

**QLDC Council  
6 September 2018**

**Report for Agenda Item: 2**

**Department: Planning & Development**

**Draft Stakeholder Deed for the Bright Sky Limited Expression of Interest for a Special Housing Area**

**Purpose**

- 1 The purpose of this report is to identify measures to be adopted by way of the Draft Deed of Agreement (**Stakeholder Deed**) so that the Council can recommend to the Minister of Housing and Urban Development (**Minister**) that the Bright Sky 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 the meeting of 23 March 2018;
  2. **Confirm** that the Council agrees to the Bright Sky SHA Deed (Attachment A) and **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;
  3. **Recommend** to the Minister that the land to which the Bright Sky 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 3 storey and 11m height limit for qualifying developments; and
    - c. minimum number of sections / dwellings to be built 30.

Prepared by:



Blair Devlin  
Manager, Planning Practice  
27/08/2018

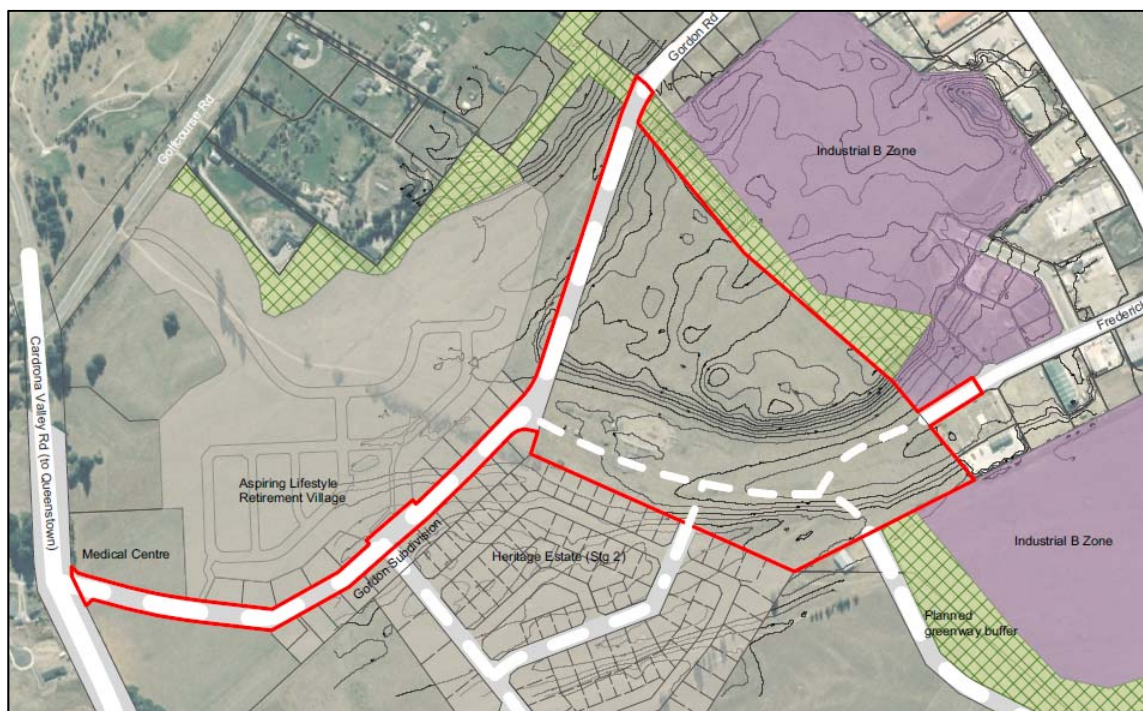
Reviewed and Authorised by:



Tony Avery  
GM Planning and  
Development  
27/08/2018

## Background

- 4 The Bright Sky proposal comprises a residential development of approximately 281 dwellings, with a mix of section sizes and housing types. The site is located between Ballantyne Road and Cardrona Valley Road, adjacent to the undeveloped Industrial B zoned land accessed off Gordon Road. The land is accessed from five possible access points, although the primary access is expected to be via Gordon Road which will connect up between Ballantyne Road and Cardrona Valley Road.
- 5 Full details of the proposed development are available in the EOI. The proposal site is shown outlined in red in Figure 1 below.



**Figure 1: Proposed Bright Sky SHA location**

- 6 The proposal involves the construction of the 281 units in a mix of sizes from 1-4 bedroom units as shown in Figure 2 below. The buildings are in a range of different building styles up to three storeys high, as shown in the EOI.
- 7 Councillors will recall from the community feedback a concern from some residents of the Aspiring Lifestyle Retirement Village regarding the proximity of the

new part of Gordon Road to the retirement village. It was noted at the Full Council meeting on 23 March 2018 that there is a section of land between the residential properties and the future road, providing separation between the retirement village and future road.



**Figure 2: Proposed building sizes and layout**

- 8 The proposal also includes the vesting of reserves and roads with Council and through the draft Deed the developer has confirmed compliance with the affordable housing contribution of the Lead Policy.
- 9 At the 23 March 2018 meeting, the Council resolved:

*That Council:*

1. **Note** the contents of this report and;
2. **Note** feedback received from the public will be provided to Councillors separately, and that responses from Aukaha, Te Ao Marama and Stantec (transportation peer review) will be reported to Councillors at the meeting;
3. **Note** the plans provided as part of the EOI have been amended to include the land linking the site to Frederick Street.
4. **Approve** in principle the Bright Sky Land Limited Special Housing Area, subject to further consideration of the below requirements:
  - a) Instruct the General Manager of Planning and Development to proceed with negotiation of the Stakeholder Deed that fulfils the infrastructure, parks and reserves (including trails, footpaths and connections) and affordable housing requirements of the Special Housing Area Lead Policy

*titled: Housing Accords and Special Housing Areas Act 2013 Implementation Guidelines; and*

- b) Negotiate qualifying development criteria for the proposed Special Housing Area.*
  - c) Amend the proposed development to provide for a connection through to Enterprise Drive.*
  - d) As a consequence of the amendment above, to ensure that the reserves provision is consistent with the Parks and Open Spaces Strategy 2017.*
5. **Instruct** Council officers to report back to the Council on the measures discussed in Point 4 above.

10 Measures taken to address the resolution are detailed further below.

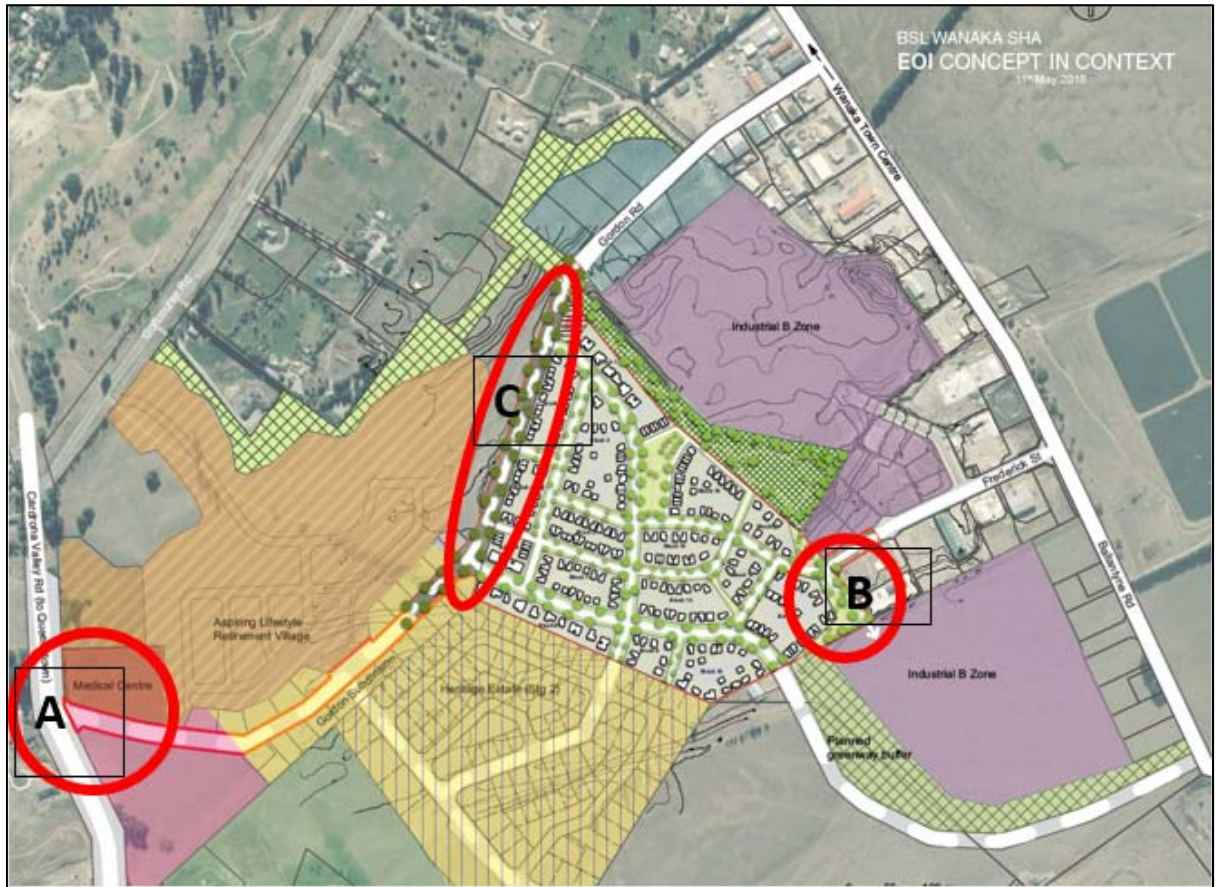
Feedback from Aukaha, Te Ao Marama Incorporated (Resolution 2).

- 11 Feedback received from Aukaha in a letter dated 20 March 2018 was presented at the meeting on 23 March 2018. No response has been received from Te Ao Marama Incorporated.

Feedback from Stantec (Resolution 2)

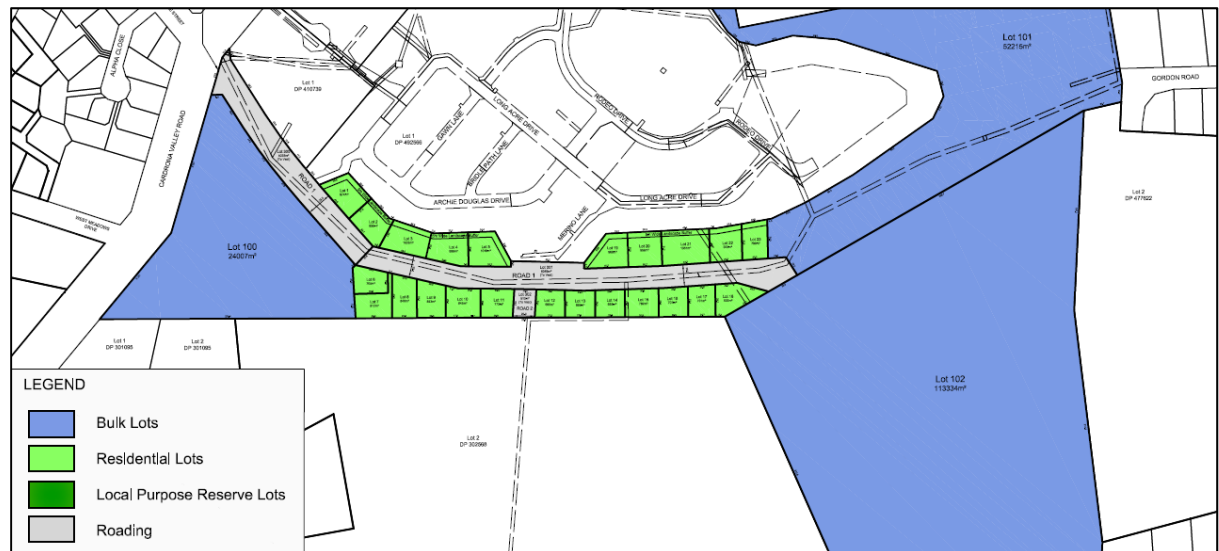
- 12 With regard to Stantec comment on traffic / transport related matters, Councillors were advised by officers at the 23 March 2018 meeting that Stantec had raised some detailed traffic / transport related matters that Officers considered could be worked through. The Bright Sky land is connected by five different roads and the transport / traffic matters have proved the most challenging matters to resolve.
- 13 In the discussion below, the parts of the roading network referred to are described as per the areas shown in Figure 3 below:





**Figure 3: Parts of roading network referred to in agenda item**

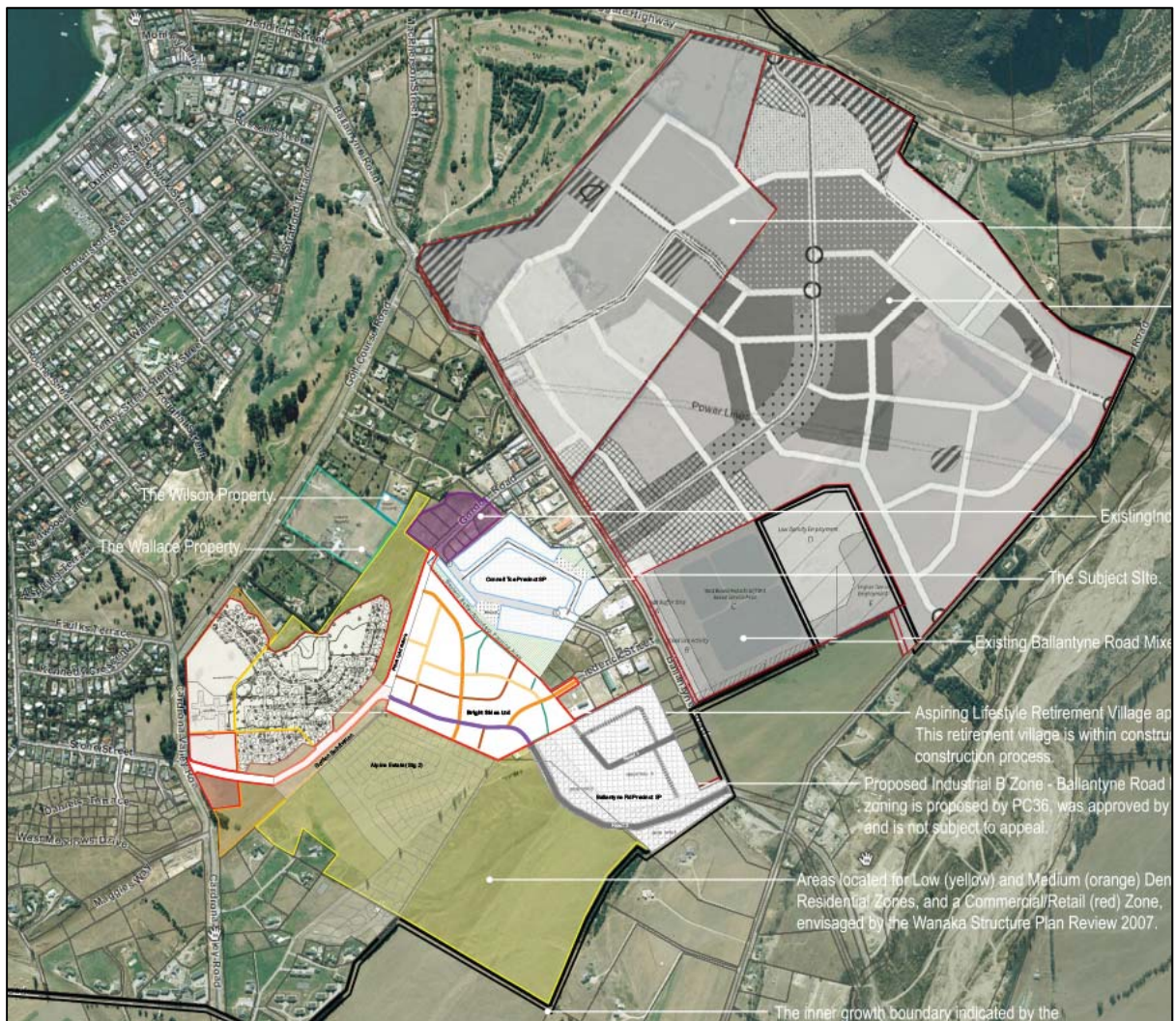
- 14 Since the 23 March 2018 meeting, further work has been undertaken with regard to the roading matters, particularly the intersection of the new section of Gordon Road and the Cardrona Valley Road (Area A). The Bright Sky development will ultimately result in the two ends of Gordon Road being connected up via area C, which would mean the road would serve much more of a 'collector' function, rather than simply providing access to residential properties. This linkage is important to serve Three Parks and other zoned areas going forward.
- 15 A new intersection has recently been completed at Cardrona Valley Road under resource consent RM170094, which was a subdivision consent to create the first part of Gordon Road and 23 residential lots (Area A). The consent was obtained by P Gordon & HGW Trustees Ltd. This subdivision is shown in Figure 4 below:



**Figure 4: Adjoining development approved under RM170094**

- 16 Independent commissioners were satisfied that the offset T intersection with Stone Street created under this consent (RM170094) was satisfactory for the 23 lot subdivision they were considering, and received advice from the applicants traffic / transport expert that there was sufficient land in the vicinity of the intersection to create a roundabout in the future. Significantly, the Commissioners did not require the applicant to build the intersection to the standard necessary for a future 'collector' connection.
- 17 The new intersection was originally proposed to include a separate turning lane off Cardrona Valley Road for vehicles heading towards Queenstown, however following a safety audit by WSP Opus, this turning bay was removed. Significantly, the new intersection that has been constructed is still satisfactory for serving the consented subdivision under RM170094 and the Bright Sky residential development (281 dwellings).
- 18 An issue arises with the Cardrona Valley / Gordon Road intersection because Bright Sky will result in the future 'collector' road (Gordon Road) between Cardrona Valley Road and Ballantyne Road being completed (Area C). This will open up the route to through traffic, including potentially heavy vehicle from the Ballantyne Road industrial area. Stantec are concerned the offset T intersection approved under RM170094 in Area A is not safe for heavy vehicles and greater traffic volumes likely once the 'collector' link going through. However the recently constructed intersection is suitable and can cope with traffic volumes from RM170094 and the 281 Bright Sky residential dwellings subject to raised splitter islands and pedestrian refuges being installed.
- 19 It is not appropriate to require Bright Sky to solely fund and construct a roundabout through the Stakeholder Deed, as they are one of many developments which will result in vehicles using this intersection. Other beneficiaries include Three Parks, the Connell Terrace industrial area, the Ballantyne Road / Enterprise Drive industrial extension, the new residential area created through Plan Change 46, the new local shopping centre, development on the Councils former wastewater treatment site, and the Alpine Estates subdivision, as can be seen in the image below which shows zoned development in the vicinity:





**Figure 5: Zoned development within proximity of subject site**

- 20 In order to address this, the draft Deed is based on the Stantec recommended 'alternative to option 1' (Clause 25). This covers the scenario that should Area C be constructed, but no upgrade of the Area A intersection has occurred, traffic must be calmed to discourage it as a through route (and prevent heavy vehicles), until such time as a roundabout can be installed through the normal Annual Plan / Long Term Plan process (Clauses 25-27).
- 21 If the intersection upgrade at Area A has occurred, the Deed recognises there will be no need for the raised splitter islands and pedestrian refuges at the current offset T intersection (Clause 25c)
- 22 At this time there is no funding in the LTP for a roundabout at the intersection of Cardrona Valley Road and the new western part of Gordon Road. In discussion with the General Manager Regulatory and Finance and the Chief Engineer, it is accepted that given the number of beneficiaries from a roundabout at the Area A location, the fairest approach to funding is for Council to consider adding it as a project to a future Annual Plan and recoup costs through development contributions from all landowners who benefit. The project may also be eligible for NZTA funding, and can be considered as part of the Wanaka Master Plan project.

- 23 This solution will enable the Bright Sky development to proceed, including potentially the completion of Gordon Road (if Gordon family proceed with development of their land – refer following section), but requires temporary traffic calming measures to be installed to prevent heavy vehicle usage and discourage its use as a through route until such time as the Cardrona Valley / Gordon Road intersection can be upgraded.

#### Formation of Area C – connecting the ends of Gordon Road

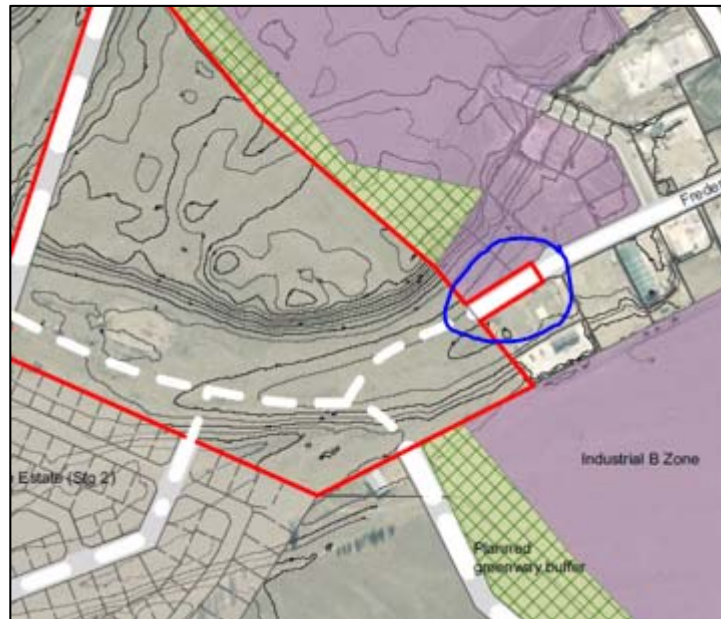
- 24 The Stakeholder Deed provides for the connection of both ends of Gordon Road, however only half of the required road corridor (i.e. 10m width rather than 20m) is within the ownership of Bright Sky. The other half of the corridor is in the ownership of the Peter Duncan Gordon and Southern Trustees Ltd (“Gordon family”).
- 25 This is somewhat untidy, and was not apparent when the EOI was submitted, which showed all of the roading required for Area C being part of the EOI. A subsequent subdivision consent split the land between the Gordon family and Bright Sky, so that the cost of the road is shared between the two parties.
- 26 The draft Deed has therefore required that Bright Sky pay to Council half of the cost of forming this road (Area C) when it completes Stage 4 (approximately mid programme) of the Bright Sky development, or alternatively when construction commences by the Gordon family or subsequent owners on the Gordon Road extension (Clauses 20-29).
- 27 Discussions with the Gordon family have indicated no immediate plans to develop the adjoining land owned to the north of the Bright Sky development, and which is also now zoned Low Density Suburban Residential under the Proposed District Plan. Should the Gordon family progress a development and start constructing the road in Area C, the Council will either already have the cash payment to form the half of the road, or Bright Sky will be required to form it (Clauses 22-23).
- 28 This means there is some uncertainty as to exactly when the road in Area C will actually be formed. Council will have the money to form half of it, however it is dependent on the Gordon family progressing their own development plans, which is uncertain. Depending on the timing of development activity by the Gordon family this may in fact allow the upgrade of the intersection in Area A to be undertaken, so that when the road in Area C is constructed it is ready for all types of vehicles.
- 29 Councillors need to be aware that the timing for the completion of the road in Area C is therefore uncertain, with only half the required corridor in Bright Sky control. Ultimately the Bright Sky development is not actually dependent on Area C for access, as the land can still be accessed from Cardrona Valley Road and Frederick Street, and the Deed requires the payment of half of the construction cost. Officers therefore consider while this outcome is a little untidy, it should not prevent the much needed Bright Sky housing from commencing.

#### Amendment of the Plans to include the land linking to Frederick Street (Resolution 3)

- 30 The proposed plans presented at Full Council on 23 March 2018 were already amended to include the narrow section of land circled in blue in Figure 5 below,



so the formation of this portion of road can be included as part of any future HASHAA application.



**Figure 6: Extension of SHA area to include link to Frederick Street**

#### Negotiation of Draft Deed (Resolution 4)

31 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 23 March 2018 relating to:

- a. Infrastructure requirements;
- b. parks and reserves including trails, footpaths and connections;
- c. the affordability housing contribution;
- d. the qualifying development criteria; and
- e. the connection through to Enterprise Drive

#### Resolution 4a(1) – Infrastructure matters

32 Infrastructure matters are included with regard to water supply, wastewater, stormwater and transport.

33 With regard to water supply (Clauses 10-14), the existing water supply network is unlikely to have sufficient capacity to service any qualifying development on the Bright Sky Land, but it is expected that sufficient capacity will exist once the Golf Course Road Water Supply Trunk Main Replacement has been constructed.

34 The stakeholder deed commits the developer to paying the Water Supply Charge which has been calculated at 4.96 per cent (plus GST) of the total cost of the Golf Course Road Water Supply Trunk Main Replacement. This percentage represents the proportion of the design capacity required to service the Bright Sky SHA dwellings.

- 35 With regard to wastewater, the existing wastewater network is unlikely to have sufficient capacity to service any qualifying development on the Bright Sky Land, as confirmed by the Three Waters reports. This is to be addressed by the Council's upgrades to the Gordon Road Pump Station and Riverbank Road Pump Station, which are scheduled for the start of the Wanaka 2018 Long Term Plan.
- 36 As these are in the LTP, the development will pay its share of development contributions towards these costs. The draft Deed commits the developer to covering the costs associated with any other wastewater infrastructure associated with the Bright Sky development (Clauses 15-17).
- 37 With regard to stormwater, the existing stormwater network is likely to have sufficient capacity to service any qualifying development on the Bright Sky Land, as confirmed by the Three Waters reports. However should any other infrastructure be necessary to address the stormwater effects of the Bright Sky SHA Outcome, the Developer agrees to, at its sole cost, design, obtain all necessary consents for, and construct that infrastructure (Clauses 18-19).
- 38 With regard to traffic / transport, these matters have been set out in the agenda report earlier in paragraphs 12-28.

#### Resolution 4a(2) – QLCHT contribution

- 39 The draft Deed ensures the 10% contribution of the developed land area to the QLCHT, which must be capable of accommodating at least 28 lots. The draft Deed includes the developer having preferential tender rights to construct the housing for the QLCHT. This is acceptable to the QLCHT and has been drafted to reflect the EOI (Clauses 33-35). The provision of this lot is required within 36 months of resource consent being granted. The QLCHT have reviewed the draft Deed and are satisfied with it.

#### Resolution 4b – Qualifying development criteria

- 40 The legislation specifies a default SHA height limit of 27m unless otherwise specified. The EOI proposed qualifying development criteria of 11 metres height and a maximum of three storeys.
- 41 It is recommended that the proposed 11m height limit and three storey limit apply to the proposed SHA. It is noted that height limits of 8m / 7m currently apply for the Rural General/Low Density Suburban Residential zonings, so the qualifying development criteria are more enabling, potentially allowing three storey high buildings. This is consistent with the architectural typologies shown in the EOI.
- 42 A minimum number of 30 lots / dwellings is also being proposed as one of the qualifying development criteria. This means that each resource consent for a qualifying development must be for at least 30 residential units. In other SHAs, the whole proposal has been consented at once (e.g. Queenstown Country Club), however the 30 figure does allow the developer to progress their consent in stages provided that each application is for at least 30 lots / dwellings. The draft Deed requires the site to be developed in general accordance with the Expression of Interest, i.e. the full 281 lots / dwellings.

- 43 The qualifying development criteria 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 limit, or did not involve more than 30 lots / dwellings, it would not be able to be accepted as a 'qualifying development' under the HASHAA legislation.
- 44 Qualifying development criteria do not need to be specified in the Deed, however they need to form part of Council's resolution and will form part of the Order in Council signed by the Governor General, should the Minister accept Councils recommendation to create the SHA.

#### Resolution 4c – Connection through to Enterprise Drive

- 45 Consistent with Council's resolution, the revised plans show a roading link through to the adjoining industrial of Enterprise Drive, shown circled in red in Figure 7 below. This is also a requirement of the draft Deed (Clause 24).



**Figure 7 - Additional roading connection linking Frederick St and Ballantyne Road industrial areas**

#### Resolution 4d – Parks and reserves

- 46 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 an area of approximately 4600m<sup>2</sup> for a local park as shown in the EOI (Clause 30). The EOI also shows the trail locations linking the two open space areas adjoining the land, specifically adjacent to the Industrial B zoned land off Connell Terrace and Ballantyne Road industrial precincts.

### General matters

- 47 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.
- 48 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.

### Visitor Accommodation

- 49 Consistent with other Stakeholder Deeds, there is a restriction on visitor accommodation (Clauses 8 – 9). This is based on Stage 2 of the proposed District Plan (as notified) of 28 nights per 12 month period, but includes a proviso that allows for the ultimate decision around the permitted amount of visitor accommodation through the PDP process.

### Water and Wastewater Scheme Boundary Adjustments

- 50 The proposal site has been upzoned to Low Density Suburban Residential under the Proposed District Plans and is within the proposed Wanaka Urban Growth Boundary. The site therefore falls within the existing water and waste water scheme boundaries. No resolution is required to extend the scheme boundaries.

### *Conclusion*

- 51 In recommending the SHA to the Minister, the Council has to be satisfied that the proposal is consistent with its Lead Policy. The assessment provided to Councillors on 23 March 2018 was that the proposal is contrary to the Operative District Plan due to the Rural General zoning, but consistent with the Proposed District Plan and Lead Policy. Adequate infrastructure is likely to exist to service the development.
- 52 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 traffic / transport, character / amenity values, 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**

- 53 Option 1: Agree with the terms of the draft Deed and resolve to enter into the Deed.

#### *Advantages:*

- 54 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 (281 units) to be constructed.



- 55 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;
- 56 Contributes to affordable housing in the Upper Clutha;
- 57 Ensures the developers commitments to the provision of affordable housing, infrastructure and reserves are legally binding after the SHA is established;
- 58 Provides certainty over conditions for recommendation to the Minister via a draft Deed; and
- 59 While the proposal is contrary to the Operative District Plan, the proposal is consistent with the Proposed District Plan and Council's Lead Policy, as assessed in the 23 March 2018 agenda item.

*Disadvantages:*

- 60 Given the Council's approval in principle for the Bright Sky proposal, there are no significant disadvantages in entering the draft Deed.
- 61 Option 2: Not agree with the terms of the draft Deed and the conditional scheme boundary extension.

*Advantages:*

- 62 Given the Council's approval in principle for the Bright Sky proposal on 23 March 2018, there are no significant advantages in not entering the draft Deed.

*Disadvantages:*

- 63 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
- 64 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.

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

66 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

67 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 consistent with the Council's Lead Policy. The proposal is also consistent with the Proposed District Plan because urban development is anticipated on Low Density Suburban Residential zoned land.
- **Capability and Capacity:** The site can be serviced by proposed infrastructure.

## Risk

68 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.

69 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 from the provision of housing and land are achieved. The subsequent resource consent assessment process under the HASHAA also provides the opportunity for further mitigation of risk.

## Financial Implications

70 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

71 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;

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

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

- 73 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.
- 74 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 consistent with the Council's plans and policies; and
  - d. Would not alter the intended level of infrastructural service provision undertaken by or on behalf of the Council.

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

- 75 There has been no community consultation with regard to the Stakeholder Deed. 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 23 March 2018 Full Council meeting and is available on the Council's website.
- 76 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 adversely 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**

- 77 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 23 March 2018 Full Council meeting.
- 78 The proposal would help achieve the purpose of HASHAA.
- 79 The draft Deed has been drafted and reviewed by Council's lawyers.

### **ATTACHMENTS**

- A Draft Deed – *Publicly excluded*