

**QLDC Council
24 July 2014**

Report for Agenda Item: 8

Department:

Planning and Development

8. Private Plan Change 45 – Northlake: Ratification of Commissioner Recommendation

Purpose

- 1 To provide the Commissioner recommendation on submissions to Plan Change 45 – Northlake and to seek ratification as a Council decision for notification.

Recommendation

2 *That the Council:*

- a. **Agree** to adopt the Commissioner recommendation as a Council decision and direct staff to notify the decision in accordance with the 1st schedule of the Resource Management Act 1991.

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9/07/2014

Reviewed and Authorised by:



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9/07/2014

Background

- 3 Plan Change 45 was lodged with the Council as a Private Plan Change in March 2013. The proposed plan change sought to re-zone 223 hectares of land to the north of Aubrey Road and in the vicinity of Outlet Road, Wanaka from a mix of Rural General and Rural Residential zoning to a special 'Northlake Zone'. The proposed zoning provided for a mix of low to medium density housing; some larger residential lots; a neighbourhood commercial component; and building restrictions over the most sensitive areas.
- 4 Plan Change 45 was presented to the Council's Strategy Committee on 4 June 2013; they resolved to accept the plan change for processing. It was then notified for submissions on 1 August 2013 with submissions closing on 30 August

2013. It was then notified for further submissions on 25 September 2013, with further submissions closing on 9 October 2013.

- 5 124 submissions and 9 further submissions (one of which was later withdrawn) were received including a corporate submission from the Queenstown Lakes District Council.
- 6 A hearing was held between 10 and 17 February 2014 by Commissioners David Whitney (Chair), and Councillor Lyal Cocks. After the hearing was adjourned the Commissioners requested an amended structure plan from the Requestor to reflect the evidence that had been given at the hearing.
- 7 Subsequent to this in May 2014 the lawyer for the Requestor sent a memo (via Council) to the Commissioners to alert them to a legal issue with the provisions relating to Outline Development Plans (ODP). This was prompted by the Environment Court interim decision on Plan Change 19 – Frankton Flats B, which determined that there are legal issues with the ODP provisions for that zone. As Plan Change 45 proposed similar provisions, the Requestor suggested that these be amended to ensure that they are legally robust.
- 8 The Requestor's lawyer created a new set of provisions to address this issue and these were then reviewed by Council's lawyer. The Commissioners considered this information as part of their decision making process.

Comment

- 9 The Commissioners' recommendation is that Plan Change 45 should be incorporated into the Queenstown Lakes District Plan, subject to amendments.
- 10 The recommendation concludes that the 219.26 hectares of land subject to Plan Change 45 should be rezoned from Rural General and Rural Residential to a new special zone in the District Plan – the Northlake Special Zone.
- 11 The Commissioners are satisfied that such a change of zoning is appropriate and provides certainty with respect to the ultimate development of this area of Wanaka.
- 12 The key amendments made to the plan change by the Commissioners' recommendation are:
 - A minimum lot size of 4000m² is to be retained for Activity Area A consistent with the existing subdivision standard that applies in the Rural Residential Zone.
 - Activity Area C5 is also to have a minimum lot size of 4000m².
 - The Building Restriction Area (BRA) is to extend along the Plantation Forest (Sticky Forest) boundary in Activity Area E4 to the last residential lot on Peak View Ridge to complement the BRA or equivalent at Kirimoko and Peninsula Bay as shown on Planning Maps 18, 19 and 20.
 - Visitor Accommodation, Commercial, Retail and Community Activities and Retirement Villages to be a non-complying activity outside Activity Area D1.

- Residential density limits to be specified in a Zone Standard and any breach therefore to be a non-complying activity.

13 The Council has the following two options:

a. Accept the Commissioner recommendation

- The submissions and hearing process gave people the opportunity to either support or oppose the proposal.
- The Commissioners had the benefit of submissions and further submissions as well as professional assistance (in the form of an officer's recommendation) to reach their decision.
- Should Council feel that some aspects of the recommendations are inappropriate, Council remains in the position to undertake a variation to the Plan Change or become a Section 274 party to an appeal (should any be made). As the Council made a submission to the Plan Change it could also appeal the decision in its corporate capacity.

b. Reject the Commissioner recommendation

- Council cannot make changes to the Commissioner recommendation as they have not heard the evidence presented at the hearing or read the submissions. To change the recommendations would not demonstrate fairness or natural justice to the submitters.
- All submitters will need to be re-heard at another hearing.
- Additional Council and submitter resources will be required to rehear the Plan Change.
- There would be delays and additional costs associated with this option.

14 In light of the process that the plan change has followed, Option 1 is the preferred option.

Financial Implications

15 As the plan change is a private plan change the Requestor has incurred the full processing costs for this application.

Local Government Act 2002 Purpose Provisions

16 The ratification of the Commissioners' recommendation is considered to be consistent with the LGA purpose provisions (ss10, 11, 11A) summarised as:

- Activity (local democracy, infrastructure, local public services or performance of regulatory functions);
- Quality (efficient, effective and appropriate to present and future circumstances); and, or
- Economic (most cost-effective for households and businesses).

17 The plan change process is consistent with the purpose of local democracy as it has involved public input into the provisions of the District Plan.

Council Policies

18 The following Council Policies were considered:

- Significance Policy - The report recommendation is not significant under the Council's Policy on Significance.

Consultation

19 Plan Change 45 was publicly notified in accordance with the Resource Management Act 1991.

20 All submitters had the opportunity to present their views at a public hearing and all points raised through submissions have been considered in the Commissioners' recommendation.

Publicity

21 If Council chooses to ratify the Commissioners' recommendation, this will be publicly notified as the Council decision in accordance with the Resource Management Act 1991.

Attachments

A Recommendation of Commissioners on Plan Change 45 – Northlake