

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

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing Stream 14: Wakatipu Basin

OPENING SUBMISSIONS ON BEHALF OF HOGANS GULLY FARM LIMITED

Dated: 24 July 2018

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MAY IT PLEASE THE PANEL:

Introduction

1. These submissions are in support of the submission filed by Hogans Gully Farm Limited ("**Hogans Gully**") on Stage 2 of the Queenstown Lakes Proposed District Plan ("**PDP**").
2. Hogan Gully's submission seeks the rezoning of land between State Highway 6, McDonnell Road, Hogans Gully Road and the Bendemeer Special Zone to a bespoke Hogans Gully Special Zone ("**HGZ**").
3. The HGZ intends to provide for resort-based activities such as a golf course, a restaurant, and associated residential and short term visitor accommodation. Associated with these developments is an extensive ecological restoration and revegetation project on the site.
4. The submission is supported with a comprehensive section 32 analysis which assesses the proposed zoning against alternatives for the site, including the notified Wakatipu Basin Rural Amenity Zoning. Expert evidence has been prepared in support of the submission demonstrating the environmental benefits of the proposed HGZ.
5. Hogans Gully submits based on this evidence, the HGZ is the most appropriate option before the Panel when assessing what zoning will best accord with the higher order Objectives and Policies of the PDP, as well as meeting the purpose of the Resource Management Act 1991 ("**Act**"), being to promote the sustainable management of natural and physical resources.

Assessment of the Proposal

6. The respective experts for Hogans Gully and the Queenstown Lakes District Council ("**Council**") differ in their findings over the effects of the proposed HGZ and whether it will accord with the Strategic Direction of the PDP and the purpose of the Act. The disagreement largely relates to the nature of the development that would be allowed for by the HGZ and the effects of this development on the landscape character of the Wakatipu Basin. It is submitted for the reasons

identified below in terms of these areas of difference that the evidence for Hogans Gully be preferred over that of the Council.

7. The experts do not appear to disagree as to the positive economic and ecological effects of the HGZ.

Type of Activity Allowed for by the HGZ

8. It is submitted the Council's recommendations to decline the submission largely arise from the premise that the zone will promote and allow for urban development.
9. Mr Langman for example in his planning evidence for the Council views the development within the HGZ as "urban-type".¹ Ms Mellsop in her landscape evidence considers the proposal against the Strategic Direction of the PDP relating to urban development and finds that the proposal will be contrary to these objectives due to its effect on the landscape.² Ms Gilbert likewise in her landscape evidence believes the proposal will "run the risk of a perception of urban type development sprawling across the basin".³
10. With respect these findings have been skewed by the Council's flawed interpretation of constitutes urban development in terms of its definition in the PDP. The decisions on Stage 1 of the PDP clearly show an intention by the Council to differentiate urban activities from resort activities by excluding the latter from the definition of Urban Development.

Urban Development:

*Means development which is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. **For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban development.** [emphasis added].*

¹ Section 42A Report at 45.7

² Evidence of Helen Mellsop for QLDC at 7.37

³ Evidence of Bridget Gilbert for QLDC at 2.16c

Resort:

Means an integrated and planned development involving low average density of residential development (as a proportion of the developed area) principally providing temporary visitor accommodation and forming part of an overall development focused on onsite visitor activities.

11. Mr Brown in his evidence correctly identifies that the development allowed for by the HGZ would constitute a resort and would therefore not fall within the definition of urban development. On this basis he rightly concludes that the Strategic Directions section of the PDP relating to urban development is irrelevant for the purpose of assessing the proposed HGZ and whether it meets the Strategic Directions.
12. Given such it is submitted the evidence of Mr Brown is more reliable and should be given greater weight in determining whether the rezoning will meet the Strategic Direction of the PDP. By correctly identifying the HGZ development is not an urban development, Mr Brown's evidence correctly assesses such development against the PDP provisions. Conversely the Council mistakenly relies on the HGZ activities to be urban development which means they take into account irrelevant considerations when giving their recommendation on the rezoning.

Landscape Effects

13. Hogans Gully relies on and adopts the landscape evidence of Mr Baxter who considers the development will have minimal adverse effects on landscape character. This is largely due to the HGZ Structure Plan imposing restrictions on development on the edges of the site, ensuring visibility of dwellings is limited, ⁴ as well as further design and landscape controls and extensive mitigation planting associated with the ecological restoration of the site that will ensure the effect of built development will be avoided from all but elevated distant views, or substantially mitigated.
14. The Council experts differ in their assessment and consider the development within the HGZ will visually disrupt the character of the Basin. Ms Mellsop views the

⁴ Evidence of Patrick Baxter for Hogans Gully at 16

proposed HGZ as having a “pattern of open space and development possibly similar to that of Millbrook Resort”.⁵

15. As Mr Baxter points out, the comparisons between this proposal and Millbrook are incorrect.⁶ Millbrook is a much larger and more open development which has its own landscape character visually distinct from its surrounding environment. The HGZ on the other hand will merge with its surrounding environment and will be far less visible from all but elevated and distant public viewpoints.

Cumulative Effects of the HGZ

16. The Council’s experts believe the proposed HGZ will have cumulative adverse effects on the eastern end of the Wakatipu Basin when viewed in the context of similar proposed resort developments at The Hills and Ayrburn Farm, and existing resorts at Millbrook and Waterfall Park.⁷
17. It is submitted these concerns of cumulative effects have been overstated. As noted in Mr Brown’s evidence, the proposed Hills and Ayrburn Developments, like the HGZ proposal, are unlikely to generate adverse visual effects as they will not be visible from surrounding roads and will only be visible from parts of elevated locations such as Tobins Track.⁸
18. It is submitted the Council’s experts have used an unrealistic metric when determining landscape effects. They have essentially considered that if the development is visible from anywhere in the District, this constitutes an adverse landscape effect.
19. If this was the standard then most developments in the Basin would be stifled given so much of it can be seen from elevated roads such as the Coronet Peak Road and the zig-zag portion of the Crown Range Road. These locations are some distance away from the proposed HGZ and an observer looking over the Basin from them would simply see the HGZ development as one small aspect of a much larger, panoramic landscape.

⁵ Evidence of Helen Mellsop for QLDC at 7.33

⁶ Evidence of Patrick Baxter at 20

⁷ Section 42A Report at 45.7

⁸ Evidence of Jeffrey Brown at 16.15-16.18

20. The Council's unrealistic standard for measuring adverse landscape effects, together with their view that the proposed HGZ constitutes urban development, have adversely influenced their findings in terms of what effect the HGZ development will have on the character of the Basin.
21. As a result, such findings have led to an incorrect conclusion that the notified Amenity Zone will better accord with the Strategic Direction of the PDP and the purpose of the Act than the proposed HGZ.
22. On this basis it is submitted the findings of the experts for Hogans Gully should be given greater weight in the Panel's assessment of the submission.

Allowing for Resort Activities through the Consent Process

23. Mr Langman in his rebuttal evidence suggests that the notified Rural Amenity Zone should be retained and that the activities allowed for by the zone should be deferred to the resource consent process.⁹
24. It is submitted this is not an effective way of managing the land. The Council has the opportunity to determine whether the land can be used in the manner proposed by Hogans Gully's submission. If it is satisfied the use of the land is in accordance with the statutory instruments the Council should be prepared to allow for HGZ activities be provided for through the rezoning instead of deferring to a resource consent application.
25. No one process should be given preference over another especially given the controls and discretions proposed to be retained by the Council in the HGZ rules and provisions.

Benefits of the Proposed Rezoning

Economic Benefits

26. The evidence of Mr Brandeburg comprehensively addresses the economic, social, tourism and charitable benefits that golf brings to New Zealand. In Queenstown in particular golf tourism is a large source of revenue for the New Zealand and local tourism industry and economy.

⁹ Rebuttal Evidence of Marcus Langman at 23.8-23.11

27. On the basis of these benefits, it is submitted that the golf activity that would be allowed through the proposed rezoning would be the most effective way to manage the use of the land and meet the purpose of the Act.
28. The activities allowed by the rezoning would mean the rezoning would accord with the Strategic Direction of the Plan relating to economic benefits.
29. Of particular relevance are Strategic Objectives 3.2.1, which directs *the development of a prosperous, resilient and equitable economy in the District*, and 3.2.1.8, being *the diversification of land use in rural areas beyond traditional farming activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources, are maintained*.
30. The Council experts do not appear to contest the view that the proposed HGZ will provide these economic benefits. The debate appears to be more about whether there are adverse effects on the rural landscape that cannot be avoided, remedied or mitigated.

Ecological Restoration

31. The evidence of Mr Glenn Davis supported by Mr Beale for Hogans Gully identifies the successful large scale ecological restoration projects that have been carried out in the Wakatipu in recent years. The redevelopment and ecological restoration at Walter Peak is a recent example of how these projects can provide extensive ecological benefits.
32. More recently the Environment Court in considering developments that might otherwise have been declined on the basis of the adverse effects of built form on the landscape, has granted consent to these developments due to the extensive revegetation projects that have been proposed to be carried out as a condition of the consent. In a recent application in the Upper Clutha, for a 7 lot subdivision on land which in part was part of an Outstanding Natural Feature, the Court was satisfied that the development was appropriate, having regard to the ecological enhancement that was proposed, and not only the mitigating effect such

enhancement would have on any adverse effects arising from the built form, but the significant positive effect the enhancement would have in of itself.¹⁰

33. Hogans Gully submits like the proposals referred to above, the restoration proposed as part of this submission will have significant ecological and natural conservation benefits as well as mitigating any adverse visual impacts the development might otherwise have.
34. As a result, it will accord with the Strategic Direction Objectives and Policies in the PDP directing land be used in a manner that protects and enhances the natural conservation values of the environment. The proposed zoning will better achieve these directions than the notified Rural Amenity Zone as it contains specific provisions to protect and significantly enhance such values. The Rural Amenity Zone as notified while restricting development that may impact nature conservation values, does not contain any specific measures to protect or enhance them.
35. As Mr Brown confirms in his evidence the provisions of the HGZ have been amended to provide the Council with more certainty as to the success of the revegetation proposed. Development will not be able to be undertaken prior to the completion of the ecological enhancement works, and landscaping associated with development will be required to be in the main indigenous vegetation.
36. It is submitted the proposed ecological enhancement by enhancing the natural character and ecological values of the site will achieve the purpose of the Act (section 5), will not be contrary to any of the matters in section 6, and will accord with section 7(f), being the maintenance and enhancement of the quality of the environment.
37. As with the proposed economic benefits, the Council experts agree that the natural character and conservation values will increase due to the proposed revegetation and ecological restoration of the site.¹¹

Conclusion

38. It is submitted the Council and Hogans Gully experts largely agree as to the benefits of the proposed HGZ in terms of tourism, job opportunities, provision for resident

¹⁰ *Willowridge Developments Limited v Queenstown Lakes District Council* [2018] NZEnvC 83

¹¹ Rebuttal evidence of Marcus Langman at 23.4

and visitor accommodation, and the restoration and enhancement of ecological values.

39. The Council however believe the proposed rezoning is not in accordance with the Strategic Direction of the Plan or the purpose of the Act as they consider the benefits to be outweighed by adverse effects of the anticipated HGZ development on the Wakatipu Basin.

40. For the reasons identified above, it is submitted the Council's conclusions in this regard take into account irrelevant considerations and are based on an unrealistic assessment of the landscape and what constitutes and the extent of an adverse effect on it.

41. Given such, it is submitted the Panel should have greater regard to the evidence in support of the submission and consequently find that the proposed HGZ is appropriate.

Witnesses

42. The following witnesses will be called:

- a. Ryan Brandeburg (golf tourism)
- b. Adam Vail (infrastructure)
- c. Jason Bartlett (transport)
- d. Patrick Baxter (landscape);
- e. Jeffrey Brown (planning).

Mr Turner who prepared golf course design evidence is unfortunately unavailable as he is overseas however Mr Brandeburg will be able to answer any questions the Panel may have had for Mr Turner.

Dated this 24th day of July 2018



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