

**Planning & Strategy Committee  
16 March 2017**

**Report for Agenda Item 1**

**Department: Planning & Development**

**Withdrawal of land from the Proposed District Plan that is subject to recent plan changes to the Operative District Plan**

**Purpose**

- 1 The purpose of this report is to:
  - a. Formally withdraw in accordance with Clause 8 (D) of Schedule 1 of the RMA from the Queenstown Lakes District Council Proposed District Plan, the land affected by the following plan changes to the Operative District Plan:
    - i. Plan Change 45: Northlake Special Zone.
    - ii. Plan Change 46: Ballantyne Road Industrial and Residential extension.
    - iii. Plan Change 51: Peninsula Bay North.

**Executive Summary**

- 2 Plan Change 45 Northlake Special Zone, 46 Ballantyne Road Industrial and Residential extension and Plan Change 51 Peninsula Bay North have recently been through a process to modify the Operative District Plan. Although the land areas are shown on the Proposed District Plan Planning Maps for information purposes only, submissions have been made on this land.
- 3 To remove any uncertainty as to the status of this land and what specific rules apply, it is recommended to formally withdraw these land areas from Volume A (Proposed District Plan), and confirm that the rules and zoning provisions are located within Volume B (Operative District Plan).
- 4 Legal advice obtained by the Council recommends that previous decisions to “exclude” these areas from the Proposed District Plan review may not suffice and that the Council should record a decision under the relevant legislation to formally “withdraw” the land.

**5 Recommendations**

- 6 That the Planning & Strategy Committee:
  1. **Note** the contents of this report and:

2. **Approve** pursuant to Clause 8 (D) of Schedule 1 of the Resource Management Act 1991 (RMA) the withdrawal of the following geographic areas from the Proposed District Plan:

- a. Operative District Plan, Plan Change 45: Northlake Special Zone.
- b. Operative District Plan, Plan Change 46: Ballantyne Road Industrial and Residential extension.
- c. Operative District Plan, Plan Change 51: Peninsula Bay North.

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2/03/2017

Reviewed and Authorised by:



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3/03/2017

## Background

- 7 At the 29 September 2016 meeting Council resolved to separate the District Plan into two volumes by way of geographic area, and to exclude the following geographic areas from the planning maps of Volume A of the District Plan (Proposed District Plan Stage 1):
  - a. Plan Change 45: Northlake Special Zone.
  - b. Plan Change 46: Ballantyne Road Industrial and Residential extension.
  - c. Plan Change 50: Queenstown Town Centre extension.
  - d. Plan Change 51: Peninsula Bay North.
  - e. Plan Change 19: Frankton Flats B Zone.
  - f. Remarkables Park Zone.
- 8 Plan Changes 45, 46 and 50 were excluded because they had recently been approved as plan changes to the Operative District Plan (ODP). With the exception of Plan Change 46, all of these plan changes were appealed to the Environment Court.
- 9 Plan Change 50 was formally withdrawn following a resolution of Council at the October 2015 meeting.

- 10 In December 2016, Council resolved to accept the commissioner's recommendation to decline private plan change 51: Peninsula Bay North. The decision has been appealed by the applicants, Peninsula Bay Joint Venture Limited.
- 11 The Remarkables Park Zone and a relatively recently settled plan change, Plan Change 19 Frankton Flats B, were excluded because there is an agreement with the landowner of Remarkables Park that the zone text would not be further reviewed.
- 12 Changes to the ODP after notification of the PDP create complexities in terms of the relationship between these two documents and the rules and policies that affect land that has been subject to a plan change. Ideally, there would be no changes made to the ODP once the PDP is notified because the aim of the PDP is to replace the ODP and this is frustrated when changes are made to the ODP during this process.
- 13 To integrate these components of the ODP into the PDP, it is possible to notify these components as part of the notification of Stage 2, however this is not recommended in most instances because it would 'reopen' the substance of these plan changes for submissions and appeals.
- 14 The land affected by Plan Changes 45 (Northlake), 46 (Ballantyne Road Industrial and Residential extension) and 51 (Peninsula Bay North) are located within the Upper Clutha area- refer to Appendix A which includes a copy of the applicable planning maps.
- 15 To provide certainty leading into the Proposed District Plan hearings on rezoning in the Upper Clutha, commencing in May 2017, a formal resolution is sought to withdraw this land and zones from Volume A: Proposed District Plan, and remove any doubt as to whether this land is part of the hearings on rezoning.
- 16 A key reason for this is that submissions have been made to rezone these areas even though the Proposed District Plan Planning Maps for the Northlake and Ballantyne Road Industrial and Residential extension show these areas as subject to a plan change and not part of the Proposed District Plan. Plan Change 51, on the other hand is part of the wider Open Space Landscape Protection Zone and is shown as an operative zone. It is considered best practice to exclude this land so there is no opportunity for the Hearings Panel to consider these, or for submitters to make a case that the zoning could be something different to that recently established through the respective plan changes.
- 17 Legal advice obtained by the Council recommends that the previous decision to "exclude" these areas from the Proposed District Plan review may not suffice. To avoid any doubt, they recommend Council make a decision to formally "withdraw" the land in accordance with Clause 8 (D) of Schedule 1 of the RMA.

### ***Significance and Engagement***

- 18 This matter is of high significance as determined by reference to the Council's Significance and Engagement Policy because the matter relates to the confirmation of a substantial area of land affected by zoning and planning rules.

Both the ODP and PDP are significant statutory documents in terms of the social, economic and environmental wellbeing of the District.

### ***Risk***

- 19 This matter relates to the strategic risk SR1 'Current and future development needs of the community (including environmental protection)' as documented in the Council's risk register. The risk is classed as high. This matter relates to this risk because it is considered to be of significant importance in terms of the managed growth and regulation of development for the District.
- 20 The recommended options considered above mitigate the risk by treating the risk - putting measures in place which directly impact the risk.
- 21 Council resolving to withdraw specified land areas from the stage 1 Proposed District Plan zoning provisions and removing the ability for the land to be litigated addresses the risk by providing certainty of the relationship of the PDP with land that is subject to a recently completed, or in-train plan change.

### **Financial Implications**

- 22 The recommended option provides certainty and will assist with increasing the efficiency of the PDP process, which has already been budgeted for. More certainty moving forward will reduce the potential for matters of scope arising. There are not any direct financial implications.

### **Council Policies, Strategies and Bylaws**

- 23 There are no Council policies, strategies or bylaws relating to this matter because it is primarily associated with process.
- 24 This matter is included in the 10-Year Plan/Annual Plan as part of the District Plan commitment.

### **Local Government Act 2002 Purpose Provisions**

- 25 The recommended option:
  - Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses;
  - Can be implemented through current funding under the 10-Year Plan and Annual Plan;
  - Is consistent with the Council's plans and policies; and
  - Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

**Consultation: Community Views and Preferences**

- 26 The persons who are affected by or interested in this matter are parties who have submitted on the Proposed District Plan or a Plan Change.

**Legal Considerations and Statutory Responsibilities**

- 27 Development of the PDP has occurred in accordance with the requirements of the RMA. Particular clauses of relevance include Sections 5-11, 31 -32 and Schedule 1. The recommendations accord with the provisions of the RMA. In particular Clause 8 (d) of Schedule 1 of the RMA that allows a district plan to be prepared in territorial sections.

**Attachments**

- A Planning maps of the Wanaka are illustrating the Plan Change 45: Northlake, Plan Change 46: Ballantyne Road Industrial and Residential Extension and Plan Change 51: Peninsula Bay North land areas.

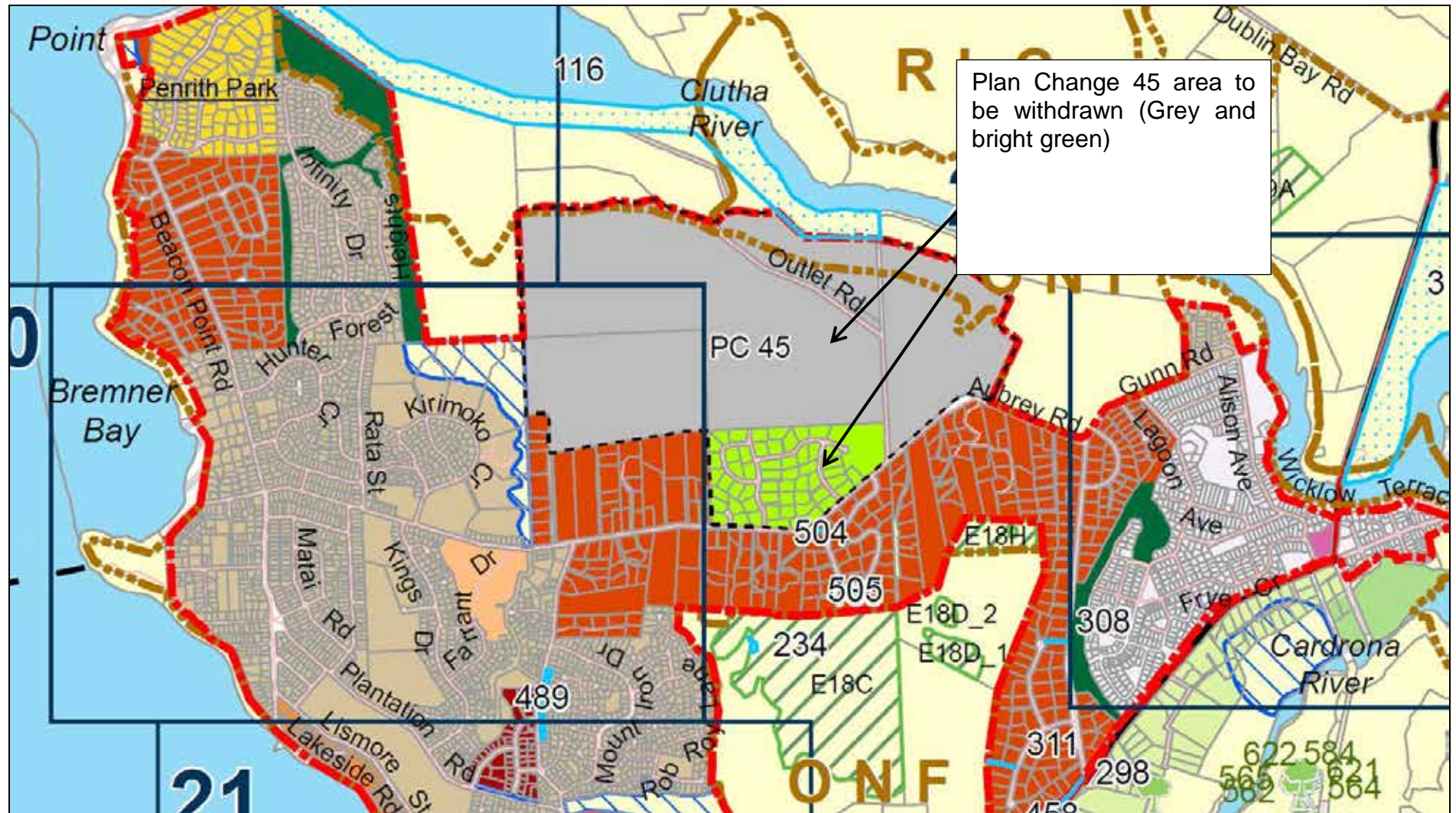
**Attachment A:**

Plan Change 51 Peninsula Bay North land area.

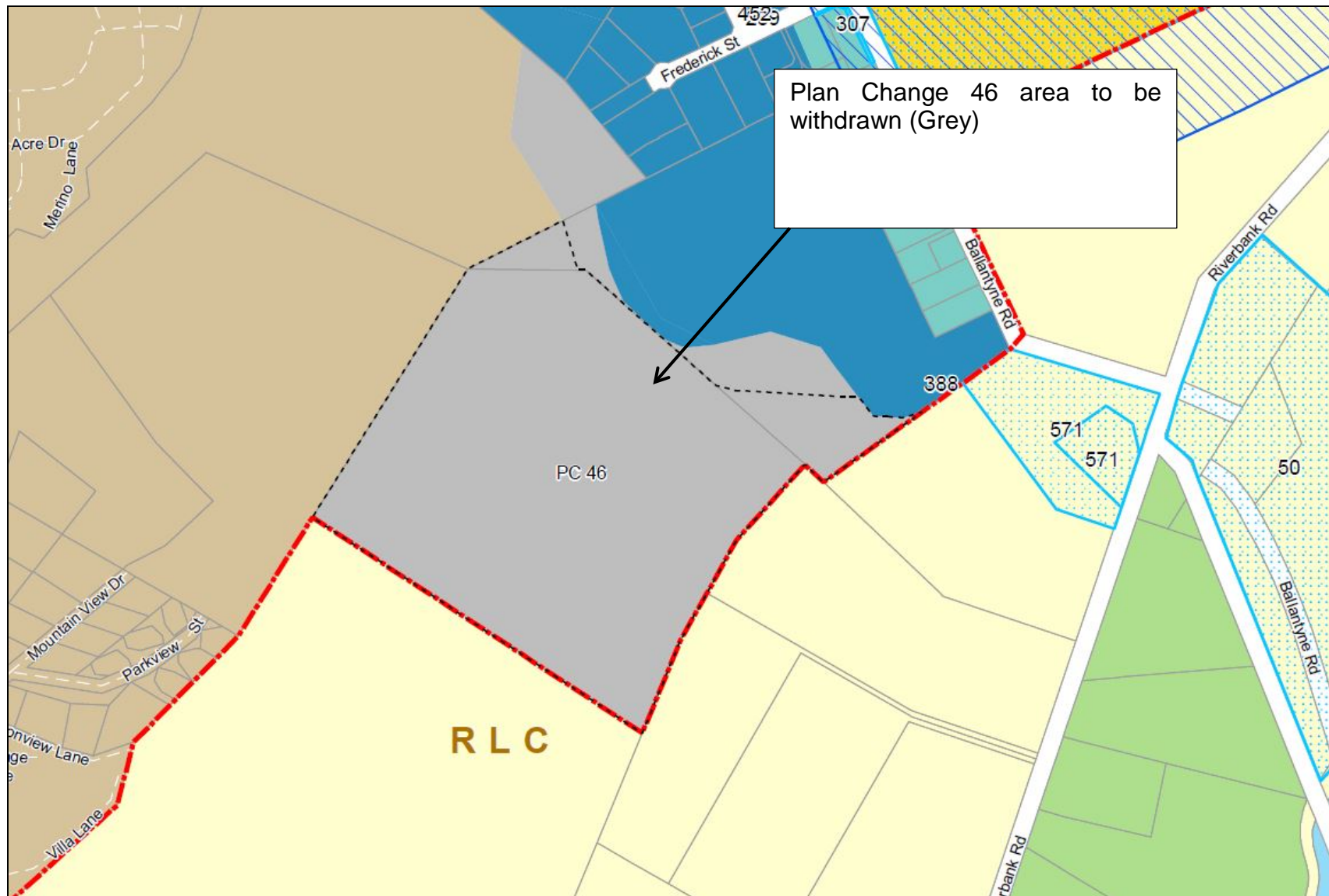


**Figure 1.** The orange area is the Plan Change 51 area ,the Green area is the Open Space Zone: Landscape Protection. The yellow area is the Low Density Residential Zone of Peninsula Bay. It is the orange area that is recommended to be withdrawn.





**Figure 2.** Excerpt of Proposed District Plan Planning Map 18 illustrating the area of Plan Change 45 Northlake to be withdrawn.



**Figure 3.** Excerpt of Proposed Planning Map 23 illustrating the area of Plan Change 46 to be withdrawn.