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Comments on applications for referral under the COVID-19 Recovery (Fast-track Consenting) Act 2020

This form is for local authorities to provide comments to the Minister for the Environment on the decision to refer projects to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

Local authority providing comment	Otago Regional Council
Contact person (if follow-up is required)	Joanna Gilroy
	Manager Consents
	s 9(2)(a)

Comment form

Please use the table below to comment on the application.

Project name	Northbrook Arrowtown Retirement Village
General comment	Proposed affected parties look appropriate.
Is Fast-track appropriate?	The application should not use the fast-track process, as there are many other processes surrounding this site and area that have yet to be settled. Council has been extensively involved in this process to date.
Environmental compliance history	Based on audit reports for consents currently held on site (discussed below) that have been exercised, grades range from full compliance (majority of applications), to low risk non-compliance (2 consents),

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Insert responses to other specific requests in the Minister's letter (if applicable)

History of application: Various consents have been granted for this site for the purpose of site development. The intention behind seeking these consents was to develop the site for various commercial enterprises including a hotel, restaurant, retail shop and wellness centre.

Consents issued that are current for the site are: RM17.302.01-02, RM18.088.01-06, RM18.426.01-03

Consents are associated with various land use consents for placing structures in beds of watercourse, disturbing contaminated site (to remediate site), flood protection works, damming and diversion activities.

Aspects of the site are verified HAIL sites with some contaminated sites associated with previous farm use. Further information can be provided on this. Consent was granted to remediate contaminated site (RM18.426). ORC understands that the site itself is subject to detailed discussions through District Plan mediation suggesting that there are some fundamental issues to be resolved. This matter is going through the appeal process currently.

Any iwi groups/ contacts, other than those identified by the applicant, that you consider the expert consenting panel should seek written comment from if the project is referred to a panel. No other iwi groups

Local groups with interest in freshwater, biodiversity, heritage and other relevant environmental issues that you consider the expert consenting panel should seek written comment from if the project is referred to a panel.

It is noted that Guardians of Lake Hayes have raised concerns in the past on activities on site having adverse impacts on Lake Hayes.

Other local context of relevance to understanding the application and its impacts.

Forest and Bird could have concerns regarding proximity to Regionally Significant Wetland downstream.

Historic values identified at Mill Creek (Wakatipu Flourmill Complex) and the Butel's Flourmill (Schedule 1C of RPW).

Other considerations

The closest Regionally Significant wetlands are located on the fringe of Lake Hayes (known as Lake Hayes Margins). Recognised as providing habitat for threatened native fish species, and swamp birds.

It is not clear in the application how they would control stormwater from the site. The development is near significant waterbodies. It would be expected that some information on what sediment control measures they would use to control stormwater discharges. There is no information for where hardstand stormwater from roads, houses etc would discharge to.

Development is located next to an existing bus route. The Transport team were contracted and noted that they were not sure if the route has capacity to cater for the development but it could likely be modified to increase frequency or to enter the development.

The main concern from Transport would be ensuring incorporation of public transport infrastructure into the plan to allow the estate to be serviced. It is understood that QLDC are actively encouraging incorporation of public transport infrastructure in new developments, and there would generally be a greater demand for public transport in retirement villages. Giving contrasting examples, Jacks Point has public transport incorporated in its design since inception and has been easy to run a bus service through. The nearby Hanleys Farm however is being retrofitted with public transport which was not given consideration during the development. At Hanley Farm buses park on the street next to the reserve whereas Jacks point has multiple bus stops/ bus laybys and shelter.

The site is disconnected from any nearby urban areas with Arrowtown over 2 km away and Queenstown 10 km away. There are a number of similar developments in the wider vicinity including a retirement village (Arrowtown Lifestyle Village) and the expansion of Millbrook golf/ lifestyle development. The development proposed is urban in nature and is well outside the Urban Growth Boundary of Arrowtown and Queenstown. The site is located in an area of the wider Wakatipu basin that has not been identified as a growth area. The property is immediately downstream (straddles the stream) of Waterfall Park and is in the catchment of Lake Hayes which is a known degraded and highly sensitive water body). Significant earthworks and stream modifications are proposed which could impact on the downstream catchment.

Council's Policy team stated that the location does not lend itself to integrated urban development or contribute well to functioning urban environments, and would result in further ad hoc urban development within a sensitive rural environment and therefore does not appear to be appropriate in principle.

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Local authority providing comment	Queenstown Lakes District Council
Contact person (if follow-up is required)	Fiona Blight
	Manager Resource Consents
	s 9(2)(a)

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Project name	Winton Northbrook Arrowtown Retirement Village (Proposal)
General comment	<p>A subsidiary company of the Applicant currently has a live appeal to the Environment Court on the QLDC Proposed District Plan (PDP) that seeks to rezone the proposal site to enable a retirement village very similar to that contained in this application. Members of the public and the Otago Regional Council have joined that appeal as section 274 parties. Queenstown Lakes District Council (QLDC or Council) considers that it would be more appropriate for the proposal to continue to proceed via the appeal process on the PDP.</p> <p>Considering this application via the fast-track process would negate the Environment Court appeal, limiting the ability for Council to defend its PDP Hearing Panel decision that this is an inappropriate development in this area.</p> <p>The site is outside the Urban Growth Boundary. Further, the proposal proceeding in the form of a resource consent application constitutes urban development within a rural zone, which is contrary to PDP policies that have been agreed through Environment Court mediation and submitted to the Environment Court in the form of Consent Order documentation.</p> <p>The Council has previously received three (3) separate Expressions of Interest for Special Housing Areas ("SHA") from the applicant or its subsidiary companies for proposals on this site under the Housing Accords and Special Housing Areas Act 2013. All three proposals were located largely in the location of the proposed retirement village for similar scaled development to that proposed under this application. The Council declined to recommend all three SHA Expressions of Interest to the Minister of Building and Housing. A Judicial Review of Council's decision to not recommend the first Ayrburn Farm SHA to the Minister was upheld by the Courts.¹</p>
Is Fast-track appropriate?	No, the fast-track process is unlikely to be appropriate. The reasons for this are summarised above and elaborated upon below.
Environmental compliance history	The information about the compliance history of the applicant is covered in the Council's comments on the Winton Northbrook Northlake Retirement Village.

¹ CIV-2015-425-000090 [2016] NZHC 693.

Insert responses to other specific requests in the Minister's letter (if applicable)

1. Alignment with the District Plan.

Summary

It is relevant to consider the proposal site under the Council's Operative District Plan (ODP) and PDP. The proposal for a retirement village would constitute urban development (as defined) in both the ODP and PDP. As urban development in an RMA section 7 landscape, the proposal, in the form of a resource consent application, does not align with either the ODP or the PDP policy frameworks. The proposal would have detrimental implications on the Council's policy intent to manage subdivision, use and development in the Wakatipu Basin.

Proposed District Plan

The proposal site is zoned Wakatipu Basin Rural Amenity Zone (WBRAZ) (PDP Chapter 24). The purpose of the WBRAZ is to maintain or enhance the landscape character and visual amenity values of the Wakatipu Basin. The WBRAZ requires a minimum net site area of 80ha for any subdivision or for any future residential activity. This proposal and site area do not meet this requirement and non-compliance with the minimum allotment size is a non-complying activity.

A proposal for urban development by way of resource consent directly conflicts with the PDP policy framework, which requires:

- urban development to occur within the Urban Growth Boundary (UGB);
- that rural land outside the UGB is not used for urban development;
- the rural amenity of the WBRAZ is protected.

Operative District Plan

The proposal site is zoned Rural General under the ODP and is classified as a Visual Amenity Landscape (a RMA s7 landscape). The Rural General Zone is characterised by farming activities and includes the majority of rural land in the district.

The ODP provides that development in the Rural General Zone should be undertaken in a manner which protects and enhances nature conservation and landscape values; sustains the life supporting capacity of the soil and vegetation; maintains acceptable living and working conditions and amenity for residents of and visitors to the Zone. The activity would likely be a non-complying activity under the ODP.

The ODP discourages urban development in RMA section 7 landscapes. It seeks to confine the majority of urban development to the townships of Queenstown and Wanaka and to avoid sporadic adhoc urban development in the rural area and in particular in the vicinity of the Arrowtown area (where the Site is located). It also seeks to protect the section 7 landscapes from subdivision and development that has adverse visual and amenity effects.

Previous attempts to re-zone/develop land

The Council considers it relevant for the Minister to have an understanding of the Applicant's previous attempts to develop the subject site and the Applicants ongoing PDP appeal on the subject site.

The Applicant notes at section 3.14 of its application that '*Winton has not previously made a consent application under the RMA in respect of the same or a similar project*'. With respect to RMA resource consent process this is correct. However, the proposed development is located on land that the Applicant, or known associated subsidiary companies (as identified above) has proposed to develop through the current district plan review process. The previous proposals are similar to the current Proposal, and are briefly outlined as follows:

PDP appeals

Waterfall Park Developments Limited (**WPDL**) share two company directors with the Applicant, made a submission on Stage 2 of the Council's PDP review seeking a rezoning of the site:

- to rezone the Site as the Ayrburn Zone (which would provide for residential, retirement and visitor activities);
- to extend the Waterfall Park Zone (**WPZ**) (which would provide a resort zone over the site);
- to rezone the site as Wakatipu Basin Lifestyle Precinct (**WBLP**) (which would allow for Rural Residential development); or
- to extend the Rural Residential Zone over the Site.

As part of the PDP hearings, the Council's Independent Hearings Panel recommended a decline of the re-zoning request by WPDL over the site. The Panel's reasons for declining the WBLP over the subject site related primarily to water quality effects in the Lake Hayes catchment (as the land is not serviced by a reticulated wastewater scheme), and landscape effects.

The key reasons from the Independent Hearings Panel for declining the Ayrburn rezoning relate to the following issues.

- Landscape

The proposal would read as an urban area juxtaposed onto the less dense rural residential development of Lake Hayes North. The extent to which the development areas need to be 'hidden' suggests that the proposed zone would be incongruous in this location. The proposal would remove the 'breathing space' between the existing North Lake Hayes rural residential development and the development adjoining Millbrook and Arrowtown.

- Water quality

Due to being in the Lake Hayes catchment (while Council acknowledge that the proposal would comprise reticulated wastewater).

- Natural hazards

Insufficient info provided regarding extent of fill required to avoid flooding.

- Consistency with higher order PDP provisions

The proposal was not consistent with the higher order PDP policies (i.e. Chapter 3 Strategic Direction and Chapter 4 Urban Development) would result in a new island of urban development.

WPDL appealed the Council's decisions on its submissions (ENV-2019-CHC-090). This appeal is now subject to Environment Court mediation. Members of the public and the Otago Regional Council have joined that appeal as section 274 parties.

The Council is actively working on mediating the appeals on the WBRAZ (of which there are 560 appeal points on the text and 41 rezoning appeals). Environment Court mediation on the text has commenced and the mediation on the rezoning appeal by WPDL for the proposal site may occur in spring/early summer 2020.

The Council considers that the proposal, as a resource consent application, directly conflicts with PDP strategic policy. The approval of the application via a resource consent would result in significant erosion of District Plan integrity, and make it difficult for Council to decline other such applications on rural zoned land in the Wakatipu Basin. Considering this application via the fast-track process would negate the Environment Court appeal, limiting the ability for the Council to defend its PDP Hearing Panel decision that this is an inappropriate development in this area. Therefore, the Environment Court rezoning appeal is the most appropriate forum to consider the proposal.

Previous Development adjacent to the Site

It is also relevant to note that previous development in the area proximate to the subject site have been contentious among the community. Development of the adjacent Waterfall Park Hotel Development and associated access road resulted in significant public opposition and subsequent Environment Court appeals.

2. Impact on infrastructure that will be required to service the project.

Urban development at this location is not currently provided for in the Council's Long Term Plan or Annual Plan.

3. What (if any) engagement or feedback has the council received from iwi on outcomes sought for the Wakatipu Basin Rural Amenity Zone in their PDP.

No specific iwi feedback was received on the WBRAZ Chapter 24 prior to notification in November 2017, however Ngai Tahu submitted on the WBRAZ variation (submission 2329). The submission sought that additional objectives, policies and rules in the WBRAZ Chapter 24 are required to address effects of landfills, cemeteries and crematoriums on tangata whenua values throughout the district; and effects of activities on the values of mapped wāhi tupuna areas. Ngai Tahu did not appeal any provisions of WBRAZ Chapter 24 and have not joined the Wakatipu Basin appeals as a s274 party.

In October 2019 the Council notified a district wide variation Chapter 39 Wahi Tupuna which identified wāhi tupuna areas in the Queenstown Lakes District. No wahi tupuna areas have been identified on the proposal site. Decisions are expected on this aspect of the plan review in early 2021.

4. Any iwi groups/contacts, other than those identified by the applicant, that you consider the expert consenting panel should seek written comment from if the project is referred to a panel.

The applicant has identified the following iwi groups/contacts be contacted and comment on the proposal:

- Te Ao Marama Inc;
- Aukaha.

Aukaha and Te Ao Marama are organisations established by Ngai Tahu to undertake any required liaison with the seven Runanga affiliated to the Queenstown Lakes District, and with Te Runanga o Ngai Tahu (TRoNT), and to provide comments and or approvals on behalf of Runanga on projects. QLDC has an accord with Ngai Tahu. There are no other iwi that Council considers should be involved.

5. Local groups with interest in heritage, amenity and other relevant environmental issues that you consider the expert consenting panel should seek written comment from if the project is referred to a panel.

Should the proposal proceed, the Council recommends that the expert panel seeks written comment from the following groups:

- Friends of Lake Hayes Society Inc (FOLH) - due to its interest in water quality issues in the Lake Hayes catchment. FOLH are a s274 party to the Wakatipu Basin appeals, and have sought a waiver of time from the Environment Court to join the applicant's rezoning appeals as a s274 party.

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- Queenstown Historical Society – due to the location of the Proposal in proximity to the heritage features located to the north of the subject site.
 - Arrowtown Landscape Protection Society.

6. *Other local context of relevance to understanding the application and its impacts.*

Lake Hayes catchment – Water quality issues

As context for the Proposal, the Council considers it relevant that previous developments in the Lake Hayes catchment (which includes the proposal site), have highlighted the potential adverse effects of development on Mill Creek which flows into Lake Hayes. Lake Hayes is a small nutrient-rich lake that has undergone progressive eutrophication since catchment development and intensification began. The lake is at risk from further harm through runoff, nutrient discharges and sedimentation effects. Any development should recognise these risks, to ensure adverse effects to Mill Creek (an important spawning habitat for indigenous Koaro), and Lake Hayes does not occur.

The Council acknowledge that the appellant is proposing the development be serviced by reticulated wastewater. This may assist with development reducing the potential for nutrients entering Mill Creek and Lake Hayes.

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