

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan Variation 1

Report 9B

Report and Recommendations of Independent Commissioners Regarding
Arrowtown Design Guidelines 2016

Commissioners

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CONTENTS

1. PRELIMINARY	2
1.1. Terminology in this Report	2
1.2. Topic Considered	2
1.3. Hearing Arrangements	4
1.4. Procedural Steps and Issues	5
2. COMMENTARY ON SUBMISSIONS, EVIDENCE AND ISSUES RAISED.....	5
2.1. Scope of Variation 1 and Submissions	7
2.2. Background to Variation 1.....	8
3. VARIATION 1 OVERVIEW	9
3.1. Chapter 4	9
3.2. Chapter 7	10
3.3. Chapter 8	10
3.4. Chapter 10	10
3.5. Chapter14.....	11
4. 2016 GUIDELINES DOCUMENT	11
5. EVALUATION AND FINDINGS - SHOULD THE 2016 GUIDELINES APPLY TO ALL OF ARROWTOWN (IN THE CIRCUMSTANCES AS NOTIFIED IN VARIATION 1), OR ONLY ITS HISTORIC CORE?	12
5.1. Chapter 4	13
5.2. Chapter 7	14
5.3. Chapter 8	16
5.4. Chapter 10	19
5.5. Chapter 14	20
6. 2016 GUIDELINES DOCUMENT	23
7. OVERALL CONCLUSIONS AND RECOMMENDNATIONS	27
7.1. Chapters 4, 7, 8, 10 and 14	27
8. 2016 GUIDELINES DOCUMENT	27
9. SECTION 32AA ANALYSIS.....	28
10. OVERALL RECOMMENDATION	28

Appendix 1: Recommendations on Submissions

1. PRELIMINARY

1.1. Terminology in this Report

1.	Throughout this report, we use the following abbreviations:
2006 Guidelines	Arrowtown Design Guidelines 2006
2016 Guidelines	Arrowtown Design Guidelines 2016
Act	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017
Clause 16(2)	Clause 16(2) of the First Schedule to the Act
Council	Queenstown Lakes District Council
NZIA	NZIA Southern and Architecture + Women Southern
ODP	The Operative District Plan for the Queenstown Lakes District as at the date of this report
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
Proposed RPS	The Proposed Regional Policy Statement for the Otago Region Decisions Version dated 1 October 2016, unless otherwise stated
Reply version	the revised / changed version of the S.42A version of the relevant PDP chapter(s) recommended in the Council's reply at the conclusion of the hearing
RMA	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017
RPS	The Operative Regional Policy Statement for the Otago Region dated October 1998
S.42A version	the revised / changed version of the relevant PDP chapter(s) recommended in the Section 42A Report
Stream 6	The hearing stream that included submissions to PDP Chapters 7, 8, 9, 10 and 11
Stream 6A	The hearing stream that considered submissions to Variation 1
Variation 1	Variation 1 to the PDP as publicly notified on 20 July 2016

1.2. Topic Considered

2. The subject matter of Stream 6A was to introduce the 2016 Arrowtown Design Guidelines into the PDP, primarily by way of changing notified PDP references to the existing 2006 Guidelines

to the new 2016 Guidelines. Hearing Stream 6A was heard concurrently with Stream 6 (the residential zones, Chapters 7, 8, 9, 10 and 11 of the PDP). The Variation had two distinct components. The first was the introduction of text into the principal body of the PDP, through notified Chapters 4 (“Urban Development”), 7 (“Low Density Residential Zone”), 8 (“Medium Density Residential Zone”), 10 (“Arrowtown Residential Historic Management Zone”) and 14 (“Arrowtown Town Centre Zone”). The second was to add to the PDP the stand-alone 2016 Guidelines document. Although the document could be referred to in the singular i.e. ‘the design guideline document’, it was titled and referenced consistently by the Council as ‘the design guidelines’, referring to the multiple design suggestions contained within the document. For this reason, we emphasise that when discussing ‘guidelines’ plural, we are referring to the single guideline document.

3. The changes proposed by the Council to notified PDP Chapters 4, 7, 8, 10 and 14 are modest, consisting of the change of reference from the “Arrowtown Design Guidelines 2006” to the “Arrowtown Design Guidelines 2016”. In addition, was the re-wording of matters of discretion, that in the notified PDP referred to the 2006 Guidelines, to ensure that relevant resource consent applications take the 2016 Guidelines into account. This is of significance to us inasmuch as it significantly constrains the scope of Variation 1. Specifically, it was the notified PDP itself through Chapters 4, 7, 8, 10 and 14 that provided the forum to determine what activities and rules the Arrowtown Design Guidelines should apply to. Variation 1 sought only to then change those provisions so that reference changed from the 2006 Guidelines to the 2016 Guidelines, and to introduce the 2016 Guidelines document itself. We find that Variation 1 did not seek to introduce additional requirements or any change at all to the notified PDP rule triggers or what consent requirements and activities the guidelines, whether the 2006 or 2016 versions, should apply to. In other words, submissions to the PDP (Stream 6 for residential zones, which is most relevant to the Variation 1 submissions) were the forum to change activity rules, matters of discretion and assessment matters (as well as what land use zone should apply to any site or sites). Variation 1 is in our view limited to the extent of the content of the 2016 Guidelines itself, and the specific PDP text wording changes themselves that were proposed.

4. The 2016 Guidelines itself was, however, proposed as a substantial document (over 180 A4 pages). At its introduction in section 1.1, it states of itself:

“These guidelines have been developed to provide assistance to the community, landowners, developers, designers, planners, Council and decision makers where restoration, alteration, development or redevelopment is proposed within Arrowtown. The guidelines cover the whole of Arrowtown, with a focus on the well-recognized historic Town Centre and early residential area. They include recommendations for ‘new’ Arrowtown showing ways to achieve cohesiveness throughout the town.

The special qualities and historic character of Arrowtown are well recognized and valued by the community. The primary aim of these guidelines is to reinforce and provide more explicit ways to achieve the aims of the Community and Council’s District Plan. The guidelines address both private land and public land as the development and management of both plays a major role in contributing to the qualities of Arrowtown.”

5. Although the 2016 Guidelines are a stand-alone document intended to exist and be read outside of the principal body of the PDP, the proposal is that the 2016 Guidelines be part of the PDP. This would mean, for example, that any change to the 2016 Guidelines text would be required to be introduced through a Plan Change or Variation. In this respect, the 2016

Guidelines should be seen as a chapter of the PDP and this distinguishes the 2016 Guidelines from most other design guidelines used around the country (which tend to be non-statutory and can be changed or updated over time without a formal public process).

1.3. Hearing Arrangements

6. Stream 6A matters were heard on 7 November 2016 in Queenstown. The hearing combined all submissions relating to Chapters 4, 7, 8, 10 and 14 of the PDP and the 2016 Guidelines document itself.

7. The parties heard from on Stream 6A matters were:

Queenstown Lakes District Council

- Sarah Scott, legal counsel
- Nigel Bryce, planner and author of the Council's Section 42A Report for Variation 1.
- Richard Knott, design expert advising the Council.

Dame Elizabeth Hannan¹

Kerry Hapuku²

Arrowtown Planning Advisory Group³

- David Clarke

David Clarke⁴

Mark Kramer⁵

Ian Robertson⁶

Philip Blakely⁷

New Zealand Fire Service⁸

- Ainsley McLeod

8. Overall, 28 submissions were received on Variation 1, and no further submissions. The submissions canvassed a wide range of matters, including some that were beyond the scope of either Variation 1 (such as how planning should occur within the District⁹ or where different land use zones should start or stop¹⁰), or the RMA itself (such as discussing the Council's more general capital planning program including footpath upgrades or street lighting under the

¹ Submissions 2, 4 and 14.

² Submission 11

³ Submission 27

⁴ Submission 25

⁵ Submission 23

⁶ Submission 20

⁷ Submission 28

⁸ Submission 18

⁹ Such as submission 2 from Judith Hannan,

¹⁰ Such as submission 21 from Judy Stevenson

LGA¹¹). Some submitters sought that the 2016 Guidelines should become regulations and rules rather than a guideline¹². This last matter, although a common topic raised by many submitters, is in our view beyond the scope of what could have been reasonably anticipated based on the notified Variation 1 where it was clear that the 2016 Guidelines were only to be incorporated into the PDP as a guidance document that furthermore was to only apply in specific resource consent instances. Submitters were also split on the matter of whether the 2016 Guidelines should apply to the older historic 'core' of Arrowtown¹³, or the entire town¹⁴.

9. But significantly, all 28 submissions were fundamentally supportive of the 2016 Guidelines and that the PDP include requirements that the 2016 Guidelines be considered. While numerous submissions proposed amendment to the 2016 Guidelines text, no submissions were received explicitly addressing or proposing any alterations to the notified PDP text for either of Chapters 4, 7, 8, 10 or 14.

1.4. Procedural Steps and Issues

10. The hearing of Stream 6A proceeded on the basis of the general pre-hearing directions made in the memoranda summarised in the Introductory Report. We note that these directions were generally followed.
11. No expert evidence relating to Stream 6A was pre-lodged other than from Mr Bryce and Mr Knott on behalf of the Council, and Ms McLeod on behalf of the New Zealand Fire Service. Some of the written submissions contained substantial supporting material and text. Dame Elizabeth Hannan¹⁵ and Philip Blakely¹⁶ provided written material to us at the hearing.
12. We refer readers of this report to the Council website which has full written copies and electronic recordings of the hearings. All information presented to us, including the answers provided by attendees and expert witnesses to our questions, are available.

2. COMMENTARY ON SUBMISSIONS, EVIDENCE AND ISSUES RAISED

13. The Council's Section 42A Report, written by Mr Bryce, formed the basis for our approach to and consideration of the submissions as a whole. The Section 42A Report had an analysis and discussion of submissions and further submissions with reference to the additional conclusions of Mr Knott as required, recommended decisions, and of key note, a track-change version of the notified chapters with recommended text changes (these formed Appendix 1 to the Section 42A Report). The report also included section 32 and section 32AA analysis to support Mr Bryce's recommendations.
14. The information presented to us at the Hearing, and through the submissions, indicated a lack of clarity on the part of some submitters. In many instances, we were asked to address matters of strategic planning and policy rather than the purpose of the Variation. Many submitters were seeking clear decisions to be made on matters such as the distribution of land use zones, more general questions relating to how future growth should be accommodated, or the true

¹¹ Such as submission 20, from Ian Robertson, and parts of submission 27, from the Arrowtown Planning Advisory Group

¹² Such as submission 5, from Thomas Jenkins

¹³ Such as submission 24, from Ange Van Der Laan

¹⁴ Such as submission 6, from Pam Hulls, and submission 19, from Shaping our Future Incorporated, and submission 23, from Mark Kramer, and submission 25, from David Clarke

¹⁵ Submissions 2, 4 and 14

¹⁶ Submission 28

extent of the character-sensitive part of Arrowtown (its historic core or its current extent). None of those were matters that Variation 1 proposed to address and we have been unable to consider those requests. As noted above, we also find that we did not have the scope to consider whether or not the 2016 Guidelines should become rules with regulatory force rather than a guideline. Such a change would bring with it an extensive requirement for analysis and supporting Plan provisions (activity status, assessment matters, and so forth). No submitter proposed such, even if in the first instance we were to find that we did have scope to consider that outcome.

15. We also acknowledge that at the conclusion of the public hearing the Council provided a written right of reply. The reply did not materially change the position advanced at the public hearing, although Mr Bryce identified a number of recommended changes to the 2016 Guidelines (under Clause 16(2)) to address a number of matters that we raised with him at the hearing. We have referred to this as the 'Reply version' of the (Variation 1) PDP. An updated version of the 2016 Guidelines incorporating Mr Bryce's recommended updates was provided to us on 17 February 2017.
16. We note at the outset that we heard from, what was in the context of Variation 1 and its significance to Arrowtown, a small number of original submitters (28), an even smaller number of submitters at the Hearing (8). The overall tenor of the written submissions and the submitters that attended the hearings, was one of general acceptance or agreement with the PDP approach to Variation 1 and in particular the importance of the 2016 Guidelines to Arrowtown's future. Other than that for the New Zealand Fire Service¹⁷, there was no expert evidence presented on behalf of the submitters and as such limited reference to case law or other legal argument was put to us.
17. We made inquiries to the Council relating to how it saw the 2016 Guidelines operating in practice. As we understand the function of the proposed PDP text amendments, the 2016 Guidelines can be characterised administratively as:
 - a. Forming a stand-alone, de facto chapter of the PDP that would form part of the PDP by reference.
 - b. Being triggered by specified PDP rule contraventions (and any relevant discretionary or non-complying activity resource consent application), and therefore not being a compulsory requirement applicable to all development (i.e. permitted activities would not be subject to the 2016 Guidelines to any extent beyond what a landowner voluntarily undertook).
 - c. Being limited to use as a non-compulsory guideline to help the Council determine whether stated matters of discretion were being achieved (i.e. the content of the 2016 Guidelines are not rules, nor is it proposed that non-achievement of the 2016 Guidelines outcomes would be automatic grounds to refuse a consent application).
 - d. In most cases, reference to the 2016 Guidelines within the PDP text is that the document's content functions as a 'secondary' rather than 'primary' outcome (i.e. the PDP matter to be considered is usually expressed as "the character of Arrowtown" more generally, with the 2016 Guidelines in turn referred to so as a means to help evaluate that primary goal. For the most part, where it is relevant, the "achievement of the outcomes within the 2016 Guidelines" is not the actual test proposed by the Council).
18. As will become evident later in this report, we had reservations about the practical workability of the 2016 Guidelines based on the mismatch between its regulatory purpose and effect, and the notified wording that had been consistently used throughout it. Mr Bryce addressed these

¹⁷ Submission 18

concerns as part of the Council's reply and the 17 February 2017 update to the 2016 Guidelines. But overall, on the basis of the Variation 1 proposal and submissions received to it, our approach became one of largely editing and balancing the discrete issues raised by the individual submitters than of weighting a more fundamental issue of supporting or opposing the broad framework.

19. Our first principal finding is therefore that we accept and agree that the Plan should contain a stand-alone 2016 Guidelines document that should be referred to throughout the PDP as appropriate. We find that the Council's justification for this approach is well-grounded and enjoys a high level of community buy-in. This approach will most appropriately enable people and the Arrowtown community to provide for their social, economic and cultural wellbeing and for their health and safety. There is no case to support retention of the notified PDP 2006 Guidelines.
20. We find that the lack of concerted or consistent opposition to this fundamental framework for managing development in Arrowtown reflects a high degree of community acceptance with the Council's approach, although from our reading of the material it appears that many in the community would have preferred the 2016 Guidelines to enjoy far greater statutory significance than has been proposed (and that unfortunately some may incorrectly hold the view that it does).

2.1. Scope of Variation 1 and Submissions

21. We have generally considered how to address the question of scope for us to recommend changes to the provisions in response to the submissions. The demands of natural justice and accepted principles for determining scope require us to consider whether or not a reasonably informed person could anticipate the extent of changes that could result to the PDP provisions as a result of a submission or further submission. But we find that this would be too rigidly and inappropriately interpreted if it only allowed changes to provisions that were explicitly identified within a submission or further submission. We are also mindful that it would be unreasonable, and exclusionary in a manner that would not be consistent with the promotion of sustainable management, to expect each submitter to be able to articulate sophisticated resource management expertise as a pre-requisite to participation.
22. In the context of Variation 1, where all submitters are plainly informed of the opportunity for any and all aspects of the Variation's content to be revisited, we find that submissions that identify general but clear issues and/or outcomes sought but do not identify explicit provisions that should be changed or explicit changes to those provisions, have given us scope to make consequential or other changes to the notified provisions of the 2016 Guidelines on the basis of our analysis of the facts and evidence before us. However, this does have limits based on what a reasonable person reading the submission(s) in question might consider, and does not extend to a general editorial license for us to make changes as we saw fit.
23. We have applied this on a case by case basis and there are a number of instances where we have identified a lack of scope for us to make the changes we would have otherwise recommended. Of greatest note, we have found that the general wording used within the 2016 Guidelines was frequently cast as if the content had the force of a rule or requirement. The Council confirmed to us clearly that the 2016 Guideline is a guideline, offering (as a form of advocacy), principles, suggestions and priorities. It is not intended to be applied as a 'development code' where strict compliance is expected. To that end, we thank Mr Bryce for his consideration of what is a substantial document and recommendation as part of the

Council's reply that this be more appropriately constructed under Clause 16(2) of the Act. This forms the 17 February 2017 updated version of the 2016 Guidelines.

24. Variation 1 was, overall, a discrete variation with clearly confined scope. Its purpose was to make reference to the 2016 Guidelines as appropriate within the principal body of the PDP, as well as include the 2016 Guidelines within the PDP by reference. We consider that the following are beyond the scope of the Variation, and submissions seeking those outcomes should be rejected:
 - a. those submissions to Variation 1 seeking to broaden the application of Variation 1 beyond the circumstances (consent requirements) and zones notified by the Council within the PDP (i.e. either to remove all permitted activities and require resource consent for all development based on the 2016 Guidelines, or to somehow make permitted activities need to demonstrate a successful reflection of the 2016 Guidelines content); and
 - b. those submissions seeking changes to the PDP beyond Variation 1, including the zoning of land; and
 - c. those submissions seeking to 'upgrade' the regulatory force of the 2016 Guidelines from a guidance document to a regulatory code with rules that must be complied with; and
 - d. those submissions relating to matters beyond the RMA that we have no means of influencing under the District Plan (such as footpath upgrades, installation of or changes to street lighting, road speed limits, the general use of land within the public road reserve relating to kerb and channels or paving materials etc.).
25. However, we find that it is within the scope of Variation 1 to consider whether anything less than has been notified by the Council should be preferred (specifically, this is relevant to the submissions of Ange Van Der Laan¹⁸, and (in part) Philip Blakely¹⁹, who sought the 2016 Guidelines, or at least some parts of it, to apply only to the historic core of Arrowtown).
26. The written submissions made on Variation 1 varied substantially in terms of comprehensiveness, explicitness, and detail. Some submissions identified specific parts of the 2016 Guidelines of concern and proposed changes to those, including updates and corrections to maps or diagrams. Others addressed more generalised effect categories or principles either without direct reference to particular provisions, or without being limited to just the provisions identified as examples. As noted above, no submitter addressed the PDP text proposed for Chapters 4, 7, 8, 10 and 14 other than in the indirect context of general preferences that the 2016 Guidelines should either apply to all development, or only the historic town centre core.
27. We also acknowledge that some recommendations we have made would not relate to specific submissions, and would be made under Clause 16(2). These include most of the changes we recommend to the 2016 Guidelines.
28. Where we recommend a change that would qualify under either or both of the scope of submissions, or Clause 16(2) of the Act, we have identified each authority. This is on the basis of our finding that a notified Plan provision can be justified simultaneously for each of these reasons rather than only requiring or being allowed by either one.

2.2. Background to Variation 1

29. Arrowtown has a widely-celebrated historic heritage and built character. It has a proactive community, and this is evidenced through, most obviously, Variation 1 and its substantial 2016 Guidelines document. The non-statutory Arrowtown Planning Advisory Group (not a body of

¹⁸ Submission 24

¹⁹ Submission 28

professional planning experts or a formal appendage of the Council) is another example of the community taking steps to self-organise means to advance its interests.

30. In terms of the ODP, there is already a 2006 Guidelines document. The 2016 version is a part-update and part-broadening of that document. In the notified PDP, reference was made to the 2006 Guidelines in the context of Chapters 4, 7, 8, 10 and 14. These included activities and other instances where, as a matter of consent, the 2006 Guidelines would be a required consideration. On this basis, the PDP was the forum to determine where and to what extent the 2006 Guidelines should apply; Variation 1 was limited only to then changing those PDP references to the 2016 Guidelines.
31. We note that, in the context of residential development generally in the District, the Council advised us as part of the Stream 6 hearings that it intends to notify further Variations for additional design guidelines. Whether or not they will be similar to the 2016 Guidelines for Arrowtown remains to be seen. But in any event, the 2016 Guidelines appear to form the first of what is intended to be a number of design-based reference documents advocating for particular design outcomes.

3. VARIATION 1 OVERVIEW

32. Variation 1 proposes very modest changes to the notified PDP text. This is limited to, where the 2006 Guidelines were referred to, changing this reference to the 2016 Guidelines. No fundamentally “new” policies, rules, consent requirements or other methods were proposed. As noted above, this had a substantial impact on what scope we determined was available to consider many of the matters raised in the submissions.
33. Accompanying the PDP text changes was the 2016 Guidelines document itself. The guidelines document has its own style and formatting, which is markedly different to how the principal body of the PDP is structured.
34. At its section 1.2 (“the planning framework”), the notified 2016 Guidelines explains (page 5, our emphasis in bold added):

*“The ADG document is referenced within the Proposed District Plan in the Urban development, Arrowtown Residential Historic Management Zone (‘ARHMZ’), Low Density Residential (‘LDR’), proposed Medium Density residential (‘proposed MED’) and Arrowtown Town Centre Chapters and **seeks to inform and guide appropriate development outcomes** within the three main areas governed by this document”²⁰*

35. Although, as noted earlier, the notified 2016 Guidelines frequently used ‘rule-like’ language based on words like “must”, we find that based on the above commentary and its placement at the commencement of the document, that the document clearly identifies itself as a guidance tool and not as a development requirement.

3.1. Chapter 4

36. Variation 1 proposes to amend the first bullet point accompanying notified Policy 4.2.5.2 as follows:

“an urban form that is sympathetic to the character of Arrowtown, including its scale, density, layout and legibility in accordance with the Arrowtown Design Guidelines 2016.

²⁰ The “three main areas” are the “Old Town Residential”, “New Town”, and “Town centre”.

3.2. Chapter 7

37. Variation 1 proposes to amend Variation 1 proposes to amend the text of notified Policy 7.2.5.1 as follows:

“Development is of a form that is sympathetic to the character of Arrowtown, including its building design, scale, layout and building form in accordance with the Arrowtown Design Guidelines 2016.”

38. Variation 1 also proposes to change one of the matters of discretion relating to notified rule 7.4.10.1 (this rule relates to 2 or more dwellings per site in Arrowtown) as follows:

“In Arrowtown, the extent to which the development responds positively to Arrowtown’s character, utilising the Arrowtown Design Guidelines 2016 as a guide.”

3.3. Chapter 8

39. Variation 1 proposes to amend the notified Zone Purpose statement (Section 8.1), in the fifth paragraph, as follows:

“Development will be required to adhere to high standards of urban design, providing site responsive built forms and utilising opportunities to create vibrant public spaces and active transport connections (walking and cycling). In Arrowtown, particular consideration will need to be given to the town’s special character, and the design criteria identified by the Arrowtown Design Guidelines 2016. A high standard of environmental performance is encouraged to improve the comfort, health and overall sustainability of built forms. To ensure the practical and timely realisation of housing supply, incentives for sustainable building design will expire five years after the date the zone is made operative.”

40. Variation 1 also proposes to change the text of notified Policy 8.2.6.1 as follows:

“Notwithstanding the higher density of development anticipated in the zone, development is of a form that is sympathetic to the character of Arrowtown, including its building design and form, scale, layout, and materials in accordance with the Arrowtown Design Guidelines 2016.”

41. Variation 1 also proposes to change one of the matters of discretion relating to notified Rule 8.4.11 (this rule relates to 2 or more dwellings per site in Arrowtown) as follows:

“In Arrowtown, the extent to which the development responds positively to Arrowtown’s character, utilising the Arrowtown Design Guidelines 2016 as a guide.”

3.4. Chapter 10

42. Variation 1 proposes to change the text of notified Policy 10.2.1.2 as follows:

“Ensure that any buildings are located and designed in a manner that complements and respects the character of the area and are consistent with the outcomes sought by the Arrowtown Design Guidelines 2016.”

43. Variation 1 also proposes to change one of the matters of discretion relating to notified Rule 10.4.4 (this rule relates to the construction or alteration of any dwelling) as follows:

“Consideration of these matters shall be guided by the Arrowtown Design Guidelines 2016.”

3.5. Chapter14

44. Variation 1 proposes to change the text of notified Policy 14.2.1.2 as follows:

“Ensure that any additions or alterations to buildings are undertaken in a manner that complements and respects the historic character and is consistent with the outcomes sought by the Arrowtown Design Guidelines 2016.”

45. Variation 1 also proposes to change the text of notified Rule 14.4.2 (this rule relates to the erection of verandahs) as follows:

46. *“Verandas, in respect of: design, appearance, materials, impact on and relationship to adjoining verandas (to be guided by the Arrowtown Design Guidelines 2016) to avoid, remedy or mitigate adverse effects on:”*

47. Variation 1 also proposes to change one of the matters of discretion relating to notified Rule 14.4.4 (this rule relates to the construction of buildings, including external alterations) as follows:

“relationship to heritage values (to be guided by the Arrowtown Design Guidelines 2016)”

48. Variation 1 also proposes to change one of the matters of discretion relating to notified Rule 14.5.1 (this rule relates to building coverage) as follows:

“consistency with the Arrowtown Design Guidelines 2016.”

49. Variation 1 also proposes to change one of the matters of discretion relating to notified Rule 14.5.2 (this rule relates to building setbacks from internal boundaries) as follows:

“consistency with the Arrowtown Design Guidelines 2016.”

4. 2016 GUIDELINES DOCUMENT

50. Variation 1 proposes to incorporate by reference the stand-alone Arrowtown Design Guidelines 2016 document. Of itself it contains no resource management objectives, policies, or rules. No resource consents are to be required on the basis of contravention of any matter described within the 2016 Guidelines itself.

51. As described in the proposed PDP text to be changed by Variation 1 and included above, the effect of the 2016 Guidelines is to be a design tool that development should demonstrate consistency with. This is not the same thing as development being required to exactly implement or achieve any particular single outcome specified within the document.

52. The 2016 guidelines is 182 pages long and includes a number of matters relating to the town centre itself, the historic ‘old town’, and newer residential areas.

5. EVALUATION AND FINDINGS - Should the 2016 Guidelines apply to all of Arrowtown (in the circumstances as notified in Variation 1), or only its historic core?

53. Ange Van Der Laan²¹ submitted that the 2016 Guidelines should relate only to the town centre and 'old' residential area around the town centre. Philip Blakely²² submitted that there should be separate guidelines between the town centre and 'old' residential area, and the 'new' residential zones. This contrasts with the submissions from a number of submitters including Pam Hulls²³, Shaping our Future Incorporated²⁴, Mark Kramer²⁵, and David Clarke²⁶, all of which sought that the 2016 Guidelines should apply at least to the extent notified if not more expansively.
54. Mr Bryce, in his Section 42A Report, evaluated these submissions and concluded that it would be most appropriate to retain the application of the 2016 Guidelines to all of Arrowtown's zones, but only to the extent of circumstances notified in the PDP and as updated in Variation 1 to refer to the 2016 instead of 2006 Guidelines.
55. Based on the information we were presented with and our own site visits in and around Arrowtown, we consider that there is a clear contrast between the very consistent built form characteristics of the 'old' town centre and inner residential area, and the mixed characteristics of the newer residential areas around these. In our view the more recent 'outer' residential areas of Arrowtown do reflect a lesser visual quality and coherent or consistent character when compared with the older, 'inner' Arrowtown area.
56. We note here that the PDP proposes an inherently tiered approach to managing development. In the 'inner' Arrowtown area, being the Arrowtown Town Centre Zone and Arrowtown Historic Residential Management Zone, almost all buildings and external alterations would require a resource consent where the 2016 Guidelines would need to be considered. In the 'outer' area, consisting of the notified Low Density Residential and Medium Density Residential Zones, the 2016 Guidelines would only be applicable in the case of specified restricted discretionary activities and for discretionary or non-complying activities. For the many permitted activities that each of those notified zones provides for, no consideration of the 2016 Guidelines is required. In many respects, we find that this will in part achieve the relief sought by Ange Van Der Laan²⁷ by virtue of how the PDP would be administered in practice.
57. We consider that the relevant statutory consideration at this juncture is set out in section 32 of the Act, whereby policies and methods (and the 2016 Guidelines is a method) of the PDP must be considered in terms of the extent to which they implement the PDP's objectives.
58. In consideration of the PDP's objectives and policies, which consistently refer to Arrowtown as a single whole rather than as a more-important 'inner' Arrowtown and a less-important 'outer' Arrowtown, we find that there is no justifiable basis to fully support the submission of Ange Van Der Laan²⁸ and exclude the 2016 Guidelines entirely from the notified Low Density and Medium Density Zones. We instead accept the submission in part, inasmuch as the

21 Submission 24
22 Submission 28
23 Submission 6
24 Submission 19
25 Submission 23
26 Submission 25
27 Submission 24
28 Ibid

notified PDP text provisions as changed by Variation 1 inherently give the 2016 Guidelines more scope and significance within the 'inner' Arrowtown area, and less in the 'outer' area.

59. In support of our conclusions, we also note that the use of the 2016 Guidelines in the notified Arrowtown Low Density and Medium Density Zones will be still likely to result in a distinctive and different built form character than the District's more general notified Low Density and Medium Density Zones. We find that this is desirable inasmuch as these areas will still contribute to the overall character and amenity of Arrowtown as a whole, and will contribute to the wellbeing of the whole Arrowtown community. Development in those zones will in our view be likely to take on a distinctive "Arrowtown flavour" and that this is desirable as part of a visitor's arrival experience into the historic 'old' town.

5.1. Chapter 4

60. On the basis that we lacked any real argument or evidence opposed to Variation 1, and that the changes proposed were limited to changing reference from the 2006 Guidelines to the 2016 Guidelines, we largely accepted the recommendation and reasons of Mr Bryce.

61. However, on our analysis of the overall effect of Variation 1, we consider that the words "in accordance with" are incorrect because it implies a "comply with" scenario that is not what we were told is sought. We recommend these be changed to ", guided by" under Clause 16(2). Our recommended wording for notified Policy 4.2.5.2 is:

"an urban form that is sympathetic to the character of Arrowtown, including its scale, density, layout and legibility, guided by the Arrowtown Design Guidelines 2016."

62. For convenience, we have merged our recommended Variation 1 text above with the wider changes that have been separately recommended for Chapter 4 as part of the Stream 1B hearings (recommended Policy 4.2.2.20):

4.2.2.20 *Ensure that development within the Arrowtown Urban Growth Boundary provides:*

- a. *an urban form that is sympathetic to the character of Arrowtown, including its scale, density, layout and legibility, guided by the Arrowtown Design Guidelines 2016;*
- b. *opportunity for sensitively designed medium density infill development in a contained area closer to the town centre, so as to provide more housing diversity and choice and to help reduce future pressure for urban development adjacent or close to Arrowtown's Urban Growth Boundary;*
- c. *a designed urban edge with landscaped gateways that promote or enhance the containment of the town within the landscape, where the development abuts the urban boundary for Arrowtown;*
- d. *for Feehley's Hill and land along the margins of Bush Creek and the Arrow River to be retained as reserve areas as part of Arrowtown's recreation and amenity resource;*
- e. *recognition of the importance of the open space pattern that is created by the inter-connections between the golf courses and other Rural Zone land.*

63. Our reasons for our recommended changes are:
- a. The PDP and Variation 1 changes to Chapters 7, 8, 11 and 14 do not provide for development to be required to be in “accordance” with the 2016 Guidelines. They provide for substantial permitted activity development (where a developer could completely disregard the guidelines). Where reference to the 2016 Guidelines are proposed as part of a resource consent requirement, the Plan text is clear that the 2016 Guidelines are not intended to be strictly complied with or treated as a ‘code’.
 - b. Our discussions with Mr Bryce and Mr Knott on behalf of the Council at the hearing confirmed this view. Both of them saw the 2016 Guidelines as an assessment aid rather than a strict development code.
 - c. The words “guided by” better reflect the role of the 2016 Guidelines as an assessment tool (where a relevant resource consent is required), and voluntary guidance matter those undertaking permitted activity development are encouraged to turn their minds to.
 - d. We do not consider that the outcomes of the 2016 Guidelines can in practice be fully implemented inasmuch as it includes matters relating to Chapter 29 Transport of the PDP (indeterminate at this time), and in addition outcomes within the public road reserve. The Council was not able to confirm to us that the Council, under the Local Government Act and Land Transport Management Act, had agreed to fund and undertake changes within the road reserve that may be required based on literally implementing the guidelines’ content.
 - e. However, we do note that the wording within the 2016 Guidelines itself was frequently expressed as if it was a code that had to be strictly complied with. This matter is discussed later in our decision as we consider it is a significant technical flaw, however has been rectified by Mr Bryce through the Council’s reply and 17 February 2017 version, subject to our own additional recommendations.
 - f. We are able to make the change in text we recommend under Clause 16(2) of the Act because it is a clarification of what the plan intends and does not in our view change the meaning or effect of the relevant provisions relating to the 2016 Guidelines as a whole.
64. We note that ordinarily and by virtue of the construction of section 32 of the Act, where there was an inconsistency between a policy and a method, it is the method that should change to suit the policy so to avoid “the tail wagging the dog”. However, in this instance there was no doubt that the Council sought its 2016 Guidelines to be an assessment matter only and not a code to be strictly complied with. It was clear that the Chapter 4 policy had not been correctly worded in this respect.
65. Overall, we find that the wording we recommend is the most appropriate and reflects the intent of the 2016 Guidelines to be an assessment aid rather than a firm requirement that must be achieved or complied with.
- 5.2. Chapter 7**
66. On the basis that we lacked any real argument or evidence opposed to Variation 1, and that the changes proposed were limited to changing reference from the 2006 Guidelines to the 2016 Guidelines, we largely accepted the recommendation and reasons of My Bryce.
67. However, as was the case with notified Policy 4.2.5.2, we find that the proposed Policy and Mr Bryce’s slight amendments do not correctly capture the Council’s intent for how the guidelines should be used. We have therefore changed notified Policy 7.2.5.1 to the language of development being “guided by” rather than “in accordance with” the guideline under Clause 16(2) RMA.

68. We have also removed the words “and building form” given that the policy already inherently refers to this as a part of “development form” and on this basis the policy was unnecessarily repetitive. Our recommended text for the policy as it relates to Variation 1 alone is:

“Development is of a form that is sympathetic to the character of Arrowtown, including its building design, scale, and layout guided by the Arrowtown Design Guidelines 2016.”

69. For convenience, we have merged our recommended Variation 1 text above with the wider changes we have separately recommended for Chapter 7 as part of the Stream 6 hearings. It becomes:

7.2.4.1 Ensure development, including infill housing, community activities and commercial development is of a form that is compatible with the existing character of Arrowtown, guided by the Arrowtown Design Guidelines 2016, with particular regard given to:

i. Building design and form

ii. Scale layout and relationship of buildings to the street frontage(s)

iii. Materials and landscape response(s).

70. We find that the revised wording above will most appropriately give effect to the Plan’s objectives, and reflect the role of the 2016 Guidelines as an assessment matter that can also be used voluntarily by developers in respect of Permitted Activities.

71. In terms of the matter of discretion in notified Rule 7.4.10, Mr Bryce recommended minor rewording to make the discretion clearer in its purpose. Specifically, he recommended changing the words “development responds positively to Arrowtown’s character” with “consistency with Arrowtown’s character”. The key reason for this was that as notified, the matter of discretion was constructed as an assessment criterion rather than as a neutrally expressed matter over which discretion has been restricted.

72. We agree with and accept Mr Bryce’s recommended text change and adopt his reasons in this respect. Our recommended wording is:

“In Arrowtown, consistency with Arrowtown’s character, utilising the Arrowtown Design Guidelines 2016 as a guide.”

73. For convenience, we have merged our recommended Variation 1 text above with the wider changes we have separately recommended for Chapter 7 as part of the Stream 6 hearings:

7.4.5	<p>Residential Units, where the density of development exceeds one residential unit per 450m² net area but does not exceed one residential unit per 300m² net area, excluding sites located within the Air Noise Boundary or located between the Air Noise Boundary and Outer Control Boundary of Queenstown Airport.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. How the design advances housing diversity and promotes sustainability either through construction methods, design or function; b. Privacy for occupants of the subject site and neighbouring sites; c. In Arrowtown, consistency with Arrowtown’s character, utilising the Arrowtown Design Guidelines 2016 as a guide; d. Street activation; e. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours; f. Design and integration of landscaping; g. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: <ol style="list-style-type: none"> i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated. <p>Note – Additional rates and development contributions may apply for multiple units located on one site.</p>	RD
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74. No further analysis under section 32AA is required.

5.3. Chapter 8

75. Mr Bryce proposed no change to the modifications proposed to the notified zone purpose statement. We have determined under Clause 16(2) to remove the word “particular” from the phrase “particular consideration will need to be given to the town’s special character, and the design criteria identified by the Arrowtown Design Guidelines....” Our reasons for this are:

- a. The phrase “consideration will need to be given to...” reflects what the policies and methods enable. The phrase “particular consideration...” implies that the 2016 Guidelines will have a priority or superiority over other relevant considerations. The Plan policies and methods do not propose or intend this.
- b. The words “will need to be given to...” are incorrect inasmuch as it is only proposed that the 2016 Guidelines be compulsorily considered in the case of relevant resource consent applications. For Permitted activities, there is no such compulsion proposed (such as by way of a Permitted activity condition). To this end, the explanation should clarify that

the 2016 Guidelines are a necessary consideration only where a resource consent is required.

- c. As detailed in our recommendations for Chapters 7, 8, 9, 10 and 11, we have determined that zone purpose statements are subordinate to the zone objectives, policies and methods. They act as a form of explanation and summary for user convenience, and should be changed as required to ensure they accurately depict what those statutory provisions require.

76. Our recommended text for the relevant part of the zone purpose is:

“In Arrowtown, where a resource consent is required, consideration will need to be given to the town’s special character, and the design criteria identified by the Arrowtown Design Guidelines 2016.”

77. For convenience, we have merged our recommended Variation 1 text above with the wider changes we have separately recommended for Chapter 8 as part of the Stream 6 hearings:
“... Development will be required to achieve high standards of urban design, providing site-responsive built forms and utilising opportunities to create vibrant public spaces and active transport connections (walking and cycling). In Arrowtown, where a resource consent is required, consideration will need to be given to the town’s special character, and the design criteria identified by the Arrowtown Design Guidelines 2016. ...”

78. In terms of notified Policy 8.2.6.1, Mr Bryce recommended no changes to the notified modifications proposed.

79. As has been discussed in the context of Chapters 4 and 7, we find that the wording “in accordance with” is not correct and should be changed under Clause 16(2) of the Act. Our reasons for this are the same as has been previously set out above.

80. Our recommended text is:

“Notwithstanding the higher density of development anticipated in the zone, development is of a form that is sympathetic to the character of Arrowtown, including its building design and form, scale, layout, and materials guided by the Arrowtown Design Guidelines 2016.”

81. For convenience, we have merged our recommended Variation 1 text above with the wider changes we have separately recommended for Chapter 8 as part of the Stream 6 hearings:

8.2.4.1 Ensure development, including infill housing, community activities and commercial development is of a form that is compatible with the existing character of Arrowtown, guided by the Arrowtown Design Guidelines 2016 with particular regard given to:

- i. Building design and form*
- ii. Scale, layout and relationship of buildings to the street frontage(s)*
- iii. Materials and landscape response(s) including how landscaping softens the building mass relative to any street frontage(s).*

82. In terms of the matter of discretion proposed to be changed in notified Rule 8.4.11, Mr Bryce recommended the same text changes that he recommended for notified Rule 7.4.10.

83. We find that the wording we determined for notified Rule 7.4.10 should apply to notified Rule 8.4.11 for the same reasons. Our recommended text is:

“In Arrowtown, consistency with Arrowtown’s character, utilising the Arrowtown Design Guideline 2016 as a guide.”

84. For convenience, we have merged our recommended Variation 1 text above with the wider changes we have separately recommended for Chapter 8 as part of the Stream 6 hearings:

8.4.10	<p>Residential Unit</p> <p>8.4.10.1 One (1) or more per site within the Arrowtown Historic Management Transition Overlay Area</p> <p>8.4.10.2 Two (2) or more per site in Arrowtown</p> <p>8.4.10.3 For all locations outside of Arrowtown, four (4) or more per site Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Location, external appearance, site layout and design of buildings and fences and how the development addresses its context to contribute positively to the character of the area b. Building dominance relative to neighbouring properties and public spaces including roads c. How the design advances housing diversity and promotes sustainability either through construction methods, design or function d. Privacy for occupants of the subject site and neighbouring sites e. In Arrowtown, consistency with Arrowtown’s character, as described within the Arrowtown Design Guidelines 2016 f. Street activation g. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours h. Design and integration of landscaping 	RD
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	<ul style="list-style-type: none"> i. For land fronting State Highway 6 between Hansen Road and the Shotover River: <ul style="list-style-type: none"> <u>i.</u> safe and effective functioning of the State Highway network; <u>ii.</u> integration with other access points through the zone to link up to Hansen Road, the Hawthorne Drive/State Highway 6 roundabout and/or Ferry Hill Drive; and <u>iii.</u> integration with pedestrian and cycling networks, including to those across the State Highway. j. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: <ul style="list-style-type: none"> <u>i.</u> the nature and degree of risk the hazard(s) pose to people and property; <u>ii.</u> whether the proposal will alter the risk to any site; and <u>iii.</u> the extent to which such risk can be avoided or sufficiently mitigated 	
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85. Overall, we find that the changes to Chapter 8 we recommend will be the most appropriate to ensure the Plan’s objectives relating to Arrowtown’s character and amenity values are implemented.

5.4. Chapter 10

86. In terms of notified Policy 10.2.1.2, Mr Bryce recommended no changes to the notified Variation 1 text.

87. We find that the policy should be changed under Clause 16(2) to reflect that in the case of permitted activities enabled within the zone (minor additions and alterations, and internal alterations), there is no proposed mechanism to “ensure” the 2016 Guidelines are considered in every case. In addition, where the 2016 Guidelines must be considered as part of a resource consent, the Council’s position is that the document should still remain as a guidance document rather than a strict code to be complied with.

88. Our recommended text is included below;

“Encourage buildings to be located and designed in a manner that complements and respects the character of the area guided by the Arrowtown Design Guidelines 2016.”

89. In terms of the matter of discretion proposed for notified Rule 10.4.4, Mr Bryce proposed no change to the notified Variation 1 text. The effect of the text is to ensure that the 2016 Guidelines are used on the consideration of the other stated matters of discretion.

90. We find that the notified Variation text is inefficient and not the most appropriate means of providing for the 2016 Guidelines to be considered as a consent application is assessed, however our disagreement is limited to how the provisions are worded. We otherwise agree with and adopt Mr Bryce’s reasons. Our recommended text is included below.

“Discretion is restricted to the following, with the Arrowtown Design Guidelines 2016 being the principal tool to be used in considering the merit of proposals (within the matters of discretion) ...”

91. For convenience, we have merged our recommended Variation 1 text above with the wider changes we have separately recommended for Chapter 10 as part of the Stream 6 hearings (recommended Rule 10.4.5):

10.4.5	<p><i>The Construction or external alteration of any buildings.</i></p> <p><i>Excluding Minor Alterations and Additions to a Building.</i></p> <p><i>Discretion is restricted to the following, with the Arrowtown Design Guidelines 2016 being the principal tool to be used in considering the merit of proposals (within the matters of discretion)</i></p> <ul style="list-style-type: none"> <i>a. How new or altered buildings make a positive contribution to the heritage character of the zone</i> <i>b. Building form, appearance, scale and layout including the height to the eaves, ridge, roof shape and pitch.</i> <i>c. Exterior materials and colour.</i> <i>d. Landscaping and fencing.</i> <i>e. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area:</i> <ul style="list-style-type: none"> <i>i. the nature and degree of risk the hazard(s) pose to people and property;</i> <i>ii. whether the proposal will alter the risk to any site; and</i> <i>iii. the extent to which such risk can be avoided or sufficiently mitigated.</i> <p><i>The following additional matter of discretion also applies within the Arrowtown Town Centre Transition Overlay:</i></p> <ul style="list-style-type: none"> <i>a. Retention and enhancement of pedestrian linkages between Buckingham Street and Romans Lane</i> 	RD
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92. Overall, we find that the changes to Chapter 10 we recommend will be the most appropriate to ensure the Plan’s objectives relating to Arrowtown’s character and amenity values are implemented.

5.5. Chapter 14

93. In terms of notified Policy 14.2.1.2, Mr Bryce recommended no changes to the notified Variation 1 text.

94. The policy applies to any additions or alterations to buildings. The proposed rules require all buildings including external alterations to obtain consent as a restricted discretionary activity.

On this basis, it is appropriate that the policy refer to all additions and external alterations, and we recommend this change be made under Clause 16(2).

95. We have also changed the policy wording to clarify that development is to be guided by the 2016 Guidelines, not be strictly consistent with them in the sense of compliance. This is for the same reasons that we have changed policies in Chapters 7, 8 and 10 outlined above. These changes have also been recommended under Clause 16(2).

96. Our recommended text is included below;

“Ensure that any additions or external alterations to buildings are undertaken in a manner that complements and respects the historic character, guided by the outcomes sought by the Arrowsmith Design Guidelines 2016.”

97. In terms of the matters of discretion relating to notified Rules 14.4.2, 14.4.4, 14.5.1, and 14.5.2, Mr Bryce recommended no changes to the notified Variation 1 amendments.

98. We find no compelling reason to change the notified Variation 1 text in these respects, and therefore agree with and adopt Mr Bryce’s recommendations.

99. Our recommended text for the rules is included below:

Notified Rule 14.4.2

“Verandas, in respect of: design, appearance, materials, impact on and relationship to adjoining verandas (to be guided by the Arrowsmith Design Guidelines 2016 to avoid, remedy or mitigate adverse effects on:”

Notified Rule 14.4.4

“relationship to heritage values (to be guided by the Arrowsmith Design Guidelines 2016)”

Notified Rule 14.5.1

“consistency with the Arrowsmith Design Guidelines 2016.”

Notified Rule 14.5.2

“consistency with the Arrowsmith Design Guidelines 2016.”

100. For convenience, we have merged our recommended Variation 1 text above with the wider changes that have been separately recommended for Chapter 14 as part of the Stream 8 hearings:

14.4.2	<p>Verandas</p> <p><i>Control is reserved to:</i></p> <ul style="list-style-type: none"> a. <i>design, appearance, materials, impact on and relationship to adjoining verandas (to be guided by the Arrowsmith Design Guidelines 2016) to avoid, remedy or mitigate adverse effects on:</i> <ul style="list-style-type: none"> i. <i>Neighbouring buildings and verandas;</i> ii. <i>The extent to which the veranda affects the use and enjoyment of the streetscape and</i> iii. <i>The appearance of the building.</i> 	C
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14.4.4	<p>Buildings (including external alterations to existing buildings)</p> <p><i>Discretion is restricted to:</i></p> <ul style="list-style-type: none"> a. <i>external appearance;</i> b. <i>materials;</i> c. <i>signage platform;</i> d. <i>lighting;</i> e. <i>impact on the street;</i> f. <i>relationship to heritage values (to be guided by the Arrowtown Design Guidelines 2016);</i> g. <i>compatibility with adjoining buildings;</i> h. <i>the retention of pedestrian linkages between Arrow Lane, Buckingham Street and Ramshaw Lane, having regard to the National Guidelines for Crime Prevention Through Environmental Design (CPTED); and</i> i. <i>where the site is subject to any natural hazard and the proposal results in an increase in gross floor area:</i> <ul style="list-style-type: none"> i. <i>the nature and degree of risk the hazard(s) pose to people and property;</i> ii. <i>whether the proposal will alter the risk to any site; and</i> iii. <i>whether such risk can be avoided or sufficiently reduced.</i> 	RD
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14.5.1	<p>Building Coverage:</p> <p><i>Maximum building coverage 90%</i></p>	<p>RD</p> <p><i>Discretion is restricted to:</i></p> <ul style="list-style-type: none"> a. <i>consistency with the Arrowtown Design Guidelines 2016;</i> b. <i>effects on the streetscape; and ability to meet storage and</i> c. <i>loading requirements.</i>
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14.5.2	<p>Setback from internal boundaries:</p> <p><i>There shall be a minimum setback of 3m from any rear boundary</i></p>	<p><i>RD</i></p> <p><i>Discretion is restricted to:</i></p> <p><i>a. consistency with the Arrowtown Design Guidelines 2016;</i></p> <p><i>b. sunlight access to and outlook of neighbouring properties; and</i></p> <p><i>c. ability to meet storage and loading requirements.</i></p>
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101. Overall, we find that the changes to Chapter 14 we recommend will be the most appropriate to ensure the Plan’s objectives relating to Arrowtown’s character and amenity values are implemented.

6. 2016 GUIDELINES DOCUMENT

102. By the time of the Hearing, Mr Bryce recommended a number of changes to the 2016 Guidelines document on the basis of submissions received.

Submissions supported by the reporting staff

103. The changes Mr Bryce recommended related to the submissions of:

- a. Wayne Hulls²⁹, John Moore³⁰, and Elizabeth Hanan³¹ in respect of corrections to plans and diagrams. These are detailed in paragraphs 12.2 – 12.10 of the Section 42A Report, and include:
 1. The map on page 4 of the 2016 Guidelines
 2. Plan 2 on page 15 of the 2016 Guidelines
 3. Neighbourhood 1 – Above the Town Centre, Plan 5, page 21 of the 2016 Guidelines
 4. Neighbourhood 2 – Soldiers Hill, Plan 6, page 23 of the 2016 Guidelines
 5. Neighbourhood 3 – Avenue, Plan 7, page 25 of the 2016 Guidelines
 6. Neighbourhood 4 – Top Terrace, Plan 8, page 27 of the 2016 Guidelines
 7. Neighbourhood 5 – Stafford Street, Plan 9, page 29 of the 2016 Guidelines
 8. Town Centre – Plan 20, page 51 of the 2016 Guidelines
- b. Philip Blakely³², in respect of numerous minor text corrections and changes to the guidelines relating to the desirability of buildings being composed of smaller, connected ‘cottage forms’ rather than very large single-form contemporary buildings.

104. In terms of Mr Blakely, the submitter identified a substantial number of amendments and these were assessed by both Mr Knott and Mr Bryce. They agreed or agreed in part with many of the submitter’s proposals, and recommended these to us.

105. In respect of the above, we note that there was no material contestation or debate between the submitters and the Council at the hearing. We find that Mr Bryce’s recommendations are appropriate and we agree with them for the reasons he has expressed in his Section 42A

²⁹ Submission 1
³⁰ Submission 17
³¹ Submission 3
³² Submission 28

Report. The lack of any expert evidence to the contrary was a relevant factor in the decision we reached to accept the Section 42A Report recommendations without additional changes to the 2016 Guidelines text.

Submissions not supported by the reporting staff

106. Mr Bryce did not support changes sought from the following submitters:
- a. Ange Van Der Laan³³, in respect of the deletion of schedules relating to paving, fencing and planting.
 - b. Kerry Hapuku³⁴, in respect of the proposed planting schedule and the importance attached to an existing Western Red Cedar on the submitter's property (notified Protected Tree 1002).
 - c. Sandra Zuschlag³⁵, in respect of the classification of Amelanchier in the planting schedule, and need for a greater inclusion of suitable medium-sized trees.
 - d. Lakes District Museum Incorporated³⁶, in relation to the 2016 Guideline's preference that building materials be restricted in the heritage zones.
 - e. Philip Blakely³⁷, in respect of splitting the 2016 guidelines into different sections relating to the old town, the notified Low Density Residential Zone, and the notified Medium Density Housing Zone.
 - f. New Zealand Fire Service, in respect of changes to the 2016 Guidelines to better anticipate that development on the Fire Station site may, for operational reasons, not always achieve ideal design outcomes.
107. In terms of Ange Van Der Laan, Kerry Hapuku (in part), Sandra Zuschlag, and Lakes District Museum Incorporated, we prefer the reasons and conclusions reached by Mr Bryce. In respect of each submitter, their requested relief was premised mostly or all on their interpretation that the 2016 Guidelines were prescriptive and needed to be complied with. As explained in each case by Mr Bryce, the 2016 Guidelines amount only to suggestions and the document itself provides for different solutions than shown within it where the underlying principles of the guidelines have been met. On this basis, we do not consider there is merit in making the changes, and cumulatively the addition of unnecessary clarifications, exceptions and additions would make what is an already very large document more cumbersome.
108. In terms of Ms Hapuku's submission regarding the protected tree, the Stream 3 Panel is recommending the protection of this tree be removed. Consequently, we recommend that the identification of this tree as a protected tree in the 2016 Guidelines be removed. This relates in particular to Plan 5.
109. In terms of Mr Blakely's preferences to re-structure the guidelines into different sections, we remained unclear on what resource management purpose was being served by the proposed change other than, for people only focused on undertaking a development on one site in one zone, they could more directly focus in on what was relevant to them. Mr Knott and Mr Bryce explained that making the separation would add substantial repetition between the sections. More persuasively, they explained that the decision had been made to deliberately combine the material so that users would be able to appreciate how their site 'fitted in' to the wider context of the town. We find that, based on the PDP objectives consistently referring to

³³ Submission 24
³⁴ Submission 11
³⁵ Submission 12
³⁶ Submission 26
³⁷ Submission 28

Arrowtown as a whole, that the Council's combined guidelines approach will be the most appropriate to implement those objectives.

110. In respect of the New Zealand Fire Service³⁸, which sought recognition and exclusions for operationally required aspects of the Arrowtown Fire Station as 2 Hertford Street, Mr Bryce recommended rejection of the submission in his Section 42A Report. In her expert evidence, Ms McLeod on behalf of the New Zealand Fire Service discussed at length the approach and submissions of her client to other Streams and Hearings of the PDP. She made recommendations relating to the activity status of 'emergency service facilities' within the Arrowtown Historic Residential Management Zone. None of this material was within the scope of the Variation 1 hearing.
111. However, she also recommended, although provided no clear planning evidence or section 32AA-type analysis to support her conclusions, changes to the 2016 Guidelines text so as to recognise the presence of the Fire Station (which has been present on the site since 1897) and acknowledge that its operational requirements may not always achieve ideal design outcomes. In the Reply version, Mr Bryce had come to agree with Ms McLeod's recommended changes to the 2016 Guidelines with the exception of very minor changes to Ms McLeod's proposed text for 4.29.1.1, which we have included as follows:

"x) Departure from these guidelines may be appropriate to accommodate any redevelopment of the fire station in Hertford Street, where such departures are demonstrated to be necessary in order to accommodate the operational and functional requirements of a fire station."

112. We prefer Mr Bryce's subtle amendments as they do not in effect predetermine the merit of whatever future changes are proposed for the Fire Station site might have relative to the 2016 Guidelines. Otherwise, we accept the recommendations of Ms McLeod and Mr Bryce as it relates to the New Zealand Fire Service submission and the 2016 Guidelines.

Responses to Panel Questions to Council Experts

113. As a part of the Council's reply and 17 February 2017 version, and in response to matters we raised at the hearing, Mr Bryce identified a number of other recommended changes to the 2016 Guidelines, under Clause 16(2) as corrections or clarifications that did not change the statutory meaning or effect of the document. These were:
- a. Guideline 1.5.5 be amended to remove reference 'to must be compatible' and make it clear that users should consider all relevant Guidelines
 - b. Guideline 3.7.1.1(b) be amended to provide specific guidance as to when trees are damaging property
 - c. Guideline 3.13 be amended to include "are" to be encouraged within the guideline
 - d. Guideline 4.1.1 should not be included within the colour box as this is setting out key elements that generate heritage character and is not a guideline
 - e. Guideline 4.5.1.3(b) needs to be amended to better define what is meant by street frontage. It is proposed that this guideline will reference back to amended MDRZ – Figure 1, MDRZ – Figure 2 and MDRZ – Figure 3, which will provide further guidance on how the 60% of street frontage needs to be retained in green space
 - f. Guideline 4.10.1.3(a) to be reviewed to consider if the provision to provide a landscape plan for the street frontage is too onerous and need to better define instances where this may not be required

- g. Guideline 5: Plant List needs to provide clearer guidance on how the plant lists should be applied and the need for certainty for users
 - h. The 2016 Guidelines to be amended to remove all references to proposed zones
 - i. Page 182 to consider wording of matters set under this checklist; and
 - j. The 2016 Guidelines be amended to delete reference to 'must be achieved' and 'should be achieved' and provide for amended wording that does not elevate the importance of a particular guideline (rather they should all be considered based on a case by case assessment).
114. We agree with Mr Bryce’s further recommendations, including that they are appropriate as Clause 16(2) changes. These will substantially bring the 2016 Guidelines into a consistent administrative context where design suggestions will not be mistaken as RMA requirements or rules.
115. We have in addition reviewed the full 17 February 2017 version of the 2016 Guidelines, and identified that the following additional changes are necessary as Clause 16(2) clarifications or corrections:
- a. At the document’s commencement, some form of version control is required given that at face value it is not possible for users to readily differentiate between the notified version, hearing version, or 17 February 2017 Council Reply version.
 - b. Change reference from “Low Density Residential” zone to “Lower Density Suburban Residential Zone”, in line with Stream 6 recommendations, throughout the 2016 Guidelines document. For completeness this includes the abbreviation “LDR”.
 - c. Change reference from “Proposed District Plan” to “District Plan” throughout the 2016 Guidelines document.
 - d. Update any text quoted from the PDP throughout the 2016 Guidelines document to reflect the final text determined through the PDP process for Chapters 4, 7, 8, 10 or 14.
 - e. Change the wording in paragraph 1.5.5 by deleting the word “achieve” from the first sentence in the second paragraph and replace it with the word “assess”, as follows:
“To ~~achieve~~ assess the outcomes expressed within the ADG the consideration of the development assessment checklists should be...”
 - f. At section 3.1.2.2, delete the word “Apply” and replace it with “Consider”, as follows:
“~~Apply~~ Consider the following essential principles for the analysis and evaluation of change / new work to protect....”
 - g. At 3.4.5.2(d), delete the words “do not allow” and replace them with “minimise” as follows:
“~~Do not allow~~ Minimise vehicle dominance in Arrow Lane and encourage pedestrian thoroughfare.”
 - h. At 3.7.1.1(b), delete the word “are” and replace it with “should be” as follows:
“Trees lost, deemed unsafe, are damaging property or at the end of their life span ~~are~~ should be replaced with the same species or....”
 - i. Throughout the document, replace the words “need”, “needs to” or “must” to “should” in light of the role of the guideline as a non-statutory guideline. The following is one example:
 1.a.1. At section 1.5, change the first line so as to delete the word “need” and replace it with “should”, as follows:
“There are key principles that ~~need~~ should be observed, respected and given precedence....”
 - j. Throughout the document, replace the word “require” with “encourage” in light of the role of the document as a non-statutory guideline. The following is one example:

At 3.8.1.1(e), delete the word “Require” and replace it with “Encourage”, as follows:
“~~Require~~ Encourage Town Centre business staff to park in the car park to the north of Romans Lane.”

- k. Throughout the document, replace the word “avoid” with the term “try to avoid” in light of the role of the document as a non-statutory guideline. The following is one example:
At 3.6.1.1(a), add the words “Try to” in front of “avoid” at the commencement of the second sentence as follows:

“Try to Avoid precast concrete products, coloured pavers stamped or coloured concrete stone not used traditionally in Arrowtown....”

- l. Throughout the document, replace the word “retain” with the term “try to retain” in light of the role of the document as a non-statutory guideline. The following is one example:
At 3.6.1.1(f), add the words “Try to” in front of “retain” as follows:

“Try to Retain gravel footpaths on lower Wiltshire Street and Berkshire Streets.”

- m. Throughout the document, replace the words “do not” with “try not to” in light of the role of the document as a non-statutory guideline. The following is one example:

At 3.8.1.1(a), in the first sentence replace the words “Do not” with “Try not to” as follows:
“~~Do not~~ Try not to create more parking in the town centre area.”

116. The above changes will make it clearer to the community and the Council staff using it to assess applications for resource consent that the content is made as a reasoned and well-argued suggestion rather than a compulsion or mandatory requirement. Without making these changes, we find that there is an inappropriate risk that the guideline will become less efficient and less effective at achieving its purpose.

117. Overall, and with the changes to the notified 2016 Guidelines identified above including those made under Clause 16(2), we find that it will be the most appropriate means of implementing PDP policies relating to the historic character of Arrowtown as well as its more general built character and amenity values.

7. OVERALL CONCLUSIONS AND RECOMMENDATIONS

7.1. Chapters 4, 7, 8, 10 and 14

118. For all of the above reasons, we find that revisions to Chapters 4, 7, 8, 10 and 14 of the PDP proposed by Mr Bryce are sound, subject to our own minor clarifications and corrections.

119. We have included our recommended text above in our reasoning and, given how minimal it is, there is no need to condense it into a dedicated appendix attached to our decision. It is, however, included within the text recommended by the Stream 6 and Stream 8 Panels respectively.

8. 2016 GUIDELINES DOCUMENT

120. We find that, subject to the changes identified by Mr Bryce in his 17 February 2017 version and our own additional Clause 16(2) changes identified above, the 2016 Guidelines is the most appropriate alternative available to us to implement the purpose of Variation 1 and the clear focus of the PDP’s objectives and policies that built form and character in Arrowtown be maintained and enhanced. Our concerns that the 2016 Guidelines text was at times inappropriately cast so as to express the content as if it were rules have been addressed by the changes recommended by Mr Bryce through the Council’s reply.

121. Due to the size and file characteristics of the 2016 Guidelines document, we have been unable to independently mark up or attach it to our recommendations. The Council will need to undertake the changes we have identified in this report.

9. SECTION 32AA ANALYSIS

122. We have considered the above objectives, policies, and rules individually and collectively in terms of section 32AA RMA. Having undertaken an additional assessment, the key details of which have been interspersed into our discussion above, we are satisfied that the provisions we recommend for Chapters 4, 7, 8, 10 and 14 are the most appropriate. Key findings relevant to section 32AA are that:
- a. The objectives will implement Part 2 of the Act, and the policies and rules will implement the objectives.
 - b. The provisions will promote economic development and employment through a combination of commercial activity enabled within the zone, and the construction potential enabled by a higher density and further development on most sites (even if limited to an additional residential flat).
 - c. The provisions will be more efficient than for the equivalent zones in the ODP on the basis of being clearer, simpler and less onerous.
 - d. The provisions will be more effective than for the equivalent zones in the ODP on the basis, particularly for restricted discretionary activities, of being expressed with more focused and relevant matters of discretion. Objectives and policies are also clearer in expressing the outcomes sought and this will add certainty to the community.
 - e. The provisions are more effective and efficient than the notified, S.42A and Reply versions (as a whole) due to being simpler, clearer, more consistent and more concise.

10. OVERALL RECOMMENDATION

123. For the reasons set out above, we recommend the amendments to Chapters 8, 10 and 14 and to the Arrowtown Design Guidelines 2016 as set out above be adopted.
124. We also recommend that the submissions and further submissions be accepted, accepted in part or rejected as set out in Appendix 1.

For the Hearing Panel



Denis Nugent, Chair

28 March 2018

Appendix 1: Recommendations on Submissions

Submission Point	Submitter	Commissioners' Recommendation
1.1	Wayne Hulls	Reject
1.2	Wayne Hulls	Accept in part
1.3	Wayne Hulls	Accept
2.1	Judith Hanan	Reject
2.2	Judith Hanan	Accept in part
3.1	Elizabeth Hanan	Accept
3.2	Elizabeth Hanan	Accept
3.3	Elizabeth Hanan	Accept
3.4	Elizabeth Hanan	Accept
3.5	Elizabeth Hanan	Reject
3.6	Elizabeth Hanan	Reject
3.7	Elizabeth Hanan	Accept in part
3.8	Elizabeth Hanan	Accept
3.9	Elizabeth Hanan	Accept in part
3.10	Elizabeth Hanan	Accept
3.11	Elizabeth Hanan	Accept
3.12	Elizabeth Hanan	Accept
3.13	Elizabeth Hanan	Accept
3.14	Elizabeth Hanan	Accept
3.15	Elizabeth Hanan	Accept
3.16	Elizabeth Hanan	Accept
3.17	Elizabeth Hanan	Accept
3.18	Elizabeth Hanan	Accept
3.19	Elizabeth Hanan	Accept
3.20	Elizabeth Hanan	Accept
3.21	Elizabeth Hanan	Accept
3.22	Elizabeth Hanan	Accept
3.23	Elizabeth Hanan	Accept
3.24	Elizabeth Hanan	Accept
4.1	J Hanan	Accept
5.1	Thomas Jenkins	Accept in part
5.2	Thomas Jenkins	Reject
5.3	Thomas Jenkins	Reject
6.1	Chair, Akarua Arrowtown Autumn Festival in 2016. (Pam Hulls)	Accept
6.2	Chair, Akarua Arrowtown Autumn Festival in 2016. (Pam Hulls)	Reject
7.1	Elizabeth Winstone	Accept
8.1	Jane Hazlett	Reject
9.1	Noel Beggs	Accept in part
9.2	Noel Beggs	Accept
9.3	Noel Beggs	Accept
9.4	Noel Beggs	Accept
9.5	Noel Beggs	Accept

Submission Point	Submitter	Commissioners' Recommendation
9.6	Noel Beggs	Accept
9.7	Noel Beggs	Accept
9.8	Noel Beggs	Accept
9.9	Noel Beggs	Accept
9.10	Noel Beggs	Accept
9.11	Noel Beggs	Accept
9.12	Noel Beggs	Accept
9.13	Noel Beggs	Accept
9.14	Noel Beggs	Accept
9.15	Noel Beggs	Accept
9.16	Noel Beggs	Accept
9.17	Noel Beggs	Accept
9.18	Noel Beggs	Accept
9.19	Noel Beggs	Accept
9.20	Noel Beggs	Accept
10.1	Verona Cournane	Accept
10.2	Verona Cournane	Accept
10.3	Verona Cournane	
10.4	Verona Cournane	Accept
10.5	Verona Cournane	Reject
10.6	Verona Cournane	Accept
10.7	Verona Cournane	Accept in part
10.8	Verona Cournane	Accept
10.9	Verona Cournane	Accept
10.10	Verona Cournane	Accept
10.11	Verona Cournane	Accept
10.12	Verona Cournane	Accept
10.13	Verona Cournane	Accept
11.1	Kerry Hapuku	Reject
11.2	Kerry Hapuku	Reject
11.3	Kerry Hapuku	Reject
11.4	Kerry Hapuku	Reject
12.1	Sandra Zuschlag	Reject
12.2	Sandra Zuschlag	Reject
12.3	Sandra Zuschlag	Accept
12.4	Sandra Zuschlag	Reject
12.5	Sandra Zuschlag	Reject
13.1	Vicki Patton	Accept
13.2	Vicki Patton	Reject
13.3	Vicki Patton	Accept
13.4	Vicki Patton	Accept
14.1	John Murray Hanan	Accept in part
15.1	Michael Martin	Accept
16.1	Martin Barrett	Reject
16.2	Martin Barrett	Reject
17.1	John Moore	Accept
17.2	John Moore	Reject
17.3	John Moore	Accept

Submission Point	Submitter	Commissioners' Recommendation
17.4	John Moore	Accept
17.5	John Moore	Accept
17.6	John Moore	Accept
17.7	John Moore	Accept
17.8	John Moore	Accept
17.9	John Moore	Accept in Part
18.1	New Zealand Fire Service Commission (Alice Burnett, C/- Beca Limited)	Reject
18.2	New Zealand Fire Service Commission (Alice Burnett, C/- Beca Limited)	Reject
18.3	New Zealand Fire Service Commission (Alice Burnett, C/- Beca Limited)	Reject
18.4	New Zealand Fire Service Commission (Alice Burnett, C/- Beca Limited)	Reject
18.5	New Zealand Fire Service Commission (Alice Burnett, C/- Beca Limited)	Reject
19.1	Shaping our Future (David Kennedy)	Accept
19.2	Shaping our Future (David Kennedy)	Accept in part
19.3	Shaping our Future (David Kennedy)	Accept in part
19.4	Shaping our Future (David Kennedy)	Accept in part
19.5	Shaping our Future (David Kennedy)	Accept in part
19.6	Shaping our Future (David Kennedy)	Accept in part
19.7	Shaping our Future (David Kennedy)	Accept in part
19.8	Shaping our Future (David Kennedy)	Accept in part
19.9	Shaping our Future (David Kennedy)	Accept
19.10	Shaping our Future (David Kennedy)	Accept in part
19.11	Shaping our Future (David Kennedy)	Accept in part
19.12	Shaping our Future (David Kennedy)	Accept in part
19.13	Shaping our Future (David Kennedy)	Accept
19.14	Shaping our Future (David Kennedy)	Accept in part
19.15	Shaping our Future (David Kennedy)	Accept
19.16	Shaping our Future (David Kennedy)	Reject
19.17	Shaping our Future (David Kennedy)	Reject
19.18	Shaping our Future (David Kennedy)	Reject
19.19	Shaping our Future (David Kennedy)	Reject
20.1	Ian Robertson	Reject
20.2	Ian Robertson	Reject
21.1	Judith A Stevenson	Accept
21.2	Judith A Stevenson	Reject
21.3	Judith A Stevenson	Reject
22.1	Alanna Harrington	Accept in part
23.1	Mark Kramer	Reject
23.2	Mark Kramer	Accept
23.3	Mark Kramer	Reject
24.1	Ange van der Laan	Reject
24.2	Ange van der Laan	Reject
24.3	Ange van der Laan	Reject
24.4	Ange van der Laan	Reject

Submission Point	Submitter	Commissioners' Recommendation
24.5	Ange van der Laan	Reject
24.6	Ange van der Laan	Reject
24.7	Ange van der Laan	Reject
24.8	Ange van der Laan	Reject
24.9	Ange van der Laan	Reject
24.10	Ange van der Laan	Reject
24.11	Ange van der Laan	Reject
24.12	Ange van der Laan	Reject
25.1	David Clarke	Accept
25.2	David Clarke	Accept in Part
25.3	David Clarke	Reject
25.4	David Clarke	Reject
26.1	Lakes District Museum Inc (Bob Farrell)	Accept
26.2	Lakes District Museum Inc (Bob Farrell)	Accept
26.3	Lakes District Museum Inc (Bob Farrell)	Accept
26.4	Lakes District Museum Inc (Bob Farrell)	Accept in Part
26.5	Lakes District Museum Inc (Bob Farrell)	Accept in Part
26.6	Lakes District Museum Inc (Bob Farrell)	Accept
26.7	Lakes District Museum Inc (Bob Farrell)	Accept in part
26.8	Lakes District Museum Inc (Bob Farrell)	Accept in part
26.9	Lakes District Museum Inc (Bob Farrell)	Accept in part
26.10	Lakes District Museum Inc (Bob Farrell)	Accept in part
26.11	Lakes District Museum Inc (Bob Farrell)	Accept in part
27.1	Arrowtown Planning Advisory Group (David Clarke)	Accept
27.2	Arrowtown Planning Advisory Group (David Clarke)	Accept in Part
27.3	Arrowtown Planning Advisory Group (David Clarke)	Accept in Part
27.4	Arrowtown Planning Advisory Group (David Clarke)	Accept in part
27.5	Arrowtown Planning Advisory Group (David Clarke)	Accept in part
27.6	Arrowtown Planning Advisory Group (David Clarke)	Reject
28.1	Philip Blakely	Accept
28.2	Philip Blakely	Accept
28.3	Philip Blakely	Accept
28.4	Philip Blakely	Accept
28.5	Philip Blakely	Accept
28.6	Philip Blakely	Accept
28.7	Philip Blakely	Accept
28.8	Philip Blakely	Accept
28.9	Philip Blakely	Accept
28.10	Philip Blakely	Accept
28.11	Philip Blakely	Accept
28.12	Philip Blakely	Accept
28.13	Philip Blakely	Accept

Submission Point	Submitter	Commissioners' Recommendation
28.14	Philip Blakely	Accept
28.15	Philip Blakely	Accept
28.16	Philip Blakely	Accept
28.17	Philip Blakely	Accept
28.18	Philip Blakely	Accept
28.19	Philip Blakely	Accept
28.20	Philip Blakely	Accept
28.21	Philip Blakely	Accept
28.22	Philip Blakely	Reject
28.23	Philip Blakely	Accept
28.24	Philip Blakely	Accept
28.25	Philip Blakely	Accept
28.26	Philip Blakely	Reject
28.27	Philip Blakely	Reject
28.28	Philip Blakely	Reject
28.29	Philip Blakely	Reject
28.30	Philip Blakely	Reject
28.31	Philip Blakely	Accept in Part
28.32	Philip Blakely	Accept in Part
28.33	Philip Blakely	Reject
28.34	Philip Blakely	Reject
28.35	Philip Blakely	Reject
28.36	Philip Blakely	Accept
28.37	Philip Blakely	Accept
28.38	Philip Blakely	Accept
28.39	Philip Blakely	Accept
28.40	Philip Blakely	Accept
28.41	Philip Blakely	Accept
28.42	Philip Blakely	Accept
28.43	Philip Blakely	Accept
28.44	Philip Blakely	Accept
28.45	Philip Blakely	Accept
28.46	Philip Blakely	Accept
28.47	Philip Blakely	Accept