

**Planning & Strategy Committee  
21 April 2017**

**Report for Agenda Item 1**

**Department: Planning & Development**

**Proposed District Plan Review Stage 2**

**Purpose**

- 1 The purpose of this report is to ....
  - Provide an update on the review of the Proposed District Plan (the PDP) for Queenstown Lakes District Council (the Council).
  - Confirm the components to be reviewed in Stages 2 - 5 of the district plan review that when notified would form part of the Proposed District Plan.
  - Outline the indicative timing of Stages 2 - 5 processes.
  - Confirm specific components (i.e. areas of land) of the Operative District Plan that remain excluded from the District Plan Review.
  - Confirm continuation of excluding components from the Proposed District Plan, retaining them in a separate volume of the district plan and in circumstances.

**Executive Summary**

- 2 Stage 1 of the Proposed District Plan (the PDP) was notified in August 2015 containing most of the text and zones for a new plan. To date 10 hearing streams have been completed addressing the key district wide chapters such as rural, residential, business, landscapes and significant natural areas. Since the previous District Plan Review update on 29 September 2016 (see Attachment 1 for details) a further five hearing streams on submissions on the PDP have been completed involving Residential, Arrowtown Design Guidelines, Designations, Business, Resort Zones, Natural Hazards Definitions and Whole of Plan. The Council's initial evidence on Ski Area Sub Zones, and on mapping annotations and zones for the Upper Clutha area has been completed and filed for hearings in May and June 2017. Preparation of evidence on Queenstown mapping annotations and zones is underway.
- 3 The completion of the review of the Proposed District Plan (PDP) is recommended to be achieved in tranches in the sequence set out below, which reflect the need to prioritise completion of the most frequently used parts of the PDP mapping and text:
  - Stage 2 comprises parts of the PDP which have similar urgency as the rest of the already notified Stage 1 provisions and include Transport, Open Space, Earthworks and the Wakatipu Basin. These provisions are important to progress as soon as practicable and notification is proposed in July 2017 in time for hearings to be held in late 2017 and 1<sup>st</sup> quarter of 2018 for the Wakatipu Basin.

- Stage 3 comprises provisions timed to align with and deliver on the outcomes of the Mayoral Housing Taskforce including Affordable and Community Housing and Visitor Accommodation. Stage 2 also contains the balance of the district wide chapters which have not yet been notified. Notification is proposed between October and November 2017 with hearings to be held in 2<sup>nd</sup> quarter of 2018
  - Stage 4 comprises site specific or development specific special zone provisions currently contained in Volume B of the PDP. Notification is scheduled for February- March 2018 for hearings in third quarter of 2018.
  - Stage 5 addresses matters likely to arise in resolving the special zones as well as matters in other Stage 1 and 2 hearings that were not able to be addressed in their respective substantive hearings. Notification is proposed in July – August 2018 for hearings in fourth quarter of 2018.
- 4 It is expected that the Council will receive recommendations on all matters heard to date as part of Stage 1 of the PDP Review in October 2017. Council will make the decision on the recommendations from the delegated PDP Review Panel (the Panel). Although Council will receive the recommendations in stages it will be advised to notify a single set of decisions on the PDP.
  - 5 The PDP Review is expected to be completed early in 2019 however appeals to Council's decision could take a number of months to resolve after this, at which point the Plan can be made operative or operative in part.
  - 6 Recently resolved plan changes to the Operative District Plan (the ODP) should continue to be kept in Volume B of the PDP and excluded from the District Plan Review. There continues to be a need to discourage private plan changes to manage the coherence of the PDP and ensure it is effective and easy to use.

## Recommendation

- 7 That the Planning & Strategy Committee:
  1. **Note** the contents of this report and in particular;
  2. **Confirm** the proposed timeline for notification and hearings for future Stages 2 - 5 of the Operative District Plan Review between July 2017 and December 2018
  3. **Confirm** the provisions recommended to be notified:
    - a. Stage 2 (including transport, open space, earthworks and Wakatipu Basin) notification in July 2017.
    - b. Stage 3 (including affordable and community housing and visitor accommodation) notification in October/November 2017.
    - c. Stage 4 (including special zone provisions) notification in February / March 2018.

- d. Stage 5 (including outstanding consequential changes) notification in July / August 2018

Prepared by:



Ian Bayliss  
Planning Policy Manager

7/04/2017

Reviewed and Authorised by:



Tony Avery  
General Manager Planning  
and Development

7/04/2017

## Background

- 8 The Council's approach to the review of the ODP has evolved over time. The review commenced in April 2014 and the PDP was notified in August 2015 as a staged review in order to allow progress to be made on areas most urgently requiring attention and delivering most immediate benefit contained in Stage 1.
- 9 In October 2015 Council resolved to withdraw provisions relating to visitor accommodation and visitor accommodation sub-zones within residential zones due to concerns with the proliferation of visitor accommodation and its potential impacts on available housing supply.
- 10 Hearings commenced on Stage 1 in March 2016 with the hearing of chapters addressing Introduction and Tangata Whenua, Strategic Direction, Urban Development and Landscape.
- 11 Rural Zones Indigenous Vegetation and Wilding Exotic Trees, Historic Heritage and Protected Trees, and Subdivision were heard between May and August 2016 followed by Energy, Utilities, Noise, Temporary Activities in September 2016.
- 12 In the mean-time a number of changes were made to the ODP which on the face of it would have to be re-notified (and potentially relitigated) in order to incorporate them in the new plan. On 29 September 2016 Council instead agreed to separate the new plan by geographic area into two volumes, containing:
  - **Volume A**, the geographic areas that have been notified in either Stages 1 or 2 of the PDP, and District Wide chapters to cover these areas, including PDP definitions; and
  - **Volume B**, the ODP as it relates to geographic areas that are excluded from the partial review, and are therefore not being notified in either Stages 1 or 2 of the PDP, and the operative district wide chapters to cover these areas, including ODP definitions. Volume B includes Frankton Flats B, Northlake Special and Remarkables Park Zones, Ballantyne Road extension,

Queenstown Town Centre extension, and Peninsula Bay North. Volume B will also include the Mount Cardrona Special Zone, which the Council has accepted a private plan change to vary the land uses within this zone.

- the PDP Introduction and Strategy chapters which are applicable across both volumes.

13 On 29 September 2016 Council also approved the commencement of Stage 2 of the PDP review including township zones, rural visitor zone, special zones, Arrowtown South, Shotover Country and industrial zones, as well as the visitor accommodation, transport, hazardous substances, open space and recreation, affordable and community housing chapters and building restriction areas.

## Comment

### Recent Progress on the PDP Review

14 Since the previous District Plan Review update on 29 September 2016 (see attachment 1 for details) a further five hearing streams have been completed involving a hearing of evidence from Council and submitters before a panel of independent commissions and Councillor representatives (the Panel) on the following topics:

- **Residential zones** – Low, Medium, High Density Residential, Large Lot Residential – Hearings completed October 2016.
- **Arrowtown** - Arrowtown Residential Historic Management Zone and Arrowtown Design Guidelines – Hearings completed November 2016.
- **Business zones** - Queenstown, Wanaka and Arrowtown Town Centre Zones, Local Shopping Centres, Business Mixed Use and Queenstown Airport Mixed Use – Hearings completed December 2016.
- **Designations** – Hearings completed October 2016.
- **Resort Zones** – Hearings completed February 2017.
- **Natural Hazards, Definitions and Whole of Plan** – Hearings completed March 2016.

### Upcoming Hearings

- Council's initial evidence and submitters evidence on the **Ski Area Sub Zones** has been completed and filed for a Hearing beginning in May 2017.
- Evidence on mapping annotations and zones for the Wanaka ward and the **Upper Clutha** area of the district has been completed and filed for hearings in May and June 2017.
- Preparation of evidence on mapping annotations and zones for the Wakatipu ward and the **Queenstown** areas is underway.

## Steps to Completion of the PDP Review

15 Completing the review of the PDP is recommended to be managed in tranches in the sequence set out below, which reflect the continued need to prioritise completion of the most frequently used parts of the ODP mapping and text:

- **Stage 2** comprises parts of the PDP which have similar urgency as the rest of the already notified Stage 1 provisions and include Transport, Open Space, Earthworks and the Wakatipu Basin<sup>1</sup>. These provisions are important to progress as soon as practicable and notification is proposed in July 2017 in time for hearings to be held in November-December 2017 and March-April 2018 for the Wakatipu Basin.

Stage 2	Topic or chapter(s)	Notification	Possible Hearing
	Open Space and Recreation (chapter and mapping)	July 2017	4th quarter 2017 – stream 15
	Transport	July 2017	
	Earthworks	July 2017	
	Possible Wakatipu Basin Variation (chapters and mapping)	July 2017	1st quarter 2018 – stream 14

- **Stage 3** comprises provisions timed to align with and deliver on the outcomes of the Mayoral Housing Taskforce including Affordable and Community Housing and Visitor Accommodation. Stage 2B also contains the balance of the district wide chapters which have not yet been notified.

Stage 3	Topic or chapter(s)	Notification	Possible Hearing
	Visitor Accommodation and registered Holiday Homes (including residential chapters and mapping withdrawn in October 2015)	Oct/Nov 2017	2 <sup>nd</sup> quarter 2018 – stream 16
	Affordable and Community Housing	Oct/Nov 2017	

<sup>1</sup> As defined by the Wakatipu Basin Land Use Planning Study. This area is not addressed in the hearing on rezoning and mapping annotations for the Queenstown area.

	Mapping sites of significance to iwi	Oct/Nov 2017	2 <sup>nd</sup> quarter 2018- stream 17
	Township Zones (chapters and mapping)	Oct/Nov 2017	3rd quarter 2018- stream 18
	Residential development design guidelines	Oct/Nov 2017	
	Gorge Road High Density Residential, Business Zones and Natural Hazards	Oct/Nov 2017	
	Industrial A and B Zones (chapters and mapping)	Oct/Nov 2017	
	Hazardous Substances	Oct/Nov 2017	
	Signs	Oct/Nov 2017	
	Ferry Hill and Glenorchy building restriction areas	Oct/Nov 2017	

- **Stage 2C** comprises site specific or development specific special zone provisions currently contained in Volume B of the PDP. Notification is scheduled for February- March 2018 for hearings in August – September 2018.

<b>Stage 4</b>	<b>Topic or chapter(s)</b>	<b>Notification</b>	<b>Possible Hearing</b>
	Rural Visitor Zones – Cecil Peak, Walter Peak, Cardrona, Blanket Bay, Arthurs Point, Arcadia Station, Windermere	Feb/Mar 2018	4 <sup>th</sup> quarter 2018 - stream 20
	Penrith Park Zone	Feb/Mar 2018	
	Bendemeer Zone	Feb/Mar 2018	
	Hydro Generation Zone including Financial Contributions	Feb/Mar 2018	
	Quail Rise Zone	Feb/Mar 2018	
	Meadow Park Zone	Feb/Mar 2018	
	Frankton Flats Zone	Feb/Mar 2018	

	Ballantyne Road Mixed Use Zone	Feb/Mar 2018	
	Three Parks Zone	Feb/Mar 2018	
	Kingston Village Zone	Feb/Mar 2018	
	Shotover Country Zone	Feb/Mar 2018	
	Arrowtown South Zone	Feb/Mar 2018	

- **Stage 5** addresses matters likely to arise in resolving the special zones as well as matters in other Stage 1 and 2 hearings that were not able to be addressed in their respective substantive hearings. Notification is proposed in July – August 2018 for hearings in November – December 2018.

<b>Stage 5</b>	Subdivision and Development special zones, design guidelines, structure plans, definitions	July/Aug 2018	<b>4th quarter 2018</b> 2018 stream 21
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- 20 The 29 September 2016 agenda report on District Plan Review Stage 2 (see attachment 1 for details) provides commentary on why visitor accommodation, community and affordable housing, residential design guidelines, Gorge Road natural hazards, Ferry Hill and Glenorchy Building restriction areas, mapping sites of significance to Iwi, subdivision and development, Wakatipu Basin, Special Housing Areas and other provisions outlined above need to be reviewed<sup>2</sup>. Six months later, the policy basis for these reviews and the ongoing need to streamline and simplify a number of the operative chapters has either become more acute, or has not changed fundamentally.
- 21 It is important to note that the Stage 3-5 provisions are those where there is some certainty at this stage that these issues should be reviewed. It is possible that other matters may arise and require review, or a variation to provisions notified as part of Stage 1.
- 22 It should also be noted that this report does not predetermine that any substantive changes to the Operative provisions will follow the review of the above provisions. It is possible that the review could identify that only minor changes to marry the provisions with the PDP are needed, however notifying them will open them up to submissions potentially seeking substantial changes.
- 23 There is also the option for the Council to not undertake a full review of some zones if there is no need or benefit to do so following the outcomes of the initial

<sup>2</sup> <http://www.qldc.govt.nz/assets/Uploads/Council-Documents/Full-Council-Agendas/2016/29-September-2016/4-District-Plan-Review-Stage-Two.pdf>

review and monitoring of these zones. These zones would remain in Volume B, the Operative District Plan.

### **Decisions on the Proposed District Plan**

24 It is expected that the Council will receive recommendations from the hearings Panel on all matters heard to date as part of Stage 1 of the PDP Review in October/November 2017. Council will make the decision on the recommendations from the Panel.

25 As the Council has not heard the evidence on the PDP review (with the exception of the Councillor representatives on the Panel) the Council, for reasons of fairness and due process, is likely to be advised to accept the Panel's recommendations. Although Council will receive the recommendations in stages it will be advised to notify a single set of decisions on the PDP to

- allow for a consolidated set of decisions on the provisions to be made,
- avoid different parts of the plan being appealed while there is still uncertainty about the likely content of the balance of the plan
- avoid (for example) issuing decisions on the residential provisions before notifying provisions addressing visitor accommodation as this would at present make visitor accommodation a non-complying activity by default in residential zones once it comes into effect.
- allow (sometimes crucial) minor changes to be made to ensure the plan works in the way the recommendations intend,

26 Substantial parts of the Proposed Otago Regional Policy Statement (the PRPS) are likely to become operative during any such hiatus. Under section 75 of the RMA, the district plan would have to 'give effect to' these provisions (rather than just "have regard to" them, which applies at present). In practice this means that objectives and policies in the PRPS requiring outcomes or activities to be avoided or enabled would have to be followed through in the PDP with a like-for-like approach. An issue with this is that evidence on the provisions of the PDP that have been heard to date, as well as the deliberations and recommendations of the Panel, can't have anticipated these requirements in the PRPS and may have to be reconsidered in the light of any changes.

27 The PDP Review is expected to be completed early in 2019 however appeals to Council's decisions could take a number of months to resolve, at which point the Plan can be made operative or operative in part.

28 Recently resolved plan changes to the Operative District Plan (the ODP) should continue to be kept in Volume B of the PDP and excluded from the District Plan Review. There continues to be a need to discourage private plan changes to manage the coherence of the PDP and ensure it is effective and easy to use.



## Options

- 29 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:
- 30 The first step is to identify all "reasonably practicable" options. If an option is not reasonably practicable, then it will not require consultation. One option that should always be considered is the option of doing nothing – the status quo.
- 31 Option 1 Notify Stage 2 of the PDP in 2018 after considering recommendations on Stage 1 in a single change to the district plan and delay decisions on Stage 1 until recommendations on all remaining stages are received.

### Advantages:

- 32 Avoids confusion and complexity that could arise from different parts of the district plan being at different stages of the review process (notified, submissions heard, decisions released, decisions appealed, provisions beyond challenge, provisions made operative).
- 33 Allows staff to take stock of Stage 1 - 5 of the PDP and to make an integrated suite of changes before issuing decisions and address any significant problems identified with Stage 1. Limits the extent to which staff will be involved in overlapping workstreams for review, preparation, consultation on Stage 2 – 5 provisions, while analysing submissions, preparing evidence and attending hearings.

### Disadvantages:

- 34 The review programme could lose momentum with this approach and it could create an impression of the review being stalled. A number of key participants in the PDP review (including commissioners and witnesses) are in demand and may take on long term commitments in the mean-time that exclude from the Queenstown Lakes PDP review.
- 35 The extent and pace of growth and change in the Queenstown Lakes district makes the need to keep the principle document for managing use, development and protection of natural and physical resources in the district current and fit for purpose a matter of great importance.
- 36 Securing large amounts of resources for larger combined efforts of plan preparation and review, notification, analysis, evidence preparation and hearings on all remaining topics simultaneously is highly challenging and will at times need to rely on substantial use of consultants which will result in higher public costs.
- 37 Option 2 Continue to focus on getting Stage 1 of the PDP heard. Notify all remaining parts of the PDP in 3 clear stages over 2017 and 2018 and delay decisions on the recommendations of the Panel until recommendations on all remaining stages are received.

#### Advantages:

- 38 Will allow Councillors, staff and stakeholders involved in preparing discrete parts of the plan to focus on a smaller number of new provisions at one time. The same goes for the notification and submission process and any associated consultation.
- 39 Allows staff to take stock of Stage 1 - 5 of the PDP and to make an integrated suite of changes before issuing decisions and address any significant problems identified with Stage 1. Limits the extent to which staff will be involved in overlapping workstreams for review, preparation, consultation on Stage 2 – 5 provisions, while analysing submissions, preparing evidence and attending hearings.
- 40 Dividing the workload for Stages 2 - 5 of the PDP across discrete stages should allow for a greater proportion of the work to prepare and review provisions to be completed in-house which will result in lower public costs and could also improve knowledge retention and consistency.
- 41 Regarding public perceptions, this approach will potentially provide greater visibility to the public and participants in the plan review of the work underway.
- 42 The Environment Court should be able to manage any major issues with aligning appeals on any decisions on the PDP with the appeals on the PRPS.

#### Disadvantages:

- 43 Different parts of the PDP being at different stages in the review process will create a certain amount of uncertainty and complexity in deciding and applying the PDP.
- 44 Preparing substantial parts of stage 2 of the PDP before receiving the Panel's recommendation entails a calculated risk that the changes to the PDP recommended by the Panel will not require a wholesale review of the approach and content of the notified plan, as amended by Council's position on submissions and the hearing evidence.
- 45 The public may perceive that instead of progressing in 2 clearly separate stages as originally intended, the PDP is now progressing incrementally and slower than originally anticipated.
- 46 This report recommends Option 2 for progressing the completion of the PDP review because it allows the review to proceed on a more progressive basis that is likely to be more manageable for participants.
- 47 The option of issuing decisions on the plan progressively as the plan is heard is not practical as it would be procedurally unfair to participants, would entail a high degree of risk about getting the plan 'wrong' and would make the plan unable to be used during an extended confusing appeal period.

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

- 48 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because the matter relates to operational aspects of the district plan review programme although the district plan is a significant statutory document in terms of the social, economic and environmental wellbeing of the District.
- 49 Consultation during the preparation of the next stages of the PDP review will be undertaken in accordance with clause 3 of Schedule 1 of the RMA and section 82 of the Local Government Act 2002 where appropriate.

### ***Risk***

- 50 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 moderate. This matter relates to this risk because it relates to operational aspects of the district plan review but relates to the managed growth and regulation of development for the District.

The recommended options considered above mitigate the risk by treating the risk – putting measures in place which directly impact the risk; Council resolving to confirm the components of Stage 2 of the PDP.

### **Financial Implications**

- 51 The recommended option provides certainty and will assist with spreading the costs of the District Plan Review over time and should increase the efficiency of the PDP review programme, which has already been budgeted for.

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

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

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

- 53 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**

54 The persons who are affected by or interested in this matter are 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. Where Stage 2 of the PDP effects or will interest additional parties there will be future opportunities for consultation and/or for them to submit on proposals before decisions are made and they come into legal effect.

### **Legal Considerations and Statutory Responsibilities**

55 Development of the PDP has occurred in accordance with the requirements of the RMA. Particular clauses of relevance include Sections 5-11, 31 and 32 and Schedule 1. The recommendations accord with the provisions of the RMA. In particular section 73(3) that allows a district plan to be prepared in territorial sections.

### **Attachments**

A District Plan Review Update to Council 29 September 2016