to buy/rent the median-priced home.

Until accurate data is available for establishing the median home price, the following is an indication of how the Gap is calculated in the current marketplace, assuming a 7.8% fixed mortgage rate for the conventional loan, and the Equity Gap in the form of either a deferred interest Soft Second Loan or a Shared Equity contribution.

From the examples below, it appears that the methodology of defining the gap between that which a household can afford on their own and a median price for two and three bedroom units or homes below \$500,000 will prove effective. If the gap widens beyond the 25%-30% currently, then additional schemes will be needed to address the issue. It is strongly recommended, that this methodology be utilised, as it addresses the key concerns of the HOPE Strategy and is one that the Council’s Monitoring Strategy can consistently report on year after year.

	80% AMI Band	100% AMI Band	120% AMI Band
A Household with a Gross Income of	\$ 47,130	\$ 67,329	\$ 87,527
By making monthly repayments of	\$ 1,430	\$ 1,683	\$ 2,188
<b>Can Afford to purchase a home priced at</b>	<b>\$ 285,000</b>	<b>\$ 337,000</b>	<b>\$ 440,000</b>
Paying a deposit of	(11,440)	(13,466)	(17,505)
With a mortgage of	(188,060)	(222,434)	(290,495)
<b>Leaving a GAP of</b>	<b>\$ 85,500</b>	<b>\$ 101,100</b>	<b>\$ 132,000</b>
Gap as % of house price	30%	30%	30%

Attachment 1, ‘Applicant Eligibility Criteria’, further describes how the gap calculation will be applied to a household’s application for housing. Following a review for basic eligibility as meeting the 120% AMI income band, application of the income test and asset test calculates the specific gap needed to acquire the target housing unit. This eligibility and individual gap calculation would be completed by the organization managing the community housing portfolio, most likely the Community Housing Trust.

### 4. Schemes to Address the Gap

At this stage of development, the Document A: Applicant Eligibility Criteria includes further discussion of primarily Homeownership schemes. In general, two types of schemes, 1) shared equity and 2) soft-second loan are offered in that document as a way to address the Gap. In general, their benefits are discussed below:

	For Equity Gap Source		For the Applicant/Employee	
	Pro	Con	Pro	Con
Shared Equity	<b>Market Risk:</b> If market appreciates, value of % share increases	If market depreciates, value of % share decreases	If market appreciates, value of % share increases	If market depreciates, value of % share decreases
	<b>Maintenance &amp; Improvements:</b> no benefits	Responsibilities may be complicated	Equity partner may share cost	You only receive partial value at sale for improvements you make
	<b>Administration:</b> no benefit; may engender loyalty from employee	Admin more complicated than loan; may complicate employee/employer relationship	May engender loyalty from employer	may complicate employee/employer relationship

Soft- Second Loan	<b>Market Risk:</b> If market appreciates, you receive no benefit	If market depreciates, you risk no loss, unless it depreciates below combined loan value	If market appreciates, you receive all benefit as your loan values are fixed	If market depreciates, you still owe loan values and may lose your deposit value
	<b>Maintenance &amp; Improvements:</b> No role in maintenance or improvements	No role in maintenance or improvements; property may not be well maintained	Freedom with all maintenance & improvements	Responsibility for all maintenance & improvements
	<b>Administration:</b> clear roles & responsibilities as specified in loan agreement; may engender loyalty from employee with few complications	Need to separate administration of loan from Human Resource management	Administration: clear expectations as specified in loan agreement; easily understood costs/benefits	Employer less likely to make HR decisions based on impacts to loan, as loan is more separate than an ownership stake in the house

Future reports to the Strategy Committee will propose further refinement of these schemes.

## 5. Establishing Targets

Staff will proceed with development of 'Document B: Builder/Developer Guidelines. Future reports to the Strategy Committee will propose further refinement of this Policy to adopt Document B.

## 6. Community Housing Trust

It should be noted that the roles being developed for Council and the Trust in improving housing affordability in the District must be considered in the context of a wider picture of market, being one that includes free market, alternative market and restricted market activities. Council and the Trust are foreseen to largely work in the restricted market context, acknowledging that the market, through alternative financing products, may be able to assist households with making a home affordable to them. In addition, Central Government has a large role to play in ensuring that quality housing is available for those least able to provide for themselves. The HOPE Strategy largely positioned a role for the Council and Trust to serve the large number of workers who would be able to take care of their housing needs without any assistance were it not for the unusually high housing prices in the District.

The chart below shows a few examples of how the Trust & Council role relate to other homeownership tools in the marketplace:

	<b>Council &amp; Trust Roles</b>	<b>Eligibility Restrictions</b>	<b>Tools/Products</b>	<b>Target</b>
<b>Market</b>	<ul style="list-style-type: none"> <li>No role</li> </ul>	<ul style="list-style-type: none"> <li>Household borrowing capacity</li> </ul>	<ul style="list-style-type: none"> <li>Interest only loans</li> <li>Other private sector lending products</li> </ul>	No target
<b>Alternative Market</b>	<ul style="list-style-type: none"> <li>Information &amp; Referral</li> <li>'Affordable by Design' guidelines</li> </ul>	<ul style="list-style-type: none"> <li>Household borrowing capacity</li> <li>primary residence only</li> <li>structured for 5 yr period minimum</li> <li>may be ok to own other real estate</li> </ul>	<ul style="list-style-type: none"> <li>'Welcome Home' loan program- HNZN</li> <li>Equity Gap schemes (private sector)</li> </ul>	100% AMI & above
<b>Restricted Market</b>	<ul style="list-style-type: none"> <li>Community Housing Trust: implementation role</li> <li>Council: Strategy, enabling role</li> <li>Both Council &amp; Trust: stewards of public resource</li> </ul>	<ul style="list-style-type: none"> <li>Household borrowing capacity</li> <li>primary residence only</li> <li>Structured for 5-10 year period minimum</li> <li>Income Test</li> <li>Asset Test</li> <li>Gap Analysis Test</li> </ul>	<ul style="list-style-type: none"> <li>Trust retains freehold interest in the property, onsell only leasehold</li> <li>Equity Gap (private or public sector)</li> <li>Use of Trust or other funds</li> <li>Use of voluntary developer contributions</li> </ul>	Below 130% AMI

What the above chart does not address is the role that Central Government has statutory responsibility for, in caring for those least able to provide for themselves.

Future reports to the Strategy Committee will propose further refinement of this Policy to adopt Document C.

#### **DELEGATIONS REGISTER REFERENCE**

This does not affect the delegations register as the item is recommended for action by full Council.

#### **FINANCIAL IMPACT**

The introduction of the Policy results from work by in-house staff and consulting as originally budgeted and recommended in the HOPE Strategy.

**RECOMMENDATION**

*That the Strategy Committee recommend to full Council that it*

- 1. Adopt the framework described herein, including the Document A: Applicant Eligibility Criteria as its 'Community Housing Policy';*
- 2. Set the Household Area Median Income (AMI) at \$67,329 for the year 2006, to be adjusted on an annual basis, based on data available from Statistics NZ and adjusted for inflation;*
- 3. Set the 120% AMI Band as the upper limit of eligibility for schemes in which the Council and its to-be formed Community Housing Trust are involved.*
- 4. Acknowledge that the Policy will be amended from time to time as additional components are completed and put forth for review, in particular the addition of parts B: Builder/Developer Guidelines and C: Council-monitored Incentives and Retention Mechanisms.*

Document **A****PROPOSED** Applicant Eligibility Criteria for Community Housing

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Document **A****PROPOSED** Applicant Eligibility Criteria for Community Housing

(Note: the following criteria have been drafted to apply to all affordable/community housing programs to be offered by the Council and/or its Community Housing Trust. References to 'Trust', and 'Council' will be adjusted following the decision on which of these is the appropriate operating entity.)

To be eligible to participate in community housing programs (hereafter referred to as the "Programme"), applicants must meet the following set of requirements. These are designed to ensure fairness and equity among applicants, and to ensure that the wider goals of the Housing Our People in our Environment (HOPE) Strategy are achieved.

**1) General Requirements**

- a) Participation in the Program is limited to a Household with at least one member, who is and will remain a New Zealand Resident or Citizen
- b) Applicants shall agree that all information provided on the application is true, correct, and should any information provided be found to be of a false or fraudulent nature, the Council/Trust reserves the right to reject the application, terminate the applicant's participation in the program or take any other action that is legally available.
- c) Applicants will be required to certify their agreement to abide by the program requirements for the duration of their participation in the program
- d) Applicants consent to an annual re-certification of the information provided in the application, which includes but is not limited to verification of household income
- e) Household Income and Household Assets form two of the central eligibility factors for the Programme. The Income Test and Asset Test are utilized in the Gap Analysis, and are defined as follows.
- f) Income Test:
  - i) Applicants are eligible for the Programme if their Household Income **does not exceed the 120% of the Area Median Income (AMI) band for the Queenstown-Lakes District**, and as adjusted annually by the average wage inflation rate. See: Attachment A: **"Targeted Area Median Income Levels by Household Size"**
  - ii) Housing is deemed 'affordable' if the Household spends a maximum of 30% of their gross income on rent or mortgage (principal and interest) repayments. In some cases, primarily where household income is above the median, and where the household can support conventional lending, a maximum expenditure of 35% of gross income may be acceptable.
  - iii) If the applicant wishes to include a person in their Household whose primary relationship is that of a flatmate, the applicant must state this relationship in their application form. In this case, Household eligibility will still be based on the AMI target for the primary household size. The primary lender's underwriting criteria can take the flatmate rent into consideration when determining the income necessary for repayments. This situation would only be considered desirable if it allows an applicant to qualify, and if the flatmate situation is temporary (i.e. will only apply during the first 1-2 yrs of eligibility).
- g) Asset Test:
  - i) Applicants who currently own their primary residence are viewed as suitably placed in the housing market, and therefore not in need of the assistance provided through the programme.

- ii) Households who have assets that would enable them to purchase a home in the district without the use of Council assistance will not be eligible. Applicants consent and agree to provide details of all household assets at time of application in order to determine whether programme assistance is necessary to achieve the Household's housing goals.
  - iii) Applicants cannot own any other residential property in NZ or overseas at time of settlement, and cannot own or be in the process of borrowing funds to purchase a rental property. Households may be deemed to be ineligible if a household member, via a trust or other mechanism, has an ownership share in other residential or commercial property, or other significant assets (i.e. share portfolios), subject to the assessment of the asset as part of test ii above. Applicants will be encouraged to discuss their situation with staff, who may need further consultation with the review committee prior to making a decision.
  - iv) Applicants must demonstrate adequate assets to make the required deposit contribution. At time of application, these may come in the form of a property or other investment owned outside of the district for which the household would be required to commit to sell and apply the proceeds toward their primary residence in the district.
    - (1) For Households with no dependents, the expected deposit contribution is 15-20% of one year's Household Income;
    - (2) For Households with dependents, the expected contribution is 10% of one year's Household Income.
- h) Gap Analysis:**  
Levels of assistance will be based on the minimum amount needed to secure adequate housing by eliminating the gap between what the household can afford, and a residential unit appropriate for the household size.

## **2) Homeownership Programme**

The objective of the Program is to facilitate first-time homebuyers who are working in the District to be able to live in the District on a long-term or permanent basis. The Homeownership Programme is achieved through two primary mechanisms: Units owned by the Community Housing Trust (Section 3.6), and the Equity Gap Scheme (Section 3.7). The benefits to the purchaser are that: The deposit gap is reduced/eliminated; Borrowing costs are reduced; and entry into the housing market is facilitated.

- a)** In addition to the general requirements, applicant Households must have at least one member:
  - i) who is a first-time home buyer in the District or re-entering the ownership market after having been out of it;
  - ii) who has been employed for 12 months or more and remains employed on a Full-time basis in the District with a Registered Employer.
- b)** The property must be used exclusively as the applicant's Primary Residence. The property may not be rented to another party, except for a period of up to 28 days (cumulative) in a given year.
- c)** Applicants will be required to obtain financing for their home purchase through a commercial lender, and will be subject to the lender's standard loan underwriting criteria.
- d)** Applicants shall consent that the Council/Trust and Lender may share information with each other regarding the Application
- e) Eligible Property:** Residential or rural zoned property located in the Queenstown-Lakes District which meet the following criteria:
  - i) established house on a single section serviced by road, power and water;
  - ii) with a minimum size of 70 square meters and a maximum size of 180 square meters (excluding balcony, car park and external stairs);
  - iii) freehold property; cross lease; or Unit Titles (as qualified below);



- iv) leasehold property, which is perpetually renewable. The next right of renewal and the date upon which the lease rent is reviewed should be at least 5 years from the date of approval.
- v) Unit Title property which meets the following criteria:
  - (1) purpose built for residential occupation (not a conversion)
  - (2) common area is limited to driveway and grounds
  - (3) self contained (no shared facilities such as kitchens and bathrooms)
  - (4) own individual entry/stairs/access
- vi) The property purchase price must be supported by a registered valuation, acceptable to the commercial lender and Council/Trust, and the property must have a LIM Report which at time of settlement contains no outstanding issues of any significance;
- vii) The property purchase price cannot exceed 120% of the median home price as published by Council/Trust on an annual basis;

**f) Unacceptable property types:**

- i) commercial or industrial property
- ii) special rural property (e.g. farms or vineyards)
- iii) unit in a hotel/motel
- iv) unit in a retirement complex
- v) unit in a serviced or managed (excluding body corporate) complex
- vi) hotel/motel conversions
- vii) flat-owning company share properties

**g) Purchasing a leasehold interest in a unit owned by the Council/Trust**

- i) For the 5% of units at Jacks Point resulting from that development's Stakeholder Agreement, a preference is granted to applicants working on the construction and development of Jacks Point. Unit affordability targets are detailed in the "Unit Size by AMI Targeting Worksheet" as agreed to by Council and Jacks Point.
- ii) Specific requirements for other developments to be detailed separately.

**h) Equity Gap Schemes for use in the private housing market**

Two schemes, Shared Equity and Soft Second Loan are available to fill the gap between a home at or below the median price and the conventional loan plus deposit available to the applicant.

- i) **Shared Equity Scheme:** Shared equity exists where the ownership, and thus the equity in a property is shared between two parties. The equity partners in this case are the applicant as homebuyer and the Council/Trust as an equity investor. A conventional lender is also involved for financing the balance of the purchase price.
  - (1) The two parties jointly purchase the property as "tenants in common" or other legally suitable form, which means that each owns a fixed share of the equity in the property.
  - (2) The Council/Trust may invest an amount not to exceed 30% of the purchase price of approved property. The amount will be determined based on the lowest possible amount required to fill the gap in equity resulting from the Gap Analysis, and the Income and Asset tests described in the previous sections of this document. The final amount of the Council's equity share is based on the purchase price of the property, the income of the borrower, and underwriting advice provided to the Council from the primary lender.

- (3) Approved property will require a current valuation from a registered valuer and a LIM report – these reports will be at the expense of the purchaser.
  - (4) The purchaser will be responsible for all maintenance and property costs (i.e. rates, insurance etc). These will be covered in a separate maintenance agreement.
- ii) **“Soft Second” Loan Scheme:** So named in that it is second in position to a conventional loan, and ‘soft’ in that repayments are deferred until sale or refinancing of the property. This scheme reduces and/or postpones the costs of servicing the second Council/Trust loan, through a Low/Discounted Interest Rate and/or Interest Only Loan
- (1) **General:** The purchaser will be responsible for arranging their own borrowing of a first trust deed mortgage from any lender. This mortgage will be the first charge against the property, with Council/Trust’s interest in the property ranking second in priority. Monthly repayments of the Soft Second Loan will not be required, and therefore will not be counted by the primary lender in assessing the applicants borrowing capacity.
  - (2) **Low/Discounted Interest Rate:** This option is self explanatory and could be applied to a standard table mortgage or an interest only loan. (NOTE: If the reduced interest rate is offered directly from the employer to the employee, Fringe Benefit Tax (FBT) will certainly apply to that portion of the interest cost which is below market rates. This is a direct additional cost to the Employer and will apply at the rate of 49 - 64% of the benefit depending on the income level of the recipient.)
  - (3) **Interest Only Loan:** This option offers a loan without progressive principal repayments. Interest is charged at predetermined intervals but the principal is repaid in one lump sum at an agreed future date. Generally interest only loans are offered for shorter terms than table mortgages. Unless the loan interest is discounted per above, market based interest rate will apply (based on prescribed FBT rate).
- i) **Repayment and Resale Control:** The Council/Trust will continue its investment in the property through either of the Equity Gap schemes, as long as the Applicant remains employed by a Registered Employer, which shall be verified on an annual basis.
- i) Should the employee cease employment with their Registered Employer, Council/Trust will require that its investment be repaid within a timeframe specified in the Equity Gap agreement, unless the employee takes a new position at a rate of pay not in excess of 140% of local area median income (AMI), with another Registered Employer.
  - ii) Full flexibility will be available to enable the applicant can make voluntary payments without penalty at any time.
  - iii) The purchaser has the ability to sell their share of the property at any time, with the Council retaining right of first refusal to purchase the unit, or to allow a new buyer to qualify under the Equity Gap schemes. If the Council/Trust declines to exercise its option, the unit shall be sold at a fair market value, documented by a registered valuation, with the Council receiving
    - (1) proceeds equal to its share of ownership if Shared Equity scheme
    - (2) loan principal plus accrued interest, if the Soft Second loan scheme.

- iv) Resale control of units owned by the Community Housing Trust requires that the Applicant re-sell their unit to the Trust, based on value as established by a registered valuer, subject to adjustments as specified in the unit Purchase and Sale Agreement.
- v) The applicant may voluntarily increase their equity share by “staircasing” their investment, this will involve buying out all or part of the Council share (based on current market valuations) at nominated time intervals (i.e. 2 yearly). These terms will be established through negotiation, and referenced in either a Shared Equity Agreement or Soft Second Loan Agreement.
- vi) Starting in year 3, if no voluntary repayments have been established, the Council may require a review with the Purchaser, and establish a plan to “staircase” their ownership, with an aim for the purchaser to buy out the Council/Trust share, if the following conditions exist:
  - (1) Household income has increased above 160% area median income band
  - (2) Percentage of household income servicing the first trust deed has dropped below 15% (with dependents) or 20% (without dependents).
- vii) If by year 10, no schedule is in place for staircasing the Purchaser’s share and removing the Council from its tenants in common or loan position, the Council reserves the right to require that the property be refinanced such that the purchaser is the whole owner of the unit, with no Council involvement.
- viii) Should the primary mortgage be repaid, Council’s share of ownership shall also be repurchased, or a schedule established for its repurchase.

### **3) Rental Programme:**

- i) To be further specified at a future time.

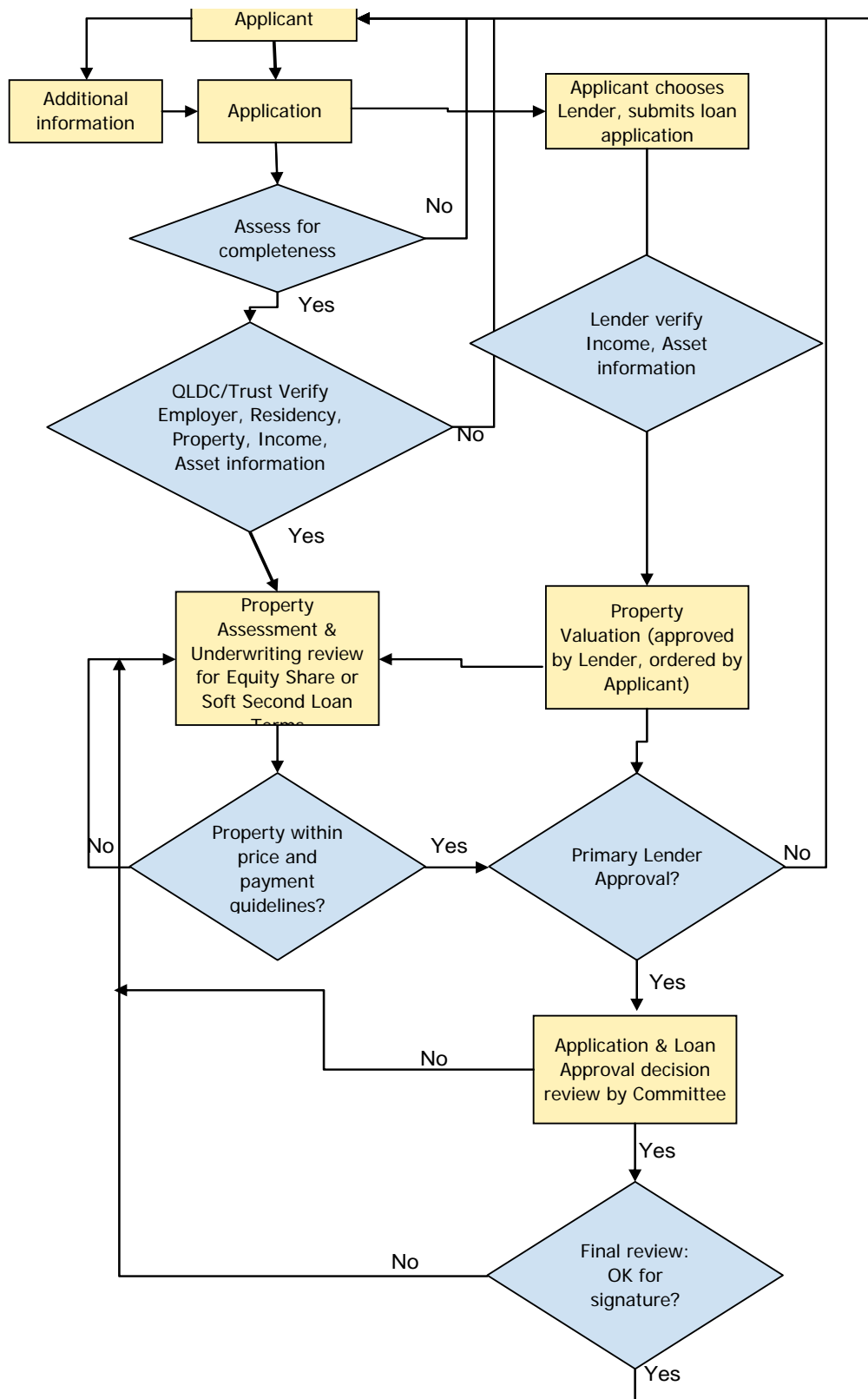
### **4) Application Ranking**

- a) At this time, applications will be reviewed and processed on a first-come, first-served basis. A balloting or ranking score system is under development. Should demand exceed supply, such a ranking system may be necessary and would be proposed for adoption at a future time.

### **5) Application Review and Approval**

- a) Applications will be reviewed by a Council/Trust policy analyst for completeness, and for confirmation of Residency and Registered Employer. All Income, Asset and lending criteria will be reviewed by Applicant’s chosen lender.
- b) A staff report will be prepared for review by the designated committee, with a recommendation to approve or deny the application.
- c) The following chart is a guide for the application review process:

## Equity Gap Application Review Process



**6) Attachments**

- a) Targeted Area Median Income Levels (2006)
- b) Equity Gap Scheme Examples: The examples demonstrate income and deposit requirements for sample homes, and work equally whether the shared equity or soft second loan schemes are applied.

**7) Definitions**

- a) Assets: All bank, investment, real property, or other assets owned by any member of the Household.
- b) Full-Time Employment: Defined as 30 hrs per week or more.
- c) Household: may include a single individual or a family, which may comprise a legally married or de-facto partnered couple, and their children (aged 18 or under) who are under legal guardianship of the individual or couple and other dependents who normally occupy the same primary residence. It is acknowledged that households may also include elderly parent(s) or adult children, and the inclusion or exclusion of these members income when calculating 'Household Income' as defined below will be reviewed on a case-by-case basis.
- d) Household Income: all income earned from gainful employment, or received from investment, public benefit, superannuation or other source, of any Household member.
- e) Primary Residence: defined as the place of daily residence for all household members. A Household may have only one Primary Residence.
- f) Registered Employer: an employer who has registered with the /Trust, and listed on the "Registered Employers" list as published from time to time, and certifies that its employees are 'locally employed' as required by these guidelines. Registered Employers are deemed such for having made a contribution to the Community Housing Trust (requirements of such contribution to be specified separately), and include:
  - i) Any District-based unit of local, regional or national government, including but not limited to NZ Police Force, NZ Fire Service, Queenstown-Lakes District Council, and its related entities and other entities which may be added from time to time;
  - ii) Any medical centre, hospital, ambulance service, or emergency response entity;
  - iii) Any public or non-profit school;
  - iv) Any private employer

-end-

**Attachment A:**

Targeted Area Median Income Levels (as adopted for 2006)

Area: Queenstown-Lakes District

		Area HOUSEHOLD Median Income		
			<b>GROSS Income (Before Tax)</b>	<b>NET Income (after Tax)</b>
<b>Homeownership</b>		Upper Median	129% AMI \$ 87,526	\$ 63,719
			120%AMI \$ 80,794	\$ 58,818
	<b>Rental</b>	<b>Median</b>	<b>100% AMI \$ 67,329</b>	<b>\$ 49,015</b>
		Lower Median	80% AMI \$ 53,863	\$ 39,212
			70% AMI \$ 47,130	\$ 34,311
			60% AMI \$ 40,397	\$ 29,409
			50% AMI \$ 33,664	\$ 24,508
			40% AMI \$ 26,931	\$ 19,606

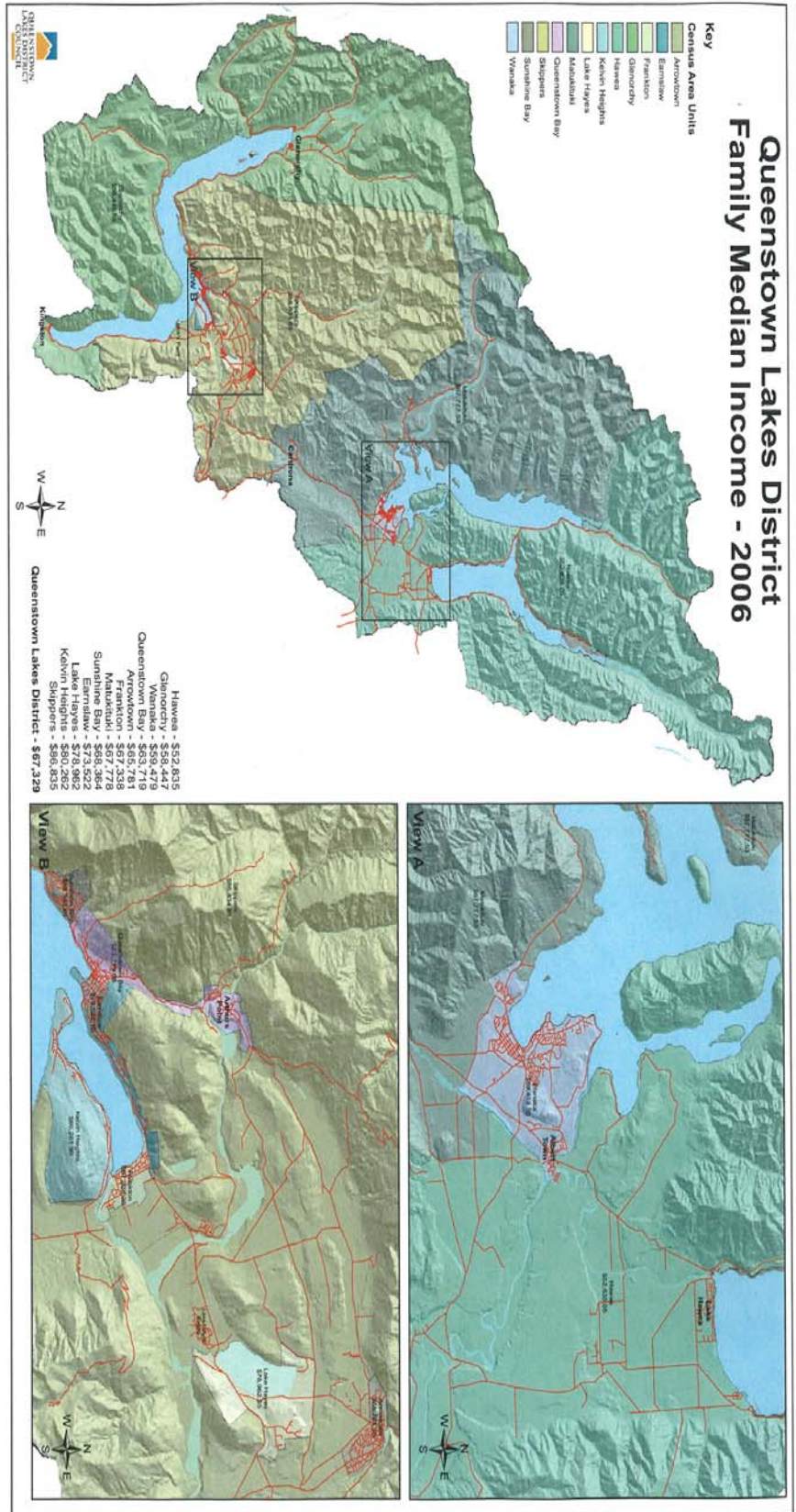
**Attachment B: Equity Gap Scheme Examples**

## Summary

		<b>80% AMI Band</b>	<b>100% AMI Band</b>	<b>120% AMI Band</b>
A Household with a Gross Income of	\$	47,130	\$ 67,329	\$ 87,527
By making monthly repayments of	\$	1,430	\$ 1,683	\$ 2,188
<b>Can Afford to purchase a home priced at</b>	<b>\$</b>	<b>285,000</b>	<b>\$ 337,000</b>	<b>\$ 440,000</b>
Paying a deposit of		(11,440)	(13,466)	(17,505)
With a mortgage of		188,060	(222,434)	(290,495)
<b>Leaving a GAP of</b>	<b>\$</b>	<b>85,500</b>	<b>\$ 101,100</b>	<b>\$ 132,000</b>
Gap as % of house price		30%	30%	30%









**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING 12 APRIL 2006**

**REPORT FOR AGENDA ITEM: 10**

**SUBMITTED BY: Manager: Strategy and Planning**

**REPORT DATED: 31 March 2006**

**A PRECIS ON THE IMPLICATIONS OF THE INTERIM DECISION RELATING TO SCENIC RURAL ROADS (3 OCTOBER 2005)**

**PURPOSE**

The purpose of this report is to present the attached précis which has been prepared by Jenny Parker for the Strategy Committee.

**BACKGROUND**

This report is in direct response to a request from the Strategy Committee at the February meeting and ongoing concern and uncertainty as to what 'effect' the recent interim decision has.

Jenny Parker was specifically asked to provide advice on:

- What are the implications of the Environment Court decision in terms of processing consents?
- How interim is the decision (i.e. what matters remain outstanding)?
- What remedies are available to the Council to amend the decision?

The attached précis provides the background to the decision itself.

The matter of preserving the rural landscape and particularly the experience of the landscape when travelling through the rural area is most relevant to the following community outcome:

- *Quality landscapes and natural environment and enhanced public access.*

**SIGNIFICANCE OF DECISION**

As no decision is sought in this report, the matter of significance is not relevant.

**CONSULTATION - INTERESTED OR AFFECTED PERSONS**

The Variation and the Environment Court proceedings have been open public processes, which has involved a vast number of parties.

## **RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes District Council Policy Manual (2003)
- The Queenstown Lakes Partially Operative District Plan (2003)
- The Council's "policy of significance"

## **DISCUSSION OF THE DECISION (C140/2005)**

The Strategy Committee is advised to consult the précis for the full discussion of the specific questions raised above. In response to the questions cited above, in summary, the attached précis concludes:

- There is no control imposed on planting within close proximity to rural roads
- Structures do require resource consent under the provisions although the structures rule does not apply to farm structures.
- Amendments have been made to the Assessment Matters
- The decision is final in respect of its intent, with leave reserved for parties to come back to the Court only on matters of jurisdiction and minor wording. Furthermore, the period for submissions has now closed.
- The only remedy to have the matter of planting along rural roads reconsidered is through a council plan change.

## **OPTIONS IN TERMS OF DECISIONS TO BE MADE**

As argued in the Environment Court, the objective of this Council in regard to the matter of Scenic Rural Roads has generally (albeit somewhat simplistically) been to ensure that the views from rural roads are protected and that structures and buildings are appropriately set back and designed.

Pursuant to Section 79 of the LGA 2002, all reasonably practicable options for achieving the above objective have been considered, with the level of assessment being directly relative to the significance of the effects of the decision.

The options that have been identified are as follows:

1. To administer the provisions confirmed by Environment Court decision C140/2005
2. As per 1 above, plus to actively monitor its effectiveness and the efficiency of the consenting regime and to then consider whether a Plan Change is necessary, (in line with Option 4 below)
3. To undertake a Plan Change in order to strengthen the provisions relating to rural roads confirmed by the Environment Court
4. To undertake specific detailed landscape analysis of the rural area to determine, at a more micro level, the specific vistas and characters that we wish to preserve (as outlined in more detail in the précis) and to then undertake a plan change.

Having considered the various options against the matters outlined in the LGA (which, notably, recognises that the scope of the analysis of options may at times be limited by other legislation such as the RMA), Option 2 is preferred.

**FINANCIAL IMPACT**

There are no unforeseen financial implications from pursuing Option 2, bearing in mind that funding is not available for any further landscape assessment or Plan Change (in the event that monitoring deemed it to be required) until 2009/10.

**DELEGATIONS REGISTER REFERENCE**

As no decision/ action is sought in this report, the matter of delegations is not relevant.

**RECOMMENDATION**

*That the report and the attached précis be received for information purposes.*

## **SCENIC RURAL ROADS- IMPLICATIONS OF THE INTERIM DECISION ISSUED ON 3 OCTOBER 2005**

### **Purpose of report**

The purpose of this report is to provide a short précis of the Environment Court's interim decision C140/2005 Scenic Rural Roads, and identify its implications. The specific questions that this report responds to are:

- What are the implications of the Environment Court decision in terms of processing consents?
- How interim is the decision (i.e. what matters remain outstanding?)
- What remedies are available to the Council to amend the decision?

### **Background**

Variation 18 Scenic Rural Roads was notified in September 2002. This deleted all reference to Scenic Rural Roads from issues, policies and assessment matters, and introduced policies and rules controlling tree planting and structures near all public roads in the District. The Council issued its decision on submissions on 7 October 2004. The decision of Council retained the rules for tree planting and structures, strengthening them to discretionary activities. These read:

#### **5.3.3.3 Discretionary Activities**

##### **xii Planting of Vegetation**

*The planting of vegetation that exceeds 1.5 metres in height at maturity and that is within 50m of any road boundary and where:*

- *Total vegetation exceeds more than 20% of the total road frontage of the site (when measured parallel to the road boundary); or*
- *Planting results in a continuous line of vegetation that measures more than 10 metres in length when measured parallel to the road boundary.*
- *Except for the planting of vegetation associated with the development of a building that has resource consent.*

*The Council's discretion is restricted to the consideration of effects on views and amenity from public roads.*

*For the purpose of this rule, when determining the percentage of road frontage planted, or the length of a continuous line of vegetation, 'vegetation' shall be measured to include the drip-line of each species.*

##### **xiii Structures**

*Any structure erected within 50 metres of a road boundary, which is greater or equal to 5 metres in length, and greater than or equal to 1 metre in height, excluding post and wire and/or rail fencing.*

*The Council's discretion is restricted to the consideration of effects on views and amenity from public roads.*

*Explanatory note: This Rule does not apply to standard deer fencing (where the mesh size is 300mm).*

This meant that between September 2002 and October 2004, the planting of vegetation along a roadside that did not meet the controlled activity rule required controlled activity

consent. From 7 October 2004 (i.e. following the release of decisions on submissions), the planting of a row of trees greater than 10 metres in length within 50 metres of a road boundary required a restricted discretionary activity consent.

## Findings of the Environment Court and their implications

Decision C140/2005 was issued on 4 October 2005. Paragraph 62 of the decision reads:

*This decision is final on questions of law and determinations of principle and on the matters in para (60), but interim as to the precise wording of the proposed plan as varied by this decision. We reserve leave for any party to apply to correct any mistakes, omissions or inconsistencies in the proposed issues, policies and methods (including rules and maps showing any VAL/ORL boundary) to meet the spirit and intent of this decision.*

Of relevance, paragraph 60 of the decision makes the following final determinations:

- That there should be no category of scenic rural roads in the District Plan;
- The proposed rule in respect of trees and shelterbelts is heavy handed and too expensive in relation to the benefits which would be achieved, and therefore should be deleted.

Paragraph 61 of the decision identifies the Court's interim orders. These relate to amendments to Part 4 Issues and Policies, Part 5 Rules, and Part 5 Assessment Matters. As stated in paragraph 62 of the decision, the orders identified in paragraph 61 are interim only as to their precise wording. Their intent and principles are final.

The following provides a summary of the orders in paragraph 61:

### **Part 4 provisions (District Wide Issues, Objectives and Policies):**

- Most of the provisions as proposed in the Variation are confirmed;
- The Court proposes the amendment of Issue 4.2.4(4) by including a statement that Hawea Flat is an ORL. In the memorandum lodged on behalf of the Council in November 2005, it is suggested that such a change is outside the jurisdiction of this Variation.
- Amendments to policies 4.2.5(4)(a), 4.2.5(11)(b) and 4.2.5(9). Of particular relevance, the amendment to Policy 4.2.5(9) is to replace the existing policy which read:

*By screening structures from roads and other public places by vegetation whenever possible to maintain and enhance the naturalness of the environment.*

With:

*By encouraging the use of existing natural topography and appropriately designed planting to screen development in order to maintain and enhance the naturalness of the environment;*

### **Part 5 Rules:**

- As stated above, the tree planting rule is deleted (final decision and now unable to be changed).
- The Structures Rule 5.3.3.3(xiii) is amended to read:

*Any structure that is erected within 10 metres of a road boundary, which is greater or equal to 5 metres in length, and greater than or equal to 1 metre in height and less than 2 metres in height; except for:*

- *post and rail, post and wire and post and mesh fences, including deer fences;*
- *any structure associated with farming activities as defined in this Plan;*
- *any structure that is erected in accordance with a landscaping plan associated with a subdivision consent or resource consent for a building, where that landscaping plan is approved as a condition on the resource consent.*

*The Council's discretion is limited to the consideration of effects on views and rural amenity values from public roads.*

It is noted that the wording of this rule was agreed through the Court hearing, and no further suggestions were made by parties in their memorandum to the Court. Therefore, this wording can be considered final.

### **Part 5 Assessment Matters:**

- As a result of the deletion of the tree planting rule, the Court proposes that the introductory wording to assessment matters for Outstanding Natural Landscapes and Visual Amenity Landscapes be amended so that when considering the assessment matters, if vegetation has been planted or allowed to grow since 1 January 2000 on the allotment being developed, then it shall not be taken into account. The precise wording is interim, however, the decision to adopt this approach is final.

These provisions differ slightly for ONL Wakatipu Basin, ONL District Wide and VAL. The amendments for ONL Wakatipu Basin are to amend the introductory statement as follows: (additions underlined)

These assessment matters should be read in the light of three guiding principles.

- First that they are to be stringently applied to the effect that successful applications for resource consents will be exceptional cases.
- Secondly, that it shall be an automatic condition of a resource consent (if granted) that all vegetation on any allotment subject to the application which interferes with views from roads or other public places shall be removed prior to erection of any house, unless the Council expressly permits such vegetation to remain; and
- Thirdly, existing vegetation planted or allowed to grow since 1 January 2000 on the allotment proposed to be developed shall not be considered or taken into account under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development.

The introduction to assessment matters for Outstanding Natural Landscapes- District Wide is proposed to be amended to read:

When considering the following assessment matters existing vegetation planted or allowed to grow since 1 January 2000 on the allotment being developed shall not be taken into account except:

- if the Council considers the vegetation is appropriate for the location in the context of the proposed development; and/or
- for the purpose of considering whether the Council should impose a condition that the vegetation be removed wholly or partly if it intends to grant resource consent.

The amendments for the assessment matters for Visual Amenity Landscapes are the same as those for ONL District Wide, except that they only apply to introduced/non-native vegetation. This means that if indigenous species have been planted since 1 January 2000, they can be considered in the assessment.

### **Other changes:**

The Court also proposes that a permitted baseline rule is inserted. Once more, while the precise wording is interim, the decision to insert such a rule is final. This rule is to ensure that the spread or planting of trees is not part of the permitted baseline. The wording for this rule suggested in the Council's memorandum to the Court reads:

*The ability to plant or allow vegetation to spread naturally so that it has the potential to obstruct views, shall not be considered the permitted baseline for development in the rural general zone.*

The Court also proposes the addition of the following statement to assessment matters for ONL, VAL and ORL: (Once more, this is interim in terms of precise wording, but final in terms of the decision that it will be inserted).

*In the case of proposed development in the vicinity of unformed legal roads, the Council shall consider present use and the practicalities of potential use of unformed legal roads for vehicular and/or pedestrian, equestrian and other means of access.*

What the decision means for processing Resource Consents is that:

- It is a permitted activity to plant within 50 m of public roads BUT this planting can not be taken into consideration when considering assessment matters unless the council considers that the planting is appropriate, and unless the planting is indigenous and is within the VAL
- If the planting is done as part of a subdivision or Residential Building Platform application, then it can be taken into account as landscaping associated with development



- Structures within 10 metres of a road require a discretionary activity consent if they are more than 1 metre in height. However, structures associated with farming activities are permitted.

## **What matters are still outstanding?**

While the principle and intent of the following amendments are final, the exact wording is subject to change as a result of submissions lodged by the respective parties:

- Amendment of Issues
- Retention of the structures rule, with the exclusion of farming activities
- Amendment of the assessment matters so that any planting of vegetation after January 2000 is not to be considered in the assessment of resource consents.
- The amendment of assessment matters to ensure that the practicalities of potential uses of unformed roads is taken into account.
- The insertion of a permitted baseline rule for vegetation planting.

It is therefore considered that there will be only minor wording changes in the final decision issued by the Environment Court and that the principle and intent of the decision will remain unchanged.

## **What can the Council do to remedy those parts of the decision that it may be unhappy with?**

Parties to the appeals were given the opportunity to lodge memorandum with the Court in order to *apply to correct any mistakes, omissions or inconsistencies in the proposed issues, policies and methods (including rules and maps showing any VAL/ORL boundary) to meet the spirit and intent of this decision.*

Two memorandum were lodged on behalf of the Council and Paradise Rural Estates respectively. Because the decision to delete the tree planting rule and the intent of the new provisions is final, the focus of the memorandum were on the specific wording of the provisions. In addition, the Council submitted that the Court did not have jurisdiction to make a decision on the landscape classification of Hawea Flat.

The Court is now finalising its decision, and the opportunity to lodge memorandum has closed. Even if submissions were still able to be lodged the Court has NOT reserved leave to parties to submit that the substantive content of the decision be changed. I.e. the Council could not request the Court to change their mind with regard to the deletion of the planting rule.

Therefore, if the Council wishes to reinstate the tree planting rule or make any changes to the intent of the decision, it would have to initiate a plan change. It is believed that for such a plan change to be successful, it would have to rely on landscape analyses to determine specific view shafts or lengths of road where the tree planting rule should apply. Otherwise, the same criticism would be made, in that the rule is too 'heavy handed'.

Of relevance, the Court also stated at the end of the decision that:

*'In our opinion the Council needs to work on the various landscapes of the District and their protection and/or potential development, where appropriate, on a finer scale, distinguishing the characteristics of each landscape, than occurs in the first Court's first landscape decision or in the partly operative plan'.*

This relates to the fact that while having the same policies and assessment matters, visual amenity landscapes are vastly different. For example, the VAL of the Crown Terrace is governed by the same provisions as the golf courses surrounding Arrowtown. This causes significant difficulty. To overcome this difficulty, the character within each VAL could be identified so that it can be successfully maintained or enhanced; for example, if its character is currently pastoral, then efforts should be made to enhance that character; likewise if the current character is associated with open space or native vegetation, then those values should be maintained. Another issue is the use of the term 'arcadian', its interpretation and strength in terms of achieving positive outcomes in the rural areas. If such changes were made to the Plan provisions, it is believed that certainty of the outcomes of resource consent applications would increase significantly.

Decision No. C 140/2005

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of references under the First Schedule to the Act

BETWEEN PARADISE RURAL ESTATES LIMITED

(ENV C 242/04)

AND CLARK FORTUNE McDONALD AND ASSOCIATES

(ENV C 246/04)

AND CENTRAL ECLIPSE LIMITED

(ENV C 235/04)

AND MACRO LAND CONSULTANTS LIMITED,  
MARTYR RESOURCE LIMITED,  
REMARKABLES PARK LIMITED,  
SHOTOVER PARK LIMITED, AND  
REMARKABLES STUD FARM LIMITED

(ENV C 245/04)

Appellants

AND QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson (presiding)  
Environment Commissioner C E Manning  
Environment Commissioner H A McConachy  
Deputy Environment Commissioner R Grigg

Hearing at Queenstown on 25 and 26 May 2005

(Final submissions received 3 June 2005)

Appearances: Warwick Goldsmith for Paradise Rural Estates Limited, Clark Fortune McDonald and Associates and for Infinity Group Limited (a section 274 party)  
 Andrew Green for Macro Land Consultants Limited, Martyr Resource Limited, Remarkables Park Limited, Shotover Park Limited and Remarkables Stud Farm Limited  
 Neville Marquet for Queenstown Lakes District Council  
 Julian Haworth for Upper Clutha Environmental Society Incorporated  
 Russell Bartlett for Central Eclipse Limited

### DECISION

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**[A] Introduction**

[1] The Queenstown Lakes District Council wishes to protect the views from roads within its district. It is concerned that planting of masses of trees or shelterbelts, and that erection of boundary structures such as high walls, will interfere with those views.

[2] In September 2002 the Council notified Variation 18 to its proposed district plan under the Resource Management Act 1991 ("the Act" or "the RMA")<sup>1</sup>. Variation 18 deleted all references to "Scenic Rural Roads" in that plan and introduced policies and rules controlling tree planting and structures near all public roads in the district. After receiving submissions and conducting a hearing the Council issued its decisions on 7 October 2004. The various appellants were dissatisfied because they considered that the proposed changes would compromise farming practices; are inconsistent with Part 4 of the proposed plan; and fail to recognise the values, in some places, of hedges and shelterbelts. Other appellants had more technical, but not necessarily unmeritorious, grounds of appeal. Most appellants wanted to reintroduce a category of "scenic rural roads" so that landscapes adjacent to those roads could be treated differently to working rural roads.

[3] At the hearing before this Court the Council called evidence to support its decision, and was supported by the Upper Clutha Environmental Society Incorporated ("UCESI"). For Central Eclipse Limited, Mr Bartlett advised that his client abided the decision of the Court and was given leave to retire. All other parties, including the appellants, opposed Variation 18 in some way.

[4] The principal issues are whether the district plan should contain:

- An amended statement of issues, and amended policies;
- a list of scenic rural roads;



<sup>1</sup> Since these proceedings relate to a variation notified before 1 August 2003 all references to the Act are prior to the 2003 and 2005 amendments – see section 112 of the Resource Management Amendment Act 2003.

- provisions for controlling tree planting adjacent to roads as a rule or as assessment matters;
- rules controlling structures adjacent to roads;
- rules relating to unformed legal roads.

*The history of scenic rural roads in the Queenstown Lakes District*

[5] The history of "scenic rural roads" in the proposed plan is quite tortuous. In the proposed district plan as notified in 1995 ("the notified plan") the Council identified<sup>2</sup> certain well-known roads such as State Highway 6 (the Cromwell-Queenstown road) and the Crown Range Road as "scenic rural roads". The rules then provided that any building or tree planting within 100 metres of a scenic rural road ("SRR") was a non-complying or discretionary activity respectively.

[6] A large number of submissions was received<sup>3</sup> and after a hearing the council notified revisions to the notified plan in 1998, this constituting the "revised plan". In the revised plan there was no reference to scenic rural roads. Instead buildings had to be set back at least 20 metres from all roads. All controls over tree plantings adjacent to scenic rural roads were deleted. An incorporated body called the Wakatipu Environmental Society Incorporated appealed the Council's decision. The Environment Court duly heard the appeal and issued its decision<sup>4</sup> in 1999. In *Wakatipu Environmental Society Incorporated v Queenstown Lakes District Council* ("the First Landscape Decision") the Court stated on the issue of scenic rural roads<sup>5</sup>:

Nor do we think it is necessarily inconsistent resource management to isolate some roads as being scenic rural roads. There is admittedly a degree of arbitrariness, but we have to make a pragmatic decision. We consider the concept of scenic rural roads should be reintroduced as WESI suggests, but limiting it to the following roads:



<sup>2</sup> Appendix 8 to the notified plan.  
<sup>3</sup> Ms J J Parker, evidence-in-chief para 14.  
<sup>4</sup> C 180/1999 reported at [2000] NZRMA 59.  
<sup>5</sup> C 180/1999 reported at [2000] NZRMA 59 at para [168].

- All state highways
- Queenstown Glenorchy Road
- Glenorchy Routeburn Road
- Malaghan Road to Arrowtown
- Centennial Ave to Arrow Junction
- Crown Range Road
- Mt Aspiring Road
- Skippers Canyon Road

(Any further roads in the Wanaka/Hawea/Makarua area that we are satisfied, after further hearing, should be added to the list)

We consider a reasonable case has been made to reinstate Appendix 8 as stated in the proposed plan ... under Section 293 of the Act.

The Council initially indicated it would pursue that course, but as we shall see, it subsequently adopted another procedure to vary the proposed plan.

[7] The revised plan was amended by the First Landscape Decision and subsequent decisions of the Environment Court to form "the proposed plan". We also mention here that the First Landscape Decision also introduced a three-way categorisation of landscapes of the District into:

- outstanding natural landscape ("ONL")
- visual amenity landscape ("VAL")
- other rural landscape ("ORL").

That is significant because one of the indicia of a VAL was the presence of a scenic rural road.

#### *Variation 18*

[8] Several years later the Council initiated Variation 18 to the proposed plan. We were not given a copy of the variation as such but Ms J J Parker, a resource manager called for the Council, wrote<sup>6</sup> that the variation as notified was set out in the section 32



<sup>6</sup> J J Parker, evidence-in-chief para 25.

report which was attached to her evidence. In fact the only version of Variation 18 we could find was Appendix 1 to the section 32 report, and this is slightly confusing because it contains an anonymous planner's recommendations for "amendments to Variation 18 as a result of submissions".

[9] The public notice of variation 18 stated (relevantly):

Pursuant to Clause 5 of the First Schedule to the Resource Management Act 1991 the Queenstown Lakes District Council gives public notice as of the 28 September 2002 that it has prepared the following variation to the Proposed District Plan:

Variation	Purpose
Variation No. 18	To review the current provisions for Scenic Rural Roads in the Rural General Zone, and identify the most appropriate mechanisms for maintaining the views from rural roads in the Rural General and Rural Living Zones.

A full copy of the Variation and associated Section 32 Report can be inspected at the following locations: ...

[10] As a preliminary point it is significant in terms of our jurisdiction that the public notice referred only to "rural roads" not to "public places". We agree with Mr Goldsmith's submission that nothing in the public notice alerted readers to the fact that the variation might deal with views from "public places" and accordingly we do not consider these issues further. All new references to "public places" in Variation 18 will be struck out. However, in a sense that is a pyrrhic victory for Mr Goldsmith's clients. That is because, as the Court stated in *Stewart v Queenstown Lakes District Council*<sup>7</sup> in the proposed plan "... all roads are public places ...". Therefore any reader of the proposed plan or varied plan must remember that where the Plan refers to public places, it is also referring to all roads within the district.

[11] The variation proposed to change provisions in the following parts of the proposed plan<sup>8</sup>:



<sup>7</sup> Decision C105/2002 at para [18].

<sup>8</sup> The proposed plan is divided into parts but we prefer to call them "chapters" since we do not want confusion with parts of the Act.

Chapter 4:	District Wide Issues;
Chapter 5:	Rural
Chapter 8:	Rural Living Zones
Chapter 14:	Transport
Appendix 6:	Road Hierarchy

No party sought any relief to Variation 18 in respect of Chapter 14 of the district plan, so we discuss it no further.

[12] The Council's "Variations Hearing Committee" issued a 65 page decision on 9 October 2004 in which it showed that it had considered some of the issues in detail. The committee confirmed that the proposed policies and methods should apply to all (rural) roads, formed or unformed. As we have stated various parties who oppose the Council's decisions, appealed.

*Preparing a variation under the RMA*

[13] Under Clause 16A of the First Schedule and under section 74(1) of the Act a territorial authority must vary district plans in accordance with its functions under section 31, the provisions of Part 2 of the Act, its duty under section 32 and any regulations. The Environment Court has the same obligations<sup>9</sup>. No party questioned that Variation 18 comes within the Council's functions. Nor are there any relevant regulations, nor any other statutory instruments to which we should have regard<sup>10</sup>.

[14] Under section 32(1) of the RMA<sup>11</sup> we must:

- (a) Have regard to –
  - (i) The extent (if any) to which any such objective, policy, rule, or other method is necessary in achieving the purpose of this Act; and
  - (ii) Other means in addition to or in place of such objective, policy, rule, or other method which, under this Act or any other enactment, may be used in achieving the



<sup>9</sup>

Section 290(1) of the Act.

<sup>10</sup>

Section 74(2) of the RMA.

<sup>11</sup>

Section 32 was amended in 2003 but we apply the pre-amendment form.



- purpose of this Act, including the provision of information, services, or incentives, and the levying of charges (including rates); and
- (iii) The reasons for and against adopting the proposed objective, policy, rule, or other method and the principal alternative means available, or of taking no action where this Act does not require otherwise; and
  - (b) Carry out an evaluation, which that person is satisfied is appropriate to the circumstances, of the likely benefits and costs of the principal alternative means including, in the case of any rule or other method, the extent to which it is likely to be effective in achieving the objective or policy and the likely implementation and compliance costs; and
  - (c) Be satisfied that any such objective, policy, rule, or other method (or any combination thereof) –
    - (i) Is necessary in achieving the purpose of this Act; and
    - (ii) Is the most appropriate means of exercising the function, having regard to its efficiency and effectiveness relative to other means.

[15] In Parts [B] and [C] of this decision we consider Variation 18's changes to issues and policies in the proposed plan (in accordance with those matters) before considering the methods of implementation in Part [D]. The outcome is given in part [E] of this decision.

**[B] The issues raised in Variation 18's changes to the proposed plan**

*The issues identified in the proposed plan*

[16] As we have stated, Variation 18 is quite far-reaching in that it proposes changes even to the statement of district wide issues (chapter 4) of the proposed plan, as well as to the policies and methods to resolve the issues. The issues in paragraph 4.2.4(3) of the proposed plan relating to "Maintenance and Enhancement of Visual Amenity Landscapes"<sup>12</sup> in the proposed plan are worth quoting in full both because they set the scene for Variation 18 and because the changes are best understood in context. The issues are identified<sup>13</sup> – with:

- the words proposed to be added by Variation 18 in *italics*;
- those added by the Council's decision on Variation 18 ~~shaded~~ and
- the Council's deletions struck-through<sup>14</sup>

– as being:



<sup>12</sup> Section 4.2 [Proposed plan pp. 4-5 et ff].  
<sup>13</sup> Section 4.2.4 [Proposed plan p. 4-7 et ff].  
<sup>14</sup> Viz: ~~struck through~~.

### (3) Maintenance and Enhancement of Visual Amenity Landscapes

The visual amenity landscapes are the landscapes to which particular regard is to be had under section 7 of the Act. They are landscapes which wear a cloak of human activity much more obviously – pastoral (in the poetic and picturesque sense rather than in the functional sense) or Arcadian landscapes with more houses and trees, greener (introduced) grasses and tend to be on the district's downlands, flats and terraces. The extra quality that these landscapes possess which bring them into the category of "visual amenity landscape" is their prominence because they are:

- adjacent to outstanding natural features or landscapes; or
- on ridges or hills; or
- ~~adjacent to important scenic roads; or~~
- ~~visible from public roads or~~
- a combination of the above.

The key resource management issues for the visual amenity landscapes are managing adverse effects of subdivision and development (particularly from public places ~~and scenic rural roads including public roads~~) to enhance natural character and enable alternative forms of development where there are direct environmental benefits.

[17] There then follows a description of the third, default, tier of rural landscapes in the district which Variation 18 did not propose to change:

### (4) Other Rural Landscapes

The other rural landscapes are those landscapes with lesser landscape values (but not necessarily insignificant ones) which do not qualify as outstanding natural landscapes or visual amenity landscapes.

[18] Inclusion in the VAL of all landscapes which are visible from public roads vastly expands the area of VAL. That is because, in fact, nearly all rural land in the district other than its outstanding landscapes and public (designated) land<sup>15</sup> is visible from a public road as Ms J J Parker and Ms R E Ramsay, respectively the resource manager and landscape architect called for the Council, confirmed in cross-examination. Indeed they both acknowledged that there are more public roads on the Hawea Flats than they had



<sup>15</sup> Mt Aspiring National Park and various reserves.

known of, since they had misunderstood the depictions of unformed legal – “paper” – roads on the proposed plan’s planning maps.

[19] Bringing all the district’s rural landscapes into two categories is a retrograde step. Yet that is largely the effect of Variation 18. The tripartite distinction in the proposed plan is a direct borrowing from the Court’s First Landscape Description<sup>16</sup>. When it introduced the three-way categorisation of landscapes the Court emphasised its crudity<sup>17</sup>. As the evidence in this proceeding, from Mr B Espie<sup>18</sup> in particular, showed, there is a need for more sophisticated landscape analysis not less.

[20] We consider that it is useful to have a distinction between “visual amenity” and “other” rural landscapes. We have three reasons for that. First, the structure of the objectives, policies and methods for rural and rural living land within the district is built around the tripartite distinction. We agree with Mr Goldsmith’s submission that the Council’s decision has the effect of being a backdoor method of extinguishing the third category – other rural landscape. Secondly, we rely on the evidence of the Council’s witness, Ms Ramsay, where she wrote that<sup>19</sup>:

... elevating in status almost all landscapes in the District into the category of VAL (or outstanding natural landscape) ... may result in diminished protection of landscape values as VAL is considered more of a “common landscape” that is not so special or unique from the wider landscape. Because most landscapes in the District are [already] in VAL category they should not therefore be given diminished protection.

Thirdly, her evidence is confirmation of the relative usefulness of the tripartite distinction in landscapes in Chapter 4 of the proposed plan. We conclude there is little point in a simplistic bifurcation of the district’s landscapes with all their differences.

[21] We are also concerned that a mountain is being made out of nothing on the identification of landscapes. All the evidence this Court has ever heard about this district’s rural landscapes has lead us to believe that the “other rural landscape” category



<sup>16</sup> Decision C180/1999.  
<sup>17</sup> [2000] NZRMA 59 at [92].  
<sup>18</sup> A witness for Paradise Rural Estates Limited and others.  
<sup>19</sup> Ms R E Ramsay, evidence-in-chief para 3.9.

identified in Part 4 of the proposed plan is small in comparison with the total area of rural land in the district. The other rural landscape category includes only two areas large enough to be landscapes: the Domain Road triangle<sup>20</sup> in the Wakatipu basin – that is, the land between Lower Shotover Road, Domain Road and Speargrass Flat Road – and, possibly, some land at Hawea Flat in the Clutha catchment. Following the decision of the High Court in *Trident Investments Limited v Queenstown Lakes District Council*<sup>21</sup> it is also clear that there are also small parcels of land, still zoned Rural-General but in urbanised landscapes which must be categorised as ORL, although they cannot be described as landscapes because they are so small.

[22] Identification of where the other rural landscapes are assists us to answer the question whether it is necessary to keep the concept of “SRR” in order to make the distinctions between ONL, VAL, and ORL work. The answer appears to be “No” for the ONL/VAL distinction. And if the ORL are redefined then it would not matter whether one of the indicia of a “visual amenity landscape” is “adjacent to important scenic roads” or “visible from public roads”.

[23] Consequently we envisage two changes to the statement of issues in paragraph 4.2.4 of the proposed plan as quoted above:

(1) Delete the words in 4.2.4(3):

- visible from public roads [or]<sup>22</sup>

(2) Add to the description of “other rural landscapes” in paragraph 4.2.4(4) as a consequential amendment:



<sup>20</sup> See *Hawthorn Estates Limited v Queenstown Lakes District Council* Decision C 83/2004, (subject to appeal to the Court of Appeal) and a Council decision prior to and referred to in that decision, in respect to adjacent land west of Domain Road.

<sup>21</sup> CIV 2004-485-002426.

<sup>22</sup> But we do not reinstate the criterion:

- adjacent to important scenic roads.

...  
**Other Rural Landscapes**

Amongst the other rural landscapes of the district in terms of paragraph 4.2.4(4) of this plan are:

- (1) The Hawthorn Heritage Triangle being all the land between Lower Shotover Road, Speargrass Flat Road, together with the land on the terrace on the south-west side of Domain Road.
- (2) The Hawea Flats being all the rural land starting at the Gray Road/Kane Road intersection east of Lake Hawea town(ship); between (say) Kane Road (to the east); the 400 masl contour on LINZ map 260-940 (to the south); a line north-east from point 397 to and along Butterfield Road and continuing north from that road to Cemetery Road; then east along Cemetery Road and Gray Road to the starting point.

NOTE: This does not preclude a determination that rural landscapes as yet unclassified may fall into this category, or that land with a zoning other than rural-general which currently has visual amenity values may fall into the broad "other" landscape category described in issue 4.2.4 of the plan, and that there are also small parcels of land which though in the Rural-General zone, are adjacent to urban style development. The High Court in *Trident Investments Limited v Queenstown Lakes District Council* determined that such parcels are to be classified as Other Rural Landscape.

*Should the policies and methods apply to unformed legal roads?*

[24] There is one extra issue raised rather indirectly by Variation 18. One of the (initially unintended ?) effects of deleting all references to identified scenic rural roads and referring instead to "public roads" is that Variation 18 applies the policies of the varied plan relating to unformed legal roads, often called "paper roads". The Council argued that because unformed roads are public places – at least in the sense that a member of the public has the right to pass and repass on them – perhaps their significance should be recognised in the policies of the varied plan, which consider the effects of any development on public places, including public roads.

[25] Ms Parker opined that the unformed roads of the District are important resources for future public access, whether by motorised vehicle as development proceeds, or by pedestrian and other means; and that views from them need to be protected in terms of



the policies. In her rebuttal evidence Ms Parker produced some of the planning maps of the district with some of the paper roads highlighted. They show that some of those roads are at least potentially an important asset for the district's inhabitants and visitors. We agree that the landscape and visual amenity around those roads should be managed, in some cases at least, to the same level as other roads. We discuss the detail later in this decision.

**[C] Changes to the landscape policies**

*The proposed policies after the Council's decision*

[26] As we have stated Variation 18 proposes to add policies about the importance of protecting the naturalness of views from public places and public roads and of enhancing their amenity value. We have already held that new references to "public places" should be deleted. We have removed them from our discussion of the policies below. Existing references to "public places" in the proposed plan before Variation 18 are of course maintained.

[27] We now set out the changes to the district wide policies as approved by the Council's decisions on Variation 18 in the context of the district wide landscape and visual amenity policies so they can be more easily understood. The additions are ~~shown~~ and any deletions in the proposed plan are struck through, viz ~~struck through~~. As we have said about the issues, the fundamental change to the policies is a simple one: all references to "scenic rural roads" have been replaced by references to "public roads". The relevant policies under the heading "4.2.5 Objective and Policies"<sup>23</sup> are as follows:

**2 Outstanding Natural Landscapes (District-Wide/Greater Wakatipu)**

- (a) To maintain the openness of those outstanding natural landscapes and features which have an open character at present.



<sup>23</sup>

Proposed plan pp 4/8 et ff.

- (b) To avoid subdivision and development in those parts of the outstanding natural landscapes with little or no capacity to absorb change.
- (c) To allow limited subdivision and development in those areas with higher potential to absorb change.
- (d) ~~To recognise and provide for the importance of protecting the naturalness and enhancing amenity values of views from public roads.~~

### 3. Outstanding Natural Landscapes (Wakatipu Basin)

- (a) To avoid subdivision and development on the outstanding natural landscapes and features of the Wakatipu Basin unless the subdivision and/or development will not result in adverse effects which will be more than minor on:
  - (i) Landscape values and natural character; and
  - (ii) Visual amenity values
    - recognising and providing for:
  - (iii) the desirability of ensuring that buildings and structures and associated roading plans and boundary developments have a visual impact which will be no more than minor, which in the context of the landscapes of the Wakatipu basin means reasonably difficult to see;
  - (iv) The need to avoid further cumulative deterioration of the Wakatipu basin's outstanding natural landscapes;
  - (v) The importance of protecting the naturalness and enhancing the amenity values of views from public places ~~(especially scenic rural roads) and public roads;~~
  - (vi) The essential importance in this area of protecting and enhancing the naturalness of the landscape.
- (b) To maintain the openness of those outstanding natural landscapes and features which have an open character at present.
- (c) To remedy or mitigate the continuing effects of past inappropriate subdivision and/or development.

### 4. Visual Amenity Landscapes

- (a) To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are:



15

- highly visible from public places and other places which are frequented by members of the public generally; and
  - visible from ~~scenic rural roads~~ <sup>public roads</sup>.
- (b) To mitigate loss of or enhance natural character by appropriate planting and landscaping.
- ~~(c) To discourage linear tree planting along roads as a method of achieving (a) or (b) above.~~

#### 5. Outstanding Natural Features

...

(b)

...

- (v) The importance of protecting the naturalness and enhancing the amenity values of views from public places (~~especially scenic rural~~ <sup>including public roads</sup>).
- ...

#### 9. Structures

...

(b) visual amenity landscapes

- ~~by screening structures from roads and other public places by vegetation whenever possible to maintain and enhance the naturalness of the environment.~~
- ~~by encouraging the use of existing natural topography and appropriately designed planting to screen development in order to maintain and enhance the naturalness of the environment and~~

(c) All rural landscapes by

- limiting the size of signs, corporate images and logos

<sup>24</sup> We consider (a) would achieve a better (more consistent) result if it read:

To avoid, remedy or mitigate the adverse effects of subdivision and development on sites in visual amenity landscapes which are highly visible from public places (including roads) and other places which are frequented by members of the public generally;

<sup>25</sup> This was added without opposition by Ms Parker in her rebuttal evidence.





- providing for greater development setbacks from scenic-rural public roads to maintain and enhance amenity values of views from public roads

#### 11. Forestry and Amenity Planting

Subject to policy 16, to maintain the existing character of openness in the relevant outstanding natural landscapes and features of the district by:

- (a) encouraging forestry and amenity planting to be consistent with patterns, topography and ecology of the immediate landscape,
- (b) encouraging planting to be located so that mature trees will not obstruct views from scenic rural roads ~~vegetation will not obstruct views from public roads and discouraging linear planting near boundaries of public roads.~~

[28] The Council's reasons for not wanting a category of scenic rural roads are interesting. First it referred to the First Landscape Decision and stated<sup>27</sup>:

The Court sought an objective approach towards "importance" by suggesting that there were routes more travelled by the Districts residents and visitors that warranted some form of "extra" protection in order to preserve their amenity value which in turn is why they are of economic importance to the District.

Introducing the idea of "traffic count" to evaluate a rural road to a schedule of 'Scenic Rural Roads' (SRR) is, we feel, to overlook the essence of why the views themselves need to be protected as a matter of sustainable management of what may initially be described as an amenity value, but what is in fact a major economic resource now and for the future.

Elevating a particular road based on its current use means that in the future a rural road might reach the required traffic count and then "make" the list, yet in the meantime the views from it may have been severely eroded so that it then fails to qualify as all worthwhile views had been obliterated. Put another way, rules that protect a present schedule of roads would clearly result in an attitude that the views from the "non-scheduled" roads are either of less importance or, if of the same importance, are none the less ones which need not be preserved.



26  
27

"Discouraging is grammatically correct, so we have substituted that word for "discourage".  
Variation 18 Scenic Rural Roads – Council Decision p. 13.

This would inevitably be the result of a "scheduled regime". While not necessary for the deliberations of the panel this reality was already apparent in the resource consents hearings experience of panel members where applicants were frequently quick to emphasize that what they were proposing had no effect on the views from a SRR. Even though this was in the context of how visible a proposed building might be from a SRR it was nonetheless often argued from a clear attitude that if it was not a SRR then the "view" from it was very much of low significance.

Reflection on how it came that some roads are now looked upon as needing "extra" protection also illuminates the flaw in a "scheduled" regime. In the past and on a continuing basis, visitors to the District drove down roads, marvelled at the views from them, went away and told numerous others of the wonders of the District including those views. This in turn caused visitor growth which in turn caused residential growth. Yet the views from such roads would at those times not have qualified them on a "traffic count" basis as worthy of some protective rules, if the now suggested "scheduled" regime was operative.

[29] The Council concluded<sup>28</sup>:

In terms of population and visitor growth in the District and the correlating increase in vehicle use, the Panel concluded that while the concept of a scheduled list of SRR was an appropriate idea in 1995, and as embraced by the Court still worthy of close consideration, its time had been overwhelmed by the growth of the District which has created a very real awareness of the economic importance of protecting the amenity of an extensive array of viewable landscapes.

The Panel therefore dealt with the submissions and cross submissions on that basis to see where the concerns could be accommodated and where submissions could assist in formulating a "non scheduled" regime.

Under section 32(a)(iii) we consider these are good reasons to eliminate the concept of scenic rural roads from the proposed plan. Are they decisive?

*Should Scenic Rural Roads be listed?*

[30] The main area of disagreement is over whether there should be a special status of "scenic rural road" at all. There was no disagreement about the principal roads which should be listed as SRR if they are to be reinstated. They include those described in the First Landscape Decision quoted earlier. There was some disagreement about whether



<sup>28</sup> Variation 18 Scenic Rural Roads -- Council Decision p. 13.

smaller rural roads in the Upper Clutha catchment should be listed as SRR. But we may not have to resolve that issue.

[31] Mr C B Ferguson, the resource manager called for Paradise Rural Estates, sought reinstatement of the policies in the proposed plan. Mr Ferguson did not address the objectives and policies in section 4 in any detail, but was generally concerned that where the words "public roads" replaced the words "scenic rural roads", the concept of scenic rural roads having special status in policy was undermined. Mr Espie and Mr Ferguson suggested that the criteria for a scenic rural road are generally that it should be:

- (a) near and have views of an ONL or ONF; and
- (b) a higher use road.

There was some criticism of this because of its arbitrariness, but we see little point in having all roads as rural scenic roads. If everything is described as gold then one longs for silver. However none of this is a problem if landscapes are not defined by reference to the existence of a particular, subjectively defined, class of roads, which is another reason for giving a different solution, as we have, in part [B] of this decision.

[32] We have thought carefully about whether a class of scenic rural roads should be maintained in the policies of the district plan. Our initial view, and nearly our decision, was that they should be. However, further reflection has led us to resolve that the Council's variation and decision are appropriate for these reasons:

- (1) the distinction between a scenic rural road and other roads is essentially subjective;
- (2) the Council's decision makes a very telling point when it states that the District's circumstances have changed since the Court's First Landscape Decision was issued. There has been a large amount of subdivision in the Rural General zone, a considerable amount of it approved by the (former) Council on a non-notified basis;
- (3) consequently it is appropriate for the visual amenity landscapes of the District that all roads (except those in or adjacent to ORLs) are given greater protection;



- (4) bringing unformed legal roads into consideration also appears to be a forward-thinking step;
- (5) the concerns of landowners who are genuine farmers can be taken into account in a careful analysis of the benefits and costs of the methods chosen to implement the policies;
- (6) "other rural landscapes" can be identified in a different way.

Consequently there should be no list of scenic rural roads, and no reference to them in the district-wide policies in Chapter 4 of the proposed plan.

*Other changes to policies*

[33] The changes to policies 9 (Structures) and 11 (Forestry and Amenity Planting) are useful, in our view, in making it clear that not all screening or shelterbelts are desirable. We agree that in this district's outstanding natural landscapes and visual amenity landscapes, trees should be located carefully.

**[D] Methods of implementation**

*Introduction*

[34] As to methods of implementation, Variation 18 as approved by the Council includes:

- (1) a tree planting rule – rule 5.3.3.3(xii) "planting of vegetation";
- (2) a structures rule – 5.3.3.3(xiii) "structures";
- (3) new assessment matters in Chapter 5 of the proposed plan;
- (4) various consequential amendments to Chapter 5 of the proposed plan.

In effect the Council proposed rules to control tree planting and structures by making both discretionary activities.

[35] At the hearing the experts for the parties agreed that there should be a structures rule in the Rural General zone but that there should be various exceptions for farming activities. We refer to the agreed rules in the last part of this decision (Outcome). So



the only real disagreements as to methods relate to tree planting and shelterbelts and to assessment matters – method (1) and aspects of (4) in the list in the previous paragraph.

[36] The tree planting or shelterbelt rule finally proposed by Ms Parker in her rebuttal evidence was proposed to apply to all roads in the Rural General zone. It is:

#### 5.3.3.3 Discretionary Activities

##### (xii) Planting of Vegetation

The planting of vegetation that exceeds 1.5 metres in height at maturity and that is within 50m of any road boundary and where:

- Total vegetation exceeds more than 20% of the total road frontage of the site (when measured parallel to the road boundary); or
- Planting results in a continuous line of vegetation that measures more than 10 metres in length when measured parallel to the road boundary.

Except for:

- Any vegetation planting that is approved as part of the landscaping associated with a building or subdivision, where that landscaping has been approved as a condition on the resource consent.
- The planting of vegetation ... where the proposed vegetation is [completely] screened from the road [in summer] by existing vegetation.

The Council's discretion is restricted to the consideration of effects on views and amenity from public roads.

For the purpose of this rule, when determining the percentage of road frontage planted, or the length of a continuous line of vegetation, 'vegetation' shall be measured to include the drip-line of each species.

[37] The appellants are concerned that even in its amended form the rule restricts farming activities, restricts landscaping for urban activities, and gives preference to indigenous species over and above exotics.



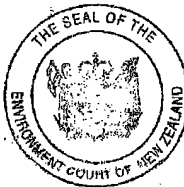
*Is the tree planting rule necessary?*

[38] In terms of section 32 quoted earlier, we first have regard to the extent to which the proposed rule is necessary in achieving the purpose of the proposed plan.

[39] The landscape evidence for the Council was from Ms R E Ramsay. She wrote<sup>29</sup> that she has been employed as a landscape architect by Civic Corporation since May 2002, and gave no evidence of any prior experience. This should not be taken to reflect badly on Ms Ramsay, but we are surprised that the Council did not call a more experienced expert witness in a case that is important because it raises district-wide issues.

[40] Ms Ramsay had three concerns about the environmental effects of tree planting in rural zones; first, that without any control on this activity, people might plant trees to screen development and block views so that the Council is presented with a fait accompli when a subsequent application for a residential development is made<sup>30</sup>; secondly that developers would argue that the permitted baseline included tree planting as of right<sup>31</sup>. The inference would be that planting for screening must be allowed because it causes no adverse effects on the baseline principle stated by the Court of Appeal in *Arrigato v Auckland Regional Council*<sup>32</sup>; thirdly that a person who lived in a house that had been established for 50 years might decide that road traffic had increased to a point where it disturbed their privacy and might wish to plant trees to protect that privacy. Ms Ramsay's concern was with the effect of the planting on views<sup>33</sup>. She gave no example of where that has already occurred in the district.

[41] Mr Goldsmith submitted there was no mischief for the proposed rules to remedy. He said there was no evidence that any person had planted a line of trees along their boundary in order to later argue that a proposed development would not be able to be seen because of the shelterbelt's presence. Ms Ramsay, the Council's landscape architect, conceded in cross-examination that she had no evidence of the purpose of any



<sup>29</sup> Ms R E Ramsay, evidence-in-chief para 1.1.  
<sup>30</sup> Ms R E Ramsay, evidence-in-chief para 4.8.  
<sup>31</sup> Ms R E Ramsay, evidence-in-chief para 4.11.  
<sup>32</sup> [2001] NZRMA 481 at paras 25 et ff.  
<sup>33</sup> Ms R E Ramsay, evidence-in-chief para 4.5.

planting of shelterbelts. We consider that, if at all possible, a rule should not depend on establishing intention. That is a notoriously difficult matter in legal proceedings.

[42] Mr Goldsmith also submitted there were no examples of shelterbelts being planted to make obtaining a resource consent easier. He said that in the case of one well-known case involving a shelterbelt planted before an application for subdivision and development was made – *Stewart v Queenstown Lakes District Council*<sup>34</sup> – the Court did not find it necessary to refer to the shelterbelt. We do not think he can use that against the Council. The Court's omission may have been due more to its reluctance to comment on the presence of a shelterbelt since it was a permitted activity. Thus it would have been an error of law for the shelterbelt to be counted against the applicant in that proceeding. However, the presence of the "shelterbelt" there – at the corner of Malaghans Road and Littles Road, east of Arthur's Point – corroborates in a small way the Council's argument there is a problem which needs fixing.

[43] Mr Goldsmith also rightfully conceded that a "spite fence" – as Mr Marquet called it – had been erected for a period in front of the view from Gorge Road immediately before the Arthur's Point hostelry. Further the Court had pointed out in 2000, in *Wakatipu Environmental Society Incorporated v Queenstown Lakes District Council*<sup>35</sup> that:

As for shelterbelts there is a growing trend according to the photographic evidence produced by Mr Kruger and commented on by a number of parties for landowners to plant trees closely along their boundaries in an attempt to conceal potential development. ...

[44] The appellants argued more cogently that if there is a mischief (as we have found) then in any event the answer is not to regulate against planting, but first to disallow the presence of shelterbelts or other planting as mitigation when a proposal for non-farming development is being considered, unless the planting is considered appropriate because, for example, it does not block views, and secondly to disallow planting as a permitted baseline (since its spectre is often raised) when considering the effects of a proposal.



<sup>34</sup> Decision C105/2002.

<sup>35</sup> Decision C186/2000 at para [44].

*Costs and benefits of the proposed rule*

[45] As for the costs<sup>36</sup> of the proposed tree planting rule, we read the evidence of Mr M W Harbord, a farm consultant, with many years experience in New Zealand and overseas specialising in deer. He drew attention to the additional costs that the proposed shelterbelt rules would impose on farmers. He wrote<sup>37</sup>:

The arguments for or against tree lines along farm road boundaries are similar in respects, to those relating to deer fencing. There are farm locations about the Wakatipu where deer would benefit from well designed shelter tree plantings. There is an ongoing annual cost to farmers, if certain such paddocks were along side rural roads, but there were restrictions on shelter planting (such as the proposed 50 metre set back).

In a practical deer farming context, if a shelter tree line had to be set back from any scenic rural road boundary, the tree line would be deer fenced on both sides. There would additionally have to be some type of stock fence along the farm roadside boundary. The total is three fences in all, which is a lot of extra fencing close to the road, just to comply with any set-back ruling, yet leave the farmer able to graze his land.

[46] Mr Harbord also pointed out, first that shelterbelts have to be fenced off from deer, otherwise they would eat the tree's foliage<sup>38</sup>, and secondly that there would be strips of land 50 metres wide between any boundary fence and the shelterbelt fencing which it would be uneconomic to administer.

[47] His conclusion was that the overall fencing cost to farmers would be "prohibitive". We infer that the costs would stop deer farmers from using paddocks adjacent to roads for deer, and that might stop the farm being used for deer farming completely.

[48] Mr Harbord opined that shelterbelts close to the road have their positive side<sup>39</sup>:



<sup>36</sup> Section 32(1)(b) of the pre-2003 RMA.  
<sup>37</sup> M W Harbord, evidence-in-chief paras 13 and 14.  
<sup>38</sup> M W Harbord, evidence-in-chief para 15.  
<sup>39</sup> M W Harbord, evidence-in-chief paras 18 and 19.



I cannot stress enough, the great importance of animal welfare issues in farming today and how concerned deer farmers are to treat their animals and pastures well, so road-side views of farming operations create a favourable impression for the travelling public. This matter is doubly important in farming areas like the Wakatipu, where impressionable tourists (many from our overseas markets) are passing every day. Personally I view with some deep concern, the possibility that local deer farmers might be restricted in placing shelter belts along farm boundaries on rural roads, for those paddocks that genuinely call for, some shelter for farmed animals.

The best shelter belts are quite open and porous to wind movement (up to 50% permeability), so well designed shelter tree lines do not imply total loss of view beyond. Obviously, this effect is enhanced if deciduous tree species are used near road boundaries. In this context, recommended shelter belts today are quite different from what may have been planted years ago. Driving past modern day, well designed shelter belts along road-sides, can permit some views through the trees to views beyond, especially in winter.

[49] In her evidence for the Council Ms Parker says nothing about the costs of the proposed rules: she does refer to and attach a copy of the Council's section 32 report<sup>40</sup>. That analyses in a descriptive rather than quantitative way the costs and benefits of a discretionary activity rule for tree planting and concludes<sup>41</sup>:

Because of the potential costs to consent applicants, it is considered that the costs associated with this option outweigh the benefits.

We have no evidence to the contrary, and this is without consideration of the costs of extra fencing, or of land potentially lost to production which Mr Harbord drew to our attention.

*Are there other means of achieving the policies?*

[50] Mr Ferguson, who was called as a witness for Paradise Rural Estates Limited and others, proposed a more indirect method than having a tree planting rule to control the adverse effects of shelterbelts or plantations. He suggested that certain assessment matters be added to those relating to the development of land in the Rural General Zone



<sup>40</sup>

Dated September 2002.

<sup>41</sup>

Paragraphs 9.4.2 – 9.4.6 QLDC Section 32 Report.

in Part 5 of the proposed plan<sup>42</sup>. They would provide a disincentive for people to plant vegetation that obstructs views from scenic roads. We should consider adding assessment matters to applications because we have an obligation<sup>43</sup> to consider means to implement policies other than rules. In fact, while the Council witness Ms Parker preferred her rules, she was not wholly opposed to assessment matters as an alternative although she did raise difficulties with them.

[51] Mr Ferguson suggested specifically<sup>44</sup> the following additions which we show underlined in their context for ease of understanding:

- ...
2. Modify Assessment Matter 5.4.2.2(1) Outstanding Natural Landscapes (Wakatipu Basin and Inner Upper Clutha area) and Outstanding Natural Features – District wide:

[Plus Permitted baseline rule as to not taking trees or shelterbelts as permitted activity baseline<sup>45</sup>.]

(a) *Effects on openness of landscape*

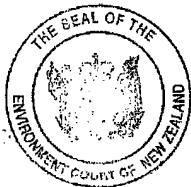
- (iii) *Whether the site is defined by natural elements such as topography and/or vegetation, excluding vegetation along Scenic Rural Roads which obstructs views across or towards important landscapes, which may contain and mitigate any adverse effects associated with the development.*

(b) *Visibility of development*

- (iii) *the proposal can be appropriately screened or hidden from view by any proposed form of artificial screening, being limited to earthworks and/or planting which is appropriate in the landscape, in accordance with Policy 4.2.5.11(b). Existing vegetation that obstructs views across or towards important landscapes from any Scenic Rural Road shall not be considered as an appropriate method screening proposed development.*

(f) *Positive Effects*

- (v) *Whether the proposed development provides an opportunity to remedy or mitigate any loss of views across or towards important landscapes caused by vegetation planted alongside Scenic Rural Roads.*



<sup>42</sup> C B Ferguson, evidence-in-chief para 77.

<sup>43</sup> Section 32(1)(a)(ii) and (iii).

<sup>44</sup> C B Ferguson, evidence-in-chief Appendix A.

<sup>45</sup> We return to that later.

3. Modify Assessment Matter 5.4.2.2(2) Outstanding Natural Landscapes (District Wide):
  - (b) *Effects on Openness of Landscape*
    - (iii) *Whether the proposed development is defined by natural elements such as topography and/or vegetation, excluding vegetation along Scenic Rural Roads that obstructs views across or towards important landscapes, which may contain and mitigate any adverse effects associated with the development.*
  - (d) *Positive Effects*
    - (vii) *Whether the proposed development provides an opportunity to remedy or mitigate any loss of views across or towards important landscapes caused by vegetation planted alongside Scenic Rural Roads.*
4. Modify Assessment Matter 5.4.2.2(3) Visual Amenity Landscapes:
  - (b) *Visibility of Development*
    - (iii) *there is any opportunity for screening or other mitigation by any proposed method such as earthworks and/or new planting which does not detract from or obstruct views of the existing natural topography or cultural plantings such as hedge rows and avenues. Existing vegetation that obstructs views across or towards important landscapes from any Scenic Rural Road shall not be considered as an appropriate method of screening views of proposed development.*
    - (iv) *the subject site and the wider Visual Amenity Landscape of which it forms part is enclosed by any confining elements of topography and/or vegetation, excluding vegetation along Scenic Rural Roads that obstructs views across or towards important landscapes.*

Obviously the references to "scenic rural roads" will have to be deleted in the light of our earlier determination but the assessment matters are still valuable if simply the word "roads" is substituted for "scenic rural roads".

[52] We gave leave for counsel for the Council to lodge a further memorandum with the Court after the hearing as to the difficulties that Ms Parker, the Council's resource planner, saw with such a solution. Ms Parker observed that of the 89 assessment matters in Part 5 of the proposed plan, Mr Ferguson has suggested changes to only 7. She points out that many other assessment matters also relate to the effects of vegetation on views



from landscape and that they would, in her opinion, need to be changed too. Counsel subsequently supplied us with a list of 38 matters relating to visibility of development.

[53] There is some point in the Council's criticism. We believe any deficiencies may be remedied by adding to the introductory words of the assessment criteria for rules 5.4.2.2(1) to (3) of the proposed plan something along these lines (modified as necessary for each of the rules (2) and (3)):

*Vegetation which has been planted, or allowed to grow more than one metre in height, since 1 January 2000 on the allotment being developed shall not be considered or taken into account under any of the following assessment matters except:*

- (i) *if the Council considers the vegetation is appropriate for the location in the context of the proposed development; and/or*
- (ii) *for the purpose of considering whether the Council should impose a condition that the vegetation be removed wholly or partly if it intends to grant resource consent.*

[54] We accept Mr Marquet's and Ms Parker's criticism that such changes will make the assessment matters for landscapes harder to apply. Landscapes will have to be deemed to be and considered as "open" even if they are not in reality because a shelterbelt has grown up and blocked the views. We have tried to ameliorate the difficulty by making the assessment matter non-retrospective. Further, the extent of the problem should not be overstated: in almost every case when the Council is considering whether or not to grant a resource consent it has to visualise the effects of a proposal in the future; in practical terms imagining a landscape without shelterbelts is only the converse of what the Council has to do now, that is, to imagine a landscape with a new building on it. It is not so difficult to imagine a landscape without an obstructing row of trees, especially in the light of modern visualisation technology which can picture a landscape without the offending trees by plucking them off the earth's surface with the stroke of a mouse.



[55] Relying on the evidence of Mr Ferguson, the resource planner for Paradise Rural Estates and others, as to the first point, and the concessions of counsel as to the second, we consider that the appropriate methods for remedying that are:

- (1) to add to the assessment matters which the Council as consent authority must consider when hearing an application for residential subdivision and development in rural zones; and
- (2) to add a rule preventing consideration of possible planting as a permitted baseline.

*[E] Outcome*

[56] We conclude that, in part, Variation 18 – especially in relation to the district-wide policies – was well-conceived as achieving sustainable management under the Act. However, the appeals and the evidence called in support of them drew attention to some flaws, as we have identified.

[57] Ms Parker reminded us the landscape policies<sup>46</sup> in Part 4.2 of the revised plan are not the only relevant district wide policies. In Part 4.1 (Natural Environment) there is an objective<sup>47</sup> as to nature conservation values which generates a policy:

1.17 To encourage the retention and planting of trees, and their appropriate maintenance.

But she did not apply that objective and its policies beyond consideration of whether indigenous trees should be preferred to exotics. Ms Ramsay also wrote that<sup>48</sup>:

The District Plan has been interpreted as conveying the impression that planting within rural property is considered appropriate and is an anticipated activity ...

We hold that the policy does more than "convey an impression": it expressly states that planting trees is encouraged. The Environment Court drew attention to the difficulties



<sup>46</sup> Revised Plan [p. 4-6 et ff].  
<sup>47</sup> Objective 4.1.4 [Revised plan p. 4-2.]  
<sup>48</sup> Ms R B Ramsay, evidence-in-chief para 4.9.

potentially caused by the inconsistency of policy 4.1.4.1.17 with the later policy<sup>49</sup> in the first landscape decision<sup>50</sup>. The policy remains, and so do the difficulties in our view.

*Unformed legal roads*

[58] Mr Ferguson identifies<sup>51</sup> the following concerns with the application of the rules on tree planting and structures to unformed roads:

Many paper roads exist for historical reasons and have little relevance to current roading patterns. Many paper roads run through rural farming properties in situations where the land is farmed and the landowner would not be able to accurately know the location of the road without surveyor assistance.

We consider he overstates the problem somewhat because unformed legal roads in this district are as, or more important, for foot, horse or pedal access, than for vehicles. However the use or likelihood of future use of unformed roads varies considerably.

[59] In our view, while there would be a problem if all the Council's proposed rules applied, there should be much less difficulty with the amended assessment matters applying to unformed legal roads, if a further assessment criterion is added:

...  
In the case of proposed development in the vicinity of unformed legal roads, present use and the practicalities of potential use of the unformed road for vehicular, pedestrian, equestrian, cycle or other means of access.

*Final determinations*

[60] We determine:

- (1) that there is no jurisdiction for Variation 18 to add any further reference to "public places" to the policies in part 4.2 of the varied plan;
  - (2) that there should be no category of "scenic rural roads" in the district plan;
- and



<sup>49</sup> Policy 4.2.4(16)  
<sup>50</sup> C180/1999; [2000] NZRMA 59 at paras [64] and [65].  
<sup>51</sup> C B Ferguson, evidence-in-chief para 32.

- (3) the proposed rule in Variation 18 in respect of trees and shelterbelts – planting of vegetation – is heavy-handed and too expensive in relation to the benefits which would be achieved, and therefore should be deleted.

*Interim determinations*

[61] Under Clauses 15(2) and 16A of the First Schedule to the RMA we make interim orders that the varied plan is amended as follows:

**Part 4 : District Wide Issues**

1. The modifications given by Variation 18 to the issues in paragraph 4.2.4 of the revised plan are confirmed as discussed except that the addition to the description of "Other Rural Landscape" in para 4.2.4(4) should be made as stated in paragraph [23] of this decision.
2. In respect of the policies under the heading "4.2.5 Objectives and Policies" in Part 4 of the revised plan, the changes proposed by Variation 18 are confirmed except that:
  - (a) any new reference to "public place" is deleted as *ultra vires*;
  - (b) we suggest that policy 4(a) and policy 11(b) are improved as discussed in the footnotes;
  - (c) in her rebuttal evidence Ms Parker suggested an amendment to the structures policy which no witness or counsel opposed, so that change should be made to make it consistent with the other changes.

**Part 5 : Rules**

1. Delete Rule 5.3.3.3(xii) Planting of Vegetation as added to the revised plan by Variation 18.
2. Modify Rule 5.3.3.3(xiii) Structures, to read as follows:



Any structure erected within 10 metres of a road boundary, which is greater or equal to 5 metres in length, and greater than or equal to 1 metre in height and less than 2 metres in height.

Except for:

- post and rail, post and wire and post and mesh fences, including deer fences,
- any structure associated with farming activities as defined in this Plan;
- any structure that is erected in accordance with a landscaping plan associated with a subdivision consent or resource consent for a building, where that landscaping plan is approved as a condition on the resource consent.

The Council's discretion is restricted to the consideration of effects on views and rural amenity values from public roads.

#### **Part 5 : Assessment Matters**

##### **1. Modify the assessment matters of paragraph 5.4.2.2 as follows:**

- (1) Modify Assessment Matter 5.4.2.2(1) Outstanding Natural Landscapes (Wakatipu Basin and Inner Upper Clutha area) and Outstanding Natural Features – District wide by:

- (a) Deleting the introductory words which read:

These assessment matters are to be stringently applied to the effect that successful applications for resource consent will be exceptional cases.

- (b) Substituting:

These assessment matters should be read in the light of three guiding principles. First that they are to be stringently applied to the effect that successful applications for resource consent will be exceptional cases. Secondly, that it shall be an automatic condition of a resource consent (if granted) that all vegetation on any allotment subject to the application which interferes with views from roads or other public places shall be removed prior to erection of any house, unless the Council expressly permits such vegetation to remain; and thirdly existing vegetation planted or allowed to grow since 1 January 2000 on the allotment proposed to be developed shall





not be considered or taken into account under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development;

- (2) Modify Assessment Matter 5.4.2.2(2) Outstanding Natural Landscapes (District Wide): by adding introductory words as follows:

When considering the following assessment matters existing vegetation planted or allowed to grow since 1 January 2000 on the allotment being developed shall not be taken into account except:

- (i) if the Council considers the vegetation is appropriate for the location in the context of the proposed development; and/or
- (ii) for the purpose of considering whether the Council should impose a condition that the vegetation be removed wholly or partly if it intends to grant resource consent.

- (3) Add to rules 5.4.2.2(1)(b)(i), 5.4.2.2(2)(b)(i), 5.4.2.2(3)(b)(i):

In the case of proposed development in the vicinity of unformed legal roads, the Council shall consider present use and the practicalities of potential use of unformed legal roads for vehicular and/or pedestrian, equestrian and other means of access.

- (4) Modify Assessment Matter 5.4.2.2(3) Visual Amenity Landscapes by adding the following introductory words:

When considering the following assessment matters existing introduced (i.e. non-native) vegetation planted or allowed to grow since 1 January 2000 on the allotment being developed shall not be taken into account except:

- (i) if the Council considers the vegetation is appropriate for the location in the context of the proposed development; and/or
- (ii) for the purpose of considering whether the Council should impose a condition that the vegetation be removed wholly or partly if it intends to grant resource consent.



- (5) For the avoidance of doubt – there is no change for other rural landscapes (Assessment Matter 5.4.2.2(4)).
2. Delete Assessment Matter 5.4.2.3(x) for Tree Planting and renumber all following assessment matters.
  3. A “no permitted baseline” rule will need to be supplied. Counsel were meant to supply that to the Registrar but it does not appear to have been received. We trust this can be agreed by the parties.

*Other orders*

[62] This decision is final on questions of law and determinations of principle and on the matters in para [60], but interim as to the precise wording of the proposed plan as varied by this decision. We reserve leave for any party to apply to correct any mistakes, omissions or inconsistencies in the proposed issues, policies and methods (including rules and maps showing any VAL/ORL boundary) to meet the spirit and intent of this decision.

[63] Costs are reserved, but any application should be made after the changes to the revised plan are finally approved by the Court. Our initial thoughts are that this is not a suitable case for costs.

[64] We also add, for what it is worth, that in our opinion the Council needs to work on the various landscapes of the district and their protection and/or potential development, where appropriate, on a finer scale, distinguishing the characteristics of each landscape, than occurs in the Court’s first landscape decision<sup>52</sup> or in the partly operative district plan.

**DATED** at CHRISTCHURCH

3 October 2005

For the Court:

J R Jackson  
Environment Judge



Issued<sup>53</sup>: - 4 OCT 2005

<sup>52</sup>

C180/1999.

<sup>53</sup>

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**QUEENSTOWN LAKES DISTRICT COUNCIL**

**STRATEGY COMMITTEE**

**FOR MEETING OF 12 APRIL 2006**

*It is recommended that the public be excluded from the following parts of the proceedings of the meeting:*

**Item 11: ARROWTOWN BOUNDARY – WESI REFERENCE**

*The general subject of the matters to be discussed while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(a) of the Local Government Information and Meetings Act 1987 for the passing of this resolution is as follows:*

**Item 11**

General subject to be considered.	Reason for passing this resolution.	Grounds under Section 48 for the passing of this resolution.
<b>Arrowtown Boundary WESI Reference</b>	That the exclusion of the public from the whole or relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings before the local authority where a right of appeal lies to any Court or Tribunal against the final decision of those proceedings.	48(1)(d)

*This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above with respect to each item.*



PUBLIC EXCLUDED
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## QUEENSTOWN LAKES DISTRICT COUNCIL

### STRATEGY COMMITTEE

FOR MEETING 12 APRIL 2006

REPORT FOR AGENDA ITEM: 11

SUBMITTED BY: Alyson Schuler, Senior Policy Analyst

REPORT DATED: 31 March 2006

### ARROWTOWN BOUNDARY – WESI REFERENCE

#### PURPOSE

The purpose of this report is to update the Strategy committee on the WESI proceedings to the Environment Court in relation to their reference seeking an additional policy to be included within the District Plan to promote the retention of a green belt around Arrowtown; and to obtain a further resolution in regard to the matter.

#### PUBLIC EXCLUDED

It is necessary to enable the local authority to deliberate on its decision or recommendation in any proceedings before the local authority where a right of appeal lies to any Court or Tribunal against the final decision of the proceedings.

#### BACKGROUND

At the March 2006 Strategy Committee meeting an agenda item was brought before the committee to gain authorisation to resolve a long standing reference to the District Plan by the Wakatipu Environmental Society seeking the inclusion of a policy to retain a greenbelt around the town of Arrowtown.

The recommendation past by the Committee is included below:

***1. That the Strategy Committee accept WESI's request in part by adopting the following issue and policy provision, to be inserted into Part 4 of the District Plan:  
4.2.4 (5) Boundaries between urban areas and the surrounding rural areas***

*There is a potential for development in the Rural General Zoned land that surrounds the District's urban areas, particularly around Arrowtown, to create an undesirable appearance of spread of the urban form.*

*There are currently distinct boundaries between the District's urban areas and the surrounding rural areas. To ensure the open, rural character of the rural landscape is maintained, it is important that these distinct boundaries are retained.*

*Arrowtown in particular has a clear boundary between residential zoned land and the surrounding rural areas. This distinction is highly valued by the residents of Arrowtown, as reflected in the Arrowtown Community Plan (2003). This identifies:*

*“Arrowtown’s character remains principally that of being tucked away, landform confined and Arrow River oriented. A town both discrete and discreet. These characteristics are valued and their retention is sought”*

*Arrowtown’s clear boundary is under pressure from development, and therefore its importance must be recognised and provided for within the policies of the District Plan.*

Amend Policy 4.2.5(7) so that it reads:

## 7. Urban Edges

(1) To identify clearly the edges of:

- (a) Existing urban areas;
  - (b) Any extensions to them;
  - (c) Any new urban areas
- by design solutions and to avoid sprawling development along the roads of the District.

## (2) Arrowtown Boundary

*The definition of a clear boundary to Arrowtown by:*

- *ensuring that residential and other buildings that are not associated with farming activities are a significant distance from the town boundary so that there is a clear distinction between the town and its rural surroundings;*
- *containing the town within its current boundaries, consistent with the Arrowtown Community Plan (2003 )rather than sprawling into the surrounding countryside ;*
- *Recognising the importance of the entrances to Arrowtown, and the need to retain their open character as they near the town; and*
- *Identifying on a map those areas where this policy applies.*

**2. That the Strategy Committee authorise the Council’s CEO to make minor wording changes as required to ensure that the policy is sufficiently ‘strong’ and to reach agreement with WESI**

**3. That the Strategy Committee monitor the necessity of initiating a plan change with the purpose of strengthening the Plan provisions in order to achieve a clear boundary around the edge of Arrowtown.**

At and following the Strategy committee meeting concern was raised as to the jurisdiction for the extent of the changes proposed, in relation to the addition of a map showing an extended area of protection around Arrowtown.

A legal opinion was subsequently obtained from Jayne Macdonald (MacTodd) and is included as an appendix to this report.

## **SIGNIFICANCE OF DECISION**

This decision is not considered significant under the Council’s policy on significance.

## **CONSULTATION - INTERESTED OR AFFECTED PERSONS**

All parties to the original reference (RMA 1165/98) were sent notice by the Environment Court of the pre hearing conferences on 29 November 2005 and 15 February 2006. Following the pre hearing conference on 29 November 2005, all parties to the reference were provided an opportunity to identify whether they wished to be involved in this matter. At the time no one came forward. However, at the pre hearing conference held on 24 March 2006 Clear Family Trust, represented by Warwick Goldsmith, identified that they would take a watching brief on the proceedings and may lodge a memorandum.

### **RELEVANT COUNCIL POLICIES**

The following policy documents have been considered in the preparation of this report:

- The Queenstown Lakes Partially Operative District Plan (2004)
- The Council's "policy of significance"
- Arrowtown Community Plan
- Long Term Community Council Plan (2003)

### **DISCUSSION**

Following the Council obtaining legal advice as to the jurisdiction of the changes that WESI were proposing it was decided to highlight within the Council's memorandum to the Environment Court, the potential jurisdictional problems. This was presented at the pre hearing on the 24<sup>th</sup> of March 2006.

Judge Jackson then made the following orders:

- The Council was to provide WESI a copy of its legal opinion (undertaken)
- WESI to respond in the form of a memorandum by 7 April 2006
- The Council (and Clear Family Trust if interested in the proceedings) to reply by 21 April 2006.

The Judge will then issue a memorandum to the parties as to whether there is jurisdiction for the changes.

Note: A supplementary agenda item will be provided to the committee when the Council has received a copy of WESI's memorandum (7 April 2006).

### **OPTIONS**

Pursuant to Section 79 of the LGA 2002, all reasonably practicable options for achieving the above objective have been considered, with the level of assessment being directly relative to the significance of the effects of the decision.

A supplementary agenda item will be provided to the committee as soon as possible which discusses the options for resolving this appeal.

### **FINANCIAL IMPACT**

The Council has a budget for resolving outstanding references to the District Plan.

### **DELEGATIONS REGISTER REFERENCE**

The Strategy Committee has the delegated authority to resolve references, however if a policy change is required within the District Plan then Full Council approval is required.

**RECOMMENDATION**

***1. That the report be received;***

***N.B: A substitute recommendation will be provided as part of a supplementary report – to be provided after 7 April 2006.***



16 December 2008

The Chief Executive Officer  
Queenstown-Lakes District Council  
Private Bag 50072  
**QUEENSTOWN**

**Attention: Duncan Field**

Dear Sir,

**WESI REFERENCE – ARROWTOWN “GREEN BELT” (Our Ref: 283369-155)**

We refer to your instructions to advise whether there is jurisdiction within WESI's reference (RMA 1165/98) to include in the Plan a policy introducing the concept of an Arrowtown Rural Buffer and a plan identifying that Buffer area.

The relevant part of WESI's reference central to the jurisdictional issue is their request for the following:

1. issue 4.2.4(i) of the 1995 Plan be reinstated; and
2. an additional policy be added that reads:

*“the definition of a clear boundary to Arrowtown by a planted green belt”.*

In the first instance, we are of the opinion that the wording proposed for paragraph 5 within issue 4.2.4 is within the scope of the reference.

Likewise, it is our opinion that there is sufficient jurisdiction within the relief sought to add a policy to 4.2.5 addressing the Arrowtown boundary.

We are concerned however that the last two bullet points of the policy lack jurisdiction. In our opinion, what might reasonably have been within one's contemplation when reading the original relief sought, i.e. the *“definition of a clear boundary to Arrowtown by a planted green belt”* is quite different than the concept now before us, being a Rural Buffer, and the associated wording discouraging development within that buffer.

In this case, we are also concerned that the policy, in particular the last two bullet points, are specific and quite directive, such that one would expect rules to implement the same. In this case, there is no jurisdiction for rules to be added to implement this policy, as WESI's reference certainly lacks jurisdiction in this regard. The policy, as worded, with a map showing the buffer area would leave one searching the pages of the plan looking for rules to implement it.

The Arrowtown edge is well defined in terms of its boundaries, its topography and the community's aspirations for the same. The policy proposed to be introduced into the Plan (without reference to a *“Rural Buffer”*) reinforces the importance of the Urban Edge,

containing the town within its current boundaries and the need to retain entrances to Arrowtown as an open character.

Any application to develop land within the Rural General Zone that is on the perimeter of the Arrowtown boundary (in terms of its existing residential zonings) would not only confront the assessment matters relating to rural land, open character, VAL, etc. contained in part 5 of the Plan but also the strong wording of the policy which is to contain the town within its current boundaries and ensure there is a clear distinction between the town and its rural surroundings.

From a practical perspective, the land surrounding Arrowtown is zoned Rural General and Arrowtown is also topographically defined. We do not believe that there is anything to be gained by identifying an Arrowtown Rural buffer (and rules associated with that).

We note that the Council is due to report to the Court by 14 March (Tuesday) advising the Council's position on the Society's Arrowtown boundary, whether there is agreement and, if not, whether Mediation is possible.

At this stage, the draft Memorandum which has been prepared recites the Council's position as per the resolutions made by the Strategy Committee which includes reference to the two bullet points that we believe are outside the jurisdiction of WESI's reference.

We are of the opinion that the resolution needs to be readdressed by the Strategy Committee in light of the advice with respect to jurisdiction, the firm views of Council obtained in regards to that matter and for the Court to be advised as to the Council's position. We suggest seeking an extension from the Court of a further week (if that is sufficient time-wise), whereby we can advise the Court of what Council has agreed to, and that advice has been sought on a jurisdictional issue re the "*Rural Buffer*", and a further week is required to come back to the Court on that issue. We can also report to the Court at this time that Mediation is appropriate and move towards that process in the meantime.

We await your further instructions in this regard.

Yours faithfully

**MACALISTER TODD PHILLIPS BODKINS**

**J E Macdonald**

Principal

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cc: Alyson Schuler  
**BY EMAIL**

cc: Vicki Jones  
**BY EMAIL**