

# **QUEENSTOWN LAKES DISTRICT COUNCIL**

**Hearing of Submissions on Stage 3 Proposed District Plan Provisions**

**Report and Recommendations of Independent Commissioners**

**Report 20.8: Chapter 20**

**Settlement Zone, and Related Variations to  
Chapters 7, 25, 27, 29, 31 and 36**

## **Commissioners**

**Trevor Robinson (Chair)**

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## **1. PRELIMINARY**

### **1.1 Subject Matter of this Report**

1. This Report addresses the submissions and further submissions heard by the Stream 18 Hearing Panel in relation to Chapter 20 – Settlement Zone, together with the related variations to Chapters 7, 25, 27, 29, 31 and 36 and to the PDP maps.
2. The Council Reporting Officer, Ms Amy Bowbyes advised us that the Settlement Zone replaces the ODP Townships Zone which formerly applied to the settlements of Makarora, Luggate, Glenorchy, Kinloch and Kingston. In addition:
  - a) Cardrona is proposed to be rezoned Settlement Zone. Under the ODP, it was zoned Rural Visitor;
  - b) Albert Town and Hāwea areas formerly zoned Townships under the ODP are proposed to be zoned Lower Density Suburban Residential Zone (LDSRZ).
3. Some submissions sought amendments to the LDSRZ provisions applying to newly zoned areas of Hāwea, in particular, or extensions to the newly zoned residential areas in both Albert Town and Hāwea. Those submissions are addressed in this Report, as are proposals to extend the Settlement Zones at Luggate and Cardrona.

### **1.2 Relevant Background**

4. This Report needs to be read in conjunction with Report 20.1 which provides a list of abbreviations that we will use in this Report, together with background detail on:
  - a) The appointment of commissioners to this Hearing Panel;
  - b) Procedural directions made as part of the hearing process;
  - c) Site visits;
  - d) The hearings;
  - e) The statutory considerations bearing on our recommendations;
  - f) General principles applied to rezoning requests;
  - g) Our approach to issues of scope.
5. We do not therefore repeat those matters although, in the section following, we provide greater detail on aspects of the RPS and of the now resolved Chapter 4 of the PDP that are particularly relevant to our consideration of Chapter 20 and the resulting plan and mapping variations that we had to consider.
6. The structure of this Report is that after discussing relevant RPS provisions, we will review first submissions relating to the content of Chapter 20 followed by submissions relating to the related variations. To the extent that submissions seek relief consequential on zoning changes, we will consider those submissions in conjunction with the zone relief that they seek in the section 5 of our Report, arranged by geographical area.
7. We record that we have adopted the general approach outlined in Section 3.6 of Report 20.1 to the preparation of this Report.

## **2. STATUTORY CONSIDERATIONS**

8. As above, Report 20.1 outlines both the required approach to consideration of submissions and further submissions, and the content of key documents bearing on our recommendations. The NPSUD is of particular relevance to our consideration of submissions in relation to settlements that form part of the Queenstown or Wānaka Urban Areas. We will not repeat

the extensive discussion of the NPSUD in Report 20.1 other than to emphasise its relevance to the discussion that follows.

9. The provisions of the RPS of relevance, which we discuss next, need to be read in the light of and subject to the NPSUD which post-dated it.
10. With that qualification, the key provision of the RPS relevant to Chapter 20 is Policy 4.5.1: Providing for Urban Growth and Development, which reads:  
*“Provide for urban growth and development in a strategic and co-ordinated way, including by:*
  - a) *Ensuring future urban growth areas are in accordance with any future development strategy for that district;*
  - b) *Monitoring supply and demand of residential, commercial and industrial zoned land;*
  - c) *Ensuring that there is sufficient housing and business land development capacity available in Otago;*
  - d) *Setting minimum targets for sufficient, feasible capacity for housing in high growth urban areas in Schedule 6 [Schedule 6 does not currently have any entries];*
  - e) *Coordinating the development and the extension of urban areas with infrastructure development programmes, to provide infrastructure in an efficient and effective way;*
  - f) *Having particular regard to:*
    - i. *Providing for rural production activities by minimising adverse effects on significant soils and activities which sustain food production;*
    - ii. *Minimising competing demands for natural resources;*
    - iii. *Maintaining high and outstanding natural character of the coastal environment; outstanding natural features, landscapes, and seascapes; and areas of significant indigenous vegetation and significant habitats and indigenous fauna;*
    - iv. *Maintaining important cultural historic heritage values;*
    - v. *Avoiding land with significant risk from natural hazards;*
  - g) *Ensuring efficient use of land;*
  - h) *Restricting urban growth and development to areas that avoid reverse sensitivity effects unless those effects can be adequately managed;*
  - i) *Requiring the use of low or no emission air heating systems where ambient air quality is*
    - i. *Below standards for human health; or*
    - ii. *Vulnerable to degradation given the local climatic and geographical context;*
  - j) *Consolidating existing coastal settlements and coastal urban areas where this will contribute to avoiding or mitigating sprawling or sporadic patterns of settlement and urban growth.”*
11. That policy supports Objective 4.5:  
*“Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments.”*
12. The provisions of Chapter 4 relevant to urban development were finalised by Environment Court consent order dated 20 August 2020. Although not purporting to implement the NPSUD, those provisions are of particular relevance to this topic. We note the content of Policies 4.2.1.4 and 4.2.2.2 in particular. The former directs that urban growth boundaries encompass, at a minimum *“the anticipated medium term demand for housing and business land within the District assuming a mix of housing densities and form.”* Other elements of the policy emphasise the ongoing availability of a competitive land supply, a compact and efficient urban form, and minimising the loss of the productive potential and soil resource of rural land.

addressed by way of designation. As she pointed out in her Section 42A Report, the Taieri Gorge Railway Company obtained requiring authority status, providing an obvious precedent.

372. Alternatively, it could be the subject of resource consent as a true exception to what the PDP envisages in the Settlement Zone.
373. As regards Mr Grace's suggestion that the lakeward end of the rail corridor from the Station should be Commercial Precinct, we found it difficult to understand how any commercial development of the area could be undertaken without removing the train line and train infrastructure, rather undermining the expressed purpose of the rezoning relief. We accept that it is questionable whether the land would ever be able to be developed for residential purposes, in accordance with the purpose of the zone, but we find that a Settlement Zoning without a Commercial Precinct overlay would assist in preserving high quality amenity values in the area in accordance with Objective 20.2.2.
374. Ms Devlin also pointed out the inconsistency of what was proposed with the statement in Objective 20.2.3 that commercial and visitor accommodation activities within the Settlement Zone are limited in scale and provide for local and visitor convenience.
375. In summary, for all these reasons, while we accept the recommended to the zone maps Ms Devlin has recommended, we do not recommend the further changes sought by the submitter.
376. It also follows that we largely recommend rejection of the Bryce submission. The submitter did not appear before us to take issue with Ms Devlin's recommendations. Those recommendations involve rezoning of part of the Bryce property and to that extent, the submission might be described as accepted in part.

#### **5.4 Luggate Mapping Changes**

377. Luggate was the subject of two submissions. The first, from the HW Richardson Group<sup>98</sup> sought either a Business Mixed Use Zone (BMUZ) or a Commercial Precinct overlay over a proportion of the Upper Clutha Transport Limited Industrial/transport depot on the main road through Luggate. The Commercial Precinct aspect of the relief was expressed to be conditional on Upper Clutha Transport relocating to a site in Church Road that is the subject of the Stream 17 Hearing Panel's Report 20.3.
378. In her Section 42A Report, Ms Devlin opposed the requested rezoning to BMUZ on the basis that that zone is an intensive urban zone providing for a mix of uses that supplement the activities and services provided by town centres. She considered its location within a Settlement Zone would be inconsistent with the strategic direction of the PDP insofar as it directs the application of urban growth boundaries around identified urban areas (that do not include Luggate).
379. She also noted that the BMUZ does not provide for industrial activities on the scale undertaken at the depot, so that they would be non-complying pursuant to Rule 16.4.8.
380. Ms Devlin similarly identified that the Commercial Precinct sought would not provide for the existing industrial activities on the site, but given the long use of the site for both commercial and industrial activities as evidenced by the historic flour mill building on the site, zoning to reflect that historic commercial use and provide for ongoing use of the land for commercial purposes would in her view be appropriate.

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<sup>98</sup> Submitter #3285

381. The case advanced for the submitter was an inextricably intertwined with the submission of Upper Clutha Transport Limited<sup>99</sup> seeking rezoning of the Church Road site the subject of Report 20.3. It was evident from the legal submissions presented by Mr Christensen for both submitters that the overall objective of the submitters is to enable the existing industrial activities to be moved to Church Road, whereupon the site might be developed for commercial purposes. We had a lengthy discussion with Mr Christensen regarding the interrelationship between the two. While Mr Christensen was clear that that is the submitters' objective, understandably, any final decision would depend on the outcome of the associated Church Road rezoning, including any constraints the Stream 17 Hearing Panel might recommend governing use of that site. We therefore cannot rely on relocation occurring and thus we have to consider the appropriate zoning of the site having regard to its existing uses and to its potential for redevelopment.
382. The planning case for rezoning was the subject of the evidence of Ms Justice. Ms Justice explained to us the planning history of the site. Prior to the ODP, the site was zoned Industrial. The ODP applied a Township zoning and in 2015 a resource consent authorising construction, operation and use of a non-residential building and associated signage was granted. In Ms Justice's opinion, the combination of existing use rights derived from the planning position prior to the ODP and the 2015 resource consent enable the ongoing operation and use of the site for a combination of industrial, commercial and service related activities. She noted that both industrial and service activities are non-complying activities under the Township Zone.
383. Ms Justice addressed the position if Upper Clutha Transport is able to relocate to Church Road. In her view, that would enable redevelopment in line with the outcome sought for the Commercial Precinct would be appropriate for similar reasons to those set out in Ms Devlin's Section 42A Report.
384. Ms Justice observed that the area sought to be rezoned makes up only a portion of the site occupied by the submitter. Settlement zoning over the balance of the site (which appears to be largely forested hillside) is not opposed.
385. Ms Justice noted Ms Devlin's reasoning for recommending a BMUZ zoning but did not, as far as we could identify, provide any comment as to why Ms Devlin's reasoning was flawed.
386. Ms Justice did not expressly consider the position if Upper Clutha Transport does not relocate to Church Road. Mr Christensen submitted that in that event, rezoning the existing Luggate site BMUZ would better provide for the existing activities on the site. One might contrast that submission with Mr Christensen's acknowledgment that the intention of the PDP not to make provision for the existing industrial and related activities on the site is at one level reasonable. Quite apart from that apparent inconsistency, we are unclear as to the basis for Mr Christensen's submission. As above, the existing activities would rely on existing use rights and rights derived from the 2015 resource consent either way. Moreover, in both cases, the existing activities would be non-complying. In addition, given that Ms Justice did not provide a planning response to Ms Devlin's broader reasoning relying on the role of BMUZ within the framework of the PDP, and Mr Christensen did not address the issue, we have no answer to that point either.
387. That said, we agree with Ms Devlin that the BMUZ is inappropriate for this site in particular, or more generally, for a Settlement Zone.

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<sup>99</sup> Submitter #3256

388. Turning to rezoning to add a Commercial Precinct overlay, neither Ms Justice nor Mr Christensen explained to us how we could make any rezoning relief conditional on Upper Clutha Transport relocating to Church Road. We do not consider that possibility further.
389. We agree with Mr Christensen that the best planning outcome would be if Upper Clutha Transport had the ability to relocate offsite and the site were redeveloped.
390. The reality is, however, that if it chooses, Upper Clutha Transport can continue to exercise the rights it currently enjoys via the combination of its existing use rights and the 2015 resource consent. That said, we agree with Mr Christensen's observation that the presence of some of the existing industrial activities on the sites sits uneasily alongside the attractive, low-density settlement living environment provided by the balance of Luggate Township and, we would add, intended within the Settlement Zone. The activity is out of place in its current environment and we do not consider that the Plan should seek to provide further for it.
391. Both planners recommend a Commercial Precinct over that part of the site currently utilised for industrial purposes. Essentially for the reasons set out in the evidence of Ms Devlin and Ms Justice, we think that redevelopment of the site for commercial purposes is the outcome the Plan should provide for.
392. We therefore recommend that a Commercial Precinct overlay be applied to the part of the site the subject of submission.
393. The second Luggate-related submission we heard was that of Lake Mackay Partnership Limited<sup>100</sup>. This was addressed in the Section 42A Report authored by Ms Bowbyes. The site the subject of submission is accessed from Atkins Road, at the northern margins of Luggate. It consists of a small rectangular area immediately to the north of Atkins Road that includes some existing farmhouses that were formerly part of Lake Mackay Station. That area is set back from the state highway at the base of a small escarpment rising up to a flat terrace that winds around the back of the notified Settlement Zone. The site was zoned Rural Residential in Stage 1 of the PDP process, with a Building Restriction Area over a lower area on the upper terrace adjoining Luggate Creek (the blue hatched area in the Figure below). The submission sought rezoning of the entire site as Settlement Zone, including uplifting of the Building Restriction Area.

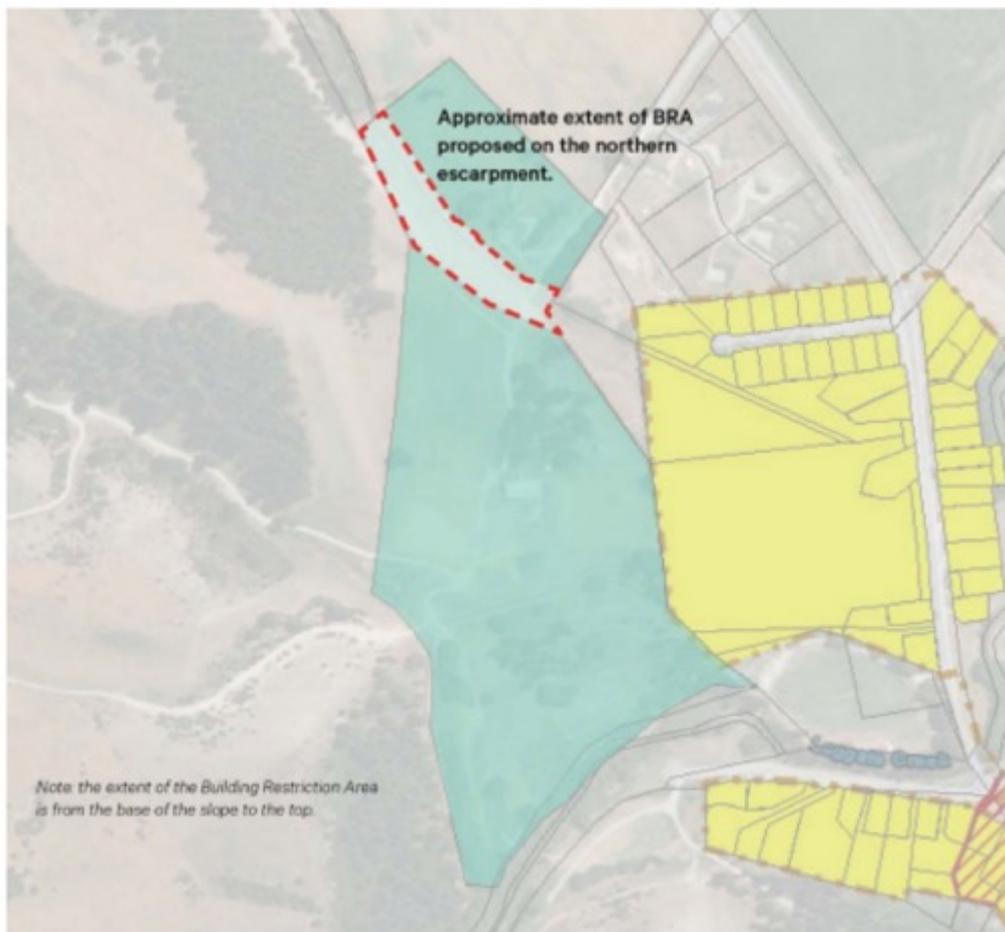
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<sup>100</sup> Submitter #3196



Snip from Decisions Version Map 11, showing the BRA overlaid across the southern portion of the site.

394. The submission sought some minor enlargement of the upper terrace area zoned Rural Residential in places (and shrinkage at the southern end) to better reflect the contours.
395. Ms Bowbyes advised that the difference between the existing Rural Residential Zone and the proposed Settlement Zone is a development yield of approximately 97 lots.
396. In her Section 42A Report Ms Bowbyes relied on the evidence of Mr Bond that the hazard risk within the existing Building Restriction Area had not been sufficiently assessed, but is much higher than that applying on the balance of the site. She did not recommend that the Building Restriction Area be uplifted.
397. Ms Bowbyes noted that the submission was accompanied by a landscape assessment (of Mr Ben Espie) which recommended an additional Building Restriction Area be imposed on the 10 metre high escarpment separating the two terraces on the site, but otherwise supported the proposal. Ms Bowbyes noted that Council's landscape expert assessing the submission (Mr Jones) generally supported Mr Espie's findings. The location of the proposed Building Restriction Area is as shown below.



*Note: Not to scale. (Base plan sourced from QLDC.maps.arcgis.com)*

398. Ms Bowbyes noted also that the expert traffic evidence of Mr Smith for the Council found that while requiring further consideration at subdivision stage, the proposed rezoning would not have significant effects on the existing roading network.
399. Ms Bowbyes however recommended that the submission be rejected on the basis of Mr Powell's evidence for the Council that insufficient evidence had been provided on infrastructure capacity.
400. Having said that, she accepted that the site would serve as a logical extension of the Settlement Zone applied to Luggate and that all other effects issues could be adequately addressed by the measures she had recommended.
401. The submitter provided planning evidence from Mr Curley and infrastructure evidence from Mr Botting. Mr Botting's evidence analysed both the provision of potable water and wastewater treatment and disposal options, concluding that the site can be appropriately serviced. Having considered that evidence, Mr Powell altered his view and ceased to oppose the rezoning relief sought.
402. Mr Curley addressed the natural hazard issues that related to the Luggate Creek area. He advised that the submitter did not oppose retention of the existing Building Restriction Area.

403. These various shifts in position prompted Ms Bowbyes to confirm in her rebuttal evidence that she recommended this submission be accepted in part subject to imposition of the two Building Restriction Areas recommended in her Section 42A Report.
404. Given the consensus on apparently every aspect of this submission, we had only two issues that we sought to explore with the Council witnesses. The first related to the potential for development at a Settlement Zone density north of Atkins Road to be visually inconsistent/not integrated with the Rural Residential Zone density development south of the road. Mr Jones, the Council's expert landscape and visual witness, did not think that this would be an issue, which we accept.
405. The second point that we discussed with Mr Jones was whether rezoning the rectangular land on the lower terrace might create future issues because of the absence of any defensible boundary precluding progressive expansion of the Settlement Zoned land to the north and east, potentially even jumping the State Highway.
406. The background to this question lay in the fact that Stage 1 Report 16.9 records that the reporting planner there, Mr Barr, recommended that the lower terrace not be rezoned Rural Residential in order to provide a defensible zone boundary in the form of Atkins Road.
407. We note in passing that Report 16.9 also records that Mr Barr had observed that rezoning of the upper terrace to Lower Density Suburban Residential Zone (i.e. an Urban Density Zone) would be a more efficient use of the land, subject to infrastructure constraints being overcome, but that there was no scope for him to recommend that outcome. Obviously, with the infrastructure issues now addressed, that supports the Settlement Zone Ms Bowbyes is now recommending.
408. The Hearing Panel did not agree with Mr Barr's recommendation in relation to the lower terrace component on the basis that as the land to the south of Atkins Road was zoned (and developed) as Rural Residential, it was already beyond the margins of the township<sup>101</sup>. That logic would not, of course, apply if the lower terrace were rezoned Settlement, and Mr Jones confirmed to us that there was no defensible boundary that would preclude expansion further north. When Ms Bowbyes appeared, she advised us that both Mr Espie and Mr Jones were working on the assumption that there was an urban growth boundary around Luggate, which is not correct. She indicated that she would need to ponder further the implications of their misapprehension of the position.
409. By her reply, Ms Bowbyes had developed a comprehensive response to the potential issue we had identified, suggesting a new policy specific to this site requiring adequate setbacks, a new minimum setback of any boundary adjoining the Rural Zone, a new standard relating to the permeability of any fencing adjoining the Rural Zone and provision for landscaping to be considered as part of any subdivision on the lower terrace north of Atkins Road. She advised that this package of provisions had been developed with significant input from the experts advising the submitter and that, in her view, the costs of the site-specific provisions outlined above would be outweighed by the benefits of upzoning the land north of Atkins Road.
410. We are grateful to Ms Bowbyes (and Mr Curley) for the effort they put in to find a constructive answer to the question we posed. If we were clear that this site represents the outer limits of development of Luggate to the north alongside State Highway 6, then we would recommend acceptance of the package of provisions set out in Ms Bowbyes' reply evidence. We are,

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<sup>101</sup> See the discussion at paragraph 33

however, by no means sure that this is the case, and we are concerned that the mitigation measures Ms Bowbyes recommends may provide a short term benefit, but a long term cost, because they will impede further urban development to the north, adjoining State Highway 6.

411. The conundrum we face is the result of our having only a site-specific proposal and no broader strategic plan against which to assess it.
412. This issue throws into contrast the competing directions in the NPSUD to be responsive to Plan Changes providing development capacity, but to be strategic over the medium and long term – refer Objective 6.
413. We think it is important that although not immaterial, the development capacity of the area of lower terrace proposed to be rezoned and not the subject of the escarpment Building Restriction Area appears relatively small. While Objective 6 of the NPSUD implies that decisions on urban development should be responsive irrespective of the development scale, Policy 8 puts the emphasis firmly on Plan Changes that would add significantly to development capacity.
414. We were not given details of the size or yield of the area on the lower terrace, but it is clearly a relatively small proportion of the overall site. Accordingly, we think that the direction for strategic management wins out in this case and that the decision as to the basis on which the lower terrace might be rezoned, and whether in particular that should be done in a way that seeks to preclude further development on that lower terrace, or alternatively is designed to integrate with such further development needs to be made first.
415. On that basis, we accept Ms Bowbyes' recommendation as to rezoning of the site save as it relates to the lower terrace north of Atkins Road, below the escarpment. We recommend that remain Rural Residential for the moment and that the Council consider more strategically where and how it wants Luggate to grow in future, consistent with the directions in the NPSUD. As noted in Report 16.9, such a strategic analysis could consider whether an Urban Growth Boundary is required for Luggate, so as to provide a greater level of direction consistent with the Strategic Chapters of the PDP than is the case at present. It may be that such a review could be combined with the Spatial Plan that we understand Council is working on at present.
416. There is one residual issue that we should address. The consequence of our recommended upzoning of part of the site is that it would have an 'urban' zoning. Ms Bowbyes did not address the implications of that zoning for the current categorisation of the site as being within a Rural Character Landscape. Policy 6.3.3.1 that is in the process of finalisation by the Environment Court makes it clear that that categorisation is reserved for 'Rural Zoned' land. It seems to us that it must follow that the landscape categorisation line shown on the planning maps needs to be drawn around (i.e. to exclude) those parts of the site that are zoned Settlement. We therefore recommend that further change to the planning maps as a consequence of rezoning.

## **5.5 Albert Town Mapping Changes**

417. As part of the review of the ODP Township Zone, rather than notifying the existing Albert Town Township Zone as Settlement Zone, it was notified as Lower Density Suburban Residential Zone ("LDSRZ") to recognise the fact that Albert Town is now effectively part of the larger settlement of Wānaka.