

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-11

Report and Recommendations of Independent Commissioners Regarding
Mapping of Queenstown-Glenorchy Road, Glenorchy and Environs, Dart and
Rees Valleys

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

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Appendix 1: Amendments to Chapters 22 and 27 in Relation to Submission 764.18 for Mt Christina

PART A: TEMPLE PEAK LTD

Submitter **Temple Peak Ltd (Submission 486)**

1.

1.1. **Subject of Submissions**

1. This submitter supported the Rural Lifestyle Zone on their land on the Rees Valley Road and sought adoption of the Rural Lifestyle zoning.
2. There were no further submissions therefore the notified zoning was not challenged.
3. The site is shown in Figure 11-1 below



Figure 11-1 - Submission site near Glenorchy – Extract from Planning Map 9

1.2. **Recommendation**

4. Therefore we recommend to the Council that Submission 486 be accepted.

PART B: CABO LIMITED

Submitter Cabo Limited (Submission 481)

2.

2.1. **Subject of Submissions**

5. The submitter sought adoption of the Rural Lifestyle Zone provisions (inclusive of the Building Restriction Area) and Rural Lifestyle zoning as it related to the Wyuna Station Rural Lifestyle Zone.
6. There were no further submissions therefore the notified zoning was not challenged.
7. The sites are shown on Figures 11-2 and 11-3 below.

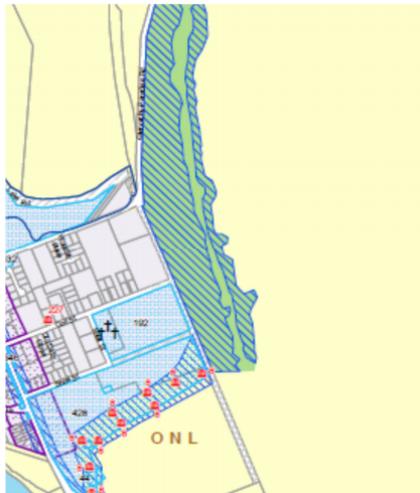


Figure 11-2 – Submission site at Glenorchy - see Planning Map 25b



Figure 11-3 – Submission site south of Glenorchy – see Planning Map 25a

2.2. Recommendation

8. Therefore we recommend to the Council that Submission 481 be accepted.

PART C: NEW ZEALAND TUNGSTEN MINING LIMITED

Submitter New Zealand Tungsten Mining Limited (Submission 519.64)

Further Submissions

FS1015.100 – Straterra – support
FS1356.64 - Cabo Limited - oppose

3. PRELIMINARY MATTERS

3.1. Outline of Relief Sought

9. The submitter sought that the boundary of the ONF which, as notified, followed the edge of the Dart River, be realigned. It stated that the ONF boundary did not follow the most appropriate boundary on the western side (alongside the Dart River). The request would move the ONF boundary to the toe of Mt Alfred.
10. Further submitter FS1015.100 (Straterra) supported the submission on the basis that moving the ONF boundary would provide for mineral and mining activities.
11. FS1356.64 (Cabo Limited) opposed the submission on the basis that it did not result in sound resource management planning.

3.2. Description of the Site and Environs

12. The site of the submission is the eastern side of the Dart River flats north of Glenorchy, as identified on the Planning Map extract below.



Figure 11-4 – NZ Tungsten Mining submission Dart Valley – Extract from Planning Map 9

3.3. The Case for Rezoning

13. Dr Read, the landscape expert witness for the Council, considered that the strip of land between the Dart River and Mt Alfred could be removed from the ONF. The land would remain within the ONL which could absorb activities such as farm buildings and non-intrusive prospecting and mining at the levels permitted in the Rural Zone. The proposal is illustrated in the attached diagram taken from Dr Read's evidence.¹

¹ Dr M Read, EIC, 24 May 2017, paragraphs 15.3 – 15.5 and Figure 25

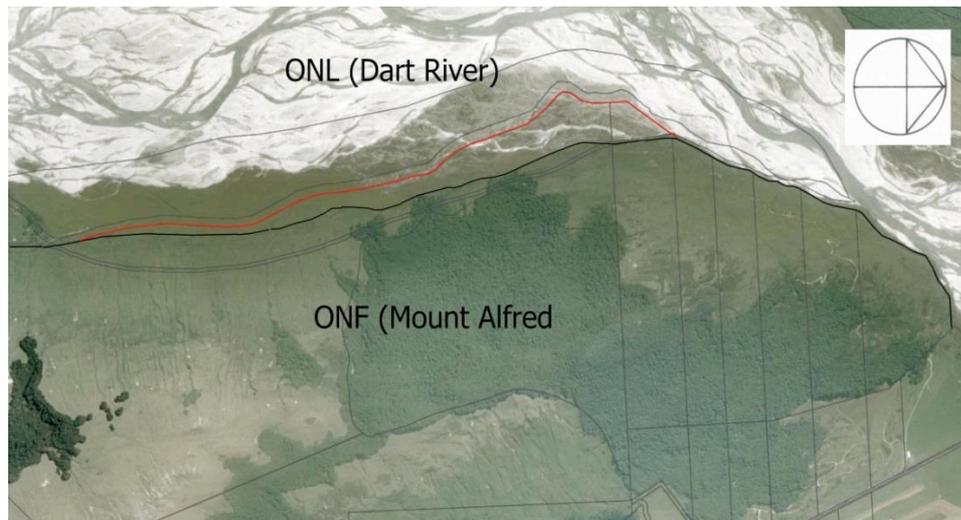


Figure 11-5: Amended ONF/ONL boundary along the north western edge of Mount Alfred. The red line is the notified boundary, the black line is the boundary requested in Submission 519.

3.4. Discussion of Planning Framework

14. The land adjoins the Dart River and is part of the ONF. Strategic objectives and policies in Chapter 3 require the identification of ONL's and ONF's and their protection from more than minor or temporary adverse effects.² Rules in the Rural Zone give effect to these provisions and ensure that activities and buildings, in this case for mining activities, with the potential for more than minor effects would require assessment under resource consent applications.

4. ISSUES

- a. The correct location of the Outstanding Natural Feature (ONF) Boundary

5. DISCUSSION OF ISSUES AND CONCLUSION

15. We are satisfied that the identification of Mt Alfred as an ONF and the Dart River Flats as ONL together with the Rural Zone rules relating to ONF's and ONL's will ensure no more than minor or temporary adverse effects can occur from activities permitted in the zone.
16. We conclude that the ONF line in this vicinity can be shifted to the toe of Mt Alfred.

6. RECOMMENDATION

17. For those reasons we recommend that:
 - a. Submission 519.64 be accepted; and
 - b. FS1015.100 be accepted; and
 - c. FS1356.64 be rejected; and
 - d. That the ONF line be shifted to the toe of Mt Alfred as shown on Planning Map 9.

² See Objective 3.2.5 and Policies 3.3.29 3.3.30 and 6.3.12

PART D: AMRTA LAND LTD

Submitter Amrta Land Ltd (Submission 677)

Further Submissions

FS1035.8 and FS1035.9 - Mark Crook - oppose
FS10748 and FS1074.9 - Alistair Angus - oppose
FS1290.1 and FS1290.2 - Robert Andrew Singleton - oppose
FS1312.8 and FS1312.9 - AG Angus - oppose
FS1319.1 and FS1319.2 - John Glover - oppose
FS1323.1 and FS1323.2 – Kinloch Residents Association - oppose
FS1364.8 and FS1364.9 – John & Kay Richards - oppose

7. PRELIMINARY MATTERS

7.1. Subject of Submissions

18. These submissions related to an area of approximately 800 ha being Woodbine Station at the head of Lake Wakatipu near Kinloch.

7.2. Outline of Relief Sought

19. The submitter sought that Planning Maps 9 and 25 be amended to include Woodbine Station within the (ODP) Rural Visitor Zone. Alternatively, a zone that would provide for tourism development such as the Rural Lifestyle Zone with a Visitor Accommodation overlay or some other specific tourism related zoning was sought.

7.3. Description of the Site and Environs

20. The site, shown on Figure 11-6 below, consists of river flats on the west bank of the Dart River and indigenous forest regenerating slopes at the foot of the mountains on the west side of Lake Wakatipu.



Figure 11-6 – Approximate extent of Woodbine Station subject to the submission outlined in red.

7.4. The Case for Rezoning

21. The submission stated that the subject land was suitable for tourism development including visitor accommodation and related recreational amenities; and that such development could contribute significantly to the local community and wider District's economic wellbeing.
22. The further submissions in opposition were concerned with the potential for adverse effects on the ONL, the rural and other amenities, and the lack of detail provided. Some of them accepted the possibility of some development on the site but not to the extent possible under the proposed zoning.
23. For the Council, Dr Read opposed the rezoning from a landscape perspective because while there may be some potential to apply the zoning sought to small, discrete areas of the property, adjacent to Kinloch for example, the risks to the wider landscape of rezoning the entire station, effectively removing it from the ONL protections provided by the PDP, would be too great.³
24. Mr Davis opposed the rezoning from an ecological perspective because the site encompassed land on the valley flats on the true right of the Dart River and the lower hillslopes of the Humboldt Mountains overlooking Lake Wakatipu. The hillslopes are regenerating and are dominated by early succession bracken fern community that will be providing a good nursery crop for progressing the development of the vegetation, should the station choose not to undertake clearing activities. The valley flats immediately to the north of Lake Wakatipu have been developed and are dominated by introduced pasture communities but are also likely to contain some areas of wetland. The submission provided little information regarding the scope of tourism activities on the property. It was, he said, therefore not possible to consider the effects the zone may have on the ecology of the area without a clearer understanding of the activities that may occur under the proposed zone.⁴
25. Mr Glasner opposed the rezoning from an infrastructure perspective because it would potentially allow a large high density development in a rural area and it was unclear how servicing of this site was planned, and whether it was feasible given site constraints.⁵
26. Mr Mander considered that the increased use of the road might require upgrades to Kinloch Road. As the submitter had not provided information on traffic effects he therefore opposed the rezoning from a traffic perspective.⁶

7.5. Discussion of Planning Framework

27. 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 will be reasonably difficult to see from beyond the boundary of the site.⁷

³ Dr M Read, EIC, 24 May 2017, paragraphs 15.6 – 15.7

⁴ G Davis, EIC, 24 May 2017

⁵ U Glasner, EIC, 24 May 2017, paragraphs 8.71 – 8.74

⁶ D Mander, EIC, 24 May 2017, paragraphs 11.12 – 11.17

⁷ See Objective 3.2.5, policies 3.3.29 and 3.3.30, and Policy 6.3.12

28. 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 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 valuable.⁸
29. 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.
30. The alternative Rural Residential zoning suggested would take the site out of the ONL, and would enable very extensive rural residential development at a scale far beyond anything else at the head of the lake. Although landscape would be a relevant matter for consideration on any consent applications to develop the site, this would not be in the context of the objectives and policies relating to the ONL.

8. ISSUES

- a. Landscape
- b. Ecology
- c. Traffic
- d. Infrastructure
- e. How to best accommodate increases in visitor activity.

9. DISCUSSION OF ISSUES AND CONCLUSIONS

31. 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 enable this.
32. We do not assume that the submitter intends to develop the entire station for visitor accommodation and activities. However we have no information at all about how much development is envisaged and the rezoning requested does not include any limits. We are simply unable to assess the potential effects of this proposal because of this. We agree with Dr Read that there may be some potential for visitor activities on some small discrete areas of the property, adjacent to Kinloch for example, but that the risks to the wider landscape of

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, and Policies 3.2.1.8 and Policy 3.3.1

rezoning the entire station, effectively removing it from the ONL protections provided by the PDP, are far too great.

33. The same applied to concerns about traffic, ecology and infrastructure. As we have no information about the scale of development proposed we cannot assess potential effects.
34. In addition to that, as we have stated when discussing a number of other similar submissions, we are not prepared to import the Rural Visitor Zone from the ODP into the PDP, even in modified form. In brief, we consider that zone allows too great a density of development without sufficient safeguards. Its objectives and policies do not properly reflect the requirements of Part 2 of the RMA regarding ONL's and areas of significant indigenous vegetation for example.¹¹ It would not sit comfortably with the relevant objectives and policies of this PDP without significant modification.
35. We also note that the Stream 2 Panel is recommending the deletion of the Visitor Accommodation Sub-Zone from the Rural Lifestyle Zone. Without evidence as to its appropriate application, including objectives, policies and rules, along with a section 32 analysis, we are not prepared to re-instate it for this site.
36. At a later stage in the plan review process the Council will be reviewing the ODP Rural Visitor Zone provisions. Until then, if the submitter wishes to pursue any development projects then there is the opportunity to do so through the resource consent process in the Rural Zone.

10. RECOMMENDATION

37. For the reasons set out above, we recommend that:
 - a. Submissions 677.8 and 677.9 be rejected; and
 - b. The Further Submissions FS1035.8, FS1035.9, FS10748, FS1074.9, FS1290.1, FS1290.2, FS1312.8, FS1312.9, FS1319.1 and FS1319.2, FS1323.1, FS1323.2, FS1364.8 and FS1364.9 be accepted; and
 - c. The Council reconsider the zoning of this site when it reviews the ODP Rural Visitor Zone.

¹¹ Sections 6(b) and (c) of the RMA.

PART E: MOUNT CHRISTINA LIMITED

Submitter Mount Christina Limited (Submission 764)

Further Submissions:

None

11. PRELIMINARY MATTERS

11.1. Subject of Submissions

38. The land to which the submission relates is Lot 1 – 2 DP 395145 and Section 2 SO Plan 404113, being 28.86 hectares in area and contained within Computer Freehold Register 455423.

12. Outline of Relief Sought

39. The submission sought the rezoning of the site, as shown on Planning Map 9 from part Rural Residential and Rural to all Rural Residential.

13. Description of the Site and Environs

40. The submission site is on the Glenorchy Paradise Rd, 12 kilometres north of Glenorchy, adjacent to Camp Hill, identified on the aerial photograph below (Figure 11-7).

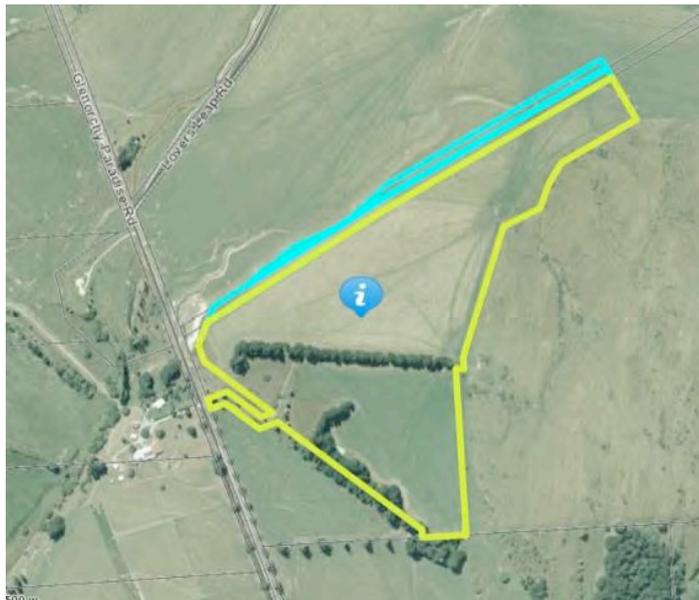


Figure 11-7: location of Submission site

14. The Case for Rezoning

41. The land adjoins Camp Hill and is within the ONL. The land proposed for rezoning is situated on a terrace separated from the road and other land owned by the submitter by a steep escarpment. Much of the site is screened from the road by the escarpment although any housing built close to the edge of the escarpment would be visible from below and would appear in views of Camp Hill

42. Mr Skelton,¹² the landscape expert witness for the submitter, considered the notified Rural Residential zoning for the site to be illogical as it included the highly visible southern face of

¹² S Skelton, EIC, 12 June 2017; Summary Statement, 1 September 2017

the escarpment and lower land that would be highly visible from the surrounding area. He noted that there have already been two rural residential subdivisions of 36 and 26 allotments approved for the site including the existing zoning. He considered it would be much more appropriate to confine development to the upper terrace which has much greater ability to absorb the development without adverse effect on the environment. He considered that the whole upper terrace could be rezoned, but with a 20m setback from the edge of the escarpment, a limit of 36 allotments and a building height limit of 5.5m. At 30 ha, this would be twice the size of the existing rural residential zone but, he said, the site had the capacity to absorb the development.

43. Dr Read, for the Council, had a similar view of the existing zoning but considered that the extent of the Rural Residential zoning should be no greater than the 15 hectares zoned as notified, and that it should be limited to the part of the terrace near the base of Camp Hill limited to 26 allotments, as provided for by the existing resource consent, so as to reduce the impact on the landscape. She estimated the upper terrace would have the capacity for up to 48 allotments.¹³

15. ISSUES

- a. The capacity of the site to absorb development without adverse effects on the ONL.
- b. The extent and scale of the area to be rezoned Rural Residential.
- c. Any rules required to implement this rezoning.

15.1. Other Constraints on Development:

44. The zone boundary sought by the submitter follows the cadastral boundaries. If this is adopted, there would be several small areas of escarpment face included within the Rural Residential Zone. We discussed with the submitter and Mr Buxton at the hearing the best way to exclude development on this face, including Building Restriction Areas, setbacks to a contour or setbacks from the edge of the escarpment edge.

15.2. Discussion of Planning Framework

45. 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 will be reasonably difficult to see from beyond the boundary of the site.¹⁴ Rules in Chapters 22 (Rural Residential) and 27 (Subdivision) are used to create site specific rules for Rural Residential zoned sites that have particular sensitivities.

16. DISCUSSION OF ISSUES AND CONCLUSION

46. The experts for the submitter and the Council both agree that some Rural Residential zoning would be appropriate on the site, and that the existing location of the zone could be improved upon by confining it fully to the upper terrace, except for an access road. They disagree on the amount of land to be rezoned, its location on the upper terrace and by how much the yield should be limited.

¹³ Dr M Read, EIC, 24 May 2017, paragraphs 15.1 – 15.6; Rebuttal Evidence, 7 July 2017, paragraphs 8.13 – 8.17

¹⁴ See Objective 3.2.5, Policies 3.3.29 and 3.3.30, and Policy 6.3.12

47. We consider some location specific rules, as recommended by the submitter's witnesses would be appropriate in this case.¹⁵ We accept the evidence of Mr Skelton that the upper terrace has the capacity to absorb 36 dwellings with generous setbacks from the terrace edge and a single storey height limit, because such development would be largely out of sight from surrounding areas. For this reason, we do not see the need to confine the zoning to a similar size as the ODP, or confine its location to the base of Camp Hill or restrict it to 26 allotments as recommended by Dr Read and Mr Buxton because we do not consider these additional restrictions would actually achieve any better outcome. We consider this amended package we are recommending will best achieve the objectives and policies of the PDP.
48. While we accept Mr Ferguson's proposed rules in principle, we consider that they can be better accommodated in Chapter 22 as a separate table, consistent with the approach taken for the Rural Residential Zone as applied at Forest Hill and Bobs Cove, with minor wording adjustments to make the rules consistent with similar rules in the PDP. We also recommend adjusting the setback control proposed by Mr Ferguson to require the set back from either the zone boundary or the top of the escarpment where that is located within the zone.

17. RECOMMENDATION

49. For the reasons set out above, we recommend that:
- a. Submission 764.18 be accepted in part by the rezoning of Lot 1 – 2 DP 395145 and Section 2 SO Plan 404113 as Rural Residential as shown on Planning Map 9; and
 - b. The amendments to Chapters 22 and 27 set out in Appendix 1 to this report be adopted.

¹⁵ C Ferguson, EIC, 12 June 2017, Appendix 6

PART F: GARRY STRANGE and NICK CLARK

Submitter **Garry Strange (Submission 168) and Nick Clark (Submission 298)**

18. PRELIMINARY MATTERS

18.1. Subject of Submission

50. These submissions relate to all of the lands zoned Rural Residential, Rural Lifestyle, Visitor Accommodation Subzone and Rural at Wilsons Bay.

18.2. Outline of Relief Sought

51. Mr Strange sought that the Council address the four different zonings at Wilson Bay (Rural, Rural Residential, Rural Lifestyle and Visitor Accommodation Subzone) and remove the ONL, allowing development to be managed by the zoning only. He did not state how he wanted the zonings to be altered.

52. Mr Clark (298) sought that Lots 20 – 28 DP 12816 be rezoned from Rural Lifestyle to Rural Residential and that the building restriction be removed.

53. Mr Clark also requested that the density restrictions of one residential unit per hectare with an overall density of one residential unit per 2 ha be removed. Presumably this is for the Rural Lifestyle zone. This point was not included in the summary of submissions. This issue was raised by other submitters and we recommend the issue be rejected.¹⁶

18.3. Description of the Site and Environs

54. The location of the land to which Mr Strange's submission relates is not entirely clear but includes at least the Rural Residential and Rural Lifestyle Zones identified on the aerial photograph below (Figure 11-8). The submission is unclear about the extent to which it applies to the Rural Zone.



Figure 11-8 - Excerpt from PDP Planning Map 38 Wilsons Bay. Dark Green is Rural Lifestyle zone, Light Green is Rural Residential, yellow is Rural and blue cross-hatch is the Building Restricted Area.

¹⁶ See Report 17-8 on Submission 328 (Gutzewitz & Boyd)

18.4. The Case for Rezoning

55. Mr Strange requested that the Council remove Wilson Bay and surrounding highly developed areas from the ONL and let development take place within the rules of the district plan without the ONL as this would use land that is useless and over grown with wilding pines.
56. Mr Clark stated that the zoning of Rural Lifestyle of Lot 24 DP 12816 was inconsistent with surrounding developments and that a zoning change to Rural Residential would better reflect the patterns that already exist. He proposed that the policy of one residential unit per hectare with an overall density of one residential unit per two hectares be removed. He considered that the land at Closeburn is useless for anything but building on, as it was covered in pines and for that reason it had very few natural landscape values that were visible. He considered that the BRA to be unnecessary and that it served no discernible purpose and that it was applied to steep land covered in pines.
57. For the Council, Dr Read opposed the rezoning and removal of the ONL from a landscape perspective because the land within the ONL had high natural character that was part of the backdrop to Lake Wakatipu. Her evidence was also that although the requested rezoning from Rural Lifestyle to Rural Residential could result in the removal of the wilding conifers, the resultant large number of dwellings would reduce the natural character and rural qualities of the area.¹⁷
58. Mr Buxton stated that the PDP zoning in Wilson Bay provided greater residential density close to the bay on the flatter portions, and less density further away on the steeper sloping land. The Building Restriction Area (BRA) and the ONL on the Rural Zone beyond applied to the higher areas to reduce the prominence of buildings (and earthworks for access ways) on the backdrop to the bay or when approaching the bay from Queenstown. Viewed from the bay itself, removal of the BRA could result in a number of additional dwellings in an elevated and highly visible part of the bay.
59. Mr Mander, the traffic expert for the Council, noted the absence of any assessment of potential traffic effects from the greater number of houses that could eventuate and therefore opposed the rezoning.¹⁸
60. The submitters provided no expert landscape evidence in their submissions and did not appear at the hearing.

19. ISSUES

- a. Appropriateness of the ONL at Wilsons Bay.
- b. Appropriateness of the zonings at Wilsons Bay
- c. Appropriateness of the Building Restricted Area
- d. Appropriateness of averaging provisions of the Rural Lifestyle zone

19.1. Discussion of Planning Framework

61. Under Chapter 6 of the PDP, the ONL provisions do not apply to the land zoned Rural Lifestyle and Rural Residential.¹⁹ Removing the ONL from these lands would therefore achieve nothing.

¹⁷ Dr M Read, EIC, 24 May 2017, paragraphs 14.1 – 14.9

¹⁸ D Mander, EIC, 24 May 2017, paragraphs 6.6 – 6.9

¹⁹ See Policy 6.3.2

The appropriate location of the ONL would only be an appropriate consideration if we were of a mind to rezone any of the rural land at Wilsons Bay.

62. Perhaps the reason for the submission is that the Planning Map, as notified, did not identify that the ONL in the Rural Zone ended where that zone adjoined the Rural Lifestyle or Rural Residential zones. The inclusion of the Landscape Classification Line at such zone intersections would, in our view, assist users' understanding of the District Plan. We have discussed this more in the Introductory Report for Stream 13.
63. 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 will be reasonably difficult to see from beyond the boundary of the site²⁰. These provisions need to be considered in any proposal to relocate the ONL line at Wilsons Bay or rezone any rural land there.

20. DISCUSSION OF ISSUES AND CONCLUSION

64. In the absence of any expert evidence about landscape values or traffic effects at Wilsons Bay from the submitters we accept the advice of the Council experts, Dr Read, Mr Mander and Mr Buxton.²¹
65. Although the Rural Residential Zone requested does contain objectives, policies and rules that give some protection to landscape values,²² these do not offer the same level of protection as the ONL, and therefore are more appropriate in rural areas that do not meet the outstanding threshold. It is our understanding of the RMA and the relevant caselaw²³ that if there is an ONL, then this should be identified first and decisions on zoning then follow. If the land qualifies as an ONL, then it should not be zoned Rural Residential.
66. We conclude that the ONL, the Building Restricted Area and the Rural Lifestyle and Rural Residential zonings at Wilsons Bay are appropriate and should remain in place.
67. With regard to minimum and average densities within the Rural Lifestyle zone, we heard no evidence on the matter and, therefore, do not recommend any change.

21. RECOMMENDATION

68. For the reasons set out above, we recommend that Submissions 168 and 298 be rejected.

²⁰ See Objective 3.2.5, policies 3.3.29 and 3.3.30, and Policy 6.3.12

²¹ R Buxton, Section 42A Report, 24 May 2017, paragraphs 12.9 – 12.14

²² Chapter 22, Section 22.2

²³ *Man o' War Station Limited v Auckland Council* [2017] NZRMA 121

PART G: BOB'S COVE

Submitter **Glentui Heights Limited (Submission 694), Bob's Cove Development Limited (Submission 712)**

22. PRELIMINARY MATTERS

22.1. Outline of Relief Sought

69. The submitters essentially sought that the notified provisions in the Rural Residential Zone specific to the Bob's Cove Rural Residential Zone (except for Objective 22.2.7) and the Bob's Cove Rural Residential Subzone be removed so that only the Rural Residential provisions apply.
70. Submissions 694.20 and 712.10 sought the deletion of "Table 5: Rural Residential Bob's Cove and subzone" from Chapter 22 on the basis that:
- a. these rules have been largely carried over from the ODP;
 - b. the principles have been reflected in the theme and consent conditions of subdivisions approved and implemented in Bob's Cove;
 - c. the proposed rules are excessive and inefficient regulations that promote focus on compliance at the expense of design innovation and case-by-case assessments; and
 - d. the general objectives and policies under 27.2.7 should set the outcomes sought for this area.
71. Submissions 694.4 and 712.6, 712.7, 712.8 sought deletion of Objective 22.2.6 and Policies 22.2.6.1 and 22.2.6.2. The reasons were that these policies are unusually prescriptive and in some instances are more reminiscent of methods. It was submitted that now that Bob's Cove has been established and the developer has shown that they are developing in accordance with the general philosophy promoted by the operative plan, deletion of this objective and related policies will encourage a move from a focus on compliance to assessing how a proposal complies with the overall principles set out in the Bob's Cove subzone via Objective 22.2.6 and subsequent policies.
72. Submissions 694.6 and 712.9 sought adoption of Objective 22.2.7 and Policies 22.2.7.1 and 22.2.7.2 on the basis that they provide an appropriate level of guidance for assessing applications for resource consents.
73. Submission 712.3 sought rezoning of the land identified below, from Rural to Rural Residential. This land is 0.34ha in area and is located on the south west corner of the Bob's Cove Subzone. The submitter stated that the subject land was being exchanged for private residential use with other land of greater conservation value, and Rural Residential zoning was considered to be the most appropriate zoning.
- #### 22.2. Description of the Site and Environs
74. The site covered by the submissions is the whole of the Rural Residential Bob's Cove Zone and Subzone, as shown in Figure 11-9 below, and an additional area of 0.34ha on the southern edge of the subzone, which is proposed to be exchanged with the Department of Conservation, as shown in Figure 11-10.



Figure 11-9 - Excerpt from PDP Planning Map 38. Light Green is Rural Residential, yellow is Rural and green cross-hatch is a Significant Natural Area.



Figure 11-10 - Approximate position of the land requested to be rezoned Rural Residential

22.3. Description of site and environs

75. The site is a partially developed Rural Residential Zone at Bobs Cove on the Glenorchy Road, together with the small portion of Rural Zone land shown in Figure 11-10. We were told by Mr Donald Reid, a director of the submitter, that most of the Figure 11-9 site was farmed up until about 1973, when it was acquired for rural residential development, and that it was cleared of vegetation in the 1980s. Exchanges of land have been made with adjoining reserve land now held by the Department of Conservation (DOC) so that the land of most conservation value has been included in reserves containing mature indigenous forest. A further exchange is now proposed, under which a small portion of land on the western edge of the Rural Residential Zone containing mature forest would be exchanged for former farmland on the south-eastern edge of the zone, now covered in regenerating vegetation and zoned Rural (as shown on Figure 11-10).²⁴

²⁴

D Reid, EIC, 9 June 2017

22.4. The Case for Rezoning

76. The case for deleting the zone provisions specific to Bobs Cove was that the area is largely developed and the special provisions were no longer required. However, no evidence about this was presented at the hearing.
77. The land proposed to be passed to DOC contains mature indigenous forest that should be protected. The area proposed for inclusion in the Rural Residential Zone contains regenerating indigenous vegetation and wilding species. Public access to the land with the best conservation values was being promoted.

23. ISSUES

78. We have identified the following key issues raised by this submission:
- a. Relevance of the Bobs Cove subzone provisions
 - b. Ecological values
 - c. Landscape values

23.1. Discussion of Planning Framework

79. The sites to be exchanged are currently within the ONL on Planning Map 38. Relevant objectives and policies include;

Objective 3.2.5.1

The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.

Policy 3.3.30

Avoid adverse effects on the landscape and visual amenity values and natural character of the District's Outstanding Natural Landscapes and Outstanding Natural Features that are more than minor and or not temporary in duration.

80. With regard to the request to delete the specific provisions that relate to Bob's Cove, the zone purpose acknowledges that some Rural Residential areas are located within visually sensitive landscapes. Additional provisions apply to development in some areas to enhance landscape values, indigenous vegetation, the quality of living environments within the zone and to manage the visual effects of the anticipated development from outside the zone. The potential adverse effects of buildings are to be controlled by bulk and location, colour and lighting standards and, where required, design and landscaping controls imposed at the time of subdivision.
81. The relevant objectives and policies state:
- 22.2.1 *Objective - The District's landscape quality, character and visual amenity values are maintained and enhanced while enabling rural living opportunities in areas that can absorb development.*
- 22.2.2 *Objective -The predominant land uses within the Rural Residential and Rural Lifestyle Zones are rural, and residential*

22.2.5 *Objective - Bob's Cove Rural Residential sub-zone –Residential development is comprehensively- planned with ample open space and a predominance of indigenous vegetation throughout the zone.*

22.2.5.1 *Ensure at least 75% of the zone is retained as undomesticated area and at least 50% of this area is established and maintained in indigenous species such that total indigenous vegetation cover is maintained over that area.*

22.2.5.2 *Ensure there is open space in front of buildings that remains generally free of vegetation to avoid disrupting the open pastoral character of the area and the lake and mountain views*

22.2.6 *Objective - Bob's Cove Rural Residential Zone - The ecological and amenity values of the Bob's Cove Rural Residential zone are maintained and enhanced.*

22.2.6.1 *To ensure views of Lake Wakatipu and the surrounding landforms from the Glenorchy-Queenstown Road are retained through appropriate landscaping and the retention of view shafts.*

22.2.7.2 *To ensure the ecological and amenity values of Bob's Cove are retained and, where possible, enhanced through:*

- *appropriate landscaping using native plants;*
- *restricting the use of exotic plants;*
- *removing wilding species;*
- *providing guidance on the design and colour of buildings;*
- *maintaining view shafts from the Queenstown Glenorchy Road.*

82. The rules for the Bob's Cove Subzone give effect to these provisions.

24. DISCUSSION OF ISSUES AND CONCLUSION

24.1. Bobs Cove Subzone

83. Although the submission sought the removal of the Bob's Cove Rural Residential Subzone as well as the rezoning of the land to be exchanged, only the latter was pursued at the hearing and the subzone issue was not pursued. In his Section 42A Report for the Council, Mr Robert Buxton considered that the zone provisions should stay to ensure that any future developments or amendments to existing development are also assessed under those same provisions.²⁵ As we heard no evidence to the contrary, we accept that advice.

24.2. Ecology

84. In his evidence for the Council, Mr Glenn Davis opposed the rezoning of the Rural-zoned block because it contains maturing indigenous regeneration and there would be a loss of ecological values. He pointed out that the subzone seeks to retain significant amounts of indigenous vegetation.²⁶

85. For the submitter, Mr Reid pointed out that the land was farmed until the 1970s, and while it contains some regenerating species there are also weed species present. The land to be passed to DOC contains mature indigenous forest with significantly greater conservation

²⁵ R Buxton, Section 42A Report, 24 May 2017, paragraph 13.14

²⁶ G Davis, EIC, 24 May 2017, paragraphs 5.15 – 5.17

processes. The arrangement has been through DOC internal processes and has received Ministerial approval.

86. The land held by the submitter could presumably be clear-felled and incorporated into the rural residential development in some way. We accept that the exchange proposal between the submitter and DOC would provide a net conservation gain over the status quo. It therefore better meets the purpose of the RMA, and the relevant objectives and policies of the PDP than the status quo.

24.3. Landscape values

87. For the Council, Dr Marion Read considered that any adverse effect on landscape character and quality on visual amenity would be insignificant in extent.²⁷
88. Mr Steven Skelton, the landscape expert witness for the submitter, considered that the site is visible from parts of the Queenstown – Glenorchy Road, the Bobs Cove Track and the surface of Lake Wakatipu). The proposed extension to the RRZ would not increase the threshold of visual development as seen from any public place. The site is visible only in tandem with other existing development and future development will not increase the prominence of built form within the landscape. He said that the small increase in the RRZ would not adversely affect the visual amenity and that the overall visual dominance of the natural landscape will be maintained.²⁸
89. We accept this evidence and consider that any adverse landscape effects would be very small and are acceptable.

24.4. Legal Road

90. Mr Reid told us that the position of the formed legal road is incorrectly marked on Planning Map 38 at the western edge of the site. A subdivision application for the lands to be exchanged is being made concurrently with this submission and the surveyor's plan²⁹ confirms that the formed road is not in the position shown on Map 8. We expect that this subdivision will result in the correct location of the road being established and this will flow automatically through to the planning maps in due course with no further action required through this process.

Zone Provisions

91. We note that submissions lodged by these submitters seeking amendment to, or deletion of, the separate provisions applying to the Bobs Cove Rural-Residential Zone and the Bobs Cove Sub-Zone³⁰ were deferred to be heard as part of the mapping hearings. No evidence was presented supporting such amendments or deletion so we do not recommend any change to the provisions as recommended by the Stream 2 Hearing Panel.

Conclusion

92. We conclude that the site proposed to be acquired by the submitter from DOC as shown on Figure 11-10 above should be included in the Rural Residential Zone, and that the bespoke provisions in Chapter 22 relating to Bob's Cove should remain unchanged.

Recommendation

93. For the reasons set out above, we recommend that:

²⁷ Dr M Read, EIC, 24 May 2017, paragraph 14.16

²⁸ S Skelton, EIC, 9 June 2017

²⁹ Paterson Pitts Group plan Q6007-14, Revision D, dated 23/6/17

³⁰ Notified Rules 22.5.21 to 22.5.32 inclusive in Table 4

- a. Submission 712 be accepted in part by changing the zoning of the land proposed to be acquired from the Department of Conservation to Rural Residential; and
- b. Submissions 694 and 712, to the extent that they request deletion of provisions in the Rural Residential Zone specific to Bob's Cove, be rejected.

PART H: MATAKAURI LODGE VISITOR ACCOMMODATION SUB-ZONE

Submitter Christine Byrch (Submission 243), Matakauri Lodge Limited (Submission 595) and Mark Scaife (Submission 811)

Further Submissions

FS1224 - Matakauri Lodge Limited – oppose 243

25. PRELIMINARY MATTERS

25.1. Subject of Submission

94. These submissions related to Lot 2 DP 27037, a 3.59 hectare site located on the Glenorchy-Queenstown Road near Wilsons Bay. Submissions 243 and 811 sought deletion of the Rural Lifestyle Visitor Accommodation Sub-Zone on Planning Map 38 for the Matakauri Lodge, as shown on Figure 11-11 below. Submission 595 supported its retention.



Figure 11-11 – Visitor Accommodation Subzone at Matakauri lodge

95. The Stream 2 Panel heard evidence from the submitters and recommended deletion of all the objectives, policies and rules relating to this Visitor Accommodation Sub-Zone, and also recommended to this panel deletion of the Sub-Zone from the planning maps based on the evidence before it.

96. We accept that the deletion of all the relevant provisions would mean the subzone would no longer exist. It would be redundant and misleading for it to be left on the planning maps. We also note that we heard no evidence on this matter that would lead us to a different conclusion from that reached by the Stream 2 Panel.

26. RECOMMENDATION

97. For those reasons, we recommend to the Council that:
- a. Submissions 243.29, 243.33, and 811.15 be accepted; and
 - b. Submission 595.1 be rejected; and
 - c. The Visitor Accommodation Subzone on Planning Map 38 be deleted.

PART I: SUMMARY OF RECOMMENDATIONS

98. For the reasons set out above we recommend that:
- a. Submission 486 be accepted;
 - b. Submission 481 be accepted;
 - c. Submission 519.64 and Further Submission 1015.100 be accepted, and that Further Submission 1356.64 be rejected;
 - d. Submissions 677.8 and 677.9 be rejected and the further submissions in opposition be accepted;
 - e. Submission 764.18 is accepted in part;
 - f. Submissions 168 and 298 be rejected;
 - g. Submission 712; and
 - h. Submissions 694 and 712, to the extent that they requested deletion of provisions in Chapter 22 specific to Bob's Cove, be rejected.
 - i. Submissions 243 and 811 be accepted and Submission 595 and Further Submission 1224 be rejected.
99. As a consequence of those recommendations, we recommend that:
- a. The Landscape Classification line defining the Mt Alfred ONF adjacent to the Dart River be moved to the position shown on Map 9;
 - b. Lot 1-2 DP 395145 and Section 2 SO Plan 404113 be zoned Rural Residential Camp Hill;
 - c. That the Rural Residential Zone at Bob's Cove be extended southward as shown on Map 38;
 - d. The notified Rural Lifestyle Visitor Accommodation Sub-Zone on Map 38 be deleted; and
 - e. The amendments to Chapters 22 and 27 as set out in Appendix 1 be adopted.

For the Hearing Panel



Denis Nugent, Chair

Date: 4 April 2018

APPENDIX 1

AMENDMENTS TO CHAPTER 22 AND 27 IN RELATION TO SUBMISSION 764.18 FOR MT CHRISTINA

a) Amend rule 22.5 as follows:

Table 5: Rural Residential Camp Hill		
22.5.33	Zone Boundary Setback <u>The minimum setback of any building from the zone boundary, or the top of the escarpment where this is located within the zone boundary, shall be 20m.</u>	NC
22.5.34	Building Height The maximum height of any building shall be <u>5.5m</u> .	<u>NC</u>
22.5.35	Maximum Number of Residential Units There shall be no more than 36 residential units within the Rural Residential Zone Camp Hill	<u>NC</u>

Change Chapter 27: Subdivision and Development as follows:

b) Amend rule 27.5.1 as follows:

27.5.1 No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, average, less than the minimum specified.

Zone		Minimum Lot Area
Rural Residential	Rural Residential	4000m ²
	<u>Rural Residential Camp Hill</u>	<u>4000m² with no more than 36 lots created for residential activity</u>