

QLDC Council  
24 February 2016

Report for Agenda Item: 3

Department: Planning & Development

Private Plan Change 44: Hanley Downs – Ratification of Commissioner recommendation

Purpose

The purpose of this report is to provide the Commissioner recommendation on submissions to Plan Change 44 – Hanley Downs and to seek ratification as a Council decision for notification.

Recommendation

That Council:

1. **Note** the contents of this report and;
2. **Adopt** the Commissioner recommendation as a Council decision and direct staff to notify the decision in accordance with the First Schedule of the Resource Management Act 1991.

Prepared by:



Blair Devlin  
District Plan Manager (Acting)

12/02/2016

Reviewed and Authorised by:



Tony Avery  
General Manager Planning &  
Development

12/02/2016

Background

- 1 Plan Change 44 (“**PC44**”) originally sought to re-zone approximately 520 hectares of land at the northern-most (currently undeveloped) part of the ‘Resort Zone’ at Jacks Point as a new ‘Hanley Downs Zone’.
- 2 The re-zoning proposed to expand the urban area and enable a higher density of residential development; remove the requirement to create a commercial village within the Hanley Downs area; and retain the surrounding land as predominantly rural (through a ‘Agricultural, Conservation, and Recreation’ activity area).
- 3 Plan Change 44 was presented to Council’s Strategy Committee on 19 March 2013. It was resolved to ‘accept’ the plan change for processing (rather than

adopting it as a Council plan change, or rejecting it). It was then publicly notified for submissions on 27 March 2013 and a summary of the decisions requested in submissions was publicly notified on 15 May 2013. Further submissions closed on 29 May 2013.

- 4 A total of 25 original submissions and 7 further submissions were received. Council lodged a corporate submission which was approved by Council's Strategy Committee on 23 April 2013.
- 5 The hearing began on 25 November 2013 but was adjourned almost immediately at the request of the Requestor, RCL Queenstown Pty Ltd ("**RCL**") on the same day. The hearing was halted due to concerns raised by other Jacks Point landowners / submitters (the "**Hanley Downs entities**") whose land was affected by PC44 as notified.
- 6 During the period of adjournment the Requestor worked with the "**Hanley Downs entities**" to revise PC44. The Hearing recommenced on 1 July 2015 and continued until 3 July 2015. The proposal was substantially different from what had been publicly notified<sup>1</sup>. The revised proposal stated that the total area of PC44 as notified was in fact 541 hectares; with the revised Structure Plan being 561 hectares in total area.
- 7 Significantly, an arrangement had been reached between RCL and the Hanley Downs entities where the parties came together, rather than the Hanley Downs entities opposing the RCL proposal.
- 8 RCL provided evidence on behalf of the entire PC44 area on infrastructure servicing and transport matters, and for its own land holdings in respect of planning, urban design and landscape matters. RCL then, effectively, allowed the Hanley Downs entities (as submitters) to give planning, urban design, landscape and supporting engineering evidence on its behalf for the balance of the PC44 land that was controlled by the Hanley Downs entities.
- 9 RCL expressed no opinion on those matters addressed by the Hanley Downs entities other than to confirm that it was comfortable that the various land use outcomes proposed by both parties could be satisfactorily integrated.
- 10 Changes to the proposal were made throughout the hearing and in the closing legal submissions. This made it very difficult for submitters such as QLDC to provide meaningful comment on what was being proposed.

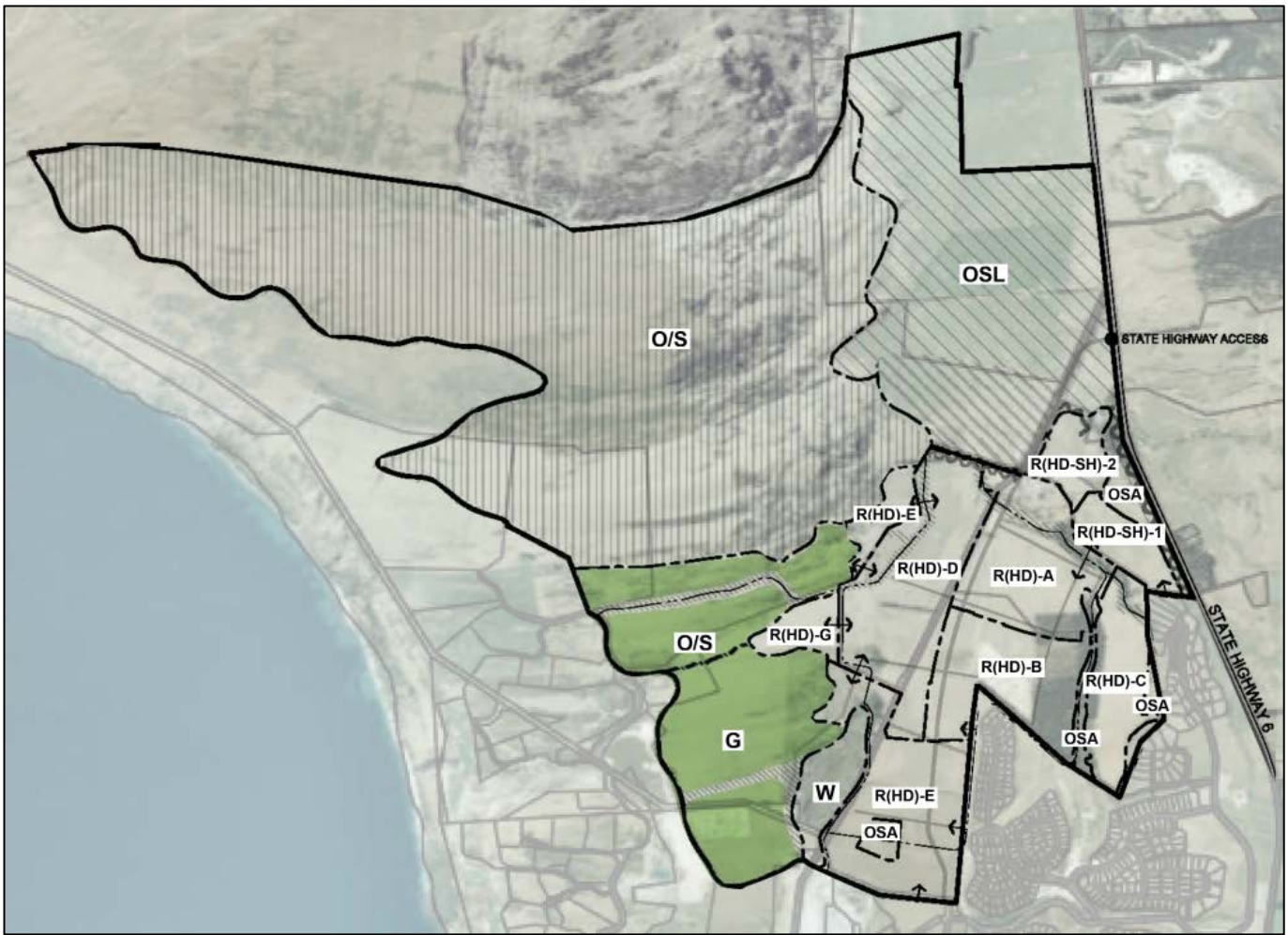
### ***Comment***

- 11 The Commissioners' recommendation is that PC44 should be incorporated into the Queenstown Lakes District Plan, subject to amendments.
- 12 In order to better understand the recommendation, Figure 1 below shows in heavy black line the boundary of the PC44 area with the different activity areas that are recommended to the Council:

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<sup>1</sup> In the intervening period Commissioner Gilmour stood down from the Commission and was replaced by Commissioner Cocks due to Commissioner Gilmour's unavailability in July 2015.

**Figure 1: Structure Plan from Commissioner Recommendation on PC44.**



**Matters recommended for approval by Commissioners**

13 Key outcomes that have resulted from the Commission’s consideration are:

- Activity Areas R(HD)A through to R(HD)E should proceed. These activity areas provide for<sup>2</sup>:
  - **R(HD)-A** – a ‘suburban’ residential neighbourhood of 22.16 hectares, at an average net density of between 17 – 26 dwellings per hectare (“d/ha”). This equates to 376 – 576 dwellings.
  - **R(HD)-B** – a ‘suburban’ residential neighbourhood of 21.61 hectares, at an average net density of between 17 – 26 d/ha. This equates to 367 – 561 dwellings.
  - **R(HD)-C** – a ‘suburban’ residential neighbourhood of 14.46 hectares, at an average net density of between 15 – 22 d/ha. This equates to 216 – 318 dwellings.

<sup>2</sup> R(HD) means Residential (Hanley Downs)

- **R(HD)-D** – a ‘suburban’ residential neighbourhood of 28.4 hectares, at an average net density of between 17 – 26 d/ha. This equates to 482 – 738 dwellings.
- **R(HD)-E** – a ‘suburban’ residential neighbourhood of 27.11 hectares which includes land under the control of RCL and the Hanley Downs entities, at an average net density of between 25 – 45 d/ha. This equates to 677 – 1219 dwellings.
- Activity Areas R(HD-SH)-1 and R(HD-SH)2 should proceed. These activity areas provide for<sup>3</sup>:
  - **R(HD-SH)-1** – residential activity area of 6.47ha, at a net average density of between 12-22 dwellings per hectare. This equates to 77 – 142 dwellings.
  - **R(HD-SH)-2** – residential activity area of 6.33ha, at a net average density of 1.4 du/ha and subject to a maximum of seven units (with two existing).
- Activity Areas R(HD)-F and R(HD)-G should proceed. These activity areas provide for:
  - **R(HD)-F** - residential activity area of 9.03ha, at a net average density of between 4 - 22 d/ha. This equates to 36 - 198 dwellings.
  - **R(HD)-G** - residential activity area of 4.65ha, at a net average density of between 2 - 10 d/ha. This equates to 9-46 dwellings.

14 The rezoning allows for total range of approximately 2245 to 3803 residential units.

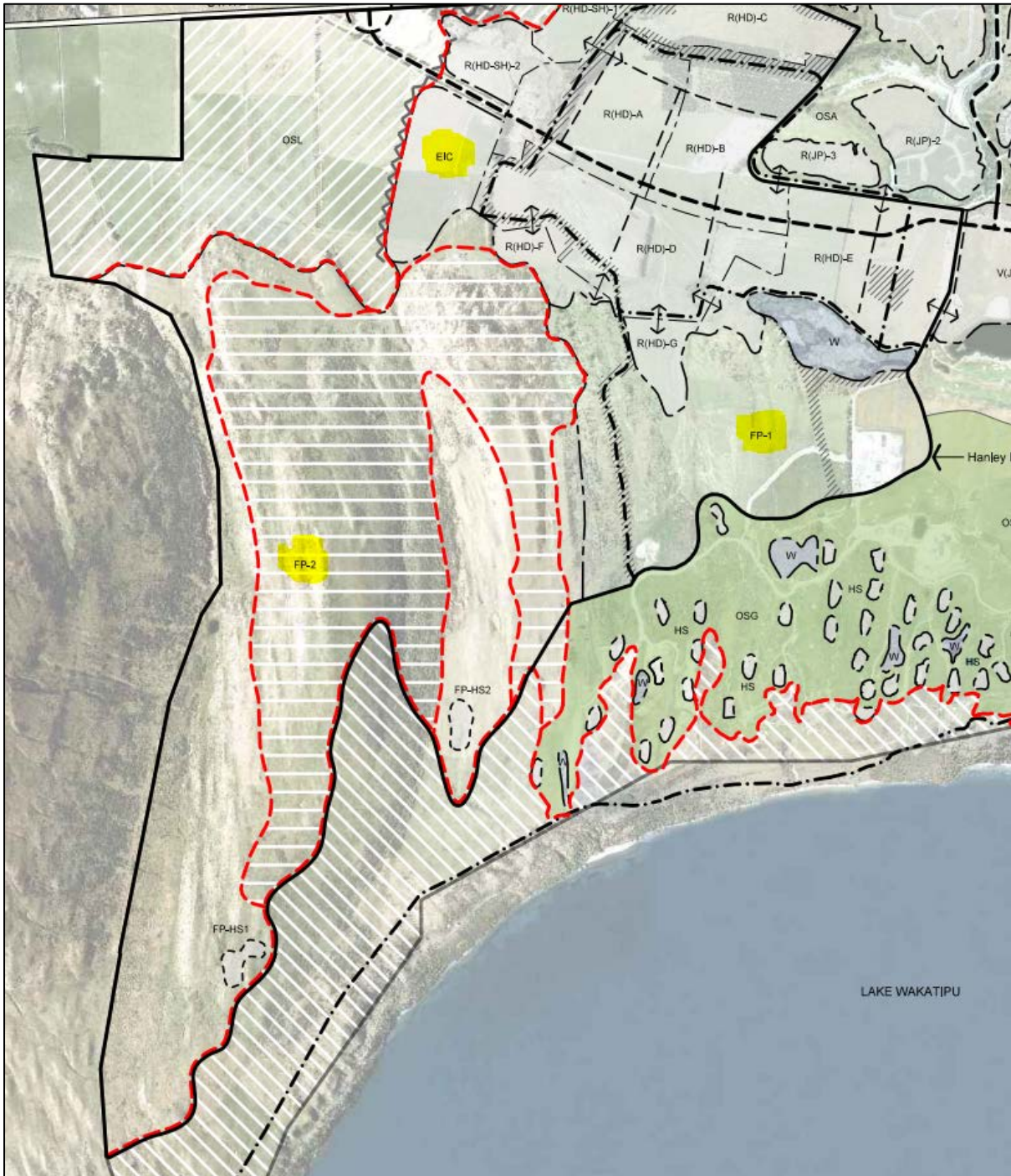
**Matters recommended Not to be approved by Commissioners**

15 In order to better understand the recommendation of the Commissioners, Figure 2 below shows parts of an earlier Structure Plan that were not approved.

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<sup>3</sup> R(HD-SH) means Residential (Hanley Downs-State Highway)

**Figure 2: Structure Plan highlighting areas not approved .**



16 The following parts of PC44 were not recommended:

Activity Area EIC – (the ‘Education and Innovation Campus)

- The EIC covered an area of 13.2 hectares and was proposed for education and technology-based activities, modelled on a tertiary campus concept and intended to form a transition between the denser residential PC 44 interior and the existing rural land outside of PC 44. The activities to be enabled (as presented at the Hearing) include technology based activities, commercial film or video production, education facilities, community activities (excluding

hospitals) and visitor accommodation including ancillary commercial administrative, office, retailing, accommodation, food and entertainment facilities (e.g. café).

- The Commissioners noted from the outset that a weakness of PC44 was the lack of specificity surrounding exactly what type and quantity of activities were envisaged within the EIC area.
- The Commissioners expressed concern at the scale of the EIC (potentially 39,000m<sup>2</sup> – 78,000m<sup>2</sup>) and that this inescapably raised questions regarding impacts on other existing nodes planned to accommodate commercial growth in the District in a way that contributes to stated urban form, energy efficiency and social wellbeing aims within the District Plan.
- Related to that are significant questions raised in terms of the District Plan's policy framework for the Wakatipu Basin itself. The Commission saw serious problems with the EIC that needed to be addressed with comprehensive analysis, but that was lacking from the Hanley Downs entities' case in terms of:
  - Policies 4.5.3.1.1<sup>4</sup> and 4.5.3.1.2<sup>5</sup> – reducing the length of and need for vehicle trips cannot be answered by the evidence presented as it did not elaborate how many persons may be travelling, and from where. It is clear from the Hanley Downs entities' own evidence that the majority of EIC users would be arriving each day from outside of the JPRZ.
  - Objective 4.9.3.4<sup>6</sup> and Policies 4.9.3.4.1<sup>7</sup>, and 4.9.3.4.2<sup>8</sup> – the size and scale of the EIC will make it a potential new business centre. This has not been acknowledged or assessed, and as such its appropriateness in terms of these provisions cannot be ascertained.
- The Commission also had significant concerns in terms of the relationship between the EIC and the remainder of Hanley Downs and the JPRZ. In support of its location at the edge of the zone rather than towards its centre (where the Operative District Plan provides for a commercial village – V(JP)), experts of the Hanley Downs entities explained that this would help to keep the traffic and activity occurring within the EIC away from the residential area. This reinforced the Commission's impression that the EIC has little intended relationship with the development to be enabled elsewhere at Hanley Downs via PC 44; or with development provided for elsewhere at Jacks Point in terms of the existing JPRZ provisions.

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<sup>4</sup> To promote compact urban forms, which reduce the length of and need for vehicle trips and increase the use of public or shared transport.

<sup>5</sup> To promote the compact location of community, commercial, service and industrial activities within urban areas, which reduce the length of and need for vehicle trips.

<sup>6</sup> A pattern of land use which promotes a close relationship and good access between living, working and leisure environments.

<sup>7</sup> To promote town centres, existing and proposed, as the principal foci for commercial, visitor and cultural activities.

<sup>8</sup> To promote and enhance a network of compact commercial centres which are easily accessible to, and meet the regular needs of, the surrounding residential environments.

- The Commission also concluded that the EIC does not appear to be consistent with the purpose of the Resort Zone (Jacks Point) as set out in Clause 12.2.1 of the Operative District Plan.
- As a consequence the Commission left the area of the proposed EIC as part of the 'Open Space Landscape Protection / Farming' activity area.

#### Activity Area FP-1 (Farm Preserve – 1)

- FP-1 covers some 69.46 hectares – providing for small farm preserve lots, subject to requirements for a 'spatial layout plan' used to determine the appropriate lot and building sites. FP-1 is to be subject to a maximum of 34 residential units. This maximum equates to what would result if a minimum 2 hectares per site was applied.
- The Commission stated that the 'Tablelands' provide an important element in the landscape that is visible from the roading system at Jacks Point to which the public has access (and which is therefore a public place), and provides a backdrop to existing and future development at Jacks Point and Hanley Downs.
- The Commission was concerned that the outcome of the FP-1 provisions will be a form of rural residential subdivision and development which was not suitable for the Tablelands environment.
- The Commission considers that the status quo should be maintained with respect to the planning status of the area proposed to be Activity Area FP-1 on the Tablelands. The Commission therefore left the proposed FP-1 activity area as part of the 'Open Space' and 'Golf Course and Open Space' activity area.

#### Activity Area FP-2 (Farm Preserve – 2)

- FP-2 covered some 243 hectares – providing for two large farm blocks and two identified home site areas (which could accommodate a number of dwellings or ancillary buildings), focusing on a natural north-south fold in the landform that would accommodate vehicular access rising up from the valley floor.
- Having considered the evidence, the Commission remained unclear about development outcomes envisaged in Activity Area FP-2.
- The Commission found that Peninsula Hill in its entirety is a spectacular landform that dominates views looking west along State Highway 6 and north from within the Hanley Downs and Jacks Point areas. This includes its natural fold on the southern flank and its other glacial scars. The Commission was very concerned at the proposal to bisect the feature with a development area which will, in the Commission's view, open the door for further development to be promoted.
- The Commission found the proposed division of Peninsula Hill to demarcate its internal fold as being able to accommodate development without having

any effect on the outstanding natural landscape qualities of Peninsula Hill on either side of that fold is artificial.

- The Commission therefore left the area of the proposed FP-2 activity area as part of the 'Open Space' activity area.

### **The QLDC corporate submission**

- 17 In terms of the changes sought through the Council's corporate submission, these changes were largely accepted by the Commission. Council supported a more enabling approach to residential density in the flat areas occupied by activity areas R(HD) – A through to E. The need for an outline development plan, and a resource consent for every dwelling has been removed, and the former residential 'pods' have been removed, as these did not make sense on the flatter land.
- 18 The Council's submission was accepted with regard to avoiding the addition of another special zone, and PC44 is now a change to the operative 'Resort' zoning, rather than a new special zone.
- 19 The substantial changes made to the proposal rendered large parts of the Council submission redundant as the provisions were almost completely re-written, either by RCL or the Hanley Downs Entities. However the major themes of the Council submission were accepted by the Commission.

### ***Options***

- 20 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. The Council has the following two options:

#### **Option 1 – Accept the Commission recommendation**

##### ***Advantages:***

- The plan change has been through a thorough process. Experienced Commissioners had the benefit of submissions and further submissions as well as professional assistance (in the form of an officer's recommendation) and have reached a robust decision.
- The submissions and hearing process gave people the opportunity to either support or oppose the proposal and be heard in relation to their submissions.
- Would move the plan change towards being made operative.

##### ***Disadvantages:***

- None. Council appointed the three Commissioners to hear and make recommendations on the submissions received.
- Should Council feel that some aspects of the recommendation are inappropriate, Council could theoretically 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.

### Option 2 – Reject the Commission recommendation

#### *Advantages:*

- Would allow Council to appoint new Commissioners to re-hear submissions on any aspects of the Commissioner decision it was unhappy with.

#### *Disadvantages:*

- 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 applicant or 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 further delays and additional costs associated with this option.

21 This report recommends **Option 1** for addressing the matter.

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

22 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it impacts on the environment and people of the district, has a degree of community interest and is not entirely consistent with the Operative District Plan.

### ***Risk***

23 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 PC44 relates to residential land supply and providing for the future development needs of the community.

24 The recommended option considered above mitigates the risk by adopting the decision of the experienced Commissioners who heard all the evidence before them and made a decision based upon that evidence.

### **Financial Implications**

25 There is no budget or cost implications resulting from the decision.

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

26 The following Council policies, strategies and bylaws were considered:

- Operative District Plan
- Proposed District Plan

27 The recommended option is consistent with the principles set out in the named policies. Specifically, the decision references and has regard to the District Wide provisions of the Operative District Plan.

28 This matter is not included in the 10-Year Plan/Annual Plan

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

29 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 decision on PC44 in a timely fashion;
- 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**

30 The persons who are affected by or interested in this matter are submitters on PC44. Submissions were considered by the appointed Commissioners.

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

31 The process for dealing with Plan Change requests is set out in the First Schedule of the Resource Management Act 1991.

### **Attachments (circulated separately)**

- A Report and recommendations of independent commissioners – PC44 28 January 2016 including:
- Appendix 1 – Amended objectives and policies – Resort Zone
  - Appendix 1 – Amended rules – Resort Zone
  - Appendix 1 – Amended rules – Subdivision chapter
  - Appendix 2 - Summary of submissions and further submissions
  - Appendix 3 – List of submitters.