

UPPER CLUTHA ENVIRONMENTAL SOCIETY (INC.)**SUBMITTER NUMBER 145/1034****SUBMISSIONS AND EVIDENCE ON PROPOSED DISTRICT PLAN****CHAPTER 27 SUBDIVISION AND DEVELOPMENT****Nature of Submissions and Evidence**

1. These submissions and evidence are written by Julian Haworth, secretary/treasurer of the Upper Clutha Environmental Society.
2. I am giving these submissions and evidence on behalf of Upper Clutha Environment Society. I express both the opinions of the wider Society and my own opinions on resource management issues where appropriate. My evidence involves matters of fact.
3. I am aware that Council ordinarily requires witnesses who express opinions to be qualified as experts. While I acknowledge that I have no formal qualifications, I have lived in the Upper Clutha for 26 years. I have 16 years experience of the visitor industry in the Upper Clutha having owned and run my own accommodation business in Wanaka.
4. I have a degree in Business Studies and successfully completed the exams of the Chartered Institute of Management Accountants in the UK in 1979. I worked professionally as an accountant for 10 years.
5. I have fifteen years practical knowledge of the implementation of the QLDC's Operative District Plan. I have been involved in preparing and presenting submissions and evidence on a number of variations and plan changes and on more than 100 subdivision and/or land use resource consent applications in the Queenstown Lakes District.
6. I have given evidence at a number of Environment Court hearings over the last twenty years including hearings for the Operative District Plan. I am familiar with the Court's decisions following from these hearings, including decisions that wrote and/or modified the District Plan.
7. Though I have no formal planning or landscape qualifications I believe that I have sufficient expert knowledge on resource management, planning and landscape issues to be able to express an opinion that will be useful and can be given weight to on matters pertaining to the District Plan review.
8. My belief is based on a combination of extensive local and background knowledge, knowledge of the local landscape, familiarity with the Operative District Plan (especially the rural sections) and its relationship with the Resource Management Act, and active involvement in resource management processes. My expertise has been acknowledged in the Environment Court.
9. I have read the Code of Conduct contained in the Court's practice note and I have complied with this in preparing this evidence.
10. I have not omitted to consider material facts known to me that would alter or detract from my opinions expressed in this evidence.
11. I have read most of the evidence put forward by Council in support of the Proposed District Plan and some of the submissions and evidence put forward by submitters.

Activity Status

12. One of the Society's submissions on subdivision and/or development to the notified Proposed District Plan requested the following:

"The Society seeks that the S.32 Landscape Evaluation Report be rewritten containing discussion of the costs and benefits associated with the option of residential subdivision and development becoming non-complying versus the option of it being discretionary, as required by S.32 of the Act and especially S.32(2).

The S.32 Landscape Evaluation Report, once rewritten, should then be publicly notified. The Society seeks that the 40 working day submission period should apply to the rural part of the Proposed District Plan from the date of renotification of the rewritten S.32 Landscape Evaluation Report.

13. Council opted not to renotify the s.32 report as requested. In light of this the Society believes the submission above gives the Society scope to take the position described below on residential subdivision and/or development within ONL/ONF.

14. Mr. Barr offered his opinion on this issue in his Chapter 21 s.42A report¹. He explained in this report that the Society's request to have the s.32 report rewritten, renotified and reissued is rejected because²:

"The s32 addresses the activity status by virtue of the analysis, retention and refinements of the discretionary regime."

15. Mr. Barr is being disingenuous here. While it is accepted that there is discussion about the facets of the discretionary regime in the s.32 report, this cannot compensate for a s.32 discussion on the wider issue of activity status where all of the activity status options are compared and contrasted. The s.32 report does not entertain non-complying status as an option; it is not even mentioned.

16. Council had, in its draft plan only a few months earlier, shown enthusiasm for non-complying status; its December 2014 Draft District Plan Review (released for public comment early 2015) proposed to make residential subdivision and development non-complying within Outstanding Natural Landscapes and on Outstanding Natural Features. The Draft Summary of Issues and Proposed Changes report in this Draft District Plan Review said (my underline)³:

"It is proposed to make subdivision and development a non-complying activity within outstanding natural landscapes and features. This change is proposed to protect the District's landscapes and encourage residential subdivision and development in less sensitive locations. This change does not mean that subdivision will be prohibited in these areas, but a higher bar will be set in these locations in terms of considering applications for approval."

17. The Society has taken the view that Council was correct to make subdivision and/or development within Outstanding Natural Landscape and on Outstanding Natural Feature's non-complying. This is also my opinion. I believe some weight should be attached to the earlier Council position; I understand it was taken after consideration of much community input.

¹ 7th April 2016

² Paragraph 11.24

³ Page 2

18. Subsequently the Society has revised its position, now requesting that only *residential* subdivision and/or development should be non-complying within Outstanding Natural Landscape and on Outstanding Natural Features.
19. The logic here is that the Society does not wish to set too high a bar for developments such as visitor accommodation where these can have a positive contribution to the local economy, and where they are able to be accommodated with limited adverse effects when assessed as a discretionary activity. Similarly the Society envisages any new genuine farming residence within Outstanding Natural Landscape or on Outstanding Natural Features would be a discretionary activity. So-called farm residences on 50 ha blocks per the Glentarn decision (that effectively made residences controlled activities on small rural lots within Outstanding Natural Landscape) would not fit this definition; I have suggested changes to the Operative District Plan in earlier evidence to address the “Glentarn effect”.
20. In my opinion it is the adverse effects of residential subdivision and/or development that are of greatest concern to landscape values. Such development within Outstanding Natural Landscape and on Outstanding Natural Features is seldom necessary and in any event, as the quote above says, will not be prohibited but will need to surmount a higher bar. *The District Plan needs to send a clear message that residential subdivision and/or development is neither necessary nor anticipated in Outstanding Natural Landscape or on Outstanding Natural Features.*
21. Mr. Bryce, the author of the Chapter 27 s.42A report, says⁴ that he relies on Mr. Barr’s Chapter 21 conclusions on activity status within ONL/ONF. Mr. Barr’s argument is fleshed out in his Chapter 21 right of reply where he says (my underline):

6.16 ...I maintain my opinion as set out in the Section 11 (Pages 32 – 37) of the s42A report, and as discussed during questioning from the Panel that the most appropriate activity status is discretionary. While I acknowledge that a case could be made for residential development in the ONF/ONL to be non-complying in terms of section 6(b) of the RMA, it is the case in this District that in the order of 96% of its area is identified as ONL, and while a large part of this is within the Conservation Estate, there will be entire working farms located within the ONL and I would be concerned that some people could treat the non-complying status as a de facto prohibited status.

6.17 This could make it very difficult for farming operations and legitimate tourism ventures to establish worker accommodation, even if well designed and in areas where the landscape had capacity to absorb development. In addition, the need could arise for a policy framework to recognise this matter, and this has not been undertaken because the activity status in the notified PDP is discretionary.

22. It should be noted here that Mr. Barr accepts there is a case for residential subdivision and/or development in ONL/ONF to be non-complying. On balance he argues against this on the grounds:

- That the district is 96% ONL/ONF and that entire farms are within ONL/ONF
- These ONL/ONF farms may treat non-complying status a de facto prohibited status
- That farming operations and legitimate tourism ventures would have difficulty in gaining consent for workers accommodation
- That there is no policy framework in the plan to cope with this status

23. Taking these in turn:

- I discuss the 96% issue in detail below.

⁴ Paragraph 4.10

- Non-complying status means non-complying status which does not prohibit development. There is no room for confusion.
- The Society is seeking only residential subdivision and/or development as non-complying. Genuine farming/tourism based activities would be discretionary activities.
- A policy framework is already in place in the Operative District Plan; if any changes are needed at all these would only be fine-tuning.

Outstanding Natural Landscape-96.3% of the QLD

24. Much has been made by submitters of the fact that the Queenstown Lakes District (QLD) is 96.3% Outstanding Natural Landscape or Outstanding Natural Feature. The submitters appear to be portraying this as a significant constraint on the ability to subdivide and/or develop. Because of this submitters seem to be arguing, despite the need to satisfy s.6 (b) in the Act, that provisions restricting subdivision and/or development within ONL/ONF should be less onerous. Council officers/experts appear to be buying into this argument.
25. Assuming the 96.3% to be accurate I have done some calculations. The surface area of the QLD is 8,719 square kilometers; 3.7% of this equates to 322 square kilometers. Assuming that three quarters of this is not developed for urban residential purposes but rather is used for keeping sensitive landscape areas undeveloped, Rural Lifestyle and Rural Residential zones, infrastructure, roads, reserves, industrial areas, and so on, this leaves 80 k2 of land that is able to be developed for urban residential purposes. An area this size can accommodate 100,000 sections with a size of 800m2. Enough for a population of say 300,000.
26. Obviously with provision in the District Plan for apartments, town houses, visitor accommodation, 250 m2 and 450 m2 sections and so on the density of development is likely to be far higher than 800 m2 sections in many places. It follows that there is plenty of land able to accommodate residential development outside Outstanding Natural Landscape and Outstanding Natural Features. There is no constraint here.
27. While on this topic I do not support any further provision for Rural Lifestyle zoning in the QLD above that provided for in the Operative District Plan because this chews up rural land at a density of one residence per 20,000 m2⁵ (or 10,000 m2 as requested in submissions received). Rural Residential is a far better option at five times the density; one residence per 4000 m2. (There could be flexibility in this zone between 2000 m2 and 6000 m2 while averaging 4000 m2). The Society made a further submission consistent with this position⁶.

Subdivision and Development

28. In relation to subdivision and development the Society's submission to the notified Proposed District Plan requests:

The Society seeks that the rural provisions of the Operative District Plan, meaning all of Parts 4, 5 and 15 that relate to subdivision and/or development in rural areas and any other part or provision in the Operative District Plan that relates to or has any bearing whatsoever on subdivision and/or development in the rural areas⁷, are retained in their exact current form

29. The Society has already given evidence on Parts 4 and 5 at the Chapters 3, 6 and 21 District Plan hearings.

⁵ Proposed District Plan Rule 27.5.1

⁶ To an original submission by Submitter 820 Jeremy Bell Investments

⁷ The Rural General Zone or Rural Zone

30. It can be seen from the submission above that in terms of Part 15 Subdivision, Development and Financial Contributions in the Operative District Plan (which roughly equates to Chapter 27 in the Proposed District Plan) the Society is seeking that the rural provisions are retained in their exact current form. For the sake of clarity here I wish to emphasize that, with the exception of the Society submission concerning the Rural Lifestyle Zone discussed above, the Society's only interest in the proceedings is in relation to the provisions concerning subdivision and/or development within the Rural Zone.
31. In my opinion the existing rural provisions are, in the main, serving the community well. However, the change to non-complying status for residential subdivision and/or development within Outstanding Natural Landscape/Outstanding Natural Features will mean the provisions are more effective and efficient.
32. I have attached part of Part 15 of the Operative District Plan as Appendix A. This has been amended to reflect the Society's suggested change to activity status of residential subdivision and/or development within Outstanding Natural Landscape and Outstanding Natural Features.

Julian Haworth
14th July 2016

Appendix A

UCES's Suggested Proposed District Plan- Subdivision and Development Chapter 15 (part)

15.2.3.3 Discretionary Subdivision Activities

Except where specified as a Controlled Activity in Rule 15.2.3.2 above, and except where specified as a non-complying Activity in 15.2.3.4 below:

(i) Any subdivision which complies with all the Zone Subdivision Standards but does not comply with any one or more Site Subdivision standards shall be a **Discretionary Subdivision Activity**, with the exercise of the Council's discretion limited to the matter(s) subject to that standard.

(ii) Any subdivision of a lot in any zone, which complies with all of the Zone Subdivision Standards, but which contains an Area of Significant Indigenous Vegetation listed in Appendix 5 or a Heritage Item or Archaeological Site listed in Appendix 3, shall be a **Discretionary**

Subdivision Activity.

(iii) Any subdivision of land in the Penrith Park Zone north of the Visual Amenity Line as shown on the Penrith Park Plan 'A' shall be a

Discretionary Subdivision Activity.

(iv) In the Rural Residential zone at the north of Lake Hayes, the further subdivision of any allotment, including balances that had previously been used to calculate the average allotment size under Rule 15.2.6.2(iv).

(v) In the Gibbston Character Zone all subdivision and location of residential building platforms shall be a **Discretionary Activity**.

(vi) In the Rural ~~General~~ Zone all subdivision and ~~the locating~~ of residential building platforms shall be a Discretionary Activity, except any subdivision of land zoned Rural ~~General~~ pursuant to Rule 15.2.3.3 (vii) (Kirimoko Block - Wanaka) and except all subdivision of land and the locating of residential building platforms within the Rural Zone where the land is categorised as outstanding natural landscape or as outstanding natural feature. *(UCES suggested change)*

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(vii) Any subdivision complying with the principal roading layout depicted in the Kirimoko Structure Plan shown on Page 7-59 (including the creation of additional roads, and/or the creation of access ways for more than 2 properties) shall be a Restricted Discretionary Activity. The Council's discretion will be limited to the following:

- Any earthworks required to create any vehicle accesses of building platforms
- The design of the subdivision including lot configuration and roading patterns
- Creation and planting of road reserves
- The provision and location of walkways and the green network as illustrated on the Structure Plan for the Kirimoko Block contained within part 7 of this District Plan
- The protection of native species as identified on the structure plan as green network

(viii) Within the Shotover Country Special Zone, any subdivision within 32m either side of the centreline of the Frankton – Cromwell A 110kV high voltage transmission line shall be a Restricted Discretionary Activity with the Council's discretion restricted to:

(a) The extent to which the subdivision design mitigates potential adverse effects on the transmission line, for example through the location of roads, reserves and open space under the line;

- (b) The ability for maintenance and inspection of the transmission line, including ensuring access;
- (c) The extent to which the design and development will minimise risk or injury and/or property damage from the transmission line;
- (d) The extent to which potential adverse effects from the transmission line including visual impact are mitigated, for example through the location of building platforms and landscape design;
- (e) The location of any building platforms;
- (f) Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001)

15.2.3.4 Non-Complying Subdivision Activities

(i) Subdivision and the locating of residential building platforms within outstanding natural landscape or on outstanding natural features (UCES suggested change).

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

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

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

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(v) Any subdivision within an Open Space Zone, further to the subdivision pursuant to 15.2.3.2 (ii).

(vi) Peninsula Bay

Any subdivision within the Low Density Residential Zone of Peninsula Bay prior to the establishment of the Open Space Zone and public access easements throughout the Open Space Zone pursuant to a subdivision approved under Rule 15.2.3.2.(ii).

(vii) Kirimoko Block

Any subdivision that is not in general accordance with the location of the principal roading and reserve network contained with the Kirimoko Structure Plan shown on Page 7-59 shall be a Non-complying Activity.

(viii) Any subdivision of land zoned Low Density Residential Zone on the Kirimoko Block prior to a walkway being constructed to QLDC Standards from Aubrey Road to Peninsula Bay and an easement in gross for such a walkway being registered against all servient titles.

(ix) Kirimoko Block – Wanaka: Any subdivision of land zoned Rural ~~General~~ proposed to create a lot entirely within the Rural ~~General~~ Zone, to be held in a separate certificate of title.

(x) Kirimoko Block – Wanaka: Any subdivision of land described as Lots 3 to 7 and Lot 9 DP300734, and Lot 1 DP 304817 (and any title derived there from) that creates more than one lot which has included in its legal boundary land zoned Rural ~~General~~.

(xi) In the Ballantyne Road Mixed Use Zone subdivision shall be a **Non-complying** Activity when it is not in accordance with an Outline Development Plan approved pursuant to Rule 12.24.3.2 i if none of these rules (vi – ix) are offended by the subdivision proposal then it is restricted discretionary in accordance with Rule 15.2.3.3 (vii)

(xii) **The Three Parks Zone** - Any subdivision which is not in accordance with an approved Outline Development Plan or Comprehensive Development Plan.

Note: The intention of this rule is to ensure that an Outline Development Plan or Comprehensive Development Plan is submitted and approved prior to a subdivision consent being applied for.

(xiii) **The Three Parks Zone** – Any subdivision which is not in accordance with the Three Parks Structure Plan, unless a variation has been expressly approved as part of a subsequent, more detailed ODP or CDP, except that:

i All, subzone boundaries, and key connection points shown as ‘fixed’ on the Three Parks Structure Plan may be moved up to 20 metres and all collector roads shown on the Three Parks Structure Plan may be moved up to 50 metres in any direction in order to enable more practical construction or improved layouts and/ or to allow for minor inaccuracies in the plan drafting; and

ii All roads and other elements shown as ‘indicative’ on the Three Parks Structure Plan may be moved or varied provided they are generally in accordance with Three Parks Structure Plan and the relevant objectives and policies.

iii All Open Spaces shown on the Three Parks Structure Plan may be moved or varied provided they are generally in the same location; are of the same or greater scale; provide the same or an improved level of landscape mitigation (particularly in respect of ensuring a green buffer from SH 84); and provide the same or an improved level of functionality.

Note: For the avoidance of doubt, an Outline Development Plan or Comprehensive Development Plan which in any way obstructs or does not specifically provide for the roading connections to land or roads adjoining the zone, in the manner shown on the Three Parks Structure Plan will be processed as a non complying activity.

~~(xiv)iii~~ **The Three Parks Zone** – Any subdivision of the Open Space areas shown on the Three Parks Structure Plan or approved by an Outline Development Plan or Comprehensive Development Plan.

~~(xv)iii~~ **The Three Parks Zone** – Any subdivision within the Deferred Urban subzone.

~~(xvi)iv~~ **Industrial B Zone** – Any subdivision that is not in accordance with the relevant Structure Plan unless a variation has been expressly approved as part of a subsequent, more detailed Outline Development Plan, except that:

(a) Any fixed connection points shown on the relevant Structure Plan may be moved up to 20 metres

(b) Any fixed roads shown on the relevant Structure Plan may be moved up to 50 metres in any direction in order to enable more practical construction or improved layouts and/ or to allow for minor inaccuracies in the plan drafting.

(c) The boundaries of any fixed open spaces shown on the relevant Structure Plan may be moved up to 5 metres.

(d) All indicative roads and any other elements shown as ‘indicative’ on the relevant Structure Plan may be moved or varied provided they are generally in accordance with and achieve the relevant Structure Plan and the relevant objectives and policies.

(e) Where a boundary (or boundaries) has been expressly approved as part of a subsequent, more detailed ODP, then that subsequent boundary (or boundaries) shall take precedence over that shown in the relevant Structure Plan.

Note: An ODP that in any way obstructs or does not specifically provide for the roading connections to land or roads adjoining the zone, in the manner shown on the Structure Plan will be processed as a non complying activity.

~~(xvii)iv~~ **Industrial B Zone** - Any subdivision that is not in accordance with an approved Outline Development Plan (ODP).

Note: The intention of this rule is to ensure that an ODP is submitted and approved prior to a subdivision consent being applied for.

~~(xviii)iv~~ **Industrial B Zone** – Any subdivision of the open space areas shown on the Connell Terrace Precinct Structure Plan prior to 70% of the western boundary planting in combination with the mounding having reached a minimum combined height of 6 metres and a continuous screen in the horizontal plane.