

**BEFORE THE HEARING COMMISSIONERS
AT QUEENSTOWN**

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of Proposed Plan Change 50 to
the Queenstown Lakes District
Plan

BETWEEN **BRECON STREET
PARTNERSHIP LIMITED**

Submitter No 50/10

AND **QUEENSTOWN LAKES
DISTRICT COUNCIL**

Applicant

**CLOSING LEGAL SUBMISSIONS OF COUNSEL
FOR BRECON STREET PARTNERSHIP LTD**

Date: 16 January 2015

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SUPPLEMENTARY EVIDENCE

John Kyle

1. In his paragraph 30 – Mr Kyle explains the need for the district’s economy to “diversify in order to assist further growth” and to provide within the Plan Change area for “a range of uses which are corollary to the existing town centre”.
2. My client does not challenge the worthiness of these intentions but urges Commissioners to ensure that the objectives, policies and rules you settle on reflect this important expert evidence from Council’s adviser on RMA (as opposed to commercial) issues.
3. Mr Kyle attaches a tracked version containing proposed amended plan change provisions. At **10.2.2 Values**, page 10-16 the Lakeview subzone is identified and it is stated that the subzone:

“will be managed through the District Plan to accommodate commercial, mixed use, tourism and higher density residential activities.”

4. **Objective 3** (page 10.19) bears no relation to the wording of Mr Kyle’s supplementary evidence.
5. The **Policies** on page 10.19 not only fail to give effect to, but are in complete conflict with, Mr Kyle’s supplementary evidence.
6. As to **Rules**, the only intended control on retail is on large format retail activities – something the existing town centre cannot provide and which in the conventional sense could in part be “complementary”.
7. Given the permissive nature of planning under the RMA, there can be no zoning requirement that a convention centre must be established – despite the origins of this Plan Change being Council’s desire to provide specifically for a convention centre. (See rule 10.6.3.2A Restricted Discretionary Activity.)
8. The justification for the extensive rezoning supported by Mr Kyle is the desire to provide for a convention centre while at the same time providing for incremental growth of the city centre.

9. The appropriate way to provide for a specific infrastructure activity is for a specific zoning or overlay provision, something akin to a designation whereby if the proposal fails the designation lapses, or the overlay is removed, leaving an underlying zoning that has integrity. As things are, Council is seeking a substantially increased central area to provide for a convention centre with no commitment by any party to provide a convention centre there.

10. Mr Kyle's concluding sentence is:

"I note that the Lakeview subzone does not require any proposed convention centre to be located in any part of the subzone."

I agree entirely but would add the words:

"or at all."

11. The extension of the subzone boundary to the south has been justified entirely on the stated commercial preference to locate the convention centre at that end. In the event of a decision being made to locate it on or nearer the camping ground, Council's only justification for such a large area of rezoning would fall away.
12. It is implicit in Mr Kyle's conclusion that he accepts that the convention centre could be placed at another location within the subzone. In that respect I note that Appendix A to the supplementary evidence of Douglas Weir (Queenstown Convention Centre Site Analysis Report, July 2013) identified three sites for review:
- Lakeview site – an approximately 5 hectare site located west of the Queenstown CBD and fronted by Thomson and Man Streets.
 - Gorge Road site.
 - Stanley Street site.
13. Mr Speedy (paragraph 20) confirms that the nominated Lakeview site was preferred over the other two sites by 59% of submitters and 54% of people who meaningfully participated in a telephone survey.
14. Neither the 2013 report, nor the two "surveys" tell us where within the proposed subzone the convention centre should best be located – because no one was asked to address that question.

Paul Speedy

15. Appendix A “Principles for Lakeview Master Plan Development (approved by full Council, 19 December 2013)” exemplifies Mr Speedy’s and Councils’ serial failure to identify the difference between Council’s:
 - Powers of general competence (including commercial land development) pursuant to the Local Government Act 2002; and
 - Obligations as a consent authority pursuant to the Resource Management Act 1991.
16. As RMA planning authority QLDC has not put its mind to identifying the most suitable convention centre location within the Lakeview subzone, nor has it put its mind to the appropriate zoning and land use outcome in the event that the Queenstown Convention Centre does not proceed.
17. Mr Speedy’s announcement cancelling the proposed caucusing meeting between the respective experts for QLDC and Brecon Street Partnership may be seen as an appropriate hard-nosed approach by the Council officer charged with delivering a specific commercial outcome. It is wholly inappropriate conduct on the part of someone purporting to represent an RMA consent authority.

Don McKenzie

18. My client remains focussed on achieving a workable outcome and wishes to participate in the planning process in a constructive way. While Brecon Street Partnership Ltd is based in Queenstown, its principals have experience in property development in the main centres and like Mr McKenzie can see the traffic management issues in a broad context.
19. My client does not challenge Don McKenzie’s evidence because it accepts that we are still dealing with a relatively low intensity of development. It accepts that there is a range of workable traffic solutions available to Council that do not require detailed provisions being put into the District Plan.

Clinton Bird

20. It is disappointing that Mr Bird was not present when my client produced its prime evidence, and further that the proposed meeting of consultants was cancelled. In the time available today it is most appropriate that the direct response to his evidence be conveyed to you through Mr Munro. That includes comments as to:
 - The inaccuracy of the shading diagrams prepared by Mr Bird.

- The exaggeration of the claimed effect on the cemetery.
 - The selective use of information from an already self-selecting sample of people (four out of 1 million).
 - Mr Bird's inappropriate use of the "more than minor adverse effect" test in the context of a plan change proposal.
21. While the evaluation of the differing professional opinions is the Commissioners' task that must be assisted by participants eliminating unnecessary arguments in relation to primary facts. There is no excuse for a hearing at this level involving experienced Counsel and independent experts not to be working from agreed shading diagrams. Mr Speedy does not understand the purpose and functioning of expert caucusing – it is not about achieving agreement on all matters – but importantly involves sorting out misunderstandings and recording areas of agreement in a way that facilitates sound and safe decision-making. There is still scope for that to happen, subject to your direction.

R E Bartlett QC

Counsel for Brecon Street Partnership Ltd

16 January 2015