

QLDC Council
18 March 2021

Report for Agenda Item | Rīpoata moto e Rāraki take : 5

Department: Planning & Development

Title | Taitara Decisions on Submissions to PDP Stages 3 and 3b

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO


- 1 To provide the reports and recommendations of independent commissioners on provisions and matters raised in submissions for the variations and chapters of the Proposed District Plan that make up Stages 3 and 3b of the district plan review and to seek ratification as a Council decision.
- 2 A resolution from Council is sought to notify a decision on chapters 18A General Industrial, 19A Three Parks Commercial, 19B Three Parks Business, 20 Settlement Zone, 39 Wāhi Tūpuna, 46 Rural Visitor Zone, Business Mixed Use and Residential Design Guidelines, Arthurs Point North and 101 Ballantyne Road re-zonings, Open Space and Recreation, Glare, Fire Fighting, Wānaka Medium Density Residential, and Frankton Road Height Control in accordance with Clause 10 and 11 of the First Schedule of the Resource Management Act 1991.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report and;
2. **Adopt** the Independent Commissioners reports and recommendations as the Council's decision and direct staff to notify the decision in accordance with Clause 10 and 11 of the First Schedule of the Resource Management Act 1991 and;
3. **Direct** staff to alter the Proposed District Plan provisions to reflect the Independent Commissioners' recommended chapters, to correct minor errors and to make changes of minor effect in accordance with Clause 16(2) of the First Schedule of the Resource Management Act 1991 as recommended in the reports and recommendations;
4. **Note** that adopting the reports and recommendations on submissions as the Council's decision means the Council also adopts the independent hearing panel's reasons for those decisions on groups of submissions and individual submissions as set out in the recommendation reports;
5. **Note** that adopting the reports and recommendations as the Council's decision does not mean Council has formed a view on possible future variations, possible withdrawal of areas of land from the current review and other possible future decisions mentioned in the reports and recommendations.

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23/02/2021

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5/03/2021

CONTEXT | HOROPAKI

The Current District Plan Review

- 3 Section 79(1) of the Resource Management Act 1991 (RMA) requires that a review of the provisions of a district plan be commenced within 10 years of being made operative. Completing the district plan review is necessary as most of the Operative District Plan (the ODP) was made operative in 2009 and much of it was more than 10 years old when this review formally commenced in April 2014. ² The Proposed District Plan (PDP) is the result of a review of the ODP under section 79(2) 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.
- 4 The Proposed District Plan (PDP) is the result of a review of the 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”¹.

Stages 1 and 2

- 5 Stage 1 of the review commenced with notification of 32 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 these provisions were appealed to the Environment Court, however some Stage 1 chapters are effectively operative or operative in part.
- 6 Stage 2 included five new chapters (24 Wakatipu Basin, 25 Earthworks, 29 Transport, 31 Signs and 38 Open Space and Recreation) along with variations to 14 Chapters from Stage 1 including chapter 2 Definitions, 7 Lower Density Suburban Residential, 8 Medium Density Residential, 9 High Density Residential, 10 Arrowtown Residential Historic Management, 11 Large Lot Residential, 16 Business Mixed Use, 21 Rural, 22 Rural Residential, 23 Gibbston Character, 41 Jacks Point, 42 Waterfall Park, and 43 Millbrook. The Stage 2 planning maps include variations to zones included in Stage 1 pertaining to Wakatipu Basin and council controlled open space and recreation areas.
- 7 **Figure 1** below shows the Stage 1 and 2 provisions including the 33 chapters addressed in Stage 1 and the 6 major topics that are part of Stage 2.

¹ QLDC Council Agenda Report, District Plan Review, 17 April 2014

Stage 1	Introduction	Definitions	Strategic Direction
	Urban Development	Tangata Whenua	Landscapes
	Low Density Suburban Residential	Medium Density Residential	High Density Residential
	Large Lot Residential	Arrowtown Residential Historic Management	Queenstown Town Centre
	Wanaka Town Centre	Arrowtown Town Centre	Local Shopping Centre
	Business Mixed Use	Airport	Rural
	Rural Residential and Lifestyle	Gibbston Character	Historic Heritage
	Subdivision and Development	Natural Hazards	Energy and Utilities
	Protected Trees	Indigenous Vegetation	Wilding Exotic Trees
	Temporary Activities	Noise	Designations
	Jacks Point	Waterfall Park	Millbrook
Stage 2	Open Space and Recreation	Transport	Earthworks
	Wakatipu Basin	Signs	Visitor Accommodation

Figure 1. Proposed District Plan Chapters and Topics– Stages 1-2

Stage 3 and 3b of the PDP

- 8 The main issues addressed in this third stage of the plan review are more narrow than previous stages as the proposed district plan now comprises 46 chapters and covers almost all of the land in the district. The sites of significance (wāhi tūpuna) provisions, the provisions for rural townships (the Settlements Zone), industrial areas (the General Industrial and Service Zone) Three Parks and Ballantyne Road and a series of smaller variations were notified for 8 weeks on 19 September 2019 as stage 3. Provisions addressing visitor developments in remote rural areas (the Rural Visitor Zone) and changes to the Open Space zones and provisions were notified for 4 weeks in October 2019 as stage 3B.
- 9 This decision addresses chapters 18A General Industrial, 19A Three Parks Commercial, 19B Three Parks Business, 20 Settlement Zone, 39 Wāhi Tūpuna, 46 Rural Visitor Zone, Business Mixed Use and Residential Design Guidelines, Arthurs Point North and 101 Ballantyne Road re-zonings and variations to Energy and Utilities, Open Space and Recreation, Glare, Fire Fighting, Wānaka Medium Density Residential, and Frankton Road Height Control.

10 Affordable Housing and Brewery Creek and Reavers Lane Natural Hazards were intended to be part of this review stage however additional research is still underway for these topics and they are likely to be notified later in 2021 as part of the fourth and final stage of the current review (See Figure 2 below for details).

stage 3	Settlements Zone	Wahi Tupuna	Residential and Business Mixed Use Design Guidelines	
	General Industrial Zone	Rural Visitor Zone	Three Parks Commercial Zone	
stage 4	Gorge Road Natural Hazards	Affordable Housing and Inclusionary Zoning	Frankton Flats	
	Penrith Park Zone	Bendemeer Zone	Quail Rise Zone	
	Kingston Village Special Zone	Meadow Park Zone	Hydro Generation Zone	
	Shotover Country Zone	Arrowtown South Zone	Ladies Mile	
	Peninsula Bay	Lakeview	Northlake	E-Plan
	Scheduling ONF and ONL Priority Areas	Scheduling of Upper Clutha Priority Areas	Urban Intensification	

Figure 2. Proposed District Plan Chapters and Topics– Stages 3-4

Completing the Plan Review

- 11 The final parts of the plan review will be undertaken in the manner of a rolling review rather than in large distinct tranches or stages.
- 12 An important objective for the Council is to reduce the complexity and inefficiencies with resource management consenting and related regulatory processes in the district which is partly due to having multiple district plans in force at one time. Making those parts of the PDP that are beyond the point in the process where they could be subject to change, operative will mean the ODP no longer applies and the PDP will be the only relevant planning instrument in most situations. To do this the majority of appeals have to be resolved in a manner that provides a coherent and clear plan framework. This relies on the capacity of the Court and the participants in appeals (including the Council) to progress a large number of appeals to a conclusion.

Independent Hearings Panel

- 13 Council agreed to appoint commissioners Sarah Dawson, Ian Munroe, Greg Hill, Juliane Chetham, and Trevor Robinson on 27 June 2019 and 30 January 2020 to hear submissions and to make recommendations. Trevor Robinson was appointed to chair the Panel with delegated authority to hear and determine procedural and jurisdictional matters. Deputy Mayor Calum Macleod and Councillor Quentin Smith were appointed as commissioners on the Hearing Panel.

14 The various topics that comprise this stage of the plan review were allocated into streams and to groups of commissioners on the following basis:

- **Stream 16:** Trevor Robinson (Chair), joined by Commissioners Chetham, Dawson, Hill and Smith;
 - Chapter 39 – Wāhi Tūpuna and related variations.
- **Stream 17:** Trevor Robinson (Chair) joined by Commissioners Dawson, Hill, Macleod, Munro and Smith;
 - Chapter 18A – General Industrial and Service Zone1 and related variations
 - Chapter 19A – Three Parks Commercial Zone and related variations
 - Chapter 38 – 101 Ballantyne Road
 - Business Mixed Use and Residential Zone Design Guidelines and related variations.
- **Stream 18 and 20²:** Trevor Robinson (Chair) joined by Commissioners Dawson, Hill and Macleod;
 - Chapter 46 – Rural Visitor Zone, including Temporary Filming, and related variations
 - Chapter 20 – Settlement Zone and related variations
 - Arthurs Point North mapping, Informal Airports
 - Chapter 38 Variation – Open Space and Recreation Zones and related variations
 - General Submissions and balance of Stream 18 variations.

Hearings

- 15 The hearing of submissions and further submissions occupied some 20 days of hearing in Queenstown and Wanaka, commencing 29 June 2020 and concluding on 13 August 2020.
- 16 Under the RMA, the focus of hearings and associated decisions is on submissions. Notified plan changes that receive no submissions do not fall to the Hearings Panel to determine and these provisions can be made operative following the close of submissions. A number of the minor variations notified with Stage 3 fall into this category such as minor changes to the Millbrook Zone and the listing of Chalmers Cottage as a heritage item.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

Recommendations from the Panel

- 17 The Hearings Commissioners have heard the submissions on the notified provisions of this stage of the plan review, considered written and oral evidence and submissions, taken advice from experts, questioned participants and tested evidence in the open public forum of the hearings and undertaken site visits.
- 18 Their recommendations are set out in detail in a series of reports covering the three hearing streams and include the following components that make up the recommended decisions (see reports in the **Attachments** section for details):

² Stream 19 relates to Walter Peak which is scheduled for hearing on 21 April 2021.

- a. recommendations on all submission points relating to Stage 3 and 3B of the PDP;
 - b. reasons for accepting and rejecting individual submissions or groups of submissions
 - c. recommended changes to provisions that are of minor effect or correct minor errors
 - d. further evaluation of recommended amendments to provisions under section 32AA of the RMA
 - e. the text of the recommended plan provisions contained in a set of chapters;
 - f. a web mapping application setting out zones, designations, overlays and other notations.
- 19 The suite of recommendations contained in the above reports reflect the Panel's consideration of the plan and issues raised by submissions as a whole, and an intention to create an integrated workable planning document. The recommendations themselves do not constitute a decision as under the RMA, a local authority must give a decision on the provisions and matters raised in submissions.
- 20 As discussed in the Options section of this report, for the Council to adopt some aspects of the recommendations and seek to amend others carries a high risk of creating procedural unfairness. Unlike the Panel, Councillors have not considered the full breadth of submissions, or tested the substantial body of evidence that has informed these recommendations. Piecemeal decision making at this point is likely to be unfair on submitters who have participated in the process in good faith. It could create decisions that are difficult or impossible to defend if they were to be challenged.
- 21 The reports and recommendations discuss a number of possible future variations and investigations to address issues highlighted in considering the submissions. The Panel can't require that Council undertake future plan changes and adopting the recommendations does not mean Council agree to these suggestions. Council will in due course make its own decision about if, when and how this work will be done.

Effect of these decisions

- 22 In most circumstances, once a decision on submissions relating to rules on the PDP is made and is publicly notified, those rules will have legal effect. However, some exceptions include:
- a. 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
 - b. the Council resolves that the rule has legal effect once the PDP becomes operative; or
 - c. the Environment Court orders a different date.
- 23 "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.

24 There have been no relevant Environment Court orders or Council resolutions made on the timing that the Stage 3 and 3B PDP rules have legal effect. As such, with the exception of rules that had immediate legal effect at notification (such as the wāhi tūpuna provisions), the Stage 3 and 3B rules will have legal effect from the date that the Council's decisions are notified on 1 April 2021.

Significant Changes to the Notified Stage 3 and 3B Provisions

25 A brief outline of the Stage 3 and 3B proposals and the consideration of issues relating to each matter was contained in the 26 August 2019 QLDC Council Report on notification³. It also contained a series of detailed evaluation reports (known as Section 32 Reports) examining the statutory tests, appropriateness, efficiency and effectiveness of the provisions and the consideration of options for each of these topics. The Attachments also contained the notified PDP provisions, together with consequential variations associated with each topic.

26 The recommendation reports from the Hearing Panel in **Appendix 1** to this report contain fulsome analysis of the changes to the notified provisions and decisions on submissions. It is recommended that these recommendations reports be referred to by interested and affected parties rather than relying on the following summary analysis.

Wāhi Tūpuna (Chapter 39) – Report 20.2

27 The new Wāhi Tūpuna provisions notified with this stage of the review were a substantial reconfiguration of what had previously been a relatively loosely defined and similarly loosely applied resource management concept in the district plan. Unsurprisingly they were the subject of considerable numbers of submissions and extensive hearing time. The general concepts and mapping of the provisions is recommended to be retained, subject to a number of amendments.

28 The wording of the provisions have been amended to refocus the chapter on Manawhenua values (rather than values held by Manawhenua as notified). The mapping of the town centres that are part of wāhi tūpuna is recommended even where specific values have not been identified. Descriptions and locational references in English have been added to Schedule 39.6.

29 During the hearing process additional exemptions and reductions in areas where rules applied were put forward by Rūnaka and accepted by the Panel, including **excluding** the following areas and activities from rules that trigger consent requirements:

- 1) the urban environment;
- 2) solar panels attached to existing buildings or structures;
- 3) developments captured by the 10m³ earthworks threshold for all but 7 of the identified wāhi tūpuna unless the works are located within 20m of a wetland, river or lake; or above 400masl (or 600masl for ōrau) or where it would modify a skyline or terrace edge when viewed from a public place within 2km;

³ <https://www.qldc.govt.nz/media/cv5hs3zu/3-stage3pdp-notificationdecision-26aug19.pdf>

- 4) new farm buildings at heights below 400masl (or 600masl for ōrau) unless modifying a skyline or terrace edge when viewed from a public place within 2km;
- 5) extensions and additions within 30m of an existing farm buildings.

30 Amendments to the mapping were recommended and supported, including:

- Addressing several mapping anomalies predominantly in river areas;
- Reduction of Punatapu (Wāhi Tūpuna #16) by approximately half
- Reducing Te Taumata o Hakitekua (Wāhi Tūpuna #17);
- Addition of mapping of Take Kārara (Wānaka Town Centre), Te Kirikiri (Frankton) and Tahuna (Queenstown Town Centre) as Wāhi Tūpuna. The mapping of these areas means Manawhenua values can be considered as part of discretionary or non-complying resource consent in these areas, however it doesn't create any new consent requirements.

General Industrial and Service Zone (Chapter 18A) – Report 20.3

- 31 The Panel have amended the name of the Zone from the 'General Industrial Zone' to the 'General Industrial and Service Zone'.
- 32 The notified provisions proposed to prohibit a number of non-industrial and service activities, including trade suppliers, office, commercial, retail, and residential activities, among others. Activities ancillary to industrial and service activities were provided for on a limited scale only. This highly restrictive approach has been retained by the Panel with the majority of new non-industrial and service activities being prohibited, the exception being trade suppliers which, subject to certain restrictions (i.e. their focus being wholesaling as opposed to retailing), are provided for as discretionary activities.
- 33 The recommended provisions also seek to recognise existing lawfully established non-industrial and service activities which are provided for as permitted activities, with some flexibility in terms of their size and location provided they remain at the same scale and intensity to that which was lawfully established.
- 34 Restrictions limiting the size of ancillary office, retail and commercial activities in the zone have increased from 50 m² as a permitted activity in the notified provisions to 30% of the GFA used for the primary industrial or service activity.
- 35 The Panel have not made any significant changes to the extent of the GISZ from what was notified at Arrowtown, Queenstown or Wānaka, other than:
 - 1) to delete the GISZ in the Three Parks Area and recommend its replacement with a combination of Three Parks Business and Business Mixed Use (refer to Three Parks summary for details);
 - 2) a submission seeking to rezone 13.89 ha of land on Church Road near Luggate from Rural to General Industrial Zone was rejected by the Panel, however, the Panel have recommended that this land be rezoned Rural Industrial Sub-Zone. A number of additional provisions are recommended to be included in Chapter 21 (Rural Zone) to manage effects of rural industrial type development on this land,

including building restriction areas, landscaping, traffic and overall bulk and location controls;

- 3) a submission seeking to rezone a small area of land (approximately 0.35 hectares) on the lower terrace at the junction of Ballantyne and Riverbank Roads in Wanaka from Rural to General Industrial Zone has been accepted by the Panel.

36 Submissions seeking new industrial zones in Victoria Flats, Gibbston Valley and Frankton North are recommended to be rejected.

37 The change of zoning at 101 Ballantyne Road Wanaka (the former oxidation pond site) from Industrial B and Low Density Residential to Active Sport and Recreation is recommended to be approved (see Report 20.5 for details).

Three Parks (Chapter 19A) – Report 20.4

38 This review of the Three Parks Special Zone demonstrates the inherent difficulty with attempting to consolidate a complex masterplanned residential, mixed use and large format retail development concept into the zone and rule framework of the PDP despite clear advantages for consenting and for development outcomes in doing this. The main changes from the notified provisions being recommended for Three Parks include:

- 1) the zoning of an additional area of Business Mixed Use Zone along the length of Sir Tim Wallis Drive;
- 2) the zoning of an additional 15ha of High Density Residential Zone land and removal of specific coverage rules within this area;
- 3) the addition of a Three Parks Commercial Zone with a total of 17.75ha; and
- 4) reduction of the Medium Density Residential zoned land from 31ha to 8ha, through the increase in Business Mixed Use and High Density Residential zones.

39 A new Three Parks Business Zone (TPBZ) is recommended that provides for a range of industrial, service and trade related activities to replace the notified General Industrial Zone areas.

40 An additional roading route option has been included in the Structure Plan at the intersection of Golf Course Road and Ballantyne Road. A building restriction area has been added around the Aurora electrical substation, for a duration of 5 years from notification.

Design Guidelines – Report 20.6

41 The decisions from the Panel on this topic had to deal with how best to encourage developments to achieve good design outcomes and adherence to good design principles without seeking to design developments for people, or to either act as a veto over the design process, or to add new and arbitrary consenting hurdles into the plan.

42 Design Guides were notified with policies in the residential zone chapters and Business Mixed Use zone chapter 'encouraging' buildings and development to be consistent with the design outcomes sought by the Design Guides. The notified policies were implemented via matters of discretion which required consideration of whether a proposal is consistent with the relevant Design Guide.

43 The recommendations of the Panel amend the notified policies to 'require consideration' of relevant design elements in the Design Guides. The Panel has recommended that the amended policies be implemented by a rule in each of the residential chapters and the Business Mixed Use chapter that applies to all restricted discretionary and discretionary activities. The rule requires that a statement is provided which confirms that all relevant design elements have been considered and includes a summary of any particular aspects of the proposal that have resulted from that consideration. Non-compliance with the recommended rule would trigger Non-Complying activity resource consent.

Rural Visitor Zone (Chapter 46) – Report 20.7

44 The Rural Visitor Zone (RVZ) was notified in four discrete locations, all within Outstanding Natural Landscapes. A number of significant changes are recommended by the Panel to the notified provisions, including applying the zone in three new locations, one of which is not located within an ONL. The significant changes include:

- 1) Changes to provisions so that the zone can apply both within and outside areas of ONL, and to areas that are not remote;
- 2) The addition of provisions to manage cumulative effects and effects on neighbours, including reverse sensitivity effects;
- 3) Clarification that each zoned area is to be small in size and the activities within them are to be small scale and low intensity;
- 4) Direct reference within the RVZ provisions to the matters to be considered when applying the RVZ to new locations.

45 The three recommended new areas of RVZ each have landscape sensitivity mapping and site-specific provisions applying to them. These areas are:

- 1) Maungawera RVZ (Camp Hill Road, Heron Investments Limited).
- 2) Matakauri RVZ (Glenorchy-Queenstown Road, Matakauri Lodge Limited).
- 3) Gibbston Valley RVZ (Gibbston Valley Station).

46 Key changes specific to the Arcadia RVZ:

- The Panel recognise the exceptional situation resulting from the in-progress subdivision consent and recommends allowing one residential unit on each of the consented residential building platforms. This is an exception compared to all other RVZ's.
- Applying the Rural Zone temporary filming provisions (from Chapter 35) to the Arcadia RVZ, with the addition of a limit on night-time filming and temporary airport use.

47 Submissions seeking new Rural Visitor Zones at Loch Linnhe Station, Skippers Canyon, Corbridge Estates Wanaka, Barnhill (Morven Ferry Road), Glen Dene (Hawea Camping Ground), Blennerhassett (Wanaka), Cardrona Cattle Company (Victoria Flats) and Albertown are recommended to be rejected.

Settlement Zone (Chapter 20) – Report 20.8

48 The review of the ODP Townships Zone involved seeking to establish a suitable planning framework for a range of different rural settlements which each have their own character and resource management issues. Relatively minor changes to the text of the Settlement Zone are recommended by the Panel including the following:

- 1) The amended Cardrona Village Character Guideline will provide broad design guidance as a 'consideration', rather than being 'required' to be given effect to;
- 2) More permissive telecommunication pole heights at Cardrona than what was notified, with a new requirement for poles and antennae to be finished in colours that have low reflectivity;
- 3) Minor increases to the permitted gross floor area of office and retail activities in commercial precincts
- 4) Changes to increase flexibility for heavy vehicle storage in Commercial Precincts
- 5) Policy amendment to acknowledge the functional and operational constraints of Electricity Sub-transmission Infrastructure and Significant Electricity Distribution Infrastructure when considering impacts on established amenity values

49 The following changes to mapping and zoning are also recommended:

Hāwea:

- Extension of the VA Sub-zone across the campervan park adjoining the Hāwea Hotel

The Hearing Panel recommends that the Urban Growth Boundary at Hawea is not extended to include land to the south of Cemetery Road and should remain as notified in this area. They also recommend that the land located south of Cemetery Road remains zoned Rural Zone. **Albert Town**

- Extension of the Lower Density Suburban Residential Zone on Templeton St, with an accompanying earthworks plan to be inserted in Chapter 7, to ensure sites are raised above flood levels (yield approximately 61 additional residential lots)

Luggate

- Extension of the Commercial Precinct across the site currently occupied by Upper Clutha Transport
- Extension of the Settlement Zone on the Lake McKay Station land accessed off Atkins Road, including mapping a new Building Restriction Area (yield approximately 97 additional residential lots)

Kingston

- Extension of the Commercial Precinct on part of the Kingston Flyer land
- Extension of the visitor accommodation sub-zone across the Kingston Holiday Park land

Glenorchy

- Extension of the Commercial Precinct at the lake end of Mull Street
- Reduction of the width of the Building Restriction Area along both sides of Oban Street (from 25m to 10m)
- Extension of the Commercial Precinct on the Mrs Woolly's site and extension of the visitor accommodation sub-zone on the Camp Glenorchy site
- Changes to the alignment of the Building Restriction Area at the toe of Bible Face and to the mapping of the visitor accommodation sub-zone.

Cardrona

- Extension of the Commercial Precinct

Arthurs Point (Report 20.9)

50 The main changes recommended for Arthurs Point include:

- 1) A flat section of land at Arthurs Point north has been rezoned from Medium Density Residential to High Density Residential Zone.
- 2) Building Restriction Areas have been modified at the southern end of Arthurs Point and Visitor Accommodation Subzone has been applied to two sites.
- 3) The text of the High Density Residential Chapter 9 is recommended to be altered to include an Arthurs Point policy on streetscapes and inclusion of a rule enabling up to 200m² of commercial development on particular sites (158, 164, 170, 172 Arthurs Point Road).
- 4) A small alteration to the ONL boundary on the north side of Arthurs Point (behind Swiss Bel Resort) is also recommended.

Town Centre Open Space and Recreation Zone Variation (Chapter 38) - Report 20.10

51 The main changes recommended for Open Space and Recreation zone variation include:

- The Queenstown Town Centre Waterfront Subzone areas adjoining St Omer Park and Earnslaw Park have been rezoned from Informal Recreation back to the Queenstown Town Centre Zone and Waterfront Subzone as they were following Stage 1 and 2 Decisions

52 The main changes recommended to the text associated with this variation are as follows:

- 1) Restricted Discretionary consent is required for commercial outdoor dining that adjoins the QTWSZ where it extends beyond 5m into the Civic Spaces Zone;
- 2) Matters of discretion related to parking are limited to the location of parking and provision of mobility parking;
- 3) Additional night time noise limit (75dB LAFmax) applies for activities in Civic Space Zones which adjoin Town Centre Zones.

OPTIONS

53 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

54 In this instance the status quo is not considered a viable option because a decision to either adopt the recommendations in full (Option 1 below) or require them to be reheard either in part or in whole (Option 2 below) is required.

Option 1 - Accept the recommendation to adopt the recommendations of the Hearing Panel on the Stage 3 and 3B provisions as set out in Attachments 1 - 3 as the Council's decisions on submissions.

Advantages:

55 These provisions of the PDP recommended by the Hearing Panel have been through a thorough process of consultation, public notification, submissions, evaluation of costs and benefits under section 32 and consideration against the relevant legal tests set out in the RMA.

56 Experienced Commissioners had the benefit of considering submissions and further submissions including professional assistance from submitter representatives as well as assistance from Council officer's, technical experts and legal counsel. The Panel have arrived at their recommended decisions based on well-informed consideration including appropriate consideration of the relevant legal tests and higher order planning documents.

57 The submissions and hearing process gave the public the opportunity to either support or oppose the proposals contained within the PDP and to be heard in relation to their submissions.

58 Adopting the recommendations will bring the Stage 3 and 3B PDP rules into legal effect and help move towards the PDP being made operative.

Disadvantages:

59 The Council, in adopting all of the recommendations would not have scope to alter any part of the large number of recommendations should the Council disagree with aspects of the recommendations.

60 A number of options are available to address the potential disadvantages. The Council may not agree with some of the Panel's recommendations or find fault with the process in which case it can :

- 1) initiate a variation to the Proposed District Plan, or
- 2) join an appeal that seeks changes consistent with Council's position.

Option 2 – Reject the Hearing Panel's recommendations either in full or in part and rehear submissions on this aspect of the PDP

Advantages:

61 Would allow Council to appoint new Commissioners onto the Panel to re-hear submissions on aspects of the decision it was unhappy with. It would allow Council to clearly signal concerns with the decisions or the process of deciding submissions without being drawn into the merits of the decisions or submissions.

Disadvantages:

62 Because the Council has not heard the evidence presented at the hearing or read the submissions on Stage 3 and 3B of the PDP, a new hearing would be required. This will impose significant additional costs and time delays on all parties.

63 A rehearing would be required because changing the recommendations without undertaking a further hearing would not demonstrate procedural fairness or natural justice to those who have inputted into the process, and submitters who have participated in good faith.

64 Reviewing the district plan in stages makes for a complex planning framework that is difficult to administer. This option 2 is likely to increase this complexity and make the plan more difficult for users of the plan to understand and comply with.

65 Additional Council, applicant and submitter resources will be required to rehear the relevant aspects of the PDP which may not be the most efficient remedy, given that parties unhappy with the decisions or process can appeal to the Environment Court on a de novo basis (which means to start at the beginning).

66 This report recommends **Option 1** for addressing the matter.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

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

68 The views of persons considered to be affected by this matter have been taken into account in developing the recommended decision and they also have the potential to seek recourse through an appeal to the Environment Court.

69 The 29 August QLDC Council Report on notification of Stage 3 and 3B of the Proposed District Plan describes the development and content of these provisions and consultation in detail⁴. In summary a series of independently facilitated community My Place consultation evenings, which included discussions about their townships, future development, climate change, housing and about issues that were 'live' for the attendees.

⁴ <https://www.qldc.govt.nz/media/cv5hs3zu/3-stage3pdp-notificationdecision-26aug19.pdf>

Feedback from the My Place meetings and an online portal was recorded and reports summarising the views of attendees were compiled and considered.

- 70 For a number of these Stage 3 topics Council contacted landowners and community representatives and engaged directly in facilitated conversations with staff and experts including further targeted engagement with landowners affected by the wāhi tūpuna proposals. Land owners affected by the Rural Visitor Zone Council were provided detailed information about the proposals. An online survey was promulgated for Cardrona Village but it had less than a dozen responses.
- 71 Following notification a range of online, print and face to face engagement initiatives were undertaken and a summary “Snapshot” document was sent to all ratepayers, post office boxes, and My Place participants and the district plan submitter database.
- 72 An enquiries service staffed by rostered duty planners was available for the 40 working day notification period along with a PDP Enquiries email service. Fact sheets were made available online along with FAQ material, explanatory videos, community notice boards, and radio ads.

> MĀORI CONSULTATION | IWI RŪNANGA

- 73 Consultation with Iwi authorities, required pursuant to Schedule 1, clause 4A of the RMA, was undertaken between 9 July and 28 July 2019, whereby sets of draft provisions were provided to iwi representatives for consideration and comment. The iwi authorities did not request any changes to the draft provisions and did not provide specific comment.
- 74 Throughout development of the Chapter 39 Wāhi Tūpuna proposals, a partnership approach has been taken between Council and Aukaha (the consultancy facilitating Kai Tahu engagement in resource management processes in Otago on behalf of Manawhenua). Aukaha has retained the direct contact with the relevant Rūnuka and Te Ao Marama Incorporated. Aukaha provided assistance and feedback in drafting of the proposals and provided direct feedback in relation to proposed Chapter 39. The feedback has been addressed through an iterative and collaborative approach to the development of the provisions.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 75 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.
- 76 The recommended option considered above mitigate the risk by: Treating the risk - putting measures in place which directly impact the risk. The recommended option considered above mitigates the risk by adopting the decision of the Hearing Panel who heard all the evidence before them and made a decision based upon that evidence.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

77 There are no financial implications resulting from the decision.

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

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

- Operative District Plan
- Proposed District Plan

79 The recommended option is consistent with the principles set out in the named policy/policies.

80 This matter is not included in the Ten Year Plan/Annual Plan.

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

81 The process for dealing with plan changes is set out in the First Schedule of the Resource Management Act. This includes a requirement for decisions on submissions to be issued within two years

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

82 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 making the decision in a timely fashion;
- 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

Circulated separately

A	A. QLDC Stage 3 Report 20.1 - Introduction
B	B1. QLDC Stage 3 Report 20.2 - Wāhi Tūpuna with Appendix 1 Chapter 39 B2. QLDC Stage 3 Report 20.2 - Wāhi Tūpuna Appendix 2 Final
C	C1. QLDC Stage 3 Report 20.3 - GISZ with Appendix 2 C2. QLDC Stage 3 Report 20.3 - GISZ - Appendix 1 Chapter 18A
D	D1. QLDC Stage 3 Report 20.4 - Three Parks with Appendix 2 D2. QLDC Stage 3 Report 20.4 - Three Parks Appendix 1 Chapter 19A D3. QLDC Stage 3 Report 20.4 - Three Parks Appendix 1 Chapter 19B
E	E. QLDC Stage 3 Report 20.5 - 101 Ballantyne Road with Appendices
F	F1. QLDC Stage 3 Report 20.6 - Design Guidelines with appendices F2. QLDC Stage 3 - Business Mixed Use Design Guide F3. QLDC Stage 3 - Residential Design Guide
G	G. QLDC Report 20.7 - RVZ with Appendices
H	H1. QLDC Stage 3 Report 20.8 - Settlement Zone with Appendix 2 H2. QLDC Stage 3 Report 20.8 - Settlement Zone Appendix 1 Chapter 20 H3. QLDC Stage 3 Report 20.8A - Cardrona Village Limited Addendum
I	I1. QLDC Stage 3 Report 20.9 - Arthurs Point North Mapping with Appendix 2 I2. QLDC Stage 3 Report 20.9 - Arthurs Point North Appendix 1 Rezoning
J	J. QLDC Stage 3 Report 20.10 - OSRZ with Appendices
K	K1. QLDC Stage 3 Report 20.11 - Misc Variations with Appendix 2 K2. QLDC Stage 3 Report 20.11 - Misc Variations Appendix 1

QLDC Proposed District Plan Stages 3 and 3B Web Mapping Application:

<https://gis.qldc.govt.nz/portal/apps/webappviewer/index.html?id=e37631d40ac64343bc6485be8b95d038>