

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report and recommendations of Independent Commissioners
regarding mapping of Wakatipu Basin and Arrowtown

Report 18.3 - Area A
Western Basin

Commissioners

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1. INTRODUCTION

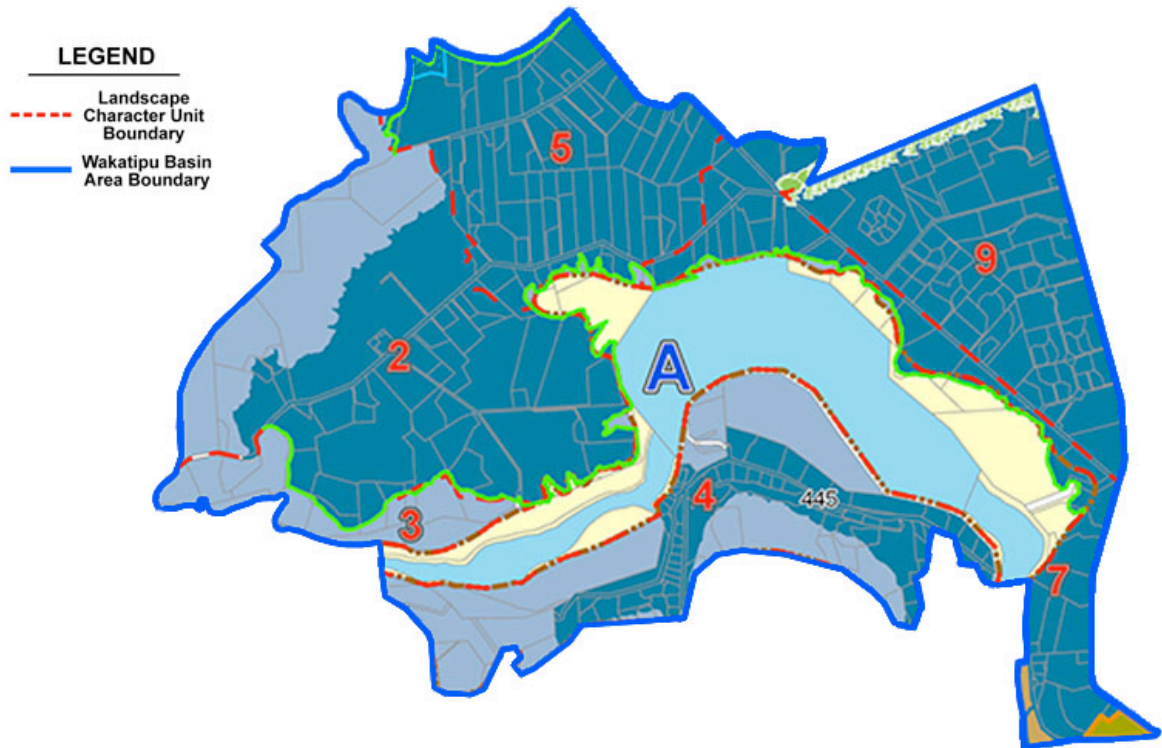
1.1 Preliminary

1. This report needs to be read in conjunction with Reports 18.1 and 18.2. Report 18.1 sets out the overall hearing process for Stream 14 and the approach we have taken to assessing the submissions in terms of the statutory requirements. In addition, it contains the Stream 14 Hearing Panel's recommendations on Chapter 24 Wakatipu Basin and the various variations to the text in Stage 1 of the PDP notified in conjunction with Chapter 24.
2. The abbreviations we use in the report are set out in Report 18.1, as is the list of persons heard.
3. Report 18.2 sets out the background to the zoning issues dealt with in Stream 14 and explains how we divided the area for the purposes of preparing the recommendation reports.

1.2 Overview

4. This report deals with the area we have called Western Basin. This area broadly encompasses LCU 2 Fitzpatrick Basin, LCU 3 Shotover River Terrace, LCU 4 Tucker Beach, LCU 5 Dalefield, LCU 7 Domain Road River Terrace, LCU 9 Hawthorn Triangle and part of the Shotover River ONL as shown on Figure 1 below.
5. As notified in Stage 2, most of this area was zoned Precinct. Areas of Rural Amenity Zone were applied generally to slopes above 400m elevation west of Littles Road and the slopes of Ferry Hill below the ONL boundary. It was also applied to terraces above the Shotover River ONL and some reserve land outside the ONL. The Shotover River and its banks were zoned Rural in Stage 1 and identified as ONL. That remained unaltered in Stage 2.
6. Apart from Tuckers Beach and the land between the outer lip of the Fitzpatrick Basin and the Shotover River, this area is generally characterised by some of the more intense levels of rural residential development in the basin. This is particularly evident in Hawthorne Triangle.
7. The notified version of Chapter 24 listed the capability of this area to absorb additional development as follows:

LCU Number	LCU Name	Capability to Absorb Additional Development
2	Fitzpatrick Basin	High
3	Shotover River Terrace	Low
4	Tucker Beach	Low at western end Moderate-High throughout central and eastern end
5	Dalefield	High
7	Domain Road Shotover Terrace	Moderate-High
9	Hawthorn Triangle	High



Area A – Western Basin

Figure 1: the Western Basin

1.3 Submissions Covered in This Report

8. Section 2 of our report discusses ONL/ONF boundaries and Landscape Feature lines. We then discuss the zoning requests in the following two sections. Section 3 relates to submissions seeking to retain or amend the notified zoning. Section 4 relates to the stand alone zone 'Tucker Beach Residential Precinct' requested by the Middleton Family Trust¹. This submission was supported by comprehensive evidence in support of a mix of urban densities. Given the extensive nature of the evidence presented, we have discussed this separately.
9. This report does not address the submission by M McGuinness², which relates to the property at 66 Dalefield Road. This property straddles the boundary of our Areas A and B. As this submission relates to land that it is mostly within our Area B, we have discussed it in Report 18.4.

2. ONL/ONF BOUNDARIES AND LANDSCAPE FEATURE LINES

10. We heard from the Bloomfield Family³, who opposed the ONL boundary at 90 Fitzpatrick Road, Dalefield. It transpired that the property was not in the ONL, but rather was subject to a Landscape Feature line and had a split zoning of predominantly Precinct, with a portion of Rural Amenity Zone

¹ Submission 2332

² Submission 2292

³ Submission 2423

adjacent to the Shotover River terrace. We discussed the submission with Mr Bloomfield and clarified that the property was not in an ONL. We also confirmed that we could not consider rezoning the Rural Amenity zoned land, as this was not requested in the submission.

11. We did not hear from any other submitters in relation to ONL/ONF boundaries or Landscape Feature lines. We therefore do not recommend any changes in response to submissions. However, we do recommend a change to the Landscape Feature line in the vicinity of Fitzpatrick Road and Littles Road. We discuss this change in Section 3 below in conjunction with the zoning amendments requested.

3. ZONING AMENDMENTS - GENERAL

3.1 Area Between Fitzpatrick Basin and Shotover River

12. Mr Chris Ferguson gave planning evidence for Crown Investments Limited⁴ who sought to retain Precinct over the land at Lot 1 DP 476877. Mr Ferguson's evidence in relation to this site was brief⁵. He agreed with Council's experts that Precinct was appropriate for this land and relied on the evaluation provided by Mr Langman.
13. Mr Hardley did not appear to speak to his submission seeking the Crown Investment Limited site and other adjoining land be rezoned Rural Amenity Zone⁶.
14. We discussed our impressions from our site visit with Ms Gilbert, which were that the southern edge of the Precinct zoned land 'rolled over' into the Shotover River terraces, rather than sloping inward to the basin. This had the effect of making this land more visible from the Shotover River and adjoining public land than the land within the Fitzpatrick Basin proper. Ms Gilbert addressed this issue in her reply evidence⁷. After reviewing the mapping analysis of the area and site photographs, she concluded the area in question did read as part of LCU 3 and demonstrated a similar sensitivity to landscape change and capability to absorb additional development as outlined in the Schedule 24.8 description for LCU 3. For those reasons, she recommended the alignment of the Precinct boundary and Landscape Feature line be amended as shown in Figure 2 below.

⁴ Submission 2307

⁵ C Ferguson, EiC, pp 46-47

⁶ Submission 2440

⁷ B Gilbert, Reply Evidence at Section 4

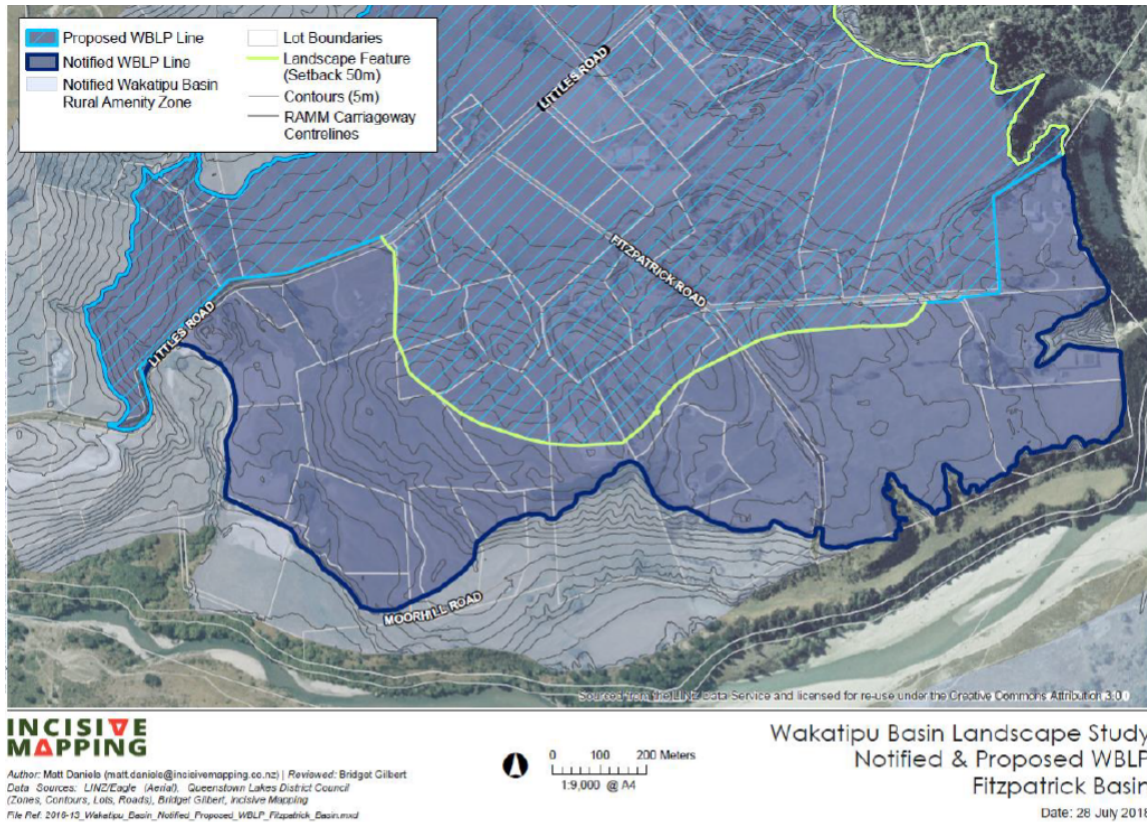


Figure 2: Blue hatched area showing recommended extent of Precinct and Landscape Feature line, as per Figure 3 of Ms Gilbert’s reply evidence

15. Mr Langman advised us there was scope to remedy this and the change would *‘better protect and maintain the landscape values of the area, including the interaction of the lower terrace and the Shotover River ONF/L.’*⁸ We rely on this advice as to scope although we note that more general submissions seeking the deletion of the Precinct in total also provide scope⁹.
16. We agree with Ms Gilbert and Mr Langman. In our view, this amendment would better achieve the Strategic Direction of the PDP and the objectives of Chapter 24. Therefore we recommend the Precinct be reduced in area and the Rural Amenity Zone extended, and an Escarpment, Ridgeline and River Cliff Features line be applied in the locations shown on Figure 3.
17. Ms Gilbert also noted that if we were minded to accept her revised recommendation, a consequential change to the LCU mapping would be needed to extend LCU 3 to include the land she was recommending be rezoned to Rural Amenity. We agree with that and recommend that the boundaries of LCUs 2 and 3 be amended to be located along the boundary between the Precinct and Rural Amenity Zone. This is shown in Schedule 24.8 in Appendix 1 to Report 18.1.

⁸ M. Langman, Reply Evidence, at paragraph 10.3ff

⁹ See for instance Submission 2150

18. In conclusion, we recommend the area south of Littles Road and the Fitzpatrick Basin be zoned as shown on Figure 3 below:

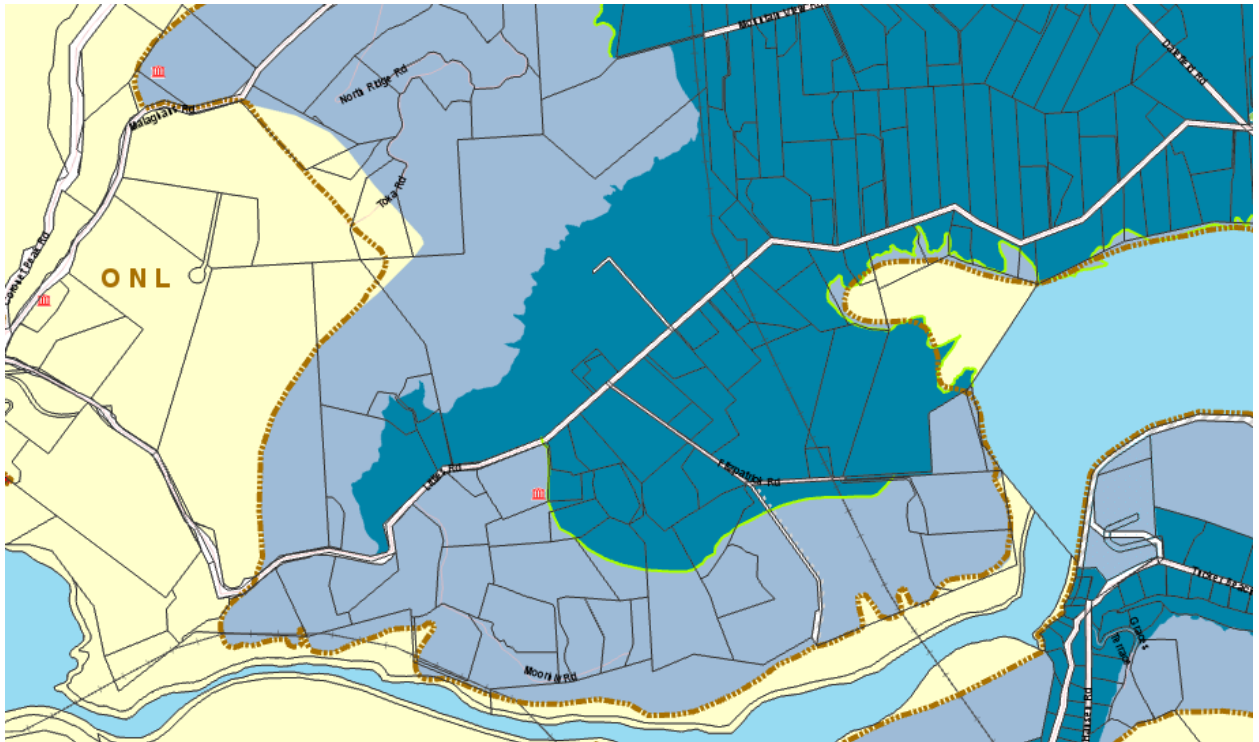


Figure 3: Recommended Zoning in Vicinity of Fitzpatrick Basin

3.2 Tucker Beach Road

19. Three submissions¹⁰ sought adjustments to the boundary of the Precinct zoned land along Tucker Beach Road, in the area between Hansen Road and the eastern end of LCU 4, to include additional land as Precinct above the 400m contour line (but below the boundary of the Ferry Hill ONL).
20. Mr Vivian, providing evidence in support of Submissions 500 and 2276, suggested that the use of the 400m contour line to delineate the Precinct boundary was arbitrary and failed to take into account an existing resource consent and consented building platforms¹¹. It was his opinion that we should amend the Precinct boundary to encompass the approved building platforms¹².
21. Ms Hutton and Mr Baxter took this a step further in relation to the Waterston property¹³, proposing that the amended Precinct boundary encompass two unconsented building platforms on the Waterston property. Mr Baxter told us that he considered the most relevant viewpoints to be Domain Road and Little's Road, some 1.5 to 2km distant¹⁴. He didn't consider that further development would appear to 'creep up the hill' and was content to rely on design controls over

¹⁰ Submissions 500, 2276 and 2308

¹¹ Resource consent RM130386

¹² C Vivian, EiC at paragraph 2.19

¹³ Submission 2308

¹⁴ Notes of hearing, 23 July 2018

colour and height to get a good outcome and in his words *‘to avoid what has come about at the bottom of Tucker Beach Road’*.

22. Ms Hutton relied on Mr Baxter’s evidence and further suggested that the Waterston land should be rezoned as the building platforms were proposed in an area that was difficult to farm productively; they sat outside the No Build Zone established by the Environment Court and were set back from the ONL (260m and 42m); existing dwellings are located above the 400m contour; the proposed building platforms could be readily accessed with minimal work; and the proposed zoning would create split zoning across lots¹⁵.
23. It was Ms Gilbert’s opinion that using the 400m contour line was the best method to define the Precinct boundary. She told us that *“this contour was selected as it approximates the ‘upper level’ of the majority of existing built and consented development in this part of the unit and will therefore avoid the perception of development creeping up the lower slopes of Ferry Hill ONL in views from the surrounding area”*¹⁶. She considered this important to safeguard the integrity of the visual amenity and landscape character values associated with the ONL and as a consequence of the high visibility of the area¹⁷.
24. Ms Gilbert acknowledged that there are a number of what she termed ‘peripheral’ dwellings sitting above the 400m contour on the lower slopes of Ferry Hill but considered the dominant patterning to be buildings below that contour.¹⁸ She was critical of Mr Baxter’s evidence and considered it *“amounts to an evaluation of the two platforms (assuming his location-specific development controls) rather than an analysis as to why he considers the Precinct is more appropriate in this location from a landscape perspective.”*¹⁹
25. While there is some validity in Mr Vivian’s argument that drawing the line at the 400m is arbitrary²⁰, we agree with Ms Gilbert²¹ that the line proposed by Mr Vivian and Mr Baxter was even more arbitrary.
26. We do not consider that introducing site-specific controls to eke out some additional Precinct land at this location has merit. Nor do we consider that defining the Precinct boundary to capture consented development is desirable. We agree with Mr Gilbert that this would be difficult to administer and is likely to be vulnerable to development creep when compared with using the 400m contour line. We also agree with Mr Langman and Ms Gilbert that the values of the Ferry Hill ONF/L are better protected by retaining the extent of the Precinct as notified.

¹⁵ A Hutton, EiC at paragraph 11

¹⁶ B Gilbert, EiC at paragraph 15.5

¹⁷ ibid

¹⁸ B. Gilbert, EiC at paragraph 16.3

¹⁹ B Gilbert, Rebuttal Evidence at paragraph 6.4

²⁰ See the comment in *Waterson v Queenstown Lakes District Council* C169/2000 at paragraph 4

²¹ B Gilbert, Rebuttal Evidence at paragraph 6.5

27. We note the concern raised by Ms Hutton concerning split zoning. However, this has been addressed by the variation to the definition of “site” and the drafting of rules in Chapter 24 as recommended in Report 18.1. In addition, as we noted in Report 18.2 in our general comments, we do not consider the fact that a building platform may be located on a site with minimal infrastructure works so as to utilise land with constraints on its productivity provides a sound basis for rezoning on its own.
28. For those reasons, we recommend that the zones in this area be retained as notified.

4. ZONING AMENDMENTS – TUCKER BEACH RESIDENTIAL PRECINCT²²

4.1 Explanation of Submission

29. The Middleton Family Trust lodged a comprehensive submission seeking provision for a ‘Tucker Beach Residential Precinct’ (“TBRP”) within Chapter 24 and the application of the TBRP to land at the western end of LCU 4, largely on terraces above the Tucker Beach Reserve and above the low-lying farmland adjoining the Shotover River. The TBRP was largely based on the provisions of the Lower Density Suburban Residential Zone²³, with a structure plan to be incorporated into the PDP. The submission also sought that the Urban Growth Boundary be applied around the TBRP.
30. As notified, the eastern end of the Middleton land within LCU 4 was zoned Lifestyle Precinct. The submission proposed that most of that remain and that the lower-lying farmland close to the river also be zoned Lifestyle Precinct.
31. We had the benefit of a comprehensive suite of evidence prepared in relation to this request. The evidence for the submitter traversed matters relating to planning, landscape, infrastructure, traffic and economic effects. The Council also provided evidence on these matters, bar economic effects. While Mr Todd provided legal submissions on behalf of submitters in opposition to this submission, no expert evidence was received from any submitters in opposition.²⁴
32. Mr Geddes’ evidence included a set of plan provisions to be included in Chapters 7, 24 and 27; a structure plan intended to become part of Chapter 27; and a set of plans showing an indicative subdivision layout. He explained that the relief sought had been amended since the submission was lodged. Legal counsel for the submitter, Ms Macdonald, addressed us on this and explained it thus *‘No matter the “label” the submission seeks a zoning to provide for a low density residential environment, consistent with the character and amenity to other land zoned for low density residential living in the District.’*²⁵

²² Submission 2332, opposed by FS2714, FS2802

²³ N Geddes, EiC, paragraphs 3.5ff

²⁴ As discussed in Section 1.5 of Report 18.1, we did not consider the evidence of Mr Healy that attached a traffic report.

²⁵ J. Macdonald, Legal submissions at paragraph 6

33. When describing the provisions, Mr Geddes told us that they had been crafted to achieve similar outcomes to those for the Lower Density Residential Zone and would produce a built environment that would provide a desirable, healthy and safe place to live and play.
34. The key areas of disagreement between the witnesses for the submitter and the Council related to landscape, infrastructure (three waters) and planning.
35. To the extent that the submitter sought rezoning to urban zones, we discussed the potential application of the NPSUDC in section 1.3 of Report 18.2, and do not address it further in this report.

4.2 Transport

36. We were surprised at the paucity of traffic evidence on the nature of the upgrades required to Tucker Beach Road. When we visited the site, we observed that the road formation is narrow and less than two lanes wide. We were told that upgrades to Tucker Beach Road would be dealt with at subdivision stage. The traffic evidence for both the Council and the submitter focused on the planned NZTA upgrade to provide a grade separated exit to Frankton-Ladies Mile Highway. Both traffic experts concluded that the proposal was acceptable on transportation grounds. Mr Smith stated that he agreed with the submission *'that this is a preferable location for additional development in the Wakatipu Basin over other locations to the east of the Shotover River, as it is unlikely to generate significant additional traffic over the Shotover River Bridge.'*²⁶
37. Mr Smith's position changed in his reply evidence. The reason for his change in position was based on the information provided by NZTA in relation to 2018 traffic counts at the intersection of SH6 and Stalker Road roundabout. Having considered this information, Mr Smith advised that this *'reinforces my position that there should be no additional development beyond that which is notified in the Wakatipu Basin chapter of the PDP.'*²⁷
38. Section 2.9 of our Report 18.1 discusses in detail our findings on issues relating to transport network capacity. As stated there, we conclude that capacity issues *'ought not to prevent incremental development of parts of the Wakatipu Basin, if that is appropriate for other reasons.'* However, we remain concerned about the lack of information on necessary upgrades to Tucker Beach Road which is a different issue, and one specific to this submission. We do not consider that a submission seeking the establishment of a new urban area at the end of a no-exit road can leave the matter to subdivision stage. We would have expected at minimum, details of the quantity of traffic likely to be generated and its effects on the physical infrastructure as well as on other users of the road.

4.3 Economics

39. Mr Copeland was one of the few economists to give evidence during the hearing. He emphasized that the zoning of the land would generate economic benefits from increased competition. Relying on the evidence of Mr Hansen, he was satisfied that the proposed zoning would not give rise to

²⁶ D. Smith, EiC at paragraph 15.5

²⁷ D. Smith, Reply Evidence at paragraph 4.12

infrastructure and transport economic externality costs. He concluded that enabling residential development at this location will give rise to net economic benefits for the district. Mr Copeland provided no quantification of costs and benefits that may have fed into a section 32AA analysis.

40. In questions, Mr Copeland confirmed that his analysis was not particular to this land but could be applied to almost any land in the district.
41. We agree with Mr Langman's view that *'Mr Copeland appears to be conflating increased competition with providing endless opportunities for development. Even were the NPS-UDC relevant it does not, in my view, embody a mandate where the continual rezoning for residential land represents the most economically efficient outcome.'*²⁸
42. As we have already noted, the Council did not produce any economic evidence. Because of the general nature of Mr Copeland's evidence, we did not find it to be of particular assistance to the task at hand.

4.4 Infrastructure

43. Mr Hansen prepared infrastructure evidence for the Middleton Family Trust. In his evidence he acknowledged that upgrades would be required to the wastewater network. He considered that any effects on water supply and wastewater infrastructure could be mitigated by headworks fees at the time of connection. Mr Hansen was unable to attend the hearing and we were instead assisted by Mr Neil McDonald who adopted the evidence of Mr Hansen. Mr McDonald told us that he was content for servicing to be dealt with at greater detail at the consenting stage.
44. When we discussed the issues of water supply and wastewater reticulation with Ms Jarvis, she told us that there was a large question mark over the issue of water supply and that she wouldn't classify an extension of the wastewater network along the entire length of Tucker Beach Road as a minor upgrade. She maintained her view that the relief sought was not supportable from an infrastructure servicing perspective. Mr Langman also noted that the water reservoir proposed by the submitter was in the ONL.
45. We agree with Ms Jarvis. We do not think it is satisfactory for the issue of servicing to be left to the consenting stage. While it is not necessary for a detailed design of servicing at this stage, we are not satisfied that there is capacity in the existing network and nor are we satisfied as to the extent of upgrades necessary. As we have discussed in Section 2.9 of Report 18.1, it would be contrary to the purpose of the Act to zone land for an activity when the necessary three waters infrastructure is not in place and there is no Council commitment to a scheme extension.

4.5 Landscape, Visual and Urban Design

46. The landscape experts differed in their assessments of the proposal. Ms Gilbert considered that Mr Espie had underestimated the adverse visual effects of the proposal and had placed too great a

²⁸ M Langman, Rebuttal Evidence at paragraph 7.26

reliance on the screening by the vegetation on the escarpment face below the terrace. She described the adverse visual effects to range from moderate-low to high. Ms Gilbert saw the adverse urban design effects as potentially even more problematic. She considered *'a fragmented urban development pattern on a dead-end road is fundamentally contrary to the principles of connectivity and context that underpin sound urban design'*.²⁹

47. Mr Espie considered it an exaggeration to describe the western end of the unit as highly sensitive to change and considered it to be relatively hidden. He concluded *'the site would become a treed, contained instance of suburban development that forms something of a book-end to the rural living activity that currently extends along Tucker Beach Road.'*³⁰ Mr Espie was not troubled by the site being adjacent to an ONL. He went on to state that *'in many cases more developed land can (and does) appropriately sit immediately adjacent to an ONL.'*³¹ He concluded that the adverse visual effects would generally be low, ranging up to a moderate degree at the western end.
48. In response to questions, Mr Espie agreed the upper terrace is a legible formation and made even more so by its use for grazing. He didn't think this made it unique, but acknowledged that it was unusual, as other areas of similar geomorphology such as Quail Rise have been developed. He went on to tell us that Crown Terrace is similar, but on a broader scale.
49. Mr Espie reiterated his opinion that he did not consider the 'bookend effect' of placing development adjacent an ONL to be adverse. Rather, he was of the view the ONL provides a logical and robust line.
50. We noted that there was a discrepancy between the evidence of Mr Geddes and Mr Espie. The provisions attached to Mr Geddes' evidence proposed a density of one lot per 450m², while Mr Espie's assessment was based on one lot per 600m². This was later confirmed by Mr Geddes to be an error. However, when asked, Mr Espie advised us that provided the density at the perimeter of the zone was 600m² and not 450m², he supported the proposal. He commented that it wouldn't make much difference to his assessment if there was an increase in the number of lots in the central areas, but he would not support development at a greater density (than 600m²) at their margins.
51. More generally, Mr Espie said that he supported the methodology of the WB Landscape Study and the approach of locating rural living areas where it will not be conspicuous. In that way, from a traveller's point of view, the continuation of rural character will remain. He was supportive of the careful identification of rural living areas and non-complying status outside identified areas. In his view, this proposal ties in with that approach because it would not be conspicuous.
52. When we discussed the proposal with Ms Gilbert, she maintained her opinion that the visual effects to certain audiences would be high. In her words *'the proposal would read as a distinctly urban environment and quite foreign'*. In her opinion, it was incongruous and relied too heavily on the filtering of views by existing vegetation.

²⁹ B. Gilbert, Rebuttal Evidence at 4.33

³⁰ B. Espie, EiC at [5.9]

³¹ Ibid at [7.6]

53. We agree with Mr Espie’s comments that applying any new zone that departs from the existing zone inevitably affects people immediately next door. The question for us is whether the extent of the adverse visual and urban design effects will be acceptable. We agree with Ms Gilbert that the proposal would result in a fragmented urban pattern. We have also placed some weight on the degree of adverse visual effects on the Department of Conservation reserve land adjacent to the Shotover River and public vantage points along the Shotover corridor.
54. Overall, we find the adverse landscape, visual and urban design effects would not be acceptable.

4.6 Planning

55. Mr Geddes provided us with a Section 32 evaluation of the reasonably practicable options open to us. Unusually, while he set out the costs and benefits associated with each of the options, he did not articulate why the proposal would be the most appropriate in terms of Section 32.
56. The key area of difference between the planning witnesses was the extent to which the proposal would achieve the objectives of the PDP and the now Partially Operative RPS 2019.
57. In relation to Policy 4.5.2 of the Partially Operative RPS 2019, we agree with Mr Langman that in the absence of a future development strategy, the proposal cannot be said to be taking place in a strategic or coordinated way.
58. We also prefer the evidence of Mr Langman with regards the PDP and agree that the proposal *‘does not sit comfortably with the objective and policy framework of the PDP.’*³² We found considerable force in his views on the application of urban growth boundaries. In his opinion, there is a *‘very high threshold to be met in terms of delivering urban development to a completely new location in the Basin.’*³³ We agree. We do not find that this proposal meets this threshold, as expressed in the objectives and policies in Chapter 4 of the PDP³⁴.
59. It is difficult to see how the proposal can be said to be anything other than sporadic and sprawling development and contrary to Objective 3.2.2.1. It would appear, as Ms Gilbert described it, as an ‘island’ of urban development, sandwiched between the Shotover River ONL to the north and the Ferry Hill/Sugar Loaf ONL to the south.

4.7 Conclusion

60. In our view, this proposal does not give effect to the Partially Operative RPS 2019 and is contrary to the Strategic Direction chapters of the PDP. We therefore do not find the zoning proposed in the submission to be the most appropriate zone. For the reasons given above, we recommend that Submission 2332 be rejected, and the zoning of this land be confirmed as notified.

³² M. Langman, Section 42A Report at paragraph 13.11

³³ M. Langman, Rebuttal Evidence at [13.15

³⁴ See in particular Objectives 4.2.1, 4.2.2A and Policies 4.2.1.2, 4.2.14, 4.2.1.5, 4.2.2.14 and 4.2.2.21

5. OVERALL RECOMMENDATIONS

61. For the reasons set out above, we recommend that:
- a. Submission 2423 by Bloomfield Family be rejected;
 - b. Submission 2307 by Crown Investments Limited be rejected;
 - c. Submission 2440 by T Hardley be accepted;
 - d. Submission 2150 by C Dumarchant be accepted in part;
 - e. Submission 500 by D Broomfield be rejected;
 - f. Submission 2276 by Woodlot Properties Limited be rejected;
 - g. Submission 2308 by J Waterston be rejected;
 - h. Submission 2332 by Middleton Family Trust be rejected;
 - i. Further Submission 2714 by J Muspratt be accepted;
 - j. Further Submission 2802 by Tucker Beach Residents Association be accepted;
 - k. The Rural Amenity Zone be applied to part of the land to the south of Littles Road as shown in Figure 3 above.
 - l. The Escarpment, Ridgeline and River Cliff Features Line be relocated in the area south of Littles Road as shown in Figure 3 above.
 - m. The boundary of LCU 2 and LCU 3 is amended as shown in Schedule 24.8 in Appendix 1 to Report 18.1.
 - n. All other land in Area A retain the zones as notified.
 - o. The ONF/ONL boundaries and planning map notations in Area A remain as notified.

For the Hearing Panel



Denis Nugent, Chair

Dated: 15 February 2019