

**BEFORE THE QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (the "Act")

**AND**

**IN THE MATTER** of the Queenstown Lakes District Proposed District Plan

---

**MEMORANDUM OF COUNSEL  
Allenby Farms Limited**

**18 April 2016**

---

---

**ANDERSON LLOYD  
LAWYERS  
QUEENSTOWN**

Solicitor: W P Goldsmith/ R E Hill  
(warwick.goldsmith@andersonlloyd.co.nz/  
rosie.hill@andersonlloyd.co.nz)

Level 2,  
13 Camp Street,  
PO Box 201,  
QUEENSTOWN 9348  
DX ZP95010  
Tel 03 450 0700  
Fax 03 450 0799

## 1. Introduction

- 1.1 This Memorandum of Counsel is addressed to the Chair of the Hearings Panel (the "**Panel**") to address concerns arising in relation to Hearing Stream Topic 02, and the District Plan Review ("DPR") rezoning hearings, for Allenby Farms Limited ("**Allenby**").
- 1.2 Allenby made a submission and further submission on the DPR (references #502/ #1254).
- 1.3 The subject site for the Allenby submission is northern part of the Allenby Farm, including parts of Mt Iron and Hidden Hills. This property is located at Hidden Hills Drive Wanaka 9305, legal description: Lot 104 DP 412843, being approximately 90 hectares total area.
- 1.4 That land has been zoned "Rural" under the DPR, and is proposed to be subject to a Significant Natural Area ("**SNA**") overlay, a Building Restriction Area ("**BRA**") overlay, an Urban Growth Boundary ("**UGB**") and an Outstanding Natural Feature ("**ONF**") boundary.
- 1.5 The submissions sought a suite of combined relief which was presented as a whole package.
- 1.6 Allenby seeks leave from the Chair of the Hearings Panel, that consideration of all relief sought within its submissions be deferred to the rezoning hearings so as to avoid unnecessary costs and potential prejudice to Allenby.

## 2. Scope of Submission

- 2.1 Allenby's initial and further submission, in summary, proposed the following relief:
  - (a) to amend the relevant SNA and ONF boundaries to match the topographical landscape and ecological characteristics of the land;
  - (b) to relocate the BRA to better reflect development potential and sensitivity of the land;
  - (c) to extend the Large Lot Residential zone to enable long term protection of the SNA; and
  - (d) minor amendments to the rules, policies and objectives for the Rural Zone.

- 2.2 The above outcomes sought are interrelated components of the broader package of relief sought by Allenby; to enable the most effective and efficient use of the land taking into account its particular characteristics and existing state.

### 3. **Direction of Hearings Panel - SNAs**

- 3.1 Council's Planning Report dated 07 April 2016 states at para 4.3;

*"Some submissions have requested amendments to the identification, location and area of SNAs in conjunction with rezoning requests. The merits of whether any SNAs should be amended will be addressed in this evidence, however the recommendation on the associated rezoning and any perceived or actual compensatory incentives associated with indigenous vegetation that relate directly to the rezoning will be deferred to the hearing stream on mapping".*

- 3.2 Council then goes on to assess the Allenby submission at para 13.22 as follows;

*"Submitter 502 Allenby Farms. I rely on the evidence of Mr Davis in response to this submission point, as set out in section 8.32 of his evidence. On this basis I accept that the southern boundary of the SNA E18C should be extended but reject the extension sought by the submitter to the northern boundary of the SNA".*

- 3.3 Counsel for Allenby believes the above extracts from the Council Planning Report are internally inconsistent. Para 4.3 clearly envisages that recommendations on requested amendments to SNAs will be deferred to the rezoning hearings where those are inextricably linked (or compensatory in some respects).

- 3.4 That approach is supported by Counsel as it would be illogical and an inefficient use of Council and submitter resources to require the hearing of the same evidence twice.

- 3.5 The proposed amendments to the SNA located on Allenby Farm is material to the wider rezoning proposal and cannot reasonably be extracted out to be heard in isolation before a Hearings panel in Topic 02 (which may well be different from the Hearings Panel sitting on the Allenby rezoning hearings).

### 4. **Direction of Hearings Panel- BRA**

- 4.1 Council's Planning Report also states, at para 20.17 that;

*"Dr Read supports a reduction of the building restriction area on the Allenby Farms land (Submitter 502) and I accept her view. I recommend the submission is accepted in part."*

- 4.2 Dr Read's evidence considers the Allenby submission on the BRA at para 8.2 of her evidence dated 06 April 2016.
- 4.3 Both Dr Read's evidence, and the Council Planning Report unfortunately overlook the fact that Allenby's suggested amendment's to the BRA were both for an extension and a reduction of the overlay, and only one half of that relief has been considered.
- 4.4 The Allenby submission #502 at page 9 states the following;
- "It is also proposed that the following area be rezoned as a new BRA: land located west of and below the SNA E18C and above the adjoining residential zone to the west. That BRA will extend northwards to the boundary of the proposed LLR Extension referred to below.*
- This proposed site for a new BRA is visually sensitive and is suitable for protection from the effects of further development. The amended BRA's are illustrated on the attached map at Appendix 4".*
- 4.5 Clearly the relief is again interlinked with the wider Allenby rezoning proposal and sound decision making will only be able to occur if all relevant evidence is put before one Hearing Panel at the same time, on the same issues.
- 4.6 Amendments to the location of this overlay are clearly a mapping issue which should be reserved to be addressed in the rezoning hearings, rather than in a hearing on the text for the rural chapter.

## 5. Relief sought by Allenby

- 5.1 Allenby seeks leave from the Chair that consideration of the relief relating to the SNA and the BRA sought within its submission be deferred until the rezoning hearings; and
- 5.2 If the above relief is granted, Allenby seeks confirmation that any evidence presented at Hearing Stream 02 on the BRA and SNA amendments sought by Allenby be deferred until the rezoning hearings so to avoid any potential prejudice to the Allenby submission.



---

WP Goldsmith/ RE Hill

**Counsel for Allenby Farms Limited**