

BEFORE THE OTAGO REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Otago Regional Policy Statement 2021 –
Chapter 15 UFD – Urban Form and Development

**REBUTTAL EVIDENCE OF ELIZABETH JANE SIMPSON ON BEHALF OF
QUEENSTOWN LAKES DISTRICT COUNCIL (138)**

14 DECEMBER 2022

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1. INTRODUCTION

- 1.1 My name is Elizabeth Jane Simpson. I am a Senior Planner – Urban Development employed by the Queenstown Lakes District Council (**QLDC**). I have prepared evidence in chief on Chapter 15 / UFD – Urban form and development of the Otago Regional Council's Proposed Regional Policy Statement (**pRPS**).
- 1.2 My qualifications and experience are set out in my statement of evidence in chief dated 23 November 2022.
- 1.3 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying upon the evidence of another person.

2. PURPOSE AND STRUCTURE OF EVIDENCE

- 2.1 My rebuttal evidence is provided in response to the following evidence:
- (a) Evidence of Jeffrey Andrew Brown on behalf of Waterfall Park Developments Limited and Boxer Hill Trust - UFD-P8 – Rural Lifestyle and Rural Residential;
 - (b) Evidence of Chris Ferguson on behalf of Darby Planning LP & Others- UFD-O4(2) – development in rural areas;
 - (c) Evidence of Murray Brass on behalf of Director General of Conservation - UFD-O1 – Form and function of urban areas;
 - (d) Evidence of Susannah Tait on behalf of Fonterra - UFD-O2 – Development of urban areas; and
 - (e) Evidence of Ben Farrell on behalf of Otago Fish and Game Council, Wayfare Group Ltd, Trojan Holdings - UFD-P7 – Rural areas.

3. Evidence of Jeffrey Andrew Brown on behalf of Waterfall Park Developments Limited and Boxer Hill Trust

3.1 Jeffrey Andrew Brown has made a statement of evidence on behalf of Waterfall Park Developments Limited and Boxer Hill Trust. Mr Brown recommends that limb (1) of the policy UFD-P8 – rural lifestyle and rural residential zones is deleted. Mr Brown considers alongside other restrictions within the pRPS, that only allowing rural lifestyle development to occur adjacent to urban areas ‘would unnecessarily and perhaps prohibitively limit the opportunities for new rural lifestyle developments’.¹

3.2 Mr Brown’s recommendation is as follows (deletions ~~struck through~~):

“The establishment, development, or expansion of rural lifestyle and rural residential zones only occurs where:

~~(1) the land is adjacent to existing or planned urban areas and ready access to employment and services is available”~~

...

3.3 QLDC’s submission sought that the balance of UFD-P8 be retained as notified², however, I agree that there is merit in Mr Brown’s position. In addition to Mr Brown’s comments, Limb (1) of UFD-P8 has the potential to complicate future urban expansion opportunities unless a Council has strategically identified all urban adjacent areas as being suitable for future urban expansion.

3.4 In QLDC’s Proposed District Plan (**PDP**), Chapter 22 – Rural Residential and Rural Lifestyle recognises and provides for rural living opportunities that are both on the periphery and within specific locations amidst the Rural Zone. Policy 22.2.2.2 specifically requires that:

“Any development, located on the periphery of residential and settlement areas, shall avoid undermining the integrity of the urban rural edge...”

3.5 Therefore, Limb (1) has the potential to be in direct conflict with how QLDC manages the rural and urban interface. I am in partial agreement with Mr

¹ Para 2.5, EIC of Mr Brown

² With an amendment to Limb (4) that has been accepted by the s42a writer

Brown's recommendations but suggest an alternative approach that can also consider that Rural Living opportunities are enabled in suitable alternative rural locations that can appropriately absorb development.

- 3.6 QLDC's PDP Chapter 22 contains Objective 22.2.1 that sets out when Rural Living opportunities are appropriate:

"22.2.1 Objective - Rural living opportunities are enabled in areas that can absorb development, on the basis that the density, scale and form of the development:

a. Protects the landscape values of the District's Outstanding Natural Features and Outstanding Natural Landscapes.

b. Maintains the landscape character and maintains or enhances the visual amenity values of the District's Rural Character Landscapes."

- 3.7 I would therefore recommend an alternative amendment to Mr Brown's wording (additions underlined):

"The establishment, development, or expansion of rural lifestyle and rural residential zones only occurs where:

(1) the land is adjacent to existing or planned urban areas and ready access to employment and services is available or in rural areas that can absorb development, on the basis that the density, scale and form of the development protects, maintains or enhances features and values identified in the RPS.

(2) despite the direction in (1) also avoids land....."

4. Evidence of Chris Ferguson on behalf of Darby Planning LP & Others

- 4.1 Chris Ferguson has made a statement of evidence on behalf of Darby Planning LP & Others. Mr Ferguson recommends an amendment to UFD-O4 – Development in rural areas, to include reference to 'urban development' within the objective. Mr Ferguson considers that this more accurately captures that the purpose of Chapter 15 - UFD is to provide for urban development, and not rural.

4.2 Mr Ferguson’s recommendation is as follows (additions underlined):

“UFD-O4 – Development in rural areas

Urban Development in Otago’s rural areas occurs in a way that:....”

4.3 QLDC’s submission sought that the balance of UFD-O4 be retained as notified³. I disagree with Mr Ferguson’s proposed amendment. My understanding of the objective (UFD-O4) and policies for rural areas (UFD-P7), and rural living and rural residential zones (UFD-P8), is that they provide a framework that will manage the urban and rural interface. The addition of the word ‘urban’ to UFD-O4, instead reframes the rural objective to allow for ‘urban development’ within rural areas.

4.4 QLDCs PDP Part One Definition Section provides a definition of Urban Development⁴:

“Means development which is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic....”

4.5 In addition, QLDC’s PDP at Chapter 4 – Urban Development, recognises the separation between urban and rural development, with Policy 4.2.1.3 specifically requiring that urban development is contained within urban growth boundaries and restricted within Rural areas:

“Ensure that urban development is contained within the defined Urban Growth Boundaries, and that aside from urban development within existing towns and rural settlements, urban development is avoided outside of those boundaries”

4.6 Given that rural industry and development is of a completely different nature and scale to urban development the two should not be conflated as it may result in adverse effects such as urban sprawl, or urban developments in rural areas that cannot absorb the density, scale and form of development proposed. Therefore,

³ Subject to relief on LF-LS-P19 which has been accepted

⁴ <https://www.qldc.govt.nz/media/kzconrci/pdp-chapter-02-definitions-dec-2022.pdf>

this proposed amendment has the potential to be in direct conflict with how QLDC manages urban activities within the rural areas. For these reasons I do not support Mr Ferguson's proposed amendment to UFD-O4 and consider the notified version is most appropriate.

5. Evidence of Murray Brass on behalf of the Director General of Conservation

5.1 Murray Brass has made a statement of evidence on behalf of the Director General of Conservation. Mr Brass recommends retention of UFD-O1(2) – Form and function of urban areas, as originally notified, except that the word '*significant*' be deleted. Mr Brass seeks to retain the reference to maintaining or enhancing '*values and features identified in the RPS*' (as was included in the notified drafting of the objective), on the basis that this provides explicit links which enhances usability and effectiveness when reading the pRPS, as opposed to a reader having to read the entire pRPS document to identify all relevant provisions.

5.2 Mr Brass recommendation to UFD-O1 is as follows (deletions ~~struck through~~):

The form and functioning of Otago's urban areas:

...

(2) maintains or enhances the significant values and features identified in this RPS, and the character and resources of each urban area."

5.3 QLDC's submission sought that the balance of UFD-O1(2) be retained as notified. The s 42A officer subsequently recommended removing all cross referencing to 'important features and values' in the UFD chapter. In my Evidence in Chief, I supported the proposed deletion of cross referencing, on the basis that inconsistent wording was used with respect to 'values and features', which altered how the natural features and landscapes provisions applied across the UFD chapter.⁵

5.4 However, I am in partial agreement with Mr Brass' proposed amendment, as I agree that explicit links in UFD-O1 enhance usability. I support Mr Brass' amendment subject to any reference to 'features and values' also including the

⁵ Statement of Evidence of Elizabeth Jane Simpson dated 23 November 2022, at 4.1.

word ‘*protection*’. This then aligns with the NFL – Natural Features and Landscapes Chapter, specifically NFL-O1 and supporting policies NFL-P1, NFL-P2 & NFL-P3, which clearly provide for both ‘protection’, and the ‘maintenance or enhancement’ of Otago’s outstanding and highly valued features and values.⁶

- 5.5 I would therefore recommend an additional amendment to improve Mr Brass’s wording (additions underlined):

The form and functioning of Otago’s urban areas:

“(2) protects, maintains or enhances the ~~significant~~ values and features identified in this RPS, and the character and resources of each urban area.”

6. Evidence of Susannah Tait on behalf of Fonterra

- 6.1 Susannah Tait has made a statement of evidence on behalf of Fonterra. Ms Tait recommends an amendment to UFD-O2 – Development of urban areas, with the addition of limb (9B):

The development and change in Otago’s urban areas

...

(9B) facilitates the safe and efficient ongoing operation and development of regionally significant industry

- 6.1 The proposed definition of ‘*regionally significant industry*’ is in my view, a blunt approach to managing reverse sensitivity effects. Compared to other activities identified as regionally significant in the pRPS, regionally significant industry does not have the same justification that can be credited to regionally significant infrastructure such as State Highways, The National Grid, and some electricity distribution activities. The activities that could be described as ‘*regionally significant industry*’ are in my view unlikely to have the same functional constraints as regionally significant infrastructure, in the sense they have no other option but to locate within a sensitive environment.

⁶ This also aligns with QLDC’s submission on UFD-P7 and UFD-P8, that sought the ‘protection’ of important values and features on the basis that the term ‘maintenance’ was not directive enough.

- 6.2 If regionally significant industry is accepted, in my view it should not be required to be adopted for all local authorities to give effect to through their district plans. Whilst the matter appears relevant to some local authorities it is not a regional issue that requires addressing in the pRPS to the extent supported by Ms Tait.
- 6.3 For the reasons set out above I do not support Ms Tait's proposed definition of regionally significant infrastructure.
- 6.4 As a result of the addition of limb (9B) to UFD-O2, Ms Tait also recommends an addition to UFD-O3 – Strategic planning, with the addition of limb (4). Ms Tait seeks to ensure that Strategic Planning should have regard to the level of investment already in place on rural land.
- 6.5 Ms Tait recommendation is as follows (additions underlined):
- “Strategic planning is undertaken in advance of significant development, expansion or redevelopment of urban areas to ensure that:*
- ...
- (4) Effects on rural activities and communities are managed, having particular regard to the level of investment already in place on rural land”*
- 6.6 QLDC's submission sought that UFD-O3 be retained as notified. I disagree with the proposed amendment, as I am unclear how Councils would be able to have regard to the level of investment when that information may be commercially sensitive. The amendment also prioritises investment over those matters specifically identified in UFD-P7 – Rural Areas, such as limb (3), which provides for both social and economic wellbeing as opposed to focusing more narrowly on investment. The amendment also appears to be providing an advantage to the largest trade competitors at the expense of smaller trade competitors.
- 6.7 Ms Tait also recommends an addition to UFD-O4 – Development in rural areas, with the deletion of text within limb (3). Ms Tait seeks to remove the references to 'urban expansion' on the basis that urban expansion is subject to a framework prescribed by UFD-O3, UFD-P1, and UFD-P4. Ms Tait also recommends amending limb (3) to avoid rural lifestyle development and the establishment of sensitive activities.

- 6.8 Ms Tait's recommended amendment to UFD-O4(3) is as follows (additions underlined, deletions ~~struck through~~):

Development in Otago's rural areas occurs in a way that:

...

(3) ~~only provides for urban expansion, avoids rural lifestyle development and the establishment of sensitive activities that are sensitive to primary production and rural industry, in locations identified through strategic planning or zoned within district plans as suitable for such development, and, that compromise the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector (including regionally significant industry based in rural locations) and rural communities~~

- 6.9 QLDC original submission sought that UFD-O4(3) be retained as notified, with the UFD-O4(3) requiring that:

"Development in Otago's rural areas occurs in a way that:

(3) only provides for urban expansion, rural lifestyle development and the establishment of activities that are sensitive to primary production and rural industry in locations identified through strategically planning or zoned within district plans as suitable for such development"

- 6.10 Whilst Ms Tait considers that objective UFD-O4(3) is better placed within UFD-O3, P1 or P4, neither objective or policy currently contains that exact wording of limb (3). Ms Tait has not proposed moving this limb into these provisions and instead only seeks that it is deleted.

- 6.11 The removal of 'urban expansion' in Limb (3) would result in no clear objectives or policies for urban expansion into rural areas, given that greenfield development often occurs in rural zones, objectives and policies around the management of urban expansion is sensible for example Policy 4.2.1.7 in QLDC PDP Chapter 4 – Urban Development, specifically requires:

"Review and amend Urban Growth Boundaries, as required to address changing community needs, respond to monitoring evidence, or enable appropriate development (having regard to Policy 4.2.1.4)"

6.12 Policy 4.2.1.4 includes a number of matters to consider including that 4.2.1.4 (f) that sporadic urban development in rural areas is avoided. Therefore, I consider it is appropriate to acknowledge that urban expansion in rural areas does occur and I do not support reference to 'urban expansion' being deleted.

7. Evidence of Ben Farrell on behalf of Otago Fish and Game Council, Wayfare Group Ltd, Trojan Holdings

7.1 Ben Farrell has made a statement of evidence on behalf of Otago Fish and Game Council, Wayfare Group Ltd and Trojan Holdings. Mr Farrell recommends an amendment to UFD-P7 – Rural areas, with the addition of limbs (8) and (9):

“Rural Areas

...

(8) enables outdoor recreation (including commercial recreation)

(9) facilitates growth or expansion of existing visitor destination places and activities”

7.2 QLDC’s submission sought that the balance of UFD-P7 be retained as notified.⁷ I do not necessarily disagree with Mr Farrell’s recommendation to ensure that there is provision for ‘outdoor recreation’ activities within rural areas. However, the addition of limbs (8) and (9) also prioritises commercial recreation and visitor destination activities. I consider that it is more appropriate for these activities to be managed in a way that does not adversely affect primary production or rural industry activities, as set out in UFD-P7(6):

“restricts the establishment of non-rural activities which could adversely affect, including by way of reverse sensitivity, or fragmentation, the productive capacity of highly productive land or existing or potential primary production and rural industry activities, unless those activities are undertaken in accordance with UFD-04, UFD-P8 or UFD-P9 as relevant”

7.3 If limbs (8) and (9) were to be included in UFD-P7, they should be balanced against how the activities relate to the Rural Zone and impact resources. QLDC’s PDP Chapter 21 Rural Zone Chapter is already enabling of recreation

⁷ With an amendment to Limb (1) that was rejected by the s42a writer

activities, but these activities are required to have a genuine link to the rural zone, be located where they enable landscape values and indigenous biodiversity to be sustained and are to be of a nature and scale that is compatible with the amenity values for the location, for example:

“Policy 21.2.9.2 - Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term”.

And

“21.2.10 - Objective – Commercial Recreation in the Rural Zone is of a nature and scale that is compatible with the amenity values of the location.”

- 7.4 I consider it is appropriate to acknowledge that recreational and commercial recreation activities in rural areas are important, however UFD-P7 does not preclude these activities, with UFD-P7(6) ensuring that non-rural activities such as the ones proposed by Mr Farrell are managed appropriately. For the above reasons I do not support Mr Farrell’s proposed amendments.

Elizabeth Jane Simpson

14 December 2022