

BEFORE A PANEL OF HEARINGS COMMISSIONERS  
APPOINTED BY THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

## Plan Change 50 to the Queenstown Lakes District Plan

STATEMENT OF EVIDENCE OF PAUL CHARLES IAN ARNESEN

## **1. INTRODUCTION, QUALIFICATIONS AND RELEVANT EXPERIENCE**

- 1.1. My name is Paul Charles Ian Arnesen and I have the qualification of a Bachelor of Resource Studies from Lincoln University obtained in 1996. I have approximately 15 years experience as a planner. From July 1999 until February 2002 I was employed as a Planning Officer by the Upper Hutt City Council. From February 2002 through to June 2003 I was employed as Planner – Customer Advice and Consents with Auckland City Environments, a business unit of the legacy Auckland City Council. From July 2003 until May 2008 I was employed as Senior Planner Resource Consents and Team Leader Resource Consents within Auckland City Environments. From May 2008 until present I have been employed at Planning Focus Limited as a planner. I am a Senior Associate of Planning Focus Limited and a full member of the New Zealand Planning Institute.
- 1.2. I prepared the submission of Reid Investment Trust, referenced as submission number 3 by Council. I am reasonably familiar with Queenstown and the local area, because my family has owned a holiday house in Kelvin Heights since 1984, and previous to that we spent our Easter holiday in the cabins of the Lakeview Holiday Park.
- 1.3. With regard to my relevant planning experience, the clients of Planning Focus Limited include public and private companies and we provide the full ambit of planning services throughout New Zealand, but primarily in the Upper North Island. With regard to plan changes, my most recent experience relates to a private plan change rezoning of the former Wiri North Quarry (in South Auckland) from a quarry zone to a business (industrial) zone. In this regard I provided assistance to the land owner, who was the instigator of the private plan change, at both Council and Environment Court proceedings.
- 1.4. Whilst this not an Environment Court hearing, I confirm that I am familiar with the Court's Code of Conduct for Expert Witnesses and will comply with it for this hearing. I have not omitted to consider any material facts known to me which might alter or detract from the opinions

expressed in my evidence, and the issues I address are within my area of expertise and experience.

## **2. SUMMARY**

- 2.1. For the reasons I set out below, it is my opinion that the Plan Change 50 should be amended to include the removal of the Town Centre transition sub-zone (TCTZ) and that some controls on retail and restaurant activities are necessary in the proposed Lakeview Sub-Zone (LSZ) to avoid creating a disparate town centre environment. Without amendments to address these matters it is my opinion that Plan Change 50 will not meet the sustainable management purpose of the Resource Management Act 1991 (the Act).

## **3. SCOPE**

- 3.1. The submission of Reid Investment Trust with regard to the deletion of the TCTZ has been dismissed as outside of scope in the Council planner section 42A report and the legal submissions of counsel for the Council. Disappointingly, in concluding that the submission is outside of scope, there has been no assessment by Council experts of the planning merits of the submissions seeking the removal of the TCTZ, with the only substantive evidence provided on the matter being that of myself (and any that may be provided by the experts of other submitters).
- 3.2. I note that the legal submissions of GM Todd on behalf of Man Street Properties<sup>1</sup> conclude that the matter of the TCTZ does fall within scope of Plan Change 50, making reference to the legal tests of *Clearwater Resort Limited v Christchurch City Council*. I endorse the legal submissions of GM Todd with regard to the controls of the TCTZ being within scope.
- 3.3. In my opinion it is not possible to separate the matter of the Plan Change 50 from the controls of the TCTZ. The purpose of the TCTZ is to provide a transition, or buffer between the existing Residential zone on the northern side of Man Street and western side of Hay Street. Therefore,

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<sup>1</sup>The submission of Man Street Properties Limited in relation to the TCTZ is very similar to that of the Reid Investment Trust.

because Plan Change 50 rezones the residentially zoned land that TCTZ seeks to protect, there is no longer any purpose for retaining the TCTZ.

- 3.4. This is recognised in Plan Change 50 by way of deletion of the following explanation of the TCTZ from section 10.2.2 (Values) of the District Plan.

*The third area is that area bound by Shotover, Duke, Man and Hay streets. It also includes the Town Centre transition sub-zone.*

*The unique character of area derives largely from its topography which, unlike the rest of the Queenstown Town Centre, is relatively steep, forming something of an amphitheatre around the historic parts of the Town Centre. Due to the slope of the area; the fact that it is located between an established residential area and the views of the lake and mountains; and is elevated well above the rest of the town, development within the area has the potential to affect views and the amenity, scale, and streetscape of the Town Centre more than in any other area of the zone. Therefore, special bulk and location rules and rules relating top [sic] the areas role at the interface of the residential area have been to avoid or mitigate adverse effects.*

- 3.5. The above text which is proposed for deletion in Plan Change 50 is the only explanation of the TCTZ, and Plan Change 50 does not provide an alternate explanation. For this reason I disagree with the assertion in the section 42A report that:

*PC50 does not seek to delete reference to the TCTSZ, outright. The proposed amendments sought to the section 10.2.2 only removes the repetition in this section of the District Plan<sup>2</sup>*

- 3.6. In my opinion the rules relating to the TCTZ are clearly integral to the above explanation and the consideration of the expansion of the Town Centre zone. The controls of the TCTZ must be considered as part of Plan Change 50, because consideration of the 'issues' section of Chapter 10 of the District Plan is inextricably linked to consideration of the controls.

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<sup>2</sup> Page 92 of Council's section 92 report

#### **4. TOWN CENTRE TRANSITION SUB-ZONE**

- 4.1. As set out under section 10.2.2 of the Operative District Plan the reason for the TCTZ is protect the amenity of the neighbouring residential zone and, in particular, views of the lake and mountains. With the rezoning of the land to the north and west of the TCTZ, Plan Change 50 quite correctly deletes this explanation. However, curiously it does not delete the TCTZ itself or the associated rules. Nor is any alternate explanation given as to the reason for the TCTZ.
- 4.2. In my opinion there is no reason for retaining the TCTZ should Plan Change 50 be adopted. If the plan change is adopted the land affected by the TCTZ will no longer form a transition between the Business zone and the Residential zone. Furthermore, there is no explanation or guidance as to the purpose of TCTZ in Plan Change 50. Thus there is a lack of consistency between the higher level issues, objectives and policies, and the subsequent controls.
- 4.3. The controls associated with the TCTZ are particularly restrictive, limiting height to no greater than 1.5 metres above 30 Man Street. While this control enables views from existing neighbouring residential properties to be maintained, the control is totally inappropriate in the context of the commercial street frontage envisaged by Plan Change 50, where urban design principles favour active frontages and buildings to address street frontages.
- 4.4. Conversely the proposed Isle Street sub-zone and the rezoned land bounded by Lake, Beach, Hay, and Man Streets will benefit from a 12 metre height limit and, despite forming the transition between residential and business zoned land, is not subject to any TCTZ overlay. Thus the land further from the existing town centre will become a more favourable area for business development than the TCTZ because of more liberal development controls.
- 4.5. Indeed, the planning evidence of John Kyle on behalf of Council recommends a further liberalisation of development controls within the Isle Street Sub-Zone to further promote redevelopment.<sup>3</sup> While I agree that controls within Isle Street sub-zone should be further liberalised in order to promote development, the principle also applies to the TCTZ land given

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<sup>3</sup> Para 8.35 on page 27

that the area no longer forms a transition and given that the TCTZ is also subject to restrictive controls inhibiting development.

- 4.6. The removal of the TCTZ and its associated controls would enable buildings to front the northern side of Man Street, providing the more efficient use of the land resource and a superior urban design outcome in terms of active street frontages. In terms of the outcomes sought by the District Plan and Plan Change 50, the removal of the TCTZ enables a consistency between the issues, objectives and policies of the District Plan and the associated controls.
- 4.7. In summary, it is my opinion that proposed Plan Change 50 renders the TCTZ redundant. There is no resource management reason for maintaining the TCTZ; its removal will provide for the more sustainable use of the land presently affected by the TCTZ controls; will enable a superior urban design outcome along Man Street and Hay Street, and will provide for greater consistency between the issues, objectives, policies, and controls of the District Plan.
- 4.8. Without the removal of the TCTZ, it is my opinion that Plan Change 50 is fatally (and unnecessarily) flawed, and that the proposed plan change should be rejected.

## **5. LAKEVIEW SUB-ZONE**

- 5.1. It appears that one of the main purposes of the LSZ is to provide land for a potential convention centre development. The expert evidence of Philip McDermott on behalf of Council notes Council's longstanding plans for the establishment of a convention centre, and that this *"and any other tourist facilities that locate there will effectively form a secondary in-town destination, linked to but independent of the lakeside core and surrounding visitor services"*.
- 5.2. The LSZ has a considerable advantage with regard to redevelopment over the other areas subject to rezoning under Plan Change 50, because the LSZ forms a large tract of land held in single ownership, compared to the smaller sites and multiple ownerships that characterise the remaining area. Therefore, it stands to reason that the LSZ will be the area to be redeveloped before the remainder of the rezoned land.

- 5.3. The only control of proposed Plan Change 50 with regard to commercial activities is a requirement that retail tenancies not exceed 400m<sup>2</sup>.<sup>4</sup> There is no control with regard to the overall quantum of retail in the zone or the scale or quantum of restaurant or entertainment facility activities. This enables the establishment of a retail centre within the LSZ, and Figure 2 of the Plan Change *Lakeview sub-zone Structure Plan* (attached) requires the provision of an active frontage along the length of an extension to Isle Street. While the controls on the remainder of the rezoned land are similarly liberal with regard to activities, development of a retail centre (or strip) is less favourable due to multiple land holdings.
- 5.4. The LSZ does not abut the existing formed town centre. In my opinion, the opening of the LSZ to unfettered commercial development has the potential to create two separate centres within downtown Queenstown, the existing centre and a new (albeit smaller) centre within the LSZ. Development in the intermediate area between the two will most likely lag behind the development of the LSZ because of the inherent difficulties associated with site size and multiple titles. These difficulties are compounded by the restrictive planning controls associated with the TCTZ.
- 5.5. In my opinion the establishment of two separate centres in downtown Queenstown would represent poor urban form, whereby the centres are divided by a less pedestrian friendly and vibrant area, creating an 'awkward' space between.
- 5.6. To avoid the possibility of the creation of two separate centres and to encourage the establishment of retail and restaurant facilities in closer proximity to the established centre of Queenstown, it is my opinion that additional controls should be incorporated into the LSZ. These controls should limit retail and restaurant activities to those ancillary to convention centres and hotels, with only two retail outlets and three restaurants permitted per premises, with associated constraints on the scale of such ancillary activities. In this regard, a circa 300m<sup>2</sup> trading footprint seems appropriate. This would enable the establishment of a convention

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<sup>4</sup> Proposed rule 10.6.5.2(iv)(i).

centre, hotels, and higher intensity residential development within the LSZ while requiring expansion of core retail and restaurant activities in closer proximity to the existing centre.

## **6. RESOURCE MANAGEMENT ACT 1991**

- 6.1. Part 2 of the Act sets out the single sustainable management purpose of the Act, and the Act's principles in achieving that purpose. Having regard to the matters traversed above, while I do not disagree with Council's experts that the expansion of the Town Centre *per se* promotes sustainable management, it is my opinion that Plan Change 50 as drafted does not meet the sustainable purpose of the Act.
- 6.2. Section 5 of the Act promotes the management of resources in a manner that enables people and communities to provide for their social, economic, and cultural wellbeing while avoiding, remedying or mitigating unacceptable adverse effects on the environment. In my opinion the failure of Plan Change 50 to address the controls of the relevance of the TCTZ does not enable sustainable management because it fails to adequately enable the development of the TCTZ land in a manner that provides for the social and economic wellbeing of the community, and because the effects that the TCTZ sought to protect are made redundant by the proposed rezoning of the land to the north and west of the TCTZ.
- 6.3. Furthermore, proposed Plan Change 50 has the potential to create two separate centres due to the liberal controls on commercial development within the LSZ and because the LSZ benefits from large land holdings, particularly as compared to the intermediate area between the LSZ and the existing centre. In my opinion the creation of two separated centres does not represent the sustainable management.

## **7. CONCLUSION**

- 7.1. In my opinion proposed Plan Change 50 fails to provide for the sustainable management of Queenstown Centre because:
  - it fails to address the controls of the TCTZ, which are integral to consideration of the expansion of the Town Centre Zone. The failure to remove these controls will lead to



inconsistencies between the issues, objectives and policies of the District Plan and the associated controls, and unnecessarily and undesirably limits development potential.

- it fails to recognise the greater development potential of the LSZ compared to the remainder of the expansion zone, creating the possibility of a split town centre.

7.2. In my opinion the controls of the TCTZ are within scope of Plan Change 50. The expansion of the Town Centre zone and the controls of the existing transitional area are inextricably linked, and one matter cannot be considered while disregarding the other. Furthermore, Plan Change 50 seeks to delete the explanation of the TCTZ controls, without providing an alternate explanation.

7.3. Therefore, it is my opinion that Plan Change 50 should only be approved if the TCTZ is deleted from the District Plan in its entirety and if controls are introduced into the LSZ limiting retail and restaurant activities to those ancillary to convention centre and retail activities, and limiting the number and scale of such ancillary activities.

20 November 2014

Paul C I Arnesen  
Planning Focus Limited

Figure 2 Lakeview sub-zone Structure Plan

