

Full Council

24 October 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [6]

Department: Planning & Development

Title | Taitara: Te Putahi Ladies Mile Streamline Planning Process Delegation

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to provide the Chief Executive Officer (CEO) a delegation under clause 86 of the First Schedule of the Resource Management Act to recommend amendments to the Te Putahi Ladies Mile (TPLM) Variation in response to discrete clarifications sought by the Minister.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Delegate** to the Chief Executive the power to recommend amendments to the Te Putahi Ladies Mile Special Zone under Clause 86 of the First Schedule of the Resource Management Act 1991.

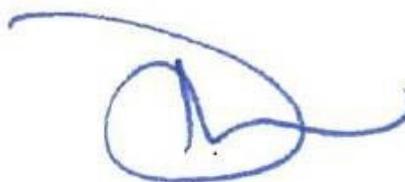
Prepared by:



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30 September 2024

Reviewed and Authorised by:



Name: David Wallace
Title: General Manager Planning & Development

4 October 2024

Context | Horopaki

1. The TPLM Variation proposes to introduce to the Proposed District Plan (PDP) a new Special Purpose Zone, the TPLM Zone with, as notified, associated variations to Chapters 4 and 27 of the PDP and consequential amendments to Chapters 25, 29, 31 and 36. The TPLM Zone, and all the associated changes, will rezone the TPLM Site (adjacent to SH6, generally to the west of the Shotover River and to the east of Waiwhakaata Lake Hayes) from its current zoning (a mix of Rural, Rural Lifestyle, Large Lot Residential A and Wakatipu Basin Rural Amenity Zone under the PDP) to the new TPLM Zone, enabling in particular a range of high, medium and low density residential and commercial zones.
2. On 31 October 2022 the Queenstown Lakes District Council (Council) applied to the Minister for the Environment (Minister) to use the RMA's Streamlined Planning Process (SPP) for the TPLM Variation. On 30 March 2023 the Minister directed (Minister's Direction), by notice in the Gazette, that the TPLM Variation be progressed using a SPP process. Council then notified the TPLM on 27 April 2023. 125 original submissions and 24 further submissions were received.
3. A 3-week hearing was held in November/December 2023 before an experienced panel of commissioners: David Allen (Chair), Ian Munro, Judith Makinson, Gillian Crowcroft and Hoani Langsbury.
4. In accordance with the Minister's Direction, the Council (via the commissioners) submitted to the Minister a written report following the hearing that:
 - (a) detailed how submissions have been considered and the changes recommended to the TPLM variation as a result of submissions, including a s32AA evaluation if required; and
 - (b) addressed all matters required by cl 83(1) of Schedule 1 of the RMA for the Minister's consideration.
5. After consideration of our report the Minister may approve the TPLM Variation, refer it back to the Council for further consideration, or decline it. Ministry for the Environment staff received the final draft recommendation on 29 April 2024 and have since undertaken a review of all documentation. They have suggested several amendments in order to clarify any potential anomalies in the implementation of the TPLM Zone provisions (for the subsequent processing of resource consents) and gave Council the opportunity to amend numbering and the layout of provisions.
6. Clause 86 (of the First Schedule) requires that the local authority must:
 - (a) Reconsider the proposed planning instrument in light of the responsible Minister's stated reasons and any recommended changes; and
 - (b) Make any changes that the local authority considers appropriate.
7. Given this is a Streamlined Planning Process, the Council's Delegation Register is not set up for staff to take any steps post the recommendation report being sent to the Minister for the Environment. The original delegation to the Hearings Panel did not contain this step (Clause 86).

Accordingly, this agenda item seeks a delegation for the CEO to respond to the Minister and recommend changes suggested.

8. The recommended amendments to the Variation (by the Minister) relate to:
 1. How development will be staged to manage effects on State Highway 6 (SH6); and
 2. Other technical drafting matters.
9. The Minister's focus was to understand how the transport trigger rules would work in practice to ensure that effects on the state highway are managed. In the recommendations report, the rules would prevent people from applying for code compliance certificates for any buildings in advance of certain transport infrastructure works being completed. The Minister indicated that the link between the rule and the restriction on applying for "Code of Compliance" under the Building Act could be better managed and a minor amendment to address this is proposed.
10. In that regard the transport trigger rules have been updated to ensure that buildings cannot be occupied in advance of the transport infrastructure works being completed (as intended by the drafting) but without restricting the ability to apply for Code of Compliance under the Building Act.
11. The additional technical drafting matters were in the main to resolve typographical or numbering errors in the Panel's recommendation.
12. Officers also identified in their review of the technical drafting matters that there was unnecessary duplication and cross referencing between rules and chapters in the plan in respect of development in the Sub Area H2. In order to address this drafting matter, changes have been proposed whereby rules have been retained and relocated to more appropriate locations within the TPLM provisions. No substantive changes have been made to the rules.
13. The updated provisions were provided to the Hearings Panel as part of the preparation of this agenda item. The Hearings Panel does not have the ability to make comments on the proposed changes as they have not been requested to do so by the Minister. However, they have confirmed that in respect of the transport trigger rules, prevention of occupation of buildings, as opposed to prevention of development, was the rationale for the trigger in their recommendation. This is explained in paragraph 12.84 of the Panel's recommendation report. The proposed changes to the transport trigger rules, in response to the Minister's direction, are consistent with the intent behind the Panel's recommendation.
14. We have not engaged with the submitters on the TPLM Variation for the reasons addressed below. In addition, the amendments that have been made in response to the Minister's direction do not result in any substantive changes to the way that the TPLM was intended to operate as set out in the hearings panel's recommendation report. We have confirmed with the panel that these amendments do not change the substance of their recommendations and respond appropriately to the minor matters raised by the Ministry.

Analysis and Advice | Tatāritaka me kā Tohutohu

15. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.

16. Option 1 – Delegate to the CEO the power to recommend changes to the TPLM variation provisions under clause 86 of the First Schedule to the RMA.

Advantages:

- Corrects the vacuum of appropriate delegations both under the Streamlined Planning Process and the Council’s delegations register.
- Enables the Council to respond to the Minister’s request in an efficient manner.

Disadvantages:

- Seeking a delegation has resulted in further time until a final decision is granted, but it is noted that the Minister for the Environment is supportive of the amendments being made.

17. Option 2 Do not take the opportunity to make amendments and correct minor errors.

Advantages:

- There are no advantages to this option, the Council has already expended considerable resources on this Variation, and landowners are waiting to continue work to bring housing supply to the market.

Disadvantages:

- There are no clear delegations and failing to ensure these are certain is considered inappropriate.

18. This report recommends **Option 1** for addressing the matter because it is appropriate to obtain the appropriate delegations to finalise Council’s part in this process. Granting the delegation to the CEO maintains an appropriate level of oversight and is the highest staff delegation available to the Council.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

19. This matter is of medium significance, as determined by reference to the Council’s Significance and Engagement Policy 2021 because the TPLM Variation has been subject to a process outlined in a Gazette notice, it is considered appropriate for the Council and an fair and transparent decision making process.

20. The persons who are affected by or interested in this matter are residents/ratepayers of the Queenstown Lakes district community, and landowners/developers of the land within the TPLM Variation area.
21. The Council has undertaken a full consultation process under the provisions for Streamlined Planning Processes, these have given the opportunity for submissions, further submissions, representation to the hearing and ability to comment on the draft recommendation of the Hearings Panel. The changes proposed are not consider substantive so further consultation is not deemed necessary.

Māori Consultation | Iwi Rūnaka

22. The Council has undertaken consultation with iwi as part of the Variation. Iwi were represented as members of the Masterplan work and participated in the hearing.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

23. This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK10034 Inadequate resource management or building consent systems, processes and/or people capability results in poor development outcomes and liability within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.
24. The approval of the recommended option will allow Council to avoid the risk. This will be achieved by ensuring any amendments are recommendation under the delegation of the CEO.

Financial Implications | Kā Riteka ā-Pūtea

25. The work is covered under the Proposed District Plan budget.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

26. The following Council policies, strategies and bylaws were considered:
- Reference alignment with and consideration of the principles of the Vision Beyond 2050: Our Vision and Mission - QLDC
 - The Proposed District Plan
 - Spatial Plan
27. The recommended option is consistent with the principles set out in the named policies.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

28. Staff sought legal advice as to the correct process to respond to the Minister's request for further changes. The legal advice confirmed that a delegation to the CEO is appropriate.

29. In respect of the changes proposed, we considered whether there was a need to consult with any of the submitters on the TPLM Variation in respect of the changes. Legal advice on this matter confirmed that neither clause 86 nor the Gazette Notice, contemplates a process where third parties are consulted on the response. As such, it is simply the normal public decision-making considerations that will apply to the Council’s response (i.e. it must act in accordance with the law; should not take into account any irrelevant considerations and fail to take into account relevant considerations; and must not make a decision so unreasonable that no decision maker would make it).
30. Given the very discrete nature of the changes being proposed in response to the Minister’s decision to refer the TPLM Variation back, we consider that any risks around this can be addressed by the decision-making record on the response addressing the relevant considerations.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

31. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.
32. The recommended option:
- Can be implemented through current funding under the Long Term Plan and Annual Plan;
 - Is consistent with the Council's plans and policies; and
 - Would not significantly alter 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 | Kā Tāpirihaka

A	TPLM Variation provisions including tracked changes in response to the Minister’s direction
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