

Memo

To: Queenstown Lakes District Council **Cc:**
From: Joshua Leckie, Hayley Mahon **Date:** 14 May 2026
Client: Arrowsouth Properties Limited **Matter Number:** 220392.0003

Subject: Ability to Vary Consent Notice under the Resource Management Act 1991 as part of a Private Plan Change request

Introduction and Summary

1. Arrowsouth Properties Limited (**Arrowsouth**) has lodged a private plan change request (**PC 2**) to alter the zoning of land at Lots 102 and 103 DP 535793, Lots 1-20 DP 535793, Lot 104 DP 535793, Lot 101 DP 535796 and Lot 38 DP 20153 (**Site**).
2. Queenstown Lakes District Council (**QLDC**) have requested further information before progressing to publicly notifying the plan change. One question from QLDC is whether the Consent Notice 11585126 (**Consent Notice**) can be varied as part of PC 2 to allow housing in areas currently restricted from housing in conditions (f) and (g) of the Consent Notice.
3. In summary, we consider the Consent Notice cannot be varied through a private plan change process. The variation or cancellation of consent notice conditions can only be undertaken following a resource consent application for the variation of subdivision conditions and is specifically governed by Section 221 of the Resource Management Act 1991 (**RMA**). This would need to occur outside the PC 2 process in the event PC 2 is approved.

Variation of Consent Notices

4. A consent notice is imposed under section 221 of the RMA and attaches conditions to land titles following subdivision.
5. The RMA provides that at any time after the deposit of a survey plan:¹
 - (a) the owner may apply to a territorial authority to vary or cancel any condition specified in a consent notice:
 - (b) the territorial authority may review any condition specified in a consent notice and vary or cancel the condition.
6. There is no statutory ability to vary a consent notice condition as part of a plan change process. Instead, a variation to the relevant underlying subdivision consent conditions is required, which is a process that Arrowsouth will undertake once the proposed plan change is approved.
7. While consent notices are intended to provide certainty of ongoing conditions approved by subdivision consents, case law confirms that consent notices can be varied when there is a material change in circumstances (such as a rezoning through a plan change) where the consent notice no longer achieves the purpose of sustainable management.² Accordingly, we consider it will be more appropriate for Arrowsouth to seek a variation to the Consent Notice if the proposed plan change is granted as the planning environment will change through the proposed plan change to justify the variation to the Consent Notice conditions.

¹ Resource Management Act 1991, Section 221(3).

² *Ballantyne Barker Holdings Ltd v Queenstown Lakes District Council* [2019] NZHC 2844 at [45].

8. The consent notice ultimately reflects the outcome of the current operative zoning and as such, the key matter for determination by the PC2 Hearing Panel, being an assessment of the change in the planning environment, will be similar to that which is required for the assessment required to vary consent notice conditions.
9. We consider that QLDC can take comfort when considering a future application by Arrowsouth to vary consent notice conditions, that the Hearing Panel PC2 will have already made a recent assessment of the change in the current versus proposed (or changed) planning environment.