



QUEENSTOWN
LAKES DISTRICT
COUNCIL

QUEENSTOWN LAKES DISTRICT PLAN

PRIVATE PLAN CHANGES

PROCEDURES MANUAL AND TOOLKIT

26 July 2007

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1. EXECUTIVE SUMMARY

Once a District Plan is operative (in part or in whole), the Resource Management Act (RMA) provides a process by which private individuals can Request that a Plan Change be undertaken.

Any person can lodge such a Request, it must be in a prescribed form, and be of adequate detail to enable the Council to fully assess its effects.

Now that the QLDC District Plan is partially operative and much of it has been operative for more than two years, it is likely that Private Plan Change Requests (Requests) will start to be lodged with the Council.

This Manual has been prepared to assist both the Council and the public to understand how the QLDC (the Council) will process Private Plan Change Requests. The process and procedures outlined in this manual are in accordance with the RMA but go one step further in terms of providing guidance as to what matters the Council will consider in deciding how to process such Requests and what level of information will be required. It also provides a tool kit for the processing planner in order to streamline the process as much as possible.

The document will ensure that all parties involved in Private Plan Change Requests understand what is required and what the process involves so that any Requests lodged with the Council are processed efficiently.

The procedure for processing a Request for a Private Plan Change is outlined in Part 2 of the First schedule of the RMA. This manual illustrates that process in diagrammatic form and also details the Council's own internal processes. The process essentially involves 3 steps, namely:

1. The Requestor prepares the Plan Change Request
2. The Council receives the Request and decides how to process it – be it to reject the Request, accept or adopt it as a Plan Change or to process it as if it were a Resource Consent.
3. The Council processes the Request, either as a Plan Change under the first schedule or a Resource Consent under those provisions.

The Council's role increases as the process proceeds whilst the Requestor's role decreases.

The Manual also provides a framework to help the Council decide how to process the Request. This is an important decision as it dictates the subsequent process that is required; at what point the Plan Change will take effect; and who pays for processing the Plan Change. Other than a decision to accept or adopt the Request in full, the decision as to how to deal with the Request is able to be appealed by the Requestor.

2. THE LEGAL PROCESS UNDER THE RMA

Part 2 of the First Schedule of the RMA outlines the process by which a Plan Change Request is to be prepared, lodged and processed and details the grounds on which the Council shall decide to adopt, accept, or reject a Request. The following flow diagram has been prepared to outline the Plan Change process as per the RMA requirements.

The process has been broken into the following key stages:

Stage 1 - Ensuring adequate information

Stage 2 – Considering the Request and making a decision as to how to deal with it

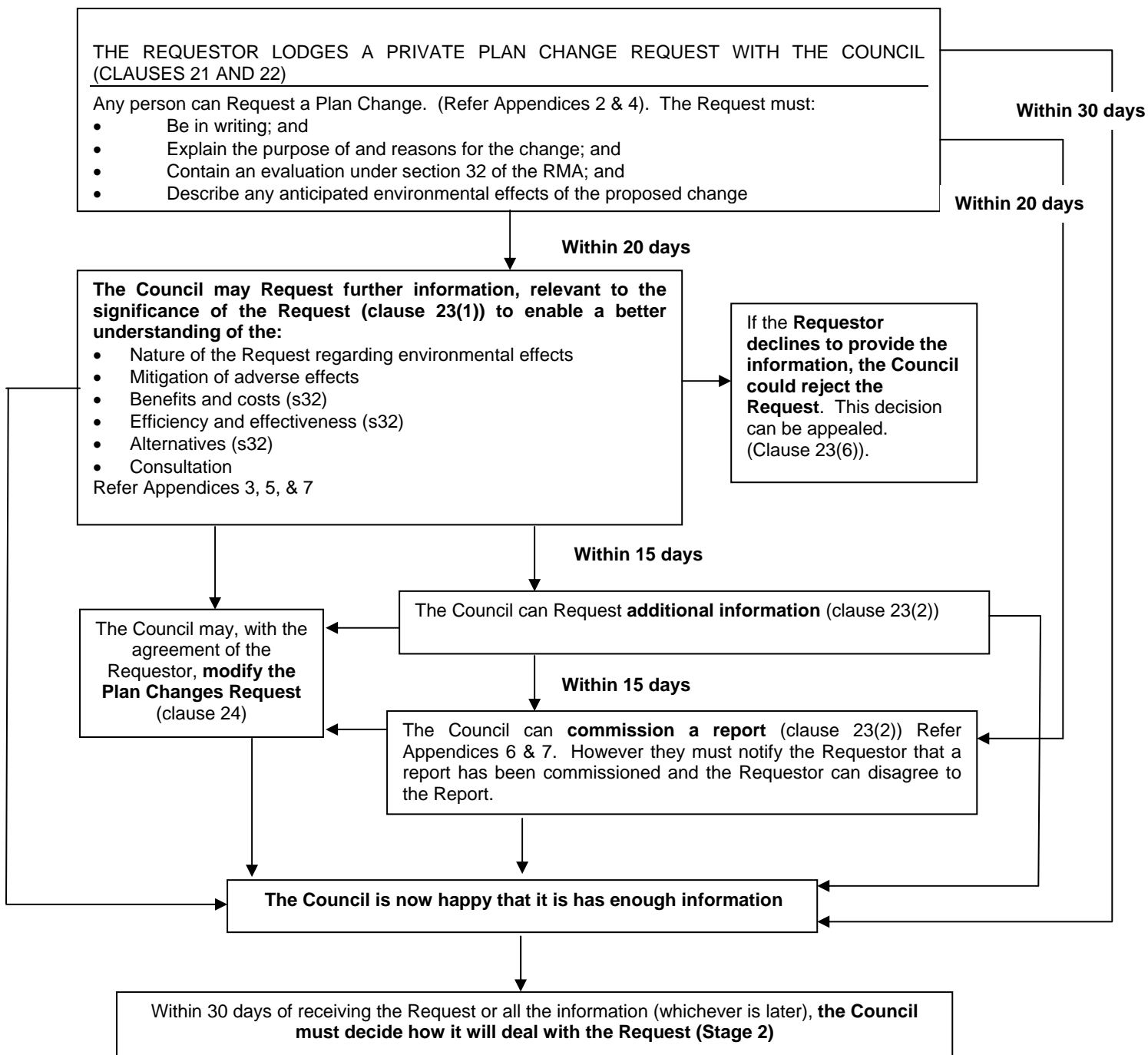
Stage 3 – Notification and the processing of the Plan Change

Throughout the diagram, there are references to the various Appendices attached to this manual. Together, these appendices provide the Planner with a ‘tool kit’ for processing Requests.

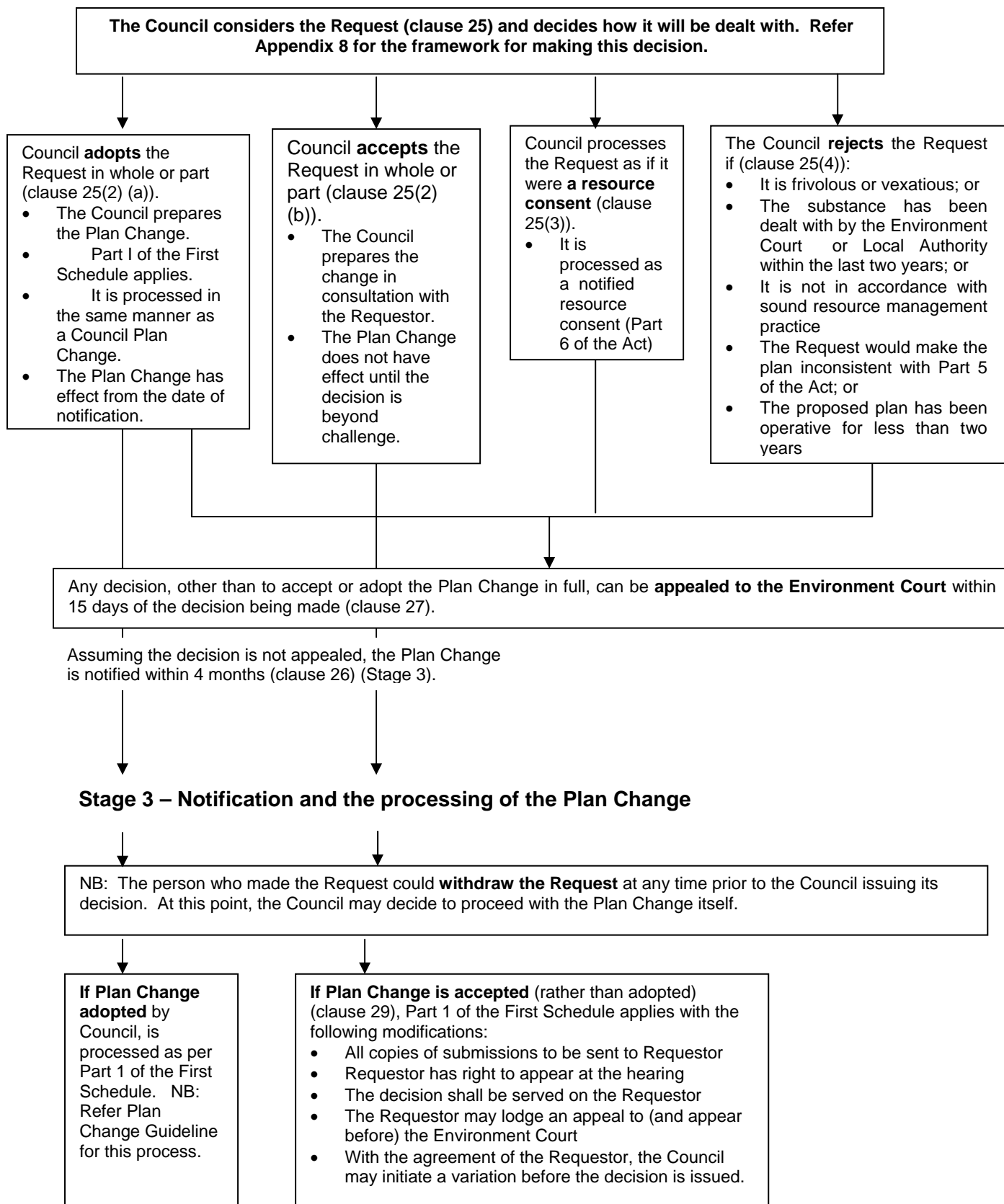
Notes for the Diagrams in this document

1. All clause references relate to the First Schedule of the RMA
2. All appendix references relate to the attached Tool kit
3. All timeframes relate to “working days” as defined in the RMA
4. All timeframes can be extended (by up to double/ 100%) in accordance with Section 37 of the RMA.
5. The processing “clock” can be stopped whilst further information, additional information, or a report is being provided to the Council.

Stage 1 - Ensuring adequate information



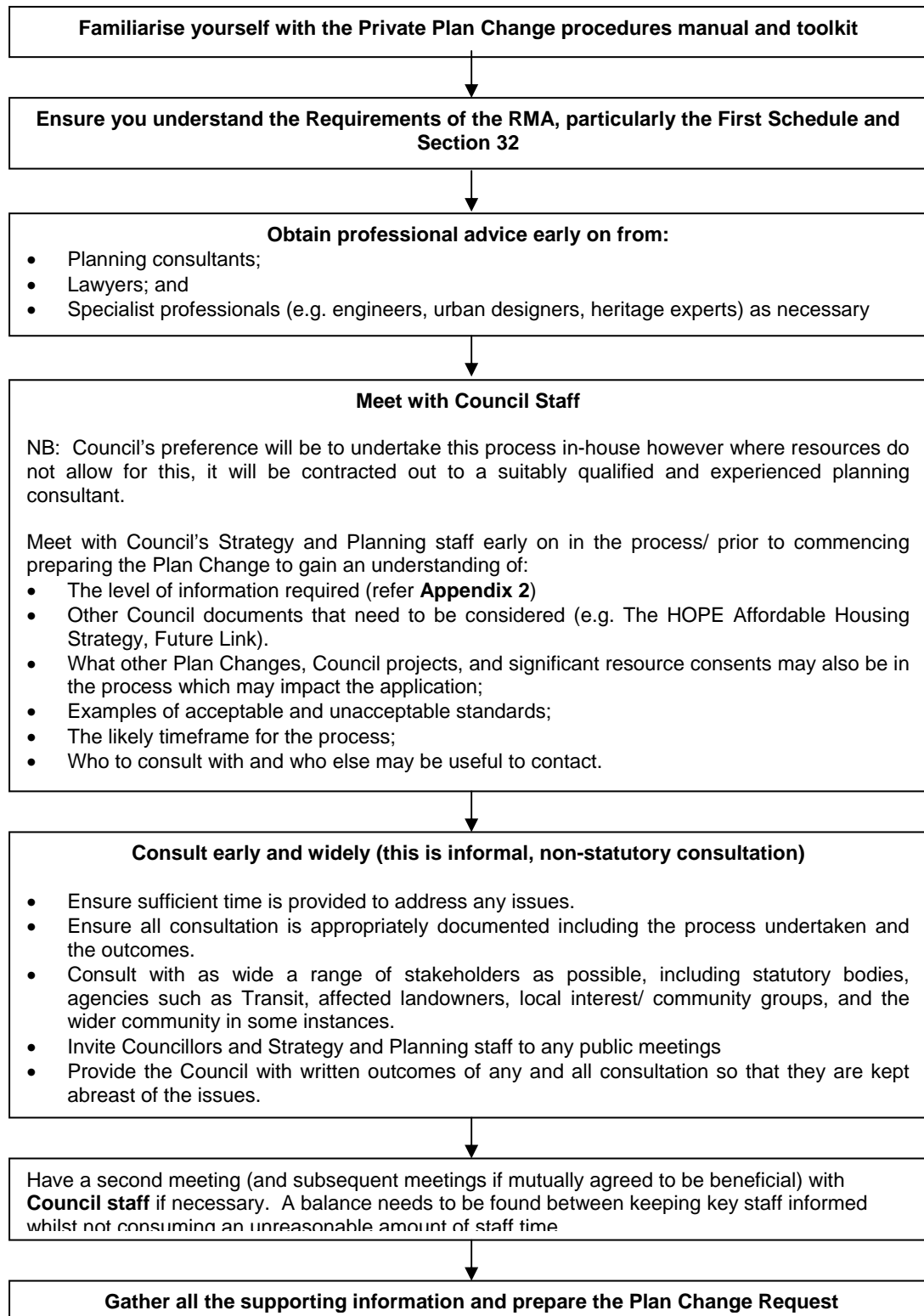
Stage 2 – Considering the Request and making a decision as to how to deal with it



3. THE QLDC PROCESS

The following diagram provides an added layer of detail to the RMA process covered in the last section. Whilst entirely consistent with the legal process, it provides detail as to the specific processes, internal timeframes, and expectations of this Council.

Step 1 - Preparing a Private Plan Change Request (for lodging with the Council)



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Step 2 – In-house Procedure once a Private Plan Change Request has been received

Lodge the Request with the Council. Preferably deliver the Request in person and make an appointment to go through it with a Council Planner to ensure all the base information is provided. (Refer **Appendix 2** for the application form and information requirements checklist).

Acknowledgement letter sent out (Refer **Appendix 4**). This will advise who is processing the Request and contact details, details of the process; and the proposed timeframe (i.e. when further information will be Requested by etc). (Within 1 day of receipt).

Check that all necessary information has been provided to meet the requirements of the RMA and the District Plan, by:

- The Planner checking the application for completeness.
- The Planner filling out the Distribution Memo/ questionnaire and distributing this to all relevant departments/ individuals (Refer **Appendix 3**). The Analyst shall also call and discuss the Plan Change briefly with each person. (Within 2 days of receipt).

Advise the Strategy Committee that the Request has been received (within the monthly update report).

Departments to complete Internal Memo and return to the Planner. (Refer **Appendix 3**). This feedback confirms a) whether further information needs to be Requested, b) whether a report needs to be commissioned and from who, and c) assesses the application against strategies and projects. (Within 5 days of the date of the Memo).

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If information is inadequate:

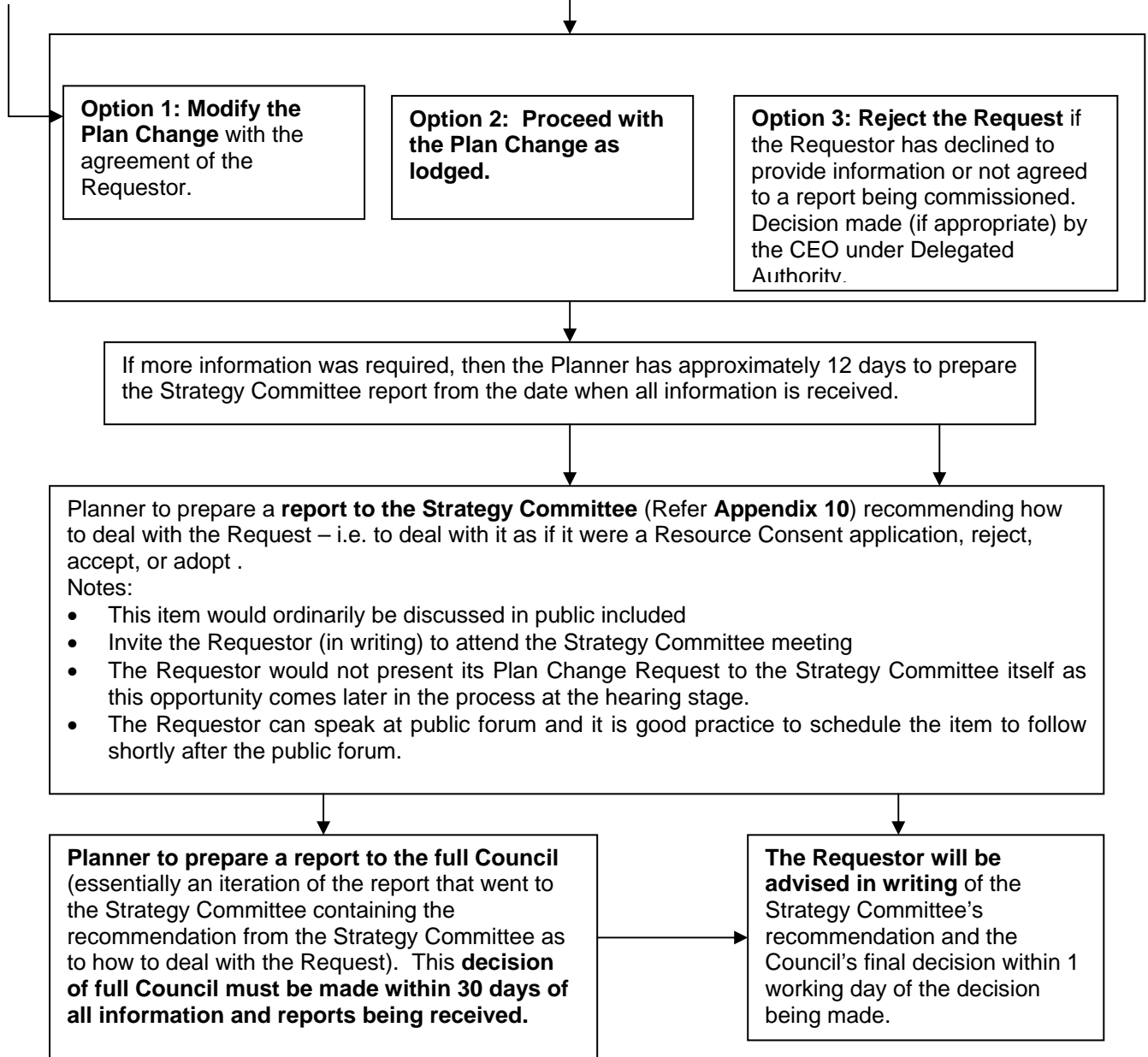
Request further information from the Requestor. (Within 5 days of receiving the Internal Memo/ questionnaire back from Departments. Refer **Appendix 5**).

Request additional information from the Requestor (if need be). (Within 5 days of receiving the further information from the Requestor).

Commission any necessary reports. Refer **Appendix 6**.

Advise the Requestor that the Council has commissioned a report and give the Requestor 5 days to advise if they do not agree to this. Refer **Appendix 7**.

If information is **adequate**, the planner has approximately 7 days from this point to prepare the Strategy Committee report.



4. A FRAMEWORK FOR DECIDING HOW TO DEAL WITH PRIVATE PLAN CHANGE REQUESTS

The RMA (Clause 25 of the First Schedule) outlines the options the Council has with respect to accepting, adopting, or rejecting the Request for a Plan Change. These options are outlined in part 2 of this Manual.

Background

On 21 November 2003 the Council passed a policy which provided guidance as to when it might consider accepting or rejecting a Plan Change Request. That policy decision stipulated the following:

That any Request for a private plan change is reported to the Strategy Committee, and is considered on its merits, in terms of the following criteria.

- (a) *A private plan change would not generally be accepted until the outcomes and strategy under (b) and (c) below are known.*
- (b) *Is it consistent with, and not contrary to, any key strategy contained within a relevant community plan, and does it enable the key community outcomes identified within the Long Term Council Community Plan to be achieved.*
- (c) *Is it consistent with, and not contrary to, the conclusions of the Growth Options Study and any subsequent growth management strategy:*
- (d) *Is it to be paid for by the person Requesting the plan change;*
- (e) *Is the plan change self contained, i.e. it will not interfere with progress with (sic) any other provision in the plan;*
- (f) *Is the scale of the project such that the plan change process is preferable to other processes, including resource consent?*

Then in April 2004, the Council resolved to rescind that policy and to record that it would not accept any Plan Changes within the 2 year period in order to enable it to implement its own Plan Change programme but that any party may approach the CEO should they wish to discuss this policy.

A comprehensive decision-making framework for deciding how to deal with Requests

The decision-making framework contained in this manual adds further sophistication to the process the Council must go through in deciding whether to reject a Request. It requires the Planner and Councillors to carefully consider the pros and cons of rejecting a Request to ensure that any such decision is defensible. It is anticipated that it would be the exception rather than the norm to accept a Request that affects parts that have been operative for less than 2 years but is considered good practice to have a rigorous process in place for making this decision on a case by case basis.

It is important to note that if the Council accepts the Plan Change Request it does not imply that the Council or staff have any position on the merits of the Plan Change. It does however indicate that the Council is satisfied that sufficient information has been provided so that the Request can be publicly notified and considered on its merits by the public and Council in accordance with the RMA.

5. WITHDRAWAL OF A REQUEST

The person who made the Request can withdraw it any time before the Council makes a decision on that Request i.e. to accept, reject to adopt it.

The Council cannot withdraw a requested Plan Change without the agreement of the Requestor. However where the Council has reasonable grounds to consider that a person who made a Request no longer wishes to continue with that Request the Council can send a notice to that person stating:

- That if that person who made the Request does not advise the Council within 30 working days of their wish to continue with the Request, the Council shall deem the Request to have been withdrawn.

The Council must, within 15 days of receiving notice of withdrawal or deeming it to be withdrawn as per the above, publicly notify the withdrawal, unless the Council determines to proceed with the Request itself.

6. COSTS

As provided for under the RMA it is the Council's policy to recover all reasonable costs incurred by the Council in processing the Request and, in certain instances the Plan Change itself, from the Requestor. The main distinction to make is that if the Council "accepts" the Plan Change the costs will continue to be covered by the Requestor (up to but not including any Environment Court proceedings) but if it "adopts" the Plan Change as its own then, in the absence of any agreement to the contrary, the Council will bear the costs from the point at which it adopts it.

These costs are likely to include, but not be limited to, the following:

1. Staff costs and consultation fees with respect to:

- Reviewing all information supplied;
- Becoming familiar with issues, including undertaking a site visit/s;
- Briefing consultants and internal staff, and arranging audits of specialist reports;
- Obtaining further information or reports as required;
- Preparing a report for the Strategy Committee, introducing and detailing the Plan Change, which may include:
 - Further meetings and discussions with the Requestor and/or their representatives;
 - Internal discussions and meetings between Council staff and any consultants who may be assisting with the Request;
 - The methods in which any adverse effects can be mitigated
 - The benefits and costs of any alternative;
 - The nature of any consultation undertaken.

- Attending the Strategy Committee meeting to present the Plan Change;
- Reporting to the Full Council;

NB: If the Council adopts the Plan Change then it covers the costs from this point on.

- Answering public enquiries generated as a result of the Plan Change.
2. Notification costs if the Council accepts the Plan Change Request, including the following:
 - Preparing for notification, including preparing and advertising the public notice, and identifying and notifying affected parties;
 - Preparing the summary of submissions (if any are received);
 - Preparing notice of summary of submissions and advertising accordingly;
 - Disbursements.
 3. Hearing costs, which are likely to include the following:
 - Preparation of the hearing report on submissions, or if no submissions preparing a report to the Strategy Committee;
 - Attending the hearing and assisting the Hearings Panel or Commissioner at the hearing;
 - Assisting the Hearings Panel or Commissioner at deliberations in preparing the decision;
 - Hearing management and administration, including scheduling the hearing, notifying all submitters who Requested to be heard, enquiries from submitters and taking of minutes during the hearing;
 - Costs of commissioners, including reading of all supporting material, all submissions and the planner's report, site inspections, attending the hearing and deliberations, and writing up the decision or finalising draft decision;
 - Disbursements.

If the Council does not adopt the Plan Change the costs of the Plan Change Request will be on-charged no matter what the outcome may be.

In the case where a Plan Change Request is withdrawn, costs up to that time (including public notification of the withdrawal) will be recovered from the Requestor.

If the matter proceeds to the Environment Court the Council will bear its own costs with respect to the proceedings and will not seek to on-charge them to the Requestor. The Council can however reserve the right to seek from the Court an award of costs.

As per the Council's Fees Schedule as at the date of this Manual, the deposit for considering a Plan Change Request is \$10,000. Once this sum has been exhausted, actual time and disbursements will be billed on a monthly basis.