

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

UNDER THE Resource Management Act 1991 (“**Act**”)
IN THE MATTER OF Stage 3b Proposed District Plan – Wāhi tūpuna
BETWEEN **GIBBSTON VALLEY STATION** (Submitter
#31037)
AND BETWEEN **MALAGHANS INVESTMENTS LIMITED**
(Submitter #31022)
AND **QUEENSTOWN LAKES DISTRICT COUNCIL**
Planning Authority

RVZ EXCEPTION ZONE ISSUES: SUPPLEMENTRY LEGAL SUBMISSIONS

5 NOVEMBER 2020

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MAY IT PLEASE THE PANEL:**Introduction**

1. These supplementary submissions in respect of the listing of the Rural Visitor Zone (RVZ) as an Exception Zone in Chapter 3 are made, as with earlier submissions, on behalf of the following submitters (“**Submitters**”):
 - (a) Gibbston Valley Station (Submitter #31037) (“**GVS**”); and
 - (b) Malaghans Investments Limited (#31022) (“**MIL**”).
2. These submissions follow the invitation of the Panel to respond to the Council’s request by memorandum of 28 October 2020 to list the RVZ as an Exception Zone in Chapter 3 (specifically 3.1B.5) – both as to:
 - (a) “the substance”; and
 - (b) the Council’s submission that clause 10(2)(b) of the First Schedule provides jurisdiction.

Substance

3. The Submitters had assumed or understood that if the RVZ was applied to land, then that land would be an Exception Zone – although on reflection the evidence for the Submitters was not explicit in that respect. However, the assumption or understanding is a reasonable one, given the nature of the RVZ and its provisions. It underlined the approach taken to ensuring both that:
 - (a) the RVZ provisions and in particular its objectives and policies could stand “alone”; and
 - (b) that the relevant land to be rezoned to RVZ was demonstrated to be suitable for that zoning.
4. The Submitters are firmly of the view that the expectation of other submitters would also have been that the RVZ would be an Exclusion Zone, and would have approached their submissions on this basis.
5. From a practical perspective, if the RVZ is not an Exclusion Zone, then the Submitters consider that this would create duplication of effort, if not

considerable uncertainty, at the consenting stage. This is because resource consents, even for restricted discretionary activities, would need to be assessed or considered against all the relevant Strategic Objectives and Strategic Policies. This was not the expectation of the Submitters, particularly recalling that the RVZ rules as notified provided for most buildings (unless individually over 500 sqm) as controlled activities. The expectation was that the RVZ would be a largely self-contained framework for the management of activities within that Zone.

6. Some of the benefits of the RVZ, in terms of certainty and efficiency of the zone would be lost, if it were not an Exclusion Zone.

Jurisdiction

7. Clause 10(2)(b) of Schedule 1 of the RMA provides that a decision on provisions:

(b) may include -

- (i) matters relating to any consequential alterations necessary to the proposed statement of plan arising from the submissions ...

8. The Council has referenced the submissions made by the Submitters, which include as reasons for the support of the RVZ as being that the: zone and/or rules will provide:

... appropriate safeguards and controls on activities within the Zone including the location of buildings outside of landscapes of high visual sensitivity and monitor building development to ensure landscape values are considered and reflected in the building design;

And:

... for visitor industry activities at a location ... within a landscape that can accommodate change, while avoiding, remedying and mitigating adverse effects on an ONL (section 6 of RMA)

9. The relief in the submissions also sought (which was not identified by the Council):

... any other additional or consequential relief to the PDP, including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations that will fully give effect to the matters raised in this submission.

10. In other words, the submissions themselves “bring in” the reasons and explanations given in the submissions into the “relief sought”. On that

basis, it is arguably not even necessary to rely on Clause 10(2)(b) of Schedule 1 for jurisdiction to determine the RVZ as an Exclusion Zone.

11. That said, Clause 10(2)(b) should provide the Panel with comfort, in addition to the submissions themselves, that it has ample jurisdiction to list the RVZ as an Exception Zone.

DATED 5 November 2020



J D K Gardner-Hopkins
Counsel for the Submitters