

QLDC Council  
26 May 2016

Report for Agenda Item: 4

Department: Planning & Development

Appointment of Hearing Commissioners for Private Plan Change 51 –  
Peninsula Bay North

**Purpose**

The purpose of this report is to appoint Hearings Commissioners to hear and make a recommendation back to Council on proposed Private Plan Change 51 Peninsula Bay North (“PC51”).

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Appoint** Commissioner David Mead as Chairperson of the PC51 Hearings Panel to hear submissions and make a recommendation back to Full Council.
3. **Appoint** Commissioner Andrew Henderson as a panel member.
4. **Appoint** an accredited elected member as a panel member.

Prepared by:



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Manager, Planning Practice

3/05/2016

Reviewed and Authorised by:



Tony Avery  
General Manager, Planning  
& Development

3/05/2016

## Background

- 1 Private Plan Change 51: Peninsula Bay North seeks to rezone approximately 6 hectares of land zoned 'Open Space – Landscape Protection' at the north end of Peninsula Bay for low density residential development, whilst providing ecological and passive recreational benefits on the balance of the Open Space zoned land between the Peninsula Bay development and Lake Wanaka.
- 2 Council resolved to accept the private plan change for processing at its meeting on 26 November 2015. The area sought to be rezoned is shown in Figure 1 below:

**Figure 1: Area of Open Space zoning proposed for rezoning to Low Density Residential**



- 3 PC51 is a private plan change, being prepared and lodged by Peninsula Bay Joint Venture Limited. PC51 was publicly notified on 9 December 2015 and attracted 204 submissions. Further submissions were called for on 17 March 2016 and closed on 4 April 2016. Council lodged a corporate submission on PC51.
- 4 Under the Resource Management Act, Council must now appoint a Hearing Panel to hear submissions on PC51. The panel will hold a public hearing to enable submitters to present their submissions. Following the hearing, the panel will make a recommendation back to Council.

## Comment

- 5 Normally a panel of two or three Commissioners are appointed to hear plan changes, however there is no set number and a Commissioner could sit alone if that was desired.
- 6 Officers have approached Commissioner David Mead, and he has confirmed he has no real or perceived conflict. Commissioner Mead is an Auckland based

planner and urban designer. He is on Council's approved list of Hearing Commissioners and appended as **Attachment A** is his Commissioner Biography. He is an accredited commissioner. He has recently heard the Bridesdale Special Housing area resource consent, and has been appointed to hear other notified resource consents in the district.

- 7 Officers have approached Commissioner Andrew Henderson, and he has confirmed he has no real or perceived conflict. Commissioner Henderson has over 20 years' planning experience in the Queenstown Lakes District, firstly as the Principal Planner of Civic Corporation Ltd and subsequently as a consultant to the Council. He is also on Council's approved list of Hearing Commissioners and appended as **Attachment B** is his Commissioner Biography. He is an accredited commissioner.
- 8 Council may also wish to appoint an elected member to join the panel. Section 39B of the Resource Management Act requires that all panel members be accredited unless there are exceptional circumstances.

### ***Options***

- 9 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.
- 10 Option 1 – Appoint the recommended Commissioners and one accredited Councillor
  - 11 Advantages: The recommended independent Commissioners are highly experienced and familiar with the Queenstown Lakes District. They are available to hear PC51 and are regularly used by Council as hearings commissioners of resource consent matters. Appointing one accredited Councillor as a Commissioner will ensure local representation and knowledge is available on the Panel.
  - 12 Disadvantages: No known disadvantages.
- 13 Option 2 – Appoint other Commissioners
  - 14 Advantages: There are a range of other Commissioners who have previously been approved by Council for use on resource consent matters. These Commissioners would also be suitable to hear PC51, however as noted below, many have commitments to the Proposed District Plan hearings that could be perceived as a conflict of interest because the applicant for PC51 has sought the same outcome through a submission on the Proposed District Plan.
  - 15 Disadvantages: Many of the Commissioners on the list as **Attachment C** are involved in the Proposed District Plan hearings. The applicant has also submitted on the Proposed District Plan seeking the same outcome as PC51, so it is important the Commissioners hearing PC51 not be involved in the Proposed District Plan hearings.

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

16 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because the matter relates to the appointment of a panel to hear a Plan Change, and all other statutory and procedural parameters remain in place.

### ***Risk***

17 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 although the Plan Change is not considered to be highly strategic, it is considered to be of significant importance in terms of landscape and ecological values as well as potential housing supply for the district.

The recommended option considered above mitigates the risk by: Treating the risk - putting measures in place which directly impact the risk.

### **Financial Implications**

18 Being a Private Plan Change request, all costs in the assessment, consideration and determination of the Plan Change are recoverable from the applicant. This includes the cost of the independent commissioners.

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

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

- Council's list of RMA Hearing Commissioner as appointed by Council at its meeting of 30 January 2014 – David Mead and Andrew Henderson are named on this list.
- Procurement Policy – the use of a Commissioner chosen from an existing panel of preferred suppliers is consistent with Council's Procurement Policy.

20 The recommended option is consistent with the principles set out in the named policy/policies.

21 This matter is included in the 10-Year Plan/Annual Plan as part of the District Plan commitment.

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

22 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**

23 The persons who are affected by or interested in this matter are parties who have submitted on the Plan Change.

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

24 The appointment of a panel to hear and determine applications for Plan Changes is anticipated under the Resource Management Act 1991.

### **Attachments**

- A Commissioner Biography, Commissioner David Mead
- B Commissioner Biography, Commissioner Andrew Henderson
- C List of Commissioners previously approved by Council for appointment by the Resource Consent Commissioner Appointment Committee

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**DAVID MEAD**

Hill Young Cooper Ltd, Auckland

**Specialisation:** Planning

**Experience:** 25 years

**Professional experience:**

David is a Director with Hill Young Cooper Ltd, a public policy and resource management consultancy, based in Auckland and Wellington. David has over 25 years' experience in resource management policy.

David provides advice on a wide range of RMA-related projects to public and private sector clients. David is an accredited Hearing Commissioner and has considered plan changes, resource consents and notices of requirements. He is also a Chair of one of Auckland Council's Urban Design Panels.

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**ANDREW HENDERSON** (Chair Endorsement)

Beca Ltd, Christchurch

**Specialisation:** Planning

**Experience:** 19 years

**Professional experience:**

Andrew has over 19 years' experience including extensive consenting experience in the Queenstown Lakes District, firstly as an employee of Civic Corporation Ltd and subsequently as a consultant to the Council. He was previously amongst pool of QLDC's Independent Commissioners. In these roles Andrew was responsible for assessing and reporting on a wide range of resource consent applications, including rural developments, tourism activities and commercial developments. Andrew has also prepared district plan changes.

Andrew is an experienced expert witness, having appeared in Environment Court on over 30 occasions. He is a certified Hearing Commissioner (chair endorsed), through to the Environment Court, and managing the day to day consent processes for the Wanaka and Queenstown areas, including reviewing the work of other planners. Andrew also has experience in the preparation of applications for resource consents and notices of requirement for designations.

Andrew is the current chair of the NZPI Canterbury Westland branch and is located in our Christchurch office.

<b>RMA HEARING COMMISSIONERS PANEL</b>	
Paul Rodgers	Adderley Head
Andrew Henderson	Beca Ltd
Bryce Julyan	Beca Ltd
Ken Gimblett	Boffa Miskell
Sarah Dawson	Boffa Miskell
David Clarke	Clarke & Co Consultants Ltd
David Collins	David Collins Consulting Ltd
David Wren	David Wren
Christine Kelly	DKDNZ.com Ltd
Gillian Macleod	Gillian Macleod
David Mead	Hill Young Cooper Limited
Mark St Clair	Hill Young Cooper Limited
John Lumsden	J L Lumsden Consulting Engineer
Jane Sinclair	Jane Sinclair Planning Ltd
Jane Taylor	Jane Taylor Barrister
John Milligan	John Milligan
David Whitney	Johnston Whitney Trading Trust
Cath Gilmour	Keystrokes Ltd
Leigh Overton	Leigh Overton
Lyal Cocks	Lyal Cocks
Phil Mitchell	Mitchell Partnerships
Louise Taylor	Mitchell Partnerships
Denis Nugent	Nugent Consultants Ltd
Bob Nixon	Planz Consultants
Dean Chrystal	Planz Consultants
Darryl Millar	RMG
Graham Taylor	RMG
David McMahon	RMG Wellington
Trevor Shiels	Trevor John Shiels
Ian Munroe	Urbanism+
Colin Weatherall	Weatherall
Alan Withy	Withy Consulting Ltd