

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

Decision No. [2023] NZEnvC 140

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN CROWN INVESTMENT TRUST

(ENV-2019-CHC-66)

Appellant

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Environment Judge J J M Hassan – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 5 July 2023

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Queenstown Lakes District Council is directed to amend the proposed Queenstown Lakes District Plan by:

¹ Resource Management Act 1991.



- (a) rezoning the appeal land and consequential relief land, to Wakatipu Basin Lifestyle Precinct with the accompanying Building Restriction Areas by amending the Precinct Boundary as shown in Appendix 1; and
 - (b) amending the rating and description of Schedule 24.8 LCU 3 Shotover River Terrace as set out in Appendix 2, attached to and forming part of this order.
- (2) the appeal is otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Crown Investments Trust against part of the decision of the Queenstown Lakes District Council regarding the planning maps and provisions of the Proposed Queenstown Lakes District Plan – Stage 2 (‘PDP’). The relief seeking the rezoning of land to the south of Fitzpatrick Road² (‘the appeal land’) was allocated as Topic 31, Subtopic 1 – Wakatipu Basin Rezoning Appeals, Group 3 – Western Basin Appeals.

[2] I have read and considered the consent memorandum of the parties dated 16 March 2023. It proposes that the appeal be resolved by the approval of the agreed rezoning and amendments to the description and rating of Landscape Character Unit 3 – Shotover River Terrace in Sch 24.8 PDP.

² Legally described as Lot 1 DP 476877, held in Record of Title 660779.

[3] The consent memorandum includes statements of evidence from two landscape experts well-familiar with these matters, Ms Gilbert³ and Ms Pfluger.⁴ I accept the explanations offered by counsel on the basis of that evidence that, as a consequence of the rezoning of the appeal land, the “Precinct Boundary” is required to be moved in order that it is appropriately connected in this locality as it relates to the intervening land. Some of that intervening land (referred to as ‘consequential relief land’) is owned by Caran Family Trust. Also provided under the cover of counsels’ memorandum is an extract of a statement of evidence of another experienced landscape expert, Tony Milne. I agree with counsels’ assurances that these statements of evidence provide support for the outcomes now jointly sought.

Other relevant matters

[4] Several parties became a party to this appeal under s274 RMA and subsequently withdrew said interest. The remaining s274 party, Caran Family Trust, has signed the memorandum setting out the relief sought.

[5] No party seeks costs, all parties agreeing that costs should lie where they fall.

Outcome

[6] The court makes this order under s279(1) RMA, such order being by consent rather than representing a decision or determination on the merits pursuant to s297. The court understands for the present purposes that:

- (a) all parties to the proceeding have executed the memorandum requesting this order;

³ Statement of evidence of Bridget Gilbert, dated 28 January 2022.

⁴ Statement of evidence of Yvonne Pfluger, dated 26 November 2021.

- (b) all parties are satisfied that all matters for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA, including in particular, pt 2.



J J M Hassan
Environment Judge



Appendix 1

Zoning amendment

The appeal land ('CIT Land') and consequential relief land (including the 'Caran Family Trust Land') shown on the attached plan is to be rezoned to Wakatipu Basin Lifestyle Precinct by amending the Precinct Boundary. The accompanying Building Restriction Areas are also to be included.

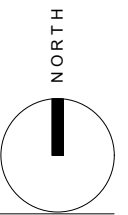


REV	DATE	NOTES
-----	------	-------

Legend

- - - Decisions Version Precinct Boundary
- Agreed Precinct Boundary
- - - Agreed BRA's
- CFT Land
- CIT Land
- Broomfield D and Woodlot Consent Order Line

Consequential Relief Land



RMM
 CHRISTCHURCH +64 3 366 3268
 WĀNAKA +64 3 974 7940
 AUCKLAND +64 27 642 3342
 DUNEDIN +64 27 498 8795
 rmm@rmm.co.nz info@rmm.co.nz

King Parcel Areas
 64 FITZPATRICK ROAD
 QUEENSTOWN

JOB No.	20185
SCALE	1:4000
DATE	30/01/2023
DESIGNED	TM
DRAWN	CD, RG
CHECKED	TM
STATUS	
DRAWING No.	REVISION
2	
SERIES	

Appendix 2

The parties have agreed to amend the rating and description of Schedule 24.8 LCU 3 Shotover River Terrace, as shown in the attached document.

Schedule 24.8 LCU 3 Shotover River Terrace

3: Shotover River Terrace

Landscape Character Unit	3: Shotover River Terrace
Landform patterns	<p>Flat alluvial river terraces edged by steep hill slopes to the north and river cliffs to the south.</p> <p>The western end of the unit is characterised by flat to gently sloping alluvial river terraces interspersed with steep banks and escarpments, and it is framed by the ridgeline system which forms the boundary with the Fitzpatrick Basin (to the North-east) and Shotover River cliffs (to the west and south).</p> <p><u>The central and eastern end of the unit is characterised by elevated hummocky terrain which rolls over to a series of narrow terraces and steep banks and escarpments framing the northern side of the Shotover River. A series of steep-sided gullies bisect the escarpments and terraces in places.</u></p> <p><u>A steeply sloping elevated knoll in the northern central part of the unit (adjacent Fitzpatrick Road) forms a locally prominent landform feature.</u></p>
Vegetation patterns	<p>Predominantly exotic vegetation and scrub throughout the steep river cliffs (outside of the LCU). Scattered shade trees and scrub in places, with mown grass and grazed areas evident.</p> <p>Throughout the western end of the unit, planting is limited to riparian restoration along Littles Stream, scattered shade trees and shelter plantings along the Littles Road frontage and mature shelter plantings along fence lines. Very limited amenity plantings around dwellings.</p> <p><u>Through the central and eastern end of the unit, the hummocky topography is mostly in pasture grass cover, fragmented by established shelterbelt plantings and amenity plantings around dwellings, driveways, and farm buildings.</u></p> <p><u>In places, the escarpment slopes above the Shotover River have a dense cover of native and exotic scrub species, as well as mixed stands of exotic coniferous and deciduous trees. The steep-sided gullies support scrub vegetation.</u></p>
Hydrology	<p>One stream crosses the unit at the western end, and drains to the Shotover River.</p> <p><u>Through the central and eastern end there are some small areas of wetland and amenity ponds in the low-lying flat areas.</u></p>
Proximity to ONL/ONF	Adjacent ONL (WB) of the Shotover River <u>ONF</u> and mountain landform (Sugar Loaf) to the south.

Landscape Character Unit	3: Shotover River Terrace
	<u>Queenstown Hill and Ferry Hill ONF to the south of the Shotover River, with Ferry Hill ONF forming a backdrop view from locations along Littles Road.</u>
Character Unit boundaries	<p>North: Ridgeline crest defining Fitzpatrick Basin LCU.</p> <p>East: Ridgeline crest defining Fitzpatrick Basin LCU.</p> <p><u>East and South: Shotover River vegetation-clad cliffs and Shotover River ONF.</u></p> <p>West: Littles Road and Shotover River ONF.</p>
Land use	Rural residential and rural lifestyle use (including hobby farming, <u>small-scale cropping, horse grazing, etc.</u>). DoC land along southern edge of unit.
Settlement patterns	<p>Generally, dwellings and platforms positioned to enjoy highly attractive views of Shotover River and the ONF/L mountain context. Throughout the western end of the unit, dwellings are positioned on the flat river terraces in order to avoid the steeply sloping escarpments towards Littles Stream.</p> <p>A limited number of consented but unbuilt platforms (4).</p> <p>Limited access via a private road from Littles Road. <u>Fitzpatrick Road provides access to the central and eastern part of the LCU where a number of rural living dwellings are located.</u></p> <p>Typical lot sizes:</p> <p><u>Western end of unit - approximately 2ha to 4ha with a reasonably generous-scaled rural residential character dominating; mix of lots < 4ha and 4-10ha.</u></p> <p><u>Eastern end of unit - lot sizes are more variable and range from 1ha to 20ha with a more spacious rural lifestyle character dominating. Throughout the central and eastern end of the unit, a number of dwellings are generally well contained by vegetation and/or landform patterning making them discreet in views from outside the unit.</u></p> <p><u>The Lifestyle Precinct Zoning of parts of the unit anticipates change to the existing settlement patters including an overall density of residential activity at 1 hectare average and settlement patterns that are sympathetic to the wider amenity landscape context and surrounding ONFs and ONLs.</u></p>
Proximity to key route	Accessed via a lesser-used route between Dalefield Road and Arthurs Point Road (Littles Road).
Heritage features	No features identified in PDP.

Landscape Character Unit	3: Shotover River Terrace
Recreation features	Public walkway and cycleway along the northern banks of the Shotover River (outside LCU 3) and through the central portion of LCU 3, linking with Fitzpatrick Road. DoC land.
Infrastructure features	No reticulated sewer. Limited reticulated water / stormwater in places.
Visibility/prominence	<p>The varying landform and vegetation patterning throughout the unit means that visibility of the western end of the unit is generally limited to: limited glimpses from the Shotover River corridor; the elevated rural landforms to the south; and users of Littles Road in the vicinity of LCU 3.</p> <p><u>The undulating landform and vegetation patterning throughout the central and eastern part of the unit and vegetation along the Shotover River cliffs and escarpments means that this part of LCU 3 is generally well contained and is not prominent in views from Fitzpatrick Road, the Shotover River corridor, Domain Road, and the Tucker Beach rural living area to the south}. The exceptions to this is are:</u></p> <ul style="list-style-type: none"> • <u>the lower-lying river terraces in the central portion of the unit;</u> • <u>a localised and steeply sloping elevated knoll in the northern central part of the unit (adjacent Fitzpatrick Road, the visibility of which is limited to part views from Fitzpatrick Basin and Dalefield to the north and northeast and the Tucker Beach rural living area to the south); and</u> • <u>parts of the elevated south-facing slopes sitting above the Shotover River cliffs in the central/eastern end of the unit which are visible from parts of the Tucker Beach rural living area to the south.</u> <p>The containment of the hill slopes to the north means that visibility is limited to the Shotover corridor, the elevated landform to the south, and parts of the Tucker Beach LCU.</p> <p>Overall, the unit is not prominent within the wider basin landscape.</p>
Views	<p>The unit affords attractive mid-range views along the Shotover River, and to the Sugar Loaf and Ferry Hill ONL backdrop. Key views relate to:</p> <ul style="list-style-type: none"> • short to mid-range views across the western end of the unit from Littles Road; and

Landscape Character Unit	3: Shotover River Terrace
	<ul style="list-style-type: none"> • <u>close to mid-range views of parts of the central/eastern end of the unit views from the parts of the Queen Trail classified as public places; and</u> • <u>mid to longer range views to the unit from the Shotover River corridor; and</u> • <u>short to mid-range views towards the central and eastern end of the unit from parts of Tuckers Beach rural living area.</u>
Enclosure/openness	<p>A reasonably high sense of openness throughout the western end of the unit as a consequence of the limited vegetation patterns and terraced landforms.</p> <p><u>Throughout the central and eastern portion of the unit, landform and vegetation patterns contribute a more variable sense of openness. Throughout much of this area, the hummocky landform and/or mature vegetation features provide a high degree of enclosure.</u></p> <p><u>A reasonable high sense of containment throughout the central and eastern end of the unit because of mature vegetation and the hummocky landform.</u></p> <p><u>Overall</u> At a macro landscape scale, the large-scale landforms framing the local area (particularly to the south) contribute a sense of containment.</p>
Complexity	<p><u>Steep slopes between the terrace Shotover River terraces and the Fitzpatrick Basin at the western end, along with terrace faces and river escarpments generally, and the hummocky landform through the central and eastern end of the unit provide localised complexity in places.</u></p>
Coherence	<p>Generally, a relatively low level of coherence as a consequence of varying landform and vegetation patterns.</p>
Naturalness	<p>A moderate sense of naturalness as a consequence of the landform separation of this area from the neighbouring Fitzpatrick Basin, its proximity to the Shotover River, and its aspect adjacent an undeveloped ONL area on the opposite side of the river.</p> <p>The level of relatively exposed rural living development throughout the western end of the unit serves to reduce the perceived naturalness in this part of the unit.</p>
Sense of Place	<p>Generally the unit reads as a discrete rural residential <u>living</u> area that is strongly <u>variably</u> connected to the Shotover River and strongly <u>connected</u> to the more distant ONF/L mountain context <u>undeveloped ONL area to the south.</u></p>

Landscape Character Unit	3: Shotover River Terrace
Potential landscape issues and constraints associated with additional development	<p>Relatively open and <u>visually exposed</u> nature of <u>parts of the unit</u>, within an extremely high value landscape context dominated by ONF/Ls and a broader ONF/L and amenity landscape context, <u>makes parts of the unit highly sensitive to landscape change</u>. This includes:</p> <ul style="list-style-type: none"> • the lower-lying river terraces at the western end of the unit; • <u>the steeply sloping elevated knoll in the northern central part of the unit (adjacent Fitzpatrick Road); and</u> • <u>parts of the elevated south-facing slopes sitting above the Shotover River cliffs in the central/eastern end of the unit which are visible from the Tucker Beach rural living area to the south.</u> <p>Southern aspect.</p> <p>A very Generally a relatively private landscape with virtually no limited public access.</p> <p>Generally relatively small-scaled lots.</p> <p>For the western end of the unit, accessways and large-scale buildings have the potential to disrupt the distinctive river terraced landform patterning.</p> <p><u>For the central and eastern end of the unit, accessways and large-scale buildings have the potential to disrupt the distinctive hummocky landform patterning and/or require the removal of existing vegetation features. Each of these elements are of importance in providing containment to the central and eastern end of the unit in views from the south.</u></p> <p><u>Potential visibility of development from Littles Road, Fitzpatrick Road, the Queenstown Trail, the Shotover River ONF, and the Tuckers Beach rural living area to the south.</u></p>
Potential landscape opportunities and benefits associated with additional development	<p>Established and reasonably generously scaled rural living patterning throughout the western end of the unit (approximately 2ha to 4ha).</p> <p>Relatively visually discreet nature of:</p> <ul style="list-style-type: none"> • the north-eastern portion of the western end (on the upper true left flanks of Littles Stream); • <u>the central and eastern end of the unit due to the screening influence of steep escarpments and the screening or filtering influence of the hummocky terrain and/or vegetation features.</u> <p>Close proximity to Queenstown.</p> <p><u>Generally cContained nature of the area at a macro landscape scale of location.</u></p>

Landscape Character Unit	3: Shotover River Terrace
	<p>Riparian <u>and wetland</u> restoration potential.</p> <p>Retirement and native restoration planting of steeper slopes (>15°), including the escarpments and ridgesides <u>ridge sides</u> throughout the western portion of the unit, to reinforce the river terraced landform and assist with the integration of (potentially, existing and) new rural living development in views from Littles Road.</p> <p>Potential for <u>the</u> integration of walkways/cycleways etc. associated with riverscape.</p> <p><u>Potential for the protection and long-term management of vegetation features that contribute to the landscape complexity and visual containment of the area.</u></p>
Environmental characteristics and amenity values to be maintained and enhanced	<p><u>Existing vegetation features and patterns.</u></p> <p><u>Existing streams, wetlands, and waterbodies.</u></p> <p><u>Reinforcement of landform patterning via indigenous restoration plantings throughout gullies, streams, wetlands, and steep slopes/banks and ridgesides).</u></p> <p>Sense of (relative) remoteness and connection with the riverscape and surrounding mountains.</p> <p>At the western end of the unit (where land is zoned Precinct): maintenance of the existing reasonably generous-scaled rural living patterning, by confining any new built form to the flat river terraces set well back from the river corridor; reinforcement of the distinctive landform patterning via native restoration planting of the steep banks and ridgesides <u>ridge sides</u>.</p> <p><u>For the central and eastern portion of the unit: maintenance of the existing relatively discreet character of rural living development, by:</u></p> <ul style="list-style-type: none"> • <u>retaining the existing hummocky landform character and mature vegetation features;</u> • <u>avoiding development on the steeply sloping elevated knoll in the northern central part of the unit (adjacent Fitzpatrick Road), throughout parts of the elevated south-facing slopes sitting above the Shotover River cliffs in the central/eastern end of the unit which are visible from the Tucker Beach rural living area (to the south), and on the lower-lying terraces near the river; and</u> • <u>limiting development to two platforms on south-facing slopes sitting above the Shotover River to areas that are reasonably well screened by mature vegetation in views from the Tucker Beach rural living area.</u>
Capability to absorb	Low

Landscape Character Unit	3: Shotover River Terrace
additional development	<p>Moderate - High: The area zoned Lifestyle Precinct, excluding:</p> <ul style="list-style-type: none"> the steep banks and ridge sides within the western part of the unit, which are to be kept free from development. <u>Areas where a BRA applies which are rated as Low. The BRA shall be excluded from the Precinct yield calculation.</u> <p>Low: within The Rural Amenity zoned western <u>and central portions</u> margins of the unit coinciding with the lower-lying river terraces flanking the Shotover River.</p>

DRAFT

