

**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 15

**MEMORANDUM OF COUNSEL ON BEHALF OF THE QUEENSTOWN LAKES
DISTRICT COUNCIL REGARDING A CATEGORY OF SUBMISSIONS THAT ARE
NOT ON STAGE 2 OF THE PDP**

6 July 2018

 **Simpson Grierson**
Barristers & Solicitors

S J Scott / C J McCallum
Telephone: +64-3-968 4018
Facsimile: +64-3-379 5023
Email: sarah.scott@simpsongrierson.com
PO Box 874
SOLICITORS
CHRISTCHURCH 8140

MAY IT PLEASE THE PANEL

1. This memorandum is filed on behalf of Queenstown Lakes District Council (**Council**). Its purpose is to advise the Hearings Panel (**Panel**) of further submissions lodged in Stage 2 that are considered to not be “on” the Proposed District Plan (**PDP**) as notified in Stage 2.
2. On 17 May 2018, the Chair of the Panel struck out a number of submissions/part submissions under section 41D of the RMA as not being “on” Stage 2 and consequently disclosing no reasonable or relevant case.¹

Additional submissions identified as not “on” Stage 2

3. In preparing for Hearing Stream 15, the Council has identified additional submissions that fail for not being on the PDP as notified in Stage 2.
4. Council refers to and adopts the same reasons set out in its previous Memorandum dated 14 April 2018² and further explained in the Chair’s Minute of 16 April 2018 and Decision of 17 May 2018. These submission points are listed in **Appendix 1**.

Submissions seeking to rezone the underlying zone (a Stage 1 matter) in addition to seeking a new Visitor Accommodation Sub-Zone (the latter, being within scope)

5. Council has previously advised the Panel that submissions lodged in Stage 2 seeking the addition of a VA Sub-Zone over Stage 1 PDP land (that is not subject to the Stage 2 variation) will be evaluated and recommendations made in Hearing Stream 15.³
6. In contrast, other submitters have also sought to rezone the underlying zone, which was a matter that has been open for submissions and evaluation through the Stage 1 hearings and decisions process (and possibly appeals, if lodged). Council has compiled a list of these types of submissions, which are included at **Appendix 2**. Rather than seeking a VA Sub Zone, other submitters have

1 Decision relating to submissions not "on" Stage 2 dated 17 May 2018. Refer also the Minute regarding submissions the Council considers to not be “on” Stage 2 of the PDP, dated 16 April 2018.

2 At paragraphs 11 to 14.

3 Memorandum of Counsel on behalf of the Queenstown Lakes District Council regarding a category of submissions that are not on Stage 2 of the PDP and other matters dated 12 April 2018, at paragraphs 15 to 17.

essentially sought a new bespoke zone to replace their Stage 1 rural zone, such as the ODP Rural Visitor Zone. These submissions are seeking to revisit the merits of their Stage 1 confirmed zone, and/or apply a zone that is new to the PDP (such as the operative Rural Visitor Zone) to their land. This is explained further in **Appendix 2**.

7. Council considers that these submissions are not “on” Stage 2 and the Panel does not have jurisdiction to consider them.

Process

8. The Council appreciates that in the interests of fairness submitters should be provided an opportunity to respond to this memorandum, before the Panel make a decision under section 41D of the RMA.
9. Council’s section 42A reports for Hearing Stream 15 are, we understand, to be filed and made available to submitters by 5pm, Monday 23 July 2018 (although we note that no timetabling has been directed at the time of filing this memorandum). The Council’s reporting officers and technical experts are therefore commencing preparation of their reports at this time, and their current approach is to not prepare recommendations or evidence on the submissions listed in Appendices 1 and 2.

DATED this 6th day of July 2018



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

APPENDIX 1

ADDITIONAL SUBMISSIONS IDENTIFIED AS NOT “ON” STAGE 2

Point	Name	Support/Oppose	Submission Summary	Comments
2492.8	Cardrona Alpine Resort Limited	Oppose	That within the Cardrona Alpine Resort, the Rural Zone and the Cardrona Rural Visitor Zone Visitor Accommodation (activity and development) should be provided for as a permitted or controlled activity (subject to standards) or otherwise as a restricted discretionary activity.	The Cardrona Rural Visitor Zone does not form part of the PDP (either Stages 1 or 2) and there is no scope to make submissions on the zoning that applies to it. In addition, the VA chapter does not apply to land not yet notified into the PDP. The Rural Zone (and the Cardrona Alpine Resort which is located within a Sub Zone, more specifically a Ski Area Sub Zone) were notified in Stage 1 and decided on in Reports 4A and 15. The issue of Visitory Accommodation was specifically addressed and a rule included in the Rural SASZ, being 21.12.7 (which includes worker accommodation as a RD activity). If CARL seeks to challenge that rule, it should be by an appeal to the Stage 1 decision. There is scope to submit on the new Stage 2 provisions being added to the Rural chapter, which are on Residential Visitor Accommodation and Homestays, rather than Visitor Accommodation.
2103.1	Kingston Holiday Park Limited	Oppose	That Map 39b is amended so that the existing Kingston Holiday Park and two adjoining lots are rezoned to Community Purposes Zone (Camping Ground); or should the Community Purposes Zone (Camping Ground) not proceed or be deemed inappropriate for these sites, a visitor accommodation sub-zone be imposed over the land.	This land is currently zoned operative Kingston Township Zone in the ODP and has not been notified into the PDP in either Stage 1 or 2. As the land does not form part of the PDP, there is no scope to make submissions on it. The submitter should consider the appropriate zone for this land, at the time the land is notified into the PDP.
2407.1	Glen Dene Ltd and Sarah Burdon	Oppose	The submitter opposes the zoning of Lot 1 and Lot 2 DP 418972 as Rural, and seek that the zoning of Lot 1 DP 418972 be amended to Community Purpose - Campground.	This land was previously notified in Stage 2, but this was in error and the Council subsequently withdrew the land from Stage 2 by way of decision dated 8 February 2018. Given the specific withdrawal of Lot 1 from the Stage 2 plan maps, Council considers there is no longer scope for consideration of the submission over Lot 1. Council's position is the part of the submission on the land that was withdrawn from the variation, is not on Stage 2.

2468.25	Remarkables Park Ltd	Oppose	The submitter seeks amendment to Map 30 to zone Part Section 131 Block III Shotover Survey District Community Purposes Zone and have a maximum building height of 15m and the total ground floor area of the site be increased to 1500m2	The land was notified Rural in Stage 1. The land is whited out on the Stage 1 decision maps, as it is within the boundaries of the land that was allocated to be considered in the Wakatipu Basin hearing, which is now part of Stage 2. The land was not notified on the plan maps in Stage 2 of the PDP, and therefore did not form part of Stage 2 of the PDP. It is of note that RPL is not just seeking an incidental or consequential extension of the adjoining Community Purposes Zone, but is seeking a bespoke Community Purposes Zone that allows for buildings of 15m height (rather than 10m) and a ground floor area of 1500m2 rather than 300m2. It is anticipated that this relief is related to Queenstown Park Limited's Stage 1 submission and appeal, relating to the proposed Queenstown Park Special Zone and Gondola Corridor.
2405.1	Kirimoko No. 2 Limited Partnership	Oppose	The submitter opposes the Rural zoning of a number of lots, and requests that these be replaced with the Informal Recreation zone. The submitter also seeks a split zone, which is proposed to consist of the Nature Conservation zone within the ONL, and Informal Recreation zone outside of the ONL for another section.	The Stage 1 PDP decision has zoned this land Rural, and it was whited out on the Stage 1 plan maps. This land was considered in detail in Stage 1, in response to the submission by Beresford in relation to Sticky Forest. Also of relevance is that the Beresfords have not lodged a further submission on this rezoning. This suggests that they were not aware of the Stage 2 submission by Kirimoko No. 2 Limited Partnership.
2325.2	David Crawford	Oppose	That Anderson Road should be zoned Medium Density Residential.	The land on either side of Anderson Road in Wanaka was notified in Stage 1 and decided through Report 16.2. Some of the land alongside Anderson Road has been notified in Stage 2 as Informal Recreation. Council accepts that there is scope for the rezoning request for the land that was notified on the Stage 2 plan maps that is directly adjacent to Anderson Road, but seeks the part of the submission related to the land on either side of the remainder of Anderson Road, be struck out.

APPENDIX 2

**SUBMISSIONS SEEKING TO REZONE THE UNDERLYING ZONE (A STAGE 1
MATTER) IN ADDITION TO SEEKING A NEW VISITOR ACCOMMODATION SUB-
ZONE (WITHIN SCOPE)**

Point	Name	Support/Oppose	Submission Summary	Comments
2599.1	Teece Irrevocable Trust No. 3	Oppose	That the submitter's land (described as 278 ha of land at upper Glenorchy legally described as Lots 1, 2 and 3 DP23952, Lots 4 and 6 DP24043, Part Sections 16, 17, 18, 19, 20, 21, 22 and 23 Block II Dart Survey District (SO404), and Sections 40 and 48 Block II Dart Survey District (SO404)) is zoned Rural Visitor North Glenorchy Zone, with associated amendments to the operative zone provisions [and retain the operative district plan provisions with respect to Residential Visitor Accommodation and Homestays in the Rural General Zone, with amendments as above for the submitter's site; or other relief to give effect to the relief sought].	This site was notified in Stage 1 of the PDP and is now subject to decisions - it is zoned Rural in the PDP. The submitter seeks a Rural Visitor Zone (which is a standalone underlying zone), rather than a VA Sub Zone that sits over an underlying zone. There is no scope for the part of the submission seeking that the Rural Visitor zone in Stage 2. It is accepted that there is scope for the submission point (in grey text in the column to the left) seeking that the ODP Residential Visitor Accommodation and Homestays rules apply to the site (rather than the provisions that the Council has notified into Chapter 21 for Residential Visitor Accommodation and Homestays, that apply in the Rural Zone .
2506.1	Arthurs Point Partnership	Oppose	That the submitters' land located at 182B Arthurs Point Road be rezoned Rural General to Rural Visitor Zone.	This land is currently zoned operative Rural Visitor - Arthurs Point Zone in the ODP and has not been notified into the PDP in either Stage 1 or 2. The submitter should consider the appropriate zone for this land, at the time the land is notified into the PDP.
2452.1	Nirvana Trust	Oppose	That the land located at Lot 1 DP 24262 Blk XIX Shotover SD WITH INT IN R/WO be zoned Rural Visitor Zone or confirm the land will be included in stage 3 and defer this submission.	This site was notified in Stage 1 of the PDP and is now subject to decisions - it is zoned Rural in the PDP. Submitters seek a Rural Visitor Zone over land confirmed as Rural in Stage 1. The Rural Visitor Zone (which is a standalone underlying zone) has not been incorporated (ie.notified) into the PDP in Stage 2, so is not good reason for arguing there is scope for this rezoning submission. The Panel also has no jurisdiction to confirm the future notification of the site in Stage 3 of the PDP, or to defer this submission.