
DIRECTIONS OF THE HEARINGS PANEL**MINUTE 7****Plan Change 21****Matters of Scope****Tekapo Landco Limited and Godwit Leisure Limited**

- [1] As we noted in PC21 Minute 6, by way of legal submissions dated 6 March 2023¹ counsel for Tekapo Landco Limited and Godwit Leisure Limited (TL&GL) registered disagreement with the assessment on page 18 of the Section 42A Report for PC21 regarding the scope of their submissions seeking that the mapping is amended so that the boundaries of the Medium Density Residential Zone (MRZ) are redrawn to match the Spatial Plan for Lot 401 DP 560853 and that Lot 1 DP 455053 containing the Tekapo Holiday Park is included in PC21 and is zoned MUZ.
- [2] We requested and received a reply² in writing from Council's solicitor on the scope matters raised in the TL&GL legal submissions.
- [3] We have carefully considered the TL&GL legal submissions and the Reply by Counsel for MDC. We have also considered the law on matters of scope that was summarised in earlier legal submissions provided by Counsel for MDC³ and also by counsel for TL&GL.
- [4] We accept counsel for TL&GL's submission⁴ that context is a very important consideration when considering the issue of scope. In that regard, we consider that context is best provided by the PC21 section 32 evaluation report⁵, the preparation of which is a statutory obligation⁶. As decision-makers on PC21 acting under delegated authority from MDC we must have particular regard to the MDC's section 32 evaluation report⁷.
- [5] We find:
- (a) Lot 1 DP 455053 is zoned Special Travellers Accommodation Zone in the Operative District Plan (ODP).
 - (b) The TL&GL submission on Lot 1 DP 455053 that contains the Tekapo Holiday Park is not "on" PC21 because PC21 did not change the status quo zoning of that land.
 - (c) The section 32 evaluation report for PC21, in Table 11 in a section titled "Management of Visitor Accommodation Activities" specifically states (our underlining) "Areas identified as Visitor Accommodation in the Spatial Plans in Fairlie, Tekapo / Lake Tekapo and Twizel (excluding the Travellers Accommodation Zones and Special Travellers Accommodation Zones which are not in scope of PC21).
 - (d) We understand that Special Purpose Zones, including this one, will be considered in Stage 4 of the District Plan Review (DPR).

¹ Opening Legal Submissions on behalf of Tekapo Landco Limited and Godwit Leisure Limited, Amanda Dewar, 6 March 2023.

² Reply by Counsel for Mackenzie District Council to Memorandum by Counsel for Tekapo Landco Limited and Godwit Leisure Limited, 8 March 2023.

³ Legal submissions on behalf of Mackenzie District Council, 15 February 2023.

⁴ Paragraph 27.

⁵ Section 32 Report: Plan Change 21 – Implementing the Spatial Plans (Residential, Commercial and Industrial Zoning and Zone Frameworks), Date: 20 September 2022.

⁶ Section 74(1)(d) of the RMA.

⁷ Section 74(1)(e) of the RMA

- (e) The TL&GL submission on Lot 1 DP 560853, which is split zoned as Residential 1 and Passive Recreation Zone in the ODP, extends beyond the scope of PC21 because it addresses an amendment to a Passive Recreation Zone which is a matter that we understand will also be considered in Stage 4 of the DPR.
 - (f) In the meantime, Passive Recreation Zones remain operative as indicated by the notation on Map 44B of the ODP.
 - (g) The section 32 evaluation report for PC21, in a section titled "Relationship with other stages", expressly identified⁸ that Open Space and Recreation Zones were not to be considered as part of PC21 and would instead be included in a later stage⁹.
 - (h) We observe that extending the MRZ into the Passive Recreation Zone could very well be of interest to parties who have not submitted on PC21 given that the scope of PC21 excluded amendments to Recreation Zones. In that regard we understand from our previous consideration of submissions on PC20 that recreational activities in the Mackenzie District, including in and around Tekapo, are of interest to a large number of people.
 - (i) The Public Notice for PC21 and the PC21 Overview Report identified that PC21 was scoped to implement the Spatial Plans in an identified and manageable range of respects. There was no obligation on MDC to implement all aspects of the Spatial Plans through PC21. The decision on what aspects of the Spatial Plans to implement was a decision properly made by the Council.
- [6] On the basis of our above findings our overall conclusion and finding is that the TL&GL submissions described in paragraph [1] of this Minute are out of scope.
- [7] We therefore decline to consider those TL&GL submissions.
- [8] In her Memorandum counsel for TL&GL requested that if we were to find the submissions to be out of scope we should advise the MDC to either:
- (a) ensure the Stage 3 Plan Change includes sufficient scope for all parties to request rezonings and to delay the decision on PC21 so that parties at Stage 3 are not disadvantaged by Stage 2 decisions (although noting this approach runs the risk having to relitigate zones and underlying provisions/ overlays which seems to me to be inefficient); or
 - (b) undertake a variation to PC21 to deal with this issue
- [9] We are not minded to make either of those recommendations to the MDC. In particular we see no need to delay our decisions on PC21. Doing so would disadvantage all of the other 147 submitters and 7 further submitters on PC21. In our view MDC clearly signalled in its documentation that the above matters raised by TL&GL will be considered in later Stages of the DPR. In that regard, and in terms of procedural fairness, we do not consider that our declining to consider those particular submissions generates any risk that TL&GL might 'miss the boat' on those matters, as was suggested might be the case by counsel for the submitter¹⁰.



Rob van Voorthuysen
Independent Commissioner – Chair - on behalf of the DPR Hearings Panel members
9 March 2023

⁸ Ibid, paragraph 1.15.

⁹ The section 32 evaluation report refers to Stage 5 but the Council has amended its District Plan review programme and we understand those matters will now be included in Stage 4.

¹⁰ Ibid, paragraph 39.