

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

UNDER THE Resource Management Act 1991 (“**Act**”)
IN THE MATTER OF Stage 3b Proposed District Plan – Wāhi tūpuna
BETWEEN **CARDRONA VILLAGE LIMITED** (Submitter
#3404); and
BETWEEN **KINGSTON LIFESTYLE PROPERTIES LIMITED**
(Submitter #3297)
AND **QUEENSTOWN LAKES DISTRICT COUNCIL**
Planning Authority

**LEGAL SUBMISSIONS ON BEHALF OF CARDRONA VILLAGE LTD &
KINGSTON LIFESTYLE PROPERTIES LTD: T18 – SETTLEMENT ZONE**

30 JULY 2020

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MAY IT PLEASE THE COURT:**Introduction**

1. These submissions are made on behalf of the following submitters (“**Submitters**”):
 - (a) Cardrona Village Limited (Submitter #3404) (“**CVL**”); and
 - (b) Kingston Lifestyle Properties Limited (#3297) (“**KLP**”).
2. CVL as its name suggests, has its interests in land at Cardrona Village; while KLP’s interest lie in the “Kingston Flyer land”.
3. In broad terms, each of CVL and KLP are seeking the inclusion of land in respect of which they have an interest in into the Settlement Zone (“**SETZ**”) (nothing that other of their land in the vicinity is already proposed as SETZ); together with additional relief, such as the inclusion of some of the proposed SETZ land within the SETZ Commercial Precinct overlay.
4. While the Submitters share legal counsel and some experts, it should be noted that they are separate entities; and are not “related” companies.
5. The Council’s opening submissions (29 June 2020) do not address the CVL or KLP submissions, but state that doing so should not “translate” to there being “no issue” with what they are proposing. It does means that the only “cues” as to the Council’s position in respect of the submissions is to be taken, at this stage, from the Council’s evidence in respect of those submissions. That evidence has been addressed in the evidence for the submitters, and is not intended to be repeated in these submissions.
6. The outstanding issues (and evidence in respect of them) for each of the Submitters is also summarised in the planning evidence for each, given by Mr Grace.
7. Accordingly, these legal submissions can be short.
8. It is not anticipated that there are any “jurisdictional” issues arising in respect of the relief sought by each of CVL and KLP – the relief having been clearly identified in the respective original submissions.

Cardrona Village – land swap issue

9. A possible legal issue arises from the proposed “land swap” with the Crown for part of the former river bed to the west of the river, which is to be exchanged for land to the east of the river. Effectively, the proposal will result in a crown owning a “corridor” of land either side of the current bed of the Cardrona River. Appendix 2 to the evidence of Mr Grace shows the land arrangements in much better detail/ resolution than the map originally included with the submission.
10. While property rights and ownership do not necessarily dictate zoning, they are relevant considerations and can often be a determining factor for locating the “edge” of zone boundaries or limits.
11. In this instance, the proposed land swap also reflects a physical change that has occurred in the environment, ie the shift in location of the Cardrona River in that location. Had the change occurred gradually and imperceptibly over time, then the boundaries might have been able to be adjusted through the doctrine of accretion and erosion. However, that has not been pursued, and a formal land swap agreement has been entered into with the Crown to regularize the change in the location of the river.
12. It is submitted that the Panel can rely on the land swap plan, as reflecting:
 - (a) the legal ownership boundaries that will exist once the land swap is complete; and
 - (b) the physical characteristics of the current location of the river and its margins.
13. In other words, there is both a legal and physical basis to support the rezoning sought in respect of the land swap land – particularly the inclusion of the “light blue” land as SETZ. Put another way, even if the land swap were not to eventuate, rezoning to SETZ would better reflect the physical characteristics of the land, than its present zoning. A consequential change to the boundary of the ONL line to reflect that change to SETZ (if made) is entirely logical.

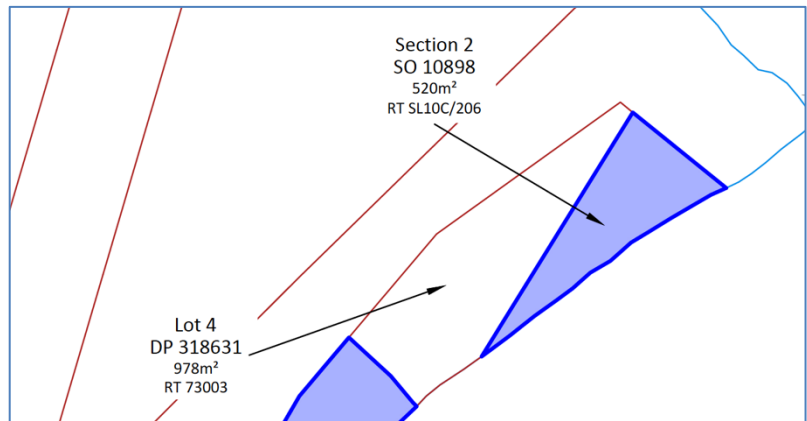
Kingston Flyer

14. The Kingston Flyer Land is currently subject to a range of zonings under the PDP (including unzoned land).
15. KFL is essentially seeking for the Kingston Flyer land within the main Kingston Village area to be zoned consistently as SETZ, and for the provisions within the SETZ to better recognise the Kingston Flyer.
16. To assist the Panel in understanding the complexity, or multiplicity of the current zoning (including unzoned land), the position is summarised below:

Land Parcel	ODP	PDP
Lot 4 DP 318631 and Section 2 SO 10898	Rural General Zone	Rural Zone (now operative)
Section 1 SO 10898	Township Zone	Not zoned (although recommended to be zoned partially Settlement Zone and partially Settlement Zone – Commercial Precinct)
Section 3 SO 10898	Township Zone	Settlement Zone – Commercial Precinct
Lot 9 DP 306647	Township Zone	Settlement Zone
Lot 1 DP 306647	Township Zone	Settlement Zone
Lot 6 DP 306647	Township Zone	Not zoned (although requested to be zoned Settlement Zone)
Section 1 SO 7617	Road	Not zoned (although requested to be zoned Settlement Zone)
Lot 2 DP 318661	Rural General Zone	Rural Zone (now operative)
Lot 1 DPO 318661	Rural General Zone	Rural Zone (now operative)

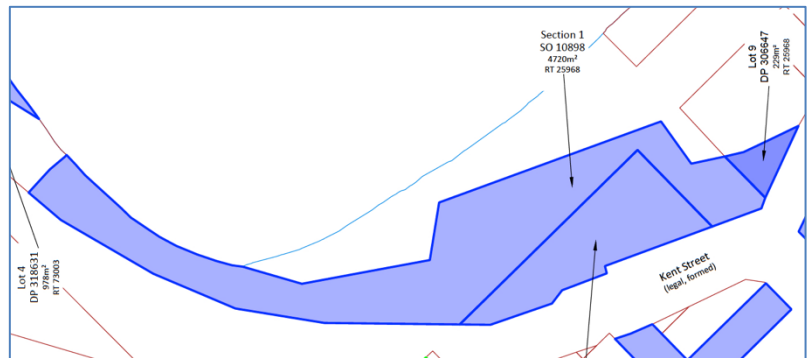
17. To put this into context graphically (or spatially), the relevant parcels of land and their respective zonings are identified below:

(a) Lot 4 DP 318631 and Section 2 SO 10898:



- (i) ODP - Rural General Zone;
- (ii) PDP - Rural Zone (now operative).

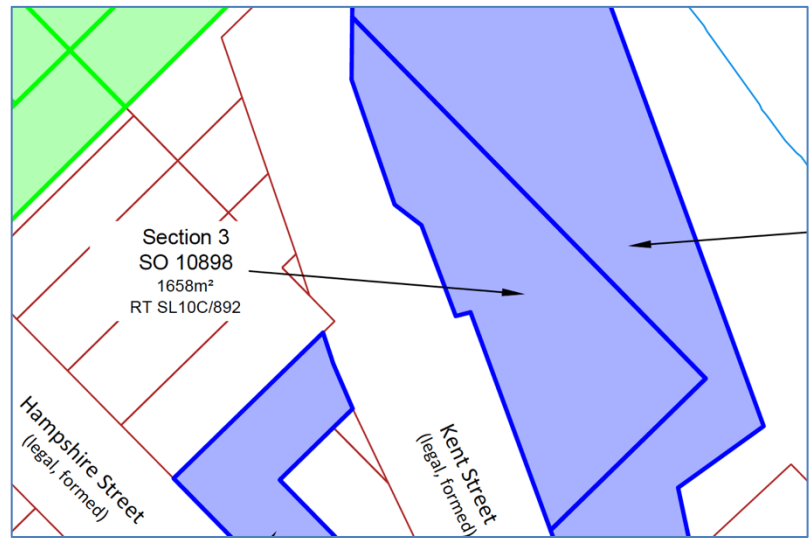
(b) Section 1 SO 10898:



- (i) ODP - Township Zone;
- (ii) PDP - Not zoned (although recommended to be zoned partially Settlement Zone and partially Settlement Zone – Commercial Precinct).¹

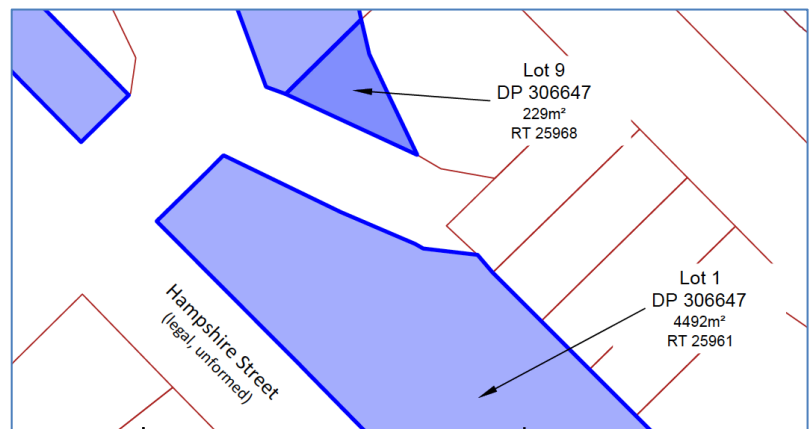
¹ Section 42A Report of Rosalind Mary Devlin on behalf of Queenstown Lakes District Council – Settlement and Lower Density Suburban Residential Zones – Mapping – 18 March 2020 - 34 – Kingston Lifestyle Properties Ltd

(c) Section 3 SO 10898:



- (i) ODP - Township Zone;
- (ii) PDP - Settlement Zone – Commercial Precinct.

(d) Lot 9 DP 306647, Lot 1 DP 306647:



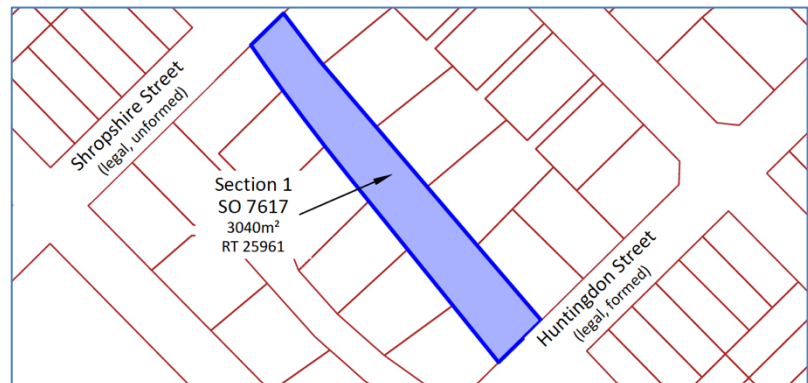
- (i) ODP - Township Zone;
- (ii) PDP - Settlement Zone.

(e) Lot 6 DP 306647:



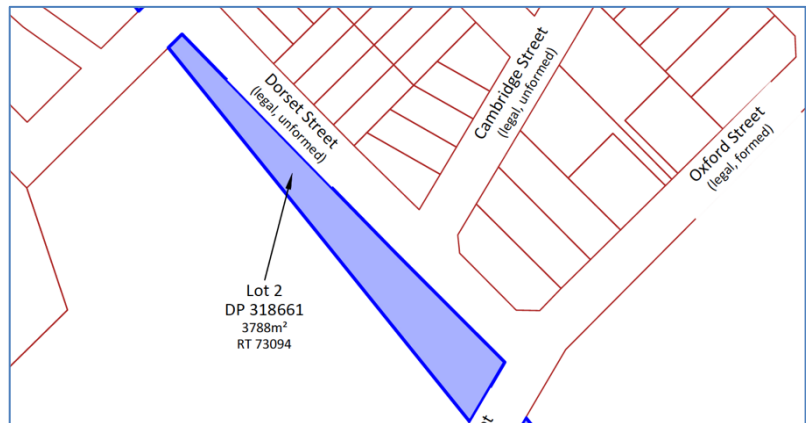
- (i) ODP - Township Zone;
- (ii) PDP - not zoned – requested to be zoned Settlement Zone.²

(f) Section 1 SO 7617:



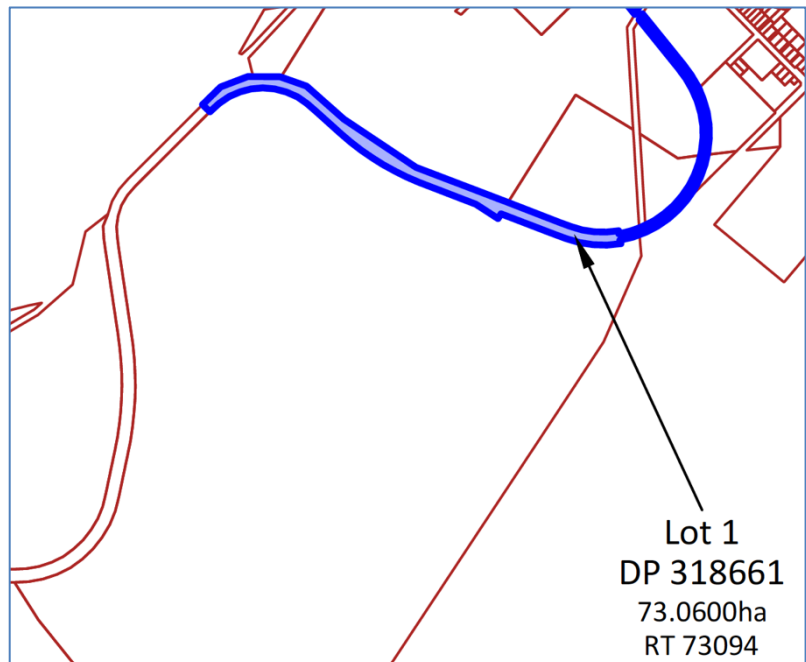
- (i) ODP - Road:
- (ii) PDP - not zoned – requested to be zoned Settlement Zone.³

(g) Lot 2 DP 318661:



- (i) ODP - Rural General Zone;
- (ii) PDP - Rural Zone (now operative).

(h) Lot 1 DP 318661:



- (i) ODP - Rural General Zone;
- (ii) PDP - Rural Zone (now operative).

Forward progress

18. Subject to any questions from the Panel on legal matters, the intention is to leave the evidence (and the witnesses) to speak for themselves.
19. In that regard, is it noted that the following witnesses are to be called:
 - (a) For CVL:
 - (i) Mike Lee;
 - (ii) Stephen Brown; and
 - (iii) Tim Grace.
 - (b) For KLP:
 - (i) Neville Simpson; and
 - (ii) Tim Grace.

DATED 30 July 2020



J D K Gardner-Hopkins
Counsel for the Submitters