

QLDC Council  
28 September 2017

Report for Agenda Item: 2

Department: Planning & Development

Stage 2 Proposed District Plan Notification

Purpose

The purpose of this paper is to present those parts of Stage 2 of the Proposed District Plan (PDP) addressing Earthworks, Signs, Open space and Recreation areas to Council for its approval to proceed to statutory public notification. The material presented includes a Variation to Stage 1 of the PDP. References to “Stage 2” of the PDP in this report refer to both the introduction of new chapters and provisions into the PDP and to proposed variations to existing parts of the PDP introduced with Stage 1 of the district plan review.

Recommendation

That Council:

1. **Note** the contents of this report;
2. Having particular regard to the section 32 evaluation reports, **approve** pursuant to section 79(1) and clause 5 of the First Schedule of the Resource Management Act 1991 the Stage 2 provisions of the Queenstown Lakes District Council Proposed District Plan 2015 for notification as set out in **Attachment 2: Stage 2 Proposed District Plan Attachments Bundle**:
  - a) Chapter 25 Earthworks
  - b) Chapter 31 Signs
  - c) Chapter 38 Open Space and Recreation Zones in relation to the purpose statement  
and
  - d) New definitions in Chapter 2 Definitions, in relation to earthworks, signs and open space and recreation zones.
3. Having particular regard to the section 32 evaluation reports, **approve** pursuant to clauses 5 and 16A of the First Schedule of the Resource Management Act 1991 the following variations to the Stage 1 provisions of the Queenstown Lakes District Council Proposed District Plan 2015 for notification:
  - a) Planning Maps 2, 5 - 39 introducing proposed Open Space and Recreation Zones

- b) Chapter 2 Definitions in relation to earthworks, signs, and open space and recreation related definitions
  - c) Chapter 6 Landscapes in relation to the purpose statement and assessment matters
  - d) Chapter 17 Airport Mixed Use in relation to signs provisions
  - e) Chapter 35 Temporary Activities and Relocated Buildings in relation to open space and recreation zones
  - f) Chapter 27 Subdivision and Development in relation to earthworks provisions, and open space and recreation zones
  - g) Chapter 36 Noise in relation to open space and recreation zones
  - h) Chapter 41 Jacks Point Zone in relation to earthworks provisions.
4. **Authorise** the Manager Planning Policy to make minor edits and changes to the chapters, maps and section 32 reports to improve clarity and correct errors;

and

To notify Stage 2 of the Queenstown Lakes District Council Proposed District Plan 2015 in accordance with clause 5 of the First Schedule of the Resource Management Act 1991 from 23 November 2017 for a period of 50 working days.

5. **Note** that the (Stage 2) Wakatipu Basin Variation, Visitor Accommodation Variation and Transport Chapter provisions will be considered for notification at the 26 October meeting of Full Council.

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18/09/2017

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18/09/2017

## Background

- 1 The Proposed District Plan (PDP) was notified on 26 August 2015 as a staged review, commencing with the areas most urgently requiring attention and delivering most immediate benefit contained in Stage 1.
- 2 Stage 1 of the review commenced with 30 key chapters including the residential, rural and commercial zones, designations and maps. Matters

raised in submissions have been considered at a series of 13 hearings the last of which is almost complete at the time of writing this report.

- 3 Recommendations from the Independent Hearings Panel on the Stage 1 provisions are expected in January/February of 2018, which will allow Council to issue decisions in the first quarter of 2018.
- 4 In the mean-time a number of changes have been made to the Operative District Plan (ODP) which have not been duplicated in the Proposed District Plan<sup>1</sup>. Council instead agreed on 29 September 2016, to separate the new plan conceptually and by geographic area into two volumes, which at the end of the staged review process will contain:
  - Volume A, the geographic areas that have been notified into the PDP, and District Wide chapters to cover these areas, including the strategic chapters and PDP definitions; and
  - Volume B, the ODP as it relates to geographic areas that are excluded from the partial review, and the operative district wide chapters to cover these areas, including ODP definitions.
- 5 The intent of this conceptual two-volume approach is to manage areas of land within the District that were subject to a plan change when the Proposed District Plan was notified in August 2015. As PDP provisions become operative, they will form part of Volume A of the district plan, at which point the equivalent provisions in Volume B will cease to apply for that land<sup>2</sup>.
- 6 In June 2017 Council agreed to complete the review in tranches in the sequence set out below:
  - a) Stage 2 (including transport, open space, earthworks, signs, Wakatipu Basin and visitor accommodation) notification in 3rd quarter 2017 (now November 2017) and hearings in 2nd quarter 2018 (now 3rd quarter 2018).
  - b) Stage 3 (including affordable and community housing, township zones, industrial zones and sites of significance to iwi) notification in 1st quarter 2019 and hearings in 3rd quarter 2019.
  - c) Stage 4 (including special zone provisions) notification in 2nd quarter 2019 and hearings in 4th quarter 2019.
- 7 The structure of the PDP splits into strategic umbrella chapters addressing strategic direction, urban development, landscape and tangata whenua, and then more specific urban (commercial and residential zones), rural, and resort zones. These provisions are supported by a number of district wide chapters, and maps. Attachment 1 details the proposed structure of the PDP.
- 8 Council have informally considered the substantive matters addressed in Stage 2 of the district plan review through a series workshops and elected member briefings have been held on the draft chapters and provisions. This paper brings these matters together for Council's final approval.

## Comment

### ***Consultation for Stage 2 of the PDP Review***

- 9 A communications plan has been prepared for this Stage 2 phase of the district plan review, which includes (but is not limited to) the following:
  - Direct mail out of the public notice and a detailed information brochure to all ratepayers in the district
  - Notify a public notice in local papers
  - Setting up a dedicated email address which will log all enquiries and responses
  - 10 week (50 working days) public submission period from 23 November 2017
  - 23 February 2018
  - 2 week (10 working day) further submission period in March-April
  - Facebook advertising including information videos and fact sheets (also available from the Council website and from Council service centres)
  - Notification emails to everyone on the District Plan database (includes around 600 submitters on Stage 1).
- 10 In addition to the above, members of the council policy team will (through a roster system) be available during the submission period to answer enquiries and provide information as well as attend meetings on request.
- 11 Statutory agencies (the Minister for the Environment, neighbouring district councils, the Otago Regional Council and Iwi Authorities) have all been consulted on these proposed changes, provided with information and offers have been made to meet and discuss the proposals further.
- 12 Any feedback received from statutory agencies after the close of the agenda item will be tabled on 28 September along with any changes that may result from this feedback.
- 13 The consultation and submission period for Stage 2 includes the provisions addressed in this report and the following new chapters and variations:
  - Chapter 24 Wakatipu Basin
  - Chapter 29 Transport
  - Visitor Accommodation (including variations to the Stage 1 Low Medium High Density Residential, and Large Lot Residential zone provisions).

- 14 These further parts of Stage 2 will be considered for notification at the 26 October meeting of Full Council and will be notified together in November 2017 with the three chapters addressed in this report.

### ***Proposed Provisions – Earthworks***

- 15 The Earthworks Chapter in the operative District Plan was reviewed relatively recently in 2014 (Plan Change 49) and made operative in July 2016. However, the existing earthworks chapter is considered lacking in terms of effective management of soil erosion, sediment generation and run-off from land use activities, in particular large scale subdivision and development activities. The Otago Region does not have a regional land and water plan and it is important for the Queenstown Lakes District Plan to appropriately manage activities that can generate sediment and cause run-off to waterbodies and properties as part of the Council's functions under section 31 of the Resource Management Act. The ODP earthworks provisions do not specifically address Outstanding Natural Features and Landscapes, Statutory Acknowledgment Areas, Tōpuni or Nohoanga and specific rules relating to earthworks in these areas are included in the new proposed earthworks chapter.
- 16 Earthworks are often a necessary component of land use and development but can have adverse effects on landscape, nature conservation values and amenity values in both rural and urban locations, and adverse effects on heritage and cultural values.
- 17 Earthworks can cause nuisance effects in the form of dust and vibration, which can be appropriately minimised through management during construction. Earthworks can also cause safety issues for people, property and infrastructure.
- 18 Soil erosion, sediment generation and run-off may result in adverse effects on surface water bodies and damage, or adverse effects on stormwater infrastructure. If not properly managed this may have significant adverse effects on water quality and flow and can damage ecosystems of flora and fauna within those water bodies. Damage to these environments can also lead to a loss of cultural values.
- 19 The proposed Earthworks Chapter (see **Attachment 2: Stage 2 Proposed District Plan Attachments Bundle i**) will assist the Council to fulfil its statutory functions and responsibilities through the following objectives, policies and rules:
- objectives to minimise the adverse effects on natural and physical resources, including infrastructure and cultural values
  - policies that address the variability of activities and potential adverse effects associated with earthworks
  - rules that provide limitations on the volume, area and location of earthworks to ensure the adverse effects of earthworks are managed

- exempting certain earthworks or providing for resource consent applications to be processed on a non-notified basis where there is sufficient certainty that those processes are appropriate relative to the activity.
- 20 New Stage 2 definitions are proposed for Cleanfill, Cleanfill Facility, Mineral Exploration and Mineral Prospecting.
- 21 The proposed Earthworks chapter will apply to all land notified into the PDP through Stages 1 and 2. The proposed Earthworks Chapter results in a consequential need to notify a variation to Stage 1 PDP provisions, located in the following Stage 1 chapters:
- Chapter 2 – Definitions, relating to Earthworks, Landfill and Mining
- Chapter 27 - Subdivision and Development
- Chapter 41 – Jacks Point Zone.
- 22 All of the new definitions and proposed variations are located within the Stage 2 Earthworks chapter set out in **Attachment 2.i** to this report.
- 23 The Operative Earthworks chapter has been used as a baseline for the proposed Stage 2 PDP Earthworks provisions and the key changes that are recommended are as follows:
- a) Introduction of limits to the permitted area of land that can be disturbed which will apply alongside the limits on permitted volumes of earthworks;
  - b) Rules specific to Outstanding Natural Features and Landscapes, Statutory Acknowledgement Areas, Tōpuni or Nohoanga;
  - c) Rules that reduce permitted clearance for sites over 1 ha where sites have a slope of over 10 degrees;
  - d) Amending the setback from earthworks from waterbodies from 7m to 10m; and
  - e) Development of a design guide for onsite environment management of construction and development to help encourage good on-site environmental management practices and compliance with the plan.
- 24 An evaluation report prepared under section 32 of the RMA accompanies the chapter (**see Attachment 2.i (a)**). This evaluation has helped determine the appropriateness of the objectives to achieve the purpose of the RMA in light of the issues. It identifies the following as key issues:
- Issue 1 – Earthworks and landscape, visual amenity and nature conservation values
- Issue 2 – Earthworks and people, safety and cultural values
- Issue 3 – Earthworks and soil erosion, sediment and generation of run-off

25 The section 32 evaluation report for this chapter (and all the section 32 reports mentioned here) consider whether the proposed provisions are the most appropriate way to achieve the relevant objectives. The proposed policies, rules and other methods are examined for their costs, benefits, efficiency, effectiveness and risk in terms of achieving the objectives, and a range of alternative approaches and methods are considered.

### ***Proposed Provisions – Signs***

26 Signs are a component of development throughout the district that provide information to the public and assist with creating a sustainable and vibrant community. Signs can also result in adverse effects on visual amenity, and traffic and pedestrian safety. Managing the number, type, location, appearance and design of signs ensures that adverse effects are minimised to assist with maintaining a quality environment.

27 This signs chapter seeks to manage the adverse effects of signs. It introduces a suite of objectives, policies and rules that enable signs and manages their adverse effects.

28 The proposed Signs chapter will apply to all land notified into the PDP through Stages 1 and 2.

29 The proposed Signs Chapter results in a consequential need to notify a variation to Stage 1 PDP provisions, located in the following Stage 1 chapters:

Chapter 2 – Definitions

Chapter 17 – Airport Mixed Use.

30 The Operative Signs Chapter 18 has been used as a baseline for the proposed Signs chapter (see **Attachment 2.ii**), and the key changes that are recommended, compared against the operative provisions, are as follows:

- a) Hoardings are a prohibited activity, rather than a non-complying activity;
- b) Off-site signs have a new specific objective and associated policies;
- c) Signs within the ground floor area of buildings within commercial zones are limited to a maximum sign area of 5m<sup>2</sup> per tenancy as a controlled activity;
- d) Signs for temporary events will continue to be enabled, including a limited number of signs enabled outside the event site, with a specific objective and associated policies;
- e) Signs within reserves are addressed through rules applying to the Open Space and Recreation Zones, with flexibility for signs for the purposes of reserves, and limited provision for signs directly associated with lawfully established commercial activities, and flexibility for signs associated with approved temporary events;

- f) Signs within and above roads (as defined in Chapter 2, Definitions) are addressed through a new rule permitting signs associated with a road network activity or public amenity, and a limited number of other sign types will be permitted, including signs for approved temporary events and filming, and electioneering signs;
  - g) Council Design Guidelines for Queenstown, Wanaka and Arrowtown Town Centres will be incorporated by reference within policies, as matters of control and within assessment matters;
  - h) The operability of the operative rules is improved through improvements to drafting, improvements to the interpretative diagrams, amendments to various signs definitions, and by introducing additional definitions to PDP Chapter 2 Definitions; and
  - i) The chapter structure is revised to be consistent with the structure and conventions established for the Stage 1 PDP chapters.
- 31 All of the new definitions and proposed variations are located within the Stage 2 Signs chapter set out in **Attachment 2.ii** to this report.
- 32 The evaluation report prepared under section 32 of the RMA accompanying the chapter (see **Attachment 2.ii (a)**) has helped determine the appropriateness of the objectives to achieve the purpose of the RMA in light of the issues. It identifies the following as key issues:
- Issue 1 - Hoardings
  - Issue 2 - Off-site signs
  - Issue 3 - Signs within the ground floor area of buildings within commercial zones
  - Issue 4 - Signs for temporary events
  - Issue 5 - Signs within reserves
  - Issue 6 - Signs within and above roads
  - Issue 7 - Referencing Council design guidelines
  - Issue 8 - Improving the operability of the operative rules and the definitions in PDP Chapter 2 Definitions
  - Issue 9 - Achieving consistency with other PDP chapters.
- 33 The section 32 evaluation report for this chapter considers the appropriateness of the proposed objectives. The proposed policies, rules and other methods are examined for their costs, benefits, efficiency, effectiveness and risk in terms of achieving the objectives and a range of alternative approaches and methods are considered.

### ***Proposed Provisions – Open Space and Recreation Zones***

- 34 Within Stage 1 of the Proposed District Plan, and also in the Operative District Plan, Council administered open space, parks and reserves in the District are generally zoned PDP Rural Zone/ ODP Rural General Zone (as is the case in



Queenstown and Wanaka town centres) or according to the adjacent and surrounding neighbourhood zones. All reserves are designated for a variety of related purposes under the Operative District Plan (including, but not limited to; Recreation Reserve, Cemetery Reserve, or Historic Reserve), which enables the Council to undertake works in accordance with those designations, and those designations have been rolled over into the PDP.

- 35 This approach creates issues for external organisations who cannot rely on the designations, and means that existing reserve users need to obtain sometimes difficult resource consents in accordance with the underlying zone. Proposed activities which provide for recreation are often incompatible with the underlying zoning. Due to the number of overlapping management tools and legislation that apply, the management, use and development of reserves in the District results in a complex framework for third parties.
- 36 The scope of the proposed Open Space and Recreation Zones chapter (see **Attachment 2.iii**) is to:
- a) Provide a framework of objectives, policies, zones and rules that support the provision of a network of open space and recreation facilities;
  - b) Manage use and development and provide for changing recreational needs;
  - c) Provide for the conservation and enhancement of the qualities of the natural environment, waterbodies and their margins; and
  - d) Protect open space values and enable appropriate activities and development.
- 37 The proposed Open Space and Recreation Zones chapter will apply to land notified with one of these zone types, on the Planning Maps in Stage 2. The majority of the land affected by these zones was notified in Stage 1 with a different zone type, and therefore the new zones are largely a variation to the Stage 1 planning maps. Some new land has also been notified with one of these zone types, in Stage 2.
- 38 The proposed Open Space and Recreation Zones chapter results in a consequential need to notify a variation to Stage 1 PDP provisions, located in the following Stage 1 chapters:
- Chapter 2 – Definitions
  - Chapter 35 Temporary Activities and Relocated Buildings
  - Chapter 27 Subdivision and Development
  - Chapter 36 Noise.
- 39 The Stage 1 PDP Planning Maps are also varied, where the Open Space and Recreation Zones are notified over land that was previously notified in Stage 1 with a different zone type. All of the new definitions and proposed variations are

located within the Stage 2 Open Space and Recreation chapter set out in **Attachment 2.iii** to this report.

- 40 The evaluation report prepared under section 32 of the RMA accompanying the chapter (see **Attachment 2.iii (a)**) has helped determine the appropriateness of the objectives to achieve the purpose of the RMA in light of the issues. It identifies the following as key issues:

Issue 1 – Provision of an accessible network of open spaces and recreation/ community facilities;

Issue 2 – Protection of natural open space, waterbodies and their margins;

Issue 3 – Potential loss of character, quality and amenity of open space and recreation areas;

Issue 4 – Potential adverse effects of recreation activities; and

Issue 5 – A framework that provides certainty, efficiency, and for the effective management of open spaces and recreation areas, including commercial activities undertaken within these areas.

- 41 The section 32 evaluation report for this chapter considers the appropriateness of the proposed objectives. The proposed policies, rules and other methods are examined for their costs, benefits, efficiency, effectiveness and risk in terms of achieving the objectives and a range of alternative approaches and methods are considered.

### ***Legal effect of these decisions***

- 42 As the proposed provisions proceed through the review process from notification, to decisions on submissions, to resolution of any appeals, to being made operative, the legal effect of those provisions will change.

- 43 Following notification, an application for consent on land affected by the Stage 2 provisions, will need to be assessed considering all relevant Operative District Plan (ODP) provisions, and the Stage 1 and 2 PDP objectives policies and definitions can also be considered. If no submissions are made on a PDP rule, it must be treated as operative and any previous rules as inoperative after the close of submissions. For all rules except those in the following paragraph, the proposed Stage 1 and 2 rules will have legal effect when a decision on submissions relating to the rules is publically notified.

- 44 Under section 86B(3) of the RMA a number of the Stage 2 provisions will take immediate legal effect including all rules that do the following:

- a) protect or relate to water, air, or soil (for soil conservation); or
- b) protect areas of significant indigenous vegetation; or
- c) protect areas of significant habitats of indigenous fauna; or
- d) protect historic heritage.

- 45 Once the Stage 2 provisions are notified (November 2017), the submission period is 50 working days (10 weeks) concluding on 23 February 2017. Following this submission period, a summary of decisions requested is prepared by staff and public notice is given of the availability of this summary and a period of 10 working days then allows for further submissions to be made.
- 46 A detailed plan for hearing streams has not yet been confirmed and will depend on the number, extent and content of submissions. In broad terms however, hearings are programmed to occur in the second and third quarter (May – August) of 2018.

## Options

47 Option 1 Approve the PDP (Stage 2) for public notification

### *Advantages:*

- 48 Progresses the PDP, which addresses a number of fundamental shortcomings in the Operative District Plan.
- 49 Responds to statutory requirements of the Resource Management Act 1991. In particular, Section 79(1) requires local authorities to commence a review of provisions in its District Plan if the provisions have not been the subject of a review or change during the previous 10 years. Many of the provisions in the Operative District Plan have now been operative for more than 10 years. While no explicit specification exists as to timeframes for notification following commencement of a review, the requirement under section 21 to avoid unreasonable delay applies.

### *Disadvantages:*

50 None

Option 2 - Not proceed to approve Stage 2 of the PDP for notification (for example to enable more consultation or analysis to occur)

### *Advantages:*

- 51 Given the breadth of the issues addressed in Stage 2, and the number of potentially interested parties, it is considered unlikely that substantial material progress would result from further pre-notification consultation or discussions such that a delay would be warranted.
- 52 A large amount of analysis has been undertaken for Stage 2 which builds on the strategic chapters of Stage 1 of the plan review, for which extensive non-statutory consultation occurred prior to and after notification.
- 53 The public notification process allows for carefully considered and informed submissions to be made and addressed

*Disadvantages:*

- 54 Would unnecessarily delay progression of the PDP. Further, it would delay the introduction of parts of the PDP that are considered necessary to have a well-functioning and integrated PDP.
- 55 This report recommends **Option 1** for addressing the matter.

**Significance and Engagement**

- 56 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because the PDP impacts on a large number of residents and ratepayers and residents, some of whom may be specifically affected by the proposed provisions.

**Risk**

- 57 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 high. This matter relates to this risk because the District Plan, along with the 10 Year Plan and Asset Management Plans, is central to the current and future development needs of the community.
- 58 The recommended option considered above mitigates the risk by providing the necessary regulatory framework to provide for these needs.

**Financial Implications**

- 59 Costs associated with the recommended decisions are accounted for in operational budgets.

**Council Policies, Strategies and Bylaws**

- 60 A number of Council policies, strategies and bylaws have been considered in development of the PDP, including:
- Operative District Plan 1995
  - Parks and Open Space Strategy 2017
  - Reserve Management Plans (various)
  - Community Open Spaces and Community Facilities Asset Management Plans 2015-2030
  - Urban Design Strategy 2009
  - Economic Development Strategy 2015.

61 These policies and strategies are of varying age, currency and continued relevance, and are also referenced in the supporting s32 evaluation reports. This matter is included in the 10-Year Plan/Annual Plan.

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

62 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**

63 The persons who are affected by, or interested in this matter are residents and ratepayers of the District, iwi, the Otago Regional Council, neighbouring district Council's and other statutory bodies.

64 The Council has consulted on draft versions of the Open Space and Recreation chapter with a number of specific parties and both the Earthworks and Signs chapters have fairly recently been reviewed as part of the ODP and have been through public submission and hearing processes (they were made operative in 2016 and 2015 respectively).

65 In addition, some statutory consultation has been undertaken with iwi / statutory bodies.

66 A range of views were expressed during consultation and these views have been taken into account when further developing the provisions. Additionally, it is noted that Council has a duty under both the Local Government and Resource Management Acts to consider the wellbeing of people and communities into the future (i.e. Council's decision making has a strong intergenerational component).

67 Public notification of the PDP provides people with the opportunity to make submissions, to be heard at hearings, and ultimately, if not satisfied with decisions, to appeal to the Environment Court.

## **Legal Considerations and Statutory Responsibilities**

68 Development of the PDP Stage 2 has occurred in accordance with the requirements of the RMA. Particular clauses of relevance include Sections 5-11, 31 and 32, 79 and Schedule 1.

69 The Local Government Act has also informed the review.

70 The process for notifying the PDP Stage 2 is stipulated by and will follow the procedures of the RMA.

## **Attachments [Presented separately]**

**Attachment 1. Structure of the Proposed District Plan**

**Attachment 2. Stage 2 Proposed District Plan Attachments Bundle**