

# S35 Monitoring Report

## Penrith Park Special Zone

2025

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## Executive Summary

This report assesses the efficiency and effectiveness of the objectives, policies and rules of the Penrith Park Special Zone in the Queenstown Lakes Operative District Plan 2007 in accordance with s35(2)(b) of the Resource Management Act 1991. The findings of this report are intended to inform future amendments to the Penrith Park Special Zone provisions as part of the review of the Operative District Plan (ODP) Special Zones. The findings of this report are based on available building consent and resource consents that have been lodged within the Zone to date.

The building consent data for the Zone included building consents processed between 1996 and 2022. A total of 92 building consents were received. These were for new residential buildings, alterations to residential buildings and ancillary/outbuildings.

The resource consent data included resource consents issued between 2002 and August 2024. There has been a total of 130 resource consents issued within the Zone with a total of twenty-five controlled, sixteen restricted discretionary, fifty non-complying and thirty-nine discretionary resource consents issued within this time. There have been 180 different breaches recorded (i.e., breaches to activity rules, site or zone standards). The most common breaches were for earthworks and setback breaches.

The data for costs and processing time of resource consents was based on a separate data source and is dated between 1996 and 2024. Based on the available data the average consenting cost was \$4,529.95, with most but not all consents being processed within the 20-working day timeframe.

The Zone has developed with a clear residential character as anticipated by the provisions of the Zone. There is no longer a rural setting that the Zone sits within as was the case when the Zone was introduced to the 1995 Proposed District Plan. Urban development has occurred around the Zone.

Overall, it was found that the objectives and policies of the Zone have been effective and resulted in outcomes anticipated by the Objectives.

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## Introduction - Requirements of the Resource Management Act (1991)

This report monitors the effectiveness and efficiency of the Penrith Park Special Zone (the Zone) in the Operative District Plan (ODP). The focus of this report is to determine whether the ODP provisions for the Zone are efficient and effective, whether the objectives and policies are being achieved, and help identify any resource management issues that have emerged. The findings of this report will help to inform the review of the Penrith Park Special Zone, and the wider review of the special zones of the ODP. This report fulfils the requirements of section 35 (2)(b) in relation to the Penrith Park Special Zone.

The RMA requires that the effectiveness and efficiency of a plan are assessed, with the findings then used to inform the process of reviewing a plan. This is focused on the efficiency and effectiveness of the plans objectives, policies, or methods (i.e., rules).

District Plan Effectiveness monitoring requires the Council to compare what is occurring under the District Plan provisions with the intentions of the Plan (as expressed through its objectives). This involves first identifying what the plan is trying to achieve for the zone, and to then track how well it is achieving these objectives. Once an understanding of how well the objectives are being met, the next consideration is to identify to what extent this can be attributed to the District Plan policies and rules and to what extent 'outside' influences may be affecting the ability of the Plan to achieve its objectives.

Plan Efficiency monitoring refers to comparing the costs of administering the Plans provisions incurred by applicants, the Council and other parties compared to the outcomes or benefits achieved. It is noted here that determining what level of costs are acceptable is generally a subjective judgement and, as such, it is difficult to reach definitive conclusions. It is also considered that if development can be undertaken with no resource consent fees then that improves the efficiency of the Plan.

## Requirements of the Resource Management Act (1991)

Section 35 of the Resource Management Act 1991 (RMA) states that:

(2) Every local authority shall monitor –

...

(b) the efficiency and effectiveness of policies, rules or other methods in its policy statement or plan;

...

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

## What is the Special Zone?

The Penrith Park Special Zone was established to provide for residential development within a rural setting, in proximity to the Wānaka town centre, whilst protecting stands of kanuka within the zone along with views



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from the Lake Wānaka shore. The provisions seek to achieve this through restrictions on vegetation clearance, design controls of buildings and to reduce the visibility of built form when viewed from the lakeside. Residential development is provided for with low site coverage, large setbacks and design controls including low reflectivity requirements.

## How was the Zone created?

Under the 1995 Proposed District the area was originally zoned Rural Uplands and Rural Residential. The area was also subject to Private Plan Change (PPC) 89 which was lodged in 1992. A Consent Order was issued by the Planning Tribunal for PPC89 in July 1996 that rezoned parts of Lots 1 and 2 DP 21647 to Penrith Park 1 and 2 Zone. An inconsistency was noted between the Consent Order and the then Proposed District Plan, which specified minimum site sizes of 20 hectares and 0.4 hectares respectively, whereas the Consent Order provided for rural residential subdivision to 1000m<sup>2</sup> in Penrith Park 2, and 3000m<sup>2</sup> in Penrith Park 1. The Hearings Committee therefore determined that the provisions of Private Plan Change 89 (as confirmed through the Consent Order) should be inserted into the then Proposed District Plan (1995) by way of a Special Zone. This then was made Operative as the Penrith Park Special Zone in 2007.

There have been no substantive changes to the Penrith Park Special Zone provisions since they were made operative in 2007. Changes have related to more generalised provisions<sup>1</sup>.

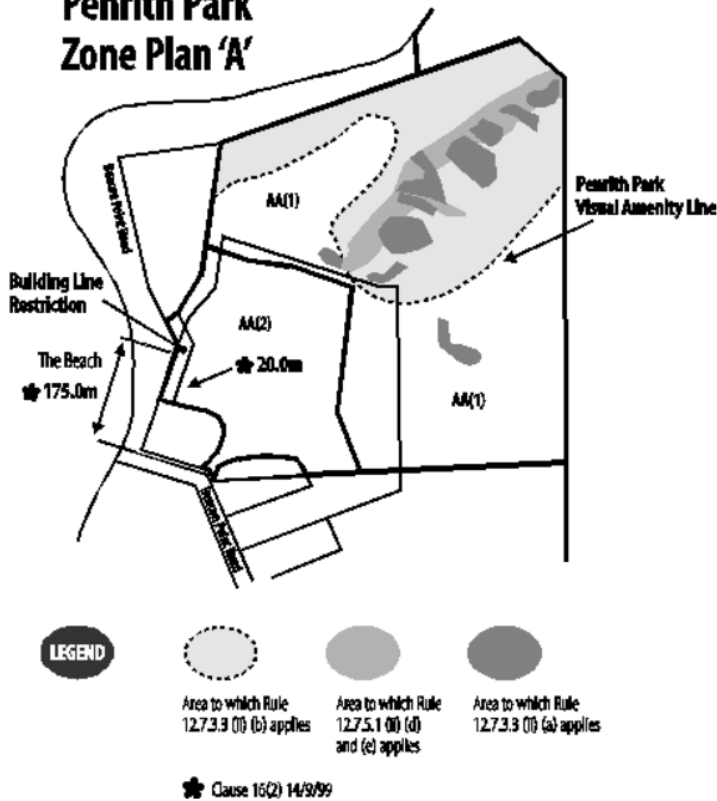
## What is the Zone Aiming to Achieve?

The Zone is set out with two activity areas: Activity Area 1 [AA(1)] or Activity Area 2 [AA(2)]. AA(2) is the south-western quarter of the zone, on the western side of Penrith Park drive and the eastern lakes edge of Roys Bay. The remainder of the zone is AA(1).

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<sup>1</sup> I.e. plantation forestry (as required by NPS-PF)

# Penrith Park Zone Plan 'A'



**Figure 1:** Map of Penrith Park Zone Plan 'A' as contained in Chapter 12 Special Zones: Penrith Park Rules 12.7 of the Operative District Plan 2007

The plan also identifies two areas of vegetation (Penrith Park Vegetation Area A and B) that are subject to specific rules restricting clearance of vegetation. A visual amenity area is also indicated within AA(1). Along part of the Beacon Point Lake front is a Building Line Restriction within AA(2).



- Penrith Park Zone
- Penrith Park Vegetation Area A**
- Penrith Park Vegetation Area A
- Penrith Park Vegetation Area B**
- Penrith Park Vegetation Area B
- Penrith Park Visual Amenity Area**
- Penrith Park Visual Amenity Area

**Figure 2:** Operative District Plan 2007 map showing Penrith Park Zone and overlay areas.

## The “State” of the Special Zone

To determine the state of the Penrith Park Special Zone a combination of data sources and methods have been used. This has helped to provide a clear overview of development activity and determine the effectiveness and efficiency of the Zone provisions.

This has included:

- A desktop analysis of available resource consent and building consent data;
- Physical monitoring of the Zone via site visits; and
- Discussions with internal teams at Council.

The Penrith Park Special Zone is a developed residential area in Wānaka with views across Lake Wānaka, towards the southern alps.

Most development in the area occurred in the early 2000’s. There are only a few remaining unbuilt lots within the Zone, as visible in Figure 3 below. The area has a clear residential character, made up of five residential streets – the lower part of Minaret Ridge, Baker Grove, Penrith Park Drive, Briar Bank Drive and Mount Gold Place. Some of the homes are substantial in size and include extensive mature landscaping.



**Figure 3:** Aerial of Penrith Parks Special Zone with surrounding PDP 2015 zones showing.

Stands of vegetation, mostly kanuka, are still present and visible, especially along the north and north-eastern areas of the Zone. When the zone was first proposed during the 1990's it was part of a rural setting with limited residential development in proximity.

Over time residential development has occurred within and surrounding the zone and is now part of an established residential area along the north-eastern part of Roys Bay. This development is contained within the PDP Urban Growth Boundary. The Zone is bordered to the east by Lower Density Suburban Residential Zone (2015 PDP) development of Infinity Drive. To the south the zone is bordered by the much lower density Large Lot Residential A Zone (2015 PDP), along Beacon Point Road where the main access to Penrith Park is located.

A stand-alone section sits to the north-west corner of the Zone. This property has split zoning with the part adjoining the Penrith Park zone being Large Lot Residential A under the 2015 PDP.

A Council Reserve is on the northern part of the eastern boundary. This is zoned Open Space under the ODP. This is the only adjacent land that is not already part of the 2015 PDP. Parts of the lakeside Open Space Zone (2015 PDP) sit to the north and west of the Zone. The area to the north contains further kanuka stands. The area to the west is a wetland area where native vegetation has been established. The unformed part of Beacon Point Road sits to the West of the Zone, where it provides lakeside access. These areas are part of the popular lakeside track along Roy's Bay that then connects with the Outlet track of Mata-Au (Clutha River).

There are three walkways that enable walking access through the Zone. These are zoned Informal Recreation under the 2015 PDP providing access from the lakefront to Penrith Park Drive, from Penrith Park Drive to Briar Bank Drive, and Penrith Park Drive to Mount Gold Place.

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The Zone is part of Wānaka urban reticulated water and wastewater services. Comment from infrastructure is that the area is currently sized for low density development<sup>2</sup>.

## Resource Consents

The resource consent data for the Zone includes resource consents issued between 2002 and 2022. This includes resource consents that have been issued but does not include resource consents that have been withdrawn or declined. There has been a total of 130 resource consents issued within the Zone, with approximately 180 breaches (to activity rules, site or zone standards) recorded. An assessment of these activities, including the relevant breaches is outlined below.

### Resource Consent status

Non-Complying	50
Discretionary	39
Restricted Discretionary	16
Controlled	25
<b>Total</b>	<b>130</b>

There are a high number of non-complying activity resource consents for the Zone. The status was predominantly due to a breach to one or more zone standard. 39 of the 50 non-complying consents included setback breaches. In many other zones setback breaches, particularly internal setback breaches are usually a lesser resource consent standard (i.e. controlled, or restricted discretionary).

Majority of the discretionary resource consents, 21 of 39, included a s127 application to amend conditions of a prior resource consent.

### Types of activities seeking resource consents

The zone is residential in character and the types of activity that resource consent was obtained for is consistent with this character, being new residential dwellings, accessory buildings, and alterations to these buildings.

The main activity type shows consistency with the intent of the Zone.

Residential Dwelling	70
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<sup>2</sup> Infrastructure Memo- Further Intensification of Special Zones, Richard Powell 11 October 2024



Accessory Building	28
Residential dwelling alterations	16
Subdivision (incl boundary adjustments)	8
Additional residential building/flat	2
Stand-alone earthworks	2
Visitor accommodation	2
Hazardous substances	1
TOTAL	129

### **Main type of breaches for resource consents**

The following looks more specifically at the types of breaches that consent was granted for.

#### **Earthworks breaches**

Every building required earthworks to be considered as part of a controlled activity resource consent. Many [56] of the resource consents include breaches of the earthwork's provisions as a site standard (restricted discretionary activity).

The Zone is located on a slope where higher volumes of earthworks and retaining requirements are anticipated to create appropriate building platforms. A detailed analysis has not been undertaken as to the exact extent of breaches to earthworks provisions as part of this report.

The Zone retains a sense of natural landforms with some areas of more structured landforms as part of built areas. The more structured areas are within the smaller lots of AA(2). Although some retaining and land forming is noticeable within the AA(1) area the high level of vegetation cover and larger scale of these lots complete sentence??

#### **Setback breaches**

There was a total of 39 resource consents that included setback breaches. The setback requirements are set as a Zone standard<sup>3</sup> and therefore consent was required as a non-complying activity for any setback breach. This equates to 78% of the non-complying activity consents including a setback breach. Having a setback breach as non-complying is a higher standard than is typical for most residential zones.

#### **Vegetation clearance and land disturbance breaches**

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<sup>3</sup> Zone Standard 12.5.5.2.iv.a-c

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There were 15 resource consents that obtained resource consent for vegetation or land disturbance in AA(1).

These consents predominantly addressed land disturbance, being the preparation of building platforms for residential dwellings and accessory buildings.

A discretionary activity resource consent is required for removal of vegetation or disturbance of land in identified areas within AA(1)<sup>4</sup> (see Figure 1 above). It is noted that the rule does not specify any type of vegetation. The two assessment matters relate to native vegetation<sup>5</sup> and land disturbance<sup>6</sup>. In terms of native vegetation, the focus is on maintaining at least the current level of existing native vegetation, and visual amenity when viewed from the lake shore. In relation to land disturbance the focus is on visual amenity of the site and stability of the escarpment and how this may impact survival of remaining vegetation.

Where vegetation clearance was undertaken the proposals generally included additional native plantings as part of the landscape plans for the development where the overall vegetation cover of these sites was equal or greater than prior to the development. The predominance of planting is noticeable especially within the AA(1) area.

### **Visibility of buildings from the lake shore breaches**

There were 15 resource consents that obtained resource consent that buildings that intruded the skyline<sup>7</sup> or were visible from within 50 metres of the shoreline of Lake Wānaka<sup>8</sup>.

In addition to the rules in the plan, there are consent notices registered on the titles of lots within the Zone requiring screening of built form when viewed from the lakeside. A Judicial Review decision confirmed that the requirement of the consent notices and site standards 12.7.5.1(ii)(d) were not exact equivalents.

Built form can be seen when walking along the lakefront walkway but is not dominant, with dense vegetation cover assisting to reduce visibility or prominence of built form.

Photo: View looking up to the Zone from lakefront, with AA(1) on the left.

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<sup>4</sup> Rule 12.7.3.3.ii

<sup>5</sup> Assessment Matter 12.7.6.iii

<sup>6</sup> Assessment Matter 12.7.6.iv

<sup>7</sup> Site Standard 12.7.5.1.ii.d

<sup>8</sup> Site Standard 12.7.5.1.ii.e



### **Height breaches**

There were 11 resource consents that approved height breaches<sup>9</sup>. The majority of these were for portions of a gable ridge or chimney to exceed the 7-metre height limit. Only 2 exceeded a height of 8 metres, one of which was subject to a Judicial Review – outlined below.

The sites where height breaches occurred were generally sloped. The buildings were of a similar scale as those surrounding and did not result in additional floors within those buildings. The zone has many large scale, two storey, and some partial 3 storey buildings.

The assessment matter 12.7.6.vi seeks that any height breach is considered in terms of range of residential activity that may contribute to housing affordability in the District. Given the large lot sizes, access to sought after views and general value of property within the Zone, it is likely that residential dwellings have not contributed to housing affordability within the District in any direct way.

### **Building Line Restriction**

The building line restriction (BLR) is located along the Zone boundary where it adjoins the Beach at Beacon Point. Two resource consents have enabled retaining walls to be located within the BLR. Although development has become more obvious within this area in more recent years, the lots within the Zone retain high vegetation cover and landscaping.

### **Visitor Accommodation**

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<sup>9</sup> Zone Standard 12.7.5.2.i

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Council records show that there is very limited visitor accommodation within the zone. At one point there were two registered holiday homes, however, one of these subsequently withdrew. The property where land use consent for visitor accommodation was granted no longer operates.

### **Subdivision**

The establishment of development within the Zone occurred primarily as comprehensive subdivisions undertaken by a single developer in stages<sup>10</sup>. The subdivision resulted in the titles having consent notices that specify controls for each lot relating to similar matters as the zone, including visibility of buildings and vegetation clearance.

An application to create smaller lots within a Stage 6 from the developer, mostly contained within the visual amenity area of the zone, was declined<sup>11</sup> in 2003.

Recent subdivision has been limited to a few sites off Baker Grove with the additional lots being accessed off Beacon Point Road. Boundary adjustments make up the remainder of the subdivision consents. No substantial changes to the typical area of the lots within the sites have occurred due to subdivision or subdivision boundary adjustments.

### **Servicing rules**

Due to the way comprehensive staged development occurred in the Zone, the Zone and Site standards within the Zone provisions that relate to services have had limited relevance. These relate to waste disposal requirements<sup>12</sup>, underground reticulation of services<sup>13</sup>, and refuse management<sup>14</sup>. Underground reticulated services were included as part of all stages of the subdivision development of the area. The area has long been serviced by Council's refuse collection. There are no records for consent being sought for any of these servicing matters.

### **Judicial Review – Frost et al and Queenstown Lakes District Council**

RM181381 was sought to construct a residential dwelling, undertake earthworks, landscaping, and vegetation removal. The proposal breached standards in terms of the building intruding the skyline, visibility within 50m of the shoreline, earthworks, removal and disturbance of vegetation, maximum height limit and a retaining wall within the 6m side boundary. Consent was also sought to cancel a consent notice that required screening to be in place and maintained such that a dwelling could not

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<sup>10</sup> RM980351 RM021122

<sup>11</sup> RM031138

<sup>12</sup> Site Standard 12.7.5.1.i (a)-(b)

<sup>13</sup> Site Standard 12.7.5.1.ii.c

<sup>14</sup> Zone Standard 12.7.5.2.vi

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be seen from 50m of the Lake Wānaka shoreline. The application was overall a non-complying activity and was processed on a non-notified basis.

The Judicial Review<sup>15</sup> was sought on whether the application should have been notified, whether assessment of height breach, and removal of the consent notice was appropriate. Only one point of the JR was upheld.

The Court upheld one point relating to an error in removing a consent notice from the title. The provisions of the plan allow for consent to be sought for a building to be visible from the shoreline. The condition of the consent notice set a more absolute requirement of not being visible. The Court found that the Consent Notice on the title was not an exact equivalent to site standards 12.7.5.1(ii)(d). The conclusion was for the consent notice to be reinstated on the title.

## Building Consents

The building consent activities occurring in the Penrith Park Special Zone have been compiled from Council’s TechOne programme. This includes building consents processed between 1996 and 2024 (not including amendments to existing buildings consents). This includes all building consents that have been issued, including those which have not yet received a Code of Compliance. Building consents that were withdrawn, lapsed or declined or otherwise have not been included in this analysis, neither were heating appliances.

The building consents are predominantly for new residential buildings, alterations to these, and accessory buildings (i.e. pergola or car ports).

Table 1: Building Consents processed within the Penrith Park Special Zone

Building Consent Type	Count	Percentage
New Residential Building	52	57%
Alteration to Building	25	27%
Ancillary and Outbuildings (i.e. pool fences, car ports, garage)	15	16%
<b>Total</b>	<b>92</b>	<b>100</b>

The building consents for the zone show the residential character of the area and are consistent with the residential development sought to be established in the Zone.

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<sup>15</sup> CIV-2021-425-0005 [2021] NZHC 1474



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## Average Cost & Processing time for Resource Consents

The data for costs and processing time of resource consents is sourced from TechOne and is dated between 2017 and 2022. This data was prepared to meet Councils reporting requirements to the Ministry for the Environment and is based on a different dataset than the resource consent data analysed above. There were 51 resource consents within this dataset that were issued in the Penrith Park Special Zone. While this data is not based on the total number of resources consents issued, it is intended to provide approximate costs and processing times of some resource consents issued within the Zone.

Based on the data available, the average consenting cost within the Zone was approximately:

- \$4,529.95. The highest cost recorded for a resource consent was \$7,353.70 and the lowest cost recorded was \$741.24.

The costs averages and range varied between activity statuses as follows:

- Controlled activity resource consents [8] ranged from \$829.33 to \$2,546.69 with an average cost of \$2,274.84.
- Restricted discretionary resource consents [5] ranged from \$1,434.00 to \$6,037.09 with an average cost of \$2,337.57.
- Discretionary resource consents [16] ranged from \$741.24 (change of condition) to \$5,199.73 with an average of \$2,392.07.
- Non-complying resource consents [20] range from \$882.48 to 7,353.70 with an average of \$2,347.01.

These show that costs varied within each activity type and that being non-complying did not automatically result in more complex or costly consent processes. The high prevalence of setback breaches in the non-complying status consents is likely a reason for this.

All the consents granted within the Zone since 2007 have been granted under delegated authority. No consents were notified or required a hearing.

Most of the resource consents were processed within statutory timeframes. However, 5 were processed over the statutory timeframes.

Every household in the zone has been required to pay for resource consent to establish a residential activity. It is noted that the value of the houses within this zone is high and therefore as a proportion of overall building cost may be on the lower side. However, for alterations, where the scale of

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buildings would have a lower value, the resource consent cost would likely be a greater proportion of overall costs and if not processed within statutory timeframes could have a time burden.

Of the consents within the data set 18 were for alterations or amendments to consented plans. The average cost of these consents was \$2,273.36. The lowest cost was \$741.24 and highest cost was \$5,199.73. They ranged from controlled activity to non-complying activity consents.

It is generally considered efficient for development appropriate to the zone to be enabled without the requirement of resource consent within a zone.

## Overview of Regulatory Complaints within the Zone

There are limited complaint records for the Zone. None of the records were directly related to Zone matters.

## How Effective are the Special Zone Objectives, Policies and Rules?

The following sets out the objectives and policies of the Zone:

### Objective 12.6.3

1. To enable the creation of low density residential development in a rural setting which is relatively close to Wanaka town centre.
2. To conserve the visual amenity of the locality to a significant degree.
3. To encourage a high standard of building design, appearance and landscape.
4. To avoid adverse effects of any development on the environment ensuring long term sustainable management of the area.

### Policies 12.6.3

1. To ensure visual amenity of the Wanaka area is protected by controlling the intensity and design of development.

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2. To ensure visual compatibility with the Wanaka amenity through assessment of design and construction materials.
  3. To provide for the establishment of low density visitor accommodation in a rural setting where, low density development can demonstrate compatibility with the zone objectives and where the effects on the environment will be similar to low density residential development.
  4. To ensure all buildings and accessory structures are sited on the property in an unobtrusive manner in harmony with the natural forms and features of the landscape.

A low-density residential development has been established within the zone that clearly sits as part of the Wānaka urban environment. As set out above, there is no longer a rural setting in the surrounding area. The development in the area has a strong low density residential character. The Zone no longer has a rural setting. The provisions relate to the Zone only and do not control the surrounding land use.

The granting of consents has created a density of built form anticipated by the provisions with very limited additional development consented. The area has a low-density character, with extensive landscaping a prominent part of the character of the area.

The lakeside area of Wānaka is still valued and the area retains an elevated level of amenity. Some built form is visible but within the context of the low density, highly landscaped character and therefore does not overtly detract from the natural amenity that the lakeside and views across Lake Wānaka provide.

The objective has been effective in that the character of development within the zone has been achieved. Development in the area has been predominantly residential with very limited other types of development. Urban servicing is available throughout the zone.

All built forms in the Zone require resource consent. This has likely created a high adherence to design quality, low reflectivity finishes, and extensive landscaping as sought by the provisions. This may also be influenced by the high value of property within this area, given the size of the lots, proximity to Lake Wānaka, views of the Southern Alps across the lake and relative proximity to Wānaka town centre.

The area has a high visual amenity value in terms of views from and to Lake Wānaka that endures. The quality of this environment is still valued, with Lake Wānaka being an Outstanding Natural Landscape (ONL) and Wahi Tūpuna under the PDP.

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Amenity is provided through the prevalence of greenery within the area, through the extensively landscaped lots and retention of kanuka. These factors assist in making the built form a less prominent element within the Zone.

The built form of the area can be seen to be of high standard. Many of the buildings are architecturally designed. However, the value of property and more specific consent notice requirements registered on the titles are also likely to have contributed to this.

There has been limited visitor accommodation within the zone.

The area no longer has a rural setting given the extent of urban development that has occurred in the surrounding area. The limited number of visitor accommodation does not impact the residential character of the area. The policy has been effective in retaining a predominantly residential character of the area.

#### **Environmental Results Anticipated – 12.6.4**

The following provides a broad assessment of the environmental results anticipated within the Penrith Park Special Zone as set out in 12.6.4 of the ODP.

Residential development in harmony with the highly sensitive area.	Met
Visually sensitive development which is not intrusive upon the Wanaka basin	Met
Safeguarding the life supporting capacity of water and ecosystems.	Met
Provision of an appropriate visual transition between the open space margins of Lake Wanaka and the more intensively developed Wanaka town centre	Met
Protection of the natural amenity without preventing development	Met
Development which respects the natural and physical environment.	Met

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## Findings

The Zone provisions have provided for residential development within the zone and has maintained control over the external appearance, design, and colour of buildings through the controlled activity rule for buildings. The lots within the zone are a size anticipated by the provisions.

The methods that have been used to implement the objectives and policies has resulted on some consent burden for landowners, especially in relation to alterations to existing buildings. However, the level of control enabled by the consenting process has likely ensured the quality and character of the area.

The findings of this report indicate that the suite of policies and methods for the Zone have been effective in achieving the Objectives for the Zone. However, the setting in which this was established has changed. Any review of the Zone would need to address the now urban setting and servicing of the zone.