

Planning & Strategy Committee
4 February 2021

Report for Agenda Item | Rīpoata moto e Rāraki take 1

Department: Planning & Development

Title | Taitara Gorge Road Natural Hazards District Plan Review – Pre-Notification Public Consultation

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to outline a proposal for informal, pre-notification consultation with potentially effected landowners, occupiers and businesses across the land subject to the Gorge Road natural hazards district plan review. Approval is sought from the Committee for officials to undertake the proposed consultation.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 The Operative District Plan (**ODP**) is currently being reviewed. This process includes a site-specific review of zoning across two alluvial fans located off Gorge Road near the Queenstown CBD. These areas have not been zoned as part of the current plan review to-date, to allow the implications of the natural hazards in this area to be studied in further detail. The focus of this part of the plan review is to understand the nature and scale of natural hazard risk across these two alluvial fans, and what options are most appropriate to manage that risk. Recently completed geotechnical assessments in this area have shown some of the land as being subject to high levels of natural hazard risk.
- 3 Pre-notification consultation with the local community is a critical component of this plan review process. Council is directed by Chapter 28 (Natural Hazards) of the Proposed District Plan (**PDP**) to manage risk to a level that is 'tolerable to the community'. Consultation with the community directly affected by elevated levels of risk is proposed to help gauge community tolerance to risk, and to seek feedback on possible risk management options. In addition, the technical risk information will be explained and the opportunity provided for the community to ask questions of the technical experts. The pre-notification consultation is proposed for mid-March 2021.

RECOMMENDATION | NGĀ TŪOHUNGA

- 4 That the Planning & Strategy Committee:
 1. **Note** the contents of this report; and
 2. **Approve** pre-notification consultation on this topic being undertaken.

Prepared by:



Emily Grace
Senior Policy Planner

21/01/2021

Reviewed and Authorised by:



Tony Avery
General Manager, Planning &
Development

21/01/2021

CONTEXT | HOROPAKI

Background

- 5 The land being reviewed comprises two discrete locations near the Queenstown CBD, on the western side of Gorge Road (see **Attachment A**). These two areas are located on the surface of geological features known as ‘alluvial fans’. The northernmost alluvial fan is referred to as **Brewery Creek**, while the southernmost alluvial fan is referred to as **Reavers Lane**. Alluvial fans are commonly associated with natural hazards including rockfall, debris flows, liquefaction, and flooding. It is known that the Brewery Creek and Reavers Lane alluvial fans are subject to these natural hazards. Expert technical advice commissioned by the Council shows that high levels of risk from rockfall and debris flow are present across both alluvial fans.
- 6 Under the ODP, the Brewery Creek fan is zoned High Density Residential and Business, and the Reavers Lane fan is zoned High Density Residential. The areas are extensively developed, with residential, visitor accommodation, commercial, retail, and industrial land uses present. The area is subject to continuing re-development pressure given its close proximity to the Queenstown CBD.
- 7 The combination of areas of high risk from natural hazards with urban re-development pressure presents a challenging planning context. Work completed to-date includes undertaking detailed and robust technical assessments, and considering a range of options to manage risk. Part of the process of developing management options is to consult with the community to understand attitudes and viewpoints about the risks from natural hazards and the range of response options.
- 8 One round of community consultation was undertaken in May 2019. This involved two community sessions where technical risk information was presented to those present, and an exercise to understand general tolerance to risk was undertaken. Since May 2019, further, more detailed technical assessments have been undertaken on the levels of risk, including information on risk to life, and work has progressed on options to address the levels of risk. More specific feedback on the levels of risk and possible response options can now be sought from the community.

Reasons for consultation

- 9 The Resource Management Act 1991 (**RMA**) policy direction for addressing risk in the Queenstown Lakes District is provided in Chapter 28 (Natural Hazards) of the PDP and Section 4.1 of the Otago Regional Policy Statement. Key policy directions include:
 - Manage to a level tolerable to the community¹;
 - Avoid activities that result in significant risk²;
 - Restrict activities where risk is intolerable³;
 - Minimise risk in already developed areas⁴;

¹ Objective 28.3.1 A

² Policy 28.3.1.4

³ Policy 28.3.1.7

⁴ Policy 28.3.1.5

- Not preclude development within tolerable limits⁵; and
- Reduce the use of hard engineering⁶.

10 In order to meet the legal requirement to give effect to the higher level policy direction to manage risk to a level tolerable to the community, it is necessary to have an understanding of what the community thinks of that risk through engaging directly with the community.

11 This consultation with the community will provide an opportunity to explain the latest risk information, in person, to those to whom it directly relates. This information is technical in nature and difficult to understand by simply reading a report, or through online communications.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

12 It is intended to undertake community engagement to understand the community tolerance to risk, and to seek feedback on the possible options to manage risk. Planning of the engagement process is underway, and it is likely to take place in mid-March 2021.

Options for consultation

13 There are numerous ways to approach consultation, however in this assessment there is only one reasonably practicable option (section 77 of the Local Government Act 2002) for understanding community tolerance to risk and seeking feedback on management options. The proposed option is an intensive community engagement process of targeted, independently facilitated, face-to-face sessions with those most affected by the elevated levels of risk. This option is explained in more detail below.

14 The option of undertaking no consultation is dismissed, as it would not be possible to form a robust understanding of the community’s tolerance to risk or its thoughts on the management options without first asking them. A lack of understanding of these matters would threaten the quality and robustness of the section 32 RMA process.

15 The option of an arms-length consultation process (involving a mail-out and written feedback) is also not preferred as this provides no ability to ensure people understand the risk information, and has a risk of low participation, both of which would make it hard to gauge community tolerance and response to management options, threatening the quality and robustness of the section 32 RMA process.

The proposed consultation

16 The proposed consultation is an intensive community engagement process of targeted sessions with those most affected by the elevated levels of risk. Some areas of the fans have been identified as being subject to high levels of risk, at which other Councils have intervened to manage risk (including by removing people from harm’s way, in one case). The significant implications of this subject matter suggests a bespoke, targeted approach to community engagement is required.

⁵ Policy 28.3.1.6

⁶ Policy 28.3.1.11

17 There are two key purposes of the community engagement process:

- i. To inform the community of the updated information on the levels of risk present in the area. This will include having technical experts present to explain technical information and answer questions.
- ii. To seek feedback from the community on the possible options to reduce risk.

18 The consultation will seek to understand community tolerance to the levels of risk present by gauging what responses are considered necessary to the different levels of risk. For example, if feedback favours preventing residential activities in the worst affected areas, it can be concluded that the highest levels of risk are not tolerable to the community.

19 The management response options to be presented to the community are as follows:

- Status quo: continue to assess risk on a case by case basis, as resource consent applications are submitted.
- Engineering intervention: construct engineering structures to reduce the level of risk, and let development continue without any additional restrictions for managing natural hazard risk.
- Manage risk: Use land use planning controls to achieve particular risk outcomes, relative to the level of risk present. This involves identifying bands of significant, intolerable, and tolerable risk, and imposing different levels of restriction in these different bands (such as no further development in areas of significant risk, allow minor additions and alterations in intolerable areas, and manage development in tolerable areas).
- Reduce risk: Remove people from areas of significant risk and intolerable risk, and no further development in areas of tolerable risk.

20 It is considered important to present the full range of options to the community, so there can be a genuine discussion of which response is favoured and why. It is noted that two of the options ('engineering intervention' and 'reduce risk') would require substantial financial commitment from Council, and such a commitment has not yet been considered. This will be made clear during the consultation.

21 The advantages of this consultation proposal include:

- This process allows for meaningful discussion of the technical information and the options to address risk with those most affected, ensuring the community has the best opportunity to understand information relevant to them. This potentially increases the trust the community has in the Council for managing the risk.
- Opportunity is provided to the community to have an influence on the option selected to address risk, meaning greater 'buy-in' to the process and final option taken through to notification of a plan change. Greater buy-in means submissions on the notified plan change are likely to be more focused and targeted, which should result in a more efficient hearing process.
- The proposal allows the greatest understanding of the community's tolerance for risk, as it should result in a larger number of people directly affected providing feedback. This should result in a robust section 32 assessment to better inform decisions.

22 The disadvantages of the proposal include:

- The proposed process of direct engagement is reasonably time-intensive to implement. To help manage this, it is intended to engage an external facilitator to help organise, plan and run the process.
- Face-to-face discussions of issues where participants can be expected to have high emotions and strong opinions being raised. The information being shared relates to risk to life and property and will have implications for future property values, so it is likely to be of concern to participants and involve conflicting perspectives and interests. It is intended to manage this by using an independent facilitator and having the technical experts available to answer questions.
- Councillor presence at the community sessions will help to reassure people that Council is taking ownership of these issues, but could see Councillors being lobbied directly by those affected and expected to respond independently of their decision-making role.

23 Overall, the valuable information that the proposed consultation process will provide is considered to outweigh the disadvantages of the proposal. In addition, the disadvantages can be managed.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

24 This is an informal, non-statutory consultation process which nevertheless will be relied on in subsequent statutory reports and processes. The Committee are being asked to approve a consultation process going ahead, rather than to make a decision on a particular option to manage risk. The decision to approve the pre-notification consultation is therefore a matter of low significance, as determined by reference to the [Council's Significance and Engagement Policy](#).

25 Regarding the four criteria for determining significance:

- i. The consultation process is bespoke and specific to a confined area close to the Queenstown CBD. There is no general impact of the consultation process to the wider District.
- ii. While Council's final decision on a risk management approach is likely to be of wider interest, the community of interest for the consultation process is confined to the specific study area and particularly those subject to elevated levels of risk.
- iii. The consultation proposal is consistent with existing Council policies and strategies.
- iv. There is no anticipated impact from the consultation proposal on Council's capability and capacity.

> MĀORI CONSULTATION | IWI RŪNANGA

26 Council has an agreement with Aukaha and Te Ao Marama regarding consultation on District Plan review processes. Officers will directly engage with iwi and rūnanga representatives on the wider topic prior to formally and publically notifying the plan review. That process will be undertaken separately to the proposed consultation that is the subject of this report.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 27 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00056 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 moderate inherent risk rating.
- 28 The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk. The consultation process provides an opportunity to understand community tolerance to risk and seek feedback on response options, which will allow more robust district planning provisions to be developed.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 29 Works associated with the proposed pre-notification consultation can be funded from the existing district plan review budget. Any other actions necessary to undertake the proposed consultation will not require changes to the Annual Plan or Ten Year Plan and can be funded from existing budgets.

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

- 30 The following Council policies, strategies and bylaws were considered:
- Vision Beyond 2050. The proposed consultation process is part of a project directly relevant to the 'disaster-defying resilience' and 'thriving people' principles of this strategy.
 - Communications Policy. The proposed consultation is consistent with this policy, and planning staff are working closely with communications staff on this matter.
 - Partially Operative Otago Regional Policy Statement
 - QLDC Proposed District Plan
- 31 The consultation proposal is consistent with the principles set out in the named policy/policies.
- 32 This consultation proposal is not separately identified in the Ten Year Plan or Annual Plan, but it is part of the district plan review process, which is covered in these plans.

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

- 33 The proposed consultation process is not a statutory requirement. However, it will help gain an understanding of community tolerance to risk, as required by the RMA policy direction, and therefore fulfil statutory responsibilities under sections 32 and 73(4) of the RMA.
- 34 Officers have received legal advice on the previous consultation undertaken on this topic in 2019. That advice recommends undertaking additional consultation sessions.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

35 The proposed consultation:

- 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 ensuring officers robustly understand the preferred management approach and tolerance of affected community members;
- 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	Areas under review
---	--------------------