

**Attachment 2 - the relevant parts of the Decision**

# QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-5

Report and Recommendations of Independent Commissioners  
Regarding Mapping of Queenstown Hill

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

## CONTENTS

|  |           |
|--|-----------|
| <b>PART A: REMARKABLE HEIGHTS LIMITED</b>                      | <b>2</b>  |
| <b>PART B: MIDDLETON FAMILY TRUST</b>                          | <b>7</b>  |
| <b>PART C: MT CRYSTAL LIMITED</b>                              | <b>14</b> |
| <b>PART D: BODY CORPORATE 22362 AND SEAN &amp; JANE MCLEOD</b> | <b>19</b> |
| <b>PART E: FRANKTON MARINA/SUGAR LANE AREA</b>                 | <b>27</b> |
| <b>PART F: BRUCE GRANT</b>                                     | <b>32</b> |
| <b>PART G: MIDDLETON FAMILY TRUST</b>                          | <b>39</b> |
| <b>PART H: SUMMARY OF RECOMMENDATIONS</b>                      | <b>42</b> |

## PART E: FRANKTON MARINA/SUGAR LANE AREA

**Submitters**     **DON LAWRENCE for DS EE PROPERTIES LTD (Submission 16); KENNETH MUIR (Submission 125); AND Z ENERGY LTD (Submission 312)**

### **Further Submissions**

- FS1214.2 – Z Energy Ltd – support (16)
- FS1340.51 – Queenstown Airport Corporation – oppose (16)
- FS1214.3 - Z Energy Ltd – support (125.1)
- FS1340.56 - Queenstown Airport Corporation – oppose (125)
- FS1214.4 – Z Energy Ltd – support (125.2)
- FS1340.57 - Queenstown Airport Corporation – oppose (125)

## **17. PRELIMINARY MATTERS**

### **17.1. Subject of Submissions**

139. These submissions related to the Frankton Marina/Sugar Lane area and the Z Energy fuel station at 846 Frankton Road.

### **17.2. Outline of Relief Sought**

140. The submission of Don Lawrence/DS EE Properties Ltd (16) sought that Sugar Lane be rezoned from LDR to a commercial zoning.

141. Kenneth Muir sought to change the Sugar Lane area from LDR to BMUZ.

142. For the avoidance of doubt, we note that neither of the above submissions indicated whether the Mantra Apartments were intended to be included in the request for rezoning.

143. Z Energy sought to change the zoning of 846 Frankton Road to enable business or higher intensity residential purposes: LSCZ, MDR or HDR, or consistent with any rezoning of the existing commercial properties along Sugar Lane and opposite the site.

### **17.3. Description of the Site and Environs**

144. Sugar Lane is an area of mixed uses notwithstanding its LDR zoning. Activities include boating related businesses, offices, an historic cottage, Scout Hall, Pier restaurant, parking and residential uses including the Mantra Apartments (on the eastern side). There is an existing consent at Frankton Marina (RM 140061) which gives approval to 195 marina berths and associated commercial buildings, parking and open space. Z Energy is located on the opposite side of SH6A (Frankton road) on the corner of Marina Drive. The annual average daily traffic (AADT) on SH6A was recorded to be 25,818 for the December 2016 count obtained from NZTA.<sup>67</sup> The area is shown in Figure 5-5.

---

<sup>67</sup> W Banks, EIC, 25 May 2017, paragraph 5.115



Figure 5-5 - Aerial photograph of Frankton Marina/Sugar Lane area and Z Energy fuel station showing existing uses

17.4. The Case for Rezoning

145. Submitters 16 and 125 did not attend the hearing and did not provide any evidence in support of rezoning the area from LDR to a commercial or higher density residential zone. For Z Energy, Burton Consultants Ltd provided a letter containing a statement representing Z Energy's views.<sup>68</sup> All made the point that existing commercial development in Sugar Lane was inconsistent with LDR zoning. In his submission, Mr Muir said that BMUZ would be the ideal zoning to allow the Sugar Lane area to become a vibrant development in support of a new marina.
146. Z Energy's submission pointed out that their existing service station was in close proximity to commercial activities at Sugar Lane and was physically separated from residential properties to the north and east by existing roads and to residential zoning to the south by Frankton Road. The submission stated that the rezoning sought (LSC, MDR, HDR) would be more consistent with the intent of the PDP. In the letter provided by Burton consultants Ltd, Z Energy continued to maintain that LDRZ would be an inappropriate zone for the site and Sugar Lane area.
147. QAC opposed Submission 16 and Submission 125 out of concern that any rezoning would result in intensification of ASAN establishing in close proximity to Queenstown Airport. Mr Kyle's evidence was that the best form of protection available to avoid potential reverse sensitivity effects is to avoid development 'coming to the effect' in the first place.<sup>69</sup>
148. For the Council, Ms Kim Banks considered the suitability of MDR zoning in the Frankton area generally and in the Frankton Marina/Sugar Lane area more particularly (as part of her

<sup>68</sup> Burton Consultants Ltd on behalf of Z Energy, letter dated 9 June 2017 and tabled at the hearing

<sup>69</sup> J. Kyle, EIC, 9 June 2017, paragraphs 6.4 – 6.8

evaluation of the submission by NZIA<sup>70</sup> ). In her opinion, the notified LDRZ did not accurately reflect the mix of activities present in Sugar Lane. While the location itself may be suitable for MDRZ, the existing activities were inconsistent with its purpose and over time, MDR zoning would have the potential to constrain these businesses. In her opinion, there was no alternative zoning that would adequately reflect this current mix.<sup>71</sup> Ms Kim Banks did not support rezoning the site to MDRZ or HDRZ which would facilitate intensification and additional trip generation on the site.

149. For the Z Energy site, Ms Kim Banks evaluated the options of MDRZ and HDRZ, concluding that a spot zoning surrounded by LDRZ was undesirable and, in the case of HDRZ, could lead to development of a scale that was out of character with the neighbourhood. While she acknowledged that the site did not exhibit LDRZ characteristics, neither MDRZ nor HDRZ were more appropriate.<sup>72</sup>
150. Also for the Council, Ms Evans acknowledged that the zoning of this area was challenging and that LDRZ was not reflective of the existing land uses.<sup>73</sup> In her opinion, some form of marine based commercial zone or structure plan or outline development plan that considered the future of Sugar Lane as a whole would be beneficial. Any such proposal should include the Z Energy site.<sup>74</sup> Ms Evans considered that alternative zones such as LSCZ would facilitate intensification and additional trip generation which would be detrimental to the operation of the Sugar Lane/SH6A/Marina Drive intersection. LSCZ or BMUZ would also create tension with a number of policies in the Strategic Direction that seek to avoid undermining existing centres.
151. In forming their opinions, Ms Kim Banks and Ms Evans relied on the evidence of Ms Wendy Banks, a transportation engineer. Ms W Banks considered that turning movements into and out of the side roads was currently challenging due to the high traffic volumes on SH6A. She opposed the rezoning sought for commercial activities, unless it could be demonstrated that the right turn movements out of Sugar Lane could be managed safely either through a reduction in the zoning area sought or by upgrading the intersection to signals or a roundabout. Z Energy noted that anticipated intersection upgrades due to the marina development were not reflected in the Section 42A Reports. This consent had not been implemented at the time of writing this report therefore it is not known whether or when these intersection upgrades will be done.

#### 17.5. Discussion of Planning Framework

152. Sugar Lane, the Z Energy site and wider area are zoned LDR in the PDP. In Chapter 7 as recommended it is renamed the Lower Density Residential zone to more accurately capture the range of traditional and modern suburban densities and housing types enabled. Objective 7.2.1 provides for *'a mix of compatible suburban densities and a high amenity low density residential environment for residents...'*. Policy 7.2.1.2 encourages development that *'maintains suburban residential amenity values including predominantly detached building forms, and predominantly one or two storey building heights.'* Policy 7.2.1.3 seeks to maintain amenity values between sites, in particular privacy and access to sunlight. A clear theme is the maintenance of suburban character and high amenity values. Commercial activities are generally discouraged.

---

<sup>70</sup> Submission 238

<sup>71</sup> K Banks, Section 42A Report, 25 May 2017, paragraphs 18.12 – 18.16

<sup>72</sup> K Banks, Section 42A Report, 25 May 2017, paragraphs 12.6 – 12.20

<sup>73</sup> R Evans, Section 42A Report, 24 May 2017, paragraphs 6.14 & 6.26

<sup>74</sup> Ibid, paras 6.18 & 6.31

153. In addition to LDRZ, the PDP provides for MDR and HDR zones. The purpose of the MDRZ is to enable a greater supply of diverse housing options for the District at a higher density than the LDRZ. Development controls are designed to ensure that the reasonable maintenance of amenity values is maintained. MDR zones should be easily accessible to local shopping centres, town centres or schools by public transport, cycling or walking.
154. The HDRZ provides for efficient use of land within close proximity to town centres that is easily accessible by public transport, cycle and walkways. In Queenstown, it enables taller buildings than in other residential zones, subject to high design quality. Development controls provide minimum of protections for existing amenity values, and are otherwise prioritised towards enabling the community's wellbeing by promoting growth and development. There is a focus on intensification and small scale commercial activities are enabled to support larger residential developments, or to provide low impact local services.
155. The LSCZ, as recommended in Chapter 15, enables small scale commercial and business activities in discrete pockets of land that are accessible to residential areas and people in transit. The function of these local shopping centres is to meet the day to day needs of the community for convenient access to goods and services. These small scale centres should not undermine the role and function of town centres.
156. BMU zoning provides for complementary commercial, business, retail and residential uses that supplement the activities and services provided by town centres. Higher density living opportunities close to employment and recreational activities are also enabled. Significantly greater building heights are enabled in the Business Mixed Use Zone in Queenstown, provided that high quality urban design outcomes are achieved.
157. Designation 165 covers part of this area (Frankton Marina Local Purpose Reserve). In the PDP, this riparian reserve has been zoned Informal Recreation under the Stage 2 Variations.
158. The OCB for Queenstown Airport traverses a handful of lakefront properties at the western end of Sugar Lane. However the witnesses for both the Council and QAC proceeded on the basis that the submission sites were not within the OCB. This is not material given our recommendation to retain LDRZ.

## 18. ISSUES

- a. Traffic
- b. The most appropriate zone for the Frankton Marina/Sugar Lane area

## 19. DISCUSSION OF ISSUES AND CONCLUSIONS

159. We accept the Council's traffic engineering evidence was uncontested. Accordingly, we find that the Sugar Lane/SH6A/Marina Drive intersection experiences long delays and queues, there are safety issues with drivers risking shorter gaps in the State Highway traffic and that an increase in trips could exacerbate the current problems unless improvements are made. On traffic grounds only, the case was made to retain LDR zoning because it enables activities with relatively low rates of trip generation. We consider however that intersection upgrades would improve traffic management therefore we do not see traffic issues as determinative of zoning.

160. Traffic issues aside, both of the Council's planning witnesses considered that the notified LDRZ did not reflect existing and consented activities in and around Frankton Marina. We examined the current zones available within the PDP and concluded that none was suitable as a means of enabling the existing mix of activities at Sugar Lane to continue operating without recourse to frequent applications for resource consents.
161. Mr Muir sought BMU zoning however this would be contrary to the overall zoning strategy which provides for BMUZ near existing town centres (Queenstown and Wanaka). We accept that the mix of activities enabled by the BMUZ is a feature in its favour, however the zone enables an intensity of development that is not appropriate in this location. In our view, if the Council's goal is to enable the growth and development of mixed uses in the Sugar Lane area, a new zone is required.
162. Mr Muir identified an opportunity to allow Sugar Lane to become a vibrant development in support of a new marina. Ms Evans appeared to agree with him insofar as she considered some form of marine based commercial zone, or a structure plan or outline development that considers the further development of the Sugar Lane area as a whole would be beneficial. Z Energy supported Ms Evans in this regard and urged the Council to pursue rezoning in the near future. We agree that Sugar Lane could be redeveloped for a wide range of activities to support a new marina (assuming it proceeds) and we consider that a planning study is an essential first step should this be the Council's goal. We find that none of the available PDP zones is suitable for this purpose.
163. We are compelled by circumstances and the lack of suitable alternative zonings to recommend that LDR zoning be retained for the reasons set out above. As it happens, retention of LDR zoning also satisfies the further submissions lodged by QAC.

## 20. RECOMMENDATION

164. For the reasons set out above, we recommend that:
- a. Submissions 16, 125 and 312 be rejected; and
  - b. FS1340.51, FS1340.56 and FS1340.57 be accepted; and
  - c. FS1214.2 and FS1214.3 be rejected; and
  - d. Lower Density Suburban Residential zoning be retained for the submission sites; and
  - e. The Council consider undertaking a planning study of the Frankton Marina/Sugar Lane area, including the Z Energy site, to identify its optimal future development with a view to introducing a variation to apply a form of zoning (or other method) that achieves the community's desired outcomes.