

# S35 Monitoring Report

## Bendemeer

### Special Zone

2024

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## Executive Summary

The findings of this Monitoring Report are intended to inform the review of the Operative District Plan Bendemeer Special Zone. The report's analysis and conclusions were reached using desktop based research of consents which have taken place within the Zone, as well as a site visit of the Zone.

The analysis of the consents which have taken place within the Zone found that the Zones Purpose, Objectives, Policies and Rules have been mostly effective. The analysis found that the Objectives and Policies are mostly being achieved, with potential impacts to the environment being mitigated. It was noted that the difference between the extent of urban development permitted in the Zone's Structure Plan and the actual development which has occurred differs significantly.

The report found that consents within the Zone are triggering at a more restrictive activity status than would normally be expected. The subdivision layout which was establish in the consent RM020776 has also led to certain issues, with multiple breaches for the development occurring outside of approved building platforms being recorded. The breach to this standard could potentially lead to more than minor effects on the environment, however, when examining the development which has been undertaken in the Zone, it is still at a less intensive level of the Environment Court's 'permitted baseline', which was determined to establish the maximum amount of development, and the locations of such developments which could occur and have a less than minor effect on the environment. Due to the landscape constraints present within the Zone, and the importance of the protection of the ice sculptured legibility of the landscape as established in the environment court decision, the number of resource consents required for development within the Zone is no more than expected.

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# 1 Introduction

This report monitors the effectiveness and efficiency of the Bendemeer Special Zone (Zone) in the Operative District Plan (ODP). The focus of this report is to evaluate whether the ODP provisions for the Zone are effective, whether the objectives and policies are being achieved, and to help identify any resource management issues that have emerged. The findings of this report will help to inform the review of the Bendemeer Special Zone, and the wider review of the special zones of the ODP.

The Resource Management Act (RMA) requires that the effectiveness and efficiency of a plan are assessed, with the findings then used to inform the process of a reviewing a plan. This is focused on the efficiency and effectiveness of the plans objectives, policies or methods (i.e., rules).

**District Plan Effectiveness monitoring** requires the Council to compare what is occurring under the District Plan provisions with the intentions of the Plan (as expressed through its objectives). This involves first identifying what the plan is trying to achieve for the zone, and to then track how well it is achieving these objectives. Once an understanding of how well the objectives are being met, the next consideration is identify to what extent this can be attributed to the District Plan policies and rules and to what extent ‘outside’ influences may be affecting the ability of the Plan to achieve its objectives.

**Plan Efficiency monitoring** refers to comparing the costs of administering the Plans provisions incurred by applicants, the Council and other parties compared to the outcomes or benefits achieved. It is noted here that determining what level of costs are acceptable is generally a subjective judgement and, as such, it is difficult to reach definitive conclusions. It is also considered that if development can be undertaken with no resource consent fees then that improves the efficiency of the Plan.

## 1.1 Requirements of the Resource Management Act (1991)

This report fulfils the requirements of section 35(2)(b) in relation to the Bendemeer Special Zone. Section 35 of the Resource Management Act 1991 (RMA) states that:

*(2) Every local authority shall monitor –*

...

*(b) the efficiency and effectiveness of policies, rules or other methods in its policy statement or plan;*

...

*and take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.*

This report monitors the effectiveness and efficiency of the Zones objectives, policies and rules. This report is limited to monitoring the effectiveness and efficiency of the objectives, policies and rules.

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## 2 What is the Bendemeer Special Zone?

### 2.1 How was the Zone created?

The Bendemeer Special Zone was created through a submission to the 1995 Proposed District Plan hearing (Issue 61 Bendemeer). The hearing was held on 4 March 1998 and written and verbal evidence was presented on Bendemeer's submission by five submitters. The submissions included Bendemeer Farms Ltd submitting that approximately 110 hectares of land described in the submission should be zoned from Rural Downlands to Rural Residential, Lake Hayes or Residential New Development Zone, while the remaining four submissions opposed the change sought by Bendemeer Farms Ltd. In the resultant hearing for the Proposed District Plan (1995) included a submission from **Bendemeer Farms Limited** (1138/13) regarding a site which now is now zoned as the Bendemeer Zone.

The reasons for the submitters' opposition to the change primarily regarded the adverse visual effects that would result from additional urban development in the Wakatipu Basin, and the 110 hectares of land in question. In response to this, experts presenting on behalf of Bendemeer Farms Ltd raised that while the entire Wakatipu Basin was outstanding however, the landscape was undergoing continual and relatively rapid change and modification. It was also raised that given the focus of the RMA, "it is inappropriate to retain a rural zone where diversification or intensification of development can be appropriately managed". This related to the fact that the land in question was "not visible from a large portion of the Wakatipu Basin."<sup>1</sup>

### 2.2 Hearing Recommendation

The Independent Hearing Panel (IHP) recommended that the Bendemeer Farms Ltd submission be accepted in part and that the opposing submissions<sup>2</sup> be rejected by adopting a Special Zone titled "Bendemeer Zone".

The reasoning for IHP's recommendation for the adoption of a special zone, as opposed to the requested zoning from the submission are listed as<sup>3</sup>:

- (i) There is an ability to absorb development with only a minor effect on the environment.
- (ii) Adopting Rural Residential zoning over the subject property would set a precedent for rural residential development in the Basin (Whakatipu Basin).
- (iii) Visibility of the subject site from surrounding roads is minimal.
- (iv) There is a commitment by the developer to retain large areas of open space, rural character, and limit to housing numbers.

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<sup>1</sup> Proposed District Plan Issue 61 - Bendemeer

<sup>2</sup> Opposing submissions: *Martyr Resources Limited* [9000\1]; *Wakatipu Holdings Limited* [9001\1]; *Wakatipu Environmental Society* [6198\73]; and *R Bowman* [6127\2].

<sup>3</sup> Proposed District Plan Issue 61 – Bendemeer. This is the Hearing Panel's recommendation, taken verbatim from the document.

- (v) The ability to use productive soils for rural activities is maintained.
- (vi) Development of the subject site would have minor effect on any natural features of the subject area

## 2.3 Environment Court Decision

The IHP recommendation and the subsequent Environment Court Decisions (C105/2000 and C104/2000) led to the creation of the Bendemeer Special Zone. The Zone and site standards within the Chapter (12.8 and 12.9) were set and based upon these decisions, including building height restrictions, lot sizes and the location of Activity Areas with the purpose of development. The structure Plan in Section 12.9 of the ODP (see Figure 1) includes Activity Areas 1 to 8 (AA9 originally for a visitor accommodation lodge but currently is a private residence) which have been identified as being suitable for different scales of residential development. Subsequently a resource consent (RM020776) for the subdivision of the land contained in the Zone was granted on August 13<sup>th</sup>, 2003. This consent subdivided the Zone in allotments of various sizes, with 37 being included for residential purposes.

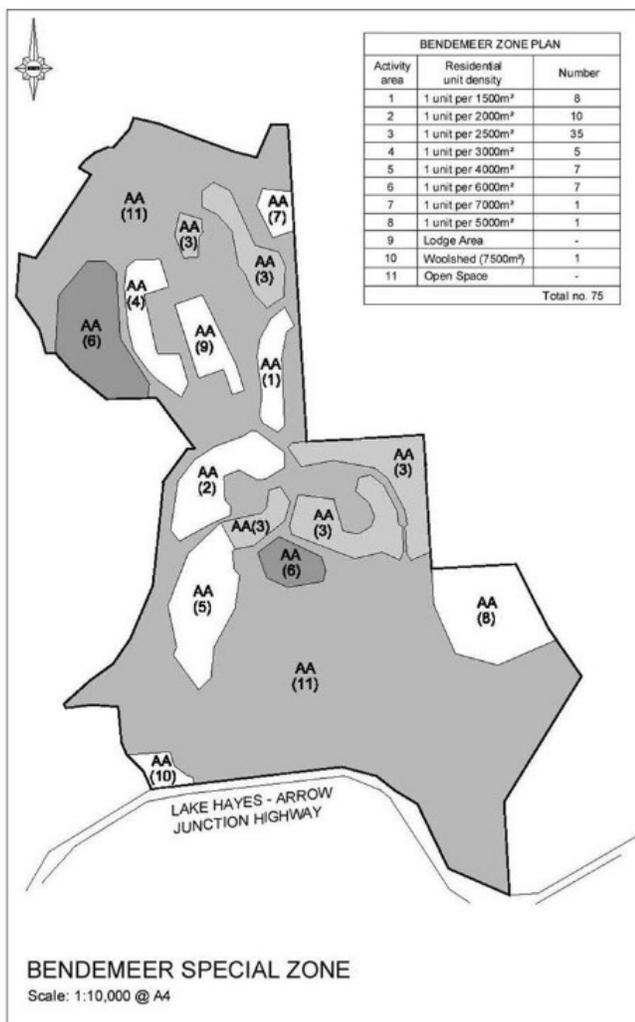
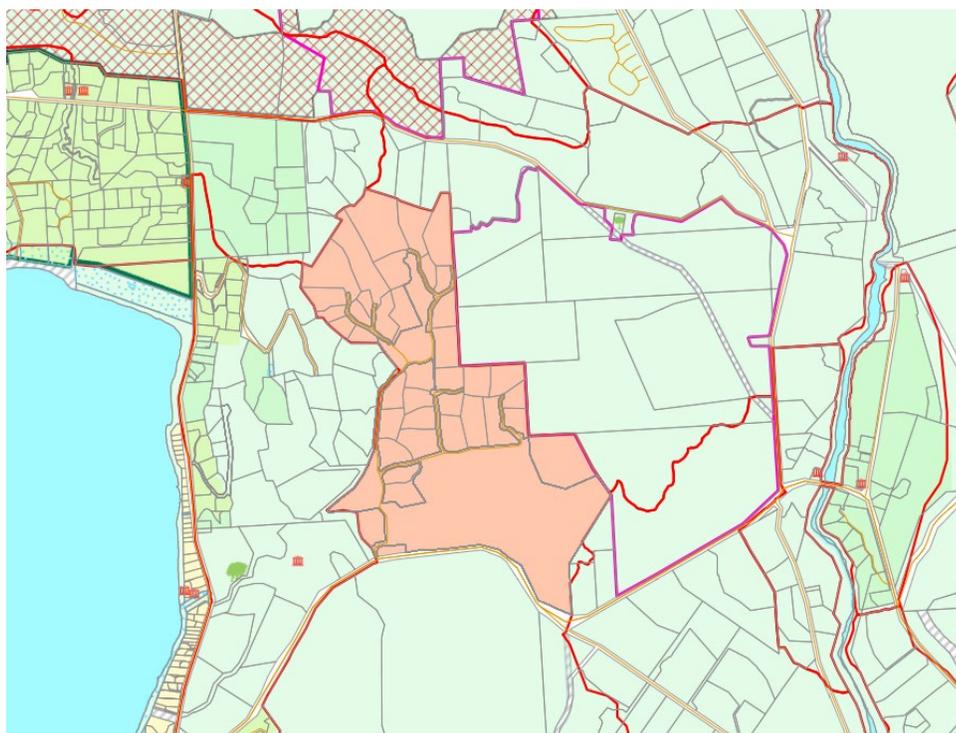


Figure 1 Bendemeer Special Zone Structure Plan

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### 3 What is the Bendemeer Special Zone Aiming to Achieve?

The purpose of the Bendemeer Special Zone is to provide for the development of limited residential, commercial, and visitor accommodation activities within an open rural environment<sup>4</sup>. At the time the last monitoring report was undertaken (2011) one residential unit and a residents' pavilion had been constructed, although other consents had been granted but not yet implemented. Aerial photography taken from QLDC's ePlan and GIS systems shows that a number of developments have been completed since 2011. A site visit confirms the total number of developed lots as of the date of this report (November 2024), and a combination of resource consent and building consent data (through s35 monitoring) will confirm the extent of consented development, with the latter catching development that did not need a resource consent.



**Figure 1 The Bendemeer Special Zone (In Pink)**

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<sup>4</sup> 2011 Bendemeer monitoring report

### 3.1 Objectives and Policies

<b>Objectives and Policies</b>	
<b>Objective 1:</b> Development managed and contained so that it does not compromise the ice sculptured legibility of the land upon which (the) zone is located when viewed from surrounding public roads to the south of the zone other than the Crown Range Road.	
<b>Objective 2:</b> Retention of significant areas of open space.	
<b>Objective 3:</b> Maintenance and enhancement of naturalness, rural character and amenities.	
<b>Policy 1</b>	<i>Limitation of residential, visitor and/or commercial activities within defined Activity Areas to ensure avoidance of adverse effects on open space, rural character, the ice sculptured legibility of the land and rural amenity values.</i>
<b>Policy 2</b>	<i>Strict adherence to long-term planning, especially the limited identification of residential, visitor accommodation and commercial activities and the placing of structures.</i>
<b>Policy 3</b>	<i>Avoidance of activities and development densities which may adversely affect rural character and amenities.</i>
<b>Policy 4</b>	<i>Enhancement of naturalness of the zone through appropriate planting and landscaping.</i>
<b>Policy 5</b>	<i>Avoidance of proliferation of visitor accommodation and/or commercial activities.</i>
<b>Policy 6</b>	<i>Requiring the zone be fully serviced.</i>

Table 1: Objectives and Policies

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## 4 The “State” of the Special Zone

### 4.1 2011 Monitoring Report

In 2011 Council released a monitoring report to meet statutory requirements for reviewing Zones every 10 years. At the time of the report a limited number of consents had been undertaken, limiting the conclusions which could be reached. The 2011 report noted that while the Zone enables up to 75 residential units, it has been subdivided in a way that allows for half that number, with 37 building platforms being currently approved. This means that the way development has occurred in the zone is at a lower density than that provided for by the Environment Courts “Permitted Baseline” decision. This will be an important aspect to consider for the future Section 32 (s32) report.

The report recommends considering whether zone standard 12.9.5.2(b) that enables a maximum of 75 residential units should be altered to reflect the 37 building platforms actually consented by way of subdivision. These are observations that will be further considered in the s32 evaluation report.

### 4.2 Subdivision Pattern

The subdivision consent (RM020776) notes that ‘the proposal represents a significant reduction in the intensity of development that could be established in accordance with the permitted baseline for the property’<sup>5</sup>. The resource consent also noted that the granted consent from two Environment Court decisions (C105/2000; C104/2000) ‘establish the ‘permitted baseline’ for the subject site – that is, the extent to which subdivision and development can be undertaken as-of-right’<sup>6</sup>. The consent also notes that while the proposed activity will change the environment, ‘The level of subdivision and development already permitted on the property, is significantly greater, and will have more effect on the environment as opposed to this proposal’<sup>7</sup>. Further to this point, the consent (RM020776) determined that through establishment of the ‘permitted baseline’ for development by the Environment Court, the consenting authority (the Environment Court) had ‘contemplated the effects on the environment arising from the greater level of development and determined that those effects are acceptable’<sup>8</sup>.

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<sup>5</sup> Rm020776 P.11

<sup>6</sup> RM020775 P.2

<sup>7</sup> RM020776 P11-12

<sup>8</sup> RM020776 P.11-12

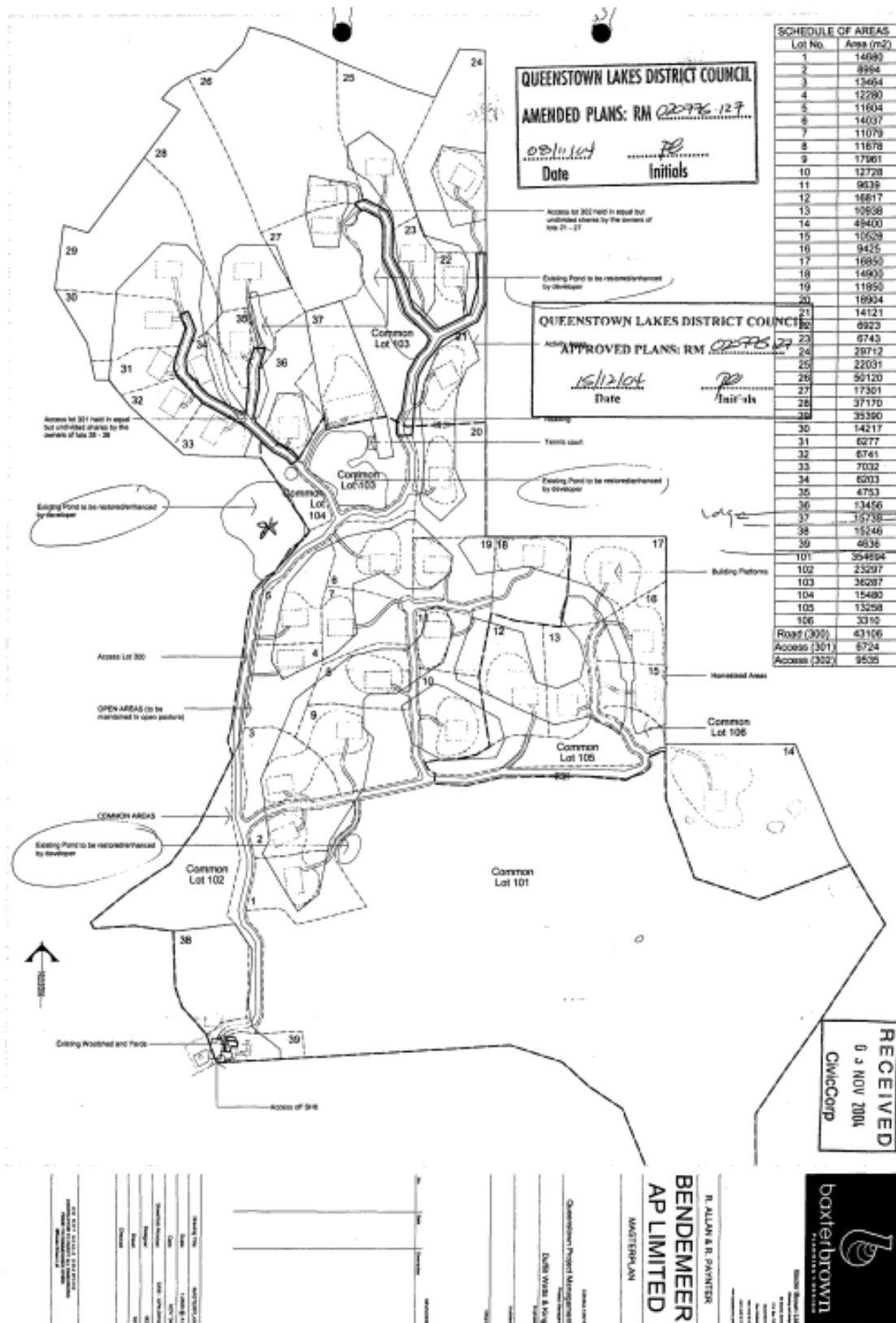


Figure 3 Subdivision pattern of the Bendemeer Zone

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## 4.3 Visual Effects on the Environment

The impact from the development proposed in the subdivision consent (RM020776) and the existing 'permitted baseline' are 'restricted to an assessment of visual and landscape effects, traffic effects, the effects upon services and infrastructure and effects on natural values associated with the subject site and surrounds<sup>9</sup>'. It is of note that the standards relating to the subdivision plan and design controls approved by the Environment court (C104/2000) were designed in a way 'that avoids, remedies or mitigates any perceived adverse effects arising from the visibility of built development<sup>10</sup>'. The standards derived from the assessment undertaken have led to the location of different activity areas deemed suitable for development and the design controls in place for such developments.

Figure 1 depicts the Zone's structure plan and shows the location of the different activity areas present within the Zone. Development can take place in Activity Area's 1 to 10 in the Zone's Structure Plan, with different standards regarding building height, lot size and other design standards for each of the areas. These Activity Areas (1-10) are located on the broad plateau present at the centre of the Zone, leaving Activity Area 11 (Open Space) comprising of slopes and escarpments around the periphery of the Zone. The purpose of Activity Area 11 is for the retention of open space, or for pastoral activities. The assessment for the location of the Activity Areas have recognised the ice sculptured legibility of the land in the Zone, and Activity Area 11 comprises of land to be protected and has been determined to not be suitable for urban development.

The subdivision consent (RM020776) determined that "It is considered that the proposed subdivision plan fully recognizes, adopts and fulfils the purpose of all the Activity Areas, thereby ensuring that development will be within the same locational parameters as those for the approved subdivision Plan. Further, the same land use conditions for built development (residential units and accessory buildings on Proposed Lots 1-36) in respect of height controls, external appearance and site landscaping as imposed within the C104/2000 decision are included as conditions of this consent. It is considered that these conditions will contribute towards the avoidance and mitigation of any adverse effects on the environment<sup>11</sup>".

## 4.4 Infrastructure

The water infrastructure required for the proposed subdivision was undertaken through water supply and effluent disposal treatment through reticulation to and from the Council's community water and sewerage schemes as part of the Lake Hayes Scheme. Confirmation for this was obtained prior to the consent being granted, with confirmation that easements will be available to cross private land that separates the Zone and the Lake Hayes Scheme.

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<sup>9</sup> RM020776 P.11-12

<sup>10</sup> RM020776 P.11-12

<sup>11</sup> RM020776 P.12

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Telecommunication and power supplies were also confirmed by respective suppliers as being able to be provided to the proposed lots.

Regarding the impacts on the natural environment from stormwater and effluent disposal it was determined that the adverse effects on the natural values of Bendemeer and the surrounding landscape would be no more than minor. Regarding stormwater disposal in particular, it was proposed to be discharged on site, either within the individual titles created through the subdivision, or onto adjacent land set aside for open space or pastoral use. The final engineering plans must (by condition of the consent) be submitted to and approved by Council.

## 4.5 Covenants

The lots identified in the masterplan attached to the subdivision consent for the Zone have private covenants attached. These establish controls on what landowners can do on their lots. These covenants will be further examined when undertaking the s32 evaluation as they establish limitations on development in the Zone. While such covenants are separated from the Councils systems and processes, they establish controls regarding development and subdivision of established lots. The covenants establish that “Subject to subclause (b) below, and excepting Lots 38 and 39 Lots may not be further divided or subdivided without the unanimous approval of all the Lot Owners. Approval may be given or withheld by a Lot Owner at that Lot Owners entire discretion.”<sup>12</sup>

The body corporate (Bendemeer Management LTD) can influence the development occurring within the Zone through the established covenants through the created controls listed in the Zone’s subdivision consent with it being stated that “Construction of any dwelling must be strictly in accordance with the conditions of the Resource Consent issued for Bendemeer relating to the construction of dwellings and improvements on Bendemeer”<sup>13</sup>.

# 5 How much development does the Zone enable?

## 5.1 Environment Court ‘Permitted Baseline’

The extent of development which is permitted in the Zone was determined through Environment Court Decision C104/2000. This Decision determined the levels of development which would be no more than minor, with this influencing the location of activity areas appropriate for development, design standards for buildings within these activity areas, and the number of lots for residential lots which can be developed within the Activity Areas. In the subdivision subsequently undertaken (RM020776) these standards were deemed the ‘permitted baseline’ of development in the Zone as-of-right<sup>14</sup>.

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<sup>12</sup> Bendemeer Covenant

<sup>13</sup> Bendemeer Covenant

<sup>14</sup> RM020776

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The 'permitted baseline' permits for 75 allotments for development, with 74 being for residential units and one for the existing woolshed (as seen in Figure 1). The section on the Environment Court Decision contemplated the effects on the environment arising from this level of development, and determined those these effects would be acceptable. The number of lots which are permitted as-of-right is still relevant, as the Zone's current structure plan continues to permit this level of urban development.

## 5.2 Subdivision Structure and Urban Density

The level of development which has occurred (further examined in Resource Consent Section of report), compared to the 'permitted baseline' represents 'a significant reduction in the intensity of development that could be established in accordance with the permitted baseline'<sup>15</sup>. The subdivision layout which was undertaken through RM020776 has resulted in 36 rural-residential allotments, which is significantly below the permitted 75 allotment baseline. The allotments present in the subdivision layout are contained within the structure plan's Activity Area's (AA1-10) which are suitable for urban development. The difference in the intensity of development that has been consented and the permitted baseline is notable. While the permitted baseline allows for 75 allotments for rural-residential development, the way in which the Zone has been subdivided, and through controls present in covenants attached to those allotments, the permitted baseline will likely not be achieved.

## 5.3 Resource Consents

The number of consents recorded in the Zone is 57<sup>16</sup>, with 82 activities being recorded from these consents. The difference between the number of consents and activities recorded is a result of some consents containing more than one activity. It is important to note that while a resource consent may have two or more listed activities these could all be components (or consent requirements) for a single development.

An example of such a consent is RM161178, which was undertaken for the purpose to 'Construct a Dwelling within the Building Platform at Haggitt Lane, Wakatipu Basin'<sup>17</sup>. This consent was granted and undertaken for the purpose of building a single residential unit on an approved building platform, however, the consent has three listed activities. These activities are for the purpose of the development of a new residential dwelling, for the external appearance to the development, and to undertake earthworks relating to the development of a new residential dwelling. The analysis undertaken for this report relates to the activities undertaken rather than the total number of consents.

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<sup>15</sup> RM020776 P.11

<sup>16</sup> The Consents range from 2011 to 2024.

<sup>17</sup> RM161178. The Description taken from the Tech1 system.

### 5.3.1 Activities

The Activities undertaken in the Zone can be seen in Table 2 below. As seen below, the most common activity taking place within the Zone is for residential purposes. The consents monitored are in line with what is to be expected, based on the Zones Objective and Policies.

Activity	Number of Activities
Residential Dwelling New	21
Earthworks	13
Earthworks associated with new dwelling	15
Accessory building new	10
Building Controlled Activity	3
Residential Dwelling Alteration	3
Variation to Consent	3
Landscaping	3
External Appearance of Building	3
Change of use	1
Hazardous Substances	1
Non-Residential Building	1
Relocated Building	1
Subdivision	1
Visitor Accommodation New Build	1
Commercial Activity	1
Carpark	1
Total	<b>82</b>

Table 2: Activities recorded

### 5.3.2 Activity Status of Consents

The number of consents recorded in Table 3 is reflective of the number of total resource consents undertaken in the Zone (57). As seen in Table 3 a high percentage of consents within the zone triggered as non-complying (42%) and discretionary (33%) activities. This means that 75% of consents triggered under an activity status for activities which are considered as being unanticipated under the National Planning Standards. It is of note that 13 of the 24 non-complying resource consents occurred due to development occurring outside of approved building platforms, indicating a desire for development outside of the building platforms templates approved in the Zones Subdivision consent (RM020776). This is of note as the locations of these building platforms was established through the subdivision consent and Environment Court decision, which located the building platforms in areas which would be obscured from the views from the Whakatipu Basin (minus views from the Crown Terrace). The permitted activity recorded was undertaken for a Certificate of Compliance under Section 139 of the Resource Management Act.

Activity Status	Number of Activities	Percentage
Restricted Discretionary	13	23%
Discretionary	19	33%
Non-Complying	24	42%
permitted	1	2%
<b>Total</b>	<b>57</b>	<b>100%</b>

Table 3: Activity Status

### 5.3.3 Breaches

144 breaches to Zone, site, and district wide provisions were recorded within the Zone. Almost half of recorded breaches (48%) were for discretionary and non-complying activities. This is a higher than anticipated (in terms across the whole district, or on average) percentage of non-anticipated activities.

Type of Breach	Number of Breaches
Earthworks	40
Building Platform	16
Structure Plan	29
Section 127	27
Building coverage	12
Accessory Building	4
Maximum Building Height	6
External Appearance	3
Minimum Carpark Spaces	2
Outdoor Storage	1
Site Density	1
Visitor Accommodation	1
Minimum Lot Size	1
Non-Residential Building	1
<b>Total</b>	<b>144</b>

Table 4: Breaches

### 5.3.4 Non-Complying and Discretionary Breaches

As noted in the previous section, the breaches recorded on consents which have occurred have triggered Discretionary and Non-Complying activity statuses at a high rate (48%). These breaches, as well as 75% of consents triggering as Discretionary and Non-complying activities is indicative of unanticipated activities taking place within the Zone.

Regarding the breaches recorded for non-anticipated activities, 32 were non-complying breaches. 13 of these breaches occurred for a breach to Rule 12.9.3.4(ix), which establishes that “any residential activity in Activity

Areas (1) to (8) not contained within a building platform approved under Rule 15.2.6.3<sup>18</sup> is a non-complying activity. The difference between where development has occurred, and the location of approved building platforms has led to consents with no other non-complying breaches triggering as non-complying. Breaches to building coverage standards were also recorded within the Zone, with Rule 12.9.5.2(vi) establishing that “the building coverage for residential units in Activity Areas (1) – (8) ... on any site shall not exceed 500m<sup>2</sup><sup>19</sup>”. The extent to which the seven consents which were recorded to have breached this standard range widely, with the smallest breach being 11m<sup>2</sup> (511m<sup>2</sup> total), while the largest was 240m<sup>2</sup> (740m<sup>2</sup> total). The mean average of the breaches to site coverage was by 100m<sup>2</sup>, which is 20% higher than the permitted standard of 500m<sup>2</sup>. Non-complying breaches also consisted of a breach to Standard 12.9.3.4(ix)(c) for development within the Zone’s Open Space Activity Area (AA11). These breaches occurred within consents which breached the standards for building platforms, with development being moved to be within the Open Space Activity Area. Breaches to building height standards were also recorded, with five consents containing such a breach. Three of these consents contained breaches for breaches to building height standards, while the remaining two occurred breaches to standards regarding height planes. Regarding building heights, the largest breach was 2.8 metres, while the smallest was 1.1 metres. The breaches to height planes were 800 millimetres, 1.5 metres and 100 millimetres (RM170018 contained two breaches to height plane).

Along with the 32 non-complying breaches, 37 discretionary breaches were also recorded. The majority of these breaches (27) occurred on consent applications which sought to apply for changes to consent conditions pursuant to Section 127(3)(a) of the Resource Management Act 1991 which requires any change to a consent notice should be processed as if “*the application were an application for a resource consent for a discretionary activity*”<sup>20</sup>. The number of consents which have applied to remove consent conditions may indicate a desire for development within the Zone which is not in line with the established baseline standards from the original subdivision consent (RM020776). The remaining discretionary breaches occurred for earthwork standards (regarding maximum volume and cut heights), non-residential activities in Activity Area 11 (Open Space), and for the storage of Liquefied Petroleum Gas (LPG) outdoors.

NC breaches	Number of Breaches (NC)
Building Platform (12.9.3.4)	13
Building Coverage	7
AA11 (12.9.3.4ix(c))	3
Building Height	5
Visitor Accommodation	1
Density (number of lots)	2
Lot Size	1
<b>Total NC</b>	<b>32</b>

<sup>18</sup> ODP 12.9.3.4(ix)(a)

<sup>19</sup> ODP 12.9.5.2(vi)

<sup>20</sup> Resource Management Act Section 127(3)(a).

NC breaches	Number of Breaches (NC)
D breaches	Number of Breaches (D)
S127	27
Earthworks	6
AA11 (12.9.3.3(i))	3
LPG Gas storage (16.2.2.2)	1
Total D	37
Total	Total Number of Breaches
Total NC and D	69

Table 5: Discretionary and Non-Complying Breaches

## 5.4 Building Consents

### 5.4.1 Building Consent Category

The building consents monitored for the Zone appear to be in general, in line with the resource consents regarding their purpose. Almost 75% of building consents were undertaken for the development of new residential dwellings. When taking into account that 19.6% of the consents were also undertaken to alter an existing dwelling, 94% of consents were for the development or alterations to residential dwellings. The remaining three consents monitored were undertaken for an outbuilding, ancillary purpose, and for a commercial purpose. The outbuilding was for the development of an outdoor swimming pool, the ancillary was for the installation of a pool barrier, and the commercial consent was undertaken for renovations needed on the woolshed which was developed before the establishment of the Zone.

Primary Category	Number of Consents	Percentage
New Residential Dwelling	38	74.5%
Alteration to Dwelling	10	19.6%
Outbuilding	1	1.9%
Ancillary	1	1.9%
Commercial	1	1.9%
Total	51	100%

Table 6: Building Consents

### 5.4.2 Building Consent Purpose

The purposes for the building consents show more detail than categories in which they are recorded. As seen in Table 7 86% of the building consents related to a residential dwelling while the remaining 14% regarded outbuildings, swimming pools, offices, shows, a non-building construction and for a dwelling's foundations. As shown in Table 6 the majority of consents were undertaken for residential related activities. This consisted of

consents which were undertaken for the development of new dwellings, alterations to existing dwellings, the development of ancillary facilities for dwellings (such as a swimming pool) and for offices attached to dwellings as well. This is again consistent with expectations for developments within the Zone, which has been primarily established to enable limited rural residential development within the Whakatipu Basin. The building consents for an alteration to the existing woolshed (listed under shops and restaurants) is also consistent with Sections 12.8.3 and 12.8.4. Section 12.8.4(i) (Environmental Results Anticipated) sets that “Limited residential, visitor and commercial activities”<sup>21</sup> are anticipated results of development within the Zone.

Consent Purpose	Number of Consents	Percentage
Dwellings	44	86%
Outbuildings	2	4%
Office/Administration	1	2%
Non-Building Construction	1	2%
Swimming Pool/Spa	1	2%
Shops and Restaurants	1	2%
Dwelling Foundation	1	2%
<b>Total</b>	<b>51</b>	<b>100%</b>

Table 7: Building Consent Purpose

## 5.5 Overview of Regulatory Complaints within the Zone

A single complaint was recorded within the Zone. This complaint related to a crane obstructing a landowner’s view. The result of this complaint was for Council (regulatory team) to advise the landowner to obtain the contact information of the other landowner, and that this was a civil issue.

## 6 Site Visit

A site visit of the Zone was undertaken on August 7<sup>th</sup>, 2024. This visit was undertaken to assist in developing a better understanding of site which could not be made solely through desktop research. On the site visit the Council staff were able to see, in person, the extent of open space (Activity Area 11) within the Zone. The open space was a mixture of rock features, open fields reminiscent of grazing land, and manicured water features. The lots identified in Figure 3 were mostly developed, with this leaving some as greenfield sites which had been marked out. These features can be seen in the images in Appendix A. It was also noted that the houses which have been built are not easily noticeable from the highway which borders the Zone.

<sup>21</sup> ODP 12.8.4(i)

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## 7 How Effective are the Special Zone Objectives, Policies and Rules?

### 7.1 Effectiveness of the Objectives

The Bendemeer Zone contains three objectives which set out the overarching goals for the Zone. The objectives and subsequent policies and rules for the Zone are a result from environment court decisions discussed earlier in this report

**Objective 1: *Development managed and contained so that it does not compromise the ice sculptured legibility of the land upon which (the) zone is located when viewed from surrounding public roads to the south of the zone other than the Crown Range Road.***

The effectiveness of this Objective will primarily be addressed in an assessment from a landscape architect. The impacts of development on the surrounding landscape will require the analysis of a landscape architect with the relevant expertise, which is beyond the purpose of this Report. The building platforms approved in the consent to subdivide the Zone (RM020776) were created and placed in locations that were deemed appropriate for development. 13 of the consents recorded in the zone contained breaches for development occurring outside of the approved building platforms. The application and subsequent granting of consents outside of the approved building platforms potentially indicates a desire for development counter to the purpose of Objective 1, however, the impacts of such developments will need to undergo assessment from a landscape architect to properly determine the Objectives effectiveness. It is also of note that the consents with such breaches were deemed to have a no more than minor impact on the environment through consent conditions to mitigate any potential effects from breaches to the Zone's standards.

**Objective 2: *Retention of significant areas of open Space***

This Objective has been addressed through the creation of Activity Area 11: Open Space (Seen in Figure 2 as Activity Area 11 and Figure 3 as Common Lots) to create controls for areas in which development would not be appropriate. Large sections of the Zone's total area are located within this Activity Area, which is in line with Objective 2. However, three breaches were recorded for development within Activity Area (11) (breach to Rule 12.9.3.3(i)), which triggered as Discretionary Activities. The discretionary breach allows for Council to apply stricter controls on consents breaching this standard, which is appropriate due to the strong emphasis for the retention of open space in the Zone's Purpose and in Objective 2.

**Objective 3: *Maintenance and enhancement of naturalness, rural character and amenities***

As with the case of Objective 1, the analysis of Objective 3 will primarily be addressed through the analysis of a landscape architect. Regarding what can be assessed through the granted consents the establishment of an open space activity area has led to large spaces within the Zone retaining its pre-submission appearance and character (used as pasture prior to submission).

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## 7.2 Effectiveness of the Policies

The Zone contains six policies which apply to the three Objectives. The Policies provide direction for how the Zone's Purpose and Objectives will be achieved.

**Policy 1: *Limitation of residential, visitor and/or commercial activities within defined Activity Areas to ensure avoidance of adverse effects on open space, rural character, the ice sculptured legibility of the land and rural amenity values.***

The effectiveness of Policy 1 closely relates to the establishment of the 'permitted baseline' of development, and the subsequent decrease in intensity of development through the subdivision of the Zone. The number of residential units which can be developed within the Zone is controlled through the 'permitted baseline' established in the Environment Court Decision and the covenants attached to the lots created through consent RM020776. In this regard the Policy can be considered effective as the amount of permitted development, and its effects on the environment have not been exceeded. However, regarding the impacts on the ice sculptured legibility of the land and rural character is not known at this stage. The limitation to non-residential activities in line with the Policy can also be considered to be effective.

**Policy 2: *Strict Adherence to long-term planning, especially the limited identification of residential, visitor accommodation and commercial activities and the placing of structures.***

Regarding Policy two, it can be considered mostly effective due to the identification of suitable locations for building platforms through the subdivision consent (RM020776) The granting of consents for developments outside of the approved building platforms does raise concerns regarding the placing of structures within the Zone.

**Policy 3: *Avoidance of activities and development densities which may adversely affect rural character and amenities.***

Policy 3 can be considered effective. This is due to the lower uptake of development density than the 'permitted baseline' which was established in the Environment Court Decision. The lack of consents for non-residential activities also shows that Policy 3 is effective as adverse effects have been avoided. The adverse effects on 'amenities' is further explained in Section 12.9.6 Resource Consent-Assessment matters. These relate to the effects of earthworks activities undertaken within the Zone. The effects from such breaches were assessed to be less than minor.

**Policy 4: *Enhancement of naturalness of the zone through appropriate planting and landscaping.***

The effectiveness of Policy 4 will be assessed through the analysis provided by a landscape architect. It can be noted that the establishment of Activity Area 11, and the relatively limited development which has occurred within this Activity Area does show, at a minimum, the preservation of the naturalness of the Zone has been achieved. Plantings were observed during the site visit undertaken by Council Staff.

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Policy 5: ***Avoidance of proliferation of visitor accommodation and/or commercial activities.***

Through the analysis of the resource consents which have been recorded in the Zone, Policy 5 can be considered effective. Commercial and visitor accommodation activities have been limited within the Zone, with commercial activities being limited to the woolshed, and visitor accommodation also being limited to a single consent. Due to this, the avoidance of the proliferation of such activities has occurred.

Policy 6: ***Requiring the zone be fully serviced.***

Policy 6 can also be considered to be effective. The lots within the Zone can all be connected to reticulated water and wastewater services. All of the lots are also able to be connected up to electricity services, and as such, the Zone has been fully serviced.

### 7.3 Effectiveness of the Rules

The effectiveness of the Rules of the Zone can be assessed through the breaches recorded within the Zone. As seen in Table 4 144 breaches were recorded within the Zone. This section will also focus on analysing breaches to Zone- and Site-specific breaches. The reason for this is due to district-wide chapters already being reviewed and included into the Proposed District Plan.

The most common breach to the Rules for the Zone is for breaches to the Zone's Structure Plan. This can be seen in breaches for development outside of approved building platforms. The triggering of a non-complying activity status for development outside of approved building platforms has allowed for strong controls to be implemented by the issuing authority (Council), which has allowed for the controls and/or removal of impacts on the environment which could occur from moving the locations of development within the Zone.

Breaches to building height and coverage standards were also recorded within the Zone (12 breaches of permitted building coverage and 6 breaches of permitted building height). It is relevant that such breaches do trigger as non-complying activities within the Zone, which gives an issuing authority (QLDC in this case) more controls to mitigate or limit adverse environmental effects through the consent process. While having the most restrictive activity status for activities that can occur it is notable that 27 discretionary breaches were triggered under Section 127 of the Resource Management Act (RMA). Such breaches occur when an application applies to change or cancel consent conditions.

Overall, the high percentage of breaches occurring in the Zone as Discretionary or Non-Complying indicates that there are pressures for developments to exceed the standards of the Zone. However, the restrictive activity status for such breaches is a result of the importance of protecting the ice sculptured legibility of the landscape, per Objective 1. Due to the importance of protections on the landscape placed upon the Zone provisions it is not unexpected that consents are triggering under more restrictive activity statuses (Discretionary and Non-Complying). However, this is also a result of the limited amount of development which had occurred within the Whakatipu Basin when the Zone was created, leading to restrictive framework for

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consents to take place under. Due to the development which has occurred since the Zones creation, an analysis should be undertaken to assess if land within the Zone still requires the same restrictive policy framework.

## 8 Infrastructure analysis

The Council's infrastructure team note the following:

"The internal reticulation throughout Bendemeer for both water and wastewater is privately owned by the Bendemeer residents, an assessment of this infrastructure would need to be undertaken to understand the constraints that would be presented with further intensification of this area.

While the internal reticulation is private the water is supplied from a QLDC owned network (Lake Hayes Scheme) and the wastewater discharges to a QLDC owned network which drains to the Shotover Wastewater Treatment Plant. An assessment of the accumulative effects on these two schemes would need to be undertaken if further intensification of this area is taken up a fast rate."

## 9 Findings

This report has found that consents within the Zone are triggering at a more restrictive activity status than would normally be expected. The subdivision layout which was established in the consent RM020776 has also led to certain issues, with multiple breaches for the development occurring outside of approved building platforms being recorded. The breach to this standard could potentially lead to more than minor effects on the environment, however, when examining the development which has been undertaken in the Zone, it is still at a less intensive level of the Environment Court's 'permitted baseline', which was determined to establish the maximum amount of development, and the locations of such developments which could occur and have a less than minor effect on the environment.

An important aspect of a Section 35 report is to determine the effectiveness of the Zones Rules in achieving its stated purposes and objectives. A Zone having three-quarters of recorded consents triggering for what are considered non-anticipated activities would generally indicate the ineffectiveness of the established provisions and Rules. It is of note however, that the creation of the Zone's provisions through an environment court decision in which a permitted baseline for development was set, and the subsequent subdivision consents uptake of density being reduced (around 50% of the permitted baseline), further analysis is required to determine the effectiveness of the Zones provisions. Also, due to the landscape constraints present within the Zone, and the importance of the protection of the ice sculptured legibility of the landscape as established in the environment court decision, the number of resource consents required for development within the Zone is no more than expected.

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## 10 Appendix A

### 10.1 Photos from Bendemeer Site Visit



