

Queenstown Lakes District Proposed District Plan – Stage 1

Section 42A Hearing Report For Hearing commencing: 10th October 2016

Report dated: 14th September 2016

Report on submissions and further submissions

Chapter 10 Arrows town Residential Historic Management Zone

File Reference: Chp. 10 S42A

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1. EXECUTIVE SUMMARY

1.1 The framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) Arrowtown Residential Historic Management Zone (**ARHMZ**) Chapter 10 should be retained along with the amendments in the revised Chapter in Appendix 1. I consider that the recommended provisions are more effective and efficient than the changes requested by submitters, except where recommended to be accepted, and are more appropriate than the Operative District Plan (**ODP**). The revised Chapter also in my view better meets the purpose of the Resource Management Act 1991 (**RMA**). The key reasons for this conclusion include that:

- a. The framework and style of the Revised Chapter is concise and accessible.
- b. The provisions better clarify the issues and the chapter's application.
- c. The revised chapter has updated cross references to other chapters in the PDP and accompanying documents.

2. INTRODUCTION

2.1 My name is Rachael Maree Law. I am employed by the Council as a Policy Planner. I have held this role since January 2016. I am a Graduate member of the New Zealand Planning Institute and I hold the qualifications of Bachelor of Resource and Environmental Planning from Massey University in Palmerston North and a Masters of European Studies: Transnational and Global Perspectives from Katholieke Universiteit (KU) Leuven in Leuven in Belgium.

2.2 I note that I was not the author of the notified chapter.

3. CODE OF CONDUCT

3.1 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 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.

3.2 I am authorised to give this evidence on the Council's behalf.

4. SCOPE

4.1 My evidence addresses the submissions and further submissions received on the notified chapter. The key issues raised in submissions can be grouped under the following broad topics:

- a. Community Facilities and Community Activities;
- b. Exemptions for Fire Service Towers;
- c. Definitions; and
- d. Other Matters.

4.2 The Revised Chapter is attached to this report at **Appendix 1**.

4.3 The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, considered to be out of scope, or transferred to another hearing stream because the submission is associated with another part of the PDP.¹ Where I recommend substantive changes to provisions I assess those changes in terms of section 32AA of the RMA (see **Appendix 4**).

4.4 Although this evidence is intended to be a stand-alone document and also meet the requirements of section 42A of the RMA, a more in-depth understanding can be obtained from reading the Arrowtown Residential Historic Management Zone (**ARHMZ**) s32 report, which is attached at **Appendix 3**. The s32 report also contains links to further Appendices and these, along with Monitoring reports can be found on the Council's website at www.qldc.govt.nz.

5. BACKGROUND – STATUTORY AND NON-STATUTORY DOCUMENTS

5.1 The s32 report, at pages 2 to 6, provides a detailed overview of the higher order planning documents applicable to the ARHMZ Chapter. I summarise here the documents that have been considered in the preparation of this chapter.

¹ Example: 261 relates to a residential medium density issue and is addressed in the same hearing in the s 42A report by Ms Amanda Leith

The RMA

- a. In particular the purpose and principles in Part 2, which emphasise the requirement to sustainably manage the use, development and protection of the natural and physical resources for current and future generations, taking into account the 'four well beings' (social, economic, cultural and environmental).

The Local Government Act 2002

- b. In particular section 14, the principles relating to local authorities. Sub-sections 14(c), (g) and (h) emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a future focussed policy approach, balanced with considering current needs and interests. Like the RMA, the provisions also emphasise the need to take into account social, economic and cultural matters in addition to environmental ones.

Iwi Management Plans

- c. When preparing or changing a district plan, section 74(2A)(a) of the RMA states that Councils must "*take into account*" any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. Two iwi management plans are relevant:
 - *The Cry of the People, Te Tangi a Tauria*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008); and
 - *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005).

Operative Otago Regional Policy Statement 1998 (Operative RPS)

- d. Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "*give effect to*" any regional policy statement. In particular the following provisions are relevant from the Operative RPS:

- Under section 3.4 *Natural and Physical Features*, Arrowtown's streetscape is specifically mentioned as a distinctive characteristic feature which highlights the Region's historical and cultural past, allowing scope for the protection of the ARHMZ.²
 - Objectives 5.4.2 and 5.4.3 relate to avoiding degradation of Otago's natural and physical resources from land-use activities and the protection of the outstanding natural features and landscapes of the region. The ARHMZ has a unique character that is renowned internationally.
 - Objective 9.4.1 to 9.4.3 and Policies 9.5.1 to 9.5.6 seek to promote sustainable management of the built environment to provide for amenity values and conserve and enhance the environmental and landscape quality, while recognising and protecting heritage values as well as minimising the adverse effects of the built environment on the natural and physical resources.
- e. These objectives and policies set a basis to manage and protect the character of the ARHMZ that contribute to the District's amenity and heritage values.

Proposed Otago Regional Policy Statement 2015 (PRPS)

- f. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall "*have regard to*" any proposed regional policy statement. The PRPS was notified for public submissions on 23 May 2015, and contains the following objectives and policies relevant to the ARHMZ:

Objective	Objectives	Policies
The values of Otago's natural and physical resources are recognised, maintained and enhanced.	2.1	2.1.7
Otago's significant and highly-valued natural resources are identified, and protected or enhanced.	2.2	2.2.4, 2.2.5, 2.2.6
Good quality infrastructure and services meets community needs.	3.4	3.4.1, 3.4.2
Urban areas are well designed, sustainable and reflect local character.	3.7	3.7.1, 3.7.2
Urban growth is well designed and integrates effectively with adjoining	3.8	3.8.1(c),

² See ORC Operative RPS Section 3.4 *Natural and Physical Features* page 22.

urban and rural environments.		3.8.2(c)
Historic Heritage resources are recognised and contribute to the region's character and sense of identity.	4.2	4.2.1, 4.2.2, 4.2.3

- g. These objectives and policies set a basis to manage the ARHMZ as it contributes to the character of the District. The hearing of submissions for the PRPS was held in November 2015 and, at the time of preparing this evidence, the Hearing Panel was still deliberating the submissions. A decision on the submissions has not yet been issued by the Regional Council.

Council's Arrowtown Community Plan, March 2003

- h. Part two of the Arrowtown Plan outlines the community's proposals for their place. Arrowtown is identified as being a tourist destination and a residential area – not a museum. The ARHMZ is deemed appropriate in its activities and statuses with more direction on infill management and the retention of the character of Arrowtown. This document reinforces the importance of the character of the ARHMZ to Arrowtown and the identity of the District.

Council's Monitoring Report: Residential Arrowtown, November 2011

- i. This report monitored the efficiency and effectiveness of the ODP Arrowtown residential zone provisions. It found that the ODP provisions were achieving the preservation of character in the ARHMZ in conjunction with the Arrowtown Design Guidelines (2006), and offered only minor amendments for consideration in the District Plan review.

Arrowtown Design Guidelines, June 2006

- j. The Arrowtown Design Guidelines (**ADG**) 2006 document categorises portions of Arrowtown into neighbourhoods, and some of these contain land within the ARHMZ. The Guidelines contain recommendations to protect the character of Arrowtown, which includes house design, paving, parking, vegetation, signage, colour, and other issues applicable to the area.

Proposed Arrowtown Design Guidelines, 2016

- k. This document is proposed through Variation 1 of the PDP to replace the ADG 2006, as the original is now 10 years old. It fits the same

purpose as the original, with recommendations to protect the character of Arrowtown including house design, paving, parking, vegetation, signage, colour, and other issues. The proposed ADG 2016 has been drafted to reflect changes that have occurred in Arrowtown over the past ten years and to provide new guidance for future development in proposed zones set out in the PDP.

Proposed District Plan Strategic Directions chapter 3

- I. This chapter gives guidance to the PDP and gives direction to the rest of the plan, including chapter 10. The relevant goals, objectives and policies are (referring to the Council's Right of Reply version):³

Goal 3.2.1 Develop a prosperous, resilient and equitable economy;
and Objective 3.2.1.4 and Policy 3.2.1.4.1;

Goal 3.2.2 The strategic and integrated management of urban growth; and Objectives 3.2.2.1 and 3.2.4.8;

Goal 3.2.3 A quality built environment taking into account the character of individual communities; Objective 3.2.3.1, 3.2.3.2 and Policies 3.2.3.1.1, 3.2.3.2.1; and

Goal 3.2.6 Enable a safe and healthy community that is strong, diverse and inclusive for all people.

PDP Urban Development Chapter 4

- m. This chapter gives guidance to the PDP in regards to the development of the urban areas. Those provisions relevant to Chapter 10 are (referring to the Council's Right of Reply version):⁴

- Objective 4.2.7 Manage the scale and location of urban growth in the Arrowtown Urban Growth Boundary; and
- Policies 4.2.7.1 and 4.2.7.2.

- n. The ARHMZ accords with and gives effect to the PDP chapter 3 and 4 goals, objectives and policies by:

- Providing an appropriate policy framework for activities within the zone;

³ Chapter 03 Strategic Directions Right of Reply Version Dated 7 April 2016.

⁴ Chapter 04 Urban Development Right of Reply Version Dated 7 April 2016.

- Creating efficiencies in the administration of the District Plan and reducing costs for the community; and
- Avoiding commercial activities that have the potential to undermine the historic heritage values, amenity of the zone and the role of commercial centres.

6. BACKGROUND – OVERVIEW OF THE ISSUES

6.1 The ARHMZ is the historic area of Arrowtown which covers the older part of the residential settlement of Arrowtown. This area is generally located north of Kent and Suffolk Streets and surrounds the Arrowtown Town Centre (shown in dark pink below). The ARHMZ has an important role reinforcing the local identity and character of the older residential part of Arrowtown, and in particular contributes strongly to the cultural heritage of the District.

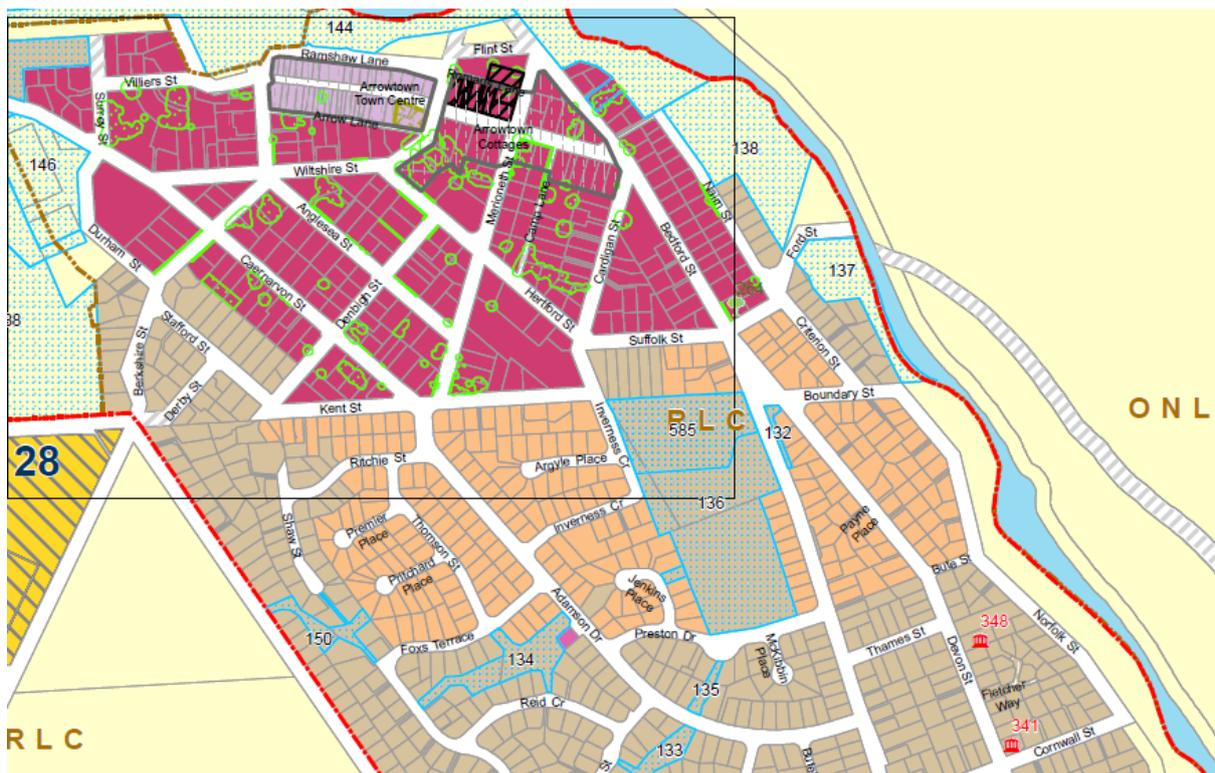


Figure 1: Arrowtown Residential area, derived from PDP planning map 27, dark pink depicting the ARHMZ

6.2 The purpose of Chapter 10 ARHMZ is to allow for the continued sensitive development of the historic area of residential Arrowtown in a way that will protect and enhance those characteristics which make it a valuable part of the town for local residents and for visitors attracted to the town by its historic associations and unique character.

- 6.3 In particular, the zone seeks to retain the early subdivision pattern and streetscape, and ensure future development is at a scale and design sympathetic to the present character. Unlike other residential zones, infill housing is not anticipated. However, Residential Flats are provided for to increase the diversity of residential accommodation in the zone.
- 6.4 The section 32 assessment⁵ identified the following issues with the ODP chapter, resulting in some minor changes to the framework, structure, objectives and provisions in the notified Chapter:
- a. The need for the retention and maintenance of the historic heritage resources and amenity values of the zone;⁶
 - b. The ADG 2006 was not incorporated by reference into the ODP;
 - c. The absence of a recession plane/height in relation to boundary rules resulted in accessory buildings located within the 3.0 metre internal boundary setback, but with the ability to be built to a height of 5.0 metre that would result in a recession plane containment angle of 37°. This feature of the ODP was considered discordant with the amenity of the zone and a recession plane rule for accessory buildings has been included in the notified and Revised Chapters;
 - d. The need for simplification and more efficient provisions overall;
 - e. The need to remove separate rules for non-residential activities. Commercial or community activities are provided for as separate activities and any building, irrespective of use, must have regard to the historic heritage of the zone and the ADG 2006 as a guiding principle for buildings; and
 - f. The need for a commercial overlay: the Arrowtown Town Centre Transition Overlay (**ATCTO**) provides for limited expansion of town centre activities in a discrete location adjoining the town centre. It formalises the existing creep of town centre activities in this area and enables residential activities within the overlay area to continue. There will be efficiencies within the ATCTO area for commercial activities, while the provisions will be effective at limiting the scale of activities to ensure the viability of the Town Centre zone is not diminished.

⁵ Refer to Appendix 3.

⁶ Amenity values include: open space, privacy, sunlight and outlook.

6.5 I note that there were no significant changes made from the ODP to the PDP. The monitoring reports and other studies showed that the provisions were largely achieving the environmental outcomes sought.

7. ANALYSIS OF SUBMISSIONS

7.1 14 submissions with 27 points of submission were received on the notified chapter.

7.2 The RMA, as amended in December 2013, no longer requires a report prepared under section 42A or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions.

7.3 Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.

7.4 I have set out my analysis of the provisions by issue and then by respective components of the notified Chapter, using the following headings:

- a. Issue 1 – Community Facilities and Community Activities;
- b. Issue 2 – Exemptions for Fire Service Towers;
- c. Issue 3 – Definitions; and
- d. Issue 4 – Other Matters.

8. ISSUE 1 – COMMUNITY FACILITIES AND COMMUNITY ACTIVITIES

8.1 In order to guide the establishment and operation of community activities and facilities, notified Objective 10.2.3 and the related Policy 10.2.3.1 provide for community activities and facilities located in the ARHMZ. These are to be provided for where they are of a design, scale and appearance compatible with the residential and historical context, and do not have adverse effects on residential amenity and historical values.

8.2 The definition of Community Facility specifically mentions those in relation to a community facility sub-zone. There is no community facility subzone in the ARHMZ, and I consider the inclusion of this in the notified policy 10.2.3.1 an unnecessary addition, likely to cause confusion as to the activities allowed in

this zone. I recommend the deletion of reference to community facility from notified policy 10.2.3.1.

Community Facility: In relation to a community facility sub-zone means the use of land and/or buildings for Health Care services, Hospital activities, ambulance facilities, elderly person housing and carparking and residential accommodation ancillary to any of these activities.

- 8.3 The MoE (524) seek to delete notified Rule 10.4.11 (redraft 10.4.7) in which community activities in the ARHMZ are discretionary, and to add community facilities to notified Rule 10.4.17 (redraft 10.4.13), where community activities in the ATCTO are permitted.
- 8.4 As mentioned above, there is no community facility subzone in the ARHMZ. For these reasons I recommend no changes to notified Rule 10.4.17 (redraft 10.4.13). The Council Monitoring Report on the Arrowtown Residential Zones and the section 32 both highlight that community activities are present in this zone (e.g the Montessori School and the Fire Station). I consider that the proposed approach in the PDP to allow the establishment and operation of community uses such as schools, libraries and the like within the ARHMZ is of merit, given this will allow local communities to be more self-sufficient for daily needs and encourage walkability within communities. I also agree with the approach of applying the same built form controls to buildings associated with 'Community activities' as this will ensure that the amenity of adjacent residential properties is protected. As such, I do not consider it appropriate or necessary to remove notified Rule 10.4.11 (redraft 10.4.7). I therefore recommend no changes to the rule.
- 8.5 I also note that the MoE are a requiring authority and are able to use this status to designate land for education purposes, thus overriding the respective zone rules.

9. ISSUE 2 – EXEMPTIONS FOR FIRE SERVICE TOWERS

- 9.1 The New Zealand Fire Service (**NZFS** (438)) have submitted in relation to notified Rules 10.5.1: Building Height, 10.5.3: Building Coverage, and 10.5.4: Combined Building Coverage and Hard Surfacing, in particular seeking exemptions from these standards for fire station drying towers (height) and for fire station buildings (coverage). Whilst I acknowledge that community services

such as the fire service have special requirements to enable their establishment and operation within the ARHMZ, being located within the ARHMZ requires a balance between these requirements and the potential effects upon the residential amenity and historic values of the surrounding area.

- 9.2 I consider that community activities should be subject to the same built form controls as other development within the ARHMZ so that the potential effects of any non-compliances can be assessed. Notified objective 10.2.3 and its associated policy seek to 'provide' or 'enable' the establishment of community activities where impacts can be avoided and where a development is compatible with its context. Thus, NZFS could apply for a drying tower that is designed in a manner that is sympathetic to the heritage values that the ARHMZ maintains, such as potentially limiting the size or using materials that would be compatible with those used traditionally in the ARHMZ. As such, I recommend no changes to the abovementioned provisions on this basis.

10. ISSUE 3 – DEFINITIONS

- 10.1 Submitters have sought relief in the PDP Chapter 2 Definitions. Those definitions that are specific to this chapter are being addressed here. There have been submissions on the notified definition of *Minor Alterations and Additions to a Building*, and a submission to add a new definition: *Character of Arrowtown*. Both are addressed below. In regards to other definitions applicable to the ARHMZ and other residential activities, I refer to and rely on the assessment in the section 42A report of Ms Amanda Leith on the PDP Residential Low Density Chapter 07, dated 14 September.

Minor Alterations and Additions to a Building

- 10.2 Arcadian Triangle (836) seek that the definition for *Minor Alterations and Additions to a Building* be readdressed. The intent when drafting this definition was to make it conservative so that permitted alterations or additions would blend in with the historical and amenity values of the zone. I agree with this submitter that this definition can be refined and I accept in part this submission point.
- 10.3 In particular I agree that specifying the colour of stain of the timber to be contradictory, as a clear stain would protect timber and provide a 'natural'

finish, yet in the notified version only dark stains are permitted. I also accept that the definition as notified excludes modern materials that are not timber but made to look like timber, and recommend the definition is altered to allow for such products. Lastly I agree that the second half of the first bullet point is unnecessary.

10.4 The recommended changes to the definition are:

Minor Alterations and Additions to a Building: Means any of the following:

- ~~Constructing an uncovered deck of natural or dark stained timber. The deck must comply with the applicable rules and standards for activities.~~
- *Changing or putting in windows or doors in an existing building that have the same profile, trims and external reveal depth as the existing.*
- *Changing existing materials or cladding with other materials or cladding of the same texture, profile, ~~materials~~ and colour.*

Dwelling

10.1 As outlined within Ms Leith's section 42A report for Chapter 7 – Low Density Residential, (Arcadian Triangle) has submitted in relation to the definition of *Dwelling* seeking its deletion. I concur with Ms Leith's reasoning at paragraph 14.30, and consider that the conjunctions of the 'Residential Activity', 'Residential Unit' and 'Residential Flat' definitions are adequate to describe and regulate the provision of residential accommodation. Consequently, I support the proposed deletion of the definition of 'Dwelling'. This will necessitate the deletion of the word dwelling from Rule 10.4.2 in chapter 10.

New Definition: Character of Arrowtown

10.2 Michael Farrier (752) requests that the meaning of *character of Arrowtown* is fully defined. A definition of the character of Arrowtown could either be vague and all encompassing, or highly specific. The relief sought by Mr Farrier is more of the latter. In my opinion this type of definition would limit the scope of what makes this area special. Furthermore, with the Arrowtown Design Guidelines 2016 providing a comprehensive statement of the character of Arrowtown I do not consider a definition to offer any added value. In particular, section 2.2 of the ADG 2016 expresses the historic character and features that are valued, and the reasons for its close management. For these reasons I recommend rejecting the submission point.

11. ISSUE 4 – OTHER MATTERS

27.6.1 Minimum Lot Size

- 10.3 The provision regarding the minimum lot sizes for subdivision in Arrowtown (redrafted Rule 27.6.1 from chapter 27 Subdivision and Development) has transferred from the subdivision hearing to this one. As such it has been included in the Revised Chapter in **Appendix 1**, as all minimum lot sizes for subdivision in specific zones is being addressed in the discussion on that zone.
- 10.4 27.6.1 states *No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, average, less than the minimum specified.* For the ARHMZ this is a minimum lot area of 800m². There were no submissions on this rule in relation to this zone. Therefore I have not discussed this in any more detail and recommend that the minimum lot area remain at 800m².

10.4.4 Colour and Fencing

- 10.5 Michael Farrier (752) seeks either the use of international colour codes in notified Rule 10.4.4, or the deletion of the reference to ‘colour’. This is because Mr Farrier finds the reference simply to ‘colour’ to be insufficient.
- 10.6 I note that notified Rule 10.4.4 states: *Consideration of these matters shall be guided by the Arrowtown Design Guidelines ~~2006~~2016.* The Arrowtown Design Guidelines (**ADG**) 2016 at 3.21, 3.22, 4.27 and 4.28 provide what I consider to be sufficiently explicit guidance on what colours and materials Council considers appropriate in this zone to maintain the character and amenity values. The ADG are intended to provide guidance to *the community, landowners, developers, designers, planners, Council and decision makers where restoration, alteration, development or redevelopment is proposed within Arrowtown.*⁷ I consider that any reference in chapter 10 to colour, more than already provided, would be repetition of the ADG and be therefore unnecessary. I recommend the rejection of this submission point.

⁷ See Arrowtown Design Guidelines 2016 1.1 Purpose of the Arrowtown Design Guidelines 2016.

- 10.7 Mr Farrier also submits on notified Rule 10.4.4 in regards to fencing. He states:

Fencing above 1.2m is deemed to be a restricted discretionary activity in the Arrowsmith Residential Historic Management Zone it suggested that this is qualified by referring to it as front boundary line fencing above 1.2m [sic].

- 10.8 I have interpreted the relief sought to be a change of phrase from *fencing* to *front boundary line fencing*. I consider that consistency with the ADG and Chapter 10 are paramount. As the following bullet point in notified Rule 10.4.4 references the ADG and its use in consideration of the matters of discretion, I consider that this rule should remain as notified in accordance with the terms used in the ADG. I therefore recommend rejection of this submission point.

RMA wording changes

- 10.9 In the Panel's fourth procedural minute dated 8 April 2016 concern was expressed that many objectives and policies were not framed as such. Accordingly, I have amended the wording being careful not to alter the intent of the provisions within the LDRZ chapter as identified in **Appendix 1**.
- 10.10 I have also applied the same approach to the matters of restricted discretion which have been framed as assessment matters. I have retained the subject matter of the notified provision however have deleted the remainder of each prescriptive provision. I recommend these changes in regard to notified rules 10.4.4, 10.5.5 and 10.5.6.

10.4.19 redrafted 10.4.15 Licensed Premises

- 10.11 The last bullet point for the notified rule 10.4.19 (redrafted 10.4.15) restricts Council's discretion when considering licensed premises to, among other things, *Any relevant QLDC alcohol policy or bylaw*. The rule controls licensed premises, and other matters of discretion are *scale of the activity*, thereby making this last point an unnecessary duplication that I consider should be removed. There is no scope to remove it however.

11. CONCLUSION

- 11.1 On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in **Appendix 1** be accepted.
- 11.2 The changes will improve the clarity and administration of the PDP, contribute towards achieving the objectives of the PDP and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.



Rachael Law
Policy Planner
14 September 2016