

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 05 -
District Wide

**LEGAL SUBMISSIONS ON BEHALF OF QUEENSTOWN LAKES DISTRICT
COUNCIL AS PART OF COUNCIL'S RIGHT OF REPLY**

Hearing Stream 5 – District Wide

22 September 2016

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1. INTRODUCTION

- 1.1 The purpose of these legal submissions is to assist the Panel regarding legal issues that have arisen during the course of the District Wide hearing on the Energy and Utilities Chapter 30, Temporary Activities and Relocated Buildings Chapter 35 and Noise Chapter 36 (**District Wide Chapters**) and to provide the Council's position on specific issues.
- 1.2 They also seek to address some matters raised by submitters through their written evidence filed prior to, and presented at the hearing, including submitters' legal submissions, where the Council considers that further analysis is required.
- 1.3 Otherwise, these submissions do not respond to every legal issue raised by submitters during the course of the hearings. The absence of a specific response in these submissions should not be regarded as acceptance of the points made by counsel for various submitters.
- 1.4 Filed alongside these legal submissions are the planning replies of:
- (a) Mr Craig Barr, Energy and Utilities Chapter 30;
 - (b) Ms Kimberley Banks, Temporary Activities and Relocated Buildings Chapter 35; and
 - (c) Ms Ruth Evans, Noise Chapter 36.
- 1.5 Having considered matters raised and evidence produced during the course of the hearing, the planning replies and associated revised chapter represent the Council's position.

2. SCOPE OF DISTRICT WIDE CHAPTERS

- 2.1 In its opening submissions in this hearing stream, the Council confirmed its position that, unless otherwise specified, district wide chapters notified as part of Stage 1 apply district wide.¹ This position has not changed. At the hearing the Panel questioned whether there was an issue of fairness or natural justice on the basis that lay

¹ Also reflected at Part 2 and 3 of the Council's legal reply on Hearing Stream 04 Subdivision, dated 26 August 2016.

persons may not have been aware that the district wide chapters apply to zones that are to be notified in Stage 2, or that are to be excluded from the review altogether.

- 2.2** The public notice of the notification of Stage 1 of the PDP is clear in terms of the potential effect of the Stage 1 chapters. The public notice, attached at **Appendix 1**, states (emphasis added),

*The Proposed District Plan **affects all properties in the District** and may affect what you and your neighbours can do with your properties.*

- 2.3** This clear statement puts all of the District on notice that chapters that have been notified in Stage 1 will affect all properties in the District, not just those properties that are located within an underlying zone notified in Stage 1. Further, when reviewing the proposed plan, submitters would have seen that the Stage 1 district wide chapters are set out in the part of the PDP labelled "District Wide Matters", and with the exception of the subdivision chapter, these chapters do not include qualifiers saying that they only apply to Stage 1 zones.

- 2.4** Despite the above, the Council acknowledges the Panel's concern that lay persons, with little experience in planning matters, may have misunderstood the impact of the staging of the PDP and incorrectly assumed that the Stage 1 district wide chapters did not apply to their land or activities. The Council submits that, to overcome this issue, a flexible and pragmatic approach could be taken as to whether submissions are "on" Stage 2 matters, when they relate to types of activities addressed through one of the district-wide chapters (ie, utilities). Where appropriate, relief on Stage 1 district wide matters could be available to Stage 2 submitters that genuinely did not appreciate that the breadth of the Stage 1 chapters, by allowing zone specific provisions to be inserted into a district wide chapter.

- 2.5** The Council considers that there is no legal barrier preventing the Panel from taking the suggested pragmatic approach to submissions in Stage 2. The Environment Court has emphasised, in the context of proposed plans, that matters of scope should be "approached in a

realistic workable fashion rather than from the perspective of legal nicety."²

2.6 As there is no procedure set out in the Resource Management Act 1991 (**RMA**) for a staged district plan review, it is submitted that the Panel should take guidance from the principles of the RMA in addressing the specific issues that arise in the present instance.

2.7 In the decision of *Palmerston North City Council v Motor Machinists*,³ the High Court held that robust, notified and informed public participation in the evaluative and determinative process of a plan change (in this case plan review) is fundamental to the sustainable management of natural and physical resources under the RMA. The Council's submission is that a flexible and pragmatic approach to relief in Stage 2, as proposed above, would give effect to the principle of public participation. It would provide persons with an effective response in the context of the specific circumstances created by the notification of district-wide chapters and the Council's staged approach to the PDP. Accordingly, it is submitted that such an approach would not be at odds with case law on scope and would be consistent with the purpose of the RMA.

2.8 The Council does not concede, however, that a flexible approach would be necessary or appropriate in respect of Strategic Direction Chapter 3, Urban Development Chapter 4, Tangata Whenua Chapter 5, Landscape Chapter 6 (**Strategic Direction Chapters**).

2.9 In that respect, the public notice for Stage 1 is submitted to be clear that the Strategic Direction Chapters (ie, in Part Two – Strategy, of the PDP) apply district wide. It states (emphasis added),

In summary, some of the key substantive changes include:

- *A new Strategic Direction chapter that sets out the **overall approach to ensuring the District's sustainable management in an integrated manner.***

² *Royal Forest and Bird Protection Society Inc v Southland District Council* [1997] NZRMA 408 at 413.
³ [2014] NZRMA 519 at [76] – [77].

- *An Urban Development Chapter that sets out a **growth management direction for the District**, and introduction of Urban Growth Boundaries around urban areas.*
- *A Landscape Chapter that sets out **how development affecting the District's valued landscapes will be managed** – including the mapping of lines that identify Outstanding Natural Landscapes and Features.*
- *A Tangata Whenua chapter that sets out key Tangata Whenua values.*

2.10 Accordingly, the Council submits that taking a flexible approach to scope for the Strategic Direction chapters is not necessary.

3. RULE (NOTIFIED 36.5.7; REDRAFTED 36.5.6)

3.1 The evidence of Ms Ruth Evans and Ms Stephen Chiles on the Noise chapter,⁴ is that notified Rule 36.5.7 (Redrafted 36.5.6) is so deficient that it is unworkable. However, no submission has been identified to provide scope to remove or amend it. Notified Rule 36.5.7 (Redrafted 36.5.6) applies to the Kingston Village Special Zone, which is a Stage 2 zone. In the course of the hearing, the Panel questioned whether the rule could be "transferred" and the deficiencies addressed in Stage 2. At this point in time, there are no submissions on this particular provision which would allow the defect to be addressed in Stage 2.

3.2 It cannot be ascertained with any certainty that a submission will be made in Stage 2 (even with taking a flexible approach to scope, in accordance with paragraphs [2.1] to [2.7] of these submissions). Accordingly, although it is agreed that it would appear simple to transfer provisions such as this one over to Stage 2, that approach may not create a solution in terms of fixing the identified defects. Therefore, the Council maintains its position presented in its opening, that if considered necessary on the merits, the Council may need to initiate a variation to address the problems with notified Rule 36.5.7 (Redrafted 36.5.6). The transfer of these types of provisions is discussed further below.

⁴

See Paragraph 8.40 of the s 42a report of Ms Ruth Evans on Chapter 36 Noise, dated 17 August 2016; and Paragraph 5.3 of the evidence of Dr Stephen Chiles, dated 17 August 2016.

4. NOISE STANDARDS - STAGE 2 ZONES

4.1 The Council has considered the Panel's question as to the transfer of notified Rule 36.5.7 (Redrafted 36.5.6) to Stage 2 in respect of other standards in the Noise chapter that relate to Stage 2 zones. In its opening, the Council submitted that it may need to initiate a variation in order to amend such standards to ensure that noise received in the Stage 2 zones is managed in accordance with the relevant zone purposes.⁵ The Council agrees with the Panel that a simpler solution would be to transfer these provisions and any related submissions to be heard alongside the relevant zone provisions during Stage 2 of the PDP. In this particular case, the Council does not anticipate that any procedural issues would result from such a transfer, although a variation may still be required as noted above at paragraph [3.2] depending on changes required. The relevant zone provisions are as follows:

- (a) notified Rule 36.5.4:
 - (i) Townships Zones
 - (ii) Quail Rise Special Zone
 - (iii) Meadow Park Special Zone
 - (iv) Ballantyne Road Special Zone (excluding Activity Area C)
 - (v) Shotover Country Special Zone (Activity Areas 11a-1e, 4 and 5a-5e)
 - (vi) Penrith Park Special Zone
 - (vii) Bendemeer Special Zone
 - (viii) Mt Cardrona Station Special Zone (Activity Areas 2, 3 and 4)
 - (ix) Kingston Village Special Zone (Activity Areas 1,3 and 4);

- (b) notified Rule 36.5.6:
 - (i) Shotover Country Special Zone (Activity Areas 2a-2c and 3);
 - (ii) Mt Cardrona Station Special Zone (Activity Area 1);
 - (iii) Ballantyne Road Special Zone (Activity Area C);

⁵ Council's opening legal submissions dated 9 September 2016 at 7.3 – 7.5.

- (c) notified Rule 36.5.7:
 - (i) Kingston Village Special Zone (Activity Area 2)
 - (ii) Industrial Zones.

4.2 While it is a matter for the Panel, the Council would accept a direction from the Panel transferring recommendations on the above provisions, and any submissions on them, to Stage 2. However, there may still be a need for variation where there are no submissions received in Stage 2.

4.3 The position of the Council on the Stage 2 noise standards should not be taken as an endorsement by the Council of the transfer of submissions on Stage 1 to Stage 2 generally, as the Council position notes that in general such a practice could result in procedural problems. The Council maintains its position that, in most instances, the appropriate process is to reject submissions on Stage 1 and for the submitter to resubmit when Stage 2 of the PDP is notified.

5. MINOR NON-SUBSTANTIVE CHANGES

5.1 The Council officers have recommended a number of minor, non-substantive amendments by way of the s 42A reports on the District Wide chapters. These non-substantive amendments generally relate to structural issues, matters of clarification, and minor errors where there have been no submissions. In the course of the hearing, the Panel asked the Council to confirm its position on the Panel's ability to recommend such amendments.

5.2 The delegated power to make clause 16(2) of the First Schedule, RMA amendments rests with the Council's Planning Policy Manager rather than the Panel. However, it is the Council's position that, as the proposed changes are of neutral effect, there is no legal or procedural barrier preventing the Panel from recommending them, and the Council subsequently making the changes under clause 16(2).

5.3 Despite the above, it would be appropriate for the Panel to distinguish any recommended non-substantive amendments from recommended changes that are based on submissions. The Council submits that any recommended non-substantive amendments could be marked by the Panel in a similar manner as is done by the Council officers in the proposed revised chapters filed alongside their s 42A report and planning replied.

6. SUB-TRANSMISSION/ELECTRICITY DISTRIBUTION NETWORK

6.1 Aurora Energy Limited (**Aurora**) submitted on the Energy and Utilities Chapter 30, seeking amendments to protect the electricity networks maintained by Aurora in the District. Mr Craig Barr, the s 42A report author for the Energy and Utilities chapter has assessed the submission of Aurora and agrees that that networks of 22kV, 33kV and 66kV transmission lines and the 11kV line from the Camphill Road Substation to Makarora deserve protection on account of their importance to the District. Accordingly, Mr Barr's view is that a new redrafted Policy 30.2.6.5, redrafted Rule 30.4.39 and redrafted Rule 30.4.40 should be included in the Energy and Utilities chapter.⁶

6.2 In his Right of Reply, Mr Barr has recommended that these assets be renamed "Electricity Distribution Lines", following a request from Transpower.⁷ Mr Barr has addressed the merits of providing protection of Aurora's assets in his planning reply, including that they are identified as Regionally Significant Infrastructure in the Regional Policy Statement.

6.3 During the hearing, the Panel raised an issue of fairness or natural justice. The Panel questioned whether land owners that are potentially affected by the proposed protection of the Electricity Distribution Lines would have been aware that such relief would be provided to Aurora by way of the hearings process on the PDP (this relief being a buffer corridor, with a restricted discretionary activity consent status).

⁶ See part 7 the Planning Reply of Mr Craig Barr on the Energy and Utilities Chapter 30, dated 22 September 2016.

⁷ See part 6 the Planning Reply of Mr Craig Barr on the Energy and Utilities Chapter 30, dated 22 September 2016.

- 6.4** Having considered the issue, the Council's position is that the inclusion of the proposed protection of the Electricity Distribution Lines would not lead to any material issues of unfairness or concerns about natural justice. The Council submits that, owners of land over which Aurora's Electricity Transmission Network traverses, would have been on notice that the Network directly affects their land (or even neighbouring land), and would therefore reasonably have been on notice to check Aurora's submission, to see what changes to the PDP it was seeking. Those landowners would then have had the ability to provide further submissions on Aurora's proposed relief, in accordance with Schedule 1 of the RMA.
- 6.5** This situation is submitted to be no different to other (more restrictive) rules that are pursued by a submitter, that may affect other landowners.
- 6.6** All of the district was provided with the public notice of Stage 1 of the PDP. They were then given the opportunity to review the plan and the s 32 reports. Upon review of the relevant s 32 report, landowners would have become aware that the purpose of the Energy and Utilities chapter was to provide for the sustainable management and growth of local, regional and nationally critical infrastructure and energy development.⁸ There was then public notification of the summary of submissions on the chapter,⁹ which included Aurora's submission requesting protection of the sub-transmission network.¹⁰ Following this, they had the opportunity to provide a further submission in opposition this relief. In such circumstances, the Council submits that no issue of procedural fairness arises.

7. AIR NOISE BOUNDARY - SCOPE ISSUES

- 7.1** At the hearing on 12 September 2016 the Panel questioned the accuracy of the Airport Air Noise Boundaries identified on the PDP

⁸ See Part 7 of the s 32 report on the Energy and Utilities Chapter 30.

⁹ Date of notification of submission summary 3 December 2015.

¹⁰ See page 324 of the submission summary on District Wide Matters <http://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Summary-by-Chapter/Part-5-District-Wide-Matters.pdf>.

planning maps. This issue was addressed in the Council's Right of Reply in hearing streams 1A and 1B. These submissions are adopted here and included as **Appendix 2** for the convenience of the Panel.

7.2 In summary, the Council's position is that the Legend information in the Planning Maps is incorrect, and the reference to 'operative' was incorrectly not deleted despite the late decision to include PC35 provisions prior to notification of the PDP. As such, it is submitted that this error can be rectified, either through a clause 16(2) correction or a withdrawal of the incorrect notation on the Legend under clause 8D of Schedule 1.

7.3 It was further raised at the hearing that amendments are required to the Queenstown Air Noise Boundary map as the map supplied by Queenstown Airport Corporation contained a minor error. It is the Council's position that this is a matter for the zoning hearing and should be covered during that hearing stream.

8. NON-COMPLYING STATUS FOR NOISE STANDARDS – CHAPTER 36

8.1 The activity status for non-compliance with the noise standards in Chapter 36 Noise is generally non-complying. The Jacks Point companies¹¹ have requested a Restricted Discretionary activity status for non-compliance with notified Rule 36.5.6 (redrafted 36.5.5). Ms Baker-Galloway, Counsel for the Jacks Point companies have questioned the basis for the activity status generally.¹² In particular, Ms Baker-Galloway submits that inadequate s 32 analysis was carried out in respect of the non-complying status. Further, it has been submitted that the objective and policy of the Noise chapter do not justify the non-complying status as the objective and policy simply seek to 'manage' and 'control', rather than to 'avoid' or 'preclude' adverse noise effects.

¹¹ Jacks Point Residential No.2 Ltd, Jacks Point Village Holdings Ltd, Jacks Point Developments Limited, Jacks Point Land Limited, Jacks Point Land No. 2 Limited, Jacks Point Management Limited, Henley Downs Land Holdings Ltd, Henley Downs Farms Holdings Ltd, Coneburn Preserve Holdings Limited, Willow Pond Farm Limited (**Jacks Point Companies**).

¹² See part 5 of the Legal Submissions of Ms Maree Baker-Galloway for the Jacks Point Companies, dated 13 September 2016.

8.2 The Council accepts that the non-complying status may not have been adequately assessed as part of the s 32 assessment of the Noise chapter. Further, the Council accepts that the rules of a proposed plan must implement the policies.¹³ It is the position of the Council that the Objective and Policy in the revised Noise Chapter attached to the Planning Reply of Ms Ruth Evans provide sufficient basis for the non-complying status of the majority of noise standards in the Chapter.

9. VENTILATION REQUIREMENTS RULE 36.6.3

9.1 The noise experts called on behalf of the Council (Dr Chiles) and QAC (Mr Day) agree that the notified airport ventilation Rule 36.6.3 is ambiguous in that it refers to a measurement point of "1 to 2m distant" from any diffuser. Dr Chiles recommended that an appropriate measurement point for the rule would be 1 metre from mechanical ventilation diffusers (being more conservative). Mr Day, on the other hand, recommended a 2 metre measurement point (being a more lenient measurement point).

9.2 QAC provided legal submissions to the effect that, as no submissions specifically addressed the measurement point a 1 metre measurement distance as recommended by Dr Chiles is not within scope.¹⁴ They also stated that Mr Day's recommendation of a 2 metre measurement point is within scope because it maintains the *status quo*. The Council accepts the submission of QAC in this respect.

9.3 By way of her reply Ms Evans, the s 42A report author on the Noise chapter has provided evidence that a provision for a fixed 2 metre measurement point is an improvement to the more ambiguous provision for measurement at "1m to 2m". This 2 metre measurement point would have always been available through the notified chapter.

¹³ Resource Management Act 1991, s 75(1).

¹⁴ See paragraphs [91] – [93] of the Legal Submissions of Ms Rebecca Wolt on behalf of Queenstown Airport Corporation Limited, dated 9 September 2016.

9.4 In her s 42A report Ms Evans recommended that redrafted Rule 36.6.3 replace notified Rule 36.6.3 (Table 5) and notified rule 36.7 (Table 6).¹⁵ QAC also provided legal submissions that as no submitter has submitted on Table 6, there is no scope to amend the table. The Council also accepts QAC's submission as to the scope to amend Table 6 – this was an unintended outcome from a recommendation that would streamline the chapter. Accordingly, Ms Evans has reinstated Table 6 as notified in the recommended revised chapter that accompanies her reply.

DATED this 22nd day of September 2016



S J Scott / K L Hockly
Counsel for Queenstown Lakes
District Council

¹⁵

See paragraph 8.62 – 8.64 of the s 42A report of Ms Evans on the Noise Chapter 36, dated 17 August 2016.

APPENDIX 1

PUBLIC NOTICE OF STAGE 1 OF THE PDP

PUBLIC NOTIFICATION OF THE PROPOSED QUEENSTOWN LAKES DISTRICT PLAN (STAGE 1)

The Council has completed the first stage of the District Plan review and is now notifying the Proposed Queenstown Lakes District Plan (Stage 1) for public submission pursuant to Schedule 1 Clause 5 of the RMA .

There are many differences between the current Operative District Plan and the Proposed District Plan. The Proposed District Plan affects all properties in the District and may affect what you and your neighbours can do with your properties. You should take a look to see what it means for you.

In summary, some of the key substantive changes include:

- A new Strategic Direction chapter that sets out the overall approach to ensuring the District's sustainable management in an integrated manner.
- An Urban Development Chapter that sets out a growth management direction for the District, and introduction of Urban Growth Boundaries around urban areas.
- A Landscape Chapter that sets out how development affecting the District's valued landscapes will be managed – including the mapping of lines that identify Outstanding Natural Landscapes and Features.
- A Tangata Whenua chapter that sets out key Tangata Whenua values.
- Revision of residential rules, including:
 - Provision for greater building height in the High Density Residential Zone;
 - Introduction of a new Medium Density Residential zone in Fernhill, central Queenstown, Frankton, Arrowtown and Wanaka, and;
 - Changes to the Low Density Residential zone to enable more potential for infill housing by changing density controls and residential flat provisions.
- A new Large Lot Residential zone is introduced in Wanaka replacing the Rural Residential zoned areas within the proposed Urban Growth Boundary.
- Amendments to town centre provisions to:
 - Provide potential for limited extra building height in some defined locations;
 - Greater emphasis on urban design;
 - Noise rules that are more permissive in defined 'Entertainment Precincts', and;
 - Transition overlay areas that apply to residential areas on the edge of town centres that provide opportunity for commercial land use.
- Introduction of a new Business Mixed Use Zone in Queenstown and Wanaka that increases building heights and provides for a mix of land uses including residential activity.
- A Local Shopping Centre zone replaces the Corner Shopping Centre zone in existing locations, and is introduced to new locations in Hawea, Albert Town, Wanaka, Arrowtown and Queenstown,
- The Rural Zone relaxes some rules around farm buildings, undertaking building and alterations within approved building platforms, introduces new standards for informal airports (which includes helicopter take-offs and landings), and introduces new rules to manage dairy grazing stock and dairy farm facilities. Some areas in the Wakatipu Basin are proposed to be rezoned to Rural Lifestyle zone.
- The Rural Lifestyle Zone in Glenorchy to be extended and regulation of new building will be lightened subject to compliance with standards. A similar approach is taken in the Rural Residential zone and Gibbston Character Zone.
- The prohibited status for non-motorised commercial boating on Lake Hayes has been removed, but motorised boating will remain prohibited.
- Heritage Landscapes are confirmed in the District Plan, and statements of significance will apply to these and heritage precincts providing greater clarity on the key features to protect.
- Most subdivision activity will become a discretionary activity rather than a controlled activity, and be non-notified subject to compliance with standards such as minimum lot

size. The subdivision provisions reference a Subdivision Design Guide and Infrastructure Code of Practice to encourage good subdivision design.

- A Natural Hazard chapter seeks to balance the need for development with natural hazard risk. Most natural hazards will not be mapped in the District Plan, rather the Council's Natural Hazards database will be relied on.
- General tree protection provisions are removed (due to legislative change), and character trees have been identified for protection within the Arrowtown Residential Historic Management Zone.
- New rules make planting of wilding exotic trees prohibited.
- An Indigenous Vegetation chapter incorporates a new schedule of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and introduces new rules to protect areas that are defined as acutely or chronically threatened land environments.
- More liberal regulations for temporary activities, such as public events and filming.
- A number of designations are rolled-over, modified or cancelled.
- Jacks Point zone rules are simplified, and the need for a resource consent for all new dwellings is removed.
- Millbrook zone is extended to incorporate new land acquired by Millbrook and the Structure Plan is modified to account for this. Overall development rights (450 dwellings) not increased.

To understand in more detail how the Proposed District Plan affects you, check out the full version or a summarised fact sheet any time online at www.qldc.govt.nz/proposed-district-plan.

Where to view the Proposed Plan

In addition to viewing the Proposed District Plan online it can also be viewed at any of the following locations during business hours. (Council offices 8.30am-5pm. Library opening hours vary, please check www.codc-qldc.govt.nz for details).

Council Offices:

- 10 Gorge Road, Queenstown
- 74 Shotover Street, Queenstown,
- Wanaka Service Centre, 47 Ardmore Street Wanaka

Public Libraries:

- Queenstown Library: 10 Gorge Road
- Wanaka Library: Dunmore Street
- Arrowtown Library: 58 Buckingham Street
- Makarora Library: Rata Road
- Glenorchy Library: 13 Islay Street
- Lake Hawea Library: Myra Street
- Kingston Library: 48 Kent Street

Submissions

The Council invites any person to make a submission on the Proposed District Plan.

Options for making a submission are:

- **Online:** www.qldc.govt.nz/proposed-district-plan
- **Post:** Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348, Attention: Proposed District Plan Submission
- **Email:** services@qldc.govt.nz (subject line: Proposed District Plan Submission)

If you decide not to make a submission using our online form, please be aware that written submissions must be on Form 5 as prescribed by the Resource Management Act 1991. Your submission must state whether or not you wish to speak to your submission at a hearing. This form is available from the locations listed above.

The closing date for submissions is Friday 23 October 2015.

What happens next?

After submissions close:

- We will prepare a summary of decisions requested by submitters and publicly notify the availability of this summary and where the summary and full submissions can be inspected;
- People who represent a relevant aspect of the public interest or have an interest greater than the interest of the general public may make a further submission, in the prescribed form within 10 working days of notification of the summary of decisions sought, supporting or opposing submissions already made;
- A copy of the further submission must also be served on the Council and the person who made the original submission;
- Submitters may speak in support of their submission(s) at a hearing if they have indicated in their submission that they wish to be heard;
- Following the hearing the Council will give notice of its decision on the Proposed District Plan and matters raised in submissions, including its reasons for accepting or rejecting submissions;
- Every submitter then has the right to appeal the decision on the Proposed District Plan to the Environment Court.

Want more info or help understanding the proposals?

Visit www.qldc.govt.nz/proposed-district-plan to find a range of fact sheets and diagrams to help you understand some of the more technical parts of the Proposed District Plan.

A duty policy planner will also be available every workday until submissions close. Call 03 441 0499 (Queenstown) or 03 443 0024 (Wanaka)

This notice is in accordance with clause 5 of Schedule 1 of the Resource Management Act 1991.

APPENDIX 2

Extract from Council's Right of Reply Legal Submissions, for Strategic Directions hearing

3. AIR NOISE BOUNDARY - SCOPE ISSUES

- 3.1** The Hearings Panel identified on 31 March 2016 that there may be an issue as to whether the Panel has scope to consider the location of and justification for the proposed Airport Air Noise Boundaries⁷ which were identified in the submission for Queenstown Airport Corporation (**QAC**), given that they were identified in the 'Legend and User Information' page of the Planning Maps as an 'Operative Plan' matter and therefore excluded from the scope of Stage 1 or indeed the PDP in its entirety.
- 3.2** There is an inconsistency between the Legend information of the PDP and what has been included in the planning maps and provisions, in that Airport Air Noise Boundaries have been included along with associated provisions. That raises the question of whether one matter should prevail over the other or whether there is an error.
- 3.3** The Council's position is that the Legend information in the Planning Maps is incorrect, and was incorrectly not deleted despite the late decision to include PC35 provisions prior to notification of the PDP. As such, it is submitted that this error can be rectified, either through a clause 16(2) correction or a withdrawal of the incorrect notation on the Legend under clause 8D of Schedule 1.
- 3.4** In terms of the implication for the Panel's scope, it is submitted that whether or how the error is rectified does not impact on the Panel's scope to address the Air Noise Boundary lines and associated submissions/issues. The substance of these matters was included elsewhere in the PDP and has been submitted on. It is also submitted that no submitters are likely to be prejudiced by the Panel considering such matters, in that submitters would have had the opportunity to consider the relief sought by QAC (for example) in its submission and make a further submission if they considered that necessary.

3.5 In that respect, we agree with the essence of the approach set out in paragraphs 40 to 46 of QAC's supplementary legal submissions dated 1 April 2016.