

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-5

Report and Recommendations of Independent Commissioners
Regarding Mapping of Queenstown Hill

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

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PART A: REMARKABLE HEIGHTS LIMITED

Submitter Remarkable Heights Limited (Submission 347)

Further Submissions

FS1340 – Queenstown Airport Corporation - oppose

1. PRELIMINARY MATTERS

1.1. Subject of Submission

1. This submission related to a 17 hectare block of land at the top of Middleton Road (Lot 102 DP 411971¹).

1.2. Outline of Relief Sought

2. The submission sought that all of Lot 102 be rezoned as LDRZ and that the UGB be aligned with the property boundaries. In other words, the submitter requested that the area within the subject site that is currently zoned Rural be rezoned to LDRZ. The submission did not seek alignment of the ONL line with the UGB and property boundary however such realignment would be a logical result of accepting this submission.

1.3. Description of the Site and Environs

3. The subject site is part of the steep, glaciated southern face of Queenstown Hill. It is currently being developed for 158 residential lots in accordance with a subdivision consent². Some of the consented development is within the Rural Zone. The site is shown in Figure 5-1 below.

¹ While the submission listed this as the legal description, we note that the consents granted cite the legal description as Lots 102 and 104 DP 411971

² RM081212, varied by RM150520, RM160924, RM161211 and RM170002

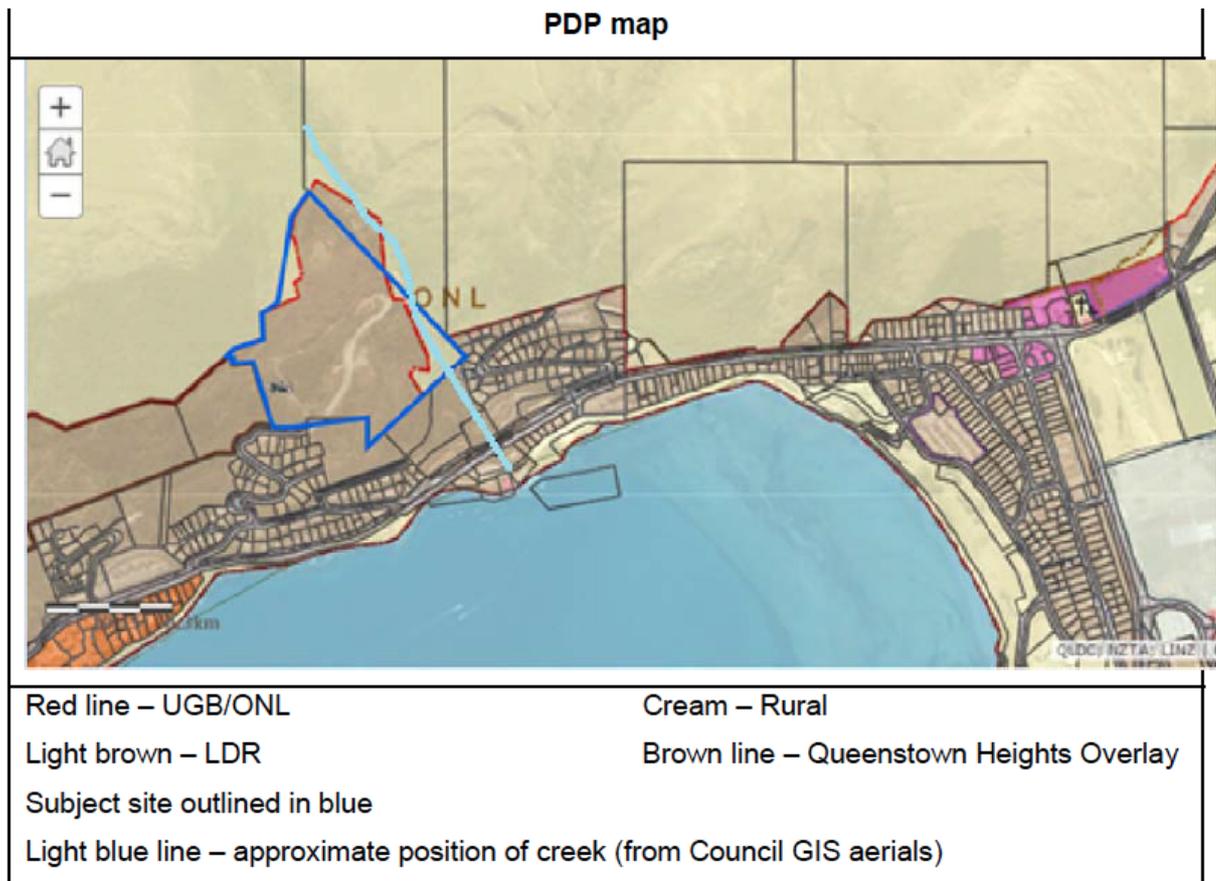


Figure 5-1 – Zoning map of Lot 102 DP411791 which is located at the top of Middleton Road, Queenstown Hill, outlined in blue

1.4. The Case for Rezoning

4. In light of the favourable recommendation in the Section 42A Report, the submitters' representative, Mr Nick Geddes, attended the hearing to answer questions about the zoning but did not give evidence. He provided plans of the approved subdivision showing the roading and lot layout.³

5. For the Council, Dr Read observed that the zone boundaries did not appear to relate to the underlying topography or any other landscape feature. She said that the LDRZ boundary in the eastern area appears to have been located so as to provide some protection to the creek, its margins and the gully in which it is located. Further upslope, however, the zone boundary follows the creek, rather diminishing any positive effect, and downslope the creek and its margins are within LDR zoning. Dr Read noted that subdivision in proximity to the unnamed creek to the east would trigger a requirement for the identification of marginal strips which would protect the character and quality of the stream and its corridor. For these reasons, Dr Read considered that both Rural-zoned areas within Lot 102 could be rezoned to LDRZ from a landscape perspective. Accordingly, the UGB and ONL could be moved to incorporate these two areas.⁴

6. Ms Rosalind Devlin, the Council's planning witness, recommended that the submission be accepted. In her opinion, the requested rezoning would achieve the relevant objectives and

³ Exhibit 13.12 - plan of approved subdivision consent (RM081212)

⁴ Dr M. Read, EIC, 24 May 2017, paragraphs 7.6 – 7.9

policies for the LDRZ (Chapter 7) and would be logical and appropriate. Realigning the UGB/ONL boundaries would better reflect the underlying topography by incorporating land within the same contour to the west (500masl) and by connecting land to the east with Marina Heights at the same elevation (at and below 400masl).⁵ There were no traffic or infrastructure issues arising from the rezoning.

7. QAC lodged a further submission opposing the rezoning of currently vacant land and/or enabling intensification of existing or residentially zoned land because this will bring more people to the aircraft noise effect now and into the future. Mr Kyle's evidence was that the best form of protection available to avoid potential reverse sensitivity effects is to avoid development 'coming to the effect' in the first place.⁶ However the submission site is not located within the OCB and QAC has not initiated a plan change seeking to extend the OCB.

1.5. Discussion of Planning Framework

8. Part of the land is zoned Rural and is within an Outstanding Natural Landscape. 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.⁷
9. The Zone Purpose for the Rural Zone states that the purpose of the zone is to enable farming activities and provide for appropriate other activities that rely on rural resources while protecting, maintaining and enhancing landscape values, ecosystem services, nature conservation values, the soil and water resource and rural amenity. The Zone Purpose also recognises that a substantial proportion of the Outstanding Natural Landscapes of the district comprises private land managed in traditional pastoral farming systems. Rural land values tend to be driven by the high landscape and amenity values in the district. The long-term sustainability of pastoral farming will depend upon farmers being able to achieve economic returns from utilising the natural and physical resources of their properties. For this reason, it is important to acknowledge the potential for a range of alternative uses of farm rural properties that utilise the qualities that make them so valuable.⁸
10. Objectives and policies of Chapter 21 provide for a range of land uses, including farming, to be enabled while protecting landscape and other natural and amenity values, recognising the need for economic diversification and providing for sustainable commercial recreation activities.⁹ Rules in the plan provide for residential and larger scale commercial recreation as discretionary activities.
11. The LDRZ is the largest residential zone in the District. In Chapter 7, as recommended, it is renamed the Lower Density Suburban Residential zone to more accurately capture the range of traditional and modern suburban densities and housing types enabled. Objective 7.2.1 provides for '*a mix of compatible suburban densities and a high amenity low density residential environment for residents...*'. Policy 7.2.1.2 encourages development that '*maintains suburban residential amenity values including predominantly detached building forms, and predominantly one or two storey building heights.*' Policy 7.2.1.3 seeks to maintain amenity

⁵ R. Devlin, Section 42A Report, 24 May 2017, paragraphs 4.11 – 4.15

⁶ J. Kyle, EIC, 9 June 2017, paragraphs 6.4 – 6.8

⁷ Objective 3.2.4.3, Policies 3.3.29 and 3.3.30, and Policy 6.3.11

⁸ Chapter 21, Clause 21.1

⁹ See Objectives 21.2.1, 22.1.8, 21.1.9, 21.1.10 and their related policies.

values between sites, in particular privacy and access to sunlight. A clear theme is the maintenance of suburban character and high amenity values. Commercial activities are generally discouraged.

12. The submission site is not located within the OCB of Queenstown Airport.

2. ISSUES

13. The most appropriate zone for the subject site

14. Landscape

3. DISCUSSION OF ISSUES AND CONCLUSIONS

15. We agree with Dr Read that there is no logical landscape basis for the current alignment of the ONL line and consequently for the Rural/LDR zone boundary. On Queenstown Hill, we consider that the notified position of the ONL line has been influenced by past decisions and indeed, may not have been well-defined in the first instance. It is arbitrary, perhaps necessarily so given land ownership, the physical geography and historic pattern of settlement.
16. A modest number of additional residential lots would be enabled by rezoning about 2 hectares from Rural to LDRZ which assists with increasing capacity. We find that the additional traffic generated at the Frankton Road intersection with Middleton Road is acceptable and the land can be serviced therefore there are few, if any, adverse effects arising from changing the zoning of these two small areas from Rural to LDRZ. The consented subdivision enables housing that is typical of suburban locations with high amenity values therefore LDR zoning is appropriate.
17. Rural zoning is not appropriate for these two small areas within Lot 102 because they are not suitable for farming. If left as Rural zoning, they would inevitably be developed for housing in accordance with a consent, as evidenced by RM170002, therefore it is inefficient to leave them within the Rural Zone.
18. With respect to QAC's further submission, we consider it is not sound resource management practice to limit development potential in the face of uncertainty about the future of the airport particularly in a location like Queenstown which has topographical constraints that limit the land available for urban development. For a full discussion of this matter, see Report 17-1.¹⁰
19. In the circumstances, we have taken a pragmatic approach to this submission and have concluded that aligning the title, LDRZ, UGB and ONL boundaries is logical and appropriate.¹¹
20. As a consequential amendment, we recommend that the area of land to the north of Lot 102 on the adjacent property is rezoned from LDR to Rural as part of this rationalisation. This rezoning slightly increases the area of land within the adjoining property that is both zoned Rural and within the ONL, a conjunction giving effect to the Plan's strategic direction.

¹⁰ Refer Report 17-1, Section 5.3

¹¹ Refer Report 17-1, Section 4.1

4. RECOMMENDATION

21. For the reasons set out above, we recommend that:
 - a. Submission 347 be accepted; and
 - b. Two areas of land within Lot 102 DP411971 be rezoned from Rural to LDRZ; and
 - c. The UGB align with the legal boundary of Lot 102 DP411971; and
 - d. The land zoned LDRZ in the notified PDP that is not within Lot 102 be rezoned Rural as a consequential amendment; and
 - e. The ONL align with the title, LDRZ and UGB boundaries as shown on Maps 33 and 31a.

PART B: MIDDLETON FAMILY TRUST

Submitter Middleton Family Trust (Submission 336)

Further Submissions

FS1340.76 – Queenstown Airport Corporation - oppose

5. PRELIMINARY MATTERS

5.1. Subject of Submissions

22. This submission related to an area of 38.6 hectares in Middleton Road, Queenstown Hill.

5.2. Outline of Relief Sought

23. The submitter sought removal of the Queenstown Heights Overlay Area¹² from the planning maps, rules in the Subdivision chapter (27.2.1) and LDRZ provisions (7.5.6). The notified LDRZ applicable to land within the QHOA was not challenged.

5.3. Description of the Site and Environs

24. The submitter owns Lot 2 DP 409336 which has an area of 33.71 ha and is located on the south-facing slopes of Queenstown Hill as shown in Figure 5-2 below. This property and the remainder of the land within the Queenstown Heights Overlay Area is covered in a mix of pasture, wilding conifers and scrub. The large, active “Queenstown Hill landslide” is located within the QHOA.

¹² We note that the notified PDP variously referred to this as Queenstown Heights Overlay Area and Queenstown Heights Sub Zone. We will use Queenstown Heights Overlay Area or QHOA.

SUBMISSION #336 (MIDDLETON)

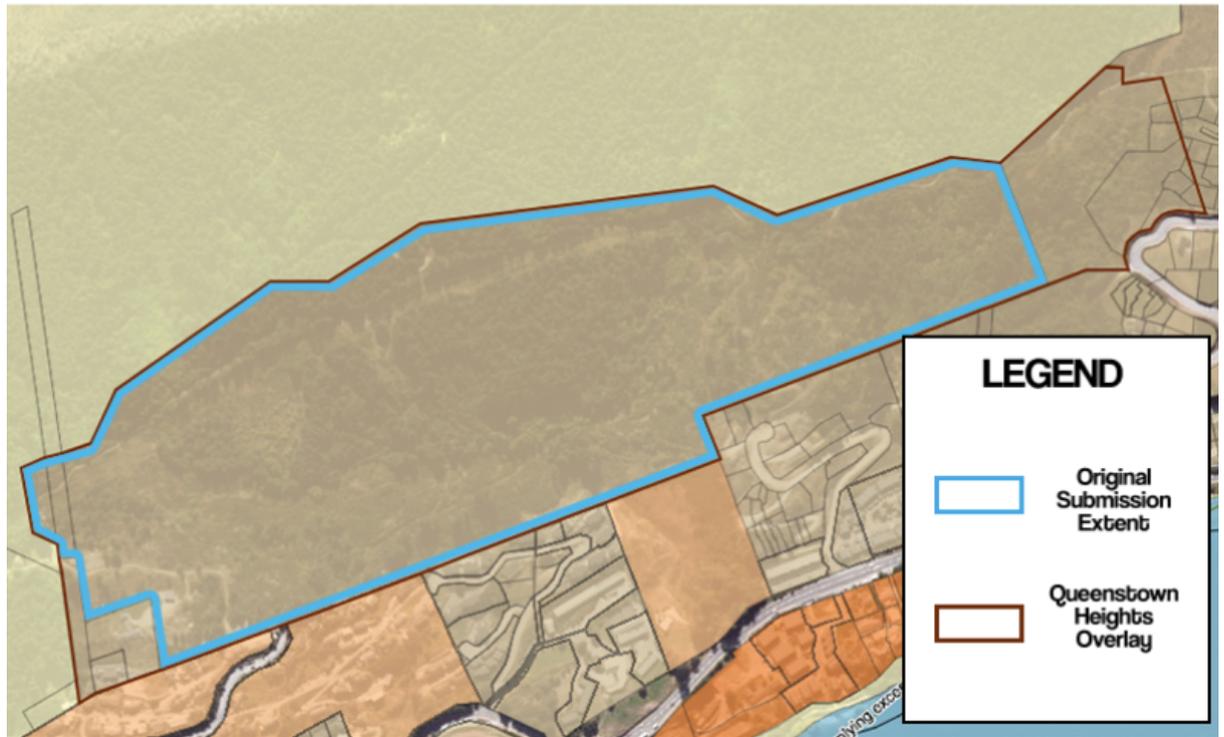


Figure 5-2 - Aerial photograph of the Middleton Family Trust property is outlined in blue and the Queenstown Heights Overlay Area is outlined in brown

5.4. The Case for Rezoning

25. The basis of the submission is that the objectives and policies for the LDRZ, Strategic Directions and Urban Development chapters of the PDP appear opposed to the 1500m² minimum lot size in the QHOA. Further, the submission stated that the contents of the Section 32 report are contrary to the 1500m² lot size in the QHOA. The minimum lot size should be the same as the minimum lot size for the LDRZ (1 unit per 450m²) and the QHOA should be removed.
26. Evidence for the submitter was presented on planning matters by Mr Nick Geddes and engineering geology by Mr Paul Faulkner. Mr Faulkner confirmed that the Queenstown Hill landslide is not present within the adjacent Remarkables Heights subdivision and that the findings of geotechnical reports associated with the relevant consents for that development are not representative of the entire landslide hazard. He said that these reports specifically address the area immediately to the east of the landslide area, not the landslide itself. In his opinion, prior to any development within the landslide area, or immediate margins, a detailed geotechnical investigation will be required to determine whether (or not) there is ground suitable for residential development.¹³
27. This evidence responds to the statement of Ms Devlin that the Queenstown Hill landslide is a large, historic and well documented landslide identifiable on the ground and from aerial photography. In coming to this understanding, Ms Devlin relied in part on geotechnical reports prepared for the Remarkables Heights subdivision included with the submitter's evidence on

¹³ P. Faulkner, EIC, 9 June 2017, paragraph 3.3

Chapter 7 LDRZ. She said that no new evidence on natural hazards had been provided by the submitter since the Stream 6 hearing.¹⁴

28. Mr Geddes commented on the Section 32 evaluation prepared for Chapter 7 LDRZ and concluded that the thrust of this report is justification of an increase in density of housing across residential zones and liberalisation of development controls to promote housing development within the boundaries of existing residential zones. In his opinion, the proposed reduction in density within the QHOA is not signalled in the Section 32 Report and is not supported by any geotechnical or hazard reporting.¹⁵
29. He came to a similar conclusion after analysing the Section 42A Report for Chapter 7 LDRZ¹⁶ and the attached Section 32AA report. In his view, the Council had not justified the proposed change in density.
30. Mr Geddes contested the statement in the Section 42A Report for Stream 6 that no mention had been made in the submission of the land's steep topography nor the site hazards applicable to land within the overlay. His evidence was that the land is not steep by comparison to the lower flanks of Queenstown Hill especially land below Frankton Road. Queenstown Hill is almost entirely occupied by a mixture of high and low density development. He believed the submitter's land to be steep in part but said that was not unique or prohibitive to development.¹⁷
31. With respect to natural hazards, Mr Geddes said that the geotechnical reporting which imposed the landslide boundary on Council hazard maps had not informed any QLDC reporting. Rather, the Council had relied on geotechnical reporting carried out in association with subdivision of the adjacent Remarkables Heights development. Mr Geddes did not believe that these reports were intended to offer advice on the geological conditions across the remainder of the landslide area nor inform a change in density across the QHOA as promoted by the PDP.¹⁸
32. Finally, Mr Geddes addressed the Section 42A Report for Stream 13 Mapping. The recommendation was to reject the submission because the submission lacked evidence on natural hazard and transport and the land is unsuited to conventional LDRZ development.
33. With regard to the impact of additional traffic generated by removing the QHOA, he questioned whether the Goldfields Heights intersection with Frankton Road can accommodate additional vehicle movements associated with the intensification of the LDRZ in this catchment as sought by the PDP.
34. On the subject of natural hazards, Mr Geddes considered it unlikely that development would be accommodated across the entire site due to the natural hazard and that it would more likely be confined to pockets of land which are determined as suitable to build upon through detailed geotechnical investigation at the time of subdivision. In his opinion, a planning response would remove the density and minimum lot size but limit the number of units on the site to the maximum allowed by the ODP i.e., 412 units based on 1 per 450m².¹⁹

¹⁴ R. Devlin, Section 42A Report, 24 May 2017, paragraphs 5.14 & 5.15

¹⁵ N. Geddes, EIC, paragraphs 4.4 & 4.5

¹⁶ A. Leith, Section 42A Report for Stream 6, 14 September 2016, paragraphs 9.42 – 9.45

¹⁷ N. Geddes, EIC, 9 June 2017, paragraphs 5-4 – 5.6

¹⁸ Ibid, paragraphs 5.-7 – 5.11

¹⁹ Ibid, paragraphs 7.4 – 7.5 (4 paras in all)

35. For the Council, Ms Devlin relied in part on the transport evidence of Ms Wendy Banks in coming to her conclusion that the land is unsuited for conventional LDRZ development.
36. Ms Wendy Banks analysed the impact of additional traffic generated on the intersection of Middleton Road and Frankton Road. In her opinion, this intersection would have to be upgraded to accommodate the additional right turning traffic onto Frankton Road.²⁰
37. Ms Devlin relied on Ms Amanda Leith, who prepared the Section 42A Report for Chapter 7 LDRZ, when she stated that the 1500m² minimum lot area was applied because of the steep topography and natural hazards on the site. For any development within the overlay, significant geotechnical investigations would be required to ensure that the land can be made safe and appropriate for residential development. In her view, a resource consent was a better way to address the site-specific natural hazard and geotechnical matters.²¹
38. For QAC, Mr Kyle said:
- “...rezoning proposals which enable the intensification of ASAN near the Airport will ultimately bring more people to the effect of aircraft noise both now and into the future. This has the potential to give rise to an increased risk of reverse sensitivity which could result in the future curtailment of activities at Queenstown Airport.4 Moreover, such proposals would likely lead to residential development in locations where levels of amenity are compromised, and will increasingly become so as aircraft operations at the airport increase over time.”²²*
39. In his opinion, the best form of protection available to avoid potential reverse sensitivity effects is to avoid development coming to the effect in the first place.

5.5. Discussion of Planning Framework

40. LDRZ is the largest residential zone in the District. In Chapter 7, as recommended, it is renamed the Lower Density Suburban Residential zone to more accurately capture the range of traditional and modern suburban densities and housing types enabled. Objective 7.2.1 provides for ‘a mix of compatible suburban densities and a high amenity low density residential environment for residents...’. Policy 7.2.1.2 encourages development that ‘maintains suburban residential amenity values including predominantly detached building forms, and predominantly one or two storey building heights.’ Policy 7.2.1.3 seeks to maintain amenity values between sites, in particular privacy and access to sunlight. A clear theme is the maintenance of suburban character and high amenity values. Commercial activities are generally discouraged.
41. There is an active schist debris landslide identified on the Council’s GIS- based hazards register and a nil to low risk of liquefaction is also noted.
42. The Strategic Direction includes Policy 3.2.2 as recommended which requires urban development to occur in a logical manner to (among other things) ‘minimise the natural hazard risk, taking into account the predicted effects of climate change’.
43. This policy is implemented through the provisions of Chapter 28 Natural Hazards and Chapter 27 Subdivision & Development. In addition, section 106 of the Act and sections 71 – 74 of the

²⁰ W. Banks, EIC, 25 May 2017, paragraphs 8.6 – 8.11

²¹ R. Devlin, Section 42A Report, 24 May 2017, paras 5.12 & 5.1.5

²² J. Kyle, Rebuttal Evidence, 7 July 2017, paragraph 2.2

Building Act 2004 are important means of implementation. Overall, the Council's approach is based on case by case assessment.

44. Chapter 28 Natural Hazards provides a policy framework to address natural hazards throughout the District. The District is recognised as being subject to multiple hazards and as such, a key issue is ensuring that when development is proposed on land potentially subject to natural hazards, the risk is managed or mitigated to tolerable levels. In instances where the risk is intolerable, natural hazards will be required to be avoided. Council has responsibility to address the developed parts of the District that are subject to natural hazard risk through a combination of mitigation measures and education, to lessen the impacts of natural hazards.
45. The Council maintains a natural hazards database and development proposals affected by, or potentially affected by, natural hazards as identified in the database will require an accompanying assessment of natural hazard risks commensurate with the level of risk posed by the natural hazards (Rule 28.3.2.3).
46. Chapter 27 Subdivision & Development states that 'all subdivision is able to be assessed against a natural hazard through the provisions of section 106 of the RMA. In addition, in some locations natural hazards have been identified and specific provisions apply' (Rule 27.4.3.1).
47. The submission site is not located within the OCB.

6. ISSUES

- a. Whether the Queenstown Heights Overlay Area and related rules on density and minimum site size should be removed
- b. Transport
- c. Natural hazards

7. DISCUSSION OF ISSUES AND CONCLUSIONS

48. The ODP zoned this land as LDRZ and applied a Queenstown Heights Low Density Sub-zone (the QHOA) restricting the minimum lot size for subdivision to 1500m². Notwithstanding, the minimum density permitted by the LDRZ was 1 unit per 450m². The 1500m² minimum lot size for subdivision is the same in both the ODP and notified PDP but the PDP proposes to reduce the density in the LDRZ where land is subject to the QHOA to 1 unit per 1500m².
49. Accordingly, the starting point for our consideration is that the land has been in the LDRZ for many years and, until the PDP, was theoretically capable of being developed to a maximum density of 1 unit per 450m² as a permitted activity. Depending on the assumptions made about the area of land allocated to roading, services and recreation reserves, the estimated yield is in the order of 400 lots based on 1 lot per 450m². We are satisfied that about 400 lots would be indicative of what may be enabled if half of the land area within the QHOA was found to be suitable for housing and developed to its full potential.
50. The Council's transport evidence was based on the number of movements generated by an additional 408 lots. We observe that this level of effects was enabled by the density provisions of the LDRZ under the ODP and therefore must have been factored into the original decision on zoning and application of the sub-zone. If the area within the QHOA had been developed

under the ODP, the Council would have been required to deal with the traffic generated by about 400 lots in the normal course of business.

51. Ms Wendy Banks assumed that vehicle traffic generated by the development within the QHOA would use the intersection of Middleton Road and Frankton Road whereas Mr Geddes focused on the intersection of Goldfields Heights and Frankton Road. We consider that until the development is subject to detailed design, access and the distribution of traffic is unknown. We simply note that the land within the QHOA can be accessed from both Middleton and Goldfield Heights Road (at minimum) therefore the traffic generated may not be concentrated at one intersection. We agree with Mr Geddes that this matter can be dealt with at the time of subdivision or development. In our view, the ODP LDR zoning, including the density control, was adopted in anticipation of this level of traffic effects and therefore transport issues are not a valid basis for rejecting this submission.
52. With respect to natural hazards, it was common ground that the Queenstown Hill landslide is located within the QHOA. We agree with the uncontested evidence of Mr Faulkner that a detailed investigation will be required to determine whether (or not) there is ground suitable for residential development. Further, we agree with both Mr Faulkner and Mr Geddes that it is unwise to rely on reports prepared for the adjacent development at Remarkables Heights when forming an opinion on the suitability of the subject land for development. A specific and detailed geotechnical investigation of this site is required prior to development.
53. In practice, the geotechnical investigation required to establish the suitability of the land for development will be the same, regardless of what is proposed. We consider that the results of this investigation will dictate the intensity and type of development that is feasible notwithstanding the Plan provisions. Whatever is proposed, it is not axiomatic that the minimum density or minimum lot size could be realised across the whole QHOA. In fact, this would likely be a bad result which is why we agree with Mr Geddes that a flexible approach to density and subdivision controls is the better approach in the circumstances.
54. We do not support the 'Queenstown Hill Overlay Area' and its associated minimum density and minimum lot sizes because these provisions are unnecessary given the policy framework for managing natural hazards adopted in this Plan. Chapter 27 Subdivision & Development and Chapter 28 Natural Hazards require a case by case assessment of natural hazards risks.
55. In addition, where subdivision is proposed, section 106 of the Act provides sufficient safeguards for the management of natural hazards and where permitted activity status applies, sections 71 – 74 of the Building Act 2004 give the Council power to refuse consent where natural hazards affect land or the construction of a building. A recent amendment to section 6 of the Act includes "*the management of significant risks from natural hazards*" as a matter of national importance. Section 6 requires decision-makers to recognise and provide for matters of national importance when considering applications for land use and subdivision. Thus, the RMA and Building Act work together to ensure that land subject to natural hazards is only developed after due consideration of the hazard, the risk posed and methods of avoiding or mitigating that risk are in place.
56. A further consideration is the effectiveness of the proposed minimum density rule and minimum lot size of 1500m² per unit in managing natural hazards risk. The Council did not provide any evidence in support of these rules and, as pointed out by Mr Geddes, the Section 32 Report did not signal the proposed change in density nor did it provide any evidence on natural hazards underpinning this change. We were left with the impression that the addition

of a minimum density standard of 1 unit per 1500m² for the area included in the QHOA within the LDRZ was done in haste and arbitrarily. We observe that the notified zoning has no higher status than any zoning sought by a submitter and if the Council wants to impose more restrictive provisions, the onus is on it to prove the need for them.

57. With respect to natural hazards risks, we received no evidence establishing that this land should be treated any differently from the rest of the land within existing residential zones in the District in this regard. The Council did not provide a natural hazards assessment justifying the QHOA nor did it substantiate the proposed minimum density and minimum lot size of 1 unit per 1500m². Mr Geddes' opinion that a cap based on the density permitted under the ODP would provide more flexibility has some appeal however this method (or the quantum of the cap itself) was not substantiated in evidence either.
58. As we said above, the capacity of this land for residential development or some other use such as a retirement village hotel will be determined by the results of the geotechnical investigations undertaken prior to development. We are satisfied that the recommended LDRZ and subdivision provisions are sufficiently flexible to enable a reasonable development of this land. Further, we consider that the statutory framework governing natural hazards and the policy approach of Chapter 28 are adequate for managing natural hazards risks on this land and elsewhere in the urban area.
59. Finally, with respect to QAC's further submission, we note that the site is not within the OCB and QAC has not initiated a plan change to extend the OCB. We consider it is not sound resource management practice to limit development potential in the face of uncertainty about the future of the airport particularly in a location like Queenstown which has topographical constraints that limit the land available for urban development. For a full discussion of QAC's further submissions on sites not located within the ANB or OCB, see Report 17-1.²³

8. RECOMMENDATION

60. For the reasons set out above, we recommend that:
 - a. Submission 336 be accepted;
 - b. FS1340.76 be rejected; and
 - c. The Queenstown Hill Overlay Area be removed from Planning Map 31 and 31a; and
 - d. References to the QHOA in Chapters 7 and 27 be removed.

²³ Refer Report 17-1, Section 5.3

PART C: MT CRYSTAL LIMITED

Submitter Mt Crystal Limited (Submission 150)

Further Submission

FS1340.64 – Queenstown Airport Corporation – oppose

9. PRELIMINARY MATTERS

9.1. Subject of Submissions

61. This submission related to a 2.7360 hectare property located at 634 Frankton Road within the LDRZ (Lot 1 DP9121) (see Figure 5-3 below).

9.2. Outline of Relief Sought

62. The submission requested rezoning of the site to either a mix of MDRZ (1.24 ha) and HDRZ (1.49 ha) or, in the alternative, MDRZ with a 12m height limit and provision for visitor accommodation as provided for in the HDRZ.

9.3. Description of the Site and Environs

63. The site is moderately steep to steeply-sloping and contains two streams which join in the south-eastern corner. The gully of the main stream is deeply incised. Riparian vegetation comprises trees and scrub. The eastern half of the site is covered in broom whereas the western side of the main gully is in pasture. There is a house located in the south-western corner with vehicle access from Frankton Road.

64. To the north, the property shares a boundary with the vacant Middleton land (Submission 336) which is located within the notified Queenstown Hill Overlay Area. The Holiday Inn is on the adjacent site to the west. Generally, there is a mix of housing and visitor accommodation on the slopes overlooking the marina and lake to the east and west of this property. Land on the southern side (or lakeside) of Frankton Road is also residential in character and zoned MDRZ.

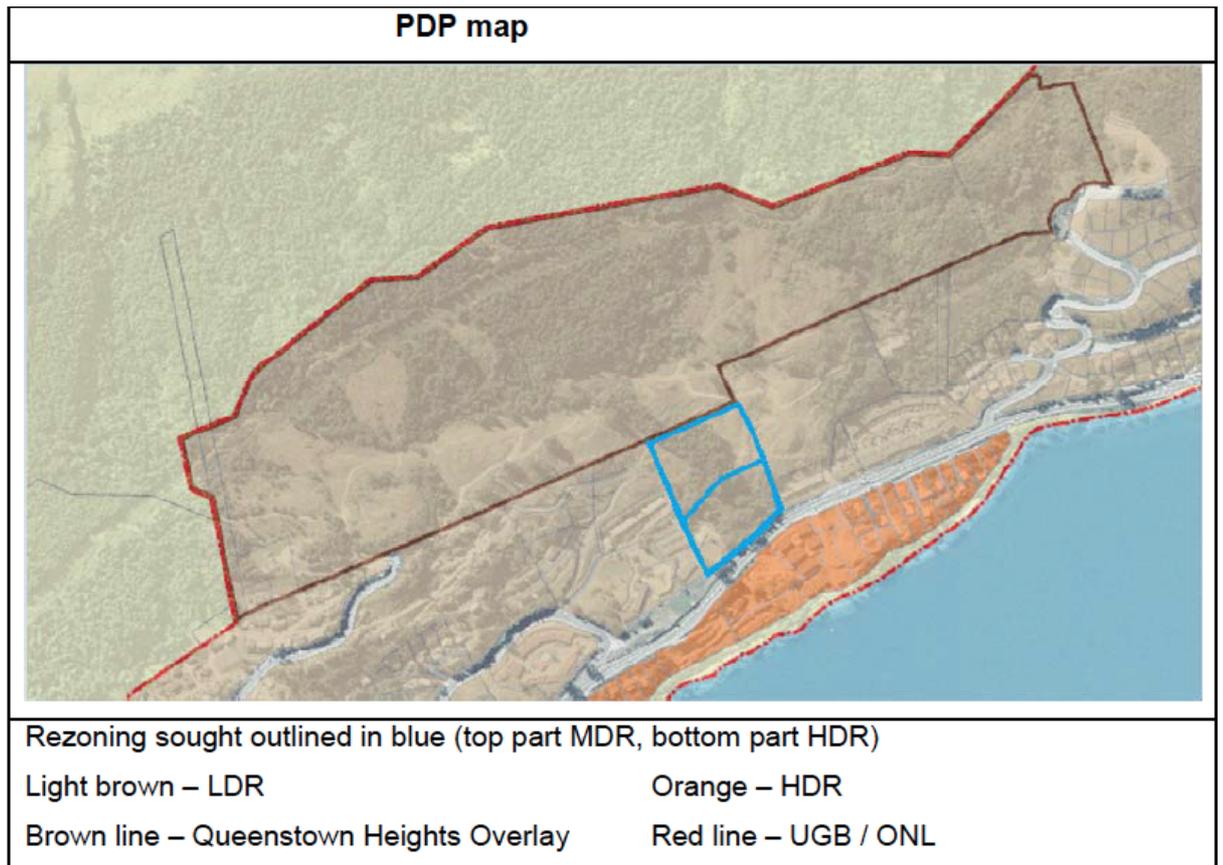


Figure 5-3 –The land subject to the submission outlined in blue.

9.4. The Case for Rezoning

65. The submitter’s planning expert, Mr Sean Dent, presented evidence at the hearing confirming his support for the Council’s revised recommendation that the whole site be zoned MDRZ.²⁴ While he originally provided evidence that supported rezoning the whole property to HDRZ, Mr Dent’s Executive Summary stated his reasons for concluding that the MDRZ would be an efficient and effective planning solution.²⁵ Mr Dent was the only expert to attend the hearing for the submitter however the submitter had provided a geotechnical report²⁶ and a statement of evidence prepared by a civil engineer on infrastructure services.²⁷
66. We record that Mr Dent’s original evidence in support of HDR zoning for the whole site went beyond the scope of the submission.²⁸ The submission sought HDRZ for the lower area only. MDR zoning for the whole site however is within scope therefore there was no need for the Panel to formally deal with matters of scope.
67. Mr Dent relied in part on the opinions of various technical experts in coming to his conclusion that the MDRZ was appropriate for this land. With respect to transport, he relied on Ms Wendy Banks for the Council, who did not oppose the MDRZ because she considered the intensification at this level of density to be insignificant.²⁹

²⁴ R. Devlin, Supplementary Rebuttal Evidence, 11 July 2017, paragraphs 4.1 – 4.11

²⁵ S. Dent, Executive Summary, 22 August 2017, paragraph 1.10

²⁶ S. Dent, EIC, 9 June 2017, Appendix B - Report by Geosolve, August 2016

²⁷ J. McCartney, EIC, 8 June 2017

²⁸ S. Dent, EIC, 9 June 2017

²⁹ W. Banks, EIC, 25 May 2017, paragraph 8.15

68. The geotechnical experts for the Council (Mr Watts)³⁰ and the submitter (Ms Georgia Scott) agreed that the site was suitable for development at an MDRZ density subject to more detailed geotechnical assessment.³¹
69. Mr John McCartney, a civil engineer, provided written evidence on infrastructure and, in particular, the feasibility of servicing the site with wastewater and water supply services. He met Council staff, including Mr Glasner, to discuss the various issues including provision of adequate water for firefighting should HDRZ be adopted. Mr Glasner opposed HDRZ due to concerns about providing sufficient water for firefighting but did not oppose MDR zoning over the site as there would be no change in firefighting requirements compared with the notified LDRZ.³² Mr Dent relied on their expert opinion that there were no insurmountable issues with respect to infrastructure servicing of the subject site if developed at a MDRZ density.³³
70. There was considerable agreement between Mr Dent and Ms Devlin for the Council on planning matters. They agreed that the adjoining properties have been developed to greater densities than conventional LDR through comprehensive developments or as visitor accommodation complexes, such that the surrounding area is not traditionally suburban in appearance and character.³⁴
71. Mr Dent considered it was not an effective or efficient planning approach to try and maintain a LDRZ characteristic that presently does not exist and which cannot be regained in this area.³⁵ Ms Devlin considered upzoning would facilitate more efficient use of the land for residential purposes (taking into account the stream and geotechnical constraints that will restrict the developable area) and development at MDR scale would not result in significant amenity concerns in regard to adjoining properties.
72. Mr Dent assessed the likely yield under MDR zoning as 34 lots, after first deducting the area of land that is unsuitable for development due to natural hazards.
73. Ms Devlin considered that the provisions of Chapter 28 Natural Hazards would ensure that any development on the parts of the site subject to natural hazards only occurs where the risks to the community and the built environment are avoided or appropriately managed or mitigated (notified Objective 28.3.2).
74. Finally, it was Mr Dent's opinion that applying the MDRZ to the subject site as opposed to HDRZ still accords with the Strategic Direction of the PDP to facilitate higher density living near public transport routes, efficient and sustainable use of infrastructure servicing and providing for mixed densities of housing in existing and new urban communities. The MDRZ will also maintain a high quality built environment by requiring assessment of the urban design of multi-unit developments.³⁶
75. QAC lodged a further submission opposing the rezoning of currently vacant land and/or enabling intensification of existing or residentially zoned land because this will bring more people to the aircraft noise effect now and into the future. Mr Kyle's evidence was that the

³⁰ C. Watts, Rebuttal Evidence, 11 July 2017, paragraphs 4.1 - 4.4

³¹ S. Dent, Executive Summary, 22 August 2017, paragraph 1.7

³² R. Devlin, Rebuttal Evidence, 7 July 2017, paragraph 4.8

³³ Ibid, paragraph 1.5

³⁴ Ibid, paragraph 4.4;

³⁵ S. Dent, EIC, 9 June 2017, paragraph 64, see also paragraphs 55 – 64 for a full discussion of this matter

³⁶ S. Dent, Executive Summary, 22 August 2017, paragraph 1.10

best form of protection available to avoid potential reverse sensitivity effects is to avoid development coming to the effect in the first place.³⁷ However the submission site is not located within the OCB and QAC has not initiated a plan change seeking to extend the OCB.

9.5. Discussion of Planning Framework

76. The LDRZ is the largest residential zone in the District. In Chapter 7 as recommended it is renamed the Lower Density Suburban Residential zone to more accurately capture the range of traditional and modern suburban densities and housing types enabled. Objective 7.2.1 provides for *'a mix of compatible suburban densities and a high amenity low density residential environment for residents...'*. Policy 7.2.1.2 encourages development that *'maintains suburban residential amenity values including predominantly detached building forms, and predominantly one or two storey building heights.'* Policy 7.2.1.3 seeks to maintain amenity values between sites, in particular privacy and access to sunlight. A clear theme is the maintenance of suburban character and high amenity values. Commercial activities are generally discouraged.
77. The purpose of the MDRZ is to enable a greater supply of diverse housing options for the District at a higher density than the LDRZ. Development controls are designed to ensure that the reasonable maintenance of amenity values is maintained. MDR zones should be easily accessible to local shopping centres, town centres or schools by public transport, cycling or walking.
78. The HDRZ provides for efficient use of land within close proximity to town centres that is easily accessible by public transport, cycle and walkways. In Queenstown, it enables taller buildings than in other residential zones, subject to high design quality. Development controls provide minimum of protections for existing amenity value and are otherwise prioritised towards enabling the community's wellbeing by promoting growth and development. There is a focus on intensification and small scale commercial activities are enabled to support larger residential developments, or to provide low impact local services.
79. Chapter 28 Natural Hazards and Chapter 27 Subdivision provide for a case by case assessment of natural hazards risks when subdivision and/or development is proposed.
80. The submission site is not located within the OCB for Queenstown Airport.

10. ISSUES

- a. The most appropriate zone for this land

11. DISCUSSION OF ISSUES AND CONCLUSIONS

81. We agree with Ms Wendy Banks and Ms Devlin that HDR zoning is not appropriate for this land because it is contrary to Objective 9.2.1 which requires that high density housing development occurs in urban areas close to town centres, to provide greater housing density and respond to expected population growth. This property is about 3.5km from Queenstown therefore it is not located *'in close proximity'* to the town centre. In our view, the role of Queenstown town centre as an economic, civic and cultural hub for the Wakatipu area would be undermined if high density housing was permitted in other locations further afield, including this site. This outcome would be contrary to Strategic Objective 3.2.1.2.

³⁷ J. Kyle, Rebuttal Evidence, 7 July 2017, paragraphs 2.2 - 2.3

82. Ms Devlin considered that the development enabled by an HDR zone would appear out of character or disparate in this location.³⁸ We agree.
83. We also agree with Mr Dent that the development enabled by the LDRZ would be out of character with the neighbouring development which is more intensive by comparison. It follows that we agree with both planners that MDR zoning is the most appropriate for this site for the reasons given in their evidence and summarised above.
84. We note that the submitter, in accepting MDR zoning for the whole site, did not pursue its request for MDR zoning with a maximum height limit of 12 metres and with the provision for visitor accommodation which applies in the HDR. Ms Devlin addressed this request and concluded that it would be inappropriate to apply a 12m building height to this site along with MDR zoning. In her opinion, the proposed 12m height would enable buildings that would appear as very dominant in this setting relative to the surrounding LDR neighbourhood. The likely pattern of development would be out of character and result in adverse effects in regard to neighbouring residential amenities. Ms Devlin did not support a bespoke height limit rule just for this area.³⁹ We agree.
85. With respect to QAC's further submission, we consider it is not sound resource management practice to limit development potential in the face of uncertainty about the future of the airport particularly in a location like Queenstown which has topographical constraints that limit the land available for urban development. For a full discussion of QAC's further submissions on sites not located within the ANB or OCB, see Report 17-1.⁴⁰
86. We are satisfied that the evidence demonstrated the suitability of this land for MDR zoning. It is easily accessible to local shopping zones, town centres or schools by public transport, cycling or walking. The land is supported by adequate existing or planned infrastructure and its development will enable a greater diversity of housing types, generally around two storeys in height. Subject to detailed assessment of natural hazards and implementation of risk management measures, the site is capable of being safely developed for housing and other activities enabled within the MDR.

12. RECOMMENDATION

87. For the reasons set out above, we recommend that:
- a. Submission 150 be accepted in part; and
 - b. FS1340.64 be rejected; and
 - c. MDR zoning be applied to the whole of the property located at 634 Frankton Road (Lot 1 DP9121) as shown on Planning Map 32.

³⁸ R. Devlin, Rebuttal Evidence, 7 July 2017, paragraph 4.5

³⁹ Ms Rosalind Devlin, Section 42A Report, 24 May 2017, paragraph 6.17

⁴⁰ Refer Report 17-1, Section 5.3

PART D: BODY CORPORATE 22362 AND SEAN & JANE MCLEOD

Submission Body Corporate 22362 (Submission 389) and Sean & Jane McLeod (Submission 391) Further Submissions

FS1331 – Mt Crystal Limited – supported both submitters

FS 1340 – Queenstown Airport Corporation – opposed both submitters

13. PRELIMINARY MATTERS

13.1. Subject of Submissions

88. These submissions related to Goldfields Heights and more generally, the area from Frankton Marina to Queenstown Hill, and Fernhill and Sunshine Bays.

13.2. Outline of Relief Sought

89. Submission 389 sought the rezoning of the Body Corporate land (multiple sites as shown on DP22362) and the surrounding area known as ‘Goldfields’ to MDRZ. Figure 5-4 below shows the Body Corporate land and the notified zoning.

90. Submission 391 sought the rezoning requested by Submission 389. The submission also requested that the medium density zone be extended to include most of Fernhill and Sunshine Bay on the lower slopes within 4-500m of Fernhill Road and that it be also extended all the way along Frankton Road from the existing high density areas to include Panorama Tce, Larchwood Heights, St Andrews Park, Goldfields, Battery Hill, Marina Heights and everything in between.

13.3. Description of the Site and Environs

91. Body Corporate 22362 is a subdivision carried out in the early 1990’s by David Broomfield and first approved under the Town and Country Planning Act 1977, with a later variation approved under the RMA. The site was subdivided using the Unit Titles Act 1972. The development consists of 131 units either single dwelling or duplexes. There are large areas of common property either being accesses, open reserve or tennis court. Overall the density of the area is about 630m² per unit including the common property, but some of the sites are 250m² with over 100 being under 500m² and approximately 50 being in the 300-350m² range. The average area per unit is 436m².⁴¹

92. Goldfields is an area with many unit developments including The Ridge Resort adjacent to BC22362 at 67 Goldfields Heights. The area is well-located relative to the town centre and Frankton and many homes have views of the lake and mountains.

93. The wider area identified in the submission extends from the higher density development on Queenstown Hill on or near Kent Street all the way to Marina Drive at Frankton. There is a mix of dwellings, unit developments and visitor accommodation in this area and many properties enjoy lake and mountain views.

94. Fernhill and Sunshine Bay to the south-east of Queenstown town centre are also included in the request for MDR zoning. These hillside suburbs are areas with a mix of housing types and fine views that have developed since the 1960’s.

⁴¹ Submission 389

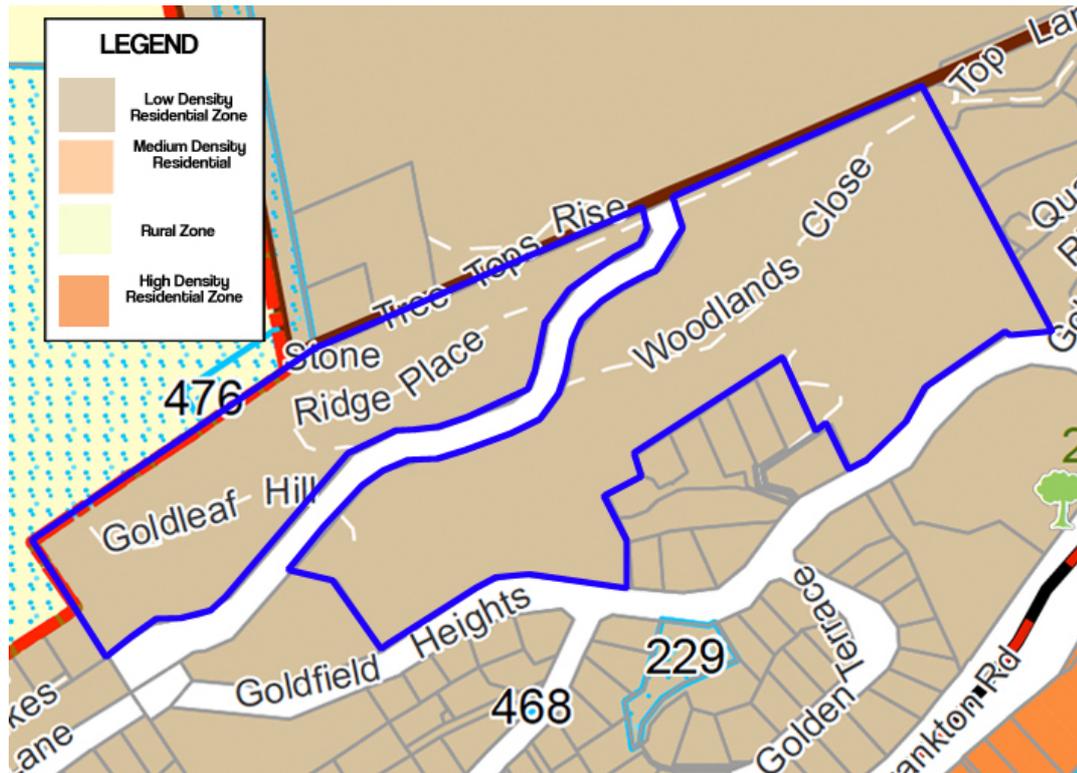


Figure 5-4 – The Body Corporate 22362 site (blue outline)

13.4. The Case for Rezoning

95. Mr Sean McLeod presented submissions on behalf of BC22362 in his private capacity as Chair of the Body Corporate⁴² and for Sean & Jane McLeod.⁴³ As a surveyor, he brought particular expertise and experience to his analysis of plan provisions, infrastructure and transport issues which we appreciated for its common sense.

13.5. BC 22362

96. Turning first to the matter of BC 22362, Mr McLeod explained that the request for MDR zoning was not so much to increase the density of development, more that the size of a number of the units was outside of the proposed LDRZ rules and the development as a whole was already of a medium density nature.⁴⁴

97. In his opinion, the Goldfields area also met the objectives and policies of the medium density rules better than other areas put forward by the Council particularly areas at Frankton and the Ladies Mile SHA.⁴⁵

98. Transport and infrastructure issues were matters of contention. The Council’s planner, Ms Devlin, did not support MDRZ for the BC22362 site in reliance on the evidence of Mr Glasner, civil engineer, and Ms Wendy Banks, transportation engineer. Initially, both witnesses opposed the change in zoning because of capacity constraints.

⁴² Submission 389

⁴³ Submission 391

⁴⁴ S. McLeod, Summary Statement, 16 August 2017, paragraph 3

⁴⁵ Ibid, para 5

99. The Council estimated that MDR zoning would enable an additional 120 – 130 lots on the site occupied by BC22362 but Mr McLeod disagreed. He thought it more likely that the difficulty of obtaining consent under the body corporate rules would prevent any new lots being created at all.
100. Although unlikely because BC22362 would not relax its rules, Mr McLeod pointed out that under the current district plan (LDRZ), the permitted and discretionary activities enabled a level of development that exceeded the Council’s estimated 120 – 130 additional lots which gave rise to its infrastructure and transportation concerns. In his opinion, the Council may have to consider including in the LTP upgrading of infrastructure and the Goldfields Heights/Frankton Road intersection regardless of the final zoning of the area.⁴⁶
101. We note his remarks about the popularity of an alternative route into town via St Andrews Park, Highview Terrace and Hensman Road which is reducing the number of vehicles turning right at the Goldfields Heights/Frankton Road intersection. We also acknowledge his observation that at times Frankton Road is at standstill and a roundabout or traffic lights could not disrupt it further.⁴⁷
102. After the hearing, Mr McLeod provided further information on capacity. If the land was bare, a realistic estimate of what could have been achieved by a comprehensive development consent under the operative LDRZ is 350 dwellings, whereas the actual number of dwellings is 131. Given the existing development and utilising only that land which is serviced, accessible, not already in use for access and not too steep, an additional 30 dwellings would be possible under MDR. This result would rely on multiple owners agreeing to have additional dwellings near them and no demolition of existing dwellings.⁴⁸
103. In her Reply Statement, Ms Devlin agreed with Mr McLeod and concluded that a more realistic estimate of yield would be much lower than her initial estimate, from zero to 30 units. She also agreed with Mr McLeod that the site was already mostly developed in a similar manner to MDR, with smaller lot sizes than can be expected under LDR, and attached units and townhouses. As such, she considered that rezoning the site to MDRZ would both reflect the underlying pattern of development and would avoid future technical non-compliances whereby an extension or garage, for example, might breach LDR rules.⁴⁹ Nevertheless Ms Devlin continued to recommend that the rezoning request be rejected due to Mr Glasner’s ongoing concerns about insufficient information on infrastructure matters.⁵⁰
104. Ms Wendy Banks assessed the potential 30 lot yield and concluded that the additional traffic movements at the Goldfield Heights/Frankton Road intersection would not be detrimental to the road network.⁵¹
105. Mr Glasner continued to oppose the rezoning of BC22362 and the wider area in his Reply Evidence due to the lack of evidence about density which meant that he could not rerun his infrastructure calculations and also because network modelling was required to assess the impact of rezoning up to 50 ha.

⁴⁶ Mr Sean McLeod, EIC, undated, para 13

⁴⁷ Ibid, para 8

⁴⁸ Email from Mr Sean McLeod to Ms Rosalind Devlin dated 27 September 2017

⁴⁹ R. Devlin, Reply Evidence, 6 October 2017, paragraph 2.3

⁵⁰ Ibid, paragraph 2.8

⁵¹ Ibid, paragraph 2.7

106. Mr McLeod said that Mr Glasner’s infrastructure recommendations (for the estimated additional 120 – 130 lots) did not appear to agree with others close by the proposed MDR rezoning within Goldfields eg., Submission 150 (Mt Crystal Limited).⁵²
107. In response, Mr Glasner said:
- “Queenstown Hill may appear to have disparities in my response when looking at the submission in this way. However, the water servicing in this area is complex because of elevation changes, different pressure zones and areas pressurised from different reservoirs. Different areas have also been planned for water and wastewater upgrades in the LTP which affected my evidence on various submissions. Goldfield Heights is also an existing development area with services currently nearing capacity, that is more difficult and costly to upgrade than a Greenfields site.”⁵³*
108. At the hearing, Mr McLeod explained that most of the infrastructure within BC22362 is owned and maintained by the Body Corporate.⁵⁴ He addressed Mr Glasner’s concern that the existing network does not have existing capacity. Mr McLeod said that, due to their grade, the two wastewater lines crossing Frankton Road are likely to be the constraint points as confirmed in Mr Glasner’s evidence for Submission 150 (Mt Crystal Limited). He offered two possible solutions to this constraint in the wastewater network. Mr McLeod also suggested that water could possibly be linked from the top of Goldfields Heights to the new Middleton Road reservoir as the land in Submission 336 (Middleton Family Trust) was developed.
109. QAC lodged a further submission opposing the rezoning of currently vacant land and/or enabling intensification of existing or residentially zoned land because this will bring more people to the aircraft noise effect now and into the future. Mr Kyle’s evidence was that the best form of protection available to avoid potential reverse sensitivity effects is to avoid development ‘coming to the effect’ in the first place.⁵⁵ However the submission site is not located within the OCB and QAC has not initiated a plan change seeking to extend the OCB.
110. In summary, Mr McLeod sought reconsideration of the zoning of BC22362.
- 13.6. Rezoning Frankton Marina to Queenstown Hill, including Goldfields Heights, and Fernhill/Sunshine Bay**
111. Mr McLeod also presented submissions addressing the strategic zoning issues raised in Submission 391 i.e., the request that a large area of land from Frankton Marina to Queenstown Hill and in Fernhill/Sunshine Bay be rezoned to MDRZ.
112. Mr & Mrs McLeod supported widespread rezoning to MDRZ because they believe that Queenstown cannot keep carving up its rural land ‘ad nauseum’ as has been done in the past decade. Land already zoned residential should be used more efficiently and the only way to do this is by greater intensification and by building smaller which the MDRZ allows.⁵⁶
113. He described the actual and potential development intensity of land in the subject area giving examples such as Panners Way. He considered that the operative medium density sub-zone

⁵² S. McLeod, EIC for Submission 389, undated, paragraph 8

⁵³ U. Glasner, Rebuttal Evidence, 7 July 2017, paragraph 5.17

⁵⁴ S. McLeod, EIC for Submission 389, undated, paragraph 10; Summary Statement, 16 August 2017, paragraphs 8 - 13

⁵⁵ J. Kyle, EIC, 9 June 2017, paragraphs 6.4 – 6.8

⁵⁶ S. McLeod, Summary Statement for Submission 391, 16 August 2017, paragraphs 2 - 3

had already increased the density from the (notified) LDRZ requirement. In his opinion, there would be less of a difference between the numbers of dwellings in the LDR and MDR than Ms Devlin used.⁵⁷

114. In addition, he said that due to the nature of the land on Queenstown Hill and Fernhill, geotechnical, parking and access requirements along with newly built million-dollar housing means that there is unlikely to be 250m² maximum density over the whole area in the short to medium term.⁵⁸

115. In addition, Mr McLeod commented on the rate of development should rezoning be accepted in the context of what he saw as the key constraint, namely provision of infrastructure services. He considered there would not be an immediate demand for additional infrastructure services and that upgrades could be planned as part of the 10-year plan process and funded through development contributions.⁵⁹

116. He concluded by saying that:

“the area proposed for MDR rezoning fits entirely within Objective 8.2.1 and its policies in that medium density development will be realised close to town centres, local shopping zones, activity centres, public transport routes and non-vehicular trails in a manner that is responsive to housing demand pressure.”⁶⁰

117. Mr Glasner continued to oppose the rezoning because he still required further information around density to rerun his infrastructure calculations. In addition, network modelling for water supply and wastewater is required to assess the impact of the proposed increase of the development site up to approximately 50ha.⁶¹

118. Ms Devlin agreed with Mr McLeod that most of the sites that are the subject of the submission meet many of the objectives for the MDRZ (particularly in regard to location). She saw a number of benefits associated with upzoning within the UGB however upzoning must be accompanied by development infrastructure. In addition, she relied on Ms Kim Bank’s opinion that additional upzonings of land to higher intensities are not required for the PDP timeframe.⁶²

119. Ultimately, Ms Devlin relied on Mr Glasner’s ongoing concerns about lack of information on infrastructure matters to recommend that the rezoning request should be rejected.

120. QAC’s further submission opposed intensification on the same basis as it did for Submission 389 (see paragraph 113 above).

13.7. Discussion of Planning Framework

121. In the PDP, Chapter 3 Strategic Direction seeks to manage urban growth in a strategic and integrated manner. Urban development should promote a compact, integrated urban form, ensure a mix of housing opportunities and be integrated with existing and planned infrastructure (recommended Objective 3.2.2.1). This objective is given effect by

⁵⁷ Ibid, paragraphs 7 - 9

⁵⁸ S. McLeod, EIC for Submission 391, undated, paragraph 11

⁵⁹ Ibid, paragraph 13

⁶⁰ Ibid, paragraph 21

⁶¹ U. Glasner, Reply Evidence, 6 October 2017, paragraphs 3.2 – 3.4

⁶² R. Devlin, Rebuttal Evidence, 7 July 2017, paragraph 5.4

recommended Objectives 4.2.2A and 4.2.2B Urban Development which provide for the allocation of land within the UGB into zones which are reflective of the appropriate land use having regard to transport, a mix of housing densities and forms and the function and role of town centres, among other matters.

122. The LDRZ is the largest residential zone in the District. In Chapter 7 as recommended it is renamed the Lower Density Suburban Residential zone to more accurately capture the range of traditional and modern suburban densities and housing types enabled. Objective 7.2.1 provides for *'a mix of compatible suburban densities and a high amenity low density residential environment for residents...'*. Policy 7.2.1.2 encourages development that *'maintains suburban residential amenity values including predominantly detached building forms, and predominantly one or two storey building heights.'* Policy 7.2.1.3 seeks to maintain amenity values between sites, in particular privacy and access to sunlight. A clear theme is the maintenance of suburban character and high amenity values. Commercial activities are generally discouraged.
123. The purpose of the MDRZ is to enable a greater supply of diverse housing options for the District at a higher density than the LDRZ. Development controls are designed to ensure that the reasonable maintenance of amenity values is maintained. MDR zones should be easily accessible to local shopping centres, town centres or schools by public transport, cycling or walking.
124. The area subject to this submission is not located within the OCB.

14. ISSUES

- a. The most appropriate zone for the Body Corporate site
- b. The most appropriate zone for the wider area from Frankton Marina to Queenstown Hill, including Goldfields Heights, and Fernhill and Sunshine Bay

15. DISCUSSION OF ISSUES AND CONCLUSIONS

125. The Council's witnesses and Mr McLeod agreed on most matters but due to the Council's infrastructure concerns, they did not agree that MDR was an appropriate zoning for BC22362 or the wider area at this time.
126. With respect to BC22362, they agreed that the most likely estimated yield under MDR would be zero to 30 additional units. Knowing the way in which body corporates operate, we are inclined to agree with Mr McLeod that the likely outcome would be closer to zero in practice.
127. Ms Devlin and Mr McLeod also agreed that MDR zoning would recognise the existing intensity of development within BC22362 and be more enabling of additions and alterations such as construction of new garages by comparison to the LDRZ provisions. We concur.
128. They further agreed that the BC22362 site and the wider area met many of the objectives for the MDRZ, particularly location. For instance, this land is close to the town centre, local shopping, activity centres and public transport. In principle, we too agree that BC22362 and the wider area are suitable for MDR zoning and that changing the zoning from LDR to MDR would satisfy Objective 8.2.1.

129. Having agreed that BC22362 and the wider area are suitable for MDR zoning, the next question is whether it is necessary to up-zone the BC22362 site and the wider area at this time? Mr McLeod urged the Council to plan ahead by rezoning now because of the length of time it would take for redevelopment to occur, perhaps up to thirty years. Ms Devlin disagreed. She relied on Ms Kim Bank's evidence that additional up-zonings of land to higher intensities are not required for the PDP timeframe.
130. Early in the Stream 13 hearings, we heard evidence from Mr Phil Osborne on the results of the dwelling capacity modelling required by the NPSUDC and from Ms Kim Banks on its planning implications. As discussed in the overview,⁶³ the PDP provides an adequate supply of zoned land for residential purposes for many years ahead however bringing this land to market in a timely manner is an issue due to land banking. Among other responses designed to deal with land banking, Mr Osborne recommended increasing the area zoned MDR because, over time, this would encourage the redevelopment of residential sites within the UGB. Mr McLeod's examples including his discussion of Panorama Terrace and the 50 to 60 year development cycle supported Mr Osborne's opinion.⁶⁴ The submitters have thus identified an area suitable for upzoning in terms of the capacity enablement recommended by Mr Osborne.
131. Turning now to the provision of infrastructure which is a key factor in terms of timing, the PDP requires urban growth to be managed in a strategic and integrated manner (Strategic Objective 3.2.2). It seeks a compact and integrated form within the UGB that is coordinated with the efficient provision of infrastructure (recommended Objective 4.2.2A). Accordingly, whether BC22362 or the wider area should be rezoned at this time is dependent on the planned provision of infrastructure.
132. Mr McLeod addressed this matter and because he is a surveyor, we accept that he is qualified to make general observations on the provision of infrastructure in relation to land development. He told us that a majority of the infrastructure within BC22362 is owned by the body corporate. Mr McLeod identified the two wastewater lines crossing Frankton Road as the likely constraint on intensification of Goldfields based on Mr Glasner's evidence regarding Submission150 (Mt Crystal Limited). He suggested possible solutions for both water and wastewater services that would enable intensification of BC22362 and Goldfields Heights.⁶⁵
133. Mr McLeod's statement also raised important questions about the adequacy of the existing roads and water and wastewater network to service the development enabled under the PDP in the wider area. Mr Glasner shared this concern and did not support upzoning at this time. As noted above, the infrastructure network on Queenstown Hill is complex and, in his opinion, there was a need to undertake network modelling in order to assess the impacts of upzoning an area of 50 ha.
134. We consider that rezoning BC22362 to MDRZ is appropriate for four reasons. First, there is a low probability of new dwellings being built within the Body Corporate site due to the limitations imposed by governance. More likely there will be occasional additions and alterations carried out over the next decade and these will place limited demands on existing infrastructure. Second, network upgrades provided for in the LTP will alleviate problems in the Goldfields area in time. Third, an MDRZ reflects the existing pattern of development.

⁶³ Report 17-1, Section 3

⁶⁴ S. McLeod, Summary Statement for Submission 391, 16 August 2017, paragraph 11

⁶⁵ S. McLeod, Summary Statement for Submission 389, 16 August 2017, paragraphs 8 - 13

Finally, there are benefits from MDR zoning because this enables residents to improve their homes without needing resource consent for minor additions and alterations.

135. In our view, rezoning the wider area to MDRZ would be contrary to the strategic direction of the PDP at this time because the efficient provision of infrastructure is not assured. Whilst we agree that MDRZ is the most appropriate zoning for much of the area between Frankton Marina and Queenstown Hill, and for Fernhill and Sunshine Bay, Mr Glasner's evidence on the need to plan for the necessary infrastructure upgrades was compelling. We consider that coordinating intensification with infrastructure provision for this area requires further analysis and deliberate long-term planning by the Council prior to rezoning.
136. In our view, there is no urgency to rezone the wider area because there is an adequate supply of residential land already zoned within the District. However, we consider that achieving a compact, integrated urban form will necessitate up-zoning in the area identified by the submitters sooner rather than later due to the length of the development cycle (decades rather than years). The benefits of increased land supply in terms of housing affordability will similarly take decades to be realised.
137. Finally, with respect to QAC's further submission, we consider it is not sound resource management practice to limit development potential in the face of uncertainty about the future of the airport particularly in a location like Queenstown which has topographical constraints that limit the land available for urban development. For a full discussion of QAC's further submissions on sites not located within the ANB or OCB, see Report 17-1.⁶⁶

16. RECOMMENDATION

138. For the reasons set out above, we recommend that;
 - a. Submissions 389 and 391 be accepted in part; and
 - b. FS 1331 be accepted in part; and
 - c. FS1340 be rejected; and
 - d. Medium Density Residential zoning be applied to the BC22362 site as shown on Planning Map 32 but not to the wider area from Frankton Marina to Queenstown Hill, including Goldfields Heights, and Fernhill and Sunshine Bay.

⁶⁶ Refer Report 17-1, Section 5.3

PART E: FRANKTON MARINA/SUGAR LANE AREA

Submitters DON LAWRENCE for DS EE PROPERTIES LTD (Submission 16); KENNETH MUIR (Submission 125); AND Z ENERGY LTD (Submission 312)

Further Submissions

- FS1214.2 – Z Energy Ltd – support (16)
- FS1340.51 – Queenstown Airport Corporation – oppose (16)
- FS1214.3 - Z Energy Ltd – support (125.1)
- FS1340.56 - Queenstown Airport Corporation – oppose (125)
- FS1214.4 – Z Energy Ltd – support (125.2)
- FS1340.57 - Queenstown Airport Corporation – oppose (125)

17. PRELIMINARY MATTERS

17.1. Subject of Submissions

139. These submissions related to the Frankton Marina/Sugar Lane area and the Z Energy fuel station at 846 Frankton Road.

17.2. Outline of Relief Sought

140. The submission of Don Lawrence/DS EE Properties Ltd (16) sought that Sugar Lane be rezoned from LDR to a commercial zoning.

141. Kenneth Muir sought to change the Sugar Lane area from LDR to BMUZ.

142. For the avoidance of doubt, we note that neither of the above submissions indicated whether the Mantra Apartments were intended to be included in the request for rezoning.

143. Z Energy sought to change the zoning of 846 Frankton Road to enable business or higher intensity residential purposes: LSCZ, MDR or HDR, or consistent with any rezoning of the existing commercial properties along Sugar Lane and opposite the site.

17.3. Description of the Site and Environs

144. Sugar Lane is an area of mixed uses notwithstanding its LDR zoning. Activities include boating related businesses, offices, an historic cottage, Scout Hall, Pier restaurant, parking and residential uses including the Mantra Apartments (on the eastern side). There is an existing consent at Frankton Marina (RM 140061) which gives approval to 195 marina berths and associated commercial buildings, parking and open space. Z Energy is located on the opposite side of SH6A (Frankton road) on the corner of Marina Drive. The annual average daily traffic (AADT) on SH6A was recorded to be 25,818 for the December 2016 count obtained from NZTA.⁶⁷ The area is shown in Figure 5-5.

⁶⁷ W Banks, EIC, 25 May 2017, paragraph 5.115



Figure 5-5 - Aerial photograph of Frankton Marina/Sugar Lane area and Z Energy fuel station showing existing uses

17.4. The Case for Rezoning

145. Submitters 16 and 125 did not attend the hearing and did not provide any evidence in support of rezoning the area from LDR to a commercial or higher density residential zone. For Z Energy, Burton Consultants Ltd provided a letter containing a statement representing Z Energy's views.⁶⁸ All made the point that existing commercial development in Sugar Lane was inconsistent with LDR zoning. In his submission, Mr Muir said that BMUZ would be the ideal zoning to allow the Sugar Lane area to become a vibrant development in support of a new marina.
146. Z Energy's submission pointed out that their existing service station was in close proximity to commercial activities at Sugar Lane and was physically separated from residential properties to the north and east by existing roads and to residential zoning to the south by Frankton Road. The submission stated that the rezoning sought (LSC, MDR, HDR) would be more consistent with the intent of the PDP. In the letter provided by Burton consultants Ltd, Z Energy continued to maintain that LDRZ would be an inappropriate zone for the site and Sugar Lane area.
147. QAC opposed Submission 16 and Submission 125 out of concern that any rezoning would result in intensification of ASAN establishing in close proximity to Queenstown Airport. Mr Kyle's evidence was that the best form of protection available to avoid potential reverse sensitivity effects is to avoid development 'coming to the effect' in the first place.⁶⁹
148. For the Council, Ms Kim Banks considered the suitability of MDR zoning in the Frankton area generally and in the Frankton Marina/Sugar Lane area more particularly (as part of her

⁶⁸ Burton Consultants Ltd on behalf of Z Energy, letter dated 9 June 2017 and tabled at the hearing

⁶⁹ J. Kyle, EIC, 9 June 2017, paragraphs 6.4 – 6.8

evaluation of the submission by NZIA⁷⁰). In her opinion, the notified LDRZ did not accurately reflect the mix of activities present in Sugar Lane. While the location itself may be suitable for MDRZ, the existing activities were inconsistent with its purpose and over time, MDR zoning would have the potential to constrain these businesses. In her opinion, there was no alternative zoning that would adequately reflect this current mix.⁷¹ Ms Kim Banks did not support rezoning the site to MDRZ or HDRZ which would facilitate intensification and additional trip generation on the site.

149. For the Z Energy site, Ms Kim Banks evaluated the options of MDRZ and HDRZ, concluding that a spot zoning surrounded by LDRZ was undesirable and, in the case of HDRZ, could lead to development of a scale that was out of character with the neighbourhood. While she acknowledged that the site did not exhibit LDRZ characteristics, neither MDRZ nor HDRZ were more appropriate.⁷²
150. Also for the Council, Ms Evans acknowledged that the zoning of this area was challenging and that LDRZ was not reflective of the existing land uses.⁷³ In her opinion, some form of marine based commercial zone or structure plan or outline development plan that considered the future of Sugar Lane as a whole would be beneficial. Any such proposal should include the Z Energy site.⁷⁴ Ms Evans considered that alternative zones such as LSCZ would facilitate intensification and additional trip generation which would be detrimental to the operation of the Sugar Lane/SH6A/Marina Drive intersection. LSCZ or BMUZ would also create tension with a number of policies in the Strategic Direction that seek to avoid undermining existing centres.
151. In forming their opinions, Ms Kim Banks and Ms Evans relied on the evidence of Ms Wendy Banks, a transportation engineer. Ms W Banks considered that turning movements into and out of the side roads was currently challenging due to the high traffic volumes on SH6A. She opposed the rezoning sought for commercial activities, unless it could be demonstrated that the right turn movements out of Sugar Lane could be managed safely either through a reduction in the zoning area sought or by upgrading the intersection to signals or a roundabout. Z Energy noted that anticipated intersection upgrades due to the marina development were not reflected in the Section 42A Reports. This consent had not been implemented at the time of writing this report therefore it is not known whether or when these intersection upgrades will be done.

17.5. Discussion of Planning Framework

152. Sugar Lane, the Z Energy site and wider area are zoned LDR in the PDP. In Chapter 7 as recommended it is renamed the Lower Density Residential zone to more accurately capture the range of traditional and modern suburban densities and housing types enabled. Objective 7.2.1 provides for *'a mix of compatible suburban densities and a high amenity low density residential environment for residents...'*. Policy 7.2.1.2 encourages development that *'maintains suburban residential amenity values including predominantly detached building forms, and predominantly one or two storey building heights.'* Policy 7.2.1.3 seeks to maintain amenity values between sites, in particular privacy and access to sunlight. A clear theme is the maintenance of suburban character and high amenity values. Commercial activities are generally discouraged.

⁷⁰ Submission 238

⁷¹ K Banks, Section 42A Report, 25 May 2017, paragraphs 18.12 – 18.16

⁷² K Banks, Section 42A Report, 25 May 2017, paragraphs 12.6 – 12.20

⁷³ R Evans, Section 42A Report, 24 May 2017, paragraphs 6.14 & 6.26

⁷⁴ Ibid, paras 6.18 & 6.31

153. In addition to LDRZ, the PDP provides for MDR and HDR zones. The purpose of the MDRZ is to enable a greater supply of diverse housing options for the District at a higher density than the LDRZ. Development controls are designed to ensure that the reasonable maintenance of amenity values is maintained. MDR zones should be easily accessible to local shopping centres, town centres or schools by public transport, cycling or walking.
154. The HDRZ provides for efficient use of land within close proximity to town centres that is easily accessible by public transport, cycle and walkways. In Queenstown, it enables taller buildings than in other residential zones, subject to high design quality. Development controls provide minimum of protections for existing amenity values, and are otherwise prioritised towards enabling the community's wellbeing by promoting growth and development. There is a focus on intensification and small scale commercial activities are enabled to support larger residential developments, or to provide low impact local services.
155. The LSCZ, as recommended in Chapter 15, enables small scale commercial and business activities in discrete pockets of land that are accessible to residential areas and people in transit. The function of these local shopping centres is to meet the day to day needs of the community for convenient access to goods and services. These small scale centres should not undermine the role and function of town centres.
156. BMU zoning provides for complementary commercial, business, retail and residential uses that supplement the activities and services provided by town centres. Higher density living opportunities close to employment and recreational activities are also enabled. Significantly greater building heights are enabled in the Business Mixed Use Zone in Queenstown, provided that high quality urban design outcomes are achieved.
157. Designation 165 covers part of this area (Frankton Marina Local Purpose Reserve). In the PDP, this riparian reserve has been zoned Informal Recreation under the Stage 2 Variations.
158. The OCB for Queenstown Airport traverses a handful of lakefront properties at the western end of Sugar Lane. However the witnesses for both the Council and QAC proceeded on the basis that the submission sites were not within the OCB. This is not material given our recommendation to retain LDRZ.

18. ISSUES

- a. Traffic
- b. The most appropriate zone for the Frankton Marina/Sugar Lane area

19. DISCUSSION OF ISSUES AND CONCLUSIONS

159. We accept the Council's traffic engineering evidence was uncontested. Accordingly, we find that the Sugar Lane/SH6A/Marina Drive intersection experiences long delays and queues, there are safety issues with drivers risking shorter gaps in the State Highway traffic and that an increase in trips could exacerbate the current problems unless improvements are made. On traffic grounds only, the case was made to retain LDR zoning because it enables activities with relatively low rates of trip generation. We consider however that intersection upgrades would improve traffic management therefore we do not see traffic issues as determinative of zoning.

160. Traffic issues aside, both of the Council's planning witnesses considered that the notified LDRZ did not reflect existing and consented activities in and around Frankton Marina. We examined the current zones available within the PDP and concluded that none was suitable as a means of enabling the existing mix of activities at Sugar Lane to continue operating without recourse to frequent applications for resource consents.
161. Mr Muir sought BMU zoning however this would be contrary to the overall zoning strategy which provides for BMUZ near existing town centres (Queenstown and Wanaka). We accept that the mix of activities enabled by the BMUZ is a feature in its favour, however the zone enables an intensity of development that is not appropriate in this location. In our view, if the Council's goal is to enable the growth and development of mixed uses in the Sugar Lane area, a new zone is required.
162. Mr Muir identified an opportunity to allow Sugar Lane to become a vibrant development in support of a new marina. Ms Evans appeared to agree with him insofar as she considered some form of marine based commercial zone, or a structure plan or outline development that considers the further development of the Sugar Lane area as a whole would be beneficial. Z Energy supported Ms Evans in this regard and urged the Council to pursue rezoning in the near future. We agree that Sugar Lane could be redeveloped for a wide range of activities to support a new marina (assuming it proceeds) and we consider that a planning study is an essential first step should this be the Council's goal. We find that none of the available PDP zones is suitable for this purpose.
163. We are compelled by circumstances and the lack of suitable alternative zonings to recommend that LDR zoning be retained for the reasons set out above. As it happens, retention of LDR zoning also satisfies the further submissions lodged by QAC.

20. RECOMMENDATION

164. For the reasons set out above, we recommend that:
- a. Submissions 16, 125 and 312 be rejected; and
 - b. FS1340.51, FS1340.56 and FS1340.57 be accepted; and
 - c. FS1214.2 and FS1214.3 be rejected; and
 - d. Lower Density Suburban Residential zoning be retained for the submission sites; and
 - e. The Council consider undertaking a planning study of the Frankton Marina/Sugar Lane area, including the Z Energy site, to identify its optimal future development with a view to introducing a variation to apply a form of zoning (or other method) that achieves the community's desired outcomes.

PART F: BRUCE GRANT

Submitter Bruce Grant (Submissions 318 & 434)

Further Submissions

FS1340.72 - Queenstown Airport Corporation – opposes #318

FS1340.110 - Queenstown Airport Corporation – opposes #434

21. PRELIMINARY MATTERS

21.1. Subject of Submissions

165. These identical submissions related to a property located on the corner of Marina Drive and Frankton Road, Queenstown Hill.

21.2. Outline of Relief Sought

166. The submitter sought that the site be rezoned from Rural to LDRZ and amendment of the UGB to include the property within the urban area. For clarity, we note that the scope of the submission supported the inclusion of the land within the ONL.⁷⁵ This was an error because the site is excluded from the ONL, a fact that was acknowledged elsewhere in the submission and in expert evidence.⁷⁶

21.3. Description of the Site and Environs

167. This is a steeply-sloping south-facing site on a slight knob comprising three existing lots and a right of way with an area of approximately 5,516m.² Lot 7 contains a house and the other two lots are vacant. The land was once part of the main Grant family farm which takes in most of the south-east slopes of Queenstown Hill and land further east to Frankton. The land immediately to the north and east of these lots (Lot 4 DP459375) contains an active schist debris landslide hazard and a significant slip occurred on this land following the floods of 1999 causing damage to the road and properties below Frankton Road.⁷⁷

168. Marina Drive is an established residential area overlooking the Frankton Marina and many homes enjoy views of the lake and mountains.

⁷⁵ Submissions 318 & 434, paragraphs 3.1.1(b); see also K Banks, Section 42A Report Group 1B, 25 May 2017, paragraph 3.1 where this submission is recorded as 'being in support of the ONL'.

⁷⁶ Ibid, para 3.1.1 (a) (iii) Reasons for the Submission and L Millton, EIC, paragraph 2.5

⁷⁷ K Banks, Section 42A Report Group 1B, 25 May 2017, paragraph 23.9



Figure 5-6 – Property subject to the submission outlined in blue

21.4. The Case for Rezoning

169. The submitter stated that the subject land has been developed (under subdivision consent RM9900009) to a level which was no longer consistent with characteristics of the Rural Zone and the area of each lot was not an economic size to be farmed. The land was serviced in accordance with residential requirements and LDR zoning would be a logical, effective and sustainable use of this land. The land was close to amenities and seen as an extension to the adjacent LDRZ. Access and geotechnical issues were acknowledged however the submitter considered these matters had been addressed.
170. Planning evidence for the submitter was presented by Ms Lucy Millton. Ms Millton responded to the concerns raised in the Section 42A Report and Rebuttal Evidence of Ms Kim Banks for the Council, specifically development yield, access and natural hazards.
171. With respect to development yield, Ms Millton disputed Ms Bank's assessment that LDR zoning would enable 8 additional dwellings on the submission site. In her opinion, Lot 7 (which already has a house) is developed to its full potential therefore it should be excluded from the calculation. Lots 6 & 10 are subject to a consent notice which prohibits building over a large area of these lots along the eastern and southern boundaries. She considered that the building restriction area and right of way should also be excluded. On this basis, the remaining area of land available for development could enable 4 additional dwellings.⁷⁸

⁷⁸ L Millton, EIC, paragraph 4.1; Summary Statement, 9 August 2017, paragraph 3.1

172. Access to a future development would be via Marina Drive utilising Lot 24 DP23191 which was purchased for this purpose. This site lies to the west of Lot 6. No access to Frankton Road was proposed nor would NZTA agree to this in any event.⁷⁹
173. Ms Millton provided two geotechnical reports prepared in 1997 and 1998 that concluded the land was suitable for future residential development subject to the recommendations set out in each report. Consent was granted to a subdivision in 2009 and these recommendations were placed on each of the titles by way of consent notice. Ms Millton addressed Ms Banks' concern that placing a consent notice on land is not a sound approach to resource management because a consent notice can be altered and does not provide a tool for management or mitigation of risk, or reduction of public exposure to risk. She described the process whereby the conditions of the consent notice would come down to any new title created and referred to section 221 of the Act which applies when a consent notice is varied or cancelled.⁸⁰
174. At the hearing, Ms Millton tabled a brief report setting out the results of a site walkover carried out by Paul Faulkner, an engineering geologist.⁸¹ This report was provided because Ms Kim Banks considered that the geological reports were done some time ago and conditions may have changed.⁸² Mr Faulkner visually compared the current site topography with the available contour data and commented on the likelihood of changes to the underlying geology since 1997. He said that:
- "... it seems reasonable to conclude that the underlying geological stratigraphy is very likely to reflect the ground conditions identified in previous geological reporting."*
175. Finally, Ms Millton addressed the concern that rezoning of the land to LDRZ sets a development expectation for the site with respect to natural hazards whereas Rural zoning would not set any expectations over the density of development. In her opinion, under LDRZ, the restrictions applying to the site would be carried through therefore 4 additional dwellings would not set any unrealistic expectations.⁸³
176. For the Council, Dr Read evaluated the ONL and concluded that:
- "The subject site contributes little if anything to the character or amenity of the wider rural landscape in this vicinity. It is my opinion that development within the site would not impinge on the adjacent ONL to any significant extent."⁸⁴*
177. The main concern expressed by Ms Banks was that she did not consider the level of geotechnical information provided prior to the hearing gave adequate certainty that:
- a. the density of development enabled by the LDRZ would not significantly increase natural hazard risk (Policy 28.3.1.2 and 28.3.2.1 of the PDP as notified);
 - b. natural hazard risk could be avoided or managed for the level of permitted development enabled under a LDRZ without resource consent (1 unit per 450m², Rule 7.4.9 of the PDP as notified); and

⁷⁹ Ibid, paragraphs 4.2 & 4.8 of EIC, and paragraph 3.2 in Summary

⁸⁰ Ibid, paragraph 4.6 of EIC

⁸¹ Exhibit 13.6, letter from Mr Paul Faulkner, Geosolve, dated 9 August 2017

⁸² K Banks, Rebuttal Evidence, 11 July 2017, paragraph 3.7

⁸³ L Millton, Summary Statement, 9 August 2017, paragraph 3.5

⁸⁴ Dr M Read, EIC, paragraph 7.3

c. mitigation could be successfully provided on site (27.5.6 of the PDP as notified).⁸⁵

178. Ms Banks acknowledged that the land was well-located to support residential activity at increased densities.⁸⁶

179. QAC lodged a further submission opposing the rezoning of currently vacant land and/or enabling intensification of existing or residentially zoned land because this will bring more people to the aircraft noise effect now and into the future. Mr Kyle's evidence was that the best form of protection available to avoid potential reverse sensitivity effects is to avoid development 'coming to the effect' in the first place.⁸⁷ However the submission site is not located within the OCB and QAC has not initiated a plan change seeking to extend the OCB.

21.5. Discussion of Planning Framework

180. The land is zoned Rural and is not included within the ONL or UGB.

181. The Zone Purpose for the Rural Zone states that the purpose of the zone is to enable farming activities and provide for appropriate other activities that rely on rural resources while protecting, maintaining and enhancing landscape values, ecosystem services, nature conservation values, the soil and water resource and rural amenity. Typically, land within an ONL is zoned Rural but this is not the case here.

182. Objectives and policies of Chapter 21 for the Rural Zone provide for a range of land uses including farming to be enabled while protecting landscape, and other natural and amenity values, recognise economic diversification sustainable commercial recreation activities.⁸⁸ Rules in the plan provide for residential and larger scale commercial recreation as discretionary activities.

183. The LDRZ is the largest residential zone in the District. In Chapter 7 as recommended it is renamed the Lower Density Suburban Residential zone to more accurately capture the range of traditional and modern suburban densities and housing types enabled. Objective 7.2.1 provides for 'a mix of compatible suburban densities and a high amenity low density residential environment for residents...'. Policy 7.2.1.2 encourages development that 'maintains suburban residential amenity values including predominantly detached building forms, and predominantly one or two storey building heights.' Policy 7.2.1.3 seeks to maintain amenity values between sites, in particular privacy and access to sunlight. A clear theme is the maintenance of suburban character and high amenity values. Commercial activities are generally discouraged. Winton Partners sought either LDRZ, MDRZ, HDRZ or BMUZ.

184. The Strategic Direction includes Policy 3.2.2 as recommended which requires urban development to occur in a logical manner so as to (among other things) 'minimise the natural hazard risk, taking into account the predicted effects of climate change'.

185. This policy is implemented through Chapter 28 Natural Hazards and Chapter 27 Subdivision & Development. In addition, section 106 of the Act and sections 71 – 74 of the Building Act 2004 are important means of implementation. Overall, the Council's approach is based on case by

⁸⁵ K Banks, Supplementary Rebuttal Evidence, 11 July 2017, paragraph 3.8

⁸⁶ K Banks, Section 42A Report Group 1B, paragraph 23.12

⁸⁷ J. Kyle, EIC, 9 June 2017, paragraphs 6.4 – 6.8

⁸⁸ See Objectives 21.2.1, 22.1.8, 21.1.9, 21.1.10 and their related policies.

case assessment of the natural hazards present, their risk and methods of avoiding, remedying or mitigating any risks.

186. Chapter 28 Natural Hazards provides a policy framework to address natural hazards throughout the District. The District is recognised as being subject to multiple hazards and as such, a key issue is ensuring that when development is proposed on land potentially subject to natural hazards, the risk is managed or mitigated to tolerable levels. In instances where the risk is intolerable, natural hazards will be required to be avoided. Council has responsibility to address the developed parts of the District that are subject to natural hazard risk through a combination of mitigation measures and education, to lessen the impacts of natural hazards.
187. The Council maintains a natural hazards database and development proposals affected by, or potentially affected by, natural hazards as identified in the database will require an accompanying assessment of natural hazard risks commensurate with the level of risk posed by the natural hazards (see Policy 28.23.2.3).
188. Chapter 27 Subdivision & Development states that 'all subdivision is able to be assessed against a natural hazard through the provisions of section 106 of the RMA. In addition, in some locations natural hazards have been identified and specific provisions apply' (Rule 27.4.3.1).
189. Sections 71 – 74 of the Building Act 2004 apply to construction of buildings where natural hazards are identified or development is likely to accelerate, worsen, or result in a natural hazard on that land or any other property.⁸⁹
190. The submission site is not located within the OCB for Queenstown Airport.

22. ISSUES

- a. The most appropriate zone for this land
- b. Natural hazards

23. DISCUSSION OF ISSUES AND CONCLUSIONS

191. The key difference between the planning witnesses came down to their assessment of the adequacy of the natural hazards information provided and their appetite for risk. Did the submitter's information offer sufficient certainty that the level of development enabled by the LDRZ would not significantly increase natural hazard risk?
192. Ms Millton considered that an additional 4 lots enabled by LDR zoning would not set unrealistic expectations given the existing consent notice imposed a building restriction and mitigation conditions. We infer that Ms Millton therefore considered that the risk of natural hazards would not be significantly increased by rezoning this land from Rural to LDRZ. Ms Banks based her opinion on the potential for 8 additional lots and considered this level of development would significantly increase the natural hazard risk. She identified the need to avoid or manage the natural hazard risk for permitted activities and the need for greater certainty that mitigation can be successfully provided on site.

⁸⁹ See also Report 17-1, Section 4.4

193. The PDP's approach to natural hazards requires urban development to (among other things) *'minimise the natural hazard risk, taking into account the predicted effects of climate change.'* When development is proposed on land potentially subject to natural hazards, the risk is managed or mitigated to tolerable levels. In instances where the risk is intolerable, natural hazards will be required to be avoided. In practice, whether the risk is tolerable or intolerable requires a case by case assessment based on geotechnical evidence. The Council has powers under section 106 of the Act in regard to subdivision and sections 71-74 of the Building Act to refuse consent or require mitigation where the risk of natural hazards is unacceptable. These powers apply irrespective of the zoning.
194. We consider there is little practical difference between Rural and LDR zoning when it comes to the yield from subdivision and/or development of these properties for the reasons discussed below.
195. There is a known natural hazard to the north and east of the subject land (an active schist debris landslide) and subdivision consent has been granted subject to mitigation conditions now codified in a consent notice. Consequently, we accept that residential activity is the only efficient use of this land due to the size of the lots and their location within an existing urban area. The question then becomes 'how many additional lots (if any) are likely to be feasible?'
196. In our view, the additional number of lots capable of being developed would be determined by the feasibility of mitigating natural hazards risk and the willingness of the owners to pay for mitigation. LDR zoning may in theory lead to development expectations but in this case, the owners have first-hand experience of developing land subject to natural hazards risk and this must temper expectations.
197. Furthermore, residential activity is allowable within the Rural zone and there are no specific density constraints. An application for discretionary activity consent can be made to further subdivide the land for residential purposes and may well succeed because this land is not within the ONL and is logically part of the urban area. The number of lots requested would be determined primarily by the geotechnical assessment and effectiveness of mitigation in the circumstances.
198. On the other hand, the density of development allowed as a permitted activity in the LDRZ cannot be realised unless geotechnical evidence demonstrates that building work would not accelerate, worsen or result in a natural hazard. An application for subdivision consent in this zone would be subject to the same scrutiny in terms of natural hazards as an application made under the Rural zone provisions.
199. We do not accept Ms Kim Bank's argument that consent notices can be changed therefore a residential zoning would increase the risk of natural hazards. Whilst landowners can apply for a consent notice to be removed, the Council would likely refuse to approve such an application if there were a real natural hazard on the property.
200. Accordingly, we consider that the additional lots enabled would be determined by the Council's evaluation of the geotechnical evidence provided and the potential for mitigation, not the zoning.
201. Setting aside geotechnical matters, it is also necessary to consider the strategic approach to zoning in the PDP in order to determine the most appropriate zone for this land. Both planning witnesses considered that the land was urban in character and well-located in relation to

shopping and the usual amenities. We agree. The LDRZ enables a wide range of housing types that are one to two storeys in height and its purpose is the maintenance of suburban character and high amenity values. In our opinion, this land is suited to this purpose and style of development. LDR zoning is consistent with the zoning of the nearby residential area.

202. By contrast, traditional rural activities are unlikely to be viable on these relatively small sites. Instead, an application for discretionary activity consent to establish housing would likely follow given the existing urban character of Marina Drive. For this reason, we do not consider that the outcomes intended for the Rural Zone are likely to be achieved if that zoning is retained.
203. There being no issues with access being provided from Marina Drive, we conclude that LDRZ is the most appropriate zoning for this land. It follows that the UGB should be realigned to include the land to be rezoned as LDR within the growth boundary i.e., to align with the notified ONL line.
204. Finally, with respect to QAC's further submission, we consider it is not sound resource management practice to limit development potential in the face of uncertainty about the future of airport particularly in a location like Queenstown which has topographical constraints that limit the land available for urban development.⁹⁰

24. RECOMMENDATION

205. For the reasons set out above, we recommend that:
 - a. Submissions 318 and 434 be accepted, and
 - b. FS1340.72 and FS1340.110 be rejected; and
 - c. The submission site be rezoned from Rural to Lower Density Suburban Residential Zone and the Urban Growth Boundary be amended to align with the notified landscape classification line as shown on Planning Map 33.

⁹⁰ Refer Report 17-1, Section 5.3

PART G: MIDDLETON FAMILY TRUST

Submitter Middleton Family Trust (Submission 393)

Further Submissions

FS1077.14 Board of Airline Representatives of New Zealand (BARNZ): Opposes

FS1340.93 Queenstown Airport Corporation: Opposes

FS1097.260 Queenstown Park Limited: Support

FS1270.104 Hansen Family Partnership: Opposes

25. PRELIMINARY MATTERS

25.1. Subject of Submission

206. These submissions related to an area of approximately 114ha at the top of Queenstown Hill.

25.2. Outline of Relief Sought

207. The submission requested that the land be rezoned from Rural to Airport Mixed Use⁹¹.

25.3. Description of the Site and Environs

208. The site is at the top of Queenstown Hill. Gorge Road is to the west and the Frankton Arm of Lake Wakatipu and the strip of residential land alongside Frankton Rd is to the east. The site is shown in Figure 5-7 below.

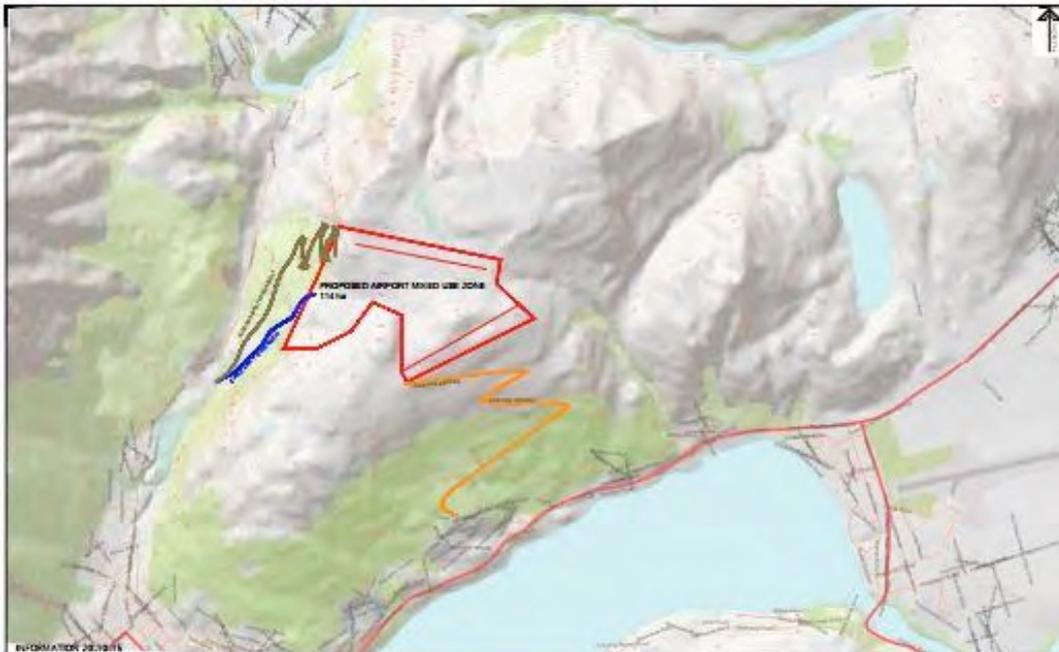


Figure 5-7 – Submission site in red. Proposed access roads shown in yellow and brown, possible cable car route in blue. Sourced from Submission 393 Attachment B

25.4. The Case for Rezoning

209. The submitter considered that the while the location and size of the Queenstown Airport was sufficient to ensure continuation of core air transportation, the submitter was not satisfied that projected expansion for commercial and private light aircraft and helicopter operations could occur within the proposed boundaries of the Airport Mixed Use Zone. It stated that

⁹¹ This has been renamed Airport Zone by the Stream 8 Hearing Panel and we use that term.

there was no land in the Wakatipu Basin of sufficient size to support such operations which was sufficiently removed to ensure none/minimal reverse sensitivity issues between residential occupation and aircraft operation.

210. The submitter stated that the "Air Park" would be in a unique location to avoid adverse effects upon surrounding properties and would alleviate pressure on Queenstown Airport, while allowing continued expansion in facilities and infrastructure for helicopter, flightseeing and general aviation operations. It stated that site was located 850m horizontally and 380m vertically from its nearest neighbour on Gorge Road, and there was a considerable landmass between residential zones to the east of Queenstown Township and those above Frankton Road; and site could be accessed by two existing metalled roads, one from Tucker Beach Road and one from Frankton Road. There was also potential for a cable car from Gorge Road providing for a park and ride.
211. No evidence was provided and the submitter did not appear at the hearing.
212. The Board of Airline Representatives of New Zealand⁹² opposed the proposal because of concerns about reverse sensitivity effects at Queenstown Airport.
213. Queenstown Airport Corporation⁹³ opposed the proposal in the absence of an aeronautical study confirming site suitability. It stated rezoning may result in significant adverse effects on QAC and on the wider environment that have not been appropriately assessed in terms of s32 RMA.
214. Hansen Family Partnership⁹⁴ opposed on the basis of adverse effects upon Hansen Family Partnership land.
215. The council's reporting experts all noted insufficient information had been provided to assess potential issues and adverse effects in their fields, including landscape, ecology, noise, infrastructure, noise, infrastructure and natural hazards. The submitter did not attend the hearing and we received no further information other than that contained in the submission.

25.5. Discussion of Planning Framework

216. The site is in the Rural Zone and within the ONL. Objectives and policies in Chapters 3 and 6 require the identification and protection of ONL's.⁹⁵

26. ISSUES

- a. Landscape
- b. Ecology
- c. Noise
- d. Infrastructure

⁹² FS1077

⁹³ FS1340

⁹⁴ FS1270

⁹⁵ Objective 3.2.5, Policy 3.2.5.1, 3.3.29, 3.3.30 and 6.3.1.1

- e. Natural hazards
- f. Effects on operations at Queenstown Airport

27. DISCUSSION OF ISSUES AND CONCLUSIONS

217. Mr Buxton⁹⁶ stated that the submitter had provided insufficient information to begin to assess the requested rezoning, including landscape, hazards, noise, services, traffic, ecology, amenity and economic effects. We agree and add to his list any potential effects on operations at Queenstown Airport. The information is not merely insufficient, but practically non-existent.
218. This is not a new proposal. The site has been considered previously and discarded in earlier planning studies investigating options for airport development in Queenstown⁹⁷. Those investigations were looking for sites for the entire airport. This submitter is only seeking to provide for “non-core” light commercial aircraft and helicopters, operating in conjunction with the existing airport. However the interplay between this site and the existing airport would need to be assessed, as would all the environmental effects.
219. Ms Rachel Tregidga for QAC put it succinctly when she said:⁹⁸

The detail provided in the submission is inadequate to ascertain with any certainty what is proposed and how it might relate to or interplay with operations at Queenstown Airport, and at the time of writing this evidence, no further information has been made available by the submitter.

It is noted that any establishment of an aerodrome would require CAA acceptance of a comprehensive risk based aeronautical study. In addition, key criteria for evaluating a site should include airfield requirements (runway length, orientation, and obstacle limitation surfaces); core utilities and infrastructure services; supporting community for workforce and accommodation requirements; surface access requirements; environmental and heritage considerations, and the site’s ability to accommodate supporting landside facilities.

220. Obviously this submission is premature. It is not the same proposal previously studied by the airport authorities, but even so all the matters mentioned by Ms Tregidga would need to be investigated before the site could be considered for inclusion in the district plan.

28. RECOMMENDATION

221. For the reasons set out above, we recommend that:
- a. Submission 393.1 and FS1097.260 be rejected; and
 - b. FS1077.14, FS1240.93 and FS1270.104 be accepted; and
 - c. Rural zoning be retained on the submission site.

⁹⁶ R Buxton, Section 42A Report, 24 May 2017, paragraph 28.9

⁹⁷ R Tregidga, EIC, 9 June 2017, paragraphs 56-62.

⁹⁸ R Tregidga, EIC, 9 June 2017, paragraphs 61 - 62

PART H: SUMMARY OF RECOMMENDATIONS

222. For the reasons set out above, we recommend that:
- a. Submission 347 be accepted (Part A);
 - b. Submission 336 be accepted and Further Submission 1340 be rejected (Part B);
 - c. Submission 150 be accepted in part and Further Submission 1340 be rejected (part C);
 - d. Submissions 389 and 391 and Further Submission 1331 be accepted in part, and Further Submission 1340 be rejected (Part D);
 - e. Submissions 16, 125 and 312 and Further Submission 1214 be rejected, and Further Submission 1340 be accepted (Part E);
 - f. Submissions 318 and 434 be accepted and Further Submission 1340 be rejected (Part F);
 - g. Submission 393 and Further Submission 1097 be rejected, and Further Submissions 1077, 1240 and 1270 be accepted (Part G).
223. As a consequence of those recommendations, we recommend that:
- a. Lot 102 DP 411971 be entirely zoned Lower Density Suburban Residential and the adjoining land to the north which was notified with Low Density Residential be zoned Rural, and the Landscape Classification line and the Urban Growth Boundary be aligned with the zone/site boundaries;
 - b. The Queenstown Hill Overlay Area be removed from the planning maps;
 - c. 634 Frankton Road be zoned Medium Density Residential;
 - d. The Goldfields Body Corporate land be zoned Medium Density Residential; and
 - e. The site on the corner of Marina Drive and Frankton Road be zoned Lower Density Suburban Residential and the Urban Growth Boundary be aligned with the zone boundary.
224. We further recommend that:
- a. References to Queenstown Hill Overlay Area be removed from Chapters 7 and 27 (refer Part B); and
 - b. The Council consider undertaking a planning study of the Frankton Marina/Sugar Lane area to identify its optimal further development and consider initiating a variation to apply planning controls that achieves the community's desired outcomes (refer Part E).

For the Hearing Panel



Denis Nugent, Chair

Date: 4 April 2018