

QLDC Council
2 June 2022**Report for Agenda Item | Rīpoata moto e Rāraki take [9]****Department: Planning & Development**

Title | Taitara Ratification of the recommendations on submissions on the Accessible Parking Amendments to the Operative and Proposed District Plan

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to provide the report and recommendations of an independent commissioner on submissions on the Accessible Parking Amendments to the Proposed District Plan (PDP) and Operative District Plan (ODP) and seek ratification as a Council decision. A resolution from Council is sought to notify a decision on PDP Chapter 29 and ODP Section 14 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;
2. **Adopt** the independent commissioner's report and recommendation on the submissions on the variation to Chapter 29 Transport of the Proposed District Plan and the Plan Change to Section 14 Transport of the Operative District Plan as a Council decision;
3. **Direct** staff to alter the Proposed District Plan provisions to reflect the recommended change and to correct minor errors and make changes of minor effect in accordance with Clause 16(2) of the First Schedule of the Resource Management Act 1991;
4. **Note** that adopting the reports and recommendation as the Council decision means that the Council also adopts the Hearings Panel reasons for those decisions as set out in the report;
5. **Note** that adopting the reports and recommendations, as a Council decision does not mean Council has formed a view on possible future variations or other possible future variations mentioned in the report and recommendation; and
6. **Direct** staff to notify the decision in accordance with the First Schedule of the Resource Management Act 1991.

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26/04/2022

Reviewed and Authorised by:



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11/05/2022

CONTEXT | HOROPAKI

- 1 A variation to Chapter 29 Transport of the Proposed District Plan (PDP) and a plan change to Section 14 Transport of the Operative District Plan (ODP) were notified on 28 October 2021, in response to the removal of parking minimums, as mandated by the National Policy Statement on Urban Development.
- 2 Previously, requirements for accessible car parks were set in the PDP and ODP as a proportion of the total number of parks to be provided by the activity. If the accessible parking provisions remained in this form, whilst the minimum parking requirements were removed, there would be no guarantee that any accessible car parks would be provided.
- 3 The plan change and variation (henceforth referred to as the **Accessible Parking Amendments**) concerned the following provisions:
 - a) PDP Standard 29.5.5 Mobility Parking Spaces
 - b) ODP Site Standard 14.2.4.1(viii) Car Spaces for People with Disabilities
- 4 The Accessible Parking Amendments were undertaken to ensure that the mandated removal of minimum parking standards did not alter the requirements for accessible parking.
- 5 The Accessible Parking Amendments set an absolute minimum number of accessible car parks for the land use activities currently identified in PDP Standards 29.8.1-29.8.40 and ODP Site Standard 14.2.1(i).
- 6 A total of 4 submissions were received. 2 submitters did not wish to be heard, whilst two submitters reserved the right to be heard, both subsequently withdrew this wish. Therefore a hearing was not required.
- 7 On 17 March, Council appointed Bob Nixon as Independent Hearing Commissioner, to make recommendations on submissions received on the Amendments to Accessible Parking Provisions Variation and Plan Change. Commissioner Nixon was also delegated the authority to deliberate and make recommendations on all submissions and further submissions received on the Accessible Parking Amendments.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 8 Commissioner Nixon provided his recommendation report to staff on 13 April 2021. This is provided in **Attachment A**.
- 9 The report recommends that the Accessible Parking Amendments be approved, such that:
 - a. The plan change/variation as amended and set out in attached **Attachments B and C** be approved. Text to be removed is shown as ~~strikeout~~, and text to be added is shown as underlined.
 - b. The recommendations as to whether the submissions made on the Variation or the Plan Change be accepted or rejected, are set out in **Attachment D**.

- 10 The amendments enable the continued application of accessible parking requirements
- 11 The recommendation does not constitute a decision under the RMA. A local authority must make the decision on the provisions and matters raised in the submissions.
- 12 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 Commissioner, Councillors have not considered the full breadth of submissions, or tested the body of evidence that has informed this recommendation. Therefore, it is appropriate that they adopt the recommendations of the commissioner as a council decision.
- 13 If adopted as a Council decision the decision will be notified under clause 10 and 11 of the RMA. Once a decision is notified the rules would have legal effect. A person who made a submission on the variation may appeal the decision to the Environment Court within 30 working days of service of the notice of decision.
- 14 Option 1: Accept the Commissioner's Recommendation

Advantages:

- a. The plan change has been through a thorough process under Schedule 1 of the RMA. The Commissioner is a qualified decision maker with the benefit of reviewing submissions and further submissions, hearing expert evidence from submitters, and Council staff in the form of an officer's recommendation. It is considered the Commissioner has reached a robust recommendation.
- b. The submissions and hearing process gave people the opportunity to either support or oppose the proposal and be heard in relation to their submissions.
- c. Would advance the plan change towards being made operative.

Disadvantages:

None – Council appointed the Commissioner to hear and make recommendations on the submissions received

- 15 Option 2: Reject the Commissioner's Recommendation in full or in part and reconsider submissions on that aspect of the Accessible Parking Amendments.

Advantages:

- a. Would allow Council to appoint new Commissioners to rehear submissions on any aspect of the recommendation it is unhappy with. It would allow Council to clearly signal concerns with the decisions or process of deciding submissions without being drawn into the merits of the decisions or submissions.

Disadvantages:

- a. Because the Council has not read the submissions received on the amendments to accessible parking, the four submissions would need to be fully reconsidered. This would impose additional costs and time delays on all parties.
 - b. Additional Council, applicant and submitter resources may be required to hear the relevant aspects of the amendments 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).
- 16 This report recommends **Option 1** for addressing the matter as it provides the most advantages without any disadvantage. This would allow for a timely and efficient decision on the variation to the PDP/Plan Change to the ODP.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 17 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because the proposal does not represent any change in policy, as it simply states the accessible parking requirements in and of themselves.
- 18 The community has had the opportunity to submit on the Accessible Parking Amendments through the notified plan change process and four submissions and no further submissions were received. The Commissioner considered these submissions within their recommendations.

> MĀORI CONSULTATION | IWI RŪNANGA

- 19 The Council has undertaken consultation with mana whenua as required under clauses 3 and 4 of Schedule 1 of the RMA. Aukaha had no issue with the proposed approach, stating that it "seems an appropriate response to the requirements of the NPS-UD" and requested no changes to the provisions. Te Ao Mārama Incorporated did not provide any specific comment.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 20 This matter relates to the Community & Wellbeing risk category. It is associated with RISK 00056 Ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a low inherent risk rating.
- 21 The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk. This shall be achieved by adopting the

decisions of the Independent Hearings Commissioner who considered all the evidence before him and made a recommendation based upon that evidence.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

22 There are no budget or cost implications that would arise from adopting the decision in line with Option 1.

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

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

- QLDC Proposed District Plan <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan>
- QLDC Operative District Plan <https://www.qldc.govt.nz/your-council/district-plan/operative-district-plan>
- The QLDC Disability Policy <https://www.qldc.govt.nz/assets/Uploads/FINAL-Disability-Policy-May-2018.pdf>

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

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

25 The process for dealing with Plan changes is set out in the First Schedule of the Resource Management Act 1991. 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

26 The recommended option:

- Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. This option enables the continued application of accessible parking requirements. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act;
- 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

A	Independent Commissioner Recommendation Report
B	Recommended Amendments to the Proposed District Plan
C	Recommended Amendments to the Operative District Plan
D	Summary of Submissions, Planner Recommendations and Recommended Decisions

NOTE: All attachments are circulated separately.