

**QLDC Council  
8 November 2017**

**Report for Agenda Item: 3**

**Department: Planning & Development**

**Stage 2 Proposed District Plan Notification – Visitor Accommodation**

**Purpose**

- 1 The purpose of this paper is to present a variation to the Proposed District Plan (PDP) addressing visitor accommodation for approval to proceed to statutory public notification as part of Stage 2 of the PDP review. The material presented includes variations to the Low Medium and High Density Residential Zones, Arrowtown Residential Historic Management Zone chapters, and changes to definitions relating to Residential Activities, Visitor Accommodation, Homestays, and Holiday Homes all of which were notified as part of Stage 1 of the PDP review.
- 2 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 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) Chapters 7 Low Density Residential, 8 Medium Density Residential, 9 High Density Residential, 10 Arrowtown Residential Historic Management, 11 Large Lot Residential inserting new objectives, policies and rules and amending the zone purpose statements
  - b) Chapters 16 Business Mixed Use, 21 Rural, 22 Rural Residential and Rural Lifestyle, 23 Gibbston Character Zone, 41 Jacks Point, 42 Waterfall Park, 43 Millbrook inserting new rules
  - c) Chapter 2 Definitions
    - i. inserting new Residential Visitor Accommodation definition
    - ii. varying Homestay, Visitor Accommodation and Residential Activity definitions

- iii. deleting Registered Holiday Home and Registered Homestay definitions.
  - d) Changes to Planning Maps varying Visitor Accommodation Sub-zones set out in Appendix 3 to Council Agenda Item: 1, Stage 2 Proposed District Plan Notification – Transport, 8 November 2017.
3. **Authorise** the Manager Planning Policy to make minor edits and changes to the chapters 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.
  4. **Note** that the (Stage 2) Planning Maps contain all the changes applicable to notification of Stage 2 of the Proposed District Plan including the Wakatipu Basin Variation, Open Space and Recreation Zones, Visitor Accommodation Sub-zones and roads applicable to the Transport Chapter.
  5. **Note** the zones and mapping notations notified in Stage 1 that are not amended by the Stage 2 changes remain part of the Proposed District Plan.

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## Background

### *The Proposed District Plan Review*

- 3 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.
- 4 Stage 1 of the review commenced with 30 key chapters including the strategic direction and landscape, 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 was completed in September 2017.
- 5 Recommendations from the Independent Hearings Panel on the Stage 1 provisions are expected in February/March of 2018, which will allow Council to issue decisions in the first or second quarter of 2018.

- 6 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.
- 7 The intent of this conceptual two-volume approach is to manage areas of land within the District that were subject to a plan change since the Proposed District Plan was notified in August 2015. As PDP provisions become operative the equivalent provisions in Volume B will cease to apply for that land<sup>2</sup>.

### ***Visitor Accommodation***

- 8 Visitor accommodation refers to the use of land or buildings for short-term, fee paying living accommodation where the length of stay is less than 3 months. Visitor accommodation activities may take on a number of different forms, including but not being limited to:
- Commercial Visitor Accommodation - traditional larger scale accommodation operation such as hotels, motels, backpackers, hotels and camping grounds
  - Residential Visitor Accommodation - owners and/or occupiers of privately owned residential dwellings renting shared rooms, private rooms or entire homes to short term visitors to the District.
  - Homestays (as defined under the ODP) - guests stay with the property owner within their privately owned residential dwelling or unit
  - Holiday Homes' (as defined under the ODP) - privately owned stand-alone residential dwelling is let out.
- 9 The PDP contained provisions addressing visitor accommodation when first notified in August 2015, however these provisions were withdrawn from

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<sup>1</sup> Plan Change 52 Mount Cardrona Station, Plan Change 51 Peninsula Bay North; Plan Change 50 - Queenstown Town Centre Zone Extension; Plan Change 46 Ballantyne Road Industrial and Residential Extension; Plan Change 45 – Northlake; Plan Change 44 – Hanley Downs, Plan Change 41 Shotover Country; Plan Change 34 Remarkables Park; Plan Change 19 – Frankton Flats..

<sup>2</sup> Volume B chapters (including district-wide operative chapters) will however remain in the district plan where they apply to provisions not being reviewed such as Remarkables Park Zone the Queenstown Town Centre extension and Frankton Flats B.

residential zones of the PDP on 23 October 2015<sup>3</sup>. The report accompanying this decision notes that:

“visitor accommodation is growing in popularity, and is an important part of the District’s tourism offering, its increasing popularity means it is becoming an increasingly lucrative business. Evolving analysis suggests the growing use of residential dwellings for commercial letting may be having a significant impact on both the availability and cost of both permanent rental accommodation and seasonal rental accommodation, with resulting socio-economic impacts. Questions still remain, too, as to potential impacts on the cohesion and amenity values of residential neighbourhoods resulting from this land use activity”.

- 10 A further reason given for the withdrawal included that it allows for an “in depth and robust study and analysis of issues and policy options, and for potential non-statutory consultation with key stakeholders.”

### ***Monitoring and the need for Review***

- 11 To help understand the role of residential visitor accommodation activities in the District’s housing market, the Council commissioned Infometrics to produce current detailed information of visitor accommodation activity addressing the unique characteristics of the Queenstown market. This October 2017 study, Measuring the scale and scope of Airbnb in Queenstown Lakes District (see **Attachment 1** Section 32 Evaluation Report), focusses on the peer-to-peer lending platform Airbnb because of its dominance in the Queenstown market and the relative accessibility of detailed data on Airbnb. It examines the growth, distribution, scale and intensity of residential visitor accommodation activities being undertaken in the District and provides an important part of the evidential basis upon which the proposed visitor accommodation provisions have been developed.
- 12 The Infometrics study illustrates that a significant portion of the District’s housing stock is currently used for visitor accommodation activity (around 5,000 dwellings in the District including Airbnb, Bookabach and Holiday Homes listings) and estimates that Airbnb in particular:
- makes a sizeable contribution to the tourist accommodation market (providing 314,199 stay unit nights over 11 months to August 2017 which equates to around 14% of the number of commercial accommodation stay unit nights over the same period)
  - makes a sizeable contribution to the local economy (generating around \$68.6m in the 11 months to August 2017) and is a lucrative source of income for large numbers of people (the average Airbnb property generated \$19,886 over the same period)
  - occupies a far higher proportion of the housing stock in district than anywhere else in New Zealand (the number of whole houses available on Airbnb was

<sup>3</sup> <http://www.qldc.govt.nz/assets/Uploads/Council-Documents/2015-Full-Council-Agendas/22-October-2015/1-Corporate-submission-on-proposed-district-plan.pdf>

equivalent to 14% of the District's housing stock in the June 2017 quarter – compared to the national average of 1.2%).

- is growing rapidly in both the Wanaka and Queenstown urban areas and also in the smaller settlements in the district (listings across the District increased from 2,558 to 4,106 listings in August 2017, an increase of 61% in 11 months).

13 Residential visitor accommodation activities have a range of important potential benefits and also some adverse effects which the Council must identify and manage where appropriate. The District's high growth rates, high rental and housing costs and limited housing availability described in further detail in this evaluation, are seen as being exacerbated by high rates of residential visitor accommodation. Other less pronounced effects include additional demands placed on the District's infrastructure services, traffic and parking, effects on residential amenity (such as noise and nuisance effects generated by visitor movements), and the general erosion of residential cohesion and character.

14 Examination of nuisance and character issues has considered previous investigations of residential character of different areas, complaints data and data on enforcement actions. This examination found that while the District is growing and changing in ways that some find uncomfortable this is not the same as evidence of problematic adverse effects. Very few complaints about Airbnb are received by the Council and the issue about residential amenity and character concerns the cumulative adverse effects on a combination of the attributes that make up residential character and amenity. It is notable that these affects are nevertheless contrary to the stated objectives of the residential zones and are being experienced in a variety of different areas.

15 This review also identified extensive non-compliance with the existing rules and reached an overall conclusion that the existing rules were complex, somewhat difficult to understand and contained clauses that are highly problematic to enforce, if not impossible.

16 The Mayoral Housing Affordability Taskforce October 2017 report addresses the impact of this activity on affordability, the long term rental market and the inadequacy of current policy settings. The recommendations of the report which were agreed by Council on 26 October 2017, recommend as follows:

“Council review its current approach to the use of private residential properties for short term paying guests to provide a simpler regime that in turn addresses the need to rebalance the availability of rental stock to encourage greater long-term rentals” (pg.18).

## **Comment**

### ***Proposed Provisions***

17 The proposed changes to the residential zone provisions seek to provide more effective and efficient ways to control the adverse effects associated with the growing residential visitor accommodation market and where possible enable the

positive effects of this activity. They address adverse effects on housing supply and affordability in less intensive residential zones, whilst generally enabling tourism related visitor accommodation in locations where it can add to the vitality of more intensive zones. This is proposed to be achieved through a range of changes to the Stage 1 residential and business chapters but principally by:

- a. allowing property owners living in a house or flat in lower density residential zones to host up to 5 fee paying guests for short stay accommodation as a homestay (provided certain conditions are met) all year round and making this a permitted activity;
- b. allowing whole homes and flats in lower density residential zones to be let out for short stay accommodation for up to 28 days through up to 3 separate lets and making this a permitted activity;
- c. making it a non-complying activity to short term let a whole house or whole flats in lower density residential zones for more than 28 days per year or 3 separate lets per year, or to exceed the permitted activity thresholds for a homestay; and
- d. requiring a restricted discretionary non-notified activity consent framework in the higher intensity Town Centre, Mixed Use and High Intensity Residential zones and Visitor Accommodation Subzones for visitor accommodation exceeding the permitted activity thresholds.

**Table 1. Summary Proposed Rule Framework for Visitor Accommodation**

| No Resource Consent Required   | Resource Consent Required   |   |
|--|---|---|
| Applies to Low Density, Medium Density, High Density and Arrowtown Resi Historic Management, and Large Lot Residential Zones   | <b>Non-Complying Activity</b><br>Applies to LDR, MDR, ARHM and LLR zones  | <b>Controlled Activity</b><br>Applies to HDR and Visitor Accommodation Sub-Zones  |
| <b>Homestay</b> <ul style="list-style-type: none"> <li>- No more than 5 guests</li> <li>- Dwelling must be occupied. If residential flat, this must be occupied</li> <li>- No limit on the number of days or lets</li> <li>- 1 car park per bedroom</li> <li>- Optional registration process</li> </ul> <b>Residential visitor accommodation</b> <ul style="list-style-type: none"> <li>- No more than 28 days</li> <li>- No more than 3 lets</li> </ul> | <b>Homestay</b> <ul style="list-style-type: none"> <li>- More than 5 guests</li> <li>- Dwelling or flat not occupied</li> </ul> <b>Residential visitor accommodation</b> <ul style="list-style-type: none"> <li>- More than 28 days</li> <li>- More than 3 lets</li> </ul> <b>Other commercial visitor accommodation</b> i.e. hotels/motels | <b>Homestay</b> <ul style="list-style-type: none"> <li>- More than 5 guests</li> <li>- Dwelling or flat not occupied</li> </ul> <b>Residential Visitor accommodation</b> <ul style="list-style-type: none"> <li>- More than 28 days</li> <li>- More than 3 lets</li> </ul> <b>Other commercial visitor accommodation</b> i.e. hotels/motels |

18 Visitor Accommodation Sub-zones are planning overlays that are intended to offer a more enabling and certain approach to the establishment and operation of visitor accommodation activities. Most Visitor Accommodation Sub-zones in Operative District Plan are proposed to be included in the PDP as part of these proposals. For reasons outlined in further detail in the section 32 Evaluation Report (see **Attachment 1** – Section 32 Evaluation) they have not been inserted where they are small anomalous spot zones, appear to be obsolete and do not have a policy basis for including them that is consistent with the RMA. The Operative Visitor Accommodation Sub-zones not supported or amended based on current information are as follows:

**Table 2. Proposed Changes to ODP Visitor Accommodation Sub-zones**

| Zone                             | Address                                    | Underlying Zone                             | Proposed Change                            |
|----------------------------------|--|---|--|
| Wanaka LDR                       | 181 Upton Street                           | Visitor accommodation                       | Retain; expand to include 185 Upton Street |
| Wanaka LDR                       | Studholme Road, Stackbrae Ave              | Mixed visitor accommodation and residential | Retain; remove Stackbrae Ave subdivision   |
| Arrowtown MDRZ                   | 24 Cardigan Street                         | Residential                                 | Remove                                     |
| Wakatipu Basin Rural Residential | Corner Speargrass Flat and Slopehill Roads | Rural Residential                           | Remove                                     |
| Lake Hayes LDR                   | 25 Arrowtown-Lake Hayes Road               | Residential                                 | Remove                                     |
| Frankton LDR                     | 9 -11 Southberg Ave                        | Residential                                 | Remove                                     |
| Queenstown LDR                   | 48 Goldfield Heights                       | Vacant                                      | Remove                                     |
| Queenstown LDR                   | Pinnacle Place                             | Mixed visitor accommodation and residential | Remove                                     |

19 Although the Hearings Panel rather than the Council will determine issues of legal scope it is noted that for reasons of procedural fairness submitters should be able to submit on visitor accommodation Sub-zones shown on the Stage 2 Planning Maps and propose new ones. Also, any submissions seeking Visitor Accommodation Sub-Zones that were not addressed as part of the Stage 1 hearings should be transferred to this topic.

20 The evaluation report prepared under section 32 of the RMA accompanying the proposed changes has helped determine the appropriateness of objectives to achieve the purpose of the RMA in light of the issues. It identifies and examines the following key resource management issues:

- Issue 1 - Visitor accommodation and housing availability

- Issue 2 – Impacts on residential amenity
- Issue 3 – Providing accommodation for tourists
- Issue 4 – Visitor accommodation sub-zones

21 The evaluation report also considers 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.

The report concludes that the proposed Variation (see **Attachment 2** – Variations to Chapters 2, 7, 8, 9, 10, 11, 16, 21, 22, 23, 41, 42, and 43) will assist the Council to fulfil its statutory functions and responsibilities through the following proposed objectives, and a range of associated policies and rules:

- Objective - The location, scale and intensity of visitor accommodation is managed to maintain the residential character of the zone.
- Objective - Manage residential visitor accommodation to ensure that residential units and residential flats are predominantly used for residential activities, and the residential character of the zone is maintained.
- Objective – Visitor accommodation development will occur in urban areas close to town centres to respond to strong projected growth in visitor numbers.

### ***Consultation preceding the Variation***

22 The development of the Variation has built on previous public consultation undertaken to develop the PDP and plan changes 22 and 23 Visitor Accommodation and Residential Amenity. In addition to this:

- Submissions on Stage 1 of the district plan review addressing Visitor Accommodation were consolidated and considered;
- Meetings and phone conversations were held with Peter Miles, Bookabach CEO & Product Manager, and with Kate Hannan, Airbnb Community Liaison, Public Policy Australia and NZ. Feedback from these meetings included:
  - advice they want to work collaboratively with Council to develop its policy
  - importance of properly considering wider economic benefits of short term visitor accommodation and the effect of any regulations for the wider community
  - their view that constraining the growth of visitor accommodation in residential areas may result in more empty properties in Queenstown and Wanaka and may not increase the availability of secure long rental properties
  - need to address the different nature of the activity and associated issues in rural areas compared to urban areas.



- 23 This information makes clear that this is a significant issue for the community and that there are sizeable numbers of people for whom short term renting to visitors greatly assists with the high costs of living in the district. Taking these views into account has played an important part in arriving at the position reached with the proposed provisions.
- 24 Other statutory agencies (the Minister for the Environment, neighbouring district councils, the Otago Regional Council and Iwi Authorities) were informed of the development of these proposed changes, and offers were made to meet and discuss the proposals.
- 25 Any feedback received from statutory agencies after the close of the agenda item will be tabled on 8 November along with any changes that may result from this feedback.

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

- 26 As the proposed provisions proceed through the review process from notification, to decisions on submissions, to resolution of any appeals, and to being made operative, the legal effect of these provisions will change.
- 27 Following notification, an application for consent on land affected by the Stage 2 Visitor Accommodation 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, after the close of submissions it must be treated as operative and any previous rules must be treated as inoperative. 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.
- 28 This Variation does not apply new rules that have immediate legal effect.

### **29 Submissions and Hearings**

The submission period, indicative hearing timeline and communications plan are set out in Council Agenda Item: 1, Stage 2 Proposed District Plan Notification – Transport, 8 November 2017.

### **Options**

- 30 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:
- 31 **Option 1** Approve the PDP (Stage 2) Visitor Accommodation Variation for public notification

*Advantages:*

- 32 Progresses the PDP, which addresses a number of fundamental shortcomings in the Operative District Plan.

33 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:*

34 None

**Option 2** Not proceed to approve Stage 2 of the PDP Visitor Accommodation Variation for notification (for example to enable more consultation or analysis to occur).

*Advantages:*

35 Given the breadth of the issues addressed in the Variation, 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.

36 A large amount of analysis has been undertaken which builds on the Stage 1 chapters of the plan review, for which extensive non-statutory consultation occurred prior to and after notification. Submissions on Stage 1 of the plan have also been considered.

37 The public notification process allows for careful and informed consideration of submissions to be undertaken and for the issues raised to be addressed in a managed and transparent process.

*Disadvantages:*

38 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.

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

***Significance and Engagement***

40 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, many of whom will be specifically affected by the proposed provisions.

***Risk***

41 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.

42 The recommended option considered above mitigates the risk by providing the necessary regulatory framework to provide for these needs.

### **Financial Implications**

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

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

44 A number of Council policies, strategies and bylaws have been considered in developing these parts of the PDP, including:

1. Housing Affordability Taskforce report [link](#)
2. Council Reply Evidence on the PDP
3. Development Contributions and Financial Contributions Policy 2016-2017 - [link](#)
4. Enforcement Strategy and Prosecution Policy June 2014 - [link](#)

45 These policies and strategies are of varying age, currency and continued relevance, and are also referenced in the supporting s32 evaluation reports.

46 This matter is included in the 10-Year Plan/Annual Plan.

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

47 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**

48 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.

- 49 A range of views were expressed during consultation on Stage 1 of the proposed district plan review and these views have been taken into account when 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).
- 50 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**

- 51 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.
- 52 The Local Government Act has also informed the review.
- 53 The process for notifying the PDP Stage 2 is stipulated by and will follow the procedures of the RMA.

### **Attachments**

Attachment 1. Section 32 Evaluation Report – Visitor Accommodation

Attachment 2. Proposed District Plan Variation – Visitor Accommodation

Chapters 2 Definitions, 7 Low Density Residential, 8 Medium Density Residential, 9 High Density Residential, 10 Arrowtown Residential Historic Management, 11 Large Lot Residential, 16 Business Mixed Use, 21 Rural, 22 Rural Residential and Rural Lifestyle, 23 Gibbston Character Zone, 41 Jacks Point, 42 Waterfall Park, 43 Millbrook

**Attachment 1:**

**Section 32 Evaluation Report – Visitor Accommodation**

**Attachment 2:**

**Proposed District Plan Variation – Visitor Accommodation**