

Appendix C

A copy of the relevant parts of the Decision

26. BRIDESDALE RIVER FLATS

26.1 Bridesdale Farm Developments Ltd – Submissions 655 & 2391


Property and submission information	
Further Submitters	Submission 655.1 FS1064.1 – Martin MacDonald – oppose FS1071.2 – LHECA – oppose FS1340.129 – Queenstown Airport Corporation – oppose Submission 2391.2 FS2759 - Queenstown Airport Corporation – oppose
Land area/request referred to as	Bridesdale Farm, Lake Hayes (655) The balance of the Bridesdale Special Housing Area being the lower lying flood plain that sits above the Kawarau River (2391)
Legal Description	Lots 301, 304, 307 and 308 DP 505513 (655) Lot 400 DP 44523 and Lot 321 DP 379403 (2391)
Area	Approximately 29Ha (655) (QLDC GIS) Approximately 18Ha (2391) (QLDC GIS)
	
<p>Figure 26.1: Aerial photo – site subject to submission 655 outlined in red and showing land parcels rezoned to Informal Recreation in Stage 2</p>	



Figure 26.2: Aerial photo – Council-owned parcels subject to submission 2391 outlined in red.

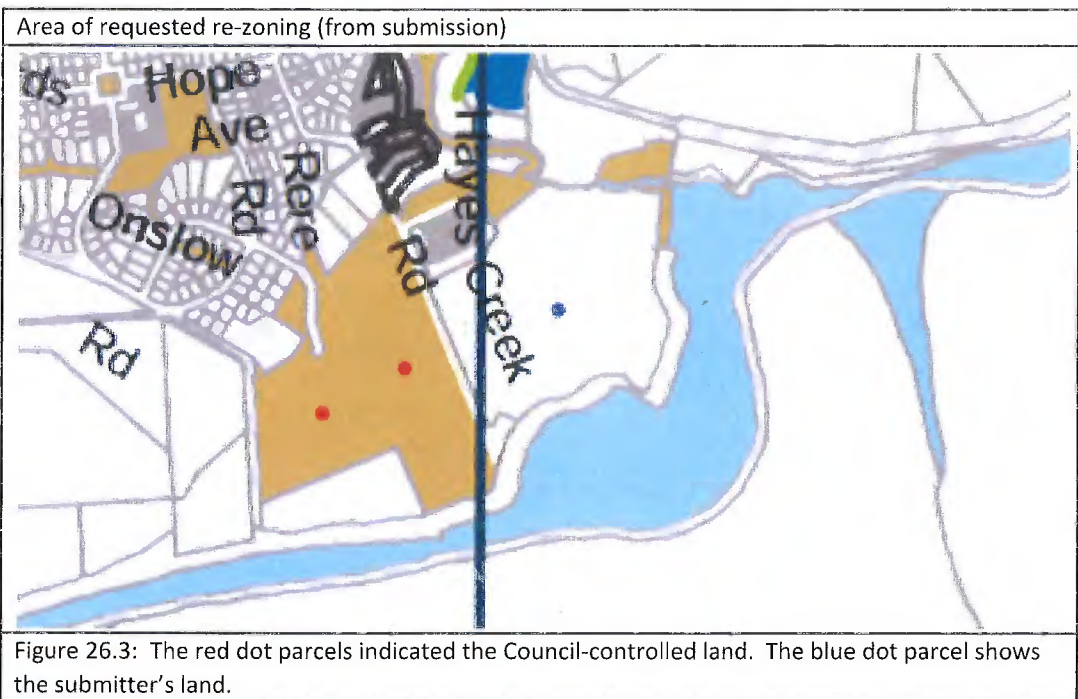


Figure 26.3: The red dot parcels indicated the Council-controlled land. The blue dot parcel shows the submitter's land.

301. This is a substantial submission affecting a large area of land adjacent to Bridesdale, a residential area on the south-eastern side of the Lake Hayes Estate subdivision. For the purpose of this report, the land will be referred to as the 'Bridesdale River Flats' in reflection of its location adjacent to the Kawarau River, and to distinguish it from the Bridesdale Special Housing area located above on the terrace to the north.
302. The Bridesdale River Flats subject to the submission includes approximately 16.8ha owned by Bridesdale Farm Developments Limited, and approximately 18ha of adjoining Council-owned land. There are also a number of other parcels of Council and reserve land in the immediate

vicinity as outlined in the table in Mr Edmonds' evidence for the submitter¹³⁸. The land is sited on the river terrace adjacent to the Kawarau River, and west of Hayes Stream draining into the Kawarau River from Lake Hayes. The land is generally flat but subject to periodic flooding during high rainfall events.

303. At present the land is undeveloped except for 137 garden allotments established as part of the Bridesdale Special Housing Area. The Council has zoned its own land on the Bridesdale River Flats as part of the Informal Recreation Zone but left the balance land owned by the submitter zoned Rural. The Council land is shown outlined in red on Figure 15 above, with the Bridesdale land comprising the large area adjacent to the east. If developed, access would either have to be obtained from Widgeon Place to the west or from Hayes Creek Road/Red Cottage Road to the east. A metalled road currently extends across the Bridesdale River Flats to the northern margins of the Kawarau River adjacent to the Twin Rivers Cycle Trail.
304. With respect to land holdings, the submission has two parts. Bridesdale Farm Developments Limited¹³⁹ submitted that the two Council owned parcels be zoned Active Sport and Recreation rather than Informal Recreation. The submitter also sought the rezoning of its own land as Active Sport and Recreation, seeking that the Council and Bridesdale land be combined to provide a large area of land to primarily meet the recreational needs of the growing communities at Lake Hayes Estate and Shotover Country.
305. As further background, we were advised that resource consent has been sought by the submitter for the development of a tennis academy on the Bridesdale land¹⁴⁰. The submitter also made a submission on Stage 1¹⁴¹, seeking the rezoning of Bridesdale land to MDRZ which is shown in Figure 14 above. This submission point has been addressed in Hearing Stream 14.
306. Ms Edgley raised the issue of whether the submission was within scope in her Section 42A Report, but after this was strongly challenged by the submitter, the Council did not pursue this matter any further. We have also concluded that there is no jurisdictional issue for us to address here.
307. The applicant presented legal submissions and produced a substantial body of expert evidence, which was not subject to challenge through similar evidence on behalf of the Council. A key issue arising in this case was whether or not it was appropriate for private land to have an open space and recreation zoning under Chapter 38. This was stoutly resisted by the reporting officers. In summary, Mr Goldsmith, in his submissions for the submitter submitted that:
- a) *the Council had failed in its section 32 analysis to justify why private land could not be zoned for open space and recreation purposes – in this case, classified as part of the Active Sport and Recreation Zone;*
 - b) *there were no provisions in Chapter 38 which precluded the zoning of private land, with the exception of a statement in the 'Purpose' for Open Space and Recreation Zones;*
 - c) *the Council's Parks and Open Space Strategy 2017 did not preclude zoning of private land;*

¹³⁸ J Edmonds, EiC, paragraph 11

¹³⁹ Submission 2391

¹⁴⁰ RM 180882

¹⁴¹ Submission 655

- d) *with reference to Objective 38.2.1 and Policy 38.4.1.6, it was apparent that the Council had simply zoned its existing reserve network and had manifestly failed to address future needs as required by the objective and policy;*
- e) *in order to meet Council aspirations for open space linkages throughout the District, it was inevitable that this would need to include private land.*

308. In response to concerns raised by the reporting officers that confusion would arise within a zone containing both privately owned and council owned land, it was contended firstly that the split zoning would be illogical, and secondly that private activities on Council land (citing the example of the Ben Lomond reserve) proved that this could be managed successfully. We were not entirely persuaded on the final point, bearing in mind that in the case of the Ben Lomond Reserve (and others containing private facilities) the provisions of the Reserves Act could still be applied and the Council could exercise ultimate control through its leasing arrangements. That would not be the case with the split land ownership at Bridesdale.
309. Nevertheless, we agree that there was some force in the arguments put forward on behalf of the submitter. A split zoning did not seem logical, and as Mr Goldsmith pointed out, if it was acceptable for the Council's land to have an Informal Recreation zoning, it was difficult to see how retaining a Rural zoning over the submitters land could be justified. This still left issues as to what kind of zoning should apply to privately owned land generally, and on this site in particular; the timing of any zoning over this land; and the kind of activities that should be provided for within it.
310. Mr Andy Carr presented traffic evidence for the submitter. He undertook an assessment of likely traffic demand on the local street network based on the activities which could occur if the Bridesdale River Flats was zoned Active Recreation and Sport, and having regard to the Council's Subdivision Code of Practice. Depending on which part of the land was accessed through either Widgeon Place or Hayes Creek Road (through Red Cottage Road), he concluded there would be sufficient capacity to accommodate between 13.8 and 35.5 ha of development¹⁴². In his opinion, the site was also well served with walking and cycling links, and public transport was available in the Lake Hayes Estate subdivision.
311. Dr Shayne Galloway of Galloway Recreation Research Limited, presented evidence relating to the demand for recreational space in the area, and how the Bridesdale River Flats could meet this demand. He noted that the Lake Hayes Estate and Shotover Country Community Association had submitted on the QLDC Long Term Plan with respect to the rapidly growing need for recreational space. He said the site was well located to serve the needs of residents in Bridesdale Farm, Lake Hayes Estate, Shotover Country, and Quail Rise. He said he was not aware of any other similar sized site in the immediate area which could meet these demands, and was of the view that the Council had not adequately provided for future needs. In support of this he cited a list of zoned land in the area¹⁴³. He said the development of the Bridesdale River Flats would be consistent with Objective 38.5 of the Active Sport and Recreation Zone.
312. In his view, the Bridesdale River Flats was ideal for recreation which required large areas of land, but not substantial buildings associated with this. With respect to the proposed tennis

¹⁴² A Carr, EIC, paragraph 5.9

¹⁴³ S Galloway, EIC, Table 1, paragraph 21

academy, he said that the buildings and courts had been designed specifically to cope with periodic flooding events.

313. Mr Stephen Skelton presented brief landscape evidence, noting that the area's landscape character had been significantly affected by development of the escarpment above it, and through the establishment of the community gardens. In his view he considered that the landscape within the Bridesdale River Flats had transitioned from a pastoral to a parkland character¹⁴⁴.
314. At this stage, we think it appropriate to observe that with respect to the differences between the Informal Recreation Zone and the Active Sports Recreation Zone, the latter provides for recreation facilities as a permitted, as opposed to a discretionary, activity. Commercial recreation activities and associated buildings are discretionary in either zone, while informal recreation and public amenities are permitted in either zone. Building coverage in the Active Sport and Recreation Zone is 400m² and a maximum height of 10m as provided for; as compared to 100m² and 6m height respectively for the Informal Recreation Zone. We add at this point that the submitter sought a height limit of 12m on the Bridesdale River Flats site on the basis that this will be needed to accommodate the buildings associated with the proposed tennis academy.
315. In response to the submitter's case, the Council strongly emphasised its opposition to the zoning of private land for Open Space and Recreation purposes. It was Ms Edgley's evidence that a number of notified provisions would not make sense if the scope of the zones were extended to cover private land, citing the example of Policy 38.2.1.6 which makes reference to the Council's functions under the Reserves Act. It was her opinion that if private land within an ONL were to be zoned Active Sport and Recreation (as in this case) the notified standard for height was unlikely to be appropriate. She also considered that the following provisions would need to be added or amended:
- a) *the permitted activity criteria under Rule 35.4.4 for temporary events;*
 - b) *Minimum areas for subdivision and maximum coverage by impervious services;*
 - c) *Minimum floor levels for buildings in flood risk areas;*
 - d) *Minimum site areas for more intensive activities;*
 - e) *building colour requirements, such as expanding Rule 38.10.10 to apply to all zones;*
 - f) *limits on hours of operation.*
316. She added that if an open space was made up of more than one legal parcel, a building of the maximum GFA could be built on each parcel regardless of its size. This was not a problem with Council reserves because subdivision of Council reserves was unusual. She suggested that if the Hearings Panel were minded to allow the submission, any buildings and recreation facilities on privately owned land in all Open Space and Recreation zones should be a fully discretionary activity.
317. We consider that the submitter put forward much more evidence than the Council with respect to the merits of this land being rezoned for recreation purposes. Even leaving aside the deficiencies discussed earlier in this report with the manner in which the Informal and Active

¹⁴⁴ S Skelton, EIC, paragraph 25

Recreation Zones have been promulgated, we consider that the most appropriate approach would be for a bespoke zone to apply to land which is in private ownership (or a combination of private and public land). Such a zoning is provided for under the Christchurch City District Plan, with its Open Space Metropolitan Facilities Zone. We reject the notion that private land cannot have an Open Space and Recreation zoning, only that it does not sit comfortably with zonings applying to Council land specifically.

318. We acknowledge that the Bridesdale River Flats have little future potential for farming activities, and defending an ongoing Rural zoning over only part of the land is undermined when the balance of it is proposed to be zoned Informal Recreation by the Council itself. Should the resource consent to establish the tennis academy succeed, the Rural zoning would be completely undermined by 'facts on the ground'.
319. There are other factors which are relevant to our recommendations. While we accept that there is likely to be increasing demand for open space facilities in what is a rapidly growing area, we note that notwithstanding the paucity of 'zoned' Active Sport and Recreation land in the area, a large part of the needs associated with this demand are met by way of the Queenstown Events Centre and surrounds, albeit that they are zoned Community Purposes. This is not to say that further land should not be zoned, but rather that in practical terms the availability of land for active sport and recreation is not as limited as might appear to be the case by the zoning classifications. We also consider that the Council is not quite as dilatory as the submitter was suggesting.
320. With respect to flood risk, we accept that buildings may be designed to cope with periodic flooding, but if a formal zoning were to be applied across the Council and private land on the Bridesdale River Flats, there would need to be some certainty as to the appropriate development plan framework for the area as a whole, given this somewhat unusual constraint. In terms of traffic, we accept that the area can be served through two possible access routes, but at this point in time the balance between these two routes and the amenity effects of this traffic on the neighbourhood through which they pass have not been discussed with the local affected community.
321. We consider these matters need to be resolved first, and that there needs to be a process whereby the local community can have formal input into such a process.
322. We think the weight of evidence clearly favours the submitter with respect to whether their land should remain zoned Rural or be used for recreational purposes. This is not a small or insignificant area of land. However, we believe its identification as a combined recreational amenity would best be achieved through a further public process and a bespoke zoning with its own objective, policy, and rules framework. The results flowing from the application for the proposed tennis academy would be a logical point at which to initiate such a process.
323. At this point we consider the proposed zoning framework put up by the submitter to be premature, and that we do not have scope available to make the necessary changes to give effect to the development of what would be a very substantial recreation facility on the Bridesdale River Flats, notwithstanding our acknowledgement that there is arguable case to do so. For these reasons we recommend that the submission be rejected.