



Southland District Council

Proposed Plan Change 7

Te Anau Lakeside Protection Area

Section 32 Report

RESOURCE MANAGEMENT ACT 1991 - SECTION 32 REPORT

Proposed Te Anau Plan Change - Lakeside Protection Area

EXECUTIVE SUMMARY

One of Te Anau's main attractions is the scenic views of the mountains of the Fiordland National Park across Lake Te Anau from the town. Currently there are few buildings and structures in Te Anau that are high enough to substantially obstruct these views.

At present the Southland District Plan allows non-residential buildings and structures that do not adjoin residential activities to be built as a permitted activity to a maximum of 12 metres. Resource consent from the Southland District Council is required to exceed the 12 metre height limit. The District Plan states that this consent will be considered as a discretionary activity and thus Council has discretion to grant or decline the consent. A discretionary activity under the Resource Management Act 1991 is considered to be generally appropriate in the relevant zone, but not in every instance. Therefore it is considered that it is relatively easy to obtain discretionary activity resource consent. Buildings and structures higher than 12 metres along the lakeside are considered unfavourable by the Te Anau Community Board and many local residents, as they will obstruct light and views from many parts of the lakefront and environs. It is considered that there could be demand in the near future for buildings and structures in Te Anau to be built higher than 12 metres. Te Anau is a growing town, as shown by recent residential and commercial growth in the town. Therefore, there is likely to be pressure for further urban growth to be accommodated by multi-level development. As Te Anau is located on mostly flat terrain, lakeside buildings and structures higher than 12 metres will limit the view of the lake and surroundings from areas located further from the lake. Thus, the Council has investigated whether a Plan Change should be initiated to change the activity status of buildings and structures that propose to exceed the 12 metre height limit to prohibited, so it is impossible to obtain resource consent for the buildings and structures.

In addressing these issues, the following options have been considered under Section 32 of the Resource Management Act 1991 (the Act):

- Retain Status Quo / Make no change (i.e. retain discretionary activity status).
- Impose a Lakeside Protection Area and alter the activity status to non-complying for buildings and structures that exceed the 12 metre height limit in that area.
- Impose a Lakeside Protection Area and alter the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in that area.
- Alter the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in any part of Te Anau.

The report concludes that the most appropriate option is to impose a Lakeside Protection Area and alter the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in that specifically identified area, as this is the only activity status that can absolutely ensure no such development. A copy of the proposed amendment to the District Plan provisions is contained within Section 7 of the report. This report has considered the framework and legislation behind making a change to a District Plan, and applied the provisions of Section 32 (Resource Management Act 1991) in the following analysis.

TABLE OF CONTENTS

1.	<u>INTRODUCTION</u>	
	1.1 Purpose of this Report	3
	1.2 Background	3
	1.3 Reasons for the Plan Change	5
2.	<u>EXPLORATION OF ISSUES AND OPTIONS</u>	
	2.1 Issues	5
	2.2 Options	9
3.	<u>PUBLIC CONSULTATION</u>	10
4.	<u>THE RESOURCE MANAGEMENT ACT 1991</u>	
	4.1 Part Two - Purposes and Principles	11
	4.2 Section 32	13
5.	<u>SECTION 32 EVALUATION</u>	
	5.1 District Plan Objectives	14
6.	<u>ANALYSIS: ASSESSMENT OF ALTERNATIVES</u>	
	6.1 Section 32 Analysis	14
	6.2 Status Quo	16
	6.3 Non-complying Activity Status for Lakeside Protection Area only	18
	6.4 Prohibited Activity Status for Lakeside Protection Area only	20
	6.5 Prohibited Activity Status Te Anau wide	22
	6.6 Conclusion of Analysis	24
7.	<u>AMENDMENTS TO THE DISTRICT PLAN</u>	26
8.	<u>RISK OF ACTING / NOT ACTING</u>	29
9.	<u>FINAL COMMENTS / CONCLUSION</u>	29
10.	<u>APPENDICES</u>	30
	Appendix 1 - Photos of the Te Anau Lakeside	
	Appendix 2 - Current Southland District Plan Zoning Maps for Te Anau	
	Appendix 3 - Relevant current Southland District Plan Rules	
	Appendix 4 - Photos of the Queenstown Lakeside	
	Appendix 5 - Maps showing the proposed Lakeside Protection Area	
	Appendix 6 - Relevant sections of the Te Anau Basin Growth Planning Landscape Capacity Study Report that covers the Lakeside.	

1. INTRODUCTION

1.1 Purpose of this Report

This report investigates the merits of undertaking a Plan Change to the Operative Southland District Plan (the District Plan) regarding the activity status for buildings and structures that exceed the building height limit near the southern edge of Lake Te Anau. Non-residential buildings and structures on properties along the lakeside, which do not adjoin residential activities, can currently be built to a maximum height of 12 metres, as a permitted activity under the District Plan. However to exceed this height limit a resource consent can be applied for and this consent will be considered as a discretionary activity. This report investigates whether a Plan Change should be initiated to change the activity status for buildings and structures to exceed the 12 metre height limit to prohibited, therefore making it impossible to obtain resource consent to exceed the height limit. This report contains an evaluation that has been carried out by the Southland District Council pursuant to Section 32 of the Resource Management Act 1991.

1.2 Background

Te Anau

Te Anau is a town in Southland located on State Highway 94 between Lumsden and Milford Sound (see Map 1). Te Anau is located approximately 150 km north-east, by road, of Invercargill and is at the southern end of Lake Te Anau. Te Anau is a town with a current resident population of 1,899 people, according to the 2006 census (see Table 4).



Map 1 - Map of Te Anau and surrounding towns

Current Provisions - Southland District Plan

There are four different zones within the Southland District Plan that apply to different portions of the Te Anau township's lakeside. These four zones are Scenic Resource Area, Plains Rural Resource Area, Transitional Resource Area, and Urban Resource Area (see Appendix 2 for the current zoning map). The four zones impose different height restrictions as shown by Table 1.

Resource Area	Height limit for residential buildings and structures	Activity status for consents that exceed the height limit	Height limit for non-residential buildings and structures	Activity status for consents that exceed the height limit
Urban	9 metres	discretionary (non-complying above 10 metres)	12 metres	discretionary
Transitional	12 metres	non-complying	12 metres	non-complying
Scenic	6 metres	discretionary	6 metres	discretionary
Plains Rural	12 metres	non-complying	12 metres	non-complying

Table 1 - Current District Plan height limits for buildings and structures along the Te Anau township's lakeside.

Council's Current position on the possible Te Anau Zoning Plan Change

The Southland District Council's Long-Term Council Community Plan 2006-2016 mentions a number of District Plan projects to make changes to the District Plan which has been specified by the Southland District Council. One of these projects is the Te Anau Growth Planning project. The proposed Lakeside Protection Area Plan Change is one of the proposed Plan Changes identified as part of the Te Anau Growth Planning project.

Table 2 shows the actions that Council has taken to date in relation to the Te Anau Lakeside Protection Area Plan Change.

Year	Action Taken
Pre 2007	The Te Anau Community Board and the Southland District Council have been discussing for some time options for possible changes to the District Plan in order to provide for a more proactive response to growth management issues within the Te Anau Basin.
2007	A series of workshops were held between Te Anau Community Board members and key Council staff, and these workshops then progressed to a series of key concepts that were presented as <u>possible</u> Plan Changes to the Te Anau Community at two meetings held on 30 May 2007 and 26 September 2007.
June 2008	A discussion document entitled "Possible Te Anau Plan Changes" was sent out to the local community. Over 240 responses to the discussion document were received.
September 2008	The Te Anau Community Board resolved <u>to proceed</u> with the possible Lakeside Protection Area Plan Change and also resolved to proceed with two other possible Plan Changes. These related to an expanded Industrial Resource Area, and an expanded Urban Resource Area.

Table 2 - Progress on the Te Anau Lakeside Protection Area Plan Change to date.

1.3 Reasons for the Plan Change

The Plan Change regarding the activity status for the 12 metre height limit along the Te Anau township's lakeside is being investigated for a number of reasons, which are outlined below:

- There is a demonstrated demand for development in Te Anau. It is considered based on experience at other lakeside tourist centres in New Zealand that there are likely to be proposals for buildings and structures along the Te Anau township's lakeside higher than 12 metres in height, in the future. There are other lakesides in New Zealand that have buildings and structures higher than 12 metres which can significantly limit the view of the lake and surroundings from buildings and structures located further from the lake (see photographs of Queenstown's lakeside in Appendix 4). Currently there are no lakeside buildings and structures in Te Anau higher than 12 metres.
- Buildings and structures higher than 12 metres along the Te Anau township's lakeside are not favoured by the bulk of the community, as shown by the responses on the Council's Discussion Document on possible Te Anau Plan Changes, released in June 2008.
- It is considered less difficult to achieve resource consents if they have a discretionary activity status (which is the existing activity status for buildings and structures along the Te Anau township's lakeside that exceed the 12 metre height limit).

These will be discussed in more detail in the next section (2.1 - Issues).

2. EXPLORATION OF ISSUES AND OPTIONS

2.1 Issues

This report has been initiated by the Southland District Council to investigate what is the appropriate activity status for resource consents for buildings and structures that exceed the 12 metre height limit along the Te Anau township's lakeside, with regard to the reasons for the Plan Change (mentioned in Section 1.3 of this report) as follows:

(1) Development Pressure

Te Anau is experiencing some development pressure, primarily as a desirable holiday and lifestyle destination. There have been many subdivisions in the Te Anau area in the last ten years, which have collectively produced over 1000 new allotments. There has also been recent growth in the commercial sector of the town, with a new supermarket and more accommodation facilities being built.

In 2001, Statistics New Zealand defined the Te Anau area as having "very high growth" - more than 3% per annum. The term "very high growth" is based on the projected increase in population percentage. Statistics New Zealand forecast a population increase of 2,031 people in the 25 year period 2001 - 2026 (see Table 3). In 2006 the population of Te Anau was 1,899 (see Table 4). With this growth it is anticipated that in the future there could be demand for development to be built higher, to accommodate more people and activities.

Year	Population (Usually Resident)							% Change		
	1996	2001	2006	2011	2016	2021	2026	96-01	01-16	01-26
Very High Growth (3% pa)										
Colac Bay	177	150	174	202	234	271	314	-15%	56%	109%
Manapouri	216	240	278	323	374	433	503	11%	56%	110%
Orepuki	102	84	97	113	131	152	176	-18%	56%	110%
Stewart Island	414	384	445	516	598	694	804	-7%	56%	109%
Te Anau	1,782	1,857	2,153	2,496	2,893	3,354	3,888	4%	56%	109%
High Growth (2.25% pa)										
Athol	81	63	70	79	88	98	110	-22%	40%	75%
Garston	87	60	67	75	84	94	105	-31%	40%	75%
Fortrose	63	54	60	67	75	84	94	-14%	39%	74%
Riverton	1,830	1,656	1,851	2,069	2,312	2,584	2,888	-10%	40%	74%
Waikawa/Curio Bay	96	120	134	150	168	187	209	25%	40%	74%
Low Growth (0.75% pa)										
Browns	93	108	112	116	121	125	130	16%	12%	20%
Edendale	567	570	592	614	638	662	687	1%	12%	21%
Limehills/Centre Bush	207	228	237	246	255	265	275	10%	12%	21%
Mossburn	276	243	252	262	272	282	293	-12%	12%	21%
Tokanui	171	174	181	187	195	202	210	2%	12%	21%
Tuatapere	741	681	707	734	762	791	821	-8%	12%	21%
Waikaia	81	93	97	100	104	108	112	15%	12%	20%
Winton	2,190	2,100	2,180	2,263	2,349	2,438	2,531	-4%	12%	21%
No Growth (0% pa)										
Dipton	156	156	155	155	155	155	155	0%	-1%	-1%
Gorge Road(CDA)	525	465	465	465	465	465	465	-11%	0%	0%
Riversdale	366	363	365	365	365	365	365	-1%	1%	1%
Wallacetown	681	627	625	625	625	625	625	-8%	0%	0%
Wyndham	636	573	575	575	575	575	575	-10%	0%	0%
Negative Growth (-0.75% to -1.5% pa)										
Balfour	138	138	133	128	123	119	114	0%	-11%	-17%
Lumsden	504	453	436	420	405	390	375	-10%	-11%	-17%
Otautau	813	729	702	676	651	627	604	-10%	-11%	-17%
Thornbury	84	72	69	67	64	62	60	-14%	-11%	-17%
Woodlands	297	279	269	259	249	240	231	-6%	-11%	-17%
Nightcaps	396	342	317	294	273	253	234	-14%	-20%	-32%
Ohai	513	399	370	343	318	295	273	-22%	-20%	-32%

Table 3 - Estimated Population of Southland Communities - Source Statistics New Zealand

Area	Population				Occupied Dwellings			
	2001	2006	change	percentage change	2001	2006	change	percentage change
Stewart Island	384	402	18	5%	210	228	18	9%
Te Anau	1857	1899	42	2%	711	744	33	5%
Lumsden	453	411	-42	-9%	174	180	6	3%
Manapouri	240	306	66	28%	99	102	3	3%
Winton	2100	2088	-12	-1%	894	918	24	3%
Southland District	28716	28440	-276	-1%	10,755	10,911	156	1%
Southland Region	91008	90876	-132	0%	35,426	35,547	121	0%

Table 4 - Change in Population for Selected Southland Towns - Source Statistics New Zealand Census 2006

There are other lakeside towns and cities in New Zealand, such as Rotorua, and Queenstown that have buildings and structures higher than 12 metres along their lakesides. Appendix 4 shows photos of Queenstown's lakeside. These buildings and structures can restrict views and affect the amenity values of the lakeside. It is anticipated that there could be pressure for similar development to occur in Te Anau. Te Anau currently does not have any buildings and structures higher than 12 metres along its lakeside. Thus many parts of Te Anau have views of the lake and across to the mountains of Fiordland National Park (as mentioned in the landscape report attached as Appendix 6). This is a unique and marketable feature of the town, and point of difference that many residents and the Community Board have indicated they wish to retain into the future.

Te Anau, unlike Queenstown, is located on mostly flat terrain, so buildings over 12 metres in height will obstruct light and views from many parts of the lakefront and environs much more significantly than occurs in Queenstown.

Furthermore, the boundary of the Fiordland National Park at Te Anau is at the lake edge. While low level development is acceptable, it is inappropriate that provision be made for 'high rise' development (i.e. buildings and structures over 12 metres in height) on the lake's waterfront, as these buildings and structures will obstruct views, cast shadows on the lake and its margin, and adversely affect the openness of the lakeside.

Table 5 shows district plan lakeside height limits from other lakeside towns and cities in New Zealand. It shows that Rotorua has a discretionary activity status for commercial buildings and structures higher than 12 metres, and has buildings and structures that are higher than 12 metres along its lakeside. It follows, that in Rotorua it is quite feasible to gain discretionary activity resource consent for buildings and structures higher than 12 metres.

Town	Height Limit for Residential Buildings and structures	Height Limit for Commercial Buildings and structures	Activity status for consents that exceed the height limit
Queenstown	8 metres ¹	12 metres ²	non-complying
Wanaka	7 metres ³	10 metres ⁴	non-complying
Cromwell	7.5 metres ⁵	10 metres ⁶	restricted discretionary
Taupo	8 metres ⁷	No limit ⁸	restricted discretionary
Rotorua	7.5 metres ⁹	15 metres ¹⁰	discretionary

Table 5 - Lakeside height limits from other lakeside towns and cities in New Zealand

(2) Tall buildings and structures undesirable

In June 2008 Southland District Council sent out a discussion document entitled “Possible Te Anau Plan Changes” to the local Te Anau community. Over 240 responses to the discussion document were received. The vast majority of respondents were supportive of a proposed “Lakeside Protection Area”. 89% supported the inclusion of the “Lakeside Protection Area”, whilst only 7% did not support it. 4% submitted a neutral response on the issue. Many respondents to the discussion document included comments in their responses which reinforced their desire to discourage tall building and structures from being built along the lakeside. Some people commented on the fact that the current lack of tall buildings and structures along Te Anau township’s lakeside sets Te Anau apart from other lakeside towns and cities in New Zealand, and is a point of difference that they would like to see retained. Of the people who were not supportive of the “Lakeside Protection Area”, some considered that it may unnecessarily stifle future development. There was concern expressed that these rules could mean that Te Anau “misses out” on development.

(3) Too easy to obtain discretionary activity resource consent

The Resource Management Act 1991 imposes six activity statuses in which development can be categorised into. The six statuses are permitted, controlled, restricted discretionary, discretionary, non-complying and prohibited. Table 6 below explains the aspects of each of the activity statuses.

¹ Height limit in the High Density Residential Zone for flat sites where the slope is less than 6 degrees.

² Height limit in the Queenstown Town Centre Zone.

³ Height limit in the Wanaka High Density Residential Zone.

⁴ Height limit in the Wanaka Town Centre Zone to the ridge line. The maximum building height to the eave line is 8 metres.

⁵ Height limit in the Residential Resource Area. However where any site has a boundary adjacent to the margin of a lake, a 15 metre yard shall be applied to that boundary.

⁶ Height limit in the Business Resource Area.

⁷ Height limit in the High Density Residential Zone.

⁸ Height limit in the Taupo Town Centre Zone. Height is controlled by height in relation to boundary requirements, which are 8 metre height at the boundary with a 45° recession plane from the front boundary.

⁹ Height limit in the Residential Zones.

¹⁰ Height limit in the Resort A Zone.

Activity Status	Resource Consent Required?	Process required to be followed under the Act
Permitted	No	Certificate of compliance can be issued.
Controlled	Yes	Council cannot decline consent, but can impose conditions.
Restricted Discretionary	Yes	Council can grant or decline consent, but can only consider matters listed in the plan.
Discretionary	Yes	Council can grant or decline consent with full discretion.
Non-complying	Yes	Council can only grant consent if the activity passes the "test" stated in Section 77B(7) of the Resource Management Act 1991, that either: <ul style="list-style-type: none"> o The adverse effects of the activity on the environment will be minor; or o The activity will not be contrary to the objectives and policies of the relevant plan (the District Plan). Otherwise consent must be declined.
Prohibited	Cannot be applied for	No consent process, only a Plan Change can be applied for an activity prohibited by the plan.

Table 6 - Details of the Resource Management Act Activity statuses

As can be seen from the table above, resource consent cannot be applied for activities with a prohibited status. Case law states that local authorities do not need to consider that an activity be forbidden outright, with no contemplation of any change or exception, before prohibited activity status is appropriate. Instead, a local authority can use the prohibited activity status for activities for which, having undertaken the processes required by the RMA, it could rationally conclude that prohibited activity status was the most appropriate status [*Coromandel Watchdog of Hauraki Inc v Chief Executive of the Ministry of Economic Development* [2008] 1 NZLR 562;(2007) 13 ELRNZ 279;[NZRMA 77 (CA)].

Section 6 of this report analyses the different activity statuses that could be used for development that exceeds the 12 metre building height limit along the Lakeside Protection Area.

2.2 Options

Options are:

- Retain Status Quo / Make no change (i.e. retain discretionary activity status).
- Impose a Lakeside Protection Area and alter the activity status to non-complying for buildings and structures that exceed the 12 metre height limit in that area.
- Impose a Lakeside Protection Area and alter the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in that area.
- Alter the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in any part of Te Anau.

(1) Retain Status Quo / Make no change (ie retain discretionary activity status).

This option would retain the existing discretionary activity status for buildings and structures that exceed the 12 metre height limit. (See Appendix 3 for current rules).

(2) Impose a Lakeside Protection Area and alter the activity status to non-complying for buildings and structures that exceed the 12 metre height limit in that area.

This option would create an area within approximately 100 metres of the southern Te Anau lakeside (as identified in Appendix 5), from the Upukerora River mouth to the Waiau River control gates. Within this area, any proposals for buildings and/or structures that are beyond 12 metres in height would be a non-complying activity.

(3) Impose a Lakeside Protection Area and alter the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in that area.

This option would create an area within approximately 100 metres of the southern Te Anau lakeside (as identified in Appendix 5), from the Upukerora River mouth to the Waiau River control gates. Within this area any proposals for buildings and/or structures that are beyond 12 metres in height would be a prohibited activity. Thus, resource consent could not be applied for nor granted to exceed the 12 metre height limit.

(4) Alter the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in any part of Te Anau.

This option would impose the requirement that proposals for buildings and/or structures that are beyond 12 metres in height, located anywhere in the Te Anau township would be a prohibited activity.

3. PUBLIC CONSULTATION

This report has been prepared in consultation with the Te Anau Community Board and following two public meetings and the release of a discussion document that outlined this proposed change. Over 240 responses were received on the discussion document, including responses from Environment Southland, the Department of Conservation and Te Ao Mārama Incorporated (on behalf of local Iwi). A meeting discussing the Plan Change has also been held with a staff member of the New Zealand Transport Agency.

In accordance with the provisions of the First Schedule of the Resource Management Act 1991, and following previous consultation with the agencies specified in Clause 3 of the First Schedule, Council has served a copy of this proposed Plan Change to the following agencies:

- The Minister for the Environment.
- The Minister of Conservation.
- New Zealand Transport Agency.
- The Southland Regional Council (Environment Southland).
- The local authorities which adjoin the Southland District Council, being

- Central Otago District Council,
 - Clutha District Council,
 - Gore District Council,
 - Invercargill City Council,
 - Queenstown Lakes District Council, and
 - Westland District Council.
- The tāngata whenua of the area, through Te Rūnanga o Ngāi Tahu (iwi authority) and Te Ao Mārama Inc (the agency authorised to represent Te Rūnaka o Awarua, Hokonui Rūnanga, Ōraka/Aparima and Rūnaka, Waihōpai Rūnaka).

It may not be possible to specifically consult individually with all those people who may be affected by this possible Plan Change. However, if proceeded with, this Plan Change will be publicly notified for public response through the submission and further submission (and appeal) process. It is emphasised that any person is entitled to make a submission on a Plan Change, and such submissions will be given all due consideration in the context of the statutory process provided for in the First Schedule of the Act.

4. THE RESOURCE MANAGEMENT ACT 1991

This Plan Change is being prepared in accordance with the Resource Management Act 1991. Key provisions of the Act are the purpose and principles and Section 32 “Consideration or alternative, benefits and costs.” This Plan Change is consistent with the purpose of the Act, being to promote the sustainable management of natural and physical resources.

4.1 Part Two - Purposes and Principles

The purpose of the Act is to promote the sustainable management of natural and physical resources and is prescribed in Section 5 of the Act, and is as follows:

“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.”*

Development in Te Anau may be able to occur subject to stricter constraints put in place by Council, thereby avoiding the adverse effects of development higher than 12 metres along the Te Anau township’s lakeside.

Sections 6, 7 and 8 detail the matters that need to be considered in achieving the purpose of the Act. The most relevant matters are as follows:

Section 6 of the Act states:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- [(f) *the protection of historic heritage from inappropriate subdivision, use, and development.*]
- [(g) *the protection of recognised customary activities.*]

Section 7 of the Act states:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) *Kaitiakitanga:*
 - [(aa) *The ethic of stewardship:*]
- (b) *The efficient use and development of natural and physical resources:*
 - [(ba) *the efficiency of the end use of energy:*]
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (e) *Repealed.*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon:*
- [(i) *the effects of climate change:*]
- [(j) *the benefits to be derived from the use and development of renewable energy.*]

Section 8 of the Act states:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

The possible Te Anau Lakeside Protection Area Plan Change will enable the Council to have particular regard to the relevant matters listed in Sections 6 - 8 of the Act. Restricting development along the Te Anau lakeside will preserve the natural character of the lakeside margin, by preventing buildings and structures higher than 12 metres obstructing views.

4.2 Section 32

Section 32(1) of the Act requires that before a proposed Plan Change is publicly notified, an evaluation must be carried out by the local authority with respect to the Plan Change.

Section 32(3) states that:

“An evaluation must examine-

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and*
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.”*

Section 32(4) requires 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.”*

Section 32(5) requires the person carrying out the evaluation to prepare a report summarising the evaluation and giving reasons for that evaluation. Section 32(6) requires the report be available for public inspection at the same time as the Plan Change to which the report relates is publicly notified.

Therefore, prior to notifying a Plan Change, the Council has a statutory duty to prepare a Section 32 Analysis. The Southland District Council's main task under the Resource Management Act 1991 is to decide how to address environmental issues. In preparing Plan Changes, Section 32 requires consideration of alternative ways to achieve the environmental outcomes being sought. Section 32 essentially tests to determine the most appropriate means, and the appropriateness of any selected methods.

It assists in rationalising why changes are needed and formalises a process for determining how best to address environmental issues. This may be through a variety of alternatives of which rules can be just one option.

The Section 32 requirements apply to the preparation of regional and district plans, Plan Changes, variations, policy statements and reviews. Following a 2003 amendment to the Resource Management Act, the requirements of Section 32 also apply to any person who has made a request for a private Plan Change. This report fulfils Council's Section 32 obligations.

5. SECTION 32 EVALUATION

5.1 District Plan Objectives

In addition to achieving the purpose of the Resource Management Act 1991, a Plan Change must also achieve the objectives and policies of the District Plan. The relevant objectives and policies, as specified in the District Plan are attached in Appendix 3.

The possible Plan Change is considered necessary to achieve the attached objectives and policies of the District Plan, as shown by the analysis in Section 6. In particular, the Plan Change will serve to maintain amenity values along the Te Anau township's lakeside. The current activity status for exceeding the 12 metre height limit in Te Anau means that it would be relatively easy to gain resource consent to exceed this height limit and thus does not achieve the intent of the Urban Resource Area objectives and policies.

6. ANALYSIS: ASSESSMENT OF ALTERNATIVES

6.1 Section 32 Analysis

Table 7 below assesses each option listed in Section 2.2 against the issues listed in Section 2.1. The option is giving one of the following scores depending how it addresses the issue:

- 1 Will significantly exacerbate the issue
- 0.5 Will exacerbate the issue to some extent
- 0 Will have no effect on the issue
- 0.5 Will address the issue to some extent
- 1 Will significantly address the issue

If an option only addresses an issue to some extent, it will be given a score of 0.5. An example of this is the effect that the 'prohibited for lakeside only' option will have on the 'development pressure' issue. This option will relieve some development pressure from the lakeside by not restricting development any further on land outside of the Lakeside Protection Area. Thus if there are people wanting to construct buildings and structures higher than 12 metres in Te Anau, there will still be land (the part of Te Anau that is not located within the Lakeside Protection Area) where resource consent to exceed the 12 metre height limit can still be applied for and granted, if it is appropriate. If resource consent is granted to these proposals this may relieve some of pressure from developers who seek to construct buildings and structures in Te Anau which are higher than 12 metres. However, it will not relieve as much development pressure as the 'status quo' option will, which has been given a score of 1. This option will mean that development higher than 12 metres anywhere in Te Anau (including the lakeside) will still be able to obtain resource consents and have the possibility of them being granted. Table 7 shows that the best option is Option 3.

Issues	Options			
	1) Status Quo	2) Non-complying for Lakeside only	3) Prohibited for Lakeside only	4) Prohibited Te Anau wide
1) Development Pressure	1	0.5	0.5	0
2) Tall Buildings and structures undesirable	0	0.5	1	1
3) Too easy to obtain resource consent to breach the maximum height limit	0	0.5	1	1
TOTAL SCORE	1	1.5	2.5	2

Table 7 - Evaluation of each option against each issue.

The following tables (8 - 11) undertake a more detailed evaluation of each of the options. This evaluation follows the requirements set out in Section 32 of the Act. The tables first give an assessment of whether the option is the most appropriate way to achieve the purpose of the Act, as required by Section 32 (3) (a) of the Act. The purpose of the Act as set out in Section 5 of the Act is “to promote the sustainable management of natural and physical resources”.

Then the table assesses the options against the existing objectives of the District Plan, to determine whether they are efficient or effective, as required by Section 32 (3) (b) of the Act.

The benefits and costs of each option have been evaluated, as required by Section 32 (4) (a) of the Act. The benefits and costs have been divided up into three areas; environmental, economic and social. Then the net environmental benefits are calculated by subtracting the environmental costs from the environmental benefits. Likewise, the net social and economic costs are calculated by subtracting the social and economic benefits from the social and economic costs.

Finally, the efficiency of the option is assessed, as also required by Section 32 (3) (b) of the Act. An assessment is made of each option as to whether it will achieve the environmental outcome at the least overall cost. This is done by comparing the net environmental benefits with the net social and economic costs.

The desired environmental outcome is the option, which will prevent resource consents for buildings higher than 12 metres from being obtained, thereby ensuring the amenity values of the Te Anau town’s lakeside will be maintained or enhanced.

6.2 Status Quo

OPTION	1 - Status Quo
RMA purpose: promote the sustainable management of natural and physical resources	
Appropriateness: Is the option the most appropriate way to achieve the purpose of the RMA.	<p>Inappropriate - Section 6 (a) of the RMA states that “the preservation of the natural character of the coastal environment (including the coastal marine area) wetlands, and lakes and rivers, and their margins, and the protection of them from inappropriate subdivision, use and development, is a matter of national importance”</p> <p>Buildings and structures higher than 12 metres built along the lakeside will adversely affect the natural character of the lake’s margin, by casting shadows on the lake and obstructing views of the lake.</p>
<p>The following current Southland District Amenity, Urban, Scenic and Rural Resource Area objectives will be applicable for Te Anau if Option 1 (Status Quo) is chosen:</p> <p><u>Objective AME.1</u></p> <p>To avoid or mitigate the adverse effects that activities have on the amenities of the District, and the quality of the environment particularly on neighbouring properties.</p> <p><u>Objective URB.1</u> - To manage the development of the urban area in order to:</p> <p>(a) provide a framework which enables people and communities to provide for their social, economic and cultural well-being, and their health and safety, while</p> <p>(b) maintaining and where possible enhancing the environmental quality of particular environments within the urban area, and</p> <p>(c) avoid, remedy or mitigate any adverse effects on the natural and physical resources of the Urban Resource Area.</p> <p><u>Objective URB.2</u> - To encourage urban consolidation to minimise the spatial extent of the effect of urban activities.</p> <p><u>Objective SRA.1</u> - To maintain the outstanding visual amenity provided by these areas.</p> <p><u>Objective RU.4</u> - To maintain where practicable and efficient, the amenity values of the rural environment.</p>	
Effectiveness of the option achieving the relevant objectives in Southland District Plan (listed above).	<p>Ineffective:</p> <ul style="list-style-type: none"> - This option has the potential to adversely affect the environmental quality of the lakeside environment, by retaining the current discretionary activity status, and thus retaining the high possibility of buildings and structures higher than 12 metres gaining resource consent. - Buildings and structures higher than 12 metres will obstruct views of the lake and Fiordland National Park, thus this will not maintain the visual amenity of the lakeside.
Environmental Benefits	There is a greater prospect of a variety of building heights along the lakeside, which may bring diversity. Buildings and structures higher than 12 metres will still need to obtain resource consent, so the effects of higher buildings and structures will still be considered in a consent process.
Environmental Costs	There remains a high possibility of a building higher than 12 metres gaining resource consent and thus adversely affecting amenity values of the lakeside environment.
Net Environmental Benefit	Negative - there is a high possibility that the amenity values of the lakeside environment will be compromised.

Economic Benefits	<p>There is a greater chance for further development along the Te Anau township's lakeside (for example hotels higher than 12 metres) to gain better views from the building's increased height.</p> <p>A benefit of doing nothing to the plan is that the Council and thus ratepayers will not need to pay for the Plan Change process.</p>
Economic Costs	<p>Buildings and structures higher than 12 metres along the lakeside will obstruct the views of the lake from areas located further away from the lake. This may decrease property values and discourage development to occur in the majority of the Te Anau township which does not immediately adjoin the lake.</p> <p>An obstructed view of the lake could also adversely affect Te Anau's tourism industry. Tourists are attracted to Te Anau by, amongst other matters, the views of the lake and the mountains of Fiordland National Park, in the distance.</p>
Social Benefits	<p>Some people may be able to build or purchase apartments/offices in buildings and structures higher than 12 metres that have desirable views due to the building's increased height.</p>
Social Costs	<p>Lakeside buildings and structures higher than 12 metres may obstruct views of the lake from areas located further away from the lake which may reduce the desirability to live and work in Te Anau.</p> <p>The openness of the lakeside is a feature of the town which people value, as shown by the responses to the discussion document. Buildings and structures higher than 12 metres will reduce the openness of the lakeside.</p>
Net Social and Economic Cost	<p>Negative - The openness of the lakeside which is one of the desirable features of the town is reduced.</p>
Efficiency = Net environmental benefits minus net social and economic costs.	<p>Inefficient - The desired environmental outcome of retaining the amenity values of Te Anau township's lakeside by preventing resource consents to build higher than 12 metres from being obtained, will not be achieved.</p>

Table 8 - Evaluation of Option 1

This option achieved the lowest score (1) in Table 7 and does not achieve the desired environmental outcome of preventing resource consents to build higher than 12 metres being obtained.

6.3 Non-complying for Lakeside Only

OPTION	2 - Non-complying for Lakeside Only	
RMA purpose: promote the sustainable management of natural and physical resources		
<p>Appropriateness: Is the option the most appropriate way to achieve the purpose of the RMA.</p>	<p>Inappropriate - Section 6 (a) of the RMA states that “the preservation of the natural character of the coastal environment (including the coastal marine area) wetlands, and lakes and rivers, and their margins, and the protection of them from inappropriate subdivision, use and development, is a matter of national importance”</p> <p>Buildings and structures higher than 12 metres built along the lakeside will adversely affect the natural character of the lake’s margin, by casting shadows on the lake and obstructing views of the lake. Resource consents can still be granted for activities with a non-complying activity status, (subject to the activity meeting the Section 104D Test). Thus there is still the possibility of buildings and structures being built higher than 12 metres along the lakeside and adversely affecting the natural character of the lake’s margin, under a non-complying activity status.</p>	
<p>The following current Southland District Urban, Scenic and Rural Resource Area objectives will apply to Te Anau if Option 2 (non-complying for Lakeside Only) is chosen, additionally the new Lakeside Protection Area objective will also apply:</p> <p><u>Objective AME.1</u></p> <p>To avoid or mitigate the adverse effects that activities have on the amenities of the District, and the quality of the environment particularly on neighbouring properties.</p> <p><u>Objective URB.1</u> - To manage the development of the urban area in order to:</p> <ul style="list-style-type: none"> (a) provide a framework which enables people and communities to provide for their social, economic and cultural well-being, and their health and safety, while (b) maintaining and where possible enhancing the environmental quality of particular environments within the urban area, and (c) avoid, remedy or mitigate any adverse effects on the natural and physical resources of the Urban Resource Area. <p><u>Objective URB.2</u> - To encourage urban consolidation to minimise the spatial extent of the effect of urban activities.</p> <p><u>Objective SRA.1</u> - To maintain the outstanding visual amenity provided by these areas.</p> <p><u>Objective RU.4</u> - To maintain where practicable and efficient, the amenity values of the rural environment.</p> <p><u>Objective LPA.1</u> - To maintain the outstanding visual amenity provided by Te Anau Town’s lakeside.</p>		
<p>Effectiveness of the option achieving the relevant objectives in Southland District Plan (listed above).</p>	<p>Ineffective:</p> <ul style="list-style-type: none"> - This option has the potential to adversely affect the environmental quality of the lakeside environment, by retaining the possibility of buildings and structures higher than 12 metres gaining resource consent. - Buildings and structures higher than 12 metres will obstruct views of the lake and Fiordland National Park, thus this will not maintain the visual amenity of the lakeside. 	
<p>Environmental Benefits</p>	<p>There is a prospect of a variety of building heights along the lakeside, which may bring diversity. Buildings and structures higher than 12 metres will still need to obtain resource consent, so the effects of higher buildings and structures will still be considered in a consent process.</p>	

Environmental Costs	There remains a possibility of a building higher than 12 metres gaining resource consent and thus adversely affecting amenity values of the lakeside environment.
Net Environmental Benefit	Negative - there is a possibility that the amenity values of the lakeside environment will be compromised.
Economic Benefits	There is a chance for further development along the Te Anau township's lakeside (for example hotels higher than 12 metres) to gain better views from the building's increased height.
Economic Costs	Buildings and structures higher than 12 metres along the lakeside will obstruct the views of the lake from areas located further away from the lake. Thus this may decrease property values and discourage development to occur in the majority of the Te Anau township which does not immediately adjoin the lake. An obstructed view of the lake could also adversely affect Te Anau's tourism industry. Tourists are attracted to Te Anau by, amongst other matters, the views of the lake and the mountains of Fiordland National Park, in the distance.
Social Benefits	Some people may be able to build or purchase apartments/offices in buildings and structures higher than 12 metres that have desirable views due to the building's increased height.
Social Costs	Lakeside buildings and structures higher than 12 metres may obstruct views of the lake from areas located further away from the lake which may reduce the desirability to live and work in Te Anau. The openness of the lakeside is a feature of the town which people value, as shown by the responses to the discussion document. Buildings and structures higher than 12 metres will reduce the openness of the lakeside.
Net Social and Economic Cost	Negative - The openness of the lakeside which is one of the desirable features of the town is reduced.
Efficiency = Net environmental benefits minus net social and economic costs.	Inefficient - The desired environmental outcome of retaining the amenity values of Te Anau township's lakeside by preventing resource consents to build higher than 12 metres from being obtained, will not be achieved.

Table 9 - Evaluation of Option 2

This option achieved the second lowest score (1.5) in Table 7 and does not achieve the desired environmental outcome of preventing resource consents to build higher than 12 metres from being obtained. Council had previously proposed to change the activity status for buildings that exceeded the 12 metre height limit to the non-complying activity status. However, following undertaking this Section 32 (Resource Management Act) analysis, it is now considered that a prohibited activity status is a more appropriate activity status than a non-complying activity status.

6.4 Prohibited for Lakeside Only

OPTION	3 - Prohibited for Lakeside Only
RMA purpose: promote the sustainable management of natural and physical resources	
Appropriateness: Is the option the most appropriate way to achieve the purpose of the RMA.	Appropriate - Section 6 (a) of the RMA states that “the preservation of the natural character of the coastal environment (including the coastal marine area) wetlands, and lakes and rivers, and their margins, and the protection of them from inappropriate subdivision, use and development, is a matter of national importance”. Buildings and structures higher than 12 metres built along the lakeside will adversely affect the natural character of the lake’s margin, by casting shadows on the lake and obstructing views of the lake. Making it impossible for buildings and structures higher than 12 metres to obtain resource consent will reduce the possibility of the natural character of the lake’s margin being adversely affected.
<p>The following current Southland District Amenity, Urban, Scenic and Rural Resource Area objectives will apply to Te Anau if Option 3 (Prohibited for Lakeside Only) is chosen, additionally the new Lakeside Protection Area objective will also apply:</p> <p><u>Objective AME.1</u></p> <p>To avoid or mitigate the adverse effects that activities have on the amenities of the District, and the quality of the environment particularly on neighbouring properties.</p> <p><u>Objective URB.1</u> - To manage the development of the urban area in order to:</p> <p>(a) provide a framework which enables people and communities to provide for their social, economic and cultural well-being, and their health and safety, while</p> <p>(b) maintaining and where possible enhancing the environmental quality of particular environments within the urban area, and</p> <p>(c) avoid, remedy or mitigate any adverse effects on the natural and physical resources of the Urban Resource Area.</p> <p><u>Objective URB.2</u> - To encourage urban consolidation to minimise the spatial extent of the effect of urban activities.</p> <p><u>Objective SRA.1</u> - To maintain the outstanding visual amenity provided by these areas.</p> <p><u>Objective RU.4</u> - To maintain where practicable and efficient, the amenity values of the rural environment.</p> <p><u>Objective LPA.1</u> - To maintain the outstanding visual amenity provided by Te Anau township’s lakeside.</p>	
Effectiveness of the option achieving the relevant objectives in Southland District Plan (listed above).	Effective: - This option has the potential to reduce the adverse effects on the environmental quality of the urban environment, by making it impossible for a building higher than 12 metres along the lakeside to obtain resource consent.
Environmental Benefits	Buildings and structures higher than 12 metres will not be able to gain resource consent and thus will not be able to adversely affect the outstanding visual amenity provided by Te Anau township’s lakeside.
Environmental Costs	There is a lesser prospect of a variety of building heights along the lakeside.
Net Environmental Benefit	Positive - Greater chance that the amenity values of the lakeside environment will not be compromised.

Economic Benefits	<p>The likelihood that property values and development in areas of Te Anau located further away from the lake will be adversely affected by buildings and structures higher than 12 metres along the lakeside, will be reduced.</p> <p>Tourists are attracted to Te Anau by, amongst other matters, the views of the lake and the mountains of Fiordland National Park, in the distance. Preventing buildings and structures higher than 12 metres from obtaining resource consent will retain this attraction.</p>
Economic Costs	Could prevent hotels and other high-rise commercial and residential development from being developed along Te Anau's lakeside, because they cannot gain desirable views from heights greater than 12 metres.
Social Benefits	The openness of the lakeside is a feature of the town which people value, as shown by the responses to the discussion document. Buildings and structures higher than 12 metres will reduce the openness of the lakeside. Reducing the chance of these buildings and structures being constructed may retain the openness of the lakeside.
Social Costs	People will not be able build or purchase apartments/ offices in buildings and structures higher than 12 metres that have desirable views due to the building's increased height.
Net Social and Economic Cost	Positive - The openness of the lakeside which is one of the desirable features of the town is retained.
Efficiency = Net environmental benefits minus net social and economic costs.	Efficient - The desired environmental outcome of retaining the amenity values of Te Anau township's lakeside by preventing resource consents to build higher than 12 metres from being obtained, will be achieved.

Table 10 - Evaluation of Option 3

This option achieved the highest score (2.5) in Table 7 and does achieve the desired environmental outcome of preventing resource consents to build higher than 12 metres being obtained.

6.5 Prohibited Te Anau wide

OPTION	4 - Prohibited Te Anau wide
RMA purpose: promote the sustainable management of natural and physical resources	
<p>Appropriateness: Is the option the most appropriate way to achieve the purpose of the RMA.</p>	<p>Inappropriate - Section 6 (a) of the RMA states that “the preservation of the natural character of the coastal environment (including the coastal marine area) wetlands, and lakes and rivers, and their margins, and the protection of them from inappropriate subdivision, use and development, is a matter of national importance”. Buildings and structures higher than 12 metres built along the lakeside will adversely affect the natural character of the lake’s margin, by casting shadows on the lake and obstructing views of the lake. However, making it impossible for buildings and structures higher than 12 metres to gain resource consent anywhere in Te Anau may restrict development in some areas that are not close to the lake and thus will be ‘overkill’, because these areas do not require the same level of protection under Section 6 (a) of the RMA.</p>
<p>The following current Southland District Amenity, Urban, Scenic and Rural Resource Area objectives will still be applicable if Option 4 (Prohibited Te Anau wide) is chosen, additionally the new Lakeside Protection Area objective will also apply:</p> <p><u>Objective AME.1</u></p> <p>To avoid or mitigate the adverse effects that activities have on the amenities of the District, and the quality of the environment particularly on neighbouring properties.</p> <p><u>Objective URB.1</u> - To manage the development of the urban area in order to:</p> <p>(a) provide a framework which enables people and communities to provide for their social, economic and cultural well-being, and their health and safety, while</p> <p>(b) maintaining and where possible enhancing the environmental quality of particular environments within the urban area, and</p> <p>(c) avoid, remedy or mitigate any adverse effects on the natural and physical resources of the Urban Resource Area.</p> <p><u>Objective URB.2</u> - To encourage urban consolidation to minimise the spatial extent of the effect of urban activities.</p> <p><u>Objective SRA.1</u> - To maintain the outstanding visual amenity provided by these areas.</p> <p><u>Objective RU.4</u> - To maintain where practicable and efficient, the amenity values of the rural environment.</p> <p><u>Objective LPA.1</u> - To maintain the outstanding visual amenity provided by Te Anau township’s lakeside.</p>	
<p>Effectiveness of the option achieving the relevant objectives in Southland District Plan (listed above).</p>	<p>Effective:</p> <ul style="list-style-type: none"> - This option has the potential to reduce the adverse effects on the environmental quality of the urban environment, by making it impossible for a building higher than 12 metres to obtain resource consent.
<p>Environmental Benefits</p>	<p>Buildings and structures higher than 12 metres will not be able to gain resource consent and thus will not be able to adversely affect the outstanding visual amenity provided by Te Anau township’s lakeside.</p>
<p>Environmental Costs</p>	<p>There is a lesser prospect of a variety of building heights along the lakeside.</p>

Net Environmental Benefit	Positive - Greater chance that the amenity values of the urban environment will not be compromised.
Economic Benefits	Tourists are attracted to Te Anau by, amongst other matters, the views of the lake and the mountains of Fiordland National Park, in the distance. Preventing buildings and structures higher than 12 metres from obtaining resource consent will retain this attraction.
Economic Costs	Could prevent hotels and other high-rise commercial and residential development from being developed in Te Anau, because they cannot gain desirable views from heights greater than 12 metres.
Social Benefits	The openness of the lakeside is a feature of the town which people value, as shown by the responses to the discussion document. Buildings and structures higher than 12 metres will reduce the openness of the lakeside. Prohibiting these buildings and structures from being constructed may retain the openness of the lakeside.
Social Costs	Some people will not be able build or purchase apartments/offices in buildings and structures higher than 12 metres that have desirable views due to the building's increased height.
Net Social and Economic Cost	Positive - The openness of the lakeside which is one of the desirable features of the town is retained.
Efficiency = Net environmental benefits minus net social and economic costs.	Efficient - The desired environmental outcome of retaining the amenity values of Te Anau township's lakeside by preventing resource consents to build higher than 12 metres from being obtained, will be achieved.

Table 11 - Evaluation of Option 4

This option achieved the second highest score (2) in Table 7 and does achieve the desired environmental outcome of preventing resource consents to build higher than 12 metres being obtained. However, it will restrict development in some areas that are not close to the lake and consequently could be seen to be 'overkill', because these areas do not require the same level of protection in terms of Section 6 (a) of the RMA.

6.6 Conclusion of Analysis

Table 7 and Table 10 shows that imposing a Lakeside Protection Area and altering the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in that area is the option that best achieves the desired environmental outcome, which best addresses the issues outlined in this report. As mentioned earlier, case law states that, when imposing a prohibited activity status, a local authority needs to rationally conclude that prohibited activity status is the most appropriate status. The analysis in this section shows that prohibited activity status is the most appropriate status.

Discretionary activity status is not appropriate because this will retain the status quo, where there is a high possibility that consents would be sought for buildings over 12 metres in height. Moreover, this activity status does not adequately reflect the stated strong desire by the bulk of the Te Anau community to date, as articulated by the Community Board and in feedback received on the discussion document, to exclude structures over 12 metres in height in close proximity to the Lake.

Non-complying activity status is not appropriate because it implies that there could be occasions where buildings and structures higher than 12 metres will not be contrary to the objectives and policies of the District Plan (including the proposed new Lakeside Protection Area objectives and policies). However, this is not the case; any buildings and structures over 12 metres in height will generally be contrary to the objectives and policies of the District Plan, as these buildings and structures have the potential to obstruct views, cast shadows on the lake and its margin, and adversely affect the openness of the lakeside.

Consequently, those buildings and structures identified as non-complying activities will face considerable resource consent processing and legal challenges, but not necessarily insurmountable challenges if they seek to pass the Section 104D “non-complying activity test” and as a result achieve resource consent to breach the height limit. Consequently, a non-complying activity status will in essence act like a prohibited activity status, by making it very difficult for these buildings and structures to obtain the necessary resource consent. However, a non-complying activity status will be more confusing than a prohibited activity status because it has the potential to mislead the public into thinking that some buildings and structures above 12 metres along Te Anau township’s lakeside are possible, whereas in reality they are most likely inappropriate, in most locations along the township’s lakeside.

Three of the activity statuses available under the Resource Management Act 1991 have not been mentioned in the previous analysis in this section, however, they also are not as appropriate as the prohibited activity status. These activity statuses are permitted, controlled, and restricted discretionary. Activities with a permitted activity status can proceed without need for a resource consent and therefore expressly permitted under the district plan. Council does not have the ability to decline resource consents for activities with a controlled activity status. The grounds on which Council can decline a resource consent for a restricted discretionary activity are more limited than under a discretionary activity status. Therefore, under these activity statuses the possibility that a building and/or structure higher than 12 metres along Te Anau township’s lakeside will be built and, hence, generate adverse effects which will be even higher than under the current discretionary activity status, let alone under a “prohibited activity” status.

Prohibited activity status is the most appropriate activity status as Council cannot receive nor grant resource consents for prohibited activities. Prohibited activity status is the only activity status that can absolutely ensure that there will be no buildings and structures over 12 metres in height on the lakefront and associated adverse environment effects. It is considered that the outstanding amenity values of Te Anau township's lakeside is such an important part of the character of Te Anau that nothing short of prohibited activity is appropriate.

7. AMENDMENTS TO THE DISTRICT PLAN

Add the following new Section to the District Plan

4.8 LAKESIDE PROTECTION AREA

4.8.1 - OVERVIEW

Many people are drawn to Te Anau because of the scenic views of the mountains of the Fiordland National Park across the lake from the town. Southland District Council considers this area to be an outstanding landscape and significant natural resource of the District in terms of Section 6 of the Act. However if tall buildings and structures are built along the Te Anau township's lakeside then they have the potential to obstruct these views and adversely affect the high scenic amenity values of the area.

Te Anau, unlike Queenstown, is located on mostly flat terrain, so buildings over 12 metres in height will obstruct light and views from many parts of the lakefront and environs much more significantly than occurs in Queenstown.

Furthermore, the boundary of the Fiordland National Park at Te Anau is at the lake edge. While low level development is acceptable, it is inappropriate that provision be made for 'high rise' development (i.e. buildings and structures over 12 metres in height) on the lake's waterfront.

Currently there are no buildings or structures along the Te Anau township's lakeside that are higher than 12 metres. This is a rare and marketable feature which sets Te Anau apart from many other lakeside towns and cities in New Zealand. The Lakeside Protection Area has been created with the purpose of ensuring that this feature remains and ensuring there will continue to be no development above 12 metres along the lakeside at Te Anau. The Lakeside Protection Area achieves this by imposing an additional set of provisions, relating to the maximum building height, on properties along the Te Anau township's lakeside. These provisions make it a prohibited activity for buildings and structures to exceed the 12 metre maximum building height limit. Thus it is impossible to obtain resource consent to exceed this height limit. Prohibited activity status is considered to be the most appropriate activity status in this instance, as it is the only activity status that can absolutely ensure that there will be no buildings and structures over 12 metres in height on the lakefront and associated adverse environment effects.

The Lakeside Protection Area (shown on the district planning maps 59 - 61) contains land situated within approximately 100 metres of the Te Anau lakeside, between the Upukerora River mouth to the Waiau River control gates.

The Lakeside Protection Area overlays the existing zoning structure. Therefore, the provisions of the particular existing zone (i.e. Urban, Scenic, Plains Rural and Transitional Resource Areas) also apply for land contained within the Lakeside Protection Area. However, this land will also have the additional Lakeside Protection Area provisions applying to it as well.

4.8.2 - THE ISSUES

The following is seen as the significant Resource Management Issue specific to the Lakeside Protection Area:

- **Buildings and structures higher than 12 metres will adversely affect the outstanding amenity values of Te Anau township's lakeside.**

Reason

Buildings and structures constructed along the lakeside that are higher than 12 metres will obstruct the view of the lake and the mountains of Fiordland National Park (across the lake from Te Anau) from areas located further away from the lakeside (i.e. Te Anau's town centre). Fiordland National Park has been identified as a part of a World Heritage Area (Te Wāhipounamu - South West New Zealand). As the boundary of the park at Te Anau is at the lake edge, thus buildings and structures above 12 metres will cast shadows on this World Heritage Area (being Lake Te Anau), and the surrounding Te Anau foreshore. Buildings and structures will also adversely affect the openness of Te Anau township's lakeside.

4.8.3 - OBJECTIVES AND POLICIES

Objective LPA.1

To maintain the outstanding visual amenity provided by the Te Anau township's lakeside.

Policy LPA.1

To avoid buildings and structures significantly obstructing the view of the lake and thus the mountains of Fiordland National Park (across the lake from Te Anau) from areas located further away from the lakeside.

Explanation

Currently most parts of the Te Anau town centre and the residential areas of Te Anau have a view of mountains of Fiordland National Park (across the lake from Te Anau) and some of these areas have a view of the lake. If buildings and structures along the lakeside are built higher than 12 metres then these views could be significantly obstructed. Te Anau, unlike Queenstown, is located on mostly flat terrain, so buildings over 12 metres in height will obstruct light and views from many parts of the lakefront and environs much more significantly than occurs in Queenstown. These scenic views are considered such an important part of Te Anau that preventing them from being obstructed needs to be avoided.

Policy LPA.2

To avoid buildings and structures casting shadows on Lake Te Anau and the Te Anau foreshore.

Explanation

Shadows cast, by buildings and structures, on Lake Te Anau, and the Te Anau foreshore, will adversely affect the outstanding amenity values of Te Anau township's lakeside. Shadows on water surfaces can decrease the water temperature and restrict the growth of organisms living in the water. Lake Te Anau is a part of a World Heritage Area (Te Wāhipounamu - South West New Zealand) and the presentation of the natural character of lakes and their margins is a matter of national importance under the Resource Management Act 1991. So avoiding shadows being cast on the lake from buildings and structures is considered important.

Policy LPA.3

To retain the openness of Te Anau township's lakeside.

Explanation

Currently there are no buildings and structures or structures along the Te Anau township's lakeside that are higher than 12 metres. This gives the

lakeside an open feel. Buildings and structures higher than 12 metres will cause the lakeside to feel 'closed in' and limit sunlight and views.

4.8.4 - METHODS AND RULES**Rule LPA.1 - Buildings and structures**

All buildings and structures to be erected in the Lakeside Protection Area higher than 12 metres are **prohibited activities**.

Reason

Prohibited activity status for buildings and structures over 12 metres in the Lakeside Protection Area will make it impossible for these buildings and structures to obtain resource consent. This is necessary as all of these buildings and structures will obstruct views, cast shadows on the lake and its margin, and adversely affect the openness of the lakeside. Thus prohibited status is the most appropriate activity status for this activity as it is the only activity status that can absolutely ensure that there will be no buildings and structures over 12 metres in height and their associated adverse environment effects, on the lakefront. It is considered that the outstanding amenity values of Te Anau township's lakeside is such an important part of the character of Te Anau that nothing short of prohibited activity is appropriate.

4.8.5 - ANTICIPATED ENVIRONMENTAL RESULTS

- (a) Preservation of the outstanding visual amenity provided by these areas.
- (b) Buildings and structures do not cast shadows on the lake.
- (c) The lakeside retains its open feel.
- (d) The views of the lake and thus the mountains of Fiordland National Park (across the lake from Te Anau) from areas located some distance from the lakeside, are retained.
- (e) There are no buildings and structures built higher than 12 metres along Te Anau township's lakeside."

Make the following amendments to the District Plan in the following sections:

Rule SRA.1 - Buildings and structures

Buildings and structures to be erected in these areas are controlled activities in respect of:

- The effect that a structure or building may have on the landscape, any skyline or view
- The extent to which screening or landscaping is required
- The extent to which earthworks or vegetation clearance is required
- The types of materials used in construction.

provided that they

- (a) do not exceed 6 metres in height
- (b) conform with the relevant rules and performance standards of Section 4.1.4 (unless otherwise provided for in this Section), and
- (c) that dwellings/residential units are restricted to one unit per property in separate ownership.

Any proposal to exceed these limitations shall be considered as a discretionary activity and shall be assessed in terms of its impact on the visual amenity of this area including the potential cumulative effect. EXCEPT THAT: Buildings and structures in the Lakeside Protection Area (shown on the district planning maps 59 - 61) that are proposed to be higher than 12 metres are prohibited activities in accordance with Rule LPA.1.

Reason

The effects of buildings on the visual amenity of an area can generally be mitigated by appropriate conditions relating to design, location and screening. Restricting Dwellings to one per property also has the effect of avoiding intensive urban development while it can also significantly effect visual amenity. Rule URB.5(2) buildings over 12 metres refer to LPA.1.

Rule URB.5 - Residential Activity Performance Standards

2. Height

- (a) Maximum Heights -

Accessory buildings - 3.5 metres
All other buildings - 9.0 metres

EXCEPT THAT: Buildings and structures in the Lakeside Protection Area (shown on the district planning maps 59 -61) that are proposed to be higher than 12 metres are prohibited activities in accordance with Rule LPA.1.

Rule URB.6 - Non-residential Activity Performance Standards

1. Bulk and Location

- (d) No building shall exceed 12 metres in height unless resource consent is received to a discretionary activity limited to this issue provided that where the activity adjoins a residential activity the height provisions of Rule URB.5 (2) apply. EXCEPT THAT: Buildings and structures in the Lakeside Protection Area (shown on the district planning maps 59 - 61) that are proposed to be higher than 12 metres are prohibited activities in accordance with Rule LPA.1.

Reason

Yards adjoining residential areas will reduce the effect of shading on adjoining properties.

Rule PRA.9 - Site Requirement

- (g) Where the site of a building, structure (excluding a roadside stall) or a stockpile of materials does not adjoin the site of any other building or structure, the minimum standards shall apply.

- (i) Height - maximum of 12 metres.

EXCEPT THAT: Buildings and structures in the Lakeside Protection Area (shown on the district planning maps 59 - 61) that are proposed to be higher than 12 metres are prohibited activities in accordance with Rule LPA.1.

Rule TRA.4 - Performance Standards for Riverton and Te Anau Transitional Areas

(i) Erection of Structures

• **Skyline effects**

No structure may break any skyline when viewed from within the adjoining Urban Resource Area. EXCEPT THAT: Buildings and structures in the Lakeside Protection Area (shown on the district planning maps 59 - 61) that are proposed to be higher than 12 metres are prohibited activities in accordance with Rule LPA.1.

The proposed amended District Plan maps that incorporate the Lakeside Protection Area are shown in Appendix 5.

8. RISK OF ACTING / NOT ACTING

The risk of not acting is that buildings and structures higher than 12 metres could obtain resource consent and then the natural character and amenity values of the lake margin at Te Anau, the lake surface and the Fiordland National Park mountains beyond will be adversely affected. The risks of acting are not considered as bad as not acting, because if people still desire development higher than 12 metres then there is still land available outside of the Lakeside Protection Area where resource consents will still be able to be applied for development over 12 metres. It is considered that the natural character of the lake's margin and the outstanding amenity values of Te Anau township's lakeside is a significant contributor to the character of Te Anau that the risks of not acting outweigh the risks of acting.

9. FINAL COMMENTS / CONCLUSION

The Southland District Council has conducted an evaluation of alternatives in terms of Section 32 of the Resource Management Act 1991. This report has considered the framework and legislation regarding district Plan Changes. Four options have been evaluated in accordance with Section 32 provisions.

Consequently, this evaluation has concluded that creating a specifically-identified Lakeside Protection Area and altering the activity status to prohibited for buildings and structures that exceed the 12 metre height limit in that area is the most appropriate option for managing the development pressure currently being exerted on the Te Anau township's lakeside. Prohibited activity status for buildings and structures over 12 metres in the Lakeside Protection Area will make it impossible for these buildings and structures to obtain resource consent. This is necessary as all of these buildings and structures will obstruct views, cast shadows on the lake and its margin, and adversely affect the openness of the lakeside. Thus prohibited status is the most appropriate activity status for this activity as it is the only activity status that can absolutely ensure that there will be no buildings and structures over 12 metres in height, and their associated adverse environment effects, on the lakefront. It is considered that the outstanding amenity values of Te Anau township's lakeside is such an important part of the character of Te Anau that nothing short of prohibited activity is appropriate.

These provisions are proposed to be introduced via the Te Anau Lakeside Protection Area Plan Change to the District Plan.

This Plan Change is considered to be efficient, effective, appropriate, and will impose minimum costs on the community whilst achieving considerable benefits in terms of maintaining the existing lakeside environment in a manner consistent with the purpose and principles of the Act and the relevant objectives and policies of the District Plan. This report has been prepared to fulfil the requirements set out in Section 32.

My opinion, as a planner, is that changing the activity status for buildings and structures exceeding the 12 metres height limit for the Te Anau township's lakeside from discretionary to prohibited constitutes an efficient use and development of natural and physical resources and is consistent with the principles of the Act. My reasons for this position are:

- It is considered that based on current demand for development in Te Anau there is likely to be proposals for buildings and structures along the Te Anau township's lakeside higher than 12 metres in height, in the future. There are other lakesides in New Zealand that have buildings and structures higher than 12 metres, which may significantly limit the view of the lake and surroundings from buildings and structures located further from the lake.
- Buildings and structures higher than 12 metres along the Te Anau township's lakeside are not favoured by the community, as shown by the responses on the Council's Discussion Document on possible Te Anau Plan Changes, released in June 2008.
- There is a concern that it is currently relatively easy to get resource consent granted for a building or structure that exceeds the 12 metre height limit.
- Prohibited activity status is the most appropriate activity status for this activity as it is only activity status that can absolutely ensure that there will be no buildings and structures over 12 metres in height on the lakefront.

10. **APPENDICES**

Appendix 1 - Photos of the Te Anau Lakeside

Appendix 2 - Current Southland District Plan Zoning Maps for Te Anau

Appendix 3 - Relevant current Southland District Plan Rules

Appendix 4 - Photos of the Queenstown Lakeside

Appendix 5 - Maps showing the proposed Lakeside Protection Area

Appendix 6 - Relevant sections of the Te Anau Basin Growth Planning Landscape Capacity Study Report that covers the Lakeside.