

**Appendix B** - A copy of the relevant parts of the decision

# QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-4

Report and Recommendations of Independent Commissioners  
Regarding Mapping of Arthurs Point

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

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## PART A - NGAI TAHU TOURISM LIMITED

**Submitter** Ngai Tahu Tourism Limited (Submission 716)

**Further Submission**

None

### 1. PRELIMINARY MATTERS

#### 1.1. Outline of Relief Sought

1. The submitter seeks to rezone the site ODP Rural Visitor or another visitor zoning.

#### 1.2. Description of the Site and Environs

2. The site is on the east bank of the Shotover River just to the north of the Edith Cavell Bridge. It is shown on Figure 4-1 below



Figure 4-1 – Submission site

3. The site is known as the Morning Star Beach Recreation Reserve. It is the site of the first discovery of gold on the Shotover by Thomas Arthur and Harry Redfern in November 1862. It currently contains Shotover Jet office and workshops, a base for Queenstown Rafting Ltd, Department of Conservation area office and depot, car parking areas, a café and other commercial activities.

#### 1.3. The Case for Rezoning

4. The case for the submitter was presented by Mr Ben Farrell, planning consultant. Mr Farrell said that while the Rural Visitor Zone permits residential activities, the intent of the submission is not to enable residential activity. Rather it is to appropriately recognise and provide for the existing and potentially new tourism related activities within the Morning Star Reserve. The operative rural visitor zone framework enables a bespoke framework for each particular rural visitor zone.

5. He said if the panel determined there is merit in the land being rezoned to Rural Visitor (or something similar), but the operative provisions were not the most appropriate (i.e. if additional or alternative provisions should be included), then the submission provided scope for the panel / decision-maker to include those provisions in the PDP. However he did not provide any suggested provisions for us to consider.

6. He said that the estimate of a potential for 338 residential lots on the site if it was rezoned Rural Visitor as in the ODP was an overstatement and exaggeration of the likely development

capacity that would result from rezoning the land from Rural General to Rural Visitor because the existing environment within the site provided a significant development constraint for new residential activity.

7. Because of this he said the concerns of Ms Wendy Banks (traffic planning) and Mr Ulrich Glasner (infrastructure) based on lack of information and the potential for extensive residential development were unfounded and they could have assessed the submission on the basis of no residential activity being proposed.
8. We note there is nothing in the submission itself indicating there is no intention of carrying out a residential development, or much information at all indicating what was proposed for the site.
9. For the Council, Mr Glasner opposed the rezoning from an infrastructure perspective because it could result in a substantial increase in load and flow that may require an upgrade of the existing wastewater infrastructure unless evidence showed an upgrade of existing infrastructure was not required.
10. Ms Wendy Banks considered that the level of development that would be enabled, and its associated traffic volumes would have an adverse effect on the existing transport road network, particularly the one-way road bridge over the Shotover River, and therefore opposed the rezoning from a transport perspective.
11. Mr Glen Davis did not oppose the rezoning from an ecological perspective because the natural indigenous values of the site are low.
12. Dr Marion Read did not oppose the rezoning from a landscape perspective because adverse effects on the visual amenity of the residents of dwellings to the west (old Arthurs Point) would be small, and urban development would have little adverse impact on the broader landscape. Dr Read considered that the ONL could be moved to exclude the site.
- 1.4. **Discussion of Planning Framework**
13. The site is zoned Rural and is within the ONL.
14. Strategic Objectives and Policies in Chapters 3 and 6 of the PDP require the identification of ONL's and avoidance of adverse effects on them that would be more than minor and or not temporary. Subdivision and development are discouraged in ONL's unless the landscape can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site<sup>1</sup>.
15. Strategic Objectives and policies also seek economic development in the district and recognise the benefits of well-designed and located visitor facilities in the district.<sup>2</sup>

## 2. ISSUES

- a. Landscape
- b. Infrastructure

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<sup>1</sup> See Objective 3.2.5, Policies 3.2.5.1, 3.3.29 and 3.3.30, and Policy 6.3.12

<sup>2</sup> Objective 3.2.1 and Policy 3.2.1.1

- c. How to provide for visitor facilities

### 3. DISCUSSION OF ISSUES AND CONCLUSIONS

#### 3.1. Landscape

- 16. Although Dr Read did not support the ONL classification of the site she gave no indication of where it should be moved to. The submission itself did not seek to have the ONL removed. We find her opinion difficult to reconcile with her statement elsewhere that the whole of Arthurs Point is within an ONL. We are unable to determine the landscape issue on the evidence. However, in light of our decision on the appropriateness of importing the ODP Rural Visitor zone, discussed below, this does not need to be resolved.
- 17. We note that no witness gave any consideration to any potential effects on the Shotover River both as an outstanding natural feature and in terms of section 6(a) of the RMA.

#### 3.2. Infrastructure and Transport

- 18. Despite Mr Farrell's protests, we think Mr Glasner and Ms Banks were entitled to take a worst case scenario in the absence of any real information about what the submitter intends. Even if it is not residential accommodation, any new activity would create some demand for services and access and we have been given no information to base an assessment on.

#### 3.3. Providing for Visitor Facilities

- 19. Firstly, we observe that we entirely understand the submitter's wish to further develop visitor facilities at this site. However we have serious reservations about using the ODP Rural Visitor zone for this purpose.
- 20. During the course of these hearings we have considered a number of requests to import the Rural Visitor Zone from the ODP into the PDP. As we have stated on each occasion, we are not prepared to import the ODP Rural Visitor zone into this PDP. It is very enabling and the matters which can be controlled are limited. With activities having controlled status it would not be possible to decline an inappropriate proposal, only to modify it to a limited extent by conditions. We do not think that zone in its present form would fit into the strategic approach of the Council towards both landscape and tourist-related activities as set out in Chapters 3 and 6.
- 21. As Mr Farrell said, we could create a bespoke version of the Rural Visitor zoning for this site. We have absolutely no information to base this on. If the submitter had been serious about this we would have expected a draft to consider, based on actual intentions.
- 22. If we did this, we would probably also have to do the same for a number of other submissions. This would necessarily have to include revision of the ODP objectives and policies to make them consistent with the Strategic approach of the PDP in Chapters 3 and 6, as well as attention to some confusing and poorly drafted rules. This would not be a small exercise, and would probably pre-empt the Council's review process. We prefer to wait for the Council's review of the Rural Visitor Zone in a later stage of this District Plan review. We consider that the existing Rural Zone in the PDP, along with the landscape provisions of Chapters 3 and 6 has enough flexibility to enable applications for visitor activities to be made and considered on their merits. Therefore we consider the existing Rural zone to be more appropriate than the suggested Rural Visitor zoning,
- 23. Thus, while we are sympathetic to the submitter's plans we think the best way forward at this stage is to wait for the Council's review of the Rural Visitor zone and for any proposals that

may proceed in the meantime to be dealt with through the resource consent process under the existing district plan.

#### 4. RECOMMENDATION

24. For the reasons set out above, we recommend that:
- a. Submission 716.16 be rejected; and
  - b. Rural zoning be retained; and
  - c. That the Council consider the appropriate zoning of this site when it reviews the Rural Visitor Zone in the Operative District Plan.

## PART B: SAM STRAIN

**Submitter:** Sam Strain (Submission 349)

**Further Submissions**

FS1344.4 Tim Taylor - support

FS1348.5 M & C Wilson - support

### 5. PRELIMINARY MATTERS

#### 5.1. Subject of Submission

25. This submission related to an area of 6,047m<sup>2</sup> at 19 Arthurs Point Rd.

#### 5.2. Outline of Relief Sought

26. The submission requested the zoning of the property be changed from Rural to Low Density Residential within an Urban Growth Boundary.

#### 5.3. Description of the Site and Environs

27. The site is on the western side of Arthurs Point Rd as it rises from the Edith Cavell Bridge into the village. It is a sloping site rising to an upper terrace. It contains a dwelling, outbuildings and domestic plantings and vegetation. It is physically separated from the Arthur's Point LDR zone by Rural zoned, publicly-owned reserve land (submission 716, Morning Star Beach Reserve, discussed above). It is within an ONL.

28. The site is shown on Figure 4-2 below.



Figure 4-2 – Submission site

#### 5.4. The Case for Rezoning

29. The site is zoned Rural. It has the potential to be developed under the requested LDR zoning into 9 allotments.

30. No evidence was presented at the hearing in support of the application. The submission itself stated that the land was not farmed and did not meet the objectives of the Rural Zone.

31. For the Council Dr Marion Read did not oppose the rezoning, because adverse effects on the visual amenity of the residents of dwellings to the west (old Arthurs Point) would be small, and urban development would have little adverse impact on the broader landscape.

32. Mr Glasner did not oppose the rezoning from an infrastructure perspective because it would be a minor increase in load and demand and could be serviced by the water and wastewater networks without a significant impact.

33. Ms Wendy Banks did not oppose the rezoning request from a transport perspective, provided that site access was not via Arthurs Point Road, because the site is located on the outside of a tight horizontal curve.

34. Mr Davis did not oppose the rezoning from an ecological perspective because indigenous vegetation is not present on the site.

#### 5.5. Discussion of Planning Framework

35. Objectives and policies of the PDP relating to urban growth call for

- a. Urban growth to be managed in a strategic integrated and logical manner, be compact, well-designed and build on historical urban settlement patterns;<sup>3</sup>
- b. urban development to be contained within the defined Urban Growth Boundaries and avoided outside of those boundaries;<sup>4</sup>
- c. When extending urban settlements, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise degradation of the values derived from open rural landscapes.<sup>5</sup>

## 6. ISSUES

- a. Transport
- b. Landscape
- c. Urban growth
- d. Suitability of the Rural zone.

## 7. DISCUSSION OF ISSUES AND CONCLUSIONS

### 7.1. Transport

36. Because the property is located on a tight curve in the Arthurs Point Rd, visibility to and from access to this road from the site would be very restricted and therefore unsafe, as this is a busy road. Although Ms Banks suggested that the zoning would be acceptable if access was derived other than from Arthurs Point Rd, it was apparent from our site visit that this is not feasible. The only other road available would be Redfern Terrace and this is separated from the site by a steep terrace which is part of the Morning Star Reserve, a Crown Reserve. We think access to Redfern Terrace is very unlikely to be a realistic option, and it was not put forward to us by the submitter.

### 7.2. Landscape

37. Because the site is in the ONL and outside the UGB, development of it would appear to be contrary to Policy 4.1.2.5 described above. We accept that the ONL may not be appropriately located here on the evidence of Dr Read. However the submitter did not request this to be changed.

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<sup>3</sup> Objective 3.2.2 and Policy 3.2.2.1

<sup>4</sup> Policy 4.2.1.3

<sup>5</sup> Policy 4.2.1.5

### 7.3. Urban Growth

38. The site is slightly separated from the LDR zone at Arthurs Point by a few metres of reserve, leading Ms Devlin to conclude in her s42A report that it would be “a small (6,047m<sup>2</sup>) and inappropriate 'spot zone' which would be out of character with the surrounding Rural zoned land.” We think this may be more apparent on a map than real on the ground, given the very small separation and how common it is in and around Queenstown for urban areas to be broken up by topography, especially terrace edges. Although it is currently outside the UGB, this would be able to be adjusted under the relief sought. However the access issue would mean development would not be “well-designed” as required by Policy 3.3.3.1 set out above.

### 7.4. Suitability of the Rural Zone

39. Although the Rural Zone provisions certainly encourage and enable productive requirement, this is not a requirement. The purposes of the zone do not preclude rural residential living on existing small sites, as is the case here. If a traffic engineering study indicated a possible solution to the access problem, it may be possible to pursue a development under a resource consent within the Rural Zone. We therefore conclude that the Rural zone is more appropriate for the site than the requested LDR zone.

## 8. RECOMMENDATION

40. For the reasons set out above, we recommend that:
- a. Submission 349 be rejected; and
  - b. Further Submissions FS1344.4 and FS 1348.5 be rejected; and
  - c. The Rural Zoning be retained.

## PART C: GERTRUDES SADDLERY LIMITED AND LARCHMONT DEVELOPMENTS LIMITED

**Submitters** Gertrudes Saddlery Limited (as successor to Michael Swan) (Submission 494) and Larchmont Developments Limited (Submission 527)

**Further Submissions**

Larchmont Developments Limited (FS1281) – supporting 494

### 9. PRELIMINARY MATTERS

#### 9.1. Subject of Submission

41. These submissions related to an area of approximately 5.9ha at Arthurs Point

#### 9.2. Outline of Relief Sought

42. The submissions requested the properties be rezoned from Rural to Low Density Residential within an Urban Growth Boundary, and that the ONL be deleted from the properties.

#### 9.3. Description of the Site and Environs

43. The properties are situated on the eastern and northern sides of the Shotover River, adjacent to the settlement of Arthurs Point. The properties are shown on Figure 4-3 below.



Figure 4-3 – Submission sites

44. The subject site is zoned part Low Density Residential and part Rural in the PDP, as shown on PDP Planning Map 39 (shown in Figure 4-4 below).



Figure 4-4 – Extract from Planning Map 39 - Red line as UGB, Cream is Rural Zone Light brown is LDR Zone, Blue line is subject site.

45. The requested rezoning could yield 89 lots (based on 450m<sup>2</sup> per lot).

#### 9.4. The Case for Rezoning

46. The case for the submitters was presented by Mr Warwick Goldsmith, legal Counsel, Mr Ben Espie, landscape architect, Mr Jason Bartlett and Mr Andy Carr, traffic engineers, Mr John McCartney, three waters engineer, Mr Peter Nicholson, engineering geologist, and Mr Cary Vivian, planner.

#### 9.5. Landscape

47. Mr Espie acknowledged that the whole of the site is currently in the ONL, as is the whole of Arthurs Point. He considered the majority of the land to be no different in landscape terms from adjacent Low Density Residential land. He said that the southern boundary of the LDRZ in this vicinity was illogical in landscape terms because it was not based on any natural feature demarcating a change in landscape, that land either side of the LDRZ boundary was similar in landscape terms, and that there were several existing residential dwellings and associated grounds on the Rural side of the boundary. In his opinion, the ONL boundary should be set at the top of the Lower Shotover Gorge, where the land starts to drop away very steeply into the Shotover River. He said that the river and its gorge was an outstanding natural feature. He analysed the effects on landscape character, and visual effects from a number of viewpoints where development on the submission site would be able to be seen. In his opinion, in most cases the visual effect would be insignificant, minor or moderate, but would be significant from a group of four dwellings on Watties Track, a road on the western bank of the Shotover River opposite the submission site. However, even from that site, the proposed development would be visible in the context of the rest of Arthurs Point, and views from there would also encompass the Shotover Gorge and the mountain ranges all around.
48. Mr Espie discounted completely the existing Douglas Fir and Larch forest which covers the site, because these are wilding species and there is a popular demand throughout the district to remove such trees to prevent further spread. Therefore these trees could be removed at any time, making the site and any development on it a great deal more visible. He produced a photograph showing that the entire site was in open pasture as recently as the 1960s.
49. For the Council Dr Marion Read considered that there could be a comparatively small extension of the LDRZ zoning, but that this should remain on the northern side of a knoll on the property, with everything to the south of it being within the ONL. She was concerned that development to the south of the existing LDRZ zone would be prominently visible from that

area and would potentially breach the skyline from that viewpoint if the trees on the site were removed.

50. In response to this Mr Espie said that:

*In general terms, the requested LDRZ will lead to suburban development to the south of the operative/proposed LDRZ and the newly enabled suburban development will be visually screened or buffered by development that is already enabled by the operative/proposed LDRZ. Due to topography, only a small amount of the newly enabled development would be visible from the operative/proposed LDRZ. The main views that are available from the properties of the operative/proposed LDRZ are oriented to the west (to Bowen Peak), the north and northeast (to Mount Dewar and Coronet Peak) and to the east (over Big Beach and towards Malaghans Ridge), rather than to the south.<sup>6</sup>*

#### 9.6. Transport

51. Perceived issues of traffic from the development were raised by the Council's witness, Ms Wendy Banks. These were both localised and wider, and included the safety concerns about the narrow access route into the area, potential congestion leading to delays on intersections along Arthurs Point Rd, and increased congestion at the Edith Cavell Bridge on the route into Queenstown.
52. The site is currently served by a long right of way to Atley Rd that narrows to only 6m wide at its narrowest point and has restricted forward visibility due to its curvature. During the hearing this was referred to by the witnesses as the "pinch point". The submitter has recently acquired an adjacent property which would enable a new road to be constructed into the site. The pinch point would be widened to 9.5m, which would be wide enough for two traffic lanes, a footpath and underground services, which Mr Carr said was typical of recent subdivisions in similar areas. This formation would comply with the Council's Code of Urban Subdivision for up to 200 dwellings, but would not comply with the Code's minimum legal width of 15m.
53. Mr Carr told us that narrow roads have been constructed in many recent subdivisions in order to create a slow speed environment, which enhances safety. He said that the portion of the road corridor that would be less than 15 metres would be only 80m long, and would taper from 14 to 9.5m at its narrowest point.
54. With regard to visibility, Mr Carr said that forward visibility at the curve would be limited. However, as there would be a lane each way, this would only be an issue if drivers "cut the corner". He said that peak hour movements would largely be in one direction, and that at other times vehicle numbers would be low and speeds would be slow. Two vehicles passing at the curve would be infrequent. Warning signs indicating a narrow road and the need for slow speeds could be provided. In his opinion, although not ideal, the visibility problem would be manageable and the effects not significant.
55. With regard to congestion Mr Bartlett provided modelling which indicated that there would not be unsatisfactory effects at intersections within the Arthurs Point settlement. With regard to the single lane Edith Cavell Bridge, he said that the bridge was already operating beyond its ideal capacity and the potential 89 lot development would not significantly add to the congestion. He said that the problems at the bridge need attention regardless of whether or not this development proceeds, unless development is to be curtailed in the entire Wakatipu

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<sup>6</sup> B Espie, EIC, 9 June 2017, paragraph 6.6

Basin, and that the Council recognises this. He suggested that an interim step would be traffic signals at the bridge. Mr Carr peer reviewed this evidence and concurred with it.

56. Ms Wendy Banks for the Council reviewed the submitter's expert evidence, and retained her concerns about the width of the remaining 'pinch point' and related safety aspects of Atley Road in relation to the rezoning yield sought.

#### 9.7. Infrastructure

57. Mr McCartney told us that in his opinion it would be possible to provide the proposed zone with suitable infrastructure, including water supply, wastewater disposal and stormwater. Water supply and wastewater would be by connection to existing Council infrastructure. Council has already budgeted for upgrades to these services at Arthurs Point and the development contributions from the subdivision would assist with this and the wastewater component of the rates from the new properties would be more than sufficient to support any maintenance required to the Council systems such as pumping stations. He acknowledged that a central pumping station or private onsite pumping stations would be required, and that these could be programmed to operate outside peak flow times.

58. He said that stormwater would be managed by low impact design measures that lead the waters to existing watercourses on the site.

59. For the Council Mr Glasner initially opposed the development, but after discussions with Mr McCartney was satisfied there are no infrastructure concerns in regard to the rezoning request.

#### 9.8. Natural hazards

60. For the submitter Mr Nicholson described geotechnical assessments he had carried out over the site. He concluded that apart from some small areas of instability the site was suitable for urban development, and that appropriate building platforms could be identified. More detailed assessment would be required at the time of subdivision consent applications.

### 10. DISCUSSION OF PLANNING FRAMEWORK

61. Strategic Objectives and Policies in Chapters 3 and 6 of the PDP require the identification of ONL's and avoidance of adverse effects on them that would be more than minor and or not temporary. Subdivision and development are discouraged in ONL's unless the landscape can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site<sup>7</sup>.

62. If the ONL was removed from the bulk of the property, as suggested by Mr Espie for the submitter, then the objectives and policies relating to Rural Landscape classification would cease to apply. These provide in summary for the retention of the District's distinctive landscapes<sup>8</sup> and for the rural character and visual amenity values in Rural Character Landscapes to be maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values<sup>9</sup>.

63. The proposed LDR zoning, development, because of its scale would comprise urban development. Objectives and policies of the PDP for urban growth include the following

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<sup>7</sup> See Objective 3.2.5, Policies 3.2.5.1, 3.3.29, 3.3.30, and 6.3.12

<sup>8</sup> Objective 3.2.5

<sup>9</sup> Policy 3.2.5.2

Strategic Objective 3.2.2

*Urban growth is managed in a strategic and integrated manner.*

Policy 3.2.2.1

*Urban development occurs in a logical manner so as to:*

- *promote a compact, well designed and integrated urban form;*
  - *build on historical urban settlement patterns;*
  - *achieve a built environment that provides desirable, healthy and safe places to live, work and play;*
  - *minimise the natural hazard risk, taking into account the predicted effects of climate change;*
  - *protect the District's rural landscapes from sporadic and sprawling development; and*
- .....

Strategic Objective 4.2.1

*Urban Growth Boundaries used as a tool to manage the growth of larger urban areas within distinct and defensible urban edges.*

Policy 4.2.1.1

*Define Urban Growth Boundaries to identify the areas that are available for the growth of the main urban settlements.*

Policy 4.2.1.2

*Focus urban development on land within and at selected locations adjacent to the existing larger urban settlements and to a lesser extent, accommodate urban development within smaller rural settlements.*

Policy 4.2.1.3

*Ensure that urban development is contained within the defined Urban Growth Boundaries, and that aside from urban development within existing rural settlements, urban development is avoided outside of those boundaries.*

Strategic Objective 4.2.2A

*A compact and integrated urban form within the Urban Growth Boundaries that is coordinated with the efficient provision and operation of infrastructure and services.*

Strategic Objective 4.2.2B

*Urban development within Urban Growth Boundaries that maintains and enhances the environment and rural amenity and protects Outstanding Natural Landscapes and Outstanding Natural Features, and areas supporting significant indigenous flora and fauna.*

## 11. ISSUES

- a. Traffic
- b. Landscape
- c. Infrastructure
- d. Natural hazards

- e. Urban growth

## 12. DISCUSSION OF ISSUES AND CONCLUSIONS

### 12.1. Traffic

64. Having listened to the carefully reasoned evidence of Mr Bartlett and Mr Carr we conclude that any traffic-related adverse effects would be minor or less. The proposed road into the site would be narrower over an 80 metre section than the Council's Code of Urban Subdivisions prefers, but the width, even at the pinch point is wide enough for all functional needs, with two traffic lanes, a footpath and sufficient room for underground services should they be required, although we note that Mr McCartney did not foresee this being required. The Code is not a mandatory document and recognises the need to be practical where circumstances require. Forward visibility is a concern, but only if vehicles cross the centre-line. Even if they do, speeds are likely to be slow, and vehicles passing at the curve would be a rare occurrence. Most vehicles will be driven by residents, who will become familiar with the road, and signage and road markings would assist.
65. We accept that any congestion effects would be felt mainly at the Edith Cavell Bridge. This bridge serves a much wider area, being on the main route between Arrowtown, the Wakatipu Basin, the Coronet Peak ski field and Queenstown, is already operating over its ideal capacity at peak times, and the Council has acknowledged it is in need of upgrading even if nothing has yet been planned. We see no reason to single out this proposed development in this regard, as development would need to be halted throughout the Wakatipu Basin and Arrowtown to even maintain the status quo. Instead, we consider this to be a wider issue that the Council needs to address.

### 12.2. Landscape

66. We have considered carefully the competing views of Mr Espie and Dr Read. We accept that there is little to distinguish most of the submission site from adjoining land already zoned LDR. Views of the site from within the LDRZ would be possible, but would read as part of the urban area. Views into the site would be significant from the Watties Track area, but again would appear as part of the wider settlement. From all other viewpoints, adverse visual effects would be insignificant to minor. From everywhere, the most outstanding characteristics of the landscape, being the high peaks and the Shotover Gorge would remain predominant. A small portion of the site boundaries fall within Mr Espie's recommended ONL line, and these could be precluded from development by the use of a Building Restricted Area.
67. On the basis of the areas defined on the Planning Maps, all of Arthurs Point currently falls within the ONL. Dr Read explained that she did not consider any urban zones could be in an ONL by definition. That approach may explain the almost consistent lack of demarcation between ONL and urban zones on the Planning Maps. However, as we have discussed in our Introduction Section, the defining of ONLs should precede the determination of zoning, not follow it.
68. However, all the landscape and planning witnesses accepted that it would be appropriate to draw an ONL line around the whole Arthurs Point Settlement. Legal counsel for the Council, Ms Scott, advised in her Reply submissions that it would be legally possible to make this change using the powers in clause 16(2) to make minor corrections to the PDP, because this change would be essentially neutral in effect, having no consequences for any landowners and occupiers within the existing zoned area or outside of it apart from these submitters.

### 12.3. Infrastructure

69. We accept that infrastructure upgrades already planned for Arthurs Point will provide sufficient capacity for this proposed development, and that the additional rates revenue to be derived will off-set any increased maintenance burden on the Council.

### 12.4. Natural hazards

70. We accept the evidence of Mr Nicholson and conclude that sufficient information has been provided to demonstrate that the site is generally able to be developed safely subject to more detailed assessment through the subdivision consent process.

### 12.5. Urban Growth

71. As we have concluded that Arthurs Point is an urban area, growth cannot occur outside the existing Urban Growth Boundary under the objectives and policies cited above. However, because we consider the land suitable for rezoning, it follows that the Urban Growth boundary should be extended as requested by the submitter.

### 12.6. Overall conclusion

72. The proposed rezoning is consistent with the objectives and policies of the PDP, particularly in regard to landscape and urban growth. There are no specific objectives and policies in the PDP at this stage relating to transport and traffic. However that issue is encapsulated in the general urban growth provisions cited above. Overall, we have concluded that the Lower Density Suburban Residential Zone is more appropriate for the site than the existing Rural Zone, that the proposed location of the ONL at the edge of the Shotover Gorge is more appropriate than the existing boundary which includes the whole of Arthurs Point, and that the Urban Growth Boundary can appropriately be extended to include the submission site.

## 13. RECOMMENDATION

73. For the reasons set out above, we recommend that:
- a. Submissions 494, 527 and FS1281 be accepted; and
  - b. The submission sites be zoned Lower Density Suburban Residential; and
  - c. The Urban Growth Boundary be extended to include the whole of the submission site; and
  - d. An ONL line be shown on the planning maps at the top of the Shotover Gorge in the position recommended in the evidence of Mr Ben Espie; and
  - e. A Building Restricted Area be shown on the Planning Maps for the part of the submission site which lies between the amended ONL and the southern boundary of the submission site.
74. We also recommend that the Council exercise its powers under Clause 16(2) of the Resource Management Act 1991 to create an ONL boundary that excludes all the parts of the Arthurs Point Urban Area within the UGB boundary as amended by this Recommendation Report, other than the four areas we have recommended be subject to Building Restriction Areas.

**Note:** The recommended amendments above are shown on Planning Map 39a.

## PART D: ALPINE ESTATE LIMITED

**Submitter** Alpine Estate Limited (Submission 450)

**Further Submissions**

None

### 14. PRELIMINARY MATTERS

#### 14.1. Subject of Submission

75. These submissions related to an area of approximately 1.9 ha on the northern side of Arthurs Point Rd.

#### 14.2. Outline of Relief Sought

76. The submissions requested the rezoning of the Low Density Residential portion of the site to High Density Residential.

#### 14.3. Description of the Site and Environs

77. The submitter's property is approximately 4.18 hectares in area divided topographically into two almost equal parts – a lower gently sloping area of 1.9ha and a steeply sloping upper portion of 2.28ha. The lower part of the site was zoned LDRZ in the PDP as notified and is the subject of this submission.

78. Since the lodging of the submission, the lower area of the site has been developed as a medium density Special Housing Area under the Housing Accords and Special Housing Areas Act 2013.

79. The submission site is shown on Figure 4-5, and the whole property, showing the portion the submission relates to, in relation to the Arthurs Point settlement is shown on Figure 4-6.



Figure 4-5 – Submitter's Property

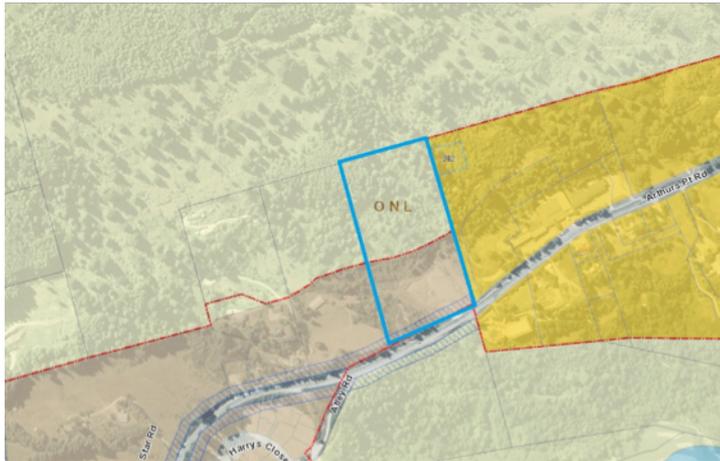


Figure 4-6 – LDRZ portion of property proposed by submitter for HDRZ (shown in brown).

#### 14.4. The Case for Rezoning

80. There was no appearance for the submitter at the hearing therefore the case for rezoning has been taken from the submission. In that, the submitter said

- a. *The site is part of and forms the western edge of a legible topographic parcel. For reasons of landscape legibility and expressiveness the development pattern on this property should align with and support what exists in the immediate vicinity.*
- b. *High density zone will provide for a better variety and lower priced housing options for the people of Queenstown.*
- c. *A more intense residential development on the edge of the rural Visitor Zone (sic) would support and supplement the activities of the Rural Visitor Zone.*
- d. *Housing provision in this area – as opposed to the Frankton and southern development areas, would relieve strain on the already overtaxed SH6A.*
- e. *The site is located on an existing public transport route next to the bus stop.*
- f. *The proximity of the site to the wider and natural landscape is more appropriate for a higher quality and detailed public realm design consistent with the High Density Residential Zone.*
- g. *A higher residential density can more readily contain a greater diversity of building typologies, greater affordability options and a more diverse demographic.*
- h. *The site is not within an area of significant landscape importance or an area deemed an Outstanding Natural Landscape.*
- i. *Views of development from Arthurs Point Road would not be significant and would not be out of place in consideration of the immediate surrounding area and existing patterns of development.*
- j. *The aspect of the property would offer a high level of residential amenity for residents.*
- k. *Infrastructural servicing of development would be feasible and no more difficult than any other area in Queenstown.*
- l. *The area is not located within a flood hazard or management area.*

#### 15. DISCUSSION AND CONCLUSIONS

81. The submission has been overtaken by the construction of the Special Housing development. The density of this exceeds the capacity of the site under the LDR zoning, but is less than could be achieved under the requested HDR zoning and is approximately similar to MDR zoning. The exact zoning is moot because the site is highly unlikely to be further developed to any extent in the foreseeable future. The site would not satisfy the zone purpose of the HDRZ because that anticipates close proximity to a Town Centre to reduce car trips. The Council officers

recommend the site be zoned MDRZ for this reason and because this would be the most suitable to manage any minor additions or alterations which might occur. We agree.

**16. RECOMMENDATION**

82. For the reasons set out above, we recommend that Submission 450 be allowed in part and that the LDRZ portion of the site be rezoned to MDRZ.

## PART E: DARRYL SAMPSON & LOUISE COOPER

**Submitter** Darryl Sampson & Louise Cooper (Submission 495)

**Further Submissions**

None

### 17. PRELIMINARY MATTERS

#### 17.1. Subject of Submission

83. These submissions related to an area of approximately 1.4ha at 182D Arthurs Point Rd on the eastern edge of the settlement.

#### 17.2. Outline of Relief Sought

84. As notified, the submitters' property had a split zoning, with part of the site zoned Rural in the PDP, and part ODP Rural Visitor as shown Figures 4-7 and 4-8 below. The submissions requested the Rural portion of the property be rezoned Rural Visitor and the Urban Growth Boundary and the ONL be moved to the amended edge of the Rural Zone.

#### 17.3. Description of the Site and Environs

85. The site is on the southern side of Arthurs Point Rd towards the eastern end of the settlement. It contains 2.117ha. There is one existing house on it.



Figure 4-7 – Submission site

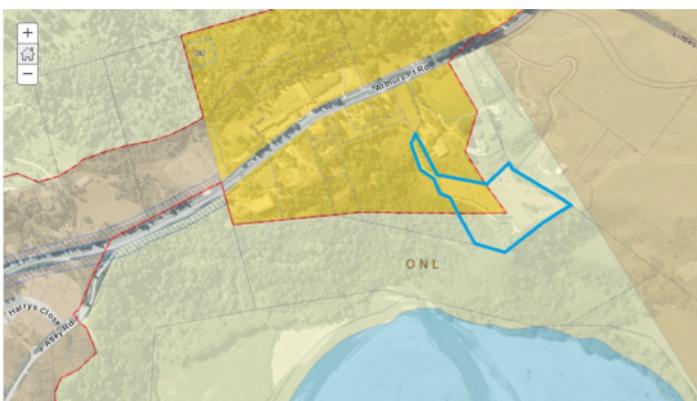


Figure 4-8 – Planning Map extract. Yellow is ODP Rural Visitor Zone, cream is Rural

#### 17.4. The Case for Rezoning

86. The case for the submitter was presented by Ms Jayne Macdonald, legal counsel, Mr Ben Espie, landscape architect and Mr Carey Vivian, planner.

### 17.5. Legal

87. Ms MacDonald addressed the difficult position submitters such as this are placed in when a property is split zoned, with part of the property zoned Rural Visitor, which is not one of the zones being dealt with in Stage 1 of the PDP review, while the other part is zoned Rural under the PDP. She submitted that it would be possible to import the operative RV Zone into the PDP, but accepted that the Panel may be reluctant to do so. She suggested that an alternative would be to give the whole property an urban zoning, such as Medium Density Residential, which is a PDP Stage 1 zoning.
88. Ms MacDonald also discussed approaches to dealing with a part of the site which is within a steep escarpment. She accepted that rather than zoning this Rural, an alternative could be to apply a building restriction area to this part of the site.

### 17.6. Landscape

89. Mr Espie said that the southern and eastern boundaries of the operative RVZ adjacent to Arthur's Point Road (and perhaps other boundaries as well) have been drawn in a way that does not accurately relate to landform or land use patterns. The property contains the lip and upper part of a steep escarpment that runs down to the Shotover River. The escarpment faces that contain the Shotover River are steep and covered in relatively dense vegetation, generally self-seeded exotic species. Despite the exotic vegetation, the escarpment faces are readily legible as the incised walls of the Shotover River canyon. When seen as a whole, the river canyon (i.e. the river, its bed and its containing escarpments) are seen as a cohesive landscape unit or feature. He considered that urban zoning on the property should be confined to the flatter terrace areas and should not extend over the lip of the escarpment and down its face.
90. Mr Espie assessed the visual effects of development on the property on observers from a number of locations around the Arthurs Point basin and beyond and concluded that any adverse effects would be negligible. From all viewpoints the proposed development would be either seen as a small extension to existing development, or would be too distant to be significant.
91. For the Council, Dr Read agreed with this analysis.

### 17.7. Planning

92. Mr Vivian sought through his summary evidence statement at the hearing that the entire property outside the escarpment be given an alternative zoning such as LDRZ or MDRZ, together with the amendment of the UGB and ONL/ONF lines to align with the zone boundary. He said that it would be up to the Council to consider whether or not it wished to have the property in whatever replaces the operative RVZ when that zone is reviewed in a later stage of the PDP process. We will return to that issue later.
93. Mr Vivian noted that there was no opposition from the Council's experts in landscape, transport, ecology and infrastructure matters in relation to the modified proposal.
94. In her Right of Reply Report, Ms Devlin accepted that the site could be rezoned MDRZ on the terraces, but that the land below the lip of the escarpment should remain Rural, subject to a BRA. She said that retaining the Rural zoning with a BRA would trigger the ONL considerations (ie. the landscape assessment matters) under Chapter 6, as the landscape classifications only apply to the Rural Zone, and this may give additional discouragement to any non-complying proposals.<sup>10</sup>

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<sup>10</sup> R Devlin, Reply Evidence, 6 October 2017, paragraph 9.3

## 17.8. Discussion of Planning Framework

95. Strategic Objectives and Policies in Chapters 3 and 6 of the PDP require the identification of ONL's and avoidance of adverse effects on them that would be more than minor or not temporary. Subdivision and development are discouraged in ONL's unless the landscape can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site<sup>11</sup>.
96. Objectives and policies of the PDP relating to urban growth are set out above under Submission 495 Gertrude's Saddlery Ltd. In summary these require that urban growth is managed in a strategic and integrated manner, promotes a compact, well designed and integrated urban form built on historical urban settlement patterns, achieves a built environment that provides desirable, healthy and safe places to live, work and play, minimises natural hazard risk and protects the District's rural landscapes.
97. Policies also allow for limited urban growth of smaller settlements and require that urban development is contained within defined Urban Growth Boundaries, and is able to be coordinated with the efficient provision and operation of infrastructure and services<sup>12</sup>.

## 18. ISSUES

- a. Landscape
- b. Urban Growth
- c. Process Issues

## 19. DISCUSSION OF ISSUES AND CONCLUSIONS

### 19.1. Landscape

98. We accept the advice of Dr Read and Mr Espie that the part of the site on the flat terraces above the Lower Shotover Gorge can be developed for residential purposes without adverse effects on the landscape, but that the part of the property below the lip of the escarpment should be within the ONL and remain undeveloped. We will return to how to achieve that in our discussion of process issues.

### 19.2. Urban Growth

99. Although the area is small, the proposed rezoning will be an extension to an existing settlement and is therefore urban growth. Therefore we accept the advice of Ms Devlin and Mr Vivian and conclude that the Urban Growth Boundary should be extended over the terrace land that we regard as suitable for development.

### 19.3. Process Issues

100. The original submission requested the extension of the Rural Visitor Zone over the entire property. The RV zone is not part of the current Stage 1 of the PDP, and following the Clause 16 amendment to the PDP, as discussed above, is shown on the PDP maps only for information purposes. Although Mr Vivian protested about the legality of this amendment we do not consider we have the jurisdiction to address that. The most we consider we could do would be

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<sup>11</sup> See Objective 3.2.5, Policies 3.2.5.1, 3.3.29 and 3.3.30, and Policy 6.3.12

<sup>12</sup> See Objective 3.2.2, and Policies 3.2.2.1, 4.2.1.2 and 4.2.1.3.

to import the operative RV zone, or a bespoke version of it into the PDP for the Rural zoned part of this site as that is all we have scope to address.

101. As we have said consistently throughout our recommendations on this hearings stream, we are not prepared to do that. Our reasons for that are fully set out in our discussion of Submission 716 by Ngai Tahu Properties Ltd earlier in this report. In summary we regard that zone as potentially too enabling and not sufficiently protective of the landscape, and probably not consistent with the strategic approach of the PDP to landscape and other issues. We could have created a bespoke version of the RVZ for this site, but again we have consistently declined to do that. We were not given anything to consider and we do not wish to do that from the beginning. To do this would also risk inconsistency with whatever the Council does when it reviews the RVZ at a later stage of the PDP process.
102. We are prepared to accept the alternative suggestion of the Medium Density Zone, but only for the Rural zoned part of the site, which is what is within Stage 1 of the PDP. Part of the site is below the lip of the escarpment, and this should have a Building Restriction Area to exclude it from development. We have considered Ms Devlin's alternative suggestion of retaining this part of the property in the Rural Zone, as the BRA would allow for non-complying activity applications to be made. However a split zoning creates the potential for a separate site to be created by subdivision. Both approaches have advantages and disadvantages, and on balance we prefer to avoid the split zoning. In any case we consider it unlikely that anyone would attempt a development on this part of the property given the very persuasive evidence we received from Mr Espie and Dr Read about the adverse effects on the landscape.
103. The submitters will have the opportunity to address the zoning of the RV part of the site when the RVZ is reviewed.

## 20. RECOMMENDATION

104. For the reasons set above, we recommend that:
  - a. Submission 495 be allowed in part;
  - b. The Rural zoned part of the property be rezoned Medium Density Residential;
  - c. The ONL boundary be drawn along the terrace edge as agreed by Dr Read and Mr Espie;
  - d. The UGB boundary be drawn at the edge of the MDRZ; and
  - e. A Building Restricted Area notation be applied to the parts of the property within the ONL; as shown Planning Map 39a.

## PART F: MANDELEA PROPERTIES LIMITED

**Submitter** Mandelea Properties Limited (Submission 642)

**Further Submissions**

None

### 21. PRELIMINARY MATTERS

#### 21.1. Subject of Submission

105. These submissions related to an area of approximately 2.87 ha at Arthurs Point.

#### 21.2. Outline of Relief Sought

106. The submissions requested the Rural Visitor zoning on part of the site be confirmed, and the rezoning of the Rural part of site as Rural Visitor within the UGB and the removal of the ONL. The RV zoned part of the site is not in Stage 1 of the PDP.

#### 21.3. Description of the Site and Environs

107. The site is on the south side of Arthurs Point Rd near the eastern edge of the settlement. The land is accessed down a leg in from Arthurs Point Road. It drops steadily to the south before dropping precipitously to the Shotover River below. The location of the change in gradient is approximately the location of the RVZ boundary.

108. The site is shown on the aerial photo in Figure 4-9, and the zoning is shown on Figure 4-10.



Figure 4-9 – Submission Site

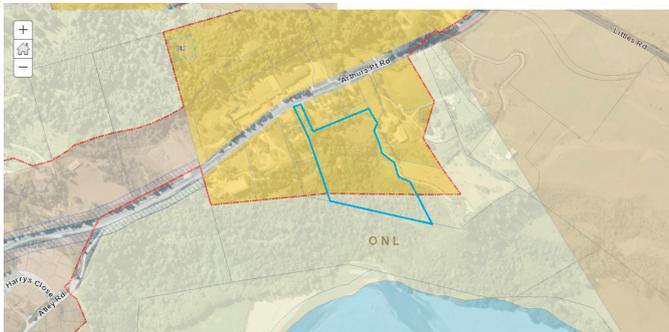


Figure 4-10 – Extract from Planning Map 39. RV Zone is yellow, Rural zone is cream.

#### 21.4. The Case for Rezoning

109. No appearance was entered at the hearing and no evidence submitted. The case for rezoning presented in the submission states

*We oppose Rural Zoning over that part of our property that extends to the south and east of the proposed Rural Visitor Zoning. We submit that this land is a logical extension to the proposed (and existing) Rural Visitors Zone, can be adequately serviced and can potentially increase the stock of visitor accommodation in Queenstown. We submit that the land is already modified in the majority and that the ONL classification of the land is inconsistent. We submit that the proposed zoning achieves the purpose of the Resource Management Act - the sustainable management of natural and physical resource.*

*We oppose the Urban Growth Boundary and Landscape Classification for the same reasons.*

110. For the Council Dr Read opposed the rezoning from a landscape perspective because development on the lower part of the submitter's site would be within the Shotover River Corridor ONL and would have a significant adverse effect on the character and quality of the ONL.

#### 21.5. Discussion of Planning Framework

111. Strategic Objectives and Policies in Chapters 3 and 6 of the PDP require the identification of ONL's and avoidance of adverse effects on them that would be more than minor and or not temporary. Subdivision and development are discouraged in ONL's unless the landscape can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site<sup>13</sup>.
112. Objectives and policies of the PDP relating to urban growth are set out above in our discussion of Submission 495 Gertrude's Saddlery Ltd. In summary these require that urban growth is managed in a strategic and integrated manner, promotes a compact, well designed and integrated urban form built on historical urban settlement patterns, achieves a built environment that provides desirable, healthy and safe places to live, work and play, minimises natural hazard risk and protects the District's rural landscapes.
113. Policies also allow for limited urban growth of smaller settlements and require that urban development is contained within defined Urban Growth Boundaries, and is able to be coordinated with the efficient provision and operation of infrastructure and services.<sup>14</sup>

## 22. ISSUES

- a. Landscape
- b. Urban growth

## 23. DISCUSSION OF ISSUES AND CONCLUSIONS

114. The land for which rezoning was sought is on the steep escarpment which is part of the Lower Shotover Gorge and is similar in form and elevation to other sites which we have excluded from the urban zoning in the submissions discussed above.<sup>15</sup> Dr Read said that incorporating the lower part of this lot into the RVZ would facilitate development on this escarpment and within the ONL. Such development would compromise the integrity of the terrace escarpment, and of the river gorge feature, and diminish its natural character and aesthetic value.

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<sup>13</sup> See Objective 3.2.5, Policies 3.2.5.1, 3.3.29, 3.3.30, and Policy 6.3.12

<sup>14</sup> See Objective 3.2.2, and Policies 3.2.2.1, 4.2.1.2 and 4.2.1.3.

<sup>15</sup> See our discussion above in Parts C and E

115. We were able to confirm this assessment on our site visit. We therefore accept Dr Read's evidence, noting that we received no expert landscape evidence to the contrary from the submitter.

**23.1. Urban growth**

116. The rezoning requested would allow for a small urban extension of the settlement, which would need to be included within the urban growth boundary and satisfy the objectives and policies for urban growth in the PDP. Because of our finding on the landscape issue we do not need to discuss this any further.

**24. RECOMMENDATION**

117. For the reasons set out above, we recommend that Submission 642 be rejected.

## PART G: SUMMARY OF RECOMMENDATIONS

118. For the reasons set out above we recommend that:
  - a. Submission 716.16 be rejected (refer Part A);
  - b. Submission 349 and Further Submissions 1344.4 and 1348.5 be rejected (refer Part B);
  - c. Submissions 494, 527 and FS1281 be accepted (refer Part C);
  - d. Submission 450 be allowed in part (refer Part D);
  - e. Submission 495 be allowed in part (refer Part E);
  - f. Submission 642 be rejected (refer Part F).
119. We also recommend that the Planning Maps be amended to reflect the above recommendations, as shown on Map 39a attached in Appendix 1 to Report 17-1.
120. We recommend that the Council exercise its powers under Clause 16(2) of the Resource Management Act 1991 to create an ONL boundary that excludes all the parts of the Arthurs Point Urban Area within the UGB boundary as amended by this Recommendation Report, other than those four areas we have recommended be subject to Building Restriction Areas.
121. We further recommend the Council consider the appropriate zoning of the Morning Star Beach Recreation Reserve when it reviews the Rural Visitor Zone in the Operative District Plan.

**For the Hearing Panel**



**Denis Nugent, Chair**

**Date: 4 April 2014**