

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER OF

Queenstown Lakes Proposed District Plan –
Chapter 15 – Local Shopping Centre Zone

**STATEMENT OF EVIDENCE OF DAN CURLEY
ON BEHALF THE FOLLOWING SUBMITTERS:**

622 – Stuart and Melanie Pinfold and Satomi Enterprises Limited

26 March 2017



Introduction

- 1 My name is Daniel Michael Curley. I hold the qualification of Bachelor of Environmental Management from Lincoln University.
- 2 I am the sole director of IP Solutions Ltd, which is a land and asset development consultancy that offers land-development advice, resource management planning and project management. I have over 12 years of planning and land development experience in the Queenstown Lakes District, with seven of these in planning roles with Vivian+Espie Ltd (Queenstown), Paterson Pitts Partners (Wanaka) and Civic Corporation Ltd (Wanaka).
- 3 Throughout my professional career, I have been involved in a wide range of resource consent matters. I have made numerous appearances in front of hearing panels and I have also provided planning evidence to the Environment Court.
- 4 Although this is a Council hearing I confirm that I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Consolidated Practice Note and have complied with it in preparing this evidence. I confirm that I have considered all material facts that I am aware of that might alter or detract from the opinions that I express and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
- 5 I have read the Section 32 and the Section 42A reports prepared by the Council officers with respect to the Local Shopping Centre Zone ("LSCZ") of the Proposed District Plan ("PDP"). I have considered the facts, opinions and analysis in these documents when forming my opinions which are expressed in this evidence.
- 6 I have been engaged by Stuart and Melanie Pinfold and Satomi Enterprises Limited to provide planning evidence in respect of their submission on the proposed LSCZ.

Key Issue

Chapter 15 – Local Shopping Centre Zone

- 7 The key issue to be addressed within my evidence relates to "amenity", specifically to the interface between future built development (and operations) upon Lot 1, DP

477622 (proposed under Council's Section 32 Report to be re-zoned Local Shopping Centre Zone ("LSCZ") in part), and those properties owned by Stuart and Melanie Pinfold and Satomi Enterprises Limited (the Submitters' Land).

- 8 The Submitters' Land is legally described as Lot 1 DP 301095 and Lot 2 DP 301085. Figure 1 depicts the location of the Submitters' Land relevant to the proposed Cardrona Valley Road LSCZ.

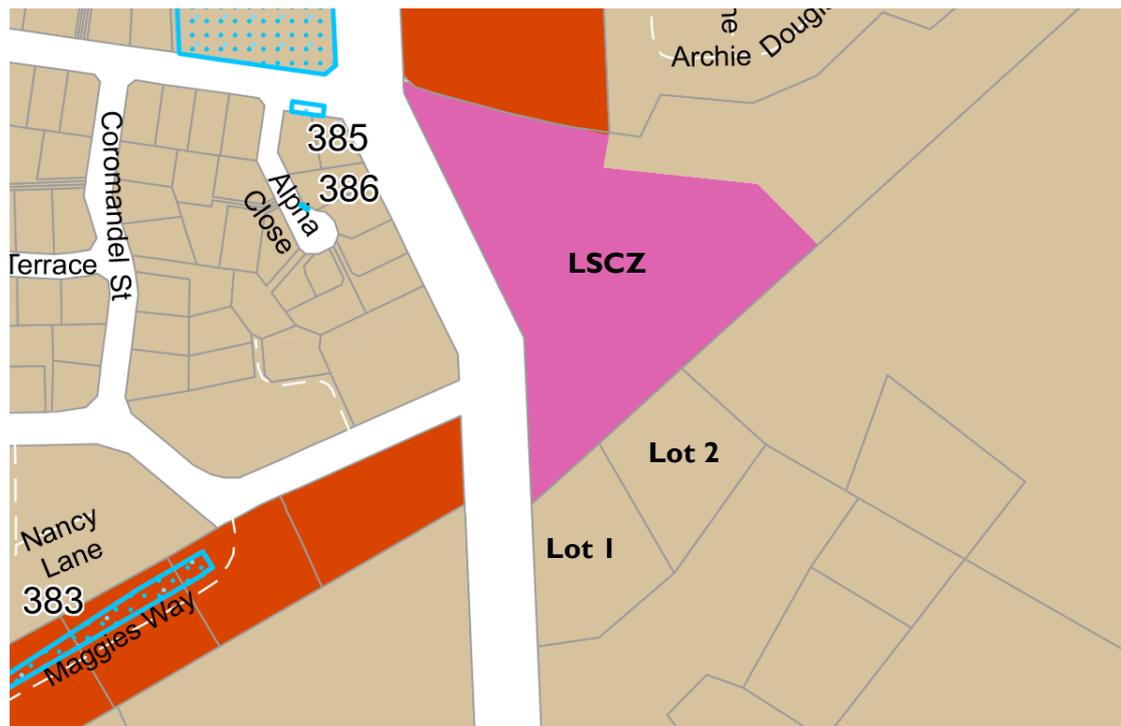


Figure 1: LSCZ Location Plan

PDP Objective and Policies

- 9 The Section 32 report identified the relevant issues for the LSCZ and "amenity" is included in the list of issues.
- 10 The PDP describes the purpose of the LCSZ as enabling small scale commercial and business activities that are accessible to residential areas. The zone purpose specifically references the use of zone standards to limit potential adverse effects on residential amenity and discourage the establishment of inappropriate activities.
- 11 The key PDP planning provisions that relate and respond to the issue of amenity include:

Chapter 3 - Strategic Direction Chapter

3.2.3 Goal - *A quality built environment taking into account the character of individual communities.*

3.2.3.1 Objective - *Achieve a built environment that ensures our urban areas are desirable and safeplaces to live, work and play.*

3.2.3.1.1 Policy – *Ensure development responds to the character of its site, the street, open space and surrounding area, whilst acknowledging the necessity of increased densities and some change in character in certain locations.*

Chapter 15 - Local Shopping Centre Chapter

15.2.2 - Objective – *Buildings respond to the existing character, quality and amenity values of their neighbourhood setting.*

Policies -

15.2.2.1 - *Control the height, scale, appearance and location of buildings in order to achieve a built form that complements the existing patterns of development and is consistent with established amenity values.*

15.2.2.2 - *Ensure that development generally comprises a scale that is commensurate with the receiving built environment.*

15.2.2.3 - *Provide for consideration of minor height infringements where they help achieve higher quality design outcomes and do not significantly adversely affect amenity values.*

15.2.2.4 - *Place specific controls on the bulk and location of buildings on sites adjoining Residential zoned properties to ensure that an appropriate standard of residential amenity is maintained.*

15.2.2.5 - *Control the design and appearance of verandas so they integrate well with the buildings they are attached to complement the overall streetscape and do*

not interfere with kerbside movements of high-sided vehicles, while providing appropriate cover for pedestrians.

15.2.2.6 - *Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects and to be consistent with established amenity value*

15.2.3 Objective – *Appropriate limits are placed on activities to minimise adverse environmental effects received both within and beyond the zone.*

Policies-

15.2.3.1 - *Provide appropriate noise limits to control adverse noise effects generated by activities occurring within the Local Shopping Centre Zone and received by nearby properties.*

15.2.3.2 - *Require acoustic insulation for critical listening environments (including residential activities and visitor accommodation) to limit the impact of noise generated within the Zone on occupants.*

15.2.3.3 - *Ensure that the location and direction of lights does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on the night sky.*

15.2.3.4 - *Avoid the establishment of activities that are not consistent with established amenity values, cause inappropriate environmental effects, or are more appropriately located in other zones.*

12 Overall, I consider that these provisions will provide an appropriate policy framework to ensure that future built development and operations within the LSCZ will be managed to protect the character, quality and amenity values within the zone and available from adjoining properties.

13 The development outcomes as anticipated by the objectives and policies of a zone will ultimately be achieved by the administration of rules within the district plan.

14 To ensure that proposed rules adequately give effect to outcomes anticipated by the objectives and policies of the LCSZ, specifically relating to “amenity” the Submitters’ requested the following relief (as detailed on Page 5 of Submission #622 prepared by Mr Timothy Williams of (at that time) Southern Planning Group):

- *The Proposed District Plan is modified to identify a 20m buffer/setback within the Local Shopping Centre Zone on Proposed Planning Map 23 running along the submitters’ boundary.*
- *The Proposed District Plan is modified to include rules that require landscaping of the 20m buffer setback prior to any development within the Local Shopping Centre Zone commencing with the form of the landscaping being sufficient to screen development from the submitters’ land, and*
- *The Proposed District Plan is modified to add rules that if breached trigger non-complying activity consent that ensure:*
 - *the 20m setback (noted above) only contains landscaping and therefore remains free of any buildings, structures or car parking,*
 - *the maximum height of any building or structure within 15m of the 20m setback shall not exceed 5.5m.*

15 I understand the rationale for the relief sort as it would in my opinion create rules that better direct outcomes consistent with proposed Objective 15.2.2 and related Policies 15.2.2.1, 15.2.2.2 and 15.2.2.4.

Section 42A Report

16 Council’s Section 42A Report has recommended to reject the relief sort by the submission.

17 In Council’s consideration of the submission points, at paragraph 5.5 of Page 16 of the 42A Report, Ms Bowbyes states:

“In my view, the recommended reduction in the extent of the LSCZ and the recommendation to zone the balance land LDR (see above), will result in a reduction of adverse effects from commercial activities operating within the LSCZ,

received on the Satomi and Ledgerwood land. I note that it will also move the activity away from the boundary of the Satomi property”.

18 While the 42A report rejects the relief sort, the above paragraph acknowledges adverse effects associated with the built form and operation of “commercial activities”, which I consider are distinct (different in nature) from the type of effects generated by alternate activity types.

19 It is my opinion that the degree of those effects is relative to the scale/extent of commercial activity.

20 Ms Byebows goes on to state at Paragraph 5.7:

“Notwithstanding the previous recommendation to reject amendments to the provisions, I recommend that the relief sought by submissions 622 and 507 to amend the LSCZ to avoid adverse amenity effects be accepted in part, as I consider that this outcome is achieved as a result of the recommended reduction in the total area of the notified LSCZ at Cardrona Valley Road.” (my emphasis)

21 Ms Byebows comments are in the context of an alternative zone (LDRZ) being recommended to adjoin the Submitters’ Land. I agree with Ms Byebows’, that moving future commercial activities of the scale anticipated by the LSCZ rules further away from the Submitters’ Land, will result in less adverse effects associated with commercial activities received at the Submitters’ Land.

22 A residential activity including associated built form located to within 2m of the Submitters’ Land (as per LDRZ rules) would give rise to less adverse amenity effects than a commercial activity (including built form located within 3m of the Submitters’ Land) as provided for within the rules of the LCSZ.

23 In my opinion the bulk and location rules of the LCSZ fail in their attempt to protect amenity available from adjoining properties. Further protection of residential amenity is required when a LCSZ is situated to adjoin an existing residential activity such as the Submitters’ Land or any other existing or proposed residential zone.

24 For example only 1 metre of additional building setback distance is proposed in the LSCZ over and above the building setback distance that would apply to residential

building established in the LDRZ. In my opinion, this differential is not reflective of two considerably different activity types that could adjoin a neighbouring residential activity or zone.

- 25 If zoned LCSZ to the boundary of the Submitters' Land, rule 15.5.2 (a) and (b) (which relate to the bulk and location of buildings), set a 35 degree recession plane and 3m boundary setback for buildings from adjoining properties. Further to this, there is no limitation on continuous building length.
- 26 In my opinion the above bulk and location constraints (or lack of) do not adequately give effect to the objectives and related policies of the LSCZ. They do not recognise the context of the zone (extent and scale of future commercial activities) that will for example be adjoining existing residential activities upon the Submitters' Land.
- 27 Rules relating to the bulk and location of buildings greatly contribute to the management of adverse amenity effects as received on adjoining properties. The operative zoning of the land proposed to accommodate the LCSZ is Rural General, which for example provides a setback between rural buildings and the Submitters' Land of 15m.
- 28 If zoned LDRZ, the bulk and location controls specify a minimum building setback of 2m and a recession plane of 35 degrees. This is most closely aligned to the bulk and location controls proposed to apply to future built development within the LCSZ. The only difference being buildings will be setback 1 additional metre (3m) within the LSCZ.
- 29 In my experience, while residential built form can be designed to be comprehensive in nature, and possibly include the use of common walls/terraced housing formations, it is more likely that a residential zone will provide for a variety of built form types, informed by residential land-tenure patterns which typically include smaller land parcels, as opposed to large format arrangements more generally associated with commercial activities.
- 30 In addition, residential zones provide the potential for intangible positive effects such as neighbourhood relationships, and the security associated with those relationships and/or familiarity of residents. They provide for on-site occupation

associated with permanent living, and/or intermittent living to a scale and intensity that is limited by both the rules relating to density and (when developed) the scale of residential built form established.

- 31 Activities within the yard spaces of residential activities might for example include traffic movements generated by a household, residents or visitors occupying outdoor/bbq areas, kids playing, and/or other signs of domestication such as residents hanging laundry or gardening.
- 32 In contrast, commercial activity occupation tends to result in a perceivably busier environment with market-driven fluctuations in the number of non-resident people that visit the site.
- 33 In my opinion, commercial activities are likely to generate adverse effects that are of a scale in-excess of that anticipated to be generated from residential activities. These effects can include (but are not limited to) noise, visual detracting associated with large-scale buildings, associated roof mounted service infrastructure and ducting, business marketing and service signage, lighting, traffic generation and parking activities.
- 34 The proposed LSCZ as notified could result in one or a number of buildings that are located 3m from the northern boundaries of the Submitters' Land for the full boundary length of approximately 120m combined. In my opinion, this scenario will create a range of adverse effects on the Submitters' Land that require a bulk and location differential that is greater than one additional metre over and above those setbacks that would apply to buildings within an LDRZ.
- 35 The evidence provided by Mr Tim Heath outlines issues with the notified extent of the LSCZ and the lack of controls within it. Mr Heath acknowledges that the submissions concerning the LSCZ were intrinsically related to the size of the zone itself which is why they are being dealt with as part of the mapping hearings.
- 36 Mr Heath refers to objective 15.2.2 and related policy 15.2.2.1 and I agree with his conclusion at Paragraph 5.9 that these objectives and policies demonstrate that small scale buildings and activities are anticipated within the LSCZ. However as outlined by Mr Heath the lack of controls and the notified scale/extent of the LSCZ mean that large scale buildings and activities could be established in this area.

- 37 I rely on Mr Heath's evidence in respect of the appropriate land area to accommodate LSCZ and agree with the section 42A report conclusion that if the LSCZ is reduced in size, it should adjoin the medical centre precinct.
- 38 In my opinion providing commercial built development which is setback 3m from the Submitters' Land with no restriction on building length does not complement the existing pattern of development in this area, nor is it commensurate with the scale of the receiving built environment and it does not ensure that an appropriate standard of residential amenity is maintained, yet these are outcomes sought by the relevant objectives and policies of the zone.
- 39 In my opinion, there is a disconnect between the LCSZ policies and rules in this respect. If the Council is to zone LSCZ up to the boundary of the Submitters' Land and/or to any land proposed to be zoned residential, I believe that rules relating to the interface between built form and operations occurring within the LSCZ and existing residential properties and/or residential zoned properties require further attention.
- 40 If the extent of the LSZC is not reduced, as set out in the S42A report, in the case of the interface between the Submitters' Land and the extend of LSCZ as notified the rules should be amended in my opinion to provide for a minimum setback distance of at least 20m, including a 5m green/landscaped strip adjoining the boundary of the submitters' property.
- 41 My recommendation of 20m is greater than what other zoning allows for in respect to the proximity of non-residential activities adjoining residential zones (for example Rural General Zone 15m, Industrial Zone 7m, Industrial B Zone 15m). However I consider it will provide the opportunity for landscape screening/softening of commercial built form and associated activities including outdoor storage, and will not result in an inefficient use of land. While this area should not accommodate built form it is able to be utilised for car-parking and/or service activities provided that they are adequately screened.

Summary

- 42 I agree with the recommendations made in Council's 42A Report to shift the LCSZ away from the Submitters' Land, and the rationale that supports that shift.
- 43 I also support the recommendations made in Council's 42A Report to zone that part of Lot 1, DP 477622 that adjoins the Submitters Land LDRZ as opposed to LCSZ.
- 44 The above outcome would address the Submitters concerns. However, if this approach was not adopted by the Commission, the rules of the zone in-particular setback requirements would need to be significantly amended to allow for operations anticipated by the zone to integrate more sensitively and appropriately to adjoining residential activities and/or zones.
- 45 In respect of the interface with the Submitters' Land, given the extent of the LSCZ as notified I consider that a building setback of at least 20m is required, including a green/landscaped strip of at least 5m adjoining the Submitters' Land.
- 46 The proposed bulk and location rules as they currently stand will not align future development to the objectives and related policies of the zone that seek to maintain residential amenity.
- 47 In my opinion the amendments outlined in this brief of evidence represent the most appropriate method for achieving the objectives of the PDP having regard to resource efficiency and taking into account costs and benefits as required under Section 32 of the Resource Management Act 1991.

Dan Curley

26 March 2017