

2011

Monitoring Report for the Bendemeer Special Zone



Policy and Planning

Queenstown Lakes District Council

September 2011

Executive Summary

This report assesses the effectiveness and efficiency of the objectives, policies and rules of the Bendemeer Special Zone of the Queenstown Lakes District Plan. The Bendemeer Special Zone covers some 110 hectares and is located to the east of Lake Hayes, on an elevated plateau accessed off State Highway 6. The zone was created through a submission on the 1995 Proposed District Plan by Bendemeer Farms Limited.

The purpose of the Bendemeer Special Zone is to enable the development of limited residential, commercial and visitor accommodation activities within an open rural environment. In the six years since certificates of title were issued, only one residential unit and a residents' pavilion had been constructed, although other consents have been granted but not implemented.

While the zone enables up to 75 residential units, it has been subdivided in a way that allows for just half that, with 37 residential building platforms having been approved. The development of the zone has therefore occurred at a lower density than could have occurred, which will assist in terms of absorption of development into the landscape.

The Bendemeer Special Zone contains a single objective with three components, and six associated policies. The analysis in this report has indicated that, on balance, the development that has been undertaken in the Bendemeer Special Zone does achieve the objectives and policies for the zone, and that the rules are successfully managing adverse effects of individual applications.

The zone is also relatively efficient in terms of delivering consents at a relatively low cost (when compared to the Rural General zone) and on a non-notified basis.

As part of the upcoming District Plan review, the report recommends considering whether the zone needs to sit in Part 12 as a 'Special Zone' or whether it could better sit in the Rural General section, much like the Gibbston Character Zone does, with its own objectives, policies and rules. The report also recommends considering whether zone standard 12.9.5.2(b) that enables a maximum of 75 residential units should be altered to reflect the 37 building platforms actually consented by way of subdivision.

1. Introduction

Section 35 of the Resource Management Act states that:

***Every local authority shall monitor-
...[(b)] the efficiency and effectiveness of policies, rules, or other methods....***

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

This report monitors the effectiveness and efficiency of the Bendemeer Special Zone provisions. Findings in this report will assist in informing the review of the Queenstown Lakes District Plan, due to be publicly notified in October 2013.

This report fulfils the requirements of section 35(b) in relation to the Bendemeer Special Zone. In addition to monitoring the policies and rules, the zone objectives are also considered. It is not an urban design assessment of the development that has occurred.

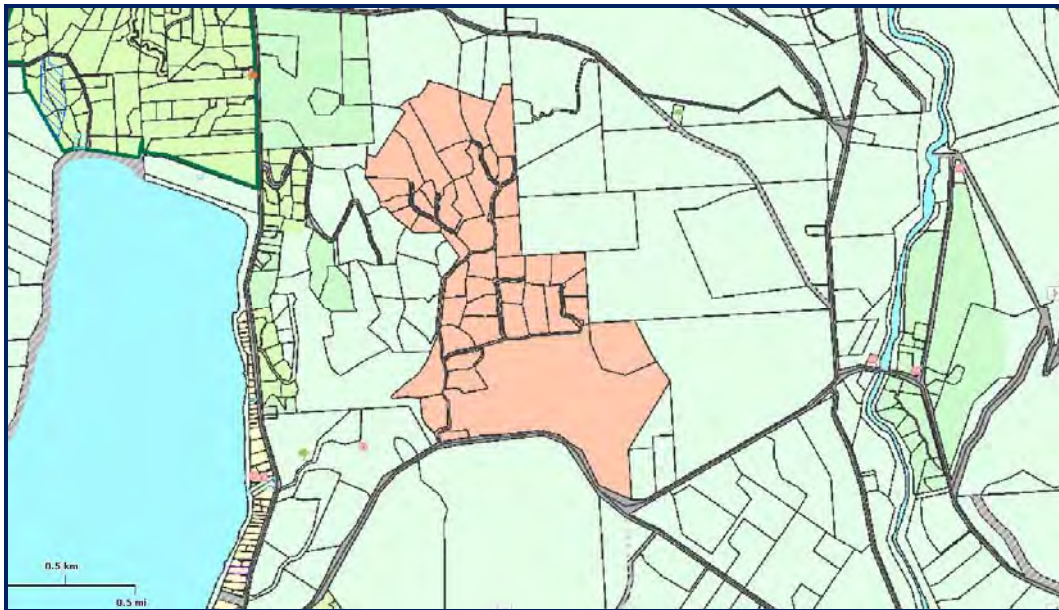
2. What is the Bendemeer Special Zone?

The Bendemeer Special Zone covers some 110 hectares and is located to the east of Lake Hayes, on an elevated plateau accessed off the Lake Hayes – Arrow Junction Highway (State Highway 6). It is the most elevated residential zoning in the Wakatipu Basin. The extent of the zone is shown in Figure 1 below.

The zone is identified as having a strong rural character and rural amenities. The elevated nature of the zone makes it difficult to see from most surrounding roads, with the exception of the Crown Range lookout. This consideration was material in the zone being approved by the District Plan Policy Committee and Hearings Panel.

The purpose of the Bendemeer Special Zone is to enable the development of limited residential, commercial and visitor accommodation activities within an open rural environment. This is to be achieved while protecting the legibility of the ice-sculptured high points within the zone and enhancing the naturalness of the remainder of the landscape within the zone by appropriate planting and landscaping.

Figure 1: The orange shading indicates the extent of the Bendemeer Special Zone



3. How was the zone created?

The Bendemeer Special Zone was created through a submission on the 1995 Proposed District Plan by Bendemeer Farms Limited. The submission originally sought a Rural Residential zoning for the site. At the time, the submission was opposed by four further submissions.

Following a hearing, the District Plan Policy Committee and Hearings Panel determined a Special Zone to be more appropriate than a Rural Residential zoning, recognising the limited visibility of the site from surrounding roads and the commitment by the developer to retain large areas of open space, rural character, and to limit housing numbers.

The decision was issued in August 1998, and was appealed by the Wakatipu Environment Society Incorporated. This appeal was eventually combined with an appeal to the subdivision consent application that proposed to create 75 sections. There have subsequently been minor amendments to the wording to reflect other Environment Court decisions.

4. How much development does the zone enable?

A zone standard states that the total residential density for the Bendemeer Special Zone shall not exceed a total of 75 residential units. The 75 residential units are allocated amongst the 11 activity areas within the zone as follows:

Activity Area	Density	Total number of units
Activity Area 1	One unit per 1500m ²	8
Activity Area 2	One unit per 2000m ²	10
Activity Area 3	One unit per 2500m ²	35
Activity Area 4	One unit per 3000m ²	5
Activity Area 5	One unit per 4000m ²	7
Activity Area 6	One unit per 6000m ²	7
Activity Area 7	One unit per 7000m ²	1
Activity Area 8	One unit per 5000m ²	1
Activity Area 9	Lodge (limited to one building)	0
Activity Area 10	Woolshed (and one extra building less than 500m ²)	1
Activity Area 11	Open space	0
TOTAL		75

5. How much development has occurred?

While a maximum of 75 residential units are possible, the zone was subdivided in 2003 into 37 lots with a building platform on each lot (RM020776). The subdivision consent was subsequently varied for further minor changes.

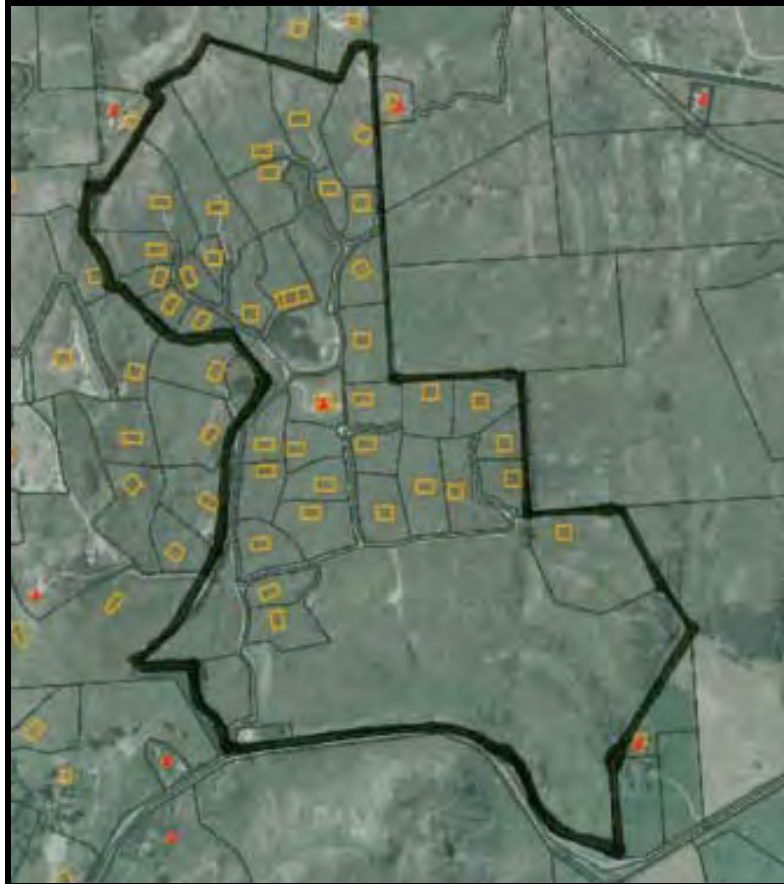
At the time of writing this report, the following building works have been completed:

- one residential dwelling on Lot 6 (shown in Figure 2 with a red triangle);
- the communal pavilion and amenity ponds;
- restoration and development of the wool shed;
- all access roads and infrastructure; and
- a small pumping shed.

Therefore the zone remains largely undeveloped, despite now being fully serviced with all the necessary infrastructure.

The plan of subdivision showing the location of the 37 approved building platforms is shown below as Figure 2.

Figure 2: Lot boundaries and building platforms, Bendemeer Special Zone (part only)



As Figure 2 illustrates, a number of other residential building platforms have also been approved on adjoining Rural General zoned land to the east towards Lakes Hayes. Several dwellings within this area are visible from the Bendemeer Special Zone.

5.1 Environment Court decision C104/2000

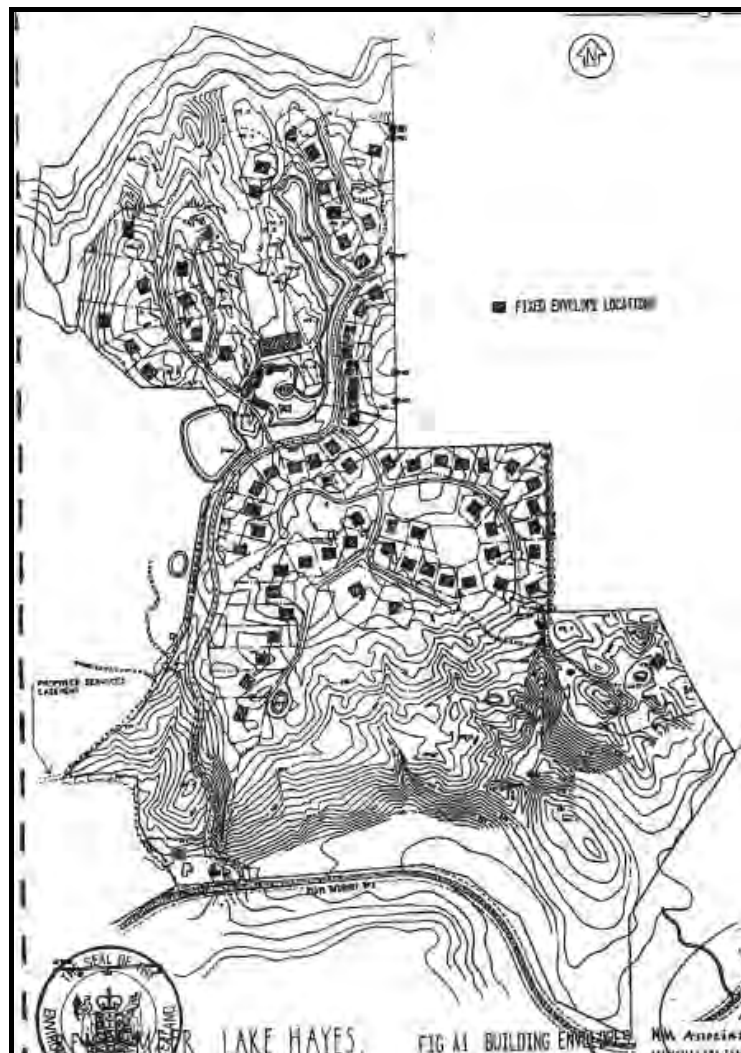
Of interest is Environment Court decision C104/2000, where the Court approved by way of Consent Order a much denser scale of development, consisting of 79 allotments including some 75 residential dwellings, a tourist accommodation lodge, use of the existing woolshed as a cafe / gallery, and associated roading and servicing.

The Environment Court did not consider the merits of the proposal shown in Figure 3 below, but expressed concern over two issues, namely:

1. *"The unnatural allotment boundaries – which in some cases ignore the topography completely, presumably for ease of surveying (not a satisfactory reason); and*
2. *The density of development along the eastern edge of the land."*

However the Environment Court made the orders as sought, because the parties to the appeal had agreed in regard to all matters, and the Judge felt that in other respects the proposal was laudable in its efforts to achieve sustainable management.

Figure 3: Lot boundaries and building platforms, approved under Environment Court C104/2000



The Environment Court decision is particularly useful as it illustrates the potential density of development (75 residential units) provided for under the zoning. In many respects the

Environment Court decision illustrates what the level of development would look like if the zone provisions were used to allow the maximum amount of development possible.

However the density of development approved by the Environment Court in Figure 3 above was never given effect to, and the scaled back proposal shown in Figure 2 was ultimately approved by way of a further subdivision consent in 2003.

6. What does the Bendemeer Special Zone seek to achieve?

The Bendemeer Special Zone contains three objectives, as set out below:

Objectives

1. ***Development managed and contained so that it does not compromise the ice sculptured legibility of the land upon which (the) zone is located when viewed from surrounding public roads to the south of the zone other than the Crown Range Road.***
2. ***Retention of significant areas of open space.***
3. ***Maintenance and enhancement of naturalness, rural character and amenities.***

Whether this objective, the six supporting policies, and the rules are effective is assessed in the following section.

7. How effective are the Bendemeer Special Zone Objectives, Policies and Rules?

7.1 Effectiveness of the Objectives

The relevant objectives are set out below with an assessment of each:

Objectives

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

The second part of the objective relates to visibility of development when viewed from surrounding public roads to the south of the zone other than the Crown Range Road. As currently only one dwelling and the pavilion has been constructed, it is difficult to fully determine whether this part of the objective has been achieved. The existing dwelling is very difficult to see from any surrounding roads (excluding the Crown Range), despite its large size.

Overall, the objective is considered to be effective. The consented platforms are all located within the Activity Areas identified as being capable of absorbing development, and the consented plan of subdivision is considerably less than what could be built within the zone.

2. *Retention of significant areas of open space.*

The Zone as subdivided does retain significant areas of open space, particularly Activity Area 11 which includes the most visible areas of the zone adjoining State Highway 6. Covenants registered on each certificate of title also require landscaping to be designed so as not to compromise the ice sculptured legibility of the landscape, which will assist in ensuring the sites openness is not overly compromised by landscaping.

The zone as a whole measures 110 hectares, and allowing for a substantial house of some 500m² on each of the 37 building platforms, this equates to a site coverage of some 1.7%. This objective is therefore considered to be effective.

3. *Maintenance and enhancement of naturalness, rural character and amenities.*

In order to determine whether this objective is effective, and whether naturalness, character and amenity has been *maintained and enhanced*, it is necessary to know the state of the environment prior to the subdivision and zone being created. As this was not well documented or recorded prior to development, it is necessary to make certain assumptions about the state of the environment before the zone was created. It is envisaged that prior to subdivision, the whole area was part of a large pastoral farm used primarily for sheep farming.

The extensive amount of amenity planting, the construction of several large ponds, and the requirements for landscaping confirms that the naturalness of the area is likely to have been enhanced considerably over its previous state as a productive sheep farm.

In terms of maintenance and enhancement of rural character, this is a curious objective given that the zone is clearly for residential purposes. While the subdivision does indeed seek to *reflect* the rural character, the rural character is inevitably going to be altered once all 37 dwellings are constructed (or if all 75 that the zone provides for were constructed). A small degree of rural character will remain due to the large amount of open space provided for in Activity Area 11, and the large lot sizes. However the rural character of the area will not be maintained or enhanced once all 37 houses are built because the character will change to that of a rural residential environment.

In terms of maintenance and enhancement of amenities, the completed subdivision includes significant amenities for residents, including tennis courts and the communal pavilion (for events and functions). The proposal included restoration of the historic woolshed (Photograph 1) at the entrance to the site, which does have an element of enhancing public amenities, particularly if it were to be accessible to the public when used for a cafe / art gallery as was envisaged.

Photo 1: Historic woolshed, at the entrance to the subdivision



Overall the zone does indeed ‘maintain and enhance’ naturalness and rural amenities, however rural character will be altered as the zone enables residential development, but which *reflects* its rural character. The objective is therefore considered to be largely effective.

7.2 Effectiveness of the Policies

The first three policies are considered together:

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

- 2. *Strict adherence to long-term planning, especially the limited identification of residential, visitor accommodation and commercial activities and the placing of structures.***
- 3. *Avoidance of activities and development densities which may adversely affect rural character and amenities.***

These three policies are considered to be effective because the implemented plan of subdivision is in accordance with the Structure Plan. As noted previously, the building platforms are allocated within those Activity Areas identified as having the capacity to absorb change, and the density of the subdivision is less than what is possible in the zone. The policies are therefore considered to be effective. As noted under Objective 3, the part of Policy 3 that relates to avoiding adverse effects on 'rural character and amenity' is viewed in the context that the zone enables up to 75 residential dwellings which will inevitably alter the rural character and change it to a rural residential character.

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

As noted above in terms of Objective 3 relating to naturalness, this policy is considered to have been achieved and is effective.

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

This policy is effective, currently there are no commercial or visitor accommodation activities operating in the zone, and certainly not a proliferation. While consents have been granted for a visitor accommodation lodge and a cafe / art gallery in the historic wool shed, there is certainly no proliferation of such activities.

- 6. *Requiring the zone be fully serviced.***

Policy 6 is effective and has been achieved through the subdivision consent. Reticulated power, telecommunications, water and wastewater systems were all installed underground as part of the subdivision. Stormwater is disposed to ground via roadside swales.

Photo 2: Roadside grass swales for stormwater



7.3 Effectiveness of the Rules

The rules of the Bendemeer Special Zone have only been utilised / tested in regard to two *constructed* buildings, namely the one residential unit located in the zone, and with regard to the pavilion.

'Buildings' require a controlled activity consent, with the Council's control in respect of "*location, external appearance, associated earthworks, access and landscaping*". How effective the rules were at ensuring good outcomes for these two buildings is assessed below.

In terms of the residential dwelling, as Photograph 3 below illustrates, the rules have been effective in terms of ensuring the dwelling is constructed from recessive materials, and that landscaping is suitable. While this is a very large house (586m²), the 'broken up' nature of the building design, and use of appropriate materials and the pitched roof, mean the building is not particularly obtrusive in the landscape. The landscaping retains significant areas of open space, and does not enclose the site.

Photograph 3: Residential dwelling in the Bendemeer Special Zone – Activity Area 3



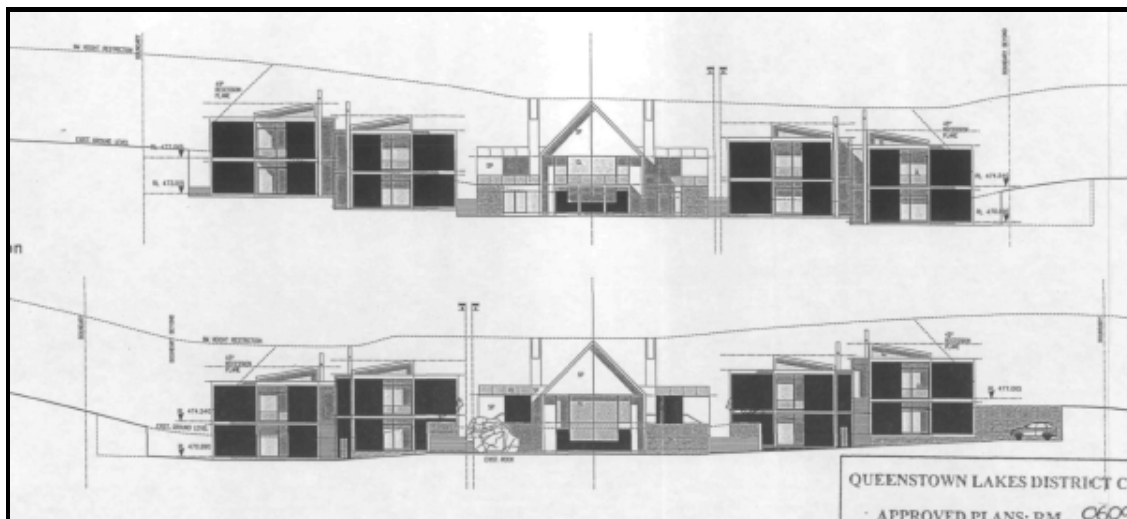
Photograph 4: Residents' Pavilion, Activity Area 11



In terms of the pavilion, as Photograph 4 above illustrates, this is nestled into the edge of a pond, and is of very low profile. The colours used are recessive, and the building provides an amenity for owners of land in the subdivision. It is felt that the rules have been effective in ensuring a good outcome in terms of a building that respects its environment / landscape, and is not brightly coloured or ostentatious.

One other live resource consent exists for a visitor accommodation lodge. This was originally approved as part of C104/2000 and required a discretionary activity consent for a variation, which was approved in 2006. The consent is due to expire in December 2011. Figure 5 below shows the approved elevations of the lodge, which has room for 24 beds, 16 car parks and one coach park.

Figure 5: Consented elevations for the Bendemeer Visitor Accommodation lodge the Bendemeer Special Zone – Activity Area 3



The elevations illustrate a two storey building that complies with the height limit, and features a 'broken up' design to reduce the scale of the building. The apartment modules have mono-pitch roofs with the incline towards the centre module which has a traditional gabled roof.

In approving the plans for the design and appearance of the lodge, it was stated that:

It is considered that the building is of a design that will not detract from the character of the area as wall cladding materials are to be a mixture of timber battens stained, schist, precast concrete, glass, black zinc, steel plate and timber louvres.

The building is of a height that it is considered will not create shadowing on neighbouring sites and that the building will not be of a design that dominates the surrounding landscape. The design of the building successfully reduces its potential bulk and dominance by introducing varying facades, roof pitches and heights between the different modules of the building.

In summary, assessing the effectiveness of the rules is difficult as only two significant buildings have been constructed in the zone. Furthermore, the sites also contain covenants which have a large impact on the design and appearance of buildings, in

addition to the District Plan rules. However to date it would appear that the Bendemeer Special Zone rules have been effective in terms of achieving the zone objectives and policies. The rules provide a greater level of control for visitor accommodation and commercial activities, which can of course be declined consent.

At an overall level, the rules are considered to have been effective at delivering an attractive rural residential environment. While this is not an urban design assessment, the area has a high level of amenity.

The following two matters have been identified in relation to the effectiveness of the rules. These matters should be reviewed as part of the District Plan review.

1. No rule preventing the spread of wilding species

The zone is totally surrounded by the Rural General zone. Given that in the Rural General zone, consent is required to plant trees with wilding potential, it would be prudent to also prevent planting of certain wilding species in the Bendemeer zone that will inevitably spread into the surrounding Rural General zoned land from residential properties in the Bendemeer Zone.

2. Non-notification rule – Wakatipu Environment Society Incorporated

Rule 12.9.4 relates to the 'Notification and Non-Notification of Applications'. This rule is now out of date, as the relevant sections of the RMA have been amended since these plan provisions were written. However the rule is unique in that it requires the 'affected party approval' of the Wakatipu Environment Society Inc before a consent can be processed on a non-notified basis. The rule states:

12.9.4 Non-Notification of Applications

- (a) *Any application for a resource consent for the following matters may be considered without the need to obtain a written approval of affected persons and need not be notified in accordance with Section 93 of the Act, unless the Council considers special circumstances exist in relation to any such application:*
 - (i) All applications for **Controlled** Activities.
- (b) *Prior to an application for Resource Consent for a Non Complying Activity being processed by the council on a non-notified basis pursuant to section 94(2) of the Act written approval of the Wakatipu Environmental Society Incorporated must be provided to the Council pursuant to section 94(2)(b).*

Rules which require the approval of a third party are generally considered to be *ultra vires* because they give the power of the consent authority to the third party. This rule was likely inserted in order to reach agreement with WESI as part of mediating the appeal, however its lawfulness is dubious and should be reassessed as part of the District Plan review.

8. How efficient is the Bendemeer Special Zone?

The financial costs of administering the provisions / processing resource consents has been evaluated based on an assessment of:

- Number of resource consents triggered by the rules
- Average cost of processing resource consents triggered by the rules; and
- Number of Environment Court appeals

8.1 How many resource consents have been triggered?

The number of resource consents triggered by the rules of the Bendemeer Special Zone is approximately 11. This figure excludes applications for variations and extensions of time to existing consents. It is possible that additional consents exist however these may not have been recorded as being within the Bendemeer Special Zone and would not have shown up in searches.

While every single 'building' requires consent, the total number of applications is currently small due to the low build out rate for the subdivision.

8.2 Average cost of processing resource consents triggered by the rules

The eleven consents identified in the Bendemeer Special Zone are listed below along with the total processing cost (figures obtained from Lakes Environmental).

Consent	Activity	Total Processing Cost	Notified Y/N Granted
RM950081	To subdivide a property in order to erect 75 dwelling houses a tourist lodge, and a craft gallery/cafe.	Not available	Yes / Appealed / Granted
RM020776	Subdivide property into 43 lots & construct dwellings, garages & accessory buildings on some lots,	\$30,137.80.	No / Granted
RM040703	Establish a pavilion and construct a deck, finger jetty and boardwalk over an existing pond located at the Bendemeer subdivision	\$2418.59	No / Granted
RM040748	Subdivide property, establish residential building platforms and replace an existing lodge with a residential dwelling in the Bendemeer special zone	\$1263.02	No / Granted
RM040916	Construct a pump shed at property located at	\$660.37	No /

	Bendemeer		Granted
RM040992	Undertake a boundary adjustment subdivision at Lake Hayes-Arrow Junction Highway	\$1044.59	No / Granted
RM050119	Erect a dwelling within the Bendemeer special zone	\$5011.80	No / Granted
RM050402	Reposition a building platform and construct a residential unit, garage and accessory building within the Bendemeer zone	\$1700.06	No / Granted
RM050868	Construct an implement shed on property located in the Bendemeer subdivision	\$2024.62	No / Granted
RM051026	Erect a chimney over the max height plane and construct an additional bedroom to an already consented dwelling at Bendemeer	\$2374.58	No / Granted
RM060968	Undertake earthworks associated with the construction of a visitor accommodation lodge which was granted consent under c104/2000. Consent is also sought to vary several conditions of C104/2000 relating to the design of the lodge and car parking.	\$3941.01	No / Granted

Excluding consent RM020776, which was the overall subdivision consent which cost over \$30,000, for the remaining nine consents, the average Council charge to obtain resource consent in the Bendemeer zone is **\$2271** (including GST).

It is noted that most applications were prepared by planning consultants, and that would have increased the cost for applicants. It is likely that consultant costs were at least as much as the Council charges to process the application. However the extent of such consultant costs is not well documented.

By way of comparison, the 2009 monitoring report for the Rural General zone, which surrounds the Bendemeer Special Zone, indicated an average Council processing cost of **\$12,704** across all landscape categories (excluding Commissioner costs and consultant costs).

In terms of other Special Zones, the 2011 monitoring reports for the Quail Rise and Meadow Park Special Zones showed that the average Council charge to obtain resource consent in those special zones was as follows:

Quail Rise	\$1686 (including GST)
Meadow Park	\$1174 (including GST)

The zone is therefore considered to be moderately efficient, as other Special Zones deliver consents more cost effectively. However the small sample size for the Bendemeer Special Zone makes drawing substantive conclusions difficult.

8.3 Number of Environment Court appeals

Of the 12 applications listed above, the only application that has been subject to an Environment Court appeal was the original subdivision consent application (RM950081) for 75 lots, which was subsequently granted by the Environment Court but never implemented.

All other consent applications anticipated by the zone have been processed on a non-notified basis, which is the most efficient in terms of time and cost.

8.4 Summary with regard to efficiency

The relatively low average cost compared to the Rural General zone, and the fact that all applications following subdivision were processed on a non-notified basis (within 20 working days), suggests that the zone is relatively efficient at delivering timely and cost effective consent decisions when consents are anticipated by the zone.

9. Conclusion and Recommendations

This monitoring report has examined the effective and efficiency of the Bendemeer Special Zone objectives, policies and rules.

The analysis in this report has indicated that, on balance, the development that has been undertaken in the Bendemeer Special Zone does achieve the objectives and policies for the zone, and that the rules are successfully managing adverse effects of individual applications.

The zone is also relatively efficient in terms of delivering consents at a relatively low cost (when compared to the Rural General zone) and on a non-notified basis. However the average cost per consent was higher than in other Special Zones.

While the zone enables up to 75 residential units, it has been subdivided in a way that allows for just half that, with 37 residential building platforms having been approved. The development of the zone has therefore occurred at a lower density than could have occurred, which will assist in terms of absorption of development into the landscape.

Despite the subdivision being completed in 2005, it is acknowledged that few significant buildings have been constructed at this time, and it is therefore difficult to reach definitive conclusions. As part of the upcoming District Plan review, it would be prudent to consider whether the zone needs to sit in Part 12 as a 'Special Zone' or whether it could better sit in the Rural General section, much like the Gibbston Character Zone does, with its own objectives, policies and rules. In practice it seems the Bendemeer Special Zone is not particularly different to many other subdivided parts of the Rural General zone, and the provisions may sit better as a part of the Rural General section of the plan.

Whether zone standard 12.9.5.2(b) that enables a maximum of 75 residential units should be altered to reflect the 37 units consented by way of the subdivision. This would not effectively reduce the development potential, as all the certificates of titles already have a consent notice registered on them preventing further subdivision. However any person can apply to alter that consent notice at any time, and changing the District Plan would provide certainty and avoid the density of development approved under C104/2000 that was of some concern to the Environment Court.