

**QLDC Council
6 September 2018**

Report for Agenda Item: 1

Department: Planning & Development

**Draft Stakeholder Deed for the proposed Universal Developments (Hawea)
Special Housing Area**

Purpose

- 1 The purpose of this report is to provide the Draft Stakeholder Deed for consideration so that the Council can recommend to the Minister of Housing and Urban Development (**Minister**) that the Hawea (Universal Developments) expression of interest (**the proposal**) be established as a Special Housing Area (**SHA**).

Public Excluded

- 2 It is recommended that **Attachment A** (Draft Deed of Agreement) to this report is considered with the public excluded in accordance with the Local Government Official Information and Meetings Act 1987 section 7(2)(h) on the grounds that the withholding of the information is necessary to enable any local authority holding the information to carry on, without prejudice or disadvantage, commercial activities and section 7(2)(i) on the grounds that withholding of the information is necessary to enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

Recommendation

- 3 That Council:
 1. **Note** the contents of this report and in particular the assessment of the measures implemented to address the resolutions of Full Council of the 28 June 2018;
 2. **Confirm** that the Council agrees with the contents of the (draft) Hawea (Universal Developments) SHA Deed [in Attachment A];
 3. **Delegate** to the General Manager, Planning and Development the authority to execute the Deed on behalf of the Council, subject to any minor changes consistent with Council's Lead Policy and infrastructural requirements identified by Council's Chief Engineer.
 4. **Recommend** to the Minister that the land to which the Hawea (Universal Developments) proposal relates be established as an SHA, subject to the following:
 - a. execution of the draft Deed and the performance of any conditions in it;

- b. a 2 storey and 8m height limit for qualifying developments; and
 - c. minimum number of lots / dwellings to be built is 30.
5. **Agree**, subject to the proposal being approved as an SHA by the Minister and resource consent being granted for the Hawea (Universal Developments) proposal and any upgrade requirements being met by the developer, the Queenstown Lakes District Council (QLDC) water supply and wastewater scheme boundaries be extended to allow servicing of the proposed development.

Prepared by:



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24/08/2018

Reviewed and Authorised by:



Tony Avery
GM Planning and
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24/08/2018

Background

- 4 The expression of interest submitted was for a predominantly residential development of approximately 400 sections, plus a community hub area centred on an extended Capell Ave for community and commercial uses. The proposal also includes indicative reserves and roads that would vest with Council. The site is located to the south of Cemetery Road, Hawea. The proposed site location and road layout is shown in Figure One below.

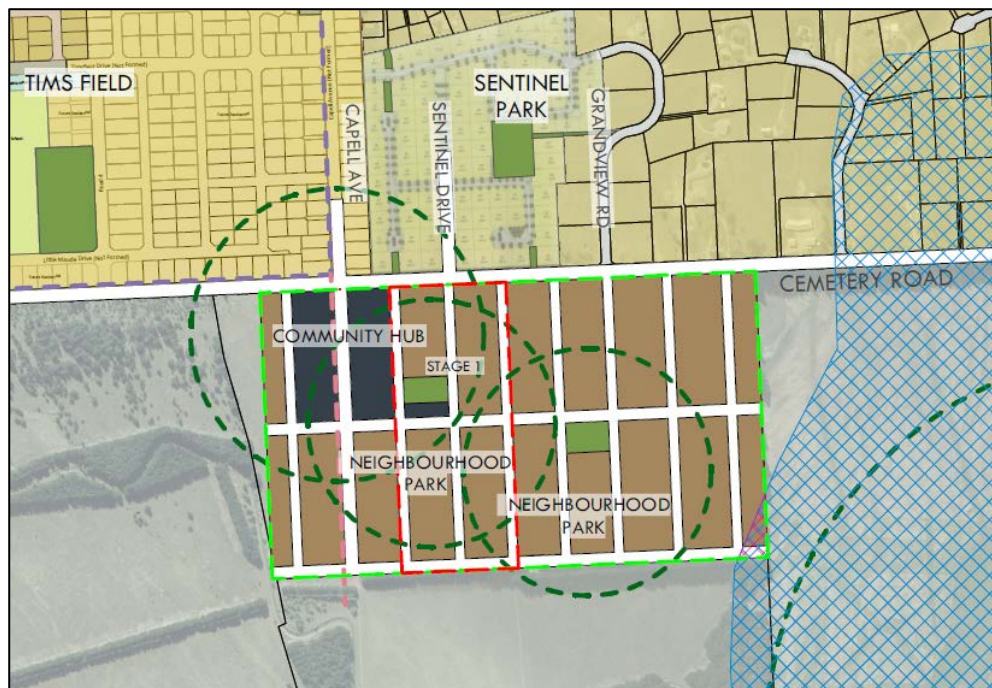


Figure One: Proposed Site Layout

- 5 The site is zoned Rural General / Rural under the Operative and Proposed District Plans. The total area of the site is approximately 32 hectares and it is opposite the Sentinel Park subdivision (90 lots which is currently under construction).
- 6 The developer has confirmed that they will satisfy the affordable housing requirements of the Lead Policy by providing 10% of the developable land area to the Queenstown Lakes Community Housing Trust (**QLCHT**). This will result in approximately 40 sections for the QLCHT. A unique aspect of this EOI is that the proposal includes a contribution of 20% of Stage 1 sections, to ensure the community housing provision is 'front loaded' and not left until the final stages of the development.
- 7 Unlike other SHA proposals, the Hawea EOI proposed fixed pricing for house and land packages between \$464,000 and \$550,000. The EOI targeted first home buyers, and by being within the \$550,000 local ceiling for first-home buyers allows them to access extra financial support through the KiwiSaver HomeStart scheme. Specifically first home buyers will be able to access their Kiwi Saver savings *and* be eligible for up to an extra \$20,000 HomeStart grant toward the purchase.
- 8 The EOI contains concept design plans and detailed reporting on the Hawea SHA, with supporting assessments from a planner, landscape architect, urban designer and engineers. The EOI is available online at: <https://www.qldc.govt.nz/your-council/your-views/expressions-of-interest/>
- 9 At the 28 June 2018 meeting, the Council resolved:

That Council:

1. **Note** the contents of this report and;
2. **Note** that public feedback received has been provided to Councillors separately, and that the response from Te Ao Marama will be reported to Councillors at the meeting;
3. **Amend** the Housing Accords and Special Housing Areas Act 2013 Implementation Guidelines (Lead Policy) to:
 - a. add that part of Lot 2 DP343855 shown in the EOI into Category 2 of the Lead Policy; and
 - b. to delete the sentence relating to not accepting proposals for inclusion in Category 2; as set out in **Attachment B**.
4. **Approve in principle** the Hawea EOI for a Special Housing Area and instruct the General Manager of Planning and Development to proceed with negotiation of the Stakeholder Deed that addresses the requirements of the Lead Policy including:
 - a. The contribution to the QLCHT, including the doubling of the contribution for Stage 1;

- b. The proposed affordability mechanisms set out in section 13 of the EOI, including a requirement to meet the price points specified;*
- c. A restriction on visitor accommodation;*
- d. Infrastructure requirements;*
- e. Parks and reserves (including trails, footpaths and connections); and*
- f. Qualifying development criteria for the proposed Special Housing Area.*

5. ***Instruct Council officers to report back to the Council on the measures discussed in Point 4 above.***

10 The proposal was approved in principle at the Council meeting on the 28 June 2018. Measures taken to address the resolutions are described below.

Feedback from Te Ao Marama Incorporated (Resolution 2).

- 11 Feedback was received from Te Ao Marama on 10 July 2018 and is appended as **Attachment B**. The response did not express opposition to the proposal, but some concern to ensure that SHAs are achieving what they are designed to, specifically to “get good housing for people at a good price”. Reference was made to the Bridesdale SHA, where houses were delivered to the market at the low price point promised, however on-selling quickly resulted in price escalation.
- 12 The proposed Deed addresses this matter as much as possible, recognising there are limits to what can be achieved through a Stakeholder Deed with regard to preventing speculation in bare land. The draft Deed includes clauses relating to the price points for house and land packages, with regard to the limit of the number of sections / house and land packages sold to each party, and the restriction of on sale of bare sections within 5 years of purchase.

Amendment of the Lead Policy (Resolution 3 a. and b)

- 13 The Lead Policy has been amended as per the resolution and the updated version placed on Council's website.

Negotiation of Draft Deed (Resolution 4)

- 14 The draft Deed (**Attachment A** – Public excluded) has been developed for consideration by Council to outline conditions on which this proposal could be recommended to the Minister. The draft Deed addresses the resolutions of 28 June 2018 relating to:
 - a. the QLCHT contribution;
 - b. the affordability mechanisms,
 - c. a restriction on visitor accommodation,
 - d. infrastructure,

- e. parks and reserves and
- f. the qualifying development criteria.

15 At the time of writing this report, the draft Deed has been agreed in principle by the Developer, however any further minor amendments or updates will be presented to Councillors at the meeting.

Resolution 4a – QLCHT contribution

16 The draft Deed ensures the 10% contribution of the developed land area to the QLCHT. On the basis of a 400 lot development, this is anticipated to be 40 lots going to the QLCHT. The draft Deed also requires that the Stage 1 contribution is doubled, i.e. 20% of the Stage 1 lots (the draft Deed requires that Stage 1 must be a minimum 90 lots). This is consistent with what was proposed in the EOI (Clause 33).

Resolution 4b – Affordability mechanisms

17 The draft Deed goes beyond other Stakeholder Deeds and seeks to lock in the price points specified in the EOI for house and land packages (Clauses 37-38). This includes the following:

- a. two bedroom, two bathroom, single garage dwelling, with driveway and front yard landscaping for \$464,000.00;
- b. two bedroom, one bathroom, double garage dwelling, with driveway and front yard landscaping for \$464,000.00;
- c. three bedroom, two bathroom, single garage dwelling, with, driveway and front yard landscaping for \$499,000.00;
- d. three to four bedroom, two bathroom, double garage dwelling with driveway and front yard landscaping for \$550,000.00.

18 The draft Deed does include a clause that allows the developer to propose changes to these price points to allow for changes in building costs, demand and government and other policies promoting home ownership and first home ownership. The Council has full discretion to accept or reject any proposed revisions.

19 The draft Deed also requires a restrictive covenant in favour of Council be registered on each title issued, restricting the on-sale of bare sections within five years of purchase (Clause 34). This is anticipated to reduce speculation in vacant sections, as any purchaser will be locked in to their purchase for 5 years unless they build a dwelling, which will present significant holding costs and discourage speculation.

20 The draft Deed also requires that the developer:

- a. impose a limit of one section or dwelling and land package per purchaser (Clause 35), but there are exclusions for sales of multiple sections to house builders;

- b. vet prospective purchasers in accordance with the Hawea SHA Purchaser Vetting Process as reviewed and approved by the Council and attached to the Deed as Schedule E (Clause 36); and
- c. offer a 5 per cent deposit requirement for first home buyers and a 10 per cent deposit requirement for purchasers who are not first home buyers (Clause 36b).

- 21 It is important to note that the EOI was put forward on the basis of targeting first home buyers, and through specifying particular price points for house and land packages. However house and land packages are not suitable for all persons, and under the draft Deed the developer is still able to sell bare land to those to wish to build a different style of dwelling, or who are in the trade and wish to use their own skills to build their own home.
- 22 The EOI did not state that sales of bare land would not occur. However Clause 39 of the Deed is important to ensure the availability of house and land packages at all times, even when bare sections are available. Clause 39 specifically requires that 70% of sales are for house and land packages, meaning only 30% can be sales of bare land. This will help ensure that new houses are built, which is achieves the purpose of HASHAA.
- 23 Through the draft Deed, the Council therefore has the ability to require the developer to sell a certain proportion of sections as house and land packages at the price points specified in the EOI, and can control to some degree, who gets to purchase them through the vetting process (Schedule E to the draft Deed), but it is not able to completely prevent speculation.
- 24 For example if a couple bought a house and land package comprising a two bedroom dwelling with a two car garage for \$464,000, once a house is constructed they can then on-sell to potentially make a profit. The purpose of the vetting system is to try and avoid that type of activity, so that genuine owner occupiers are targeted, and there is low turnover in property generally. However as the Councillors will recall with regard to legal advice concerning the Ladies Mile, it is not possible to completely avoid on-selling at market rates that result in houses becoming more expensive.
- 25 The vetting document ensures priority in sales is given to first home buyers who are permanent residents and are seeking to be owner occupiers, followed by other owner occupiers who have made preparations for building to commence within 12 months.

Resolution 4c – Visitor accommodation restriction

- 26 The draft Deed requires the registration of a restrictive covenant on the land, in favour of Council, limiting the commercial letting of residential units or residential flats constructed to three lets, not exceeding a cumulative total of 28 nights per 12 month period (Clauses 11 -12). This is in accordance with the permitted activity standards in the Council's Stage Two Proposed District Plan as at the date of notification. The Clause has flexibility for it to reflect the outcome of the Stage 2 Proposed District Plan process.

- 27 The restrictive covenant is anticipated to be in the form of a consent notice that gets registered on the certificate of title at the time of subdivision. This would mean the Council can readily use the enforcement mechanisms under the Resource Management Act (e.g. could issue an abatement notice or fine (infringement notice)) if the property was used for visitor accommodation. It would also mean that a person can apply to vary the consent notice. Such applications would be strongly discouraged in an area created for housing under the HASHAA.

Resolution 4d – Infrastructure matters

- 28 Infrastructure matters are included with regard to water supply, wastewater, stormwater and transport.
- 29 With regard to water supply (Clauses 13-17), the stakeholder deed commits the developer to paying for the required upgrade to the existing Hawea Bore Pump Station and Treatment Plant. The exact nature and cost of the upgrade was not able to be specified at the time of preparing the draft Deed, however the Clause requires the developer to pay all costs arising.
- 30 With regard to wastewater (Clauses 18-24), the draft Deed commits the developer to provide for certain interim solutions until the connection to Project Pure is complete. The draft Deed also commits the developer to providing a separate wastewater pipeline connecting to the Project Pure Wastewater Treatment Plant, to be constructed alongside the pipeline that is part of the Hawea Wastewater Upgrades, to achieve the Hawea SHA Outcome.
- 31 The Separate Pipeline will have to be designed, approved, and constructed by the Council as part of, and at the same time as, the pipeline that is part of the Hawea Wastewater Upgrades. The Developer agrees to pay for all the costs of design, planning approvals, and construction that are attributable to the addition of the separate pipeline (Clauses 18-24)
- 32 With regard to stormwater, the draft Deed requires the developer to at its sole cost to design and obtain all necessary consents for, and construct any stormwater infrastructure that is necessary to, address the stormwater effects of the Hawea SHA Outcome in accordance with the Three Waters Reports and the initial feedback received from the ORC, dated 15 March 2018, included as Appendix I to the Hawea SHA EOI, which is attached to this Deed as Schedule C (see also Clauses 25-26).
- 33 With regard to roading / transportation, the existing transport and trails network is likely to have sufficient capacity to service any qualifying development on the Universal Developments Land, as confirmed by the Transport Reports. However the draft Deed requires the Developer to agree to, at its sole cost, design, obtain all necessary consents for, and construct any infrastructure that is necessary to address the transport effects of the Hawea SHA Outcome in accordance with the Council's planning and infrastructure requirements. The need for any upgrades will be affected by the timing of other development in Hawea.
- 34 It should be noted that Capell Avenue is a Council owned unformed legal road ('paper road'). The agenda item on 28 June 2018 stated:

The formation of Capell Ave is not currently in the Council's LTP and would normally fall to the developer of the surrounding land as the land is subdivided. Capell Ave runs through the Timsfield subdivision and on the Timsfield masterplan would provide access to many lots [40]. Capell Ave is therefore likely to be formed as part of the Timsfield development. If there is a delay to the formation, the existing route out of Hawea via Cemetery Road and Domain Road remains and is the same in terms of travel time.

- 35 Capell Avenue is the obvious desire line for linking the Universal land to the existing Hawea shops, and it is expected that this will be built in due course by the developer who can make best use of the legal frontage. Until such time as this happens, the balance of the network (i.e. access via Cemetery and Domain roads) will suffice.
- 36 The Developer also agrees to work with the Council to ensure that the walking and cycling shared paths and any associated infrastructure are integrated with the existing network of trails.

Resolution 4e – Parks and reserves

- 37 The draft Deed requires the provision of parks and reserves in accordance with the Parks and Open Space Strategy 2017. This is anticipated to be a 3000m² local park (Clause 30). An indicative location for two reserves, one next to the Community Hub area and one located centrally within the housing, were proposed in the EOI. The reserve provision may be better achieved by combining the two areas into one larger space, and this can be worked through at the time of subdivision. A Council resolution will also be required before a reserve vests.

Resolution 4f – Qualifying development criteria

- 38 The HASHAA legislation specifies a default SHA height limit of 27m unless otherwise specified. It is recommended that an 8m height limit and two storey maximum apply to the proposed Hawea SHA.
- 39 An 8m height limit currently applies for the Rural General/Rural Zones, which would typically enable two storey development. This would mean that if SHA status was conferred, and a subsequent application for a qualifying development was received by Council that exceeded this height limit or storey height, it would not be able to be accepted as a 'qualifying development' under the SHA.
- 40 A minimum number of 20 lots / dwellings is also being proposed as one of the qualifying development criteria. This means that to be a qualifying development, at least 20 residential lots / units need to be proposed to be able to be processed under the HASHAA. The draft Deed requires the site to be developed in general accordance with the Expression of Interest which provides for some 400 sections.
- 41 It is also noted that when processing a resource consent under the HASHAA, it must not be publicly notified. Only adjacent landowners can be heard in relation to an application, if Council considers that necessary. It is important to note therefore that the future resource consent will not be an opportunity for the wider Hawea community to submit on the application.

General matters

- 42 As with all developments including SHAs, there will be an ongoing cost to Council for maintaining any vested services or reticulation constructed to service the development, but the developer otherwise agrees to fund the planning and construction of the necessary infrastructure.
- 43 The draft Deed has been agreed to by the developer. The draft Deed is structured such that it would be executed prior to recommendation of the SHA to the Minister.

Water and Wastewater Scheme Boundary Adjustments

- 44 The proposal site is zoned Rural General / Rural under the Operative and Proposed District Plans. The site therefore falls outside the existing water and waste water scheme boundaries. The developer has agreed, at its sole cost, to design and obtain all necessary consents and construct any infrastructure that is necessary to enable an adequate water supply and address the wastewater effects of the proposal in accordance with Council standards.
- 45 If the Minister agrees to establish the proposal site as a SHA a technical issue arises when processing resource consents that propose use of Council water and waste water infrastructure. Connections to reticulated infrastructure are limited to within approved scheme boundaries. Conditionally approving an extension to water and waste water supply/scheme boundaries to cater for the approved qualifying development will overcome this technicality.
- 46 To effectively process resource consent applications for the proposal, confirmation is required from Council that the supply boundaries will be extended to meet the associated demand if relevant resource consents are granted within the proposed SHA area. There are considered to be no adverse effects from conditionally extending the scheme boundaries if resource consent is approved. Council's Infrastructure Development Engineer has not raised any concerns with the proposal, as all the infrastructure requirements to service the proposal site will need to be met by the developer prior to the extension of the scheme boundary.

Conclusion

- 47 In recommending the SHA to the Minister, the Council has to be satisfied that the proposal is generally consistent with the principles espoused in the Lead Policy. The assessment provided to Councillors on 28 June was that the proposal is contrary to the Operative and Proposed District Plans but consistent with the Lead Policy. The proposal targets a specific housing market (being first home owners), and would provide a mixture of dwelling sizes (2-4+ bedrooms). Council's Infrastructure Department have confirmed that adequate infrastructure is likely to exist to service the development.
- 48 It should be emphasised that conferring SHA status for the site only enables the potential for development. SHA status, in itself, does not guarantee applications for qualifying developments will be approved, and planning matters (including UGBs, character / amenity and landscape issues, infrastructure provision and impact on neighbouring properties) are a relevant and explicit consideration at the

resource consent application stage as second, third and fourth tier considerations under HASHAA.

Options

- 49 Option 1: Agree with the terms of the draft Deed and the conditional scheme boundary extension. Resolve to enter into the Deed.

Advantages:

- 50 Helps contribute to achieving the purpose of the HASHAA, advancing the principles and priority actions in the Housing Accord, and helps the Council to achieve the housing targets in the Housing Accord by enabling new housing aimed at first home owners to be constructed.
- 51 Generates a number of social and economic benefits (both short term and long term) such as the creation of jobs during the construction phase and long term benefits relating to the increased provision of the supply of a range of houses;
- 52 Contributes to affordable housing in the Upper Clutha;
- 53 Ensures the developers commitments to the provision of affordable housing, infrastructure and reserves are legally binding after the SHA is established;
- 54 Provides certainty over conditions for recommendation to the Minister via a draft Deed; and
- 55 While the proposal is contrary to the Operative and proposed District Plans, the proposal is considered to be generally consistent with the Council's Lead Policy, as assessed in the 28 June 2018 agenda item.

Disadvantages:

- 56 Given the Council's approval in principle for the Hawea (Universal Developments) proposal, there are no significant disadvantages in entering the draft Deed.
- 57 Option 2: Not agree with the terms of the draft Deed and the conditional scheme boundary extension.

Advantages:

- 58 Given the Council's approval in principle for the Hawea (Universal Developments) proposal, there are no significant advantages in not entering the draft Deed.

Disadvantages:

- 59 Given the Council's support in principle for the proposal, not entering the Deed would mean that the Council would not be in a position to recommend to the Minister that the SHA be established. This would risk the District's acute

housing supply and affordability issues continuing to grow, resulting in adverse social and economic benefits; and

- 60 The Council would forgo the opportunity of providing a significant new housing option in the Upper Clutha, and the long and short term social and economic benefits offered by the proposal.

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

62 If **Option 2** is adopted:

- a. further negotiation between the developer and Council will be required to secure any remaining HASHAA and Lead Policy requirements such that the Council can be confident in recommending the proposal to the Minister; or
- b. the Council will not be able to recommend the proposal to the Minister for establishment as an SHA.

Significance and Engagement

63 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because:

- **Importance:** the matter is of high importance to the District. Housing supply and affordability is a significant issue for the District;
- **Community interest:** the matter is of considerable interest to the community;
- **Existing policy and strategy:** The proposal is considered consistent with the Housing Accord, and is generally consistent with the Council's Lead Policy. The proposal is contrary to the Operative and Proposed District Plans because urban development is not anticipated on Rural / Rural General zoned land.
- **Capability and Capacity:** The site can be serviced by proposed infrastructure.

Risk

64 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 is because of economic, social, environmental and reputational risks.

65 This matter relates to this risk because the supply of housing is central to the current and future development needs of the community. In this instance, it is considered that the social and economic benefits towards the provision of housing and land packages that are targeted at first home owners are met. The subsequent resource consent assessment process under the HASHAA also provides the opportunity for further mitigation of risk.

Financial Implications

66 Under the HASHAA, developers are required to provide the necessary infrastructure to service their developments. This has been secured in the draft Deed. It is acknowledged that there will be some ongoing infrastructure

maintenance costs, but these are likely to be minor. Where infrastructure has already been provided for through the Long Term Plan, the developer will be required to pay development contributions prior to the new land titles being issued.

Council Policies, Strategies and Bylaws

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

- Lead Policy for SHAs;
- The Operative District Plan;
- The Proposed District Plan;
- Growth Management Strategy 2007;
- Housing Our People in our Environment Strategy;
- Economic Development Strategy;
- 2017/2018 Annual Plan and the Long Term Plan;
- Mayoral Housing Affordability Taskforce Report;
- Monitoring Reports for

68 This matter is partly included in the 10-Year Plan/Annual Plan, due to the fact that some infrastructure upgrades are provided for Hawea.

Local Government Act 2002 Purpose Provisions

69 The proposed resolution accords with Section 10 of the Local Government Act 2002, in that it fulfils the need for good-quality performance of regulatory functions.

70 The recommended option:

- a. 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 utilising the HASHAA to enable increased levels of residential development on the proposal site;
- b. Can currently be implemented through current funding under the 10-Year Plan and Annual Plan;
- c. Is considered to be generally consistent with the Council's plans and policies; and
- d. Would alter the intended level of infrastructural service provision undertaken by or on behalf of the Council.

Consultation: Community Views and Preferences

71 HASHAA does not set any statutory responsibilities in terms of consultation on the establishment of SHAs. However, the Council has sought public feedback / comment regarding the proposed SHA, which it has done for all SHA proposals. This feedback was provided to Councillors prior to the 28 June 2018 Full Council meeting and is available on the Council's website

- 72 In addition, should the SHA be established, the consent authority may request the written approval of adjacent land owners if they are deemed to be affected, and may undertake a limited notification resource consent process with adjacent landowners, local authorities (Otago Regional Council), infrastructure providers (limited to those who have assets on, under or above, or adjacent to the proposal site) and requiring authorities (if the adjacent land is subject to a designation).

Legal Considerations and Statutory Responsibilities

- 73 The HASHAA provides limited guidance as to the assessment of potential SHAs, beyond housing demand and infrastructure concerns. HASHAA is silent on the relevance of planning considerations; however the Council's legal advice is that these are relevant considerations and this has been confirmed by a High Court decision. The weight to be given to these matters is at the Council's discretion, having regard to the overall purpose of HASHAA. These matters have been considered in this report and the previous report presented to Council at the 28 June 2018 Full Council meeting.
- 74 The Council will need to consider the consistency of any decision to recommend this SHA to the Minister and its adoption of the Panel recommendations with regard to Stage 1 of the Proposed District Plan in May 2018, which zone the site Rural. However, as noted on 28 June 2018, the Township zones are up for review in Stage 3, and the extent of the Township zoning for Hawea can be reconsidered at that time. The proposal is considered to be generally consistent with the Lead Policy, the Accord and the purpose of the HASHAA.
- 75 In this instance the provision of houses outweighs the adverse effects of proceeding with a development that promotes increased levels of development anticipated by the ODP and PDP.
- 76 The proposal would help achieve the purpose of HASHAA.
- 77 The draft Deed has been drafted and reviewed by Council's lawyers.

ATTACHMENTS

- A Draft Deed – *Publicly excluded*
- B Agency Response – Te Ao Marama Inc