

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER OF Plan Change 50 to the Queenstown Lakes District
Plan

**LEGAL SUBMISSIONS ON BEHALF OF
MEMORIAL PROPERTIES LTD**

20 February 2015

PLAN CHANGE 50 : SUBMISSIONS TO COMMISSIONERS

Introduction

- 1.1 Over the past few months QLDC advisors have provided an object lesson in how not to plan for the future of the Queenstown town centre.
- 1.2 Given the long term importance of getting such fundamental questions right (or as error free as possible given it is an unpredictable future) what should have been orderly and considered can only be described as a million dollar debacle.

The genesis of PC50

- 2.1 The above state of affairs is not surprising given that the real genesis of PC50 was not (as might be hoped) the considered result of well informed consultants independently and objectively assessing relevant rationales and options for the future town centre growth. Instead, the basic origin of PC50 appears to have been a real estate/economic consultant's (2013) report recommending to QLDC how best to secure a financial gain from rezoning Council land using the promise of a future Convention Centre as an investment incentive or catalyst.
- 2.2 The plethora of untested (so far) expert reports and evidence which followed in the wake of the recommendation, do not appear to be primarily intended to objectively evaluate growth options but rather to vindicate or support a pre-determined outcome – naively embraced by the commercial arm of QLDC.
- 2.3 For this cavalier planning strategy to work it had to be done in such haste that other interested parties would struggle to keep up with the flow of expert reports, documentation and evidence.

The 50 year horizon

- 3.1 As a result, what should have been a relatively straightforward planning exercise (providing a flexible zone for a future Convention Centre and associated accommodation and commercial activities) became a convoluted and confused mix of purposes and aspirations – with surprised or bemused property owners understandably scrambling not to miss out on inclusion in the new town centre zone.
- 3.2 The final absurdity in this scenario is the conceit of QLDC advisors claiming to be sagely looking ahead 50 or more years – whereas those opposing, or baffled by, enlightened views are simply short term thinkers or commercial competitors of the grand vision.

- 3.3 Plan Review processes are required by law every 10 years partly because it is inherently difficult to credibly plan much beyond such time horizons – except for fundamental infrastructure items such as transport. This point could not be better demonstrated by the fact that QLDC has not presented any traffic modelling beyond 2026. We simply do not have the information to plan to such timeframes.

Salvaging PC50

- 4.1 Given the significant costs already incurred by the QLDC (not to mention the costs incurred by other parties to the proceedings), the practical question is what can be salvaged from the shambles. Rather than incurring further substantial costs by subjecting QLDC advisers and experts to the discipline of cross examination on appeal, it would seem more constructive to find a reasonable and defensible solution now.
- 4.2 Caucusing appears to have been helpful in experts gaining a better understanding of the respective position of parties and crystallising some issues. However, the caucus statements show that little agreement emerges on two key matters:
- (a) What is the overall RMA rationale for such a significant expansion of the town centre zoning in the direction chosen? Where is the proper S32 analysis to credibly support such a major increase of commercial town centre zoning? Where is the risk analysis of this chosen option?
 - (b) What are the potential impacts of allowing such a significant expansion of the town centre in particular – how are the substantive increases in traffic generated by such a potentially large area of new accommodation and commercial space to be handled? The fact that Council witnesses have produced such scant information about what they are projecting in terms of traffic effects that an independent traffic expert cannot make any meaningful conclusions as to the scale of effects is telling. Council have not taken the opportunity to respond to these information gaps by providing further evidence on this matter, which raises serious questions about what they do or do not know. Council have also suggested as a remedy for this absence of strategic planning the incremental approach of assessing traffic impacts case by case.
- 4.3 Perhaps the most useful outcome of the conferencing is an agreed statement (at least by those planning experts who were present) about what should occur on the Lake View site. It appears to have been agreed that any commercial activity on the Lake View site was only necessary to support the other predominant activities.

A Reduced Convention Centre Precinct Zone

- 5.1 Assuming the essential objective of QLDC remains to provide a flexible zoning framework for a possible future convention centre (with associated accommodation and commercial activities) the planning solution appears relatively straightforward. While far from ideal it represents a practical compromise.
- 5.2 Significantly reduce the current area of the proposed PC50 zone to create a specific Convention Centre precinct zone (see diagram attached) as a subzone of the existing High Density Residential zone. Provide for a convention centre to be applied for within the subzone - together with assorted commercial and accommodation activities or uses.
- 5.3 Limit the extent of future commercial development to some agreed level linked to or associated with a future Convention Centre. (As noted in caucusing statement).
- 5.4 Assess traffic (and other potential impacts) arising from a convention centre and associated commercial development on the existing town centre rigorously at the time of any future application and in the broad strategic context of the forthcoming Traffic Management Strategy.
- 5.5 Appropriate increases in height limit would need to be provided within the zone to allow for high rise accommodation (hotels and apartments). Again, the matter of height can be considered on a case-by-case basis when detailed resource consents are proposed.
- 5.6 Consider a mechanism to further reduce commercial zoning if a convention centre, does not, in fact, proceed.
- 5.7 The rest of the land in the prepared PC50 zone would remain zoned as it is currently (High Density Residential or Transitional Town Centre). The future scale and direction of growth of the existing town centre would be left to more orderly consideration by the upcoming District Plan Review. This will also allow highly relevant QLDC transport and traffic studies time to catch up and be included in Plan Review considerations, and for sensible alternatives for expanding the town centre can be considered.
- 5.8 None of the parties to this hearing, or any other potential submitters, would be prejudiced by this change.

- 5.9 The Plan Review process may well take longer than PC50 to give certainty to landowners as to the future status of their land. However, it will ensure there is sufficient time for a proper application of the relevant principles and requirements of the RMA – as well as being what would have happened anyway had PC50 not been so hastily conceived and promoted by QLDC.
- 5.10 There is no credible evidence of any need for undue urgency or haste in making decisions about the future expansion of the town centre. There is obvious physical capacity for new commercial buildings in the existing town centre – particularly due to height allowances which would allow further increases in commercial space.
- 5.11 Within the timeframe of a Plan Review, there is no credible 'competitive threat' from Frankton or any credible risk of 'stagnation' of the town centre as important commercial activities exodus a "dying town". Nor is there any evidence of an "unfulfilled demand" for additional commercial space in the existing town centre, which is so critical that it cannot wait for a more considered decision to be made via the review.

Legal considerations

- 6.1 The legal requirements of the RMA have been canvassed already. (Sections 5, 7 and 32 are all highly relevant), QLDC has legal power to modify its plan change in the manner suggested above in the course of proceedings (*Federated Farmers v McKenzie District Council* [2014] NZHC 2616; para 113).
- 6.2 Some property owners who would be no longer in the proposed town centre zone are left in no different a position than they were before PC50 was notified a few months ago. They will all have the full opportunity to participate in the forthcoming District Plan Review related to the future growth of the town centre which would have happened in the normal course of events (without PC 50).
- 6.3 The people affected by the inclusion of the Lynch Block in proposed PC50 will no longer be subject to the change in zoning proposed.
- 6.4 Those properties within the proposed PC50 area in "transitional" town centre zoning will have full opportunity in the Plan Review process to argue for this zoning to change.

Summary

- 7.1 Presumably no one who is part of this hearing wishes to carry the long term legacy of having been involved in the PC50 folly and not played a part in bringing common sense to bear.
- 7.2 Short term expediency should not be allowed to put at risk – through undue haste – the internationally acclaimed special character and amenity of central Queenstown and its lake front location.
- 7.3 Frankton as it morphs into a high altitude suburban mall is hardly capable of threatening the special character or viability of Queenstown as an internationally recognised lakefront town – which is readily walkable and not clogged with the traffic of many other international resort destinations.
- 7.4 A far bigger threat arguably arises from Walter Mitty type visions of QLDC's commercial expansion which unwittingly risks transforming Queenstown into a less than unique destination.

M C Holm

23.02.15

