

**QLDC Council**  
**28 April 2016**

**Report for Agenda Item: 5**

**Department: Planning & Development**

**Private Plan Change 46: Ballantyne Road – Ratification of Commissioner recommendation**

**Purpose**

The purpose of this report is to provide the Commissioner recommendation on submissions to Plan Change 46 – Ballantyne Road 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:



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5/04/2016

Reviewed and Authorised by:



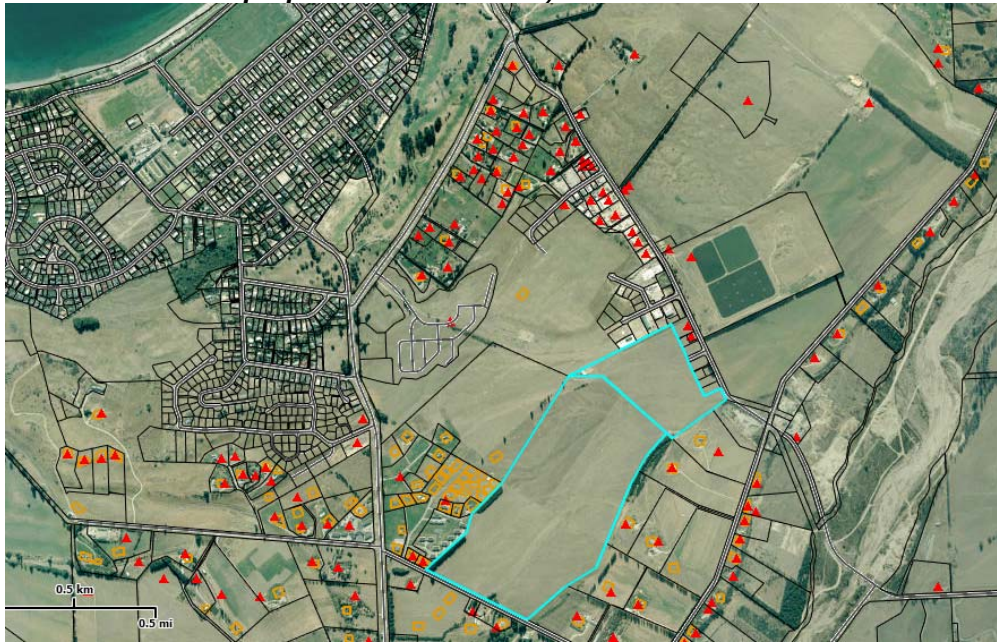
Tony Avery  
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5/04/2016

**Background**

- 1 Plan Change 46 (“**PC46**”) is a private plan change by Orchard Road Holdings Limited. PC46 sought to re-zone approximately 19 hectares of land located to the south and west of the existing Ballantyne Road industrial areas, Wanaka from “Rural General” to “Low Density Residential” and “Industrial B”. The context of the proposed Plan Change is shown in Figure 1 below.
- 2 The re-zoning proposed to expand the existing industrial area by 2.5 hectares and to introduce a new low density residential area of 13.3 hectares. A Structure Plan accompanying the Plan Change specifies areas of open space to provide a buffer between the proposed industrial and residential areas.

**Figure 1: Location of the subject sites in relation to Wanaka township (note: only part of the southern lot is proposed to be rezoned)**

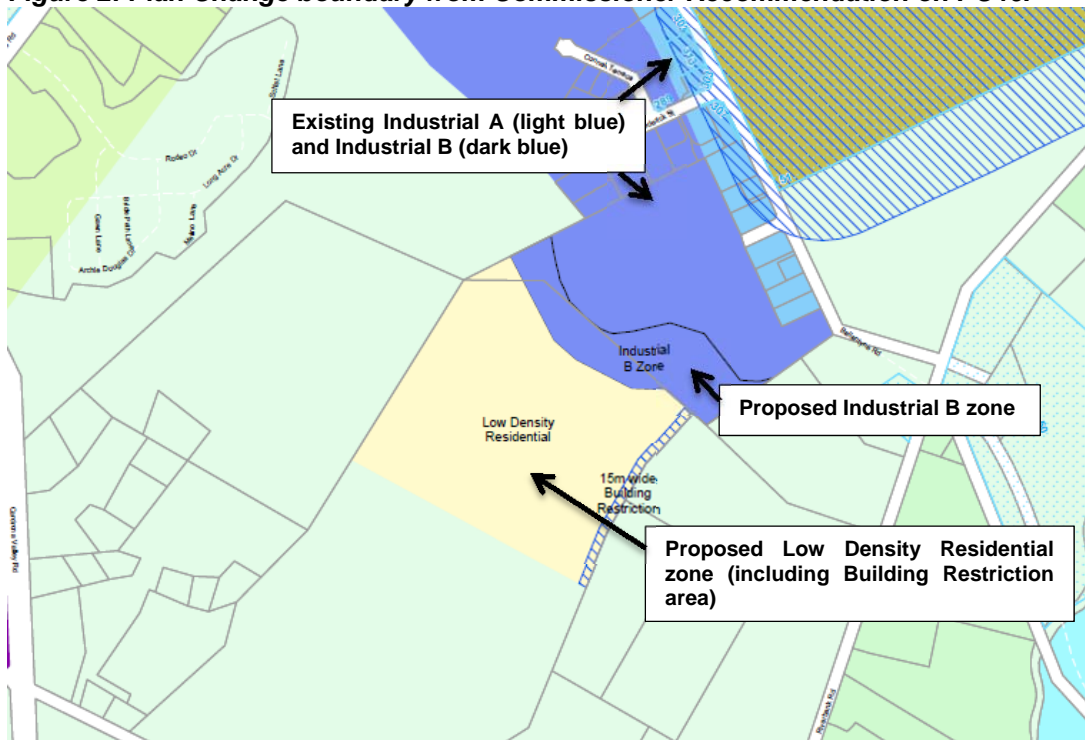


- 3 Plan Change 46 was presented to Council’s Strategy Committee on 27 August 2013. It was resolved to ‘accept’ the plan change for processing (rather than adopting it as a Council plan change, or rejecting it). It was then publicly notified for submissions on 18 March 2015 and a summary of the decisions requested in submissions was publicly notified on 14 May 2015. Further submissions closed on 28 May 2015.
- 4 A total of nine original submissions and five further submissions (one late) were received.
- 5 Council lodged a corporate submission signed by the Chief Executive Officer on 21 April 2015. The corporate submission sought to ensure two matters were addressed:
  - that safe access on to Ballantyne Road was provided and that adequate consideration is given to future population growth, pedestrian and cycle safety, vehicle usage in roading and intersection design, and
  - that adequate provision for future intersection expansion is provided for as part of the plan change.
- 6 One submission from the Gordon Family Trust sought that the Plan Change boundary be expanded to include their land and to rezone this land from “Rural General” to “Low Density Residential”. In their further submission, the Requestor supported the Gordon Family Trust submission subject to amendments to the Structure Plan to align with the Structure Plan advanced by the Plan Change.
- 7 The hearing began on 18 August 2015 before Commissioners Andrew Henderson and Calum MacLeod. The hearing was adjourned on 19 August 2015. The hearing was closed on 11 December 2015 once the Commission received final comments from the Requestor.

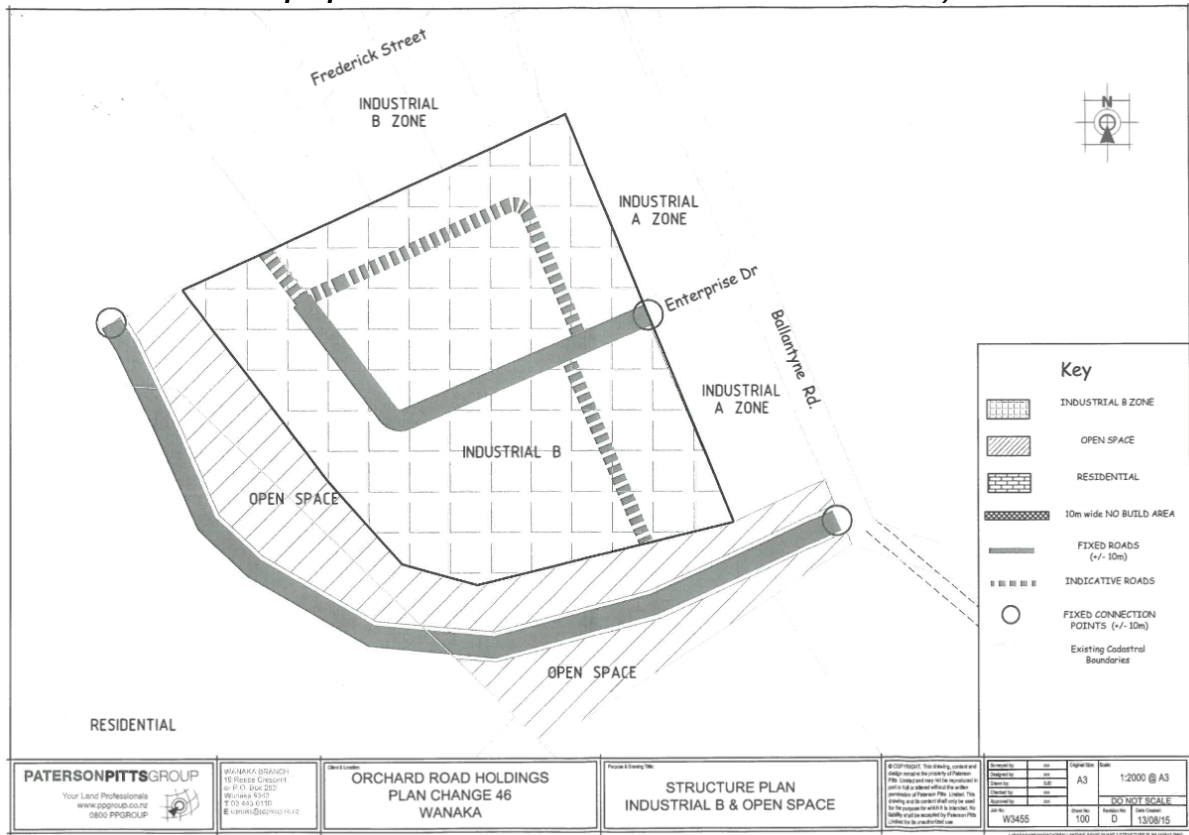
## Comment

- 8 The Commissioners' recommendation is that PC46 be accepted in part, subject to a number of relatively minor amendments.
- 9 In order to better understand the recommendation, Figure 2 below shows the PC46 area (with the Industrial B Zone extension shown labelled in blue and the proposed Low Density Residential Zone shown in yellow) that is recommended to the Council. Figures 2 and 3 below are the proposed Structure Plans (Figure 3 relating to the Industrial B zoning and adjoining open space areas and Figure 4 relating to both the Industrial B and Low Density Residential zonings).

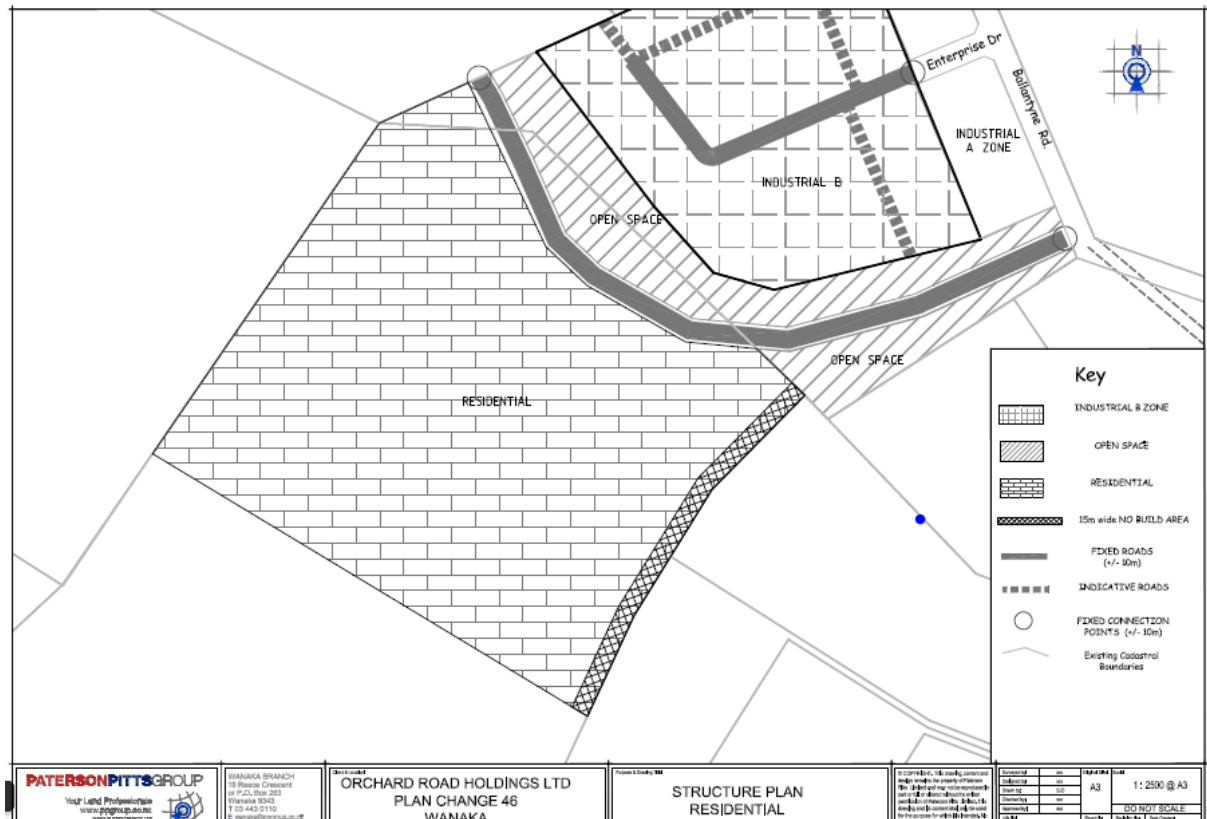
**Figure 2: Plan Change boundary from Commissioner Recommendation on PC46.**



**Figure 3: Structure Plan to be inserted into Chapter 11 from Commissioner Recommendation on PC46 (this Structure Plan incorporates the existing Industrial B zoned land in addition to the proposed Industrial B land held in Lot 99 DP 445766)**



**Figure 4: Structure Plan to be inserted into Chapter 15 from Commissioner Recommendation on PC46**



10 The Commissioners recommended that the Plan Change be accepted, for the following reasons:

- The Plan Change will help achieve sustainable management of the district's resources by providing a consolidated industrial area which will meet long term demand for industrial activities in a convenient location, within the urban growth boundary designated in the Wanaka Structure Plan.
- The residential area proposed in the Plan Change will assist in providing for the ongoing needs of the Wanaka community.

11 The Commissioners did however recommend some minor amendments to the Plan Change as follows:

- Inclusion of a Performance Standard to preclude development within the PC46 area until all of the required planting and mounding has been implemented within the open space areas of the Structure Plan.
- Addition of two new Rules stating that any subdivision of the open space areas or the residential land prior to completion of the required planting and mounding being implemented is a Non-Complying activity.
- Inclusion of an additional Rule requiring all subdivision of the low density residential zoned land, which includes or adjoins the designated 'No Build Area' identified on the Structure Plan, be subject to a 5.5m height limit; for no buildings to be located within the 'No Build Area'; and that all planting and

mounding established within the 'No Build Area' is to be maintained by the respective landowners.

12 The Commissioners rejected all of the submissions in opposition to the Plan Change as they consider that the Plan Change is the most appropriate means of achieving the Resource Management Act's purpose.

13 The Commissioners also rejected the Gordon Family Trust submission to include their land in the re-zoning on the basis that this is beyond the scope of the Plan Change, which could raise natural justice issues for neighbouring property owners who had not submitted on the Plan Change.

#### The QLDC corporate submission

14 In terms of the changes sought through the Council's corporate submission, the submission points were accepted in part by the Commission on the basis that further detailed assessment work undertaken by Traffic Design Group confirmed the overall acceptability of the proposed intersection design.

#### **Options**

15 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:

16 Option 1 – Adopt the Commission recommendation

##### *Advantages:*

- The plan change has been through a thorough process. 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 two 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.

17 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:*

- All submitters would need to be re-heard at another hearing.
- Additional Council and submitter resources would be required to rehear the Plan Change.
- There would be further delays and additional costs associated with this option.
- 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.

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

***Significance and Engagement***

19 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***

20 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.

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

**Financial Implications**

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

**Council Policies, Strategies and Bylaws**

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

- Operative District Plan
- Proposed District Plan
- Wanaka Structure Plan (2002)
- Wanaka Structure Plan (2007)
- Growth Options Study (2004) and the Growth Management Strategy (2007)
- Commercial Land Needs Study (2006)
- Wanaka Transport and Parking Strategy (2008)

24 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.

25 This private plan change matter is not included in the 10-Year Plan or Annual Plan but relates to the function of the Planning and Development group generally.

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

26 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 PC46 in a timely fashion;
- Can be implemented through current funding under the 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**

27 The persons who are affected by or interested in this matter are submitters on PC46. Submissions were considered by the appointed Commissioners.

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

28 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, reasons and recommendations of independent commissioners – PC46 including:
- Appendix A – Recommended amended District Plan Map 23
  - Appendix B – Revised plan change provisions