BEFORE THE INDEPENDENT HEARING PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN

Under the	Resource Management Act 1991
In the matter	of the Urban Intensification Variation to the proposed Queenstown Lakes District Plan

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REPLY LEGAL SUBMISSIONS FOR QUEENSTOWN LAKES DISTRICT COUNCIL

Urban Intensification Variation

1 October 2025

SIMPSON GRIERSON

Sarah Scott / Shanae Richardson
T: +64 3 968 4018
sarah.scott@simpsongrierson.com
shanae.richardson@simpsongrierson.com
PO Box 874 Christchurch

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MAY IT PLEASE THE PANEL

1. INTRODUCTION

1.1 These reply legal submissions are filed on behalf of Queenstown Lakes District Council (**Council**) in relation to the Urban Intensification Variation to the proposed Queenstown Lakes District Plan (**PDP**) (**Variation** or **UIV**).

1.2 The Variation was heard before a panel of Independent Hearing Commissioners (**Panel**) commencing 28 July 2025.

1.3 These reply legal submissions:

(a) respond to key topics raised during or after[1] the hearing, being;

- the application of Policy 5 with reference to Part 2 of the RMA;
- the application of the UIV to Arrowtown;
- matters of jurisdiction/scope; and

(b) provide Council's response to the questions set out in the Panel's Minute 6 – the majority of the response is in **Appendix 1** to these submissions.

1.4 They are filed alongside the following statements of Reply Evidence:

(a) Ms Amy Bowbyes – Planning: Strategic; Arrowtown; Definitions; LDSRZ;

(b) Ms Corinne Frischknecht – Planning: Text;

(c) Ms Rachel Morgan – Planning: Residential Rezonings; and

(d) Mr Cameron Wallace – Urban Design.

1.5 The Council's final recommendations on the UIV provisions and maps and on whether submissions should be accepted or rejected are attached to Ms Bowbyes' Reply Evidence, and will be uploaded onto the Council's website as separate documents.

1 As some submitters were requested to provide further information to the Panel after the hearing of their submissions.

2. POLICY 5 | PART 2 OF RMA

2.1 This section of these submissions is set out prior to moving in Section 3, to address the question put to counsel at the hearing, being (paraphrased) whether s7(c), maintenance and enhancement of amenity values in particular the 'special character' of the 'new town' part of Arrowtown, can justify lesser heights and density standards than were notified. There is also some cross over with the Panel's Minute 6 questions that have queried the approach to the UIV generally, and specific to Arrowtown.

2.2 The question of how the UIV is applied to the 'new town' part of Arrowtown largely comes down to what it means to give effect to Policy 5 of the NPS-UD, alongside achieving Part 2 of the RMA. This section of these reply submissions considers the UIV more generally.

Lesser intensification by the UIV at notification

2.3 As set out in the s32 Report, QLDC took 'guidance' from the Qualifying Matter methodology for Tier 1 councils, in the preparation of the UIV and the notified version, and then through the s42A and rebuttal process. The qualifying matter methodology is an example of the NPS-UD ensuring that the policies directing intensification for Tier 1 councils also achieves Part 2 of the RMA. It is useful to acknowledge because the NPS-UD is clear that intensification in Tier 1 parts of New Zealand is not absolute – other matters listed in Part 2 of the RMA are also to be considered by following the Qualifying Matter methodology.

2.4 Two key 'constraints' were applied by the Council,[2] where:

(a) intensification that would have enabled Activities Sensitive to Airport Nosie (**ASANs**) was not promoted within relevant zones located within Queenstown Airport's Outer Control Boundary (**OCB**) and Air Noise Boundary (**ANB**); [3] and

2 Other 'exclusions' or 'partial exclusions' such as natural hazards, or bespoke rules relating to protection of outstanding natural landscapes or features were also identified at section 6 of the Section 32 Report, but are not discussed in these legal submissions.

3 Section 32 Report section 6.2.5.

(b) intensification was not promoted within areas recognised in the PDP as deserving of protection because of historic heritage (which included parts of Arrowtown).[4]

2.5 For the Queenstown Airport, the OCB and ANB contours exist in the current PDP after being tested through Stage 1 when Queenstown Airport Corporation (**QAC**) rolled-over its designations. the contours' role in protecting nationally significant infrastructure[5] has been respected through the approach taken to intensification within those boundaries. These boundaries are also relevant to:

(a) Council's recommendations relating to submissions seeking rezoning relief at 1 and 3 Hansen Road;

(b) some submissions seeking to intensify within the OCB and ANB; and

(c) intensification issues raised by QAC and addressed by Ms Frischknecht in Section 7 of her Reply Evidence.

2.6 For historic heritage, intensification within the Queenstown Town Centre was generally constrained where there is historic heritage. At Arrowtown, no changes were notified for the Town Centre and Heritage Management Zones, in order to recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development.

2.7 Both of these matters find their policy support in section 6 of the RMA, they are matters of national importance that are to be recognised and provided for, and both matters are already recognised in the PDP.

2.8 In addition to these section 6 matters, at the Wānaka Town Centre, the Council sought at notification to balance intensification at a level that would also maintain section 7 existing character and amenity.[6]

Guidance to be taken from the Tier 1 policy approach in the NPS-UD

2.9 Following on from paragraph 2.3 above, if guidance is to be taken from the tier 1 qualifying matter approach, the complete Qualifying Matter package from the NPS-

4 Section 32 Report sections 6.2.3 and 6.2.4.
5 As recognised in clause 1.4 of the NPS-UD.
6 Section 32 Report section 6.2.6.

UD should form part of that 'guidance'. The complete package includes a need to demonstrate that:

(a) an area is subject to a Qualifying Matter;

(b) the Qualifying Matter is incompatible with the level of development directed, and

(c) that any Qualifying Matter should only modify the building heights / densities "to the extent necessary" to accommodate the Qualifying Matter.

2.10 Saying that, it is acknowledged that the relevant tier 1 policies and supporting clauses in the NPS-UD are not directly applicable to QLDC as a tier 2 council, and there are no equivalent policies that apply to tier 2s. They are instead submitted to provide helpful 'guidance' or 'context' as to whether there should be limitations on the policy direction found in Policy 5.

2.11 The qualifying matter approach for tier 1 areas also demonstrates that there are resource management reasons (found in Part 2 of the RMA) that can limit intensification in high growth urban environments, so in our submission there should certainly be resource management reasons (also found in Part 2 of the RMA) that can limit intensification in tier 2 areas where there is less growth pressure.

3. ARROWTOWN

s7(c): maintenance and enhancement of amenity values

3.1 As set out above a key question from the Panel was whether section 7 matters, given they sit under the prefacing words 'shall have particular regard to' (as compared to 'shall recognise and provide for' in section 6), can in fact be used as a reason to qualify/constrain the response to the policy direction found in Policy 5 of the NPS-UD. Additionally, the Panel asked whether the recognition in Objective 4 of the NPS-UD, that amenity values may change, rules out amenity from being a constraint to intensification. This question is essentially asking whether the NPS-UD has already achieved section 7(c) of the RMA through the two specific references to amenity.[7]

7 Being Objective 4 and Policy 6(b)(j).

Ultimately this question is about how Part 2 of the RMA is to be achieved. In our submission, it is not as simple as saying that give effect to (or, implement) has a stronger policy direction and therefore must 'trump' section 7(c) of the RMA, nor that the NPS-UD has already considered amenity in full. Overall, Council's position is that:

(a) The NPS-UD does not state that it achieves Part 2 of the RMA, it does not refer to Part 2 at all. This is different to some other national policy statements that are specific as to how the national policy statement sits in respect of Part 2. In our submission, the NPS-UD needs to be read as a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the RMA;

(b) Section 7(c) is one of those 'other considerations'. Section 7(c) of the RMA requires that particular regard shall be given to the maintenance and enhancement of amenity values. A section 7 matter is not properly had regard to if it is simply considered for the purpose of putting it on one side;[8]

(c) In weighing the various relevant considerations, the way any words are expressed matters, the more directive a policy direction or provisions, the more weight it should be given. The Supreme Court in *Port Otago*[9] (with reference to *King Salmon*[10]) observed that "any apparent conflict between policies may dissolve if close attention is paid to the way in which the policies are expressed" and that "those policies expressed in more directive terms will have greater weight than those allowing more flexibility".[11] It is submitted that principle is directly relevant here;

(d) The requirement to give effect to the NPS-UD[12] is more directive than the language found in section 7(c) of the RMA. However, these directions are found in different parts of the RMA and have different purposes, and we caution against simply comparing the two;

8 *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, [2018] 3 NZLR 283 at [73]
9 *Port Otago Limited v Environmental Defence Society Incorporated* [2023] NZSC 112
10 *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593
11 *Port Otago* at [63].
12 In section 75(3)(a) of the RMA.

(e) The existing references to amenity in Objective 4[13] and Policy 6[14] of the NPS-UD do not in our submission rule out amenity (through section 7(c) of the RMA) from being a reason *not* to increase heights and densities as per Policy 5 of the NPS-UD. Policy 6 of the NPS-UD recognises that the amenity that current residents experience may change (for better or worse), but importantly (and as also submitted by the Friends of Arrowtown) it does not prohibit amenity considerations altogether. Policy 6 says that changes in amenity are not automatically an adverse effect. Policy 6 does *not* say that changes in amenity can never be an adverse effect, and a subsidiary instrument should not have that effect even if it purported to do so (only Parliament can deem matters to be a fact that are not);[15]

(f) In addition:

- Amenity is and should be relevant to a well-functioning environment. While not being mentioned in Policy 1 of the NPS-UD, the list of relevant matters in that policy is non-exclusive, allowing amenity to be a further relevant matter;
- Interestingly, Policy 6 of the NPS-UD also uses the phrase 'have particular regard to' [… the fact that amenity values may change and are not, of themselves, an adverse effect] – so in giving effect to Policy 6, the NPS-UD itself gives a 'lesser threshold' to the matters listed (that includes changes in amenity); and
- Policy 6 is worded in a way that means it is relevant only after the NPS-UD - has been given effect to: *the planned urban built form anticipated by those RMA planning documents* ***that have given effect to this National Policy Statement****".*

13 **Objective 4:** New Zealand's urban environments, **including their amenity values**, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

14 **Policy 6:** When making planning decisions that affect urban environments, decision-**makers have particular regard to** the following matters:

(a) …

(b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

(i) **may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and (ii) are not, of themselves, an adverse effect.**

15 Wellington IHP Report 1A on the Intensification Planning Instrument dated 26 January 2024, at [135].

3.2 Overall we submit that it is available to the Panel in its recommendations, to give weight to the evidence before it about the section 7(c) special character in the Arrowtown 'new town'. In doing so, it would be properly having regard to the evidence before it, and taking that approach would achieve the sustainable management purpose of the RMA. However, it is submitted that it is not as simple as retaining the existing PDP framework. Rather the Panel needs to test the extent of further intensification that could occur, while still achieving section 7(c). In undertaking that assessment:

(a) any section 7 special character must be supported by section 32 / evidence before the Panel (i.e. the Panel must agree with the Council that the 'new town' part of Arrowtown is subject to the section 7 special character and amenity as Mr Richard Knott for Council, and others for the Friends of Arrowtown, say it is);

(b) the maintenance and enhancement of amenity values needs to be incompatible with the level of development notified through the UIV (i.e. if developed to the extent enabled, maintenance and enhancement of special character and amenity will not be achieved); and

(c) intensification should only be reduced to a level that will ensure that the maintenance or enhancement of special character and amenity, is achieved (or, in other words, the Panel should test whether the existing PDP provisions can be made more enabling than the current PDP version, which reflects the Council's current position in its S42A and Reply Recommended Provisions).

3.3 In this respect, we submit that Council's s42A approach to the LDSRZ and the MDRZ in the Arrowtown 'new town' promotes intensification insofar as it reduces barriers to flexibility of design, but it does not allow for further intensification through (for example) enabling additional storeys to be built, as it is Council's evidence that additional storeys would not accommodate the maintenance or enhancement of Arrowtown's special character and amenity.

3.4 We submit that Council's evidence that the MDRZ s42A approach (of 8m+1m pitched roof) will highly unlikely "facilitate" three-storey dwellings should be preferred over the Friends' evidence and legal argument, which suggests there is

no ability to enable any further development than what is currently included in the PDP.[16]

Friends of Arrowtown Village ("Friends of Arrowtown") submissions

3.5 In response to the key points in the Friends of Arrowtown's written legal submissions:

(a) At [4](a): Council does not agree that 'significant excess policy 2 capacity' is a valid reason not to intensify in any particular part of the District that might otherwise achieve Policy 5 of the NPS-UD. This submission from the Friends of Arrowtown suggests that you can intensify in some locations that meet the Policy 5 test, but not others, provided you are, overall, providing sufficient development capacity under Policy 2. There is no basis for that submission;

(b) At [4](b): Council agrees that Policy 5 allows for QLDC to have flexibility in the ways in which they respond to intensifying urban environments given that the intensification is to be commensurate with the greater of accessibility or relative demand. Council also agrees that while some 'guidance' or consideration may be taken from the 'Qualifying Matters' applicable to tier 1 authorities, ultimately, the Panel are not constrained by the same requirements and has more flexibility to apply a nuanced intensification approach. Council's reason for this has been worked through above – Part 2 of the RMA needs to be achieved and the NPS-UD does not do that; and

At [4](d) and [5]: Council submits that the reply recommended provisions will not be contrary to s6(f) or s7(c) of the RMA, nor higher-order policy objectives in the Otago RPS and the PDP. The Council does not agree that Council's s42A recommended approach "runs directly contrary to the objectives of the PDP which recognise and maintain or protect the special character of Arrowtown". Mr Knott's expert evidence is that the recommended s42A provisions will achieve that very outcome. No planning evidence was submitted for the Friends of Arrowtown that supports the submission made about the Otago RPS and the PDP.

16 Refer to Mr Richard Knotts Rebuttal Evidence at section 3.

Section 32AA

3.6 Ms Bowbyes' Reply Evidence has set out a more fulsome section 32AA assessment in relation to the options for Arrowtown in order to demonstrate the 'movement' in the supporting evidence from the notified version to the s42A recommended framework.

3.7 Through that, she has outlined whether there are other nuanced options available that might, for example, restrict intensification to a lesser extent than the s42A recommended version i.e., not across all of the 'new town' and instead just within key routes into the 'old town'.

3.8 The Panel was interested in whether the Accessibility Assessment that formed part of the s.32 report was "wrong" as it applies to Arrowtown. The Assessment, including its methodology is submitted to remain valid and relevant, but as per Ms Bowbyes' evidence, after receiving submissions on the notified UIV and taking expert advice from Mr Knott, the Council's updated position has relied on Mr Knott's evidence that the notified UIV would not maintain the special character and amenity of Arrowtown's 'new town'. Mr Knott's evidence is the 'new' evidence/information that needs to be read alongside the s32, alongside the feedback from the Arrowtown community.

3.9 As to why other areas of the urban environment did not get the same treatment as Arrowtown, from Council's perspective, there is *existing* recognition of both section 6 and section 7 in the PDP (and before that, in the ODP) at Arrowtown.

3.10 Council was asked whether the s42A recommended framework is appropriate for the next 30 years. Council's response to that question is that it does not necessarily need to be – a district plan (via the RMA) is to be reviewed every ten years, not every 30 years.

Wānaka

3.11 A number of submitters have sought that a character constraint be applied to Wānaka in the vicinity of Lismore Street, so as to justify a further reduction in building heights. The Council's position is unchanged from its opening legal

submissions in that Wānaka is not subject to such constraint (eg in terms of any special recognition under section 7) that would warrant any further reduction in building height from what was notified.

4. RESPONSE TO LEGAL SUBMISSIONS PRESENTED BY SUBMITTERS ON SCOPE / JURISDICTION

4.1 Following the hearing, the Council's position on scope is unchanged from that set out in its opening legal submissions. However, to assist the Panel, the Council replies to specific submissions presented during the hearing – which includes submissions seeking:

(a) rezoning of land that is currently subject to an Operative District Plan (**ODP**) zone;

(b) rezoning of land that is zoned Rural Zone in the PDP and is identified as forming part of an Outstanding Natural Landscape (**ONL**),

(c) rezoning of land that is zoned General Industrial and Service Zoned (**GISZ**) in the PDP;

(d) a rezoning that would also require that the PDP Urban Growth Boundary (**UGB**) be moved to accommodate the rezoning (Chapter 4 of the PDP directs that urban development outside of the UGB be avoided);

(e) a new Visitor Accommodation Sub-Zone be identified over an area of land; or

(f) amendment to provisions that are not related to intensification.

4.2 All of these examples fit into categories 1, 2, 3 or 4 set out in Council's opening legal submissions and Council continues to submit that they are not in scope of the Variation.

4.3 This section also responds to scope issues where a submitter has sought different relief at the hearing, from what the submitter had sought in its original submission.

Carter Queenstown 2015 Limited (Carter Group) submissions – seeking rezoning of ODP Plan Change 50 land to PDP Queenstown Town Centre Zone

4.4 The legal submissions presented on behalf of Carter Group submit that the Plan Change 50 land (**PC50 land**) is within the scope of Variation and that the PC50 land should be rezoned from its ODP zoning to the PDP Queenstown Town Centre Zone.

4.5 Legal submissions seeking that PC50 land be treated as within scope of the UIV were also presented for Jay & Jewell Cassells; Kelvin Capital Limited; and MacFarlane Investments - Park Street. Council's response to Carter Group as follows, also responds to these submissions. The Council also refers the Panel to paragraphs 4.1 to 4.7 of Ms Bowbyes' Reply Evidence where she discusses why the PC50 land is out of scope.

4.6 In response to key points from Appendix A on scope of Carter Group's submission the Council submits that:

(a) At [13 and 14]: The PC50 land has an ODP zoning, which is expressly, by way of maps and text, as well as an explanation in the accompanying Section 32 Report, excluded from the notified Variation. This means that currently, the PC50 land is not subject to any PDP zone and also, is not subject to any district-wide chapters located in Part 5 of the PDP. Council disagrees that there is a disconnect between the maps and text notified – rather Council submits that land was unequivocally excluded from the Variation as the PC50 land 'status quo' was unchanged. Council refers to its Opening Legal Submissions that include express quotes from the notification documents;

(b) At [23]: Rezoning the PC50 land through this Variation would prematurely bring the land into the PDP without a comprehensive review of the PC50 land,[17] which the Council intends to do through the usual Schedule 1 district plan review process.[18] There is a significant amount of evaluation to be done for the PC50 land over and above simply considering whether the provisions give effect to Policy 5 of the NPS-UD. This is addressed in

17 As also acknowledged by Commissioner David Allen during the hearing.

18 Whether an exemption from the Minister will be able to be obtained in light of the recent 'plan stop' changes to the RMA, is currently being investigated.

Ms Bowbyes' Reply Evidence, but for these submissions we emphasis it is not just a matter of zoning, but a full section 32 evaluation would be required as to the appropriate zone to apply and whether any bespoke provisions within that PDP zone would be required, whether a particular zone framework achieves the PDP strategic chapters (the Strategic Objectives and Strategic Policies provide direction for the development of the more detailed provisions contained elsewhere in the PDP), alongside a full review of every district-wide chapter – that includes earthworks, historic heritage, natural hazards, transport, energy and utilities, signs, protected trees, indigenous vegetation biodiversity, temporary activities, noise, and so on. Some district wide overlays/site specific annotations may need to be notified as part of the full review of any particular area of land currently zoned by an ODP zone. None of those matters are 'within' the scope of the UIV;

(c) At [34 – 36]: While Policy 5 does not distinguish between the PDP and the ODP, Council submits that there is no logical rationale for the Variation to 'start again' because ODP land was not included within the scope of the Variation to the PDP (which was a deliberate, targeted approach by the Council). The Variation has taken immense resources to prepare and as a Tier 2 authority, the Council prepared and notified the Variation to implement Policy 5 as soon as it was ready to (and informed the relevant Ministers that it was not able to meet the prescribed timeframe for notification but had undertaken significant preparatory work). Council submits that it would be an immensely wasteful use of rate-payers money and a major step backwards to 'restart' the Variation;

(d) At [57]: The overarching purpose of implementing Policy 5 is important and is obviously at the forefront of the Council's approach, but Carter Group's interpretation of it does not change what was notified and in scope of the Variation. Whether land contributes to a well-functioning urban environment does not define the scope of the Variation with respect to Limb One of the *Clearwater* test, rather the change to the status quo does;

(e) At [63 and 65]: The Section 32 Report did not need to undertake an evaluation of the PC50 land because that land is ODP land and was not

subject to the Variation. On the contrary, the Section 32 Report specifically addressed why PC50 land was excluded from the Variation;[19]

(f) At [72]: It is not sufficient that a submission by Carter Group (or any other submitter) could satisfy Limb Two of the *Clearwater* test by bringing a change to the attention of a potential submitter. If the submission fails Limb One (i.e., is not 'on' the plan change like Council submits is the case here), there is no need to move to Limb Two. Further, a submission by Carter Group does not "bring the change to the attention" of any person who may be affected by the relief sought – it is quite reasonable that any person who fit that description would not have looked further at the Variation after considering what was notified and concluding that it did not apply to the PC50 land (or, any other ODP land);

(g) At [64 and 73]: The fact that the PC50 land was not removed from the accessibility modelling that covered the entire District, or that the PC50 land has been identified in the Council's Spatial Plan does not mean that the PC50 land was notified as part of the Variation (with respect to Limb One of the *Clearwater* test). It also does not mean that a submission seeking inclusion of PC50 land would not come out of "left field" (with respect to Limb Two and for Council's reasons above in response to [72], and particularly given the Section 32 Report expressly addressed its exclusion); and

(h) At [74]: With respect to Limb Two of the *Clearwater* test, rezoning of the PC50 land is not reasonably foreseeable and "incidental or consequential" as ODP land was expressly excluded from notification and no changes were proposed to the PC50 land.

4.7 In summary, Council submits that a rezoning of any ODP land now will result in a significant failure to properly review the ODP in question. There would have been no considered consideration/evaluation, as required by s32 of the RMA and as well-established by the Court, of whether the PDP Queenstown Town Centre Zone achieves those tests, including at the most basic level, whether the provisions achieve Chapters 3 to 5 of the PDP. There is highly likely to be major issues with the appropriateness of PDP district wide chapters applying, whether any overlays that

19 Section 32 Report, page 18.

are required for district wide issues to be notified on the plan maps, and whether any bespoke provisions in those chapters are required. There also would have been no evaluation of any other (relevant) national policy statement, which is a mandatory requirement for significant change as sought be Carter Group et al.

City Impact Church Queenstown Incorporated and 1 Hansen Road LP (City Impact and 1 Hansen) – seeking rezoning of ONL / Rural Zone land to an urban zone and movement of UGB

4.8 The legal submissions presented on behalf of City Impact and 1 Hansen submit that both ONL and Rural Zoned land is within the scope of the Variation and that their land should be rezoned to an urban zoning, the ONL classification should be removed and the UGB relocated (as relevant to each submitters particular land).

4.9 In response to key points from City Impact and 1 Hansen's submission the Council submits that:

(a) At [13 - 14]: The 'status quo' (referring to *Clearwater* Limb 1) of the submitters' sites was only changed for the urban zoned part of their land. No changes were notified to any Rural Zone chapter text, nor any spatial extent of rural zoned land.[20] The only rezonings notified in the Variation were of some areas close to commercial centres that rezoned PDP urban zones to another urban zone. Council submits that a person reading the text changes and looking at the maps would clearly see that changes were only being made to urban zoned land. In addition, the accompanying Section 32 Report also clearly explains this as set out in Council's opening legal submissions;

(b) At [15 – 20 and Appendix 1]: Policy 5 requires that "… **district plans applying to** tier 2 and 3 **urban environments** enable heights …". This expressly engages with plans applying to urban environments – which Council submits would be land with an urban zoning. The PDP utilises an urban growth boundary with associated policy direction in Chapter 4 that urban development outside of the UGB is avoided. Its location is relevant. The Variation has a more discrete purpose than a broader district plan

20 The Variation specifically only notified changes to a limited number of PDP zones - none of which were a rural zone.

review that would otherwise capture considering rezonings of non-urban zoned land. In the case that a piece of rural land being rezoned to an urban zone may contribute to a well-functioning urban environment, the Council submits that that is part of a wider NPS-UD approach, but that the Variation itself is discretely limited to some urban zones. As acknowledged by Commissioner Munro during the hearing, a Tier 2 *local authority* is different to a Tier 2 *urban environment*[21] and, in Council's submission, the urban environment specifically points to urban zones located within the PDP's UGB;

(c) At [21 – 25]: In relation to *Clearwater* Limb Two, there is nothing in the Variation that could lead one to thinking that an ONL boundary could change. The notification of the Variation unequivocally excluded ONL/F and Rural zoned land and the Variation does not alter the 'status quo' in respect of any ONL / Rural Zoned land. Although the urban parts of the submitters' land were notified, the ONL and Rural Zone land (within the same parcels) was not notified;

(d) Furthermore, ONL are a section 6 matter of national importance under the RMA and would require a different evaluation to what is being evaluated through the UIV. Any alleged "low quality" or "arbitrary boundary" aspects of the ONL site as well as "consented development" that allegedly warrant removal of the ONL classification, are not something that was notified by the Council and would not in any way have been brought to the attention of a potential submitter. The Council notes that the *Burdon* case reference in City Impact and 1 Hansen's submissions related to a variation that introduced *descriptions* of ONL/F land, and even then, the Court in that case determined that the ONL/F boundaries were not within the scope of that variation since the boundaries of the ONL/F were not being varied. That same logic applies to this Variation;

(e) It is well accepted case law, which notably arose out of appeals on Stage 1 of this PDP, that a specific assessment is required as to whether something is or is not ONF/L under section 6(b) of the RMA, before any changes to an overlay can occur (including the boundary of the ONF/L). That includes an assessment of biophysical attributes as the appropriate

21 Recording 2 on 7 August 2025 – Submissions by Rosie Hill for multiple submitters.

starting point, followed by a contextual assessment. The Environment Court accepted that there is a consensus opinion to the methodology behind where ONL boundaries should be located.[22] None of that has been traversed by the UIV, which in Council's submission, emphasises that any changes to the ONL are out of scope; and

(f) Finally, the submitter has not addressed the fact that the rural part of the District sits under Strategic Chapter 6 (Landscapes – Rural Character) whereas the urban part of the District sits under Strategic Chapter 4 (Urban Development). Even if the submitters land was in scope, a full assessment against those two strategic chapters would be required to undertake a rezoning. There is no mention of Strategic Chapter 6 in the section 32 Report or supporting information, at all.

4.10 We additionally note that scope issue raised in paragraph 45 of Ms Hill's memorandum dated 22 August 2025 for the submitters. On this point (and in addition to the points outlined above), Council submits that because the submitters original submissions were limited to site specific changes (at the City Impact Church Land and No.1 Hansen Road land), broader changes are out of scope of that relief.

Passion Development Limited (Passion Development) submissions – seeking rezoning of ONL / Rural Land to urban zone

4.11 The legal submissions presented on behalf of Pasion Development submit that ONL and Rural Zoned land is within the scope of Variation and that Passion Development's land should be rezoned to an urban zoning and have the ONL classification removed.

4.12 In response to key points from Passion Development's submission the Council refers back to its submissions directly above in relation to City Impact and 1 Hansen,[23] and in addition submits that:

(a) At [12a – 12c and 20 - 21]: In addition to Council's response at paragraph 4.6 above, the Variation is expressly limited to the 'urban environment'

22 *Hawthenden Limited v QLDC* [2019] NZEnvC 160 at [80].

23 Council notes that Passion Developments was represented by the same legal counsel as City Impact and 1 Hansen and since similar issues were raised by both submitters, the later in time presentation of City Impact and 1 Hansen, built on questions arising from the earlier Passion Developments presentation.

and it would be arbitrary to use a Variation focused on intensification of the urban environment, to remove an ONL classification that exists to recognise and provide for a section 6 matter; and

(b) At [14]: Refer to Council's response at paragraph 4.6 in response to Carter Group's submission at [57]. In summary, the submitters interpretation of the NPS-UD does not change what was notified and in scope of the Variation. Rather, this is determined by the change to the status quo (which did not include any Rural Zoned or ONL land).

Coherent Hotel Limited – seeking extension of Visitor Accommodation Sub-Zone.

4.13 The legal submissions presented on behalf of Coherent Hotel submit that an extension of the Visitor Accommodation Sub-Zone (**VASZ**) is within the scope of the Variation and that Coherent Hotel's land should have a VASZ extended over it.

4.14 In response to key points from Coherent Hotel's submissions the Council submits that:

(a) At [21 – 28]: With respect to *Clearwater* Limb One, as shown in the notification documents, the Variation only introduces changes to heights and density **text** provisions which could have an impact on VA activities. It does not change the status quo of the **mapped overlay** of the VA Sub-Zone; and

(b) At [29 – 32]: With respect to *Clearwater* Limb Two, it therefore is not reasonably foreseeable that the mapped boundaries of the VA Sub-Zone could be amended through the Variation, and Council submits that it could prejudice potential submitters to enable a change to this now.

4.15 As set out at paragraph 4.11 of Council's Opening Legal Submissions, Council's position is that visitor accommodation is only in scope of the Variation insofar as the notified Variation has a bearing on visitor accommodation activities through the proposed changes to PDP provisions that are relevant to heights and densities.

4.16 Consistent with this, Council maintains the position given orally at the opening of the hearing that changes to VA Sub-Zone are not within the scope of the UIV. If the

Panel takes a different position, Ms Morgan has indicated support for the inclusion of additional sites in the MDRZ VA Sub-Zone, in response to this submission.

Bush Creek Investments Limited (Bush Creek) – seeking rezoning of General Industrial and Service Zone land to Business Mixed Use Zone

4.17 The submissions presented on behalf of Bush Creek submit that General Industrial and Service Zoned (**GISZ**) land is within the scope of the Variation and that Bush Creek's land should be rezoned to a different urban zoning. Bush Creek's original submission (OS777) sought the Bush Creek land be included in the MDRZ, however, during the hearing Bush Creek submitted legal and evidence support for a rezoning to Business Mixed Use Zone (**BMUZ**).

4.18 The Council reiterates the Reply Evidence of Ms Bowbyes at paragraph 5.19 to 5.41 and submits that this relief faces scope issues.

4.19 First, and as set out in paragraphs 4.15 to 4.16 of Council's Opening Legal Submissions, the notified UIV did not include any mapping or text changes to the GISZ. The rezoning of GISZ land therefore is out of scope of the Variation with reference to *Clearwater* Limb One.

4.20 Second, the original submission seeks a different zone (MDRZ) to the relief advanced at the hearing (BMUZ). This begs the question of whether BMUZ is within scope of the initial MDRZ relief – i.e., whether the BMUZ sits within the spectrum of relief available between the existing GISZ and the original submission relief MDRZ. Because the GISZ zoning makes the site out of scope of the Variation to start with, the Council has not assessed this question, but does note that in its experience through PDP appeals, the question requires consideration not just at a high-level zone level, but also in respect of certain activities.

4.21 The Council submits that that the rezoning of Bush Creeks land from GISZ to BMUZ or to MDRZ, are out of scope and are unavailable to the Panel to make a recommendation on.

John O'Shea, Helen Russell, John Russell and Mary-Louise Stiassny (Stiassny) – seeking building height amendment beyond the submission site

4.22 Legal submissions presented for Stiassny seek an amendment to lower the building height in the MDRZ to 7m beyond the Warren Street properties, however, their original submission was limited to amending building height of the Warren Street properties only. Council submits that this relief goes beyond the scope of their original submissions and is not available to the Panel to recommend. This is also addressed at paragraphs 4.3 to 4.5 of Ms Morgan's Reply Evidence.

Well Smart – seeking changes to manage noise construction effects

4.23 Mr Farrell prepared memoranda on behalf of Well Smart dated 27 August and 1 September 2025. As set out in paragraphs 4.8 to 4.14 of Ms Bowbyes' Reply Evidence, the memoranda support a number of changes to manage construction noise. Council submits that these changes do not fall within the scope of the Variation. As set out in the Strategic Evidence and Reply Evidence of Ms Bowbyes, and in Council's Opening Legal Submissions, provisions that do not relate to intensification are out of scope of the Variation (Category 2 in Council's Opening Legal Submissions at paragraphs 4.9 to 4.11).

4.24 While in some instances it may not be clear cut whether a provision relates to intensification, when read alongside the purpose and context of Policy 5 and the NPS-UD and alongside what the Council notified, the Council submits that these changes sought by Well Smart are not in scope of the Variation.

Concluding comment on scope

4.25 The Council submits that submitter submissions on scope, including those specifically responded to above, have not raised any reason to depart from the fact that rezoning of ODP, Rural or ONL, or GISZ land, or UGB or Visitor Accommodation Sub-Zone movement, or amendment to provisions that are not related to intensification, are all out of scope of the Variation and therefore the Panel does not need to make any recommendation on those requests (or should recommend rejecting them). Additionally, City Impact and 1 Hansen's, and Bush Creek also face scope issues by seeking updated relief that Council submits is not or may not be in scope of its original submission.

5. CONCLUSION

5.1 The Council submits that the Panel should recommend that the notified provisions and maps be amended and that submissions be accepted, accepted in part, or rejected, as set out in Appendices A, B and C attached to Ms Bowbyes' Reply Evidence.

DATED this 1st day of October 2025

_____

Sarah Scott / Shanae Richardson
Counsel for Queenstown Lakes District Council

Appendix 1

1. This document sets out Council's position on the questions set out by the Panel in Minute 6 dated 9 September 2025 (**Minute**). It identifies where certain questions are answered in Council's Reply Legal Submissions or Reply Evidence.[1]

Question 3(a)

An analysis of policy 5 of the NPSUD and exactly how it is to be applied and how it fits within the overall framework of the NPSUD. This includes considering the various discussions during the hearing and the legal submissions the panel received from submitters. As a guide, the panel has received a wide range of information, and may need to make determinations, on any or all of the following:

***3(a)(i)** the extent of the specific "tier 2" urban environment of "Queenstown" listed within the NPSUD (and whether it includes any or all of Sunshine Bay, Frankton, Jacks Point, Lake Hayes Estate, or other areas such as the PC50 area (noting QLDC's position that this latter area falls outside of the variation)), and the specific NPS-UD requirements that apply to that;*

2. The Council's approach to defining the extent of the District's urban environment is grounded in the NPS-UD definition of "urban environment" and the listing of "Queenstown" in Table 2 of the NPS-UD as a Tier 2 urban environment. As set out in the s42A on Strategic Evidence (paragraphs 5.8–5.18), Council has consistently interpreted that reference to mean all urban environments in the District that together meet the NPS-UD definition. An approach where the parts of the District that are predominantly urban in character but geographically sit separately across both the Upper Clutha and Queenstown basins, was confirmed in the Stage 1 PDP decisions[2] under the previous NPS-UDC.

1 Question 3(b) is addressed in Council's legal submissions. Question 4(f) is addressed in Ms Bowbyes' reply evidence and Question 4(g) is addressed in Ms Frischknecht's reply evidence.

2 PDP review Stage 1 – Panel recommendation report paragraph 879 – referring to previous advice by counsel for the Council in memorandum (3 March 2017) which takes the position that the group of urban areas that make up Wanaka and Queenstown are considered "urban environments". The subsequent memorandum dated 19 April 2017 expands on this.

3. The "urban environment" is mapped in PDP Chapter 4 Urban Development, and includes Queenstown–Frankton (and contiguous areas such as Fernhill, Sunshine Bay, Kelvin Heights, Jacks Point, Arthurs Point, Quail Rise, Shotover Country and Lake Hayes Estate), as well as the contiguous urban area of Wānaka–Albert Town, and smaller urban areas that are further away from these centres such as Arrowtown, Hāwea (with Arrowtown performing relatively well under the methodology (Accessibility and Relative Demand) and Hāwea's performance being influenced by the presence of existing commercial zoning), and Luggate, Cardrona, Kingston and Glenorchy (that perform poorly under the same methodology).

4. These areas are predominantly urban in character and functionally are part of a housing and labour market of at least 10,000 people. Arrowtown and Hāwea are expressly included on this basis. Areas such as PC50, Remarkables Park, Frankton Flats, and the Cardrona Special Zone are also urban in character and fall within the 'urban environment' as defined in the NPS-UD. Whether they are in scope of the Variation is a separate issue.

5. Policy 5 applies to district plans that apply to Tier 2 and Tier 3 urban environments and directs those plans to enable an urban form — specifically building heights and densities — that is commensurate with the greater of accessibility or relative demand. While the policy obligation is framed by the presence of Tier 2 or 3 urban environments, its effect is not confined to the label in Table 2. It operates through the parts of the District that currently fall within the definition of urban environment (as set out above and in this PDP are subject to 'urban' zones that sit under Strategic Chapter 4, Urban Development. The policy would also apply to a plan change seeking to rezone rural land to an urban zone in a Tier 2 or 3 urban district, if the land is to be rezoned, then the decision makers would need to turn their minds to whether the Policy 5 outcomes are achieved.

6. This interpretation of the urban environment is consistent with the approach of other Tier 2 local authorities, which have applied Policy 5 across all of the urban areas within their districts, not just the named locality in Table 2 of the NPS-UD. For example, Hastings District Council's Plan Change 5 applied intensification provisions not only to Hastings (the named Tier 2 centre) but also to Havelock North

and Flaxmere, recognising that all three settlements form part of that district's urban environment.

7. The scope of the UIV, however, remains confined to the specific PDP provisions of some PDP chapters that apply to land located within the urban environment and to the targeted mapping changes that were notified.

3(a)(ii) *excluding (i) above, of the remaining "urban environments" in the district (please identify those), which would qualify as "tier 3" urban environments, and the specific NPSUD requirements that apply to those;*

8. There are no remaining urban environments in the District beyond those already identified in response to Q3(a)(i).

3(a)(iii) *what (if any) parts of any existing "urban environment(s)" might not be compulsorily subject to policy 5) and why;*

9. As outlined above, the District's urban environment is "compulsorily subject to Policy 5", however that is in the context of a need to consider whether changes to the PDP provisions are needed to give effect to Policy 5. The Accessibility and Relative Demand assessments that informed the notified UIV assessed whether any part of the urban environment required a response to Policy 5. It is Council's position that the answer to this question does not determine scope of the UIV.

3(a)(iv) *of all of the above, a summary of those parts of the existing urban environment(s) within the District not proposed to be subject to the UIV;*

10. The PDP zones located within the urban environment not subject to the UIV are:

(a) **Settlement Zones**: Kingston, Glenorchy, Cardrona, Makarora and Luggate;

(b) **Residential and mixed-use Special Zones:** Large Lot Residential, Arrowtown Residential Historic Management Zone, Jacks Point Zone, Te Pūtahi Ladies Mile Zone (Note: implementation of Policy 5 was

considered for Ladies Mile through the Streamlined Planning Process for that land;

(c) **Commercial and Town Centre Zones:** Arrowtown Town Centre Zone; Three Parks Commercial Zone; Three Parks Business Zone;

(d) **Industrial Zones**: General Industrial and Service Zones; Coneburn Industrial; and.

(e) **Special Purpose Zones:** Airport Zones.

11. All of the PDP zones listed above that form part of an 'urban environment' were considered as part of the methodology (Accessibility and Demand Assessment, Urban Design Review and Economic Modelling), but no changes were necessary to implement Policy 5's commensurate requirements, or Part 2 constraints applied.

12. In addition, ODP Special Zones within the mapped urban environment are not subject to the Variation. These include Plan Change 50 – Queenstown Town Centre Zone Extension, Remarkables Park, Frankton Flats A and B, Quail Rise, Shotover Country, Northlake, Mount Cardrona Station, Arrowtown South, Bendemeer, Kingston Village, Meadow Park, Penrith Park, and parts of the Gorge Road Natural Hazard review area.

3(a)(v) *what requirements of the NPSUD relate to functions that would apply across the entire district, and what requirements relate solely to any specific urban environment(s) described above;*

13. Part 1.3(1)(b) of the NPS-UD – Application – states that the NPS applies to planning decisions that affect an urban environment. The NPS-UD does not, for example, relate to the Council's functions in, protecting landscape values of Outstanding Natural Landscapes and Features, or the Wakatipu Basin in respect of the appeals on Chapter 24 text and zoning application. Therefore generally, all of the NPS-UD applies to functions that relate to an urban environment. That includes to a plan change considering a rezoning from rural to urban (which is not within the scope of the UIV).

14. The UIV primarily relates to aligning the urban form enabled within the existing PDP urban environment with Policy 5's commensurate directive (rather than Policy 2) and ensuring zoning and rules achieve the intended development outcomes. On that basis, the application of the NPS-UD beyond the existing PDP urban environment is not relevant to recommendations on this Variation. On that basis, the application of the NPS-UD beyond the existing PDP urban environment appears to be irrelevant to recommendations on the Variation.

15. A smaller number of requirements apply at a district-wide level. These include: providing sufficient development capacity; being responsive to proposals that add significant capacity; maintaining a robust evidence base through regular Housing and Business Development Capacity Assessments (HBAs); undertaking integrated strategic planning through preparing a Future Development Strategy; addressing Climate change and transport outcomes; and Involve iwi and hapū and take into account the principles of Te Tiriti o Waitangi.

3(a)(vi) *what requirements of the NPSUD relate to urban environments and require outcomes limited to land within an urban environment (i.e., a planning response limited to land within an urban environment), and what requirements of the NPSUD relate to urban environments but might allow for outcomes outside of an urban environment (e.g., promoting an urban environment outcome by means of a planning response affecting land outside of an urban environment).*

16. As outlined in response to Q3(a)(v), all of the provisions of the NPS-UD are directed at achieving well-functioning urban environments. For planning decisions, the NPS-UD is relevant to existing or proposed urban environments (i.e. a plan change to rezone rural zoned land to an urban zone that would form part of the urban environment).

17. Some provisions, such as Policy 5, Objective 3, Objective 1/Policy 1, and Clause 3.35, are confined to urban environments because they regulate the form and intensification of land that is already urban.

18. Other provisions are framed by reference to urban environments but can require planning responses that extend beyond their current boundaries. These include Policy 2 (sufficient development capacity), Policies 6 and 8 (responsiveness and out-of-sequence plan changes), and Policy 10 / Objective 6 (strategic integration and FDS requirements), which may involve zoning new land or identifying future growth areas. In addition, Objective 5 / Policy 9 (Māori participation) and Objective 8 / Policy 1 (climate and resilience) support outcomes across both urban and rural land, and may necessitate wider transport, infrastructure, or iwi partnership responses.

19. Future urban land is not part of the "urban environment" until it is rezoned. Policy 5 will be relevant to the provisions that should apply to the land, when a decision has been made to bring it into the urban environment.

20. In summary, the NPS-UD relates to urban environments. Most provisions operate only within existing or proposed urban environments, but Policies 2, 6, 8 and 10, along with Objectives 5 and 8 (and their associated policies), may require planning responses that extend beyond current boundaries, such as identifying or rezoning new urban land through plan changes or the FDS, or addressing wider transport, climate and Māori participation outcomes.

Question 3(b)

Questions of scope considering the various legal submissions the panel received from submitters.

21. This question is addressed in Section 4 of Council's Reply Legal Submissions.

Question 3(c)

In respect of (a) and (b) the panel signals that it may not find the NPSUD MfE Guidance document, referred to by several parties, authoritative. Without going as far as to conclude that we will not rely on the MfE Guidance on any point(s), QLDC is nevertheless asked to provide its own advice on the above rather than merely refer us to that Guidance.

22. It is well accepted that the Courts are consistently attributing little weight to guidance material such as the MfE Guidance referred to in this question.

23. In *Bluegrass Ltd v Dunedin City Council* [2024] NZEnvC 83, Judge Steven did not consider it necessary nor helpful to consider MfE Guidance material when interpreting subordinate legislation, in that case the National Policy Statement on Highly Productive Land. Rather, when interpreting an NPS, Judge Steven found that "the meaning of each provision must be ascertained from its text and in the light of its purpose and its context". The Council submits that the same is the case here.

24. The Council has observed the MfE Guidance but does not seek to rely on it, and rather has interpreted the NPS-UD on its text and in light of its purpose and context.

Question 4(a)

Linked to paragraph 3(a), if the panel agreed that an existing part of an urban environment required a NPSUD Policy 5 response, does QLDC consider that Policy 5 would require both development heights and densities to be amended (operating as a combo/package noting the NPSUD's use of the conjunctive "and") or does it consider that one could be amended but not the other so as to deliver a "commensurate" outcome (i.e., such as a scenario of an additional density enablement but not an additional height enablement being provided)?

25. In the context of this question, Council considers that development heights and densities operate as a combo/package however that does not necessarily mean that both require amendment.

26. Objective 3 of the NPS-UD sets out the broad outcome sought to be achieved. Policy 5 sets out how district plans applying to Tier 2 and 3 urban environments are to be amended to assist with achieving Objective 3. While Policy 5 uses 'and', amendments to both standards will not always be needed, depending how a district plan currently regulates a particular area. For example, the District Plan might be enabling enough of heights but not of densities and therefore to 'fix' it and ensure it is enabling a commensurate outcome, only the densities may need to be amended.

Question 4(b)

Ms Fairgray helpfully commented verbally on the likely timing of viable, market-supported three-storey dwellings (in Arrowtown). The panel took from her evidence, supported by numerous submitters, that, in at least some, and potentially substantial, parts of the district's existing urban environments development of three storey dwellings is generally unlikely in the short to medium term (and may be some 20-30 years, plus, away).

***Could Ms Fairgray please confirm** the extent of such 'long term' 3-storey land within the relevant urban environment(s), and then explain what she considers will be likely to happen on that land if it was enabled for three storey development as a result of the UIV? For example, might it lead to strategic land banking as developers 'wait for the market', or is it more likely that two-story dwellings will be built in the interim?*

***If the latter**, then what is the likelihood of those townhouses being demolished after only a relatively short-period and replaced once there is greater demand (and economic return) for three storey apartment-style dwellings?*

***Does Ms Fairgray consider that** delivery of two-storey developments in the short-medium term will better deliver on the requirements of Policy 5 (as decided on by QLDC in paragraph 3(a)) rather than potentially encouraging land to remain un-intensified at all for potentially 20-30 years?*

Ms Fairgray's response

27. In summary, the answer to Question 4(b) is:

(a) **Viability of three-storey outcomes**: Most MDRZ land in the District can sustain three storeys in the long term, but short- to medium-term viability is limited in places like Arrowtown, parts of Bridesdale, and peripheral Arthurs Point;

(b) **Risk of strategic land banking**: Landowners are unlikely to defer development in lower-demand areas, as the likely realised yield gain from three storeys is modest and would occur only in the medium to long-term;

(c) **Risk of premature demolition**: Two-storey dwellings built now are very unlikely to be redeveloped within a short timeframe, given their economic life and fragmented ownership, making other development opportunities comparatively more attractive;

(d) **Effect on overall capacity**: In line with the total projected demand, only a minor share of the overall development opportunities are likely to be taken up in most locations in the short to medium-term. Even if

development in the interim is two storeys, substantial undeveloped capacity will remain to accommodate future intensification; and

(e) **Risk of large single dwellings**: Enabling three storeys is unlikely to incentivise more large homes in a way that would constrain the ability for the market to deliver other types of dwellings. Multiple two-storey units are likely to form a viable and market attractive development option (due to their increased yields from existing levels of development and alignment with market demand), which will deliver additional supply.

28. I understand this question to relate to the notified MDRZ and areas where additional three-storey MDR zoning is sought.

29. In my assessment, most of the land zoned MDRZ under the UIV is capable of sustaining three-storey outcomes by the medium to longer term. However, there are some locations where the market is unlikely to sustain this form in the short to medium term. These include Arrowtown, a small area in Bridesdale, and parts of Arthurs Point further from the central area. By contrast, more central parts of Arthurs Point and other peripheral locations such as Lake Hāwea show a higher level of projected demand and are likely to sustain up to three storeys.

30. In the lower-demand locations (Arrowtown, Bridesdale, and peripheral Arthurs Point), most development is likely to occur at two storeys, with only a minor portion of sites able to sustain three-storey terraced forms. Where three storeys are enabled, I consider that most landowners will still develop at two storeys in the short to medium term, rather than defer development. The uplift in yield between two-storey terraces that are currently feasible vs. three-storey terraces that are likely to become feasible through time is relatively modest, and not sufficient to incentivise strategic land banking. Low-rise apartments, which would produce a greater increase in dwelling yield from two-storey terraces, are generally not viable in these areas and therefore do not form a realistic later realizable yield increase for developers.

31. I consider that two-storey dwellings built in the short to medium term are unlikely to be demolished and redeveloped within only a short period. These dwellings will

be well within their economic life, and often developed to be held on individual titles (with aggregation at this scale difficult and less feasible). The large number of development opportunities on other parcels would be more likely to form more attractive options for later redevelopment. Accordingly, intensification of an area will occur incrementally as increasing shares of the parcels are developed: two-storey dwellings are more likely to be delivered now, with the market able to sustain some higher intensity development through time.

32. Importantly, the take-up of capacity in the short to medium term must be seen in the context of the very large overall capacity enabled relative to projected demand. Only a small portion of sites in each location are likely to be developed in the near term to meet projected demand. If some of those develop at two storeys (reflecting current market demand and development opportunity), this will not constrain the ability of the local area to continue to develop in a way that responds to future higher-intensity demand. A large pool of undeveloped capacity will remain available to accommodate intensification over time.

33. Finally, I note the concern raised by submitters that enabling three storeys where the market is not yet ready could instead be used for larger single dwellings or additions without producing more houses. In my view, this risk is limited. . Enabling three storeys is unlikely to incentivise more large homes in a way that would constrain the ability for the market to deliver other types of dwellings. Even if some sites were developed to contain larger homes, a substantial amount of capacity is likely to remain that could be developed to meet demand. Moreover, multiple two-storey units are likely to form a viable and market attractive development option due to their increased yields from existing levels of development, which will deliver additional supply that aligns with significant parts of the demand profile. The market is likely to respond to this opportunity and deliver additional dwellings at two storeys, which contributes positively to housing supply and aligns with Policy 5.

Question 4(b) continued

What is QLDC's planning position *on that factoring in Ms Fairgray's comments plus the submissions heard? The panel is particularly interested in the scenario, described by many submitters, of additional enablement premised on long-term demand that does not yet exist, being used for larger dwellings or additions and extensions (and various resultant adverse effects), but not actually providing materially more dwellings (the positive benefit in RMA s.5*

and NPSUD 'well-functioning urban environments' terms that those adverse effects would be primarily justified by).

Council / planning position

34. From a planning perspective, the Council considers that the notified MDRZ extent is generally appropriate for three-storey enablement, as this is the commensurate response in most urban environments where accessibility and/or relative demand is strong. However, the Council's position is that some locations warrant a reduced response, as follows:

(a) **Arrowtown MDRZ**: two storeys recommended despite performing well on accessibility, because of two qualifying matters (heritage and character);

(b) **Bridesdale**: two storeys recommended, reflecting weaker relative demand, weaker accessibility, and surrounding context;

(c) **Arthurs Point**: while Ms Fairgray supports three levels in the central area of Arthurs Point, Council's notified position and planning evidence applies two storeys, as described in the section 32 report recognising landscape sensitivities, and recognises weaker accessibility. Council therefore does not support three-storey enablement there. For more peripheral parts of Arthurs Point, two-storey MDR is justified on relative demand grounds;

(d) **North Wānaka**: reduced to 8m permitted height in the MDRZ, reflecting lower relative demand and being further from the town centre in accessibility terms; and

(e) **Queenstown Hill (top of)**: notified at 8m in the MDRZ, reflecting landscape constraints discussed in the section 32 report and weaker accessibility.

35. In these cases, the outcomes reflect the balances between accessibility, relative demand, or Part 2 constraints, with modifications to height and densities recommended only to the extent necessary to accommodate those considerations.

36. Accordingly, Council's position is that three-storey enablement remains the appropriate response across most MDRZ land, excluding the specific locations noted in paragraph 34 above. In practice, the majority of near-term development

across the District will still occur at two storeys, with three-storey outcomes increasingly emerging over time in those areas that can sustain them. This approach ensures Policy 5 is given effect to: capacity for different types of housing is enabled commensurate with accessibility and/or relative demand, while also securing short- to medium-term delivery of dwellings and well-functioning urban environments.

Question 4(c)

If the panel is minded to consider greater heights in some areas than the s.42A recommendations, are there any areas QLDC considers could accommodate greater heights? Does QLDC consider there to be a general scope for the panel to pursue that scenario? If not, is there scope for specific sites (for example Three Parks, Wanaka; Hawea South, Hawea; and PC50 in Queenstown were each mentioned by some submitters)?

37. In relation to the first part of the question, without derogating from the recommendations given in the Reply which remain Council's position, greater heights could be accommodated in Three Parks Wānaka.

38. In relation to the second part of the question on scope, for Three Parks Wānaka there are a number of lay submissions[3] seeking that more development be enabled (noting that many seek this in conjunction with seeking retention of the status quo in other parts of Wānaka). Additionally, there is considered to be general scope through the Infrastructure Commission (1238) and Ministry of Housing and Urban Development (800) submissions that seek more plan enabled capacity than the notified UIV.

39. More specific to the HDRZ and BMUZ, Southern Lakes Property Trust Limited (OS1055.3 and 1055.6) sought that the maximum building height in the BMUZ in Three Parks be increased to 20m as a permitted activity and Willowridge Development, Orchard Road Holdings Limited and Three Parks Properties Limited (OS948) support a building height of 20m in the HDRZ at Three Parks. In Paragraph 7.30 of her Rebuttal Evidence, Ms Frischknecht states that submission point 948.9

3 Including OS327.3, OS441.1, OS531.9, OS549.2, OS927.2, OS1105.4.

explicitly seeks a building height of 16m, however more general scope for additional height comes from the submissions identified in paragraph 38 above.

Question 4(d)

In the context of a hypothetical scenario of a Wanaka-wide Policy 5 response being 'heavily lifted' within the largely green-field Three Parks area, and a question from the Panel regarding the potential risks of putting all of one's eggs in one basket / location, Willowridge Development Limited stated that it could accept the imposition of a minimum density requirement and that such an approach could be appropriate for the HDRZ.

Does QLDC consider there to be scope for such an approach generally and/or or in specific areas such as Three Parks? Does QLDC support such an approach generally (noting that the recent Ladies Mile zone includes such a method)? If so why / why not? If a minimum density was imposed for HDRZ or any specific location(s), what density would QLDC propose, and would it be a rule, assessment matter, or other Plan provision?

40. This question appears to be asked on the premise that the UIV's response in Wānaka is rejected, and transferred to / applied only (or largely in) Three Parks. If that has been understood correctly, Council's position is:

(a) Such an approach would not properly give effect to Policy 5 of the NPS-UD in those parts of Wānaka where intensification is listed (for all the reasons set out in the section 32 report, and Council's Evidence on Wānaka);

(b) Careful consideration would need to be given to the geographic extent too which Wānaka submissions opposing intensification applied (this has not been assessed given the outcome is not supported by Council); and

(c) For Three Parks, as outlined in response to Question 4(c) there are a number of submissions seeking more development be enabled in Three Parks. No submissions specifically ask for a minimum density standard. However, it could be potentially argued that the request for increased height does provide for/enable greater density through increased building envelopes, leading to a minimum density standard being a different response, yet one that is within scope of the Willowridge Developments Ltd original submission (948.9).

41. The rest of this answer considers the appropriateness of applying a minimum density in the HDRZ at Three Parks. Imposing a minimum density ensures that well-located residential land is used efficiently to house more people close to transport, jobs, and amenities, giving effect to Policy 5 of the NPS-UD.

42. Given that Willowridge Developments Ltd has volunteered such an approach, the Council would support a minimum density requirement in the HDRZ at Three Parks. Council's preference would be to implement this as a specific HDRZ and Subdivision rules**,** supported by policy, with an overlay mapped in plan maps. The prescribed density should be informed by enabled building height, market feasibility, and the typologies sought.

43. If the Panel is minded to include a minimum density rule in the HDRZ at Three Parks, the Te Pūtahi provisions could be used as a guide to formulate the provisions. Rule 49.5.22 (Residential Density) requires that development in the Medium and High Density Residential Precincts achieves a minimum of 40 residential units per hectare across the net developable site area. This is reinforced by Rule 49.5.23 (Building Height), which prescribes both minimum and maximum building heights, with matters of discretion tied to ensuring the required yields are achieved. The subdivision provisions then lock this density in at the lot creation stage. Rule 27.7.31 governs subdivision in the Te Pūtahi Zone, while Policy 27.3.26 and Assessment Matter 27.9.8 require subdivision to deliver layouts that enable the intended densities and attached typologies, and to integrate with infrastructure and transport. Together, these provisions ensure that the zone cannot be under-developed, and that density outcomes are secured through both land use and subdivision processes.

44. At this stage, Council is unable to prescribe what minimum density should be imposed as more work is required to understand what this would be. The minimum density controls at Te Pūtahi were primarily justified on transport and infrastructure grounds, ensuring that the substantial public investment in bus priority lanes and intersection upgrades was supported by sufficient housing yield. Similar assessments and further work would need to be undertaken for Three Parks

to demonstrate that the prescriptive density provisions can be tied to a clear resource management issue, and when implemented as a coordinated package of rules and policies.

Question 4(e)

Retaining adequate sunlight access during winter was raised as a key issue (generally, but especially for Arrowtown submitters). Having heard the submissions does QLDC consider there are any alternative methods to recession planes that could deliver improved provision of sunlight during winter?

45. Council has identified the following alternatives to recession planes that could deliver improved provision of sunlight during winter:

(a) Requiring a stepped building frontage is a method that can achieve greater sunlight access, and is an established method used in PDP mixed use zones along road boundaries. Whilst the purpose of a stepped frontage is more for achieving human scale development at a street level, the outcomes are similar to a recession plane rule. However, when applied to residential development, this method may result in awkward design outcomes and create inefficient layouts, that may be inconsistent with design guidelines;

(b) Larger building setbacks (from particular boundaries e.g. southern boundaries), however this method can limit dense built form outcomes and result in inefficient use of land;

(c) Building separation rules (from other buildings on adjoining properties), although such rules can result in a 'first in first served' outcome;

(d) Applying maximum vegetation/tree heights to limit shading effects, however this method may adversely impact residential character, would likely require significant resourcing and difficulty for monitoring and enforcement, and may require a vegetation survey to establish which vegetation has existing use rights; and

(e) Digging down into a site to lower the foundation level and reduce the height of development measured from the original ground level.

46. These alternatives are all considered by Council to be less appropriate than recession planes, which allow the bulk of the building to be designed to limit impact on adjoining properties, including through applying the most restrictive recession plane on the northern boundary.

Question 4(f)

Should the panel consider that the PC50 land is within scope what provisions, if any, does QLDC consider would be required in addition to the information already provided by the relevant submitters to ensure that the District Plan appropriately covers all relevant matters?

47. This question is addressed in Ms Bowbyes' Reply Evidence in paragraphs 4.1 to 4.7.

Question 4(g)

Does QLDC still consider retaining the Design/Character Guidelines referenced within the relevant parts of the District Plan to be appropriate? If so please set out in detail why and how they can provide plan integration and align with the NPSUD (especially Policy 5) direction. If not does QLDC consider that key design elements can still be appropriately included (given the NPSUD direction) in each case and what is QLDC's preference?

48. This question is addressed in Ms Frischknecht's Reply Evidence in Section 2.

Question 4(h)

While public transport is managed by ORC could QLDC please provide us with (or a link to) the current bus schedules for the district and identify (if any) any material changes planned in the RLTP (or other relevant documents) in the short to medium term.

49. The current bus schedule is available here: https://www.orc.govt.nz/orbus/queenstown-bus-ferry-timetables/

50. The mid-term review of the Otago Southland RLTP (2024)[4] identifies public and active transport upgrades in the Wakatipu Basin as the key short-to-medium term change for Queenstown Lakes. The review places greater emphasis on mode shift and climate objectives, confirming funding for higher-frequency bus services and

4 Mid-term Review of the Otago Southland Regional Land Transport Plan 2021–2031, ORC, November 2024

network improvements (listed in the RLTP as "Queenstown PT Improvement", p.78). No comparable new commitments are identified for Wānaka or the Upper Clutha in this period.

51. From 30 June 2025, ORC implemented the first stage of these improvements (as confirmed in ORC's service change notices[5]):

(a) Route 1 (Sunshine Bay/Fernhill–Queenstown–Frankton–Remarkables Shops) will run every 15 minutes during the day (up from 30 minutes);

(b) Route 2 (Frankton–Arrowtown) route change to link Frankton and Arrowtown directly with Route 4 linking Jacks Point to Arrowtown via Queenstown, and other services

(c) Route 3 (Kelvin Heights–Quail Rise) and Route 5 (Lake Hayes Estate–Queenstown)) adjusted to improve coverage and connectivity.

52. These upgrades represent the first tranche of improvements under the Queenstown PT Improvement programme listed in the RLTP, with scope for further enhancements to be considered in subsequent NLTP funding rounds as demand grows.

53. In his Urban Design evidence,[6] Mr Wallace also undertook sensitivity testing in response to submissions that public transport accessibility should be given greater weighting. His methodology is stop-based rather than route-based, assessing accessibility by the frequency and range of destinations reachable from each bus stop. On this basis, stops on the Fernhill corridor were already treated as "frequent stops," so the Route 1 upgrade was effectively captured in his analysis.

54. Mr Wallace's testing at paragraph 15.11 of his Urban Design evidence confirmed that while giving greater weight to public transport improves accessibility scores, when considered alongside the wider Accessibility and Demand Analysis, he considers that the general zoning approach as notified in the UIV remains appropriate. The other route changes outlined above was not part of that testing,

5 https://www.orc.govt.nz/orbus/queenstown-bus-ferry-timetables/queenstown-changes-30-june-2025/
6 Uban Design Statement of Evidence of Cam Wallace on behalf of QLDC, 6 June 2025.

but it is considered that it would not materially change relative accessibility outcomes. Overall, the upgrades reinforce the appropriateness of the notified zoning and the direction of Policy 5 of the NPS-UD.

Question 4(i)

In the specific context of Arrowtown, the panel heard from many submitters how the current Plan approach was not working to maintain or enhance existing character values. Many specifically described the existing permitted activities enabled by the Plan as a key problem (with two new dwellings on Pritchard Place regularly referred to as examples).

In the hypothetical of the panel agreeing that Arrowtown's character was an important planning outcome, but also determining that additional building heights and/or densities were required to implement NPSUD Policy 5, would the panel have scope to provide for that additional height and/or density by way of an increased mandatory consideration of Arrowtown's character as a means of managing resultant adverse effects from that additional height and/or density (such as removing existing permitted activities), and why or why not?

55. Yes there would be scope, as the regime as described in the Panel's question sits between the status quo (sought in submissions) and what was notified. An increased mandatory consideration of Arrowtown's character is a different regulatory option for responding to Arrowtown's character, but one that is within scope in the context of the Panel's hypothetical question.

56. A comparative example is in Wānaka Town Centre, where Council evidence recommends greater building height through a restricted discretionary activity status in conjunction with additional matters of discretion to manage design outcomes necessitated by the recommended increase in anticipated building height. This demonstrates that it is within scope to provide for more height and/or density while at the same time strengthening controls to manage resultant adverse effects.

57. However, as addressed in Ms Bowbyes' Reply Evidence on Arrowtown, the Arrowtown Design Guideline 2016 (**ADG**) describes the contributors to

Arrowtown's character, and it does not include specific standards to be complied with. Many of the contributors to character included in the ADG are not measurable or certain and therefore do not operate as standards. Additionally, many contributors are not regulated by the district plan (including vegetation (aside from notable trees), swales, informal footpaths and informal street parking).

58. Any increased mandatory consideration of Arrowtown's character would need to be carefully justified and limited so that it is only to the extent necessary (consistent with Policy 4 of the NPS-UD).

59. As outlined in Ms Bowbyes' Reply Evidence, Council's position is that, in the event that the UIV is 'rejected' for Arrowtown and no changes are made to heights and densities, then there is no scope to broaden the application of the ADG.