



**Section 32 Evaluation Report
Business Mixed Use Zone
(formerly the Business Zone)**

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Section 32 Evaluation Report: Business Mixed Use Zone (formerly the Business Zone)

1. Strategic Context

Section 32(1)(a) of the Resource Management Act 1991 requires that a Section 32 evaluation report must examine the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act.

The purpose of the Act demands an integrated planning approach and direction:

5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

2. Regional Planning Documents

The District Plan must *give effect to* the operative RPS and must *have regard to* any proposed RPS.

The operative RPS contains a number of objectives and policies that are relevant to this review, namely objectives 9.4.1 to 9.4.3 and policies 9.5.1 to 9.5.5 (inclusive). The proposed plan change provisions are consistent with, and give effect to, these RPS provisions.

The Otago Regional Council ["ORC"] is currently in the process of reviewing the RPS 1998. In May 2014 the ORC published and consulted on the RPS 'Otago's future: Issues and Options Document, 2014' (www.orc.govt.nz). The proposed RPS was released for formal public notification on the 23 May 2015 and also contains a number of objectives and policies that are relevant, namely objectives 3.6 to 3.8 (incl.) & 4.3, and policies 3.6.6, 3.7.1 to 3.7.4 (incl.), 3.8.1, 4.3.3 & 4.3.4.

3. Resource Management Issues

The operative District Plan anticipates that the Business Zone will continue to function as a focal point for light industrial, commercial recreation, storage and retailing. This review of the operative provisions seeks to address a number of key issues (detailed below), whilst also strengthening the existing policy framework by providing more targeted objectives and policies, and increasing the overall legibility of the Plan.

The resource management issues set out in this section have been identified from the following sources (see Section 10 of this report for a full set of references and weblinks):

- Business Zones Capacity Report prepared by McDermott Miller Strategies Limited
- Peer review of Business Zones Capacity Report by Dr Phil McDermott
- Community consultation, Council workshops and a meeting of the Council's Resource Management Focus Group
- Relevant legislative changes enacted since the Plan became operative

The key issues are:

- Development controls currently guide the appropriate height, bulk, location and density of buildings without sufficient consideration of the management of appropriate urban design methods to achieve greater amenity throughout the Zone, to continue to encourage a diverse built form.
- Current development controls are very restrictive, limiting the available uses of the land within the operative zoning regime.
- Providing for a diverse range of new development that expands on the established uses within the zone and introducing residential activities to assist with addressing issues with housing supply, affordability, and diversity. This enables higher intensity and compatible land uses, and contributes to more diverse and well-located housing options. In addition, a greater variety of development options increases the economic resilience and adaptability of these business areas. In reflecting the required change to the operative policy framework to address this issue, it is proposed to rename the zone Business Mixed Use.
- Placing stricter limits on activities that are more appropriate for industrial areas would further clarify the purpose of this Zone and create a clearer distinction between it and the Industrial Zones.
- Providing support and enhancing the functionality and future strength of the Queenstown and Wanaka Town Centre Zones through enabling services that complement, enable and support the town centres.
- Addressing natural hazards in a consistent manner by including hazards in the matters for discretion for buildings. This is particularly important for the Gorge Road area, which is subject to known natural hazards. This approach would give effect to the District-wide natural hazards policies contained in Chapter 23, which would be referenced within the Business Mixed Use Zone provisions. For instances where risk from natural hazards cannot be avoided, managed or mitigated to appropriate levels, providing a restricted discretionary activity status for buildings would enable any such proposal to be declined.

4. Purpose and Options

The overarching purpose of the Business Mixed Use Zone is to enable a variety of activities to occur that contribute to economic growth of the area, whilst ensuring that the activities established are compatible, and do not detract from the vitality of the Queenstown and Wanaka Town Centres or the established amenity of nearby residential zones.

Strategic Directions

The following goals and objectives from the Strategic Directions chapter of the draft District Plan are relevant to this assessment:

<p><i>Goal 1: To develop a prosperous, resilient and sustainable economy</i></p> <p><i>Objective 2: To recognise, develop and sustain the key local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka central business areas</i></p>
<p><i>Goal 2: Strategic and integrated management of urban growth</i></p> <p><i>Objective 1: To ensure urban development occurs in a logical manner:</i></p> <ul style="list-style-type: none">• <i>to promote a compact and integrated urban form; [...]</i> <p><i>Objective 2: To manage development in areas affected by natural hazards.</i></p>

<p><i>Goal 3: A quality built environment taking into account the character of individual communities</i></p> <p><i>Objective 1: To achieve a built environment that ensures our urban areas are desirable places to live, work and play</i></p>
<p><i>Goal 4: The protection of our natural environment and ecosystems</i></p> <p><i>Objective 8: To respond positively to Climate Change</i></p>
<p><i>Goal 6: To enable a safe and healthy community that is strong, diverse and inclusive for all people</i></p> <p><i>Objective 2: To ensure a mix of housing opportunities</i></p>

Determining the most appropriate methods to resolve the issues highlighted for the operative Business Zone will enable the Plan to give effect to relevant parts of the Strategic Directions chapter, and ultimately meet the purpose of the Act.

As required by s32(1)(b) RMA, the following section considers various broad options considered to address the issues, and makes recommendations as to the most appropriate course of action in each case.

Broad Options considered (see Table 1, below)

Option 1 is to retain the current provisions (objectives, policies and rules) as they stand. This will allow for the familiarity of users to remain but would not address the resource management issues that were identified through monitoring.

Option 2 provisions to be examined in light of the issues highlighted through monitoring. Would result in all provisions being critically assessed, with many of the current provisions likely to be retained and improved, and provisions to be structured and articulated in a clearer manner than the status quo.

Option 3 (Recommended) requires the provisions to be completely overhauled. Given the range of issues highlighted above, this option is considered necessary. It would enable consideration to be given to shifting the focus of the zone to a mixed-use regime by encouraging a mix of compatible uses, and establishing clearer distinctions from landuses enabled in the Industrial zones.

Table 1 – Broad options considered

	Option 1: Status quo/ No change	Option 2: Comprehensive review – likely result in many existing provisions being retained and improved	Option 3: (Recommended) Comprehensive Review – overhaul existing provisions
Costs	<ul style="list-style-type: none"> • Would fail to fulfil Council’s statutory obligation to review the Plan every ten years. • Would not provide a thorough assessment of the operative Plan provisions. 	<ul style="list-style-type: none"> • Has costs associated with going through the District Plan Review process (but this is required by legislation). 	<ul style="list-style-type: none"> • Has costs associated with going through the District Plan Review process (but this is required by legislation).
Benefits	<ul style="list-style-type: none"> • No costs resulting from the District Plan Review Process. 	<ul style="list-style-type: none"> • Enables provisions to be articulated in a format that is more legible, and provides greater clarity, than the status quo. • Enables the operative policy framework to be critically assessed and strengthened. • Would fulfil Council’s statutory obligation to review the Plan every ten years. 	<ul style="list-style-type: none"> • Would fulfil Council’s statutory obligation to review the Plan every ten years. • Rewriting the chapter enables the opportunity to provide a more targeted zoning regime by further clarifying the intent of the zone. • Enables consideration of additional housing options by providing for mixed-use development. This acknowledges the strategic location of the zone in close proximity to the Queenstown and Wanaka town centres and established residential areas. • Enables provisions to be better articulated in a format that is more legible and provides greater clarity than the status quo. • Enables the operative policy framework to be critically assessed and strengthened. • Provides the opportunity for natural hazards to be treated in a more consistent manner throughout the Plan.
Ranking	3	2	1

5. Scale and Significance Evaluation

The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provisions in the chapter. In making this assessment, regard has been had to the following, namely whether the objectives and provisions:

- Result in a significant variance from the existing baseline.
- Have effects on matters of national importance.
- Adversely affect those with specific interests, i.e., Tangata Whenua.
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

6. Evaluation of proposed Objectives S32 (1) (a)

<i>Objective</i>	<i>Appropriateness</i>
<p>Objective 16.2.1:</p> <p>An area comprising a high intensity mix of compatible residential and non-residential activities is enabled.</p>	<p>Sets a clear desire for a range of activities to be enabled, while acknowledging that appropriate limits must be placed on the types of activities. This seeks to ensure that a mix of uses occurs without any one use being inappropriately compromised by the effects of another.</p> <p>Complements the role of Queenstown and Wanaka town centres in providing for the social and economic wellbeing (s5(2)RMA) of the community and seeking to providing opportunities to achieve a more robust and diverse economy.</p> <p>The Zone is located in areas that predominantly have existing commercial uses, but are adjoined by residential zones. Enabling a mix of uses to occur within the Zone acknowledges this setting, and reinforces the distinction between the Business Mixed Use Zone and the Industrial Zones (to be reviewed in Stage 2 of the District Plan Review).</p> <p>The Zone is located within walking distance of the Queenstown and Wanaka Town Centres, and seeks to create opportunities for people to live closer services, amenities and places of employment, thereby reducing reliance on private vehicles.</p> <p>Enabling mixed use development makes a positive contribution to increasing the diversity of housing options enabled by the District Plan, and creates opportunities for additional housing supply. As the demographic profile of the community continues to change, it is expected that the market for smaller flats and apartments with good access to services and amenities will continue to grow. In addition, there is evidence that overcrowding is a growing issue in the District, especially in Queenstown. The Southern DHB have expressed significant concerns in terms of the public health implications of this overcrowding. In particular, such overcrowding fosters greater ease of transmission of infectious disease. Not only is this considered to be intrinsically problematic in terms of health and wellbeing, it can also impact on productivity.</p> <p>Enabling higher intensity development in these areas is consistent with the proposed District Plan's approach to enabling intensification in and around Town Centres.</p>

Objective	Appropriateness
<p>Objective 16.2.2:</p> <p>New development achieves high quality design outcomes that minimises adverse effects on adjoining residential areas.</p>	<p>This objective sets a high bar for the design of new development to contribute to achieving appropriate levels of amenity within the Zone, and limiting effects on the amenity of nearby residential areas. This seeks to give effect to ss7(c) & (f) of the RMA. In doing this, it also acknowledges that the quality of the built environment can have a significant impact on people’s wellbeing and safety (s5(2)RMA).</p> <p>The expectation for high quality design outcomes draws further distinctions between the Business Mixed Use Zone and the Industrial Zones.</p>

7. Evaluation of the proposed provisions S32 (1) (b)

The below table considers whether the proposed provisions are the most appropriate way to achieve the relevant objectives. In doing so, it considers the costs and benefits of the proposed provisions. (See also Table 1- Broad options considered, in Section 4 above.)

Table 2 – Evaluation of proposed provisions

<i>Proposed provisions</i>	<i>Costs</i>	<i>Benefits</i>
<p>Policies: 16.2.2.1 to 16.2.2.7 (incl.)</p> <p>Rules: 16.4.2 16.5.1 16.5.4 16.5.7</p> <p>Other provisions: 16.6</p>	<ul style="list-style-type: none"> • Costs associated with the resource consent process and meeting requirements that seek to develop the zone as per the objectives and policies. • Additional focus on design requirements for buildings that may be required for functional use only. • Shifting the activity status of buildings from controlled to restricted discretionary gives the opportunity for proposals to be declined, reducing certainty of the outcome of the resource consent process. 	<ul style="list-style-type: none"> • Providing a restricted discretionary activity status for all new buildings provides certainty regarding the scope of matters considered for resource consent. Limits on notification detailed in section 16.6 provide further certainty for applicants. Proposals that fail to adequately address the matters for discretion or give effect to the relevant objectives and policies are able to be declined. • Including natural hazards in the matters for discretion for buildings enables a consistent and transparent approach to the assessment of natural hazards, in line with the proposed District-wide approach. Referencing Chapter 28, which contains the District-wide policies addressing natural hazards, assists Plan users with accessing the relevant policies. The restricted discretionary activity status for buildings enables a proposal to be declined if it is not consistent with the relevant natural hazards policies. • Enables controls that ensure new development is high quality and makes a positive contribution to the levels of amenity expected in a mixed used environment. Also ensures that the amenity of nearby residential properties is not inappropriately adversely affected. • Increases the operative height limit which increases the development capacity of sites within the zone, thereby enhancing the zone's viability. In the Wanaka context, this is considered to be of particular importance, as the recent introduction of new

Proposed provisions	Costs	Benefits
		<p>commercial zoned-land in areas such as the Three Parks area may threaten the viability of the existing Business Zone in Anderson Heights. In Queenstown, it can help realise greater diversity and affordability of housing close to the town centre.</p> <ul style="list-style-type: none"> • The less-enabling building height limits in Wanaka reflect the low-rise character of the Anderson Heights area, and provide limited additional capacity. This acknowledges the additional commercial land supplied by the Three Parks development and changes to the Wanaka Town Centre Zone and Town Centre Transition Overlay proposed through Stage 1 of the District Plan Review. • The building heights for the Business Mixed Use Zone in Queenstown are more enabling, reflecting the ability for the landscape of the Gorge Road area to absorb the visual effects of higher buildings. It also seeks to address the increasing demand for housing in proximity to Queenstown Town Centre. The expectation for high quality design puts in place appropriate controls to achieve a high standard of development, which will further limit the impact of increased building heights.
<p>Policies: 16.2.1.1 to 16.2.1.4 (incl.)</p> <p>Rules: 16.4.3 to 16.4.6 (incl.) 16.5.3</p> <p>Other provisions: 16.6</p>	<ul style="list-style-type: none"> • Costs associated with the resource consent process and meeting requirements that seek to develop the zone as per the objectives and policies. • Excludes some industrial activities currently provided for by the operative policy framework, however these activities are provided for in the Industrial Zones, and lawfully established activities will be able to rely on existing use rights. • Excludes Industrial Place from inclusion in the Business Mixed Use Zone, as the nature of activities occurring there are commensurate with an industrial zone. As a result, landowners in that area will not have certainty on their zone until completion of Stage 2 of the District Plan Review. 	<ul style="list-style-type: none"> • Enabling a wide range of activities to occur encourages a diverse range of businesses and activities to establish to meet the needs of residents and visitors, encouraging a broad economic base. • Enables residential activity to be accommodated in these areas which, in turn provides for additional housing opportunities within the District, including enabling smaller flats and apartments. • Places controls on the establishment of residential and visitor accommodation activities fronting Gorge Road to ensure that business and commercial uses take primacy at street level. Enables residential and visitor accommodation activities to establish at street level in the remaining parts of the zone (subject to building design standards), thereby providing for diverse

<i>Proposed provisions</i>	<i>Costs</i>	<i>Benefits</i>
		<p>housing and accommodation options. This also acknowledges that the Wanaka Business Mixed Use Zone has a less urban setting than the Queenstown zone due to its location completely surrounded by Residential-zoned land.</p> <ul style="list-style-type: none"> • The proposed provisions exclude inappropriate activities from establishing in the Business Mixed Use Zone. These activities generally result in effects that are not consistent with the nature and amenity values anticipated within a mixed use environment. These activities are provided for in other, more appropriate zones. • Limits reverse sensitivity issues by encouraging industrial type activities to establish in the Industrial Zones. • Enables activities occurring in Industrial Place to be excluded from the Business Mixed Use Zone and considered for inclusion in one of the Industrial Zones. This change reflects the proposed shift in policy direction for the Business Mixed Use Zone, as well as acknowledging that the established activities in the Industrial Place area are generally more industrial in nature. • There is considered to be sufficient scope and capacity within the Industrial Zones to accommodate the landuses presently enabled by the operative Business Zone that would be excluded from the Business Mixed Use Zone. These landuses are compatible with the purpose of the operative Industrial Zone (which is set down for review in Stage 2 of the District Plan Review). • Provides support to the town centres, without compromising their vitality and viability.

<i>Proposed provisions</i>	<i>Costs</i>	<i>Benefits</i>
<p>Policies: 16.2.1.2 16.2.1.3 to 16.2.1.7 (incl.)</p> <p>Rules: 16.4.7 to 16.4.14 (incl.) 16.5.2 16.5.3 16.5.5 16.5.6 16.5.8 16.5.9</p>	<ul style="list-style-type: none"> • Additional costs on applicants for mitigation of adverse effects received by adjoining properties. • Costs associated with complying with the specified limits, such as acoustic treatments, or screening for sites adjoining residential properties. 	<ul style="list-style-type: none"> • Due to the wide range of activities enabled by the Plan, the proposed controls seek to limit the impact of business activities on residential properties both within the zone and on adjoining properties. • Prohibiting completely inappropriate activities (such as factory farming, mining, forestry and airports) ensures such activities will not occur, but also reflects the activity-based approach where any activity not expressly stated defaults to a permitted activity (subject to standards). It ensures that consent for such activities will not be applied for, which provides a high degree of certainty and efficiency. As no application can be made it is unnecessary to include objectives and policies addressing these activities, which further contributes to the efficiency of the proposed provisions. • Ensures that the effects of reverse sensitivity are adequately managed through acoustic insulation and the avoidance of noxious, offensive, or undesirable activities in the zone.

8. Efficiency and effectiveness of the provisions.

The above provisions are drafted to specifically address the resource management issues identified with the current provisions, and to enhance those provisions that already function well. A number of areas of the existing chapter have been removed to aid the readability of the Plan. Additionally, the proposed shift of the role of the zone towards encouraging mixed use development acknowledges the strategic locations of these areas within close proximity to town centres. The proposed provisions seek to provide greater clarity regarding the distinctions between the Business Mixed Use Zone and the Industrial Zones, which further clarifies the zone's purpose.

The provisions give effect to the proposed objectives by enabling mixed use development with appropriate controls to achieve a high standard of development that positively contributes the desired levels of amenity for the zone, whilst limiting impact on nearby residential properties. The provisions give effect to several of the objectives set out in the proposed Strategic Directions chapter, in particular by making positive contributions to addressing issues related to housing diversity and supply, strengthening the role of urban centres by consolidating existing development, creating opportunities for diversification of the District's economy by enabling a range of commercial activities, and encouraging compact, well designed and integrated urban form.

By simplifying the objectives, policies and rules (the provisions), the subject matter becomes easier to understand for users of the Plan both as applicant and processing planner. Removal of technical or confusing wording also encourages correct use. With easier understanding, the provisions create a more efficient consent process.

9. The risk of not acting.

The changes proposed here-in seek to address the known resource management issues for the Business Mixed Use Zone, and Council's vision for the future of this zone and the district as a whole. The changes also reflect the current changing nature of the RMA with its drive to simplify and streamline. Not taking the more compact approach to this section and others, will not advance the usefulness of the District Plan in pursuit of its function in the sustainable management of natural and physical resources.

Some of the risks associated with not reviewing the operative Business Zone and proposing amended provisions are that:

- The opportunity to formalize the zone as a mixed use zone, that has clearly defined functions that set it apart from the Industrial zones will be missed;
- Not requiring a higher standard of building design will not achieve high quality development that is attractive for people to work and live in;
- The opportunity to intensify development and enable increased capacity within the zone will be missed;
- Not enabling mixed use development would not make a positive contribution to addressing the issue of housing supply, with appropriate limits to address issues that occur in mixed use environments, such as noise;
- Not requiring consideration of natural hazards (particularly in the Gorge Rd area) would not provide certainty that the known hazards are being appropriately considered and addressed.

The level of certainty and information available to the Council is considered sufficient for it to make a reasonable decision.

References

Review of District Plan Business Zones Capacity and Development of Zoning Hierarchy undertaken by McDermott Miller Strategies Limited & Allan Planning & Research (November 2013) [Link](#)

Peer Review of the McDermott Miller report prepared by McDermott Consultants Ltd (January 2014) [Link](#)

Growth projections undertaken by Rationale (2014) [Link](#)