

QLDC Council
1 March 2016

Report for Agenda Item: 1

Department: Planning & Development

Special Housing Areas Expression of Interest: Arrowtown Retirement Village

Purpose

The purpose of this report is to identify measures to be adopted by way of the Draft Deed of Agreement between the developer and Council (**Draft Deed**) designed to meet the Council's Housing Accords and Special Housing Areas Act 2013 Implementation Guidelines (**Lead Policy**) so that the Council can recommend to the Minister for Building and Housing (**Minister**) that the proposal for the Arrowtown Retirement Village (**Proposal**) be established as a Special Housing Area (**SHA**).

Public Excluded

It is recommended that Attachment A (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 the 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).

Executive Summary

1 At the 26 November meeting, the Council resolved:

"2. Support in principle recommending the proposed SHA to the Minister of Building and Housing, subject to further consideration following the execution of the requirements below;

3. Instruct the Acting General Manager Planning and Development to proceed with negotiation with the developer to ensure the proposal fulfils the criteria listed under points 5.2 to 5.2.9 of Council's SHA Lead Policy, including Appendix B;

4. Instruct the Chief Financial Officer, Chief Engineer and a suitably qualified independent professional to assess the proposed SHA's infrastructural requirements based on evidence of capacity, agreement as to any necessary upgrades, agreement as to funding and timing, and consistency with long term planning documents. This will be at the developer's cost;

5. Require the developer to gain confirmation from the Otago Regional Council that the proposal is supported in principle, subject to any ORC approvals that have been identified as being required; and

6. Require that once the above steps are completed, a report be brought back to Council identifying measures agreed to that meet the Housing Accords and Special Housing Areas Act 2013 [‘HASHA’] and Lead Policy requirements so that the Council can with confidence recommend the proposal to the Minister of Building and Housing.”

- 2 This report to Council sets out how those matters have been addressed since the meeting. It does not repeat the initial assessment relating to the Proposal. Nor does it repeat the assessment of the proposal against all of the statutory and other criteria as set out in the earlier report. The Council might wish to remind itself of the advantages and disadvantages of the Proposal, and the criteria to be considered, when considering whether or not to agree with the terms of the Draft Deed and resolve to enter into the Deed.
- 3 The Draft Deed has been negotiated and agreed by the developer in principle, subject to agreement by the Council. The Draft Deed contains commitments relating to infrastructure provision, affordability and community housing as conditions on which the proposed SHA will be recommended to the Minister. It provides a mechanism to avoid use of the dwellings to be developed as visitor accommodation. A copy of the Draft Deed is contained in **Attachment A** (*Public Excluded*). It is anticipated that the agreed copy of the Deed will be available prior to the meeting.

Recommendation

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 26 November 2015.
2. **Confirm** that the Council agrees in principle with the contents of the (Draft) Arrowtown Retirement Village SHA Deed (Infrastructure and Affordability) 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 Financial Officer and Chief Engineer.
3. **Recommend** to the Minister that the land to which the Arrowtown Retirement Village Proposal relates be established as an SHA, subject to:
 - a. execution of the Draft Deed and the performance of any conditions in it; and
 - b. an 11m height limit for qualifying developments.

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23/02/2016

Reviewed and Authorised by:



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23/02/2016

Background

- 4 This Proposal was supported in principle at the Council meeting on 26 November 2015, and is again presented to Council following the Council's resolution at that meeting to seek further information specifically relating to matters set out in 5.2 to 5.2.9 of Council's Lead Policy, infrastructure and obtaining confirmation from the Otago Regional Council (**ORC**) that the Proposal is supported in principle.
- 5 The Proposal comprises a retirement village development, consisting of the following mix:
 - 90-120 villa units;
 - 40-55 apartment units;
 - A 100 bed aged care facility offering rest home, hospital and dementia level care; and
 - Community facilities, gardens and landscaped areas for residents.
- 6 An 8m height limit currently applies within the Rural General Zone. The developer seeks some flexibility around height to enable gabled roof forms for two storey buildings, so they can be developed in keeping with the Arrowtown style. The developer seeks a 9m height limit for two storey buildings, other than for the care facility where it seeks a 10m height limit.
- 7 HASHA provides for a default SHA height limit of 27m unless otherwise specified. In the Agenda Report for the 26 November 2015 meeting, a 10m height restriction was recommended. It is now recommended that an 11m height limit apply to the Proposal. That is because, if the SHA status was conferred and a subsequent application for a qualifying development was received by Council that exceeded this height limit by even a minute amount, then Council would be obliged to reject the application as it would not be for a "Qualifying Development". An 11m height limit allows for some small leeway in that event and the developer would still need to provide evidence that the proposal does not result in significant visual effects.

Comment

Assessment process and resolutions of 26 November 2015

- 8 At the meeting the Council resolved to support in principle recommending the Proposal to the Minister subject to negotiation with the developer to ensure that matters set out in 5.2 to 5.2.9 of the Lead Policy, and infrastructure needs, will continue to be met once the SHA is established. Measures taken to address the resolution are detailed further below.

Infrastructure reviews

- 9 Resolution (4) of Agenda Item 1 required further assessment of infrastructure requirements by the Chief Financial Officer, Chief Engineer, and a suitably qualified independent professional. Accordingly, a peer review of Three Waters assessments has been undertaken by Holmes Consulting Group (Refer **Attachment B**). This report and the stated outcomes are endorsed by the Chief Financial Officer and Chief Engineer.

- 10 The report agrees with the recommendations given by Rationale, however they note that:

- There is potential to enter into agreement with the developer to upgrade the Norfolk Street sewage pump station to provide better resilience for the wider wastewater network, considering the significant extra load that would be placed on the system.
- The Arrowtown water scheme is also known to be approaching the total pump capacity of the existing bores, and upgrades are likely to be required in the near future.
- Neither of these upgrades are currently programmed in the Long Term Plan. Rationale recommends connection to the Arrowtown water scheme, via a 200 mm extension to the McDonnell Road main. However, this is subject to agreement on how to resolve storage shortfalls in the scheme.

- 11 The arrangements for any necessary upgrades (and funding responsibilities) are detailed within the Draft Deed. These include the developer agreeing to pay for the sole cost of the design, obtain all the necessary consents and the construction of the water supply, wastewater, transport and storm water systems. The following has been included in the Draft Deed:

- Water Supply - Rationale assessed two water supply options for the site. They recommend proceeding with Option 1, which includes connection to the Arrowtown Scheme, via a 200mm extension, however this is subject to resolving water storage shortfall in the scheme (Option 1);
- Stormwater – developer proposes to address this onsite;
- Wastewater – Rationale assessed 5 different options for the discharge of wastewater from the site. They have recommended proceeding with Option 5. This includes a rising main injecting 300 mm main on Arrowtown

– Lake Hayes Road at the junction with Hogans Gully Road. Conveying wastewater to the Arrowtown – Lake Hayes Road (Bendemeer) pump station via a 300 mm diameter main. This avoids using spare capacity within the Arrowtown network and the Norfolk Street Pump Station.

Agency responses from the ORC

- 12 Resolution 5 of Agenda Item 1 required the developer to gain confirmation from the ORC that the Proposal is supported in principle, subject to any necessary approvals that may be required.
- 13 Correspondence from ORC is included in **Attachment C**.
- 14 ORC has advised that it is not its statutory function to provide 'support' for development proposals, rather its role is to provide feedback and the sharing of information or concerns it holds for consideration by the Council in decision making. The responses from ORC are therefore provided in this context.
- 15 ORC has advised that with the main services proposed to be reticulated and with a contaminated site investigation being undertaken, it does not raise any issues or concern at this time based on the information provided by the developer.
- 16 ORC has advised that it would need to reassess this issue again should a formal application be lodged with the Council.
- 17 In respect of natural hazards, the ORC's natural hazard database did not identify any natural hazards in the general area of the site, with the exception of some possible risk of liquefaction. This risk is common throughout the Wakatipu Basin and the ORC have advised that this would likely to be addressed under the building process. It would also be an expectation that this is addressed as part of the resource consent application.

Council's Lead Policy – visitor accommodation, community housing and affordability

- 18 Proposed methods to address section 5.2.5 of the Lead Policy are outlined within the Proposal, and further detailed within the terms of the Draft Deed.
- 19 The Draft Deed restricts the proposed SHA being used for short term rental/visitor accommodation, as identified by section 5.2.5(f) of the Lead Policy. This is to be achieved via the following:
 - Registering a restrictive covenant against the Arrowtown Retirement Village Land; or
 - If the land is subdivided by way of a consent notice; or
 - Any other means considered acceptable to the Council, in its sole discretion.
- 20 The Draft Deed specifies a requirement for an agreement to be reached between the developer and the Queenstown Lakes Community Housing Trust (**QLCHT**) (to the satisfaction of Council) prior to the Proposal being recommended to the

Minister. The developer has reached an agreement with the QLCHT and will be providing a financial contribution towards community housing.

21 At least 20% of the villas and apartments will be set at affordable price points relative to the local real estate market. The range of housing typologies and sizes will help to deliver a product to the affordable end of the market. The 100 bed aged care facility will also provide residential care to the elderly. It is acknowledged that the care facility will provide a significant community benefit to the elderly and their families.

Retirement Villages

22 The developer has provided the Council with further information regarding retirement villages, which is summarised below.

23 Retirement villages are governed by the Retirement Villages Act 2003. Section 10 of the Retirement Villages Act outlines that every retirement village must be registered with the Registrar of Retirement Villages (managed by the Companies Office). One of the key aspects of registration of a retirement village is the appointment of a statutory supervisor and the entering of a memorial against the certificate of title of the retirement village land.

24 The role of the statutory supervisor is to protect the rights of the residents of a retirement village. A memorial against the title of the retirement village ensures the statutory supervisor has the power to protect those residents' rights. The memorial ranks ahead of any other security interests registered against the title. Any bank providing funding for the development of a retirement village registers a mortgage against the title but this mortgage ranks behind the statutory supervisor's memorial.

25 The effect of the memorial against the title and the deed entered into with the statutory supervisor is that once a retirement village has started development and units have been sold, it can be nothing other than a retirement village. The Retirement Villages Act provides that if a retirement village is to be sold (even by a receiver or liquidator) it can only be sold as a going concern retirement village.

26 The Proposal will be a registered retirement village with a statutory supervisor and a memorial registered against its title ensuring that it will remain a retirement village in perpetuity.

Deed of Agreement

27 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 26 November 2015 relating to infrastructure, affordability and Council's Lead Policy.

28 The Draft Deed has been agreed in principle by the developer. It is only the final wording that is being negotiated. The Draft Deed is structured such that it would be executed prior to recommendation of the SHA to the Minister. A copy of the Draft Deed will be available prior to the meeting.

29 If the Council is satisfied with the terms of the Draft Deed, the Council is requested to delegate to the General Manager, Planning and Development the authority to execute the Draft Deed on behalf of the Council, subject to any further minor changes necessary to give effect to the Draft Deed that are consistent with Council's Lead policy and identified infrastructural requirements.

Options

30 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 (**LGA 2002**):

31 Option 1: Agree with the terms of the Draft Deed and resolve to enter into the Deed.

Advantages:

- Ensures that the developer's commitments to provision of infrastructure, housing affordability, community housing and visitor accommodation are legally binding after the SHA is established.
- Provides certainty over conditions for recommendation to the Minister via the Draft Deed.
- Contributes to affordable housing in the Wakatipu Basin by securing the developer's commitment to an agreement with the QLCHT.

Disadvantages:

- Given the Council's support in principle for the Arrowtown Retirement Village Proposal, there are no significant disadvantages in entering the draft Deed.

32 Option 2: Not agree with the terms of the Draft Deed

Advantages:

- Given the Council's support in principle for the Arrowtown Retirement Village Proposal, there are no significant advantages in not entering the draft Deed.

Disadvantages:

- 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 that the District's acute housing supply and affordability issues will continue to grow, with resulting social and economic impacts.
- The Council would forgo the opportunity of providing a significant new housing option (retirement village, including the 100 bed aged care facility offering rest home, hospital and dementia level care) in the Wakatipu Basin, and the long and short term social and economic benefits offered by the Proposal.

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

34 If **Option 2** is adopted:

- a. further negotiation between the developer and Council will be required to secure any remaining HASHA 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

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

- **Importance:** the matter is of moderate importance to the District.
- **Community interest:** the matter is of some interest to the community.
- **Existing policy and strategy:** Although consistent with the Queenstown Housing Accord and Council's Lead Policy of the Housing Accord, in addition to the Strategic Direction of the Proposed District Plan, the SHA is in some instances inconsistent with District Plan rules (both operative and proposed).

Risk

36 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.

37 A key element of this risk is meeting the current and future development needs of the community. Whilst there is an element of environmental protection to this risk, the risk relates more to the economic and social consequences of not meeting development needs, which includes housing provision. The matter therefore can be considered to mitigate the risk of not meeting these needs. The subsequent resource consent assessment process under HASHA also provides the opportunity for further mitigation of risk.

Financial Implications

38 The developer will be responsible for infrastructure connections and the provision of appropriate infrastructure to support the development.

39 It is acknowledged that there will be some ongoing infrastructure maintenance costs, but these are likely to be minor.

Council Policies, Strategies and Bylaws

40 The following Council policies, strategies and bylaws were considered and has been addressed in the initial assessment of the Proposal:

- Lead Policy, which provides guidelines for the Council's assessment of SHAs;

- Operative District Plan, which regulates housing development and urban growth management.
- Proposed District Plan, which regulates housing development and urban growth management.
- Housing Our People in our Environment Strategy (**HOPE**), which is relevant as it seeks to address the housing affordability issue in the District.
- Economic Development Strategy, a key action of which is to “investigate all options for improving housing affordability in the District”.
- 2014/2015 Annual Plan, within which a number of Community Outcomes are relevant, as they relate to the economy, and the natural and built environment

Local Government Act 2002 Purpose Provisions

41 The recommended option:

- 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;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is generally consistent with the Council's plans and policies, noting however some inconsistency with the Operative and Proposed District Plans; 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.

Consultation: Community Views and Preferences

42 The persons who are affected by or interested in this matter are neighbours adjoining the Proposal sites, and more generally the surrounding community. It is considered that there is also likely to be some wider community interest in the proposal in Queenstown, given the notable lack of retirement housing options.

43 The developer has undertaken extensive and multi-pronged consultation with the community, and has garnered significant levels of support from residents and community associations and organisations.

44 In addition, Council has provided for a community feedback process on the Proposal, consistent with what was done with the other SHA proposals. This feedback was provided at the 26 November 2015 meeting and was made public, which helped inform Council's decision-making. Speakers also spoke in support of the proposal at the 26 November meeting, with no-one speaking in opposition.

Attachments

- A Draft Deed of Agreement – Arrowtown Retirement Village (*Public Excluded*)
- B Holmes Consulting Group Infrastructure Assessment
- C Agency Response (ORC)