

Planning & Strategy Committee  
26 November 2020

Report for Agenda Item | Rīpoata moto e Rāraki take 2

Department: Planning & Development

Title | Taitara District Plan Review Update November 2020

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

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- 1 The purpose of this report is to provide an update on progress in the review of the Operative District Plan and to note the intended approach to the next steps of the plan review and the indicative timeline for completion.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

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- 2 The current review of the district plan commenced in April 2014 and has made significant progress through the notification and hearing of submissions in a series of tranches or stages referred to as the Proposed District Plan (**the PDP**). Decisions on the plan have been substantially challenged through appeals to the Environment Court containing over 2,000 separate appeal points, and a substantial number of these rezoning appeals are yet to be resolved.
- 3 Substantial progress has been made in mediating and resolving the appeals and nearly 90% of the appeals have been resolved through decisions of the environment court and mediated settlements resulting in, for the most part, a clearer more effective plan.
- 4 At this point the PDP applies to 99.8% of the land in the District almost all of the key parts of the PDP are close to being able to be made “operative in part” which has a range of benefits for plan users, consenting and development.
- 5 A number of major changes to the legislative environment that governs district plans, as well as the speed at which development is occurring in the district means that completing the current review of the district plan will continue to be challenging and will require continued focused work into 2022 and potentially beyond.

RECOMMENDATION | NGĀ TŪOHUNGA

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- 6 That the Planning & Strategy Committee:

1. **Note** the contents of this report.

Prepared by:



Ian Bayliss  
Planning Policy Manager

12/11/2020

Reviewed and Authorised by:



David Wallace  
Acting General Manager,  
Planning & Development  
12/11/2020

## CONTEXT | HOROPAKI

### Background to the Current District Plan Review

- 7 Council formally decided to commence the current review of the Operative District Plan (ODP) on 17 April 2014. The review was conceived with the intention of it being completed through a two stage review, beginning with the first 32 chapters notified in August 2015 and with several recently reviewed areas excluded from the review.
- 8 The April 2014 report framing the review states that it set out to “deliver a more transparent and accessible district plan which enables better integrated planning and which better articulates a strategic direction for the District” with a more simplified, streamlined, activity based plan. It talks about building on the large body of consultation and review material already completed at the time and working to incorporate aspects of a large number of existing Council strategies. However, it is clear that the current review was conceived as a deliberate departure from the previous effects based plan, which had been extended and altered numerous times through a protracted rolling review and the insertion of dozens of special zones through 53 council and private plan changes, and by Court decisions, creating numerous ‘plans within a plan’ with no clear overall coherent strategy.
- 9 The April 2014 report discussed the need to markedly improve the plans’ clarity and mentions members of the public finding it “in large part simply unintelligible”. Other objectives stated in the report included promoting certainty as to expectations and outcomes, reduced volumes of resource consent applications and reduced compliance costs for applicants while safeguarding key environmental attributes in the District.

### A series of plan changes

- 10 The decision to review the plan in a staged manner (as opposed to preparing and notifying a complete plan, or via a rolling review of small parts of the plan) was made to progress areas most urgently requiring attention and deliver most immediate benefit in those areas through the first stage of the plan review (**Stage 1**).
- 11 Stage 1 delivered 33 chapters covering the plans’ overall strategy, district wide matters, a suite of rural and urban zones and it rezoned about 90% of the district following a series of 11 separate hearings in 2016.
- 12 On 8 June 2017 the Planning & Strategy Committee agreed to review the balance of the plan in a series of distinct tranches (described as stages 2-4) over a three year nominal timeline. It was acknowledged that progress on the balance of the review was constrained by the difficulties with recruiting and retaining enough in-house capacity and suitable consultants to do the work needed to succeed in what is a high stakes and highly contested review environment.
- 13 The second stage of the plan review (**Stage 2**), notified in November 2017 dealt with a number of complex outstanding topics including Wakatipu Basin, visitor accommodation, earthworks, transport and signs as well as open space and recreation areas and had the most submissions of any of the stages to date.

- 14 The third stage of the plan review (**Stage 3**) notified in September and October 2019 reviewed the existing industrial zones, the township zones, special zones at Ballantyne Road and Three Parks and the rural visitor zone, sites of significance to Iwi, and design guidelines for residential zones. It was the largest to date in terms of the amount of hearing time and evidence material covered.
- 15 It is anticipated that the entirety of the ODP will be superseded and replaced through the current review process. However, strictly speaking, the PDP provisions that become operative on completing the review processes will merge into and form part of the ODP rather than constituting a separate replacement district plan. For this to happen, Council decisions will be needed to notify the residual land not yet included in the staged review and the Council need to make a specific decision to formally make the plan operative (or operative in part).

### Background to the Current District Plan Appeals

- 16 Following the decision of Council to adopt the recommendations of the Independent Hearing Panel as its decisions on submissions to Stage 1 on 3 May 2018, 98 Environment Court appeals and several additional proceedings resulted in a total 101 separate proceedings which contained approximately 1170 separate appeal points (decision requests)<sup>1</sup>.
- 17 Council adopted recommendations from the Independent Hearing Panel as its decisions on submissions to Stage 2 on 7 March 2019. 86 appeals were filed which contained approximately 930 appeal points<sup>2</sup>.
- 18 Management of the appeal process is directed by the Environment Court but involves a number of processes for the Council. These include informal meetings and discussions with appellants, confirming Council's position as the respondent, Environment Court directed formal mediations, preparation and exchanges of evidence and formal hearings.

## ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

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### Progress towards completing the current plan review

- 19 **Attachment A** lists the 44 chapters that have been completed in the review to date, developed through research and evaluation, workshops with Councillors, consultation, input from iwi representatives, formal notification, submission and further submission processes, and formal hearings and decision making by an Independent Hearings Panel made up of experienced specialist RMA commissioners and local councillor representatives.

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<sup>1</sup> <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/appeals/appeals-received-for-stage-one>

<sup>2</sup> <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/appeals/appeals-received-for-stage-two>

### ***Un-reviewed Land***

20 The remaining un-reviewed land is limited to 17 confined (but important) areas, mainly in Wānaka and Queenstown, and comprising less than a percent of the land area of the District. **Attachment B** contains a list of these as yet un-reviewed special zones and residential and business zones. A number of them came about following highly contested and sometimes protracted plan change processes (such as Frankton Flats B Special Zone, Northlake Special Zone and the Queenstown Town Centre Extension Zone). Reviewing these areas will initiate a process where proposals to significantly change the development outcomes planned for these areas will need to be considered. Many are complex planning documents in their own right where their development has already been carefully planned for some time (such as Remarkables Park) and others (like Quail Rise, Penrith Park and Shotover Country) are already extensively developed. They also contain a number of the key growth areas in the district (like Northlake and Lakeview) that will provide land for urgently needed housing, commercial development and employment land.

### ***Successful Mediations***

21 The Environment Court have facilitated 53 mediations which (together with decisions from the Court) have resolved approximately 86% of the appeal points from the Stage 1 and 2 appeals. This has resulted in the resolution of appeals to many of the key stage 1 and 2 chapters including urban development (chapter 4), the residential and town centre and local centre chapters (chapters 7-15) and zones for local shopping, mixed use and the airport (chapters 15-17). Appeals to three of the four rural zones (chapters 21-23) are almost entirely resolved, as are almost all of the appeals to the district wide chapters (25-38). However, there are a substantial number of appeals to the Wakatipu Basin Zone (chapter 24) that remain outstanding.

### ***Hearings***

22 Mediations have helped clarify and confine the extent of matters requiring hearings and decisions by the Court but a number of appeals have not reached mediated settlements and have proceeded to, or are proceeding to formal hearings.

23 Discrete hearings have been set down for appeals relating to Queenstown town centre pedestrian links, Wakatipu Basin zones and text, earthworks notification rules, transport high traffic generation rules, Glenorchy Airfield designation conditions, Jacks Point, Residential visitor accommodation homestays and visitor accommodation provisions, and a proposed Queenstown special character area that are likely to require hearings.

### **Key Decisions from the Court**

24 For Topic 1 'A Resilient Economy', and Topic 2 'Rural Landscapes', the Environment Court departed from the usual practice of encouraging mediation and directed these topics proceed directly to a hearing. The Environment Court has made a series of decisions on many of the outstanding appeals relating to the over-arching strategic direction for management of growth, land use and development in the plan. The decisions on Chapter 3 (Strategic Directions) and Chapter 6 (Landscapes and Rural Character) have been termed

“interim decisions” but it is clear that most parts of the decisions are determinative findings, while some were signalled as requiring further consideration or conferencing.

### **Topic 1 ‘A Resilient Economy’**

25 This decision confirmed the PDP description of the district’s special qualities, strategic issues, strategic objectives and strategic policies as these relate to economic base, visitor industry, town centres, commercial and industrial areas and climate change. It also confirmed two new strategic objectives about accessibility and the importance of arts, culture, recreation, events, identity and sense of place.

### **Topic 2 ‘Rural Landscapes’**

26 These three decisions confirmed Chapter 3 (Strategic Directions) objectives and policies that relate to rural activities and subdivision, use and development in the rural environment. Topic 2 also included Chapter 6 (Landscapes and Rural Character) other than where such matters relate to the Wakatipu Basin. The decision resolved disputes on the mapping of the boundaries of Outstanding Natural Features and Landscapes, and Rural Character Landscapes at Mt Iron, the Upper Clutha River near the Albert Town Bridge and terraces near the confluence of the Hāwea River, the ONL boundary at Waterfall Creek and the area of Mt Brown and the Maungawera Valley, the Alluvial fan at Mt Alpha adjacent to Wānaka, and the Foothills of the Pisa Range.

27 With the exception of minor changes to the Outstanding Natural Landscape (**ONL**) boundary at Mt Alpha, the exclusion of an approximately 2ha part of Mt Iron and a minor change to the ONL boundary associated with the Lake McKay Station appeal, the decisions version of the ONL boundaries were upheld. The decision also accepted the Council’s uncontested evidence on housing and business capacity of the District.

28 The decision supported and strengthened the management of subdivision, use and development in the rural environment. The Court declined to qualify objectives and policies addressing environmental considerations to balance them with enabling or providing for activities, and confirmed that Outstanding Natural Features and Landscapes are protected, and the Rural Character Landscapes are maintained and visual amenity values are to be maintained or enhanced.

29 In a substantial departure from the notified and decisions version of the PDP, the Court has directed the Council to include schedules of the values and attributes, and landscape capacity of the ONF and ONL and the Upper Clutha Rural Character Landscapes, in “priority areas”. The decision directs that identification of the values and attributes of the landscape resource sits with the Council’s role as planning authority rather than its role as a regulatory authority (i.e. through resource consents), and that the district plan must identify and describe the values and landscape capacity of that resource, and leave less of this determination up to individual resource consents.

### **Procedural Decisions**

30 Several initial decisions by the Court criticised aspects of the approach to mapping, summarising submissions, development capacity and the staged approach of the review.

The Council team responsible for the review have looked carefully into how best to address these issues and improve processes but it should be noted that some of these decision have been appealed, none of the Court's subsequent decisions on the PDP have raised these issues, and the criticisms have not had significant implications for progressing the review.

### **What this means for plan users**

- 31 The PDP zones now cover approximately 99.8% of the land area in the district and only one set of plan provisions needs to be considered by plan users for the majority of resource consent applications.
- 32 Having the special qualities, key resource management issues and strategic objectives and policies addressing these issues confirmed is critical for both plan making and responding to private plan changes. It also provides clear direction for resolving matters in the more detailed provisions related to zones and specific topics elsewhere in the plan. They also provide guidance on interpreting provisions for making decisions and implementing the Plan.
- 33 Once the PDP is made operative, large parts of the older parts of ODP will be replaced and only one set of plan provisions will be relevant, making the understanding of the regulatory framework much more simple, easy and efficient for plan users and decision makers. Fewer consents will be needed, applications will be cheaper to prepare and process and it should also result in fewer appeals.

### **What's next with the plan review?**

#### ***Making the PDP Operative in Part***

- 34 A focus for Council officers is to continue to work through appeals to make the PDP operative, or "operative in part".
- 35 Topic 1 (resilient economy) is completed, and the key steps are to complete the remaining work that came out of the Topic 2 (rural landscapes) decisions, a significant portion of which is sitting with the Court to determine. A key PDP Chapter to make operative will be the Rural Zone (Chapter 21). The district wide chapters and residential, mixed use and rural lifestyle chapters are in large part beyond the point where they can change as a result of appeals with the exception of provisions relating to short term accommodation.
- 36 An additional focus is to work through remaining appeals to zoning decisions for Stage 1 in particular the Topic 31 (Wakatipu Basin rezoning appeals).

#### ***Stage 3 of the Plan Review***

- 37 Recommendations on submissions to the plan changes and variations notified in Stage 3 of the plan review should be received by the end of this year and Councils decisions are planned to be issued early in 2021. Submitters will then have an opportunity to appeal. Other submitters and people and parties with an interest in the decisions that is greater than the public in general will be able to join the appeals of others.

### ***Stage 4 of the Plan Review***

- 38 Stage 4 is intended to be the final stage of the current plan review. It is not intended to prepare and notify and hold hearings on the balance of the review simultaneously (as occurred with previous stages of the review) as there are a number of discrete parts to the balance of the review that are of variable urgency and that will require very different amounts of time to prepare. Moving to more of a rolling review format will also allow the Council to be more agile and work quickly to progress urgent plan changes that could assist with the district's economic recovery or other priorities.
- 39 As detailed in **Attachment B** a number of the ODP special zones have reached or are about to reach a point in time where the RMA requires that a review of the provisions has to be commenced. Council's are required to commence a review of plan provisions within 10 years of their being made operative, however stage 4 will by no means be limited to reviewing these provisions.
- 40 Major new district plan initiatives include a plan variation to implement a masterplan for Ladies Mile, a plan change seeking to promote the provision of affordable housing and another change addressing natural hazards in the Gorge Road area of Queenstown. These initiatives together with a number of other stage 4 reviews are intended to be notified by mid-2021 with hearings to follow in early 2022.

### ***Values Identification Framework and Scheduling of Values***

- 41 The Environment Court has directed the Council to amend the PDP to schedule the landscape values and landscape capacity of priority areas in the outstanding natural features and landscapes and the rural character landscape of the Upper Clutha. Planning and landscape experts have produced a joint witness statement proposing priority areas, and policies explaining how to identify and schedule the values of features and landscapes and determine the capacity of landscapes and features to accommodate subdivision and development without compromising the identified values.
- 42 These resulting schedules are likely to require further plan changes to be translated through the Rural Zone (chapter 21) and the framework of the plan that manages subdivision and development. Although the initial values identification and scheduling work should not take more than a few months to complete, any plan change that significantly alters the ability of a large number of people to develop in the future could take a much longer period of time to resolve.

### ***E-Plan and National Planning Standards***

- 43 It is intended to move quickly to implement a fully web-based district plan platform to replace the current format of PDF's with web based mapping. Properly executed, this will provide a simple and intuitive interface enabling users to read, search and interact with the whole plan much more easily and will make plan content easier to update and draft from scratch. It will also provide a comprehensive submissions management tool which is reliable and simple for staff and customers to use. This level of electronic accessibility is part of a suite of requirements called National Planning Standards.

- 44 The Ministry for the Environment have developed a set of National Planning Standards to improve consistency in the structure, format and content of district plans to make plans, countrywide, easier to understand and comply with. There is more to the reforms than using a common structure for plans and a shared pallet of colours and symbols for planning maps and designations; the planning standards also require standard suites of zones, chapters and definitions for terms.
- 45 District plans that are currently being reviewed such as the QLDC District Plan, have seven years from November 2019 to implement an online interactive plan consistent with national planning standards and nine years to reshape the plan to use the definitions within the national planning standards.

### ***National Policy Statement Urban Development 2020***

- 46 The new NPS UD contains a range of objectives and policies that require territorial authorities to enable intensification through their district plans, in places close to urban centres where people access jobs, services, places that are well-served by public transport, and other places with high demand for housing and business. The NPS requires Council (within two years of 20 August 2020) to make changes to the district plan to enable intensification in urban areas following a detailed assessment of demand, accessibility, walkability, feasible development capacity and other factors across urban areas. Specifically, this is likely to require a major plan change, or changes, that enables heights and density of urban form that matches what is assessed to be the extent of demand in that area, or the levels of development needed to support planned public transport.

### ***Other Legislative Reforms***

- 47 Major reforms of the RMA and a range of associated legislation was a key priority for the previous government and the current government have indicated that this will continue to be the case.
- 48 A range of further work on the district plan is likely to come out of the National Policy Statement for Biodiversity and the National Policy Statement for Highly Productive Land which have been programmed to be enacted in 2021. Similarly to the requirement to give effect to National Policy Statements the new Otago Regional Policy Statement (**the RPS**) is likely to require the district to be amended in some areas depending on the outcomes of the RPS review process.

### ***Council Strategies***

- 49 Whaiora, the (still being developed) Queenstown Lakes Spatial Plan sets out a framework for addressing the changes facing the Queenstown Lakes area covering where the area will grow, the outcomes to achieve as this happens and the strategies to deliver these. Although this is a 30 year strategy, it is likely to trigger the need to make changes to the district plan within the lifetime of the current district plan.
- 50 The QLDC Climate Action Plan (Te Mahere Āhurangi O Ngā Tau) 2019-2022 contains several district plan initiatives including:



- Carry out an assessment of current and future climate hazards and vulnerabilities and seek inclusion in the District Plan and the organisational risk management system.
- Ensuring land-use planning reflects the need to be responsive to climate change adaptation and to encourage resilience.

### Need for ongoing review

- 51 Reviewing the plan is very costly for ratepayers (particularly where the resident population of a district is small and where development pressures are high). Reviews can also be a source of contention for those affected. But it is also an opportunity to engage with the community in a meaningful way about how Council should seek to best manage the resources of the district, promote positive change and better protect and enhance important its values and features.
- 52 It is not unusual in fast growing districts for district plan's to need to undergo successive changes during the nominal 10 year life of a district plan in order to ensure the regulatory framework keeps on top of a fast moving development environment like the one in Queenstown Lakes. Having an out of date plan adds large consenting costs and creates uncertainty for plan users, developers and decision makers which could contribute have a stifling effect on economic recovery. Out of date planning frameworks are likely to promote less than optimal outcomes and less alignment with outcomes sought by the Council and community.

### Options

- 53 This report is for information purposes and does not contain specific options or advice in relation to options. Requirements in legislation to develop and progress the review of the district plan are important to meet. Options around priorities, timing and approach will be presented in subsequent reports.

## CONSULTATION PROCESS | HĀTEPE MATAPAKI:

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### > SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 54 The review of the district plan matter is of [medium] significance, as determined by reference to the Council's Significance and Engagement Policy because the matter relates to operational aspects of the district plan review programme although the district plan is a significant statutory document in terms of social, economic and environmental wellbeing.
- 55 Persons who are affected by or interested in this matter will be consulted during the preparation of subsequent work on the district plan review in accordance with clause 3 of Schedule 1 of the RMA and section 82 of the Local Government Act 2002 wherever appropriate. Where Stage 4 of the plan review effects or will interest additional parties there will be future opportunities for consultation and for them to submit on proposals before decisions are made and they come into legal effect.

## > MĀORI CONSULTATION | IWI RŪNANGA

56 The Council has specific obligations to consult with Iwi and Runanga organisations in recognition of their role as tangata whenua following principles of fairness, open mindedness and two-way consultation in the development of a district plan. Arrangements have been put in place to support Iwi participation and for consultation to occur in a timely manner as the review progresses.

## RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

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57 This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK00031 Ineffective management and governance over legislative compliance within the [QLDC Risk Register](#). This risk has been assessed as having a moderate inherent risk rating.

58 The approval of the recommended option will support the Council by allowing us to avoid the risk. This shall be achieved by achieving compliance with legislation in a timely manner.

## FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

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59 The operational expenditure requirements for continuing the district plan review are set out in existing approved budgets in the Annual Plan and Ten Year Plan.

## COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

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60 Other than the following, there are no Council policies, strategies or bylaws relating to this this matter because it is primarily associated with process:

- QLDC Ten Year Plan 2018-2028 He Mahere Kahurutaka <https://www.qldc.govt.nz/your-council/council-documents/ten-year-plan-ltp>
- QLDC Annual Plan 2020 – 2021 Mahere ā-tau
- Vision Beyond 2050: <https://www.qldc.govt.nz/vision-beyond-2050/>
- Refer to online documents here: <http://www.qldc.govt.nz/policies>

61 The recommended option is consistent with the content and principles set out in the named policy/policies. This matter is included in the Ten Year Plan V1 pages 55-57, V2 pages 105 and 108.

## LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

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62 Development of the PDP has occurred in accordance with the requirements of the RMA. Particular clauses of relevance include sections 5-11, 31 and 32 and Schedule 1 and section 73(3) that allows a district plan to be prepared in territorial sections and section 79(1) that requires commencement of a review of a provision of a district plan provision that has not been reviewed during the previous 10 years.

63 Legal advice has been taken in relation to these matters and the approach outlined in this report is consistent with that advice.

**LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA**

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64 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 Ten 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.

**ATTACHMENTS | NGĀ TĀPIRIHANGA**

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| <b>A</b> | QLDC Proposed District Plan Stages 1-4                          |
| <b>B</b> | Land in the Operative District Plan Not Yet Reviewed in the PDP |

