

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

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER Proposed design
guidelines for the
Business Mixed Use
zone and for Residential
Zones, including
associated Proposed
District Plan variations
(Stage 3)

**REBUTTAL EVIDENCE OF BLAIR JEFFREY DEVLIN
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**DESIGN GUIDELINES FOR THE BUSINESS MIXED USE ZONE AND FOR
RESIDENTIAL ZONES, INCLUDING PROPOSED DISTRICT PLAN VARIATIONS**

12 JUNE 2020

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Appendix 1: Recommended changes to Residential Design Guidelines

1. PROFESSIONAL DETAILS

1.1 My full name is Blair Jeffrey Devlin. My background and experience are set out in section 1 of my Section 42A Report dated 18 March 2020 (**s42A**).

1.2 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

2. SCOPE

2.1 My rebuttal evidence is provided in response to statement of evidence filed by Mr Jeffrey Brown for:

(a) Marama Hill Limited (**3280**) and Nicholas Cashmore (**3203**).

3. REJECTION OF DESIGN GUIDELINES

3.1 In his paragraph 2.3 Mr Brown sets out the resource management issue identified in the s.32 report:

Issue 1 – The effects of growth and increased density on urban design outcomes and amenity values, and the effects it has on the social, economic and cultural wellbeing of the community.

3.2 The issue is broad, covering both the effects of growth and increased density on urban design outcomes and amenity values, as well as the effects of growth and increased density on social, cultural and economic well-being.

3.3 In his paragraph 2.6, Mr Brown states “*The references to the IHP report used in the s32 do not support the resource management issue (being*

an absence of design guidance in the provisions) as identified”¹ (emphasis added). I do not agree with this position as Issue 1 covers a much broader issue and is not intended to focus on the absence of design guidance, rather it is focused on the effects of growth and increased density on urban design outcomes, amenity, and on the social, economic and cultural wellbeing of the community.

3.4 In his paragraph 2.7, Mr Brown states that *“the inclusion of a design guideline into the plan as a section 104(b) [sic] matter (see section 4 below) was therefore not anticipated by either the Council’s urban design evidence (through Mr Falconer) or the IHP in Stage 1”*. (emphasis added)

3.5 Since the Stage 1 hearings in 2016 /17, the Council has chosen to prepare Residential design guidance and incorporate it by reference into the PDP. The guidance is *in addition* to the outcome focused objectives and policies which the Independent Hearings Panel (**IHP**) and Mr Falconer supported. I do not consider the issue of whether or not this was anticipated by the IHP or Council’s expert witness in the 2016/17 hearing directly relevant.

4. DE FACTO STANDARDS

4.1 Mr Brown considers the Residential Design Guidelines introduce additional matters beyond the matters of discretion, including matters that are not listed as standards in the zone in question. Mr Brown includes Table 1 in his evidence where he lists the 11 Design Principles and compares these to the Chapter 7 - Lower Density Suburban Residential (**LDSR**) rules.

4.2 I do not consider Mr Brown’s Table 1 to be fully accurate as matters such as a breach of site coverage are non-complying activities, so any of the Design Elements can be considered. The reference to the Residential Design Guidelines in the proposed Variation to Chapter 7 includes LDSR policy 7.2.1.5, which would mean the Residential Design Guidelines come into play for non-complying activities.

1 Paragraph 2.6 of Mr Brown rebuttal evidence.

4.3 Front boundary setbacks are also fully discretionary under Rule 7.5.8, and as part of the assessment of this breach it could be reasonable to include consideration of (for example) Design Principle [02] entrances and detailing as part of the assessment of a front boundary setback breach.

4.4 I also note the Residential Design Guidelines also apply to the High and Medium Density Zones, which cover multi-unit style developments, whereas Mr Brown has only listed LDSR matters.

4.5 I have prepared my own version of Table 1 from Mr Brown’s evidence that covers all the residential zones:

RDG Design Element	Chapter 7 Rules (examples only)	Chapter 8 Rules (examples only)	Chapter 9 Rules (examples only)
01 Housing Diversity and Adaptability	<ul style="list-style-type: none"> Density 7.4.8(a) 	<ul style="list-style-type: none"> Density 8.4.10(c) 	<ul style="list-style-type: none"> Density (9.4.5(a), (e))
02 Well defined Entrances and Detailing to improve legibility	<ul style="list-style-type: none"> 7.4.8(d) Setbacks 7.5.8.1 (fully discretionary) 	<ul style="list-style-type: none"> Density 8.4.10(f) Setbacks (8.5.8 RD matters (a) & (b)) 	<ul style="list-style-type: none"> Density (9.4.5(e)) Setbacks (9.5.8 RD matters (a) & (b))
03 Building Dominance and Sunlight Access	<ul style="list-style-type: none"> Building Height/ Recession Plane (7.5.1, 7.5.2, 7.5.3 and 7.5.7) Building Separation (7.5.9) Density (7.5.11) 	<ul style="list-style-type: none"> Building Height/ Recession Plane (8.5.1, 8.5.6) Density (8.5.5) Building Length (8.5.9) Setbacks () Coverage (8.5.4) 	<ul style="list-style-type: none"> Building Height/ Recession Plane (9.5.1, 9.5.5) Density (9.4.5) Building Length (9.5.7) Setbacks (9.5.8)

	<ul style="list-style-type: none"> • Building Length (7.5.10) • Setbacks (7.5.8 and 7.5.14) 		
04 Connections to Open Space to create safe, high amenity spaces	<ul style="list-style-type: none"> • Setback from water bodies (7.5.14(d)) 	<ul style="list-style-type: none"> • Density (8.4.10(b)) • Setback from water bodies (8.5.12(d)). 	<ul style="list-style-type: none"> • Density (9.4.5(b))
05 Providing Outdoor Living Space for residents' amenity	<ul style="list-style-type: none"> • Density (7.4.8(g)) design and integration of landscaping 	<ul style="list-style-type: none"> • Density (8.4.10(h)) design and integration of landscaping 	<ul style="list-style-type: none"> • 9.4.5(g) design and integration of landscaping
06 Creating high levels of Accessibility for all transport modes	<ul style="list-style-type: none"> • Residential Visitor accommodation 7.4.6(c) • Visitor accommodation (7.4.6.A(b)) • Commercial (7.4.7(c)) • Density (7.4.8) 	<ul style="list-style-type: none"> • Residential Visitor accommodation (8.4.7A(c)) • Visitor accommodation (8.4.11(b)) • Commercial (8.4.9(c)) • Density (8.4.10(g)) 	<ul style="list-style-type: none"> • Visitor accommodation (9.4.6(c)) • Commercial (• Density (9.4.5(f))
07 How to integrate waste and service areas so as not to affect amenity.	<ul style="list-style-type: none"> • Waste/Recycling Storage Space (7.5.12) 	<ul style="list-style-type: none"> • Waste/Recycling Storage Space (8.5.10) 	<ul style="list-style-type: none"> • Waste/Recycling Storage Space (9.5.9)

08 Creating private and safe Environments	<ul style="list-style-type: none"> Density (7.4.8)² 	<ul style="list-style-type: none"> Density (8.5.5)³ 	<ul style="list-style-type: none"> 4 or more residential units per site (9.4.5)
09 Site coverage and low impact design solutions to reduce infrastructure demands	<ul style="list-style-type: none"> Building Coverage (7.5.5) Landscaped permeable surface coverage (7.5.6) 	<ul style="list-style-type: none"> Building Coverage (8.5.4) Landscaped permeable surface coverage (8.5.7) 	<ul style="list-style-type: none"> Building Coverage (9.5.4) Landscaped permeable surface coverage (9.5.6)
10 Building Materials and environmental sustainability	<ul style="list-style-type: none"> Glare (7.5.13) Acoustic Insulation (7.5.4 and 7.5.15) 	<ul style="list-style-type: none"> Glare (8.5.11) Acoustic Insulation (8.5.2) 	<ul style="list-style-type: none"> Glare (9.5.10) Acoustic Insulation (9.5.11)
11 Landscape materials and planting	<ul style="list-style-type: none"> Landscaped permeable surface coverage (7.5.6) Density (7.4.8) Visitor accommodation (7.4.6A) 	<ul style="list-style-type: none"> Landscaped permeable surface coverage (8.5.7) Density (8.5.5) Visitor accommodation (8.4.11) 	<ul style="list-style-type: none"> Landscaped permeable surface coverage (9.5.6) Density (9.4.5) Visitor accommodation (9.4.6)

4.6 By looking at just the LDSR and Rule standards, Mr Brown has not recognised that the Design Principles may apply to other consents or matters of discretion in the High or Medium Density residential zones - for example, under a non-complying consent for density breaches or for not having 20% of the site in landscaped permeable coverage in the HDR zone.

4.7 As they are their own matter of discretion, I do not consider the content of the design guidelines needs to be directly linked to the standards as

² Privacy for occupants of the subject site and neighbouring sites is a matter of RD.

³ Privacy for occupants of the subject site and neighbouring sites is a matter of RD.

Mr Brown suggests. For example, the PDP does not have a specific Rule Standard for Design Element [8] - Creating private and safe environments. However, the PDP does require resource consent for density breaches, and as part of the design of a development, this design element should be considered.

5. REFERENCE TO SECTION 104(1)(C) IN THE RESIDENTIAL DESIGN GUIDELINES

5.1 Documents incorporated into a district plan by reference have legal effect as part of the plan⁴. Therefore, by incorporating the Design Guidelines by reference, they become part of the district plan, and fall to be considered under section 104(1)(b)(vi) as “any relevant provision of a plan or proposed plan” in relation to decisions on resource consents.

5.2 Mr Brown does not dispute this, however he does point out at paragraph 4.3 of his evidence that the s32, at paragraph 29, incorrectly states that the design guidelines are not part of the PDP. For the reasons just outlined, I agree with Mr Brown that this aspect of the s32 is incorrect.

5.3 However, Mr Brown goes on to state in his paragraph 4.6 that *“in my view, the s32 did not contemplate that the variation as notified would have the effect of being a matter to consider under section 104(1)(b)(vi)”*. I disagree with this, as reference to the document being incorporated into the PDP is stated in paragraphs 1.1, 1.5, 2.2, 2.3, 6.11, 6.12, 8.2 and 8.7 of the s32, and if incorporated by reference, it becomes part of the PDP.

6. AMENDMENTS TO THE TEXT OF THE RESIDENTIAL DESIGN GUIDELINES

6.1 The Residential Design Guidelines include a Section II titled ‘How to Use this Guide’. Step 3 refers to designing your development, and refers to preparing a design statement. Mr Brown is concerned there is no discretion as to whether or not to prepare a Design Statement. The wording shown below does sound like the preparation of a Design

⁴ Clause 30(3) Schedule 1 Resource Management Act 1991.

Statement is mandatory. I therefore accept Mr Brown's paragraph 5.4 about the wording of the Residential Design Guidelines and the mandatory sounding nature of the Design Statement:

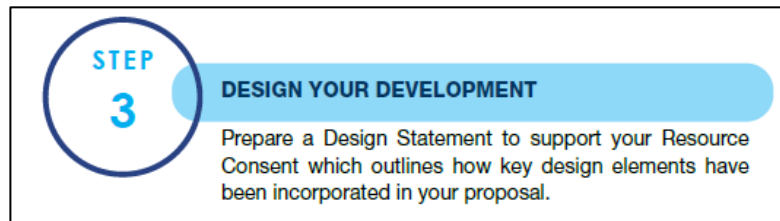


Figure 1: Extract from Residential Design Guidelines

6.2 I have discussed this wording with Mr Compton-Moen and it was noted the wording for Step 4 'Design your Development' stage of the BMUZ is much less prescriptive, as shown below:

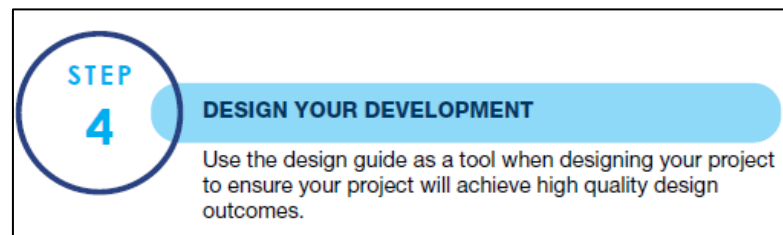


Figure 2: Extract from BMUZ Design Guidelines

6.3 As Figures 1 and 2 show, the Design Statement was referred to in the Residential Design Guidelines but not for the BMUZ Design Guidelines.

6.4 I consider that Step 3 of the Residential Design Guidelines should be amended to match the wording of the BMUZ Design Guidelines. This removes reference to the preparation of a Design Statement and encourages use of the Residential Design Guidelines as a tool, which is consistent with the 'encourage' from notified policy 7.2.1.5. This means the mandatory sounding nature of the requirement to prepare a written Design Statement has been removed.

- 6.5 I propose new wording (supported by Mr Compton Moen) as follows under Step 3 for the Residential Design Guidelines:

Step 3 – Design Your Development

Use the design guide as a tool when designing your project to ensure your project will achieve high quality design outcomes.

~~*Prepare a Design Statement to support your Resource Consent which outlines how key design elements have been incorporated into your proposal.*~~

- 6.6 I consider this amendment would address the concern of Mr Brown about the mandatory nature of the Design Statement, particularly when read with the additional text provided in response to submissions about the Status of the Guide, shown below, and taken from my S42A report:

STATUS OF THIS GUIDE

► This design guide is intended to complement and assist in the interpretation of the District Plan. ~~To this end, the Council will use this guide under section 104(1)(c) of the Resource Management Act to help it assess and make decisions on resource consent applications.~~ **Submitter Ref: 3203.1,3280.1**

The Design Guide has been incorporated by reference into the District Plan. It provides examples of how to achieve good design and outlines the key design elements to bear in mind when designing a development. The assessment of proposals against the Design Guide are not intended to be assessed in terms of compliance but rather whether a proposal has addressed the good design elements promoted by the Design Guide. It is acknowledged that there may be suitable alternatives to the examples provided within the design Guide based upon site specific characteristics and other factors that guide development. **Submitter Ref: 3215.1**



Blair Devlin

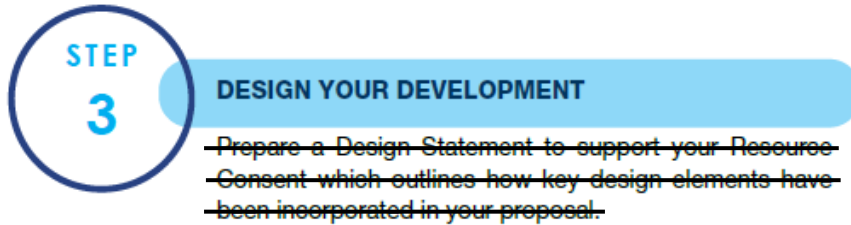
12 June 2020

APPENDIX 1

Recommended amendments to the Residential Design Guidelines

Residential Design Guidelines

Section II – page 5 -



Replace deleted text with:

Use the design guide as a tool when designing your project to ensure your project will achieve high quality design outcomes.