

QLDC Council
26 May 2016

Report for Agenda Item: 2

Department: Planning & Development

Special Housing Area Expression of Interest: Queenstown Country Club

Purpose

- 1 The purpose of this report is to present the Queenstown Country Club Expression of Interest (**EOI**) for consideration for recommendation to the Minister for Building and Housing (**Minister**) as a Special Housing Area (**SHA**).

Public Excluded

- 2 It is recommended that Attachment C (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

That Council:

1. **Note** the assessment outlined in the report;
2. **Confirm** that the Council agrees in principle with the contents of the Draft Deed (Infrastructure and Affordability) (**Deed**) 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 which the Queenstown Country Club EOI 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.
4. **Recognise** the consequences and should this development proceed which is detailed in Paragraphs 90, 98, 99, 105, 106 & 119 of this report,

which includes setting a precedent for future urban development on this portion of Ladies Mile Highway.

5. **Instruct** Council officers to report back to Council on issues and options to master plan the urban development of the Ladies Mile area including a potential variation to the Proposed District Plan.

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12/05/2016

Reviewed and Authorised by:



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12/05/2016

Background

- 3 The purpose of the Housing Accord and Special Housing Areas Act (**HASHAA**) is:

The purpose of this Act is to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts, listed in Schedule 1, identified as having housing supply and affordability issues.

- 4 On 23 October 2014 the Council entered into a housing accord with the Government. The accord is "...intended to increase housing supply and improve housing affordability in the district by facilitating the development of quality housing that meets the needs of the growing population."
- 5 On 30 April 2015, the Council adopted an amended Lead Policy (titled: Housing Accords and Special Housing Areas Act 2013 Implementation Guidelines), to guide the Council's implementation of HASHAA.
- 6 The Council has completed an open process in which it sought EOIs from the public for the establishment of Special Housing Areas (**SHA**). Outside that process it has received EOIs from developers, some of which have been recommended as SHAs. It has also itself proposed an SHA along Gorge Road (known as the Business Mixed Use Zone (Gorge Road)).
- 7 The EOI for the proposed Queenstown Country Club SHA was submitted to Council on 12 April 2016. The proposal comprises of two tracts of land within the Wakatipu Basin. The northern site is located at 420 Frankton-Ladies Mile Highway (State Highway 6) and the southern tract of the site is located adjacent to Jones Avenue.
- 8 This SHA proposal has followed a slightly different process to the other SHA applications that have been received by the Council. This is because of the imminent expiry of sections 16 and 17 of HASHAA and the timeframe required by the Minister to accept the SHA.

- 9 If the SHA is established, the Developer will have to lodge its resource consent application prior to 16 September 2016 if the Council is to have jurisdiction to process it under HASHAA. As a result, the matters that have usually been processed *after* the Council has indicated an in-principle acceptance of the EOI have been front-loaded: Council staff have negotiated the draft Deed, various agencies have been consulted and the application has been placed on the Council website for community feedback/comments. The applicant is aware that this does not mean that their proposal has been approved by Council.
- 10 The total area of the site is approximately 52 hectares and is made up of multiple land holdings. The proposal site is indicated in Figure One below:



Figure One: Proposal site

- 11 The site is located in the following zones of both the Operative and Proposed District Plans:

Parts of Site	Operative District Plan (ODP)	Proposed District Plan (PDP)
Northern	Rural General Shotover Country Special Zone Visual Amenity Landscape	Rural Shotover Country Special Zone (area to be reinstated as currently not indicated on the maps) ¹ Rural Landscape Classification
Southern	Rural General Parts of the southern site are located in the Airport Outer Control Noise Boundary. Part of the southern site is located under the transmission line corridor. Partly located in Visual Amenity Landscape and Outstanding Natural Landscape	Rural Lower portion is located in the Queenstown Airport Outer Control Boundary. It is noted that Plan Change 35 indicates that a small portion of the southern site is located in the Outer Noise Boundary Control. No development is proposed in this area. Part of the site located under the transmission line corridor. Partly located in Rural Landscape Classification and Outstanding Natural Landscape

12 Both the sites are located adjacent to but outside of the boundary of the proposed Urban Growth Boundary (UGB) of the PDP.

13 In summary the proposal involves the construction of the following:

- 227 independent villas;
- 72 serviced apartments;
- 72 bed care facility: offering rest home, hospital and dementia care;
- Commercial node: ancillary services including a doctor, dentist, pharmacy and child care;
- Club house: offering a café, theatre, gymnasium, health spa, bowling green and croquet lawn;
- Internal roading, parking, footpaths, lawn and garden areas;
- Staff rental accommodation (approximately 7 blocks);
- Residential subdivision of approximately 0.3 to 1 hectares; and

¹ An inconsistency has been discovered between the ODP Planning Maps 30 and 31a and the PDP Planning Maps 30 and 31a, with the Shotover Country Special Zone being omitted from the eastern portion of the northern site on Map 31a of the ODP and Maps 30 and 31a of the PDP. This inconsistency is considered to be a minor error and Council is currently in the process of addressing these via Clauses 20A and 16 of the Resource Management Act. These seek to reinstate this area of Shotover Country Special Zone onto Planning Maps 31a of the ODP and 30 and 31a of the PDP.

- Comprehensively designed open spaces and landscape treatment, inclusive of large boundary setbacks, mitigation plantings, the establishment of a look out and the creation of trails that link with the existing trail network.

14 The proposed composition of the village is as follows:

Facility	North	South
Villas	153	74
Apartments	36	36
Rest-home Beds	72	
Staff Rental Accommodation Units	18	
Clubhouse (m ²)	300	
Community facilities (m ²)	2,000	
Private Sections		5-10

15 The Developer has also entered into discussions with the Queenstown Lakes Community Housing Trust (**QLCHT**). At the time of writing this report an agreement had not been reached. It is anticipated that the developer will provide further information regarding this matter prior to the Council meeting.

16 Access to the northern part of the village will be via a new access off Howards Drive, which is located approximately 150m south of the intersection of SH6 with Howards Drive. The southern access is proposed onto Jones Avenue about 60m west of Howards Drive.

17 Five to ten residential units are also proposed at the western end of the southern village with access provided via a new road leading to Onslow Road within Lakes Hayes Estate. It is proposed for these units to use the same road as the Onslow Road SHA, which is currently being considered as an SHA by the Minister of Building and Housing.

18 The EOI is of a high quality and comprises concept plans and images, with supporting assessment from a professionally qualified planner, landscape architect and engineers. The developer has also undertaken consultation and a summary of this consultation and feedback is provided at point 6.1 of the EOI. The EOI and its attachments form part of **Attachment A**. The appendices to the EOI are not included in the published version of this agenda but are available on the Council's website: <http://www.qldc.govt.nz/your-council/your-views/queenstown-country-club-special-housing-area/>

19 The developer has also provided the following additional information:

- 20% of the total number of residential units will be priced at 10-15% below the average Queenstown house price. The developer has advised that the residents are not means tested when purchasing a villa or apartment. Instead it is the market that will govern the availability of the more affordable options. The developer has advised that the higher income residents are generally in search of more expensive/higher spec homes with views, which leaves the more affordable accommodation options open to other residents;

- 72 one or two bedroomed apartments are proposed. The makeup of these will be highly dependent on market demand but is likely to be made up of 55 two bedroomed apartments and 17 single bedroomed apartments;
- A minimum of 18 staff rental accommodation units are proposed;
- The five to ten sections off Onslow Road could be potentially gifted to the QLCHT or could be sold separately. If the land is sold separately the developer will provide a financial contribution to the QLCHT;
- Similarly to the Arrowtown Retirement Village, the developer will offer an Occupation Right Agreement where it will provide residents of a certain minimum age specific services and facilities in full accordance with the Retirement Villages Act;
- The developer has provided additional letters of support and an updated list of people who have provided their written support. The overall total number of letters received being 240.

20 This information is contained in **Attachment B**.

21 Further information was also requested from the developer regarding the following:

- Vesting of the main road to Council as this could be potentially be an important connection with the rest of Ladies Mile: The developer's Traffic Engineer, Traffic Design Group, has advised that a through road would not be necessary in future as the village occupies the majority of the area that this linkage would connect. The developer has also advised that the concept of making a public thoroughfare for traffic through a retirement village is considered to be problematic. Roads have been purposefully reduced to ensure that vehicle circulation is at a slow pace to create a safe environment for the retirees.
- Potentially vesting of the rural paddocks and avenue of trees along Ladies Mile as a Council reserve: The developer is open to negotiating a mechanism to ensure this area remains free from development in perpetuity. However, they would prefer that it remains in private ownership. The developer has advised that they are open to considering rights of way to protect future trail linkages.
- The developer has made a commitment that at least 50% of the residents would be people who have resided in the Queenstown Lakes District Area.

Housing Accord targets and potential yield

22 The Housing Accord sets the following targets:

Total number of dwellings and sections consented			
	Year 1 October 2014 – September 2015	Year 2 October 2015 – September 2016	Year 3 October 2016 – September 2017
Targets	350	450	500
Actual	557	399 (at 30 April 2016)	

23 The Year 1 target has been met. However, this was not met through development following the establishment of SHAs. An analysis of the Year 2 targets show that 6 months into Year 2 the total number of dwellings and sections consented is 399 (or 88% of the Year 2 targets), which is just 51 short of the Year 2 target of 450. These figures show that Council is significantly ahead of schedule.

24 The surge in activity can be potentially attributed to several factors, but is primarily symptomatic of Queenstown's boom / bust property and development cycle. It is noted that the Bridesdale resource consent application that was approved on the 21 March 2016 contributed significantly to the Year 2 targets.

25 It is noted that the Minister of Building and Housing is seeking to amend these targets with the exact figures yet to be set.

26 In terms of the approved SHAs or the SHAs that have been agreed in principle by the Council the numbers are as follows:

- Bridesdale – 136 residential allotments and 1 commercial allotment (Decision issued 21 March 2016);
- Shotover Country – 95 residential units (Recommendation submitted to Minister)
- Arthurs Point – 70 residential units (Recommendation submitted to Minister);
- Onslow Road – 20 residential units (Recommendation submitted to Minister);
- Arrowtown Retirement Village – 90-120 villa units, 40-55 apartment units, and a 100 bed aged care facility offering rest home, hospital and dementia level care (Recommendation submitted to Minister).

27 These proposals would deliver a yield of approximately 496 units plus a 100 bed aged care facility, thus contributing significantly to the Council's obligations under the Housing Accord, especially directly relating to the specified housing targets.

28 The Council has also proposed a SHA in the Business Mixed Use Zone on Gorge Road that may lead to further applications for consent for qualifying developments in that zone. Approximately 100 to 150 apartments are anticipated from this development. This application has been submitted to the Minister of Building and Housing.

29 The potential yield from the proposed SHA being considered in this report would contribute up to 309 residential units (including villas, apartments and the ten residential units), 18 staff rental accommodation units and 72 aged care bed facilities. The proposal would contribute significantly to the Housing Accord targets. In this respect, the proposal, if accepted, is considered to be consistent with the purpose of the HASHAA, which is set out in paragraph 3 above.

Council's Lead Policy on Special Housing Areas

30 The developer has undertaken a review of the proposal against the Lead Policy. It should be noted that consideration of the Lead Policy is not a 'tick the box' exercise – whilst important the Lead Policy provides a *framework* of relevant considerations for the Council to assess proposed SHAs, and this still needs to be considered in the context of HASHAA's purpose of increasing housing supply.

31 The High Court in *Ayrburn Farm Developments Ltd v Queenstown Lakes District Council* [2016] NZHC 693 noted:

*"...although the purpose of HASHAA is to enhance housing affordability by increasing land supply, the Act simply does not roll out a blank canvas for development. Despite the general thrust of submissions advanced before me on behalf of Ayrburn, the HASHAA does not set up a regime in which every area of land that meets the listed criteria (i.e. infrastructure availability and evidence of demand) must be declared an SHA. Some land in any region simply would not be suitable or appropriate for establishment as an SHA."*²

32 The High Court concluded that clearly these matters are controlled in terms of the HASHAA through discretions held by both the Minister and the Council. Of particular note is that the High Court determined that:

"...the actual location of areas of land to be recommended (and to that extent what could be described as planning or RMA matters) were always appropriate considerations in any such recommendation".³

33 The proposal is considered to be generally consistent with the principles espoused in the Lead Policy, noting the proposed retirement village development has different characteristics to a typical residential development. An assessment of the criteria for recommending a SHA to Government is set out further below:

Location (Paragraph 5.2.1 of the Lead Policy)

34 Clause 9 of the Queenstown Lakes District Housing Accord states:

The Accord recognises that by working collaboratively the government and the Council can achieve better housing outcomes for the district. In particular, the Accord will facilitate development aligned with the Council's intended plan

² Paragraph 56: *Ayrburn Farm Developments Ltd v Queenstown Lakes District Council* [2016] NZHC 693

³ Paragraph 56: *Ayrburn Farm Developments Ltd v Queenstown Lakes District Council* [2016] NZHC 693

for residential development to be more affordable, medium density and closer to key centres and on good public transport routes.

35 The Lead Policy at clause 5.2 notes:

“It should be noted that criterion 5.2.1 Location is not a statutory consideration under the Act. However, in the interests of sound resource management planning practice, environmental and economic impact, and consistency with the draft Strategic Directions chapter of the District Plan review – location is considered to be a vitally important consideration for Council.”

36 The Lead Policy specifies that SHAs in existing urban areas will be viewed more favourably from a ‘location’ perspective. The Lead Policy also contemplates SHAs outside urban areas but only where they immediately adjoin an urban area (refer criterion 5.2.1). The primary reason for this is to more readily enable the extension of existing urban infrastructure and to provide for housing closer to services and amenities. Sites further removed from urban areas, although clearly less desirable according to the Lead Policy, are not precluded from consideration as SHAs. All SHA proposals recommended by the Council to date have been located within an existing urban area or adjacent to or contiguous with existing urban areas, with the exception of the Arrowtown Retirement Village proposal, which is situated approximately 750m from the southern edge of the Arrowtown UGB.

37 The Lead Policy is consistent with the strategic direction set out in the PDP. In particular, Goal 3.2.2 of the PDP specifies:

Ensure urban development occurs in a logical manner:

- *to promote a compact, well designed and integrated urban form;*
- *to manage the cost of Council infrastructure; and*
- *to protect the District’s rural landscapes from sporadic and sprawling development.*

38 The EOI immediately adjoins, and would join up, two existing urban areas being Lake Hayes Estate and Shotover Country. Therefore, it is consistent with the objectives contained in the Lead Policy of establishing further urban development within existing urban areas, or adjacent to urban areas. However, the proposal is inconsistent with the PDP in that the proposed SHA will encourage urban development outside of the proposed UGB and within an area that is zoned Rural.

39 It is noted that the PDP is still at a reasonably early stage of development, and that the developer and current landowners have submitted on the PDP seeking amendments. The developer has sought that the northern site be changed to an urban zone to allow for the construction and use of a retirement village and the urban growth boundary either be deleted or amended to include the site (Submission 404 of the District Plan Review).

40 It is noted that the developer did not make any submissions on the PDP for the southern site.

- 41 However, the current owners of the southern site have submitted on the PDP and have proposed for it to be rezoned from Rural to Low Density Residential and for the piece of land to be included in the UGB. The current owners of the northern site have proposed to re-zone their property from Rural General to Rural Lifestyle and for a 150m strip of land adjacent to the State Highway to be Highway Landscape Protection Area. They are proposing for this portion of the site to remain to be zoned Rural General (Submission 239 of the District Plan Review).
- 42 The property directly to the east of Howards Drive (Walker property – 516 Frankton-Ladies Mile Highway) has also proposed for their land to be rezoned from Rural to Rural Lifestyle (Submission 532 of the District Plan Review). Many of the property owners of land to the north of Frankton-Ladies Mile Highway have combined together to submit a joint submission requesting that the zoning of this land change from Rural to Rural Lifestyle and the ONL boundary be adjusted (Submission 535 of the District Plan Review).
- 43 One of the property owners of land to the west of Stalker Road has proposed for all this land to change from Rural to Large Lot Residential zoning (Submission 838 of the District Plan Review).

Adequate Infrastructure (Paragraph 5.2.2 of the Lead Policy)

- 44 Servicing reports have been prepared for the developer by Fluent Solutions. This report forms part of the EOI. They confirm the development can be serviced with existing and new services; however, some decisions around servicing and funding of that servicing would need to be addressed in the Draft Deed between Council and the developer. A copy of the Draft Deed is contained in **Attachment C**. As with all developments in SHAs, there will be an ongoing cost to Council in maintaining any vested services or reticulation constructed to service the development, but the Developer otherwise agrees to fund the planning and construction of necessary infrastructure.
- 45 Holmes Consulting Group has undertaken a Three Waters Review of the information submitted as part of the EOI. This report is contained in **Attachment D**.
- 46 Holmes Consulting agrees with the findings of Fluent Solutions in regards to water supply. However, it has suggested that a robust agreement be put in place between the developer and the Council to cover any incremental upgrades, which forms part of the Draft Deed. Fluent Solutions have noted that the water pressures required to service the land are not able to be achieved without booster pumping. Fluent Solutions note that an existing reservoir and booster pumping facility will become redundant as part of the planned Council upgrades that integrate the Lake Hayes Estate and Shotover Country supplies.
- 47 In terms of stormwater, Fluent Solutions have noted that the existing Lake Hayes Estate stormwater network is unlikely to have capacity for the stormwater runoff generated by the proposal. As a result, they have proposed a new storm water network, which would eventually discharge into the Kawarau River. Holmes Consulting has stated that the proposal avoids any impact to the council owned stormwater network. Holmes Consulting have noted that some works will be required to upgrade the existing drainage channel to the Kawarau River and any

costs associated with the upgrade of the channel are included within the Draft Deed. Holmes consulting concludes that the headworks contributions would adequately cover any costs associated with any upgrades to this portion of the network.

48 Fluent Solutions concludes that the wastewater networks have insufficient capacity to cope with the demand generated by the proposal. Holmes Consulting has noted that the waste water network is a standalone, relying on one falling main and treatment plant. The provision of this is at the developer's sole cost forms part of the Draft Deed.

49 A traffic assessment provided by the developer was prepared by Traffic Design Group (**TDG**). TDG have recommended the following to ensure that the network operates safely and efficiently:

- Right turning bay to be constructed in Howards Drive to ensure that it operates safely and efficiently;
- Advance warning signage for the new roads is to be installed on Jones Avenue to alert drivers to new roads; and
- Analysis of the SH6/Howards Drive intersection suggests that the intersection improvements will be required in the five to ten year time frame even without the development of the retirement village. TDG have concluded that the development of the retirement village will bring forward the need for these intersection improvements.

50 Overall, TDG conclude that the proposal can be supported from a transport perspective. The development cost of the necessary upgrades will be borne by the developer.

51 Geosolve have undertaken a preliminary geotechnical report which formed part of the EOI. Both of the sites are in an area designated as 'possibly susceptible' to liquefaction. No alluvial fan hazard has been identified at the site. Geotechnical investigations are recommended to confirm the actual risk and extent of the affected areas.

52 Overall, all of the infrastructure issues raised have been addressed within a Draft Deed securing the developer's commitment to covering these costs. This Draft Deed is contained in **Attachment C**. There is adequate infrastructure to service the development.

Demand For Qualifying Development (Paragraph 5.2.3 of the Lead Policy)

53 The EOI would help to address housing supply issues by providing for new housing supply for the elderly, which may help to free up existing housing in in the Wakatipu Basin that might otherwise have been retained for a longer period of time by some ageing residents. The developer proposes to commence development as soon as possible, which includes the development of the dementia care unit and staff rental accommodation in the early stages of the development.

54 The developer has made a commitment that at least 50% of residents will be from people who have resided in the Queenstown Lakes District Area. The

inclusion of a clause in the Draft Deed requiring this has been investigated. However, it has been determined that there are too many variables that need to be considered in the drafting of the wording and the monitoring of this requirement. In addition, no such requirement was required for the proposed Arrowtown Retirement Village SHA.

Housing Provision and Affordability (Paragraph 5.2.5 & 5.2.6 of the Lead Policy)

55 The EOI is targeting a specific housing need being homes and apartments for the elderly.

56 The developer has indicated that there is an acute need to provide this type of housing and in the next 10 years the population of 65 plus years in the Wakatipu Basin will increase by 50%. Within the next 25 years the over 65 year population will double. The developer has indicated that even when combined with the area of land that has been set aside as a retirement village in Shotover country and the proposed Arrowtown Retirement Village SHA will not address the shortage in retirement village beds in the Wakatipu Basin.

57 The EOI also includes a minimum of 18 staff rental accommodation units. These will be provided in two separate buildings, each consisting of nine ensuite units with a common lounge and kitchen facility. The location of the staff accommodation is shown in Figure Two below:



Figure Two: Positon of staff accommodation on the northern site

58 Five to ten residential allotments are also proposed. The developer is yet to provide confirmation to whether or not these will be made available to the QLCHT

or sold separately. The location of the five to ten residential units is shown in Figure Three below:



Figure Three: Location of five to ten residential units on southern site

- 59 The EOI seeks to address affordability by providing a range of dwelling types with the actual price points relative to the local market. Further information supplied by the developer has indicated that a minimum of 20% of the total number of units will be priced at levels that are 10 to 15% below the average Queenstown house price. This is a similar provision to that of the Arrowtown Retirement Village.
- 60 The range of housing typologies and sizes will help to deliver a product to the affordable end of the market. The 72 aged bed 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.
- 61 In addition to the above the proposal will include 72 one or two bedroom units, with the exact make up of these dependent on the market demands. However, it is anticipated that this is likely to comprise of 55 two bedroom apartments and 17 single bedroom apartments. The two bedroom apartments equate to approximately 24% of the villas and apartments (excluding the rest home beds). This is consistent with the requirements of the Lead Policy that requires at least 20% of dwellings to comprise of two bedroom dwellings.
- 62 The EOI suggests that the price point for villas is anticipated to begin at around \$575,000 –which is considered to be a ‘relatively affordable’ price point (i.e. below the median house price in the Wakatipu basin, which according to Quotable Value was \$657,000 for December 2015 to February 2016). The developer is also investigating discounting measures and alternative tenure

options (for example renting as opposed to a right to occupy). The proposal may also offer some wider housing benefits in terms of helping 'free up' housing at a quicker rate in the Wakatipu Basin.

63 The developer is committed to a community housing contribution, and has entered into discussions with the QLCHT. It is understood that an agreement is pending. It is noted that the draft Deed is expressed to be conditional on the Developer entering into an agreement with the QLCHT that requires the Council to be satisfied at its sole discretion that the executed agreement reasonably meets the community housing criteria of its Lead Policy. The draft Deed forms part of **Attachment C**.

64 The proposed SHA is not to be used for visitor accommodation purposes. Clauses have been added to the Draft Deed to restrict the proposed SHA being used for short term rental/visitor accommodation, as identified by section 5.2.5(f) of the Lead Policy.

Predominantly Residential, Building Height and Residential Quality (Paragraphs 5.2.6 to 5.2.9 of the Lead Policy)

65 The proposal is predominantly residential with the following ancillary activities proposed:

- Commercial node: ancillary services including a doctor, dentist, pharmacy and child care;
- Club house: offering a café, theatre, gymnasium, health spa, bowling green and croquet lawn;
- Internal roading, parking, footpaths, lawn and garden areas;
- Comprehensively designed open spaces and landscape treatment, inclusive of large boundary setbacks, mitigation plantings, the establishment of a look out and the creation of trails that link with the existing trail network.

66 The following building heights are proposed:

- Villas – All one storey;
- Commercial buildings – Two storey;
- Care facility – One to three storeys;
- Staff accommodation – One to two storeys;
- Commercial Buildings – Two storey;
- Proposed residential housing off Onslow Road – One to two storeys.

67 An 8m height limit currently applies within the Rural General Zone. For design reasons, the developer prefers that some flexibility is provided for height to enable two to three storey development height of the proposed care facility. As the legislation specifies a default SHA height limit of 27m unless otherwise specified, it is recommended that an 11m height limit and three storey limit apply to the proposed SHA. This would 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 height, then Council would have the ability to reject the application.

68 The design concept is well thought out and addresses the unique characteristics of the setting and the wider locality. As the development will not be speculative, with a long term commitment being inherent in the development and business model, there is stronger guarantee of good general upkeep and maintenance.

69 In terms of connections, Council's Reserves Department have noted that the trail network should be developed in conjunction with the Council and the Queenstown Trails Trust. They have noted that the proposal would benefit by looking at broader trail opportunities to benefit the Frankton flats as a whole, including providing an easier, more accessible alternative to the existing steep trail section along the Kawarau River, and providing safe, accessible trail connections to Lake Hayes and Lower Shotover. These trails should be developed to QLDC standards and seek to be agreed by Council to take over the management/maintenance through being developed in legal road or through new easements being created. This requirement has been included as a clause in the draft Deed.

Conclusion

70 In recommending the SHA to the Minister the Council has to be satisfied that the proposal is generally consistent with the principles espoused in the Lead Policy, noting that the proposed retirement village development has different characteristics to a typical residential development.

71 The proposal will target a specific housing need (housing for the elderly), it will provide a mixture of villas and apartments and at least 20% of these will be set at an affordable price point and it is proposed for at least 24% of the villa and apartments to be two bedrooled units. The proposal site is located adjacent to Lake Hayes Estate and Shotover Country, which are considered to be urban areas. The proposal will result in the development of a high quality residential development that will result in significant social benefits to the local community.

72 The proposal is considered to be generally consistent with the Lead Policy.

Agency Responses

Otago Regional Council (ORC)

73 Correspondence from ORC is included in **Attachment E**.

74 ORC has noted that there does not appear to be any identified natural hazard risks located on the proposed development. The ORC support the recommendations of the submitted Geotechnical report, particularly in relation to determining appropriate setbacks near the river terrace.

75 ORC seeks further information on the proposed storm water system and this would need to be discussed further with the consents staff at the Otago Regional Council. This could be addressed as part of the resource consent process.

76 ORC has advised that it would need to reassess the proposal again should a formal application be lodged with the Council.

Ministry of Education (MoE)

77 The MoE have advised that they expect minimal impact on the schooling network from the proposed retirement village complex. Correspondence from the MoE is included in **Attachment F**.

Kai Tahu ki Otago (KTKO) and Te Ao Marama Inc. (TAMI)

78 KTKO and TAMI have both not raised any concerns with the establishment of the proposed SHA. There are no recorded Maori archaeological sites within the SHA, however the area is known to be utilised by Maori in the past. Therefore, they have requested that any earthworks undertaken should be carried out in a way that allows monitoring for artefacts or archaeological material. This will be addressed as part of the resource consent process.

79 Correspondence from KTKO is contained in **Attachment G**.

New Zealand Transport Agency (NZTA)

80 NZTA has advised (**Attachment H**) that it has no plans to widen the western approach to Howards Drive to enable the extension of the right turn bay to accommodate the 95th percentile queue length in this location. The NZTA consider that it is appropriate for this work to be undertaken by the applicant as this intersection is unlikely to be able to accommodate the traffic that the proposal will generate. This requirement forms part of the Draft Deed.

81 The NZTA note that they continue to have some concerns regarding the longer term operational capability of the State Highway at this location, particularly given the growing volume of consented but unrealised residential development on the eastern side of the Shotover River. Noting that it may be difficult in the short to medium term to reprioritise investment funding to deliver on any required capital assets to respond to what is unanticipated and/or unintentional residential growth on the eastern side of the Shotover Delta.

Planning Considerations

82 When the Minister considers a recommendation from a local authority to establish a particular area as a SHA, the Minister is required to consider whether:

- a. adequate infrastructure to service qualifying developments in the proposed special housing area either exists or is likely to exist, having regard to relevant local planning documents, strategies, and policies, and any other relevant information; and
- b. there is evidence of demand to create qualifying developments in specific areas of the scheduled region or district; and
- c. there will be demand for residential housing in the proposed special housing area.

83 Other than (by extension) considering these matters, HASHAA provides no guidance by way of specified criteria on what other matters local authorities may

consider when deciding whether or not to make a recommendation to the Minister on potential SHAs. In particular, it does not indicate whether it is appropriate to consider 'planning issues', such as landscape, district plan provisions, and previous Environment Court decisions.

84 However, the High Court in *Ayrburn Farm Developments Ltd v Queenstown Lakes District Council* [2016] NZHC 693 confirmed that:

*"...the HASHAA gave both the Minister and a local authority a discretion and, clearly, the actual location of areas of land to be recommended (and to that extent what could be described as planning or RMA matters) were always appropriate considerations in any such recommendation"*⁴.

85 This decision confirmed the legal advice provided previously by Council's lawyers that planning considerations are relevant matters for Council to consider when deciding whether to recommend a potential SHA to the Minister. However, while these considerations are relevant, Council's decision-making should remain focussed on the purpose and requirements of HASHAA and how to best achieve the targets in the Housing Accord. While the weight to be afforded to any consideration – including the local planning context – is at the Council's discretion, HASHAA considerations are generally considered to carry more weight.

86 The purpose of HASHAA has been set out in paragraph 3 of this report.

87 To this effect, targets have been set in the Housing Accord that Council has agreed with the Minister to meet.

88 In theory, all or most proposed SHAs are likely to be contrary to an ODP / PDP provision – an EOI would not be made for a permitted or a controlled activity. Therefore, a logical approach is to consider which plan provisions may have greater significance and which may therefore need to be given greater consideration.

Urban Growth Boundary (UGB) and Landscape Matters

89 The proposed SHA is located outside but adjacent to the proposed UGB of the PDP. It is noted that Arrowtown is the only location in the District where an urban growth boundary is afforded statutory weight in the ODP. Currently the PDP has limited weight. However, urban development outside the UGB is not prohibited, but would require resource consent as a Discretionary Activity under the PDP. As noted earlier however, HASHAA's purpose is increasing housing supply, so an assessment that weighs up these competing matters is required.

90 The following are considered to be factors that should be taken into account:

- a. The purpose of HASHAA;
- b. UGBs have several purposes, not just protecting the 'edge' of urban areas. They also seek to ensure a distinction between urban and rural land uses,

⁴ Paragraph 56

whether near town edges or not, and seek to discourage urban development in the countryside. The proposed SHA is located adjacent to an existing urban area (Shotover Country and Lakes Hayes Estate), which is serviced by public transport. These urban developments are generally screened from the State Highway by existing topographical features and being located within a basin.

- c. It is noted that many of the proposed and approved SHA's are located outside of the proposed UGB of the PDP. These include; Bridesdale, Arrowtown Retirement Village, Onslow Road and parts of Arthurs Point and Shotover Country.
- d. Even though the proposed SHA is located adjacent to two large areas of residential development this portion of Ladies-Mile Highway (being east of the Shotover River) is considered to be an important visual corridor into Queenstown. This general area (with the exception of Threepwood) is largely free from residential development and retains its rural character, with open paddocks and trees lining the highway;
- e. The EOI has carefully considered the constraints of the site and has addressed these by the following:
 - i. Particular consideration has been given to the landscape treatment of the Ladies Mile frontage. The developer is proposing to plant additional avenue planting and has proposed significant setbacks from this road. A 3.3 hectare open space area is proposed that extends approximately 50 metres from the edge of the avenue of trees to the proposed orchard tree plantings. Small clusters of rural styled dwellings are proposed to be set within the orchard trees (which are approximately 75 metres from the State Highway), with the proposed internal east / west road being located approximately 120 metres from the highway. It is noted that the Rule 5.3.5.2ii of the ODP requires setbacks from SH6 between Lakes Hayes and Frankton to be 50m and this is maintained in the PDP (Rule 21.5.2) ;
 - ii. The trees along Ladies Mile will be protected, with all power lines being placed underground;
 - iii. A 20 metre boundary / buffer planting has been proposed along all other boundaries of the site; and
 - iv. On the southern portion of the site some dwellings are proposed to be located within an area that is considered to be Outstanding Natural Landscape ("ONL") within the PDP and ODP. The determination of the exact position of the ONL or whether or not it is acceptable to locate residential development within the ONL will need be assessed in detail as part of any resource consent application.
- f. The developer is committed to a comprehensive and well considered design response that seeks to respond sensitively to the built and landscape character of the area. The acceptability of the proposed setbacks and mitigation measures will be assessed in detail as part of the resource consent

application. Initial comments received from Council's Consultant Landscape Architect is that the proposal would remove the remaining rural character south of the highway between Howards Drive and the new Shotover Country roundabout at Stalker Road. The proposed mitigation maintains some openness and protects some views to the mountains, but is ineffective in maintaining the rural character or amenity of the site. The key consideration will be whether or not the proposed measures would mitigate the change in landscape character from rural to urban;

- g. Existing and proposed landscape features, combined with the proposed building types, locations and materials will reduce the visibility of development from Ladies Mile Highway. However, the approval of this development will inevitably change the rural character of the area and may set a precedent for further residential development along this portion of Ladies Mile Highway. Council's Consultant Landscape Architect has noted that the proposal would significantly reduce the legibility of the Ladies Mile flat landform and adversely affect its scenic and geological values. If the Council accepts these consequences then there are a range of options at its disposal to masterplan this portion of the Ladies Mile Highway to make sure that it is developed in an efficient manner.
 - h. The site can be adequately serviced from Lake Hayes Estate, Shotover Country and from the onsite services and upgrades proposed by the developer. The NZTA have not raised any concerns with the proposed access off Howards Drive and have requested that the proposed upgrades be funded by the developer.
 - i. However, the proposal will result in the extension of urban infrastructure to the Rural Zone. This is inefficient and expensive in terms of the overall network. It will also create a precedent, which would tend to lead to more demand for urban services in rural zones to the cost of ratepayers and potentially develop inefficiencies in the existing and proposed network.
- 91 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 UGBs, character / amenity and landscape issues) are a relevant and explicit consideration at the resource consent application stage as second, third and fourth tier considerations under HASHAA.

Retirement Village

- 92 The developer has provided the Council with further information regarding retirement villages. Retirement villages are governed by the Retirement Villages Act 2003 (**RVA**).
- 93 The retirement village owner retains long-term ownership of all land and buildings and sells "Occupation Right Agreements" to incoming residents where it will provide residents of a certain minimum age specific services and facilities in full accordance with the Act. Similar to the Arrowtown Retirement Village, a clause is included in the Draft Deed requiring the SHA to operate as a retirement village (with the exception of the five to ten houses along Onslow Road).

94 In summary the RVA, its regulations and the Code of Practice, protect the interests of residents and intending residents of retirement villages, and define the obligations of retirement village operators. The Act makes provision for: Registration of retirement villages; Occupation right agreements between operators and residents; The Code of Residents' Rights; A complaints facility; A disputes resolution process; and a code of practice. The Act also defines the role of the: Retirement Commissioner; Statutory Supervisors; and Registrar of Retirement Villages.

95 It is acknowledged that the developer has extensive experience developing and delivering retirement villages, having developed seven retirement villages and care facilities to date.

Comment

96 At this stage in the process, the Council's decision making role is focused on whether it recommends the site to be considered by the Minister as a SHA under HASHAA.

97 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**):

Options

Option 1: Recommend the proposed Special Housing Area to the Minister

98 Advantages:

- Helps contribute to achieving the purpose of the HASHAA, advancing the principles and priority actions in the Housing Accord, and in particular helps the Council achieve the housing targets in the Housing Accord by enabling new housing aimed at the elderly to be constructed, which may also enable existing housing supply in in Queenstown area in general to be freed up.
- Generates a number of social and economic benefits (both short term and long term) such as the creation of jobs during the construction phase, during the operation of the retirement village and long term benefits relating to the provision of houses for the elderly;
- Provides the platform for a different housing option in the Wakatipu Basin, namely accommodation for the elderly, the supply of staff accommodation and the supply of five to ten residential allotments. Noting that retirement village living options are at present very limited, and the population is ageing;
- Contributes to community housing in the Wakatipu Basin via a condition for an agreement with the QLCHT to be entered into.

99 Disadvantages:

- The proposal would set a precedent for urban development along Ladies Mile Highway, which is considered to be an important landscape corridor into the

Wakatipu Basin. The site is not unique or distinguishable from many other sites that are located along this corridor and the granting of this SHA could lead to a precedent of further residential development in this area.

- The proposal is considered to be inconsistent with the ODP and PDP, due to its location outside the UGB, which is zoned Rural General and Shotover Country Special Zone and Rural where the scale and density of development is not anticipated.

Option 2: Not recommend the proposed Special Housing Area to the Minister

100 Advantages:

- Would help preserve District Plan integrity by avoiding development that is inconsistent with the ODP and PDP.
- Would avoid an urban development on Ladies Mile Highway.
- Would avoid creating a precedent for urban development on a site that is not unique or distinguishable from many other sites along the Frankton-Ladies Mile Highway.

101 Disadvantages:

- Would forgo the opportunity of providing a housing option (accommodation for the elderly) in the Wakatipu Basin and adversely impact on the Council's ability to meet its commitments under the Housing Accord.
- Would forgo the short and long term social, and economic benefits offered by the proposal (outlined above).

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

Significance and Engagement

103 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
- **Community interest:** the matter is of considerable interest to the community
- **Existing policy and strategy:** Although consistent with the Queenstown Housing Accord, the SHA is inconsistent with aspects of the Council's Lead Policy, the ODP and PDP.

Risk

104 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.

105 A key element of this risk is meeting the current and future development needs of the community and providing for development that is consistent with the strategic direction of Council's Policies and Strategies. There is some social risk relating to the economic and social consequences of not meeting development needs, which includes housing provision. However, one of the key risks is proceeding with a development that will set a precedent for the future redevelopment of this portion of Ladies Mile Highway. This land is currently zoned Rural / Shotover Country Special Zone. Various landowners and the developer have submitted on the PDP to intensify this portion of Ladies Mile Highway to allow for the development of the retirement village on the norther portion of the site and change the zoning to Rural Residential / Rural Lifestyle or Low Density Residential. This level of development is inconsistent with the provisions of the ODP and the PDP.

106 If Council is prepared to accept the consequences of setting a precedent for residential development along this portion of Ladies Mile there are a range of options at its disposal to masterplan this portion of the Ladies Mile Highway to make sure that is developed in an efficient manner

107 In this instance it is considered the social and economic benefits towards the provision of housing and land packages for the elderly are met. The subsequent resource consent assessment process under the HASHAA also provides the opportunity for further mitigation risk.

Council Policies, Strategies and Bylaws

108 The following Council policies, strategies and bylaws were considered:

- Lead Policy, which provides guidance for Council's assessment of SHAs.
- ODP, which regulates housing development and urban growth management.
- PDP, which sets out proposed changes to the ODP.
- Housing Our People in our Environment Strategy, 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 & Proposed 2016/2017 Annual Plan, within which a number of Community Outcomes that are relevant as they relate to the economy, and the natural and built environment.

109 As discussed above, the proposal is inconsistent with the ODP and PDP in that it would result in the urban development of an important gateway rural site, which would set a precedent for increased residential development.

Local Government Act 2002 Purpose Provisions

- 110 The recommended option is inconsistent with the Council's plans and policies and will not help maintain the integrity of the ODP and PDP. If accepted, it may be wise to consider amending the PDP provisions relating to the UBG.
- 111 Section 14 of the LGA 2002 is relevant to Council's decision making on this matter. In particular, subsections (c) and (h):
- (c) when making a decision, a local authority should take account of—
 - (i) the diversity of the community, and the community's interests, within its district or region; and
 - (ii) the interests of future as well as current communities; and
 - (iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):
 - (h) in taking a sustainable development approach, a local authority should take into account—
 - (i) the social, economic, and cultural interests of people and communities; and
 - (ii) the need to maintain and enhance the quality of the environment; and
 - (iii) the reasonably foreseeable needs of future generations
- 112 These statutory provisions take a strong intergenerational approach to decision making, and also place significant emphasis on social, economic and community factors, as well as environmental ones.

Consultation: Community Views and Preferences

- 113 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. In addition, should the SHA be established, the consent authority may request the written approval of adjoining land owners if they are deemed to be affected and may undertake a limited notification resource consent process.
- 114 The persons who are affected by or interested in this matter are neighbours adjoining the proposed SHA site, and more generally the wider Wakatipu Basin community. There is also likely to be some wider community interest in the EOI in Queenstown, given the notable lack of retirement housing options and the gateway location of the EOI.
- 115 The developer has undertaken consultation with the community which is detailed at point 6.1 of the EOI. The developer has also provided an updated list of people who have provided their written support, making the overall total to be 240 persons. This must be considered with some caution as some of the consultation could be considered to be more in the form of marketing with a 'register your interest' type approach.

116 In addition, the Council has also provided for community feedback process on the EOI, consistent with how other SHAs were considered. The process calls for feedback to Councillors and closes on 20 May 2016. Feedback will be collated and provided to Councillors and made public prior to the Council meeting on 26 May 2016.

Legal Considerations and Statutory Responsibilities

117 HASHAA is the relevant statute with its purpose detailed in paragraph 3 of this report.

118 As stated previously, 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 the recent 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.

119 The Council will need to consider the consistency of any decision to recommend this SHA to the Minister and its decision in July to notify the PDP which maintains the sites as Rural/Shotover Country Special Zone. The Proposal site is located outside the proposed UGB, but is immediately contiguous to an existing urban area being both Lake Hayes Estate and Shotover Country. The proposal is considered to be generally consistent with the Lead Policy, Housing Accord and the purpose of the HASHAA. Allowing development on the top of Frankton-Ladies Mile Highway would inevitably change the characteristics of this area and is likely to set a precedent for residential development within this area. This is one of the key issues that Council needs to consider in recommending the proposal to the Minister and is a finely balanced recommendation.

120 In this instance the provision of houses for the elderly outweighs the adverse effects of proceeding with a development that may completely change the character of the area. There is an opportunity for the Council to masterplan the future growth of this area so that it happens in a managed and sustainable way rather than adhoc developments by individual landowners.

121 The proposal would help achieve the purpose of HASHAA. On balance, the recommendation is that the Council recommend the establishment of the SHA to the Minister of Housing.

Attachments

- A Special Housing Area Expression of Interest (excluding appendices)
- B Further Information Submitted by Applicant
- C Draft Deed of Agreement – Queenstown Country Club (*Public Excluded*)
- D Peer review of Three Waters Assessment, prepared by Holmes Consulting Group
- E Agency Response – Otago Regional Council
- F Agency Response – Ministry of Education
- G Agency Response – Kai Tahu ki Otago
- H Agency Response – New Zealand Transport Agency