

**QLDC Council
26 November 2015**

Report for Agenda Item: 15

Department: Planning & Development

Making Plan Change 45 – Northlake, operative

Purpose

To request that the Council make fully operative Plan Change 45 – Northlake (PC45), in accordance with Clause 17 of the First Schedule of the Resource Management Act 1991 (RMA).

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Authorise** pursuant to Clause 17 of the First Schedule of the RMA, the amendments to the Operative District Plan proposed by Plan Change 45, as outlined in this report and the attachments; and
3. **Direct** that Plan Change 45 be notified as being operative.

Prepared by:



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12/11/2015

Reviewed and Authorised by:



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Planning and Development

12/11/2015

Background

- 1 PC45 was a private plan change publicly notified on 1 August 2013. Its purpose is to create a new Northlake Special Zone which will enable up to approximately 1,600 residential dwellings plus a small central neighbourhood 'corner store' type commercial development and some central community facilities. It recognises the need to efficiently utilise land to provide for anticipated growth in Wanaka.
- 2 A total of 124 submissions and 8 further submissions were received on PC45.
- 3 Independent Commissioners Mr Whitney and Councillor Cocks heard the submissions at a hearing over 6 days between 10 – 17 February 2014. Their decision largely confirmed the proposed plan change, and was ratified as a Council decision on 24 July 2014.
- 4 One appeal to PC45 was lodged. The appellant was Appealing Wanaka Incorporated, being an incorporated society made up of a small number of original submitters to PC45. Appealing Wanaka Incorporated was incorporated after the Council PC45 Decision in order to conduct Environment Court appeal proceedings. One s274 party joined the appeal.
- 5 The appeal was heard in the Environment Court. Judge Jackson issued an Interim Decision on 21 August 2015 and a Final Decision on 16 November 2015. Copies of the two Environment Court decisions on PC45 are contained in **Attachments A and B**. The amended PC45 provisions to be inserted into the Operative District Plan are in **Attachment C**.
- 6 The Environment Court largely confirmed the decision of the Council. The Northlake Special Zone as confirmed by the Environment Court is shown in Figure 1 below:

Comment

- 7 The Environment Court's Interim Decision essentially upheld the Council's PC45 Decision with a few amendments, and required a few further changes to be made. The sole appellant Appealing Wanaka Incorporated then withdrew from the proceedings, advising that it wished to take no further part. Therefore there is no prospect of any further appeal (on a point of law) by that appellant.
- 8 The Council then worked with the PC45 Applicant to resolve the final issues as required by the Environment Court. This has resulted in the Environment Court issuing its Final Decision. Neither the Council nor the PC45 Applicant intends to lodge any further appeal on a point of law.
- 9 A plan change can be made operative when there are no outstanding submissions or appeals. The final Environment Court decisions have now been issued so PC45 can now be made operative.

- 10 Only the Council can make a plan change operative. Following a resolution to notify, the plan change becomes operative five working days after the date of the public notice.

Options

- 11 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:
- 12 Option 1 Make the Plan Change operative
- 13 Advantages: This is the final step in the plan change process now that all Environment Court appeals have been determined. The applicant for PC45 is understandably keen to finalise the plan change, and to progress development. The development has the potential to contribute to housing supply and address affordability in Wanaka
- 14 Disadvantages: None
- 15 Option 2 Not make the Plan Change operative
- 16 Advantages: None
- 17 Disadvantages: The plan change will be left unresolved, despite having no outstanding appeals. The Council would not be performing its regulatory functions under the RMA. The Council has a statutory obligation under section 21 of the Resource Management Act to avoid unreasonable delay.
- 18 Option 3 Allow the zoning of the land subject to PC45 to be determined through the District Plan Review process.
- 19 Advantages: None.
- 20 Disadvantages: These proceedings have now been going for over 2 years. There are no outstanding or new matters to address, so this option would open up for further litigation zoning provisions which have already been considered and confirmed by the Environment Court. There have already been opportunities for public involvement which resulted in a high level of engagement. The Court has already heard the expert evidence and made its decision. There is nothing to be gained by allowing the zoning issues to be re-litigated.
- 21 This report recommends **Option 1**.
- 22 The land subject to PC45 has been excluded from the District Plan Review, to avoid the possibility of these zoning issues being re-litigated through the District Plan Review. Eventually this part of the Operative District Plan will merge with the District Plan Review, so that the Northlake Special Zone will remain an operative part of the District Plan through the review process.

Significance and Engagement

- 23 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because it has a high degree of community interest, as witnessed from the 132 submissions on the Plan Change.
- 24 Compliance with the decision making requirements in sections 76-78 of the Local Government Act 2002 has been achieved through the public participation process of the Resource Management Act (RMA), including calling for submissions, holding a hearing, and the right of appeal that was exercised to the Environment Court.

Risk

- 25 This matter does not have significant risk. It is following the statutory process set out in the RMA for making plan changes operative. The right of appeal has now been exercised. The recommended option mitigates the risk by following the statutory process set out in the RMA.

Financial Implications

- 26 No specific implications of making the Plan Change operative.

Council Policies, Strategies and Bylaws

- 27 The following Council policies, strategies and bylaws were considered:
- District Plan
- 28 The recommended option is consistent with the principles set out in the District Plan.
- 29 This matter is not included in the 10-Year Plan/Annual Plan because it is simply following a statutory process set out in the RMA.

Local Government Act 2002 Purpose Provisions

- 30 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 by making the Plan Change operative. This is consistent with the need for good quality performance of regulatory functions;
 - 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

- 31 Over 130 people submitted on PC45 and an incorporated society comprising some of those submitters was party to the proceedings in the Environment Court. The Council has therefore already consulted extensively on this plan change.

Legal Considerations and Statutory Responsibilities

- 32 Making the plan change operative is in accordance with Clause 17 of the First Schedule of the RMA.

Attachments

- A Environment Court Interim Decision on PC45 – Northlake Special Zone
- B Environment Court Final Decision on PC45
- C PC45 provisions to be inserted into the Operative District Plan, including amendments to Chapters 14 (Transport), 15 (Subdivision), 16 (Hazardous Substances) and 18 (Signs).