

## QUEENSTOWN LAKES DISTRICT COUNCIL

### DECISION: PLAN CHANGE 10

**TITLE:** Decision on Plan Change 10 (Improving Amenity in the High Density Residential Zones), Issued by the Commissioners for the Queenstown Lakes District Council

**DATED:** 24<sup>th</sup> August 2007

---

#### EXECUTIVE SUMMARY

This report sets out the considerations and decisions of the Hearing Commissioners on submissions lodged to Plan Change 10 (Improving Amenity in the High Density Residential Zones) to the Partially Operative District Plan.

Plan Change 10 concerned improvements to the amenity values of the High Density Residential Zone, located within the Queenstown and Wanaka urban areas. Plan Change 10 amended the district plan in relation to objectives and policies, new sub-zones, changes to activity status, introduction of new rules, and changes to bulk, location and appearance standards.

The Hearing Commissioners heard written and verbal evidence from a range of parties between 30 April and 16 May. Based on consideration of the Plan Change and all submissions and evidence received, the Hearing Commissioners recommend the following:

- Amend the objectives, policies and implementation methods in Chapter 4.9 District Wide Issues, Urban Growth and in Chapter 7 pertaining to High Density Residential Zones. The changes strengthen the objectives, policies and implementation methods in relation to amenity in the high density residential areas.
- Accept three Sub Zones within the High Density Residential Zone with minor alterations to some boundaries (refer to maps).
- Change all multi-unit developments of more than three units to restricted discretionary activity status that may be considered without the need to obtain the written approval of affected persons and need not be notified in accordance with Section 93 of the Act. The purpose of restricted discretionary status is to trigger a review of the design and appearance of the proposal and does not limit the number of units on a site.
- Change earthworks zone rules to non-notified – not changing the clause stating that they shall be non-notified, only facilitating non-notification in most circumstances, but not where there is blasting, filling or is immediately adjacent to neighbours.
- Apply site rules for setbacks and continuous building length equally across the three Sub Zones.

- Set new site standards and zone standards (for density and building coverage) to the three Sub Zones as follows:

	<u>A</u>	<u>B</u>	<u>C</u>
Maximum building coverage	65%	55%	45%
Minimum landscape coverage	20%	30%	40%
Maximum building footprint	500m <sup>2</sup>	400m <sup>2</sup>	300m <sup>2</sup>
Maximum site density	no maximum	no maximum	Minimum 350m <sup>2</sup> /unit

- Adopt a lowered height rule for Sub Zone A along Frankton Road measured from centreline of the road and adopt a minimum floor level rule for Sub Zone A along the Frankton Track.
- Apply building coverage and footprint rules to aboveground built development only.
- Add a clause to ensure that these new District Plan rules do not apply to developments already consented at the time of subdivision.
- Amend assessment matters to provide clear guidance to Council in consideration of resource consents and to indicate circumstances where “relief” from rules may be considered.

## CONTENTS

EXECUTIVE SUMMARY .....	1
1.0 INTRODUCTION .....	4
2.0 BACKGROUND .....	6
3.0 THE HEARING .....	7
4.0 REASONING AND RECOMMENDATIONS .....	11
Attachment 1: Recommended Amendments to District Plan.....	35
Attachment 2: Recommendations on Submission Points .....	36

## 1.0 INTRODUCTION

This report sets out the considerations and decisions of the Hearing Commissioners on submissions lodged to Plan Change 10 (Improving Amenity in the High Density Residential Zones) to the Partially Operative District Plan.

The relevant provisions in the Queenstown Lakes Partially Operative District Plan (referred to as the Plan) affected by the Plan Change and recommendations are:

District Plan Section	Provision
Maps	Changes to maps 20, 21, 31, 31a, 32, 33, 34, 35, 36, 37 and Legend. Also new Sub-Zone maps.
Definitions	New definition of Unit. Amend the definitions of Building Coverage and Setback
Chapter 7 – Residential Areas Issues, Objectives and Policies Rules Assessment Matters  Chapter 4.9 – Urban Growth	Amendments (insertions and deletions) throughout issues, objectives and policies. Alterations (insertions and deletions) to a range of rules. Alterations (insertions and deletions) to a range of assessment matters. Minor changes to wording
Appendix 4 – Interpretative Diagrams	New diagrams for continuous building length, height restriction along Frankton Road, and elevation restriction along Frankton Track.

In this report consideration of submissions has been grouped together based on similarity of issues.

In making its recommendations the Commissioners have:

- (i) been assisted by a report prepared by consultant planners, including urban design and strategic planning advice. This report was circulated to all submitters prior to the hearing taking place; and
- (ii) been assisted by legal advice where necessary; and
- (iii) had regard to matters raised by submitters and further submitters in their submissions and further submissions and at the Council hearing; and
- (iv) had regard to the provisions of the Resource Management Act 1991, in particular Section 32.

Attached as Attachment 1 is the revised version of the relevant provisions of the Plan, updated to have regard to the recommendations within this report. If there is any inconsistency between the provisions contained in Attachment 1 and the text

contained in the body of the report, then the provisions in Attachment 1 shall take precedence.

All recommendations on submissions are detailed under the consideration of issues in Part 4.0 of this report, and full details of recommendations on submission points are contained in Attachment 2. Where amendments are to be made to the Plan as a result of a recommendation on a submission, additional text is shown as underlined and text to be removed is shown as being ~~struck-out~~.

Where a submission is determined to be outside the purpose (also referred to as scope) of the Plan Change, the submission has been rejected. With respect to determining the scope of a submission, reference is made to Clause 6 of the First Schedule to the Resource Management Act 1991 which states:

*6. Making Submissions*

*Any person, including the local authority in its own area, may, in the prescribed form, make a submission to the relevant local authority on a proposed policy statement or plan that is publicly notified under clause 5.*

A submission on a plan change is therefore limited in that it must be “on” the plan change.

In the case of Plan Change 10, matters identified as potentially being outside the scope of the plan change include requests for a change in zoning and substantial changes to earthworks rules.

## 2.0 BACKGROUND

Plan Change 10 concerns the improvement of amenity values within the High Density Residential Zone, located within the Queenstown and Wanaka urban areas.

In summary, Plan Change 10, as notified, amended the district plan as follows:

- Added new objectives and policies,
- Divided the High Density Residential Zone into three new Sub Zones – identified as A, B and C on the Planning Maps,
- Removed the controlled activity status for garages in the road setback,
- Required Restricted Discretionary assessment of Multi-Unit Developments where the number of units exceeded a specified threshold,
- Required Restricted Discretionary assessment of buildings over a certain size,
- Restricted outdoor storage from road setbacks,
- Removed the provision for common walls on internal boundaries,
- Required mutual setback requirements between buildings on the same site,
- Introduced new provisions for continuous building length and roofline requiring 2m deep and 4m long breaks for building lengths over 16m,
- Restricted building length along any elevation to 30m,
- Introduced new building coverage percentages,
- Introduced minimum landscaped areas,
- Limited fence heights within the road setback,
- Limited the height of buildings on the south side of Frankton Road to ensure buildings do not rise above the roadway and sets minimum floor elevations for buildings facing Frankton Track,
- Introduced a range of site density controls based on a minimum site area per unit, and
- Where appropriate, these notified rules reflected a varying level of density of development across the new Sub Zones. This gradation in intensity was intended to achieve a higher level of density and built development in Sub Zone A graduating through to a lower density in Sub Zone C.

The Plan Change was notified on 12 October 2005 with submissions closing on 9 December 2005 and further submissions closing on 26 June 2006. A total of 144 submissions and 64 further submissions were received on Plan Change 10. The list of submitters and further submitters is provided on a disc accompanying this report.

Plan Change 10 was closely linked to Plan Changes 6 (Accessways) and 8 (Car Parking) and so the hearings for the three Plan Changes were heard jointly and consideration of all three Plan Changes was undertaken comprehensively.

### 3.0 THE HEARING

The hearing to consider submissions and further submissions to Plan Changes 6, 8 and 10 (Improving Amenity in the High Density Residential Zones) commenced at 9am on Monday 30 April 2007 at the Crowne Plaza in Queenstown. The hearing continued on 1, 2, and 3 May in Queenstown, 14 and 15 May in Wanaka, and 15 and 16 May in Queenstown.

The Hearing Commissioners were Commissioner David Collins (Chairperson) and Commissioner Lou Alfeld. In attendance at the hearing at various times were Ms Nicola Rykers and Ms Stephanie Styles (Consultant Planners), Mr Tim Church (Urban Designer), Mr Nigel Williams (Traffic Engineer), Mr David Mead (Strategic Planner), Mr Scott Figenshow (Senior Policy Analyst), and Ms Jessica Dow and Ms Cathy Walker (Administrative Support).

The Commissioners had previously requested that, where possible, all expert evidence be provided in advance of the hearing. Many submitters did so, giving the Commissioners the opportunity to prepare in advance of verbal submissions. The following provides a summary of the verbal and written evidence presented to the Commissioners during the proceedings of the hearing:

#### **Bryce Whiting**

Mr Whiting presented verbal evidence on behalf of a range of residents in Thompson and Lomond Streets. Mr Whiting explained that the reason the residents had made submissions on Plan Change 10 was due to amenity issues caused by recent developments in the area that they perceived to be particularly unattractive, with high site coverage and low carparking provision. The residents requested that their neighbourhood be placed in the Sub Zone C category due to its similarity in character to Park Street which was Sub-Zone C.

The residents also sought to encourage residential activities over visitor accommodation activities. They considered that the large scale development now occurring in their neighbourhood to have a negative impact on residential amenity and desired that their community retain its residential feeling. Mr Whiting believed that even two more visitor accommodation developments would cause the area to lose its residential environment.

#### **Ed Elliot**

Mr Elliot presented verbal evidence on his own behalf.

Mr Elliot noted that while most developers seem to want to maximise visitor accommodation, he would encourage of a mix of people living in the town in residential units, not just visitor accommodation. He opposed a reduction in density in the town and considers mixed use is important.

Mr Elliot was pleased to see the modelling work undertaken and commented that the pictures enabled people to see the result of rules and effects e.g., flat versus sloping sites. He wanted to see more modelling undertaken – in more detail, for a range of site areas, and more specific for different areas e.g., Frankton Road.

He considered that there is too much visitor accommodation activity and there is a need for more high density residential development, including workers accommodation. He was also concerned with market affordability for families, public

transport and view protection issues. Along with this he questioned why Sub Zone A could not wrap around the whole town centre area (excluding Park Street).

Mr Elliot advocated the use of design guidelines, linked in some way to rules, and working with an Urban Design Panel. He also noted that repetition in built form is not in itself bad, and there is a difference between repeating singular units compared with a larger, architectural composition which considers the impact as a whole. Mr Elliot commented that he did not support roof top parking.

### **Preston Stevens – 2 Architecture Studio**

Mr Stevens presented verbal evidence and expressed the opinion that he is not convinced that PC10 will deliver the type of urban environment that is desirable for Queenstown. Mr Stevens doubted that the proposed changes will not lead to appropriate high density development and noted the importance of legibility, image, structure and identity. Mr Stevens considered that the Council should allow the existing rules to prevail and use other methods such as design guidelines and an urban design panel to encourage better outcomes. He observed that a panel represents collective thought and is reasonably objective and helpful. Support and education, workshops etc would be better than rules.

### **Warwick Goldsmith**

Mr Goldsmith presented extensive written and verbal submissions on behalf of a wide range of submitters. Overall he noted that his clients have very real concerns about the impact of PC10 and the dramatic detrimental impact it will have on the ability of the HDRZ to provide for future development.

He noted that many in Wanaka support the plan change, while those in Queenstown oppose it. This is due to the different issues facing these communities.

Mr Goldsmith provided comments on the officers' reports in relation to planning matters, visitor accommodation and urban design. He particularly expressed concerns over areas which are not addressed as they were described as being outside scope of the reports.

### **Fred van Brandenburg**

Mr van Brandenburg presented verbal evidence to support Mr Goldsmith, including representative models of the site at 595 Frankton Road. He described the design process for this site and showed two design models, one a complying development and the other a better design that did not comply with the rules. The process of approval for a non-complying development is lengthy and complicated and he noted that developers would always prefer a complying or non-notified process.

Mr van Brandenburg considered that the Council should look at the merits of design, perhaps using a "points system", as a trade-off for height and include points for planting adjacent to or on top of the buildings. Mr Brandenburg also considered that articulation within a building rather than between buildings was an important consideration.

### **Warwick Goldsmith**

Mr Goldsmith continued to present his submissions and discussed matters of notification, activity status and neighbours approvals. He considered that public notification is a very strong threat to developers and would be strong enough to get

them to change a design. He also commented that it is possible to notify a controlled activity.

He noted that the effect of the earthworks variation is extreme. Every application for development needs consent for earthworks, even if meets all other standards, and this results in a restricted discretionary activity causing uncertainty, delays, and expenses for developers.

He also discussed the importance of careful wording of rules and assessment matters. Particularly where wording is unclear or implies a higher level of control than would be appropriate.

### **Chris Ferguson and John Edmonds**

Mr Ferguson and Mr Edmonds presented written and verbal evidence in conjunction with Mr Goldsmith. They provided an alternative approach to the proposed Sub Zones, focusing on activity areas and based on their experience and research of the area. They put forward a range of changes to the Sub Zone area, amended Sub Zone boundaries and presented text changes to objectives, policies and rules. The Commissioners further investigated these changes to Sub Zone boundary locations and specific rules with considerable questioning followed by a site visit throughout the Queenstown area.

### **Gemma Pemberton**

Ms Pemberton presented evidence in relation to the former Kawarau Falls Camping Ground site, explaining the development proposed (and consented) for the site and the certainty of development for the site. There was discussion with the panel over the implications of the plan changes for a consented proposal under development. Ms Pemberton suggested that, due to the site's unique size and location, it may be appropriate to place it in a separate, unique zone.

### **Warwick Goldsmith**

Mr Goldsmith continued to present his submissions and focussed on two sites in Wanaka. He noted that Wanaka and Queenstown are fundamentally different due to availability of land. He pointed out that if the plan change reduced the potential density in Queenstown, the demand would need to go elsewhere, thereby placing development pressures in less central areas. He also recognised that Wanaka residents have genuine concerns over development.

He considered that even if Wanaka takes a different direction overall, his client's land (Infinity) is ideally suited to dense development and it is unlikely that most people are concerned about this land.

### **Pru Steven**

Ms Steven presented written and verbal legal submissions on behalf AQ Investments Ltd, Emma Jane Ltd, IHG Queenstown Ltd and Carter Queenstown Ltd. Ms Steven noted that they have filed a declaration in relation to scope and in particular it is important that where a plan change takes away existing rights, the submitter should be able to seek an alternative relief e.g. rezoning.

### **Jeff Brown**

Mr Brown presented brief verbal evidence on behalf of Brecon Street Partnership's further submission to PC10. He considers that the plan change rules create

problems with building height and bulk and conflicts with the Growth Management Strategy.

### **Trevor Williams**

Mr Williams presented written and verbal evidence on behalf of the Wanaka Residents' Association Inc. Mr Williams considered that urban design review is important and should be applied to all developments regardless of size or compliance. He believed that development rules should consider both residential issues and visitor accommodation issues. He was also of the opinion that the existing HDRZ areas are sufficient and no extension of that zoning is needed.

### **Nicola Vryenhoek**

Ms Vryenhoek presented written and verbal evidence on behalf of Lake House Consultants and clarified that she wants to see design related rules and guidelines.

### **Officers Reports**

Ms Nicola Rykers, Mr Tim Church, and Mr David Mead were available for questions from the Hearing Commissioners in relation to the officer reports circulated beforehand. In response to questions, they clarified:

- Design review is becoming more important and desirable, but there is a real need to have clear rules and assessment matters. An in-house Council urban designer is important and the Urban Design Panel plays an important role. It is also important that appropriate guidelines be produced.
- It is also essential to have baseline rules to indicate how development should proceed and provide a backstop to the design controls.
- There is crossover from this plan change to the future Visitor Accommodation and Community Housing plan changes.
- Sub Zones may reflect current character but need to anticipate future character as well. The Sub Zones need to clearly show differentiation between areas.
- Density controls need to be carefully considered and made appropriate to the different character of the Sub Zones.

### **Chris Ferguson and John Edmonds**

Mr Ferguson and Mr Edmonds returned, along with Ms Hone (Counsel), to present evidence in relation to activity areas. This presentation included discussion of investment levels, views, flexibility and choice, and topography issues. They also clarified that they were seeking to add a Sub Zone A for the Wanaka area.

By way of questioning, they clarified that if the design rule were not changed to controlled activity status, then having restricted discretionary with a clause that the application need not be notified written into the District Plan would give some certainty of outcomes. They were of the view that with good guidelines and qualified staff the public need not be involved in consideration of design matters.

### **Fred van Brandenburg**

Mr van Brandenburg also returned to present verbal evidence in relation to building angles from Frankton Track and issues of rooftop carparking, which he agreed should not be seen from Frankton Road.

## 4.0 REASONING AND RECOMMENDATIONS

### 4.1 Sub Zones

#### The Issue and Submissions

The primary issues associated with Sub Zones related to their definition and boundaries. None of the verbal submitters challenged the need for Sub Zones as a means to differentiate amenity rules among different geographical and character areas within the High Density Residential Zone. A large proportion of the “pro forma” submissions sought that the Sub Zones be further refined to create a greater number and/or variety of Sub Zones containing provisions which better reflect the locational and topographical aspects of the different areas within the High Density Residential Zone. In addition, a number of individual submitters sought to have their sites rezoned for a specific Sub Zone for either large-scale, high density residential and/or visitor accommodation development. Submissions from Wanaka residents expressed support for Sub Zone C being applied in Wanaka on the basis that this would reduce the scale of built development or encourage fewer, but larger units resulting in more families being resident in the township.

The Planning Report noted that Proposed Plan Change 10 includes an Implementation Method *“By the use of Sub-Zones to identify land having similar character, amenity and environmental values, within which appropriate development opportunities can be approved.”* However the Planning Report noted that although the concept of Sub Zones has merit, the Proposed Plan Change was deficient in that it did not include objectives, policies, or any description of the location, purpose, values and outcomes associated with each sub zone. In addition, further modelling work commissioned by the Council revealed that the built form and mass achievable within each of the Sub Zones proposed in Plan Change 10 was essentially the same with little differentiation (although the modelling included the effects of PC6 and PC8 as well which made it difficult to determine the impact of PC10 rules by themselves). The purpose and function of the proposed Sub Zones were therefore fundamental issues. The Wanaka submissions also specifically supported Sub Zone B, as distinct from Sub Zone A, to reduce the scale of any visitor accommodation development. A submission to the contrary was made by Infinity Investments who sought a change from Sub Zone B to A for their site in Wanaka.

A number of submissions were also made by residents in the Thompson/Glasgow/Lomond Streets locality who sought that their Sub Zone be changed from B to C for reasons of residential amenity. Three submitters who are seeking to either develop or plan to develop multi-units on sites in this area specifically sought to retain the original High Density Zoning.

Based on the great majority of the submissions, the primary issue was whether or not to alter the Sub Zones boundaries and not whether the Sub Zone concept should be rejected.

#### Consideration

- Sub Zones are new to the District Plan. They offer an opportunity to identify important differences within an otherwise homogenous zone without upsetting the underlying rationale for the zone. In the case of the High Density Residential Zone, it has been clear for some time that the “one rule fits all” blanket approach to such a large and varied zone required some refinement, if only to differentiate Wanaka from Queenstown.
- Very little objection was raised concerning the introduction of Sub Zones and what objection did appear seemed to come primarily from owners of specific parcels of land who wished to be included in a different Sub Zone. For the most part submitters seemed to agree that the imposition of Sub Zones represented a desirable approach for guiding the further development of the two towns. Most submitters also seemed to accept that although PC10 was not the perfect solution, it did represent an important and necessary step in laying a foundation for future plan changes that could further refine the Sub Zone concept. The Hearing Commissioners engaged in extensive discussions with submitters regarding the purpose, objectives and implementation methods that support the Sub Zone concept to assure themselves that, although not ideal, the separation of the single zone into Sub Zones offered the best compromise available within the scope and objective of the plan change. Sub Zones permit the imposition of different rules to enhance residential amenity values in different areas of the towns. A single set of amenity rules for the entire zone may have placed unfair burdens in some areas while failing to protect amenity in other areas.
- The Commissioners agreed that the High Density Residential Zone is not homogenous; it varies in character and development potential and it also differs between Queenstown and Wanaka. Sub Zones therefore represent an appropriate method to account for differences in rules that may control external appearance and amenity of residential neighbourhoods.
- Given that Sub Zones fulfil a community objective, the next step required ascertaining whether or not the notified Sub Zone boundaries were appropriately drawn. Criteria for Sub Zone boundaries were discussed with submitters and with the technical support staff. The Commissioners agreed that extending or altering the boundaries of the existing High Density Residential Zone lay outside the scope of Plan Change 10. Although reasonable arguments were raised to create more than three Sub Zones, the Commissioners found that the available information was insufficient at the time of the hearing to redraw Sub Zone boundaries; to do so would have required such incontrovertible technical evidence such as maps of geology, sunlight patterns, public transportation routes, topology and landscape views. The Commissioners did respond to submitters and staff logic that supported four internal boundary changes based on practicality and current use. The resultant Sub Zone boundaries best reflect desirable and foreseeable development patterns.

The Commissioners heard evidence about the suitability of the Infinity Investments site on the lakefront at Wanaka for higher density development. It is recommended that this site is zoned sub-zone A because the scarp allows higher density to be achieved here without seriously undermining the

amenities of nearby properties. The same may apply to other properties below the scarp, but in the absence of specific evidence the Commissioners have been unable to determine this. The sub-zone boundary could be re-visited in the anticipated future plan change dealing specifically with the suitability of areas for visitor accommodation.

### **Recommendation**

That those submissions seeking greater definition of the Sub Zones be accepted in part and those in support of the Sub Zones be accepted by retaining the Sub Zones as publicly notified but with Sub Zone boundaries changed as follows:

- Change the Thompson / Lomond area from Sub Zone B to C;
- Change the area east of the town centre from Sub Zone B to A, except for the strip east of Hallenstein Street, between Gorge Road and Dublin Street which will remain B;
- Change the strip of land below Frankton Road from Sub Zone B to A; and
- Change the Infinity site in Wanaka from Sub Zone B to A

## **4.2 Multi Unit Rule**

### **The Issue and Submissions**

Plan Change 10 introduces a new rule which applies to new developments and to any extensions or alterations to existing buildings. If the building contains more than three units it will need a resource consent for a Restricted Discretionary Activity. The matters over which discretion is retained include:

- Location on the site, external appearance and design,
- Location, nature and scale of landscaping, and
- Relationship to street, other public areas and the neighbourhood.

Support and opposition for the multi-unit design rule was evenly divided with a majority of those opposing the rule seeking its withdrawal. A number of submissions also sought to alter the status of the activity to Controlled. The majority of those supporting the Plan Change were from Wanaka and sought that the rule be retained. Submitters in Queenstown suggested using the same trigger point (three units) for all Sub Zones since appearance issues were identical in all Sub Zones. Some of those opposing the rule showed confusion in believing that the rule placed an upper limit on the number of units allowed in each Sub Zone and that restricting the number of units did not guarantee good design or amenity. The Commissioners explained that the rule only establishes a trigger point or threshold above which Council considered it appropriate to give greater consideration to the design and appearance of buildings; the rule does not restrict the number of units.

## **Consideration**

The purpose of the rule is to trigger an urban design review. Past experience with poor urban design outcomes led to the establishment of urban design panels to assist developers in improving their designs. The relative success of the urban design panels has been noted and, although submitting to a review has been voluntary, not all developments chose to undergo an urban design review. Making the review a restricted discretionary activity, triggered by the size of the development, appears a reasonable way to test whether or not a mandatory urban design review will produce significantly better outcomes than will a strictly voluntary regime. The Commissioners considered that, should the rule prove less than satisfactory, a future plan change could easily downgrade the status of the review from discretionary to controlled and/or raise the trigger point for a review. To complement this new rule the Commissioners urge QLDC to quickly institute an efficient review regime so as not to unduly burden applicants, including a “tick-off” procedure for minor projects.

## **Recommendation**

Reject those submissions seeking to delete the rule and accept in part those submissions in support of the rule or seeking a change by amending the rule to make all multi-unit developments of more than three units a restricted discretionary activity. New assessment matters relating to urban design considerations are proposed to accompany the new rule.

## **4.3 Earthworks**

### **The Issue and Submissions**

A large number of submitters sought changes to the earthworks rules. These covered a spectrum of relief from altering the status of earthworks from Discretionary to Controlled, through to suggestions that the rules are not tough enough and additional restrictions are required. Some of the submissions suggested new wording, amending and deleting in part the existing site standards, and introducing a new rule where earthworks are undertaken in areas identified as Ngai Tahu Statutory Acknowledgement Areas. Transit New Zealand sought that applicants for earthworks consents be required to address “*global stability and potential cumulative effects of their proposals.*”

Council had received a legal opinion prior to the hearing that advised that although the effect of the new or amended standards within Plan Change 10 may encourage excavation, that in itself does not provide scope to alter the standards, triggers for resource consent or status of earthworks activities.

## **Consideration**

The Commissioners considered that the review of earthworks plans rests primarily with technical engineering experts and need not involve neighbours unless special circumstances, such as blasting, presence of substantial groundwater or encroachment close to neighbouring properties, may require

such notification. Therefore there did not appear to be any justification for a notification requirement for non-technical excavation activities.

Plan Change 11 altered the definition of ground level in a way that raises the possibility that filling can lead to buildings that are taller in relation to surrounding land. This would be a factor against eliminating the need for resource consent altogether, even if there had been scope under this Plan Change to do that.

### **Recommendation**

Those submissions seeking greater earthworks controls be rejected, and those submissions seeking the retention of existing earthworks rules or alteration to the rule be accepted in part to the extent that:

- earthworks remain a restricted discretionary activity; and
- a clause is added to the District Plan that notification of earthworks resource consent applications may no longer be required unless conditions and circumstances suggest that it would be prudent to do so.

## **4.4 Setbacks**

### **The Issue and Submissions**

#### **Street Setbacks**

Prior to notification of Plan Change 10 all buildings, excluding garages, had to be located at least 4.5m back from the road boundary. Garages and outdoor storage buildings were exempt from this rule and, as a Controlled Activity, could theoretically be located up to the boundary, provided the building was screened from public view. Plan Change 10 removes the exception for garages and outdoor storage buildings in the High Density Residential Zone.

Significant numbers of submitters opposed the change to the setback rules and, of these, the majority were concerned with the effect of requiring garages to be located behind the setback line. These submitters considered that garages and storage buildings should be permitted within the front setback otherwise the setback space would become “dead” and affect the development potential of land. The new rule would also limit amenity structures or features such as gazebos and pools in the front setback and often this was the only flat area on the site. Submitters also suggested that the rule failed to consider the steep nature of much of the urban area and the benefits of allowing garages close to roads to avoid steep driveways.

Two submitters sought that the status of the rule be adjusted from discretionary to controlled, while one submitter sought a greater setback for buildings from the proposed by-pass corridor.

#### **Internal Setbacks**

Prior to notification of Plan Change 10 buildings sharing a common wall on an internal boundary did not require a setback but, if separated, the minimum setback was 2m on each side of the boundary. No setbacks were required between multiple buildings on the same site. Plan Change 10 introduced a new rule requiring two or more buildings located on the same lot to have mutual setbacks as if they were separated by an internal boundary i.e., 2m on each side for a 4m minimum distance. The purpose of the change was to support visual amenity, provide areas for landscaping and allow more light and air.

A significant number of submitters opposed this new rule, expressing that it would result in loss of development potential and lead to inefficient land use. In addition, it did not guarantee amenity, good design or access to sunlight but would lead to narrow side yard strips with no pleasant amenity, privacy, value of use or plant growth. A large number of Wanaka submitters supported the rule and one submitter sought the setback be increased to 2.5m. Technical evidence presented advised that an internal setback rule would work, in conjunction with other rules such as the building size, to discourage the construction of large single buildings while the outdoor landscaping rules would provide space for sunlight, gardens and amenity areas.

### **Consideration**

The Commissioners considered that eliminating buildings from the street setback would not necessarily lead to poor outcomes while preserving the setback space for landscaping would enhance amenity by providing more open space and preventing utilitarian buildings from dominating the streetscape. The internal boundary setback rule would result in spaces between buildings occupying a common site; it would be up to the architect to make the spaces work in terms of providing important amenities in the form of light and air, view shafts and areas for landscaping.

Assessment matters will take into account unique situations such as those involving steep sites. In addition, assessment matters may provide relief by allowing unobtrusive links to join related buildings provided that the outcome presents a positive net benefit to public amenity values. In terms of residential uses, the additional open space may prove to be of substantial economic and social value; it is possible that, in the future, different rules may eventually apply to buildings intended solely for short-term occupancy by visitors.

### **Recommendation**

Accept all submissions supporting the rule and reject those in opposition by retaining the proposed setback rules.

## **4.5 Continuous Building Length**

### **The Issue and Submissions**

Prior to the notification of proposed Plan Change 10 the existing site standard required buildings and walls which exceed 16m to be stepped back into the site. Under Plan Change 10 a new standard requires minimum breaks in building length of 2m in depth and 4m in width for the full height of the wall and to include a discontinuous eave and roof line. The maximum aggregate building length permitted along any elevation is 30m. The purpose of the rule change is to prevent long, monotonous walls that detract from residential amenity. Support and opposition for the rule was evenly divided with those in opposition concerned that the rule does not guarantee amenity and would result in inefficient use of sites.

### **Consideration**

The Commissioners considered that a rule requiring substantial breaks a minimum of every 16m in a building façade would prevent long, unrelieved building walls but acknowledged that it would not necessarily engender good design. The current step-back rule, for example, has not produced exemplar results. However, without some form of rule, large developments may dominate their neighbours to the detriment of public amenity in residential neighbourhoods.

The Panel considered that the resource consent process, guided by a new set of assessment matters would enable Council to consider the overall design of a building and would provide for relief in cases that demonstrated the potential to create a substantial architectural benefit in line with urban design guidelines.

### **Recommendation**

Accept all submissions supporting the rule and reject those in opposition by retaining the Continuous Building Length rule.

## **4.6 Building Coverage**

### **The Issue and Submissions**

Pre Plan Change 10 building coverage was controlled by a 55% site standard and a 70% zone standard in the High Density Residential Zone. Proposed Plan Change 10 removes the Site Standard and creates three new Zone Standards for each of the three proposed Sub Zones. The change was intended to create a graduated density of development across the High Density Residential Zone. Submitters in support were generally from Wanaka and some of those submitters sought a further reduction in coverage to 35%. Those in opposition raised concerns that the standard is too low and should be no less than 55 % in any Sub Zone. Some submitters sought to trade reduced coverage for additional height e.g., a taller building covering less of the site to allow for more views and open space. Additional modelling commissioned by Council showed that the coverage was consistent across the three Sub Zones and the graduated density of development was not achieved. (Although, as noted above, the Commissioners considered that because the modelling included the impacts of Plan Changes 6 and 8 as well, the density conclusions were possibly flawed. The modelling did, however, include the influence of other rules that had the effect of limiting the built form on the sites such as the landscape coverage and setbacks.)

### **Consideration**

In Sub Zone A, the reduction of maximum building coverage is small and only drops from 70% to 65% in order to provide more space for landscaping and public view shafts. In Sub Zones B and C the reduction is greater, intending to provide more open space around buildings to enhance residential character and uses, such as provision of common spaces for children's play areas, BBQ areas and gardens.

The resource consent process allows individual site characteristics to be taken into account. Council consideration is to be guided by amended/new assessment matters which enable consideration of increased coverage in circumstances where an architectural solution provides enhanced public amenity values. It may also prove, in the future, that a distinction between residential and visitor accommodation uses may allow some greater flexibility in the application of this rule.

The proposals for trading reduced coverage for increased height appear to have merit but are beyond the scope of this plan change.

### **Recommendation**

Accept all those submissions in support of the proposed building coverage rule and reject those submissions in opposition by retaining the building coverage standards as notified. The building coverage rule is to remain as a zone standard as notified.

As a consequential amendment, amend the definition of Building Coverage to exclude driveways and paved surfaces from the building coverage calculation.

## 4.7 Landscape Coverage

### The Issue and Submissions

Prior to notification of proposed Plan Change 10, the District Plan did not include a rule requiring landscape treatment on High Density Residential sites, except in relation to visitor accommodation activities only. The proposed rule specifies a minimum percentage of site area that must be landscaped, graduating from a lower to higher standard from Sub Zone A to Sub Zone C. Half the open space area must be planted or grassed and be visible from public spaces, serving to enhance the streetscape and cannot be used for car parking and vehicle manoeuvring. The rule supports the “greening” of the urban area by softening the hard edges of buildings. Support and opposition for the proposed rule was evenly divided with concerns expressed by those in opposition that the standard would result in inefficient use of land and there may be compliance issues due to the difficulties of getting plants to grow on south facing slopes in a harsh climate. Submitters from Wanaka supported the rule, seeking increased landscaping standards of 5% (from 30 to 35% in Sub Zone B and from 40% to 45% in Sub Zone C).

A further issue identified in the Planning Report related to administration of clauses (iii) and (iv) of the rule. These clauses were considered to be subjective and may potentially be difficult to measure compliance:

- iii The planted area shall include plantings of a nature and scale appropriate to the building.*
- iv The planted area shall be predominantly visible from public space and serve to enhance the streetscape.*

### Consideration

The Commissioners considered it appropriate for the coverage rules for landscaping to mirror the building coverage rules and noted that adding together the building coverage percentage and the landscape coverage percentage for each Sub Zone resulted in a constant 85% for all Sub Zones, leaving 15% for accessways and other ancillary uses. As building bulk decreases, landscaped areas increase, providing more outdoor amenity opportunities and a clear distinction between the residential amenities of different Sub Zones.

### Recommendation

Accept in part all those submissions in support of the proposed landscape coverage rule and reject in part those submissions in opposition by retaining the landscape coverage standards as notified but removing clauses (iii) and (iv) of the rule and instead making these into assessment matters.

## 4.8 Building Footprint

### The Issue and Submissions

This is a new rule that applies to new buildings and to any extensions or alterations to existing buildings; it sets a threshold over which a resource consent for a Restricted Discretionary Activity is required. The matters to which discretion is restricted are:

- Location on the site, external appearance and design of the building;
- Location, nature and scale of landscaping on site; and
- Relationship of the building to the street, other public areas and the neighbourhood.

The purpose of the rule is to limit the perceived bulk of large buildings in the High Density Residential Zone and to avoid domination of streetscapes and neighbouring properties by large building masses. Support for the rule came primarily from Wanaka submitters while submitters in opposition sought to reject the rule, to make building size a controlled activity or increase the minimum footprint area, arguing that the rule would result in inefficient use of land

### **Consideration**

Breaking buildings into smaller sizes will reduce the perceived bulk of new developments, leaving spaces between them that will preserve important view shafts to the lake and mountains. Smaller building bulk and open viewshafts will contribute to enhanced residential amenity values. Yet, due to topography or location, not all sites will benefit by complying with this rule. Relief is therefore possible for exceptional designs that contribute substantially to public amenity values. The Commissioners believed that, rather than discourage development, the rule may well encourage greater thought in the careful design of buildings.

Maximum footprint areas are highest in Sub Zone A where greater density is desired and lowest in Sub Zone C where more traditional neighbourhoods are composed of smaller buildings.

### **Recommendation**

Accept all those submissions in support of the proposed building footprint rule and reject those submissions in opposition by retaining the building footprint standards as notified.

## **4.9 Site Density**

### **The Issue and Submissions**

Proposed Plan Change 10 introduced a new zone standard which specifies the minimum site area per residential unit. Non-compliance with the standard requires a resource consent for a non-complying activity. The intended purpose of the rule was to avoid the over-crowding of sites. Support and opposition for the new rule was evenly divided, with submitters from Wanaka seeking an increase in the density standard from 150m<sup>2</sup> to 200m<sup>2</sup> in Sub Zone B and from 200m<sup>2</sup> to 250m<sup>2</sup> in Sub Zone C. Those in opposition sought

that the rule be deleted on the basis that it adversely affected the ability to use the land for high density development and is contrary to the urban growth strategy. The Planning Report suggested that the rule should be a site standard to enable matters of non-compliance to be considered as a discretionary activity to provide greater flexibility. No submissions were received which sought the alteration of status from a Zone to Site Standard and it is therefore a matter of whether such a change could be interpreted as relief in part to those submissions which sought to delete the rule.

### **Consideration**

Many issues surrounding the future development of the High Density Residential Zone were raised by submitters but were considered to lie beyond the scope of proposed Plan Change 10. Although the decision must rest within the scope of the proposed plan change, the Commissioners considered it would be remiss to not consider the impact of the decision on issues that were raised and discussed by submitters who pointed out the wider planning context within which Plan Change 10 falls. The Commissioners evidenced support for the other Council plan changes now underway, suggesting that they might restore some of the “lost” density potential caused by Plan Change 10 while, at the same time, progressing to implement Plan Change 10 to improve the amenity of residential neighbourhoods. The Commissioners believed that another plan change would be necessary to increase the potential for high density, apartment-style living, close to the town centre.

In combination with PC6 and PC8, Plan Change 10 lowers the maximum residential density achievable throughout the High Density Residential Zone, but the extent of this reduction was not considered to be significant within the wider context of the large amount of current and planned development around the Wakatipu. The Panel decided to remove the site density rules from Sub Zones A and B but to retain them for Sub Zone C in order to encourage a lower density of development appropriate for those few remaining residential neighbourhoods that enjoy close proximity to the town centre and that offer an important housing choice that might otherwise be lost. The Panel considered that site density limitations in Sub Zones A and B may unnecessarily restrict the development potential within those two Sub Zones and may also force the development of fewer, larger units for which there was no evidence to show that this outcome would be preferable..

The Commissioners consider that the site density restriction applicable to Sub Zone C should be increased from 200m<sup>2</sup> to 350m<sup>2</sup>, based on submissions and site visits to determine the size of existing residential sites, the existing character of the neighbourhoods and the potential for large developments to destroy residential amenity values.

### **Recommendation**

Accept in part those submissions opposing the Site Density rule by deleting the site density for Sub Zones A and B and accept those submissions which sought a higher standard be applied in Sub Zone C by increasing this from 1 residential unit per 200m<sup>2</sup> to 1 residential unit per 350m<sup>2</sup>.

The Site Density standard applying to Sub Zone C is to be a Zone Standard.

#### **4.10 Frankton Road and Track Height Limits**

##### **The Issue and Submissions**

Plan Change 10 introduces a new site standard for height which is intended to ensure that no building or substantial building element is able to rise above the centreline of Frankton Road and no building floor plate is to be constructed less than two metres above the centreline of the Frankton Track. The purpose of the rule is to maintain high amenity and scenic values along the drive into Queenstown by preventing loss of views caused by buildings extending above the road. Similarly, the rule seeks to avoid the domination of buildings too close or too low in relation to the track.

Approximately 10 submitters expressed support for this particular rule and 22 submitters opposed the rule, raising concerns in relation to how compliance with the rule would be measured and that noting that the proposed suite of rules in Plan Change 10 would result in gaps between buildings in any event. Alternative methods of measurement were presented.

##### **Consideration**

The Commissioners considered that keeping buildings below Frankton Road would preserve views to the lake and mountains while raising floor levels facing Frankton Track would mitigate potential urban intrusions along the track. It is acknowledged that the Council will need to survey the road and track centre lines to establish baseline elevations.

The Commissioners considered that assessment matters concerned with architectural intrusions into the restricted height plane along Frankton Road could provide guidance to Council in assessing resource consent applications and should provide sufficient flexibility to allow for necessary entry signage, entry and drop-off areas and small variations in rooftops.

##### **Recommendation**

That those submissions in opposition be rejected and those submissions in support be accepted by retention of the proposed rule for measuring the height of buildings in relation to Frankton Road and the Frankton Track.

#### **4.11 Above/Below Ground Influence of Rules**

##### **The Issue and Submissions**

A number of submissions sought relief that the proposed rules for setbacks and coverage only apply to buildings at ground level and above ground level. At present the District Plan is unclear as to whether resource consents are required for underground car parking or other structures such as basements which may intrude into street setbacks or internal setbacks.

##### **Consideration**

Rules for building coverage and footprint should not apply to the underground portions of a building as below ground construction does not affect public amenity values.

### **Recommendation**

Accept those submissions seeking the addition of an exemption clause by amending the definitions of Building Coverage and Setback to exclude buildings that are below ground level and completely covered such that they do not detract from public amenity values.

## **4.12 Exceptions for Consented Developments**

### **The Issue and Submissions**

A number of submissions sought an exemption to the rules for building coverage, setback from roads, setback from internal boundaries, continuous building length, landscape coverage, fence heights and site density where the proposal had already been consented and where the rules might affect a subsequent subdivision consent application. The language proposed by submitters was as follows:

- “a land use consent for a development containing a number of separate buildings has been granted for a site; and*
- b subdivision consent is subsequently applied for to create separate titles containing a separate building or buildings being part of that consented development; and*
- c the development did not require consent in respect of the issue addressed by this rule when the land use consent was considered and granted, and*
- d the granting of subdivision consent would trigger non compliance with this rule.”*

### **Consideration**

The Commissioners agreed that new rules should not apply retroactively to consented developments when subdivision consents are considered at a later date. The environmental effects of these proposals have already been considered and a subsequent “non complying” subdivision consent duplicates the consideration of earlier processes, or introduces additional considerations which did not apply at the time the proposal was originally approved.

### **Recommendation**

Accept those submissions seeking the inclusion of an exemption for consented development, now subject to a subdivision application (as set out above).

## **4.13 Objectives and Policies**

### **The Issue and Submissions**

The plan change as notified introduced a number of changes to the objectives and policies contained in Chapter 7 Residential Areas. The most significant change was the addition of a new section on the High Density Residential Zone, District Wide.

Submissions concerned with the objectives and policies sought that Part 4, District Wide Issues be amended in addition to Part 7, which is the only section of Objectives and Policies amended by Plan Change 10. The submissions included Appendices A and B which detailed, in track changes, the relief sought.

Discussion occurred at the hearing on objectives and policies, and in particular their application to Sub Zones.

### **Consideration**

Sections 7.1 through 7.3 of the District Plan contain the justification for the rules that follow. If changing conditions require the rules to be changed to better achieve a sustainable future, then the justification for those rules requires re-examination. Issues, policies and objectives that served one generation may no longer serve another. Thus the Commissioners undertook to review Sections 7.1 through 7.3 (and their relationship to Section 4.9 Urban Growth) to ensure a smooth flow of logic to support proposed rule changes. No attempt was made to rewrite the sections; rather, appropriate insertions were made to clarify meaning and extend lines of reasoning. One key addition has been wording that distinguishes residential activities from visitor accommodation activities. While the limited scope of Plan Change 10 did not allow the Commissioners to develop different rules for each type of activity, it became clear during the hearings that the two activities had substantially different economic, social and aesthetic impacts on their surroundings even though their external appearances may be quite similar. It is for future plan changes, should they be desired, to develop rules that distinguish between the two activities perhaps providing for a physical separation that, in some areas, could work for the mutual benefit of both. The Commissioners have incorporated new wording that they hope will make that task easier. Discussion of specific subsections follows.

Section 7.1.2(i) A second bullet point identifies a desire to retain a sustainable core of residents living and working within Queenstown.

Section 7.1.2(iii) The wording more accurately reflects the intent of “character and scale” and the two inserted paragraphs better explain the desired outcomes for residential neighbourhoods and for visitor accommodation facilities.

Section 7.1.3 Distinguishing residential from visitor accommodation helps to clarify the issues. Objective 2 adds the use of sub zoning as an implementation method. Objective 3 includes a reference to urban design review. An added “Explanation” paragraph identifies the need to retain a resident population.

Section 7.1.4 is new. It identifies district-wide high density residential issues, objectives and policies relating to amenity values, multi-unit developments and town centre vitality and allows for sub zones and urban design reviews as implementation methods.

Section 7.2 Distinguishing residential from visitor accommodation helps to clarify the issues and highlights the need for sustainable developments in Queenstown.

Section 7.3 Distinguishing residential from visitor accommodation helps to clarify the issues and highlights the need for sustainable developments in Wanaka.

Section

### **Recommendation**

Accept those submissions supporting the changes to Sections 7.1 through 7.3 and Section 4.9 and reject those submissions seeking to withdraw the Plan Change.

## **4.14 Overall Acceptance of the Plan Change**

### **The Issue and Submissions**

Many of the submissions received expressed concern over the adequacy of the Section 32 report prepared prior to the notification of the Plan Change and the extent of identification of a problem, research undertaken, and analysis provided. A number of submissions sought that PC10 be withdrawn.

### **Consideration**

Although many individuals and companies joined in a combined submission that sought to withdraw Plan Change 10 in its entirety, it became clear during the hearings that the joint submitters' representatives were willing to work with the Commissioners to fashion an outcome that would be acceptable to all parties. The opposition to Plan Change 10 revolved around new rules that had the effect of restricting development of visitor accommodation units and thus potentially impacting profitability. If those rules could be softened, it was argued, then perhaps both sides could find an acceptable middle ground. Lengthy discussions and submission of an alternative map showing different Sub Zone boundaries convinced the Commissioners that there was sufficient merit in the Plan Change to recommend its adoption by Council. But not without some significant changes, all of which have been noted and discussed above. The best rationale, however, for accepting Plan Change 10 is the fact that it lays an important foundation for the plan changes that are scheduled to follow: visitor accommodation and community housing. Both of these plan changes present the opportunity to define areas best suited for residential housing and areas best suited for visitor accommodation and to separate the two activities insofar as is reasonable, given the existing pattern of development. The Commissioners acknowledge that Plan Change 10 does not, in itself, assure the amenity of the High Density Residential Zone but they

believe that the rules, perhaps seen by many as too stringent, offer the possibility of becoming more flexible as they are applied to specific types of development.

### **Recommendation**

Reject all those submissions in opposition to the Plan Change and accept all those submissions in support.

## **4.15 Visitor Accommodation**

### **The Issue and Submissions**

During preparation of proposed Plan Change 10 there was considerable debate within and beyond Council as to whether the effects of Visitor Accommodation were distinctly different from and more adverse than the effects of residential activities in the High Density Residential Zone. A decision was made by Council that PC10 not alter the rules of the Plan relating to the use of buildings or activities, but focus on matters relating to building bulk and location and the quality of design.

PC10 was therefore based on an underlying premise that standardisation of the rules for High Density Residential buildings, whether used for residences or for visitor accommodation, is appropriate regardless of end use of the building.

Both submissions in support and submissions in opposition, indicate a general community interpretation of PC10 as controlling more than design and is by in-direct means influencing the location of visitor accommodation activity. A number of submitters expressed concern that the Plan Change affects the ability to provide for visitor accommodation in a viable manner, overlooks the need for future visitor growth and provides no direction or guidance on how or where visitor accommodation may economically develop.

Since notification of PC10 the Council has undertaken a study to consider changing the rules for Visitor Accommodation.

### **Consideration**

Explicit recognition of the differences between residential uses and visitor accommodation activities is beyond the scope of Plan Change 10 and must rely on subsequent plan changes for interpretation and resolution. Plan Change 10 could only address the issue of public amenity, that is to say what is apparent to the public (in the way of design and appearance of buildings) and not what functions they contain. However that is not to say that the Commissioners ignored the issue of the impact of visitor accommodation on residential activities.

The RMA promotes “sustainability” as a central tenet of government policy. It is questionable whether the current imbalance between residential and visitor accommodation units in Queenstown is sustainable. The trend in loss of residential housing threatens to poison three vital elements of Queenstown’s future – its neighbourhoods, its economic vitality and its sense of community.

#### **1 Neighbourhood Sustainability**

*VA is more profitable.* Neighbourhoods that allow VA units to compete with residential housing are not sustainable. Due to the current investment climate, supported by favourable tax laws, investors will pay more for a VA unit than for a similar residential unit. A VA unit can rent nightly for about the same amount as the weekly rent for a residential unit. Even at less than 50% occupancy rates, VA promises a much higher return on an investment.

*Limited land availability.* Queenstown has a very limited supply of developable land and recent explosive growth has caused land prices to soar. The upward pressure on land prices tempts developers to convert residential properties into VA units, usually increasing unit density while providing smaller units.

*VA alters neighbourhoods.* The continual transformation of residences into VA units slowly eats out the residential heart of neighbourhoods. As residential properties are transformed into VA, the resulting redevelopment alters the fabric of a neighbourhood. Instead of neighbours on the footpaths, strangers seem to predominate. Instead of inter-neighbour courtesies, impersonal VA managers care only for their guests. Increased neighbourhood density means more traffic and fewer parking spaces, increased litter and less landscaping, rising noise and falling amenities. Residents no longer know who lives next door or who is prowling the late-night streets.

*Loss of residents.* When VA units reach a certain proportion of the neighbourhood housing stock, a “tipping point” is reached whereby residents no longer feel comfortable and look to move. Landlords look to profit by selling to developers, thereby displacing tenants. Older residents who own their own homes see unwelcome changes in their neighbourhoods and plan to move elsewhere. High prices and high rents for the remaining residences deter young families from moving in. All too quickly a neighbourhood can become populated solely by visitors and overcrowded with transients sharing flatting costs. No children play nearby.

*Residential sustainability.* As VA squeezes out housing for residents, neighbourhoods change and die. In their place stand islands of mostly empty VA units, silent and dark. Where have all of the residents gone? Is this a sustainable future?

## 2 Economic Sustainability

*Labour costs rise.* As Queenstown housing costs rise, the local labour force is forced to either pay more for housing or suffer longer and longer commutes from outlying communities.

*High labour turnover.* Whether paying more for housing or spending more time commuting, the economic and social hardships imposed on the labour force contribute to the high turnover. People come and work for a while, discover that they will never be able to afford to live here, and so move on. The business community pays for training replacements. Some businesses have purchased housing for below-market leases to entice their key employees to stay.

*Lower service levels.* High turnover also means less experienced people doing the work. Service levels in many businesses are lower than they would be with a more permanent staff.

*Visitor dissatisfaction.* Visitors experience the low service levels first hand. It is often the “tourist” restaurants and stores that find it hardest to retain staff. Visitors who experience staff shortages, poor service, and untrained staff are less likely to return or to recommend others to visit.

*Tourism sustainability.* Tourism is the lifeblood of the Queenstown economy. If the visitors stop coming, the town will die. Converting most of the urban area into VA at the expense of residents means that residents will no longer patronise local shops and businesses; trade will move out to Frankton and beyond, closer to where the residents will live. As businesses catering to locals leave the urban centre, their places will be filled by businesses catering to visitors. The competition for sales will quickly cheapen the goods offered for sale, creating another tourist “trinket town”, so common throughout the world. What makes Queenstown unique will disappear. Is this a sustainable future?

### 3 Community Sustainability

*A small town community.* Queenstown is a delightful place to live; it combines small town social interactions with big city crowds and activities. Many people want to live and work here, but not everyone can afford to do so. As younger people move elsewhere to start families and pursue other careers, fewer families can afford to replace them. The resident population is already starting to become split into two groups: economically well-off older people who generally own their own homes and economically disadvantaged younger people who make up a largely transient workforce. While this split is not yet visible to many, it is a trend that will ultimately destroy the small town community interactions that bind us all together.

*Commuting from suburbia.* The mid-level jobs are often held by residents who do not live in town. Instead, they have moved to “suburbia”, some commuting from as far away as Cromwell, Wanaka and even Alexandra. The social costs of parents who spend their time on the road instead of with their families can be considerable. Children left on their own for long periods are less likely to succeed in school or in life. Commuters also share little of the social and political life of local residents; because they live elsewhere, their concerns rarely match those of locals.

*Loss of community.* The lack of sufficient affordable housing denies a place for everyone who is a part of the community. Where will the next generation of families and experienced mid-level labour live if the community is to survive? Is this a sustainable future?

### 4 Market Separation?

If residences for locals are insulated from VA pressures, then it may be possible to protect the remaining neighbourhoods, strengthen the local labour force and enhance a collective sense of small town community. This will require the legal ability to distinguish residential housing from VA and to enact rules and policies that affect each market differently.

Plan Change 10 attempts to differentiate between residential and visitor accommodation without actually being able to establish any rules that achieve a separation. Many may believe that separation is neither feasible nor

desirable. Others disagree. Only time will judge whether Queenstown, and to a lesser extent Wanaka, evolve to a sustainable future.

### **Recommendation**

Reject all those submissions requesting special recognition for visitor accommodation activities.

## **4.16 Reverse Sensitivity**

### **The Issue and Submissions**

Transit New Zealand lodged a submission generally supportive of PC10 and sought the addition of policies and rules relating to reverse sensitivity effects from new residential development on the State Highway. That submission was opposed by Emma Jane Limited.

The planning officer's report expressed the opinion that the Transit submission is beyond scope because PC10 is concerned with visual effects arising from built form, not noise effects from road activities. Transit did not appear at the hearing in support of their submission.

### **Consideration**

The Commissioners considered that there may be a number of property owners who would be affected by the introduction of new policies or rules who would not be aware that noise issues were being considered as part of Plan Change 10. These people would be adversely impacted if not able to participate in any consultation or development of rules.

### **Recommendation**

Reject the submission by Transit New Zealand.

## **4.17 General Submissions**

### **The Issue and Submissions**

A number of submitters have made general requests for changes to rules including issues relating to rubbish collection, views and sun, rooftop parking, harmony and controlled activities. The general tone of these requests added weight to validate the overall purpose and intent of PC10 to improve amenity values but were such general statements that they did not provide sufficient certainty or clarity in terms of wording to add be supported in the planning report.

### **Consideration**

The Hearing Commissioners agreed with the planning officer that detailed new district plan provisions based on these statements would potentially affect significant numbers of property owners who would not have had the opportunity to understand and submit on the detail of those rules.

The submissions seeking the introduction of a rule for common rubbish collection are not appropriately dealt with through the District Plan and would

be best addressed through a by-law or other mechanism under the Local Government Act, considering ways in which rubbish disposal can be facilitated for short-term visitors.

**Recommendation**

Reject all such general submissions.

**4.18 Compensation**

**The Issue and Submissions**

Woodlot Properties Ltd submitted in opposition to PC10 on the basis that the individual rules of PC10 render the land incapable of reasonable use and as a consequence compensation should be paid to landowners. Other submissions express concern that the effect of PC10 is to make development of land less economic than was possible pre- notification of PC10.

**Consideration**

No additional technical evidence was presented at the hearing in relation to economic impacts.

**Recommendation**

Reject submissions seeking compensation.

**4.19 Fence Heights**

**The Issue and Submissions**

There was no rule relating to fences within the road setback in the District Plan pre notification of PC10. PC10 introduced a Site Standard which limits fences within the road setback and limits the use of visually opaque materials to 1.2m in height. The purpose of the rule is intended to avoid the building of high blank walls and fences that create barriers between residences and the street.

Sixty three submitters opposed the rule with the majority seeking that it be withdrawn while sixty two submitters support the rule.

The planners report addressed issues of interpretation, status of non-compliance with the rule, definition of visually opaque and application to frontages.

**Consideration**

This issue was largely unaddressed at the hearing with only brief mention made. The Hearing Commissioners agreed that the rule is clear and that a planning assessment at time of consent can offer sufficient flexibility to the rule in a site by site situation. Control on fence height for amenity reasons is seen as important.

**Recommendation**

That submissions in support of the proposed rule be supported and those in opposition be rejected and that a definition of a “visually opaque fence” be added to the District Plan as follows: ~~Do you want to include a new definition as suggested in the planning report?~~

*Visually Opaque Fence: means a fence located within the front setback of a property that is composed primarily of solid materials through which little or no view or light can be gained when seen from an elevation drawn parallel to the fence line. Brick, solid panel or overlapping boards are examples of opaque materials while live landscape planting is not considered opaque. .*

#### **4.20 Building Height**

##### **The Issue and Submissions**

PC10 did not alter the provisions relating to building height. Height is an integral consideration in building bulk and mass and this matter has been raised by a number of submitters. In particular submitters sought relief seeking a trade-off between height and site coverage.

The planning report recommended that the Council initiate a review of the purpose, location and environmental results anticipated for each of the Sub Zones to include an examination of plot ratio and height options to achieve differentiation, choice, character and context for each of the Sub Zones.

Some discussion on building height occurred at the hearing and in particular on whether it was within the scope of the plan change.

##### **Consideration**

The Commissioners considered that the topic of height lay outside the scope of plan change as it represents a whole new topic of work that merits future investigation. **Recommendation**

Reject all submissions seeking a change to the building height rule.

#### **4.21 Assessment Matters**

##### **The Issue and Submissions**

A number of submitters sought amendments to the Assessment Matters. The inclusion of an urban design bibliography was especially criticized by Mr. Goldsmith in his presentation; he pointed out that not all of the publications are readily available and, of those that are, none appear to contain a clear set of assessment matters, leaving a wide area for subjective interpretation. Other submitters, especially among the professional architects, desired an approach that referred to good design principles as opposed to specific design criteria. Yet other submitters sought relief to specific rules, deletion and/or withdrawal of the assessment matters.

##### **Consideration**

Generally the Commissioners agree with that approach taken by the planning officer and accept, in part, the recommendations in the officer's report. However, the Plan Change, as notified, contained an urban design bibliography intended to add weight to the assessment matters. We find this approach highly unsatisfactory for two reasons. First, the bibliography

references publications that are not contained within the Plan itself and thus their application will be subject to challenge. Second, the Commissioners agree with Mr. Goldsmith that any assessment matters contained within the Plan must be as clear and objective as possible and with other submitters who desired an approach based on well-accepted principles rather than inflexible rules. The Commissioners, therefore, reject the inclusion of the bibliography, as well as many of the notified assessment matters which varied among the rules, and, in their place, accept the suggestions contained in Mr. Tim Church's technical report. That report, in Part 1, page 3, identifies the seven urban design principles contained in the New Zealand Urban Design Protocol, a document referenced in the notified bibliography.

The New Zealand Urban Design Protocol describes a national approach promulgated by the Minister for the Environment for adoption by New Zealand cities and towns (and by other organisations as well). Mr. Church's report identified, described and interpreted the seven urban design principles as they may relate to the Queenstown Lakes District and specifically to the high density residential amenity values addressed by Plan Change 10. This portion of Mr. Church's report was not criticised by any of the submitters; to the contrary, although not specifically referenced, all of the submitters who were design professionals offered testimony to support urban design guidelines that were not very dissimilar to the Protocol.

We have studied the Protocol and found it to offer a more reasonable set of urban design principles to be used as assessment matters. It offers three considerable strengths:

- it is the nationally accepted urban design reference standard, readily available to everyone (it can be found at [www.mfe.govt.nz](http://www.mfe.govt.nz));
- it has been officially adopted by the Queenstown Lakes District, which is a signatory to the Protocol; and
- it has been notified under this Plan Change and been examined in submitted evidence made available for public submission.

The Protocol, therefore, appears to provide the clearest set of generally agreed-upon assessment matters for judging urban design issues available to the Commissioners at the time of the hearing.

In the process of developing specific language for insertion into the Plan, the Commissioners were obligated to provide some interpretation of the national Protocol principles as they specifically apply to the High Density Residential Zones in both Queenstown and Wanaka. This interpretation is intended by the Protocol which requires that assessments of urban design character be tailored to the needs of individual communities. To support this interpretation, we quote in full from the page 19 of the Protocol regarding urban character:

*“Quality urban design reflects and enhances the distinctive character and culture of our urban environment, and recognises that character is dynamic and evolving, not static. It ensures new buildings and spaces are unique, are appropriate to their location and compliment their historic identity, adding value to our towns and cities by increasing tourism, investment and community pride.*

*Quality urban design:*

- *reflects the unique identity of each town, city and neighbourhood and strengthens the positive characteristics that make each place distinctive*
- *protects and manages our heritage, including buildings, places and landscapes*
- *protects and enhances distinctive landforms, water bodies and indigenous plants and animals*
- *creates locally appropriate and inspiring architecture, spaces and places*
- *reflects and celebrates our unique New Zealand culture and identity and celebrates our multi-cultural society.”*

These statements, as well as other similar expressions throughout the Protocol, highlight the requirement for each community to adapt the seven Protocol principles to suit its own unique character and requirements. This we have done by adapting the language from Mr. Church's report to create a concise set of urban design assessment matters that we believe can be applied in a reasonably objective manner by both Council planners and by the Urban Design Panels. Only time and experience will tell if these assessment matters require further modification.

To provide maximum clarity and to avoid possible conflicting readings, the Commissioners have applied the same the seven Protocol principles and their interpretations for all rules requiring an urban design assessment. Some rules, due to their unique applications, may contain one or two additional assessment matters that fall outside urban design issues.

In relation to the general assessment matter suggested by T Haslett, it is noted that most of the issues she raised are now addressed in the urban design assessment matters described above and included under 7.7.2(iv), and so her points are accepted in part.

**Recommendation**

Accept in part and reject in part, according to the officer's recommendations except for the submission by T Haslett which is accepted in part.

**4.22 Other Submissions**

**The Issue and Submissions**

A range of other submissions were received in relation to a variety of issues. These were summarised and discussed in the officer's report and some were addressed in evidence at the hearing.

**Consideration**

The great variety of minor points raised in submissions plus the large number of issues that were outside the scope of the Plan Change were reviewed and summarised by the planning officer along with recommendations for their acceptance or rejection. The Hearing Commissioners have reviewed this report and agree with the recommendations, except to refine the editing, as deemed appropriate.

**Recommendation**

Accepted in part insofar as the submissions relate to minor editing and clarification issues and rejected in part insofar as the submissions relate to issues beyond the scope of Plan Change 10.

**4.23 Correction**

In the course of considering the Residential Areas Rules (Part 7 of the District Plan) we noticed that there is an existing mistake in two headings. Rule 7.5.5.2 is headed "*Site Standards - Residential Activities and Visitor Accommodation in the High Density Residential Zone*" when in fact the rules relate to both the High Density and Low Density Zones. Similarly Rule 7.5.5.3, which sets out Zone Standards.

**Recommendation**

We suggest that this opportunity should be taken to correct these headings by deleting the references to the High Density Zone. There is power to simply correct such errors under clause 20A of the 1st Schedule to the Act. Those corrections have been made in the attached version of Part 7 showing recommended amendments.

## **ATTACHMENT 1: RECOMMENDED AMENDMENTS TO DISTRICT PLAN**

The following pages are pages of the District Plan that would be amended as a consequence of the recommendations above. The wording prior to Plan Change 10 is shown, with recommended additions and deletions.

Att 1a : Part 4 of the Plan, District Wide Issues, Section 4.9 Urban Growth

Att 1b : Part 7, Residential Areas, is reproduced in full as most pages have recommended amendments.

Att 1c : Definitions section of the District Plan with regard to the definitions of “Backpacker Hostel”, “Unit”, and “Visually Opaque Fence”

Att 1d : Subzone Maps

Att 1e. Diagrams inserted into Appendix 4 of the DP

**ATTACHMENT 2: RECOMMENDATIONS ON SUBMISSION POINTS**

See accompanying CD for details.