

QLDC Council  
26 October 2017

**Report for Agenda Item: 3**

**Department: Planning & Development**

**Making Plan Change 51 Peninsula Bay North Operative**

**Purpose**

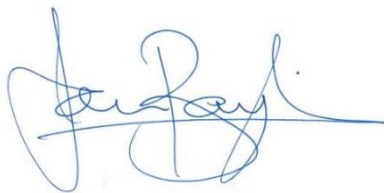
The purpose of this paper is to make Plan Change 51 Peninsula Bay North (**PC 51**) operative. The material presented includes the Consent Order of the Environment Court allowing the appeal, amended chapters to the Operative District Plan Chapter (Residential Areas), Chapter 15 (Subdivision, Development and Financial Contributions) and Planning Maps 8 and 18.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Authorise** officers to amend the Operative District Plan to incorporate the changes made through Plan Change 51, as set out in the Consent Order approved by the Environment Court.
3. **Approve** public notification of the date on which Plan Change 51 shall become operative.

Prepared by:



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10/10/2017

Reviewed and Authorised by:



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11/10/2017

## Background

### Plan Change 51 to the Operative District Plan

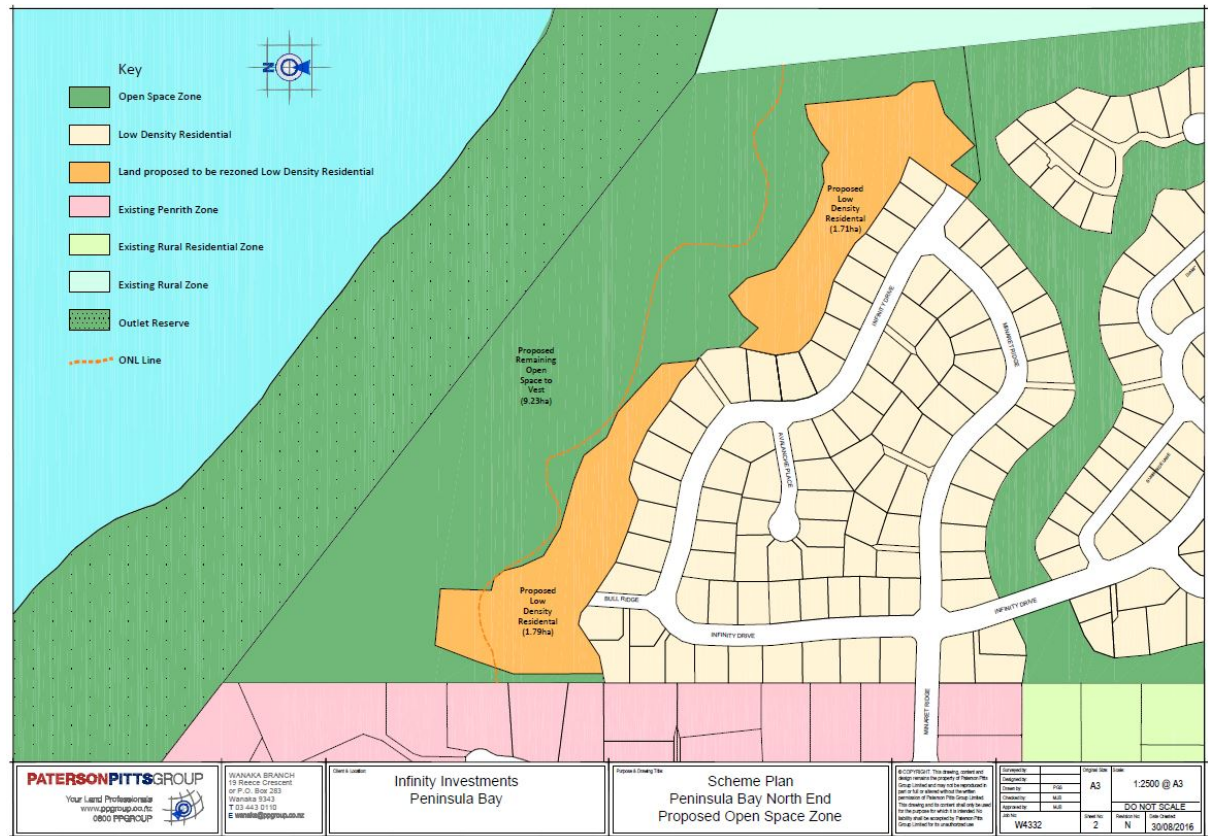
- 1 PC 51 is a proposal by Peninsula Bay Joint Venture Limited (**the applicant**) to rezone 6.11 hectares of land zoned Open Space – Landscape Protection, to Low Density Residential Zone under the Operative District plan. The Plan Change does not affect the Proposed District Plan.
- 2 The site and area originally proposed to be rezoned by the applicant is shown in **Figure 1** below. The site is located at the northern end of Peninsula Bay in Wanaka. As originally notified, the rezoning involved 6.11 hectares of land and would have enabled the development of 26 residential lots. This was subsequently modified at the hearing by the applicant such that 4.37 hectares would be rezoned, with 24 residential lots being proposed within the smaller area. The closing submissions of the applicant at the hearing further modified the proposal to enable development of 21 lots on 3.5 hectares of re-zoned land.



**Figure 1.** Annotated Operative District Plan Map. The orange area is the land subject to the Plan Change as notified in December 2015. The dark green area is the Open Space Landscape Protection Zone. The yellow area is the Low Density Residential Zone comprising Peninsula Bay. Source: Plan Change 51 Application.

- 3 PC 51 was notified on 9 December 2015. The submission period closed on 28 January 2016 and summaries of submissions were notified on 17 March and 22 April 2016. 205 original submissions and 2 further submissions were received on the plan change. All original submissions except one, opposed the plan change or various components of it.
- 4 Commissioners David Mead (Chair), Andrew Henderson and Mel Gazzard were appointed to hear and make recommendations on the private plan change

request. A hearing was held in Wanaka on 8 to 10 August 2016. The hearing was adjourned for the purpose of receiving further information from the applicant and the hearing closed on 14 September 2016. **Figure 2** below illustrates the reduced area sought by the applicant to be rezoned to Low Density Residential at the close of the hearing.

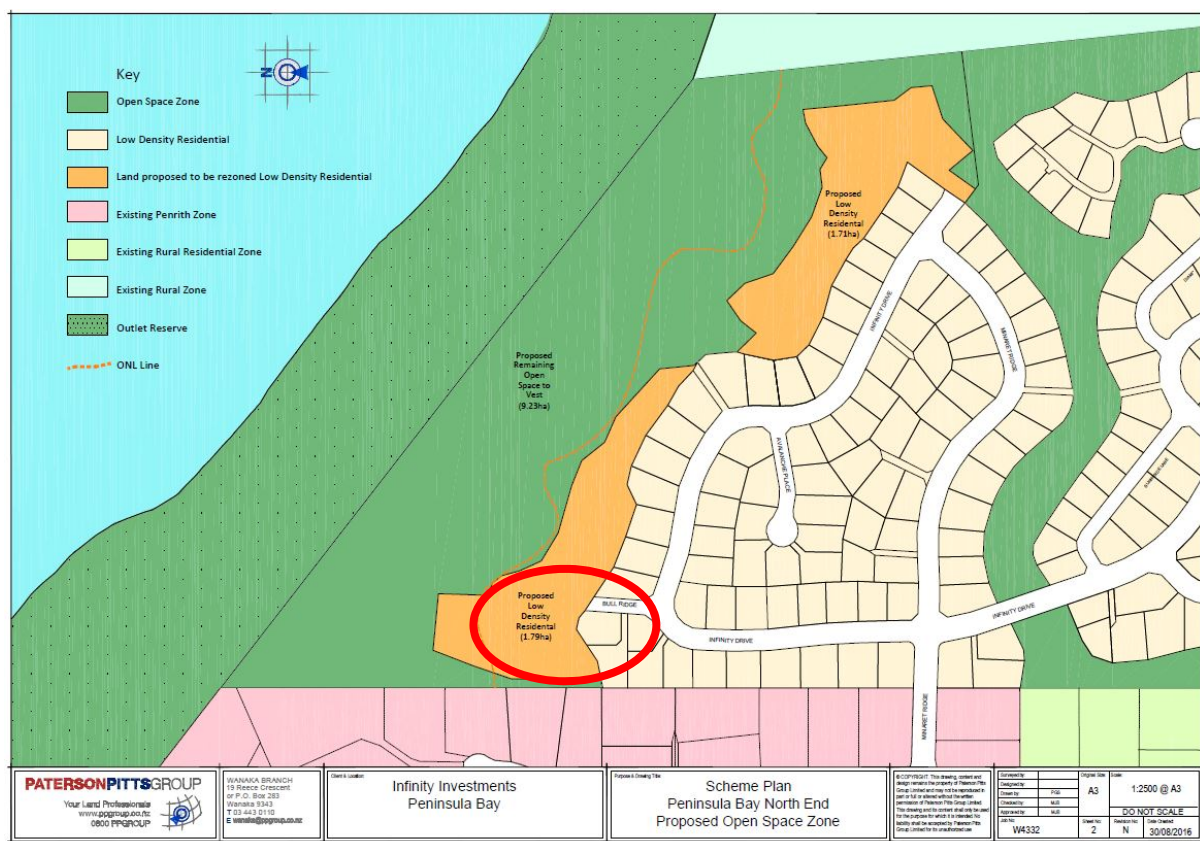


**Figure 2.** Annotated Operative District Plan Map illustrating the area sought by the applicant to be rezoned to Low Density Residential at the close of the hearing in September 2016. The orange area is the land subject to the Plan Change. The dark green area is the Open Space Landscape Protection Zone. The yellow area is the Low Density Residential Zone comprising Peninsula Bay. Source: Closing Legal Submission. 2 September 2016.

- 5 The Commissioners recommendation was that Plan Change 51 be declined. Council resolved to accept the recommendation and decline the application at its meeting on 15 December 2016.
- 6 The applicant appealed the decision and sought that the plan change as proposed at the close of the hearing, comprising 21 lots be allowed.
- 7 Two submitters who opposed the plan change joined the appeal, these were the Upper Clutha Environmental Society Incorporated (**UCESI**) and Bike Wanaka.
- 8 The Council, the applicant and Bike Wanaka agreed to enter mediation, while the UCESI refrained chose not to attend mediation. The mediation took place on 15 August 2017. The outcome of the mediation was that all three parties that attended agreed in principle with a reduced Low Density Residential Zone that would allow four residential allotments, with the remainder of the land being retained as Open Space Landscape Protection Zone.







**Figure 4.** Figure 2 repeated showing the location of the 4 allotments agreed by the parties through mediation. The 4 lots are located at end of Bull Ridge, illustrated by the red circle.

## Comment

- 13 To ensure the conditions for future development and the vesting of the remainder of the land that is to be retained as Open Space Landscape Protection Zone are implemented as agreed by the parties, amendments will be made to the Operative District Plan's Low Density Residential (Chapter 7) and Subdivision Development and Financial Contributions (Chapter 15) Chapters, and the planning maps. The amended Operative District Plan provisions are attached as **Attachment A**, as part of the signed Consent Order.
- 14 A side agreement between the applicant and the Council has also been agreed that ensures the remainder of the land zoned Open Space Landscape Protection zone will be vested in Council, and the soil deposited in this area will be removed within 2 years. This is to ensure this land will be vested with Council irrespective of whether the landowner pursues the subdivision enabled by PC 51, which would otherwise be reliant on future development of this land to remove the soil and ensure the remaining Open Space Landscape Protection Zoned land is vested in Council.
- 15 The process for making a plan change operative is set out in the first schedule of the Resource Management Act 1991 (RMA). Pursuant to clause 16(1) of the First Schedule of the RMA, the Council must make amendments to the Operative District Plan required by the consent order and decision of the Environment Court (Attachment A).

- 16 Following a resolution on the outcome of the plan change, the plan change becomes operative five working days after the date of the public notice.

### **Options**

- 17 The Council does not have any other options on this matter.

### ***Significance and Engagement***

- 18 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because the District Plan, zoning and activities contemplated within the zones impacts on a large number of residents and ratepayers and residents, some of whom may be specifically affected by the proposed provisions.
- 19 Compliance with the decision making requirements in sections 76-78 of the Local Government Act 2002 has been achieved through the public participation process of the Resource Management Act (RMA), including notifying the plan change request, calling for submissions, holding a hearing, and the right of appeal that was exercised to the Environment Court.

### ***Risk***

- 20 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 the District Plan, along with the 10 Year Plan and Asset Management Plans, are all central to the current and future development needs of the community.
- 21 The recommended option considered above mitigates the risk by providing the necessary regulatory framework to provide for these needs.

### **Financial Implications**

- 22 None.

### **Council Policies, Strategies and Bylaws**

- 23 The Operative District Plan is the most relevant Council policy, strategy or bylaws. Making PC 51 operative as agreed the parties involved in the appeal and as approved by the Environment Court gives effect to the Operative District Plan.

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

- 24 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;

- Can be implemented through current funding under the 10-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.

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

25 The Council has already consulted on PC 51 via submissions and further submissions were received, the hearing and appeal processes.

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

26 Making the plan changes operative is in accordance with Clause 17 of the First Schedule of the RMA.

### **ATTACHMENTS**

A Consent Order of the Environment Court (Circulated separately)