

**QLDC Council  
14 June 2018****Report for Agenda Item: 5****Department: Planning & Development****Making Plan Change 35 – Queenstown Airport Aircraft Air Noise Boundaries, operative**

The purpose of this report is to make Plan Change 35 operative in accordance with Clause 17(2) of the First Schedule of the Resource Management Act 1991.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Authorise** officers to amend the Operative District Plan to incorporate the changes proposed through Plan Change 35 in accordance with the Environment Courts final decision dated 8 May 2018; and
3. **Approve** public notification of the date on which Plan Change 35 shall become operative.

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**Background**

- 1 The purpose of Plan Change 35: Queenstown Airport Aircraft Noise Boundaries (“**PC35**”) was to establish an appropriate land use management regime around Queenstown Airport while providing for the predicted ongoing growth of aircraft operations at the airport until 2037.
- 2 PC35 was lodged late in 2009, and was adopted in part (excluding night time flight provisions which were ‘accepted for processing’) as a plan change by the former Strategy Committee on 8 December 2009. It was publicly notified for submissions on the 27 January 2010. A hearing on PC35 was heard in Queenstown over 14-22 June and 21 – 23 September 2010. Commissioners were Dr Stephen Chiles, Mr David Clarke and Mr Robert Batty (Chair).

- 3 PC35 updated the Airport's noise boundaries to provide for predicted growth in aircraft operations to 2037 and amended various zone provisions for land located within the updated boundaries and likely to be affected by increased aircraft noise.
- 4 In conjunction with the land use management regime proposed by PC35, the associated Notice of Requirement ("**NOR**") for a designation proposed to introduce obligations for the Queenstown Airport Corporation ("**QAC**") (via its Aerodrome Purposes Designation) to undertake and fund noise mitigation works for those existing houses within the updated noise boundaries likely to be exposed to increased levels of aircraft noise over a defined exposure level.
- 5 The Commissioners decision was confirmed by Full Council at its meeting on 9 November 2010. The Commissioners who heard PC35 largely confirmed the plan change, apart from the provisions for a limited number of scheduled flights after 10pm, the decision on which was accepted by QAC (i.e. not appealed).
- 6 PC35 was subject to a number of appeals to the Environment Court. The appeals were largely resolved by agreement in early 2012, and were jointly presented to the Court during the course of two hearings and the filing of subsequent memoranda.
- 7 Three interim decisions were issued by the Environment Court with respect to PC35, the most recent dated 8 May 2013. As part of the most recent decision, the Court ordered that an up to date set of PC35 provisions and Designation 2 be filed with the Court.
- 8 A final set of provisions, giving effect to the Court's directions, was filed jointly by the parties in May 2013. However the 'Lot 6 Notice of requirement' ("**Lot 6 NOR**") lodged by the airport over land owned by Remarkables Park Ltd meant the Plan Change could not be made fully operative.
- 9 Following a joint memorandum of counsel for Council and QAC, on 8 May 2018, the Environment Court, having determined the Lot 6 NOR and confirmed the designation, and dismissed the rehearing request by Remarkables Park Ltd, issued its fourth and final decision on PC35. This decision confirmed the planning map and Figure 2 of the Remarkables Park zone as being the 'with Lot 6 NOR' version.
- 10 A copy of the final decision of the Environment Court is appended as **Attachment A**. Copies of the three interim Environment Court decisions, and the full set of amended provisions are available on OneDrive.

### Comment

- 11 A plan change can only be made operative by the Council when there are no outstanding submissions or appeals. All appeals to PC35 have now been resolved.

## Options

- 12 Normally this report would identify and assess the reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002. In this case, the Council has no other option but to make PC35 operative because the PC35 provisions are now finalised. Making the PC35 provisions partially operative will see them inserted into the Operative District Plan so that they are not missed by applicants or officers.
- 13 This report recommends **Option 1** for addressing the matter

## Significance and Engagement

- 14 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because it has a high degree of community interest, as witnessed from the 93 submissions on PC35.
- 15 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 calling for submissions, holding a hearing, and the right of appeal that was exercised to the Environment Court.

## Risk

- 16 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 PC35 is a significant physical resource for the District that affects the current and future development needs of the community.
- 17 This matter does not have significant risk. It is following the statutory process set out in the RMA for making plan changes partially operative. The right of appeal has now been exercised. The recommended option mitigates the risk by following the statutory process set out in the RMA.

## Financial Implications

- 18 None.

## Council Policies, Strategies and Bylaws

- 19 The following Council policies, strategies and bylaws were considered:
- Operative District Plan
  - Proposed District Plan
- 20 The recommended option is consistent with the principles set out in the named policies.
- 21 This matter is not included in the 10-Year Plan/Annual Plan

## Local Government Act 2002 Purpose Provisions

22 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 PC35 provisions operative;
- 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

23 The Council has already consulted on PC35 in 2010 and 93 submissions were received.

## Attachments

A Environment Court Final Decision – 8 May 2018

### Documents available on OneDrive

B Environment Court Interim Decision – 10 September 2012

C Environment Court Second Interim Decision – 5 March 2013

D Environment Court Interim Decision Erratum – 6 March 2013

Amended Operative District Plan provisions (**Note** – provision shown were updated in May 2013 and have subsequently been amended by other plan changes).

### Map – Planning Map 31a

- i Business and Industrial areas
- ii Appendix 13
- iii Business and Industrial Rules
- iv District Wide Issues
- v Definitions
- vi Designations
- vii Frankton Flats B Rules
- viii Noise Management Plan
- ix Queenstown Airport Mixed Use zone
- x Residential provisions
- xi Residential rules
- xii Remarkables Park Zone objectives and policies
- xiii Remarkables Park Zone rules
- xiv Rural chapter rules
- xv Rural chapter objectives and policies
- xvi Transport chapter