

**Planning & Strategy Committee  
7 February 2019**

**Report for Agenda Item: 1**

**Department: Planning & Development**

**Title: Proposed District Plan Decisions on Stage 2 Chapters**

**Purpose**

The purpose of this report is to provide an update to the Committee on the reports and recommendations of independent commissioners and Council representatives who make up the Independent Hearings Panel for the Proposed District Plan on provisions and matters raised in submissions for the variations and chapters that make up Stage 2 of the district plan review.

**Recommendation**

That the Planning and Strategy Committee:

1. **Notes** the contents of this report and;
2. **Notes** the Independent Hearing Panel reports and recommendations on submissions; and
3. **Notes** that the recommendations of the Independent Hearing Panel will be reported to the 7 March Council meeting for a decision; and
4. **Notes** that this report is for information only and that reporting the recommendations of the Independent Hearing Panel to Council does not mean the Committee has formed a view on the reports and recommendations.

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## Background

### Proposed District Plan – Stage 1

- 1 Section 79(1) of the Resource Management Act 1991 (RMA) requires that the provisions of the district plan be reviewed every 10 years. The Proposed District Plan (PDP) is the result of a review of the Operative District Plan (ODP) under section 79(4) of the RMA. It is being developed and reviewed in stages as an activity based plan intended to be a “streamlined document that is easier to understand, provides for greater certainty and better planning outcomes”<sup>1</sup>.
- 2 Stage 1 of the review commenced with notification of 30 chapters in August 2015 including the residential, rural and commercial zones, designations and maps. Submissions on Stage 1 were considered at a series of 13 hearings (streams 1-13) and decisions on Stage 1 were issued in May 2018. Many of the Stage 1 provisions have been appealed to the Environment Court, however some Stage 1 chapters are effectively operative or operative in part.

### Scope of Stage 2 of the PDP

- 3 The recommendations from the Independent Hearing Panel (the Panel) for Stage 2 of the Proposed District Plan address submission on the zoning and mapping annotations for the rural areas of the Wakatipu Basin including proposed Chapter 24 Wakatipu Basin, Outstanding Natural Landscapes (ONL’s), Outstanding Natural Features (ONF’s), Lake Hayes Estate, Bridesdale and Ladies Mile. Also included are submissions on the zones and mapping annotations for urban areas in Arrowtown. A combined hearing on all of these matters was held from 9-27 July 2018 (Stream 14).
- 4 Stage 2 also addressed Chapter 29 Transport, Chapter 25 Earthworks, Chapter 31 Signs, Visitor Accommodation and visitor accommodation sub-zones, and chapter 38 Open Space and Recreation (Stream 15). A combined hearing on all of these matters was held from 3 -28 September (Stream 15).
- 5 Publishing this report will bring the recommendations into the public domain however it is important to note that the recommendations are not a decision of the Council and they have no legal effect at this time. Recommendations have not been received on Stream 14 at the time of writing this report because a submission from Aircraft Owners and Pilots Association that was partly struck-out has been allowed following an objection hearing, and this has prompted a further exchange of evidence addressing rules for informal airports in the Wakatipu Basin.

### Submissions.

- 6 650 submissions and 100 further submissions were received on the notified Stage 2 provisions. The submissions contained 15,602 submission points which have been addressed in the recommendation reports, sometimes individually and sometimes in groups.

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<sup>1</sup> QLDC Council Agenda Report, District Plan Review, 17 April 2014

<b>Topic</b>	<b>No. of Submissions</b>
Visitor Accommodation	366
Wakatipu Basin Chapter	244
Map changes/rezonings	208
Earthworks	71
Transport	69
Open Space and Recreation	61
Signs	35

## **Comment**

### **Visitor Accommodation Variation**

- 7 When notified, the proposed Visitor Accommodation provisions proposed a number of significant changes to the existing rules in the ODP that manage commercial and residential visitor accommodation and homestay activities. These changes were aimed at maintaining housing supply in residential zones, at maintaining residential character, cohesion and amenity, and at addressing the significant growth of short term letting activities occurring in many parts of the district.
- 8 Submissions and evidence on the proposals from submitters contained a significant level of outright opposition, a small amount of support and a large amount of support for some form regulation and better management.
- 9 Importantly, the Panel did not agree there is sufficient evidence that short term letting activities are having an adverse effect on housing affordability or the supply of residential accommodation capacity that would necessitate the approach being proposed. Accordingly, the recommendations are to remove policies on maintaining housing supply and changes to a large number of the rules and standards from what was proposed in council's evidence (See the full recommendations report from the Independent Hearing Panel in **Attachment 1** for details).
- 10 In residential zones the Panel are recommending that:
  - i. the proposed 28 night permitted standard for Residential Visitor Accommodation in residential zones (Low Density Suburban Residential, Medium Density, Arrowtown Residential History Management, Large Lot Residential) be changed to a 90 nights per year controlled activity, a 90-180 nights per year restricted discretionary activity, and a non-complying activity for letting of over 180 nights per year.
  - ii. the High Density Residential zone and Business Mixed Use Zone allow 90 nights as a permitted activity, a restricted discretionary activity consent after 90 nights in High Density Res and a controlled activity resource consent in after 90 nights in Business Mixed Use.
- 11 The Rural Zone and Wakatipu Basin Rural Amenity Zone, Rural Residential and Rural Lifestyle, Gibbston Character Zone have been recommended by the Panel

to have a 90 night permitted threshold above which the Rural zone and WBRAZ requires a controlled activity resource consent. The other rural zones require a discretionary consent.

- 12 Interestingly the recommendations for Jacks Point Zone are to allow 42 nights as a permitted activity after which the activity is discretionary. The resort zones of Waterfall Park and Millbrook are recommended to have 179 nights as a permitted activity after which a controlled activity consent is required.
- 13 Some of the recommended changes were supported by Council's representatives such as removing the restriction on the number of separate lets per year and removing the control on the number of daily vehicle movements. The Panel introduced a common set of standards for residential Visitor Accommodation and Homestay activities which could assist with monitoring and enforcement:
- the council must be notified in writing prior to commencing the activity
  - up to date records of letting must be kept and made available to the Council at short (24 hrs) notice.
- 14 The recommendations set direction on what Council should be considering when processing applications for Residential Visitor Accommodation and Homestay activities:
- the nature of the surrounding residential context
  - residential amenity, character and 'cohesion' within the 'neighbourhood'
  - the 'cumulative effect' of the activity and other surrounding activities on the 'neighbourhood'
  - The number of guests on site per night
  - The number of nights operating per year
  - Keeping and availability of records
  - Monitoring requirements and ability to impose a monitoring charge.
- 15 Standards allowing Homestays are largely unchanged with a 5 guest per night limit, a no heavy vehicles control and no limit on the number of nights per year. Council representatives suggested reducing the permitted standard to 3 guests per night but the Panel didn't support this change. The Panel also removed the stipulation that Homestays couldn't be operated in both the main residential unit and in a flat at the same time.

### **Visitor Accommodation Subzones**

- 16 Visitor Accommodation Subzones (VASZ) were shown in the notified Stage 2 maps and the notification provided for submissions to identify further VASZ areas. The Hearings Panel used the same zoning principles as were used previously when making recommendations on zoning submissions. Proposals where no evidence was filed were rejected on the basis that not able to meet section 32AA obligations to consider the costs and benefits of different options.

- 17 The VASZ have been limited to urban residential zones where visitor accommodation is otherwise restricted (Low Density Suburban, Medium Density Residential, Arrowtown Residential Historic Management and Large Lot Residential). Requests for VASZ where the underlying zoning was Rural were rejected. The High Density Residential Zone provides for VA and as such, no VASZ are contained within this zone.
- 18 The VASZ enables residential amenity values (such as character, traffic, and noise) to be addressed through restricted discretionary activity consents, with limits on notification. In addition, the Panel recommend that Council should continue to investigate additional areas for a VASZ in the MDRZ around the Town Centre of Wanaka to meet future requirements of VA to accommodate visitor growth.
- 19 Subzones at Broadview Rise and Chandler Lane, Fernhill and Sunshine Bay, along with 139 Fernhill Rd, 18-20 Aspen Grove and 10-16 Richards Park Lane were retained and extended. New subzones were recommended at 9, 69 and 634 Frankton Road, Arthurs Point Holiday Park, 185 Upton Street, Aubrey and Anderson Road and Kiwi Holiday Park Wanaka.
- 20 Proposed subzones at 9 Southberg Ave, Lake Hawea Campground and Glen Dene Station, Glenorchy-Paradise Road, Upper Dart Valley were recommended to be rejected.

### **Earthworks**

- 21 The proposed earthworks chapter generally maintained the same volume rules as the Operative District Plan but new rules were developed intended to improve erosion and sediment management for medium and large scale urban subdivision and development activities and works in the vicinity of water bodies. The new provisions included requiring:
- resource consent for earthworks over 2,500m<sup>2</sup> on sloping sites (over 10 degrees) and for earthworks over 10,000m<sup>2</sup> on flat sites.
  - preparation and implementation of erosion and sediment management plans by suitably qualified persons required for large scale earthworks.
- 22 The submissions to Chapter 25 Earthworks were relative few in number (71) but were detailed and addressed an extensive range of technical matters.
- 23 Considerable discussion took place on how the earthworks provisions of the district plan should manage effects of the development of land and effects of activities in relation to the surface of water (both of which the RMA requires territorial authority plans to address) without duplicating or overtaking the functions of the Otago Regional Council, which include the maintenance and enhancement of the quality of water and the integrated management of natural and physical resources in the region. The Panel agreed that management of earthworks and effects associated with it are a function of both councils and that it was reasonable and appropriate for the PDP to address them, given the scope of current regional planning instruments and the significance the PDP places on protecting the values associated with the District's lakes and rivers.

- 24 Other challenges to the provisions included the extent to which Ski Area Subzones (SASZ's) should be exempt from or have more permissive standards than those that apply elsewhere. The Panel found that the flexibility and exemptions from the majority of the rules and standards for earthworks in SASZs, appropriately recognises the scale of earthworks required in ski areas and that their adverse effects can, be managed internally or though the consents under the Rural Zone provisions. However, they did not agree to exempting earthworks within SASZs from standards designed to manage and minimise adverse effects of earthworks that extend beyond the sub-zones or to sensitive areas, including riparian areas and waterbodies. They recommend that activities in SASZs should have to comply with standards for erosion and sediment control, dust management, and setbacks from waterbodies and groundwater.
- 25 Overall the recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 2** for details) so the main changes being introduced in the recommendations are as notified:
- a) new rules require a resource consent for earthworks over 2,500m<sup>2</sup> area on sloping sites where the gradient is over 10 degrees, and 10,000m<sup>2</sup> area on flat sites.
  - b) specific requirements for erosion and sediment management plans required to mitigate effects of earthworks
  - c) requirements that activities involving earthworks ensure that soil erosion is minimised and that sediment doesn't enter other properties or bodies of water.
  - d) rules generally maintain the same volume rules as the operative District Plan.

## Transport

- 26 The proposed transport chapter involved a significant reconfiguration and update of the provisions in the ODP intended to introduce:
- new rules to better enable new carparking, park and ride, ferry services and public transport facilities
  - reduced parking requirements for most residential and business zones and for playing fields, industrial activities and schools and increased parking requirements for hospitals and day care facilities
  - requiring specific consents for high traffic generating activities and rental vehicle businesses
  - updating the road classification and the rules relating to access, parking and loading.
- 27 The submissions to Chapter 29 Transport were relative few in number (69) but were detailed and addressed an extensive range of technical matters and the particular challenges of managing transport in Queenstown and Wanaka. The recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 3** for details) so the main changes being introduced in the recommendations are as notified:

- a) New objectives policies and standards promoting better accessibility, more active transport and better provision for a full spectrum of active and vehicle based transport modes.
- b) Reducing the onsite residential parking required in most of the High Density Residential, Medium Density Residential, and Business Mixed Use zones (e.g. the recommended new standards require 0.25 parks per studio unit/flat and 1 bedroom unit/flat and 0.5 per unit/flat for other units in the High Density, and Medium Density Residential zones between park and suburb streets; 0.25 per studio visitor accommodation unit and 1 bedroom and 0.5 for all other visitor accommodation units; and 1 coach park per 30 units in the High Density and Business Mixed Use zones).
- c) Reducing the onsite parking required for playing fields (e.g. 12.5 per hectare of playing area, which still equates to more parking than is currently provided at Queenstown Events Centre), industrial activities, and schools (e.g. 1 per 2 staff).
- d) Increasing onsite parking required for hospitals (11 per 5 beds) and day care facilities (1 per 10 children/elderly and 0.5 per staff).
- e) Adding a new rule requiring developments and subdivisions that generate a lot of traffic (e.g. over 50 res units, 150 rooms for visitor accommodation, or 1000m<sup>2</sup> of retail floor area) to obtain a specific High Traffic Generating Activity consent.
- f) Adding new rules relating to the establishment of new carparking areas, park and ride, public transport facilities including ferry services.
- g) Adding new rules permitting a wide range of transport activities and public amenities within 'roads' and requiring consent for other activities.
- h) Aligning the rules relating to access, parking, and loading with the QLDC Land Development and Subdivision Code of Practice 2018 and with relevant current national standards, and/or good practice around NZ, except where a local approach is justified.
- i) Adding a new rule requiring rental vehicle businesses to obtain a specific consent.
- j) Updating the road classification (Road Hierarchy) to reflect the current function of roads and updating the planning maps to show all 'roads' throughout the district as of November 2018.

### **Open Space and Recreation**

- 28 The proposed Open Space and Recreation plan variation was developed to enable and manage recreation activities and provide for associated infrastructure on Council-controlled reserves while protecting, maintaining and enhancing landscape values, nature conservation values, ecosystem services and amenity. Chapter 38 Open Space and Recreation was a major departure from the Operative District Plan, creating a suite of new zones for land previously zoned General Rural and managed through designations and reserve management plans.
- 29 Submissions to Chapter 38 Open Space and Recreation were relative few in number (61) and focussed on matters relating to particular reserves. No major

changes to the policy direction of the chapter are recommended by the Panel however two rezoning requests were accepted against staff recommendations which will result in a change in approach for those areas:

- a) A Ben Lomond Sub-Zone was extended into Rural-zoned DOC land to enable a future helipad to allow for Skyline's future development plans. This is at odds with the Council's approach to only apply to Open Space zones to council controlled reserves.
- b) 8-10 Stewart Street Frankton was rezoned from Community Purposes – Camping Ground to Low Density Suburban Residential. This idea was promoted by neighbouring property owners.

30 The recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 5** for details). The Hearings Panel did have some concerns about the application of the zones, and in particular noted that:

- a) a bespoke zone should be developed to apply to recreation land in private ownership that could carefully control outcomes where appropriate
- b) the Informal Recreation Zone was a somewhat generic, unspecific and broadly applied zone and the permissive standards in the Active Sport and Recreation Zone were somewhat at odds with the purpose of this zone, both of which made them hard to apply in several locations.

## Signs

31 The proposed signs chapter was largely consistent with the purpose, objectives and rules of the Operative District Plan. 35 submissions were received which raised 207 submission points including a number of large submissions from sign and media companies and local businesses. Key features of Chapter 31 include strong prohibitions on large billboard signs and digital signs. Changes promoted in the notified Chapter 31 Signs included:

- introduction of a 5m<sup>2</sup> maximum sign area per tenancy at ground floor level in commercial areas beyond which discretionary activity resource consent is needed
- flexibility for signage on Council reserves, allowing for parks information, way-finding and to support temporary events
- hoardings/billboards to be a prohibited activity
- formalised management of signs in road reserves and roading corridors, for road network activity, public amenities temporary events and filming and electioneering signage.

32 A main point of contention was the activity status of hoardings/billboards and digital signage. The Panel have recommended to allow billboards in town centres but limit them to 2m<sup>2</sup> as a discretionary activity and otherwise make them a prohibited activity, which means that they can't be consented (beyond the permitted envelope of 2m<sup>2</sup>). Digital signage is limited to signs of less than 5m<sup>2</sup>, 15% of the façade and

50% of the glazing, located in digital signage platforms at ground floor level in town centres. Digital signage is otherwise non-complying or prohibited.

33 The recommendations of the Panel for this chapter are very consistent with the recommendations of Council's evidence (see **Attachment 4** for details). The Panel agreed to changes recommended by representatives of Council and submitters to allow for operational, safety and directional signage in Ski Area Sub-Zones and recommended the following variations be considered:

- a. Make specific provision for digital signage for information purposes such as signage associated with public transport
- b. Make provision for Rule 31.5.22 which makes signs on protected features a discretionary activity apply to Heritage Overlay Areas scheduled in Chapter 26 as well;

34 c. Specific signage provisions for Wanaka Airport that take into account its rural location.

### **Effect of these decisions on the PDP rules**

35 This report is for information only but the recommendations of the Panel will be reported to the Council meeting on 7 March for a decision. In most circumstances, once a decision on submissions relating to rules on the PDP is made and publicly notified those rules will have legal effect. However, some exceptions include:

- i. rules that had immediate legal effect on notification because they protect or relate to water, air or soil conservation, significant indigenous vegetation fauna and habitats, historic heritage or protected trees; or
- ii. the Council resolves that the rule has legal effect once the PDP becomes operative; or
- iii. the Environment Court orders a different date.

36 "Legal effect" means people undertaking land use activities will both benefit from and need to comply with the rules of the PDP, or seek consent to breach or infringe them. Consent will also need to be obtained under any relevant rule in the ODP until the equivalent provisions in the PDP are made operative or treated as operative.

### **Options**

37 This report is an information and update item and does not address options. The recommendations will be presented to Council at the 2 March 2019 meeting for a decision. An accompanying report will assesses reasonably practicable options in relation to these decisions as required by section 77 of the Local Government Act 2002.

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

38 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because the matter relates to decisions on the Proposed District Plan, which is a very significant statutory document in terms of the social, economic and environmental wellbeing of the District.

### ***Risk***

30. 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 it is considered to be of significant importance in terms of the managed growth and regulation of development for the District.

### **Financial Implications**

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

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

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

- Operative District Plan
- Proposed District Plan

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

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

42 This report is an information and update item and the recommendations will be presented to Council at the 2 March 2019 where an accompanying report will assesses reasonably practicable options in relation to these decisions as required by section 77 of the Local Government Act 2002.

### **Consultation: Community Views and Preferences**

43 The persons who are affected by or interested in this matter are the submitters, visitors to and residents within the district, businesses and future generations. Submissions from these parties were considered by the appointed Panel and are discussed in detail within each of the attached reports 1-5.

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

44 The process for dealing with plan changes is set out in the First Schedule of the Resource Management Act.

**Attachments:**

[Attachment 1. Report and Recommendations of Independent Commissioners – 19.2  
Visitor Accommodation](#)

[Attachment 2. Report and Recommendations of Independent Commissioners – 19.3  
Chapter 25 – Earthworks](#)

[Attachment 3. Report and Recommendations of Independent Commissioners – 19.4  
Chapter 29 Transport](#)

[Attachment 4. Report and Recommendations of Independent Commissioners – 19.5  
Chapter 31 Signs](#)

[Attachment 5. Report and Recommendations of Independent Commissioners – 19.6  
Chapter 38 Open Space](#)