

Attachment 2 - a copy of the relevant parts of the Decision

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-6

Report and Recommendations of Independent Commissioners
Regarding Mapping of Frankton, Lake Johnson, Tucker Beach Road

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

PART M: BRETT GIDDENS AND C & S HANSEN

Submitter **Brett Giddens (Submission 828) and C & S Hansen (Submission 840)**

Further Submissions

FS 1077.2 - Board of Airline Representatives of New Zealand (BARNZ) – opposed Submission 828

FS1340.153 - Queenstown Airport Corporation – re Submission 828

Opposed in part/supported in part. QAC remained neutral with respect to the zoning of this area as LSCZ provided it did not result in the intensification of ASAN in this area.

FS 1340.59, FS 1340.69 - Queenstown Airport Corporation - re Submission 840

Opposed in part/supported in part. QAC remained neutral with respect to the zoning of this area as LSCZ provided it did not result in the intensification of ASAN in this area.

46. PRELIMINARY MATTERS

46.1. Subject of Submissions

219. These submissions related to the land bound by McBride Street, Burse Street, Grey Street and State Highway 6, Frankton.

46.2. Outline of Relief Sought

220. Brett Giddens originally sought rezoning from LDRZ to LSCZ or as a secondary option a more appropriate higher density zone such as HDRZ or MDRZ or another zone or amended zone that would achieve their desired outcomes.

221. C & S Hansen sought rezoning from LDRZ to LSCZ for the same block of land.

222. At the hearing, counsel for C & S Hansen and Brett Giddens advised that the relief had been amended. The extent of the rezoning from LDRZ to LSCZ sought would now be confined to land located at 16, 18, 18B and 20 McBride Street.⁴⁷ Accordingly, we have addressed the submissions in terms of this amended scope.⁴⁸

46.3. Description of the Site and Environs

223. McBride Street intersects with SH6A at Frankton Junction, a local shopping centre located at a busy roundabout. It runs in a southerly direction parallel to SH6/Kawerau Road through an area of suburban housing until it meets the lakefront. Queenstown Airport is in close proximity.

224. The subject sites are bounded to the west or lakeside by McBride Street, to the east by the Frankton Bus Terminal, to the north by the QLDC unformed parking area (located within the LSCZ) and to the south by a residential property, 22 McBride Street.

225. Current land uses are:

- a. 16 McBride Street Dental surgery and commercial activities, consented 2004
- b. 18 McBride Street office activity, consented 2006 and varied 2009

⁴⁷ Legal Submissions for Christopher & Suzanne Hansen (840) and Brett Giddens (828), paragraph 1

⁴⁸ K Banks assessed the submission request for HDRZ or MDRZ in her Section 42A Report Group 1B and recommended these zones be rejected. The submitters did not pursue this aspect of their relief at the hearing therefore we have not addressed this issue here.

- c. 18 McBride Street current use is residential with consent granted for office activity in 2017⁴⁹
- d. 20 McBride Street current use is residential however we understand that an application for office activity was pending at the time of the hearing⁵⁰

226. The area is shown on Figure 6-15 below.



Figure 6-15 - Aerial photograph of the land subject to the submissions outlined in blue

46.4. The Case for Rezoning

227. When considering the most appropriate zoning, C & S Hansen stated that the Council had failed to take into account:

the changing nature of land use along the eastern side of McBride Street, the location near Queenstown's most active bus terminal and the State Highway, and the existing commercial uses which operate under approved resource consents. Given the change in land use coupled with the presence of an expanding road network the level of residential amenity has been significantly diminished while the QLDC continue to approve resource consents authorising the commercial creep further compromising the integrity of the low density residential zone.⁵¹

228. Brett Giddens made the same points in support of his position that LDR zoning is inappropriate. His submission also stated that LSCZ would:

reflect some of the current land uses, provide the opportunity for commensurate growth, enable activities to be undertaken that would complement the surrounding residential area while not detracting from the town centres, introduce activities that are not directly sensitive to airport operations, while being an appropriate location for commercial activity such that effects to the wider area would be minimal.⁵²

⁴⁹ Ibid, para 2; N. Geddes, EIC, 4 June 2017, paragraphs 3.5 – 3.7

⁵⁰ Legal Submissions for Christopher & Suzanne Hansen (840) and Brett Giddens (828), paragraph 2

⁵¹ Submission 840, paragraph 3.1

⁵² Submission 828, paragraph 12

229. Mr Giddens and Mr Hansen described similar experiences as residents/landowners. They both observed that the residential amenity of McBride Street had deteriorated in recent years albeit they acknowledged that recent traffic improvements had been beneficial for the area.
230. Evidence for the submitters discussed traffic and planning matters. The submitters' traffic engineer, Mr Jason Bartlett, described congestion in McBride Street as a result of traffic diverting or shortcutting to avoid SH6/Kawerau Road which was severely congested due to the roundabout at the SH6/SH6A junction. There were road humps on McBride Street to restrict access, traffic speeds and efficiency.⁵³
231. Mr Bartlett described several traffic improvements to relieve congestion in the general area including the new Kawerau Falls bridge, changes to the SH6/SH6a roundabout and provision of an alternative route to the airport via Hawthorne Drive. These changes are expected to relieve congestion on the state highway network and further reduce traffic flows in McBride Street.⁵⁴ He also said that proximity to the bus station, cycle paths and footpaths was an advantage for this location.
232. In his opinion, the proposed zone change would increase traffic generation and parking demand as a result of potential activities enabled by the zone change. However, compliance with the ODP's current planning provisions in Chapter 14 would result in acceptable traffic outcomes. He concluded:
- With these improvements I do not regard existing traffic and parking issues within the local road network as being a reason to reject these Submissions on transport grounds.*⁵⁵
233. Mr Nicholas Geddes focused on three key matters namely the supply of commercial land and whether rezoning this discrete pocket of land as LSCZ was material in terms of the NPSUDC's requirement to provide sufficient urban capacity, loss of residential amenity and recognition of existing commercial uses. He supported rezoning the properties as LSCZ and proposed amendments to the standards in Chapter 15 designed to manage the zone interface specifically for the subject sites. These provisions would require a 4.5m setback where a site adjoined a Residential zone, a road boundary setback of 4.5m and a maximum building height of 8m.⁵⁶ No analysis of the potential for ASAN to be established on the properties was provided.
234. Mr Geddes considered the costs and benefits of the BMUZ but did not recommend that option. As his clients limited their relief to seeking LSCZ on the subject sites, we have not given this option further consideration.
235. Mr John Kyle, a planning expert for Queenstown Airport Corporation, maintained that rejecting the rezoning would assist to appropriately protect airport operations from potential reverse sensitivity effects. In his opinion, this is justified because the airport is regionally significant infrastructure. Alternatively, he would support the rezoning request if it included appropriately drafted conditions that prohibit intensification of ASAN in this area at a higher rate or intensity than currently provided for in the ODP.⁵⁷

⁵³ J Bartlett, EIC, 9 June 2017, paragraph 12

⁵⁴ Ibid, paragraph 15

⁵⁵ Ibid, paragraph 31

⁵⁶ N. Geddes, Summary Statement, 14 August 2017, Attachment A

⁵⁷ J. Kyle, Rebuttal Evidence, 7 July 2017, paragraphs 2.5 – 2.7

236. The Council’s planning witnesses supported retention of the LDRZ and opposed any change of zoning, including a change to LSCZ. Ms Evans considered that intensification of ‘commercial’ activities would have a negative impact on residential amenity (building height, traffic), that there was no need to increase the area of LSCZ because there was sufficient commercial land zoned to meet projected demand for the next twenty years, an extension of the LSCZ in this location would detract from the role of Frankton Junction as a local shopping centre and LSC zoning could increase the likelihood of ASAN being established in this area contrary to notified Policy 4.2.6.1 of Chapter 4, Urban Development. This policy sought to protect the airport from the reverse sensitivity effects of ASANs.
237. Ms Kim Banks also opposed rezoning because the level of intensification provided for under the LDRZ was appropriate particularly because the area was within the OCB. This evidence related to the original request to rezone an entire block nevertheless her opinion on the effects of intensification within the OCB was still relevant.⁵⁸
238. Ms Evans also opposed the inclusion of bespoke provisions for offices in this location or in other residential zones for strategic reasons. She relied on Mr Heath’s evidence that there was plenty of capacity for office activity in this location, at 1 Hansen Road and also within the BMUZ at Frankton North recommended by the officers. In Mr Heath’s opinion, the McBride Street block did not have any unique attributes that warranted special provision for offices in the residential zone.⁵⁹
239. Ms Wendy Banks, traffic engineer, considered that LSC zoning was not appropriate because there was not enough evidence such as a transport analysis to support any change, the recent upgrades could alleviate traffic pressures in the area but were unproven and McBride Street was still a residential street.⁶⁰

46.5. Discussion of Planning Framework

240. As notified the land was zoned LDRZ 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.
241. Commercial activities are generally not anticipated other than those that are residential-compatible and small-scale (100m² or less gross floor area is a restricted discretionary activity), however may be accommodated where necessary to address a demonstrated local need provided residential amenity is not compromised.⁶¹ Objective 7.2.7 states that ‘*any commercial development in the zone is small scale and generates minimal amenity value impacts*’. Policy 7.2.7.1 requires that commercial activities directly serve the day to day needs of local residents provided these do not undermine residential amenity values or the viability of any nearby centre. Additional policies address traffic and parking effects, noise effects and compatibility of design, scale and appearance with the surrounding residential context. Home

⁵⁸ K. Banks, Section 42A Report Group 1B, 25 May 2017, paragraphs 19.1 – 19.11

⁵⁹ R. Evans, Reply Evidence, 6 October 2017, citing Mr Heath at paragraph 3.2

⁶⁰ W. Banks, Rebuttal Evidence, 7 July 2017, paragraphs 3.11 – 3.17

⁶¹ Recommended Chapter 7, LDRZ, Zone Purpose, final paragraph

occupations are a permitted activity. Overall, there is a clear direction enabling small-scale commercial activities to serve the local community provided these are compatible with their residential context and maintain high amenity values.

242. The subject sites are located within the Queenstown Airport OCB. Recommended Objective 7.2.2 states that development within the ANB and OCB is limited in recognition of severe amenity (noise) constraints now and also likely in the foreseeable future as a result of increasing intensity of operation and use. Policy 7.2.2.1 discourages the creation of any new sites or infill development within the ANB and between the ANB and OCB on land around Queenstown Airport. There are policies and supporting rules requiring mitigation of noise effects in buildings containing ASANs (Policies 7.2.2.2 & 7.2.2.3; Rule 7.5.4). The zoning strategy provides for LDRZ in the Frankton area because it is the most restrictive zone in terms of density of residential development therefore minimises the likelihood of ASANs being established within the ANB/OCB.
243. 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. One method for ensuring this outcome is to limit the gross floor area of individual retail and office activities (Policy 15.2.1.4 and Rule 15.5.10). Within the OCB, development is required to provide acoustic insulation (Rule 15.5.4).
244. We consider that LSC zoning at Frankton Junction commercial area is questionable given the purpose of that centre and its extent. Frankton Junction is more than a 'discrete pocket of land' providing for activities that meet local needs unlike the LSCZs at Fernhill and Sunshine Bay. Further, resource consent has been granted for offices on several Residentially-zoned sites adjoining the LSCZ indicating that this centre serves a different function to that anticipated by the zone. The available commercial zones are limited therefore LSCZ is the best of those options.

47. ISSUES

- a. Commercial land requirements and commercial zoning strategy
- b. Avoiding intensification of ASAN within the OCB
- c. Traffic effects
- d. Effects on residential amenity
- e. The most appropriate zone for these properties

48. DISCUSSION OF ISSUES AND CONCLUSIONS

245. Mr Geddes's bulk and location images showed the difference in development capacity between the notified LDRZ and the proposed LSCZ as amended in Appendix 4 of his Summary Evidence. Mr Giddens estimated the additional gross floor area to be 700–1200m². We agree with Ms Evans that the diagrams are confusing to read⁶² however they show in a general way

⁶² R. Evans, Rebuttal Evidence, 7 July 2017, paragraph 6.2

that offices and other commercial activities are feasible on the subject sites while mitigating loss of privacy and sunlight to 22 McBride Street.

246. The fundamental issue is not feasibility but whether there is any need at all to increase the supply of commercial land in Queenstown generally and in this area particularly. The commercial land requirements of the District were addressed by Mr Heath and Mr Osborne in the course of this hearing. Based on their uncontested evidence, we have concluded that there is sufficient land zoned for commercial activities in the PDP to meet the estimated demand in Wakatipu until 2038.⁶³ Thus, any party seeking rezoning from Residential to Business purposes has a difficult hurdle to overcome. It is necessary to show that rezoning a particular area of land is justifiable for other reasons.
247. The appropriateness of LSCZ for the McBride Street block was also considered by Mr Heath in his Reply evidence.⁶⁴ Allowing for LSCZ at 1 Hansen Road and for the possibility of BMUZ at Frankton North, he considered that rezoning this block of land would saturate the market. In light of the submitters' revised relief, Mr Geddes responded that rezoning this handful of sites would not be material in terms of land supply. Mr Heath however maintained his opinion that there was no justification for additional LSCZ at Frankton. Ms Evans recognised that rezoning would better provide for existing commercial uses but noted that rezoning would provide additional capacity, albeit small scale.⁶⁵ While rezoning has some appeal given the small land area involved, we consider that ad hoc increases in LSCZ around existing centres does not give due weight to the evidence-based planning approach required by the NPSUDC 2016 and the overall commercial zoning strategy.
248. At the hearing, we asked Mr Heath whether it would be appropriate to enable office activities on the subject sites (not the whole block) while retaining the LDR zoning. In his opinion, this would undermine the zoned provision for office activities. We agree. In our view, the extent of the Business zones together with provision for home occupations in Residential zones provides sufficient capacity and locational opportunities for small offices throughout the urban area. Accordingly, we consider that extending LSC zoning to include 16, 18, 18B and 20 McBride Street is not appropriate.
249. With respect to the risk of intensification of ASANs within the OCB, we agree with My Kyle for QAC that rejecting the rezoning would achieve this purpose for the reasons set out in his evidence.
250. The two traffic engineers more or less agreed in their descriptions of the existing traffic conditions in McBride Street and the surrounding area. They confirmed that traffic calming measures on McBride Street were helpful and that major upgrades recently completed or in the pipeline should reduce congestion in the area. With respect to rezoning to LSCZ, Mr Bartlett did not regard existing traffic and parking issues within the local road network as being a reason to reject the submission whereas Ms Wendy Banks considered McBride Street to still be a residential street and was concerned that the effectiveness of recent improvements was unproven as yet. We agree with Ms Banks that McBride Street is a residential street in an area of LDRZ, the purpose of which is to promote a high amenity low density living environment. It would be ironic if traffic calming measures designed to mitigate the adverse effects of traffic and parking overspill associated with proximity to a shopping centre were used as justification for extending the LSCZ further into the residential area.

⁶³ Report 17-1, Section 3

⁶⁴ T. Heath, Reply Evidence, 6 October 2017, paragraphs 4.1 – 4.3

⁶⁵ R. Evans, Rebuttal Evidence, 7 July 2017, paragraph 6.7

251. Effects on residential amenity were addressed by Mr Geddes insofar as his suggested amendments to Chapter 15 proposed standards for setbacks adjoining Residential zones, front yard setbacks and a maximum height of 8m. However, his evidence did not address the loss of residential character and increased intensity of usage that would result from the establishment of offices or other commercial activities. We agree with Ms Evans that the need to include additional bulk and location standards for these four sites indicated that there are potential adverse effects on residential amenity from the rezoning. We also agree with Ms Evans that the proposed amendments would not mitigate the effect of potential increased intensity of activity on these sites on the wider residential environment.⁶⁶
252. In our view, the most appropriate zone for these properties is LDR because this gives effect to the overall zoning strategy taking into account the lack of any need for additional commercial land supply and their location within the Queenstown Airport OCB. LDRZ also recognises the existing amenity values of this low density suburban environment with pleasant lake views.

49. RECOMMENDATION

253. For the reasons set out above, we recommend that:
- a. Submissions 828 and 840 be rejected; and
 - b. FS1077.2, FS1340.153, FS 1340.59 and FS 1340.69 be accepted; and
 - c. LDR zoning be retained for the submission sites as shown on Planning Map 31a.

⁶⁶ R. Evans, Rebuttal Evidence, 7 July 2017, paragraphs 6.4 and 6.7