

**Planning & Strategy Committee  
13 May 2019**

**Report for Agenda Item 1**

**Department: Planning & Development**

**Changes to the Operative District Plan and Proposed District Plan required by the National Environmental Standard for Plantation Forestry Regulations 2017**

**Purpose**

The purpose of this report is to confirm the changes to be made to the Operative District Plan (ODP) and Proposed District Plan (PDP) to ensure consistency with the National Environmental Standard 2017 for Plantation Forestry (NES-PF).

The NES-PF came into force 1 May 2018. The ODP and PDP must be consistent with any national environmental standard. This report sets out the approach taken to ensure consistency and details the extent of amendments that are to be carried out.

**Recommendation**

That the Planning & Strategy Committee:

1. **Note** the contents of this report;
2. **Note** that the National Environmental Standard for Plantation Forestry (NES-PF) came into force in May 2018.
3. **Note** that changes to the Proposed District Plan (PDP) and Operative District Plan (ODP) are required to be made so these are consistent with the new NES-PF.
4. **Note** that the changes that will be made to the PDP are identified in **Attachment A** and to the ODP in **Attachment B** following an audit to achieve consistency with the NES-PF.

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## Background

- 1 National Environmental Standards for Plantation Forestry (NES PF) Regulations 2017 (NES-PF) came into force from 1 May 2018. The NES-PF provides a national approach to plantation forestry. Under Section 44A of the Resource Management Act 1991 ('RMA') any plan or proposed plan must be consistent with a national environmental standard.
- 2 An audit of the Queenstown Lakes District Council ('QLDC') Operative District Plan ('ODP') and the Proposed District Plan ('PDP') has identified a number of issues with duplication or conflicts between the rules that apply to plantation forestry and the NES - PF. This report details the amendments to these rules to ensure consistency with the NES-PF and ensure Council meets its obligation to implement the NES-PF.

## Comment

- 3 An audit of the ODP and PDP ('the plans') has identified a number of instances of duplication or conflict with the rules directed by the NES-PF (**Attachment A**). This is for both forestry specific rules and general rules that relate to plantation forestry.
- 4 The approach that the NES-PF adopts is to make plantation forestry a permitted activity, subject to a suite of standards set as conditions for undertaking plantation forestry including; afforestation, harvest, replanting and ancillary activities.
- 5 Section 43B of the RMA provides for plans to have more stringent rules if a standard expressly provides for that. The NES-PF regulation 6 '*unique and sensitive environments*' provides for a more stringent rule where the rule relates to significant natural areas and for the protection of an outstanding natural landscape ('ONL') or an outstanding natural feature ('ONF') from inappropriate use or development. Attachment A includes identification of where these more stringent rules are able to be retained.
- 6 The general approach for areas that are not ONL, ONF or SNA, is for an additional clause for any forestry rule to be inserted that states that the NES-PF rules prevail in relation to plantation forestry. Further, an amendment to the definition of forestry activity inserts plantation forestry as having the same definition as set out in the NES-PF.
- 7 This clarifies that forestry activity can include activities beyond those covered by the definition of plantation forestry as set out in the NES-PF. For example, a forestry activity may be less than 1ha and is not required to be for commercial purposes.

ODP	Forestry Activity	<i>Means the use of land primarily for the purpose of planting, tending, managing and harvesting of trees for timber or wood production in excess of 0.5ha in area.</i>
PDP		
NES-PF	plantation forest or plantation forestry	<p><i>means a forest deliberately established for commercial purposes, being—</i></p> <p><i>(a) at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and</i></p> <p><i>(b) includes all associated forestry infrastructure; but</i></p> <p><i>(c) does not include—</i></p> <p><i>(i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or</i></p> <p><i>(ii) forest species in urban areas; or</i></p> <p><i>(iii) nurseries and seed orchards; or</i></p> <p><i>(iv) trees grown for fruit or nuts; or</i></p> <p><i>(v) long-term ecological restoration planting of forest species; or</i></p> <p><i>(vi) willows and poplars space planted for soil conservation purposes</i></p>

- 8 In addition to forestry specific rules, standards for noise and earthworks require amendment to ensure any standards that would relate to plantation forestry are those specified as set out in the NES-PF.
- 9 Exemptions are required for plantation forestry from district plan rules that prohibit planting of wilding species. The NES-PF contains specific calculations for wilding risk and a corresponding standard that requires additional assessment and measures where a greater wilding risk is calculated. Retaining the prohibitions on planting these species for plantation forestry would be inconsistent with the NES-PF.
- 10 It is noted that a number of rules of the PDP are now treated as operative under section 86F(1) of the RMA. The corresponding rule in the ODP are then treated as inoperative where they have been entirely replaced. In this instance, only the PDP rules require amendment. For clarity, **Attachment A** notes whether a rule is being treated as operative or inoperative under s86F(1).
- 11 The NES-PF was in force at the time of decisions for Stage 2 of the PDP. No further changes are required in relation to Stage 2 of the PDP for plantation forestry as these decisions considered the NES-PF as part of the decision making process.

12 Section 44A(6) of the RMA provides for amendments to remove duplication or conflict with a national environmental standard without the use of Schedule 1, and requires this be done as soon as practicable after the date the standards came into force. It is considered best practice that public notice be provided where amendments are made.

13 There is no current impediment to completing the amendments to the plans as set out in **Attachment A**. On this basis, all changes to the ODP and PDP chapters are to be completed by 7 June 2019 including all updated chapters published on the QLDC website, accompanied by a public notice confirming the changes.

### Options

14 Council does not have any options in relation to this matter. Rules within plans are required to have any conflicts or duplications amended at the soonest practicable time. There is no impediment to the current timing and therefore it is considered appropriate that the amendments are carried out within the process and timing set out above.

### Significance and Engagement

15 This matter is of [medium] significance, as determined by reference to the [Council's Significance and Engagement Policy](#) as the proposed will impact on the environment.

16 [The level of significance determines the level of compliance necessary with the decision making requirements in sections [76-78 of the Local Government Act 2002](#). A higher level of compliance must be achieved for a significant decision.]

### Risk

17 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 moderate. This matter relates to this risk because the District Plan, along with the 10 Year Plan and Asset Management Plans, is central to the current and future development needs of the community.

18 The approach outlined mitigates risk by provided the necessary regulatory framework to provide for these needs.

### Financial Implications

19 None.

### Council Policies, Strategies and Bylaws

20 The following Council Policies, Strategies and Bylaws were considered:

- [QLDC Operative District Plan](#)
- [QLDC Proposed District Plan \(Stage 1 decisions version\)](#)

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

21 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 by ensuring the plan and proposed plan is consistent with the NES-PF;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- 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.

22 The changes set a somewhat different policy direction than those already set out in the ODP and PDP, where greater control over forestry is set out compared to the more permissive approach for plantation forestry in the NES-PF. The NES-PF provides a national direction that Council is obliged to observe. The approach outlined will ensure the ODP and PDP are consistent with the NES-PF.

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

23 The persons who are affected by or interested in this matter are in general residents and ratepayers, as the plan and proposed plan relates to the entire district. There will be limited effect on any person undertaking or intending to undertake plantation forestry activities as the amendments to the plans provide consistency with the NES-PF.

24 Central government conducted their own process of calling for submissions and holding a select committee before completing the NPS – PF. The Council has not undertaken any community consultation on this matter. The NES-PF provides a national direction that Council is obliged to observe.

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

25 The Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 came into force on 1 May 2018 and are required to be implemented as soon as practicable.

26 The Resource Management Act 1991 section 44A requires that rules in a plan or proposed do not duplicate or conflict with a national environmental standard. Provision is made under s44A(6)(a) for a local authority to amend a plan or proposed plan without use of Schedule 1.

### **Attachments**

- A Audit of PDP to identify changes as a result of the NES-PF
- B Audit of ODP to identify changes as a result of the NES-PF