

ANNEXURE B – Copy of the Relevant Part of the Decision

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-4

Report and Recommendations of Independent Commissioners
Regarding Mapping of Arthurs Point

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

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PART E: DARRYL SAMPSON & LOUISE COOPER

Submitter Darryl Sampson & Louise Cooper (Submission 495)

Further Submissions

None

17. PRELIMINARY MATTERS

17.1. Subject of Submission

83. These submissions related to an area of approximately 1.4ha at 182D Arthurs Point Rd on the eastern edge of the settlement.

17.2. Outline of Relief Sought

84. As notified, the submitters' property had a split zoning, with part of the site zoned Rural in the PDP, and part ODP Rural Visitor as shown Figures 4-7 and 4-8 below. The submissions requested the Rural portion of the property be rezoned Rural Visitor and the Urban Growth Boundary and the ONL be moved to the amended edge of the Rural Zone.

17.3. Description of the Site and Environs

85. The site is on the southern side of Arthurs Point Rd towards the eastern end of the settlement. It contains 2.117ha. There is one existing house on it.



Figure 4-7 – Submission site



Figure 4-8 – Planning Map extract. Yellow is ODP Rural Visitor Zone, cream is Rural

17.4. The Case for Rezoning

86. The case for the submitter was presented by Ms Jayne Macdonald, legal counsel, Mr Ben Espie, landscape architect and Mr Carey Vivian, planner.

17.5. Legal

87. Ms MacDonald addressed the difficult position submitters such as this are placed in when a property is split zoned, with part of the property zoned Rural Visitor, which is not one of the zones being dealt with in Stage 1 of the PDP review, while the other part is zoned Rural under the PDP. She submitted that it would be possible to import the operative RV Zone into the PDP, but accepted that the Panel may be reluctant to do so. She suggested that an alternative would be to give the whole property an urban zoning, such as Medium Density Residential, which is a PDP Stage 1 zoning.
88. Ms MacDonald also discussed approaches to dealing with a part of the site which is within a steep escarpment. She accepted that rather than zoning this Rural, an alternative could be to apply a building restriction area to this part of the site.

17.6. Landscape

89. Mr Espie said that the southern and eastern boundaries of the operative RVZ adjacent to Arthur's Point Road (and perhaps other boundaries as well) have been drawn in a way that does not accurately relate to landform or land use patterns. The property contains the lip and upper part of a steep escarpment that runs down to the Shotover River. The escarpment faces that contain the Shotover River are steep and covered in relatively dense vegetation, generally self-seeded exotic species. Despite the exotic vegetation, the escarpment faces are readily legible as the incised walls of the Shotover River canyon. When seen as a whole, the river canyon (i.e. the river, its bed and its containing escarpments) are seen as a cohesive landscape unit or feature. He considered that urban zoning on the property should be confined to the flatter terrace areas and should not extend over the lip of the escarpment and down its face.
90. Mr Espie assessed the visual effects of development on the property on observers from a number of locations around the Arthurs Point basin and beyond and concluded that any adverse effects would be negligible. From all viewpoints the proposed development would be either seen as a small extension to existing development, or would be too distant to be significant.
91. For the Council, Dr Read agreed with this analysis.

17.7. Planning

92. Mr Vivian sought through his summary evidence statement at the hearing that the entire property outside the escarpment be given an alternative zoning such as LDRZ or MDRZ, together with the amendment of the UGB and ONL/ONF lines to align with the zone boundary. He said that it would be up to the Council to consider whether or not it wished to have the property in whatever replaces the operative RVZ when that zone is reviewed in a later stage of the PDP process. We will return to that issue later.
93. Mr Vivian noted that there was no opposition from the Council's experts in landscape, transport, ecology and infrastructure matters in relation to the modified proposal.
94. In her Right of Reply Report, Ms Devlin accepted that the site could be rezoned MDRZ on the terraces, but that the land below the lip of the escarpment should remain Rural, subject to a BRA. She said that retaining the Rural zoning with a BRA would trigger the ONL considerations (ie. the landscape assessment matters) under Chapter 6, as the landscape classifications only apply to the Rural Zone, and this may give additional discouragement to any non-complying proposals.¹⁰

¹⁰ R Devlin, Reply Evidence, 6 October 2017, paragraph 9.3

17.8. Discussion of Planning Framework

95. Strategic Objectives and Policies in Chapters 3 and 6 of the PDP require the identification of ONL's and avoidance of adverse effects on them that would be more than minor or not temporary. Subdivision and development are discouraged in ONL's unless the landscape can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site¹¹.
96. Objectives and policies of the PDP relating to urban growth are set out above under Submission 495 Gertrude's Saddlery Ltd. In summary these require that urban growth is managed in a strategic and integrated manner, promotes a compact, well designed and integrated urban form built on historical urban settlement patterns, achieves a built environment that provides desirable, healthy and safe places to live, work and play, minimises natural hazard risk and protects the District's rural landscapes.
97. Policies also allow for limited urban growth of smaller settlements and require that urban development is contained within defined Urban Growth Boundaries, and is able to be coordinated with the efficient provision and operation of infrastructure and services¹².

18. ISSUES

- a. Landscape
- b. Urban Growth
- c. Process Issues

19. DISCUSSION OF ISSUES AND CONCLUSIONS

19.1. Landscape

98. We accept the advice of Dr Read and Mr Espie that the part of the site on the flat terraces above the Lower Shotover Gorge can be developed for residential purposes without adverse effects on the landscape, but that the part of the property below the lip of the escarpment should be within the ONL and remain undeveloped. We will return to how to achieve that in our discussion of process issues.

19.2. Urban Growth

99. Although the area is small, the proposed rezoning will be an extension to an existing settlement and is therefore urban growth. Therefore we accept the advice of Ms Devlin and Mr Vivian and conclude that the Urban Growth Boundary should be extended over the terrace land that we regard as suitable for development.

19.3. Process Issues

100. The original submission requested the extension of the Rural Visitor Zone over the entire property. The RV zone is not part of the current Stage 1 of the PDP, and following the Clause 16 amendment to the PDP, as discussed above, is shown on the PDP maps only for information purposes. Although Mr Vivian protested about the legality of this amendment we do not consider we have the jurisdiction to address that. The most we consider we could do would be

¹¹ See Objective 3.2.5, Policies 3.2.5.1, 3.3.29 and 3.3.30, and Policy 6.3.12

¹² See Objective 3.2.2, and Policies 3.2.2.1, 4.2.1.2 and 4.2.1.3.

to import the operative RV zone, or a bespoke version of it into the PDP for the Rural zoned part of this site as that is all we have scope to address.

101. As we have said consistently throughout our recommendations on this hearings stream, we are not prepared to do that. Our reasons for that are fully set out in our discussion of Submission 716 by Ngai Tahu Properties Ltd earlier in this report. In summary we regard that zone as potentially too enabling and not sufficiently protective of the landscape, and probably not consistent with the strategic approach of the PDP to landscape and other issues. We could have created a bespoke version of the RVZ for this site, but again we have consistently declined to do that. We were not given anything to consider and we do not wish to do that from the beginning. To do this would also risk inconsistency with whatever the Council does when it reviews the RVZ at a later stage of the PDP process.
102. We are prepared to accept the alternative suggestion of the Medium Density Zone, but only for the Rural zoned part of the site, which is what is within Stage 1 of the PDP. Part of the site is below the lip of the escarpment, and this should have a Building Restriction Area to exclude it from development. We have considered Ms Devlin's alternative suggestion of retaining this part of the property in the Rural Zone, as the BRA would allow for non-complying activity applications to be made. However a split zoning creates the potential for a separate site to be created by subdivision. Both approaches have advantages and disadvantages, and on balance we prefer to avoid the split zoning. In any case we consider it unlikely that anyone would attempt a development on this part of the property given the very persuasive evidence we received from Mr Espie and Dr Read about the adverse effects on the landscape.
103. The submitters will have the opportunity to address the zoning of the RV part of the site when the RVZ is reviewed.

20. RECOMMENDATION

104. For the reasons set above, we recommend that:
 - a. Submission 495 be allowed in part;
 - b. The Rural zoned part of the property be rezoned Medium Density Residential;
 - c. The ONL boundary be drawn along the terrace edge as agreed by Dr Read and Mr Espie;
 - d. The UGB boundary be drawn at the edge of the MDRZ; and
 - e. A Building Restricted Area notation be applied to the parts of the property within the ONL; as shown Planning Map 39a.