

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2021] NZEnvC 156

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First
Schedule of the Act

BETWEEN J BOYD, J F A R & S J REDAI &
OTHERS

(ENV-2018-CHC-163)

Appellants

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Court: Environment Judge J J M Hassan
Environment Commissioner M C G Mabin

Hearing: In Chambers at Christchurch

Date of Decision: 5 October 2021

Date of Issue: 5 October 2021

FINAL DECISION OF THE ENVIRONMENT COURT

Topic 16 – Rezoning Appeals Group 1 – Upper Clutha

A: Under ss 279(1)(b), 290(2), and 293 Resource Management Act 1991,
directions are made for QLDC¹ to rezone the subject land and include it
within the Urban Growth Boundary and otherwise amend the District Plan

Queenstown Lakes District Council.

UTN PLAN APPEALS – TOPIC 16 – FINAL DECISION



in accordance with Annexure 1.

REASONS

[1] This is the fourth decision relating to an appeal by Jackie Boyd, Jackie and Simon Redai and several others² ('Boyd') in the Queenstown District Plan review ('PDP'). The appeal seeks the rezoning of eight separate land parcels ('Site') between Cardrona Valley Road and the Cardrona River on the outskirts of Wānaka.

[2] The first interim decision traversed the relevant background concluding s293 was an appropriate mechanism for the consideration of the rezoning.³ The s293 directions were later made in the second interim decision.⁴ The inclusion of Rankin, Hughes and Sanders & Hunt as parties to this proceeding was formally recorded in the third interim decision, and directions were made for them to file further evidence and submissions in support of their positions.⁵ They subsequently withdrew from any further involvement in the proceeding on 9 September 2021.

[3] In light of the withdrawals, the remaining parties are agreed as to the appropriateness of a package of changes to the PDP pertaining to the Site, as follows ('Agreed Package'):⁶

- (a) rezoning of the Site from Rural Zone to LDSR Zone and shifting the Urban Growth Boundary to the outer edge of the Site to align with the Site boundary and associated amendments to the PDP planning maps;⁷ and

² Alastair and Phillipa Gillespie, Juliet Hall, Denise and John Prince, Dean and Michelle Telfer, Polson Higgs Nominees Limited, Lee and Sandy Martin, Simon Jackson and Lorna Gillespie.

³ [2020] NZEnvC 172.

⁴ [2021] NZEnvC 50.

⁵ [2021] NZEnvC 128.

⁶ Joint memorandum of counsel dated 17 March 2021.

⁷ Appendix D, Joint memorandum of counsel dated 17 March 2021.

- (b) incorporation of the agreed provisions into PDP Chs 7, 27 and 36, including a proposed Riverbank Road Structure plan.⁸

[4] Those changes to the PDP are supported by the report of QLDC Senior Policy Planner, Ms Bowbyes.⁹

[5] Having considered the Agreed Package and the associated information and evidence of Ms Bowbyes, the court is satisfied it is appropriate to make the requested direction to effect the changes sought to the PDP. Directions are made accordingly.

Outcome

[6] Under ss 279(1)(b), 290(2) and 293 RMA, QLDC is directed to:

- (a) rezone the subject land and include it within the Urban Growth Boundary and otherwise update and amend the PDP by incorporating the provisions as set out in Annexure 1; and
- (b) file a reporting memorandum as to that once completed.

For the court



J J M Hassan
Environment Judge



⁸ Appendix C, Joint memorandum of counsel dated 17 March 2021.

⁹ Report of Amy Narlee Bowbyes on behalf of Queenstown Lakes District Council summarising and making recommendations on submissions received on Boyd, Redai & Ors section 293 Proposal, dated 25 June 2021.

ANNEXURE 1

**Agreed plan provisions for incorporation into Chapters 7, 27 and 36 of the
Proposed District Plan, including the proposed Structure Plan**

27 Subdivision and Development

27.3 Location-specific objectives and policies

In addition to the district wide objectives and policies in Part 27.2, the following objectives and policies relate to subdivision in specific locations.

Orchard Road and Riverbank Road Wanaka Lower Density Suburban Residential Zone

27.3.X Objective – Subdivision of the Lower Density Suburban Residential Zone on the north west side of Riverbank Road has integrated internal roading connections and pedestrian and cycle access along and adjacent to Orchard Road and Riverbank Road.

Policies

27.3.x.1 Ensure subdivision and development is undertaken in accordance with the Riverbank Road Structure Plan (Schedule 27.13.x) to provide integration and connection of internal roading connections between those properties identified on the Riverbank Road Structure Plan, and provision of access onto Orchard Road and Riverbank Road.

27.3.x.2 Ensure subdivision and development provides for a safe walking and cycle environment adjacent to and within Orchard Road and Riverbank Road.

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	Zone and Location Specific Rules	Activity Status
<u>27.7.X</u>	<u>Orchard Road and Riverbank Road</u> <u>Any subdivision, use or development that is inconsistent with the Riverbank Road Structure Plan contained in Section 27.13.x.</u>	<u>D</u>

7 Lower Density Suburban Residential

Insert new policy under Objective 7.2.1

Policies

7.2.1.x Require all bedrooms within new or relocated buildings located within 250m of the Riverbank Road frost fan (as identified on the Riverbank Road Structure Plan contained in Section 27.13.x) to be designed to maintain internal residential amenity values and protection to sleeping occupants from frost fan noise

7.5 Rules -Standards

	Standards for activities in the Lower Density Suburban Residential Zone	Non-compliance Status
<u>7.5.x</u>	<p><u>Frost Fan Noise - Riverbank Road</u></p> <p><u>7.5.x.x Any new residential or relocated building located within 250m of the frost fan as identified on the Riverbank Road Structure Plan in Section 27.13.x shall be designed, constructed and maintained to ensure that, within the external building envelope surrounding any bedroom (when windows are closed), the internal level does not exceed 30dBLAeq(15min), however this rule shall not apply if the frost fan is decommissioned.</u></p> <p><u>7.5.x.x Compliance within 250m of the Frost Fan</u></p> <p><u>Compliance shall be demonstrated by either adhering to the sound insulation requirements in Rule 36.8.1, or by submitting a certificate to the Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the 30dBLAeq(15min) with the windows closed</u></p> <p><u><i>For the purposes of this rule, "external building envelope" means an envelope defined by the outermost physical parts of the building, normally the cladding and roof;</i></u></p> <p><u><i>For the purposes of this rule "decommissioned" means that the frost fan is dismantled and/or removed from the site and/or permanently taken out of operation.</i></u></p>	<u>NC</u>

36 Noise

36.8 Riverbank Road Structure Plan Area

36.8.1 Sound Insulation Requirements for compliance with Rule 7.5.x - Acceptable Construction Materials (Table 1).

The following table sets out the construction materials required to achieve appropriate sound insulation in accordance with Rule 7.5.x.

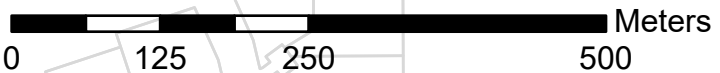
Table 1: Example bedroom constructions

<i>Building element</i>	<i>Minimum bedroom construction requirement</i>
30dB $L_{Aeq(15)}$ reduction	
<i>External walls</i>	
<i>Cladding</i>	<i>Minimum 70mm thick brick (or equivalent mass)</i>
<i>Insulation</i>	<i>Minimum 75mm thick fibrous insulation</i>
<i>Internal lining</i>	<i>Single layer of minimum 10mm thick plasterboard</i>
<i>Windows/glazed doors</i>	<i>Double glazed aluminium joinery consisting of one minimum 6mm thick glass pane and one minimum 6.38mm thick laminated glass pane separated by a 12mm air gap, e.g. 6/12/6.38L. No more than 40% of external wall area</i>
<i>Roof/ceiling</i>	
<i>Cladding</i>	<i>Minimum 0.55mm thick profiled steel</i>
<i>Insulation</i>	<i>Minimum 75mm thick fibrous insulation</i>
<i>Ceiling</i>	<i>Two layers of minimum 13mm thick high-density plasterboard ($\geq 12 \text{ kg/m}^2$) linings (e.g. 2x13mm GIB Noiseline)</i>
<i>External doors</i>	<i>Solid core door (minimum 24 kg/m^2) with full perimeter seals</i>
35dB $L_{Aeq(15)}$ reduction	
<i>External walls</i>	
<i>Cladding</i>	<i>Minimum 70mm thick brick (or equivalent mass)</i>
<i>Insulation</i>	<i>Minimum 75mm thick fibrous insulation</i>
<i>Internal lining</i>	<i>Single layer of minimum 10mm thick plasterboard</i>
<i>Windows</i>	<i>Double glazed aluminium joinery consisting of one minimum 6mm thick glass pane and one minimum 10.76mm thick laminated glass pane separated by a 12mm air gap, e.g. 6/12/10.76L. No more than 20% of external wall area. No doors permitted</i>
<i>Roof/ceiling</i>	
<i>Cladding</i>	<i>Minimum 0.55mm thick profiled steel</i>
<i>Sarking</i>	<i>Minimum 9mm thick fibre cement board sarking ($\geq 12 \text{ kg/m}^2$) to entire dwelling roof, e.g. 9mm RAB board sarking</i>
<i>Insulation</i>	<i>Minimum 75mm thick fibrous insulation</i>
<i>Ceiling</i>	<i>Two layers of minimum 13mm thick high-density plasterboard ($\geq 12 \text{ kg/m}^2$) linings (e.g. 2x13mm GIB Noiseline)</i>
<i>External doors</i>	<i>Not permitted</i>

Note: For the avoidance of doubt, where the windows need to be closed to achieve the internal design level it is not necessary to provide alternate ventilation.

Riverbank Road Structure Plan

Layout of Roads, Connections, Pedestrian Paths, Cycle Paths and, Frost fan location.
Road Carriageway location +/- 30m, Major Intersection location +/- 40m.
The positions of the Street Connections are indicative






Legend

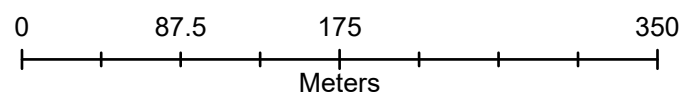
- Parcels and Property
- Frost Fan
- Street Connections
- Shared Cycle and Pedestrian Path Centrelines
- Road Carriageway
- Structure Plan Boundary
- Major Intersection

Plan Map



Legend

-  Parcels and Property
-  Lower Density Suburban Residential
-  Urban Growth Boundary



Amended Zoning for Riverbank Road