

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Stage 3 Proposed District Plan Provisions

Report and Recommendations of Independent Commissioners

Report 20.3: Chapter 18A

General Industrial and Service Zone¹ and Related Variations to Chapters 25, 27, 29, and 36:

Commissioners

Trevor Robinson (Chair)

Sarah Dawson

Greg Hill

Calum Macleod

Ian Munro

Quentin Smith

¹ The zone was notified as the General Industrial Zone. We have renamed it General Industrial and Service Zone (GISZ).

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1. PRELIMINARY

1.1 Subject Matter of this Report

1. This report addresses the submissions and further submissions the Stream 17 Hearing Panel heard in relation to Chapter 18A- General Industrial Zone, together with related variations to Chapters 25, 27, 29 and 36 of the PDP. We also discuss consequential amendments to Chapters 30, 31 and to the Rural Industrial Sub-Zone arising from submissions.

1.2 Terminology in this Report

2. We have used the terminology and abbreviations as set out in Introduction Report 20.1.
3. We record here, early in the report, that in response to matters raised by some submitters, mainly those who had interpreted the zone to be ‘heavy industry’, that we have recommended the zone be renamed “General Industrial and Service Zone” to more accurately reflect its purpose. This is explained in more detail later.

1.3 Relevant Background

4. Submissions on Chapter 18A –were heard by the Stream 17 Hearing Panel as part of the broader Stage 3 hearings that commenced on 29 June 2020.
5. Report 20.1 provides background detail on:
 - a) The appointment of commissioners to this Hearing Panel;
 - b) Procedural directions made as part of the hearing process;
 - c) Site visits;
 - d) The hearings;
 - e) The statutory considerations bearing on our recommendations;
 - f) General principles applied to rezoning requests;
 - g) Our approach to issues of scope.
6. We do not therefore repeat those matters.

2. STATUTORY CONSIDERATIONS

7. Report 20.1 – Introduction has comprehensively set out the statutory considerations relevant to our consideration of submissions and further submissions. They are not repeated here other than to emphasise, in relation to the findings and recommendations in this report, the importance of:
 - the National Policy Statement on Urban Development (NPSUD) which took effect on the 20 August 2020 well after the Stage 3 provisions had been notified;
 - The Regional Policy Statement (RPS), which, as we recorded in Report 20.1, is at an advanced stage; and
 - The “Strategy Chapters” of the PDP (Chapters 3-6 – and of particular note for this report are Chapter 3 – Strategic Direction and Chapter 4 – Urban Development) that provide strategic direction on the entire range of district planning issues.

8. Where relevant, we have addressed the specific provisions of those planning documents in this report terms of our findings and recommendation on the various submissions and further submissions.

3. OVERVIEW.

9. As set out in the section 32 Evaluation Report, the GIZ sought to replace three Operative District Plan (ODP) zones:

- Industrial A Zone (Arrowtown – Bush Creek Road, Queenstown – Glenda Drive, Wānaka - Ballantyne Road (western side of road));
- Industrial B Zone (Wānaka - Ballantyne Road (western side of road));
- Ballantyne Road Mixed Use Zone (Ballantyne Road (eastern side of road)).

10. The main concern set out in that evaluation report, and the reasons for the GIZ zone, was that while these zones principally provided for the establishment, operation and growth of industrial type activities, they:

“have not sufficiently recognised or provided for those land use characteristics which enable the long term viability of industrial type activities, and have inadvertently provided for non-industrial type land uses to establish and operate within the Industrial Zones, such as Office, Retail and Commercial activities, which have contributed to industrial development capacity restraints within the District”.²

11. The key changes, in summary were to:

- Replace the existing Industrial Zones with a single zone framework (GIZ)
- Exclude and restrict non-industrial, non-ancillary type activities from the GIZ, including Office, Retail, Commercial and other related non-industrial type activities;
- Enable ancillary non-industrial type activities (but restrict their size), including Office, Retail and Commercial activities, and food and beverage related commercial activities to the extent that they directly relate to and support Industrial or Service Activities;
- Identify minor additions to the extent of the existing Industrial Zones in the Wakātipu Ward to avoid unnecessary split zonings or to correctly zone existing industrial related activities;
- Remove the existing Ballantyne Road Mixed Use Zone from the existing set of Industrial Zones and rezone this land Open Space – Active Sport and Recreation (addressed separately in Report 20.5);

² Section 32 Evaluation

- Vary relevant parts of the Proposed District Plan (PDP)-, Chapter 25 (Earthworks), Chapter 27 (Subdivision and Development), Chapter 29 (Transport) and Chapter 36 (Noise) to introduce the Zone to these chapters and to give effect to the direction of the GIZ.
12. The key concerns raised by submitters included the following, and these are discussed in more detail below:
- Many submitters considered the GIZ zoning was too narrow and restrictive and that the zone either needed to be more flexible in the range of activities it enabled or provided for – or that another zone needed to be created to enable the flexibility sought.
 - In relation to the bullet point above, many submitters considered that prohibiting/restricting non-industrial type activities, including Office, Retail, Commercial and other related non-industrial type activities was too restrictive, and did not recognise that these activities had been established under the ODP provisions.
 - In response to the bullet point above submitters sought:
 - That Office, Retail, Commercial and other related non-industrial type activities that are not ancillary to industrial or service activity in the GIZ be provided for as in the ODP plan provisions.
 - That Trade Suppliers be provided for, and not be a prohibited activity as notified in the PDP; and
 - That greater flexibility be provided to the 50m² limit for ancillary non-industrial type activities, including Office, Retail and Commercial activities; and food and beverage related commercial activities to the extent that they directly relate to and support Industrial or Service Activities, be provided for.
13. Tussock Rise Limited³, Bright Sky Land Limited⁴ and Alpine Estates Limited⁵ (Tussock Rise) sought that land as identified in their submission be rezoned from GIZ to BMUZ. This was also sought by submitters in the Glenda Drive area (as well as a request for the Frankton Flats zone to apply), Queenstown, and at Bush Creek Road, Arrowtown.
14. A number of submitters sought that their land be zoned GIZ, and presented extensive cases supporting their requests. These included:
- Upper Clutha Transport Limited (UCT)⁶ to rezone land on Church Road Luggate from Rural to GIZ;

³ Submission #3128

⁴ Submission #3130

⁵ Submission #3161

⁶ Submission #3256

- Cardrona Cattle Company Limited (CCCL)⁷, to rezone land at Victoria Flat from Rural/Gibbston Character Zone to GIZ;
- Universal Development Hāwea Limited⁸, to rezone approximately 9 hectares of land (GIZ) at the southern end of a total site of 170 hectares sought to be rezoned for urban development (residential, local shopping centre and an indicative school site) south of Cemetery Road at Hāwea (addressed separately by the Stream 18 Hearing Panel in Report 20.8).
- Tussock Rise Limited (Tussock Rise)⁹, to rezone approximately 10 hectares of land at 101 Ballantyne Road - zoned Open Space and Recreation Zone – Active Sport and Recreation, to GIZ.
- Willowridge Development Limited (Willowridge)¹⁰, to rezone approximately 0.57 hectares of land on Riverbank Road (south of the former QLDC Oxidation Ponds) from LDSRZ to GIZ, and smaller portion of this site (0.35 hectares) located on the lower terrace at the junction of Ballantyne and Riverbank Roads from Rural to GIZ.
- Bush Creek Property Holdings Ltd, Bush Creek Property Holding No. 2 Ltd¹¹, and
- Bush Creek Investments Ltd¹², to rezone land at Bush Creek Road, Arrowtown from GIZ to BMUZ.
- Queenstown Airport Corporation (QAC)¹³, to rezone 3.27ha of land adjacent to Queenstown Airport from GIZ to either an Airport zone, the (ODP) Frankton Flats B zone or Rural zone.

15. The following is an executive summary of the key recommendations we have made:

The Zone and its provisions

- Change the name of the zone to General Industrial and Service Zone to better reflect its purpose;
- We have retained a single zone for general industrial and service activities, but have provided for a wider range of activities within the zone as notified.
- We have provided greater recognition of existing non- related industrial and service activities – including Office, Retail, Commercial and other related non-industrial type activities. Those lawfully established before the PDP is made operative are permitted activities, with some flexibility in terms of size and location provided it remains the

⁷ Submission #3349

⁸ Submission #3248

⁹ Submission #3128

¹⁰ Submission #3210

¹¹ Submission #3353

¹² Submission #3354

¹³ Submission #3316

same scale and intensity as that lawfully established. Changes to those activities that are not permitted are non-complying activities, as opposed to a prohibited activity in the notified PDP.

- Trade suppliers, subject to certain rules, are a discretionary activity as opposed to a prohibited activity in the notified PDP.
- The size of ancillary Offices Retail and Commercial activities is changed from 50m² as permitted activity to 30% of GFA.

Rezoning

- We have not made any significant changes to the extent of the GIZ as notified in relation to Queenstown and Wānaka, other than to delete this zone in the Three Parks Area and recommend its 'replacement' with a combination of Three Parks Business and Business Mixed Use;
 - M-Space Partnership Ltd's request to rezone land at Glenda Drive from GIZ to BMUZ is **accepted in part** to the extent that changes made to the GISZ better provide for existing residential and commercial activities that have been lawfully established;
 - Reavers (N.Z.) Ltd's request that the notified GIZ land shown on land at Glenda Drive that is zoned general rural and un-stopped road in the ODP be retained is **accepted**.
 - Tussock Rise's request to rezone land as shown in their submission (the Fredrick Street area zoned) from the notified GIZ to BMUZ is **rejected**.
 - M. Thomas, Bush Creek Property Holdings Ltd., Bush Creek Property Holdings No. 2 Ltd., Bush Creek Investments Ltd. (Bush Creek) – request to rezone the land as shown in their submissions from the notified GIZ to BMUZ is **accepted in part** to the extent that changes made to the GISZ better provide for existing residential and commercial activities that have been lawfully established;
 - UCT's request to rezone land on Church Road Luggate from Rural to GIZ is **rejected**, but re zoning to Rural Industrial Sub-Zone is **accepted**;
 - CCCL's request to rezone land at Victoria Flat from Rural/Gibbston Character Zone to GIZ is **rejected**;
 - Willowridge's request to rezone approximately 0.57 hectares of land on Riverbank Road (south of the former QLDC Oxidation Ponds) from LDSRZ to GIZ, is **rejected**;
 - Willowridge's request to rezone a smaller portion of the site (approximately 0.35 hectares) located on the lower terrace at the junction of Ballantyne and Riverbank Roads from Rural to GIZ, is **accepted**; and
 - QAC's request to rezone land from GIZ to either an Airport zone, (ODP) Frankton Flats B Zone or Rural Zone is **rejected**.
16. Tussock Rise's request to rezone 11.9 hectares of land at 101 Ballantyne Road - zoned Open Space and Recreation Zone – Active Sport and Recreation, to GIZ is addressed separately in Report 20.5.

5.3 Bush Creek Road, Arrowtown



Aerial photo of subject site showing area of the submitter's re-zoning request outlined in red.



Aerial photo of subject site showing area of the M Thomas re-zoning request outlined in red.

251. M Thomas¹⁴¹; Bush Creek Property Holdings Ltd., and Bush Creek Property Holdings No. 2 Ltd.¹⁴²; and Bush Creek Investments Ltd.¹⁴³, lodged submissions relating to land at Bush Creek, Arrowtown. The submitters sought the land to be rezoned from GIZ to BMUZ (or a bespoke GISZ zone more enabling of commercial and residential activities). M Thomas additionally requested that a small parcel of land that had not been included within any other Stage 3 PDP zone and was within an ONL be included in the GIZ. Another submitter, Arrow Irrigation Co. Ltd.¹⁴⁴, supported the notified GIZ zone at 31 Bush Creek Road.
252. In his s.42A report¹⁴⁵, Mr. Place recommended acceptance of Arrow Irrigation Co. Ltd.'s submission, and rejection of the other submissions. Mr. Place was of the opinion that at this time, the area predominantly accommodates industrial activities. He was concerned that BMUZ, if developed entirely as residential activities, would result in a loss of important employment land near Arrowtown. If developed with many commercial activities, the area could come to function similar to a centre zone in such a way as to potentially undermine the Arrowtown Town Centre.
253. Ms. Hampson also reviewed the relief sought on behalf of the Council and opposed it. She was concerned that the BMUZ would result in an inappropriate outcome¹⁴⁶:

“The GIZ is the most appropriate zone to maintain and protect the existing industrial and service activities which dominate the land-use in Bush Creek Road (17 of the 24 predominant business activities surveyed in the zone by Council are either Service, Yard Service or Light Industrial). Such activities play a key role in the QLD’s industrial economy. I consider that the BMUZ would adversely affect the ongoing commercial viability of the existing low-intensity and yard based activities along Bush Creek Road, increasing the value of the land and encouraging redevelopment to higher value land uses. A BMUZ would also potentially increase the number of incompatible activities which could give rise to greater reverse sensitivity effects on these existing businesses.”

254. Expert planning evidence was filed by Hayley Mahon on behalf of M Thomas, Bush Creek Property Holdings Ltd. and Bush Creek Property Holdings No. 2 Ltd., and Bush Creek Investments Ltd¹⁴⁷. In summary Ms. Mahon considered that the BMUZ zone would be the most appropriate outcome because:

¹⁴¹ Submissions #3003.1, #3355.1 and #3355.2

¹⁴² Submissions #3353.1 and #3353.2

¹⁴³ Submissions #3354.1 and #3354.2

¹⁴⁴ Submission #3161.1

¹⁴⁵ S.42A report of Luke Place, Stream 17, paragraphs 10.1 – 10.18

¹⁴⁶ Statement of Evidence of Natalie Dianne Hampson, 18 March 2020, paragraph 12.7

¹⁴⁷ Statement of Evidence of Hayley Jane Mahon, 29 May 2020

“...it best achieves the purpose of the Act and the Strategic Direction of the PDP, best takes into account the activities currently occurring within the area, best reduces reverse sensitivity effects on surrounding residential land, enables the Arrowtown community and achieves the best urban design outcomes for the area.”

255. Ms. Mahon did not agree with the conclusions of Mr. Place or Ms. Hampson. In Ms. Mahon’s opinion the majority of the land was already used for activities that were more reflective of the BMUZ and that it would be more efficient, and more in line with the NPSUDC, to zone the land in a manner that reflected this.
256. Mr. Place filed a statement of rebuttal evidence on 12 June 2020 responding to the issues raised in Ms. Mahon’s evidence¹⁴⁸. Mr. Place explained why, in his opinion, he and Ms. Mahon had reached different conclusions as to what the predominant activities currently occurring on the land should be classified as. He stated:

“Ms Mahon appears to separate Light Industrial activities from Industrial activities. The list of defined terms relevant to the GIZ are address in the s32 report⁶⁶ and I note in regard to this matter that under Chapter 2 (Definitions) of the PDP, Light Industrial activities are not distinguished from Industrial activities. Given this, I consider that the identified Light Industrial activities within the Arrowtown GIZ should be considered Industrial activities under the proposed GIZ framework. I am not of the view that these previously defined Light Industrial activities would be better suited to being located within a BMUZ in terms of their long term operation and growth.”

257. On the basis of Mr. Place’s approach to categorising activities, the majority of the activities occurring on the land at this time are industrial in nature and are not more or better-thought of as BMUZ activities.
258. Ms. Mahon filed a statement of supplementary evidence responding specifically to the NPSUD, 2020. In Ms. Mahon’s view this did not change her position or reasons in support of the change from GISZ to BMUZ.
259. At the Hearing, the submitters were represented by Counsel Mr. Joshua Leckie, and planner Mr. John Edmonds (who adopted Ms Mahon’s pre-circulated evidence). Mr. Leckie presented submissions on the following points:
- a.) That the Bush Creek area was of a poor size, shape and location for GIZ activities.
 - b.) That the proximity of residential zoned land made the submitter’s land less suited for GIZ activities.

¹⁴⁸ Statement of rebuttal evidence of Luke Thomas Place, 12 June 2020.

- c.) That the BMUZ was a better fit in terms of the above and in terms of future land use demand.
- d.) That changing the land to BMUZ would not result in any material loss of industrial land.
260. Mr. Leckie then introduced alternative BMUZ provisions in recognition of the Council's opposition to the relief sought. This was a modified BMUZ that enabled more industrial activities than is otherwise the case. In Mr. Leckie's submission, this modified zone would bring the zone more into line with "...the National Planning Standards intention for mixed use zones."¹⁴⁹ Mr. Leckie also took us through the provisions of the NPSUD that are relevant, in his opinion. Overall, Mr. Leckie urged us to prefer Ms. Mahon's assessment and conclusions and support the rezoning.
261. In response to questions from us, Mr. Leckie expressed the view that it is legally inappropriate to introduce a prohibited activity status into a Plan applying to existing activities on the land, when there is no intent to prevent or stop them. This, we note, was a recurrent theme across our interactions with the submitters and we refer elsewhere in our report to the reasons why we made key changes to the text of the zone provisions.
262. Mr. Edmonds responded to our questions arising from Ms Mahon's written evidence. We focused on the existing activities in Bush Creek and the reasons why they might be better described as industrial, service, commercial or other activities. In Mr. Edmonds' opinion the Bush Creek area was populated by predominantly non-industrial activities, and he concluded that BMUZ would be the most appropriate outcome.
263. After the Hearing Mr. Place, provided a statement of reply evidence¹⁵⁰. He clarified the status of residential-zoned land south-west of the Bush Creek area (the Meadow Park Special Zone) and confirmed his opinion that this presented no uncertainty or other matter that would change his support of the GIZ zone applying to the submitters' land. He also provided brief reasons why in his opinion retaining the GIZ would better serve the NPSUD than the BMUZ zone.
264. Having considered all of the above and visited the Bush Creek Area, we accept Mr. Leckie's legal submissions that the land is of a small and irregular shape, and not well located. This is consistent with Ms Hampson's evidence. She accepted that if the area was a greenfield or blank-slate site, the location and small size of the area would not make it a likely candidate for industrial zoning. However, for all its shortcomings, it cannot as we see it be fatally unusable because it does and for a long period of time has accommodated industrial and service activities. We are satisfied that although unlikely to play a pivotal role in the District's industrial economy, the Bush Creek area does serve a locally important employment purpose in and around Arrowtown.

¹⁴⁹ Legal submissions of Joshua Leckie, 7 August 2020, paragraph 19.

¹⁵⁰ Statement of Reply of Luke Place, 7 September 2020.

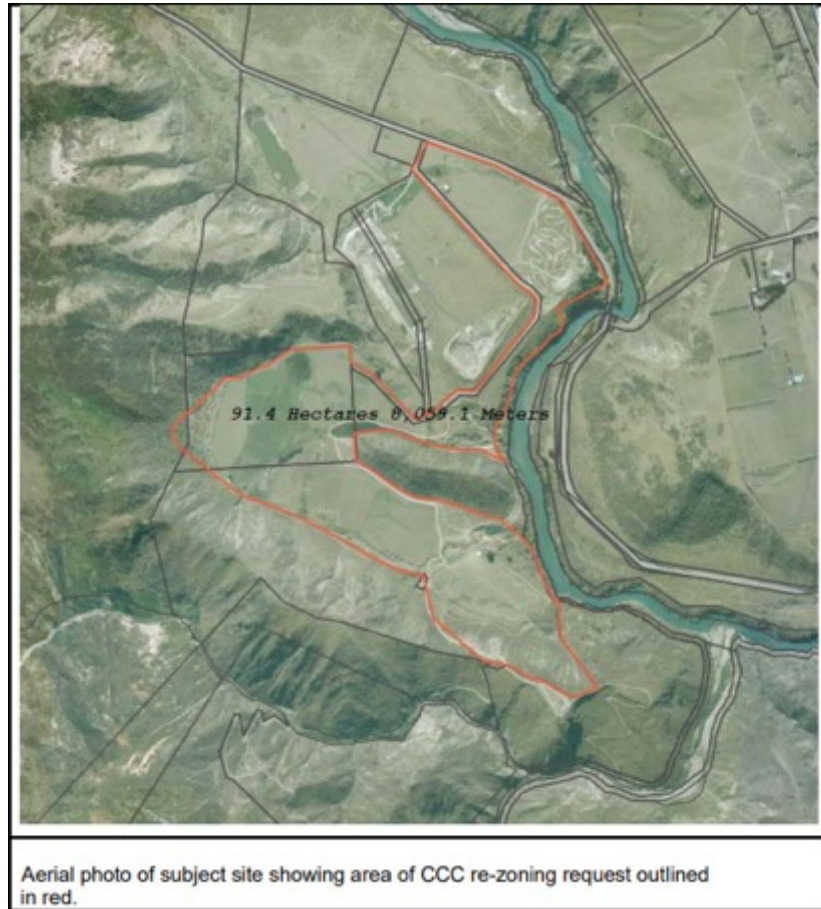
265. We are persuaded that the majority of the land is at this time in industrial or service activities of the sort enabled by the GISZ. We also note that as a consequence of changes we have made to the zone on the basis of other submissions, it is now clearer that many of the service-type uses that the submitters felt were not industrial activities are in fact still appropriate for an industrial zone. This would ensure that the zone would not prejudice or otherwise imperil existing activities that would have become prohibited activities under the notified zone provisions.
266. We agree with Mr. Place that the land provides employment land close to and that benefits the Arrowtown settlement. We accept his view that local employment close to settlements like Arrowtown better serves the NPSUD than not having such employment. The BMUZ does provide for a variety of commercial activities, but it also permits unrestricted residential activity. Having considered the creation of a bespoke 'BMUZ-minus' or a 'GISZ-plus' type zone that sought to sit something in between the zones, we find that this would not be appropriate or justified on the evidence before us, and that the refined GISZ we have developed in response to the GISZ submissions as a whole will provide an appropriate solution in that regard.
267. Ultimately rezoning the land to BMUZ would create the potential for it to become mostly or fully occupied by medium to high density residential development, or commercial activities that would in our view be better-suited within Arrowtown Town Centre. We find that the loss of this area of industrial and service-based employment land would be both problematic and inappropriate. Given the importance of employment land outside the higher-value and constrained Arrowtown Town Centre, we find that protecting this as a resource is a valid resource management priority in terms of Chapter 3 of the PDP. For the reasons set out by Mr. Place, the GISZ is the most appropriate means of achieving this. We therefore **accept the submissions in part** to the extent that the GISZ as we have modified it places greater emphasis on service activities and those non-industrial activities that exist at this time and have been lawfully established.
268. As it relates to M Thomas' submission to rezone a small area of rural-zoned land to GISZ, we have not been persuaded that changing the zone is appropriate. The land is very small and of a triangular shape. We received no evidence to demonstrate that the ONL notation on the land was improper. As a result of this we cannot see that the land could be used for GISZ uses and zoning it such would not be effective or efficient. It is more appropriate to retain the existing rural zone and in this respect the submission is **rejected**.
269. Lastly, it follows that based on the above we **accept** the submission of Arrow Irrigation Co. Ltd.

5.4 Cardrona Cattle Company Limited (CCCL) - Victoria Flat

270. CCCL sought to rezone an area of land (the “site”) at Victoria Flats in Gibbston from Rural (RZ) and Gibbston Character Zone (GCZ) to the GIZ. The land comprises 91.4 hectares in area. Part of the land is affected by Designation #76 - the Victoria Flats landfill buffer area.

271. Approximately 26.6 Ha (or 45.5%) of the site is located within an ONL (being the Rural Zoned parts of the land). This comprises proposed activity areas 1 and 2 (areas able to be developed) at the northern portion of the site (adjoining SH6), as well as activity areas 2 and 3 at the southern portion of the site (behind the landfill). The remaining area of land (approximately 31.9 Ha) sought to be rezoned to GIZ is located within the Gibbston Character Zone¹⁵¹.

272. The extent to which the site could be developed if re zoned was addressed by Mr Milne, the submitter’s landscape architect. Mr Milne addressed this in this evidence; mainly in his evidence-in-chief under the hearing “*The GIZ Proposal*”¹⁵². As set out by Mr Milne the proposal is supported by a Structure Plan setting out the developable areas, green corridors and planted Amenity Setbacks and Mitigation Planting Zones. The developable areas include¹⁵³:



*General Industrial Area 1–7.5 ha (with a maximum building coverage of 25%)*¹⁵⁴

Located on the periphery of the development, these areas are intermittently visible from SH6 and transition the edge of the zone into the rural surrounds. The proposed zone is for small

¹⁵¹ These were the areas calculated by Mr Place and set out in his reply evidence at paragraph 5.4

¹⁵² Page 8 of Mr Milne’s evidence-in-chief

¹⁵³ Paragraphs 22 to 27 of Mr Milne’s evidence-in-chief

¹⁵⁴ Provided by Mr Giddens in his revised zone provisions tabled at the hearing (12/8/20).

scale industrial uses which prioritise open space over built form. Height of built form is limited to 6m with proposed controls relating to form and colour, adapted from the Rural zone.

General Industrial Area 2–19.9 ha (with a maximum building coverage of 50%)¹⁵⁵

These areas are less visible and are generally internal to the Zone. If visible, they are seen at a greater distance and can be largely screened from views along State Highway 6 with amenity set backs or mitigation planting. Built form is limited to a height of 7m, with an exception for towers up to 12m.

General Industrial Area 3–10.3 ha (with a maximum building coverage of 80%)¹⁵⁶

Located internal to the development, these areas are not visible as they are setback a significant distance from State Highway 6 and contained by localised topography. The proposed height limit for built form is 10m, with exception for up to 12m for towers¹⁵⁷.

Green Corridors

Green corridors are proposed between industrial zones which allow for ecological improvements through revegetation of waterways and stormwater retention. They will also provide visual amenity for those visiting and working in the zone.

Planted Amenity Setbacks & Mitigation Planting Zones

Amenity planting setbacks provide separation and screening between different industrial zone types and uses. This will increase amenity within the development for the site's users. This will also provide a degree of screening and mitigation from viewpoints along State Highway 6 in order to minimise visual amenity effects of the proposal for viewers within the receiving environment.

273. It was not entirely clear from CCCL's evidence what the overall density or amount of development that could be undertaken was for the requested rezoning. However, Mr Edwards told us in answer to our question that he estimated that something in the order of 85,000 m² was possible (assuming a 28% site coverage).
274. Amendments were sought to some of the GIZ provisions as set out in the submission. We have addressed those later. In response to the evidence of Scope Resources Limited (Scope)¹⁵⁸, the rebuttal evidence and further evidence presented at the hearing by Mr Giddens, CCCL's planner,

¹⁵⁵ *ibid*

¹⁵⁶ *ibid*

¹⁵⁷ We find there is no scope for the 12m height limit as CCCL's submission sought a maximum height of 10m.

¹⁵⁸ A Further Submitter in opposition to the zoning request