

**Appendix B** - A copy of the relevant parts of the decision; and

## PART O: GORGE ROAD/ROBINS ROAD AREA

**Submitters** PR Queenstown Limited (Submission 102), Neki Patel (Submission 103), Hamish Munro (Submission 104), Barry Sarginson (Submission 107), Clyde McIntyre (Submission 108), Westwood Group Limited (Submission 70), Jeff Aldridge (Submission 86)

**Further Submissions**

FS 1059 – Erna Spijkerbosch – supports Submissions 102, 103, 104 and 70

FS1.118 - Robins Road Limited – supports Submissions 102, 103 and 104

### 55. PRELIMINARY MATTERS

#### 55.1. Subject of Submissions

277. These submissions related to the block bounded by Robins Road, Boundary Street and Gorge Road in Queenstown Central. Within this block, Submissions 102, 103, 104, 107 and 108 related to five properties located at 30, 32, 38, 42 and 46 Gorge Road.

#### 55.2. Outline of Relief Sought

278. Submission 86 requested that Gorge Road be looked at as a worker accommodation area. No map was provided with this submission.

279. Submission 70 sought that the Robins Road/Boundary Street/Gorge Road block be rezoned from HDRZ to BMUZ.

280. Submissions 102, 103, 104, 107 and 108 sought rezoning of 30 – 46 Gorge Road from HDRZ to BMUZ.

#### 55.3. Description of the Site and Environs

281. Gorge Road is close to the Queenstown Town Centre and is occupied by a mix of carparking, residential units, visitor accommodation, commercial and industrial activities. A Special Housing Area is proposed for an area of BMUZ along Gorge Road. The former Wakatipu High School site is also located on Gorge Road.

282. Gorge Road runs along the bottom of a steep-sided valley and is heavily trafficked because it is the main route to Arthurs Point, the Coronet Peak ski-field, and a major route to Arrowtown and the Wakatipu Basin.

283. The five properties at 30 - 46 Gorge Road are occupied by a mix of residential, visitor accommodation and commercial activities. For example, 38 Gorge Road contains an older style dwelling currently used for a physiotherapy clinic whereas 46 Gorge Road is occupied by five townhouses which appear to be used for residential purposes.<sup>162</sup> Horne Creek runs along the western side of these properties and bisects the Robins Road/Boundary Street/Gorge Road block.

284. On the northern boundary of 46 Gorge Road is a small area of BMUZ on the corner of Gorge Road and Robins Road which is occupied by a commercial development approved by resource consent.

---

<sup>162</sup> R. Devlin, Rebuttal Evidence, 7 July 2017, paragraph 14.4

285. The southern boundary of 30 Gorge Road adjoins Boundary Street, which provides access to the Council's Boundary Street carpark.

286. Figure 2-16 shows the zoning of the Robins Road/Boundary Street/Gorge Road block.

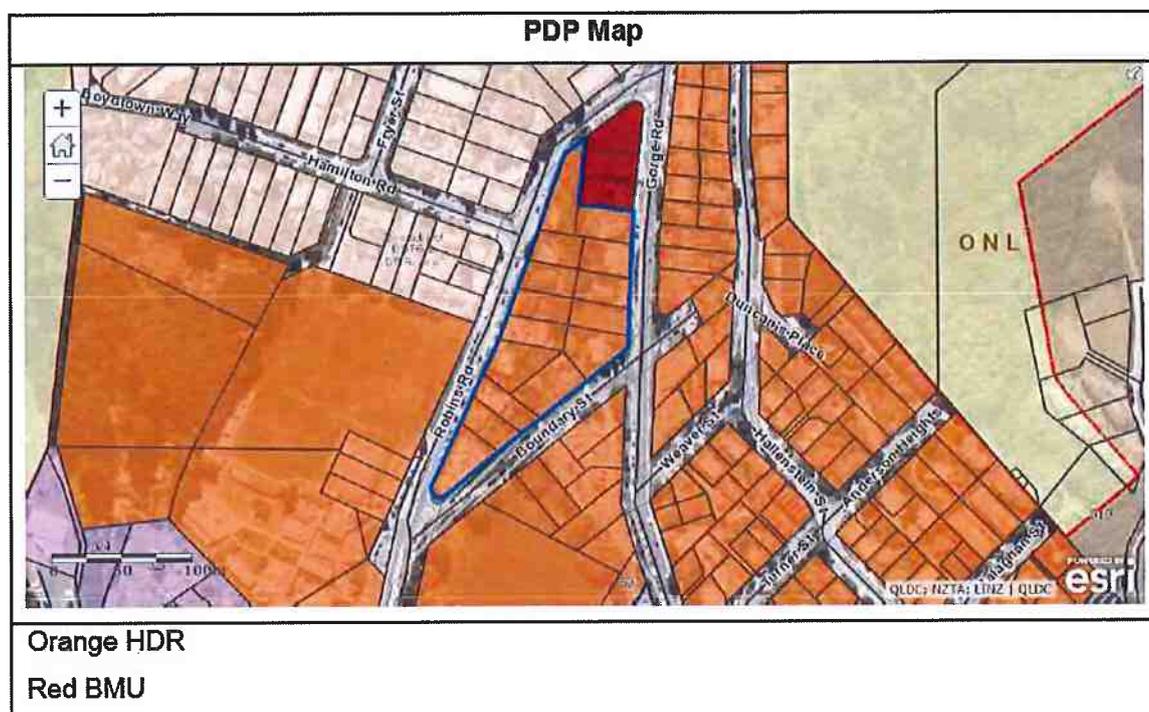


Figure 2-16 – Planning map showing the Robins Road/Boundary Street/Gorge Road block outlined in blue. Nos 30 – 46 Gorge Road are located on the western side of Gorge Road between the Council carpark and the BMU zone.

#### 55.4. The Case for Rezoning

287. Mr Carey Vivian presented planning evidence for Submitters 102, 103 and 104. He focused on two matters germane to the proposed rezoning; the effect of greater building heights on amenity values and whether the proposed BMUZ was appropriate for these five sites given the policy framework.

288. Under the notified HDRZ, these properties would most likely be classed as sloping sites therefore the permitted height would be 7m. By comparison, all buildings in the BMUZ are restricted discretionary activities with 12 - 20m being the allowable height range. Buildings over 20m in height require consent as Non-complying activities.<sup>163</sup>

289. All of the properties are below the level of Gorge Road and slope down towards Horne Creek. Mr Vivian advised that ground level would be measured from the original ground level which is not the same as Gorge Road. In his opinion, the likelihood of visual or physical dominance against the streetscape of Gorge Road would be low due to the lower ground level of the sites in relation to the street.<sup>164</sup>

<sup>163</sup> C. Vivian, EIC, 9 June 2017, paragraphs 4.12 – 4.15

<sup>164</sup> C. Vivian, EIC, 9 June 2017, paragraph 4.18

290. Mr Vivian placed some reliance on the restricted discretionary activity status of buildings and the assessment required. He considered that the additional height enabled by BMU zoning would not be out of character in this part of Gorge Road *“in relation to the context of the proposed provisions of the adjoining zones.”* In his opinion, BMU zoning would *“improve the potential for landuse efficiency in the proposed urban setting with the potential to control adverse effects on a case by case basis.”*<sup>165</sup>
291. In regard to the policy framework, Mr Vivian analysed the relevant provisions of higher level statutory documents and concluded that the NPSUDC 2016 was the most pertinent. He considered that the requested BMUZ would contribute to development capacity in a positive way because of the properties’ central location.<sup>166</sup> Further, Mr Vivian compared the standards of the BMUZ and HDRZ, concluding that due to increased building coverage and height, the BMUZ enabled more intensive residential activity.<sup>167</sup> This outcome would be consistent with the intent of the NPSUDC 2016.
292. In Mr Vivian’s opinion, the BMUZ could *“accommodate more residential development than HDRZ, plus enable a mix of ancillary commercial activities.”* He considered that the proposed BMUZ was designed to be complementary to the Queenstown town centre, not to be in competition with it. For these reasons, it was his opinion that there was little, if any, chance that the requested BMUZ would undermine the role of the QTC as the primary focus of the district’s economic activity.<sup>168</sup> Mr Vivian held to this opinion throughout.
293. Walking distance from the QTC was one of the matters addressed in evidence by Ms Devlin for the Council and responded to by Mr Vivian. Ms Devlin was concerned that the sites were too close to the QTC and would be competitive rather than complementary to it. Mr Vivian responded by saying that *“whether the BMUZ is 290m or 170m from the Council building is irrelevant in my view. The important thing is how activities are managed to ensure they are complementary to the services provided by town centres.”* In his view, the BMUZ provisions were designed to ensure this would happen.<sup>169</sup> He disagreed with Ms Devlin that notified policy 12.2.4.2 (which sought to ensure that QTC remained compact and easily walkable by avoiding outward expansion) was relevant because this policy related to the outward expansion of the QTC, not to the BMUZ.<sup>170</sup>
294. Mr Peter Ritchie, a surveyor and owner of 38 Gorge Road, presented a submission on his own behalf (PR Queenstown) and on behalf of the other owners (30 – 46 Gorge Road). After making some general observations on the purpose of the BMUZ, he focused on comparing the enabled height limits in the BMUZ versus HDRZ. Mr Ritchie considered that the HDRZ did not allow for genuine high density. He said:

*“While on the face of it the building heights described in the HDRZ could be considered reasonable to allow for genuine density, the recession plane rule in 9.5.6.1 .... has a large impact on its ability to fulfil genuine density.”*<sup>171</sup>

---

<sup>165</sup> Ibid, paragraph 4.19

<sup>166</sup> Ibid, paragraph 5.7

<sup>167</sup> Ibid, paragraph 4.27

<sup>168</sup> Ibid, paragraph 8.1

<sup>169</sup> C. Vivian, Summary Statement, 21 August 2017, paragraph 8

<sup>170</sup> Ibid, paragraph 11

<sup>171</sup> P. Ritchie, EIC, 21 August 2017, paragraph 5

295. Mr Ritchie provided a section being an indicative image of height and recession planes affecting development in the BMUZ and HDR zones. In his view, there was a valuable additional volume of space enabled by BMUZ compared to that enabled by HDRZ. This space would allow for density and diversity of development close to the town centre.<sup>172</sup> The Panel asked whether the recession planes would influence the volume of building enabled because Horne Creek is 4 – 5 m lower than Gorge Road and Mr Ritchie acknowledged that these levels would have an impact on the building volume on the western side of the subject sites.
296. In conclusion, Mr Ritchie said that *“the central and low-lying areas of Queenstown were ideal to accommodate larger and denser buildings in accordance with good design principles.”* He noted that Horne Creek provided amenity that could well be enhanced to provide for a pedestrian link.<sup>173</sup>
297. In response to questions from the Panel, Mr Ritchie said that cafes would be the most likely uses on the ground floor however he did not anticipate commercial activities on upper floors. He thought that a typical development would have undercroft parking, one floor of business activities and three residential floors.
298. None of the other submitters and no further submitters appeared at the hearing or presented evidence.
299. For the Council, Ms Devlin maintained her recommendation that the submissions seeking that land on Gorge Road be rezoned from HDRZ to BMUZ should be rejected. Her main concern was that commercial activities enabled by the BMUZ in close proximity to the QTCZ could undermine the role of the town centre as the primary focus for the District’s economic activity (notified policy 3.2.1.1.2; recommended strategic policy 3.3.3). She acknowledged that trade competition is addressed by the RMA and said that she would not normally raise this as a concern. However, without an effective, fair and reasonable way to restrict commercial activities in Gorge Road, there is no assurance that uses would be *“complementary”* and would *“supplement the activities and services provided by town centres.”*<sup>174</sup>
300. She supported and relied on the evidence of Mr Heath in regard to an estimated 50% of commercial zoned land within the Wakatipu Ward being vacant or not used for commercial activities, including an estimated 13.6 ha with the PC50 extension to the Queenstown Town Centre. Accordingly, she concluded that there appeared to be ample commercial zoned land in the general vicinity of the site (including PC50, Brecon Street). In her opinion, the submission had not provided sufficient evidence to show that commercial zoning on these sites is appropriate or needed.<sup>175</sup>
301. Ms Devlin agreed with Mr Vivian that building height may not be as great a concern, in regard to amenity, as she had considered it to be in her primary evidence.<sup>176</sup>
302. Ms Devlin considered the status of worker accommodation raised by Submission 86. While worker accommodation is not specifically referred to in the HDRZ, the provisions enable higher

---

<sup>172</sup> Ibid, paragraph 6

<sup>173</sup> Ibid, paragraph 9

<sup>174</sup> R. Devlin, Reply Statement, 6 October 2017, paragraphs 8.2 – 8.4

<sup>175</sup> R. Devlin, Section 42A Report, 24 May 2017, paragraphs 43.7 & 43.8

<sup>176</sup> R. Devlin, Rebuttal Evidence, 7 July 2017, paragraph 14.2

density housing generally, which could include worker accommodation. In her opinion, the outcome sought by the submitter would be achieved through the notified zoning of the land.<sup>177</sup>

303. Submission 70 sought that the Robins Road/Boundary Street/Gorge Road block be rezoned from HDRZ to BMUZ. Ms Devlin made similar statements to those in her evidence relating to 30 – 46 Gorge Road concerning potential loss of housing supply, amenity effects from substantially greater building height, ample supply of commercially zoned land and lack of evidence to show that commercial zoning of this land would be appropriate or needed. She recommended that the submitter's request be rejected.<sup>178</sup>

#### 55.5. Discussion of Planning Framework

304. Strategic Objective 3.2.1.2 identifies Queenstown and Wanaka as the hubs of New Zealand's premier alpine visitor resorts and the District's economy. Policy 3.3.3 is particularly relevant because it seeks to *'avoid commercial zoning that could undermine the role of Queenstown and Wanaka town centres as the primary focus for the District's economic activity.'* The Urban Development objectives and policies provide for a compact and integrated urban form. Policy 4.2.2.3 as recommended enables *"an increased density of well-designed development in close proximity to town centres, public transport routes, community and education facilities..."*

305. These over-arching goals are given effect by zoning the main commercial, civic and entertainment area as Queenstown Town Centre zone with land in close proximity zoned as HDR and BMU.

306. The intention of the BMUZ, as recommended, is to provide 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. There are three areas of BMUZ in the PDP: Anderson Heights, Wanaka; and Gorge Road and Frankton North<sup>179</sup>, Queenstown.

307. 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.

## 56. ISSUES

- a. The most appropriate zone for this land
- b. Zoning strategy

---

<sup>177</sup> R. Devlin, Section 42A Report, 24 May 2017, section 42 and specifically paragraphs 42.10 & 42.12

<sup>178</sup> R. Devlin, Section 42A Report, 24 May 2017, section 43 and specifically paragraphs 43.6 – 43.8

<sup>179</sup> Recommended in Report 17-6

## 57. DISCUSSION OF ISSUES AND CONCLUSIONS

308. The fundamental issue is the zoning pattern in and around Queenstown Centre. As notified, the PDP provided for HDR zoning to the east of the town centre, stretching from Robins Road to Suburb Street. There were also HDR zones along Frankton Road and Lake Esplanade. BMU zoning was restricted to areas in Gorge Road (Sawmill Road, Hylton Place, Robins Road corner).
309. The aim of this zoning pattern was to enable high density residential development within close proximity to the town centre that is easily accessible by public transport, cycle and walkways. It gave effect to the key planning role of HDR zoning in minimising urban sprawl and consolidating growth in existing urban areas (recommended Zone Purpose, Objective 9.2.1 and Policies 9.2.1.1 & 9.2.1.2).
310. We agree with this approach to zoning because it implements the Strategic Direction and Urban Development objectives and policies set out in Chapters 3 and 4 of the PDP respectively. In particular, provision of HDR zoning adjacent to the Queenstown town centre promotes a compact, well designed and integrated urban form, ensures a mix of housing opportunities and supports the role of the town centre (recommended Strategic Policy 3.2.2.1; Objective 4.2.2A and Policy 4.2.2.3).
311. Various pockets of land along or near Gorge Road are the only areas that are zoned BMUZ in the notified PPD near the Queenstown town centre. This zoning, as we understood it, was to enable a transition of this area from one focussed on commercial services to a mixture of commercial, residential and visitor accommodation activities. For example, there is a Special Housing Area proposed within the BMUZ indicating that residential use may be preferred for land in close proximity to the town centre.
312. We agree with Ms Devlin that rezoning land from HDRZ to BMUZ in Gorge Road would be contrary to the strategic direction of the PDP. In particular, we accept and rely on her evidence that under BMU zoning there is no effective, fair or reasonable way to restrict commercial activities that would assure they are complementary to and would supplement the activities and services provided by town centres. In our opinion, retaining HDR zoning is the only method that will ensure the primacy of the QTCZ as a focus of economic activity thereby giving effect to Strategic Policy 3.3.3. We acknowledge that zoning used in this way is a blunt instrument but it is the one method in the PDP that will achieve the intended outcome. We did not receive evidence about alternative means of achieving the outcome sought by Policy 3.3.3 (e.g., clarification of 'complementary activities' or caps on gross floor area of commercial activity) therefore we have no option but to recommend retention of HDR zoning in Gorge Road.
313. Ironically, Mr Vivian and Mr Ritchie's evidence demonstrated that BMU zoning has the potential to supply a greater quantity of housing in comparison to HDRZ due to the more enabling height and coverage standards. Also, Mr Vivian was probably correct when he said that residential development was the most profitable land use in this area. This economic reality was not further explored in evidence however it raised a concern. It may be that the provisions of the HDRZ are too timid in terms of the amount of residential activity they allow, particularly with respect to height. However, in our view, there is a risk of unsatisfactory outcomes in terms of residential amenity if BMU zoning were to become a 'trojan horse' for intensive residential development. This is another reason for our reluctance to recommend the rezoning requested.

314. We lacked the evidential foundation on which to base a recommendation to rezone either five sites or a whole block to BMUZ. Importantly, there was no urban design evaluation of the development enabled by the BMUZ zone in the wider context. In our opinion, enabling a building height of 20m with relatively permissive recession planes has the potential to result in adverse effects on the Gorge Road and Robins Road streetscapes. We also had reservations about the urban design outcomes of rezoning to BMUZ a single block or cluster of sites located amidst a substantial area of HDR zoning. In this valley and with Horne Creek as an asset, urban design matters required more attention than they were given by all parties.
315. Equally importantly, there was no evidence of any shortfall in suitably zoned land for commercial and business activities in Wakatipu Basin. To the contrary, Mr Heath's evidence demonstrated there is ample supply overall and in the Queenstown town centre judging by the vacant space available. PC50 has released a significant area of business zoning as well. We find there is no need to rezone land from HDRZ to BMUZ at this time given the adequacy of supply. If a shortfall or other need for business zoned land had been established, then evidence was required demonstrating that rezoning land in Gorge Road to BMUZ was the most appropriate way of addressing that need. We did not receive evidence of this kind.
316. Mr Vivian considered the effect of noise from cafes and restaurants by reference to the management methods (PDP rules, Sale of Liquor Act, Local Government Act). With respect, this analysis is relevant to the management of individual applications however our consideration of zoning required an evaluation of cumulative effects in the neighbourhood context from an acoustics expert. We were not satisfied that we understood enough about the noise effects of the activities enabled in the BMUZ on surrounding HDR zoned land to recommend the rezoning requested.
317. Finally, we agree with Ms Devlin that workers accommodation is generally enabled within the HDRZ and therefore Mr Aldridge's request would be satisfied by the provisions of the PDP.

## **58. RECOMMENDATION**

318. For the reasons set out above, we recommend that:
- a. Submissions 70, 86 102, 103, 104, 107 and 108 be rejected; and
  - b. FS1059 and FS1118 be rejected; and
  - c. HDR zoning be confirmed for the block bounded by Robins Road/Boundary Street, Queenstown Central, as shown on Planning Maps 32, 34 and 35.