

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER OF of the Resource Management Act 1991

AND

IN THE MATTER OF the Proposed Queenstown Lakes District Plan
Chapter 20 Settlement Zone

STATEMENT OF EVIDENCE BY MEGAN JUSTICE

(SUBMITTER 3285)

29 MAY 2020

1. INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Megan Justice. I hold a Masters degree in Regional and Resource Planning from Otago University, obtained in 1999 and I am a full member of the New Zealand Planning Institute. I am a certified Resource Management Act decision maker. I am an Associate Consultant with the firm Mitchell Daysh Limited, which practices as a planning and environmental consultancy throughout New Zealand.
- 1.2 I have been engaged in the field of town and country planning and resource and environmental management for 19 years. My experience includes a mix of local authority, Government and consultancy resource management work. In recent years, this experience has retained a particular emphasis on providing consultancy advice with respect to District Plans, plan changes, designations, resource consents and environmental effects assessments. This includes extensive experience with large-scale projects involving inputs from a multidisciplinary team, many of which are located within the Queenstown Lakes District.
- 1.3 An outline of projects in which I have provided resource management advice in recent times is included as **Appendix A**.
- 1.4 I confirm my obligations in terms of the Environment Court's Code of Conduct for Expert Witnesses contained in the Practice Note 2014. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 1.5 I have been engaged by H W Richardson Group ("HWRG") to provide resource management planning advice with respect to Stage 3 of the Proposed Queenstown Lakes District Plan Review ("the Proposed Plan"). More specifically, I have been asked to provide planning advice regarding the most appropriate land use planning framework for the

existing Upper Clutha Transport Depot at 114-126 Main North Road, Luggate.

- 1.6 I assisted HWRG with the preparation of submissions on Stage 3 of the Proposed Plan.

SCOPE OF EVIDENCE

- 1.7 By way of summary, in this statement of evidence I will:
- 1.7.1 Provide a brief overview of the background context of HWRG; and,
 - 1.7.2 Consider HWRG's submission with respect to Chapter 20 Settlement Zone and the recommendations set out in the relevant section 42A reports (and associated evidence where relevant).
- 1.8 In preparing this brief of evidence, I can confirm that I am familiar with the site and that I have visited the site, and that I have read;
- 1.8.1 The relevant submissions relating to Chapter 20 Settlement Zone;
 - 1.8.2 The section 42A report prepared by Craig Barr, Rosiland Devlin and Luke Place (all dated 18 March 2020); and,
 - 1.8.3 The Environment Court decision regarding Chapter 3 of the Proposed Plan.¹

2. HW RICHARDSON GROUP

OVERVIEW

- 2.1 HWRG is owned and operated by the Richardson family. The Group's head office is located in Invercargill and was originally founded on transport. The company has extended its interests to include ready mix concrete, fuel and lubricant distribution, aggregates, contracting, property

¹ Environment Court Interim Decision [2019] NZEnvC 142, dated 26 August 2019.

and other investments in Otago and Southland. HWRG's business has the following main divisions:

- 2.1.1 Transport;
 - 2.1.2 Concrete;
 - 2.1.3 Petroleum;
 - 2.1.4 Contracting; and
 - 2.1.5 Quarrying.
- 2.2 The Transport division at HWRG operates approximately 740 heavy trucks throughout New Zealand. HWRG covers all facets of transport including stock, phosphate, freight, containers, bulk and specialised transport, tip trucks, waste management and handling, and logistic services.
- 2.3 HWRG's Rural Transport sector includes Andrews Transport Ltd, Heenans Transport Ltd, Herberts Transport Ltd, Hokonui Rural Transport Ltd, Kapuka Transport Ltd, Upper Clutha Transport Ltd, Ryal Bush Transport Ashburton Ltd, Ryal Bush Transport Ltd and Transport Services Southland Ltd. These businesses provide a wide range of rural transport services as well as digger and loader hire.
- 2.4 HWRG has a 50% shareholding in the Upper Clutha Transport transportation depot at located 114-126 Main Road, Luggate.² This depot was originally established in the early 1900s and provides a wide range of services including haulage of freight and livestock, bulk cartage, earthmoving, hiab hire and fertiliser and lime spreading. In addition, Upper Clutha Transport Ltd supply aggregates, sand and landscape supplies and bulk fertilizer and has a fuel stop at this depot.
- 2.5 The Upper Clutha Transport Ltd Luggate site comprises an office, workshop building, an open sided fertiliser shed and various other sheds, structures, and storage and vehicle maneuvering areas.

² Legally described as Part Section 1 and 25 Block VI Tarras SD, Part Section 1248R Block VI Tarras SD.

- 2.6 HWRG’s submission related to the parts of the site that are currently occupied by Ballance Agri-Nutrients Limited, at 132 Main Road³.
- 2.7 Further, the submission only sought changes to parts of 114-126 Main Road that are currently used for the Upper Clutha Transport depot. I note that 114-126 Main Road extends to the west, beyond the part of the site that is occupied by the Upper Clutha Transport Ltd. For this balance area no change to the zoning notified in the Proposed Plan was sought. My evidence relates to the parts of the site 114-126 and 132 Main Road Luggate where the zone and overlay changes were sought via the HWRG submission, and herein I refer to this area as “the Site”.
- 2.8 I understand that the operation of the transportation depot (and all associated activities) at the Site primarily relies on existing use rights. In this regard, it should be noted that the site was formerly zoned “Industrial” prior to the Operative District Plan “Township” zoning being applied to the site.⁴
- 2.9 Subsequent to the Township zoning of the Site, a 2015 resource consent authorised the construction, operation and use of a non-residential building and associated signage on the site (RM150374). Collectively, existing use rights and the 2015 resource consent enable the ongoing operation and use of the site for a combination of industrial⁵, commercial⁶ and service⁷ related activities. If the transportation depot activity were seeking to establish at this site under the Operative District Plan Township Zone, the activity would comprise a non-complying activity.⁸

³ Legally described as Lot 1 DP 24093.

⁴ Refer to Section 1 existing use rights explanation set out in RM150374.

⁵ Under Chapter 2 of the Proposed Plan, **Industrial Activity** means the use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing, or associated storage of goods.

⁶ Under Chapter 2 of the Proposed Plan, **Commercial Activity** means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment or services, and includes shops, postal services, markets, showrooms, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, the sale of liquor and associated parking areas.

⁷ Under Chapter 2 of the Proposed Plan, **Service Activity** means the use of land for the primary purpose of the transport, storage, maintenance or repair of goods.

⁸ Township Zone Rule 9.2.3.5 classified ‘Industrial’ and ‘Service’ activities as non-complying activities.

3. PROPOSED REZONING OF 114-126 AND 132 MAIN ROAD, LUGGATE

- 3.1 Stage 3 of the Proposed Plan replaces the Operative District Plan “Township” Zone with the new Proposed Plan “Settlement” zone. The purpose of the proposed Settlement Zone is to provide for spatially well defined areas of low density residential living, with opportunities for commercial, commercial recreation and community activities within identified “Commercial Precincts”.⁹
- 3.2 The Site is located within the proposed Settlement Zone at Luggate. The purpose of the Settlement Zone and the activities being undertaken at the Site are therefore not aligned. Again, if the transportation depot where to seek to establish at this site, the activity would comprise a non-complying activity under the proposed Settlement Zone rules.¹⁰ Accordingly, HWRG submitted that the Site should be rezoned to Business Mixed Use Zone, with a maximum building height of 12m, to better reflect the nature and scale of activities occurring on site.
- 3.3 HWRG also submitted that, in the event that the Upper Clutha Transport is relocated to a new site in Church Road (refer to the Upper Clutha Transport submission (3256)), the Site should be subject to a Settlement Zone (as notified), with the addition of a Commercial Precinct Overlay. This would enable HWRG to redevelop and remediate the Site in the future for activities more aligned with the outcomes of the zone and including the potential adaptive reuse of the historic flour mill building that is located on the site.¹¹ Figure 1 below depicts the site where the Commercial Precinct Overlay is sought to be located.

⁹ Chapter 20 Settlement Zone, Purpose 20.1, paragraphs 1 and 3.

¹⁰ Proposed Settlement Zone rule 20.4.17 is a catch all rule that classifies activities not listed in the rule table as non complying activities.

¹¹ Protected Feature #544 Old Flour Mill, Council Category 2 and HNZ Category 2.

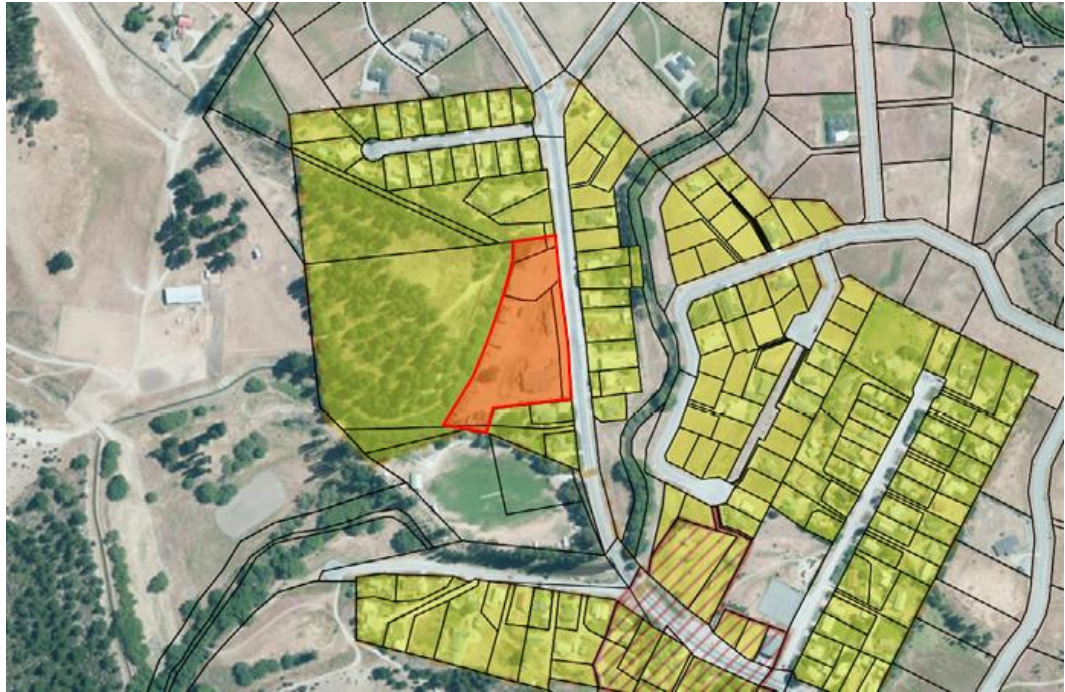


Figure 1: The red shaded area depicts the site where the Commercial Precinct Overlay is sought. The red hashed area depicts the notified extent of the Settlement Zone Commercial Precinct Overlay.

- 3.4 The section 42A report does not recommend supporting the rezoning of the site to Business Mixed Use zone.¹² The section 42A report notes that the Business Mixed Use zoning is intended to act as an intensive urban zone within urban growth areas. Luggate is not located within an urban growth boundary. The report also suggests that the Business Mixed Use zone would not capture the nature and scale of industrial activities on the Site.¹³
- 3.5 With respect to relief sought to overlay the Settlement Zone Commercial Precinct at the site, the Section 42A report considers that there may be benefit establishing a Commercial Precinct that better reflects the existing lawfully established development and avoids future non-compliances where activities are not anticipated by the zone.¹⁴ The section 42A report acknowledges that the site has a long history of

¹² Paragraph 30.3, Section 42A Report of Rosalind Devlin, 18 March 2020.

¹³ Paragraph 30.2, Section 42A Report of Rosalind Devlin, 18 March 2020.

¹⁴ Paragraph 30.6 and 30.7, Section 42A Report of Rosalind Devlin, 18 March 2020.

commercial and industrial activities, and that it would be appropriate to provide for its ongoing use for these purposes.

- 3.6 The section 42A report recommends establishing the Settlement Zone Commercial Precinct Overlay over the site. The report notes that the site is well suited for the type of commercial development provided for via the Settlement Zone Commercial Precinct, such as visitor accommodation and small scale hospitality and retail activities. As I discuss in more detail below, I agree with this recommendation and consider such development could make excellent use of the protected flour mill building at the site.
- 3.7 However, the section 42A report acknowledges that any changes to the future nature and scale of industrial activities on site will require consent as a non-complying activity. The report notes that the 2015 consent and the existing environment concept would assist with future resource consenting on this site.
- 3.8 In my view, relying on the existing 2015 consent in tandem with an “existing environment” debate during future resource consenting processes provides little certainty of outcome for HWRG and the Upper Clutha Transport activity.
- 3.9 However, as you will hear from counsel and from Mr Edgar’s planning evidence in relation to submission 3256, Upper Clutha Transport Ltd is in the process of finding a new site for its Luggate operation. Currently, Upper Clutha Transport Ltd has not obtained a suitable site in an appropriate location, with zoning that enables this industrial activity. It is currently in the process of carrying out due diligence on a property on Church Road, north of Luggate, and has lodged a submission on the Proposed Plan seeking that this Church Road site be rezoned to *General Industrial*¹⁵, to enable this activity to relocate out of the Luggate township.
- 3.10 Assuming Upper Clutha Transport Ltd secures appropriate zoning for the Church Road site and is therefore able to relocate there, the Luggate site will become available for redevelopment in line with the outcomes

¹⁵ Refer submission by Upper Clutha Transport Ltd, submitter number 3256.

sought for the Commercial Precinct in the Settlement Zone. In my view, this outcome would be appropriate at the Site, for the following reasons:

- 3.10.1 The Site has a long history of commercial use, dating back to the establishment of the flour mill at the site, and the amenity values at the site reflect this use.
 - 3.10.2 The Site contains a historic building that is protected under the District Plan. This feature comprises a large stone three storied building which remains in reasonably good condition. It is considered that the Commercial Precinct Overlay would present increased opportunity for the viable adaptive re-use of this historic building;
 - 3.10.3 The Site has frontage to and access from State Highway 6, which is the main road through Luggate. The site's location immediately adjacent to State highway 6 – the Wanaka Luggate Highway, is considered well suited for small scale commercial activities to service the Luggate community, and the site has a wide, expansive frontage to the main road, and sufficient space for parking.
- 3.11 Further, establishing the Commercial Precinct Overlay at the site will enable development that is consistent with the relevant objectives and policies for the Settlement Zone. Objective 20.2.3 seeks to enable an environment where commercial, community and visitor accommodation activities are provided for within precincts, and where these activities are limited in scale, provide for local and visitor convenience, and support the local economy. In a similar vein, Policy 20.2.3.1 requires the identification of Commercial Precincts to provide commercial, visitor accommodation and community services that will meet the day-to-day needs of residents and visitors, and support the local economy. Policy 20.2.3.3 encourages development within Commercial Precincts to facilitate active transport and recreational opportunities, through design connectivity with reserves and pedestrian and cycling links.

- 3.12 The subject site is well suited to achieve these provisions. The site is located on the main road through Luggate and is in close proximity to the existing commercial centre of Luggate, which comprises the Luggate Hotel, the Luggate General Store, and the community hall and car parking area. An existing walkway on the eastern side of State Highway 6 connects this centre with the Site, which is located approximately 300m north of the commercial center.
- 3.13 The Luggate Cricket Club / Camping Ground¹⁶ is located between the existing commercial centre and the Site, meaning the Site will have good access to this recreational facility and the camping ground.
- 3.14 The size of the Site where the Commercial Precinct Overlay is sought is approximately 1.15 hectares in area. This site area will provide numerous opportunities for the development of high quality small scale commercial enterprises and visitor accommodation activities. On site amenities such as car parking and circulation, screened service areas and landscaping areas could be accommodated on the site. Therefore, the Site presents opportunities for developments that align with the outcomes sought by Policy 20.2.3.8, which seeks to ensure that buildings for visitor accommodation, commercial and community activities contribute positively to the visual quality of the environment, through building design, landscaping and response to site context.
- 3.15 Including the Ballance Agri-Nutrients Ltd's site, which also accommodates an established industrial/service activity, in the Commercial Precinct Overlay will provide a cohesive road frontage for the Commercial Precinct adjacent to State Highway 6, and enable this area to developed in an efficient and unified manner.
- 3.16 In my view, the implementation of the Commercial Precinct Overlay over the Site is consistent with the environmental outcomes sought by the following Strategic objectives and policies in Chapter 3 of the Proposed Plan:¹⁷

¹⁶ The Luggate Cricket Club / Camping Ground is owned by Luggate Albion Cricket Club Inc.

¹⁷ Environment Court Interim Decision [2019] NZEnvC 142, dated 26 August 2019.

- 3.16.1 Strategic Objective 3.2.1.5: Local Service and employment functions served by commercial centres and industrial areas outside of the Queenstown, Wanaka Town Centres, Frankton and Three Parks, are sustained.
- 3.16.2 Strategic Objective 3.2.6: The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety.
- 3.16.3 Strategic Policy 3.3.3: Avoid commercial zoning of land that is likely to undermine the role of Queenstown and Wanaka town centres as the primary focus for the District's economic activity.
- 3.16.4 Strategic Policy 3.3.11: Provide for a wide variety of activities and sufficient capacity within commercially zoned land to accommodate business growth and diversification.
- 3.17 The Site where the Commercial Precinct Overlay is sought is currently used for industrial and service activities. Including the Commercial Precinct Overlay at the Site will enable the Site to be used for commercial activities, albeit of a smaller scale and different nature to the current uses. Enabling the commercial use of the site to continue, and the adaptive reuse of the historic flour mill, will assist in providing for the community's social, cultural and economic wellbeing.
- 3.18 The land where the Commercial Precinct Overlay is sought already used for business activities, so the Commercial Precinct will not increase the land area zoned for commercial uses in the District. Further, the nature and scale of commercial uses enabled in the Settlement Zone Commercial Precinct are limited in nature and scale, to ensure that development does not detract fomr the main commercial centers.
- 3.19 I have attached a section 32AA evaluation of the proposal to include the Commercial Precinct Overlay at the Site in **Appendix B** to my evidence.

4. CONCLUSION

- 4.1 In summary, the section 42A report recommends zoning the site Settlement Zone (as notified) and establishing a Commercial Precinct Overlay over the Site. The Commercial Precinct goes some way to addressing the concerns raised in HWRG's submission and is in line with HWRG's future aspirations for the site and the adaptive re-use of the historic flour mill building. In my view, the Site is well suited to the types of land uses enabled by the Settlement Zone Commercial Precinct.
- 4.2 Locating a suitable site, with suitable zoning, for the Upper Clutha Transport activity to relocate to will enable this Luggate site to be developed in line with the outcomes sought for the Settlement Zone and Commercial overlay. The submission by Upper Clutha Transport Limited and evidence of Mr Edgar on the industrial zone provides a pathway to realize this outcome.

M Justice

29 May 2020

APPENDIX A

SUMMARY OF RECENT PROJECT EXPERIENCE

- Queenstown Lakes District Council –preparation of Plan Change 50 s32 evaluation to rezone land in central Queenstown in the Queenstown Lakes District Plan
- Port Marlborough New Zealand Limited – submissions and further submissions and evidence, and preparation of planning provisions on the Proposed Marlborough Environment Plan
- Port Marlborough New Zealand - preparation of resource consent application for extension to Waikawa Marina
- Queenstown Lakes District Council – preparing subdivision applications for Lakeview site, central Queenstown
- Kingston Village Limited - preparing subdivision and landuse application for 217 lot subdivision at Kingston
- Otago Regional Council – preparation of a Notice of Requirement to designate the site for the Central City Bus Hub
- Ryman Healthcare Limited – preparing submissions planning provisions specific to retirement villages, and evidence for the Proposed Christchurch Replacement District Plan process
- HW Richardson Group – preparing evidence on the Proposed Invercargill District Plan
- Ryman Healthcare Limited – involved with preparing planning provisions specific to retirement villages for the Auckland Unitary Plan and preparing evidence on the Auckland Unitary Plan
- Ryman Healthcare Limited – obtain land use and regional level resource consents for the Howick Retirement Village, Auckland City
- Ryman Healthcare Limited – obtain subdivision, land use and regional level resource consents for the Rangiora Retirement Village, Rangiora
- PowerNet Limited – preparing submissions, further submissions and Notices of Requirement for numerous Designations in Dunedin City District, Invercargill District and Clutha District, and attendance at the relevant Council hearings
- Otago Regional Council – submissions, further submissions and notices of requirement for the Dunedin City Council Proposed Plan, and attendance at the relevant Council hearings

- Queenstown Lakes District Council – contracted to process resource consent applications

APPENDIX B

SECTION 32AA EVALUATION

CHAPTER 20 – SETTLEMENT ZONE – AMENDMENTS AND SECTION 32AA ASSESSMENT

Proposed Provisions (as per the notified Chapter 20 Settlement Zone)	Amended Provisions (as proposed by the section 42A report and supported by my evidence)	General Comments and the appropriateness of achieving the purpose of the Act / purpose of the Objective		
<p>Zoning of 114-126 and 132 Main Road, Luggate: Settlement Zone</p>	<p>Zoning of 114-126 and 132 Main Road, Luggate: Settlement Zone <u>with Commercial Precinct Overlay</u></p>	<ul style="list-style-type: none"> The proposed Commercial Precinct recognises that the site is currently used for a range of non-residential land uses activities, including commercial, industrial and service type activities. While the Commercial Precinct does not cover the entire range of existing activities, it does signal that the site is not used for residential purposes. The proposed Commercial Precinct overlay will also allow for a wider range of potential adaptive reuse opportunities for the existing historic flour mill on site (#544) that may not otherwise be realised if the site was zoned for primarily residential purposes. The Commercial Precinct will be limited in scale and will provide for the ongoing support of the economy, as per Objective 20.2.3 of the Settlement Zone. Section 7(b) of the Act requires particular regard to be had to the efficient use and development of natural and physical resources. The proposed Commercial Precinct will enable future development of the site using the existing buildings and infrastructure already established here. The site may not, due to its historic land use, be suitable for residential activities due to potential contamination. The Commercial Precinct provides an opportunity to utilise the site for other purposes without necessarily requiring the same level of site remediation required for residential purposes. <p>Imposing the Commercial Precinct Overlay at the Site is considered to be the most appropriate way to achieve the purpose of the Act.</p>		
		Environmental, Economic, Social and Cultural Benefits	Environmental, Economic, Social and Cultural Costs	Effectiveness & Efficiency
		<ul style="list-style-type: none"> Enabling future commercial use of the site will enable the adaptive reuse of the historic flour mill site, and other existing buildings and infrastructure. The continuation of commercial activities on site provides for the social and economic wellbeing of the community through employment opportunities. 	<ul style="list-style-type: none"> The use of the site for commercial activities could result in adverse amenity effects for the nearest residential properties. In this regard however, the site is currently utilised for a reasonably intensive combination of industrial, commercial and service type activities. Placing a longer term commercial focus on the site in line with the outcomes sought for the Settlement Zone Commercial Precinct will give rise to lesser adverse amenity effects than the current operations. 	<ul style="list-style-type: none"> The proposed Commercial Precinct is efficient as it recognises the commercial nature of the existing site without imposing undue consenting requirements for such activities in the future. The proposed Commercial Precinct is also effective as while it does not provide for industrial and service type activities (which can continue under existing use rights), it provides for the gradual transition of the site away from such intensive land uses

			<ul style="list-style-type: none">• The site is considered a HAIL site due to existing land use activities. While this is a potential cost to its future use and development, the remediation requirements for commercial land use activities are generally lower than if the site was to be redeveloped and reused for residential purposes.	which is more keeping with the purpose of the zone.
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