

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-10

Report and Recommendations of Independent Commissioners
Regarding Mapping: West of Lake Wakatipu

Commissioners

Denis Nugent (Chair)

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PART A: HALFWAY BAY LANDS LIMITED

Submitter **Halfway Bay Lands Limited (Submission 478.2)**¹

1. PRELIMINARY MATTERS

1.1. Subject of Submissions

1. These submissions related to an area of approximately 32ha at Halfway Bay, on Lake Wakatipu.

1.2. Outline of Relief Sought

2. The submitters sought that approximately 32 ha of the flat land of the station be rezoned from Rural to Rural Visitor. The basis was that the flat land of the station should be zoned to enable diversification (including tourism), similar to zones located at Cecil Peak and Walter Peak Stations. The submitter stated that it understood that changing the zoning from Rural to Rural Visitor would exclude that part of the property from the ONL classification, and supported such exclusion.

1.3. Description of the Site and Environs

3. Halfway Bay Station is a large pastoral station on the western side of the southern arm of Lake Wakatipu. The Station has no road access, and most access is by boat from a private jetty off the Kingston Rd across the lake or by helicopter. The station homestead and farm buildings are on an area of flat land at the edge of the lake near the mouth of the Lochy River and there is another area of flat land on a terrace behind the homestead. Together these flats comprise 32 ha and are the subject of this submission.

4. The area is shown on Figure 10-1 below.



Figure 10-1 - Aerial photograph of the land subject to the submission outlined in red

¹ As successor under section 2A of the Act to Lake Wakatipu Station Limited & Review Seventeen Limited

1.4. The Case for Rezoning

5. Evidence for the submitter discussed landscape, services, and planning matters. The submitter's landscape architect Mr Stephen Skelton² considered that from a distance, such as from Kingston or across the lake, distance would make buildings difficult to see provided that recessive colours were used. From shorter distances, such as from the foreshore or surface of the lake, development would be more obvious but that there were pockets on the flat lands that would be suitable for development. He relied on the overwhelming natural landscape, including the high jagged mountains, forested slopes, river valleys and the lake, as well as the existing pastoral and domesticated land, exotic plantings and buildings around the homestead, to reduce the impact and significance of any new development. New development would be a controlled activity in the ODP Rural Visitor Zone. The planning witness, Mr Ben Farrell considered that decision makers would have the power under the zone provisions to sufficiently control and mitigate any adverse effects. He stated that some site specific provisions would have to be inserted into the zone, or a subzone created to fully achieve this and gave some examples, but did not present us with a fully drafted set of rules to consider.
6. We heard brief evidence from Mr Gary Dent,³ an engineering consultant to the effect that the land would be suitable for self-sufficient wastewater and stormwater systems to be provided without adversely affecting water quality in the lake and rivers. We noted on our site visit that the lands on the flats close to the lake were very wet, and considered that this aspect would have to be handled with great care.
7. For the Council, Dr Read considered that only the upper terrace at the back of the proposed site would be capable of absorbing the effects on the landscape, and was opposed to the rezoning of the front land near the lakeshore.⁴ Mr Mander, the Council's traffic consultant, was concerned about the possible effects of traffic accessing the boat landing off the Kingston Highway, because no assessment of such effects had been made and it was not possible to know how much traffic would result with so little information.⁵
8. The Council's planning witness, Mr Buxton, relied on the evidence of Dr Read and Mr Mander. He disagreed with Mr Farrell about the ability to suitably control effects under the Rural Visitor Zone, pointing out that it controlled only building height and setbacks, but not density.⁶

1.5. Discussion of Planning Framework

9. The land is zoned Rural within an ONL. 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 would be reasonably difficult to see from beyond the boundary of the site⁷.
10. 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

² S Skelton, EIC, 9 June 2017

³³ G Dent, EIC, 6 September 2017

⁴ Dr M Read, EIC, 24 May 2017, paragraphs 16.7 – 16.11

⁵ D Mander, EIC, 24 May 2017, paragraphs 11.6 – 11.8

⁶ R Buxton, Section 42A Report, 24 May 2017, paragraphs 23.1 – 23.11

⁷ See Objective 3.2.5, policies 3.2.5.1, 3.3.30, and Policy 6.3.1.

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

11. 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, and recognising economic diversification and sustainable commercial recreation activities.⁹ Rules in the plan provide for residential and larger scale commercial recreation as discretionary activities.

2. ISSUES

- a. Landscape
- b. Traffic effects
- c. Zoning framework

3. DISCUSSION OF ISSUES AND CONCLUSIONS

12. Firstly we observe that we are entirely sympathetic to the submitter's wish to diversify the economic base of the station by developing visitor accommodation and activities there. This is specifically recognised and provided for in the PDP provided that it is carried out in an appropriate way.¹⁰ The question to be resolved is the most appropriate way to do this.
13. The two landscape witnesses were not far apart on this site. Mr Skelton considered that with care and attention to location and detail, development could be absorbed throughout the proposed site. Dr Read may well have accepted that if she believed that the Rural Visitor Zone provisions were able to achieve that result, but as she did not, she was only prepared to accept the use of the upper terrace area which was more secluded from views from outside the site and screened by shelter belts. The planners reflected those positions. Mr Farrell accepted that the basic ODP Rural Visitor provisions would need to be augmented for this site, but that following that the zoning would be more suitable than the existing Rural Zone.¹¹ Mr Buxton did not accept that, considering the Rural Visitor Zone too permissive to enable that to be done effectively.
14. As we have stated throughout this report, we are not prepared to import the ODP Rural Visitor Zone into the PDP. As Mr Buxton observed, it is very enabling and the matters which can be controlled are limited. With activities having controlled status, it would not be possible to decline an inappropriate proposal, only to modify it to a limited extent by conditions. We do not think that zone in its present form would fit into the strategic approach of the Council towards both landscape and tourist-related activities as set out in Chapters 3 and 6.

⁸ Chapter 21, Section 21.1

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

¹⁰ See Objective 3.2.1.8 and Policy 3.3.1

¹¹ B Farrell, EIC, 9 June 2017; Rebuttal Evidence, 7 September 2017

15. As Mr Farrell said, we could create a bespoke version of the Rural Visitor Zone for this site. If we did that we would probably also have to do the same for a number of other submissions. This would necessarily have to include revision of the ODP objectives and policies to make them consistent with the Strategic approach of the PDP in Chapters 3 and 6, as well as attention to some confusing and poorly drafted rules. This would not be a small exercise, and would probably pre-empt the Council's review process. We prefer to wait for the Council's review of the ODP Rural Visitor Zone. We consider that the recommended Rural Zone in the PDP, along with the landscape provisions of Chapters 3 and 6, has enough flexibility to enable applications for visitor activities to be made and considered on their merits. Therefore we consider the Rural Zone to be preferable than the suggested ODP Rural Visitor Zone,
16. Because of this outcome we do not need to consider the issue of the suitability of the land for on-site wastewater disposal, or the traffic issue.

4. RECOMMENDATION

17. For the reasons set out above, we recommend that:
 - a. Submission 478.2 be rejected; and
 - b. The Council reconsider the zoning of the submission site when the Rural Visitor Zone is reviewed.

PART B: TE ANAU DEVELOPMENTS LIMITED

Submitter **Te Anau Developments Limited (Submission 607.22)**

5. PRELIMINARY MATTERS

5.1. Subject of Submissions

18. These submissions related to an area of Department of Conservation Reserve and marginal strip adjacent to Walter Peak Station.

5.2. Outline of Relief Sought

19. The submission requested an area of DOC reserve and marginal strip adjacent to the existing visitor facilities at Walter Peak be rezoned Rural Visitor Walter Peak.

5.3. Description of the Site and Environs

20. The submitter owns and operates tourism activities at a 155ha site at Beach Bay and Walter Peak. This includes the Earnslaw Steamship tours from Queenstown, scenic flights, a restaurant, and farm and cycling tours. The company has plans to expand its activities, including into the conference and weddings market. Its site includes the land adjacent to Beach Bay and the northern headland to that bay. It is carrying out ecological restoration of its land and working with the Department of Conservation on restoration of DOC land. Most of the submitter's land is included in the ODP Rural Visitor Zone, which is not included in Stage 1 or 2 of the PDP. The DOC reserve land is in the southern part of beach adjacent to the submitter's land and existing facilities and the marginal strip extends around the Bay and the headland to the north of the bay.

21. Figure 10-2 below shows the submitter's land, the existing ODP Rural Visitor Zoning and the requested PDP zoning on the DOC land.

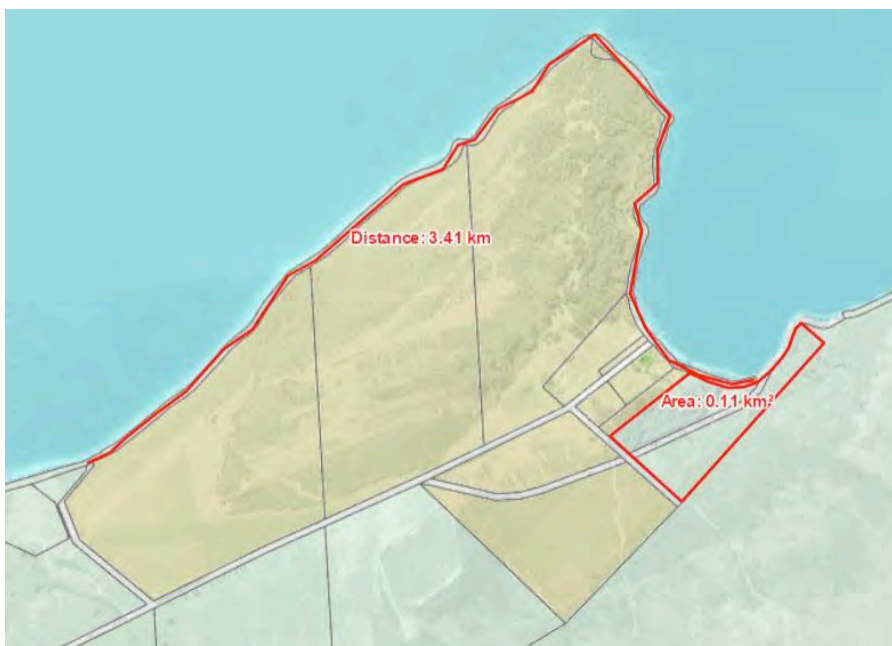


Figure 10-2 – Aerial photograph of the land subject to the submission outlined in red, showing the length of the marginal strip. The ODP Rural Visitor Zone is shaded khaki.

22. At the hearing the submitter reduced the extent of the proposed rezoning, by deleting the part of the marginal strip extending along the north western side of the headland. The land now sought to be rezoned is shown on Figure 10-3 below, taken from evidence presented to the hearing by Ms Fiona Black, a witness for the submitter.



Figure 10-3 – Modified Rezoning request. Image taken from the evidence of Ms Black.

5.4. The Case for Rezoning

23. Evidence for the submitter, from Ms Fiona Black,¹² is that it manages the land affected on behalf of DOC and subject to legal agreements with DOC. It wishes to expand the range of activities it offers, including walking and cycling tracks, a children’s adventure playground, a multi-purpose space including a conference venue and wedding chapel. It also intends to carry out ecological restoration and replanting of passive areas of the site. It considered any traffic effects at the Steamer Wharf in Queenstown from increased numbers of visitors would be mitigated by the fact that its parent company, Real Journeys Limited, transports many of its visitors directly to the wharf by coach. The activity generates small amounts of visitor and

¹² F Black, EIC, 9 June 2017

service traffic via the Mavora Lakes/Von Road and this is not expected to increase by more than minimal levels.

24. Mr Ben Farrell, the planning witness, said that any landscape effects could be dealt with by adjustments to the zone rules, for example by elevating the activity status of buildings to restricted discretionary.¹³
25. For the Council, its landscape architect Dr Read, considered that any rezoning should be confined to the lower areas adjacent to the existing facilities and should not extend up the southern slopes as proposed.¹⁴ Mr Buxton, the planning witness, was concerned that the Rural Visitor zoning is an ODP zoning, and too little was known about the proposed activities to be able to assess any effects they might generate.¹⁵

6. DISCUSSION OF PLANNING FRAMEWORK

26. The land is zoned Rural within ONL. 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 would be reasonably difficult to see from beyond the boundary of the site.¹⁶
27. The Zone Purpose for the Rural 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 ONLs 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 valuable¹⁷.
28. 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, and recognising economic diversification and sustainable commercial recreation activities.¹⁸ Rules in the plan provide for residential and larger scale commercial recreation as discretionary activities.

7. ISSUES

- a. Landscape
- b. Traffic
- c. Ecology

¹³ B Farrell, EIC, 9 June 2017, paragraph 16

¹⁴ Dr M Read, EIC, 24 May 2017, paragraphs 16.2 – 16.19

¹⁵ R Buxton, Section42A Report, 24 May 2017, paragraphs 24.6 – 24.11

¹⁶ See Objective 3.2.5, policies 3.2.5.1, and 3.3.30, and Policy 6.3.1

¹⁷ Chapter 21, Section 21.1

¹⁸ See Objectives 21.2.1, and Policy 21.2.1.1

- d. How to best accommodate increases in visitor activity.

8. DISCUSSION OF ISSUES AND CONCLUSIONS

29. Firstly we observe that we are, in principle, sympathetic to the submitter's wish to augment and increase the scale of its activities at Walter Peak and we have no doubt that this would be achievable and that the submitter has the ability and the motivation to carry this out.
30. With regard to the landscape issue, we agree with Mr Farrell that it may be possible to address this issue by inserting more rigorous rules into the proposed zone, although we think the revisions to the rules would need to go well beyond his suggestion, for reasons already outlined.¹⁹ We also agree with Dr Read that buildings on the southern slopes would be prominent, and as the area is an ONL, buildings there may be a significant issue for the development, and with Mr Buxton that the ODP Rural Visitor Zone does not provide the means to manage that effectively. Not knowing even in general terms what is proposed compounds the difficulty.
31. With regard to ecology, we accept that the submitters stated intentions, and its agreements with DOC provide sufficient assurance that any adverse effects of significant ecology would be minimal. With regard to traffic, we think the Mavora Lakes/Von Rd is too long and too remote to attract significant amounts of additional traffic. We accept that the company is in a good position to manage and mitigate at least some traffic congestion at the Steamer Wharf in Queenstown.
32. As we have stated on other cases, we are not prepared to import the existing Rural Visitor Zone from the ODP into the PDP, or to rewrite it in various forms for various sites. We are particularly concerned that in this case the submission covers only part of the Walter Peak site, and any new zoning we might create would have to sit alongside whatever the Council chooses to introduce when it reviews the ODP Rural Visitor zoning during a later stage of the plan review process. Thus, while we are sympathetic to the submitter's plans, we think the best way forward at this stage is to wait for the Council's review of the Rural Visitor Zone and for any proposals that may proceed in the meantime to be dealt with through the resource consent process under the Rural Zone.

9. RECOMMENDATION

33. For the reasons set out above, we recommend that:
 - a. Submission 607.22 be rejected; and that
 - b. The Council consider the introduction of a variation to rezone this site when it reviews the ODP Rural Visitor Zone.

¹⁹ See our discussion of the same issue in Part A of this report

PART C: SUMMARY OF RECOMMENDATIONS

10. RECOMMENDATION

34. For the reasons set out above, we recommend that:
- a. Submission 478.2 be rejected; and
 - b. Submission 607.22 be rejected.
35. We also recommend that when the Council reviews the Rural Visitor Zone in the Operative District Plan it consider the appropriate zoning of the two pieces of land the subject of the above submissions.

For the Hearing Panel



Denis Nugent (Chair)
Date: 4 April 2018