This copy has been supplied by the Library of the University of Otago on the understanding that the following conditions will be observed:

1. To comply with s56 of the Copyright Act 1994 [NZ], this thesis copy must only be used for the purposes of research or private study.

2. The author's permission must be obtained before any material in the thesis is reproduced, unless such reproduction falls within the fair dealing guidelines of the Copyright Act 1994. Due acknowledgement must be made to the author in any citation.

3. No further copies may be made without the permission of the Librarian of the University of Otago.
UNIVERSITY OF OTAGO LIBRARY

Declaration concerning thesis

Author's full name and year of birth:
(for cataloguing purposes)

Title: The Queenstown-Lakes District Rural Residential Development Debate

Degree: Bachelor of Surveying (Honours)

Department: School of Surveying

I agree that this thesis may be consulted for research and study purposes and that reasonable quotation may be made from it, provided that proper acknowledgement of its use is made.

I consent to this thesis being copied in part or in whole for

i) a library

ii) an individual

at the discretion of the Librarian of the University of Otago.

Signature: 

Date: 31/10/01

Note: This is the standard Library declaration form used by the University of Otago for all theses.

The conditions set out on the form may only be altered in exceptional circumstances, and with the permission of Senate.

The form is designed to protect the work of the candidate, by requiring proper acknowledgement of any quotations from it. At the same time the declaration preserves the University's philosophy that the purpose of research is to seek the truth and to extend the frontiers of knowledge and that the results of such research which have been written up in thesis form should be available to others for scrutiny.

The normal protection of copyright law applies to theses.

(This form has the approval of the Librarian)
ACKNOWLEDGEMENTS

Many grateful thanks to Mick Strack for his continual guidance and support throughout this year. Without his influence this research project would not have been possible.

“...death by a thousand cuts...”

MORGAN WILLIAMS
ABSTRACT

This research highlights the highly controversial landscape and development issues in the Queenstown-Lakes District. It focuses on the Resource Management Act, the Environment Court Decisions, the district planning process, and the public debate itself.

It finds that the Resource Management Act and Environment Court decisions are working together to give the Queenstown-Lakes District the appropriate tools to achieve the sustainable management of the area's natural and physical resources.

The planning process and public that work within the process are having problems reconciling competing interests. However, these are disputes that can and will be overcome in the future.

The development pressures will not go away in the Wakatipu Basin but it is the challenge of balancing the need for protection with that of development. That is, achieving the goal of sustainable management.
INTRODUCTION........................................................................................................3

1. THE RESOURCE MANAGEMENT ACT 1991................................................5
  1.1. INTRODUCTION .......................................................................................5
  1.2. THE PURPOSE OF THE RMA (SECTION 5) ......................................... 5
  1.3. MATTERS OF NATIONAL IMPORTANCE (SECTION 6) ...................... 10
  1.4. OTHER MATTERS (SECTION 7) ...............................................................15
  1.5. THE RMA AND RESOURCE MANAGEMENT FRAMEWORK ............18
  1.6. CONCLUSION .........................................................................................20

2. DISTRICT DEVELOPMENT DEBATE HISTORY AND ISSUES................. 21
  2.1. INTRODUCTION ....................................................................................21
  2.2. HISTORY ...............................................................................................21
  2.3. THE DEVELOPMENT DEBATE THUS FAR ......................................... 22
  2.4. THE MEDIA DEBATE ...........................................................................24
  2.5. TOURISM .............................................................................................27
  2.6. GROWTH ..............................................................................................28
  2.7. PUBLIC VS PRIVATE RIGHTS ..............................................................35
  2.8. CONCLUSION ......................................................................................36

3. THE REGIONAL AND DISTRICT PLANS OF THE QUEENSTOWN
   LAKES DISTRICT.....................................................................................37
  3.1. INTRODUCTION .....................................................................................37
  3.2. PART 1: THE OTAGO REGIONAL POLICY STATEMENT .....................37
    3.2.1. REGIONAL DESCRIPTION ..............................................................38
    3.2.2. LAND ............................................................................................38
  3.3. PART II: THE 1998 QLD PROPOSED PLAN ....................................... 40
    3.3.1. HISTORY .......................................................................................40
    3.3.2. THE QLD 1998 PROPOSED PLAN AND THE EC ..................... 42
  3.4. CONCLUSION: .....................................................................................51

4. THE QLD PLANNING PROCESS.................................................................53
  4.1. INTRODUCTION ....................................................................................53
  4.2. STRUCTURE AND PROCESS ...............................................................53
  4.3. THE PLANNING COMMITTEE, CIVICCORP, AND THE PUBLIC ........54
  4.4. CONCLUSION: .....................................................................................58

5. DISCUSSION...............................................................................................59
  5.1. INTRODUCTION ....................................................................................59
  5.2. THE RMA ............................................................................................59
  5.3. THE PLAN CREATION AND ADMINISTRATION PROCESS .............60
  5.4. THE ENVIRONMENT COURT ...............................................................62
  5.5. CHECKS ON AND ASSISTANCE TO LOCAL GOVERNMENT ............63
  5.6. LATEST DEVELOPMENTS ....................................................................65

CONCLUSION ..................................................................................................66

FURTHER RESEARCH..................................................................................68

POST SCRIPT ................................................................................................69

REFERENCES...............................................................................................70
INTRODUCTION

The way in which New Zealand's natural resources are managed with relation to subdivision development has been a source of discussion serious since the implementation of the Resource Management Act 1991 and its focus on 'Sustainable Management', the interpretation of which is somewhat controversial. It is now up to the individual district authorities to decide what this means for them and therefore how they should manage their particular natural resources.

The Queenstown Lakes District landscape is an asset to all of New Zealand in environmental and economic terms. Over the past twelve months there has been intense public debate over the way in which the Queenstown Lakes District Council is managing the area's unique natural resources with respect to subdivision development, especially in relation to the Wakatipu Basin. Questions relating to the appropriateness of the rules within the 1998 Proposed District Plan, the way in which these have been administered by the resource consent committee and the personal interests and influences of particular parties have all been raised.

The issues raised by these questions are contentious and thought provoking, which is why the problem has escalated into a national debate. At present the media has highlighted the personality conflicts occurring due to the over-development debate. This dissertation is directed at taking a more in depth analytical perspective on the issues and happenings. The need for research into such a situation is inherent in the fact that it is now of national interest and it once again involves heated discussion with relation to the Resource Management Act and its appropriateness for an area of great natural beauty and significant national and international attraction.

The first chapter analyses the legislative context of the development/protection debate with an examination of Part II (Purpose and Principles) of the Resource Management Act 1991. Environment Court decisions are used to highlight how the judicial system interprets Part II.
Chapter 2 reviews the public side of the debate. It outlines the debate carried out in the media including the main underlying issues; growth and tourism.

Chapter 3 examines the Otago Regional Policy Statement and the Queenstown Lakes District 1998 proposed plan. The Plan has been subject to the scrutiny of the Environment Court as many referrals to the Court have been made and several interim decisions have been released.

Chapter 4 discusses the role of the Queenstown Lakes District Planning Committee and the process of hearings and decision making for development consent applications.

Chapter 5 draws these strings together and offers some suggestions in relation to the Resource Management Act, Environment Court and district issues themselves.

The conclusion gives a brief vision of the future as to where the district may be heading with relation to rural residential development and the outstanding landscapes of the Wakatipu Basin.

Finally the dissertation outlines some possible avenues for future research.
1. THE RESOURCE MANAGEMENT ACT 1991

1.1. INTRODUCTION

The Resource Management Act ('RMA' or 'the Act') and the subsequent amendments have changed the face of resource management in New Zealand forever. Within the context of rural residential development in the Queenstown Lakes District the RMA is extremely important, as it is the primary control of every development that may occur.

There are three main sections within Part II of the Act that should underpin every objective, policy, rule, regulation, non-regulatory and resource consent decision made within the Queenstown Lakes District ('QLD').

They are:
- Section 5 (Purpose of the Act)
- Section 6 (Matters of National Importance)
- Section 7 (Other Matters)

Each of these sections contains important aspects that relate to the rural residential subdivision and development issues that are currently occurring in the QLD.

1.2. THE PURPOSE OF THE RMA (SECTION 5)

The purpose of the Act is to promote the sustainable management of natural and physical resources.¹ The concept of sustainable management is, therefore, the cornerstone of the Resource Management Act 1991. All objectives, policies, decisions and actions formulated or taken under the Act must seek to fulfil this purpose. It is expressed as a goal to which all other goals are subservient.²

For the purposes of the RMA, sustainable management means:

---

¹ Section 5, Part II (Purpose and Principles) The Resource Management Act 1991
Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-

a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.³

Due to the inherent importance of section 5 it should be no surprise that the interpretation of the words, 'sustainable management', are subject to extensive debate.⁴ Since the release of the Brundtland Report in 1987,⁵ sustainability of our resources is an ethic that most countries and global organizations are adopting. This principle relates to the rate at which resources are used and can be replenished on a long-term basis. It also means:

- ensuring better use of resources; and
- managing the stock of environmental capital into the future to protect the resources for future generations.⁶

These points relate directly to sustainable management however it is an ethic that is not easily transferred into practice. Due to this we find that each district and individual is capable of interpreting the purpose of the Act differently with respect to their particular situation, environment and present need. This means that there are many different ideas of what sustainable management may mean on a national and local level. This is not necessarily a bad thing as each local authority does have different issues and priorities that may need to be addressed.

---

³ Section 5, Part II (Purpose and Principles) The Resource Management Act 1991
Despite the wide variety of interpretations there are two main descriptions of what sustainable management means that encompass the majority. The first of these implies that there should be a balancing of environmental, social and economic priorities.\textsuperscript{7} An example of this would be the weighing up of growth pressures and economic gain with the productivity and visual amenity that a particular environment encompasses.

The second interpretation, as proposed by the previous Minister of the Environment Simon Upton, is that section 5 is not about achieving a balance between the benefits and adverse effects of an activity but instead requires the adverse effects to be avoided, remedied or mitigated irrespective of the benefits that may accrue.\textsuperscript{8}

"...those who exercise powers under the legislation are referred to a purpose clause that is about sustaining, safeguarding, avoiding, remedying, and mitigating the effects of activities on the environment. It is not a question of trading off those responsibilities against pursuit of well-being."\textsuperscript{9}

The first interpretation tends to align itself with a "development friendly" ideal while the second shows a leaning towards the protection of our natural resources. There are many other interpretations apart from the two mentioned above. This outlines the difficulty in pinpointing one single ethic that we can all follow.

From section 5 one thing that is clear is that the RMA is about the sustainable management of our \textit{natural and physical resources}. The Act defines this to include land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.\textsuperscript{10} However all encompassing this may be, it does tend to give some direction as to what is required by local authorities with respect to the resources that they must manage.

\textsuperscript{8} Campbell v Southland D.C. W114/94 4 NZPTD 6.
\textsuperscript{9} Upton, S. Third Reading of the Resource Management Bill into Parliament
The only other word within this section that has a specified definition under section 2 is the word “effect”. This is a very important word with respect to achieving the purpose of the Act as it is required that the adverse effects be avoided, remedied or mitigated. The Act states that the term “effect” includes:

(a) Any positive or adverse effect; and  
(b) Any temporary or permanent effect; and  
(c) Any past, present, or future effect; and  
(d) Any cumulative effect which arises over time or in combination with other effects regardless of the scale, intensity, duration, or frequency of the effect, and also includes -  
(e) Any potential effect of high probability; and  
(f) Any potential effect of low probability which has a high potential impact.\(^\text{11}\)

It may be assumed that this definition leaves the meaning of effect relatively closed to interpretation, however it has been claimed and seems to be a reasonable interpretation in the context of s 5, that this should include positive and negative economic effects. The Planning Tribunal has found that economic consequences of a development are not considered to be an effect under the RMA\(^\text{12}\) as it is first and foremost an environmental statute.

Section 5 of the Act is constantly under scrutiny in relation to all sorts of issues, especially when it comes to subdivision development in rural areas and near coastal environments. This is especially the case in the QLD where rural subdivision has been a hot topic of debate. The Environment Court (EC) decisions have tended to show a slight trend away from advocating development of these areas with respect to section 5, as illustrated by the following statements from EC judgements:

\(^{12}\) Cloudy Bay Developments Ltd v Marlborough D.C. W110/95 4 NZPTD 633.
Development of a comprehensive residential use on an important lakeside would modify the finite natural resources of the site and defeat the purposes of s5.\textsuperscript{13}

Section 5 is particularly opposed to subdivision of rural land; arguments based on land having no productive value do not overcome the “need” for the continued existence of some land in a natural or virgin state free of any development because of the contribution in its virgin state to the quality of life.\textsuperscript{14}

Subdivision of rural land into small lot sizes is not a sustainable use of the resource. It is sustainable to leave the land as it is, so there is a future option of an amalgamation into larger titles or some other productive use.\textsuperscript{15}

The above case extracts point to an EC ethic that suggests the subdivision of rural land and land near lake boundaries is not a sustainable use of the resource. However this view does not hold unanimous support as illustrated by this judicial statement:

\begin{quote}
Where land was not an economic unit and its grazing potential would not be lost, subdivision is a sustainable management of the natural land resource.\textsuperscript{16}
\end{quote}

The contradiction of the EC decisions only adds fuel to the fire of the debate over section 5 of the RMA. This debate raises a question: Do the differing interpretations of section 5 allow the Act to work in the way it was envisaged, that is, as an environmental statute? This question is one worthy of an entire research topic, but will only be briefly revisited in Chapter 5 as it is seen to be of significance with respect to the whole ‘over-development’ issue.


\textsuperscript{15} Sutherland \textit{v} Tasman D.C. W038/95, 4 NZPTD 430

\textsuperscript{16} Banks \textit{v} Nelson W015/93 1\&2 NZPTD 533.
1.3. MATTERS OF NATIONAL IMPORTANCE (SECTION 6)

Section 6 sets out five matters of national importance that must be considered in relation to implementing the purpose of the Act. These are not unlike those that were stipulated in the preceding statute, the Town and Country Planning Act 1977 (TCPA 1977).

In relation to the QLD development debate and the purpose of this dissertation the subsections 6 (a) and (b) are the ones that hold special relevance.

Section 6 of the RMA states that:

\[ \textit{In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:} \]

\[ a) \quad \text{The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development:} \]

\[ b) \quad \text{The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. ...}^{17} \]

It should firstly be noted that this list of matters of national importance does not hold the same level of authority as those outlined under the previous legislative document, TCPA 1977. This is illustrated by the RMA words “shall recognise and provide for”, which is not an absolute imperative overriding other objectives of the Act.\(^18\) The matters in s 6 are not to be seen as ends in

---

\(^{17}\) Section 6, Part II (Purpose and Principals) The Resource Management Act 1991.

\(^{18}\) Southland D.C. v Southland R.C. C029/97 2 NZED 322.
themselves, as were the matters of national importance in s3 TCPA 1977, but a means to an end.\textsuperscript{19}

The importance of section 6a) and b) to the QLD rural residential development issues is clear: the environment should be protected from inappropriate subdivision, use and development (The word environment is being used loosely here to represent the special areas mentioned in a) and b) above). This is obviously a statement relating to at least one side of the QLD development debate.

This section also does not escape the close scrutiny of the courts and individuals with interest in the issues. The differences in the definition of landscape and natural features and what constitutes an outstanding natural feature or landscape have created discussion and uncertainty. A valid comment made by the Environment Court in WESI v QLDC was that an outstanding natural landscape should be so obvious that there is no real need for expert analysis (usually).\textsuperscript{20} The judgement of NZ Marine Hatcheries v Marlborough D.C. suggested that landscapes when considered under the RMA are not limited to natural landscape, nor restricted to visual aspects. It may include the physical and perceptual, demonstrated by layers of association and meaning and different cultural values attributed over time.\textsuperscript{21}

Once again we find ourselves embroiled in an argument that is so subjective it would be impossible to obtain unanimous consensus. A guide is required to give some structure to these issues so that an outcome as to whether a landscape is special or not can be achieved. WESI v QLDC C180/99 established criteria for assessing a landscape. The court came up with a list of factors that could be thought of as being significant attributes of a landscape. They were called the Pigeon Bay criteria and were modified from a previous case undertaken in the Canterbury region.\textsuperscript{22} The amended list is as follows:

\begin{itemize}
\item Reith v Ashburton D.C. C094/94 3 NZPTD 424.
\item NZ Marine Hatcheries v Marlborough D.C. W129/97 3 NZED 152.
\item Pigeon Bay Aquaculture Ltd v Canterbury Regional Council C032/99, 4 NZED 432, (1999) NZRMA 209.
\end{itemize}
a) the natural and science factors – the geological, topographical, ecological and dynamic components of the landscape;
b) its aesthetic values including memorability and naturalness;
c) its expressiveness: how obviously the landscape demonstrates the formative process leading to it;
d) transient values: occasional presence of wildlife; or its value at certain times of the day or year;
e) whether the values are shared or recognised;
f) its value to tangata whenua;
g) its historical associations.\(^{23}\)

These are of course not fixed and by no means a checklist but they do give some direction as to what should be looked for. Despite this there is no standard landscape assessment methodology that can be applied across the broad spectrum of landscapes.\(^{24}\) It has been noted that this sort of landscape assessment can only be done in relation to the area under the statutory authority’s jurisdiction. This implies that a landscape in the Waikato for example, may not be outstanding in Queenstown.\(^{25}\)

It was also noted that this is an “ill-defined restriction” as we all have a mental view of landscapes that have been built up from our experiences within and outside the district.\(^{26}\)

This argues against the calls for a national policy statement on landscape values as one statement covering the entire country will restrict and categorise the whole country to follow one particular value base when in reality each district has its own individual landscape values.

As with section 5 of the RMA people have tried to pull section 6 apart by asking what the words “outstanding”, “natural” and “landscape” mean individually. It is a credit to the EC (e.g. in the WESI v QLDC cases) that it has not condoned this sort of statute deconstruction by trying to answer these questions individually. The EC has always brought it back to the context of landscape, however difficult it may be to understand what the court is trying to

---


get across. The word “outstanding”, in relation to landscape, has been said to mean “conspicuous, eminent, especially because of excellence” or “remarkable in” and that a landscape could be magnificent without being outstanding.\textsuperscript{26} This final statement seems to take away some of the good work done in the earlier part. It is suggested here that many people would find the comparison of the words, “outstanding” and “magnificent” in relation to them not always meaning the same thing, a juxtaposition that really has no relevance. It is this sort of legal jargon and statement that really makes it difficult for laypeople to get their heads around these issues and therefore understand exactly what the EC is trying to do.

The Planning Tribunal has made statements as to what “natural” means in relation to landscape. The Tribunal considered that “natural” indicated a product of nature and could include such things as pasture, exotic tree species etc, as opposed to manmade structures.\textsuperscript{27} The inclusion of structures in a landscape does not necessarily make a landscape unnatural it just makes it less natural. It is therefore wrong to assume that natural equates to pristine, as pristine relates to areas untouched by humans. A pristine landscape is probably much more rare and of more value to the environment than a landscape in a natural state.\textsuperscript{28}

Subjective, subjective, subjective, applies to the words “outstanding”, “natural”, and “landscape”. They all depend on who the viewer is and in what situation they find themselves.

While the EC has given some guidance as to landscape definition the decisions have continued to create uncertainty in other areas. For example what does inappropriate subdivision, use and development mean? Once again with the word ‘inappropriate’, we find ourselves delving into an emotive term that can be interpreted differently by every individual.

In relation to the coastal environment it has been found that manmade structures and modifications do not necessarily remove the natural character

\textsuperscript{27} \textit{Harrison v Tasman D.C.} (1994) NZRMA 193, 197.
of a water margin,\textsuperscript{29} in other words they are not necessarily always inappropriate. It has also been stated that the natural character of the coastal environment is not to be protected at all costs but to be protected in terms of sustainable management.\textsuperscript{30} The problem with these two references is two fold. Firstly the word ‘protection’ is not used in section 6 a) when the natural character of the coastal environment is discussed, it is the word ‘preservation’. The website www.dictionary.com defines preservation to mean:

\begin{quote}
To keep in perfect condition; maintain unchanged.
\end{quote}

This equates to absolute protection, it gives no room for change. Subdivision, use and development will require some change. Secondly as outlined previously the meaning of sustainable management can be construed to mean a wide variety of things with respect to different times and places. So how can something be protected in terms of sustainable management when we don’t have a steadfast definition? These court references also tend to question the idea expressed previously in the case Gill & Others v Rotorua D.C. & Schwanner, where it was ruled that development around an important lakeside would not be consistent with sustainable management. These different court interpretations tend to highlight some inconsistencies in how section 6 a) is perceived. The opinion held here is that the words preservation and protection hold slightly different meanings and as such should be treated differently.

With these ambiguities aside it follows that 6 a) and b) does allow for the protection of the environment with respect to inappropriate subdivision, use and development. But then again what does the word protection imply? It does not allow for ‘absolute protection’ as the word preservation implies but is to be weighed up against people and whole communities being able to provide for their social, economic and cultural well being.

There appear to be widely divergent views between landscape experts as to what constitutes an outstanding landscape and what measure of protection

\textsuperscript{29} Hooker v Waitemata Planning Committee (1997) NZPTA 38.

\textsuperscript{30} Trio Holdings v Marlborough D.C. W103A/961 NZED 621, 2 ELRNZ 353.
should be afforded to such landscapes, as well as to landscapes which perhaps may not be outstanding but are still significant.  

Putting all of this conflict aside, it has continuously been noted in the courts that the QLD contains many ‘outstanding natural features and landscapes’ that need some sort of protection. It is also true that there would be a general consensus from New Zealanders and international visitors that the above statement is in fact the case. The question is how do you go about deciding where these landscapes are, what they mean, and how to protect them? This will be looked at in following chapters.

1.4. OTHER MATTERS (SECTION 7)

Section 7 sets out eight other matters that local authorities should also have regard to. Sub-sections b), c), f) and g) are the parts that have a particular relevance to the issues in the QLD.

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –

...  
b) The efficient use and development of natural and physical resources:

...  
c) The maintenance and enhancement of amenity values:

...  
f) Maintenance and enhancement of the quality of the environment:

...  
g) Any finite characteristic of natural and physical resources:

---


The words, “have particular regard to” may give the impression that this section just gives the local authority other issues that they only need think about when implementing the sustainable management of its resources. It has however been noted that in the end all the aspects of sections 6 to 7 go into the evaluation as to whether any issue being considered achieves the purpose of the Act.\textsuperscript{33} It is obvious that problems arise as to the importance of the other matters because they are called just that, other matters, not matters of national importance. It is difficult to see why one section could not have been created to contain everything mentioned within sections 6 and 7. This would have taken a lot of uncertainty away in relation to which is more important and therefore which carries more weight.

With relation to section 7 b) we once again find case law that suggests the creating of residential uses unrelated to primary production beyond the defined limits of the metropolitan area would be inconsistent with the value the RMA places on efficient use and development of natural and physical resources.\textsuperscript{34} This follows the line as indicated in Part 1.2. of this chapter where three cases from the environment court showed a leaning away from the development of rural areas.

Once we move onto section 7 c) we are delving into subjective terms that can mean different things to different people. The concept of ‘amenity values’ is probably the most abstract idea within Part II of the Act. Under the Act ‘Amenity values’ means;

\begin{quote}
\textit{those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes:}\textsuperscript{35}
\end{quote}

As with the earlier explanation of landscape, the amenity that one individual gains from a particular environment will differ from one to the other. Along with this section 7 c) does not only suggest that amenity values should be maintained but that they should be enhanced as well. This leaves the door of

\begin{itemize}
\item \textsuperscript{33} Cash \textit{v} The Queenstown-Lakes D.C. A003/93 1\&2 NZPTD 453, 2 NZRMA 347
\item \textsuperscript{34} Pickmere & Others \textit{v} Franklin D.C. A046/93 1\&2 NZPTD 655.
\item \textsuperscript{35} Section 2, Part 1 (Interpretation) The Resource Management Act 1991.
\end{itemize}
the public perception as to what enhancement means wide open. For example in the Wakatipu Basin you could argue for or against any of the following as enhancing amenity values:

- exotic deciduous trees or native bush
- open pasture or horticulture (e.g. grapes)
- fences or hedges
- houses or rural land
- any change at all or the maintenance of the status quo\textsuperscript{36}.

This idea is also directly applicable to section 7 f) where it mentions maintenance and enhancement of the environment. If we move onto section 7 g) it may be found that the idea of preserving any finite characteristic of a natural resource can be directly related to the QLD. In WESI v QLD\textsuperscript{37} it was found that natural landscapes are a resource. This implies that they can be used and are therefore finite and should be afforded some protection under section 7 g).


1.5. **THE RMA AND RESOURCE MANAGEMENT FRAMEWORK**

The RMA can be broken down into a pyramid hierarchy. The relationship of section 5 to the other sections in Part II and the rest of the act are shown in Figure 1-1 below.

![Diagram of RMA hierarchy](image)

**Figure 1-1:** Structure of the RMA sourced from MfE (1992) *Sustainable Management*, Wellington.

Section 5 sets out the purpose of the Act. Sections 6 and 7 are principles of equal importance intended to give guidance as to the way in which the purpose is to be achieved. Those sections do not deal with issues once and once only, but raise issues a number of times in different forms, from different perspectives, and in different combinations. In the end it has been stated that all the aspects should go into the evaluation as to whether any issue being considered achieves the purpose of the Act.\(^{38}\)

The key to the RMA is really the way in which the purpose is enforced in the local districts around New Zealand. Figure 1-2 below shows a hierarchy of power in relation to the decision making process.

---

Resource Management Act
Planning Framework in Otago

National policy Statements
( Including Coast)

REGIONAL POLICY STATEMENT

Sets the direction for the future management of Otago's natural and physical resources and is developed under the Resource Management Act 1991.

Regional Plans
District Plans
- Waitaki District
- Dunedin City
- Clutha District
- Central Otago District
- Queenstown Lakes District

Resource consents and other methods of implementation
- water and air
- land use

Figure 1-2: Hierarchy of power sourced from the Regional Policy Statement for Otago.

The Queenstown-Lakes District is situated in the Otago Region as shown by Figure 1-3 below.

Figure 1-3: Location diagram of Queenstown-Lakes District sourced from www.mfe.govt.nz.
1.6. CONCLUSION

It has been the focus of this chapter that the interpretation of Part II and its relationship with the rest of the RMA does involve some serious difficult issues of interpretation. What is sustainable management? How do you manage the effects of developments? What is an outstanding natural landscape? What are amenity values and how do you enhance them?

All these are questions that have been raised within this chapter which have no precise answer. Part II of the RMA involves subjective language that allows every reader to interpret the words differently with respect to their time and surroundings. The words in Part II are not supposed to be taken literally or in a way which aims to extract an exact meaning. They are meant to be broad and are intended to allow the application of policy in a general way.\(^{39}\) It is this statutory uncertainty that has, in part, allowed for such vigorous public debate to rage over the development/protection issue.

The inherent difficulties in the interpretation of Part II of the RMA does not absolve consent authorities, such as the QLDC, and the courts from wrestling with those problems or justify the sidetracking of Part II. It requires that the resolution of cases be approached with the statutory and district wide objectives in view.\(^{40}\)

---

\(^{39}\) NZ Rail Ltd v Malborough D.C. (1994) NZRMA 70.

\(^{40}\) TV3 Network Services v Waikato D.C. AP55/97, 2 NZED 718, [1997] NZRMA 539.
2. DISTRICT DEVELOPMENT DEBATE HISTORY AND ISSUES

2.1. INTRODUCTION

This chapter gives a brief history of the Queenstown-Lakes District (QLD) in relation to the geological processes that created its form and the interaction that humans have had with the area. It will then discuss the development debate itself and some of the driving forces behind it such as: the specific stakeholders, population and tourism growth trends, and the fragmentation of rural land.

2.2. HISTORY

The Wakatipu Basin ("the Basin") landscape has been created through glacial and fluvial processes. The glacial advances began over 50,000 years ago and finished around 18,000 ago. Once the glaciers retreated much of the Wakatipu Basin would have been part of a much greater Lake Wakatipu. It is these ice and water movements occurring within a schist rock base that have created the outstanding block mountain ranges and flat lowlands that we see today.\(^{41}\)

Figure 2-1: The Wakatipu Basin with the Shotover River and Lake Hayes. Sourced from www.photonewzealand.co.nz

The Basin has undergone huge change over the last 500 years through the arrival of firstly Maori and then European settlers. The changes have not taken the form of large landform changes but through human interaction with the landforms in which they lived. The main change has been due to the introduction of sheep, which led to major burns of native vegetation and scrub. This grazing changed the landscape to the bare open fenced land that is still characteristic of parts of the Basin today. The gold rush in the early 1860s was the initial reason for major settlement to occur in the area. Queenstown and Arrowtown flourished during this period. However once the inevitable slowing of the gold rush occurred, pastoralism took over as the major revenue earner. People began to plant exotic trees such as Poplars, Silver Birch and Conifers in their thousands. As with most of pastoral New Zealand there was an attempt to recreate the Arcadian landscape of rural England.

The district steadily grew until a road from Kingston to Queenstown was built in 1926. This new and improved access route allowed people to get to the area relatively quickly and cheaply. It was this new ease of access to an area of outstanding beauty that opened up a whole new industry for the area, tourism.

Today the Basin sees new pressures on the landscape with the demands on the land for lifestyle units, holiday homes and residential living interspersed amongst established farmland. This is the issue that will now be discussed.

2.3. THE DEVELOPMENT DEBATE THUS FAR

Debate over subdivision development and its effect on landscape values in the Wakatipu Basin is no new issue. However it is only in the last 2-3 years that the debate has come under national scrutiny. The media has played a large role in heightening the public awareness of the debate. While this has been occurring the EC has been struggling with the actual planning issues. In addition to this the Parliamentary Commissioner for the Environment (PCfE) has written a report called Managing Change in Paradise: Sustainable

---

Development in Peri-urban Areas. It has assessed the current planning regime in 6 areas of the county, one of these being the Wakatipu Basin. This report is an impartial assessment of the district and national planning process that adds even more fuel to the intense public debate.43

THE STAKEHOLDERS:
Within any debate there is always a set of stakeholders who carry the main brunt of the debate burden. The groups can be broken down into 7 major categories.

1. Many landowners want to develop their land for rural residential use. Large sums of money can be made from subdividing rural properties in the Wakatipu Basin; perhaps much more than from traditional pastoral farming.

2. The service industry that supports the developments. These include the surveyors who control the project (e.g. Clark Fortune McDonald and Paterson Pitts) through to the companies that actually do the construction and installation of services (e.g. Works and Beca). These parties are interested due to the fact that their livelihood depends on there being continual development in the area.

3. The people who have already settled in the area but do not like the development as it destroys their view, takes away their privacy or just changes the feel of the area.

4. The tourism industry has interests in both sides of the debate. The industry needs the natural environment to present a fictional idyll and development to accommodate and support the industry so that the tourists keep coming to the area.

5. The people who want to come and live in the Basin, and share in all the area has to offer. They would be hoping that development does continue.

6. The planners at CivicCorp are undertaking the day to day running of the resource consent process. If they are seen to be doing a poor job by the public and council they may lose their current contract.

7. The mayor and council create and authorise the district plan, make the
decisions with respect to resource consents and are charged with
protecting and enhancing the environment and economic and social
activity in the district. Their actions will directly affect how the
community perceives them, and in the end whether they will be re-
elected.

2.4. THE MEDIA DEBATE

Over the last 12 months there has been continual high media interest in the
development that has been taking place in the QLD, especially the Wakatipu
Basin. The debate has slowly built into a matter of national proportions on
which everybody seems to have an opinion. The Otago Daily Times (the
ODT) has played a significant role in the debate by being one of the first major
papers to publish an article on the growth in the region: (Philip Somerville’s
article titled, “Queenstown’s new gold rush”\textsuperscript{44}).

Day to day it would be a surprise not to find at least one article relating to the
QLD in relation to this issue. In the last 10 months there have been over 100
articles printed in the ODT that have related to development in the QLD.
Figure 2-2 below shows some of the headlines that have been generated
around this debate.

Wakatipu ‘stupidity’ slammed by Neill

Call to eject mayor and 3 councilors

Landscape architect critical of ‘hands off’ approach

Too important for local politics

Wakatipu development cause for shame

Arguments against zoning plan criticised

Council to fight planning ‘straitjacket’

Heads should roll, says environmental society

Council ‘hellbent’ on destroying and devaluing Queenstown area

Figure 2-2: Headlines taken from the ODT in relation to the development debate in the QLD.

It has not only been the newspapers that have been publicising the debate. National magazines and television networks have also jumped on the media bandwagon. TV3’s 20/20\(^\text{45}\) and TV ONE Late Night\(^\text{46}\) have contributed to the debate. In addition to this major magazines such as North & South\(^\text{47}\), The Listener\(^\text{48}\), National Business Review\(^\text{49}\) and even TIME magazine\(^\text{50}\) have printed articles. All these have shown glossy pictures of the Wakatipu Basin in all its glory and implying that the area would be destroyed if the ‘development avalanche continues’. Within these television and magazine stories concerned residents of the Basin have continually been advocating their unrelenting distaste for the council’s attitude toward development. Much of the debate that has been highlighted to date has revolved around supposedly inadequate resource management by the QLDC through an inadequate District Plan and a biased Planning Committee.

In addition to this a war of words has been taking place between the Mayor, Mr Warren Cooper, and the resident actor Sam Neil. It is this conflict between

---

\(^{45}\) TV3 20/20, Spectacular Views, 26 November 2000

\(^{46}\) TVNZ TVOne, Part I and II: Queenstown Development, 16 and 17 April 2001


two strong minded and very high profile individuals, which has really put this issue under the national spotlight. In some ways the conflict between these two individuals has become as big as the underlying issue itself. The cartoon below shows how Garrick Tremain perceives the current “over-development” debate.

The debate has become a very personal one. Warren Cooper has said that Sam Neil and other residents in the area want to “pull up the development drawbridge” as they already have their piece of paradise and they don’t want any intrusion. Classic acronyms that Warren Cooper has used many times for the landowners who do not want development are NIMBYs (Not In My Back Yard) and BANANAs (Build Absolutely Nothing Anywhere Near Anyone). He also said that Sam should stick to acting; a personal jibe that really gets this debate nowhere.

Figure 2-3: A cartoon using Sam Neil’s wine label, “Two Paddocks”, to highlight the difference between Sam Neil and Warren Cooper’s vision for the Wakatipu Basin.  

---

Sam Neil and others reply by saying that Warren Cooper and the council are a group of demi gods who have no sense of community whatsoever and are destroying an area of great beauty. It is disappointing to see community leaders resort to these sorts of slander tactics rather than debating the actual issues and trying to resolve them. This is easy to say, however in reality, feelings are running high and the media’s twist on events helps to fuel the fire.

All of this personal conflict and debate is interesting and it sets the scene in relation to the conflict that is occurring. But what are some of the real pressures and issues that underlie the over-development debate?

2.5. TOURISM

The QLD has a huge tourism industry that is the backbone of the economic wellbeing of the area. It has been estimated that 95% of all jobs in the Queenstown area are either directly or indirectly related to tourism. The importance of this industry to the rest of the country is also important. Queenstown has been identified as a flagship for tourism for the rest of the country. For the year ending May 2001 the QLD had 10% (or 2,627,489) of the total visitor nights in New Zealand (view Table 2-1 below).

<table>
<thead>
<tr>
<th>Total N.Z. Visitor Nights in QLD for the Year ending</th>
</tr>
</thead>
<tbody>
<tr>
<td>May-98</td>
</tr>
<tr>
<td>--------</td>
</tr>
<tr>
<td>Number</td>
</tr>
<tr>
<td>Percentage</td>
</tr>
</tbody>
</table>

Table 2-1: Table information from [www.statistics.govt.nz](http://www.statistics.govt.nz)

The table also shows that the QLD has been increasing its overall percentage take of visitor nights. This is in the face of a continually growing national tourism industry. The QLD is now the fourth most popular tourist destination behind Auckland, Tauranga and Christchurch.

---

A provisional report called the 'Tourism Satellite Account' has been established for 1998 through to 2000. This estimates the value of tourism in monetary terms. The report found that tourism added around $9,548m to the New Zealand economy.\textsuperscript{53} If we say that the QLD visitor night percentage is equivalent to the proportion its tourism industry adds to the country's economy we could say that it is worth $955 m. This is a crude way of highlighting the economic significance of the area however it should give the reader some guidance.

So what are all these tourists coming to see? The area is an adventure sport playground, from bungy jumping to jet boating to skiing to mountain biking. However underpinning all of this is one thing, the 'outstanding natural landscapes and features' of the area. The QLD is a beautiful place and that is the main reason why people come.

Many people have said that the development occurring will 'kill the goose that lays the golden eggs'. A valid analogy if the development does actually do this, however many people would say from the trend shown here that this is not happening and development should be allowed to continue. This is a very dangerous stance to take if the effect of development on tourist numbers is not continually monitored.

The importance of tourism in monetary terms is obvious but what about the effects that it has on the environment that supports it. It is widely accepted that it is not tourism that is putting pressure on the landscape but the growth of residential activity relating to the area's growing residential population.\textsuperscript{54} It is therefore important to analyse the issue of residential growth.

\textbf{2.6. Growth}

The Queenstown-Lakes District is growing very quickly. Within the last three Census Reports the QLD has had the fastest growing population in New Zealand (see Table 2-2 below).

\textsuperscript{53} www.statistics.govt.nz
\textsuperscript{54} Lawrence, B (2001) \textit{A model to cope effectively with change Footprints in Paradise-the landscape of tourism}, NZ Landscape Architect Conference, Queenstown, March 2001 (Unpublished).
2001 Census of Population and Dwellings

| Territorial Authority          | 1991 Population | 1996 Population | 2001 Population (Provisional) | Increase or Decrease (\(\%\)
\(1991-1996\)) | Increase or Decrease (\(\%\)
\(1996-2001\)) |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Queenstown-Lakes District</td>
<td>15,123</td>
<td>19,827</td>
<td>25,206</td>
<td>4,704 31.1</td>
<td>5,379 27.1</td>
</tr>
<tr>
<td>Total New Zealand</td>
<td>3,434,952</td>
<td>3,681,546</td>
<td>3,792,657</td>
<td>246,594 7.2</td>
<td>111,111 3.0</td>
</tr>
</tbody>
</table>

Table 2-2: 2001 Census Information from www.statistics.govt.nz

QLD growth is well above the national average and is projected to continue increasing at a long term trend of 5% per annum\(^5\). In addition to this, and probably more important in relation to landscape values, is the correspondingly large increase in Occupied Dwellings in the area (see Table 2-3 below).

2001 Census of Population and Dwellings

| Territorial Authority          | 1991 Occupied Dwellings | 1996 Occupied Dwellings | 2001 Occupied Dwellings (Provisional) | Increase or Decrease (\(\%\)
\(1991-1996\)) | Increase or Decrease (\(\%\)
\(1996-2001\)) |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Queenstown-Lakes District</td>
<td>4,236</td>
<td>5,799</td>
<td>6,906</td>
<td>1,563 36.9</td>
<td>1,107 19.1</td>
</tr>
<tr>
<td>Total New Zealand</td>
<td>1,185,396</td>
<td>1,283,991</td>
<td>1,357,983</td>
<td>95,595 8.3</td>
<td>73,992 5.8</td>
</tr>
</tbody>
</table>

Table 2-3: 2001 Census Information from www.statistics.govt.nz

This statistic shows that there is immense pressure being put on the district in relation to acquiring and therefore building new accommodation, some of which is being directed at the Wakatipu Basin itself. One point of argument put across for building in the Basin is that it is required so that the region’s workers can be housed. There is reported to be a considerable shortage of temporary worker accommodation at present.\(^6\) However this is an entirely separate problem as the shortage is for affordable housing that is either in, or close to the main centres (Queenstown, Arrowtown, and Frankton).


The type of residential developments that are occurring in the Basin at present produce land values in excess of $300,000 per lot.\textsuperscript{57} This is certainly not in the realm of short term low cost housing. Therefore this pro-development argument has little substance. Development in the Basin is for relatively wealthy New Zealand and overseas individuals who see the area as a paradise of which they want to enjoy.

Currently there are an average of 400 new titles issued per year in the Wakatipu Basin.\textsuperscript{58} This should highlight the substantial fragmentation of land that is taking place. The following 2 figures show this fragmentation of land in graphical form by showing the cadastral layout of an area to the north west of Lake Hayes at time intervals of 1986 and 2000.

Note: All of the title boundary changes have not been shown here.

\textsuperscript{57} TV3 20/20, Spectacular Views, 26 November 2000.

The following aerial photographs also show fragmentation of land and the subsequent development that has occurred. They help give a better picture of the sort of activities that are being carried out on these smaller rural lots.

Note: All of the aerial photography shown below has been obtained from www.linz.govt.nz and is public information.
Figure 2-6: An aerial photograph of development just to the north of Lake Hayes.

Figure 2-7: An aerial photograph of development around Dalefield, Mountain View, and Littles Roads.
The photographs show the meandering driveways that cut across the land with their associated dwelling situated at the end of these driveways commonly in the centre of the lots. In addition to this, intensive planting has taken place around the boundaries of the lots that helps to decrease the open space amenity that many local people feel is a major and important characteristic of the Basin. While the SDI printouts and photographs show some of what has happened due to growth to date it is also important to outline the continuing pressure on the region in relation to subdivision development. Figure 2-9 below is a GIS output that shows current resource consent applications for subdivision in the Basin.
Figure 2-9: This GIS output has been taken from www.glcd.govt.nz and shows proposed subdivision development in the Wakatipu Basin.

The red shaded areas show historical subdivisions that have taken place since the GIS system has been up and running which is 1999. The pink lines show proposed subdivisions that are still pending resource consent. This highlights the continued pressure being put on the area in relation to fragmentation of rural land and also the subsequent building that is taking place.

The reason for landowners wanting to undertake this sort of development on relatively productive pasture is due to one major reason. Large sums of money can be made from undertaking rural residential development in this area with very few of the usual development risks (i.e. costs of finance, cost of development, certainty of sales). At present the certainty of a very good return is high and many landowners have seen this opportunity and have run with it.

One of the key tensions at the heart of the debate about managing the Wakatipu Basin with respect to development is the differing perspective on what constitutes property rights\textsuperscript{60}. There are many valid landownership arguments that these landowners raise in relation to their being allowed to develop. Why should a local council be able to tell someone what he or she can and cannot do with his or her land?

How is it that a landowner on one side of the fence can develop their land but the other cannot? Why should one landowner have to protect a landscape feature for the rest of the community at their own cost? Despite these valid questions even the traditional common-law doctrine that ownership of property carries with it absolute rights of use and enjoyment has always been subject to limitations.\textsuperscript{61}

Recently a debate on “Whose landscape is it anyway?”\textsuperscript{62} was organised where prominent individuals from both sides of the debate argued their respective points of view in relation to public right to preserve and the private right to develop. A prominent planning Lawyer, Warwick Goldsmith, argued for the legal rights of the private landowner and said that if it is left to private market forces the natural residential density that the Basin can handle will be reached. Barry Lawrence, spokesperson for WESI, and Jeff Williams a concerned citizen, argued that no one individual could own the landscape. They said that if we look at the Pigeon Bay criteria for assessing landscapes none of the criteria outlined could be owned. Therefore it is everyone’s. In rebuttal to the market forces comment they believe that the cumulative effects have already gone too far, therefore the market is not working. This is a sentiment held by Judge Jackson who is currently presiding over the landscape cases being heard in the EC.


\textsuperscript{61} Ibid.

This chapter has given some insight into the natural and human processes that have formed the Wakatipu Basin. It has also shown the very public side of the ‘over-development debate’ as the media has portrayed it. There are very strong personal opinions that have created intense conflict. In addition to all of this emotive and political grandstanding this section has showed that there are some underlying pressures; the highly valued tourism industry and the importance of it, the growth pressures that continue to attack the region and some of the arguments in conjunction with land use rights.
3. THE REGIONAL AND DISTRICT PLANS OF THE QUEENSTOWN LAKES DISTRICT

3.1. INTRODUCTION

Chapter 1 examined some of the more important sections (i.e. Part II) of the RMA and the hierarchy that implements the Act in practice. It is now important to look directly at the Otago Region and more specifically the QLD to see how these authorities are carrying out their statutory responsibilities under the RMA. The first of these responsibilities is the creation of policy, rules, and regulations. The second is the implementation of these rules through the resource consent process. The tools to undertake the above are the regional and district plans. These should be helping to promote the sustainable management of the area’s natural and physical resources.

This chapter is broken up into 2 main parts. Each of these relates to the main issue of this dissertation; the landscape and subdivision development issues in the Wakatipu Basin. The first outlines the Otago Regional Policy Statement (ORPS) and how it relates to the issues. The second takes a close look into the turbulent development of the 1998 QLD Proposed Plan. This section will encompass a discussion of the recent Environment Court decisions and the changes that these decisions have had on the plan and district to date.

3.2. PART 1: THE OTAGO REGIONAL POLICY STATEMENT

The purpose of the ORPS (as stated in section 59 of the RMA) is to provide an overview of the resource management issues of the Otago region and the ways of achieving the integrated management of its natural and physical resources. To achieve this, section 30 b) of the Act also provides that the Regional Council shall have, as one of its functions, the preparation of objectives and policies in relation to any actual or potential effects of the use of land that are of regional significance.

The Otago Regional Policy Statement was deemed operative on Thursday 1st October 1998. This is not the only document that the regional authority
produces. It is followed by a number of regional plans with actual rules that cover water, air and discharges. It is interesting to note that no Land Plan was created due to the feeling that the issues dealt within it would overlap the statutory responsibility of the district authorities.

The main sections of the ORPS that concern this dissertation are the Regional Description and Land sections.

3.2.1. REGIONAL DESCRIPTION

Right from the outset the ORPS acknowledges the significance of the QLD issues. It outlines the QLD projected increase in population, the area’s importance to the region and country’s tourist industry, and also mentions the conflict that has arisen in the area due to subdivision development. Otago’s landscape is also continuously acknowledged as being an integral part of the huge tourism industry that flourishes in the QLD.

3.2.2. LAND

This section of the ORPS outlines broad issues, objectives, policies and methods that can be directly related to the issues of landscape management and subdivision in the Wakatipu Basin.

Issue 5.3.4 states that

_Otago’s outstanding natural features and landscapes are threatened by inappropriate subdivision, use and development._

And that

..._protection is required ... so that those features and landscapes will be there for future generations to enjoy and as the basic resource for recreation and tourism._

Now that the issue is raised, the ORPS sets out an objective to back up this issue.

Objective 5.4.3 is

_To protect Otago’s outstanding natural features and landscapes from inappropriate subdivision, use and development._

And that

It is important to protect them ... because of their ... , uniqueness, or because they are representative of the elements that particularly
characterise Otago, or because of their visual, cultural, historic or scientific significance ....

The ORPS then goes on to outline a policy, which is the course of action to achieve the above objective. Policy 5.5.6 is

To recognise and provide for the protection of Otago's outstanding natural features and landscapes which:

a) Are unique...

b) Are representative ... of Otago’s characteristics.

c) ... are of cultural or historical significance.

d) Contain visually or scientifically significant features.

e) Have ... cultural, historical or spiritual value ...

The ORPS then goes on to say that outstanding natural landscapes and features need to be identified so that they can be protected from inappropriate subdivision use and development. It then states that this identification should be based on objective criteria and undertaken in consultation with the community. Finally the policy includes some possible means of achieving protection, which includes; voluntary arrangements, covenants, the resource consent process or where necessary and appropriate, purchase. They are only 'possible means' as the ORC (and any regional council) is not the consent authority for subdivision applications and land use and cannot support their policies with enforceable rules.

The question that now needs to be answered is, “What does this Policy statement achieve and are its policies binding on the QLDC”? It is obvious from the above extracts that the ORPS does not really say anything different than the RMA. What it does do is apply the broad principles set out in Part II of the Act to the Otago Region. This is actually important as it gives a view of the issues in the Otago Region in relation to the legislation.

In regard to the second part of the question, it is written in the Act that the District Plan must not be inconsistent with the policies set out in a Regional Policy Statement. All this means is that the QLD Plan should broadly follow the lines of the policy statement.

We find that this is as far as the Regional Councils take the issue of subdivision, use and development as the management of these activities is undertaken by the Territorial Local Authority. It is the Local Authority that
creates the policy, rules and regulations for such activities in a particular area and it is this that will be looked at now.

3.3. PART II: THE 1998 QLD PROPOSED PLAN

The ORPS took 7 years to become operative once the RMA was passed. In contrast we find that 10 years on, the QLD still does not have an operative district plan. In Chapter 2 we looked at the history of the area and the development debate that has been occurring in the media to date. This part is going to give a short history of what has happened in regard to the creation of the plan since the district amalgamation occurred, up to the first main Environment Court (EC) decision in 1999. It will then look at what judgements the EC has made with respect to the objectives, policies and rules within the 1998 Proposed District Plan.

3.3.1. HISTORY

In mid 1980 some of the small authorities from the eastern shores of Lake Wanaka right through to the West Coast amalgamated to create one plan for all the districts. This was called Lakes – Queenstown Wakatipu Combined District Scheme. In this pre-RMA stage, the councils saw new and changing pressures on land use. The councils saw that farming was becoming less economic and therefore set up a rule that for every 100 acres of land an individual owned, they could subdivide off up to a total of 4 acres.

Barry Lawrence, spokesperson for the Wakatipu Environmental Society Inc (WESI), believes this to have been the turning point for the district with respect to over-development. In 1992 a new council was elected under a new name and slightly different area, it was called the Queenstown – Lakes District. This district had been created in 1989 as a result of Local government restructuring. The newly elected council tended to promote a preservationist attitude. This council set about developing a proposed plan under the RMA with Scheme Change 99. It was their intention to have the new plan operative

---

63 Personal Communication, Barry Lawrence Spokesperson for the WESI, 16 May 2001
within 18 months, a goal that many Territorial Authorities had in the beginning that never came to fruition. They undertook many community communication projects such as:

- Settlement Strategy Studies (1993)
- Draft Strategic Plan: *Shaping Our Future* (1994)

All of these made reference to landscape values and subdivision development.

One of the important aspects of Scheme Change 99 was that subdivision in the Wakatipu Basin would be considered sustainable if lot sizes were restricted to 150 hectares minimum. It was the view of the council that under this approach it was unlikely that the landscape would be compromised by significant additional development. As would be expected with such a radical approach this was not accepted by the farming community.

The council then came up with a new strategy of protecting the outstanding natural landscapes of the area, by having 'Areas of Landscape Importance' (ALI’s). Once the council had defined these areas they created rules in relation to activities occurring within them. The main rule was that all subdivision and building (except farm accessory buildings) in these areas were non-complying activities. Once again the farming community took exception to this and in 1995 the council was almost totally changed through the local body elections.

In a last ditch effort to get their plan out into the public arena the 1992 – 1995 council notified it just before they were voted from office thereby making the 1995 plan the district’s proposed plan. This ignited significant interest from the public. The notified plan attracted 4000 submitters with 22,000 points of submission and cross submission. Submissions were mixed in support and opposition to various parts of the notified plan. The new council then went about undertaking hearings, and in 1998 a revised proposed plan was released. This new plan (“revised proposed plan”) removed any reference to ALI’s (refer to Appendix 1). It also changed many of the rules relating to subdivision development by changing the status of some rural subdivision and
building activities to controlled activities thereby giving some landowners the
ability to subdivide and develop as of right. Table 3-1 below shows the
subdivision standards for the Rural Zones under the revised plan.

<table>
<thead>
<tr>
<th>ZONE:</th>
<th>Controlled Activity:</th>
<th>Discretionary Activity:</th>
<th>Non-Complying Activity:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural General</td>
<td>Min lot size 20 hectares</td>
<td>Lot size between 20 hectares and 4 hectares.</td>
<td>Lot size &lt; 4 Hectares</td>
</tr>
<tr>
<td>Rural Residential</td>
<td>Min lot size 4000m²</td>
<td>none</td>
<td>Lot size &lt; 4000m²</td>
</tr>
<tr>
<td>Rural-Lifestyle</td>
<td>Min lot size 1 ha provided that the total lots to be created be subdivision shall not have an average less than 2 hectares</td>
<td>none</td>
<td>If controlled activity status is not complied with.</td>
</tr>
</tbody>
</table>

Table 3-1: Subdivision Standards for the rural zones. Sourced from the 1998 QLD Proposed D.P.

WESI believed that these new policies and rules were inadequate and has
lodged referrals to the Environment Court to reinstate landscape protection in
the way of new policy statements and development rules. It is these EC
decisions that will now be addressed.

3.3.2. THE QLD 1998 PROPOSED PLAN AND THE EC

Over the last 24 months there have been many changes to the revised
proposed plan. This is due to the EC decisions that have been made over this
time.

There have been five EC judgements made to date with each of them holding
different levels of importance. These are listed below.

- WESI v QLDC Decision No: C180/1999, Digest Reference: 5 NZED 65
- WESI v QLDC Decision No: C74/2000, Digest Reference: 5 NZED 441
- WESI v QLDC Decision No: C105/2000, Digest Reference: 5 NZED 595
- WESI v QLDC, Decision No: C186/2000, Digest Reference: 6 NZED 52
- WESI v QLDC, Decision No: C75/2001, Digest Reference: not available

The EC has broken the hearings up into two sections;
1. issues relating to objectives and policies of district wide issues (Part 4 of the Plan), and
2. issues relating to actual rules and regulations of land use and subdivision in the rural areas (Parts 5 and 15 of the Plan).

Objectives and Policies:
The first case that was brought before the EC related to the landscapes of the district and what sort of objectives and policies were required to give them protection.

In judgements previous to the QLD cases the EC has described the process of preparation of a district plan under the RMA. It identified three substantive stages in deciding the contents of a district plan. These were:

1. Identification of the facts, the significant issues for the district arising out of those facts and then sequentially, the other contents of the district plan;
2. The section 32 analysis of the proposed objectives, policies and rules generated by 1.; and
3. The ‘broader and ultimate issue’ as to whether “on balance we are satisfied that implementing the proposals would more fully serve the statutory purpose than would cancelling them...”\(^\text{65}\)

In the QLD case the court held that:

> The council should, as part of stage (1) in preparing its plan, have identified the outstanding natural landscapes and any other landscapes to which particular regard should be had. It needed to identify the landscapes that qualify under section 6b), and/or section 7c) and 7f) of the RMA so that it could identify the issues relating to the management of effects on landscapes. ...the council has failed to carry out an essential step in the process – the fact finding.\(^\text{66}\)

This statement is very important. The EC has said that the council has been flawed in its plan producing process right from the start. If the first stage of a

\(^{65}\) Countdown Properties (Northlands) Ltd v Dunedin C.C. AP214/93, 3 NZPTD 471.

multi-staged process is not undertaken correctly it may be suggested that the rest of the process will not provide the quality results required in such an important area. The court felt that neither plan had really identified the outstanding natural landscapes and features themselves. Judge Jackson believed that by including a list of these in the proposed plan, not unlike those identified in the Otago Regional Landscape Study, the council could establish a threshold as to what the district regards to be outstanding. In addition to this the court also stated that over-development has actually occurred in the Basin. The court has said:

*We find that there has been inappropriate urban sprawl in the Basin ... we consider the cumulative effects have already gone further than is desirable. In the outstanding natural landscape of the Wakatipu Basin, and on the outstanding natural features in it, any further structures are undesirable – they should be avoided.*

The court found that before it could give any rulings as to issues and policies it had to decipher what parts of the Wakatipu Basin had attributes as set out in Part II of the Act. The court proposed a hierarchy of landscapes in the area consisting of 4 categories:

- outstanding natural landscapes (Wakatipu Basin) ("ONL")
- (other) outstanding natural landscapes
- visual amenity landscapes ("VAL")
- “other” landscapes.

At this point the court was only looking at the Basin, however references have been made to cover the entire district. The map showing where the court perceived the outstanding natural boundary to be in the Wakatipu Basin is shown on Figure 3-1 page 46. In trying to determine the lines that would delineate the ONL and ONF from the VAL, the court used an amended Pigeon Bay landscape assessment criteria. This has been outlined in Chapter 1. It highlighted aspects like the natural science factors, its aesthetic values, and

---

its expressiveness and transient values. Judge Jackson has continually noted that this line is not fixed, nor is it a zone boundary line. It is a fuzzy line that gives some direction as to when a development proposal may be close to or within an outstanding natural landscape or feature. Each application for resource consent should be assessed to see if the land lies within an outstanding landscape or feature. The court has asked the parties to offer suggestions as to how this line needs to be altered. There is still no consensus between the parties and it looks as if this debate will continue. A problem with this sort of task is that it does not give landowners any real certainty in relation to whether they will find it hard to develop or not.
Outstanding Natural Landscapes and Features as outlined by the Environment Court

Figure 3-1: This map is taken from the Terra View topographical map CDs as supplied by TL Surveys. It shows the ONL and ONF demarcations as decided by the EC in decision C180/99.
Judge John Jackson, who has been presiding on these cases from day one, then went about trying to amend Part 4 of the plan, District Wide Issues. The original proposed plan had a rather large section dedicated to these issues while the revised plan cut back significantly. The revised proposed plan gives 11 policies for helping to achieve the district wide objective:

\[\text{Subdivision, use and development being undertaken in the District in a manner which avoids potential adverse effects on landscape values.}\]

The court changed this to read:

\[\text{Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.}\]

The court also altered the revised plan policies and added 5 new ones to enable the council to fully achieve this objective. The main qualities of the ONLs trying to be protected in the policies are firstly the fact that they are outstanding, and second that they are 'open', that is mainly treeless. This has created significant debate over native bush regeneration. It has been accepted by the court that the use of native bush to enhance or hide a development is to be accepted in some areas. It is likely that the court is going to change the policy relating to openness to allow for this aspect.

The main features of the VALs are that they are not open and that they have an obvious level of human activity. These are pastoral or Arcadian landscapes with more houses and trees, greener grasses and tend to be on the district's downlands and terraces. They actually represent the introduction of northern hemisphere cultural concepts. Judge Jackson has noted that these are almost more bitterly fought over than the outstanding natural landscapes. Existing residents do not want further domestication of the landscape they enjoy. Despite this, those residents are often reluctant to accept restrictive covenants on their own land, which prevent further subdivision and residential
development, even when they are trying to stop other people, do exactly the same thing.\textsuperscript{69}

Secondly, in ecological terms how valuable are these landscapes really? They may be idyllic, but they are certainly not unmodified. The arguments for retaining them really rely, not on ecological, but on aesthetic grounds.\textsuperscript{70} Therefore these landscapes are important as specified under section 7. This therefore affords them less protection than the ONLs under Part II of the RMA.

A comparison of the revised proposed plan policies and those produced by the EC can be achieved by looking at the two documents in Appendix 1 and 2 respectively. The comparison will show a significant lack (on the part of the proposed plan) of recognition of the substantial landscape issues that are so obvious in the Wakatipu Basin and wider QLD.

Judge Jackson, in his address to the Landscape Architects annual meeting, admitted that the policies are somewhat repetitive, but the basic structure is to attempt to impose a hierarchy in which it is very difficult to subdivide and develop at the top – the outstanding natural landscapes – and increasingly less difficult down through the categories outlined earlier.\textsuperscript{71}

After battling with deciphering the guiding issues for the region the court had to then go on and consider rules and regulations for how subdivision was to be managed.

\textit{Rules and Regulations:}

The next step for the court was to specify some rules and regulations in relation to land use and subdivision in the rural area. There have been two decisions issued to date (Decision C186/2000 and C75/2001). The first of these attempted to come up with changes to Part 15 (Subdivision Development) of the revised plan.

The court commented that the revised Plan had not been satisfactory in controlling the cumulative effects of development, and particular care was necessary now. The case mainly revolved around the Rural General Zone


\textsuperscript{70} Ibid.

\textsuperscript{71} Ibid.
and how subdivision development should be managed in the revised plan in areas of ONLs and VALs. The court discussed a variety of options; from all subdivision in these areas becoming non-complying or discretionary activities, to outlining exhaustive assessment matters for dealing with resource consents.

Judge Jackson issued an interim decision that set out a revised Part 15 of the plan, which he left open for public comment. The important parts of this decision were that:

- for the Rural General Zone all subdivision that was to take place was considered to be a special discretionary activity with no minimum lot size, and
- subdivisions of land in this zone would need to go through an assessment process before application could be approved.

These assessment matters were all added to Part 15.

These assessment matters are important as they required the council to classify the landscape area over which the subdivision was proposed. That is, is it in an ONL, VAL or other landscape? Once this had been done, the council was then required to look at the assessment matters for that particular area, some of these were as follows:

- What is the potential of the landscape or feature to absorb development?
- What effect does the development have on the openness of the landscape?
- What are the cumulative effects of development on the landscape?

All of these assessment matters can be found in Appendix 4 and when compared with those of the revised proposed plan (in Appendix 3) we find once again that the original matters were barely adequate to give the consent committee any guidance at all. It is true that more is not always better and as will be highlighted by the next case not all of the points made in this case have been retained.

However giving the consent committee better guidance as to what they need to look for when presented with a subdivision proposal is vital to achieving any landscape protection for the region.
The latest EC case (C75/2001) gave little reference to many of the issues highlighted above and really concentrated on Part 5 (Rural Areas) of the revised plan. This part of the plan gives policies, objectives, rules and regulations in relation to resource consents for land use activities and building in rural areas. The court wrote in two main changes to this section that may affect development in the area in a huge way:

1. The construction of all new buildings is to become a discretionary activity instead of, in some cases, a controlled activity under the revised plan.

2. The complete alteration of section 5.4 Resource Consents – Assessment Matters – Rural Zones.

The court did away with the previous section and inserted a whole set of new assessment criteria to allow for what they had ordered in decision C180/99. These new criteria had no reference to whether the application was for a controlled, discretionary, or non-complying activity as was the case previously. All of the different consents require the same assessment matters. They tend to mirror the inherent ideas brought up in C75/2000 in relation to assessment matters for subdivision resource consent applications. These two sections can be found in Appendix 5 and 6. The major difference between the directions of the two is clear. It would appear that the new amended Part 5 is much more prescriptive and sympathetic to the landscape issues outlined earlier. This is still an interim decision, with respect to Part 5 changes, and therefore gives the Queenstown-Lakes District Council the chance to question some of the changes made.

Due to the heavy weighting of rules and regulations on the protection of the area’s landscapes, some people believed that the EC had gone too far. The mayor of the district, Warren Cooper, made a public statement saying that the decisions were: “Alice in wonderland stuff...” and a “… dopey and ill-conceived solution”.

The EC has left Part 15 (Subdivision Development) relatively unchanged and directed that council draft all changes needed to make this part consistent with Part 5 as amended by this decision.

To put the critique of the revised proposed plan in perspective, an assessment of district plan quality has been carried out. This assessed 34 notified plans
throughout the country. The QLD 1998 Proposed Plan received the third highest rating with a score of 62%.\textsuperscript{72} This assessment was based on things such as clarity, issue identification, internal consistency, organization, and presentation. It would appear that if the revised proposed plan that is receiving so much attention is one of the best in New Zealand then it looks as if the rest of the country has a real problem with plan quality as well.

3.4. CONCLUSION:

This chapter has illustrated the importance of the Environment Court in the whole process of the QLD obtaining an Operative District Plan. It firstly looked at the ORPS and how it gives little guidance to the local authorities other than highlighting regional issues of importance that could easily be determined from looking at the RMA itself.

It then went on to look at how the EC has gone about looking at the issues of the QLD and also how it has attempted to solve the problems by creating objectives, policies and rules for the area in relation to landscapes and development. An important point to note is that the EC has tended to minimise the use of prescriptive rules and has used non-statutory techniques to achieve the purpose of the Act. This is highlighted by the assessment matters that have been created and the removal of a minimum lot size area in the rural general zone.

The EC has certainly not finished with its review of the district and its plan. In fact it has already begun looking at other areas such as the Upper Clutha. A report in the Otago Daily Times highlights a 20 page decision released on the 15\textsuperscript{th} of August 2001 in which the court determined the Upper Clutha area was not only larger than the Basin, but the landscape issues were far more complex.\textsuperscript{73} If the length of time it has taken to make headway (i.e. 2 years) in the cases involving the Wakatipu Basin is anything to go by, the prospect of the district obtaining an operative district plan in the next 2 years is very slim.


In addition to the difficulty of the issues under consideration here there is also the ever increasing backlog of cases, of which there were 2940 awaiting determination on 30\textsuperscript{th} July 2000.\textsuperscript{74}

\textsuperscript{74} www.courts.govt.nz
4. THE QLD PLANNING PROCESS

4.1. INTRODUCTION

There are two sides to the planning process; the creation of the plan and the administering of it. In the previous chapter the EC decisions in relation to the creation and alteration to the QLD proposed plan were discussed. This will not be revisited here. However the responsibility of the QLDC to undertake the administration of this plan will be.

The QLD Planning Committee has been under intense scrutiny for how it has handled many of the resource consent applications that have been lodged in recent years and also the way in which it has implemented the plan rules. This chapter is going to take a closer look at how resource consent applications are dealt with in the area and also delve into some of the arguments that are being raised against the Planning Committee.

4.2. STRUCTURE AND PROCESS

In 1995 when the new council was elected into office there was a decision made that all resource management and regulatory services for the council were to be outsourced to a private company. The council would still be making the pertinent planning decisions, however the running of the day to day activities in relation to resource consent applications and the running of plan regulations would fall on this private company. In 1998 CivicCorp, an Australia New Zealand planning company won a contract with the QLDC to undertake this task. It is totally self-sufficient and achieves profit through setting application lodgement fees and the like.

At a recent presentation in Wanaka, CivicCcrp highlighted a number of advantages of outsourcing:

- it saves council time and money,
- it allows the council to put its resources into other parts of local government,
- it maintains autonomy of policy making,
it allows for transparency of costs and service delivery, and
• the outsourcing has increased timeliness of building and resource
   consents.\textsuperscript{75}

The process of obtaining a resource consent from the QLDC (not including the
statutory requirements) is as follows:

1. Lodge the application with CivicCorp and pay the required fee.
2. CivicCorp planners then read the application, decide if extra
   information is required and write a report on whether the resource
   consent application should be granted. CivicCorp has the delegated
   authority to approve or decline particular types of application. If this
   authority does not apply, the council Planning Committee would then
   be required to make the decision.
3. The QLD Planning Committee would then receive the application and
   planner’s report and decide if the application needs to be notified or
   non-notified.
4. It is then their duty to decide, with the evidence presented and
   provisions of the plan, whether to grant or decline consent, and to set
   conditions.

4.3. THE PLANNING COMMITTEE, CIVICCORP, AND THE PUBLIC

There has been plenty of public dissatisfaction with the Planning Committee.
Two main issues of dissatisfaction are that:

1. They have not notified enough subdivision development applications
2. They have approved too many subdivision development applications
   that are within the ONLs and VALs.

In regard to the first of these concerns some witnesses, in the case WESI v
QLDC C186/2000, gave testimony that they believed too many applications
were not being notified. The court questioned this belief and simply stated
that this did not seem to be the case.

The number and percentage of notifications are shown in Table 4-1 below.

This table shows the percentage of resource consents notified in the QLD compared with the national average. It is clear that the QLD has kept on par or even well above the national average when it comes to notification. It would seem appropriate that the QLD should stay above the national average as they have many more contentious landscape issues that require public input. The first point appears to be an invalid concern.

| QLDC Statistics for Notification of Land use and Subdivision Resource Consents |
|---------------------------------|-------|-------|-------|
| 1998                            | 1999  | 2000  |
| Total Resource Consent Applications | 538   | 724   | 786   |
| Number notified                 | 16    | 55    | 41    |
| % Notified                      | 3.0   | 7.6   | 5.2   |
| National average %              | 3.0   | 3.0   | 3.0   |


Moving on to the second statement we can look at Table 4-2 below and observe that the QLD Planning Committee has declined applications at approximately the same rate as the rest of the country.

| QLDC Statistics for the Declining of Land use and Subdivision Resource Consents |
|---------------------------------|-------|-------|-------|
| 1998                            | 1999  | 2000  |
| Total Resource Consent Applications | 538   | 724   | 786   |
| Number declined                 | 5     | 4     | 8     |
| % Declined                      | 0.9   | 0.6   | 1.0   |
| National average %              | <1.0  | 1.0   | 1.0   |


It is therefore suggested that the Planning Committee are not approving too many applications. However statistics are a good way of hiding the truth and it is impossible to say whether more or less consents should have been declined without
actually looking on the ground to see what has eventuated out of the approved consents.

Judge Jackson in the first EC landscape decision stated that:

*We find that there has been inappropriate urban sprawl in the Basin ...
We consider the cumulative effects have already gone further than is desirable.*\(^{76}\)

It is proposed that this comment from what Judge Jackson has actually seen on the ground is a better indication of whether some resource consent applications should have been declined. This statement implies that some applications in the Basin should have been declined. However Neil McDonald of Clark Fortune McDonald Ltd highlights the point that developers do not generally lodge applications that they know are going to fail. Therefore he says that you would expect very few applications to be declined.\(^{77}\)

Mr McDonald also notes that he believes the Planning Committee has done an exceptional job in relation to subdivision and land use consents in the Wakatipu Basin considering the difficulty in understanding the landscape issues and administering an uncertain and changing plan, which is under huge political and economic pressure. The uncertain nature of the plan through the frequent changes has made it difficult for the Planning Committee to maintain any real consistency in their decisions.

In addition to the two points outlined above the public and media have also attacked the Planning Committee on its record of taking CivicCorp planning advice. The 20/20 item called *Spectacular View*\(^{78}\) stated that in a 6 month period the CivicCorp planners recommended the council turn down half of the applications received. They also said the council approved nearly all of them. This sounds like poor practice however there is another side to the story as outlined by Les McAndrew a member of the Planning Committee. He made the point that the CivicCorp planners do sometimes make an initial judgement

---


\(^{77}\) *Personal Communication, Neil McDonald of Clark Fortune McDonald Ltd, 7 September 2001.*

\(^{78}\) *TV3 20/20, Spectacular Views, 26 November 2000*
against the application but once the application has been heard the advisors often change their advice to, “the council should grant consent”. Warren Cooper feels the contracting of the council’s resource consent functions is not working very well due to the fact that the planners in CivicCorp are too young and do not have the required experience to tackle the QLD landscape issues. The Otago Daily Times has reported that an audit into CivicCorp’s delegated authority for processing resource consents has actually been carried out. The audit suggested some “streamlining” of delegated authority but it largely upheld the process. At present CivicCorp has the authority to approve a large number of resource consent applications. Out of the hundreds of applications that CivicCorp has received over the last three years (shown in Table 4-3 and 4-2 above) the Planning Committee has decided on 29 (5.4%) in 1998, 65 (9.0%) in 1999, and 61 (7.8%) in 2000. It is suggested that the increase in the need for the Planning Committee to be used is due to the uncertain nature of the planning environment, which is in turn due to the EC decisions and the frequently changing district plan.

The landscape issues associated with subdivision development are complex and the Planning Committee is made up of elected councillors who are not experts in landscape assessment or even resource management. In addition to this, suggestions have been made that there are often conflicts of interest between members of the Planning Committee and proposed developments. Calls have been made for there to be use of commissioners to undertake the hearings and decisions for difficult and contentious applications that are outside the delegated authority of CivicCorp. Commissioners could be seen as a means of facilitating better decision making under the RMA. They would have responsibility for approving or declining consent, be impartial, and have the technical background required to be able to understand and apply the particular plan and its provisions in a sustainable way.

---

79 Personal Communication, Les McAndrew member of the Planning Committee, 16 May 2001.
This is especially the case in the QLD due to the new district-wide objectives and development assessment criteria that now need to be applied to every resource consent in the rural area.

4.4. CONCLUSION:

The QLD Planning Committee has been under heavy scrutiny over the last few years. With the pressure of changing plan rules on top of excessive development demands it could be understandable to see the Planning Committee having difficulties. However these difficulties should have been in the administrative side and not surfacing in the degradation of the ONLs and ONFs. In other words the Planning Committee has done an unacceptable job. The visual effects have already gone too far.²⁴ It is these cumulative effects of development that the Planning Committee should be taking special note of (as required under the RMA), it seems that this has not been done. If the policies, objectives and rules outlined to date by the EC are all included in the district plan, the Planning Committee will no longer be able to disregard the cumulative effects of development. The QLD Planning Committee will have to become more educated and prepared to accept outside assistance (e.g. CivicCorp Planners and commissioners) to achieve the individual goals of the revised plan which will in turn result in the sustainable management of the Wakatipu Basin.

In reference to the outsourcing of planning administration to CivicCorp, it is seen that this practice has a positive impact as it relieves some of the pressure on the small QLDC. It should allow more resources (time and money) to be pumped into areas like the monitoring of growth in the Basin and what effect this has on the landscape.

---

5. DISCUSSION

5.1 INTRODUCTION

This chapter seeks to draw on all of the information presented in relation to the QLD and its development and landscape issues and will attempt to give answers to the questions raised throughout this dissertation. There are a number of issues that need to be addressed here. They are:

- The RMA and its ability to promote sustainable management
- The district plan creation and administration process.
- The EC and its right to create rules and regulations in a district plan, and
- The checks on local government.

5.2. THE RMA

The RMA changed resource use in New Zealand from a Town and Country Planning Act regime where “you can only do what we tell you and where” to, an RMA regime where “you can do anything you want just as long as it has no major environmental effects”. The first chapter addressed the fundamental subjectiveness of sustainable management, what constitutes inappropriate subdivision, use and development, and the inherent problems in defining outstanding natural landscapes and public amenity values. These problems were highlighted by section 6 a) and the distinction between the words ‘preservation’ and ‘protection’. A question raised was, is this subjectiveness of Part II of the Act not allowing it to achieve the sustainable management of the country’s natural and physical resources? Anson Watson claims that the ambiguity and subjectivity of many of the terms in the RMA has complicated the relationship between councils and resource users. He said if the Act does not define terms such as “outstanding”, “protection”, “landscapes”, “natural”
and "intrinsic values", how is the public expected to understand them and therefore promote the sustainable management of their resources?\textsuperscript{85} There definitely needs to be better clarification of some terms in Part II. An example of this is the difference between words "preservation" and "protection". At present the RMA allows districts to determine what the Act means for them and how they wish to interpret, and then apply their own interpretation. It is not appropriate for a national statute to tolerate this sort of open interpretation as it allows for significant uncertainty. This is highlighted by the EC and Planning Tribunal cases outlined in Chapter 1. The intense public debate raging in the OLD is partly due to the uncertain nature of what 'sustainable management' and 'protection of ONLs and ONFs' really means.

Despite all of this the RMA does allow the community to make the decisions and have a hand in the direction of the district. This is a positive aspect as it gives the community a feeling that they carry an ownership of the plan. This will in turn make them more inclined to undertake the sustainable management of their area. However in an area of national economic and environmental importance such as the QLD, there should be some constructive national or central government input as to how the area should be managed. Central government input at the beginning may have been able to help decrease the intensity of the public debate and the need for EC intervention.

5.3. THE PLAN CREATION AND ADMINISTRATION PROCESS

Through the EC decisions for the QLD highlighted in Chapter 3 it was noted that the QLD was deficient in the first stage of creating its plan, that being the fact finding. The report called, Managing Change in Paradise: Sustainable Development in Peri-urban Areas, has assessed the current planning regime in 6 areas of the country, one of these being the Wakatipu Basin. One of the most important aspects highlighted by this report is that at present the PCfE does not believe the QLD planning processes are sufficient to sustain the very characteristics of the landscape and its ecological qualities that most people in
the community cherish. He also goes on to show that with the current planning inputs and outputs, the outcomes (that is the management of cumulative effects and the capacity for the area to promote sustainable management) are uncertain.\textsuperscript{86}

Once again government intervention may have been the key for the QLD to make these outcomes more certain. However under the present community driven planning system, the QLDC and community need to decide what features and landscapes in their area are outstanding in terms of section 6 and how they wish to protect them. They also need to decide what value they place on rural landscapes and features that are not considered to be ‘outstanding’ and what parts of the landscape are able to absorb some kind of development.\textsuperscript{87} This is called Strategic Planning and allows the community to gain ownership of the plan and therefore an inherent interest in achieving the sustainable management of their area.\textsuperscript{88} Unfortunately the landscape issues are so complex and the divisions in public opinion are so wide that local consensus in the QLD is not easy to achieve.

In addition to this, as mentioned in Chapter 4, the Planning Committee needs to take more care when it comes to the cumulative effects of development. This sort of monitoring could and should be undertaken by CivicCorp.

The use of commissioners to hear and decide on resource consent applications and CivicCorp to assist in the process of plan changes where councils are considered to have an interest in the proceedings is critical to the resource management process working in this area. The decision process needs to be less open to bias and the ideas offered here should facilitate this.

All of these solutions cost money and they raise the question: How is the small ratepayer base of the QLD expected to be able to pay for all of this?

Clearly there needs to be some sort of central government financial assistance for small local authorities with such difficult resource management issues such as the ones presented here.

---


\textsuperscript{88} Personal Communication, Barry Lawrence Spokesperson fpr the WESI, 16 May 2001.
The Ministry for the Environment (MfE) runs a contestable fund called the Sustainable Management Fund for research or activities that will enhance the planning environment for New Zealand. This needs to be funded to an extent that would allow small local authorities to undertake large landscape assessment projects such as the one required in the QLD. The QLD is already approximately $36 million in debt and has spent in excess of $5 million on the 1998 Proposed Plan and court proceedings alone.

Charlotte Hume, a principal and policy development manager of CivicCorp, states that the cost of plan creation and court proceedings are not delivering the cost efficiency that the RMA was meant to bring. In fact, she says that it has cost more than the old regime. This could be due to the fact that the individuals using and implementing the RMA still have not managed to come to terms with the effects based management regime, or that an effects based regime is simply more expensive to administer.

5.4. **THE ENVIRONMENT COURT**

Chapter 3 highlighted the decisions of the EC with respect to how it firstly identified the issues and then changed the revised proposed plan. Is it right that the EC has the power to determine district plan issues and rules when the RMA regime so heavily leans toward local participation? After making the comparisons between the amended policies and rules in Appendices 1 and 2, 3 and 4, 5 and 6, it seems plausible to say that it was warranted, but should the community have confirmed the changes made? The jurisdiction of the EC has frequently been questioned by the QLD planning lawyers, and Judge Jackson has been very careful to stay within the initial WESI reference to the court.

The EC has a duty to interpret the RMA and under section 293 has the statutory power to effect changes in a district plan in relation to references that have been brought before it.

---

89 www.mfe.govt.nz
90 Personal Communication, Neil McDonald Principal of Clarke Fortune McDonald Ltd, 7 September 2001.
The issue of development and landscapes has created major public rifts that are unable to be fixed by consultation and discussion. The EC is therefore the next step when all discussions fail. Charlotte Hume believes the complexity of the landscape issues and the division in the community relating to development made it impossible to resolve this debate without the intervention of the EC. Some prominent planners however believe Judge Jackson has tried to achieve too much too quickly and is now "in over his head". They say that this is highlighted by the fact that even he doesn't have confidence in his own decisions due to the fact that, to date, none of them have been made final. However a better and more likely scenario is that Judge Jackson is leaving his judgements as interim so that the public can have a say as to how the plan is built thereby enhancing the weight that the RMA places on public participation. Judge Jackson appears to be facilitating an impartial assessment of what 'could' be done to fully achieve the sustainable management of the area. This EC process should be valued for facilitating a process that will come up with a much improved district plan that will attempt to respect both sides of the debate and uphold the purpose of the RMA.

5.5. CHECKS ON AND ASSISTANCE TO LOCAL GOVERNMENT

It was central government who enforced the RMA planning regime on the local authorities, yet in the initial stages it seemed uninterested in taking an active role in helping the districts to create the first round of regional and district plans. The prescriptive and restrictive 1995 Proposed Plan was a reflection of this as the process had never been carried out before. The 1998 Proposed Plan was then a reaction to this and became a prescriptive but permissive plan. Government assistance in relation to professional advice and financial assistance would have helped to produce a good district plan. The creation of a National Policy Statement on landscape values could have guided local authorities such as the QLDC to a more appropriate district plan.

---

93 Personal Communication, Anonymous.
However as mentioned in Chapter One this would have had to be rather broad so that it could account for the values that different local communities place on their landscapes. Therefore it may have just become another explanation of sections 6 and 7 of the RMA giving little assistance at all.

Over the past few years however, the MfE, a government body that undertakes research and offers support to the local authorities in regard to the RMA, has been producing documents to help with issues such as those in the QLD. Publications such as, "The impact of rural subdivision and development on landscape values"95 and "Managing Rural Amenity Conflicts"96 cover many of the planning issues that the QLD has been facing recently. In addition to this, the MfE has commissioned workshops that focus on these publications and target local authority planners. All of this is being done to give planners and local authorities some guidance as to how to deal with these issues. In addition to these publications and workshops, independent assessments of the planning process have been carried out. The PCfE report "Managing Change in Paradise" has taken a close look at a number of planning local planning regimes including the QLD.

This shows that there is some guidance by the MfE and PCfE in relation to landscape issues, however there are still inadequate checks and balances on the councils themselves. Local authorities in areas of importance such as Queenstown really need some sort of check on their practices. This responsibility lies on the EC and the MfE. However at present the EC is the only avenue being used. This avenue is backlogged with referrals and desperately needs more personnel and assistance. As at the 30th June 2000, 2940 referrals were awaiting determination. This number has steadily been increasing over the last 4 years and it looks as if this trend will continue.97

In the current state the MfE has been taking a back seat when it comes to checking local authority performance. This is because the MfE does not have the financial resources to carry out the type of district assessments that are

97 www.courts.govt.nz
required. It needs to be proactive rather than reactive. Therefore the MfE needs to be allocated more resources to help facilitate the use of the RMA, the country's largest and most influential statute.

5.6. LATEST DEVELOPMENTS

The council is again open to change – the 2001 local body elections see the retirement of the Mayor Warren Cooper. A website and committee called the Lakes District Community Association has been set up to outline some of the election concerns that the community has. The website set out some policies they wish the local government to adopt:

• Sustainable Growth
  - An end to speculative growth without substance
  - Replacement of the current exploitation paradigm with an actual development strategy.

• Stewardship over the landscape
  - Our district's most valuable assets, responsible for bringing in both visitors and new residents, are it's landscapes;
  - Exploitative development is unacceptable, no matter where it is proposed, or by whom.

It will be interesting to note if this community initiative will invoke a change in direction through the ballot box. Over the last 11 years the district has seesawed between restrictive and permissive regimes.

---

98 Personal Communication, Anonymous.
CONCLUSION

This dissertation has looked at the underlying issues of the Queenstown Development debate. The RMA, the media and public side to the debate, the District plan and how the environment court has changed it, and the planning processes themselves have been described.

It has shown that the RMA is far too open to interpretation for there to be any real planning certainty. The EC decisions over the past 10 years have highlighted this deficiency. The division between both sides of the public debate has increased the difficulty in reaching a community based solution thereby making the EC the only avenue left to take. The EC cases involving the QLD have shown there are no real wrong points of view in relation to landscape values and development, but only that there are better and worse ones in relation to achieving the purpose of the RMA. Judge Jackson is attempting to create a plan that has good strong landscape ideals that will protect the landscape while still allowing development to continue in a well thought out homogenous way. The process is still far from finished and it is difficult to see the QLD achieving a fully operative district plan within the next 2 years. Even when the plan does become operative it will need a much improved Planning Committee to handle:

- the increasing negative cumulative effects that developments will impose on the Wakatipu Basin, and
- the new district plan objectives, policies, rules and regulations.

Central government certainly needs to take a more active role in implementing the planning process initiated by the RMA. Many of the problems encountered by the QLD could have been alleviated by professional and financial assistance.

With local body elections coming up it is important that the region achieves a balanced council with strong leadership so it can move forward and take on board the Environment Court decisions and public concerns. This is so that it can begin to manage the district’s resources in a way that keeps both sides of the development debate balanced. It will hopefully then be at a level that the district can handle.
There is no doubt that this will have an effect on the economic growth of the area. The direction of this effect, that is positive or negative, is difficult to determine and it seems that only time will tell.

The pressure to allow development to occur in the Wakatipu Basin will still be alive and well even when the new plan and council are in place. The challenge for the new council is to try to identify the ONLs, VALs, and Other landscapes in an attempt to manage the need for development with the need for protection. The final goal is to promote the “Sustainable Management” of the Queenstown-Lakes District’s natural and physical resources.
FURTHER RESEARCH

This dissertation has raised some important points and questions that could easily be afforded more study. The following areas for study have been taken from this dissertation and the PCfE report.

- Would national policy statements make a difference in terms of defining a clearer national vision and make it easier for local communities to identify and agree on local outcomes?
- What level of resources (people and financial) do small territorial authorities, such as the QLDC, require in order to achieve effective environmental outcomes?
- Is the RMA and its effects based regime capable to prevent today’s peri-urban areas from becoming tomorrow’s suburbs?
- Should strategic planning be made mandatory for local government?
- How can a community vision be sustained in the shadow of a continually changing political environment?
POST SCRIPT

The QLD local body elections were held on the 13th of November 2001. The political environment has changed once again. The Otago Daily Times has reported that the new council looks to have a stronger environmental protection attitude than the previous council. This comment is supported by the election to council of Barry Lawrence, a strong advocate of the anti over-development lobby. This council now has the task of undertaking the sustainable management of the QLD. It will be interesting to note if this swing in political thrust will have a positive or negative effect on the environment and/or economy.

---

REFERENCES

PUBLICATIONS:


Boffa Miskell Partners (year?) *Otago Regional Landscape Study: A desktop report for the Otago Regional Council*, Christchurch. (Unpublished).


**LEGISLATION:**

Resource Management Act 1991
Local Government Reform Legislation 1989
CASE LAW:

Banks v Nelson W015/93, 1 & 2 NZPTD 533.

Burnett v Tasman D.C. W038/95, 4 NZPTD 220, NZRMA 280.


Cash v The Queenstown-Lakes D.C A003/93, 1 & 2 NZPTD 453, 2 NZRMA 347

Cloudy Bay Developments Ltd v Marlborough D.C. W110/95, 4 NZPTD 633.

Countdown Properties (North) Ltd v Dunedin C.C. AP214/93, 3 NZPTD 471.

Gill & others v Rotorua D.C & Schwanner W029/93, 1 & 2 NZPTD 631, 2 NZRMA 604.


NZ Marine Hatcheries v Marlborough D.C. W129/97, 3 NZED 152.

NZ Rail Ltd v Marlborough D.C. (1994) NZRMA 70.

Pickmere & others v Franklin D.C. A046/93, 1 & 2 NZPTD 655.

Pigeon Bay Aquaculture Ltd v Canterbury Regional Council C032/99, 4 NZED 432, (1999) NZRMA 209

Reith v Ashburton D.C. C094/94, 3 NZPTD 424.

Southland D.C. v Southland R.C. C029/97, 2 NZED 522.

Sutherland v Tasman D.C. W025/95, 4 NZPTD 430.

TV3 Network Services v Waikato D.C. AP55/97, 2 NZED 718, NZRMA 539.

Wakatipu Environmental Society Inc. v The Queenstown-Lakes D.C. C074/00, 5 NZED 441.

Wakatipu Environmental Society Inc. v The Queenstown-Lakes D.C. C105/00, 5 NZED 595.

Wakatipu Environmental Society Inc. v The Queenstown-Lakes D.C. C186/00, 6 NZED 52

Wakatipu Environmental Society Inc. v The Queenstown-Lakes D.C. C075/01, unreported.

PLANS AND REPORTS:
Draft Strategic Plan: *Shaping Our Future* (1994)


Lakes-Queenstown Wakatipu Combined District Scheme 1986 and Planning Maps

Queenstown-Lakes District Council Proposed District Plan 1998

Queenstown-Lakes District Council Proposed District Plan 1995


Regional Policy Statement for Otago (Operative since 1998), Otago regional Council

Settlement Strategy Studies (1993)

Personal Communication:
Alex Wearing, Lecturer for the Geography Department (Landscapes).

Barry Lawrence, Spokesperson for the Wakatipu Environmental Society Inc.
Charlotte Hume, Principal and Head of the Policy Department at CivicCorp.

Jeff Williams, Resident of the Wakatipu Basin.

John Edmund, Planner for Baxter Brown.

Les McAndrew, Member of the QLD Planning Committee.

Melissa Edwards, Planner at CivicCorp.

Michael Parker, Planning lawyer for Berry & Co.

Neil McDonald, Principal for Clark Fortune McDonald survey practice.

Phillip Somerville, Assistant Editor for the ODT.

Warren Cooper, Mayor of the Queenstown-Lakes District.

Internet Sites:

www.dictionary.com
www.linz.govt.nz
www.mfe.govt.nz
www.nzphotos.co.nz
www.statistics.govt.nz
www.qldcelection.co.nz
www.qldc.govt.nz

TELEVISION REPORTS:


OTHER

<table>
<thead>
<tr>
<th>APPENDIX</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Proposed Plan District Wide Issues (Part 4)</td>
<td>77</td>
</tr>
<tr>
<td>2</td>
<td>Proposed EC changes to Part 4</td>
<td>78</td>
</tr>
<tr>
<td>3</td>
<td>Proposed Plan Subdivision Rules (Part 15)</td>
<td>81</td>
</tr>
<tr>
<td>4</td>
<td>Proposed EC changes to Part 15</td>
<td>83</td>
</tr>
<tr>
<td>5</td>
<td>Proposed Plan Rural Area Assessment Matters (Part 5)</td>
<td>89</td>
</tr>
<tr>
<td>6</td>
<td>Proposed EC changes to Part 5</td>
<td>93</td>
</tr>
</tbody>
</table>
APPENDIX 1

makes these activities highly visible, and their presence can have an adverse effect on the quality of the landscape. Location, shape of the working area, and progressive restoration are important in reducing the visual impact of these activities.

vii Tree Planting - Diversification of farming practices, soil conservation, conversion of arable land into forestry production and amenity planting may alter the landscape.

viii Farming - Pastoral and arable production are significant land uses in the District, and the variety of enterprises is increasing. Diversification has meant horticulture and particularly viticulture has become a significant element of the visual landscape.

ix Recreation and Visitor Activity - The visual landscape has made this District a special experience for thousands of visitors and the permanent residents. Tourism and recreation have become central to the prosperity of the District, and this is likely to continue bringing increased pressure and demands on the landscape.

4.2.4 Issues

The District's landscapes are of significant value to the people who live, work or visit the District, and need to be protected. Increasing development and activity makes the District's landscape particularly vulnerable to change.

The landscape provides both a backdrop to development as well as the economic base for much activity. Because of the quality of the landscape and the important role it plays in the District's economy it is necessary to ensure that buildings and developments are managed to mitigate any adverse effects resulting from location, siting and appearance.

Potential Detraction of Landscape and Visual Amenity of the District

• Development and activities may detract from the landscape.

The landscape provides both a backdrop to development as well as the economic base for much activity. Because of the quality of the landscape and the important role it plays in the District's economy it is necessary to ensure that buildings and developments are managed to mitigate any adverse effects resulting from location, siting and appearance.

Potential Detraction of the Open Character of the Rural Landscape

• A significant part of the District's visual character comes from the open expanses of its landscapes and the views these afford.

4.2.5 Objective and Policies

Objective:

Subdivision, use and development being undertaken in the District in a manner which avoids potential adverse effects on landscape values.

Policies:

1 Future Development

To avoid the adverse visual effect of development on the landscape and visual values of the District.

2 Structures

To preserve the visual coherence of the landscape by:

• encouraging structures which are in harmony with the line and form of the landscape;

• avoiding structures on the skyline, vistas, hills and prominent slopes.

• providing for a minimum landscape for subdivision.

• limiting the size of estate images and stops.

3 New Urban Development

To maintain the open character of and minimise the level of modification in the landscape, by:

• avoiding sprawling or sporadic subdivision for residential or commercial activities outside of the areas already accepted or zoned for such use.

4 Establishes Urban Areas

To retain and enhance the distinctive identity of existing urban areas.

5 Utilities

To preserve the visual coherence provided by the natural resources and open rural character by:

• reducing where practicable, utilities away from skylines, ridgelines, prominent location and landscape features.

• encouraging utilities to be located along the edges of landforms and vegetation patterns.

• encouraging requiring the alignment and/or location of utilities to be based on the dominant lines in the landscape.

• requiring that structures be as unobtrusive as is practicable with forms appropriate for the landscape and finished in low reflective materials and colours derived from the background landscape.

• requiring that transmission lines be placed underground, where technically and economically feasible.

6 Transport Infrastructure

To preserve the open nature of the rural landscape by:

• encouraging the location of roads, car parks and tracks along the edges of existing landforms and vegetation patterns.

• encouraging shoreline structures, such as jetties, to be located only where they are visually contained by the topography, e.g., coves or bays.

• by encouraging imaginative road designs including a range of crossway widths, different surface materials, as is terms and protection of existing mature trees where these can enhance the quality of design and the visual experience.

• discouraging cuts and fills on highly visible slopes.

• requiring that all construction be with minimum cut and fill batters and that all batters be shaped in sympathy with, existing landforms.

• requiring that all disturbed areas be revegetated at the end of construction.

• encouraging where appropriate car parks to be screened from view.

• requiring the adverse effects of large expanses of hard surface car parks be avoided by planting and earthworks.

Visual impact may be increased when the form and colour of structures contrast with the surroundings and when they are located in visually sensitive areas. The demand for housing and other developments in the rural area is growing and poor location, siting and appearance of these developments threatens to increase the level of modification in the rural landscape and to reduce its open character. The hill and mountain slopes surrounding the lakes assume greater importance because of their role in providing a setting for the lakes.

7 Mining

To maintain the rural or natural qualities of the landscape by:

• ensuring the use of a limited range of open pit methods.

• encouraging the activity in suitable areas away from any visually sensitive locations.

• requiring that the area be progressively restored during the life of the operation.

• controlling the form of the open area and of any waste heaps or long term stockpiles to ensure that they are compatible with the forms in the landscape.

• requiring transportation links to be finished to a contour sympathetic to the surrounding topography and reengineered with a form appropriate for the site and setting.

8 Soil Conservation Planting

To minimise any adverse effects on the visual landscape by:

• encouraging the use of a limited range of species for soil conservation and planting.

• encouraging the use of existing native species for soil conservation and planting.

9 Retention of Existing Vegetation

To maintain the visual coherence of the landscape and to protect the existing levels of natural character by:

• encouraging the retention of existing vegetation in gullies and along strategically.

10 Wildlife Trees

To minimise the adverse effect of wildling trees on the landscape by:

• supporting and encouraging co-ordinated action to control existing wildling trees and prevent further spread.

11 Land Use

To encourage land use in a manner which minimises adverse effects on the open character and visual coherence of the landscape.

DISTRICT WIDE ISSUES
APPENDIX 2

4.2.5 Objective and Policies

Objective:

Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.

Policies:

1. Future Development

(a) To avoid, remedy or mitigate the adverse effects of development and/or subdivision in those areas of the District where the landscape and visual amenity values are vulnerable to degradation.
(b) To encourage development and/or subdivision to occur in those areas of the District with greater potential to absorb change without detracting from landscape and visual amenity values.
(c) To ensure subdivision and/or development harmonises with local topography and ecological systems and other nature conservation values as far as possible.

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.
(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.

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 recognise and providing for

(iv) The desirability of ensuring that buildings and structures and associated roading plans and boundary development have a visual impact which will be no more than minor, which in the context of the landscape of the Wakatipu basin is reasonably difficult to see.
(v) The need to avoid further cumulative deterioration of the Wakatipu basin's outstanding natural landscapes;
(vi) The importance of protecting the naturalness and enhancing the amenity values of views from public places especially rural scenic roads;
(vii) 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 Ametry Landscapes

(a) To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are:

(i) Landscape values and natural character; and

(ii) Visual amenity values recognise and providing for

(iv) The need to avoid further cumulative deterioration of the outstanding natural features (Erratum to C74/00) from Wakatipu Basin.
(v) The importance of protecting the naturalness and enhancing the amenity values of views from public places especially rural scenic roads;
(vi) The essential importance in this area of protecting and enhancing the naturalness of the landscape.

5. Outstanding Natural Features

To avoid subdivision and/or development on and in the vicinity of distinctive landforms and landscape features, including:

(a) In Wanaka/Hawea/Makarora; [adjourned issue
(b) In Wakatipu; the Kawarau, Arrow and Shotover Gorges; Peninsula, Queenstown, Ferry, Morven and Slope hills; Lake Hayes; the Hillocks; Camp Hill; Mt Alfred; Pig, Pigeon and Teal Islands.

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 recognise 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 in the context of the outstanding natural feature, that is, the building etc. is reasonably difficult to see.

6. Urban Development

(a) To avoid new urban development in the outstanding natural landscapes of Wakatipu basin.
(b) To discourage urban subdivision and development in the other outstanding natural landscapes (and features) in the visual amenity landscapes of the district.
(c) To avoid subdivision and development where it does occur in the outstanding natural landscapes which are open at the date this plan becomes operative.

(d) To avoid subdivisio and or mitigate the adverse effects of urban subdivision and development in visual amenity landscapes by avoiding sprawling subdivision and development along roads.

7. Urban Edge

To identify clearly the edges of:

(a) Existing urban areas;
(b) Any extensions to them; and
(c) Any new urban areas

by design solutions and to avoid, remedy mitigate the adverse effects along the roads of the district.

8. Avoiding Cumulative Degradation
in applying the policies above the Council’s policy is:

(a) to ensure that the density of subdivision and development does not increase to a point where the benefits of further planting and building are outweighed by the adverse effect on landscape values of over domestication of the landscape;

(b) to encourage comprehensive and sympathetic development of rural areas,

(c) to adopt minimum lot sizes for subdivision in outstanding natural landscapes and visual amenity landscapes (except if a residential new development has been accepted by the Council).

9. Structures

To preserve the visual coherence of:

(a) outstanding natural landscapes and features (subject to (b)) and visual amenity landscapes by:
   - encouraging structures which are in harmony with the line and form of the landscape;
   - avoiding, remediating or mitigating any adverse effects of structures on the skyline, ridges and prominent slopes and hilltops;
   - encouraging the colour of buildings and structures to complement the dominant colours in the landscape;
   - encouraging placement of structures in locations where they are in harmony with the landscape;
   - promoting the use of local, natural materials in construction;

(b) encouraging planting to be located so that mature trees will not obstruct views from scenic rural roads.

10. Utilities

To avoid, remedy or mitigate the adverse effects of utilities on the landscapes of the district by:

- avoiding siting utilities in outstanding natural landscapes or features in the Wakatipu Basin (except on Slope Hill in the vicinity of the current utilities);
- encouraging utilities to be sited away from skylines, ridgelines, prominent locations, and landscape features;
- encouraging utilities to be co-located wherever possible;
- encouraging utilities to be located along the edges of landforms and vegetation patterns;
- encouraging or requiring the alignment and/or location of utilities to be based on the dominant lines in the landscape;
- requiring that structures be as unobtrusive as is practicable with forms appropriate for the landscape and finished in low reflective colours derived from the background landscape;
- requiring that transmission lines (where technically and economically feasible) be placed underground.

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.

12. Transport Infrastructure

To preserve the open nature of the rural landscape by:
- encouraging the location of roads, car parks and tracks along the edges of existing landforms and vegetation patterns;
- encouraging shoreline structures, such as jetties, to be located only where they are visually contained by the topography, e.g. coves or bays;
- by encouraging imaginative roading designs including a range of carriageway widths, different surface materials, grass berms and protection of existing mature trees where this can enhance the quality of design and the visual experience;
- discouraging roads and tracks on highly visible slopes;
- requiring that all construction be with minimum cut and fill batters and that all batters be shaped in sympathy with, existing landforms;
- requiring that all disturbed areas be revegetated at the end of construction;
- encouraging where appropriate car parks to be screened from view;
- requiring the adverse effects of large expanses of hard surface car parks be avoided by planting and earthworks
- providing for a minimum lot size for subdivision;
- outstanding natural landscapes and features of the Wakatipu Basin by avoiding construction of new structures for:
  - residential activities and/or
  - industrial and commercial activities
- visual amenity landscapes by:
  - by screening structures from roads and other public places by vegetation whenever possible to maintain and enhance the naturalness of the environment; and
- all rural landscapes by:
  - limiting the size of signs, corporate images and logos;
  - providing for greater development setbacks from scenic rural roads.

13. Mining

To maintain the rural or natural qualities of the landscape by:
- placing a limit on the size of the open area of any quarry, landfill site, refuse dump, or extraction site;
- encouraging the activity in suitable areas away from any visually sensitive locations;
- requiring that the area be progressively restored during the life of the operation;
- controlling the form of the open area and of any waste heaps or long term stockpiles to ensure that they are compatible with the forms in the landscape;
- requiring restoration to be finished to a contour sympathetic to the surrounding topography and revegetated with a cover appropriate for the site and setting.

14. Soil Conservation Planting

To minimize any adverse effects on the visual amenity by:
- encouraging the use of a limited range of species for soil conservation and planting;
- encouraging the use of existing native species for soil conservation and planting.

15. Retention of Existing Vegetation

To maintain the visual coherence of the landscape and to protect the existing levels of natural character by:
- encouraging the retention of existing vegetation in gullies and along watercourses.
16 Wilding Trees

To minimise the adverse effect of wilding trees on the landscape by:

- supporting and encouraging co-ordinated action to control existing wilding trees and prevent further spread.

17 Land Use

To encourage land use in a manner which minimises adverse effects on the open character and visual coherence of the landscape.

[See Decisions C180/99 and C74/2000 - policies 3 and 5]
15.2.3.5 Assessment Matters for Resource Consents

(1) The assessment matters to which the Council will have regard in relation to Controlled Subdivision Activities, and Discretionary Subdivision Activities where the exercise of the Council’s discretion is limited to a particular matter(s), are specified in Subdivision Rules 15.2.6 to 15.2.18.

(2) In considering whether or not to grant consent or impose conditions in respect to Discretionary Subdivision Activities specified in Rule 15.2.3.3 i, ii and iii above, where the exercise of the Council’s discretion is not limited, the Council shall have regard to, but not be limited by, the following assessment matters:

(a) **Subdivision of Areas of Significant Nature-Conservation Value, Heritage Items and Archaeological Sites**

   (i) The effect of the subdivision on the character of the conservation area, heritage item or archaeological site and its environs, its important values, the reasons for its listing, and the ability of the public to enjoy and appreciate its features, where appropriate.

   (ii) Whether the subdivision enables identification and protection of areas containing nature conservation values.

   (iii) Whether the lot size and dimensions are sufficient and appropriate to provide protection to the area, item or site.

   (iv) Whether the subdivision enables or enhances the retention of the essential character and values of the area, item or site, including any proposed preservation programme.

   (v) Whether the subdivision will allow development on, or use of, the site without adversely affecting the character and values of the area, item or site and its environs.

   (vi) Any need to restrict the location or bulk of future buildings on the lot.

(b) **Subdivisions of Land in the Rural General, Rural Lifestyle, Gibbston Character and Bendemeer Zones**

   (i) The extent to which subdivision, the location of Residential Building Platforms and proposed development maintains and enhances:

   (a) rural character

   (b) landscape values
The extent to which subdivision, the location of residential building platforms and proposed development may adversely affect adjoining land uses.

The extent to which subdivision, the location of residential building platforms and proposed development may be adversely affected by natural hazards or exacerbate a natural hazard situation.

Consideration of the long term development of the entire property.

Whether the subdivision will result in the loss of the life supporting capacity of soils.

15.2.4 Developments

15.2.4.1 General Provisions

(i) The following rules apply in all Zones, unless otherwise stated.

(ii) In considering any resource consent application in relation to financial contributions, Rule 15.2.5 shall apply.

15.2.4.2 Activities

The following shall be Controlled Activities. The matters in respect of which the Council has reserved control are listed with each activity.

(i) The erection and addition of more than one residential unit on a lot in respect of:

(a) financial contributions to the provision of services, land and/or facilities for open space and recreation; and/or

(b) on sites adjoining the bank of any river or the margin of any lake, to which Section 230(4) applies, financial contributions to the provision of esplanade reserves, strips and easements for access to lakes and rivers.

(ii) Developments for any industrial, service, commercial, recreational or community activity or visitor accommodation, where the value of the construction, erection or alteration is in excess of $250,000, in respect of:

(a) financial contributions to the provision of services and/or the provision of land and/or facilities for open space and recreation; and/or

(b) on sites located adjoining the bank of any river or the margin of any lake, to which Section 230(4) applies, financial contribution to the provision of esplanade reserves and strips and easements for access to lakes and rivers.

15.2.4.3 Assessment Matters for Resource Consents

In considering whether or not to impose conditions in respect to developments, the Council shall have regard to, but not be limited by, the assessment matters for subdivision consent relating to water supply, stormwater disposal, sewage treatment and disposal, trade waste disposal, energy supply and telecommunications, property access, open space and recreation, and esplanade provision (as specified in Rules 15.2.8, 15.2.9 and 15.2.11 - 15.2.16), as though the application for the development was for a subdivision activity.

In addition, the Council may take into account any provision made as part of an application for a development to provide or include any of the items set out in Clause 15.2.4.3 (i) and (ii) above.

15.2.5 Financial Contributions

15.2.5.1 Purpose

The control of subdivision and the management of the effects of development of land are functions of a territorial authority.

Under the Act the subdivision of land cannot take place unless authorised by a rule in a District Plan or a resource consent. In this Plan all subdivisions within the District require a resource consent.

Resource consents are also required for developments, which are the construction, erection or alteration of more than one residential unit on a lot, or an industrial, service, commercial, recreational or community activity or visitor accommodation with a value exceeding $250,000.
APPENDIX 4

Revised Part 15 Objectives, Policies and Rules 06/11/00
(iii) Any subdivision of land in the Parnith Park Zone north of the Visual Amenity Line as shown on the Parnith Fr ‘Yen ‘A’ shall be a Discretionary Subdivision Activity.

(iv) In the Rural General and Gibbston Character Zones:
(a) Any subdivision which complies with all the Zone Subdivision Standards shall be a Discretionary Subdivision Activity; and
(b) The identification of any building platform at the time of subdivision shall be a Discretionary Subdivision Activity.

15.2.3A Special Discretionary Activity Subdivision

Any subdivision in the outstanding natural landscapes or visual amenity landscapes of the Rural General Zone which:

(i) includes an approved development area (see Part 5); and
(ii) meets the zone and site subdivision standards – shall be a Special Discretionary Activity (Subdivision) otherwise it is a Non-Complying Activity.

15.2.3.4 Non-Complying Subdivision Activities

(i) Any subdivision which does not comply with any one or more of the Zone Subdivision Standards shall be a Non-Complying Subdivision Activity.

(ii) The further subdivision of any allotment, including balances, that had previously been used to calculate the average allotment size under Rule 15.2.6.3(i).

(iii) The subdivision of a residential flat from a residential unit.

15.2.3.5 Assessment Matters for Resource Consents

(i) The assessment matters to which the Council will have regard in relation to Controlled Subdivision Activities, and Discretionary Activities shall be assessed.

(ii) Whether, and the extent to which, the site subject to application:

- is part of an outstanding natural landscape or a visual amenity landscape;
- is in close proximity to the boundary of an outstanding natural landscape and a visual amenity landscape.

(b) In assessing the landscape classification in (a)(b) above, the following factors and values shall be taken into account:

- natural science factors – the geological, topographical, ecological and dynamic components in the landscape;
- their aesthetic values including memorability and naturalness;
- their expressiveness (legibility); how obviously the landscape demonstrates the narrative processes leading to it;
- their transient values: occasional presence of wildlife; or its values at certain times of the day or of the year;
- whether values are shared or recognised;
- value to Tangata Whenua;
- their historical associations.

(2) Within Outstanding Natural Features and Landscapes (District wide)

(a) Whether, and the extent to which, the proposed subdivision, its boundaries, the location of building platforms and associated activities (such as roading and earthworks):
(i) will be visible from any public place or road;
(ii) can be absorbed in terms of its effect on openness or natural character of the landscape or feature;
(iii) will adversely affect the naturalness of the landscape;
(iv) will cause a loss of natural landscape pattern or adjoining existing vegetation pattern in the area;
(v) will harmonise with ecological systems and other nature conservation values.

(b) Whether, and the extent to which, the landscape can absorb subdivision, building platforms and associated development consistent with retaining naturalness, openness and natural character.

[3] Within Outstanding Natural Features and Landscapes (Wakatipu Basin)

Subdivision Activities where the exercise of the Council’s discretion is limited in particular matter(s), are specified in Subdivision Rules 15.2.6 to .10.

(i) In considering whether or not to grant consent or impose conditions in respect to:
(a) Discretionary Subdivision Activities specified in Rule 15.2.3.3(i, ii and iv above, where the exercise of the Council’s discretion is not limited; or
(b) Special Discretionary Activity (Subdivision)

the Council shall have regard to, but not be limited by, the assessment matters listed in A to C below.

[A] Subdivision of Heritage Items (except Rural General and Gibbston Character Zones)

(1) The effect of the subdivision on the character of the heritage item and its environs, its important values, the reasons for its listing, and the ability of the public to enjoy and appreciate its features, where appropriate.

(2) Whether the lot size and dimensions are sufficient and appropriate to provide protection to the item.

(3) Whether the subdivision enables or enhances the retention of the essential character and values of the item including any proposed preservation programme.

(4) Whether the subdivision will allow development on, or use of, the site without adversely affecting the character and values of the item or its environs.

(5) Any need to restrict the location or bulk of future buildings on the lot.

[B] Subdivisions of Land in the Rural General [and Gibbston Character?] and Bendemeer Zones

Any proposed subdivision or development of land within an area classified as an ONLWB or outstanding natural feature on the landscape map on Appendix X ?? shall be assessed against the matters set out below. Applicants are advised these assessment matters comprise a stringent test against which the application will be assessed. The Council anticipates that any application that can meet this test will be an exception to the generality of cases, in the ONLWB and outstanding natural features areas.

(a) Potential of the landscape or feature to absorb development

The consent authority shall be satisfied that the location of the application site as a whole, in the wider context of the outstanding natural landscape or feature within which the application site is a part, is capable of absorbing the physical change that would result from granting the application.

In deciding whether or not an application meets this assessment matter, the consent authority shall assess the application in accordance with the matters in (b) – (f) below.

(b) Cumulative effects of development on the landscape

The consent authority shall be satisfied that any adverse effects of the proposed buildings and associated site development (including formation of roads, landscaping and provision of services) on the wider values of the outstanding natural landscape or feature will not be adverse and will be minor, having regard to the following:

(i) in the case of outstanding natural landscapes or features that already contain structures and other clear signs of human modification:

Any proposal that will have the effect of adding visible works and structures to a landscape in which there are existing structures and/or other forms of development/human modification that are visible when viewed from scenic rural roads and other public places whether and the extent to which:
existing development may already have caused adverse effects on the visual coherence and naturalness of the landscape;

- the additional development will lead to further degradation or domestication of the landscape or feature;

- the application for development may provide opportunities to mitigate or remedy any existing adverse effects;

- whether there is an opportunity to remedy existing or potential (cumulative) adverse effects caused by existing structures or other developments, and/or structures or developments contemplated by existing resource consents which have not yet been exercised, by altering or removing such structures or developments and/or surrendering existing consents as an incentive for approval of a proposed development;

in the case of a landscape that has not been obviously modified by human influence such as
structures and other forms of domestication:

Any proposal that will have the effect of adding works and/or structures to an outstanding natural landscape or feature that has no structures and/or other visible signs of human influence or development that is visible from scenic rural roads and other public places:

(i) whether and the extent to which the new development will compromise the integrity and coherence of the landscape or feature;

(ii) whether and the extent to which the new development, if allowed to proceed, will in itself cause adverse effects that are greater than minor;

Visual coherence and integrity of landscape

The consent authority shall be satisfied that the development proposed in the application will not cause any adverse effects which are more than minor on the visual coherence of the landscape or feature when viewed from any scenic rural road or other public place by ensuring that:

(i) structures will not be located where they will break the line and form of any ridges, hills and any prominent slopes;

(ii) any proposed roads, earthworks and landscaping will not change the line of the landscape or affect the naturalness of the landscape;

(iii) any proposed new boundaries and the potential for planting and fencing will not give rise to any artificial or unnatural changes in the line and form of the landscape;

Nature Conservation Values

The consent authority shall be satisfied that the development proposed will enhance or will not have any adverse effects that are more than minor on any ecological systems and other nature conservation values, having regard to whether and the extent to which:

(i) the area affected by the development proposed in the application contains any indigenous ecosystems including indigenous vegetation, wildlife habitats, wetlands

(c) is on openness of landscape

The consent authority shall be satisfied that the development proposed will not cause a loss of the openness of the landscape when viewed from scenic rural roads and other public places, having regard to whether and the extent to which:

(i) the subject land is within a broadly visible expanse of open landscape when viewed from any scenic rural road or public place;

(ii) any broadly visible open landscape is adversely affected by any proposed structures or other modifications that would result from the development;

(iii) the landscape is enclosed by any confining elements of topography and/or vegetation; and

(iv) any development (especially buildings, earthworks, or planting) proposed will further enclose these landscape features.

(d) Visibility of development

The consent authority shall be satisfied that the location and formation of potentially visible works and structures (roads, earthworks, any services required, planting and landscaping) will not be visible or will be reasonably difficult to see when viewed from scenic rural roads and other public areas, taking into account whether and the extent to which:

(i) will be screened from view by natural topography, existing vegetation (or a combination thereof) when viewed from any scenic rural road or public place;

(ii) will or can be screened or hidden from view by any proposed form of artificial screening, being limited to earthworks and/or now planting that is appropriate, in the landscape;

Visual amenity landscapes:

(i) the development proposed will have any adverse effects that are more than minor on these indigenous ecosystems;

(ii) the area affected by the development has indigenous plants or animals or geological or geomorphological feature of significant value;

(iii) the development proposed will avoid the establishment of introduced vegetation that will have the potential to spread and naturalise;

(iv) the development will maintain or enhance the quality of the environment for indigenous ecosystems, and whether the application provides opportunities to promote the protection and enhancement of indigenous ecosystems;

(v) there is opportunity to encourage the retention and planting of native trees and their appropriate maintenance;

(vi) whether and the extent to which there is need to take appropriate explanatory reserves to protect the natural character and nature conservation values around the margins of any lake, river, wetland or stream that is within the application area.

Restrictive Covenants

The consent authority shall be satisfied that the potential for the development to cause effects that are on-going will be avoided, remedied or mitigated by way of covenant, consent notice or other legal instrument.**

Density criterion 7

Potential of the landscape to absorb development

Page 11/24
The consent authority shall consider whether and the extent to which:

(i) the consent authority shall consider whether the location of the development is appropriate, having regard to whether and the extent to which:

- there is opportunity to retain and maintain any natural and arcadian pastoral landscapes that are highly visible when viewed from any public roads and other public places frequented by the public, or visible from scenic rural roads;
- there is opportunity to utilise existing natural topography to ensure that the development is located where it is not highly visible when viewed from any public roads and other public places frequented by the public, or visible from scenic rural roads;
- there is opportunity for the aggregation of built development to utilise common access ways and services and commonly-held open space;
- the matters referred to in (e) below.

(ii) the proposed roads, earthworks and landscaping will change the line of the landscape or affect the naturalness of the landscape;

(iii) any proposed new boundaries and the potential for planting and fencing will give rise to any artificial or unnatural barriers or changes in the line and form of the landscape;

(iv) boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape and/or landscape units.

(iii) The consent authority shall consider whether and the extent to which the development constitutes sprawl of built development along the roads of the District.

(d) Visibility of development

The consent authority shall consider whether the development will cause a loss of any natural or arcadian pastoral character of the landscape when viewed from scenic rural roads or other public places frequented by the public, having regard to whether and the extent to which:

- the subject land is highly visible when viewed from any public roads and other public places which are frequented by the public, or is visible from a scenic rural road;
- the development is screened from view by natural topography and/or existing vegetation which is appropriate in the location and the landscape;
- there is opportunity for screening or other mitigation by any proposed method such as earthworks and/or new planting which is appropriate in the location and the landscape;
- 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.

(ii) Cumulative effects of development in the landscape

The consent authority shall consider whether and the extent to which:

- the assessment matters detailed in (a) – (d) above are or can be avoided or mitigated by appropriate subdivision design and landscaping, and/or appropriate conditions of consent (including covenants, consent notices and other restrictive instruments) having regard to the matters contained in C – E below;
- it will cause any or all of the visual change that would result from granting the application.

For the purposes of this assessment matter the term "vicinity or locality" generally means an area of land containing the site subject to the application plus adjoining or surrounding land (whether or not in the same ownership) contained within the same view or vista as viewed from a scenic rural road, or as viewed from any other public road or public place frequented by the public and which is highly visible from that other public road or public place.

(iii) Whether and the extent to which the development may provide opportunities to

- revise or amend any existing conditions of consent or any restrictions and the extent to which:

- the site is adjacent to an Outstanding Natural Landscape or Feature;
- the visual effects of the development proposed will compromise any open character of the adjacent Outstanding Natural Landscape or Feature;
- the visual effects of the development will compromise any natural or arcadian pastoral character of the Visual Amenity Landscape;
- the development will degrade any natural or arcadian pastoral character of the landscape by causing over-domestication of the landscape;
- any adverse effects identified in (b) – (d) above are or can be avoided or mitigated by appropriate subdivision design and landscaping, and/or appropriate conditions of consent (including covenants, consent notices and other restrictive instruments) having regard to the matters contained in C – E below;
- the development is screened from view by natural topography and/or existing vegetation which is appropriate in the location and the landscape;
- there is opportunity for screening or other mitigation by any proposed method such as earthworks and/or new planting which is appropriate in the location and the landscape;
- 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.

Size of site within VAL (as at 1 October 2000) Minimum percentage of land to be retained as natural/arcadian pastoral

<table>
<thead>
<tr>
<th>Size of site within VAL (as at 1 October 2000)</th>
<th>Minimum percentage of land to be retained as natural/arcadian pastoral</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 4 hectares</td>
<td>80 percent</td>
</tr>
<tr>
<td>&lt;.001 hectares</td>
<td>65 percent</td>
</tr>
<tr>
<td>above 20 hectares</td>
<td>90 percent</td>
</tr>
</tbody>
</table>
Revised Part 15 Objectives, Policies and Rules 06/11/00

OR

(ii) See paragraph [40] of the decision.

Except that where titles are amalgamated after 1 October 2000, then the site shall be determined as at the time of application.

For the purposes of this assessment manner "site" means the land subject to the application for consent plus any contiguous land in the same ownership.

The consent authority shall consider whether the potential for the development to cause cumulative adverse effects may be avoided, remedied or mitigated by way of covenant, consent notice or other legal instrument (including covenants controlling or preventing future buildings and/or landscaping, and covenants controlling or preventing future subdivision which may be volunteered by the applicant).

Other rural landscapes –

The Council shall consider whether and the extent to which:

(a) The proposed development (including associated activities such as road, landscaping and earthworks);

(i) can be absorbed in terms of its effect on the natural or arcadian pastoral character of adjoining or surrounding visual amenity landscape as viewed from public places; and

(ii) will be complementary or sympathetic to the character of adjoining or surrounding visual amenity landscape as viewed from public places.

(b) The opportunity for screening or other mitigation of any adverse visual effects by existing topography or vegetable or any proposed method (such as earthworks or new planting) that is appropriate in the location and the landscape.

(c) The proposed development (including associated activities such as road, landscaping and earthworks) is complementary or sympathetic to, or can be coordinated with, existing or proposed development on adjoining or adjacent other rural landscape properties.

(d) The proposed subdivision (including associated activities such as road, landscaping and earthworks) is designed and/or intended to be carried out in a comprehensive manner taking into account topography, the size and configuration of the property being developed, the extent and nature of existing or proposed development on adjoining or adjacent properties, and the opportunities for shared access and/or shared amenities.

Whether, and the extent to which, the proposed subdivision is part of a coordinated development plan incorporating any balance land (outside the proposed subdivision) in the same ownership.

Whether, and the extent to which, there is an opportunity to create walkway(s) or amenity linkage(s) which will connect to an existing public road(s) or walkway(s) or amenity linkage(s) on an adjoining property or which has the potential to connect to future walkway(s) or amenity linkage(s) which may be created on an adjoining property, thereby enhancing an existing or future potential walkway or amenity linkage network, taking into account the practical likelihood of being able to create walkways or amenity linkages across more than one property under different ownership.

Whether, and the extent to which, there is an opportunity to provide a communal passive or active recreational area which may be accessible to residents outside the subdivision as well as within the subdivision.

Whether, and the extent to which, the proposed subdivision, its boundaries, the location of building platforms and associated activities (such as road, landscaping and earthworks) is complementary or sympathetic to, or can be coordinated with, existing or proposed development on adjoining or adjacent other rural landscape properties.

The proposed subdivision, its boundaries, the location of building platforms and associated activities (such as road and earthworks);

(i) can be absorbed in terms of its effect on the natural or arcadian pastoral character of adjoining or surrounding visual amenity landscape as viewed from public places; and

(ii) will be complementary or sympathetic to the character of adjoining or surrounding visual amenity landscape as viewed from public places.

The proposed development (including associated activities such as road, landscaping and earthworks) is complementary or sympathetic to, or can be coordinated with, existing or proposed development on adjoining or adjacent other rural landscape properties.

The relationship and size of the lots in terms of their solar advantage including the alignment and layout of the lot, the location of building platforms and relationship to adjoining lots.

The provision for, and safety and practicality of:

(i) pedestrian access including unsealed walking tracks;

(ii) the relationship of these to reserves (existing or proposed);

(iii) access to the lakes and rivers;

(iv) opportunities for enhancing a walkways network in the Wakatipu Basin;

(v) using open stormwater channels and wetland areas.

The relationship and orientation of lots, particularly in respect of land in adjoining zones, and the ability to create an attractive and interesting edge between development in the Residential, Rural Living and Rural Zones;

The degree to which any likely development of the lots, taking into account the earthworks proposed for the subdivision, will adversely affect the opportunities for views from properties in the vicinity, or will result in domination of surrounding properties by buildings on the lot(s).

The effect of the scale and nature of the earthworks proposed for the subdivision, the methods proposed for the disposal of excess soil or vegetation, and the need for any conditions to avoid or mitigate any adverse effects, including effects of the disposal site.

The effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance.

Property Access

(a) The need for and extent of any financial contributions to the provision of property access, as referred to in Rule 15.2.5.
Revised Part 15 Objectives, Policies and Rules 06/11/00

(b) The safety and efficiency of the roading network and the proposed roading pattern, having regard to the road in arch, standards of design, construction for roads and private access.

(c) The effect of any new intersections or accesses created by the subdivision on traffic safety and efficiency, including the availability of adequate, unobstructed sight distances from intersections and adequate spacing between intersections.

(d) The provisions of the Council’s Code of Practice for Subdivision in respect of the design and construction of roads and private access.

(e) The need to provide pedestrian accessway facilities in circumstances where the roading network does not provide sufficient or direct access or easy walking access to facilities in the vicinity.

(f) The need to provide pedestrian and cyclist access in circumstances where the roading network does not enable sufficient or direct access or easy walking access to facilities in the vicinity.

(g) Any impact of roading and access on lakes and rivers, ecosystems, drainage patterns and the amenity of adjoining properties.

(h) The need to provide distinctive names for roads and private vehicular access. The name to be agreed by the Council.

(i) Any need to make provision for future roads to serve surrounding land or for road links that need to pass through the subdivision.

(4) Explanade Provisions

(a) The purposes for the creation of expanse reserves or strips set out in Section 229 and Section 237 of the Act.

(b) The appropriateness of creating an expanse reserve or strip in relation to security or public safety concerns.

(c) The extent of the public’s ability to obtain access to and along the margin of the water body.

(d) The extent that recreational use will be assisted or hindered.

(e) The compatibility of the proposed reserve or strip with physical characteristics of the land.

(f) The extent to which the natural character and visual quality of the area will be preserved.

(g) The extent to which natural hazards will be mitigated.

(h) The future use and purpose of any existing building that would otherwise encroach on, or be within, a reserve or strip.

(i) The need for and practicability of easements being created to provide public access to lakes and rivers, where appropriate, through consultation and negotiation with the landowner.

(j) The safety of any access point to the expanse reserve, expanse strip or access strip from arterial roads.

(k) The provisions of relevant foreshore management plans.

Revised Part 15 Objectives, Policies and Rules 06/11/00

setting of ongoing conditions, with consent notices registered on the Certificates of Title of the lots in the subdivision.

In relation to contaminated sites, the need for conditions to avoid, mitigate or remedy the effects of the land contamination, including removal to approved disposal points.

In relation to any land filling or excavation, the following factors:

(i) The effects on the infrastructure of surrounding properties;

(ii) The effects on the natural pattern of surface drainage;

(iii) The effects on stormwater drainage systems;

(iv) The type of and placement of fill material;

(v) Mitigation, or avoidance, of adverse effects caused by dust or situation affecting neighbouring properties;

(vi) Remedies necessary during emergencies.

(6) Water Supply

(a) The need for and extent of any financial contribution to the provision of water supply, as referred to in Rule 15.2.5.

(b) The need to ensure the availability of a secure supply of potable water of adequate quantity to provide for the needs of the anticipated land uses on all of the lots within the subdivision.

(c) The suitability of the proposed water supply for the needs of the land uses anticipated.

(d) The provisions of the Council’s Code of Practice for Subdivision in respect of the construction and installation of the water supply system.

(e) The suitability of the proposed water supply for fire fighting purposes having regard to the density and nature of development anticipated and the availability of a public reticulated water supply system.

(f) Any need for a local purpose reserve to be set aside and vested in the Council as a site for a public water supply utility.

(g) The requirements of any Regional Rules or the need to obtain water permits from the Otago Regional Council.

(h) Any need to make provision for future water supply systems to serve surrounding land.

(7) Stormwater Disposal

(a) The need for and extent of any financial contribution to the provision of stormwater collection, reticulation, treatment and disposal, as referred to in Rule 15.2.5.

(b) The adequacy of the proposed means of collecting and disposing of stormwater from the roof of all existing or potential buildings and hard surfacing, in terms of the avoidance or mitigation of adverse effects on the site, other properties in the vicinity, or the receiving environment, whether land or water.

(c) The appropriateness of requiring a piped connection from each lot to a public stormwater reticulation system, or of requiring piped outlets to be provided to each lot to be connected to a public reticulation system at a later date.

(d) Any adverse effects of the proposed subdivision on drainage on, or from, adjoining properties and mitigation measures proposed to control any adverse effects.

(e) The provisions of the Council’s Code of Practice in respect to the construction and installation of the stormwater disposal system.

(f) The adequacy of any proposed means for screening out litter, the capture of chemical spillages, the containing of contamination from roads and paved areas and of siltation.

(g) The practicality of retaining open natural lake or river systems for stormwater disposal in preference to piped or canal systems and any impacts of stormwater disposal on existing lakes and rivers.

(h) The requirements of any Regional Rules or the need to obtain discharge permits from the Otago Regional Council.

(i) Any need for a local purpose reserve to be set aside and vested in the Council as a site for a public utility for stormwater disposal purposes.

(j) Any need for conditions relating to ongoing maintenance of stormwater infrastructure.

(k) Any need to make provision for future stormwater disposal systems to serve surrounding land.

(8) Sewage treatment and disposal

(a) The need for and extent of any financial contribution to the provision of sewage treatment and disposal, as referred to in Rule 15.2.5.

(b) The capacity, availability, and accessibility of the Council’s reticulated sewage treatment and disposal system to serve the proposed subdivision.

(c) Where a Council reticulated system is not available, or a connection is impractical, the adequacy of proposals and solutions for treating and disposing of sewage.

(d) The provisions of the Council’s Code of Practice in respect to the construction and installation of the sewage treatment and disposal system.

(e) The requirements of any Regional Rules or the need to obtain a discharge permit from the Otago Regional Council.

(f) Any need for a local purpose reserve to be set aside and vested in the Council as a site for a public utility for sewage treatment and disposal purposes.
Revised Part 15 Objectives, Policies and Rules 06/11/00

(9) Trade Waste Disposal
(a) Any need to provide for future trade waste reticulation, treatment and disposal to serve surrounding land.
(b) Whether any proposal to create lots for any business or other activity generating trade wastes will have the potential to discharge wastes to a disposal system;
(c) Whether the volume or type of trade waste generates a need for appropriate pre-treatment and/or disposal systems to be provided;
(d) Any consents required for discharge of contaminants from the Otago Regional Council in conjunction with the subdivision consent;
(e) The provisions of the Council's Code of Practice for Subdivision in respect of the installation of trade waste sewers;
(f) Any need to prepare for any financial contribution to the provision of treatment, reticulation and disposal systems for trade wastes, as referred to in Rule 15.2.5;
(g) The need for conditions relating to ongoing maintenance of trade waste disposal infrastructure.

(10) Vegetation
(a) Whether any vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and the proposed means of protection;
(b) Where a reserve is to be set aside to provide protection of vegetation, whether the value of the land so reserved should be off-set against the financial contribution to be paid for open space and recreation purposes;
(c) The extent of any earthworks or roadworks within the subdivision and the need for additional planting or landscaping;
(d) Any need to provide continual protection for vegetation within the subdivision, including protection of Heritage Trees listed in Appendix 3.

(11) Easements
(a) The need for easements:
(i) where a service or access is required by the Council;
(ii) for stormwater passing through existing reserves where drainage will be to the wetland, lake or river;
(iii) to meet network utility operator requirements;
(iv) in respect of other parties in favour of nominated lots or adjoining Certificates of Title;
(j) Any need to restrict the location or bulk of future buildings on the lot.

15.2.4 Developments and 15.2.5 Financial Contributions

Section 15.2.5 is subject to references RMA 1405/98, 1384/98, 1401/98, 1427/98, 1286/98 and 1402/98.

Lot Sizes, Averages and Dimensions

15.2.6.1 Controlled Subdivision Activities - Lot Sizes and Dimensions

Except where specified as Discretionary or Non-Complying Subdivision Activities in Rules 15.2.3.3 and 15.2.3.4, any subdivision of land in any zone, which complies with all of the Site and Zone Subdivision Standards, is a Controlled Subdivision Activity, with the Council reserving control in respect of the following:

(v) Any need to provide for future private and other private access;
(vi) "stormwater treatment and disposal, sewage treatment and disposal, water supply, electricity reticulation, gas reticulation, telecommunications;"
(vii) any party walls and floors/ceilings;
(viii) for reticulation servicing with sufficient width to permit maintenance, repair or replacement;
(ix) for walkways and cycle ways, including access to water bodies.
(b) The need for the cancellation of easements.

(12) Energy Supply and Telecommunications

(a) Where the subdivision involves construction of new roads or formed private access, the installation of an extended reticulation system, at the subdividers' cost, having regard to the Council's Code of Practice;
(b) The adequacy and proximity of the proposed reticulated system to be installed by the subdivider;
(c) Any need for a lot as a public utility for electricity or gas supply or telecommunications;
(d) The need for and extent of any financial contribution to the provision of energy supply and telecommunications, as referred to in Rule 15.2.5;
(e) Alternative systems available and acceptable where other systems are not available or practical;
(f) Adequacy and proximity to reticulated services.

(13) Open Space and Recreation

(a) The need for and extent of financial contributions to land and/or facilities for open space and recreation, as referred to in Rule 15.2.6;
(b) The extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;
(c) The extent to which the provision of land and/or cash contributions towards open space and recreation is consistent with the objectives and policies of the District Plan relating to the requirements for reserve contributions from subdivision, the acquisition of land for public open space and recreation and the use of cash received as contributions;
(d) Whether the undertaking of works, including the planting of trees or the regrading or levelling of reserve land to vest in the Council, or the setting aside of a reserve to protect any natural features, should be

Lot sizes and dimensions for subdivisions of land in the Town Centre, Corner Shopping Centre, Remarkable Park, Resort and Visitor Zones.
Sizes and dimensions of lots for access, utilities, reserves and roads.

15.2.6.2 Site Subdivision Standards – Area Thresholds and Dimensions

Except where specified as a Non-Complying Subdivision Activity in Rule 15.2.3.4, any subdivision of land which complies with all of the Zone Subdivision Standards, but does not comply with any one or more of the following Site Subdivision Standards shall be a Discretionary Subdivision Activity, with the exercise of the Council's discretion limited to the matter(s) subject to that standard.

Lot Dimensions

The dimensions of all lots created by subdivision in the following zones, other than lots for access, utilities, reserves and roads, shall be such that they can accommodate a rectangle of the dimensions specified below:

Residential and Township Zones
15m x 15m

Rural-Residential Zone
30m x 30m

The land which is contained within the rectangle specified above, shall, when the subdivision is completed, not exceed a ground slope of 1 in 2.5, measured in any direction across the full width of the rectangle.

Certification of Allocations

Applications for certification of allotments on an existing Survey Plan pursuant to Section 226 (1)(e)(ii) of the Act are to be in accordance with the requirements of the District Plan. Allocations for certification are required to have all services to the boundary and reading as if the allotment were of a subdivision application. All title boundaries to be created by certification that are within proximity to structures must not create a non-complying structure in accordance with the Building Act 1991 or a non-complying activity in accordance with the District Plan.

88
5.4 Resource Consents - Assessment Matters - Rural Zones

5.4.1 General

(i) The following Assessment Matters are methods or matters included in the District Plan, in order to enable the Council to implement the Plan's policies and fulfill its functions and duties under the Act.

(ii) In considering resource consents for land use activities, in addition to the applicable provisions of the Act, the Council shall apply the relevant Assessment Matter set out in Clause 5.4.2 below.

(iii) In the case of Controlled and Discretionary Activities, where the exercise of the Council's discretion is restricted to the matter(s) specified in a particular standard(s) only, the assessment matters taken into account shall only be those relevant to that/those standard(s).

(iv) In the case of Controlled Activities, the assessment matters shall only apply in respect to conditions that may be imposed on a consent.

(v) Where an activity is a Discretionary Activity because it does not comply with one or more relevant Site Standards, but is also specified as a Controlled Activity in respect of other matter(s), the Council shall also apply the relevant assessment matters for the Controlled Activity when considering the imposition of conditions on any consent to the discretionary activity.

5.4.2 Assessment Matters

In considering whether or not to grant consent or impose conditions, the Council shall have regard to, but not be limited to, the following:

i General - Nature Conservation Values

(a) The extent to which activities will result in opportunities for the protection and enhancement of indigenous bio-diversity or indigenous ecosystems.

(b) Any adverse effects of the activity on indigenous ecosystems from animal pests and domestic animals.

(c) Any need to avoid, contain, manage and/or monitor the adverse effects of introduced plant species/forms, which have potential to spread and naturalise.

(d) The extent to which the activity provides opportunities for making available information regarding indigenous ecosystems.

(e) The extent to which activities will protect and enhance the survival and well being of indigenous plants and/or animals that are rare, vulnerable or endangered or significant within the District, Region or nationally.

(f) In the case of activities proposed in the vicinity of rock outcrops, the extent to which the activity will adversely affect, or provide opportunities to enhance, the protection of lizard populations and their habitat.

ii Natural Hazards - General

(a) Whether the activity will exacerbate any natural hazard, including erosion, sedimentation, subsidence and landslips.

iii Controlled Activity - All Buildings

(a) The extent to which the location of buildings and associated earthworks, access and landscaping breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes.

(b) Whether the external appearance of buildings is appropriate within the rural context.

iv Controlled Activity - Retail Sales

(a) The extent to which buildings and structures are located to mitigate against the loss of landscape values.

(b) The location and design of vehicle access, parking and loading areas to protect the safe and efficient movement of vehicles on adjoining roads.

(c) The extent to which the size, location and design of parking and loading areas, and their relationship to the retail sales area, buildings, outdoor display areas and vehicle access, are such so as to encourage cars to park on-site and not on adjoining roads.

(d) The extent to which parking and loading areas are capable of accommodating likely vehicle demand.
v Controlled Activity – Commercial Recreation Activities

(a) Whether the ski tow or lift breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes.
(b) Whether the materials and colour to be used are consistent with the rural landscape of which the tow or lift will form a part.
(c) Balancing environmental considerations with operational characteristics.
(d) Potential effect on surrounding environment.
(e) Impact of lighting on the enjoyment of an adjoining property.

vi Controlled Activity – Mining, Limited to Mineral Exploration

Conditions may be imposed on mineral exploration in order that:
(a) the amount of vegetation cleared and volumes of material removed will be minimal and the adverse effects to landscape and nature conservation values and water quality are minimised;
(b) rehabilitation of the site is completed which ensures:
(i) the long term stability of the site;
(ii) that the landforms or vegetation on finished areas are visually integrated into the landscape;
(iii) that the land is returned to its original productive capacity, where appropriate.
(c) roads or buildings are located in such a way as to minimise impacts to landscape, conservation, and amenity values;
(d) dust is minimised where amenity values are at risk. Methods may include wetting down of tracks or heaped overburden;
(e) noise is minimised where amenity values are at risk. Methods may include restricted hours of operation or appropriate mufflers on machinery.

vii Controlled Activity – Jetboat Race Events (Clutha River)

Conditions may be imposed to ensure that:

(a) the date, time, duration and scale of the jetboat race event, including its proximity to other such events, are such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity;
(b) adequate public notice is given of the holding of the event; and
(c) reasonable levels of public safety are maintained.

viii Controlled Activity – Addition or alteration to Buildings within the (Control Boundary – Wanaka Airport

Conditions may be imposed to ensure the design, construction, orientation and local building for residential activities, visitor accommodation or community activities Wanaka Airport’s Outer Control Boundary, or the extension or addition to an existing or part of a building used for residential activities, visitor accommodation or some activities within Queenstown Airport's Outer Control Boundary is such to ensure the design sound levels specified in Zonas Standards 8.9.5.2003 and 81 are met.

ix Discretionary Activity – Commercial

(a) The extent to which the commercial activity may:
(i) result in levels of traffic generation or pedestrian activity, which is incompatible with the character of the surrounding rural area, or adversely affect safety.
(ii) have adverse effects in terms of noise, vibration and lighting from vehicles entering and leaving the site or adjoining road.
(iii) result in loss of privacy.
(iv) result in levels of traffic congestion or reduction in levels of traffic.

(b) The extent to which the commercial activity mitigates any adverse effects in terms of additional traffic generation.

(c) The extent to which the activity may have on the life supporting capacity of soils and water.

x Discretionary Activity – Visitor Accommodation

(a) Any adverse effects of the proposed visitor accommodation in terms of:
(i) noise, vibration and lighting from vehicles entering and leaving the site or adjoining road, which is incompatible with the levels acceptable in a low-density rural environment.
(ii) loss of privacy and remoteness.
(iii) levels of traffic congestion or reduction in levels of traffic safety which are inconsistent with the classification of the adjoining road.
(iv) pedestrian safety in the vicinity of the activity.
(v) any cumulative effect of traffic generation from the activity in conjunction with traffic generation from other activities in the vicinity.

(b) The ability to mitigate any adverse effects of the additional traffic generation such as through the location and design of vehicle crossings, parking and loading areas or through the provision of screening and other factors which may reduce the effect of the additional traffic generation, such as infrequency of the activity, or limited total time over which the traffic movements occur.

(c) Any potential adverse effects of the activity on the quality of ground and/or surface waters.

xi Discretionary Activity – Commercial Recreational Activities (other than on the Surface of Lakes and Rivers)

(a) The extent to which the recreational activity will result in levels of traffic or pedestrian activity which are incompatible with the character of the surrounding rural area.

(b) Any adverse effects of the proposed activity in terms of:
(i) noise, vibration and lighting, which is incompatible with the levels acceptable in a low-density rural environment.
(ii) loss of privacy or a sense of remoteness or isolation.
(iii) levels of traffic congestion or reduction in levels of traffic safety which are inconsistent with the classification of the adjoining road.
(iv) pedestrian safety in the vicinity of the activity.

RURAL AREAS - RULES

lx Discretionary Activity – Commercial (other than on the Surface of Lakes and Rivers)

(a) The extent to which the activity may:
(i) result in levels of traffic generation or pedestrian activity, which is incompatible with the character of the surrounding rural area, or adversely affect safety.
(ii) have adverse effects in terms of noise, vibration and lighting from vehicles entering and leaving the site or adjoining road.
(iii) result in loss of privacy.
(iv) result in levels of traffic congestion or reduction in levels of traffic.

(b) The extent to which the commercial activity mitigates any adverse effects in terms of additional traffic generation.

(c) The extent to which the activity may have on the life supporting capacity of soils and water.

90
(b) The extent to which the water-based activity is suited to and benefits from the identified natural characteristics of the particular lake or river.

(c) The extent to which the water-based activity will reduce opportunities for passive recreation, enjoyment of peace and tranquility and, particularly, opportunities for remote experience recreation.

(d) The extent to which the water-based activity will compromise levels of public safety, particularly where conflict between operators may make a reasonable level of public safety impossible or difficult to achieve.

(e) Any adverse effects of the proposed activity in terms of:
   (i) noise, vibration and lighting, which is incompatible with the levels acceptable in the particular lake or river environment.
   (ii) loss of privacy or a sense of remoteness or isolation.
   (iii) levels of congestion or reduction in levels of lake or river safety, which are unacceptable for the nature of the lake or river.
   (iv) accumulation of litter and waste, and access to toilet facilities.
   (v) any cumulative effect from the activity in conjunction with other activities in the vicinity.

(f) The extent to which the water-based activity is compatible with, and will not adversely affect nature conservation values or wildlife habitats.

(g) In the case of structures or moorings which pass across or through the surface of any lake or river or are attached to the bank of any lake or river, the extent to which the structures or moorings:
   (i) are dominant or obtrusive elements in the shoreline or lake view, particularly when viewed from any public place.
   (ii) cause an impediment to craft manoeuvring and using shore waters.
   (iii) diminish the recreational experience of people using public areas around the shoreline.
   (iv) result in congestion and clutter around the shoreline.
   (v) are likely to result in demand for craft to be permanently moored outside of permanent marina sites.

RURAL AREAS - RULES

(xv) Discretionary Activity - Mining

(a) The extent to which mining activities will adversely affect:
   (i) amenity values.
   (ii) recreational values.
   (iii) nature conservation values.
   (iv) landscape and visual amenity values.
   (v) historical, cultural or known archaeological artefacts or sites.
   (vi) water supporting capacity of soils, water and air.
   (vii) public access to and along the lake, river or waterway.

(b) The ability of the company to:
   (i) provide a contingency plan for early mine closure.
   (ii) adequately monitor operations and the effects on the receiving environment.

(c) The necessity of the company to provide a bond to Council reviewed annually, for the purpose of rehabilitating operation areas in the event of non-compliance with terms and conditions of any consent, premature closure or abandonment of the mine.

(xvi) Zone Standard - Building Height

(a) The extent to which the increased building height may:
   (i) be compatible with the character of the local environment including scale of buildings in the surrounding environment.
   (ii) impact on the landscape and visual amenity values of the area.
   (iii) adversely affect views from properties in the vicinity.
   (iv) have an adverse effect on other sites in the surrounding area, in terms of loss of privacy.
   (v) overshadow adjoining sites and result in reduced sunlight and daylight admission.

(b) Whether the adverse effects of increased height could be mitigated through site layout, increased separation distances between the building and adjoining sites or the provision of screening.

(xvii) Setback from Neighbours of Buildings Housing Animals

(a) The extent to which the use of the proposed building for the housing of animals will detract from the pleasantness or amenity of adjoining sites, in terms of such matters as noise, smell, dust, glare or vibration.

(b) The extent to which the level and nature of the use of the residential unit will make it unlikely that access by way of a formed road will ever be necessary.

(c) The level of financial contribution required to be made to the Council towards the formation of the road to a standard suitable for residential access, taking into account the levels of traffic likely to be generated by the use of the residential unit in relation to the existing use of the road, as referred to in Rule 15.2.5.
xix Nature and Scale of Activities
(a) The extent to which:
(i) the scale of the activity and the proposed use of buildings are compatible with the scale of other buildings and activities in the surrounding area.
(ii) the character of the site will remain dominant.
(iii) materials and equipment associated with the activity need to be stored outside of a building.
(iv) all manufacturing, altering, repairing, dismantling or processing of any goods or articles associated with the activity need to be carried outside of a building.
(v) noise and visual impact.
(vi) adverse effects of likely traffic generation and the ability to mitigate such effects.

xxii Residential Units - Discretionary and Non-Complying Activities
(a) The extent to which the residential activity maintains and enhances:
(i) rural character,
(ii) landscape values,
(iii) heritage values,
(iv) visual amenity,
(v) life-supporting capacity of soils, vegetation and water.
(vi) infrastructure.
(vii) traffic safety.
(viii) public access to and along lakes and rivers.

(b) The extent to which the residential activity may adversely affect adjoining land uses.
(c) The extent to which the residential activity or residential unit may be adversely affected by natural hazards or exacerbate a natural hazard situation.

xxi Significant Indigenous Vegetation
(a) The significance of the species and their communities.

(b) The extent to which the proposed activity may adversely affect:
(i) the life supporting capacity of the indigenous species, including their habitat.
(ii) landscape and natural values of the site and in the vicinity of the site.
(iii) the life supporting capacity of soil and water.

Queensland Lakes District Council - PROPOSED DISTRICT PLAN JULY 1998
5.3.6 Resource Consents – Assessment Matters

The assessment matters, which apply to the consideration of resource consents in the Rural Zones, are specified in 5.4.

5.4 Resource Consents - Assessment Matters - Rural Zones

5.4.1 General

(i) The following Assessment Matters are methods or matters included in the District Plan, in order to enable the Council to implement the Plan's policies and fulfil its functions and duties under the Act.

(ii) In considering resource consents for land use activities, in addition to the applicable provisions of the Act, the Council shall apply the relevant Assessment Matters set out in Clause 5.4.2 below.

(iii) In the case of Controlled and Discretionary Activities, where the exercise of the Council's discretion is restricted to the matter(s) specified in a particular standard(s) only, the assessment matters taken into account shall only be those relevant to that/those standard(s).

(iv) In the case of Controlled Activities, the assessment matters shall only apply in respect to conditions that may be imposed on a consent.

(v) Where an activity is a Discretionary Activity because it does not comply with one or more relevant Site Standards, but is also specified as a Controlled Activity in respect of other matter(s), the Council shall also apply the relevant assessment matters for the Controlled Activity when considering the imposition of conditions on any consent to the discretionary activity.

5.4.2 Assessment Matters

In considering whether or not to grant consent or impose conditions, the Council shall have regard to, but not be limited to, the following:

5.4.2.1 Landscape Assessment Criteria - Process

There are three steps in applying these assessment criteria. First, the analysis of the site and surrounding landscape; secondly determination of the appropriate landscape category; thirdly the application of the assessment matters. For the purpose of these assessment criteria, the term "proposed development" includes any subdivision, identification of building platforms, any building and associated activities such as roading, earthworks, landscaping, planting and boundaries.

Step 1 – Analysis of the Site and Surrounding Landscape

An analysis of the site and surrounding landscape is necessary for two reasons. Firstly it will provide the necessary information for determining a site's ability to absorb development including the basis for determining the compatibility of the proposed development with both the site and the surrounding landscape. Secondly it is an important step in the determination of a landscape category – i.e. whether the proposed site falls within a outstanding natural, visual amenity or other rural landscape.

An analysis of the site must include a description of those existing qualities and characteristics (both negative and positive), such as vegetation, topography, aspect, visibility, natural features, relevant ecological systems and land use.

An analysis of the surrounding landscape must include natural science factors (the geological, topographical, ecological and dynamic components in of the landscape), aesthetic values (including memorability and naturalness), expressiveness and legibility (how obviously the landscape demonstrates the formative processes leading to it), transient values (such as the occasional presence of wildlife or its values at certain times of the day or of the year), value of the landscape to Tangata Whenua and its historical associations.

2 – Determination of Landscape Category

This step is important as it determines which district wide objectives, policies, definitions and assessment matters are given weight in making a decision on a resource consent application.

The Council shall consider the matters referred to in Step 1 above, and any other relevant matter, in the context of the broad description of the three landscape categories in Part 4.2.4 of this Plan, and shall determine what category of landscape applies to the site subject to the application.

In making this determination the Council, shall consider:

(a) to the extent appropriate under the circumstances, both the land subject to the consent application and the wider landscape within which that land is situated; and

(b) the landscape maps in Appendix 8.

Step 3 – Application of Assessment Matters

Once the Council has determined which landscape category the proposed development falls within, each resource consent application will then be considered:

First, with respect to the prescribed assessment criteria summarised below and set out in Rule 5.4.2.2 of this section;

Secondly, taking into account the reasons for making the activity discretionary (see para 1.5.3(ii) of the plan [p1/3]) and a general assessment of the frequency with which appropriate sites for development will be found in the locality.

5.4.2.1.2 The assessment matters shall apply as follows:
(1) Outstanding Natural Landscapes and Features – District-Wide

In assessing a proposed development against the objectives and policies for the outstanding natural landscapes and features – District-Wide the following Assessment Matters shall be taken account:

- Potential of the landscape to absorb development
- Effects on openness of the landscape
- Cumulative effects on landscape values
- Positive Effects

(2) Outstanding Natural Landscapes and Features – Wakatipu Basin and Inner Upper Clutha Area

In assessing a proposed development against the objectives and policies for the outstanding natural landscapes and features – Wakatipu Basin the following Assessment Matters shall be taken account:

- Effects on openness of the landscape
- Visibility of Development
- Visual Coherence and Integrity of the landscape
- Cumulative effects of development on landscape values
- Nature Conservation Values
- Positive Effects associated with remedying or mitigating inappropriate past subdivision and/or development

As for ONL above.

Applicants are advised that the application of the above assessment matters is a stringent test and the Council anticipates that any application that meets this test will be an exception.

(3) Visual Amenity Landscapes

In assessing a proposed development against the objectives and policies for the visual amenity landscapes the following assessment matters shall be taken account:

- Effects on natural and pastoral character
- Visibility of Development
- Form and Density of Development
- Cumulative effects of development on the landscape
- Rural Amenities

- as elaborated on in 5.4.2.2 (3) below.

(4) Other Rural Landscapes

In assessing a proposed development in other rural landscapes the Council shall take account of the matters listed in Assessment Matter (4) 5.4.2.2 (4) including the maintenance of rural amenities.

5.4.2.2 (2) Assessment Matters

(a) (1) Potential of the landscape to absorb development

In considering the potential of the landscape to absorb development both visually and ecologically, the following matters shall be taken into account consistent with retaining naturalness, openness and natural character:

(i) whether, and to what extent, the proposed development is visible from public places;
(ii) whether the proposed development is likely to be visually prominent to the extent such that it dominates or detracts from views otherwise characterised by natural landscapes;
(iii) whether any mitigation or earthworks and/or planting associated with the proposed development will detract from existing natural patterns and processes within the site and surrounding landscape or otherwise adversely effect the natural landscape character;
(iv) whether, with respect to subdivision, any new boundaries are likely to give rise to planting, fencing or other land use patterns which appear unrelated to the natural line and form of the landscape; wherever possible with allowance for due respect to practical considerations, boundaries should reflect underlying natural patterns such as topographical boundaries;
(v) whether the site includes any indigenous ecosystems, wildlife habitats, wetlands, significant geological or geomorphologic features or is otherwise an integral part of the same;
(vi) whether and to what extent the proposed activity will have an adverse effect that is more than minor on any of the ecosystems or features identified in (v);
(vii) whether the proposed activity introduces exotic species with the potential to spread and naturalise.

(b) (2) Effects on openness of landscape.

In considering the adverse effects of the proposed development on the openness of the landscape, the following matters shall be taken into account:

(i) whether and the extent to which the proposed development will be within a broadly visible expanse of open landscape when viewed from any scenic rural road or public place;
(ii) whether, and the extent to which, the proposed development is likely to adversely affect open space values with respect to the site and surrounding landscape:
(iii) whether the proposed development is defined by natural elements such as topography and/or vegetation which may contain any adverse effects associated with the development.
In considering whether there are likely to be any adverse cumulative effects as a result of the proposed development, the following matters shall be taken into account:

(i) whether, and to what extent, the proposed development will result in the introduction of elements which are inconsistent with the natural character of the site and surrounding landscape;
(ii) whether the elements identified in (i) above will further compromise the existing natural character of the landscape either visually or ecologically by exacerbating existing and potential adverse effects;
(iii) whether existing development and/or land use represents a threshold with respect to the site’s ability to absorb further change;
(iv) where development has occurred or there is potential for development to occur (i.e. existing resource consent or zoning), whether further development is likely to lead to further degradation of natural values or inappropriate development of the landscape or feature.

In considering whether there are any significant positive effects associated with the proposed development the following matters shall be taken into account:

(i) whether the proposed activity will protect, maintain or enhance any of the ecosystems or features identified in (a)(1)(v) above;
(ii) whether the proposed activity provides for the retention and/or re-establishment of native vegetation and their appropriate management;
(iii) whether the proposed development provides an opportunity to protect open space from further development which is inconsistent with preserving a natural open landscape;
(iv) whether the proposed development provides an opportunity to remedy or mitigate existing and potential (i.e. structures or development anticipated by existing resource consents) adverse effects by modifying, including mitigation, or removing existing structures or developments; and/or surrendering any existing resource consents;
(v) the ability to take esplanade reserves to protect the natural character and nature conservation values around the margins of any lake, river, wetland or stream within the subject site;
(vi) the use of restrictive covenants, easements, consent notices or other legal instruments otherwise necessary to realise those positive effects referred to in (i)-(v) above and/or to insure ensure that the potential for future effects, particularly cumulative effects, are avoided.

(a) (3) Cumulative effects on landscape values

In considering whether there are likely to be any adverse cumulative effects as a result of the proposed development, the following matters shall be taken into account:

(ii) whether the proposed development will result in the introduction of elements which are inconsistent with the natural character of the site and surrounding landscape;
(iii) whether existing development and/or land use represents a threshold with respect to the site’s ability to absorb further change;
(iv) where development has occurred or there is potential for development to occur (i.e. existing resource consent or zoning), whether further development is likely to lead to further degradation of natural values or inappropriate development of the landscape or feature.

(b) (2) Out Standing Natural Features and Landscapes (Wakatipu Basin and Inner Upper Clutha area)

(a) 1) Effects on openness of landscape

In considering whether the proposed development will maintain the openness of those outstanding natural landscapes and features which have an open character at present (when viewed from scenic rural roads and other public places), the following matters shall be taken into account:

(i) whether the proposed development will not be likely to adversely affect open space values with respect to the site and surrounding landscape;
(ii) whether, and the extent to which, the proposed development is likely to adversely affect open space values with respect to the site and surrounding landscape;
(iii) whether the site is defined by natural elements such as topography and/or vegetation which may reduce the potential for adverse effects associated with the development onto the wider landscape, such as to contain and mitigate any adverse effects associated with the development.

(b) 2) Visibility of development

In considering the potential visibility of the proposed development (when viewed from scenic rural roads and other public places) and whether the adverse visual effects are minor, the Council shall be satisfied that:

(i) whether the proposed development will not be visible or will be reasonably difficult to see when viewed from scenic rural roads and other public places; and
(ii) whether the proposed development will not be likely to be visually prominent such that it dominates or detracts from views of the landscape or environment.

(c) 3) Visual coherence and integrity of landscape

In considering whether the proposed development will adversely affect the visual coherence and integrity of the landscape and whether those effects are minor, the Council must be satisfied that following matters shall be taken into account:

(i) whether structures will not be located where they will break the line and form of any ridges, hills and any prominent slopes;
In considering whether the proposed development will adversely affect nature conservation values and whether these effects are minor with respect to any ecological systems and other nature conservation values, the Council must be satisfied that: the following matters shall be taken into account:

(i) whether and to what extent existing and potential development (ie. existing resource consent or zoning) may already have compromised the visual coherence and naturalness of the landscape;

(ii) whether development has occurred, whether further development is likely to lead to further degradation of natural values or domestication of the landscape or feature such that the existing development and/or land use represents a threshold with respect to the site's ability to absorb further change;

(iii) whether the area affected by the development proposed in the application does not contain any indigenous ecosystems including indigenous vegetation, wildlife habitats and wetlands or geological or geomorphological feature of significant value;

(iv) whether the development proposed will not have any adverse effects that are more than minor on these indigenous ecosystems and/or geological or geomorphological feature of significant value;

(v) whether the development proposed will avoid the establishment of introduced vegetation that have a high potential to spread and naturalise (such as wilding pines or other noxious species);

(vi) where the site is adjacent to an Outstanding Natural Landscape or Feature, whether the proposed development provides an opportunity to protect open space from further development which is inconsistent with preserving a natural open landscape, particularly where open space has been compromised by past subdivision and/or development;

(vii) whether the proposed development provides an opportunity to remedy or mitigate existing and potential adverse effects (ie. structures or development anticipated by existing resource consents) by modifying, including mitigation, or removing existing structures or developments; and/or surrendering any existing resource consents;

(viii) whether and the extent to which, any proposed new boundaries will give rise to artificial or unnatural lines or otherwise adversely affect the natural form of the landscape, such as planting and fence lines.

(g) Other matters

In addition to consideration of the positive effects (i)-(iv) in (f)(ii) above, the following matters shall be taken into account, but considered with respect to those matters listed in (a) to (e)(1) to 5) above:

(v) the ability to take esplanade reserves to protect the natural character and nature conservation values around the margins of any lake, river, wetland or stream within the subject site;

(vi) the use of restrictive covenants, easements, consent notices or other legal instruments otherwise necessary to realise those positive effects referred to in 6)(i)-(v) above and/or to insure ensure that the potential for future effects, particularly cumulative effects, are avoided.

3.3(c) Visual Amenity Landscapes

(a) 1) Effects on natural and pastoral character

In considering whether the adverse effects (including potential effects of the eventual construction and use of buildings and associated spaces) on the natural and pastoral character are avoided, remedied or mitigated, the following matters shall be taken into account:

(i) whether the proposed activity will protect, maintain or enhance any of the ecosystems or features identified in (f) above which has been compromised by past subdivision and/or development;

(ii) whether the proposed activity provides for the retention and/or re-establishment of native vegetation and their appropriate management, particularly where native revegetation has been cleared or otherwise compromised as a result of past subdivision and/or development;

(iii) whether the proposed development provides an opportunity to protect open space from further development which is inconsistent with preserving a natural open landscape, particularly where open space has been compromised by past subdivision and/or development;

(iv) whether the proposed development provides an opportunity to remedy or mitigate existing and potential adverse effects (ie. structures or development anticipated by existing resource consents) by modifying, including mitigation, or removing existing structures or developments; and/or surrendering any existing resource consents;
whether and the extent to which the scale and nature of the development will compromise the natural or arcadian pastoral character of the surrounding Visual Amenity Landscape;

whether the development will degrade any natural or arcadian pastoral character of the landscape by causing over-domestication of the landscape;

whether any adverse effects identified in (i) to (iii) above are or can be avoided or mitigated by appropriate subdivision design and landscaping, and/or appropriate conditions of consent (including covenants, consent notices and other restrictive instruments) having regard to the matters contained in (2) to (5) (b) to (e) below;

(b) 2) Visibility of development

In considering whether the development will result in a loss of the natural or arcadian pastoral character of the landscape when viewed from scenic rural roads or other public places frequented by the public, having regard to whether and the extent to which:

(i) the proposed development is highly visible when viewed from any public roads and other public places which are frequented by the public, or is visible from a scenic rural road;

(ii) the proposed development is likely to be visually prominent such that it dominates or detracts from private views otherwise characterised by natural or arcadian pastoral landscapes;

(iii) there is opportunity for screening or other mitigation by any proposed method such as earthworks and/or new planting which does not detract from the existing natural topography or cultural plantings such as hedge rows and avenues;

(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;

(v) any building platforms proposed pursuant to rule 15.2.3.3 will give rise to any structures being located where they will break the line and form of any skylines, ridges, hills or prominent slopes;

(vi) any proposed roads, earthworks and landscaping will change the line of the landscape or affect the naturalness of the landscape particularly with respect to elements which are inconsistent with the existing natural topography;

(vii) any proposed new boundaries and the potential for planting and fencing will give rise to any arbitrary lines and patterns on the landscape with respect to the existing character;

(viii) boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape and/or landscape units;

(ix) the development constitutes sprawl of built development along the roads of the District and with respect to areas of established development.

(c) 3) Form and Density of Development

In considering the appropriateness of the form and density of development the following matters shall be taken into account whether and to what extent:

(i) there is the opportunity to utilise existing natural topography to ensure that development is located where it is not highly visible when viewed from public places;

(ii) there is the opportunity for the aggregation opportunity has been taken to aggregate built development to utilise common access ways including pedestrian linkages, services and commonly-held open space (i.e. open space held in one title whether jointly or otherwise);

(iii) there is the opportunity to concentrate development to areas with a higher potential to absorb development while retaining areas which are more sensitive in their natural or arcadian pastoral state;

(iv) the proposed development, if it is visible, does not introduce densities which reflect those characteristic of urban areas where they are visible from public places. scenic rural roads or highly visible from public places and taking into consideration the site and the development as a whole.

(v) If a proposed residential building platform is not located inside existing development (being two or more houses each not more than 50 metres from the nearest point of the residential building platform) then on any application for resource consent and subject to all the other criteria, the suitability of all possible sites:

(a) within a 500 metre radius of the centre of the building platform, whether or not:

(i) subdivision and/or development is contemplated on those sites;

(ii) the relevant land is within the applicant’s ownership; and

(b) within a 1,100 metre radius of the centre of the building platform if any owner or occupier of land within that area wishes possible future development on that alternative site(s) to be taken into account as a significant improvement on the proposal being considered by the Council

- must be taken into account.

(vi) recognition that if high densities are achieved on any allotment that may in fact preclude residential development and/or subdivision on neighbouring land because the adverse cumulative effects would be unacceptably large.

(d) 4) Cumulative effects of development on the landscape

In considering whether and the extent to which the granting of the consent may give rise to adverse cumulative adverse effects on the natural or arcadian pastoral character of the landscape with particular regard to the inappropriate over-domestication of the landscape, the following matters shall be taken into account:
The "vicinity or locality" to be assessed for cumulative effect will vary in size with the scale of the landscape i.e. when viewed from the road, this "vicinity", will generally be 1.1 kilometre in either direction, but may be halved in the finer scale landscapes of the inner parts of the Wakatipu basin, but greater in some of the sweeping landscapes of the upper Wakatipu and upper Clutha.

(i) the assessment matters detailed in (a) 1) to (d) 4) above;
(ii) the nature and extent of existing development within the vicinity or locality;
(iii) whether the proposed development is likely to lead to further degradation or domestication of the landscape such that the existing development and/or land use represents a threshold with respect to the vicinity's site's ability to absorb further change;
(iv) whether further development as proposed will visually compromise the existing natural and arcadian pastoral character of the landscape by exacerbating existing and potential adverse effects;
(v) the ability to contain development within discrete landscape units as defined by topographical features such as ridges, terraces or basins, or other visually significant natural elements, so as to check the spread of development that might otherwise occur either adjacent to or within the vicinity as a consequence of granting consent.
(vi) whether the proposed development is likely to result in the need for infrastructure consistent with urban landscapes in order to accommodate in increased population and traffic volumes such as to assist in establishing a threshold to appropriate levels of development.
(vii) whether the potential for the development to cause cumulative adverse effects may be avoided, remedied or mitigated by way of covenant, consent notice or other legal instrument (including covenants controlling or preventing future buildings and/or landscaping, and covenants controlling or preventing future subdivision which may be volunteered by the applicant).
(e) 5) Rural Amenities

In considering the potential effect of the proposed development on rural amenities, the following matters shall be taken into account whether and to what extent:
(i) the proposed development maintains adequate and appropriate visual access to open space and views across arcadian pastoral
(ii) the proposed development will be complementary or sympathetic to the character of adjoining or surrounding visual amenity landscape as viewed from public places;
(iii) the proposed development will be visible from scenic rural roads or from neighbour's properties;
(iv) the proposed development utilises existing topography or vegetation to integrate the development into the landscape and reduce its visibility.
(v) the proposed development will adversely affect the naturalness and rural quality of the landscape through inappropriate landscaping including earthworks and planting as a result of any proposed mitigation or increased domestication particularly where visible from public places;
(vi) the proposed development is likely to result in the need for infrastructure consistent with existing or proposed development on adjoining or adjacent properties, and the opportunities for shared access and/or shared amenities;
(vii) the proposed development is designed and/or intended to be carried out in a comprehensive manner taking into account the topography of the site, the size and configuration of the property being developed, the extent and nature of existing or proposed development on adjoining or adjacent properties, and the opportunities for shared access and/or shared amenities;
(viii) the proposed development is likely to require infrastructure consistent with urban landscapes such as street lighting and curb and channeling, in relation to Rural Scenic Road frontages, landscaping, including fencing and entrance ways, are consistent with a traditional rural element, particularly where they front scenic rural roads;
(ix) buildings and building platforms are set back from property boundaries to avoid remedy or mitigate the potential effects of new activities on the existing amenities of neighbouring properties.

(4) 5 Other Rural Landscapes

Where it has been determined that the proposed development is not within a CIL or VAL but otherwise within the Rural General zone consideration of the potential effects of the development shall include whether and the extent to which: