

FOR SUBMISSION TO THE
COMMISSIONERS IN THE
MATTER OF THE
RESOURCE MANAGEMENT ACT, 1971

QLDC
06 JAN 2014
06
QUEENSTOWN
QUEENSTOWN

Regarding
PUBLICLY NOTIFIED
PLAN CHANGE 50

QLDC
06 JAN 2015
QUEENSTOWN

Mrs Lucy Bell
Submitter

AFFIDAVIT

I, Mrs Lucy Elisabeth Bell of 163 Antrim Street, Queenstown, NEW ZEALAND and 52 Wambool Street, Bulimba QLD, 4171 AUSTRALIA, as a ratepayer and casually self employed person and writer, affirm all the information I have included in this submission is true to the best of my ability and access to relevant documentation at this time.

I have undertaken to supply all relevant information to support my application and greatly appreciate consideration of the matters I have raised.

Affirmed by the Submitter: Mrs Lucy Elizabeth Bell, at Queenstown on 5 January, 2015.

Signature: Lucy Bell

Before me:
(Full name of witness) PHILLIP GEORGE WILSON
SOLICITOR
QUEENSTOWN

Signature of witness: [Signature] Qualifications:
PHILLIP GEORGE WILSON
SOLICITOR
QUEENSTOWN

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the publicly Notified
Plan Change 50

AND

IN THE MATTER of a Late Submission by
Lucy Bell

APPLICATION TO FILE LATE SUBMISSION
Section 37 Resource Management Act 1991

FOR THE ATTENTION AND CONSIDERATION OF THE COMMISSIONERS:

1. This is an application under s37 Resource Management Act 1991 to file a late submission on Plan Change 50.
2. This application includes reasons and submissions in support of the application, particularly with reference to the intentions set out in s314 of the Resource Management Act 1991.
3. The Submitter is Mrs Lucy Bell, who is unable due to family commitments to attend this meeting today and sends her sincere apologies. She has nominated Mr Basil Walker to present her application in her absence.
4. The Submitter does not oppose the Plan Change as a whole, this submission focussing on concerns regarding one particular site allegedly inside the historic Lynchblock (now renamed Lakeview) but, the Submitter believes, is outside the area the council is applying for rezoning, being outside the Lynchblock. The matters however related to this concern are ones questioning the validity of the current survey lines and the legality of 'council management' in lieu of documentation to determine the lease and management of her property, 165 Antrim Street.
5. The Submitter acknowledges her application is late however wishes to request consideration of this unusual circumstance given the reasons listed below, and the very difficult position she has been placed in by the lack of pertinent and valid information she has continually been afforded.

Section 37 (1) (a)

6. Section 37 (1)[(a)] of the Resource Management Act 1991 states under '37 Power of Waiver and Extension of Time Limits' that 'A Consent Authority or Local Authority may, in any particular case -
 - (a) extend a time period specified in this Act or in regulations whether or not the time period has expired; '
7. The submitter is appreciative that concerns at this late stage may be raised and consideration of the above cancelled based on possible time delays associated with such, (as pointed out in s281), however wishes to assure the Commissioners that no changes to the policies are sought and only amendments with regard to the treatment and consideration of one site are related to this submission.
8. Additionally, given the limited nature of the submission and its minor area of influence, it satisfactorily meets the requirements of 37A by causing

no harm or infringement upon other third parties, nor causing significant changes, delays or hardships.

9. The submitter is presenting primarily documents owned or requested by the council so all material should be familiar with relation to Plan Change 50.

Reasons for Late Submissions

10. The Submitter is based out of the country and, although visiting New Zealand on a number of occasions throughout the year, is not a full time resident.
11. The Submitter has in the last month purchased another freehold property in Queenstown with the intentions of retiring here in the future and is a rate payer also owning property in Dunedin.
12. APL, employed by the Council as their real estate managers, have failed repeatedly to forward any documentation regarding her property, (unless copies were supplied when requested in person by the Submitter after neighbours had informed earlier on matters APL advised) other than lease fee notices, which always arrive promptly.
13. The Submitter believes this is a common failing on their part and submits an EMail forwarded to her attention recently by Renee Walker, (**Attachment A**) another cabin owner, with the same problems, recognising also other late submitters here today disadvantaged in the same manner, namely the Zakis and the Holts.
14. Due to the advice of neighbours this Submitter prepared an application and flew back from Australia to attend a meeting planned for 8 December 2014. at the Council's offices in Gorge Road, Queenstown. The Submitter's neighbour, placed the request with the council along with his own name for their attendance and input at the meeting. On the day in question however, the neighbour's name had been registered, but the Submitter's name was not recorded and this Submitter was not allowed to present her evidence and concerns. (**Attachment B**)
15. Mr Paul Speedy organised a later meeting with the Submitter and a secondary concerned citizen, Doug Harrop, to be held on 10 December 2014. He was accompanied by Ms Meaghan Millar, also a council employee.
16. Both Mr Speedy and Ms Millar arrived with no paper, no writing material and no recording devices. The Submitter was advised by Ms Millar that there was no way they were going to extend the leases, short of a public uprising, while Mr Speedy advised that despite concerns regarding the survey lines, his map was the definitive one and there would be no change made to the areas targeted for Plan 50, despite a number of cabins still being outside the lines

and still being placed under forced evictions. I submit Mr Harrop's Affidavit (Attachment C) to support these statements.

17. The Submitter then extended her stay in Queenstown and researched all documents available concerning her property, 165 Antrim Street. The Council however has no record of a property listed at 165 Antrim Street, and no record of the Submitter leasing a property at 165 Antrim Street. She was not able to find anything on line and sent a final enquiry to the Council (see EMail Attachment D) when she was eventually directed back to APL Queenstown. You will note it is now 15 December, 2014.
18. The Submitter then researched all documentation on line associated with land acquisition, particularly activities regarding the securing of previously held reserve land, while awaiting a response sent to APL in an EMail for a copy of her lease agreement and land ownership.
19. Due to significant holes in information availability to the public, (notably anything to do with Recreation Reserve Sections, Queenstown Reserves Vesting and Empowering Act, 1971, (see Attachment E showing no relevant historic documents for the first three pages of searching) and with the understanding that the council would not change their position, this and information forwarded of a concerning nature by APL on 15 December, the Submitter applied to the Environment Court.
20. The Submitter was concerned about further delays when APL refused to accept receipt of the Form 43 and Form 44 documents needing to be forwarded to the Environment Court and presented to them on 17 December. Alternate proof was accepted however and this process was carried out in the most timely way possible. (See Attachment F)
20. The Courts response was issued on 22 December 2014, directing the Submitter of the need in the main to seek alternate legal venues, (which the Submitter has taken on board and will action, appreciative of the direction) and requested more solid efforts with regard to approaching the Commissioners with regard to property surveys. (See Attachment G, page 2, point [4] of Judge Jackson's 'Minutes'. It reads:

(4) Mrs Bell also appears to be suggesting there are doubts about the area covered by the Council's Plan Change 50. If that is so, the issue should have been raised before the Council appointed Commissioners. Alternatively it might be possible to raise the issue on any appeal against the Commissioner's decision to the Environment Court.
21. The Submitter had already attempted to raise the issue with the commissioners in December, as would have been appropriate, but for reasons given above, the cause still unknown, she was unable to participate. This is the next available and last opportunity the Submitter has to approach

the Commissioners on this matter before having to return to the Environment Court.

22. Given the unusual number of difficulties and shortcomings with forwarding and accessing necessary information, the Submitter sincerely requests consideration will be given to hearing this application as she has genuinely made a sincere and concerted effort to address her concerns appropriately.

Interests of Affected Person

23. It is submitted there is one party directly affected by extension of time for this submission to be filed, and that is the resident of 165 Antrim Street, the Submitter.
24. If it is possible for the legal status of 165 Antrim Street to be satisfied adequately on the 16th, then there would be no further need to request a time extension.
25. At all times since the date of purchase of 165 Antrim Street, the Council has advised the Submitter the property is part of the historic Lynchblock and all properties are subject to the lease agreement in place, meaning the Submitter can expect to be evicted from the property by October 2015 with no renewal of the lease.
26. The Submitter however despite finding information to the negative, and in view of no information being supplied to substantiate the council's claim, offers the following government documents, council documents and council commissioned documents as proof to the contrary.
 - (i) Attachment H, Figure A, the first plan of the 'Lynchblock' area, consisting of the 14 individual blocks and boundaries set by Glasgow Street to the west, Brunswick Street to the south, Kilmarnock Street to the east and the Common Reserve Lands to the north. A slight shading in the top lefthand corner later becomes more clearly defined as Antrim Street later on. All later figures referenced, similarly show the same location and boundaries.
 - (ii) Attachment I is the first plan to show the inclusion of Antrim Street, indicated by a small rectangle at the top north east corner of the Lynchblock. There has been no extension in the area designated as being part of the Lynchblock, nor have the parameters changed. Antrim Street has merely been incorporated by the land allocated to this area. There is no further land provided above Antrim Street for accommodation of housing into this area and the bottom side of Antrim Street aligns with the bottom of Lomond Crescent at the intersection of Lomond Crescent, Glasgow and Antrim Streets.

(iii) As was noted in the paper prepared for Queenstown Lakes District Council in 2014, the number of blocks included in the Lynchblock have remained at 14 since their initial establishment as an area. (Attachment J) There has never been an expansion of the boundaries, and likewise no additional land annexed under the Lynchblock title.

27. The Submitter wishes if necessary an extension of time be granted so the above can be verified and believes it will substantiate her claims that 165 was NEVER part of the Lynchblock area, at the best a casual addition and named accordingly because of its close proximity.
28. Additionally, the Submitter wishes an investigation into the legitimacy of APL managing the property 165 Antrim Street and implementing an eviction.
29. Since the time of purchase, the Submitter has been able to secure no information prior to 2002 regarding her block and just accepted it was a Lynchblock site. However, the Plan Change 50 brought a more immediate need to establish finally the status of her 'purchase' and then began a very long and unsuccessful search. On 15 December 2014, finally the Submitter after failing to receive any joy in person, received a reply via EMail from Mr Cruickshank at APL Queenstown offices (See Attachment K). Mr Cruickshank advised that they had no original lease documentation on hand, and no reference to the land's original ownership. In 2002 however a lease had been taken out for 165 Antrim Street, but it was listed as part of the Motor Park, not the Lynchblock? Additionally, the only other documents Mr Cruickshank had available were two separate items, a letter referring to a ballot which was successful for site 153, and Permit to Occupy for 154, unsigned. (Attachment L) Mr Cruickshank advised 153 was 154 and later became 165 but offered no evidence.
30. The Submitter recognises the Motor Park is under the same restrictions as the Lynchblock properties, but is also aware her immediate neighbour is a freehold property and believes 165 Antrim is the same and offers the following historic data to support this claim.

(i) It is believed that the property currently built on 165 Antrim Street was built in the 60s. The Submitter believes that the letter to Mr Mackie in 1963 is probably the first document associated with the purchase of this land but requests some further effort on the part of the Council to guarantee same.

(ii) The Submitter knows that the property on the immediate town side of 165 (163 Antrim Street) was freehold and purchased from the owners by the council approximately four years ago.

(iii) The Submitters finds it difficult to believe the council would, with only three blocks on the high side of Antrim Street, one a fair distance away being at the Glasgow end, nominate one block for the Motorpark, and the neighbouring block, closer to the Motorpark, freehold? See Attachment M which indicates in a circle the house which was freehold prior to the Council's recent acquisition. The Submitter's property, 165, is highlighted in

yellow and the blank blocks on the western side are quite a large empty area which at some stage was cut out of the hillside and is used as parking for the properties in Antrim Street. While it is a matter still to be determined the actual status of 165, 163 is known to have been freehold.

(iv) In support further of the above, the Submitter has spent a considerable time researching any references to 'ballots' and uncovered the following from 'Statistics New Zealand', Digital Copy, *New Zealand Official Year Book, 1963*

(section 10B Crown Land Administration)

LEASES AND LICENCES FREEHOLDED –

Over the past few years many Crown lessees have availed themselves of the provisions of the Land Act 1948 and have freeholded their leases, either for cash or on deferred-payment licence.

In 1961–2, 587 leases were freeholded, either for cash or on deferred payments. The area embraced by these leases was 99,991 acres, and the total purchase price £837,775, of which £543,435 was on deferred payments. These figures are an increase on those for 1960–61, when 342 leases over 55,988 ares were freeholded for a total of £427,782.

(v) Additionally, specific references were made to ballots in the same document;

METHODS OF ACQUIRING CROWN LAND –

Crown land is normally offered to the public at valuation and if necessary a ballot is conducted to decide the successful applicant, although in certain circumstances preferential allotment can be made. Any urban or commercial or industrial land may be offered for disposal by tender at a minimum price or rental value or by public auction at an upset price. Every applicant must be of the age of 17 years or upwards, and must apply for Crown land solely for his own use or benefit.

(vi) The council did not technically 'annex' the land above the roadway known as Antrim Street until 1995 (see Attachment N Area A). In keeping with the Queenstown Reserves Vesting and Empowering Act 1971, this did not have to be gazetted, but as the property had been standing for at least thirty years already, I believe a 'convenience' has occurred and the house has now been allocated as part of the Motor Park in lieu of foreseeable opposition.

31. Unless proof can be obtained of the council acquiring 165 Antrim Street, there is no legitimacy behind them charging leasehold fees pertinent to leaseholders, other than access to do so in light of no opposition, and therefore no right to enforce an eviction. At best one can only say they 'assumed' management and the Submitter requests that an extension is granted for this

matter to be further reviewed, particularly as the current owner (the Submitter) is not only charged higher fees, but eventual eviction in nine months time.

32. The third property above Antrim Street is owned by off shore people and the Submitter has been unable, not surprisingly, to locate relevant information pertaining to this site.
33. Attempts to discuss the above with Mr Speedy have been rebuffed however the Submitter believes the survey lines presented to the Commissioners for defining rezoning associated with Plan Change 50, are also incorrect and offer the following for consideration.

(i) All documents referencing the Lynchblock and Antrim Street (shown as a small rectangle as originally Antrim, Mountaineer and Earnslaw were only to dissect partway through the Lynchblock) clearly show the 'rectangle' as being integrated to the Lynchblock, not an extension to the Lynchblock. In Mr Speedy's plans however, this rectangle has been elevated to the tree line and in no way represents its original placement on previous maps, as Antrim Street itself has not been relocated. (Refer back to **Attachment I and J**), nor has Lomond Crescent's low side suddenly raised? Refer back to **Attachment M** and the orange rectangle in the trees to the left of 165 and 163 Antrim Street.

(ii) Another interesting fact is since 2014, every document refers to the boundary being Thompson Street, not Brunswick Street? The Submitter admits an inability to find when Brunswick Street was divided into two, but offers the suggestion in the first instance that Brunswick Street has a different angle profile, albeit subtle, to Thompson, and believes this also adds to some excessive elevation towards the east in the survey, and believes a more definitive survey should be taken to ensure the base line, now shown by Mr Speedy as the accurate southern boundary for the Lynchblock is actually correct. The blue area on this map is a more accurate portrayal of the Lynchblock given accessible data to date, and while Mr Speedy refuses to discuss the issue, the Submitter hopes the Councillors and Commissioners will appreciate the Submitter is not being vexatious but has a genuine and valid point for consideration.

(iii) With no other such vesting of reserve land recorded in this region, the Submitter can only assume the survey presented as accurate has failed to take into consideration the additional land taken from the reserve, (as shown in **Attachment N**) and has chosen a line in keeping with the original Lynchblock profile for its convenience. Mr Speedy and Mr Cruickshank would not discuss or disprove this point.

(iv) If additional land acquisition has taken place, would Mr Speedy now show how the profile of the area managed to alter from its status in 1996 as a humped line, (reference back to **Attachment N**) to a straight line in 2015 when no other land acquisition by the council has been Gazetted, nor, as a search carried out by the Submitter of the Queenstown Lakes District Council's Land Designation Listings as at November 2012 discovered, has any further

allocation of land for 'Local Purpose - Recreation' for Blk XXIX for Sections - 10 of Pt Section 110 been recorded? The latter would need to be done for the land to be taken from the Common Reserve Lands for Council management and rezoning under the Queenstown Reserve Vesting and Management Act 1971.

(iv) If Mr Speedy's survey is accepted however, then the council and APL have misled a rate payer regarding the status of her lease and have knowingly charged for and leased out Common Reserve Land, which they are not entitled to do. As his own survey clearly shows the back landed portion of 165 Antrim Street is still by Mr Speedy's survey, in Common Reserve Land.

34. While it will have minimum impact on the overall nature and implementation of plans for Plan Change 50, unless some significant problems occur elsewhere in the survey review, obviously for the Submitter recognition that the property 165 Antrim Street is in all likelihood a freehold property has serious and significant implications to the individual, not the least of which is the ability to keep her home. As it also means it is not part of the Lynchblock area, its retention should have no effect upon Plan Change 50, being outside the parameters.
35. Any oversight or casual treatment of survey lines with regard to such an important development as Plan Change 50, could create major problems in the future and should be accurate with no doubts attached to same, particularly if 'missing' documents turn up at a later date contrary to the purpose the land has been put to.
36. Additionally, in view of past indications by the Council, if the historic gifted area known as the Lynchblock is to be totally redesigned, it would be a suitable return 'gift' to acknowledge its original existence and once decisions have been made regarding the actual area the Lynchblock represents, have some permanent cornerstones put in place so this wonderful and generous historic gesture is never totally forgotten.


Undue Delays

37. The Submitter is hopeful the appropriate documents can be located and this matter can be dealt with causing no unnecessary delays to the progression of Plan Change 50 under s21 as all technical data is from the Council's own resources.
38. If unable to be satisfied immediately by the Commissioners, the Submitter would be happy for orders to be placed by the Commissioners for the matter to be resolved within a set time frame, without prejudice, and believes this may well be achieved before the October 2015 deadline if so ordered.
39. Once a definitive assessment of the property 165 Antrim Street's status is completed, the Submitter is prepared to abide by any restrictions associated with her purchase.

40. As 165 Antrim Street is notified as being on the Stage 3 of the proposed development plans for Plan Change 50, it is extremely unlikely a stay of eviction even after October 2015 would cause any problems towards completion or progression of development plans by the Council as the council has no intention of removing their own properties within this area in the foreseeable future. Harcourts are still taking annual rental agreements for homes in the Motor Park. Likewise its retention as a block not part of the Lynchblock area, should have no impact on Plan Change 50.

Orders


42. Therefore, the Submitter seeks orders:
- Waiving the time to file submissions on PC50.
 - An extension of the time to file submissions on PC50 to the date this application is approved.
 - Relief from eviction if delays cause this matter to extend beyond October 2015 until the submission is addressed and finalised.
 - Leave for any other property owners to file late submissions (if any) due to communication failures and/or withholding of documents in a timely manner to facilitate their responses.
 - Consideration as part of the survey requirements for permanent markers to record the generous gift once donated to Queenstown.



Mrs Lucy Bell
(Submitter)

Date: 5/1/15.....

and



Mr Basil Walker
(Nominated Delegate for the Submitter)

Date: 5/1/15.....

Attachment A: Copy of Email sent to Lucy Bell from Renee Walker who identifies as a cabin owner.

Attachment B: Copy of the official minutes taken at the Council Meeting with Mrs Lucy Bell's signature on the documentation as attending, 8 December 2014

Attachment C: Affidavit by Mr Doug Harrop referencing 10 December 2014 meeting.

Attachment D: Copy of Email sent to Lucy Bell from Judy Jackson at QLDC on 15 December 2014.

Attachment E: Copy of web pages related to search for documentation related to relevant Reserve Land orders.

Attachment F: Copy of witnessed document confirming the refusal to accept documentation by APL Queenstown regarding Forms for the Environment Court.

Attachment G: Copy of Minutes from Judge Jackson, Environment Court, Christchurch, regarding application by Mrs Lucy Bell, with Directions, dated 22 December 2014.

Attachment H: 'Queenstown Lakes District Council Lakeview Plan Change', 6.6.2014, (Prepared for Queenstown Lakes District Council) *New Zealand Heritage Properties Ltd*, Page 37, Fig.34.

Attachment I: 'Queenstown Lakes District Council Lakeview Plan Change', 6.6.2014, (Prepared for Queenstown Lakes District Council) *New Zealand Heritage Properties Ltd*, Page 39, Fig. 37, 'Sub Division of Section 3,4,and 5 in 1957, Ref: 8860.

Attachment J: 'Queenstown Lakes district Council Lakeview Plan Change', 6.6.2014 (Prepared for Queenstown Lakes District Council) *New Zealand Properties Ltd*, Pages 50-51, Table 4, *Compilation of the rates, deeds and Certificate of Title data for the 14 sections within Lynchblock*.

Attachment K: Email from Mr Dan Cruickshank (APL) to Mrs Lucy Bell, 15 December 2014.

Attachment L: Attachment to Mr Dan Cruickshank's memo to Mrs Lucy Bell, 15 December 2014, letter of 1963 successful 'ballot' for the block known as 153 Antrim Street.

Attachment M: Surveyed aerial site of Queenstown Hill, used by Mr Speedy as the definitive survey.

Attachment N: Surveyed map SO24298 for the purposes listed being 'Plan of Road to be stopped, land for local purpose reserve and land for recreation reserve. Reference A under schedule of areas, 'Land for local purpose reserve (camping ground) lodge 11.7.95.