

**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 06A -
Arrowtown Design
Guidelines

**LEGAL SUBMISSIONS ON BEHALF OF QUEENSTOWN LAKES DISTRICT
COUNCIL AS PART OF COUNCIL'S RIGHT OF REPLY**

VARIATION 1 – ARROWTOWN DESIGN GUIDELINES

11 November 2016



Simpson Grierson

Barristers & Solicitors

S J Scott / C J McCallum

Telephone: +64-3-968 4030

Facsimile: +64-3-379 5023

Email: catherine.mccallum@simpsongrierson.com

PO Box 874

SOLICITORS

CHRISTCHURCH 8140

1. INTRODUCTION

- 1.1** The purpose of these legal submissions is to assist the Panel regarding legal issues that have arisen during the course of the hearing on the Arrowtown Design Guidelines 2016 (**2016 Guidelines**), Variation 1 to the Proposed District Plan (**PDP**) and to provide the Council's position on specific issues.
- 1.2** Filed alongside this right of reply is Mr Nigel Bryce's planning reply.
- 1.3** Having considered matters raised and evidence produced during the course of the hearing, Mr Bryce's reply and associated revised chapter represent the Council's position.

2. CLARIFICATION OF THE ARROWTOWN PLANNING ADVISORY PANEL'S ROLE

- 2.1** The Panel has sought clarification from the Council as to the role of the Arrowtown Planning Advisory Group (**APAG**).
- 2.2** As set out in the reply of Mr Bryce, the APAG is a non-statutory group who provide advice on heritage issues in Arrowtown. There is no statutory requirement under the Operative District Plan (**ODP**) for a residential consent application made in Arrowtown, to be submitted to the APAP for its consideration and advice. It is however standard practice under the ODP and generally followed. In response to the Panel's specific question, it is acknowledged that there is no statutory basis to require applications to be submitted to the APAP, if that process was challenged.
- 2.3** The PDP does not change the status quo, and does not formalise the role of the APAG nor make that process statutory. It is also the Council's position that the process is not enshrined in the District Plan, nor given any statutory basis.

3. HOW 2016 GUIDELINES ARE PROPOSED TO WORK WITH COUNCIL OWNED LAND

3.1 The Panel has queried how the 2016 Guidelines are proposed to work in relation to Council owned land such as reserves and roads.

3.2 The Council owned reserves and roads form part of the Open Space and Transport chapters respectively. These chapters are currently anticipated to form part of Stage 2 of the PDP review process. Consequently, how the 2016 Guidelines are to work with Council owned land, including reserves and roads, is an issue to be addressed through the development, notification and hearing process under Stage 2 of the PDP review.

3.3 This is also addressed by Mr Bryce, in his planning reply.

4. BROADER APPLICATION OF 2016 GUIDELINES IN RESIDENTIAL CHAPTERS

4.1 Through Hearing Stream 6, additional restricted discretionary (**RD**) activities have been proposed to be included in the Residential chapters.¹ The Panel queried whether these new RD activities should include a matter of discretion that provides for the 2016 Guidelines to be considered. Council's position is that they should.

4.2 The planning replies for the High Density Residential, Medium Density Residential and Arrowtown Residential Historic Management zones, refer to the relevant submissions that provide scope to make this change. In addition, there is scope within the submissions filed on Variation 1 to include the 2016 Guidelines as a matter of discretion, as they sought that the 2016 Guidelines be applied across all development within Arrowtown.²

¹ Chapters 7-11: Low Density Residential, Medium Density Residential, High Density Residential, Arrowtown Residential Historic Management Zone, and Large Lot Residential chapters.

² Mark Krammer (23) and David Clarke (24).

**5. INCORPORATION BY REFERENCE INTO THE GUIDELINES – ICOMOS
NEW ZEALAND CHARTER 2010**

- 5.1** The Panel asked the Council to consider whether a document can be incorporated by reference, into a document already incorporated by reference in the PDP, under Part 3 of Schedule 1 of the Resource Management Act 1991 (**RMA**). The Council's position is there is nothing in the RMA that prevents this outcome, and that the same principles that apply to incorporation by reference from Part 3 of Schedule 1 of the RMA, would apply.
- 5.2** It is noted that in the 2006 Guidelines, a previous version of the Charter itself was attached to the Guidelines as a Schedule. Through the review process, the principles of the updated (2010) ICOMOS New Zealand Charter were directly referred to in the Guidelines, rather than attaching them.
- 5.3** The Council confirms that the ICOMOS New Zealand Charter 2010 was included in the list of documents that have been notified as incorporated by reference in the PDP, at Stage 1. It was not however, renotified alongside Variation 1.

DATED this 11th day of November 2016



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