

**BEFORE THE HEARINGS PANEL  
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

**UNDER** The Resource Management Act 1991  
(RMA)

**IN THE MATTER** of Stage 3 of the proposed District Plan

**AND**

**IN THE MATTER** of Submissions 3256 and 3285 seeking  
re-zoning of land at Luggate

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**SUBMISSIONS OF COUNSEL FOR UPPER CLUTHA TRANSPORT LIMITED AND  
H W RICHARDSON GROUP**

**7 AUGUST 2020**

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## MAY IT PLEASE THE COMMISSIONERS

### *Introduction and context*

- 1 These legal submissions concern two submissions:
  - a. Submission 3256 – seeking re-zoning under the PDP of 13.89 ha of land at Church Road, Luggate (**Church Road Site**) from Rural Zone to General Industrial Zone; and
  - b. Submission 3285 – seeking re-zoning of land at 114-126 and 132 Main Road, Luggate from Settlement Zone to Settlement Zone with Commercial Precinct Overlay, or to Business Mixed Use Zone.
- 2 The submissions are closely related, and I record on behalf of the submitters their appreciation for the Commissioners’ willingness to hear them together.
- 3 Upper Clutha Transport (**UCT**)<sup>1</sup> is a prominent and long-established rural transport operator. UCT operates from a site at 114-126 Main Road, Luggate. The site activities comprise an office, workshop building, open-sided fertiliser shed and various other sheds and structures, storage areas, and vehicle parking and manoeuvring areas. The existing site is on SH6 within the Luggate settlement.
- 4 UCT’s business activities include freight and livestock movement, bulk cartage, earthmoving, hiab hire, fertiliser spreading, and the bulk supply of aggregate, sand, landscaping supplies and fertiliser. The site also includes a fuel stop.
- 5 Adjacent to the UCT operation and included within the area covered by Submission 3285 is Ballance Agri-Nutrient Ltd’s Luggate consignment store, providing bulk and bagged fertilisers and related products.

### *The existing Main Road site*

- 6 The existing site is the subject of Submission 3285 and is addressed in the planning evidence of Megan Justice.

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<sup>1</sup> <https://uppercluthatransport.co.nz>

- 7 The existing activities largely rely upon existing use rights pursuant to section 10 of the Act, supplemented by a resource consent granted in 2015 in relation to one building and associated signage.
- 8 Ms Justice identifies in her planning evidence that the activities on the existing site comprise a combination of industrial, commercial and service activities – as those activities are defined in the PDP<sup>2</sup>.
- 9 The existing site is zoned Township Zone in the ODP. Within that zone the activities are non-complying.
- 10 The existing site is zoned Settlement Zone in the PDP. The purpose of that zone in the PDP is to provide for spatially well-defined areas of low density residential living, with Commercial Precincts within the zone providing opportunity for commercial, commercial recreation and community activities<sup>3</sup>. The Settlement Zone makes no provision for the existing activities on the site. Were those activities seeking to establish today under the PDP they would be non-complying.
- 11 I submit it is reasonable to say that while the existing activities on the site are protected, they are not compatible with the direction the District has set for the Luggate township. Any future proposed land use changes by UCT that go beyond the narrow protections afforded by existing use rights will attract the requirement for a non-complying land use consent application.
- 12 I would further submit that the PDP's intention not to make provision for the existing industrial and related activities on the site is at one level reasonable. The Luggate township affords an attractive, low-density settlement living environment. The presence of some of the existing industrial activities on the site sits uneasily alongside that living environment. Visual amenity, noise, dust, and safety issues associated with heavy traffic moving in and out of the site will create challenges for the occupiers if they seek to change their usage of the land, and reverse sensitivity issues are in play as the opportunities to live in the township are taken up.
- 13 In all the circumstances the best planning outcome for the future protection of UCT's important business, and for the attainment of the Settlement Zone purpose for Luggate township, would be for the existing activities to have the opportunity to relocate away from the Settlement Zone, and for the land to be available for Settlement Zone-compatible and sustainable development.

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<sup>2</sup> Evidence of Megan Justice, 29 May 2020, at paragraph 2.9

<sup>3</sup> Settlement Zone, Purpose 20.1

- 14 As Ms Justice sets out in her planning evidence, provided the Plan makes adequate provision for the existing activities to be able to relocate, she supports the existing site, where currently occupied by the UCT and Ballance activities, being zoned Settlement with Commercial Precinct Overlay. I understand Council officers support this outcome.

*The Church Road Site*

- 15 UCT has identified and holds under contract to purchase a nearby site which it considers is suitable for relocation of its business. The site comprises an area of 13.89 ha and is located on Church Road.
- 16 The Church Road Site is zoned Rural in the PDP, and Submission 3256 seeks that it be rezoned into the General Industrial Zone (GIZ).
- 17 The relevant features of the Church Road Site and surrounds are described in Submission 3256 and summarised in the planning evidence of Scott Edgar<sup>4</sup>.
- 18 The environmental effects that need to be examined as a consequence of the requested rezoning concern landscape/visual amenity; transportation and servicing. These matters are addressed in the evidence of Ben Espie, Andy Carr and Nichola Greaves respectively.
- 19 I submit that with suitable development standards in place to ensure effects are managed, as described in the evidence of Mr Edgar, the site is suitable for industrial zoning, and that in the circumstances this is the most appropriate planning outcome for the Church Road Site and would give effect to the relevant higher order planning instruments<sup>5</sup>.
- 20 Importantly, industrial zoning for the Church Road Site will effectively “close the circle”, by facilitating the opportunity for UCT to relocate (subject to obtaining resource consent and the usual commercial decision-making process) thereby paving the way for the more sustainable development of the existing site in Luggate township.
- 21 Industrial zoning of the Church Road Site would also be consistent with the Strategic Direction chapters of the PDP, thereby ensuring that future land use changes the rezoning would enable are not at odds with the overall direction established through the new District Plan.
- 22 While the UCT submission sought GIZ zoning for the Church Road Site, an alternative industrial zoning is available under the PDP that would achieve a similar outcome – Rural

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<sup>4</sup> Evidence of Scott Edgar, 29 May 2020, paragraph 13

<sup>5</sup> National Policy Statement on Urban Development 2020 (which comes into force on 20 August 2020) and the Otago RPS (noting that this document will be overtaken by an entirely new RPS which is scheduled for notification later this year)

Industrial Sub-Zone (**RISZ**). From the filed evidence there is a difference between the planners<sup>6</sup> as to which of the available industrial zone options is more appropriate for the Church Road Site.

- 23 Mr Edgar and Mr Place have had further discussions on this point, and on the appropriate development standards or controls to be applied to the site. Those discussions have taken place as recently as today, 7 August 2020. At the time of writing these submissions I am unsure of Mr Edgar’s final position on the most suitable industrial zone option and controls, and anticipate that he will address this in evidence at the hearing.
- 24 The RISZ is an interesting zone in the PDP. I understand that in the entire District only one area is currently zoned RISZ, and that happens to be adjacent to the Church Road Site, comprising the Luggate Sawmill and Alpine Group’s venison and deer velvet factory. The RISZ’s purpose is to provide for Rural Industrial Activity which the PDP defines as “the use of land and buildings for the purpose of manufacturing, fabricating, processing, packing and/or storage of goods and materials grown or sourced within the Rural Zone and the storage of goods, materials and machinery associated with commercial contracting undertaken within the Rural Zone”.
- 25 UCT’s activities fit within that definition.
- 26 By contrast the GIZ is found throughout the District in association with – as the zone name suggests – provision for general industrial activities, of which rural industrial activity is a subset. UCT’s activities are therefore also consistent with that definition.
- 27 It appears from the evidence that either zoning can be made effective for the Church Road Site.

*Relief sought*

- 28 The submitters seek the following relief:
  - a. The Church Road Site is re-zoned within either the GIZ or RISZ as will be set out in Mr Edgar’s supplementary evidence, and subject to the development standards and controls he recommends;
  - b. Provided the Church Road Site is appropriately re-zoned for industrial activity as above, the existing Luggate site is partially re-zoned Settlement Zone with Commercial Precinct Overlay as suggested by Ms Justice;

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<sup>6</sup> Mr Edgar for UCT and Mr Place for the Council

- c. If the Church Road Site is not re-zoned for industry, the existing Luggate site is re-zoned to a Business Mixed Use Zone, to better provide for the existing activities on the site that will be unable to relocate.

29 Thanks for the opportunity to present.



Stephen Christensen

**Counsel for Upper Clutha Transport Limited and H W Richardson Group**

7 August 2020