

Section 32 Report

Proposed Plan Change No. 7 Residential Flats to the Queenstown Lakes District Partially  
Operative District Plan

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For the Queenstown Lakes District Council  
Dated 12 August 2005

## EXECUTIVE SUMMARY

The Queenstown Lakes District Plan provides for residential flats as a permitted activity within the residential zones in order to enable landowners to create additional rental accommodation within their dwelling, or provide accommodation for a family member.

Currently, the following definition of Residential Flat is included in the Plan:

*RESIDENTIAL FLAT: Means a residential activity consisting of one flat in the same ownership as the residential unit and contained within the same building, containing no more than one kitchen and one laundry.*

It has been brought to the Council's attention recently that this definition can be interpreted in a way different to its original intent.

For example, a consent application was lodged for a duplex (two adjoining dwellings of the same size) which identified one of them as a residential unit and the other a residential flat. This is obviously not the intent of the Rule, where it is envisaged that a residential flat is subsidiary to the primary dwelling.

This unclear definition of residential flat causes issues when what is in effect a residential unit can be developed as a permitted activity because it has been identified as a residential flat. If it is in effect a residential unit, it will potentially result in adverse effects that have not been managed effectively at the time of consent. Such effects include lack of car parking, access, increased site density and reduced outdoor living space.

Therefore the purpose of this plan change is:

*'To clarify the provisions for residential flats within the residential zones to ensure that there is clear distinction between a residential flat and residential unit'*

It is considered that the most appropriate way of achieving this is by amending the following sections of the District Plan:

Replace the struck through text with the underlined text.

## **RESIDENTIAL AREAS – 7**

### **7.1 Issues, Objectives and Policies**

#### **7.1.2 District Wide Residential Objectives and Policies**

##### **Objective 3 – Residential Amenity**

**Pleasant living environments within which adverse effects are minimised while still providing the opportunity for individual and community needs.**

3.11 To ensure the single dwelling character and accompanying amenity values of the Low Density Residential Zone are not compromised through subdivision that results in an increase in the density of the zone that is not anticipated.

#### **Explanation and Principal Reasons for Adoption**

Subdivision of residential flats is not desirable because it can facilitate delineation between the unit and flat through separate curtilage. Consideration must also be given to the potential implications of allowing the first subdivision to take place and the fact that additional residential flats could then be developed on the site as a permitted activity, provided the other site and zones standards of the District Plan have been complied with . The result of this process would be the incremental subdivision of the Low Density Residential Zone, which could result in a development pattern similar to that anticipated in High Density Residential Zone. Therefore, this Policy considers the effects subdivision can have on the single dwelling character of the Low Density Residential Zone.

Definitions:

<b>RESIDENTIAL FLAT</b>	<p><del>means a residential activity consisting of one flat in the same ownership as the residential unit and contained within the same building, containing no more than one kitchen and one laundry.</del></p> <p>means a residential activity that:</p> <ul style="list-style-type: none"><li>• <u>Consists of no more than one flat in the same ownership as the residential unit; and</u></li><li>• <u>Is contained within the same building as the residential activity (being that building containing the residential unit but excluding detached accessory buildings); and</u></li><li>• <u>Contains no more than one kitchen and one laundry; and</u></li><li>• <u>Does not cover more than 35% of the total Gross Floor Area of the building (being that building containing the residential unit and flat but excluding accessory buildings)</u></li></ul>
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## SECTION 32 REPORT

### CONTENTS

1.0	BACKGROUND .....	5
1.1	Introduction.....	5
1.2	Scope of the Plan Change.....	5
1.3	The issues .....	5
1.4	The purpose of the Plan Change.....	11
2.0	THE CONTEXT AND NECESSITY OF THE PLAN CHANGE.....	11
2.1	The Resource Management Act (1991).....	11
2.2	Regional Policy Statement for Otago.....	12
2.3	Kai Tahu Ki Otago Natural Resource Management Plan 2005 .....	12
2.4	Other relevant documents .....	12
2.5	Long Term Council Community Plan .....	13
2.6	Partially Operative District Plan (2003).....	13
3.0	RELEVANT NON-STATUTORY DOCUMENTS.....	16
3.1	Tomorrow’s Queenstown: Vision, issues and directions – July 2002 .....	16
3.2	Wanaka 2020 report – May 2002 .....	16
3.3	Arrowtown Community Plan .....	16
3.4	Queenstown and Wanaka Growth Management Options Study .....	17
3.5	Housing Affordability in Queenstown Lakes District .....	17
3.6	The Queenstown Lakes District Affordable Housing Strategy – June 2005.....	20
4.0	CONSULTATION PROCESS .....	21
4.1	Specific Consultation for this Plan Change.....	21
5.0	ASSESSMENT OF THE OPTIONS FOR ADDRESSING THE ISSUE.....	23
5.1	Broad Alternatives .....	23
5.2	Alternative definitions .....	25
5.3	Appropriateness of Policy.....	30
5.4	Summary .....	31
6.0	CONCLUSION .....	32
7.0	PLAN CHANGE .....	32

## **1.0 BACKGROUND**

### **1.1 Introduction**

The proposed Plan Change has resulted from recent situations where developers are constructing a duplex development of two near identical units on a low density zoned site and are labelling one of them 'residential unit' and the other 'residential flat'. This effectively enables two units to be built as a permitted activity on a site where the density provisions would normally make such development a Non-Complying activity.

### **1.2 Scope of the Plan Change**

This Plan Change focuses on the definition of residential flat as contained in the Queenstown Lakes Partially Operative District Plan and considers ways of clarifying the intent of provisions for residential flats by:

- achieving a definition that concisely describes a residential flat;
- clearly identifying the difference between a residential flat and a residential unit; and
- identifying a residential flat as a subsidiary part of the primary dwelling unit.

### **1.3 The issues**

The issues can be summarised as:

- 1) The differentiation of Unit and Flat.
- 2) The definition of kitchen, and use of kitchen to identify the number of units.
- 3) The level of development contributions associated with residential flats compared to a residential unit.
- 4) The different density associated with a unit as opposed to a flat.
- 5) The level of amenity that can be associated with a residential flat as opposed to a residential unit.
- 6) The different car parking and access requirements for a residential flat as opposed to a residential unit.

The following provides an analysis of each of these issues.

#### **1.3.1 Unit or Flat**

The definitions in the Partially Operative District Plan read as follows:

*RESIDENTIAL FLAT: Means a residential activity consisting of one flat in the same ownership as the residential unit and contained within the same building, containing no more than one kitchen and one laundry.*

*RESIDENTIAL UNIT: Means a residential activity which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.*

Because of the generality of these definitions, the developer can choose as to whether an attached dwelling is referred to as a residential unit or residential flat. As stated above, this

causes problems in that the rules for residential flats are different to those for residential units.

The following rule is of relevance for the residential zones:

*7.5 Low Density and High Density Residential Zone Rules*

*7.5.3.1*

*Any activity which complies with all the relevant Site and Zone Standards and is not listed as a Controlled, Discretionary, Non-complying or Prohibited Activity, shall be a Permitted Activity.*

Neither residential flats or units are listed as Controlled, Discretionary, Non-complying or Prohibited Activities, and are therefore Permitted. Activities.

A number of site and zone standards apply equally to residential flats and units. The following make a distinction:

*7.5.5.1 Site Standards – Residential Activities and Visitor Accommodation in the High Density Residential Zone*

*v Access*

*Each residential unit shall have legal access to a formed road.*

*14.2.4 Site Standards*

*14.2.4.1 Parking and Loading*

*i Minimum Parking Space Numbers*

*Activities shall provide on- site parking space in accordance with Table 1 **except for:***

- (a) Activities in the Town Centre Zones, excluding the (Town Centre Transition sub- zone, which shall be subject to the existing car parking requirements).*

Extract from Table 1

<i>ACTIVITY</i>	<i>PARKING SPACES REQUIRED FOR:</i>	
	<i>RESIDENTS/VISITOR</i>	<i>STAFF</i>
<i>Residential units:</i>		
<i>High Density Residential Zone:</i>	<i>1 per residential unit</i>	
<i>All other Zones:</i>	<i>2 per residential unit</i>	
<i>Residential Flat</i>	<i>1 per residential flat</i>	

In summary the difference between a residential unit and a flat are the following:

- a residential flat must be attached to a residential unit, whereas a residential unit can exist on its own
- a residential unit is required to have access to a legal formed road, whereas a residential flat is not. However as the flat must be in the same building as the unit by implication the flat also has access to a legal formed road

- in the Low Density Residential zone the car parking requirement for a flat is only 1 space, whereas 2 are required for a unit. It is noted that a Plan Change is being prepared which is looking at the car parking requirements for residential flats.
- only one residential flat can be erected per 450m<sup>2</sup>. Whereas one residential flat and unit can be constructed per 450m<sup>2</sup>.

### 1.3.2 Kitchens

The definition of residential unit relies to a large extent on the number of kitchens. Over recent years more dwellings are having extra kitchen areas installed. The definition of kitchen facilities in the Plan is fairly broad, and reads:

<b>KITCHEN FACILITY</b>	Means any space, facilities and surfaces for the storage, rinsing preparation and/or cooking of food, the washing of utensils and the disposal of waste water, including a food preparation bench, sink, oven, stove, hot-plate or separate hob, refrigerator, dish-washer and other kitchen appliances.
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Therefore a bar with a sink or a bench with tea and coffee making facilities is included within the definition of a kitchen. Because the definition of residential unit relies on the number of kitchens, where units include two kitchens and/or bar facilities, they would be considered to be more than one unit, even though for all intents and purposes they are one dwelling.

The difficulty arises where it is unclear whether the facilities being added are going to result in a self contained rentable unit, and thus basically increasing the dwelling density, or simply be contained within the original residential unit. It is suggested that because of their purpose, residential flats should contain only 1 kitchen.

### 1.3.3 Development Contributions

From 1 July 2004 the Council has been levying development contributions under the Local Government Act 2002 (LGA).

The contributions for a dwelling are as follows:

**Schedule Of Development Contributions per Residential Equivalent Required By Contributing Area 2004/05 (Excluding GST)**

Contributing Area	Water Supply (\$)	Wastewater (\$)	Stormwater (\$)	Roading (\$)	Reserves * (\$)	Community Facilities (\$)	Parking (\$)	Total Contribution (\$)
<b>Urban Areas - Including All Land Uses</b>								
Queenstown	1,540	1,753	381	To be assessed	1,268	1,774	To be assessed	6,716
Arrowtown	5,666	2,205	612	To be assessed	1,268	1,774	To be assessed	11,525
Glenorchy	6,885	-	719	To be assessed	1,268	1,774	To be assessed	10,646
Lake Hayes	5,028	5,710	-	To be assessed	1,268	1,774	To be assessed	13,780
Arthurs Point	4,399	3,750	273	To be assessed	1,268	1,774	To be assessed	13,147
Wanaka	1,989	2,974	562	To be assessed	1,883	1,364	To be assessed	8,772
Hawea	2,337	1,652	456	To be assessed	1,883	1,364	To be assessed	7,692
Albert Town	1,989	3,340	839	To be assessed	1,883	1,364	To be assessed	9,415
Luggate	5,557	-	-	To be assessed	1,883	1,364	To be assessed	8,804
Other Wakatipu Townships	-	-	-	To be assessed	1,268	1,774	To be assessed	3,042
Other Wanaka Townships	-	-	-	To be assessed	1,883	1,364	To be assessed	3,247
<b>Rural Areas - Including all Rural Residential/Rural Life Style</b>								
Wakatipu Rural	-	-	-	To be assessed	1,268	1,774	To be assessed	3,042
Wanaka Rural	-	-	-	To be assessed	1,883	1,364	To be assessed	3,247
Hawea Rural Res.	2,337	1,652	456	To be assessed	1,883	1,364	To be assessed	7,692
Aubrey Road Rural Res.	1,989	2,974	562	To be assessed	1,883	1,364	To be assessed	8,772

\* Reserves contribution excludes requirement for 27.5m2 reserve land contribution

Since the introduction of these development contributions building consent applications have been lodged for which it has been determined that development contributions are to be levied due to the creation of another unit (as determined by including an extra kitchen) or

creation of a residential flat. The contribution for a residential flat is currently set as equivalent to the contribution for a residential unit.

In a number of these situations both the applicant and the regulatory staff have felt that the contribution at the demanded level was not warranted as the additional pressure on services was either non-existent or minor. This occurred where no additional floor area was added to the property, or where there was no intention to create an additional self contained unit, but merely to add a kitchen.

In other situations, the development is new, the residential flat is considerable and neither the applicant nor the regulatory staff has felt the development contribution to be unjust.

Although it is not the purpose of this Plan Change to address development contributions, the redefinition of residential flats will impact on the contributions levied. Particularly, as Council has already granted a temporary discretion in the assessment of development contributions for one bedroom residential flats below 60 m<sup>2</sup> to levy only 50% of the residential dwelling equivalent as opposed to 100%.

If the Council wants to encourage use of residential flats for long term affordable rental, it should consider the continuation of imposing lower development contributions.

#### **1.3.4 Density**

The District Plan currently specifies a minimum net area for any site in the Low Density Residential Zone of 450m<sup>2</sup> for each residential unit contained within the site. However, because a residential flat associated with a residential unit is a permitted activity it is clear some additional density is anticipated.

Based on the non-complying activity status for subdividing a residential flat from a residential unit and the requirement that the residential flat is contained within the same building, it is not anticipated that a residential flat is anything other than an adjunct to, the primary dwelling, held in the same ownership. However, under the current definition, there is a possibility that the density can increase through the subdivision of the flat from the unit.

Of relevance, *Section 7 – Residential Areas, Objective 3 – Residential Amenity* policy 3.2 states:

*To provide for and generally maintain the dominant low density development within the existing Queenstown, Wanaka and Arrowtown residential zones, small townships and Rural Living areas.*

Also 7.2 *Queenstown Residential Areas, 7.2.3 Objectives and Policies – Queenstown Residential Areas* states:

*Residential development and associated activities at a scale, density and character consistent with the existing density, which enhances the essential elements of the surrounding landscape, lakeshore and the visual outlook from residential buildings.*

7.2.4 *Environmental Results Anticipated* (i) and (ii) are relevant and state:

- *Maintenance of the general character and scale of existing residential areas with sites being dominated by open space rather than buildings, providing the opportunity for tree and garden planting around buildings.*

- *Existing residential activity characterised by low building coverage and building height, but with opportunity for variety in building design and style.*

Based on the policies and objectives of the residential section of the District Plan it is clear that in existing low density residentially zoned areas a certain character is anticipated.

However, because residential flats are being developed in a manner that is effectively making them another residential unit, the density can effectively be doubled and therefore the policies identified above are not being achieved.

This identifies that the residential flat definition needs to be amended to ensure it is allowing some additional densification of a low density residential site as anticipated but not to the extent that two identical dwellings are being created.

The second issue is that although the subdivision of a residential flat from a residential unit is a non-complying activity, limited consideration is given in the policies and objectives to the potential implications of allowing the first subdivision to take place and the fact that additional residential flats could be developed on the site as a permitted activity, provided the other site and zone standards are not broken. The result of this process is the incremental subdivision of the low density site, which could potentially result in a development pattern similar to that anticipated in High Density Residential areas. This approach could then effectively provide a back door method for densification of the Low Density Residential Zone, which is contrary to the intention and integrity of the District Plan and in particular the rules relating to site density.

Therefore, in addition to the Non-Complying activity status to subdivide a residential flat from a residential unit, the objectives and policies of the District Plan need to ensure appropriate consideration is given to the future implications of allowing the initial subdivision to take place and the effects this will have on the anticipated character of the Low Density Residential Zone.

### **1.3.5 Amenity**

Under the current Plan provisions, a residential flat must be part of the main unit. Increasingly, particularly in Wanaka, residential flats are being built attached to the main dwelling by one or more garages. The visual effect is the appearance of 2 dwellings on the site, or half size lots. This is degrading the amenity value of the low density zone by changing the density to one people would expect to see in the high density residential areas.

Many of the current developments which have resulted in the duplex situation are providing additional access, parking and infrastructure for the 'flat' as if it were a residential unit, therefore if subdivision was applied, for these requirements would be met.

Therefore, in addition to the issue associated with creating two dwellings of similar size, by meeting these requirements the general character of the Low Density Zone is being changed, regardless of the actual size of the dwellings. Specifically, by providing more car parking on site and additional access, the site no longer reflects the single dwelling character envisaged for the Low Density Residential zone.

It is considered that subdivision would exacerbate the effects created by this kind of site development where subdivision requirements would necessitate separate access, infrastructure and parking requirements and through separate ownership would facilitate visual and functional separation of the site whereby discrete owners create their own gardens and curtilage.

Therefore, allowing subdivision of a residential flat from a residential unit in the Low Density Residential Zone will potentially over time create a character that is anticipated in the High Density Residential Zone, which is clearly not desirable.

### **1.3.6 Car Parking and Access**

Parking and access provisions in the Plan are mainly aimed at providing for one unit on a site. As a separate Plan Change the Council is pursuing amendments to both these aspects which include considerations for residential flats.

## **1.4 The purpose of the Plan Change**

The purpose of the Plan Change can be summarised as follows:

To clarify the provisions for residential flats within the residential zones to ensure that there is clear distinction between a residential flat and residential unit.

### **District Plan provisions**

## **2.0 THE CONTEXT AND NECESSITY OF THE PLAN CHANGE**

### **2.1 The Resource Management Act (1991)**

Section 32 of the Resource Management Act (the Act) states that an evaluation of the alternatives, benefits and costs of any plan change must be carried out before adopting any plan change. The evaluation should examine the extent to which each option or alternative is the most appropriate way to achieve the purpose of this Act; and having regard to their efficiency and effectiveness, whether the policies, rules or other methods are the most appropriate for achieving the objectives. This chapter of the report sets out provisions in various statutory documents that are achieved through this Plan Change.

32 (4) directs that for the purposes of this examination an evaluation must take into account -

- (a) the benefits and costs of policies, rules or other methods; and*
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

This Plan Change has been prepared as a means of achieving the purpose of the Act, which is expressed in Section 5 as follows:

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, "sustainable management" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –*
  - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*

- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

The change will ensure that people can continue to provide for their wellbeing by enabling an additional self-contained flat to be built on a site as an addition to a residential unit, thus contributing to the rental pool and the diversity of housing options. This will contribute to the social and economic wellbeing of the District. Limiting the ability to subdivide off the flats will mitigate the adverse effects that can be associated with separate titles that were not considered when the flat was constructed.

Section 7 lists “other matters” that the Council must have particular regard to. The following sub-sections are of particular relevance to this Plan Change.

- (b) The efficient use and development of natural and physical resources:*
- (c) The maintenance and enhancement of amenity values:*
- (f) Maintenance and enhancement of quality of the environment:*
- (g) Any finite characteristics of natural and physical resources:*

The change will ensure that the amenity values of residential zones are not compromised by density increasing beyond the anticipated level.

Section 31 of the Act sets out the functions of territorial authorities. This Plan Change relates specifically to Council’s functions under 31 (a), which reads:

- (a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*

Section 74 of the Act requires that the Plan Change be in accordance with the Council’s functions under Section 31, the provisions of Part II, its duty under Section 32 and any regulations or bylaws.

## **2.2 Regional Policy Statement for Otago**

Section 75 specifies that regard must be had to any Regional Policy Statement or Regional Plan. The Regional Policy Statement for Otago (14 September 1998) is of relevance to this District, however it makes no reference to residential accommodation and is therefore not relevant to this Plan Change.

## **2.3 Kai Tahu Ki Otago Natural Resource Management Plan 2005**

Section 74(2A)(a) of the act requires that a territorial authority to take into account relevant planning documents recognised by an iwi authority. Kai Tahu ki Otago Natural Resource Management Plan (KTKO NRMP) was made publicly available in June 2005. This Plan contains issues, objectives and policies for Otago in general and specific catchments within the region. There are no provisions in the KTKO NRMP that relate to this proposed Plan Change.

## **2.4 Other relevant documents**

Section 75 specifies that regard must be had to any management plans and strategies prepared under other Acts; relevant planning documents recognised by an Iwi authority affected by the district plan; any relevant entry in the Historic Places register; and other regulations relating to fisheries resources.

## **2.5 Long Term Council Community Plan**

The Queenstown Lakes District's Long Term Council Community Plan identifies the following community outcomes of relevance:

- *A safe and healthy community that is strong, diverse and inclusive for people of all age groups and incomes.*
- *A high quality urban environment that is respectful of the character of individual communities.*

## **2.6 Partially Operative District Plan (2003)**

The District Plan defines residential flats as follows:

*RESIDENTIAL FLAT: Means a residential activity consisting of one flat in the same ownership as the residential unit and contained within the same building, containing no more than one kitchen and one laundry.*

The following extracts from the District Plan relate directly to residential flats:

### **5.3 Rural General and Ski Area Sub-Zone –Rules**

#### **5.3.3.2 Controlled Activities**

##### **viii Residential Flat**

*The Residential Section provides general policy direction for all residential areas, then more specific for Queenstown, Wanaka and Arrowtown. The following policy relating to all residential areas is considered relevant:*

### **7.0 Residential Areas**

#### **7.1.2 District Wide Residential Objectives and Policies**

##### **Objective 2 - Residential Form**

*A compact residential form readily distinguished from the rural environment which promotes the efficient use of existing services and infrastructure.*

##### **Policy 2.4**

*In new residential areas encourage and provide for development forms which provide for increased residential density and careful use of the topography.*

##### **Objective 3 - Residential Amenity.**

*Pleasant living environments within which adverse effects are minimised while still providing the opportunity for individual and community needs.*

##### **Policies:**

- 3.1 *To protect and enhance the cohesion of residential activity and the sense of community and well being obtained from residential neighbours.*
- 3.2 *To provide for and generally maintain the dominant low density development within the existing Queenstown, Wanaka and Arrowtown residential zones, small townships and Rural Living areas.*

It is considered the current situation where residential flats are being built a similar size to the associated residential unit are not contributing toward the achievement of Objective 3 and accompanying policies. Particularly, as the development of the 'duplex' is not assisting to maintain the dominant low density character.

#### *7.2.3 Queenstown Residential Areas Objectives and Policies*

Also relevant, Policies 7.2.3(3) and (5) and (6) read:

3. *To maintain the general character of established residential environments in terms of density, height, access to sunlight, privacy and views.*
5. *To encourage additional consolidation of residential activity in the District.*
6. *To provide for a residential environment which allows a range of housing types, including care for the elderly and dependant relatives.*

The policies specific to Wanaka residential areas include the following:

#### *7.3.3 (3)*

*To provide limited opportunity for higher density residential development close to the Wanaka town centre.*

#### *7.5 Low Density and High Density Residential Zone Rules*

There is no rule, site or zone standard that provides specifically for residential flats. Therefore, residential flats are a permitted activity, as long as they meet the site and zone standards.

##### *7.5.5.1 Site Standards*

###### *vii Outdoor Living Space*

- (a) *The minimum provision of outdoor living space for each residential unit and residential flat contained within the net area of the site within the Low Density Residential Zone shall be:  
36m<sup>2</sup> contained in one area with a minimum dimension of 4.5m at the ground floor level and 8m<sup>2</sup> contained in one area with a minimum dimension of 2m at any above ground floor level*
- (b) *The minimum provision of outdoor living space for each residential unit and residential flat contained within the net area of the site within the High Density Residential Zone, shall be:  
20m<sup>2</sup> contained in one area with a minimum dimension of 3m at the ground floor level and 8m<sup>2</sup> contained in one area with a minimum dimension of 2m at any above ground floor level.*
- (c) *The outdoor living space shall be readily accessible from a living area.*

*(d) No outdoor living space shall be occupied by any building, other than an outdoor swimming pool, or accessory building of less than 8m<sup>2</sup> gross floor area, driveway or parking space.*

## 8.2 Rural Living Areas

### 8.2.2.2 Controlled Activities

*iii Residential Flat*

## 9.2 Township Zone Rules

### 9.2.3.4 Non-Complying Activities

*vi Residential Flat*

## 15 Subdivision, Development and Financial Contributions

### 15.1 Issues, Objectives and Policies

#### *Objective 5 - Amenity Protection*

*The maintenance or enhancement of the amenities of the built environment through the subdivision and development process.*

#### *Policies:*

*5.1 To ensure lot sizes and dimensions to provide for the efficient and pleasant functioning of their anticipated land uses, and reflect the levels of open space and density of built development anticipated in each area.*

### 15.2 Subdivision, Development and Financial Contributions Rules

#### 15.2.3.4 Non-Complying Subdivision Activities

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

In summary, the District Plan provides for residential flats by enabling their use within a residential unit. This is consistent with the relevant policies, which encourage the provision of accommodation within the residential zones, while retaining amenity values. The current problem arises because the provisions do not differentiate between residential unit and residential flat effectively. This means that in effect, two residential units could be developed as of right if one is termed 'residential flat', thus avoiding the need to comply with Zone Standard 7.5.5.2(iii) Site Density therefore, affecting the amenity of the Low Density Residential Zone. The Non-Complying activity status for subdividing a residential flat from a residential unit identifies that a residential flat is not meant to be considered independently of a unit. However, the current policies may not adequately reflect the potential effects on the character and amenity of the Low Density Residential Zone that subdivisions could have. Therefore, it is considered a Plan Change is necessary to address both the effects of creating a flat the same size as the unit it is attached to and also provide policy guidance to support the Non-Complying activity status for subdivision.

Also of relevance are the car parking and accessway provisions. Currently, Site Standard 7.5.5.1(v) requires one access way per unit. Therefore, if a residential unit is developed that is classed as a residential flat at the time of development, the developer avoids the need to comply with the accessway requirements. Likewise, parking requirements are based on the number of residential units. By classing a unit as a flat at the time of development, the developer avoids the need to comply with site standards for parking. However, a plan change is currently looking at the car parking requirements.

### **3.0 RELEVANT NON-STATUTORY DOCUMENTS**

#### **3.1 Tomorrow's Queenstown: Vision, issues and directions – July 2002**

The Tomorrow's Queenstown document was prepared following a public workshop held between 7 and 11 July 2002, with the purpose of providing a community vision, strategic goals and priorities for Queenstown for the next ten to twenty years.

The document recognises priority issues that the community faces. Priority issue 1 is managing population growth, which in general terms is relevant to the residential flat issue.

The workshop sessions resulted in a number of strategic goals. Creating affordable housing is identified as a strategy or commented on under the strategic goals 'Managing Growth', 'Building our community', 'Creating quality urban environments', and 'Growing the strength of our economy'.

#### **3.2 Wanaka 2020 report – May 2002**

The Wanaka 2020 document was prepared following a public workshop held between 24 and 28 May 2002, with the purpose of providing a community vision, strategic goals and priorities for Wanaka for the next ten to twenty years.

Although residential flats are not specifically referred to, the following is of relevance to this issue. On Infill/Intensification the report states the following:

##### *Infill/intensification*

- *should be generally encouraged*
- *there should be incentives for sensitive infill in older areas – through amalgamation of lots, concessions on lot size etc.*
- *Newer areas were seen as less suited for infill because of house location on lots*
- *Encourage future intensification by encouraging mixed lot size in new subdivisions. A new urban extension zone encouraging mixed size development was favoured.*

On affordable housing it states

##### *Affordable Housing*

- *This should be integrated throughout built areas to foster an integrated community.*
- *Incentives to encourage developers and employers to contribute affordable housing should be a priority in future planning.*

#### **3.3 Arrowtown Community Plan**

The Arrowtown Community Plan was developed following workshop sessions on 22 and 23 February 2003, with the purpose of providing a community vision, strategic goals and priorities for Arrowtown for the next ten to twenty years.

Of relevance in the community plan is Chapter 11. New Town – Low Density Residential Zone (LDR), in which the following is stated:

*Actions:*

*It was acknowledged that the design and layout of the new development has been determined through subdivision.*

*Infill: Because it was confirmed that the current boundaries should be retained, the ability to absorb future development within the current zones needs to be considered. The purpose of providing for infill would be to enable future development, particularly for elderly, while retaining the character of the residential zone. The character of the zone is created through the amount of open space compared to built form. For example there are concerns that the new development is inappropriate, because even though there is only one residential unit per lot, the units are of such a size that the built form dominates.*

*Currently, the Plan provisions permit the development of a residential flat, provided that it is contained within the existing dwelling. In order to enable greater infill capacity, this could be amended to provide for detached granny flats. To retain the existing low density feel, such activity would be subject to meeting overall site coverage requirements. It is envisaged this could be achieved through scale – a number of smaller houses within the section rather than one large house.*

### **3.4 Queenstown and Wanaka Growth Management Options Study**

*Stage 1: How will Wanaka and Queenstown “look, feel and function” as they develop over the next 20 years - 2004*

This report contains projections for the next 20 years. Particularly relevant for the considerations of residential flats are the projections regarding the number of residents and the number of residences required. Pertinent excerpts include:

*Section 2.10.1 Urban Growth Pressures [Queenstown]*

*.....Under a “business-as-usual” approach, and given a high growth rate, all existing residential capacity is likely to be taken up between 2016 to 2021. This will create pressure for new urban areas to be added after 2021, or for much more intensive development to occur in the existing built-up area.....*

*Section 3.2.1 Growth Projections and Demands [Wanaka]*

*There is a demand for a further 3,700 dwellings between 2001 and 2021. Currently the council estimates that there is capacity for another 4,100 dwellings under the current land use zonings. 670 of these units are in rural-residential areas. An allowance needs to be made for rentable apartments and other forms of accommodation used for visitor accommodation in the higher density zone. There is likely that this demand will reduce the capacity available to around 3,300 dwellings.*

### **3.5 Housing Affordability in Queenstown Lakes District**

***The nature and scale of housing affordability issues in the District - 2004***

This study identifies that there is an emerging affordable housing problem in Queenstown and Wanaka. In the summary it states that:

*The lack of affordable housing will have significant social and economic impacts on both settlements. Overseas experience, as well as anecdotal evidence from both settlements, highlights the range of costs that communities face when housing costs increase to a point where people are dissuaded from settling in an area. These costs include social, economic, transport and environmental costs.*

Some form of intervention is warranted, and there are benefits from beginning that intervention now, rather than waiting until affordability is a much larger problem in the future.

On pages 50 - 52 of the study, paragraphs 5.2.5, 5.2.6 and 5.2.7 identify the different groups of residents the District has in terms of housing: Short-term rental, Long-term rental and Owner-occupier market. It concludes that none of these sectors are likely to provide any affordable accommodation in the short to medium term without some form of intervention. Chapter 7 'The potential effects of intervention' goes through a list of elements that make up the demand/supply chain of housing provision, the relevant ones are listed below:

**Planning** – includes opportunities to influence policy and statutory planning outcomes at local, regional and national levels.

**Consents/permits** – includes opportunities for reducing the time and financial cost of processes involving consents and permits, infrastructure costs and issues around the timing and sequencing for the taking of reserves and financial contributions.

**Community integration** – includes the means available to minimise community opposition to affordable housing schemes.

**On-selling and retention** – includes means by which a degree of certainty can be reached that affordable housing/rental stock is not subsequently lost to this segment of the market or, at worse, capital gain margins are retained within the affordable housing provider sector for re-use. Retention is one of the more difficult policy issues.

Also relevant in this context is the table on page 65 of the report, which includes the examples of the above elements used in overseas resort towns facing affordable housing issues:

<b>Intervention points along the supply chain</b>	<b>Examples from the Case Studies</b>
<b>Planning</b>	<p><i>Whistler lifted the development cap for residents' housing.</i></p> <p><i>Breckenridge allows increased density for affordable housing developments.</i></p> <p><i>Aspen and Breckenridge utilise inclusionary zoning, requiring larger housing developments to provide some affordable</i></p>
	<p><i>housing.</i></p> <p><i>Whistler and Breckenridge allow Secondary Dwellings, but only for local employees.</i></p> <p><i>Aspen's Historic Preservation Ordinance provides a Density Bonus for affordable housing, and the option of a Transferable Development Rights incentive.</i></p> <p><i>Whistler's Employee Service Charge By-Law is an example of linkage zoning, requiring resorts and larger employers to support the provision of affordable housing.</i></p> <p><i>Nantucket utilises a targeted development density bonuses in return for the provision of affordable housing.</i></p>
<b>Consents / permits</b>	<p><i>Banff agreed to alternative development standards for affordable housing, reducing processing time.</i></p>
<b>Community integration</b>	<p><i>Aspen now plans for resident housing on infill sites and refurbished heritage buildings.</i></p> <p><i>Vail's Middle Creek Development includes an early childhood centre.</i></p> <p><i>Nantucket's House Recycling programme re- utilises traditional older dwellings.</i></p> <p><i>Aspen's Marolt Ranch provided an opportunity to protect 64 acres of land in public open space in perpetuity</i></p>
<b>On-selling and retention</b>	<p><i>Whistler, Breckenridge and Aspen have deed restrictions on resale, linked to employment and/or income levels. Vail uses a 3% cap on appreciation.</i></p> <p><i>Vermont CLTs use ground leases, to retain ownership of the land and affordability of the housing.</i></p> <p><i>Banff Housing Corporation uses a sublease of approximately 25% of 'ownership' dwellings, a form of split equity arrangement.</i></p> <p><i>Auckland City uses a 50% shared equity scheme for some pensioner units Whistler's Beaver Flats are highly energy efficient leading to lower household running costs.</i></p>

Finally of relevance is the fourth conclusion on page 70 of the report:

*4. In Queenstown at least, there are few options to increase land supply to help reduce prices. While there is considerable capacity for additional dwellings, a substantial proportion of this capacity is located in higher priced areas. There is the ability for the market to provide more affordable housing through more intensive development, but in general, prices for residential units are increasing as fast as stand-alone house prices. Wanaka has more options than Queenstown in terms of growth options but in both settlements high growth*

*rates means that the housing market is mostly lagging behind demand, rather than over-supplying product.*

### **3.6 The Queenstown Lakes District Affordable Housing Strategy – June 2005**

Council adopted the Queenstown Lakes District Affordable Housing Strategy in June 2005. Its purpose is to set out the actions that the Council proposes to undertake over the next five to ten years to address the problem of a lack of access for residents to affordable housing and builds on the earlier study. The strategy contains 'Goals' and focuses on 'Actions' to achieve these.

The overall goal of the Strategy is:

*To increase access to quality, affordable housing that is integrated into the community so as to support the community's outcomes related to the sustainable economic, social and environmental development of the QLDC area.*

In particular, this Plan Change looks to assist in the achievement of specific goals three and four of the Strategy. These are:

3. To significantly increase supply of quality, affordable, and secure rental property to meet the needs of committed local residents, employed in key industries that are important to the economic and social wellbeing of the community.

Specifically the Plan Change looks to assist in the achievement of 'Action' 15 which is to:

*'Support increases in opportunities for affordable housing in lower density residential areas through the provisions for residential flats (for long term rental) in the District Plan'*

In terms of affordable housing two key components have been identified, being rental accommodation and owner occupiers with the debate being to which of these components residential flats should contribute. There are two key options to consider:

1. By placing a covenant to strengthen the current situation a residential flat would continue to be held in the same ownership as the principal unit and therefore the residential flat could only be used for rental purposes. Therefore, clearly this approach creates a situation whereby flats are contributing to the rental market as well as providing income to the principal unit.
2. Allowing the residential flat to be subdivided (which even without a covenant in place is currently a Non-Complying Activity and therefore, under the current District Plan not anticipated), could potentially provide a contribution towards affordable housing in two ways.
  - Firstly, if a residential unit and flat are created on one site with the ability to subdivide the residential flat off, then the money generated from the sale of the unit could help to reduce the debt on the principal dwelling, therefore making the property more affordable.
  - Secondly, the residential flat (due to its size) would enter the property market at the lower end. Therefore, potentially providing more affordable housing options for purchasers.

Option 2 was discussed with valuers to gain an idea of what value may be placed on a residential flat if it could be subdivided from the residential unit. The first point raised was that the issue in Queenstown is that the bottom end of the market is high in value, and therefore regardless of how small or unattractive a particular property may be, just because it is in Queenstown will mean its value is high compared to the rest of the country. The valuers also raised questions regarding the costs associated with subdividing the flat, in particular, requirements associated with fire rating and water supply connection. Because of these factors it is considered very unlikely that such a freehold residential 'flat' would enter the market at a level below \$200,000. Basically, in an unregulated property market the reality is that a 'cheap' house in Queenstown is worth around \$300,000 – \$400,000 for a 2 -3 bedroom property with units of similar nature to a residential flat entering the market at around \$200,000.

Another point to consider is that Option 2 relies on an owner occupier buying the property as opposed to a developer intending to create the unit and flat and sell both.

Evidence from Tricia Austin (Hill Young Cooper) and information gathered from other regions, in particular Whistler, Canada has supported the idea of continuing to maintain ownership of residential flats with the principal unit. The reason for this is largely because without some mechanism to control or cap the rate of increase in the land value, the price of the property will always reflect the current market, which in Queenstown is high.

One final point to consider is that currently there is potential under either option one or two listed above, for the flat to become part of the visitor accommodation market, controlled only by the need to gain Discretionary Activity consent in the Low Density Residential Zone. It is clear in both scenarios that if the flat is rented for visitor accommodation it will not be contributing to affordable housing in any manner. Therefore, this raises another issue that may need to be addressed to ensure rental properties of this type are not lost to the visitor accommodation market. One way to ensure residential flats are rented to medium-long term residents may be to require a covenant that restricts the rental of residential flats to people working in the District, similar to what is in place in Whistler, Canada, or to have policies to reflect the desired use of residential flats.

#### **4.0 CONSULTATION PROCESS**

##### **4.1 Specific Consultation for this Plan Change**

A newspaper advertisement was placed in The Sun in Wanaka and The Mirror in Queenstown asking for any comments the public may have on this proposed change. No comments were received either by letter, email or phone.

Clause 3 of Schedule 1 of the Act requires that Council consult with the Minister for the Environment, other Ministers of the Crown that may be affected, and tangata whenua of the area when changing the District Plan. The Council may also consult with anyone else when changing the Plan.

Consultation was undertaken with the Minister for the Environment, Kai Tahu ki Otago, Te Runanga o Ngai Tahu, Kai Tahu o Murihiku (through Te Ao Marama Inc.), the Otago Regional Council by way of a letter and information explaining the proposed Plan Change sent on 1 August 2005. At this stage no replies have been received.



## 5.0 ASSESSMENT OF THE OPTIONS FOR ADDRESSING THE ISSUE

### 5.1 Broad Alternatives

Option	Advantages/ Benefits	Disadvantages/ Costs	The effectiveness and efficiency of the option and the Planner's Recommendation
<p>1. Do nothing approach</p> <p>The do nothing approach would mean removing the current definition of residential flat from the Plan.</p>	<p>Less complicated Plan.</p>	<p>A Plan Change and the associated cost.</p> <p>A residential flat would automatically be defined as a residential unit and the distinction would be lost completely. Therefore, the opportunity to create smaller rental accommodation within sites would be removed.</p>	<p>This option is deemed ineffective as it does not achieve the purpose of the Plan Change or the objectives and policies of the Plan.</p>
<p>2.Remove all regulation and rely on non-regulatory mechanisms</p> <p>As 1. above, but rather than rely solely on the market, intervene in a non-regulatory manner through the provision of guidelines and/or education.</p>	<p>Less complicated Plan.</p>	<p>A Plan Change and the associated cost.</p> <p>Guidelines are not enforceable, and the issues currently faced would not be avoided.</p>	<p>This option is deemed ineffective as it does not achieve the purpose of the Plan Change or the objectives and policies of the Plan.</p>
<p>3. Status Quo – Retain the existing definition</p>	<p>Avoids cost associated with plan changes and/or guidelines</p> <p>The opportunity to establish residential flats</p>	<p>The difference between a residential flat and a residential unit is unclear. Adverse environmental effects cannot be appropriately assessed</p>	<p>This option is deemed ineffective as it does not achieve the purpose of the Plan Change or the objectives and policies of the Plan.</p>

SECTION 32 REPORT FOR PROPOSED PLAN CHANGE 7 TO QUEENSTOWN LAKES DISTRICT PARTIALLY OPERATIVE DISTRICT PLAN

	is retained.	and yet, the amenity values with regards to density will be diminished.	
4. Status Quo and non-regulatory mechanisms – Retain the existing definition and also produce a brochure explaining what the Council means by a residential flat.	<p>Avoids costs associated with plan change.</p> <p>The opportunity to establish residential flats is retained.</p>	<p>Guidelines are not enforceable.</p> <p>The current problems with the rules would not be resolved.</p> <p>Cost to the Council of educating the community</p>	This option is deemed ineffective as it does not achieve the purpose of the Plan Change or the objectives and policies of the Plan.
5. Amend the definitions of residential unit and residential flat to more clearly define each so there is a distinction.	<p>Enforceable.</p> <p>Provides clarity and resolves current uncertainty in the Plan.</p> <p>Amenity and density can be appropriately managed to avoid or mitigate adverse effects.</p> <p>Enables the Council to levy more equitable development contributions.</p>	Plan Change and associated costs	This option is deemed to be effective at achieving the purpose of the Plan Change and therefore <b>is recommended</b> and is considered further in section 6.2 of this report.
6. Amend the Activity Status of residential flat from a Permitted to Discretionary Activity  Assessment matters could ensure residential flat development is in character with the locality.	Amenity values associated with density and character of development can be maintained.	<p>Plan Change and associated costs</p> <p>Less certainty for developers, and as a result fewer residential flats constructed. The rental pool would be</p>	<p>This option is deemed to be effective at achieving the purpose of the Plan Change, but at significant cost to affordable housing and dwelling numbers.</p> <p>This option is therefore deemed inappropriate and not recommended.</p>

		decreased and less affordable housing would be available.	
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**5.2 Alternative definitions**

**Various provisions**

<b>Rule Options</b>	<b>Advantages/ Benefits</b>	<b>Disadvantages/ Costs</b>	<b>The effectiveness and efficiency of the option and the Planner's Recommendation</b>
1. Amend the definition of a residential flat to contain a provision requiring it to be smaller than the unit it is associated with.	<p>This amendment would remove the ability to build two near identical units and call one a unit and one a flat, thereby avoiding the need to comply with site density requirements (i.e. one residential unit per site)</p> <p>Reduces adverse effects of increased density otherwise not envisaged for the low density residential zone.</p>	Requiring that residential flats can only be of a certain size would reduce the ability to contribute to housing for families.	<p>This option is considered effective in achieving the purpose of the plan change by creating a clear differentiation between residential unit and residential flat.</p> <p>It contributes to consolidating the status of the flat as subsidiary to the primary residence.</p> <p><b>This option is recommended.</b></p>
2. Amend the definition of residential unit to remove the direct link between the number of units and the number of kitchens.	<p>It is difficult to concisely define a kitchen, therefore removing this provision would improve clarity and effectiveness of the provisions.</p> <p>Building consent applications to install a second kitchen are now resulting in Council determining another unit is</p>	It can be difficult to determine the number of units in a building. Removing this part of the definition could only serve to increase this problem.	<p>This option would create uncertainty regarding the number of units in certain buildings. It would not contribute to achieving the purpose of the Plan Change as it would not create a clear difference between residential unit and residential flat.</p>

SECTION 32 REPORT FOR PROPOSED PLAN CHANGE 7 TO QUEENSTOWN LAKES DISTRICT PARTIALLY OPERATIVE DISTRICT PLAN

	being created and development contributions are due. Therefore this amendment would reduce costs currently imposed on landowners.		This option is not recommended.
3. Amend the definition of residential flat to include a provision limiting the Gross or Net Floor Area to a certain square metre-age.	<p>This amendment would limit the size of a residential flat, and would be easy to measure and enforce.</p> <p>The amenity values could be effectively managed.</p>	<p>This option does not relate the residential flat to the main residence. Therefore, the option would still exist to build a near identical residential flat and residential unit.</p> <p>It would not provide a clear distinction between the residential flat and unit because the flat does not have to be smaller than the unit.</p>	<p>It does not contribute to consolidating the status of the flat as subsidiary to the primary residence because the size of the flat is not determined by the size of the unit and other buildings.</p> <p>This option is not recommended.</p>
4. Amend the definition of residential flat to include a provision limiting the number of bedrooms.	This option would limit the size and potential use of a residential flat.	<p>This amendment would not relate the residential flat to the main residence. Therefore, the option would still exist to build near identical residential flat and residential unit if they contain the same number of bedrooms.</p> <p>Doesn't control the size of the flat, therefore no control on the external effects.</p> <p>Difficult to enforce because bedroom is difficult to define.</p>	<p>This option does not contribute to creating a clear difference between residential unit and residential flat.</p> <p>It does not contribute to consolidating the status of the flat as subsidiary to the primary residence.</p> <p>This option is not recommended</p>

SECTION 32 REPORT FOR PROPOSED PLAN CHANGE 7 TO QUEENSTOWN LAKES DISTRICT PARTIALLY OPERATIVE DISTRICT PLAN

<p>5. Amend the definition of residential flat to include the need for at least one adjoining wall between a habitable space of the flat and a habitable space of the unit.</p> <p>This would prevent connection of two basically separate units through a garage.</p>	<p>Creates the appearance of one dwelling per site. This contributes to the amenity of the development from the perception of the neighbourhood.</p>	<p>This is contrary to the desire expressed in the Arrowtown community plan for detached residential flats. Adjoining walls and ceilings between the habitable spaces of a unit and a flat can create noise disturbance to residents and contribute to lowered enjoyment of the properties, decreasing amenity.</p>	<p>This option would not contribute to consolidating the status of the flat as subsidiary to the primary residence.</p> <p>This option is not recommended</p>
<p>6. Amend the definition of residential flat to include detached 'granny flats'</p>	<p>Enables creation of distinctly separate units which may be more suitable for family style affordable housing</p> <p>In line with wishes expressed in the Arrowtown community plan.</p>	<p>Increases the perceived density of a site by creating the visual impact of two dwellings on a site. This can alter the perception of built space versus green space that strongly affects the amenity of the subdivision.</p> <p>Adverse effects if the flat is the same size as the unit</p>	<p>This option does not contribute to creating a clear difference between residential unit and residential flat. Nor does it contribute to consolidating the status of the flat as subsidiary to the primary residence. This option is not recommended.</p>

<p>7. Amend the definition of residential flat to include a provision that a residential flat must be registered on the title of the main unit and that the title must be endorsed with the information that the flat may not be subdivided from the residential unit.</p>	<p>This option would ensure that the flat could not be subdivided from the residential unit in the future. It would ensure that it would be defined as a residential flat in perpetuity.</p> <p>This option would ensure the residential flat was supporting the 'Action 15' of the affordable housing strategy by effectively require a residential flat to only contribute to the pool of rental properties and therefore would assist in achieving this 'Action'</p>	<p>This option would result in legal fees for the owner drafting and registering the endorsement.</p> <p>Additional administration for Council.</p> <p>To justify a prohibited activity status two key requirements need to be considered:</p> <ol style="list-style-type: none"> <li>1.The activity should not be contemplated in any circumstances.</li> <li>2. Prohibited status does not give flexibility even for exceptional circumstances.</li> </ol> <p>On this basis the situation could arise where a flat could be subdivided and still meet the purpose of the Plan Change. Therefore, a Prohibited Activity status is not justified.</p>	<p>This option combined with option 1 is considered effective in achieving the purpose of the plan change by creating a clear difference between residential unit and residential flat.</p> <p>However, elevating the activity status of subdivision from Non-Complying to Prohibited is considered inappropriate and unjustified.</p> <p>This option is not recommended.</p>
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<p>8. Add an additional policy to the Residential Sections of the District Plan to highlight the desired character of the Low Density Residential Zone.</p>	<p>This option would strengthen the non-complying activity status associated with the subdivision of a residential flat recognising that subdivision of a residential flat can adversely affect the anticipated character of the Low Density Residential zone.</p> <p>This option would ensure the necessary matrix of policies to effectively assess the non-complying activity status of subdividing a residential flat to ensure that any application for such an activity can be assessed appropriately.</p> <p>This option ensures the effects that can be facilitated by subdivision are considered as opposed to the mechanism itself, which is not necessarily the problem.</p>	<p>It would be difficult for residential flats to contribute toward the owner occupier portion of affordable housing.</p>	<p>This option, combined with the option 1 (Amend the definition of a residential flat to contain a provision requiring it to be smaller than the unit it is associated with) is considered effective in achieving the purpose of the Plan Change by creating a clear difference between residential unit and residential flat, and ensuring it contributes toward the affordable housing rental market</p> <p>It would also ensure subdivision of a residential flat is not contrary to the objectives and policies of the District Plan.</p> <p><b>This option is recommended.</b></p>
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### 5.3 Appropriateness of Policy

#### Objective 3 – Residential Amenity

*Pleasant living environments within which adverse effects are minimised while still providing for the opportunity for individual and community needs.*

3.11 To ensure the single dwelling character and accompanying amenity values of the Low Density Residential Zone are not compromised through subdivision that results in an increase in the density of the zone that is not anticipated.

#### **Effectiveness**

This Policy is considered effective in achieving objective 3. In particular, it provides clear recognition of the detrimental effects subdivisions can have on the amenity of low density residential areas, therefore promoting the development of pleasant living environments. The policy also indirectly assists the opportunity to meet individual and community needs by promoting the use of residential flats for rental purposes by strengthening the non-complying activity status of subdividing a residential flat from a residential unit, which was identified as a key outcome of the 'Queenstown Lakes Affordable Housing Strategy June 2005'. Therefore, assisting the community to provide for a much needed component of the District's housing market, highlighted by the affordable housing strategy.

This Policy also recognises the flow on effects that allowing the initial subdivisions to take place can have on residential amenity by allowing additional residential flats to be established as of right. It therefore promotes pleasant living environments for future generations.

#### **Efficiency**

Although the intention of the provisions for residential flats has always been to ensure they are kept in the same ownership as the unit, by ensuring careful consideration is given to the potential effects subdivision can have on amenity the non-complying activity status is strengthened. Therefore, this makes it more difficult to subdivide a residential flat and would disadvantage landowners and developers that were considering subdivision to gain economic benefit from the sale of a residential flat.

This Policy provides environmental benefit by assisting in the preservation of the character of low density areas by identifying the potential implications subdivision can have in facilitating increased densification and therefore a change in character.

It is considered that this Policy provides considerable social benefits to the community by assisting in the preservation of the character of the low density areas of the District. Specifically, it ensures that the single dwelling character expected in association with low density areas is maintained thus attributing value to individuals and communities expectation that a certain character and amenity will be maintained into the future. Therefore, this Policy assists by maintaining social well-being by maintaining a sense of place for individuals and families who form the community living in low density areas.

Overall it is considered the benefits of this policy outweigh the cost and it is therefore considered an efficient Policy to assist in achieving Objective 3.

### **Risk of acting or not acting**

The risk of not acting is high because there is little policy support for the current Non-Complying Activity Status associated with the subdivision of a residential flat. As discussed when considering the efficiency of this Policy, if subdivision is allowed to take place and consideration is not given to the implications it can have on the character of the Low Density Residential Zone, over time the character of the Zone could be eroded.

### **Overall Appropriateness**

As discussed above and in '5.2 Alternatives' it is considered this Policy is appropriate for achieving the objective and the purpose of this Plan Change.

## **5.4 Summary**

Following the recommendations from the above tables and consideration of the appropriateness of the policy, the new definition needs to combine the following:

- the old definition
- a provision requiring the flat to be smaller than the unit it is associated with

A policy should also be inserted that identifies the desired character of the Low Density Residential Zone to ensure it is maintained when considering the implications of subdividing a residential flat.

It is also considered appropriate to provide explanation for the additional policy to ensure it is clear why it has been added.

### **Flat smaller than unit**

To ensure that amenity is maintained it is considered appropriate to require the residential flat to be one third of the size of the residential unit and for simplicity 35% has been adopted as opposed to 33%. By requiring the flat to be 35% of the size of the residential unit there will be a clear visual distinction between the unit and flat.

In order to effectively ensure the residential flat is 35% of the residential unit Gross Floor Area (as defined in the Partially Operative District Plan) has been adopted as the method for calculating this percentage. By using Gross Floor Area consideration can be given to the area of each level of a residential unit, which is of value for multi-levelled units. In comparison, building coverage would only take into account the footprint of the building rather than the area of each level.

It is also considered necessary to qualify that the calculation is based on the building containing the unit and flat. This removes any ambiguity over whether the measurement is made from the original unit or from the newly created unit and flat in instances where the flat is created from part of an existing unit. This ensures the flat is subsidiary to the residential unit.

It is also important that the definition ensures that the unit and flat do not end up looking similar in size, which could occur if accessory buildings were included in the calculation.

## 6.0 CONCLUSION

This report has analysed the range of options for the definition of residential flats. In assessing each option, relevant statutory and non-statutory documents have been considered, in addition to the results of public consultation undertaken in the first half of 2004.

In this section 32 analysis the costs and benefits of each option have been assessed and the most effective and efficient way of giving effect to the objectives and policies of the District Plan and achieving the purpose of the plan change and the Act is to insert a new definition of residential flat, and a new policy.

As a result of this analysis it has been decided to undertake a plan change as outlined in chapter 7.0.

## 7.0 PLAN CHANGE

Replace the struck through text with the underlined text.

### RESIDENTIAL AREAS – 7

#### 7.1 Issues, Objectives and Policies

##### 7.1.2 District Wide Residential Objectives and Policies

###### Objective 3 – Residential Amenity

**Pleasant living environments within which adverse effects are minimised while still providing the opportunity for individual and community needs.**

3.11 To ensure the single dwelling character and accompanying amenity values of the Low Density Residential Zone are not compromised through subdivision that results in an increase in the density of the zone that is not anticipated.

#### Explanation and Principal Reasons for Adoption

Subdivision of residential flats is not desirable because it can facilitate delineation between the unit and flat through separate curtilage. Consideration must also be given to the potential implications of allowing the first subdivision to take place and the fact that additional residential flats could then be developed on the site as a permitted activity, provided the other site and zones standards of the District Plan have been complied with. The result of this process would be the incremental subdivision of the Low Density Residential Zone, which could result in a development pattern similar to that anticipated in High Density Residential Zone. Therefore, this Policy considers the effects subdivision can have on the single dwelling character of the Low Density Residential Zone.

Definitions:

**RESIDENTIAL FLAT**

~~means a residential activity consisting of one flat in the same ownership as the residential unit and contained within the same building, containing no more than one kitchen and one laundry.~~

means a residential activity that:

- Consists of no more than one flat in the same ownership as the residential unit; and
- Is contained within the same building as the residential activity (being that building containing the residential unit but excluding detached accessory buildings); and
- Contains no more than one kitchen and one laundry; and
- Does not cover more than 35% of the total Gross Floor Area of the building (being that building containing the residential unit and flat but excluding accessory buildings)