

BEFORE THE ENVIRONMENT COURT

ENV- 2015-

Under the Resource Management Act 1991

IN THE MATTER of an appeal pursuant to
Clause 14(1) of the Schedule 1
to the Resource Management
Act 1991

BETWEEN **BRECON STREET
PARTNERSHIP LIMITED**

Appellant

AND **QUEENSTOWN LAKES
DISTRICT COUNCIL**

Respondent

**NOTICE OF APPEAL TO PLAN CHANGE 50
TO QUEENSTOWN LAKES DISTRICT COUNCIL PLAN**

19 August 2015

Counsel Acting:

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TO: The Registrar
Environment Court
PO Box 2069
Christchurch

1. **Brecon Street Partnership Limited** (the appellant) appeals against part of a decision of Queenstown Lakes District Council on Plan Change 50.
2. The appellant made a submission on that plan change.
3. The appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. The appellant is directly affected by an effect of the subject of the appeal that:
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.
5. The appellant received notice of the decision on 8 July 2015.
6. The decision was made by Queenstown Lakes District Council.
7. The part of the decision that is appealed is the lack of provision for, as restricted discretionary activity or otherwise, buildings above 15.5 metres at 34 Brecon Street.
8. The reasons for the appeal are as follows:
 - (a) Providing in the Plan for buildings above 15.5 metres would better promote the sustainable management of objectives of the RMA.

- (b) Council's hearing commissioners determined at paragraph 9.7.48 of their decision that:


"The Commission considers that, on balance, a development higher than 15.5 metres on 34 Brecon Street may be acceptable; however, to ensure that any effects on visual amenity and landscape are appropriately mitigated, any building with a proposed height over 15.5 metres should be assessed on its merits as a Restricted Discretionary Activity."

9. The following relief is sought:

- (a) The inclusion of a rule within PC50 to provide for buildings over 15.5 metres at 34 Brecon Street as restricted discretionary activities.
- (b) Such further, other, or consequential changes to PC50 as may be required to give effect to the primary relief sought.
- (c) Costs.

10. The following documents are attached to this notice:

- (a) A copy of the appellant's submission.
- (b) A copy of the relevant part of the decision.
- (c) A list of names and addresses of persons to be served with a copy of this notice.



R E Bartlett QC

Counsel for Brecon Street Partnership Ltd

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Advice to recipients of copy of notice of appeal***How to become party to proceedings***

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

(A)

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QUEENSTOWN
LAKES DISTRICT
COUNCIL

FORM 5: SUBMISSION ON A PUBLICLY NOTIFIED PLAN CHANGE

Clause 6 of First Schedule, Resource Management Act 1991 – as amended 30 August 2010

TO // Queenstown Lakes District Council

YOUR DETAILS // Our preferred methods of corresponding with you are by **email** and **phone**

Name: Brecon Street Partnership Ltd

Phone Numbers: Work 093075827 Home _____ Mobile _____

Email Address: bartlett@sharlandchambers.co.nz

Postal Address: PO Box 4338 Post Code: 1140
Auckland

PLAN CHANGE to which this submission relates to:

Proposed Plan Change 50 - Queenstown Town Centre Zone Extension

I COULD NOT gain an advantage in trade competition through this submission.

*I ~~** directly affected by an effect of the subject matter of the submission:~~
~~(a) adversely affects the environment; and~~
~~(b) does not relate to trade competition or the effects of trade competition.~~

* Delete entire paragraph if you could not gain an advantage in trade competition through this submission.
** Select one.

SPECIFIC PROVISIONS of the proposal that my submission relates to are:

The entirety of the proposed plan change as it applies to the Lake View sub-zone, including but not limited to the land at 34 Brecon Street and:

Figure 2 - Lakeview sub-zone structure plan; Figure 3 - Lakeview sub zone height limit plan
Clause 10.10.2; Clause 10.6.5.1(xiv)(a)(d); Clause 10.6.5.1(xiv); Clause 10.6.5.1(xiii); Clause
10.6.5.1(xi)(f); Clause 10.6.5.1(xi)(d); Clause 10.6.5.1(i)(d); 10.6.4; 10.6.3.3.



QUEENSTOWN
LAKES DISTRICT
COUNCIL

Queenstown Lakes District Council
Private Bag 50072, Queenstown 9348
Gorge Road, Queenstown 9300

P: 441 0499
E: pcsubmission@qldc.govt.nz
www.qldc.govt.nz

My submission is: (include whether you support or oppose the specific provisions or wish to have them amended; and the reasons for your views)

Refer to attached letter.

I seek the following from the local authority (give precise details)

Refer to attached letter.

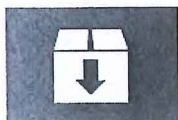
I DO wish to be heard in support of my submission.


I WILL NOT ~~not~~ consider presenting a joint case with others presenting similar submissions.

Signature – (to be signed for or on behalf of submitter) **

Date

*** if this form is being completed on-line you may not be able, or required, to sign this form*



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Submission Point 1:

Relevant Provision(s): Entire Plan Change

Submission:

- (1) PPC50 is **supported in part** as it is broadly appropriate to provide for the continued strategic development of Queenstown as the centre of the District into the future by way of appropriate intensification on land that is:
- well connected and, in particular, conveniently walkable to the existing centre's core at the lakefront, but
 - also sufficiently set back from that core area that it can accommodate greater development height and intensity without significantly impacting on that successful and intimate character area.

The above growth management challenge is the most critical resource management issue facing Queenstown and the ongoing social and economic wellbeing of its community.

PPC50 is, in places, unjustifiably conservative and does not reflect a successful balancing of the need to maximise the potential efficiency of land that meets the narrow circumstances described above with the perceived adverse effects of "change" generally.

Specifically, there are no sound resource management, environmental effects, effectiveness or efficiency, urban design or town planning grounds to promote building heights of up to 26m in height within that part of the Lakeview sub-zone that relates the most poorly to the existing town centre "core", while suppressing the potential of that part of the sub-zone that is closest to the existing "core" to accommodate buildings to a similar or even greater height. In that "closest" area of plan change land, the benefits and convenience of agglomeration, walkability, and proximity will be the greatest and these should be maximised as a key means of enabling wellbeing. This is a well established principle of the Council in terms of its adopted growth and development strategies.

The site at 34 Brecon Street is included in the proposed Lakeview sub-zone but the 12m maximum height proposed is neither effective nor efficient, and is anomalous in light of the building heights promoted by the Council as acceptable on its own less-well located land in this environment.

Relief sought:

- (A) **Amend the Plan Change including relevant provisions and diagrams to allow building heights up to seven habitable storeys on the site at 34 Brecon Street, and any such similar increase in maximum building heights between that site and the proposed sub-zone "peak" of 26m as is appropriate to maximise the long term capacity for growth in the sub-zone, and incorporate complementary bulk and location requirements so as to maintain suitable amenity on adjacent sites.**

- (B) **Amend the Plan Change including relevant provisions and diagrams to allow a superior urban design outcome relating to the placement of Cemetery Road in the eastern part of the structure plan to eventuate as a permitted activity, should such improvements be agreeable between the relevant land owners and the Council at the time of development.**
- (C) **Any further or other consequential amendments to the Plan necessary to achieve (A) and (B) above.**

Notwithstanding the above overall submission, and focussing solely on the site at 34 Brecon Street, the following additional submission points are made to indicate in detail one example of how this overall relief could be satisfactorily given effect to.

Submission Point 2:

Relevant Provision(s): Figure 2: Lakeview sub-zone Structure Plan; 10.6.5.1(xiii); 10.6.5.1(xiv)

Submission:

(2) The above provisions are **supported in part** as, once corrected in consequence of this submission, they will form an important means of managing the structure plan's implementation. Cemetery Road currently follows a dog-leg shape from the intersection of Brecon and Isle Streets upwards to the proposed Hay Street extension. It would be a superior and more logical outcome for the sub-zone's orderly and legible development if, through a land-swap process, Cemetery Road was able to follow a direct and straight route from the proposed Hay Street extension along the northern edge of the sub-zone and adjoining the cemetery boundary. As proposed the Plan Change would not allow this to occur, nor any logical change to the active frontage requirements that would arise from rationalising the block's frontage to Isle Street where in addition to the Brecon St frontage a requirement for activation would be desirable.

Relief sought:

- (D) **Amend the Structure Plan to indicate the most appropriate long term urban structure and built form outcomes in the zone, and/or amend clauses 10.6.5.1(xiii) and 10.6.5.1(xiv) to allow these to happen as permitted activities.**

Submission Point 3:

Relevant Provision(s): Figure 2: Lakeview sub-zone Structure Plan; Figure 3: Lakeview sub-zone Height Limit Plan; 10.6.3.3; 10.6.4; 10.6.5.1(i)(d); 10.6.5.1(xi)(d); 10.6.5.1(xi)(f); 10.10.2.

Submission:

(3) The above provisions are **supported in part** as, once corrected in consequence of this submission, they will form an important means of managing the structure plan's implementation. The site at 34 Brecon Street is a key site in the

Lakeview sub-zone that bookends the intersection of the sub-zone with the axis connecting the gondola and the town centre “core”. It also forms part of a logical tiering of development upwards and away from the lakefront well within the silhouette and backdrop of Bobs Peak, part of the Ben Lomond Scenic Reserve, whereby successive building height increases can be progressively screened by the block in front of it, and also allow upper level views to the lake (the site would in this respect be screened by the proposed Isle St sub-zone). This is an ideal means of maximising the density of people in and within close proximity to the “core” while also retaining that area’s well established and successful built character.

34 Brecon Street is within a convenient and direct walk of the “core” and is overall an ideal candidate for substantial, high quality town centre-supportive intensification. It is by any established measure of allocating development intensity in a compact urban centres model (as preferred by the Council) one of the most appropriate sites in the Lakeview sub-zone for that purpose.

The Council’s reasoning for limiting development potential on such a logical site is based on speculative and in places untested principles. Those have been given an inappropriately overinflated significance in the Council’s analysis in light of the clear resource management need to give Queenstown the maximum long term opportunities for sustainable expansion. Subject to appropriate development controls, greater building height could be enabled at 34 Brecon Street while maintaining a suitable level of amenity on adjacent sites and wider Queenstown.

Therefore the proposed plan change does not reflect the most appropriate contribution 34 Brecon Street can make to Queenstown’s sustainable growth. An increase in building height would be appropriate in conjunction with complementary requirements relating to the relationship between the site and the neighbouring cemetery, the expression of bulk and building volume, and potentially the ability to use roof forms to also accommodate habitable space.

Relief sought:

- (E) Amend the height limit plan to provide for buildings at 34 Brecon St up to 19m as a controlled activity, and amend 10.6.3.3, 10.6.4, and/or 10.6.5.1(xi)(d) so as to provide, as a non notified restricted discretionary activity, buildings up to 24m height. Discretion would be restricted to the relevant matters for the Lakeview sub-zone set out in 10.2.2, and ensuring the additional building height is designed to be visually recessive and add visual interest to the remainder of the building. An alternative to this could be to set the restricted discretionary height limit at 22.5m provided that 10.6.5.1(xi)(f) was also amended so as to allow habitable space inside the 2m roof bonus, and in consequence specify that roof plant may exceed this provided that it is no greater than an additional 3m in height, is no greater than 40m² in area, and is located at least 10m from any road boundary.**
- (F) Amend Clause 10.6.5.1(i)(d) so that any building height greater than 19m at 34 Brecon St must comply with a maximum building coverage of 70%.**
- (G) Amend the Structure Plan and Height Limit Plan to add a building setback of 17m from the existing southern boundary of the cemetery,**

applying to all building height above 15m (note: in the event that Cemetery Road was realigned in accordance with other submission points, all buildings would need to be clear of that road from the ground and no further setback would be required unless the road was narrower than 17m).

- (H) Amend Clause 10.6.5.1(xiv)(a)(d) to specify a minimum 3.5m ground floor floor-to-ceiling height limit so as to remove the uncertainty that exists around interfloor and service height in a floor-to-floor requirement, and ensure the most efficient possible use of space.

I wish to speak to the above submission, and would not be willing to combine my presentation with other submitters.

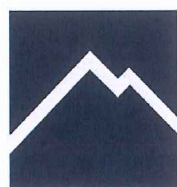


R E Bartlett QC
Counsel for Brecon Partnership Ltd

9 October 2014

(B)

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**QUEENSTOWN
LAKES DISTRICT
COUNCIL**

QUEENSTOWN LAKES DISTRICT COUNCIL COMMISSION TO CONSIDER PLAN

CHANGE 50

**Commissioner Sir John Hansen (Chair)
Commissioner Jane Taylor**

REPORT & RECOMMENDATIONS OF INDEPENDENT COMMISSIONERS PLAN CHANGE

50: QUEENSTOWN TOWN CENTRE EXTENSION

DATED: 16 JUNE 2015

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34 Brecon Street

- 9.7.24 The Commission was addressed at some length on the landscape and visual amenity values raised by BSPL in relation to 34 Brecon Street, noting that this involved extensive evidence produced by both Council and BSPL. The evidence was primarily focussed on the appropriateness of the proposed increase in the height limits sought by BSPL and the corresponding impact on the adjoining ONL(WB), wider public views of the plan change and impacts on the adjoining Queenstown cemetery.
- 9.7.25 BSPL(50/10) is the owner of 34 Brecon Street. While BSPL supports, in part, Plan Change 50, it sought an increased height limit for its property located at 34 Brecon Street, as set out previously. BSPL argued that the part of the sub-zone that is closest to the existing 'core' should provide for similar or greater height than that proposed for the remainder of the Lakeview sub-zone. The Commission notes that BSPL produced extensive planning and urban design evidence in support of its submission and further submissions.
- 9.7.26 Mr Gibbs considered that while the western end of the Lakeview sub-zone may be a suitable location for a convention centre and associated activities, it would fall to the eastern end of the Lakeview and Isle Street sub-zones to effectively meet the need for expansion of the town centre.¹⁹³ He considered that Plan Change 50 is inappropriately restrictive in relation to the development controls that are intended to be applied to the eastern end of the Lakeview sub-zone and the Isle Street sub-zone. As a consequence, in his view the efficient utilisation of the site would be hampered.¹⁹⁴ Mr Gibbs considered that the plan change does not provide a cogent argument as to why buildings with a maximum height of 26 metres are permitted at the north-western end of the Lakeview site but a restriction of 12 metres is mandated at the eastern end, where there are superior connections to the existing QTCZ. Mr Gibbs' evidence was supported by Mr Munro.
- 9.7.27 Mr Munro presented an overview of the proposed rule framework supporting BSPL's submission. In summary, this provided for buildings of up to 15 metres in height at the cemetery boundary, additional height up to 19 metres as a Controlled Activity, with a further increase to 22.5 metres as a Restricted Discretionary Activity. Each scenario also included an additional 2 metres of height as habitable roof space, supported with roof plant that was proposed to exceed this maximum height by up to 3 metres, provided the plant was no more than 40m² area and at least 10 metres back from any road boundary.¹⁹⁵ Any height over 15 metres would be required to be set back from the cemetery by 17 metres, or by a realignment of Cemetery Road.¹⁹⁶
- 9.7.28 In addressing the proposed rule framework, the Commission notes that BSPL (50/10/07) sought an amendment to the Lakeview sub-zone Structure Plan to provide for the realignment of part of Cemetery Road. While this is a matter supported by Mr Bird and Dr Read, as discussed by Mr Bryce in the Section 42A report,¹⁹⁷ the stopping of Cemetery Road does not form part of this plan change process. Mr Gibbs was highly critical that the plan change did not address the realignment of Cemetery Road in view of the strong support from its advisors. He considered it "iniquitous" of Council not to have provided for the potential realignment within the Urban Design Framework and Structure Plan.¹⁹⁸ Noting this

¹⁹³ Refer paragraph 5(d) of Mr Gibbs' primary evidence.

¹⁹⁴ Refer paragraph 5(b) of Mr Gibbs' primary evidence.

¹⁹⁵ Mr Munro at paragraph 5.1(c) of his primary evidence, notes that this roof plant bonus have been taken from Plan Change 50, Rule 10.6.5.2(i)(a)).

¹⁹⁶ At paragraph 6.31 of Mr Munro's primary evidence.

¹⁹⁷ At page 71 of the Section 42A report.

¹⁹⁸ At paragraph 16 of Mr Gibbs' primary evidence.

concern, Mr Kyle recommended an amendment to Rule 10.6.5.1(xiii) to provide an exclusion from the requirement to obtain resource consent for any future proposal to realign Cemetery Road along the northern boundary of the sub-zone to link it to Brecon Street. While this does not immediately provide for the setback mitigation sought by BSPL, any future re-alignment of Cemetery Road can be given effect to without constituting a breach of the Site Standard that applies to the Lakeview sub-zone Structure Plan.

- 9.7.29 The amendment of the Lakeview Structure Plan and Height Limit Plan to add a building setback of 17 metres from the existing southern boundary of the cemetery, which is to apply to all buildings with heights above 15 metres, was discussed by Mr Gibbs (refer Figure 4, and Appendix B). Mr Gibbs considered that this control would ensure that development of 34 Brecon St would not dominate the cemetery, irrespective of whether or not Cemetery Road is relocated.¹⁹⁹ The Commission notes, for completeness, that Mr Bird disagreed with Mr Gibb's evidence as, in his opinion, a 24 metre high building would generally be viewed from the higher ground of the cemetery. Accordingly, a 24 metre building (even with a 17 metre set-back for buildings above 15 metres in height) would be highly visible from the cemetery. Mr Bird considered that only as a viewer approached the shared boundary would the 15 metre high component begin to eclipse the additional 9 metres of building height because of the increasingly steep angle of view.

Loss of Visual Amenity and Landscape Values associated with 34 Brecon Street

- 9.7.30 The Commission heard extensive evidence from Mr Bird and Dr Read in relation to landscape, visual amenity and associated urban design considerations in relation to the proposals advanced by BPSL. Both witnesses raised concern about the extent of the proposed height limit and its corresponding impact on the adjoining Queenstown cemetery, together with the potential loss of outlook to wider landscapes from this public space.
- 9.7.31 Dr Read and Mr Bird both relied on the Height Limit Study to draw attention to the sensitivity of the eastern end of the Lakeview sub-zone from both a landscape and urban design point of view. The Height Study observed that the Brecon Street area *"has less potential to absorb significant building height increases than the adjacent Lakeview Park area, as it is separated from the steeply sloping land of Ben Lomond by the cemetery open space. Buildings over three or four storeys could have significant adverse effects on landscape and heritage values, by:*
- (a) *Dominating and shadowing the cemetery and potentially blocking views from this important public space to the Remarkables, Cecil Peak, Queenstown Hill and the town;*
 - (b) *Visually dominating views for Queenstown Recreation grounds, Queenstown Primary School playing fields and parts of the town centre;*
 - (c) *Potentially obscuring vistas up Brecon Street and Camp Street to the gondola and Ben Lomond.*"²⁰⁰
- 9.7.32 In addressing issues raised during the hearing, including shading effects, the Planning and Urban Design JWS recorded the agreement of the experts present that the proposed scale of development sought by BSPL would not result in adverse shading effects on adjoining properties (including the Council camping ground). Mr Bird and Mr Weir noted that the trees that are to be retained and protected as part of the plan change eclipse some of the shading effects that would be created by a 24 metre high building on the shortest day of the year (10am on 21st June). They considered that, in the absence of any other factors, the difference in shading

¹⁹⁹ At paragraph 24 of Mr Gibbs' primary evidence.

²⁰⁰ At page 16 of the Queenstown Height Study Landscape and Urban Design Assessment (attached as Appendix B to the AEE).

effects between a 12 metre and 24 metre high building would not comprise sufficient reason to limit the height of any building on 34 Brecon Street to less than 24 metres.²⁰¹ As a consequence, the Commission accepts that the 24 metre height limit proposed by BPSL would not generate detrimental shading effects on adjoining properties, including the Queenstown cemetery.

- 9.7.33 Notwithstanding their agreement in relation to the effects of shading, Mr Bird and Mr Weir continued to oppose a 24 metre height limit for 34 Brecon Street at the conferencing, on the grounds set out in their primary and supplementary evidence. On the contrary, Mr Gibbs and Mr Munro were of the opinion that a 24 metre building height limit is appropriate for 34 Brecon Street. The Planning and Urban Design JWS recorded that no agreement was reached with respect to the effects of an increase in the height limit of any building on 34 Brecon Street in relation to the cemetery, the effects on views and dominance from viewpoints other than from the cemetery, and the sustainable use of the Brecon Street site.
- 9.7.34 Addressing the effects on the adjoining Queenstown cemetery, Mr Bird endeavoured to compare the effects of a 12 metre building (as provided by Plan Change 50) to the BSPL preferred 24 metre high building on the cemetery. His supplementary evidence included Figure 1, which provided photomontages of buildings at the two height limits. Mr Bird concluded that the 12 metre high building sits comfortably alongside the cemetery, whereas the 24 metre high building (which is twice the height) begins to take visually dominant command of the cemetery.
- 9.7.35 Mr Bird's supplementary evidence included Figure 17 (taken from Mr Gibbs' Appendix B), which provided a photomontage comparing the two height limits. Mr Bird considered that a 12 metre high building would enable the large scale and grandeur of the Remarkables mountain range (on the left) and Cecil Peak (on the right) to remain fully legible and to comprise the predominant natural elements in the overall scene. He was of the opinion that by appearing to be taller than the Remarkables mountain range and obscuring much of its view, a 24 metre high building would visually distort and diminish its apparent scale and grandeur.
- 9.7.36 In terms of broader views of the plan change site, including 34 Brecon Street, one of the key issues raised by BSPL and Council witnesses was the difference of opinion in relation to the importance placed on building scale reflecting underlying topography. Both Council urban design and landscape architect witnesses reinforced the importance of ensuring that built form follows the existing topography of the plan change area. At 12 metres, Dr Read considered that the proposal complies with the Height Limit Study recommendation that the increase in building height within the area proposed for the plan change be limited to "one story higher than those most proximate". She considered that this would ensure that built form within the plan change area would not dominate or overshadow the neighbouring areas. A height limit of 12 metres would also help to ensure that the underlying topography remains expressed through the built form.²⁰²
- 9.7.37 Mr Bird, in his supplementary evidence, was of the opinion that the Height Limit Plan would enable a visually legible gentle slope from the tallest buildings located to the west of the Lakeview sub-zone, to the lower buildings in the east where the Lakeview and Isle Street sub-zones merge with the low lying Gorge Road valley. He concluded that the plan change achieves a synchronicity between the sloping topography of the natural landform underlying the two sub-zones and the built form constructed on top of it.²⁰³
- 9.7.38 Mr Gibbs and Mr Munro considered the key driver to be the proximity of the land to

²⁰¹ Refer Item 4 - 34 Brecon Street paragraph (viii) of the Planning and Urban Design JWS dated 12th February 2015.

²⁰² At paragraph 6.1 of Dr Read's evidence.

²⁰³ At paragraph 50 of Mr Bird's primary evidence.

the existing QTC and the ability for the site to be utilised in a more efficient manner. Mr Gibbs concluded that the conditions that enable larger scale development on the Lakeview site are also found on 34 Brecon Street. In his opinion, the most effective way to preserve townscape values is to support the town by intensifying close to the its “heart” so that businesses benefit from the agglomeration effect.²⁰⁴

- 9.7.39 The supplementary evidence of Mr Bird provided three additional photomontages.²⁰⁵ We found these particularly helpful, given that they assist to articulate the potential visual dominance of a 24 metre high structure from wider public places.
- 9.7.40 Addressing views from wider public places, Mr Munro’s supplementary evidence confirmed that he remains of the view that Mr Gibbs’ primary evidence is more reliable than Mr Bird’s for the reasons given in his primary evidence. Other than Mr Munro’s comments with respect to his reliance of Mr Gibbs’s primary evidence, the Commission notes that BSPL provided a further response justifying the appropriateness of a 24 metre high development following receipt of the additional photomontages supplied by Mr Bird in his supplementary evidence (Figures 13, 14 and 15).
- 9.7.41 Dr Read considered that it is in views from the Queenstown foreshore and the Botanic Gardens that the greatest impact on view and view quality will occur as a consequence of the plan change. While Dr Read did not have the benefit of reviewing the additional photomontages attached to Mr Bird’s supplementary evidence, her primary evidence concluded that, in her opinion, buildings of 24 metres in height would be excessively dominant both over the cemetery and in the wider context of urban development at the foot of Bowen Peak.
- 9.7.42 The Commission questioned Dr Read on the scale of development proposed by BPSL for the 34 Brecon Street site. Dr Read stated that she considered development of the scale requested to be inappropriate, as it would visually dominate the cemetery. She noted that the 34 Brecon Street site does not have the backdrop that the south-western end of the Lakeview sub-zone has (where the plan change proposes to allow a height limit of 24 metres), which is nestled at the base of the mountain range. Dr Read concluded that the effect on views from the cemetery would potentially be significant should a building of 24 metres in height be developed on 34 Brecon Street.²⁰⁶
- 9.7.43 Addressing the context of views from public places, Dr Read stated that a 24 metre high building on 34 Brecon Street, when viewed from Shotover Street, would be very prominent. She considered that the building would appear almost a third as high from this perspective [her Appendix 3] as the skyline, and would significantly detract from the visual amenity of the mountain slope behind it. In her opinion it would appear as a very strong dominating structure when viewed from the QTC.
- 9.7.44 Overall, the Commission accepts the evidence of Mr Bird and Dr Read that a full 24 metre high development on 34 Brecon Street site may potentially be visually dominant from wider public places and from the adjoining cemetery. There is a risk that a development of this scale would create an abrupt and visually truncated “eastern end” to the enabled development silhouette/profile of the Lakeview and Isle Street sub-zones against the backdrop of the Ben Lomond Scenic Reserve, as noted by Dr Bird.²⁰⁷ Such an outcome is evident in Figure 13 attached to Mr Bird’s supplementary evidence.

²⁰⁴ At paragraph 18 of Mr Gibbs’ primary evidence.

²⁰⁵ One from original Viewpoint 6 on the waterfront edge of Queenstown Bay, one from Viewpoint 8, approximately mid-way along the footpath on the lakeside edge of Queenstown Gardens and one from Viewpoint 2, at the far western end of the footpath following the lakeside edge of Queenstown Gardens.

²⁰⁶ At paragraph 7.2 of Dr Read’s evidence.

²⁰⁷ At paragraph 50 of Mr Bird’s primary evidence.

- 9.7.45 In his closing legal submissions, Mr Bartlett QC submitted that the visual analysis provided by BSPL establishes that the site is capable of absorbing buildings significantly higher than the 12 metres permitted as a Controlled Activity by the plan change. Having considered the evidence of Mr Bird, Dr Read, Mr Munro, Mr Weir and Mr Gibbs and adopting a balanced approach, which factors in visual amenity, landscape and the efficient use of a scarce resource (commercial land), we have concluded that while a 24 metre high building would *prima facie* be inappropriate, a building in excess of 12 metres in height may well be acceptable on this site. However, we have concluded that the extent of the additional building height permitted as a Controlled Activity should be limited to 15.5 metres (with the addition of a 2 metre roof bonus comprising no more than 40m² in area, and located a minimum distance of 17 metres from the adjoining Queenstown cemetery boundary and 10 metres from adjoining road boundaries)²⁰⁸. As we have previously determined in relation to the eastern block of the Isle Street sub-zone, from a landscape and visual amenity perspective the Commission is not persuaded that there is a significant difference in built form when comparing a 12 metre (plus 2 metre roof bonus) building to a 15.5 metre high building on this relatively large site. Supporting this point, we note that Appendix B to Mr Gibbs' evidence proposed a 15 metre height limit (beyond which a 17 metre setback would be required). We accept that a building height of 15.5 metres would impact only minimally on wider outlooks to the Remarkables mountain range when viewed from the adjoining cemetery. Further, and importantly, this scale of development will remain generally consistent with the scale of buildings permitted on the Isle Street east sub-zone and the wider Lakeview sub-zone in this locality.
- 9.7.46 In addressing Figures 13 and 14 attached to Mr Bird's supplementary evidence, the Commission is not persuaded that there would be a significant difference in effects from allowing a building height of 15.5 metres (plus a constrained 2 metre roof bonus) on the 34 Brecon Street site. Views from the wider public places depicted in the Figures would not, in the Commission's opinion, detract from the landscape and visual amenity values of Ben Lomond Scenic Reserve to the north any more than the heights permitted by Plan Change 50 for the remaining areas of the Lakeview sub-zone.
- 9.7.47 The alternative 15.5 metre height limit preferred by the Commission for 34 Brecon Street would enable an additional storey (or up to four storeys) for a future development on this site, while ensuring that the scale of development appropriately responds to the proximity of the adjoining Queenstown Cemetery. The Commission also notes, for completeness, that at four storeys, any development would accord with the three to four storey height limit discussed in the Council's Height Limit Study.
- 9.7.48 The Commission considers that, on balance, a development higher than 15.5 metres on 34 Brecon Street may be acceptable; however, to ensure that any effects on visual amenity and landscape are appropriately mitigated, any building with a proposed height over 15.5 metres should be assessed on its merits as a Restricted Discretionary Activity. This is consistent with the evidence of Mr Kyle, who was of the opinion that higher buildings would be more appropriately advanced through a resource consent process, where issues such as design quality, physical setbacks, and the ability to provide for visual breaks within the development to maintain views to wider landscapes can be considered in more detail. We are cognisant that in supporting a 15.5 metre height limit (including a 2 metre roof bonus provision comprising no more than 40m² in area), roof plant will need to be carefully designed. This is a matter that was specifically addressed by BSPL (submission 50/10/05).

²⁰⁸ We understand that Mr Munro, at paragraph 5.1(c) of his primary evidence, has adopted the roof plant bonus sought within the relief of BSPL from the Plan Change 50 provisions attached as Appendix C to Mr Kyle's primary evidence and set out in Rule 10.6.5.2(i)(a)). The only difference to the wording of the rule now proposed is the 17 metre setback applied off the adjoining Queenstown cemetery boundary.

Commission's Recommendations

1. That the submissions by Brecon Street Partnership Limited (50/10/07 and 50/10/05) and the further submission by Queenstown Gold Limited (F50/38/01) be **accepted in part**.
2. That the submissions by Brecon Street Partnership Limited (50/10/02, 50/10/03 and 50/10/06) be **rejected**.
3. That the submissions by Memorial Property Limited (50/39/05), Joy Veint (50/43/02), Janet Sarginson (50/45/03), Remarkables Jet Limited (50/49/06), Cath Gilmour (50/48/11) be **rejected**.

9.8 EFFECTS ON INFRASTRUCTURE

The Issues and Decisions Requested

9.8.1 Four original submissions raised issues of relevance to infrastructure effects, including.²⁰⁹

- A moratorium should be placed on new high rise buildings in Queenstown, due to infrastructure, traffic management and other costs;
- Council needs to adopt a lead role in dealing with planning, and the provision of infrastructure servicing solutions in terms of the Isle Street sub-zone;
- Stormwater requires treatment prior to discharging it into the lake. Stormwater is also occasionally inadequate in the Isle Street area; and
- Sewerage pipes in the Isle Street area occasionally become blocked and may need to be upgraded.

Discussion & Reasons

9.8.2 The Section 42A report provided a comprehensive overview of the infrastructure issues raised by the plan change.²¹⁰ Mr Bryce noted that Holmes Consulting Group carried out an assessment of infrastructure services to the Lakeview site to inform the plan change.²¹¹ This assessment included the Lakeview sub-zone, Isle Street sub-zone and 34 Brecon Street - the latter added following consultation. No significant impediments were identified in this report; however, existing capacity issues in relation to various components of infrastructure means that upgrades will be required to address the anticipated level of development under Plan Change 50.

9.8.3 Ms Jarvis, for the Council, presented evidence in relation to the infrastructural upgrades required to give effect to the plan change. She maintained that land subject to the plan change is well served by water and wastewater infrastructure; however, some minor upgrading to the servicing infrastructure would be required as the Lakeview sub-zone site is developed (and possibly the Isle Street sub-zone). In particular, updating of the stormwater pipe network will be required to accommodate additional stormwater discharges resulting from an expected decrease in permeable surfaces.

9.8.4 Mr Kyle concluded that, in his opinion, the plan change would make efficient use of

²⁰⁹ 50/05/04, 50/26/04 and 50/28/04, 50/48/07.

²¹⁰ At pages 63 to 65 of the Section 42A report.

²¹¹ Attached as Appendix D to the AEE.

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