

ORIGINAL

Decision No. C 107 /2005

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a reference pursuant to Clause 14 of the
First Schedule of the Act

BETWEEN WAKATIPU ENVIRONMENTAL SOCIETY
INCORPORATED

(RMA 1165/98 and RMA 1394/98)

Referrer

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson (presiding)

Environment Commissioner C E Manning

Deputy Environment Commissioner R Grigg

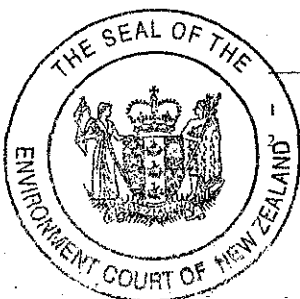
In Chambers at Christchurch

FINAL DECISION

Introduction

[1] The case concerns the zoning of land at the western edge of Arrowtown on the eastern side of Manse Road. Following a hearing in Queenstown on 31 August and 1 September 2004, the Court issued an interim decision¹.

[2] The Court summarised its findings as follows²:



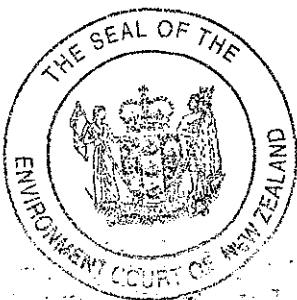
C 153/2004.
At para 57.

- We find that subject to the changes to the rules we outline below, the Council's section 293 application performs the Council's function of achieving the integrated management of land under section 31(a) of the Act, achieves its purpose under Part II, and is necessary to do so pursuant to section 32.
- The ONF boundary is to be located at the base of the slope of Feehly's Hill.
- In the RES(E) area, the minimum area of a residential section is to be 575 m², the maximum floor area of any dwelling is to be 160 m² with an allowance for accessory buildings to a maximum floor area of 40 m²; the minimum set-back from the OS-HL(E) area is to be two metres.
- An exception may be made for one house in the RES(E) zone to straddle the hill if the environmental compensation we have outlined is offered.
- In the DUE(E) all residential activity is to be discretionary. A series of assessment matters may be added which could include:
 - (a) the extent to which it is possible to provide a landowner with reasonable use of his land by other means;
 - (b) the extent to which the proposal assists in providing a comprehensively designed urban edge to Arrowtown.
- Within the OS-MR(E), a range of additional uses including grazing, and arable or pastoral farming are to be permitted. Such uses are not to include tree planting.

The Court then invited the Council to confer with the parties on the rules necessary to implement these findings.

[3] The parties have conferred and the Council has submitted a draft of the proposed rules. The position of the various parties is as follows:

- The Clear Family Trust has intimated through Mr P J Taylor its acceptance of the Council's position.
- WESI accept the position of the Council as it is outlined in the memorandum submitted to the Court.
- Mr A O Turner, on behalf of himself, Mrs B M Turner and the Ponderosa Property Trust, seeks clarification on the meaning of the words "maximum floor area" as they are used in the interim decision. Mr Turner states his understanding that the references in the decision relate to building footprint not the overall living space within the building where there is a second storey. He seeks that the words "maximum floor area" found in Rule



12.22.5.2(v)(c) be either replaced by or defined as meaning "building footprint".

[4] Mr Turner submits that Ms Lucas, on whose evidence the Court relied for the limitation on size of house to be permitted in the RES(E) section of the Meadow Park Zone, was confused when she agreed that the term "building footprint" could be replaced by the term "floor area". He further submits that he had himself always proposed to build some four bedroom rental accommodation on the property, for which a floor area of 160 m² is insufficient.

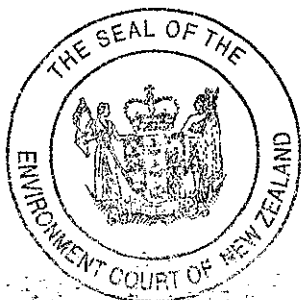
[5] We accept that there may be some doubt about precisely what Mr Turner agreed to in submissions. However, an examination of Ms Lucas' responses to questions from the Court³ shows no confusion on her part or that of the Court about the concept she endorsed. The Court should properly place more reliance on the sworn evidence of a professional witness than on the wishes of the party who called her. The Court's finding in paragraph 57 of its original decision which refers to maximum floor area refers to what Mr Turner describes as the overall living space within the building.

[6] The Court's previous decision was interim. As this Court indicated in *Gardez Investments Limited v Queenstown Lakes District Council*⁴, there can be a considerable variance in the extent of matters left at large in an interim decision but almost invariably something is decided. In this case, the Court's interim decision indicated the zoning it required for the land adjoining Manse Road, and a number of changes to the rules of that zone. What was left open were two things:

- (1) provision for a variety of uses (within limits) in the OS-MR(E) part of the zone;
- (2) the drafting of the rules the Court required the Council to adopt so that they fitted into the scheme of the District Plan.

The Court had not left open the possibility of re-litigation of the findings themselves.

³ At pp 43-45 of the notes of evidence.
⁴ C 95/2005 at para 41.



[7] The Council has submitted to the Court a list of rules which it considers will implement the Court's finding. We attach these as Appendix A. In reviewing these we find that whilst the Council has amended the rules so that all building and landscaping becomes a discretionary activity in the DUE(E) area of the zone, it has not made a corresponding amendment to the assessment criteria. We therefore instruct that the following changes be made to Rule 12.22.4.1:

- That sub-rule 12.22.4.1.1 Controlled Activity – Residential Activity within DUE(E) that is within Lot 1 DP 2138 be deleted.
- That sub-rule 12.22.4.1.2 Discretionary Activity: ... be renumbered and that the phrase "that is within PT SEC BLK XVIII Shotover S.D." be deleted.
- That the following addition be made to the renumbered Rule 12.22.4.1.2:

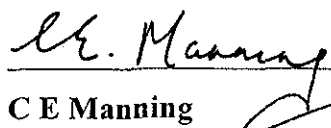
The Council shall also have regard to:

...

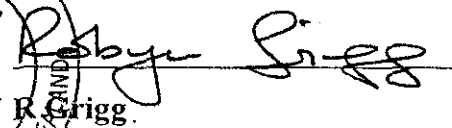
- (c) the extent to which any proposal assists in providing a comprehensively designed urban edge to Arrowtown;
- (d) the extent to which it is possible to provide landowners with reasonable use of their land by other means.

[8] Other than these changes, the Court orders the Council to insert in its Partly Operative District Plan the rules as amended in Appendix A attached to this decision.

DATED at CHRISTCHURCH 22 August 2005


 C E Manning
 Environment Commissioner




 R Grigg
 Deputy Environment Commissioner

Issued⁵: 23 AUG 2005

QUEENSTOWN LAKES DISTRICT COUNCIL
PROPOSED DISTRICT PLAN

Proposed Change to Special Zone
Sections 12.13 To 12.15

12. SPECIAL ZONES

12.21 Meadow Park Zone

12.21.1 Resources, Activities and Values

Meadow Park is a mixed use zone located on the eastern and western corners of Manse and Malaghan Roads, Arrowtown. The location of Meadow Park provides the Council with a significant opportunity to develop a strong eastern urban edge and entrance to Arrowtown, while enabling:

- Ready access to Arrowtown, Millbrook Resort and other public open spaces;
- Protection and enhancement of scenic and natural values of the area;
- A significant contribution to the housing stock of Arrowtown;
- The development of recreational facilities.

12.21.2 Issues

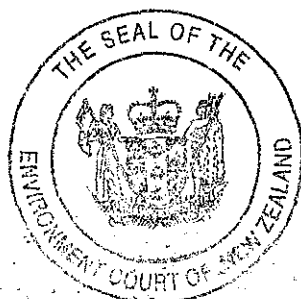
Discussion of additional relevant issues in found in the following Parts of the District Plan:

Natural Environment	Part 4.1
Landscape and Visual Amenity	Part 4.2
Open Space and Recreation	Part 4.4
Waste Management	Part 4.7
District Wide Residential	Part 7.1.1
Subdivision	Part 15

- 1 Comprehensive and integrated development creating a strong eastern edge / entrance to Arrowtown**

The development of the Meadow Park zone provides significant opportunity to integrate urban activities while creating a strong eastern edge/entrance to Arrowtown by:

- Maintaining a large area of open space adjoining Malaghan Road; and
- Setting residential development well back from Malaghan Road frontage; and
- Preventing new accesses onto Malaghan Road from the zone and improvement of existing accesses; and
- Requiring a comprehensive landscaping plan for a Manse Road entrance to Arrowtown; and
- Protecting views from Malaghan Road towards Outstanding Natural Landscape and Features to the East, North and West of the Zone; and
- Designing a comprehensive interface between the open space and residential activities.
- Improving public access to the summit of Feehly's Hill
- Enhancing the ecological and landscape values of Feehly's Hill.



Achieving the above in a comprehensive manner is critical for the successful integration of the zone into the urban fabric of Arrowtown.

ii Reverse Sensitivity / Interface Effects

Adjoining the northern boundary of the Meadow Park is the Arrowtown Industrial Area. Residential activities right to the boundary of the zone have the potential to create adverse interface effects between these two incompatible activities. It is therefore desirable to plan for this now.

One existing residential activity located on Manse Road is surrounded by the proposed development. It is desirable to retain a high level of amenity for the residents of this property by providing larger internal setbacks and detailed landscaping for any developments adjoining this property.

iii Provision of Essential Services

Development will result in a considerable number of persons residing within the Zone, either as visitors or permanent residents. The provision of adequate sewage disposal, water supply and refuse disposal services is critical in terms of ensuring the protection of ground water quality and subsequent health risks.

12.21.3 Objectives and Policies

In addition to Part 7.1.2 District Residential Objectives and Policies the following objectives are sought for the zone:

Objective 1:

Comprehensively designed and integrated development that:

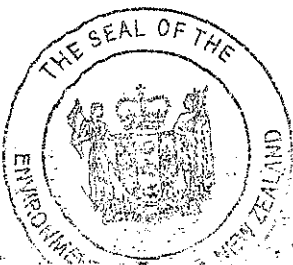
- (a) *enhances the eastern entrance to Arrowtown; and*
- (b) *becomes an integral part of Arrowtown's urban fabric;*

whilst having regard to:

- *Surrounding landscape values, including the landscape values of Feehly's Hill;*
- *Arrowtown heritage resources and character;*
- *Indigenous ecology of surrounding mountains and Feehly's Hill;*
- *Air quality*

Policies

1. To ensure that development of the zone is comprehensively designed and integrated through the adoption of a structure plan which in conjunction with zone rules:
 - Enables limited and geographically contained residential development; and
 - Retains significant open space adjoining Malaghan Road; and
 - Prohibits additional accesses onto Malaghans Road; and
 - Improves amenity of existing access onto Malaghan Road; and
 - Retains control over the interface between residential activities and open space through a Designed Urban Edge; and
 - Retains the openness and restores the ecology of the upper slopes of the zone (which is recognised as forming part of the wider Outstanding Natural Landscape); and



- Adequately deals with reverse sensitivity issues between existing residential and industrial activities; and
 - Maintains and enhances the landscape and ecological values of Feehly's Hill; and
 - Enables public access to the summit of Feehly's Hill; and
 - Maintains the open foreground to Feehly's Hill as viewed from Malaghans Road.
2. To discourage development inconsistent with the structure plan for the zone.
 3. To retain control over the external appearance, design and colour of all buildings within the Meadow Park zone.
 4. To recognise the sensitivity of the zone on the eastern side of Manse Road and avoid any development that compromises the foreground to Feehly's Hill, or the entrance to Arrowtown.

Implementation Methods

The objectives and associated policies will be implemented through a number of methods including:

i District Plan

- a The inclusion of a structure plan in the District Plan specifying specific activity areas for protection, enhancement and development.
- b The adoption of zone specific rules relating to the structure plan activity areas.
- c The adoption zone specific rules.
- d Through Rules in the Plan, to ensure the provision of public access to the summit of Feehly's Hill, ecological enhancement of Feehly's Hill.

ii Other Methods

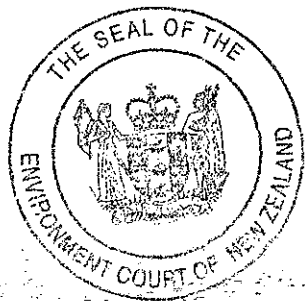
Explanation and Principal Reasons for Adoption

Meadow Park is ideally located to form part of the Arrowtown urban area. The adoption of the above objectives and policies recognise the sensitivity of the site, the importance of retaining open space along Malaghan Road, the maintenance of adjoining ecological systems and the creation of a design urban edge to Arrowtown. All of these factors, considered at a comprehensive level, are critical to the successful integration of development within the site, the adjoining environment and to the urban fabric of Arrowtown.

12.21.4 Environmental Results Anticipated

- An extension to the urban fabric of Arrowtown;
- The development of limited residential activities within a geographically confined area within the zone.
- Retainment of open space adjoining Malaghan Road.
- An appropriately designed urban edge between open space and urban activities.
- Retainment of the openness and ecology of the upper slopes of the zone.
- Mitigation of reverse sensitivity issues.
- Improvement of public access to Feehly's Hill.

Deleted:



- Enhancement of ecological values of Feehly's Hill.

12.22 Meadow Park Zone Rule

12.22.1 Zone Purpose

The purpose of Meadow Park Zone is to:

- create a comprehensively designed and integrated development that enhances the eastern edge / entrance to Arrowtown;
- create a comprehensively designed and integrated development that integrates into Arrowtown's urban fabric;

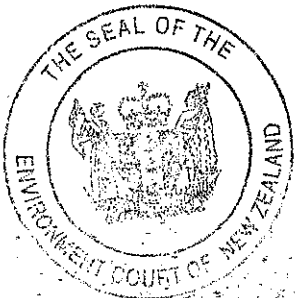
whilst having regard to surrounding landscape values, Arrowtown's heritage resources and character, the indigenous ecology of surrounding mountains and air quality.

This is to be achieved through the adoption of a structure plan for the zone which recognises and stages development within the zone. Within the structure plan, the following activity areas are recognised:

- Residential Activity Area (RES(W) and (E)) – To provide for the development of residential activities. Deleted:)
- Open Space Malaghans Road – (OS-MR(W)) – To provide for a 160 metre landscaped setback along Malaghans Road frontage for the purpose of defining a distinct urban edge and separate any future development from Millbrook Resort.
- Open Space Malaghan Road (OS-MR(E)) – To provide a 100 metre open space setback along the Malaghan Road frontage for the purpose of defining a distinct urban edge, separate any future development from Malaghan Road and Millbrook Resort, and maintain existing open views of Feehly's Hill. The setback is reduced to approximately 30 metres at its eastern end, and follows the line between the Outstanding Natural Feature (Feehly's Hill) and the surrounding land.
- Designed Urban Edge (DUE(W)) – To provide for an interesting and comprehensively designed urban edge between the open space approach to Arrowtown (including the existing residential dwelling) and new residential activities to be undertaken within the zone. It is intended that the design urban edge will successfully integrate a deciduous and non-deciduous treed characteristic inherent in Arrowtown's present character, into the new development. It is not necessarily intended to screen development from view from Malaghan's Road.

Designed Urban Edge ((DUE)(E)) – To provide for an interesting and comprehensively designed urban edge between the open space approach to Arrowtown and new residential activities. It is anticipated that the Designed Urban Edge (E) will successfully integrate planting with the ecological restoration of Feehly's Hill

- Open Space – Industrial Area (OS-IND) – To provide for a landscaped buffer area between the residential areas and the existing industrial zone to protect residential amenity values and prevent reverse sensitivity issues.
- Open Space Hillside – (OS-HL(W)) – To prevent the erection of buildings or structures on the upper slopes of the Hillside below the outstanding natural landscapes and retain and enhance the existing vegetation through ecological restoration.



- Open Space Hillside- (OS-HL(E)- To prevent the erection of buildings or structures on Feehly's Hill, recognising its values as an Outstanding Natural Feature. To enhance the ecological values, and enable public access.

12.22.2 District Rules

Attention is drawn to the following District Wide Rules which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter.

The District Wide Rules which shall apply to the Meadow Park Zone are as for the District Wide Rules as listed.

i	Transport	-	Refer Part 14
ii	Subdivision	-	Refer Part 15
iii	Hazardous Substances	-	Refer Part 16
iv	Utilities	-	Refer Part 17
v	Signs	-	Refer Part 18
vi	Relocated Buildings and Temporary Activities	-	Refer Part 19

12.22.3 Activities

12.22.3.1 Permitted Activities

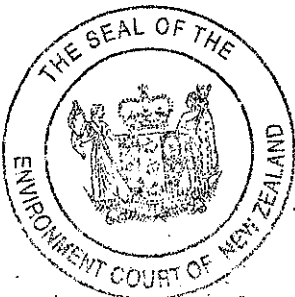
Any activity which complies with all the relevant Site and Zone Standards and is not listed as a Controlled, Discretionary, Non-Complying or Prohibited Activity, shall be a Permitted Activity.

12.22.3.2 Controlled Activities

The following Activities shall be Controlled Activities provided that they are not listed as a Discretionary, Non-Complying or Prohibited Activity and they comply with all the relevant Site and Zone standards. The matters in respect of which the Council has reserved control are listed with each Controlled Activity.

- i. All Buildings, including buildings located within building platforms in Activity Area (DUE(W)), in respect of:
 - The location and external appearance of buildings and associated earthworks, access and landscaping; and
 - The provision of water supply, sewerage treatment and disposal, electricity and communication services.
- ii. Access within Activity Areas (OS-MR(W)) and (DUE(W)) of the Structure Plan in respect of:
 - (a) the re-design of the existing access to the existing house on the site.
- iii. Ecological Restoration within Activity Area (OS-HL(W)) in respect of:
 - (a) Species and plantings to be undertaken; and
 - (b) Long term management.

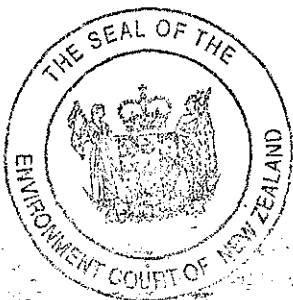
Deleted: ii Within DUE(E) the erection of a single building within Lot 1 DP 2139, in respect of: ¶
 ¶ <#>the location of the building its external appearance, associated access and earthworks; ¶
 ¶ <#>provision of water supply sewerage treatment and disposal, electricity and telecommunication service
 ¶ <#>species to be planted and their maintenance; ¶



12.22.3.3 Restricted Discretionary and Discretionary Activities

- The following Activities shall be Discretionary Activities provided they are not listed as a Prohibited or Non-Complying Activity and they comply with all the relevant Zone Standards:
- Where the Rule lists the matters to which the Council's discretion is limited, that activity shall be considered as a restricted discretionary activity.
 - i Health and Day Care Facilities within Activity Area (RES(W)) of the Structure Plan.
 - ii Visitor Accommodation within Activity Area (RES(W)) of the Structure Plan.
 - iii Commercial Recreation Activities within Activity Areas (OS-MR(W)), (OS-IND) and (OS-HL(W)).
 - iv Buildings and Landscaping within Activity Area (DUE(W)) of the Structure Plan limited to:
 - (a) the number, size and location of building platforms, associated access and earthworks;
 - (b) maximum building heights;
 - (c) species to be planted and their maintenance;
 - (d) landscaping earthworks, including mounding and ponds;
 - (e) the provision of open space and retaining views of outstanding natural landscapes and features from Malaghans Road;
 - (f) the long-term management of the Design Urban Edge.
 - iv Buildings and landscaping within DUE(E) .
 - v Premises Licensed for sale of liquor
 - vi Ecological restoration within Activity Area (OS-HL(E)) limited to:
 - (a) Control of pest and/or noxious weeds;
 - (b) Species type, and planting to be undertaken;
 - (c) Long term management.
 - vii Provision of a public walking track to the summit of Feehly's Hill (OS-HL(E)), limited to:
 - (a) route;
 - (b) Method of construction;
 - (c) Maintenance;
 - (d) Tenure;
 - (e) Linkage to Manse and/or Malaghan Road;
 - (f) Continued access.
 - viii Landscaping of the OS-MR(E) limited to:
 - (a) Earthworks and planting;
 - (b) Long term maintenance;

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- (c) Maintenance of the open views to Feehly's Hill;
- (d) Maintenance of the foreground to Feehly's Hill.

12.22.3.4 Non-Complying Activities

- The following Activities shall be Non-Complying Activities, provided that they are not listed as a Prohibited Activity:
 - i Any Activity, other than the provision of Open Space, in Activity Areas (OS-MR(W)), (OS-MR(E)), (OS-IND) (OS-HL(W)) and (OS-HL(E)) of the Structure Plan.
 - ii Buildings and landscaping within DUE(E),
 - ii Factory Farming
 - ii Forestry Activities
 - iii Mining Activities
 - iv Industrial and Service Activities
 - v All Visitor Accommodation, except within Activity Area (RES(W)) of the Structure Plan.
 - vi Commercial Activities
 - vii Commercial Recreational Activities in Activity Area (RES(W)), RES(E), and DUE(E) of the Structure Plan.
 - viii Educational Facilities
 - ix The take-off or landing of aircraft other than for emergency landings and rescuers or fire-fighting.
 - x Any tree planting or solid fencing within OS-MR(E) that is not approved as part of a landscaping plan approved pursuant to 12.22.3.3(viii).
 - xi Any earthworks within OS-HL(E), except for the purposes of establishing and maintaining a public walking track.
- Any activity which is not listed as a Prohibited Activity and which does not comply with one or more of the relevant Zone Standards, shall be a non-Complying Activity.

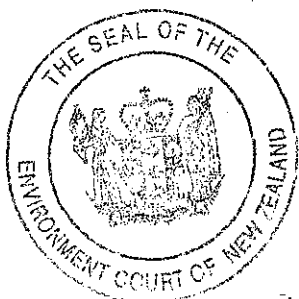
Deleted: that are within Lo DP 2139 in addition to a single residential unit that is a controlled activity pursuant Rule 12.22.3.2(ii).

12.22.3.5 Prohibited Activities

The following activities shall be Prohibited Activities:

- i Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building, fish or meat processing, or Any Activity requiring an Offensive Trade Licence under the Health Act 1956.

12.22.4 Notification and Non-Notification of Applications



- (a) The design of the Design Urban Edge shall be publicly notified under section 93(2) of the Act.
- (b) Any application for a resource consent for the following matters may be considered without the need to obtain a written approval of affected persons and need not be notified in accordance with Section 93 of the Act, unless the Council considers special circumstances exist in relation to any such application:
 - i All applications for Controlled Activities.
- (c) Prior to an application for resource consent being processed under Rule 12.14.5.2(c)(ii) and (iii) on a non-notified basis pursuant to section 94(2) of the Act written approval of the Wakatipu Environmental Society Incorporated must be provided to the Council pursuant to section 94(2)(b).
- (d) Prior to an application for resource consent being processed under Rule 12.22.3.2(ii) on a non-notified basis pursuant to Section 94(2) of the Act written approval of the Wakatipu Environmental Society Incorporated must be provided to the Council pursuant to Section 94(2)(b).

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12.22.5 Standards - Activities

12.22.5.1 Site Standards

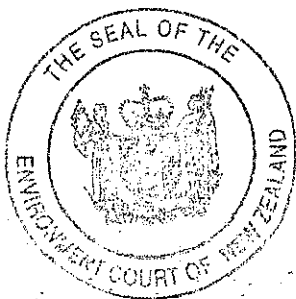
i Setback from Roads and Internal Boundaries

- (a) No building or structure shall be located closer than 15m to the Zone boundary, except in RES(E), where no building shall be located closer than 4.5 metres to the zone boundary.
- (b) No building or structure shall be located closer than 2m to an internal boundary, except in DUE(E), where no building shall be located closer than 5 metres to an internal boundary.
- (c) No building or structure shall be located closer than 4.5m to any legal road boundary.
 Except:
 - (i) Within DUE(E) and RES(E), the setback from Manse Road is 10 metres.
 - (ii) Within DUE(E), the setback from the edge of OS-MR(E) is 15 metres.
 - (iii) Within DUE(E) and RES(E), the setback from the edge of OS-HL(E) is 2 metres.

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- (d) Accessory buildings to residential activities other than those used for the housing of animals may be located within the setback distances from internal boundaries, where the total length of the walls of accessory buildings within the setback does not exceed 7.5m in length and there are no windows or openings, other than for carports, along any walls within 2m of an internal boundary.



- (e) Eaves, porches, balconies, bay or box windows, steps, chimneys and similar parts of buildings may be located within the minimum building setback as follows:
- (i) eaves up to 0.6m into the setback; and
 - (ii) balconies and bay or box windows of less than 3m l length may project into the setback by up to 0.6m. Only one such balcony or bay or box window intrusion is permitted on each setback of each building; and
 - (iii) porches and steps up to 0.6m into a setback; provided they measure no more than 2m parallel to the nearest internal boundary and provided that the floor level of any such porch or the top of any steps shall be no higher than 1m above ground level. Only one such porch or set of steps is permitted on each setback of each building; and
 - (iv) chimneys may project into the setback by up to 0.6m provided that the chimney measures no more than 1.2m parallel to the nearest internal boundary. Only one chimney is permitted on each setback of each building; and
 - (v) No part of any balcony or window which is located within a setback shall be higher than 3m above ground level.
- (f) No part of any building designed and/or used for the housing of animals shall be permitted to locate within 2m of any internal boundary.
- (g) No setback is required where buildings on adjoining sites have a common wall on an internal boundary provided that only one common wall is permitted per residential unit.

ii Access

Each residential unit shall have legal access to a formed road.

iii Continuous Building Length

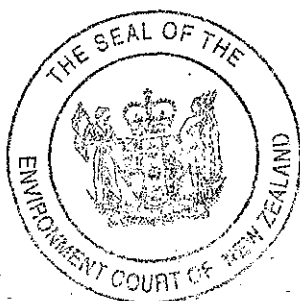
Where the aggregate length of buildings measured parallel to any internal boundary exceeds 16m; either

- The entire building(s) shall be set back on additional 0.5m for every 6m of additional length or part thereof from the minimum yard setback (continuous facades) at the same distances from the boundary)

or

- That part of the building(s) which exceeds the maximum building length shall be progressively set back 0.5m for every 6m of additional length or part thereof from the minimum yard setback (varied façade(s)) with stepped setbacks from the boundary.

iv Earthworks



The following limitations apply to all earthworks (as defined in this Plan) on the eastern side of Manse Road, except for earthworks associated with a subdivision that has both resource consent and engineering approval.

1. Earthworks

- (a) The total volume of earthworks shall not exceed 100m³ per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.
- (b) Within DUE(E), the maximum area of bare soil exposed from any earthworks shall not exceed 15% of any site. (within a 12 month period)
- (c) Within RES(E), the maximum area of bare soil exposed from any earthworks shall not exceed 15% of any site. (within a 12 month period)
- (d) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed 20m³ (notwithstanding provision 17.2.2).
- (e) No earthworks shall:
 - (i) expose any groundwater aquifer;
 - (ii) cause artificial drainage of an aquifer
 - (iii) cause temporary ponding of any surface water.

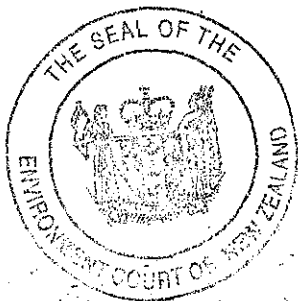
2. Height of cut and fill and slope

- (a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (See Interpretative Diagram 6 in Appendix 4 of the Plan), except where the cut or fill is retained, in which case it may be located up to the boundary, if less than or equal to 1.5m in height (with no surcharge).
- (b) The maximum height of any cut shall not exceed 2.4 metres.
- (c) The maximum height of any fill shall not exceed 2 metres

3. Environmental Protection Measures

- (a) Any person carrying out earthworks shall:
 - (i) Implement erosion and sediment control measures to avoid soil erosion and any sediment entering any waterbody. Refer to the Guideline – Erosion and Sediment Control Measures to assist in the achievement of this standard.
 - (ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a waterbody or where it may dam or divert or contaminate water
- (b) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Guideline – Erosion and Sediment Control Measures to assist in the achievement of this standard.

4. Protection of Archaeological sites and sites of cultural heritage



- (a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.

v

Site Density

In RES(E), the minimum net area for any site shall be 575m² for each residential unit contained within the site.

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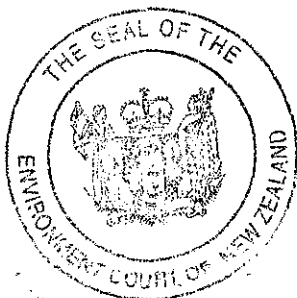
Refer Appendix 4

12.22.5.2 Zone Standards**i Residential Units**

- (a) The maximum number of residential units within the Meadow Park Zone (W) shall not exceed 100.
- (b) No residential activities shall be undertaken in Activity Areas (OS-MR(W)), (OS-IND) or (OS-HL(W)) of the Structure Plan.
- (c) No residential activities shall be undertaken in Activity Areas OS-MR(E) or OS-HL(E) of the structure plan.
- (d) No new residential activities shall be undertaken within the zone until such a time that a Resource Consent has been approved by Council, and all conditions have been given effect to, for:
- (i) the design and landscaping of (DUE) of the structure plan under Rule 12.14.3.3(iv); and
 - (ii) the redesign of the existing access way to the existing house within (OS-MR) and (DUE) of the Structure Plan under Rule 12.14.3.2(ii); and
 - (iii) the ecological restoration of (OS-HL) of the Structure Plan under Rule 12.14.3.2(iii).
- (e) No new residential activities shall be undertaken within DUE(E) or RES(E) of the zone until such a time that a Resource Consent has been approved by Council, and all conditions have been given effect to, for:
- (i) the ecological rehabilitation of the OS-HL(E) of the Structure Plan pursuant to Rule 12.22.3.3(vi);
 - (ii) the creation and maintenance of a public walkway within OS-HL(E) of the Structure Plan pursuant to Rule 12.22.3.3(vii);
 - (iii) landscaping within the OS-MR(E) of the structure plan pursuant to Rule 12.22.3.3(viii).

ii Building Height

- (a) No buildings within Activity Area (RES(W)) and RES(E) of the Structure Plan shall exceed be 7m measured vertical and parallel to the ground; and
- (b) No other building within the zone shall exceed 6 m measured vertical and parallel to the existing ground level.
- (c) No building within Activity Area DUE(E) shall exceed 4.5 metres measured vertical and parallel to the existing ground level.



iii Setback From Lot 1 D.P. 20467

No building or structure shall be located within 20m to Lot 1 D.P. 20467.

iv Glare

- (a) All fixed lighting shall be directed away from adjacent roads and properties.
- (b) Any building or fence constructed or clad in metal, or material with reflective surfaces, shall be painted or otherwise coated with a non-reflective finish.
- (c) No activity shall result in a greater than 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site.

iv Servicing

All telephone and power lines within the zone are to be reticulated underground.

v Building Coverage within Activity Areas (RES(W)), RES(E), (DUE(W)) and DUE(E) of the Structure Plan:

Deleted:

- (a) Within RES(W) and DUE(W), no building coverage, including accessory buildings, shall exceed 40 percent of the total site.
- (b) Within DUE(E) Lot 1 DP 2359 contained within DUE(E), the maximum building coverage shall be 15% of the site that is within DUE(E).
- (c) Within RES(E) The maximum floor area of any dwelling is to be 160m² with an allowance for accessory buildings to a maximum of 40m².

Deleted: the maximum building coverage for all activities on any site shall be 40%.

vi Heavy Vehicle Storage

No more than one heavy vehicle shall be stored or parked overnight on any site for any activity.

vii Hours of Operation

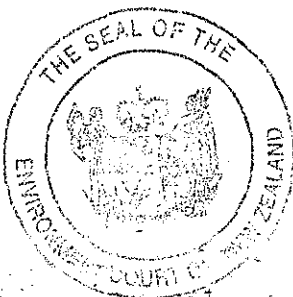
- (a) The maximum total number of hours in any one week the site shall be open to visitors, clients or deliveries shall be 50 hours.
- (b) Hours of operation shall be limited to between the hours: 0730 - 2000.

except where:

- (i) the entire activity is located within a building and occupied not more than 40 m² of floor space, and
- (ii) each person engaged in the activity outside the above hours resides permanently on the site, and
- (iii) there are no visitors, clients or deliveries to or from the site outside the above hours, and
- (iv) all other relevant zone standards are met:

the activities may be carried out outside the above hours.

viii Nature and Scale of Non-Residential Activities



To meet this standard:

- (a) At least one person engaged in the activity must reside on the site; and
- (b) No more than three full-time equivalent persons who permanently reside elsewhere than on the site shall be employed in undertaking an activity on the site; and
- (c) No more than 60m² of the gross floor area of the buildings on a site shall be used for activities, other than residential activities; and
- (d) No goods, materials or equipment shall be stored outside a building, except for vehicles associated with the activity parked on the site overnight; and
- (e) All manufacturing, altering, repairing, dismantling or processing of any materials, goods or articles shall be carried out within a building.

ix Retail Sales

No goods shall be displayed, sold or offered for sale from a site other than goods grown, reared or produced on the site.

x Noise

All activities in the Zone, other than residential activities, shall be conducted such that the following noise levels are not exceeded at the boundary of the zone:

- At the boundaries of any site sound noise level shall not exceed the following levels:

Daytime 0800 - 2000 hours 50dBA L10

Night time 2000 - 0800 hours 40dBA L10

Noise levels shall be measured and assessed in accordance with NZS 6801:1991 and NZS 6802:1991.

xi Access

There shall be no new vehicular access from Malaghan Road to the Meadow Park Zone except the redesigned existing access approved under Rule 12.14.3.2(ii).

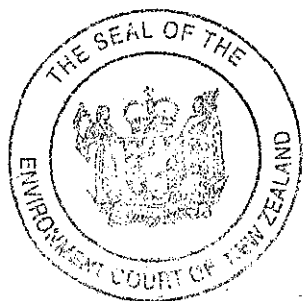
xii Atmospheric Emissions

Within any premises in the Zone the best practicable means shall be adopted to minimise the emission of smoke, smell and other air pollutants from the premises and to render any air pollutants harmless and inoffensive.

Feature open fire places are permitted in the equestrian centre, riding school and other communal buildings including bars and restaurants. There shall be no other solid fuel fires except in residential dwellings.

xiii Refuse Management

All refuse shall be collected and disposed of to a Council approved landfill site. There shall be no landfill sites situated within the Zone.



xiv Keeping of Animals

There shall be no keeping of pigs.

12.22.4 Assessment matters

- (i) The following Assessment Matters are methods included in the District Plan, in order to enable the Council to implement the Plan's policies and fulfil its functions and duties under the Act.
- (ii) In considering resource consents for land use activities, in addition to the applicable provisions of the Act, the Council shall apply the relevant *Assessment Matters* set out in Clause 12.22.4.1 below.
- (iii) In the case of *Controlled and Discretionary Activities*, where the exercise of the Council's discretion is restricted to the matter(s) specified in a particular standard(s) only, the assessment matters taken into account shall only be those relevant to that/these standard(s).
- (iv) In the case of *Controlled Activities*, the assessment matters shall only apply in respect to *conditions* that may be imposed on a consent.
- (v) Where an activity is a *Discretionary Activity* because it does not comply with one or more relevant Site Standards, but is also specified as a *Controlled Activity* in respect of other matter(s), the Council shall also apply the relevant assessment matters for the *Controlled Activity* when considering the imposition of conditions on any consent to the discretionary activity.

12.22.4.1 Assessment Matters

1. **Controlled Activity- Residential Dwelling within DUE(E) that is within Lot 1 DP 2139.**

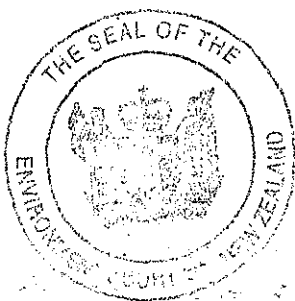
In determining the conditions to impose on the residential dwelling within Lot 1 DP 2139, the Council shall consider:

- (a) Whether the building is highly visible from Malaghan Road, and the extent to which it affects the open views of Feehly's Hill.
- (b) The extent to which proposed landscaping assists in maintaining the visual coherence of Feehly's Hill.

2. **Discretionary activity- Buildings and landscaping within DUE(E) that is within PT SEC 7 BLK XVIII Shotover SD.**

In considering whether the proposed residential activities within DUE(E) will adversely affect the visual coherence of Feehly's Hill, and establish a designed urban edge to Arrowtown, the Council must be satisfied that:

- (a) landscaping is used effectively to mitigate adverse effects on views from Malaghan Road;
- (b) Any landscaping is consistent with the ecological restoration of Feehly's Hill



3. Discretionary Activity- Ecological restoration within Activity Area OS-HL(E)

In assessing any application for the ecological restoration of Feehly's Hill, the Council shall consider:

- (a) proposed removal of pest plants, particularly broom and other wilding species, and their continued eradication
- (b) Proposed species to be planted, and their long term maintenance and management

4. Discretionary Activity- Provision of a public walkway to the summit of Feehly's Hill (OS-HL(E))

In assessing any application for a public walkway, the Council shall consider:

- (a) the visual impact of any walkway
- (b) the potential to link the walkway with the existing access provided by the Department of Conservation reserve.
- (c) The future maintenance and management of the walkway, including assurance of continued public access
- (d) Signage
- (e) Any proposed earthworks.

5. Discretionary Activity- Landscaping of the OS-MR(E)

In considering any landscaping plan for OS-MR(E), the Council shall be satisfied that:

- (a) the open character of the OS-MR(E) is retained, maintaining the open views of Feehly's Hill.

6. Earthworks

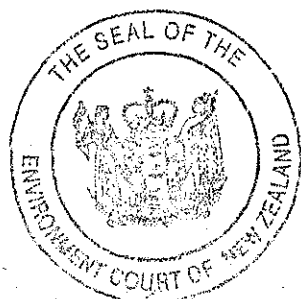
1. General amenity values

- (a) Whether the removal of soil to or from the site will affect the surrounding roads and neighbourhood through the deposition of sediment, particularly where access to the site is gained through residential areas.
- (b) Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.
- (c) The proposed rehabilitation of the site through planting and or other landscaping.
- (d) Whether the proposed earthworks will have a positive effect on stability and landform of the site.

2. Effects on adjacent sites

- (a) Whether the earthworks will adversely affect the stability of neighbouring sites.
- (b) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.
- (c) Whether cut, fill and retaining are done in accordance with engineering standards.

3. Environmental Protection Measures



- (a) The extent of proposed sediment/erosion control techniques to adequately ensure that sediment remains on-site.
 - (b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.
 - (c) The duration the earthworks will be exposed.
 - (d) Where earthworks are proposed on a site with a gradient >18.5 degrees (1 in 3), whether a geotechnical report has been supplied by a suitably qualified engineer to assess the stability of the earthworks.
 - (e) Whether appropriate measures to control dust emissions are proposed.
 - (f) Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects. NB: Any activity affecting groundwater may require a resource consent or permit from the Otago Regional Council.
4. Impacts on sites of cultural heritage value
- (a) Whether earthworks will adversely affect land which contains Waahi Tapu or Waahi Taoka, or is adjacent to a Statutory Acknowledgment Area, and whether tangata whenua have been notified.
 - (a) Whether earthworks will adversely affect land which contains a recorded archaeological site, and whether the NZ Historic Places Trust has been notified.
 - (c) Whether earthworks will adversely affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgement Areas."

