

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

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER Minute Concerning the
National Policy
Statement on Urban
Development Capacity

**MEMORANDUM OF COUNSEL ON BEHALF OF QUEENSTOWN LAKES DISTRICT
COUNCIL REGARDING THE NATIONAL POLICY STATEMENT ON URBAN
DEVELOPMENT CAPACITY**

3 March 2017

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MAY IT PLEASE THE PANEL:

1. This memorandum is filed on behalf of the Queenstown Lakes District Council (**Council**) in response to the Panel's minute of 8 February 2017, asking the Council to confirm whether it is satisfied that:
 - 1.1 the provisions of the Proposed District Plan (**PDP**) which have already been heard give effect to the National Policy Statement on Urban Development Capacity 2016 (**NPSUDC** or **NPS**); and
 - (a) if so, the basis for that view; or
 - (b) if not, how the Council proposed to address that position.
2. This memorandum also addresses evidence that the Council will be calling in the rezoning hearings, which relates to implementing the NPSUDC.

Summary

3. The majority of the objectives and policies of the NPSUDC that take immediate effect have been given effect to by the provisions of the Stage 1 PDP chapters which have already been heard.
4. The Council's development capacity model (**DCM**) is currently being updated and this will feed into evidence for rezoning hearings, and contribute to evidence as to whether there is sufficient housing and business land development capacity in the short, medium and long term (PA1).
5. The Council seeks leave to extend the timeframes for provision of this evidence to submit it as part of Council's rebuttal evidence, two weeks prior to the start of the hearing for both the Upper Clutha mapping stream and the Queenstown mapping stream.
6. Otherwise, Council will continue to work towards the timeframes set in the NPS, for example December 2018 for the housing and business development capacity assessment as required through PB1 – PB7 (see Appendix 1 Timeframes and Obligations for details).

Context

7. On 1 December 2016 the NPSUDC came into force. The NPS sets out objectives and policies that are structured into four key sections:
 - 7.1 outcomes for planning decisions;
 - 7.2 evidence base and monitoring requirements to support planning decisions;
 - 7.3 enablement of responsive planning; and
 - 7.4 coordinated planning evidence and decision-making.
8. Objectives OA3 to OD2, Policies PA1 to PA4 (outcomes for planning decisions), Policies PC1 to PC4 (responsive planning) and Policies PD1-PD4 (coordinated planning evidence and decision making) must be given effect immediately.

Council's position on recommendations already made to Hearings Panel

9. The majority of the NPS provisions which apply to all decision-makers with immediate effect can be described as 'high level' or 'direction setting' rather than detailed requirements. Although the Council is not in a position to advise comprehensively on whether the text of Stage 1 chapters of the PDP gives effect to *all* of the provisions that take immediate effect (this is returned to below), the Council's position is that at a general level, relevant NPS objectives and policies are given effect to through the Stage 1 chapter text.
10. More specifically, in the Council's view the NPS objectives (OA1, OA2, OA3, OC1, O2, OD1 and OD2) can be considered by the Panel in the same manner as other high level statutory matters such as the purpose and principles of the RMA and the matters set out in section 32. The exception, OB1, relates to a requirement that the Council create a robust, comprehensive and frequently updated evidence base to inform planning decisions in urban environments. This is an information requirement and the district plan text itself cannot give effect to it. Otherwise the objectives are largely an extension and refocus of existing RMA requirements to manage resources while providing for social, economic, cultural and environmental wellbeing, as well as to consider the benefits and costs of different approaches to manage and provide for urban development under section 32, rather than an entirely new decision framework.

11. The Productivity Commission report 'Using land for housing' (which preceded the NPS) provided an important reference to decisions made on the notified PDP to provide more capacity in urban areas.¹ This report is referenced many times through the section 32 reports for the Residential chapters, and is the same report that was used in preparation of the NPS.² The Council's evidence in Stage 1 (to the Strategic Directions and Residential hearings in particular) addressed the importance of providing sufficient development capacity to meet the needs of people and communities in the District and for its urban areas to have capacity to develop and change.³ It has presented proposals (chapter text) that provide for intensification in specific locations as well as urban expansion and the imposition of urban growth boundaries, height limits and other controls to help manage this expansion. The Council has also provided, for example, a variety of residential and business zones to provide for housing and business opportunities and choice.
12. Whether the PDP has gone far enough, or has failed to go far enough, in enabling effective and efficient urban environments has been a key question throughout the preparation and hearing of Stage 1 of the PDP, and was a live issue for the Council prior to the gazettal of the NPS. The NPS now assists in prescribing *how* the Council should inform itself in making such decisions. It 'ups the ante' in this regard but the need to consider these relevant matters has not previously been overlooked. In the Council's view, giving effect to the NPS in making decisions on Stage 1 chapter text can be done with the evidence the Panel has already received.
13. In respect of the other NPS policies that take immediate legal effect, the Council considers that, for the same reasons as outlined above, current recommendations to the Panel give effect to PA2, PA3 and PA4.
14. Council is not in a position at this stage to give evidence or submissions confirming that the Stage 1 text gives effect to PA1 and PC1-PC4. However, we now turn to the relevance of the upcoming rezoning hearings, the Council's update of its dwelling capacity model, and the role these play in considering and providing evidence that assist in implementing these policies.

1 Using Land for Housing Draft Report (June 2015), New Zealand Productivity Commission, available online at <http://www.productivity.govt.nz/inquiry-content/2060?stage=3>

2 See Report and Summary of Submissions to proposed NPS at <http://www.mfe.govt.nz/publications/towns-and-cities/summary-submissions-proposed-nps-udc-2016>, October 2016.

3 For example, the section 42A report and right of reply of Matthew Paetz

Evidence required to demonstrate that the Stage 1 chapters give effect to the remainder of the NPSUDC that has immediate legal effect

15. As the Council has previously advised the Panel, the Council is in the process of updating its dwelling capacity model (**DCM**) including underlying data, population projection information, including its assumptions about feasibility and infrastructure, and PDP (rather than ODP) zone capacity. This work commenced prior to the release of the NPS. The intention was to have an updated capacity model and analysis available to feed into the Council's evidence and recommendations on the Upper Clutha rezoning hearing (and thereafter, in the Queenstown and Wakatipu Basin rezoning hearings).
16. Despite the Council's best endeavours, the updated DCM will not be available before the Council's section 42A reports for the Upper Clutha Mapping (Stream 12) hearing or the Queenstown Mapping (Stream 13) are published (on 21 March and 11 May 2017 respectively).
17. In relation to the Upper Clutha Mapping hearing (Stream 12), it is anticipated that the DCM data will not be available and experts will not be in a position to prepare evidence on the data, until the rebuttal evidence is filed on 28 April. Council intends to lodge a late, supplementary statement of evidence alongside its rebuttal evidence. In order to ensure there is no prejudice to submitters, it proposes that they are given an opportunity to respond. As there is two weeks between filing of rebuttal evidence and the commencement of the hearing, Council considers that this is a practical approach, that will ensure that the best quality evidence is before the Panel.
18. In relation to the Queenstown Mapping hearing (Stream 13) we note also that lead-in and review times for preparation of s42A reports and expert evidence will prevent adequate analysis of the capacity data until the rebuttal period for the Queenstown Mapping Stream. In this instance the Council intends to lodge this capacity evidence alongside its rebuttal evidence, and again proposes that submitters be given an opportunity to respond to ensure there is no prejudice.
19. Regarding the information presented to the Panel for the Resort Zones Stream 9, this new analysis is unlikely to change the information provided by the

Council. In any event, there are several rezoning submissions that relate to both Jacks Point and Millbrook Resort, and therefore the extent of the zones will be revisited in terms of their boundaries, in any event.

- 20.** Council respectfully seeks formal directions from the Panel in respect of this approach to the filing of the supplementary evidence, alongside rebuttal in the Upper Clutha and Queenstown rezoning hearing streams.
- 21.** Regardless, recommendations of reporting officers for both mapping hearings will be cognisant of the NPS and those objectives and policies already in effect. This approach is likely to provide a significantly better quality evidential foundation on development capacity for the Panel in its decision making, rather than a piece meal approach using incomplete information. This approach is also important in achieving a key outcome of the NPSUDC - to ensure zoned land is integrated with infrastructure planning
- 22.** To be clear, the updated DCM that will be used to form this additional evidence will, as far as possible, implement the PA policies of the NPS. However, Council wishes to reiterate that it will not be providing evidence on a full housing and business development capacity assessment as required in the PB policies. The Council will work towards the NPS date of 31 December 2018 for this work. The NPS was received in its final form part way through the DCM update, and includes a number of matters that, while they will form part of the Council's consideration of submissions, will require on-going work streams that may not be completed in time for the rezoning evidence:
 - 22.1** determining how it will assess whether or not development is feasible;
 - 22.2** assessing the infrastructure required to support the development, and determine whether sufficient infrastructure has been provided, planned for or funded. This assessment will require the local authority to consider its own infrastructure, and will require consultation with third party infrastructure providers;
 - 22.3** considering whether the development capacity will:
 - (a) give people sufficient choice in relation to development type and location;
 - (b) be an efficient use of land and infrastructure; and
 - (c) limit adverse effects on competitive markets;

- 22.4 undertaking a cost benefit analysis regarding the effects of urban development.

Timeframes for giving effect to the NPSUDC

23. The Council accepts that the NPS applies in the District and is committed to giving effect to this important new approach to urban planning. Although there is some uncertainty as to what parts of the District are an "urban environment"⁴ in their own right, it is accepted that Queenstown itself is a "high growth area" and therefore the NPS applies to the District as a whole.
24. The NPS provisions apply in tiers, from general to more specific circumstances, and in conjunction have different timeframes for implementation:
- 24.1 the objectives apply to all local authorities when making planning decisions that affect an 'urban environment';
 - 24.2 urban environments that are expected to experience growth;
 - 24.3 medium and high growth areas; and
 - 24.4 high-growth areas.
25. Certain parts of the NPS will come into play at the same time as the district plan is programmed to progress through Schedule 1 of the RMA. Extensive work is required to complete the tasks and actions, as summarised in **Appendix 1**.

4 See definition of "urban environment" in Interpretation section of the NPS, namely "*an area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries*". Taking into account the growth that the group of urban areas that make up Wanaka and Queenstown are intending to contain and the current populations of these areas, both Wanaka and Queenstown are considered "urban environments" as they are defined in the NPS.

26. It is also noted that there is currently no detailed guidance or common consensus amongst relevant agencies and sectors as to how these detailed assessments of capacity, demand and feasibility are to be undertaken. Council notes that the Ministry for the Environment intends to issue further detailed guidance in this regard, although not before June 2017 at the earliest. It is very clear from the evidence considered by the Auckland Unitary Plan Independent Hearing Panel that the above work is highly technical, specialised and a challenging undertaking for a Council of this size and resources.

DATED this 3rd day of March 2017



S J Scott
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District Council

APPENDIX 1: TIMEFRAMES AND OBLIGATIONS

Obligation	Timetable
Decision makers making planning decisions that affect an urban environment (i.e. Queenstown and Wanaka)	
All objectives (Objectives OA1-OD2)	Immediate
Local authorities with an urban environment expected to experience growth (i.e. Queenstown and Wanaka)	
Ensuring sufficient housing and business land development capacity (Policies PA1-PA4)	Immediate
Local Authorities that have Medium-growth urban areas within their District (i.e. QLDC)	
As above AND:	
Calculation and provision of development capacity (Policies PC1-PC4)	Immediate
Cooperation with other local authorities and infrastructure providers (Policies PD1-PD2)	Immediate
Monitoring price indicators (Policy PB6)	Begin monitoring by 1 June 2017 Thereafter monitoring will be on a quarterly basis
Housing and business development capacity assessment (Policy PB1)	Completed by 31 December 2018 for medium-growth areas Completed by 31 December 2017 for high-growth areas
Use of information provided by indicators of price inefficiency (Policy PB7)	Begin by 31 December 2017
Local Authorities that have a High-growth urban area within their District (i.e. QLDC)	
As above AND	
Cooperation where local authorities share jurisdiction (Policy PD3)	Immediate
Cooperation with infrastructure providers in preparing a future development strategy (Policy PD4)	Immediate
Local Authorities encouraged to give effect to RPS minimum targets for development capacity (Policies PC5-PC11)	Minimum targets included in the relevant policy statement and plans by 31 December 2018 Targets are to be reviewed every three years
Future development strategy (Policies PC12-PC14)	Strategy to be produced by 31 December 2018