

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV-2021-CHCH-0000

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

an appeal under Schedule 1, Clause 14(1), of the
Act

BETWEEN

KINGSTON LIFESTYLE PROPERTIES LIMITED

Appellant

AND

QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

**NOTICE OF APPEAL BY KINGSTON LIFESTYLE PROPERTIES LIMITED
(SETTLEMENT ZONE AND RELATED PROVISIONS)**

18 MAY 2021

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TO: The Registrar
 Environment Court
 PO Box 2069
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CHRISTCHURCH
 (Christine.McKee@justice.govt.nz)

AND TO: The Respondent
 (dpappeals@glde.govt.nz)

(NOTE: Service on submitters and further submitters is waived pursuant to the Environment Court's directions of 1 April 2020)

Notice of appeal

1. Kingston Lifestyle Properties Limited ("**appellant**") appeals the following decision ("**Decision**"):

Decisions on Chapter 20 Settlement Zone, and Related Variations to Chapters 7, 25, 27, 29, 31 and 36 of Stage 3 of the Queenstown Lakes District Proposed District Plan ("**PDP**")

Submission and further submission

2. The appellant made a submission on the PDP on or around 18 November 2019, referenced as #3297.
3. A further submission was made on or around 17 February 2020, referenced as #3439.

No prohibited trade competition purposes

4. The appellant is not a trade competitor for the purposes of Section 308D of the Act.

Timing / key dates

5. The Decision was made by the Queenstown Lakes District Council ("**Council**") on 18 March 2021, by way of ratification of the recommendations of the Recommendations of the Stage 3 Independent Hearing Panel ("**IHP**").
6. The appellant received notification of the Decision by email on 1 April 2021.
7. The Environment Court, by way of a minute dated 1 April 2021, confirmed that the appeal period ends on 18 May 2021 (with the s274 period ending 16 June 2021).

Decision / part of Decision appealed against

8. The appellant appeals the entirety of the Decision to the extent that it rejects the submissions of the appellant and, in particular, to the extent that it relates to the rejection of:
 - (a) requested extensions of the Settlement Zone over other land;

- (b) inclusion of other land in the Commercial Precinct;
- (c) inclusion of other statements, objectives and policies in Chapter 20 – Settlement Zone to recognise the importance and value of the Kingston Flyer to the Kingston settlement;
- (d) changes and additions to the rules and standards of the Settlement Zone; and
- (e) changes to Chapter 27 – Subdivision to provide for subdivision around existing buildings and development.

Reasons for the appeal

9. The reasons for the appeal are as follows.

Overview / background

10. The Kingston Flyer is a vintage steam train based in Kingston at the southern end of Lake Wakatipu. The Kingston Flyer uses 14 kilometres of preserved railway lines from the Kingston Station to the Fairlight Station that once formed a part of the Kingston Branch. The Kingston Flyer heritage service has been operated by various entities as a commercial recreation activity since 1971 using two AB class steam locomotives. The Kingston Flyer was most recently used as a commercial tourist attraction from 2003 until late 2013. The commercial operation was suspended on several occasions over this time as the Kingston Flyer ownership changed. The Kingston Flyer last operated as a commercial tourist attraction in 2013.
11. The rolling stock of the Kingston Flyer comprises of seven wooden-bodied passenger carriages and a small collection of goods wagons including three ballast wagons and an EP class plough van. The Flyer also has a resident shunting locomotive (TR 350).
12. The appellant is the owner of the Kingston Flyer landholdings and the associated steam locomotives, shunting engines, rolling stock, buildings, and infrastructure at Kingston. This landholding comprises of the following properties:
- Section 2 SO 10898, Lot 4 DP 318631, Section 1 SO 10898, Section 3 SO 10898, Lot 9 DP 306647, Lot 1 DP 306647, Lot 6 DP 306647, Section 1 SO 7617, Lot 2 DP 318661 and Lot 10 DP 539411 (“**Kingston Flyer land**”).
13. The railway corridor also crosses several legal roads within the Kingston settlement, being Kent Street, Gloucester Street, Shropshire Street, Huntington Street and Oxford Street.
14. The Kingston Flyer land comprises of four distinct activity areas as follows:
- (a) Railway shed and train storage area (located adjacent to the Kingston Wharf);
 - (b) Railway Station and car parking area (located adjacent to the Lake Wakatipu foreshore reserve);

- (c) Railway yard area (located on the southern side of Kent Street);
and
 - (d) Railway line to Fairlight (the existing railway corridor from Gloucester Street to the district boundary).
15. The historic Kingston Station is located at the north-western end of the Kingston settlement on the foreshore of Lake Wakatipu. The Kingston Station has recently been renovated and is now being used as the Kingston Flyer Café and Bar.
 16. The Kingston Flyer railway, including the railway turntable, water tank and crane, railway line from Kingston to Fairlight, Kingston railway station and the water weir are listed as Category 2 Heritage Features (Ref No. 411) in the PDP (Chapter 26 – Historic Heritage). This means these items warrant permanent protection because they are very significant to the district and / or locality. The protection and management of the historic heritage values of the Kingston Station and the Kingston Flyer railway line and associated rail infrastructure is therefore already provided for under the PDP.
 17. The appellant is in the process of restoring the steam locomotives, rolling stock, buildings and infrastructure and re-commencing the operation of the Kingston Flyer as a heritage tourist attraction. A resource consent application (RM201090) was lodged in December 2020 for this purpose. The application requests resource consent for the operation and use of the existing Kingston Flyer railway including all associated locomotives, rolling stock, shunting engines, buildings, parking areas and other rail infrastructure as a commercial recreation activity, including the use of the Kingston Flyer as a licenced premise to enable liquor to be sold to passengers as part of the heritage railway service.
 18. At this time, all further information requested in respect to the application has been provided to the Council, and the appellant is waiting on a notification decision on the application to be made by the Council under sections 95A and 95B of the Act.
 19. The long term intention of the appellant is to complete a comprehensive development of the Kingston Flyer land to compliment and support the operation of the Kingston Flyer as a heritage tourist attraction. It is expected the development will involve connection with the Kingston wharf to reinstate the historical use of the Kingston Flyer in conjunction with steamers on Lake Wakatipu. This could involve a fast-ferry service from Queenstown to Kingston to connect with the Kingston Flyer, which could also act as a commuter option for the Kingston settlement.
 20. The future development would likely involve a mix of land uses and a design approach that captures the character and sense of identity of the Kingston settlement and the Kingston Flyer. The intention of future development would be to create an active, outward facing, high-quality built edge along the Kingston Station platform and the railway lines facing to the foreshore of Lake Wakatipu as well as to the surrounding streets. It is anticipated the mix of land uses would involve small-scale retail, restaurants and bars, residential and serviced apartments, visitor accommodation and a hotel. The development would likely be master planned to deliver a strong sense of mix use and a sense of vibrancy and add to levels of safety and surveillance. It is expected the visual mass and

intensity of the built form would be managed through sensitive design and stepping of building heights and rooflines, articulation of building facades and variation in materiality.

21. The restoration and development of the Lake Wakatipu foreshore area would likely form a key component of any future development. The development would retain all specific items of public interest such as the bridge, memorial structures and the original Kingston Station and ticketing office. The foreshore development would introduce a comprehensive landscape design that features strong pedestrian links to all aspects of the development and the existing walkway network that has been established along the foreshore.
22. It is considered the intended development of the Kingston Flyer landholdings will provide several significant benefits for Kingston, being:
 - (a) provision for future residential expansion and a wider range of living typologies to meet permanent and temporary housing needs;
 - (b) provision of a commercial centre adjacent to the Kingston Flyer Station and Kingston wharf resulting in opportunities for local employment; and
 - (c) improved community facilities and foreshore reserve for public use and amenity that offers strong linkages to the lake edge from the commercial centre as well as connections to the foreshore reserve and local movement networks.
23. To ensure that an efficient and effective resource consent process is provided for in the Settlement Zone at Kingston, and certainty of process is achieved for the development outcomes desired for the Kingston Flyer land, the Submitter generally sought:
 - (a) appropriate recognition and provision for the existing Kingston Flyer railway and associated infrastructure in the Settlement Zone;
 - (b) consistent zoning of the Kingston Flyer railway corridor; and
 - (c) provision for more intensive residential and visitor accommodation development in the Commercial Precinct.
24. The Decisions have rejected the specific relief sought by the Submitter to achieve these changes to the Settlement Zone at Kingston. It appears that the broad reasons for this are the IHP's view that:
 - (a) there is already a "consent pathway" available for the Kingston Flyer provided in the Settlement Zone;
 - (b) the reinstatement of the Kingston Flyer may be somewhat aspirational;
 - (c) the rationale for commercial development is largely, but not entirely, dependent on the Kingston Flyer recommencing operations; and

(d) the appellant could take steps to become a Requiring Authority to designate the Kingston Flyer land to achieve “zoning” consistency.

25. These reasons are rejected as misconceived, if not inappropriate, inefficient, and/ or unreasonable.

26. There has been no specific reason given in the Decision as to why the current recognition of the Kingston Flyer in the Townships Zone of the ODP is now no longer considered to be appropriate in the Settlement Zone of the PDP.

27. The existing Kingston Flyer railway and associated infrastructure is currently specifically recognised in the ODP, as follows:

... There is a strong community desire to enhance the foreshore - water interface by minimising the conflict between a range of water based activities and protecting and enhancing its vegetation and several heritage structures in the area, e.g. railway wharf. The Kingston Flyer, “New Zealand’s Famous Vintage Steam Train” is identified as a major visitor attraction for the town and the maintenance and support of its infrastructure is recognised as being important for the character and well being of the town (Section 9.1.3.7).

Issues

....

- Retention of the supporting infrastructure for the Kingston Flyer (Section 9.1.3.7).

28. There has been no significant change in the environment at Kingston that would justify this recognition no longer being appropriate in the Settlement Zone. The Kingston Flyer heritage infrastructure and buildings and the associated steam locomotives and carriages are still existing in this environment. While the Kingston Flyer has not operated as a heritage train service for several years, there is a clear intention to recommence this operation, which is demonstrated by the lodgement of the resource connect application (RM201090).

29. In particular, the Kingston Flyer has had the following declaration confirmed as appropriate by the Environment Court:

Provided that decisions on submissions in respect of the Settlement Zone provisions:

- (i) confirm the parts of the Kingston Flyer land proposed for rezoning to Settlement Zone are rezoned to Settlement Zone; and
- (ii) do not modify how the district-wide transportation and noise rules apply to the Settlement Zone from the notified provision;

Then:

The running of the Kingston Flyer (ie locomotives (or engines) and carriages (or rolling stock)) on the Kingston Flyer railway for:

- (a) restoration activities; and
- (b) maintenance activities;

are permitted activities, for which no resource consent is required.

30. The Environment Court in particular stated:

On review of the application and evidence, I am satisfied that, subject to confirmation that the relevant decisions on the provisions have been made, the declaration as sought is appropriate. I agree with counsel's submissions that:

- (a) the running of the Kingston Flyer for restoration and maintenance activities qualifies as permitted transport activities or permitted use, maintenance or repair of existing transport infrastructure under the district-wide provisions of the Chapter 29 Transport of the PDP;
- (b) the noise associated with these activities is also permitted under the districtwide provisions of Chapter 36 Noise of the PDP under Rule 36.1;

31. The Kingston Flyer therefore still clearly forms part of the existing environment of the Kingston settlement.

General reasons for the appeal

32. The general reasons for this appeal are that the Decision (as it currently stands) generally, and particularly in respect of land that the appellant owns or otherwise has an interest in:

- (a) fails to promote sustainable management of resources, including the enabling of people and communities to provide for their social and economic well-being, and will not achieve the section 5 purpose of the Act;
- (b) fails to recognize and provide for the protection of historic heritage from inappropriate subdivision, use and development, a matter of national importance under section 6(f) of the Act;
- (c) fails to promote the efficient use and development of the land, a matter to have particular regard to under section 7(b) of the Act;
- (d) fails to achieve the functions of the Council under section 31 of integrated management of the effects of the use and development of land and physical resources;
- (e) fails to meet the requirements of section 32; and
- (f) is procedurally unfair and inefficient.

33. In contrast, granting the appeal will generally, and particularly in respect of land that the appellant owns or otherwise has an interest in will achieve all of the matters/ outcomes or otherwise address the issues identified immediately above in paragraph [32].

Specific reasons for the appeal

34. The specific reasons for the appeal and the specific relief sought is detailed in the table below. The table sets out the specific submission, the Council

decision, the reasons for appeal on the specific submission and the relief sought in respect to the specific submission.

	Submission	Decision	Reason for Appeal	Relief Sought
1.	Extend the Settlement Zone over the entire extent of the Kingston Flyer land.	<p>Reject in part.</p> <p>The Settlement Zone is not extended over the land identified as Section 2 SO 10898, Lot 6 DP 306647, Section 1 SO 7617, Lot 2 DP 318661 and Lot 10 DP 539411.</p>	<p>There is still land within the Kingston settlement that is not zoned either Rural or Settlement under the PDP, being Lot 6 DP 306647 and Section 1 SO 7617.</p> <p>The land located adjacent to the Kingston wharf that currently partially contains the Kingston Flyer engine shed and which is utilised for the parking of the steam locomotives and the rolling stock is "spot zoned" Rural, even though it is clearly not utilised for rural purposes, nor used or can be used in conjunction with any of the adjacent Rural zoned land.</p> <p>The Kingston Flyer railway corridor will have a split zoning, with Section 2 SO 10898, Lot 4 DP 318631, Lot 2 DP 318661 and Lot 10 DP 539411 retained in the Rural Zone. As a linear infrastructure used for the same activity it is more efficient and effective to have a consistent zoning over the entire railway corridor.</p> <p>The split zoning of the Kingston Flyer railway corridor will result in the activity status for the use and operation of the Kingston Flyer being a Discretionary Activity. This is because the threshold for effects for commercial recreation activities in the Rural Zone relates to how many people are involved in the activity, which is an irrelevant consideration in terms of people in a carriage travelling on existing railway tracks. The same activity is a Controlled Activity or a Restricted Discretionary Activity in the Settlement Zone, with the land similar in all respects to the land located within the Rural Zone (being a railway corridor containing a historic railway track and the associated historic infrastructure).</p>	<p>Include the land identified as Section 2 SO 10898, Lot 6 DP 306647, Section 1 SO 7617, Lot 2 DP 318661 and Lot 10 DP 539411 in the Settlement Zone at Kingston.</p>

	Submission	Decision	Reason for Appeal	Relief Sought
2.	Extend the Settlement Zone over the Crown land identified as Lot 4 DP 318631.	Reject	While Lot 4 DP 318631 is Crown land and is gazetted as recreation reserve, the Crown has indicated that this reserve designation could be removed to enable the purchase of this land or the exchange this land for other land that would be more beneficial to the public as recreation reserve. This would regularise the existing use of this land for the storage and parking of the Kingston Flyer steam locomotives, shunting engines and rolling stock. The Rural zoning of this land is not therefore appropriate in the context of the existing environment or the anticipated future environment.	Include the land identified as Lot 4 DP 318631 in the Settlement Zone at Kingston.
3.	Include all the Kingston Flyer land within the Commercial Precinct at Kingston.	Reject in part. The land identified as Section 1 SO 10898 (northern half), Lot 4 DP 318631 and Section 2 SO 10898 is not included in the Commercial Precinct.	<p>The exclusion of the land identified as Section 1 SO 10898 (northern half), Lot 4 DP 318631 and Section 2 SO 10898 from the Commercial Precinct does not appropriately reflect the current use of this land for activities that are related to the operation of the Kingston Flyer or the existence of the structures, buildings and infrastructure on this land that is related to the operation of the Kingston Flyer.</p> <p>This land will be developed in the future for commercial activities and visitor accommodation activities consistent with the existing use of the land, especially given its location adjacent to the Kingston Wharf, which in the future could be developed as a mixed-use waterfront area, providing an entrance from the lake to a tourist precinct based around the historic Kingston Flyer.</p> <p>The characteristics of the land, being long and narrow and fronting to Lake Wakatipu, means the land is not appropriate for low density residential development with minimum lot sizes of 800m². This would not be an inefficient use of a valuable and limited land resource.</p> <p>The exclusion of this land from the Commercial Precinct will restrict the ability to provide for the commercial activities and the visitor accommodation activities at Kingston that are</p>	Include the land identified as Section 1 SO 10898 (northern half), Lot 4 DP 318631 and Section 2 SO 10898 in the Commercial Precinct at Kingston.

	Submission	Decision	Reason for Appeal	Relief Sought
			<p>required to support the local economy, reduce the need to travel significant distances for employment and provide access to local conveniences.</p> <p>The exclusion of this land from the Commercial Precinct will also restrict the comprehensive development of the Kingston Flyer land for small-scale retail, commercial, commercial recreation, community, visitor accommodation and more intensive residential activities centred on the existing Kingston Flyer operation. This will not provide for the maintenance and enhancement of the amenity and historic values that are associated with this land and will compromise the ability for the Submitter to sustain the viability of the Kingston Flyer into the future.</p>	
4.	<p>Insert the following after paragraph 3 in 20.1 – Purpose of the PDP:</p> <p><u>The Commercial Precinct at Kingston is centred on the Kingston Flyer land. The unique amenity and historic values of the Kingston Flyer, which is a significant historic heritage and tourist resource for Kingston and the region, will be maintained and enhanced through the comprehensive development of the precinct for a mix of small-scale retail, commercial, commercial recreation, community, visitor accommodation and more intensive residential (such as terraced housing or apartments) activities. This will sustain the viability of the Kingston Flyer operation into the future.</u></p>	Reject	<p>The requested change is part of the package of relief sought by the Submitter to provide for new objectives and policies and rules and standards to recognise and provide for the continued use and operation of the existing Kingston Flyer infrastructure and provide for the efficient and effective utilisation of the limited land resource within the Commercial Precinct at Kingston for more intensive urban activities.</p> <p>The Settlement Zone does not currently recognise the unique amenity and heritage values of the Kingston Flyer resource or the ability of appropriate future development of the Kingston Flyer land to sustain the viability of the Kingston Flyer operation into the future.</p> <p>The Settlement Zone also does not recognise the benefits associated with providing for a comprehensive mixed-use development at the north-western extent of the Kingston settlement that is centred around the existing Kingston Flyer structures, buildings and infrastructure, the existing Kingston Wharf and the existing Lake Wakatipu foreshore reserve.</p>	<p>Insert the new purpose statement as requested in the Submission or any other similar or alternative wording.</p>

	Submission	Decision	Reason for Appeal	Relief Sought
			<p>The lack of recognition of the appropriateness for more intensive use of the limited commercial land resource at Kingston could compromise the consenting of activities such as visitor accommodation, bars and restaurants and small-scale retail outlets and alternative residential options at an appropriate location within the Kingston settlement.</p> <p>These activities can be provided for in a manner that is consistent with the strategic direction of the PDP. The recognition of such development opportunities within the Commercial Precinct at Kingston through the package of relief sought by the Submitter is therefore an appropriate way to achieve the objectives of the PDP.</p>	
5.	<p>Insert the following new objectives and policies in 20.2 of the PDP:</p> <p><u>20.2.12 Objective – Comprehensive master planned mixed use development is provided for within the Commercial Precinct at Kingston to create a visitor accommodation and commercial recreation hub at Kingston that is centred on the existing resources provided by the historic Kingston Flyer railway structures, buildings and infrastructure, the Kingston wharf and the Lake Wakatipu foreshore reserve.</u></p> <p><u>Policy 20.2.12.1 Provide for a mix of small-scale retail, commercial, commercial recreation, community, visitor accommodation and intensive residential (such as terraced housing or apartments) activities within the Commercial Precinct at Kingston at a</u></p>	Reject	<p>The requested changes are part of the package of relief sought by the Submitter to provide for new objectives and policies and rules and standards to recognise and provide for the continued use and operation of the existing Kingston Flyer infrastructure and provide for the efficient and effective utilisation of the limited land resource within the Commercial Precinct at Kingston for more intensive urban activities.</p> <p>The requested new objectives and policies provide the required recognition of the benefits of providing for a comprehensive mixed-use development at the north-western extent of Kingston. This is the most appropriate way to achieve the sustainable management purpose of the Act for the reasons detailed above.</p>	Insert the new objectives and policies as requested in the Submission or any other similar or alternative wording.

	Submission	Decision	Reason for Appeal	Relief Sought
	<p><u>scale and intensity that is commiserate with the surrounding landscape.</u></p> <p><u>Policy 20.2.12.2 Ensure the height, bulk and location standards for mixed use development within the Commercial Precinct at Kingston provides for a greater intensity of development through the provision of three level buildings at appropriate locations.</u></p> <p><u>Policy 20.2.12.3 Limit the use of the upper levels of existing and new buildings within the Commercial Precinct at Kingston to office, visitor accommodation and residential activities.</u></p> <p><u>Policy 20.2.12.4 Provide for the ongoing operation of the historic Kingston Flyer railway including the steam locomotives, shunting engines and rolling stock within the existing railway corridor without any constraint.</u></p> <p><u>Policy 20.2.12.5 Ensure that the development of the Kingston Flyer railway land, structures and buildings is managed through the provisions for the Commercial Precinct at Kingston.</u></p> <p><u>Policy 20.2.12.6 Ensure that provision is made for subdivision around existing buildings or in accordance with approved land use consents within the Commercial Precinct at Kingston.</u></p>			

	Submission	Decision	Reason for Appeal	Relief Sought
6.	<p>Amend Objective 20.2.3 in 20.2 of the PDP as follows:</p> <p>Objective – Commercial, community and visitor accommodation activities are predominantly provided for within precincts and sub-zones <u>(with more intensive residential activities also provided for in the Commercial Precinct at Kingston)</u>, are limited in <u>scale (with the exception of the Commercial Precinct at Kingston)</u>, provide for local and visitor convenience, and support the local economy.</p>	Reject	The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies requested as part of the package of relief sought by the Submitter.	Make the amendments to Policy 20.2.3.1 as requested in in the Submission or any other similar or alternative wording.
7.	<p>Amend Policy 20.2.3.1 in 20.2 of the PDP as follows:</p> <p>Identify Commercial Precincts on the Planning Maps within which commercial, visitor accommodation and community activities, <u>and more intensive residential activities in the Commercial Precinct at Kingston</u>, are provided for in order to meet the day-to-day needs of residents and visitors and support the local economy.</p>	Reject	The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies requested as part of the package of relief sought by the Submitter.	Make the amendments to Objective 20.2.3 as requested in in the Submission or any other similar or alternative wording.
8.	<p>Insert the following new rule into Table 20.4 – Activities located in the Settlement Zone in 20.4 of the PDP and re-number the subsequent rules accordingly:</p> <p><u>20.4.5 – Use and operation of the Kingston Flyer steam locomotives, shunting engines and rolling stock on the existing railway lines and other</u></p>	Reject	<p>The Kingston Flyer railway is no longer designated in the PDP as the Submitter is not a requiring authority. This has resulted in a resource management 'hole' being created in the PDP as the existing use of the Kingston Flyer land for railway purposes is no longer recognised in the PDP.</p> <p>The continued use and operation of the existing historic Kingston Flyer railway needs to be recognised and provided for in the PDP. The provision of the use and operation of the Kingston Flyer on the existing railway lines and associated rail</p>	Insert the new rule as requested in the Submission or any other similar or alternative wording.

	Submission	Decision	Reason for Appeal	Relief Sought
	<p><u>railway infrastructure within the Settlement Zone at Kingston – P.</u></p> <p><u>For the avoidance of doubt, this activity is not required to comply with any of the Settlement Zone standards or other District Wide rules or standards.</u></p>		<p>infrastructure as a Permitted Activity in the Settlement Zone provides for the continuation of this significant historic heritage resource. This is the most efficient and effective way to ensure the ongoing protection, maintenance and enhancement of the amenity and historic values associated with the Kingston Flyer railway.</p> <p>The key resource management issue associated with the operation of the Kingston Flyer is noise. This is already recognised in Chapter 36 – Noise as being acceptable within the environment with Rule 36.4.1 providing for “<i>sound from vehicles on public roads or trains on railway lines (including at railway yards, railway sidings or stations)</i>” as Permitted Activities.</p> <p>The use and operation of the Kingston Flyer railway should not be subject to compliance with the other relevant rules and standards of the PDP as this would create uncertainty and confusion as to process given that most of these rules and standards will not be of any relevance to the continued use and operation of the railway. The requested amendment effectively continues the designation of the Kingston Flyer land for railway purposes given this method can no longer be used in the PDP.</p> <p>The future development of the land and / or the associated structures, buildings and infrastructure and the use of the Kingston Flyer railway as a commercial recreation activity will still require resource consent. The requested amendment therefore simply regularises the position of the Environment Court declaration.</p>	
9.	<p>Add the following exclusion to Standard 20.5.1 in 20.5 of the PDP:</p> <p><u>Except that this standard shall not apply to residential activities within the Commercial Precinct at Kingston. There</u></p>	Reject	<p>The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies and rules and standards requested as part of the package of relief sought by the Submitter.</p>	<p>Make the amendments to Standard 20.5.1 as requested in in the Submission or any other similar or alternative wording.</p>

	Submission	Decision	Reason for Appeal	Relief Sought
	<u>shall be no minimum site sizes in the Commercial Precinct at Kingston. Subdivision will be provided around existing buildings or development and / or in accordance with an approved land use consent.</u>			
10.	<p>Insert the following new rule into Table 27.7 – Activities in 27 – Subdivision and Development of the PDP:</p> <p><u>27.7.10 – Kingston</u></p> <p><u>Subdivision around existing buildings and development and / or subdivision in accordance with an approved land use consent within the Commercial Precinct at Kingston that complies with standard 27.7.10.1 and / or standard 27.10.2 – C</u></p> <p><u>27.7.10.1 Prior to subdivision around existing buildings and development occurring, all development must meet one of the following matters:</u></p> <p><u>(a) have existing use rights; or</u></p> <p><u>(b) comply with the relevant Zone and District Wide rules; or</u></p> <p><u>(c) be in accordance with an approved land use resource consent.</u></p> <p><u>27.7.10.2 Any subdivision relating to an approved land use consent must</u></p>	Reject	<p>To ensure that design lead development outcomes are achieved within the Commercial Precinct at Kingston, there should only be minimum lot sizes for vacant site subdivisions. Subdivision within the Commercial Precinct in accordance with an approved land use resource consent and / or around existing buildings and development should not be subject to any minimum lot size or shape factor standards and should be provided for as a Controlled Activity.</p> <p>The density and intensity of future development within the Commercial Precinct at Kingston will be managed through land use consent process. The subdivision consent process is effectively a mechanism to provide for the separate legal ownership of the consented commercial units, visitor accommodation units or residential units. The likely nature of future development means the subsequent subdivision is likely to be a unit title subdivision.</p>	Insert the new rules as requested in the Submission or any other similar or alternative wording.

	Submission	Decision	Reason for Appeal	Relief Sought
	<u>comply with that consent, including all conditions and all approved plans.</u>			
11.	Add the following new exclusion to Standard 20.5.7 in 20.5 of the PDP: <u>(b) Within the Commercial Precinct at Kingston buildings can be built up to the road boundary.</u>	Reject	The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies requested as part of the package of relief sought by the Submitter.	Insert the new standard as requested in the Submission or any other similar or alternative wording.
12.	Amend Standard 20.5.8 in 20.5 of the PDP as follows: Continuous building length The length of any building façade above the ground floor level shall not exceed 16m, <u>except that within the Commercial Precinct at Kingston, the length of any building façade above the ground floor level shall not exceed 20m, without a recession or a set back being provided within building façade.</u>	Reject	The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies requested as part of the package of relief sought by the Submitter.	Make the amendments to Standard 20.5.8 as requested in in the Submission or any other similar or alternative wording.
13.	Add the following exclusion to Standard 20.5.10 in 20.5 of the PDP: <u>Except that this standard shall not apply to steam locomotives, shunting engines and rolling stock stored or parked overnight on any site within the Commercial Precinct at Kingston.</u>	Reject	The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies requested as part of the package of relief sought by the Submitter. The requested change also corrects an anomaly that has the potential to restrict the storage and parking of the Kingston Flyer steam locomotives, shunting engines and rolling stock on the Kingston Flyer land.	Make the amendments to Standard 20.5.10 as requested in in the Submission or any other similar or alternative wording.

	Submission	Decision	Reason for Appeal	Relief Sought
14.	<p>Insert the following new provisions to Standard 20.5.13 in 20.5 of the PDP:</p> <p>Maximum building height – buildings located within Commercial Precincts</p> <p>...</p> <p><u>20.5.13.2 Within the Commercial Precinct at Kingston as identified on the Planning Maps, buildings may extend up to 5m above the height specified in Rule 20.5.12.</u></p> <p><u>20.5.13.3 Within the Commercial Precinct at Kingston as identified on the Planning Maps, activities at the upper levels of buildings shall be restricted to offices, visitor accommodation and residential activities.</u></p>	Reject	<p>The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies requested as part of the package of relief sought by the Submitter.</p> <p>The requested change provides for buildings up to three levels in height to make provision for the more intensive use of the land resource for a mix of urban activities.</p>	Insert the new standards as requested in the Submission or any other similar or alternative wording.
15.	<p>Amend Rule 20.6.1 (b) in 20.6 of the PDP as follows:</p> <p>20.6.2 The following Restricted Discretionary activities shall not require the written approval ...</p> <p>b. Visitor accommodation located within a Visitor Accommodation Sub-Zone or</p>	Reject	<p>The requested amendments are consequential changes to the Settlement Zone provisions to support the implementation of the new objectives and policies requested as part of the package of relief sought by the Submitter.</p>	Make the amendments to the rule as requested in the Submission or any other similar or alternative wording.

	Submission	Decision	Reason for Appeal	Relief Sought
	Commercial Precinct (Rule 20.4.7) <u>and residential units located within the Commercial Precinct at Kingston (Rule 20.4.1).</u>			

Relief sought

35. The appellant seeks the following relief:
- (a) for jurisdictional purposes, all of the specific relief requested in the appellant's original submissions, including as identified in the table above, and/ or any other similar or alternative wording (this is to enable the widest possible scope for resolving the issues raised by the appellant);
 - (b) the deletion, amendment or other refinement to address the concerns raised by the appellant (including alternative ways of achieving some outcomes sought);
 - (c) any other additional or consequential relief to the PDP, including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations to fully address the concerns raised by the appellant; and
 - (d) costs.

Alternative dispute resolution

36. The appellant agrees to participate in mediation or other alternative dispute resolution of the proceeding.

Attachments

37. The following documents are attached to this notice.
- (a) a copy of the appellant's original submission; and
 - (b) a copy of the appellant's further submission; and
 - (c) a copy of the Decision.
38. [The Environment Court has waived the requirement to serve submitters and further submitters, and so no list of submitters to be served is required to be filed with this notice. It has also waived the "advice to recipients" requirement, and so that advice is omitted from the notice to the appeal.]

DATED 18 May 2021



J D K Gardner-Hopkins
Counsel for the appellant

The appellant's address for service is C/- James Gardner-Hopkins, Barrister, PO Box 25-160, Wellington 6011.

Documents for service on the Applicant may be sent to that address for service or may be emailed to james@jghbarrister.com. Service by email is preferred, with receipt confirmed by return email.

Attachment 1 - the appellant's submission

Attachment 2 - the appellant's further submission

Attachment 3 - the Decision