## **URGENT LATE BUSINESS**

His Worship to move <u>THAT</u> pursuant to Section 46 A (7) of the Local Government Official Information and Meetings Act 1987, the Gore District Council <u>HEREBY RESOLVES</u> to address the following which requires urgent attention.

## Subject

Petition to pause the proposed District Plan.

## Reason for not being on agenda

Information unavailable at time of agenda being published.

## Reason for urgency

To enable the Council to consider the petition and determine a number of issues that it would need to take into consideration before it considers a decision to pause the District Plan.

## Petition to pause the proposed District Plan

Report to: Council

Meeting date: Tuesday, 17 December 2024

Author: Debbie Lascelles

Author title: Chief Executive

Report date: Monday, 16 December 2024

Confidentiality: Public

## Purpose

- 1. To inform the Council about a petition received to pause the proposed District Plan.
- 2. To recommend to the Council that this matter is considered more fully at the first Council meeting in 2025.

## Recommendation

- 3. That the Council:
  - a) receives and notes Petition to pause the proposed District Plan
  - b) requests the Chief Executive to prepare an options report for Council to consider this issue at the 18 February 2025 Council meeting.

## **Executive Summary**

- 4. The district plan is a critical document for local government because it enables the right development in the right places, while also protecting the District's environment and natural features for future generations.
- 5. Considerable time, effort and financial resources have gone into the review of the District Plan.
- 6. In addition, there have been multiple touch points with the community to seek feedback and hearings are still underway to consider these matters fully.
- 7. We believe the matters raised by the public request are highly significant and require more time to seek advice and ensure that the Council makes a fully informed decision that complies with its legal and ethical obligations.

#### Context

- 8. The district plan is a community's rulebook, ensuring the environment and the things people value are protected while still enabling growth and prosperity. The rules of a district plan set out what activities people can do as of right (permitted activities) and what activities need resource consent.
- 9. The District Plan needs to "give effect" to a range of national direction and the Southland Regional Policy Statement along with "having particular regard" to advice from iwi authorities.
- 10. The current District Plan was made operative in 2006 and is overdue for review.
- 11. The District Plan review commenced in June 2020 and has been supervised by the District Plan Sub-committee.
- 12. A draft of the proposed District plan (pDP) was released for public feedback during August and September 2022. Feedback was received from over 100 people and organisations during this period.
- 13. Additional technical work was commissioned and undertaken to respond to matters raised in the feedback.
- 14. The pDP was approved for public notification by the Council on 25 July 2023 and notified in August.
- 15. At the 11 July 2023 Council meeting, the Council resolved that:
  - A panel of Cr Hovell, Cr Dickson and at least three Independent Commissioners be created for hearing submissions and making decisions on submissions for the Proposed District Plan.
- 16. We received 130 submissions during the formal consultation period covering 5542 submission points. They covered all aspects of the Proposed District Plan.
- 17. A summary of all the submissions received on the pDP was released to the public and available for further submissions with consultation held between 14 February and 28 February 2024. 1454 further submission points from 26 further submitters were received over this time.
- 18. Hearings to consider the issues raised in submissions began in June 2024 and are scheduled to continue until April 2025.
- 19. The Proposed District Plan has been designed to:
  - Reflect changes to land use that have happened since the Operative District Plan (ODP)
    was made operative in 2006 to avoid unnecessary resource consents;
  - Enable, manage, and avoid the right types of activities in the right locations;

Align with current national direction.

## **Discussion**

- 20. There are a number of issues that the Council would need to take into consideration before it considers a decision to pause the District Plan.
- 21. Due to the late receipt of the request, staff have not had time to fully analyse the legal issues or consequences required for Councillors to make an informed decision on this issue.
- 22. Urgent legal advice was sought from Anderson Lloyd (attached) who represent the Council on District Plan and other matters to determine what the Council could decide at this meeting.
- 23. Requests to delay, pause or alter the hearings timetable for the pDP by submitters should be (and have been) considered by the Hearing Panel who currently have the delegation to make decisions on all submissions about the District Plan. It is the view of Anderson Lloyd that the decisions of the Hearing Panel made under delegated authority are binding on the Council.
- 24. To revoke or suspend the delegations of the Hearing Panel in order to make a decision on this issue can only be done if the usual checks and balances for decision making by the Council are in place and due to the late receipt of this item, they are not.
- 25. Other issues which will need to be considered more broadly in February are that:
- 26. The Council currently has a statutory requirement to deliver decisions by August 2025. It is unclear whether the Council could delay proceedings past this date without special permission of the Minister. Specialist legal advice is required to ascertain this.
- 27. A delay has been sought by some submitters, but there are a number of other submitters and their advisors who would be significantly impacted by delaying the process. Specialist legal advice is required to determine what the Council's obligations are in this regard and whether a decision of this significance would trigger a requirement to consult with the wider community on this issue.
- 28. There will be financial impacts for more than just the Council if the process is paused. A large group of people are currently mobilised around the current hearings process. Pausing the process will be at a cost to the Council and submitters, some of whom have their own advisors, consultants and lawyers. We need more time to understand in detail what the Council's costs would be, but are likely to be at least 500K.
- 29. We also need time to explore the economic impact on growth by delaying areas signified for residential and business expansion.
- 30. The options that are legally available to Councillors to pause the current process and/or make changes to the District Plan after the hearings process is complete, including the financial impacts of these options need to be fully explored and presented back to the Council to ensure that an informed decision is made.

## **Risks**

31. Risks associated with each option will be presented as part of the report to the Council in February.

# **Significance & Engagement Policy**

## **Significance**

32. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report is low, however, if a decision is made in February to pause the District Plan, this may be considered a significant decision and advice will be provided at this time on how this should be managed with the public.

## **Attachments**

Letters of petition

Letter from legal counsel Michael Garbett, Anderson Lloyd



Debbie Lascelles Gore District Council PO Box 8 Gore 9740

By email: dlascelles@goredc.govt.nz

Level 12 Otago House 477 Moray Place Dunedin 9016

Private Bag 1959 Dunedin 9054 New Zealand

al.nz

#### Dear Debbie

## Proposed District Plan and Request to "Pause"

- 1 We refer to your email dated 16 December 2024 where you have sought urgent legal advice on the legal ability to "pause" the processing of the district plan.
- In particular, you have asked can Elected Members legally make a decision to pause the district plan, given that the Hearing Commissioners already decided not to?

#### **Advice**

- It is important on procedural matters to be clear what exactly is being proposed for Council to decide on. "Pausing" the district plan processing is not a particular statutory decision for Council given that a Hearing Panel has been delegated the role of considering and making decisions on all submissions on the district plan on Council's behalf.
- We interpret this request as essentially needing to revoke or suspend the delegations of the Hearing Panel (under standing order 24.1). This is because a previous resolution of Council has delegated the authority to consider submissions on the district plan to the Hearing Panel. Decisions made by the Hearing Panel are currently binding on Council (see standing order 6.5).
- To effect this "pause" Council would also presumably need to provide a special direction to the Hearing Panel before that revocation or suspension takes effect, to require the Hearing Panel to re-consider suspending procedural directions made for submitters to provide evidence and setting the hearing timetable (under standing order 6.6 that requires Committees to carry out special directions from the Council).
- 6 It is our legal advice that the Elected Members of Council could only lawfully consider the above decisions if the usual procedural checks and balances for decision-making by Council are in place. This cannot occur legally as an "urgent late item of business" with one day's notice. The necessary procedural aspects include a paper that considers:
  - (a) A notice of motion from an Elected Member under Clause 24.1 of the Standing Orders to revoke a previous resolution of Council (being to delegate all decision making to the Hearing Panel).
  - (b) This triggers the need to properly analyse the proposed decision under the normal decision-making framework in sections 77 82 of the Local Government Act 2002 (LGA 2002). This includes analysing the advantages and disadvantages of such a decision in a paper from staff that properly addresses these issues.

- (c) Considering the significance of the issue and deciding the extent to which those with an interest in the decision should be consulted. We note that procedural directions of the Hearing Panel are normally made subject to the principles of natural justice where those with an interest in a particular direction ordinarily have the opportunity to have their views considered prior to the decision being made. Consideration should be given to whether submitters on the Plan should comment on such a proposal, and thought given by staff as to whether wider consultation should occur to gather any views of those in the development community or infrastructure providers who may be waiting on the more enabling parts of the plan to come into effect.
- (d) Council would need to be made aware of any legal consequences of their decision under the Resource Management Act 1991 (RMA). Some immediate issues that should be addressed in a paper would include:
  - the obligation to give effect to higher order documents in the current RMA hierarchy;
  - the obligation to issue decisions on the plan within two years of the plan being notified (or Ministerial permission given for more time under Clause 10A, First Schedule RMA); and
  - (iii) any clarity on possible changes to the RMA framework and timing signalled by the Government.
- 7 To be clear, we consider to make a decision of this significance with one days' notice, no notice of motion under the Standing Orders to revoke a previous decision of Council, no paper from staff analysing the advantages and disadvantages and no consideration of consultation, is facing a high risk of successful procedural challenge.
- Because of this we consider the most Council should do at its meeting on the 17<sup>th</sup> December is to direct staff to bring back a paper for Council to consider the issue, Council's options and the advantages and disadvantages of those options.

#### **Alternatives**

- You have asked as an alternative whether Council can resolve to make a recommendation to the Hearing Panel.
- We note that procedural directions have already been made by the Hearing Panel, having already been asked by Submitters to adjourn aspects of the hearings. Clause 6.5 of the Standing Orders provides that decisions made under delegated authority are binding on Council and they can not be "recinded or amended" by Council.
- While Council could "recommend" something to the Hearing Panel we consider such a recommendation to be inappropriate. Submitters who are part of the process may take issue with such a recommendation and ask the Hearing Panel to ignore it (or consider it depending on the Submitter's interest). This places the Hearing Panel in a difficult procedural position. Ultimately the Hearing Panel would need to consider that recommendation and decide what, if anything, it does with it, but it would not be bound by any such recommendation.
- 12 You also ask whether Council can suspend proceedings "pending legal advice".
- As set out above clarity is needed on what decision Council is being asked to make. The only effective decision is to revoke or suspend the delegation to the Hearing Panel because it currently has the lawful authority to manage the hearings of submissions on the Plan.



We do not consider it to be appropriate or valid in a procedural sense to revoke or suspend the Hearing Panel's delegations "pending legal advice". It is our legal advice that any such decision needs to be informed by a staff report that properly analyses the decision-making requirements in sections 77-82 LGA 2002, prior to the decision being made. That is an essential procedural check and balance on Council's decision-making prior to such decisions being made. Making a decision "subject to legal advice", does not achieve the statutory requirements and is not a valid approach in our view.

Yours faithfully Anderson Lloyd

**Michael Garbett** 

Partner

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m. fileti.



The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

#### Re: Proposed District Plan

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We ask you as the elected members representing our community:

We request that the Council include this as an urgent late item on your 17 Dec meeting agenda, and resolve to pause any further action under its proposed district plan for 9 months, thereafter review the duration of the pause based on the direction from Central Government RMA & NPS reforms.

Thank you

Signed by:

Signature

Name

Andrew Allan.

The Mayor, Councillors and CEO Gore District Council

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Andrew Collie

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Signed in counterparts. Hewitson Favous Ltd

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MARK A. PATERSON

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Ross RICHARDSOL

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Signature	BERT HIGHSTED Name

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Jon Hewitzon

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Thank you

Signed by:

Ross Maslemore.

Signed in counterparts.

Rw Harberone

The Mayor, Councillors and CEO Gore District Council

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Signed by:	
Maur	Richard Dore
Signature	Name
Signed in counterparts.	

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Thank you	
Signed by:	
_R A GrantSignature	Robert GrantName
Signed in counterparts.	

# **Bret Highsted**

From:

Robert Grant <br/>
<br/>bobg@yrless.nz>

Sent:

Friday, 13 December 2024 8:51 am

To:

**Bret Highsted** 

Subject:

RE: Letter of support to pause - Gore District Plan review - Urgent response please

**Attachments:** 

Gore DC Pause 11 December 2024.docx

You don't often get email from bobg@yrless.nz. Learn why this is important

Hi Bret

I am in support of you letter

Thanks Robert Grant

The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

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Maxine Moyles

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G H McTuloy	Name	Horace McAuley	
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Signature

Bryse Warrack, Mc Kenzie.

Signed in counterparts.

2

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Amanda Tulloch

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F DALON 90 11.

to Channing

Sarah Leurse Collie

Name

Emma Grace Hemitson.

Michael John Millard

Kothyn Rose Donston

Delocian Veronica Heulett.

Susan Jay Steming

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Soy	Bernard	May
Signature	Name	Trustee Hokonui Moonshine Museum Charatable Trust Director Gore Health Ltd

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Signed by:

James S. Weir Name 28 North Terrace Gore

Signed in counterparts.

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The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

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Andrew & Heather Triff
4 Preston Street
Core 9710

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35/hQ Signature	Banadelle Hurt.

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Bernadette Hunt

**Southland Province of Federated Farmers** 

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Angela M Osborne

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No doubt your consultants are advising you need to give effect to the Southland Regional Policy Statement. This Policy Statement is now very dated and may in fact be subject to review in response to the same Central Government direction.

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Seamus Sullivan Diamona Peak Station RD2 Gove. Slaven Sullin Signed by:

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We ask you as the elected members representing our community:

We request that the Council include this as an urgent late item on your 17 Dec meeting agenda, and resolve to pause any further action under its proposed district plan for 9 months, thereafter review the duration of the pause based on the direction from Central Government RMA & NPS reforms.

Thank you

Signed by:

and draw

Signature

16/12/24. Beverlay Anne Johnson

Name

The Mayor Councillors and EEG Good Datech Council Cany ta men Chastopher Luxan, Pan Lesaph Moaney, Hen Penny Simmenes & Hen Teda Midday

Dear Waver Bell, Councilors and Mis Lasaches

# Se: Proposed District Plan

We are aware that autorities have already recusting that the Euercii pause as sensidention of the Propesse Busins has, pending clarity and streeties here. Corani Cavarinent around the Reserve Management Autorities and effective Managements (RPS) such as indigenties. Boddwessey/Bigothean Manus Aroas.

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Thank yet:

Signed by.

B. ELDER

22 Desember 2024

The Mayor, Councillars and DED See Detrict Couper Capy to was Christopher Lucan, Han Jaseph Maaney. For Penny Simmerca & Han Tood McClar.

Dear Mayor Bet, Councilors and Ms Lasselks

# Re: Proposed District Plan

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Thank year

Sansdby.

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laural Uper

The Mayor Cuberillars and SEC

Gove District Council

Capy to mon Christopher Luxan, Non Jeseph Manney, Hon Penny Simmencs & Hon Took McCay

Dear Wayer Hel, Councilors and Ms Lasselles

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We request that the Council include this as an urgent late form on your 17 Dec menting agenda. and resolve to pause any turther action under its proposed district plan for 9 mostins, thereafter neview the duration of the pause based on the direction from Central Government RIMA & NPS reforms.

Thank you

supred by:

A. THOMSON

16 Dec 2024

The Mayor, Countillars and DEO

Soce Detrict Council

Cape to Hon Christopher Luzan, Manteseph Monnes, Hon Panny Simmergs & Mon Toda Mirchae

Dear Mayor Bell, Councillors and Mis Lasselbes

# Se: Proposed District Plan

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Thank yes

Bignes by.

Malachi hearlys

The Mayor, Countilles and CEO

Spee Berrick Council

Capy ta non Christopher busan, Hon Jeseph Moones, Hon Penny Simmorca & Hon Todd Michae

Dear Mayor Bet, Councilors and Ms tasselbe.

# Re: Proposed District Plan

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Plank yes

Tane Henderson

12 Desember 2014

The Mayor. Councillars and CEO

Sore Datrict Course

Capy to Han Christopher Lucan, Han Jeseph Monnes, Hen Penny Simmenus & Hon Tood MicCay

Dear Wayer Bell, Councillers and Mr Lasselles.

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Frank yeu

The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

#### Re: Proposed District Plan

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We ask you as the elected members representing our community:

We request that the Council include this as an urgent late item on your 17 Dec meeting agenda, and resolve to pause any further action under its proposed district plan for 9 months, thereafter review the duration of the pause based on the direction from Central Government RMA & NPS reforms.

Thank you

Signed by:

Nicola Jane Clark

Signature

## **Bret Highsted**

From:

lldick@xtra.co.nz

Sent:

Sunday, 15 December 2024 9:22 pm

To:

**Bret Highsted** 

**Subject:** 

letter and email

**Follow Up Flag:** 

Flag for follow up

Flag Status:

Flagged

You don't often get email from Ildick@xtra.co.nz. Learn why this is important

We support the proposed letter as written. We are ratepayers and wish that the Gore district Council put a hold on the plan changes until the National proposal for cutting red tape comes out and is adopted.

Leslie James Dick and Lynette Elizabeth Dick, directors of Moehau Farms Ltd.

PS We have already completed a resource consent to operate our land as a Dairy Farm! The cost and procedure of this requirement ES demanded was beyond belief ...... Over \$50,000 and 20 months worth of stress, stress, and more stress. We finally completed this in June 2024 and we understand the three waters requirements would be just as onerous if left in its present council plan.

PPS As we do not live in the area we are unable to sign as requested. Please use this email as a tool in your fight.

We request that the Council include this as an urgent late item on your 17 Dec meeting agenda, and resolve to pause any further action under its proposed district plan for 9 months, thereafter review the duration of the pause based on the direction from Central Government RMA & NPS reforms.

Thank you

Signed by:

GJCweekslock Signature

Gavin James Cruickshank Name

Signed in counterparts.

Hy conditions

Heather Janice Craickaled

The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

#### Re: Proposed District Plan

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Thank you	
Signed by:	
Act	PAUL HIGHSTED
Signature	Name

The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

#### Re: Proposed District Plan

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Thank you

Signed by:

Signature

Stephen Shurt
Name

Williams Stuart

# **Bret Highsted**

From:

Rory McCall <rory\_mccall@hotmail.co.nz>

Sent:

Saturday, 14 December 2024 5:38 pm

To:

**Bret Highsted** 

Subject:

**GDC** 

Follow Up Flag:

Flag for follow up

Flag Status:

Flagged

You don't often get email from rory\_mccall@hotmail.co.nz. Learn why this is important

11 December 2014

The Mayor, Councillors and EEO Gore District Council

Capy to Hon Christopher Loven, Hon Jesoph Monney, Hon Penny Simmerics & Hon Teed McCay

Dear Mayor Bell, Councillors and Ms Laszelles.

### Re: Proposed District Plan

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We ask you as the elected methods representing our community

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No doubli your conditions are advising you need to give effect to the Statement. This Policy Statement is now very dated and may so fact but the same Central Government direction.

We request that the Council include this as an urgent late item on yound resolve to pause any further action under its proposed district; review the duration of the pause based on the direction from Central reforms.

Thank you

Sened by.

R. MGG []

Ross

Signed in counterparts

Sent from my iPhone

The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

Re: Proposed District Plan

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Thank you	
Signed by:	
Signature	Name Thomas

The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

# Re: Proposed District Plan

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Thank you

Signed by:

Signature

JONATHAN E PIKE

Name

The Mayor, Councillors and CEO Gore District Council

Copy to Hon Christopher Luxon, Hon Joseph Mooney, Hon Penny Simmonds & Hon Todd McClay

Dear Mayor Bell, Councillors and Ms Lascelles

# Re: Proposed District Plan

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Thank you

Signed by:

Signature

Sharon G. PIKE

Name

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Signed by:	
mes	Millie Tremaine
Signature	Name
	Richard Tremaine
Signature	Name
Aven	Ava Tremaine
Signature	Name
NET	Nadine Tremaine
Signature	Name
8/4	Scarlett Tremaine
Signature	Name

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Signature	Name	
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Valum

Peter Allan Currie

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Signed by:	
DMHamilton	
Signature	Name Donna M Hamilton
Signed in counterparts.	

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Name

Neil Baird