

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

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 6A –
Variation 1, Arrowtown
Design Guidelines

**OPENING REPRESENTATIONS / LEGAL SUBMISSIONS FOR QUEENSTOWN
LAKES DISTRICT COUNCIL**

**Hearing Stream 06A
Variation 1 – Arrowtown Design Guidelines**

4 November 2016

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MAY IT PLEASE THE PANEL

1. INTRODUCTION

1.1 These legal submissions are made on behalf of the Queenstown Lakes District Council (**Council**) in respect of the Variation 1 (Arrowtown Design Guidelines) hearing on the Proposed District Plan (**PDP**).

2. OUTLINE OF LEGAL SUBMISSIONS

2.1 These opening submissions address the following matters:

- (a) an explanation of Variation 1;
- (b) the relevance of recommended changes in Residential Hearing Stream 6, which are not within the scope of this hearing;
- (c) relevance of submissions on the 2006 Guidelines;
- (d) submissions not 'on' Variation 1, that relate to appropriateness of the MDRZ in Arrowtown;
- (e) consequence of Panel recommendations on zones that 2016 Guidelines apply in;
- (f) the evidence filed on behalf of the New Zealand Fire Service (**NZFS**); and
- (g) the Council's evidence.

3. VARIATION 1

3.1 Variation 1 consists of the 2016 Guidelines document, the incorporation of those Guidelines into the PDP, specific changes to five chapters of the PDP to update the reference from the 2006 Guidelines to the 2016 Guidelines, and to delete the words "*(and any adopted updates)*" from notified Policy 4.2.5.2. The relevant chapters of the PDP amended by Variation 1 are:¹

- (a) Urban Development Chapter 4;
- (b) Low Density Residential (**LDR**) Chapter 7;

1 Although limited to the applicability of the zones as far as they are located in Arrowtown.

- (c) Medium Density Residential (**MDR**) Chapter 8;
- (d) Arrowtown Residential Historic Management (**ARHM**) Chapter 10; and
- (e) Arrowtown Town Centre Chapter 14.²

3.2 The 2016 Guidelines are largely based on the 2006 Guidelines, but have been revised and updated to reflect changes that have occurred in Arrowtown since 2006. The 2016 Guidelines provide guidance for future development in Arrowtown based zones notified in Stage 1 of the PDP, with a purpose of ensuring that development is advanced in a manner that will protect and enhance the historic characteristics of Arrowtown. This includes the retention of the early subdivision pattern and streetscape, and to ensure future development is at a scale and design that is sympathetic to the present character.³

4. RELEVANCE OF RECOMMENDED CHANGES IN RESIDENTIAL HEARING STREAM 6

4.1 Mr Bryce's evidence is that the design response for future development within the MDR zone is of particular importance. This zone borders the ARHM zone along Suffolk Street and Kent Street. If development intensification provided for under the proposed MDR zone is not appropriately designed to respond to the sensitivity of the adjoining ARHMZ, there is the potential for the historic character and high amenity values of the ARHM zone, to be eroded over time.⁴

4.2 Of relevance (but not within the scope of this hearing in terms of the merits of the changes made to the PDP Chapter 8 rules), is that Ms Amanda Leith in her s42A for the MDR zone has recommended a new Arrowtown Historic Management Transition Overlay Area (**Transition Overlay**), which is to be applied over those MDRZ properties along Suffolk Street and Kent Street. Alongside this new Transition Overlay, Ms Leith has recommended that a restricted discretionary activity consent be required for the construction of *any* residential unit within the Transition Overlay area. This change responds to the more sensitive ARHM zone and MDR zone interface,

² <http://www.qldc.govt.nz/assets/Uploads/Your-Views/Arrowtown-Design-Guidelines-Variation-1/Changes-to-PDP-text-arising-from-Variation-1.pdf>

³ Mr Bryce s42A report, at paragraph 6.2.

⁴ Mr Bryce s42A report, at paragraph 6.3.

which can be distinguished from the remainder of the MDR zone, where a restricted discretionary consent is triggered by the construction of two or more dwellings.

4.3 Both Mr Knott from his heritage/urban design perspective and Mr Bryce from a planning perspective, support this new Transition Overlay and restricted discretionary rule,⁵ and have subsequently recommended changes to the notified 2016 Guidelines to provide specific guidance for development undertaken within the Transition Overlay area.⁶

4.4 The LDR zone also borders, albeit in a small area, the ARHM zone. In her LDR s42A, Ms Leith recommends that the construct of any residential unit in a net site area of between 300m² and 449m², is a restricted discretionary activity. Development of no greater than one residential unit per 450m² is a permitted activity and therefore the 2016 Guidelines would not be triggered.⁷ Mr Knott's evidence is that it is not necessary to have a transition overlay within the LDRZ, as the potential for a development within the limited area to have a negative impact upon the setting of the ARHM zone, is low.⁸

4.5 In summary, through recommended changes in response to submissions in the Residential Hearing Stream, the 2016 Guidelines apply as a matter of discretion for any restricted discretionary activity resource consent to:

(a) In the ARHM zone and the Arrowtown Town Centre zone, construct or undertake alternations to buildings or construction of new buildings;⁹

(b) in the MDR zone:

(i) construct any residential unit within the (recommended) Transition Overlay area, which is

5 Mr Bryce s42A report, at paragraph 10.18, and Mr Knott evidence, at paragraph 4.8.

6 Mr Bryce s42A report, at paragraph 10.21 and 12.41.

7 Redraft 7.4.9.1.

8 Mr Knott's evidence, at paragraph 6.6.

9 See redraft 8.4.11.2.

to be applied over those MDR zone properties along Suffolk Street and Kent Street;¹⁰

(ii) construct two or more residential units¹¹ on a site (where these relate to Arrowtown);¹²

(c) in the LDR zone:

(i) construct one residential unit on a lot that is between 300m² and 449m² net site area;¹³

(ii) construct two or more residential units on a site.¹⁴

4.6 The design of any single residential unit that can otherwise be undertaken as a permitted activity in the LDR and MDR zones, will typically be influenced by the bulk and location controls provided for in those zones.

4.7 Where a resource consent is required, consideration will be given to the extent to which the development responds positively to Arrowtown's character, utilising the 2016 Guidelines as a guide. Applications for resource consent under the PDP in relevant areas in Arrowtown, will therefore need to show how the 2016 Guidelines have been considered and incorporated into the design.

4.8 It is therefore the *content* of the Guidelines 2016, that are the focus of this hearing.

5. CLAUSE 16B OF SCHEDULE 1 / SUBMISSIONS ON THE 2006 GUIDELINES

5.1 Under clause 16B of Schedule 1 of the RMA, every variation initiated under clause 16A shall be merged in and become part of the proposed plan as soon as the variation and the proposed plan are both at the same procedural stage. We are at that stage now, and

10 See recommended (new) Arrowtown Historic Management Transition Overlay Area (on planning maps 27 and 28) and redraft 8.4.11.2.

11 Ms Leith recommended the deletion of the 'dwelling' definition in the LDRZ s42A report.

12 Redraft 8.4.11.2.

13 Redraft 7.4.10.1.

14 Redraft 7.4.10.1 - if density provisions are not met, this activity become non-complying through default redraft Rule 7.4.1.

therefore the 2016 Guidelines have become part of the PDP (and the 2006 Guidelines have been replaced).

5.2 Also under clause 16B, any submissions made on the PDP provisions that were replaced by Variation 1 are deemed to be a submission on the variation.

5.3 One submission, that of Mark Kramer (268) falls into that category. As Mr Kramer's submission on Stage 1 of the PDP was not addressed in Mr Bryce's s42A report, Mr Bryce will address Mr Kramer's submission in his highlights summary, which has also been filed electronically and made available to submitters including Mr Kramer.

6. SUBMISSIONS NOT 'ON' VARIATION 1, RELATING TO APPROPRIATENESS OF LOCATING THE MDR ZONE IN ARROWTOWN

6.1 A number of submissions lodged against Variation 1 have raised the appropriateness of the MDR zone applying to Arrowtown (generally through Guideline 2.3 in the 2016 Guidelines).¹⁵

6.2 Variation 1 replaces the 2006 Guidelines with the 2016 Guidelines and incorporates them by reference into the PDP.¹⁶ As such, it is respectfully submitted that any submissions challenging the MDR zone itself, are not "on" Variation 1.

6.3 The appropriate forum to consider these types of submissions is in the Residential Hearing Stream 6. Submissions on Chapter 8 (Medium Density Residential) have raised that very issue, and have been considered in the MDR zone s42A report.¹⁷ Some submitters have also sought a rezoning of the MDR zone land as they do not consider the MDR zone to be appropriate in Arrowtown, and these submissions will be heard in the rezoning/mapping hearings, in 2017.

6.4 Although the 2016 Guidelines do seek to respond to how development intensification within the proposed MDRZ can be

¹⁵ Shaping our Future (19), Judith Stevenson (21), Mark Krammer (23) and David Clarke (25).

¹⁶ <http://www.qldc.govt.nz/assets/Uploads/Your-Views/Arrowtown-Design-Guidelines-Variation-1/Public-Notice-Notification-3.pdf>

¹⁷ Ms Leith's s42A report on Chapter 8, at paragraphs 9.22 to 9.26. Addressed in Hearing Stream 8.

suitably designed to ensure that its interaction with the ARHM zone is able to maintain and enhance the historic character and amenity values of the area, it is submitted that it is beyond the scope of Variation 1 to consider the merits or otherwise of the inclusion of the MDR zone in the PDP.

7. CONSEQUENCE OF PANEL DECISION ON ZONES THAT 2016 GUIDELINES APPLY IN

7.1 Variation 1 assumes that the zones that the 2016 Guidelines are to apply in, will be recommended by the Panel to be included in the PDP, in a similar form. In particular, it is worth mentioning that in the Residential Hearing Stream, the MDRZ located in Arrowtown and the density that it provides has been challenged. The Variation 1 section 42A recommendations are based on the most recent version of the relevant chapters, which are the s42A recommended versions (rather than the notified versions of the respective chapters). As mentioned and by way of example, Ms Leith has recommended the Transition Overlay, and as a consequence, further amendments have been proposed in this hearing, to the 2016 Guidelines.

7.2 The Council wishes to record that further amendment may be required to Variation 1 in the event that the Panel materially alters the MDR zone or standards through its recommendations on Hearing Stream 6.

8. NZFS EVIDENCE

8.1 The NZFS submission for a change in activity status from restricted discretionary to non-complying for any application for resource consent for the redevelopment of the Arrowtown Fire Station, is submitted to be a matter that is to be decided on by the Panel in Residential Hearing Stream 6. Ms McLeod covers this matter in her evidence filed for Variation 1. It is submitted that this component of her evidence addresses matters that are not being decided on in this discrete hearing.

8.2 However, the changes that Ms McLeod seeks to the 2016 Guidelines themselves, are submitted to be within the scope of this hearing (and it is acknowledged that the non-complying versus discretionary activity matter, does provide context for the relief sought to the Guidelines). The appropriate activity status will be addressed by the Council, in its right of reply on the Residential hearing.

8.3 In relation to the changes that Ms McLeod proposes to the 2016 Guidelines, Mr Bryce will give evidence that these have merit, but with one suggested amendment.¹⁸

9. WITNESSES

9.1 The Council will call the following evidence:

- (a) Mr Richard Knott, Heritage, who provided technical input into the revision of the Guidelines and addresses the workability of the Guidelines, the Transition Overlay and subsequent changes needed to the Guidelines, and the approach taken in the LDRZ; and
- (b) Mr Nigel Bryce, Planner, who is the author of the ADG 2016.

DATED this 4th day of November 2016



S J Scott / C J McCallum
Counsel for Queenstown Lakes District
Council

18 *Being the amendment sought by Ms McLeod to 4.29.1.1 (x) – Departure from these design guidelines are may be appropriate to accommodate any redevelopment of the fire station in Hertford Street, where such departures are demonstrated to be necessary in order to accommodate the operational and functional requirements of a fire station.*