

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on the Proposed District Plan

Report 16.9

Report and Recommendations of Independent Commissioners
Regarding Upper Clutha Planning Maps
Lake McKay Station Rural Residential Zone

Commissioners

Trevor Robinson (Chair)

Jenny Hudson

Calum MacLeod

Ian Munro

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Attachments:

Appendix 1: Revised Rural Residential Zoning as Requested by Submitter (Exhibit 26)

Appendix 2: Recommended Rural Residential zone

1. SUMMARY OF RECOMMENDATIONS

1.1. Overall Recommendation

1. We recommend the submission seeking rezoning of land as Rural Residential be accepted in part.

1.2. Summary of Reasons for Recommendation

2. The recommended area for rezoning is a logical extension of the existing Rural Residential zone and will not have significant adverse landscape character or rural amenity effects

2. PRELIMINARY MATTERS

2.1. Subject of Submission

3. This submission relates to Part Section 6 SO 300466 (Computer Freehold Register 18937), a 17 ha site located on Atkins Road, Luggate.

2.2. Outline of Relief Sought

4. Submission 483 sought the rezoning of the site from Rural, as shown on Planning Maps 11, 11a and 18, to Rural Residential. BRAs comprising 8 ha out of the total area of 17 ha for which Rural Residential zoning is requested, were proposed along the north-western upper terrace escarpment area and lower Luggate Stream margins (the stream margins being flood-prone and offered by the submitter as a reserve). These areas are illustrated in Appendix 3 of the Landscape and Visual Assessment report dated October 2015, prepared by Opus International Consultants Ltd ('the Opus report') and attached to the submission. The submission stated that the requested zoning of Rural Residential would enable 29 lots of 4000m² in area to be created, noting that there are minor discrepancies in the supporting reports relating to the potential development yield; however, the revised relief as proposed at the hearing was for a reduced zone area allowing for approximately 20 allotments.
5. The submitter's proposed reserve area includes a triangular area of land north of Kingan Road and adjacent to Designation 162 - the Council Domain - which is currently zoned Township Zone in the ODP. This oversight was not identified by the submitter's planning consultant, Council officers or any other party during the hearing. However, the result is that we have no jurisdiction to consider rezoning it, and our recommendation reflects that situation.

2.3. Description of the Site and Environs

6. The site is located on the western side of the Luggate township as shown in the approximate location identified in Figure 1 below. It is accessed off Atkins Road and an existing farm road connects a lower area to the balance of the site, situated on a low terrace at an elevation approximately 10m higher than the existing residential area, with a 50m terrace riser enclosing the land to the north and west. Luggate Creek forms the southern boundary of the submission site and an area of about 3 ha either side of the creek is within a flood plain¹.
7. Luggate township straddles both sides of the State Highway and has an operative Township zoning (excluded from both Stage 1 and the recently notified Stage 2 of the PDP). Within the township area, there is a small commercial precinct east of Kingan Road, with residential development around the edges. The Upper Clutha Transport depot and Ballance Fertiliser site occupies a large area of flat land on the western side of SH 6, beyond which (to the west) is a

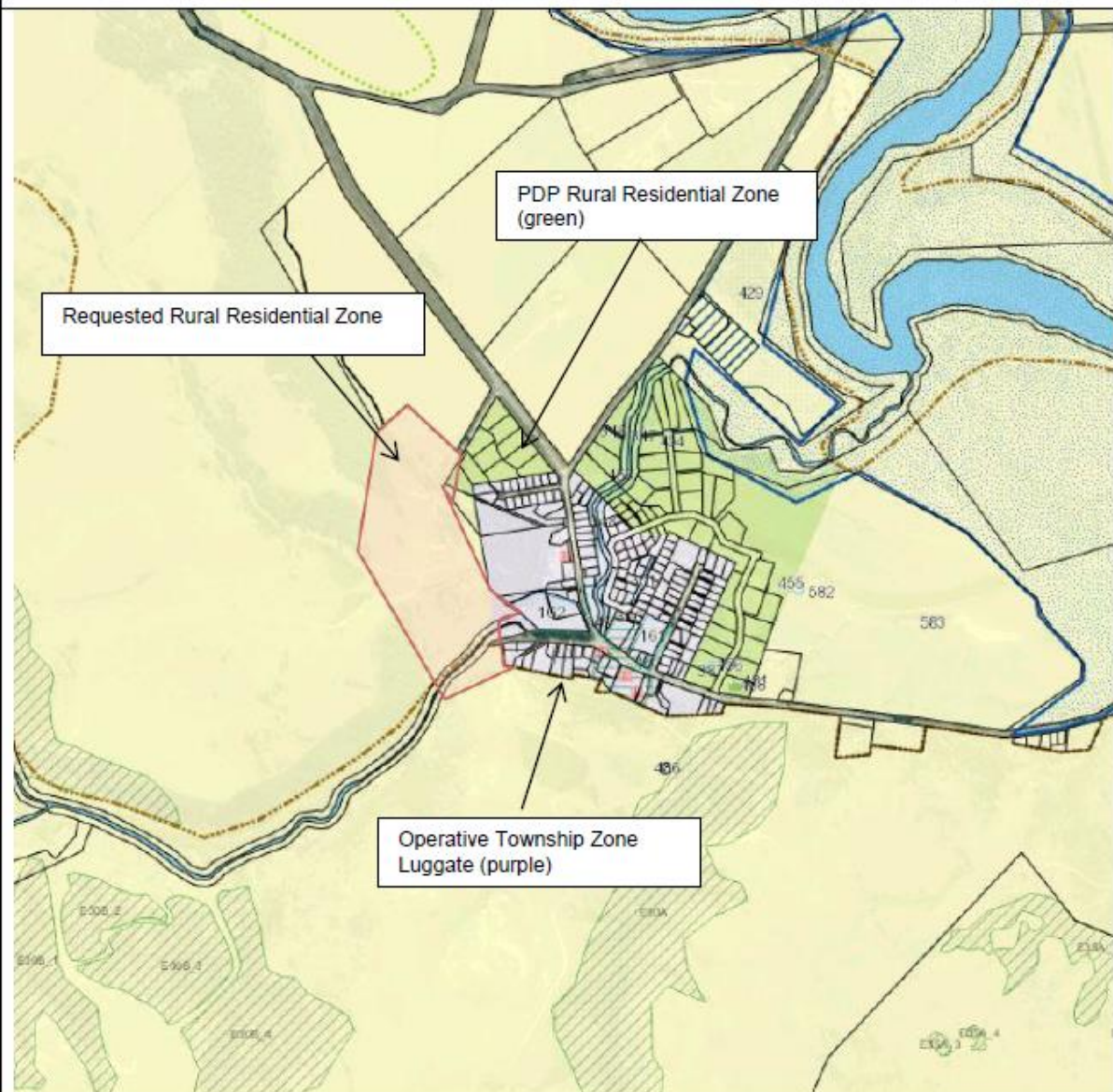
¹ As noted in the Opus report at page 3

pine and willow plantation. South of the plantation is a large Council Domain and walkway along Luggate Creek.

8. To the north and east of the township on the opposite side of SH 6 is an extensive area of Rural Residential development fronting Church Road, Alice Burn Drive and Pisa Road. A smaller area of fully developed Rural Residential zoning applies to sites on the western side of the highway and northwest of the Township Zone up to the south side of Atkins Road. The submission site has a common boundary with the Atkins Road Rural Residential enclave, and the Township zoned area adjoining it to the south.

9. Currently, the site forms part of the LMS farming operation and accommodates a woolshed, holding paddocks, yards and one dwelling, with a water race owned by the submitter running through the southern end. Vegetation is predominantly pasture grasses with several pine and willow trees.

Location of the subject site



Excerpt of the PDP Planning map 13 illustrating the location and approximate area of the area requested to be zoned Rural Residential (shaded red). Refer to the submission document (Landscape Assessment: Appendix 3 Rural Residential Zone Plan) that contains a more detailed plan showing the location of the requested building restriction area.

Figure 1: location of requested Rural Residential zone

2.4. The Case for Rezoning

10. The submission by LMS has attached to it a detailed section 32 evaluation as well as a landscape and visual assessment report and an engineering assessment of three waters servicing options (collectively described as the Opus report). These reports informed the Council officers' assessments and the section 42A report prepared by Mr Barr.
11. The Council witnesses and those for the submitter were in general agreement that the area of land off Atkins Road and to the west of the Luggate township (the subject of the submission) could be rezoned without significant adverse landscape character or visual amenity effects and

that the location enables a logical extension of the township. However, there were differences of opinion regarding the size and precise location of such a zone.

12. Ms Mellsop's evidence for the Council was that development in the area proposed could be absorbed without significantly affecting the character of the township or surrounding rural area (including the Pisa/Criffel Range ONL located close by) or diminish visual amenity. She thought that this could occur on both the lower terrace (that is, at the same elevation as existing residential development) and on the next terrace above, where in her opinion it would not be highly visible from either the township or SH 6. She agreed with the Opus report that the Rural Residential zone would appear as a logical extension of the township, and that protection of the escarpment and Luggate Creek margins/flood plain were necessary.
13. Although Mr Barr agreed in principle with Ms Mellsop, he considered that from a planning perspective a small area of the proposed zone on the lower terrace to the north of Atkins Road, currently occupied by the farm manager's house and another farm building, should remain Rural in order to provide a defensible zone boundary (which he considered is logically located at Atkins Road). He thought that in total a reduced area of approximately 4.5 - 5 ha, which excluded both of the BRAs volunteered by the submitter, should be rezoned and this would enable approximately 10 - 11 lots to be developed, allowing for road access.
14. Having accepted Ms Mellsop's opinion that rezoning the land from Rural to Rural Residential would not have adverse landscape effects and would be seen as a logical extension of the Luggate township, Mr Barr opined that from an efficiency perspective, the land could potentially be developed to a Low Density Residential² intensity. However, he acknowledged that there was no scope for this.
15. Mr Barr also noted servicing constraints in relation to potable water and wastewater that Mr Glasner has identified in his evidence, and which suggested Rural Residential was the most appropriate zoning option, since that would be premised on the development being self-serviced. Mr Barr provided an updated section 32 analysis setting out the reasons for this conclusion.
16. Ms Banks's traffic evidence did not oppose the requested rezoning, having assessed the proposal on the basis of the 29 allotment yield as originally stated in the submission. She commented that Atkins Road is sealed at the intersection with SH 6 and recommended widening of Atkins Road to two lanes. She considered that this could be addressed at subdivision stage along with any upgrade of the intersection, which would require NZTA input as the road controlling authority.
17. In response to Mr Barr's section 42A report, Mr Kelly on behalf of the submitter proposed a modified area of 9 ha for rezoning instead of the 17 ha initially sought and excluding the north-western BRA identified in the original submission. Thus, the net effect is a reduction in the potential yield from 29 lots to 20 lots of 4000m², with 1 ha available for access roads and reserves³. A copy of the revised plan Mr Kelly supplied to us (corrected to remove the BRA initially shown over residentially zoned properties on the south side of Kingan Road) is attached to this report as Appendix 1.
18. We heard evidence from Mr Kelly at the hearing that the southern area recommended for rezoning by Mr Barr (together with his suggested BRA over the balance of the southern end of

² recommended by the Chapter 7 hearing panel to be renamed "Lower Density Suburban Residential" Zone

³ Summary evidence of M Kelly dated 1 June 2017 at paragraph 13

the site) is a lower terrace and low-lying flood plain which he considered to be inherently unsuitable for residential development. The intention is to offer it to the Council as recreation reserve.⁴ As noted above, there is a triangular area of land north of Kingan Road that is included within the site boundaries and shown as 'recreation reserve' on Mr Kelly's plan (Appendix 1) which is in the operative Township Zone and excluded from consideration by the Panel.

19. Mr Kelly also noted that the 'urban edge' Mr Barr identified at Atkins Road has already been compromised by an existing farm manager's house and another farm building, and that, if the lower terrace were not rezoned, it would leave the lower terrace as an orphan area of Rural zoned land separated from the balance of the farm.
20. Lastly, Mr Kelly advised that there was spring water available which was at a higher elevation than the site and could be gravity-fed to supply the proposed sites. He referred us to the engineering report supplied with the submission⁵ indicating that on-site wastewater disposal was feasible.

2.5. Discussion of the Planning Framework

21. Mr Barr provided us with input on the planning background to the issues as above. Of necessity, he had to work off the latest version of the PDP available (that recommended in the staff reply on each chapter). In our Report 16, we summarised the key background provisions in the PDP, as recommended by the Hearing Panel, that is to say, a further iteration along from that considered in the planning evidence.
22. For the purposes of our discussion here, we have not repeated the reference to every objective, policy or other provision that we have considered.
23. Focussing on the most relevant provisions, given that the site is within a Rural Character Landscape and adjacent to an ONL, the question of whether rural character and visual amenity values are maintained or enhanced in terms of recommended Objective 3.2.5.2 is clearly applicable. Likewise the corresponding provisions of recommended Policy 3.3.32, which states: *"Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded."*
24. Recommended Policy 6.3.20 identifies the rezoning of land, as opposed to ad-hoc subdivision and development, as the appropriate planning mechanism to provide for new rural residential developments and seeks to ensure these zones are located in areas where the landscape can accommodate the change.
25. Chapter 21 - Rural Zones - echoes the overarching objectives and policies of Chapters 3, 4 and 6 (as discussed in our Report 16) by referring to enabling a wide range of land uses including farming, permitted and established activities *"while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values"* in Objective 21.2.1.
26. Turning to the Rural Residential and Rural Lifestyle zones, the recommended zone purpose in Chapter 22.1 reads as follows:

⁴ M Kelly summary evidence at paragraph 12

⁵ Engineering report from Opus International Consultants Ltd dated September 2015 - Appendix 2 of section 32 report appended to submission

“The Rural Residential and Rural Lifestyle zones provide residential living opportunities on the periphery of urban areas and within specific locations amidst the Rural Zone. In both the zones a minimum allotment size is necessary to maintain the character and quality of these zones and the open space, rural and natural landscape values of the surrounding Rural Zone.”

27. Chapter 22.1 goes on to record in relation to the Rural Residential Zone:

“The Rural Residential Zone generally provides for development at a density of up to one residence every 4000m². Some rural residential areas are located within visually sensitive landscapes. Additional provisions apply to development in some areas to enhance landscape values, indigenous vegetation, the quality of living environments within the zone and to manage the visual effects of the anticipated development from outside the zone, particularly from surrounding rural areas, lakes and rivers. The potential adverse effects of buildings are controlled by bulk and location, colour and lighting standards and, where required, design and landscaping controls imposed at the time of subdivision.”

28. As in Chapter 21 (Rural Zones), Chapter 22 - Rural Residential and Rural Lifestyle Zones - has similar objectives and policies relating to protection of landscape character and amenity values and rural character, which sit underneath the higher order provisions in Chapters 3 and 6. Of particular relevance are recommended Objective 22.2.1 being:

22.2.1 Objective

“The district’s landscape quality, character and amenity values are maintained and enhanced while enabling rural living opportunities in areas that can absorb development”

and Policy 22.2.1.1:

22.2.1.1 Policy

“Ensure the visual prominence of buildings is avoided, remedied or mitigated...”

29. Recommended Policy 22.2.1.4:

22.2.1.4 Policy

“Manage anticipated activities that are located near Outstanding Natural Features and Outstanding Natural Landscapes so that they do not diminish the qualities of these landscapes and their importance as part of the District’s landscapes” - is equally applicable.

3. ISSUES

30. We have identified the following issues that we need to address in order to provide a recommendation on the submission by LMS:
- a. the size and extent of the proposed Rural Residential zone.

4. DISCUSSION OF THE ISSUES AND CONCLUSION

31. Taking into account Council's expert evidence from Ms Mellsop and Mr Barr, and assisted by our site visit, we concur with their assessment that the submitter's case for rezoning has merit. The key issue for us is the extent of the zone at its periphery.

32. In particular, there are no ecological issues, and Ms Mellsop was comfortable with the level of potential landscape and visual amenity effects (with appropriate mitigation in the form of the proposed BRA). While we were advised that the submitter has obtained approval in principle from the NZTA, the letter we were provided with from the Agency was somewhat more equivocal than that. However, unlike some of the other development proposals the submitter was advancing that are the subject of Report 16.10, NZTA was clearly not indicating opposition. As the proposed rezoning is comparatively small scale, is not opposed by the Council, and noting that any road or intersection upgrades would be assessed at subdivision stage, we conclude that there are no insurmountable hurdles in relation to potential traffic effects.
33. As regards the area of the lower terrace that is contested, we have considered the opinions and conclusions of both the Council's and submitter's experts and have determined that the zone boundary is in this instance supportable in the location sought by the submitter. That is, it should extend across Atkins Road to include the area of land occupied by the farm house and other farm buildings. The farm house could be seen as the logical limit on the north side, although we agree that it is not as defensible as maintaining a zone boundary at the road boundary. We do not see that as a significant issue given the fact that the land immediately on the south side of Atkins Road is zoned Rural Residential and therefore, by definition, already sits outside the margins of the Township. The development of additional dwellings in this location was of no concern to Ms Mellsop from a landscape perspective, and in our view, will allow for more efficient use both of Atkins Road and that part of the lower terrace within LMS that would not be viable for farming if the land above it were developed as the submitter proposes. As the revised plan now proposes to define the proposed Rural Residential zone boundary on the north-western side of the site to exclude the terrace riser, it is in our view no longer necessary to identify a BRA in that location.
34. As regards the balance of the area to be rezoned, it is contiguous with existing Rural Residential and Township⁶ zoned land, relatively small in scale, and contained by the topography. We regard it as a logical extension of the existing Rural Residential zone and is consistent with recommended Policy 3.3.32, as the land use change is in an area able to absorb change, and is efficient and effective in terms of Policy 6.3.19, which supports the rezoning of land, as opposed to ad-hoc subdivision and development.
35. The southern area (shown as 'recreation reserve' on the Opus plan attached to this report as Appendix 1), is more problematic. It is, by the submitter's own admission, unsuitable for residential dwellings. However, Mr Barr agreed that it would provide some amenity as a walkway and provided qualified support for its inclusion in the zone *"only if this is to be vested in the Council as a reserve"*.⁷
36. In terms of jurisdiction to consider this matter, we are not in a position to accept (or decline) offers of land for reserve purposes on behalf of the Council as part of a rezoning request. As with all of the matters to which we have been delegated responsibility in these hearings, we can only make recommendations for the Council's consideration. In this particular instance, the southern area of the site is of little utility to the submitter, but it does offer some public benefit in the form of recreational opportunity and environmental amenity. If it is not included in the rezoned area at all, that opportunity may not be available in the future. Furthermore, Council officers support the reserve proposal. For these reasons, we have concluded that the most appropriate outcome is the inclusion of the southern area identified on Mr Kelly's revised plan within the Rural Residential zone, subject to a BRA, but excluding the Township-zoned

⁶ As noted above, under the ODP - not part of the Stage 1 PDP nor the more recently notified Stage 2

⁷ C Barr reply evidence at paragraph 27.2

triangle referred to earlier that has been included in error. We further recommend that the Council accept the offer of the land shown as BRA as recreation reserve.

37. We have considered that the section 32AA tests of efficiency and effectiveness, and costs and benefits, are similar to those previously analysed by Mr Barr in support of his recommendation that a smaller area of land be rezoned and have not identified any risks of acting or not acting as a result of insufficient information.
38. Finally, we have considered whether both the submitter's land and the adjacent area of Rural Residential zoned land should more properly form part of Luggate Township, potentially within a UGB. We foresee similar issues in enabling growth to occur in a logical manner at Luggate as is now apparent at Hawea, as discussed in Report 16.2. At Hawea, the form of development already established within the Rural Residential zone on the periphery of Hawea township has constrained what would have been more efficient use of land had it been zoned Low Density Residential (recommended to be renamed Lower Density Suburban Residential) at the outset. The Panel has concluded in Report 16.2 that despite the apparent inconsistencies of an urban zoning being applied to land on the outer edge of existing Rural Residential development, this will still, by some margin, better implement the PDP's strategic policy framework than the Rural Residential zone within certain areas of Hawea. Further, the Panel considered that a UGB would reinforce and support the zone pattern determined to be most appropriate, *"as well as send a clear message to the community that Hawea was a contained and purposefully planned community"*.⁸
39. As Mr Barr notes, while the Lower Density Suburban Residential Zone would be a more efficient use of land, infrastructure constraints currently preclude its adoption even if it were within our jurisdiction to recommend (which it is not). The concerns Mr Barr expressed about the lack of a clear boundary to the effective expansion of Luggate to the north suggest to us that there would be a case, both for imposition of a UGB and rezoning of Rural Residential land to a fully urban residential zoning on the periphery of the Township within the UGB, when the Council's plans for infrastructure enhancement at Luggate are clearer. Given the infrastructure issues, it would be premature for us to recommend a variation, but we observe that these matters deserve further consideration by Council.

⁸ Report 16.2 at Section 16.12

5. **OVERALL CONCLUSIONS AND RECOMMENDATIONS**

40. In summary, however, our recommendation is to accept the submission in part, by accepting its revised rezoning proposal as shown on the attached plan (Appendix 2)⁹ and we further recommend that the Council consider accepting the southern area of land shown as BRA offered by the submitter as a reserve for recreation purposes.

For the Hearing Panel



Trevor Robinson, Chair
Dated: 27 March 2018

Attachments

- Appendix 1: Revised Rural Residential Zoning as Requested by Submitter (Exhibit 26)
Appendix 2: Recommended Rural Residential zone

⁹ We note that the new zone will leave a relatively small triangular area of Rural zoned land sandwiched between the eastern boundary of the submitter's site and the Township zone, but have no jurisdiction to address this matter.



Atkins Road Rural Residential Zone (RRZ) - Amended - March 2017

Lake McKay Station #483

Atkins Rd RRZ corrected June 2017

Appendix 1: Revised Rural Residential Zoning as Requested by Submitter (Evidence Exhibit 26)

SUBMISSION #483 LAKE MCKAY STATION

