

Form 5

**Submission on notified proposal for policy statement or plan, change or variation
Clause 6 of Schedule 1, Resource Management Act 1991**

To: Queenstown-Lakes District Council

Name of submitter: Tussock Rise Limited.

This is a submission on the following proposed policy statement (or on the following proposed plan or on a change proposed to the following policy statement or plan or on the following proposed variation to a proposed policy statement or on the following proposed variation to a proposed plan or on the following proposed variation to a change to an existing policy statement or plan) (the proposal):

1. Chapter 18A General Industrial Zone; and
2. All General Industrial Zone areas on the planning maps
3. All associated General Industrial variations
4. Chapter 19A Three Parks
5. All zone areas associated with Three Parks on the planning maps, including the Business Mixed Use Zone
6. All associated Three Parks variations
7. 100 Ballantyne Road variation
8. The application of the Active Sport and Recreation Zone to 100 Ballantyne Road.

I ~~could~~/could not gain an advantage in trade competition through this submission.

I am/~~am not~~ directly affected by an effect of the subject matter of the submission that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

The specific provisions of the proposal that my submission relates to are:

1. Chapter 18A General Industrial Zone; and
2. All General Industrial Zone areas on the planning maps
3. All associated General Industrial variations
4. Chapter 19A Three Parks
5. All zone areas associated with Three Parks on the planning maps, including the Business Mixed Use Zone
6. All associated Three Parks variations
7. 100 Ballantyne Road variation
8. The application of the Active Sport and Recreation Zone to 100 Ballantyne Road.

My submission is:

Background

1. Tussock Rise Limited (**TRL**) are the owners of Lot 2 DP 477622, held in Record of Title 664871 (“**the property**”). TRL purchased the property in 2017 from the Gordon Family Trust.
2. The Gordon Family Trust submitted on Stage 1 of the PDP (transferred to TRL) seeking that the TRL land be rezoned to Low Density Suburban Residential. This submission was ruled out of scope by the Hearings Panel, and this decision was appealed to the Environment Court. In decision [2019] NZEnvC 111 dated 21 June 2019 (Attachment [**A**]) the Court refused to strike out any part of the appeal by Tussock Rise Limited. This submission and appeal remain unresolved.
3. As evidenced by the 2015 submission on Stage 1 of the PDP, TRL and previous owners have considered for many years that the operative Industrial B zone (which is similar in many respects to the notified General Industrial zone), is unsuitable for the site due to the surrounding residential activities.
4. There is more than sufficient industrial land zoned in the Wanaka ward of the Queenstown Lakes district, and also in Cromwell. The 2017 Business Development Capacity Assessment (“**BDCA**”) by Market Economics shows sufficient capacity for all business land uses in the short, medium and long-term in the Wanaka Ward. The 2046 land demand for business purposes in Wanaka is estimated at 19.9ha¹ and the total urban business enabled zones for Wanaka was estimated at 72ha². While land is to be lost through the proposed rezoning of the former oxidation ponds site, additional industrial land is also proposed to be zoned as part of Stage 3 south of the former oxidation ponds. Queenstown and Cromwell also provide capacity for the Wanaka ward.

Proposed General Industrial Zone (Chapter 18A)

1. The wider “Wanaka Business and Industrial Area” comprises land currently zoned Industrial A and B, the Business Sub-Zone from the Three Parks Special Zone, and the Ballantyne Road Mixed Use Zone (**BRMUZ**) under the Operative District Plan (**ODP**), as shown in Figure 1 below:

¹ Page 7 BDCA – Figure 0.2.

² Page 11 BDCA – Figure 0.1.

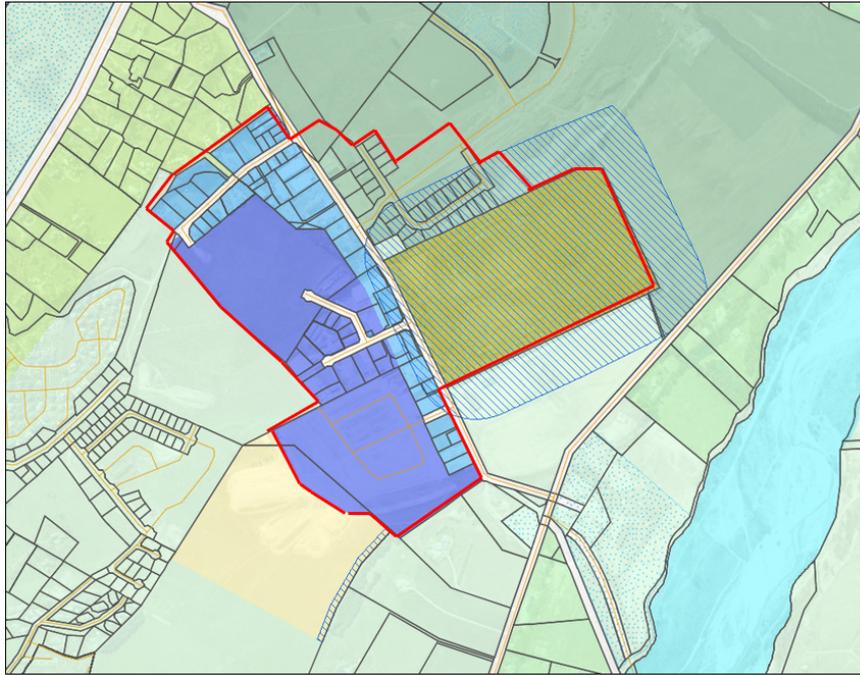


Figure 1: ODP Existing “Wanaka Business and Industrial Area” from ODP maps

2. The operative Industrial A and B zones have quite different objectives, policies and rules and reflect the different nature of the industrial areas of the Queenstown Lakes district. The operative Industrial A zone is applied to the existing industrial areas that are more ‘business / light industrial / mixed use’ in nature. The operative Industrial B zone is more suited to greenfield industrial park areas that are yet to be developed, and not located near residential areas where the opportunity still exists to create a genuine industrial area and prevent or restrict sensitive activities that could complain about industrial activities. Unfortunately the operative Industrial B zone was applied to existing light industrial / business activities along Frederick Street and Connell Terrace, and to the TRL property that is surrounded by residential activities.
3. By proposing to combine the Industrial A and B zones into a single ‘General Industrial’ zone (“Wanaka industrial area”), the provisions have sought to become a ‘one-size fits all’ approach, however it is an approach based primarily on the operative Industrial B zone provisions, where many activities other than industrial or service activities are proposed to be prohibited.
4. The approach under the ODP of having two industrial zones reflected the nature of the different industrial areas, whereas the General Industrial zone seeks to retrospectively apply a pure industrial zone to areas that are already developed and that are not purely industrial in nature, or are unsuitable for a pure industrial zone due to the proximity to residential activities.
5. By proposing to combine the Industrial A and B zones into a single General Industrial zone, the approach fails to recognise the existing nature of the Wanaka industrial areas currently zoned Industrial A and B under the ODP. In particular, industrial and service activities are not in fact the dominant land uses but rather form part of a mixed business environment as the section 32 report notes in Figure 15 - 19, where office and commercial activities are in fact common across both the Industrial A and B zones. The notified provisions seek that these now be prohibited activities.
6. Given the extent of existing built development in the Wanaka industrial area, it is not possible to turn it back into a more ‘pure industrial’ zone. The provisions do not recognise that the Wanaka industrial area is already largely developed and includes multiple commercial, retail

and office activities. The nature of the area includes, for example, many trade suppliers which under the notified provisions would become a prohibited activity. While these activities can likely continue under the existing use rights or land use consents (which when given effect to never lapse), a prohibited activity status could create problems for minor alterations or additions or other changes in use. For example, if one trade supplier ceases to operate in a purpose-built premise, another trade supplier may not be able to establish in the vacant premises (it may depend on how well described / defined the consent was that created the right to use the premises).

7. The proposed use of a prohibited activity status for many activities is not consistent with Court of Appeal case law from the Coromandel Watchdog case which describes the circumstances in which a prohibited activity status should be used.
8. Residential neighbours, in particular along Golf Course Road, have also expressed their dissatisfaction with the operative Industrial B zoning of the property. When taking a wider view of the Wanaka industrial area, it is surrounded on all sides by residential activity in some shape or form. It is also located a mere 5 minute drive or 20 minute walk from central Wanaka.
9. The land immediately to the west of the Wanaka industrial area has been identified by the Government as a Special Housing Area, and an application for a subdivision consent to create 233 residential allotments and five reserves was lodged with QLDC on 9 September 2019 (SH190490). To the east is the undeveloped residential zones of the Three Parks Zone. To the south is the rural residential environment of Riverbank Road. To the north is the rural residential environment of Golf Course Road.
10. The wider Wanaka Industrial Area is surrounded on all sides by residential activity in some shape or form, meaning the proposed rezoning to a more 'pure industrial' as proposed through the General Industrial provisions is inappropriate. In combination with the ground truthing undertaken as part of the s.32 report, which shows commercial, office and retail activities are already well established, the most appropriate zoning for the wider Wanaka Industrial Area is Business Mixed Use zone (**BMUZ**).
11. The BMUZ 16.1 Purpose statement records that *“The intention of this zone is to provide 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”*.
12. The wider Wanaka Industrial Area perfectly accords with this zone purpose statement. The s.32 report does not consider rezoning the land to BMUZ, despite evidence in the s.32 report that residential, retail and office land uses are common in both the operative Industrial A and B zones. A BMUZ would also provide the opportunity for high density living opportunities close to employment and recreational opportunities.
13. The s.32 report is deficient given that the BMUZ is proposed as part of the Three Parks rezoning adjoining the Wanaka Industrial Area, but has not been considered as an option for the TRL property or the wider Wanaka Industrial Area.
14. Changing the zoning of the TRL site, and or the wider Wanaka industrial area to BMUZ will not unduly reduce the business development capacity, as the 2017 Business Development Capacity Assessment by Market Economics (the BDCA) shows sufficient capacity for all business land uses in the short, medium and long-term in the Wanaka Ward. The 2046 land demand for business purposes in Wanaka is estimated at 19.9ha and the total urban business

enabled zones for Wanaka was estimated at 72ha³. Additional land is also proposed to be zoned as part of Stage 3 south of the former oxidation ponds.

Operative Three Parks Zone – notified as General Industrial and Business Mixed Use

14. The notified provisions for the operative Three Parks Zone area propose General Industrial zoning on the subdivided lots off Sir Tim Wallis Drive, McCormick Street and Umbers Street that formed part of the operative Business Sub-Zone. This area is the only part of the Three Parks Zone that has been developed.
15. The size of these lots created in the operative Three Parks Zone Business sub-zone area are unsuitable for the type of pure industrial activity anticipated by the General Industrial Zone provisions. The lots are smaller, all around the 1000m² mark, and have been developed with business uses in mind, given the Business Sub-zone notation for the area. The s.32 report incorrectly considers the area is akin to the General Industrial Zone.
16. The section 32 report considers options in Table 3 but does not identify the Business Mixed Use zone as an option, and is deficient in that regard, despite acknowledging that resource consents have been granted for commercial activities in the zone.
17. The most efficient and effective zoning approach to the Three Parks Zone Business sub-zone area is a Business Mixed Use zoning, which provides for complementary commercial, business, retail and residential uses that supplement the activities and services provided by the Wanaka and Three Parks commercial centres.

100 Ballantyne Road / Active Sport and Recreation Zone

18. The notified provisions include rezoning the Ballantyne Road Mixed Use Zone (**BRMUZ**) to Active Sport and recreation. The site is owned by QLDC and was previously occupied by the oxidation ponds that were used for Wanaka wastewater treatment.
19. Ironically the BRUMZ is one of the few large (20.4 hectares), industrial zoned sites remaining in the district that could be suitable for the type of pure industrial activities anticipated by the General Industrial Zone, however the proposal is to remove it from the pool of land available for industrial activities and rezone for Active Sport and Recreation.
20. At a high level, the provision of sports fields on this site seems driven by the fact it is in Council ownership, rather than any operational considerations. From an operational perspective, it would make more sense to locate the sports fields next to the existing sports fields located as part of the Wanaka Recreation Centre in the heart of the Three Parks Zone.
21. Splitting the location of sports fields across multiple locations can be challenging for sports clubs and families, with children in different age groups spread across different venues. Duplication of parking, toilet and changing room facilities is also required. Consolidation of sporting facilities around the existing Wanaka Recreation Centre would provide a more efficient use of the existing resource.
22. While the need for additional sports fields is recognised, the section 32 report identifies the calculated shortfall in Full Field Equivalent hours, but does not go on to translate this into a number of sports fields or area of land required. The QLDC agenda item of 26 August 2019 states that the shortfall equates to six full sports fields across all codes (assuming each are capable of 10 hours training per week). A football field measures 7140m², x 6 = 42,840m², or

³ Paragraph 6.24 – s.32 report for 100 Ballantyne Road.

4.2 hectares. Even if this area was doubled to allow space between pitches and for associated facilities like changing rooms and toilets, the required land area is around 8.5 hectares.

23. The area required for six full sports fields is much less than the entire BRMUZ, which is a large site (20.4 hectares) and the s.32 report does not make any persuasive case that the whole site is required for Active Sport and Recreation. The report referred to in the s32 'Supply and Demand for Winter Sports Fields (October 2018)' was not appended to the s.32 report, the link to the document in the s.32 report does not work, and the report was not able to be found on the QLDC website.
23. The s.32 report acknowledges that the loss of the BRMUZ land will reduce the extent of land with vacant capacity for industrial needs. It does not identify an option of split zoning the site, part General Industrial, part Active Sport and Recreation. This approach would at least preserve some vacant industrial land and provide more than enough land for the six required sports field for all codes.

Rezoning of Land to General Industrial South of the Oxidation Ponds and Frederick Street

24. Unlike the TRL property, or other developed areas within the operative Industrial A and B zones, the rezoning of vacant land south of the oxidation ponds to General Industrial is supported as it is not already subdivided or developed, does not directly adjoin residential activity, and could genuinely be developed in accordance with the notified General Industrial zone provisions.
25. Rezoning this area also compensates for the loss of the industrial land from the BRMUZ, and is an appropriate use given adjoining land uses such as the dog pound, an electricity substation, the ORC yard and the Wanaka Wastebusters site.
26. As noted above in comments on the General Industrial zone, the submitter does however have concerns with applying the General Industrial zone to those parts of the existing Industrial A and B zones that have already been developed, and as evidenced by the s.32 ground truthing, already contains retail, commercial and industrial uses. For those areas not proposed in this submission for re-zoning to Business Mixed Use, it is submitted that a return to two types of industrial zones is necessary to reflect the nature of built development is required.
27. Where the BMUZ is not appropriate, the General Industrial zone should be split into two zones, with the notified 'General Industrial' zone retained for genuine greenfield industrial developments, and a more enabling 'light industrial' type zone for these established areas and activities, that has less prohibited activities and provides for activities such as trade supplier businesses.

I seek the following decision from the local authority:

1. Rezone the areas in Wanaka currently zoned Industrial A or B on both sides of Frederick Street, and north of Frederick Street, including the Tussock Rise site, to BMUZ as shown in Figure 1 OR
2. As above but split zone the Tussock Rise site Low Density Suburban Residential / BMUZ, with the separating boundary generally being the future road connection between Connell Terrace and Gordon Road.

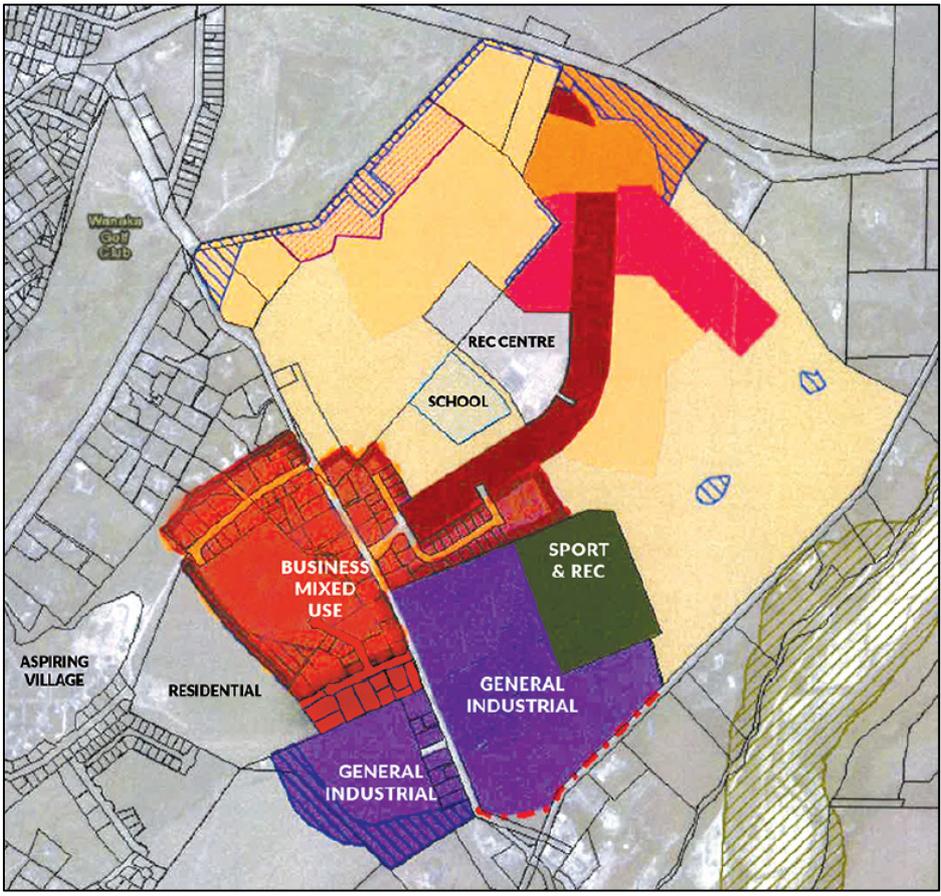


Figure 2: Requested Re-zoning

3. Rezone those parts of the Three Parks land currently within the Business Sub-Zone from the notified General Industrial zone to Business Mixed Use Zone, so that the BMUZ extends along Sir Tim Wallis Drive right to Ballantyne Road and incorporates the full extent of the former Business Sub-zone, and connects with the BMUZ re-zoning requested under (1) and (2) above.
4. Retain the proposed General Industrial zone over land south of the row of subdivided lots on the southern side of Frederick Street, and south of the former oxidation ponds, BUT split the proposed General Industrial zone into A and B zones to reflect the different nature of the developed industrial area south of Frederick Street compared to the possible greenfield industrial areas on the former oxidation ponds site and south of the former oxidation ponds site. Those areas already developed should have a more enabling framework with less prohibited activities, compared to the large vacant sites on the former oxidation ponds site and land to the south.
5. Reduce the extent of Active Sport and Recreation zoning and replace with General Industrial zoning.
6. Any other consequential changes necessary to achieve the above relief.

I wish/do not wish† to be heard in support of my submission.

~~**If others make a similar submission, I will consider presenting a joint case with them at a hearing.**~~



Blair Devlin

on behalf of Tussock Rise Limited.

15 November 2019

[A] [2019] NZEnvC 111 dated 21 June 2019

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Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

it is frivolous or vexatious:

it discloses no reasonable or relevant case:

it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:

it contains offensive language:

it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Schedule 1 form 5 heading: amended, on 18 October 2017, by regulation 15(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2017 (LI 2017/231).

Schedule 1 form 5 heading: amended, on 1 November 2010, by regulation 19(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2010 (SR 2010/279).

Schedule 1 form 5: amended, on 18 October 2017, by regulation 15(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2017 (LI 2017/231).

Schedule 1 form 5: amended, on 14 September 2017, by regulation 15(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2017 (LI 2017/231).

Schedule 1 form 5: amended, on 1 November 2010, by regulation 19(1) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2010 (SR 2010/279).

Schedule 1 form 5: amended, on 1 June 2006, by regulation 10(2) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2006 (SR 2006/99).