

**BEFORE THE QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (the "Act")

**AND**

**IN THE MATTER** of the Queenstown Lakes District Proposed District Plan  
Hearing Stream 10

**AND**

**IN THE MATTER** of Chapter 2 - Definitions

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**Legal Submissions on behalf of Ayrburn Farm Estate Limited - 430  
10 March 2017**

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**MAY IT PLEASE THE PANEL:**

- 1 These Submissions address the definition of "*Urban Development*".
- 2 Counsel previously expressed concerns to the Panel about the hearing process involving differently constituted Hearing Panels in relation to issues covered by more than one Hearing Stream, of which the Submission lodged by Ayrburn Farm Estate Limited is a good example.<sup>1</sup>
- 3 The definition of Urban Development was relevant to and addressed in Hearing Stream 2 – Rural, is relevant to and being addressed in this Hearing Stream 10 – Definitions, and will be relevant to and addressed in the Hearing Stream for rezonings within the Wakatipu Basin. Counsel is unclear which Hearing Panel will make the final decision in relation to this definition given that the definition is relevant to three Hearing Streams.
- 4 In any event, given the importance of definitions being carefully and correctly worded, Counsel submits that this Hearing Stream should take the opportunity of reviewing any definition if concerns are expressed in relation to the wording of that definition.
- 5 The definition of *Urban Development*, as currently recommended by the Council in the s42A Report for this hearing, reads:  
  

*"Urban Development Means development that by its scale, intensity, visual character, trip generation and/or design and appearance of structures, is of an urban character typically associated with urban areas. Development in particular Special Zones (namely Millbrook and Waterfall Park) is excluded from the definition."*
- 6 The Submitter has no difficulty with the first sentence of the definition quoted above. The concern is with the second sentence which is both worded in a strange way and which specifically excludes development within two Special Zones for no apparent logical reason. The Submitter has a jurisdictional concern and a substantive concern.

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<sup>1</sup> Refer Presentation Summary of Legal Submissions on behalf of Ayrburn Farm Estate Limited – 430 and Mt Cardrona Station Limited – 407 dated 27 May 2016

- 7 The jurisdictional concern relates to the fact that, in Part 22 Issue 16 of the s42A Report, the recommended definition of 'Urban Development' appears to be based upon Submission 192 by MacTodd. However if one reads Submission 192 carefully, with particular reference to the attached extract from Monk v QLDC [2013] NZEnvC 12, it is submitted that Submission 192 does not provide a jurisdictional basis to include the second sentence in the definition quoted above.
- 8 In the event that there is jurisdiction somewhere for the recommended amended definition, the Submitter's substantive concern is that if there is to be a definition of 'Urban Development' then a decision as to what is or is not urban development should be arrived at by applying the definition. There is no apparent logical reason to exclude from the definition areas of development which may otherwise qualify as urban development under the definition.
- 9 This exclusion is particularly puzzling if one considers that Millbrook and Waterfall Park are two of the three Resort Zones in the Operative District Plan. Millbrook and Waterfall Park, which adjoin each other, comprise an area of land characterised by areas of clearly urban style development set within areas of open space which include a golfcourse and which adjoin a village (Arrowtown).
- 10 The other Resort Zone is the Jacks Point Zone which is also an area of land characterised by areas of development which are clearly urban in nature set within areas of open space, including a golfcourse, and with a village nearby (as part of the zone). The similarities between the Jacks Point area on the one hand and the Millbrook/Waterfall Park area on the other hand are obvious.
- 11 The Hearing Panel will be aware (presumably) that there is a debate about whether the Arrowtown Urban Growth Boundary should be extended to include Millbrook and Waterfall Park (and perhaps further). That debate was initiated in Hearing Stream 1, continues in this Hearing Stream 10, and will be continued further in the Wakatipu Basin Rezoning Hearing Stream. Inclusion of the second sentence in the definition quoted above has every appearance of an attempt by Council to simply avoid that debate by drafting the definition of urban development the way it is drafted above. It is submitted that that debate should be resolved on its merits, rather than through this very artificial device.

12 Accordingly it is submitted that the definition quoted above should be amended by deleting the second sentence.



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W P Goldsmith

Counsel for Ayrburn Farm Estate.