



**QUEENSTOWN LAKES DISTRICT COUNCIL COMMISSION TO CONSIDER PLAN**

**CHANGE 50**

**Commissioner Sir John Hansen (Chair)  
Commissioner Jane Taylor**

---

**REPORT & RECOMMENDATIONS OF INDEPENDENT COMMISSIONERS PLAN CHANGE**

**50: QUEENSTOWN TOWN CENTRE EXTENSION**

**DATED: 16 JUNE 2015**

## CONTENTS

1.0	THE HEARING .....	5
2.0	APPEARANCES & INFORMATION SIGHTED.....	5
3.0	INTRODUCTION .....	8
4.0	NOTIFICATION AND SUBMISSIONS.....	8
5.0	DESCRIPTION OF PLAN CHANGE 50 .....	9
6.0	STATUTORY REQUIREMENTS.....	12
7.0	PROCEDURAL ISSUES .....	13
8.0	THE EVIDENCE .....	21
9.0	ASSESSMENT .....	46
9.1	PROCESS ISSUES RELATED TO CONSULTATION AND THE SECTION 32 EVALUATION .....	47
	Discussion & Reasons .....	47
	Commission’s Recommendations .....	51
9.2	NEED FOR PLAN CHANGE .....	52
	Discussion & Reasons .....	52
	Commission’s Recommendation .....	57
9.3	IMPACT ON THE EXISTING QUEENSTOWN TOWN CENTRE.....	57
	Discussion & Reasons .....	58
	Commission’s Recommendation .....	68
9.4	APPROPRIATENESS OF A CONVENTION CENTRE WITHIN LAKEVIEW SUB-ZONE .....	68
	Discussion & Reasons .....	69
	Commission’s Recommendation .....	74
9.5	TRANSPORTATION, TRAFFIC EFFECTS, WALKING AND CYCLING, AND CONNECTIVITY .....	75
	Discussion & Reasons .....	76
	Commission’s Recommendations .....	85
9.6	LOSS OF AFFORDABLE HOUSING.....	86
	Discussion & Reasons .....	86
	Commission’s Recommendations .....	89

9.7	EFFECTS ON LANDSCAPE AND VISUAL AMENITY VALUES .....	900
	Discussion & Reasons .....	91
	Commission's Recommendations .....	99
9.8	EFFECTS ON INFRASTRUCTURE.....	100
	Discussion & Reasons .....	100
	Commission's Recommendations .....	101
9.9	EFFECTS ON HERITAGE VALUES .....	101
	Discussion & Reasons .....	101
	Commission's Recommendation .....	106
9.10	RESOURCE MANAGEMENT ISSUES RAISED BY PLANNING PROVISIONS FOR THE LAKEVIEW SUB-ZONE.....	107
	Discussion & Reasons .....	108
	Commission's Recommendation .....	112
9.11	RESOURCE MANAGEMENT ISSUES RAISED BY PLANNING PROVISIONS FOR THE ISLE STREET SUB-ZONE .....	112
	Discussion & Reasons .....	116
	Commission's Recommendation .....	128
9.12	RESOURCE MANAGEMENT ISSUES RAISED BY PLANNING PROVISIONS FOR BEACH STREET BLOCK .....	129
	Discussion & Reasons .....	129
	Commission's Recommendation .....	135
9.13	CONSISTENCY WITH THE DISTRICT PLAN AND REGIONAL POLICY STATEMENT.....	135
	Discussion & Reasons .....	135
	Commission's Recommendations .....	138
9.14	CONSISTENCY WITH PART II OF THE RESOURCE MANAGEMENT ACT .....	139
	Discussion & Reasons .....	139
	Commission's Recommendations .....	139
10.0	RE-EVALUATION UNDER SECTION 32AA RMA .....	139
11.0	PART 2 OF THE ACT .....	142
12.0	OUTCOME .....	145

## Abbreviation Table

General Terms	
Central Business District	CBD
High Density Residential Zone	HDRZ
Integrated Transportation Assessment	ITA
Operative Queenstown Lakes District Plan	District Plan
Queenstown Town Centre	QTC
Queenstown Town Centre Zone	QTCZ
Resource Management Act 1991	the Act
Town Centre transition sub-zone	TCTZ
Transport Joint Witness Statement	Transport JWS
Urban Design and Planning Joint Witness Statement	Planning and Urban Design JWS
Submitter Abbreviations	
Any Old Fish Company Holdings Limited (50/28)	Any Old Fish
Brecon Street Partnership Limited (50/10)	BSPL
HW Holdings Limited (50/37)	HW Holdings
IHG Queenstown Ltd and Carter Queenstown (50/32)	IHG and Carter
Kelso Investments Limited and Chengs Capital Investment Limited (50/35)	Kelso and Chengs
Man Street Properties Limited (50/27)	MSPL
Maximum Mojo Holdings Limited (50/16)	MMHL
Memorial Property Limited (50/39)	MPL
Mr Adam and Kirsten Zaki (50/56) and Carl and Lorraine Holt (50/57)	Zaki and Holt
Mr Cedric Hockey (50/36)	Mr Hockey
Mr Christopher Mace and Queenstown Trust (50/17)	CMQT
Ms Cath Gilmour	Ms Gilmour
New Zealand Institute of Architects Southern Branch (50/15)	NZIASB
Ngai Tahu Tourism Limited (50/34)	NTTL
Queenstown Gold Limited	QGL
Queenstown Lakes Community Housing Trust (50/42)	QLCHT
Reid Investment Trust (50/03)	Reid Investment
Remarkables Jet Limited (50/49)	RJL
Skyline Enterprises Limited (50/22)	Skyline
The Dairy Guesthouse 2003 Limited (50/26)	Dairy Guesthouse
Watertight Investments Limited (50/33)	Watertight

## 1.0 THE HEARING

- 1.1 The hearing for proposed Plan Change 50 and submissions (including further submissions) took place at the Crowne Plaza, Queenstown on 17<sup>th</sup> November to Monday 24<sup>th</sup> November 2014. The hearing was reconvened on January 16<sup>th</sup> 2015, as it was identified by the Commission that there was a need for expert witnesses to conference on a number of issues identified in a Minute issued by the Commission on 16<sup>th</sup> January 2015. Following the conferencing of expert witnesses on 9<sup>th</sup> and 10<sup>th</sup> February 2015, the hearing was reconvened on 23<sup>rd</sup> February 2015 to hear additional submissions on the identified issues from both the Queenstown Lakes District Council and submitters.
- 1.2 A full site visit was undertaken by the Commission on 18 September 2014 prior to the commencement of the hearing. Additional site visits were undertaken by the Commissioners on various occasions in relation to specific issues that arose during the hearing process.

## 2.0 APPEARANCES & FURTHER INFORMATION SIGHTED

### Jurisdictional Issues:

**Mr Graeme Todd**, Counsel for Kelso and Chengs, QGL, and MSPL.  
**Ms Janette Campbell**, Counsel for Queenstown Lakes District Council, Meredith Connell Lawyers

### Queenstown Lakes District Council:

**Ms Janette Campbell**, Counsel, Meredith Connell Lawyers  
**Mr Paul Speedy**, Queenstown Lakes District Council  
**Mr Clinton Bird**, Clinton Bird Urban Design Limited  
**Mr Phil McDermott**, McDermott Miller Group  
**Dr Marion Read**, Read Landscapes  
**Dr Hayden Cawte**, New Zealand Heritage Properties Limited  
**Mr Denis Mander**, Queenstown Lakes District Council  
**Mr Glen Davis**, Davis Consulting Group Limited  
**Mr Nigel Lloyd**, Hadley Consultants Limited  
**Ms Andrea Jarvis**, Holmes Consulting Group Limited  
**Mr Fraser Colegrave**, Insight Economics Limited  
**Mr John Kyle**, Mitchell Partnerships Limited  
**Mr Don McKenzie**, Traffic Design Group Limited  
**Mr Stephen Chiles**, Stephen Chiles Acoustics

### Submitters:

**Mr Donald McDonald** (on behalf of Mr Craig Stobo 50//21)  
**Mr Donald and Mrs Gillian McDonald** (for Browns Boutique Hotel 50//31)  
**Mr Basil Walker** (50/55)

### ***For Memorial Property Limited (50/39)***

**Mr Michael Holm**, Counsel, Atkins Holm Majurey Lawyers  
**Mr Dan Wells**, Planning Consultant, John Edmonds & Associates Limited  
**Mr Tim Kelly**, Tim Kelly Transportation Planning Ltd  
**Mr Johnny Stevenson**, Director, MPL  
**Mr Tony Butson**, Director, MPL

**Ms Cath Gilmour (50/48)**  
**Mr Tim McGeorge (50/25)**  
**Ms Laura McPhail (for Geoff McPhail, further submitter 50/56)**

***For Mr Christopher Mace and Queenstown Trust (50/17)***  
**Mr Michael Holm, Counsel, Atkins Holm Majurey Lawyers**

***For Mr John Thompson (50/24)***  
**Ms Maree Baker-Galloway, Counsel, Anderson Lloyd Lawyers**

***For New Zealand Institute of Architects Southern Branch (50/15)***  
**Mr Preston Stevens, Chairman**  
**Ms Gillian Macleod, Committee Member**

***For Skyline Enterprises Limited (50/22)***  
**Mr Jeff Staniland, Chief Executive Officer, Skyline Enterprises Limited**

***For IHG Queenstown Ltd and Carter Queenstown (50/32)***  
**Mr John Edmonds, Planning Consultant, John Edmonds & Associates Limited**  
**Mr Michael Wyatt, Architect, Michael Wyatt Architects Limited**

***For HW Holdings Limited (50/37)***  
**Mr John Edmonds, Planning Consultant, John Edmonds & Associates Limited**

***For Reid Investment Trust (50/03)***  
**Mr Paul Arnesen, Planning Consultant, Planning Focus Limited**

***For Queenstown Lakes Community Housing Trust (50/42)***  
**Mr Stephen Brent, Trustee**

**Mr Colin Walker (for Mrs Margaret Walker 50/19)**

**Mr Allan Huntington (50/30)**

***For Ngai Tahu Tourism Limited (50/34)***  
**Mr John Edmonds, Planning Consultant, John Edmonds & Associates Limited**

**Mr Tai Ward-Holmes (50/07)**

**Mr Michael Legge (50/01)**

***For The Dairy Guesthouse 2003 Limited (50/26), Any Old Fish Company Holdings Limited (50/28), Maximum Mojo Holdings Limited (50/16), Watertight Investments Limited (50/33)***

**Mr Graeme Todd, Counsel**  
**Mr Scott Freeman, Planning Consultant, Southern Planning Group Limited**

***For Man Street Properties Limited (50/27)***  
**Mr Graeme Todd, Counsel**  
**Mr Scott Freeman, Planning Consultant, Southern Planning Group Limited**

***For Kelso Investments Limited and Chengs Capital Investment Limited (50/35), Queenstown Gold Limited (50/38)***

**Mr Graeme Todd, Counsel**  
**Mr John Edmonds, Planning Consultant, John Edmonds & Associates Limited**

***For Remarkables Jet Limited (50/49)***

**Ms Jenny Carter**, Planner, Porter Group Limited.

**Mr Alistair Porter**, Director, RJL

***For Brecon Street Partnership Limited (50/10)***

**Mr Russell Bartlett QC**, Counsel

**Mr David Gibbs**, Urban Designer, Construct Architects Ltd

**Mr Ian Munro**, Planning Consultant, Urbanism Plus

**Mr Trevor Shrieber**

**Mr Graham Wilkinson**, Director, BSPL

***For Mr Adam and Kirsten Zaki (50/56) and Carl and Lorraine Holt (50/57) (late submitters)***

**Mr Chris Thomsen**, Counsel, Webb Farry

***Ms Lucy Bell (50/58)******Officers & Advisors in Attendance:***

**Mr Nigel Bryce**, Consultant Planner of Ryder Consulting Limited. Mr Bryce prepared the Section 42A report on Plan Change 50 and submissions received (including further submissions). Mr Bryce was present throughout the hearing and provided the Commission with a verbal officer reply on 23rd February 2015.

**Ms Julia Chalmers**, District Plan Administrator, Queenstown Lakes District Council. Ms Chalmers provided administrative support to the Commission and was in attendance throughout the hearing.

***Further Information Sighted:***

- 2.1 The Commission records that it has sighted a copy of a letter from Ms Jane O’Dea (Heritage Advisor) of Heritage New Zealand to the Council’s Chief Executive Officer dated 19 November 2014.
- 2.2 Following the adjournment of the hearing on 24<sup>th</sup> November 2014, the Commission verbally directed that a range of issues be caucused between submitters, Council witnesses and Mr Bryce. The Commission has reviewed and given consideration to the caucus statements prepared to reflect the outcomes of the caucus workshops chaired by retired Environment Court Judge Shona Kenderdine, undertaken on 8<sup>th</sup> and 9<sup>th</sup> December 2014.
- 2.3 The Commission has reviewed the Supplementary Evidence prepared by Council witnesses that was pre-circulated before the hearing was reconvened on 16<sup>th</sup> January 2015. This supplementary evidence was subsequently presented at the reconvened hearing on 23<sup>rd</sup> February 2015.
- 2.4 The Commission has had regard to the Transport JWS and the Planning and Urban Design JWS that were prepared following expert witness conferencing undertaken on 9<sup>th</sup> and 10<sup>th</sup> February 2015.
- 2.5 The Commission has also had regard to the further supplementary evidence of Council circulated on 18<sup>th</sup> February 2015<sup>1</sup>, and the submitters’ further supplementary evidence circulated on 20<sup>th</sup> February 2015.<sup>2</sup>

---

<sup>1</sup> Which included further supplementary evidence prepared by Mr John Kyle and supplementary evidence of Mr Doug Weir.

<sup>2</sup> Which included further supplementary evidence prepared by Mr David Gibbs and Mr Ian Munro on behalf of Brecon Street Partnerships Limited.

- 2.6 Lastly, the Commission received and considered closing legal submissions from BSPL, MPL, CMQT and RJL on 9<sup>th</sup> March 2015 and the closing submissions of Council on 16<sup>th</sup> March 2015.

### 3.0 INTRODUCTION

- 3.1 Plan Change 50 seeks to rezone approximately 14.7 hectares of land comprising the following sites:

- a) The former Queenstown Lakeview Holiday Park site at Thompson Street, Queenstown, comprising approximately 11 hectares in area, together with a site of approximately 6,200m<sup>2</sup> located immediately adjacent to the Queenstown Lakeview Holiday Park bordering Glasgow and Thompson Streets, Queenstown; herein referred to as the 'Lakeview' site;
- b) 34 Brecon Street, being approximately 3,900m<sup>2</sup> in area, to form part of the Lakeview sub-zone and herein referred to as the 'Lakeview' site (unless separately identified);
- c) Two blocks bound by Camp Street, Isle Street, Man Street and Hay Street, comprising approximately 18,400m<sup>2</sup> in area, referred to herein as the 'Isle Street blocks';
- d) The block of land bound by Lake, Beach, Hay and Man Streets, referred to herein as the 'Beach Street site', comprising approximately 9,200m<sup>2</sup> in area.

- 3.2 The land subject to Plan Change 50 is shown on Maps 35 and 36 of the District Plan. The relevant provisions of the District Plan that are proposed to be amended by Plan Change 50 include:

- Amendments to Section 7 (Residential);
- Amendments to Section 10 Town Centres – Resource Management Issues, Objectives and Policies;
- Amendments to Section 10 Town Centre Rules;
- Amendments to Section 14 Transport Rules;
- An amendment to Section 15 (Subdivision);
- An amendment to the Definitions Section; and
- Amendments to Planning Maps 35 and 36.

### 4.0 NOTIFICATION AND SUBMISSIONS

- 4.1 Plan Change 50 was notified for submissions on 15<sup>th</sup> September 2014. The period for lodging submissions closed on 10<sup>th</sup> October 2014. A summary of the decisions requested in submissions was publicly notified on 15<sup>th</sup> October 2014 and the period for further submissions closed on 30<sup>th</sup> October 2014.

- 4.2 A total of 58 original submissions and 14 further submissions were received. It is noted that 12 of the further submissions were made by original submitters. Two additional further submissions were received by new submitters.<sup>3</sup> **Appendix 2** contains a summary of the decisions requested and of the further submissions received. **Appendix 3** lists the submitters and further submitters.

---

<sup>3</sup> Mr Geoff McPhail (F50/59) and Berry & Co (F50/60).

- 4.3 We address the procedural issues linked to late submissions in section 7.1 of this decision.

## 5.0 DESCRIPTION OF PLAN CHANGE 50

- 5.1 Plan Change 50 as notified sought a number of amendments to the Queenstown Lakes District Plan (“the **District Plan**”) as follows:

- (a) **Amendment of Planning Maps 35 and 36 by:**  
Rezoning approximately 14.7 hectares of land from HDRZ to QTCZ or sub-zones to the same.
- (b) **Amendment of Section 10 (Queenstown Town Centre Zone) by the addition of a suite of provisions which, as publicly notified, provided for the following:**

(i) Lakeview sub-zone

- Plan Change 50 introduces a new objective into section 10.2.4 (Objectives and Policies) supporting Section 10.2.1 (Queenstown Town Centre);
- The new objective is supported by 10 new policies;
- The Lakeview sub-zone Structure Plan depicts the roading layout through the sub-zone, the areas along Thompson Street that are to be set aside for road widening purposes and the area of land at the corner of Thompson Street and Hay Street that will provide a corner splay for the road at this location;
- Increases in the height limits for the Lakeview sub-zone from 8 metres under the HDRZ to between 4.5 metres and 26 metres to enable intensification of use. This provides for building heights that range from 3 to 7 storeys in height with larger buildings located to the rear of the site, adjoining the Ben Lomond Scenic Reserve;
- Under a new site standard for the Lakeview and Isle Street sub-zones the maximum building height limits may be exceeded by 2 metres through the use of a “roof bonus”;
- All buildings are to be Controlled Activities (as in the QTCZ but with additional urban design controls);
- A convention centre is provided for (in the Lakeview sub-zone) as a Controlled Activity, and as a Discretionary Activity for the remainder of the zone;
- A new definition of ‘convention centre’ is included to support the inclusion of this land use activity within the Lakeview sub-zone;
- As with the existing QTCZ provisions all applications for Controlled Activities can be advanced without the need for notification (unless special circumstances exist);
- Retail activities in the Lakeview sub-zone will be managed by a new zone standard which seeks to prevent large format retail (by providing for a maximum gross floor area of 400m<sup>2</sup> per tenancy) so as to ensure the sub-zones complement rather than detract from the existing QTCZ and the retail areas at Frankton/Remarkables Park; and
- On site car parking and bus parking is required for some activities to manage parking demand and facilitate other modes of transport, in particular the development of pedestrian routes.

(ii) Isle Street Sub-zone

- The Isle Street sub-zone is supported by existing objective 1 under section 10.2.4 and is complemented with two new policies;
- All buildings are to be Controlled Activities (as in the QTCZ);
- As with the existing QTCZ provisions all applications for Controlled Activities can be advanced without the need for notification (unless special circumstances exist);
- Retail activities in the Isle Street sub-zone will be managed by a new zone standard that seeks to prevent large format retail (by providing for a maximum gross floor area of 400m<sup>2</sup> per tenancy) so as to ensure the sub-zones complement rather than detract from the existing QTCZ and the retail areas at Frankton/Remarkables Park; and
- Height limits for the sub-zone have increased to enable an additional storey for buildings (maximum building height is 12 metres above ground level), and two additional storeys in certain situations.<sup>4</sup>

(iii) Transportation Section (Chapter 14)

- The parking provisions specific to the Lakeview sub-zone will be incorporated into Chapter 14 of the District Plan. A detailed breakdown of the proposed parking ratios for the Lakeview sub-zone is set out in the AEE.<sup>5</sup> There is no minimum car parking requirement applicable to the Isle Street sub-zone or the Beach Street site, which is in line with the current provisions for the QTCZ.
- The ITA prepared by Traffic Design Group makes a recommendation on a wide-ranging parking strategy, which is consistent with the 2005 Future Link parking strategy that was prepared to investigate parking supply for the QTCZ, including the Lakeview sub-zone and the Isle Street sub-zone.<sup>6</sup>

(iv) Subdivision Section (Chapter 15)

- A new Discretionary Activity rule is promoted for any subdivision within the Lakeview sub-zone that is not in general accordance with structure plan.

5.2 The Plan Change 50 provisions as summarised above were amended by Mr Bryce in his Section 42A report, and were further amended in the planning evidence of Mr Kyle in response to matters raised during the course of the hearing by various parties. The final changes to the provisions notified by Council were appended to Mr Kyle's further supplementary planning evidence dated 18<sup>th</sup> February 2015, which was made available to all submitters. The final suite of provisions was also posted on the Council's website.

5.3 The Commission confirms that it has considered Plan Change 50 on the basis of the amended provisions attached to Mr Kyle's further supplementary planning evidence dated 18<sup>th</sup> February 2015, together with the additional amendment in relation to the Beach Street Block provision set out in Council's closing legal

<sup>4</sup> Where a site within the Isle Street sub-zone has boundaries facing both Isle Street and Man Street, and has a site area greater than 2,000m<sup>2</sup>, the provisions supporting this sub-zone allow a maximum building of 15.5m as a discretionary activity.

<sup>5</sup> Refer page 14 of the AEE.

<sup>6</sup> Hereafter referred to as 'TDG'.

submission.<sup>7</sup> We also note, for completeness, that Mr Bryce confirmed in his verbal right of reply that he had considered and agreed to the planning provisions appended to Mr Kyle's further supplementary evidence.

- 5.4 The Commission has had the opportunity to review and consider the Section 32 evaluation report supporting Plan Change 50 and the various technical reports and other documents that accompanied the Proposed Plan Change. This includes consideration given to the Landscape and Visual Effects report prepared by Dr Marion Read (dated 8<sup>th</sup> October 2014) and the additional photomontages prepared by Fearon Hay Architects (dated October 2014), which were made available on the Council's website prior to close of submissions.
- 5.5 Key amendments made to the QTCZ provisions advanced by Plan Change 50 as a result of this decision include:
- (i) A reduction in the extent of Plan Change 50 area to be rezoned QTCZ. The western end of the Lakeview sub-zone, confined to that area of land referred to as the 'Lynch Block', has been excluded from the Town Centre zoning and the High Density Residential zoning that currently applies to this area has been retained, with the exception that the Lakeview sub-zone bulk and location requirements will continue to apply over this area;<sup>8</sup>
  - (ii) A revised zone map reflecting an amendment to the western-most part of the Lakeview sub-zone has been proposed;
  - (iii) Amendments to Objective 10.2.4.3 and the supporting policy framework to more appropriately reflect ancillary retail and ancillary commercial activities that support the predominant uses within the Lakeview sub-zone have been made;
  - (iv) A new definition of "ancillary retail and ancillary commercial uses" has been introduced into the Lakeview sub-zone policy and rule framework;
  - (v) A revised rule framework for predominant uses located within the Lakeview sub-zone has been formulated by combining the three previous Restricted Discretionary Activity rules proposed by Council. The predominant use rule now governs (i) a convention centre, (ii) visitor accommodation and (iii) commercial recreation and/or tourist activities with a gross floor area of more than 400m<sup>2</sup>. Matters of discretion have been expanded to give clear guidance in relation to matters that are to be considered;
  - (vi) A new rule framework for non-ancillary retail and commercial activities within the Lakeview sub-zone that fall below 400m<sup>2</sup> gross floor area per tenancy and commercial activities with a gross floor area of more than 400m<sup>2</sup> has been recommended to manage impacts on the viability of the existing Queenstown Town Centre (including the management of the cumulative effects of non-ancillary retail and commercial activities where these exceed a maximum gross floor area of 6,500m<sup>2</sup> across the Lakeview sub-zone);
  - (vii) The Isle Street sub-zone has been split into two areas, with revised planning provisions supporting the Isle Street sub-zone (West) and the Isle Street sub-

<sup>7</sup> At paragraph 5.4, where amendments are recommended to Rule 10.6.3.2A(iii).

<sup>8</sup> Mr Kyle's further supplementary planning evidence dated 18<sup>th</sup> February 2015, noted that this change was agreed during the planning and urban design conference. The JWS recorded the parties' agreement that the western extent of the Lakeview sub-zone land (generally described as the Lynch Block) should retain the High Density Residential Zone (the HDRZ) in order to manage "edge effects". It was agreed that this change would be subject to retaining the height, bulk and location requirements promoted for buildings erected on this land via Plan Change 50.

zone (East) introduced. A revised zone map reflecting the amendment to the Isle Street sub-zones has been proposed;

- (viii) Amended rules supporting the Isle Street sub-zone (West and East), which are more responsive to the underlying resource management issues that apply to each sub-zone area, have been introduced. This includes the ability for development to be increased to a height of 15.5 metres within the Isle Street sub-zone (East) as a Controlled Activity where sites are greater than 2,000m<sup>2</sup> and front either Man Street or Isle Street;
- (ix) The height limit for any buildings on 34 Brecon Street as a Controlled Activity has been increased to a total of 15.5 metres (plus a small roof bonus);
- (x) Any future re-alignment of Cemetery Road (as reflected within amended Site Standard 10.6.5.1(xiii) Lakeview sub-zone Structure Plan) has been exempted from having to advance through a specific consent process;
- (xi) An exemption from providing a veranda has been introduced in the Beach Street block, unless building works take place on the road boundary.

## 6.0 STATUTORY REQUIREMENTS

6.1 Section 73(1B) of the Act provides that a district plan may be changed by a territorial authority in the manner set out in Schedule 1 to the Act. Ms Campbell, counsel for the Council, confirmed that this was the process advanced by the Council.

6.2 Clause 10 of the First Schedule to the Act requires that a local authority give a decision on the matters raised in submissions, and the reasons for accepting or rejecting the submissions, although it is not required to give a decision that addresses each submission individually. The decision may also include making any consequential amendments necessary to the proposed plan change arising from submissions.

6.3 Section 75 of the Act prescribes the contents of district plans. Subsection (3) states:

- (3) a district plan must give effect to-*
- (a) any national policy statement; and*
  - (b) any New Zealand coastal policy statement; and*
  - (c) any regional policy statement.*

6.4 Subsection (4) goes on to state that a district plan must not be inconsistent with a water conservation order or a regional plan on any matter specified of regional significance.

6.5 Section 74 requires that a territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32 and any regulations.

6.6 Sections 74(2), (2A) and (3) are set out as follows:

- (2) In addition to the requirements of sections 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*
- (a) Any—*
    - (i) Proposed regional policy statement; or*
    - (ii) Proposed regional plan of its region in regard to any matter of regional*

significance or for which the regional council has primary responsibility under Part 4; and

(b) Any—

- (i) Management plans and strategies prepared under other Acts; and
- (ii) [Repealed]
- (ii) relevant entry on the New Zealand Heritage List/Rārangi Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and; and
- (iii) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing) — to the extent that their content has a bearing on resource management issues of the district; and

(c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.

(Emphasis added by underlining)

6.7 The Commission is only empowered to make a recommendation to the territorial authority in terms of the limits of its delegated authority under section 34A (1) of the Act.

## 7.0 PROCEDURAL ISSUES

7.1 A number of procedural issues were raised as a consequence of submissions received and matters identified during the hearing process. These fall within the following general matters:

- Acceptance of late submissions;
- Whether certain submissions are “on” Plan Change;
- Scope issues relating to the expansion of the QTCZ over the Isle Street East Block;
- Issues relating to the validity of current survey lines in relation to 165 Antrim Street; and
- Termination of lease agreements with cabin owners.

Each procedural issue is discussed in detail below.

### Acceptance of Late Submissions

7.2 The Commission, by way of delegated authority, is able to waive timeframes under section 37(1)(b) of the RMA in relation to the receipt of submissions filed out of time. Mr Bryce’s Section 42A report discusses the relevant requirements of section 37A and makes a recommendation as to whether or not the late submissions should be accepted.

7.3 Section 37A requires the Commission to take into account;

- “(a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver;*
- (b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
- (c) its duty to avoid unreasonable delay.”*

7.4 The following submissions were received after the closing date specified in the public notice:

- Ms Rebecca Richwhite ((50/54) original submission received 14 October 2014);
- Mr Les and Ms Bev Dawson ((50/52) original submission received 13 October 2014);
- Mr Carl Loman (50/53) original submission received 14 October 2014);
- Mr Al Angus (original submission received 30 October 2014);
- Mr Basil Walker (original submission received 31 October 2014);
- The further submission Berry & Co (further submission received 3rd November 2014 after the close of the further submission period).

7.5 Mr Bryce recommended that the late submissions from Ms Rebecca Richwhite (50/54), Mr Les and Ms Bev Dawson (50/52), Mr Carl Loman (50/53) be accepted on the basis that they were all received prior to notifying the Summary of Decisions Requested.

7.6 The further submission by Berry & Co was received two working days late; however this party confirmed that they have an interest greater than the public generally on the basis that the family holds two leases for cabins on Antrim Street, and their submission is in support of an original submitter. Mr Bryce recommended acceptance of this late further submission.

7.7 The submission by Mr Al Angus, which raised general opposition to the proposed plan change and convention centre, was received on 30<sup>th</sup> October 2014, some two weeks following the close of primary submissions. The Section 42A report considered that Mr Angus’s submission did not raise any new issues and, as such, refusing to accept it would not prejudice the interests of the community in terms of aiding community understanding of the effects of the proposed plan change. Mr Bryce recommended that acceptance of the submission by Mr Angus be refused on this basis, particularly as it was received well outside the submission period.

7.8 The submission by Mr Basil Walker states that his original submission was not included within the published summary; however, in his words his expanded submission “was actioned by an increase in scope and property being included in proposed plan change”. Mr Walker commented on a separate earlier consultation exercise around the Plan Change (a non-RMA process). He believed that he had lodged a formal submission on the notified version of the proposed plan change. The Commission confirmed on 5<sup>th</sup> November 2014 that it was prepared to accept his late notice of these concerns during the further submission process, in accordance with Mr Walker's genuinely held belief that he had lodged such a submission.

7.9 On 9<sup>th</sup> December 2014, the Commission received late submissions from Mr and Ms Zaki and Mr and Ms Holt (50/56 and 50/57), who own properties located within the Beach Street site. The Commission considered the Section 37 application and determined that the late submissions by both parties be accepted on the basis that no party was considered prejudiced by the filing of these late submissions, and that neither submitter was seeking an adjournment to the hearing process as a

consequence of their late submission. The Commission allocated Mr Thomsen time to speak to the Holt and Zaki submissions at the reconvened hearing on 16<sup>th</sup> January 2015. Mr Williams, a planning consultant for Mr and Ms Holt and Mr and Ms Zaki, was also present and participated in the expert urban design and planning conferencing undertaken on 9<sup>th</sup> and 10<sup>th</sup> February 2015.

- 7.10 Further, on 6<sup>th</sup> January 2015, the Commission received a late submission from Ms Lucy Bell (50/58), resident of 163 Antrim Street, Queenstown. The late submission was supported by a section 37 application filed by Ms Bell. The Commission allocated Ms Bell time to speak to her submission at the reconvened hearing on 16<sup>th</sup> January 2015.
- 7.11 The Commission formally resolved to accept the following late original submissions received by the following parties:
- Rebecca Richwhite (50/54);
  - Les and Bev Dawson (50/52);
  - Carl Loman (50/53);
  - Basil Walker (50/55);
  - Adam and Kirsten Zaki (50/56);
  - Carl and Lorraine Holt (50/57);
  - Lucy Bell (50/58); and
  - Further submission of Berry and Co (F50/60).
- 7.12 For the reasons set out in the Section 42A report, the Commission has not accepted the late submission of Mr Angus. We note that this submitter did not appear in support of his application for late submission.

### **Whether certain submissions are “on” the Plan Change**

- 7.13 A central issue raised at the commencement of the hearing was whether or not there was scope for submitters’ land outside the plan change boundary to be included within the proposed plan change by way of submission. This matter was discussed in the Section 42A report at section 6.18.
- 7.14 Ms Campbell submitted that the Commission must consider whether or not it has jurisdiction to hear and decide the following submissions:
- (a) Submission 50/03 by Reid Investment, to the extent that it seeks to delete the TCTZ from the District Plan;
  - (b) Submission 50/08 by Robins Road Ltd, to the extent that it seeks to extend the QTCZ to include the Gorge Road and Robins Road corridors;
  - (c) Submission 50/10 by BSPL, to the extent that it seeks to increase the height limit applying to 34 Brecon Street from 12 metres to 26 metres;
  - (d) Submission 50/38 by QGL, to the extent that it seeks to alter the zoning of Lot 1 DP306661 and Lot 2 DP27703 to Isle Street Sub-Zone or QTCZ;
  - (e) Submission 50/25 by Mr Tim McGeorge, to the extent that it seeks to extend the proposed plan change area to include the block of land bounded by Lake Street, Man Street, Thompson Street and Brunswick Street;
  - (f) Submission 50/27 by MSPL, to the extent that it seeks to amend the height limit rules in the District Plan that apply in the TCTZ;
  - (g) Submission 50/35 by Kelso and Chengs, to the extent that it seeks to extend the QTCZ to the area bound by Shotover Street, Stanley Street, Gorge Road, Horne Creek and Designation 232;
  - (h) Submission 50/43 by Ms Joy Veint, to the extent that it seeks to extend the QTCZ to the Gorge Road area;

- (i) Submission 50/44 by Mr Douglas Veint, to the extent that it seeks to extend the QTCZ to the Gorge Road area; and
- (j) Submission 50/45 by Ms Janet Sarginson, to the extent that it seeks to extend the QTCZ to the Gorge Road area.

7.15 In Ms Campbell's submission the submissions in question fall into three distinct categories:

- a. Submissions seeking for additional areas to be rezoned – the "Area Submissions" (submissions 50/08, 25, 35, 38, 43, 44 and 45);
- b. A submission seeking an increased height limit for a parcel of land within the boundary of the proposed plan change – the "Height Submission" (submission 50/10); and
- c. Submissions seeking to amend or delete an element of the operative District Plan that the proposed plan change does not propose to amend – the "Amendment Submissions" (submissions 50/03 and 27).

7.16 Ms Campbell stated that in the Council's view, none of these categories of submissions are "on" the proposed plan change; accordingly, the Commission has no jurisdiction to hear and consider the issues raised.

7.17 A secondary issue of scope arose during the expert witnessing conferencing held in February 2015, where a rezoning of the Isle Street East block to the current QTCZ was supported. This issue was addressed by Ms Campbell in her closing submissions and will be considered in our analysis below.

7.18 Ms Campbell, Mr Todd (on behalf of Kelso and Chengs, MSPL, and QGL) and Mr Bartlett QC (for BSPL) presented comprehensive legal submissions addressing the Commission on this jurisdictional matter, referring in detail to the legislative framework and the applicable case law, for which we are very grateful.

### **Consideration of legal principles on scope**

7.19 The most recent High Court decision on the issue of scope, and arguably the current leading authority, is *Palmerston North City Council v Motor Machinists Ltd.*<sup>9</sup> In his decision Kos J considered the legislative history and previous case law as to when a submission is "on" a plan change,<sup>10</sup> referring in particular to the leading authority on this issue for many years, *Clearwater Resort Ltd v Christchurch City Council*,<sup>11</sup> and a second more recent High Court authority, *Option 5 Inc v Marlborough District Council*.<sup>12</sup> Kos J noted that all of the previous authorities predated the 2009 amendments to the Act, which had the effect of restricting persons who could respond by further submission on a plan change, although not in the case of persons directly affected by a submission.<sup>13</sup>

7.20 In *Motor Machinists* Kos J affirmed the principles in *Clearwater*, which he summarised as follows:

[53] *In adopting the third approach William Young J applied a bipartite test.*

[54] *First, the submission could only fairly be regarded as "on" a variation "if it is addressed to the extent to which the variation changes the pre-*

<sup>9</sup> [2013] NZHC 1290 ("*Motor Machinists*").

<sup>10</sup> *Ibid* at [46] to 83].

<sup>11</sup> HC, Christchurch AP34/02, 14 March 2003, William Young J ("*Clearwater Resort*").

<sup>12</sup> HC Blenheim CIV 2009-406-144, 28 September 2009, Ronald Young J ("*Option 5*").

<sup>13</sup> *Motor Machinists* at [47].

*existing status quo*". That seemed to the Judge to be consistent with the scheme of the Act, "which obviously contemplates a progressive and orderly resolution of issues associated with the development of proposed plans".

[55] Secondly, "if the effect of regarding a submission as "on" a variation would be to permit a planning instrument to be appreciably amended without reasonable opportunity for participation by those potentially affected", that will be a "powerful consideration" against finding that the submission was truly "on" the variation. It was important that "all those likely to be affected by or interested in the alternative methods suggested in the submission have an opportunity to participate". If the effect of the submission "came out of left field" there might be little or no real scope for public participation. In another part of paragraph [69] of his judgment William Young J described that as "a submission proposing something completely novel". Such a consequence was a strong factor against finding the submission to be on the variation.

7.21 In the discussion that followed his analysis of the authorities, Kos J made several observations that are both relevant and instructive:

- (i) To be "on" a plan change, any further variations advanced by way of submission should be adequately assessed in the Section 32 evaluation.<sup>14</sup>
- (ii) For a submission to be "on" a plan change it must address the status quo brought about by the proposed plan change. Kos J considered that: "*In this respect, the first limb in Clearwater serves as a filter, based on direct connection between the submission and the degree of notified change proposed to the extant plan*". He considered this to be the "dominant consideration": "*a submission must reasonably be said to fall within the ambit of the plan change*".<sup>15</sup> [Emphasis added]
- (iii) Kos J proposed two means of assessing the degree to which a submission reasonably falls within the ambit of a plan change. First, does the submission raise matters that should have been considered in the Section 32 analysis? If not, the submission is unlikely to fall within the plan change. Secondly, is the management regime in the district plan for a particular "resource" (such as a lot) altered by the plan change? If not, then a submission seeking a new management regime is unlikely to be "on" the plan change. However, incidental or consequential extensions of zoning changes proposed in a plan change are permissible, provided that no further substantial Section 32 analysis is required to inform affected persons of the comparative merits of the proposed variation.<sup>16</sup>
- (iv) There is a real risk that persons directly or potentially affected by changes to a plan change proposed by way of submission may be denied an effective response to those changes. Accordingly, it is necessary to take a "*precautionary approach to jurisdiction*",<sup>17</sup> particularly as there are other options available to parties who seek changes that are not within the ambit of the plan change.<sup>18</sup> This approach is consistent with that of Ronald Young J in *Option 5*, where he stated: "... *if the result of accepting a submission as on (a*

<sup>14</sup> Ibid at [76].

<sup>15</sup> Ibid at [80] – [81].

<sup>16</sup> Ibid at [81].

<sup>17</sup> Ibid at [82].

<sup>18</sup> Kos J noted at [78] that these options include seeking a resource consent, a privately initiated plan change or lobbying for a Council promulgated plan change, all of which provide safeguards for persons directly or potentially affected.

variation) would be to significantly change a proposed plan without a real opportunity for participation by those affected then that would be a powerful argument against the submission as being ‘on’.<sup>19</sup> Kos J commented that this risk is lessened if the changes are merely consequential or incidental and have been adequately assessed in the Section 32 analysis, or if the submitter ensures direct notification of those likely to be directly affected.<sup>20</sup>

**Are the submissions in question “on” the plan change?**

- 7.22 Dealing first with the Area submissions as described by Ms Campbell and summarised above, we have concluded that none of these submissions are “on” the plan change. Having carefully considered the legal submissions, in which the *Clearwater* tests were applied to the specific submissions in some detail, we have formed the view that the Area submissions collectively fail both limbs of the *Clearwater* test.
- 7.23 First, each of these submissions cannot reasonably be said to fall within the ambit of the proposed plan change. The submitters’ land does not fall within the area of the district plan that is subject to the proposed plan change and the submissions ostensibly raise issues that, if each parcel of land had been included, should properly have been addressed in the Section 32 report. The changes requested do not appear to be incidental or consequential, particularly in terms of the extent of the rezoning proposed by each submission, although we note that we have not had the benefit of any expert evidence in this regard.
- 7.24 Secondly, and most importantly, there is a real risk that persons directly or potentially directly affected by the proposed changes would be denied an effective response to what is essentially an extension of the Plan Change 50 zoning proposed through the plan change process. In reaching this conclusion we have necessarily adopted a precautionary approach, particularly given the importance of the town centre and its potential expansion to not only those directly or potentially affected (which includes residential neighbourhoods) but also to the wider community, who have legitimate concerns in relation to, inter alia, nuisance and traffic effects. It is likely that substantial further Section 32 analysis would be required to properly inform affected persons of the effects of rezoning these blocks of land, particularly in relation to the Kelso and Chengs property.
- 7.25 Notwithstanding this perhaps inevitable conclusion based on the applicable legal principles, it is plain that the current zoning of these blocks of land is potentially inappropriate, particularly given the principles and breadth of Plan Change 50, and that this matter should be addressed with some urgency by Council to ensure that future town centre development occurs in a structured and managed way in which optimum environmental outcomes are promoted.
- 7.26 Similarly, we have concluded that the two Amendment submissions both fail the *Clearwater* Tests and, accordingly, are not “on” the plan change. Both submissions propose quite substantial amendments to the current TCTZ rules, which fall outside the ambit of the plan change. There is a risk that persons directly or potentially affected would be denied the opportunity to submit on the proposed changes for the reasons set out above. However, we note that the rezoning of the TCTZ was supported by all of the planning and urban design witnesses involved in the expert conferencing, and is a matter that should be addressed by Council as part of the current District Plan review.

---

<sup>19</sup> *Option 5* at [34].

<sup>20</sup> *Motor Machinists* at [83].

- 7.27 Ms Campbell submitted (for Council) that the “Height” submission raised by BSPL, which requested an increase in the maximum permissible height from 12 metres to 24 metres, is not “on” the proposed plan change. Having assessed this submission in relation to the tests in *Clearwater*, we disagree. First, the land that is the subject of the submission (34 Brecon Street) plainly falls within the area contemplated by the proposed plan change. Matters of height in relation to the proposed plan change area generally were addressed in some detail in the Section 32 report and subsequently by expert witnesses, including in relation to this particular block of land. Indeed, height was one of the more contentious aspects of this proposed plan change as evidenced by the number of general submissions that addressed this issue in some detail.
- 7.28 In these circumstances we consider a proposed alteration to the maximum height permitted on a particular site to be a consequential extension of the changes contemplated by the proposed plan change, in particular the proposed rules. Accordingly, the first limb of the *Clearwater* test, which serves as a “filter” to ensure that there is a direct connection between the submission and the degree of notified change proposed to the plan, is passed. In our view it is plain that Kos J did not intend the first limb to be imposed as a strict gateway or threshold test in relation to submissions that address identified issues within the proposed plan change area and which have a direct connection to the resource management issues at the heart of the proposed plan change. If that was the case it would be arguable whether there is jurisdiction to consider any changes proposed by submitters in these circumstances, irrespective of the merits, unless they are plainly insignificant or inconsequential, which in turn potentially defeats the purpose of the Act. This is not in our opinion a submission that has an effect that has “come out of left field” or “a submission proposing something completely novel”, given that the proposed plan change promotes a maximum height of 26 metres on another part of the subject land.<sup>21</sup>
- 7.29 In relation to the second limb of the *Clearwater* test, we are satisfied that there is very little risk that any persons directly or potentially directly affected by the proposed height change would have been denied an opportunity to be heard given the location of this property within the proposed plan change area and the public interest that has been raised by the height issues generally. The Brecon Street height issue was extensively canvassed by expert opinion and was debated at length during the hearing and conferencing processes, and as a result has been the subject of a very thorough assessment.
- 7.30 Accordingly we have found that the Height submission is within scope.

### **Scope Issues relating to extending the Queenstown Town Centre Zone over Isle Street sub-zone (East)**

- 7.31 Some concerns relating to scope were raised in the Planning and Urban Design JWS as to the ability for the eastern block of the Isle Street sub-zone to be rezoned QTCZ, and generally relates to the narrow relief sought by submitters to this aspect of Plan Change 50.
- 7.32 The Planning and Urban Design JWS recorded the parties’ agreement to the potential rezoning of the eastern block of the Isle Street sub-zone to QTCZ. Mr Kyle’s further supplementary planning evidence stated that this rezoning “*would be an efficient way of enabling more intensive commercial development to occur on this land, which is generally consistent with the relief sought by a number of the landowners within this area who filed submissions*”.

---

<sup>21</sup> See *Clearwater* at [69].

- 7.33 In her closing submissions, Ms Campbell raised the issue of scope in relation to the potential rezoning of the eastern Isle Street block to QTCZ, submitting that there was no jurisdiction to consider such a change, as it was not within the ambit of Plan Change 50. It is not entirely clear from her submissions whether she considered the specific amendments to the rules proposed by various submitters (an increase in the maximum site coverage to 80%, the removal of the requirement for a rear yard, the removal of the daylight control rule and the reinstatement of the height limit to 15.5 metres where sites are amalgamated) to be out of scope either individually or collectively, although she does pass the *Clearwater* ruler over each of these proposed changes.
- 7.34 As we are not proposing to alter the zoning of the eastern Isle Street sub-zone to QTCZ, we do not need to determine whether such a change would be within our jurisdiction. In relation to the specific relief sought by submitters for land within the eastern Isle Street sub-zone, we have concluded that these issues are within scope, for the same reasons as the 34 Brecon Street height issue addressed above. In our view Ms Campbell's application of the *Clearwater* test to issues that have been squarely raised within the proposed plan change area, and which are a direct consequence of the provisions and rules of the plan change proposed, is too fine-grained and would, if accepted, potentially result in suboptimal resource management outcomes. We note that some of the meritorious changes proposed by Council during the course of the hearing would also be excluded on jurisdictional grounds if Ms Campbell's reasoning was applied consistently to all issues raised.
- 7.35 Accordingly, each of the proposed amendments will be assessed in Section 9 of this decision on the basis of the evidence and submissions before us, and in accordance with Part 2 of the Act.

#### **Issues Relating to Boundary Lines associated 165 Antrim Street**

- 7.36 Ms Lucy Bell (50/58) submitted that the boundary lines of Plan Change 50 as they relate to her property at 165 Antrim Street are incorrect. Ms Bell's late submission included a Minute (dated 22 December 2014 and appended to her late submission as Attachment G) relating to an application for an Enforcement Order from the Environment Court. The Minute recorded that any issue relating to doubts about the area covered by proposed Plan Change 50 be raised before the Commission. During the re-convened hearing on 16<sup>th</sup> January 2015 and again on 23<sup>rd</sup> February 2015, the Commission explained to Ms Bell that any surveying errors with regard to the plan change boundaries, and whether specific properties fell within or outside the proposed boundary, would be a matter for Council to remedy and that the Commission does not have jurisdiction in relation to this issue. As a consequence, we have made no ruling on this aspect of Ms Bell's submission.

#### **Issues Relating to Lease Agreements with existing Cabin Tenants**

- 7.37 Ms Lucy Bell (50/58), Mr Tai Ward-Holmes (50/07) and the further submission of Mr Geoff McPhail (F50/59) in support of an original submission by Mr Tai Ward-Holmes (50/07) all raised issues relating to lease agreements between existing Cabin owners and Council.
- 7.38 The Commission made it very clear to all submitters who have raised issues of relevance to lease arrangements with Council that we do not have jurisdiction to address matters such as the termination of cabin leases, which is a matter between the Council as landowner and the lessees. The Commission's delegation is confined to

jurisdiction under the Act to hear and determine the proposed plan change.<sup>22</sup> As a consequence, we have made no ruling on those submissions (50/07, 50/58, F50/59) that requested relief specific to existing lease issues.

## 8.0 THE EVIDENCE

### Evidence of Council

- 8.1 **Ms Janette Campbell** presented comprehensive opening legal submissions for the Council.
- 8.2 In addition to the jurisdictional issues set out in section 7.2 above, Ms Campbell also raised concerns relating to trade competition. She noted that several submissions on Plan Change 50 had expressed concerns that any additional commercial activities provided for by the town centre expansion may detract from commercial activities in the existing QTCZ.<sup>23</sup>
- 8.3 Ms Campbell noted the distinction the courts have drawn between submissions raising trade competition issues between competing businesses, and submissions that allege more significant effects on communities. In the Supreme Court's decision in *Westfield (New Zealand) Ltd v North Shore City Council*, Blanchard J explained the benchmark for such submissions:<sup>24</sup>
- "... social or economic effects must be "significant" before they can properly be regarded as beyond the effects ordinarily associated with trade competition on trade competitors."*
- 8.4 Ms Campbell submitted that any submissions raising concerns about the effect of added competition on existing town centre businesses as a consequence of the proposed town centre expansion need to be examined in this light. Issues that do not satisfy the *Westfield* benchmark of social or economic significance should be disregarded.
- 8.5 Ms Campbell discussed heritage issues, specifically addressing the submissions that sought retention of the "cribs" or cabins presently located on Council-owned land in the Lakeview site, on the basis of their historic heritage.
- 8.6 In relation to the evidence presented by Council witnesses, we record a brief summary of the evidence presented by each witness below, and expand on the issues raised in the Commission's analysis of Plan Change 50 at section 9.0 of this decision.
- 8.7 **Mr Paul Speedy**, the manager of strategic projects for Council, presented evidence in chief and supplementary evidence. Mr Speedy provided an overview on a range of matters pertaining to Plan Change 50, including the processes in the Reserves Act 1977 to be adopted as part of the Lakeview sub-zone, land tenure issues, the consultation undertaken to date and affordability initiatives.
- 8.8 Mr Speedy's supplementary evidence addressed matters raised during the hearing, including (i) the percentage of land that is permitted a maximum height of 26 metres on the Height Limit Plan, (ii) clarification as to the scale of the proposed plan change (including a breakdown of the respective areas contained within the Lakeview sub-

<sup>22</sup> In terms of the Commission's jurisdiction provided to it under Section 34A(1) of the Act.

<sup>23</sup> Submissions 50/11, 15, 31, 40, 49 and 50.

<sup>24</sup> [2005] 2 NZLR 597; (2005) 11 ELRNZ 346; [2005] NZRMA 337 (SC), at para 120.

zone, Isle Street sub-zone and the Beach Street Block), (iii) background information relating to the siting of a convention centre and its preferred location, and (iv) land tenure issues located within the 'Lynch Block'.

- 8.9 **Mr Clinton Bird**, an urban design consultant for Council, prepared evidence in chief and supplementary evidence, and further supplementary evidence following expert witness conferencing undertaken on 9<sup>th</sup> and 10<sup>th</sup> February 2015.
- 8.10 Mr Bird explained his involvement with an iterative peer review of the urban design framework that underpins the Lakeview Structure Plan.<sup>25</sup> He considered that the Lakeview sub-zone, including the Structure Plan and the Height Limit Plan, is based on a very sound urban design analysis of both the natural and built Queenstown environments.
- 8.11 In broad terms Mr Bird, in responding to submissions, recommended that within the Lakeview sub-zone:
- (a) Building heights be retained as notified, including the 12 metre maximum permitted building height at 34 Brecon Street that adjoins the public open space associated with the historic Queenstown cemetery;
  - (b) Cemetery Road be realigned in association with a land swap with 34 Brecon Street;
  - (c) The maximum permitted building height on the reserve site at the corner of Thompson Street be retained at 4.5 metres (and not increased to a maximum of 8 metres);
  - (d) The minimum ground floor 4.5 metre 'floor-to-floor' heights be retained, however in his supplementary evidence Mr Bird agreed that this could be reduced to 3.5 metres; and
  - (e) All proposed site coverage controls, view shafts and active frontages be retained within the Lakeview sub-zone.
- 8.12 For the Isle Street sub-zone, Mr Bird recommended that:
- (a) The maximum permitted height limit be retained at 12 metres (plus the 2 metre roof bonus);
  - (b) The 15.5 metre maximum building height limit for sites in excess of 2,000m<sup>2</sup> and with frontages to both Isle and Man Streets be deleted;
  - (c) The front yard 1.5 metre maximum depth be retained, except that no front yard setbacks should be permitted on Brecon Street;
  - (d) No car parking be permitted in the front yard;
  - (e) All side yards be abolished;
  - (f) The 5 metre plus 45 degree recession plane on all boundaries (with the exception of the northern and north-eastern boundaries) be deleted and replaced with a requirement for a setback of 3.2 metres for all buildings where they are higher than 8 metres on all boundaries (with the exception of the northern and north-eastern boundaries where a 12 metre high building on the boundary is considered acceptable); and
  - (g) A minimum rear yard setback of 6 metres should be imposed.
- 8.13 Mr Bird's supplementary evidence specifically addressed the evidence of Mr Gibbs (urban design) and Mr Munro (planning), witnesses for BSPL (50/10). Mr Bird considered that a 12 metre high building would sit comfortably alongside the cemetery, whereas a 24 metre high building (which is twice the height) would begin to visually dominate the cemetery. Mr Bird's supplementary evidence included a

<sup>25</sup> The Lakeview Structure Plan is set out at Figure 2 of the proposed Plan Change 50 provisions.

number of photomontages that illustrated how “doubling” of the height of a building on the 34 Brecon Street site would create an abrupt and visually truncated right hand (eastern) end to the enabled development silhouette/profile of the Lakeview and Isle Street sub-zones against the backdrop of the Ben Lomond Scenic Reserve.

- 8.14 Mr Bird’s supplementary evidence also addressed the alternative building height limit rule advanced by Mr Nigel Brown (50/23) for the western-most block in the Isle Street sub-zone during the conferencing undertaken on 9<sup>th</sup> December 2014.
- 8.15 Mr Bird participated in the Joint Witness Conferencing sessions on 9<sup>th</sup> January and 1<sup>st</sup> February 2015.
- 8.16 **Mr Phil McDermott**, an independent development/planning consultant for Council, addressed the Commission on the relevance of the oversupply of commercial land in Frankton as it relates to the proposal to extend the QTC through the implementation of Plan Change 50. Addressing the different roles between Frankton and the QTC, Mr McDermott noted that the two centres serve distinctly different markets, with QTC heavily dependent on tourist spending. While visitors from other parts of New Zealand are an important component of the Frankton market mix, the area remains primarily dependent on local residents.
- 8.17 Mr McDermott concluded that Plan Change 50 should be treated independently of commercial developments that are currently in existence, under development or planned for Frankton. He considered that the extension of the town centre would complement rather than undermine existing activity in the current town centre, and that it would facilitate new investment in the tourism sector. In his opinion this would boost tourism activity and income to the benefit of the town centre and Queenstown as a whole, recognising that the plan change makes provision for additional residential development close to the centre.
- 8.18 **Mr Fraser Colegrave** is an economist consultant for Council. Mr Colegrave analysed the likely economic effects of Plan Change 50 relative to the status quo, which comprises High Density Residential zoned land. In doing so he considered the potential future uses of the Lakeview site both with and without the proposed plan change. While future developments, in the absence of the plan change, would have some adverse economic effects, Mr Colegrave concluded that these mainly relate to construction and would therefore be short-lived. In his opinion future developments under the proposed plan change are likely to deliver a wide range of enduring economic and strategic benefits, even without the convention centre (with visitor accommodation potentially taking its place, should a convention centre not be developed). In summary, Mr Colegrave concluded that development enabled by Plan Change 50 would appropriately respond to the resource management issues facing the District, particularly a lack of commercial CBD land.
- 8.19 **Dr Marion Read** is a landscape architect consultant for Council. Dr Read addressed the landscape and visual amenity effects of Plan Change 50 and was the only witness to provide landscape evidence before the Commission.
- 8.20 Dr Read addressed the visual effects of the proposed plan change and noted that, in her opinion, the quality of views from the Queenstown foreshore and the Botanic Gardens would be impacted to the greatest extent. She accepted, on balance, that while development occurring within the spatial limits proposed in the plan change may diminish the fine grain and quaint appearance of the urban component of this area when viewed from wider areas such as Queenstown foreshore and the Botanic Gardens, the level of the alteration beyond that anticipated in the HDRZ would not be significant, and would not significantly reduce the picturesque quality of the

overall views.<sup>26</sup>

- 8.21 A key concern raised by Dr Read was the interface between the plan change area and the Queenstown cemetery. Dr Read considered that the proposed 12 metre height limit on the cemetery boundary would have an adverse effect on views from the cemetery, and would “divorce it” from its landscape connections. She concluded that the visual dominance of a 12 metre building at 34 Brecon Street could be mitigated by the provision of a 20 metre setback along the southern boundary of the cemetery (provided for by the realignment of Cemetery Road).
- 8.22 Dr Read raised a specific concern with regard to the height increase sought by BSPL (50/10) in relation to 34 Brecon Street. She concluded that a development of 24 metres in height would be excessively dominant over both the adjoining Queenstown cemetery and in the wider context of urban development at the foot of Bowen Peak. In her opinion, the effect of a building of 24 metres in height on views from the cemetery would be significant.<sup>27</sup>
- 8.23 **Dr Hayden Cawte** is an archaeologist consultant for Council. Dr Cawte carried out a heritage impact assessment for the land subject to the proposed plan change. He addressed the presence or absence of heritage and archaeological sites, as well as the threats posed to these sites should the plan change be advanced.
- 8.24 **Mr Denis Mander** is the transport policy and stakeholder manager at Council. Mr Mander described the background to the Queenstown Town Centre Transport Strategy, currently being developed and expected to be finalised for consideration by Council in June 2015.
- 8.25 **Mr Nigel Lloyd** is a civil and environmental engineer for Council. Mr Lloyd’s evidence summarised his findings from an initial desktop review and preliminary geotechnical assessment of land contained within the Lakeview subzone, including 34 Brecon Street. Mr Lloyd concluded that the site is generally suitable for development with low liquefaction risk and a low probability of alluvial fan hazards.
- 8.26 **Mr Glenn Davis**, an environmental scientist for Council, undertook a Preliminary Site Investigation for the proposed Lakeview sub-zone. Mr Davis’s evidence concluded that no contaminants were identified at the Lakeview sub-zone that present a risk to human health. As a consequence, Mr Davis concluded that the site’s soils are suitable for high density residential, recreational and commercial industrial land uses.
- 8.27 **Ms Andrea Jarvis**, a senior civil project engineer for Council, provided evidence to the Commission addressing service infrastructure. Ms Jarvis concluded that land subject to the plan change is well served by both water and wastewater infrastructure; however, minor upgrading to the servicing infrastructure will be required as the Lakeview sub-zone site is developed. Mr Jarvis also noted that some infrastructure upgrading would be required in the Isle Street sub-zone; in particular, the stormwater pipe network would require upgrading to accommodate additional stormwater discharges resulting from an expected decrease in permeable surfaces.
- 8.28 **Mr John Kyle**, a resource management-planning consultant for Council provided primary planning evidence, supplementary planning evidence and further supplementary planning evidence. Mr Kyle confirmed that his firm, Mitchell Partnerships, was appointed by Council to provide advice in relation to Plan Change

<sup>26</sup> At paragraph 6.15 of Dr Read’s primary evidence.

<sup>27</sup> At paragraph 7.3 and 7.4 of Dr Read’s primary evidence.

50, including preparation of the Section 32 evaluation for the proposed plan change and its provisions. He summarised the main features of Plan Change 50 and discussed the key resource management issues raised, including those addressed in the Section 32 evaluation and supporting technical assessments.

8.29 Mr Kyle addressed the proposed District Plan provisions for Plan Change 50, which he identified would make key changes to Chapter 10 (Town Centre) and the Transportation Section of the District Plan. He also addressed changes to the proposed plan change to resolve issues raised by both the submitters and the Section 42A report. Mr Kyle produced supplementary and further supplementary planning evidence during the course of the hearing, which introduced the following proposed amendments to the planning provisions:

- a) A reduction in the extent of the Plan Change 50 area to be rezoned QTCZ was proposed. The western end of the Lakeview sub-zone (confined to that area of land referred to as the 'Lynch Block') is to be excluded from the Town Centre zoning. The High Density Residential zoning applying to this area is to be retained, with the exception that the Lakeview sub-zone bulk and location requirements will continue to apply over this area;<sup>28</sup>
- b) A revised zone map reflecting the amendment to the western-most part of the Lakeview sub-zone was proposed;<sup>29</sup>
- c) The activity status for a convention centre in the Lakeview sub-zone was amended from Controlled Activity to Restricted Discretionary and requires an Integrated Transport Assessment as part of the consent process;<sup>30</sup>
- d) The activity status for visitor accommodation activity in the Lakeview sub-zone is to be Restricted Discretionary and requires an Integrated Transport Assessment as part of the consent process;<sup>31</sup>
- e) Commercial activities over 400m<sup>2</sup> in area in the Lakeview sub-zone are to be assessed as a Restricted Discretionary Activity and require an Integrated Transport Assessment as part of the consent process;<sup>32</sup>
- f) Commercial and visitor accommodation activities over 400m<sup>2</sup> in area in the Beach Street Block are to be assessed as a Restricted Discretionary Activity and require an Integrated Transport Assessment as part of the consent process;<sup>33</sup>
- g) Retail, licenced premises and commercial office activities in the Lakeview sub-zone are limited to 6,500m<sup>2</sup> in area unless a 'predominant use' is first established in the Lakeview sub-zone.<sup>34</sup>
- h) Amendments to the bulk and location requirements relating to the Isle Street sub-zone, including:
  - Insertion of a new site standard precluding front yard setbacks for buildings fronting Brecon Street;
  - Removal of the internal boundary setback requirement and replacement with a rear yard setback requirement of 6 metres;
  - Removal of the recession plane requirements and replacement with a rule that allows buildings to be erected on the side boundary, but then requires a step back of 3.2 metres where the building height reaches 8 metres. The building can continue up to 12 metres (plus the roof bonus) when stepped in 3.2 metres from the boundary;
  - Removal of the proposed Zone Standard (10.6.5.2 (i) (a) (bullet point 7))

<sup>28</sup> Mr Kyle's further supplementary planning evidence dated 18<sup>th</sup> February 2015, recorded that this change was agreed during the urban design and planning conference. The JWS identified agreement that the western extent of the Lakeview sub-zone land (generally described as the Lynch Block) could retain the High Density Residential Zone (the HDRZ) in order to manage "edge effects". It was agreed that this change would be subject to retaining the height, bulk and location requirements promoted for buildings erected on this land via Plan Change 50.

<sup>29</sup> Attached as Appendix 2 of Mr Kyle's further supplementary planning evidence dated 18<sup>th</sup> February 2015.

<sup>30</sup> As set out at paragraph 12 of Mr Kyle's supplementary evidence dated 19<sup>th</sup> December 2014.

<sup>31</sup> As set out at paragraph 12 of Mr Kyle's supplementary evidence dated 19<sup>th</sup> December 2014.

<sup>32</sup> As set out at paragraph 12 of Mr Kyle's supplementary evidence dated 19<sup>th</sup> December 2014.

<sup>33</sup> As set out at paragraph 17 of Mr Kyle's supplementary evidence dated 19<sup>th</sup> December 2014.

<sup>34</sup> As set out at paragraph 9 to 19 of Mr Kyle's further supplementary planning evidence dated 18<sup>th</sup> February 2015.

that provides for additional height for a larger scale development in the Isle Street sub-zone to be considered as a Discretionary Activity.<sup>35</sup>

- i) Exempting any future realignment of Cemetery Road (as reflected within amended Site Standard 10.6.5.1 xiii Lakeview sub-zone Structure Plan) from requiring a specific consent process;<sup>36</sup>
- j) Within the Beach Street Block, an exemption from providing a veranda unless building works take place on the road boundary.<sup>37</sup>

8.30 The Commission acknowledges that the above summary represents only a brief account of matters traversed in the submissions and evidence presented by Council. It is not considered necessary to reproduce all points made as this would simply extend this document and result in duplication of matters discussed in Sections 9.1 – 9.14 of this report.

## Council's Reply

8.31 The Council's closing legal submissions were received on 16<sup>th</sup> March 2015 and covered the following matters:

- (a) Jurisdictional issues;
- (b) Location of any convention centre;
- (c) Consideration of alternatives;
- (d) Restricted discretionary activities in the Beach Street block;
- (e) Reduced rezoning proposals;
- (f) The correct approach to traffic issues; and
- (g) The use of different assumptions by Messrs McKenzie and Colegrave.

8.32 The Jurisdictional issues are addressed at section 7.0 of this report.

8.33 Ms Campbell submitted that the proposed plan change provisions attached to Mr Kyle's further supplementary evidence merely facilitate the provision of a convention centre (by providing for this to be consented as Restricted Discretionary Activity) – the rules do not give any assurance that one will be built. Council has been careful to evaluate Plan Change 50 on this basis, which included an assessment of the economic benefits without the convention centre. On the premise that the proposed plan change is not dependent on a convention centre, Ms Campbell supported our preliminary view, expressed on the last hearing day, that the location of the convention centre was not a matter for us to decide. It was the Council's submission that the Commission need not pay any further attention to this issue.

8.34 Council's legal submissions addressed Mr Wells' evidence for MPL, where he questioned whether the Council had given due consideration to alternatives when preparing Plan Change 50.<sup>38</sup> Mr Wells suggested a set of criteria for determining the order in which land should be included in the QTCZ.

8.35 Ms Campbell addressed the Commission on the relevant case law as to whether a site-specific plan change needs to be evaluated by reference to other potential sites. She submitted that there is no suggestion in the case law that Council has failed to adequately consider alternatives for the following reasons:

- “(a) The Proposed Plan Change will not have a significant adverse effect on the environment or detract from any section 6 "matter of national importance";*
- (b) The Lakeview site's unique suitability for redevelopment and significant new activities, as a relatively "greenfield" site, is indisputable. There is no comparable site in the*

<sup>35</sup> As set out at paragraph 8.35 of Mr Kyle's primary evidence dated 10<sup>th</sup> November 2014

<sup>36</sup> As set out at paragraph 8.23 of Mr Kyle's primary evidence dated 10<sup>th</sup> November 2014

<sup>37</sup> As set out at paragraph 42 of Mr Kyle's supplementary evidence dated 19<sup>th</sup> December 2014.

<sup>38</sup> As set out at paragraph 94-95 of Mr Wells' primary evidence.

*vicinity of the QTCZ;*

- (c) *The location of the Isle Street Sub-Zone and the Beach Street block is similarly indisputable, given its location between the existing QTCZ and the Lakeview site. No other site could provide the same connection."*

8.36 Ms Campbell stated that there is no basis in any of the case law for the proposition that the Commission would have jurisdiction to rezone an alternative site if there was a "better" alternative. The only question for the Commission is whether the proposed plan change area should be rezoned.

8.37 In Ms Campbell's closing legal submission she stated that Council considers it lacks the jurisdiction to extend the QTCZ to the eastern Isle Street block. She noted that there were no submissions that sought that this block be rezoned QTCZ.<sup>39</sup>

8.38 Ms Campbell addressed the closing submissions for IHG and Carter, noting that the most recent version of the Plan Change 50 provisions, which had been circulated by Mr Kyle, proposed that all visitor accommodation or commercial activity be a Restricted Discretionary Activity. The conferencing statement, headed 'Conferencing Joint Statement to the Panel of Commissioners', dated 9 December 2014, addressed this issue at 4(b), which records:

*"It was agreed that the LV ITA provision would be extended to the Beach Street block for VA, CC and commercial over 400m<sup>2</sup>."*

8.29 Ms Campbell submitted that the caucus statement is signed by various representatives, including Mr Edmonds, the planner for IHG and Carter.

8.40 The Council sought amendments to the wording of 10.6.3.2A(iii) to ensure that this would apply to commercial activities with a gross floor area of more than 400m<sup>2</sup>, rather than commercial activities generally.

8.41 Ms Campbell then addressed the RJL closing legal submission, which criticised the way in which traffic issues have been considered and addressed. Ms Campbell responded to five submissions that the Council submits are misguided or wrong:

- (a) RJL's submission that "Plan Change 50 is 'heavily reliant' on securing significant changes in travel behaviour";
- (b) RJL's characterisation of Mr McKenzie's evidence as accepting that traffic is problematic, and stating that Plan Change 50 will only make it marginally worse;
- (c) RJL's criticism that alternative modelling of different development scenarios has not been undertaken;
- (d) RJL's submission that ITAs will not enable cumulative traffic effects to be considered;
- (e) RJL's submission that there are parallels between Plan Change 50 and the circumstances in *Thurlow Consulting Engineers & Surveyors Ltd v Auckland City Council*.

8.42 In addressing RJL's response that Plan Change 50 is 'heavily reliant' on securing significant changes in travel behaviour, Ms Campbell argued that this is incorrect. The Transport JWS recorded that the assumed reduction of 20% referred to in evidence at the hearing relates to other work being undertaken with regard to the development of the transport strategy, and that there were no travel design management discounts applied to any of the Plan Change 50 traffic modelling scenarios. As such, both Mr Kelly and Mr McKenzie agreed that this leads to some conservatism in the modelling.

<sup>39</sup> As set out at paragraphs 2.22 to 2.30 of Ms Campbell's closing legal submission.

- 8.43 Ms Campbell considered RJL's characterisation of the effect of Plan Change 50 on traffic to be overstated and simplistic. She reiterated that Plan Change 50 would enable more people to live and work in close proximity to Queenstown's town centre. While there are inherent advantages and disadvantages, the Council considers it to be a beneficial strategy overall.
- 8.44 Ms Campbell highlighted the naivety in characterising any increase in congestion or parking difficulties as "negative outcomes" that need to be solved by Plan Change 50:
- (a) *Plan Change 50 is facilitating growth around the town centre, which reduces travel and parking needs relative to growth elsewhere;*
  - (b) *The inevitability of travel demand increasing alongside growth does not necessarily make growth undesirable. The Council would prefer to see the town centre area grow rather than see roads and parking spaces under-utilised;*
  - (c) *Since at least 2007, traffic engineers have recognised that there can be a benefit in not solving congestion problems in order to incentivise changes in travel behaviour.*<sup>40</sup>
- 8.45 In assessing RJL's criticism of Council's reliance on a single future development scenario to underpin its traffic modelling, Ms Campbell noted that Mr McKenzie was satisfied that the traffic modelling, based on the expected future development scenario, is realistic. She advanced that it is not a "worst-case scenario"; neither is it a best-case scenario. She submitted the future scenario that was modelled does not factor in any change in the uptake of alternative modes of transport and provides a measure of additional conservatism, as recorded in the Joint Witness Statement of the traffic engineers.<sup>41</sup>
- 8.46 In addressing RJL's submission that ITAs will not enable cumulative traffic effects to be considered, the Council's closing legal submissions stated: *"Each ITA will involve consideration of the effect of adding the proposed activity to the activities in the existing environment. Thus in each ITA the cumulative effects, at that point in time, will be considered."*<sup>42</sup>
- 8.47 Ms Campbell argued that RJL misunderstands the role and place of the Transport Strategy and that such strategies fill a strategic and aspirational role. They are not static documents and are intended to evolve over time. She submitted that the Transport Strategy was not designed to only respond to Plan Change 50 but to other private and Council-initiated plan changes, including the upcoming District Plan review. As a consequence, Ms Campbell argued that there is no logical reason to defer Plan Change 50 pending finalisation of the Transport Strategy while other plan change initiatives proceed regardless.<sup>43</sup>
- 8.48 Ms Campbell submitted that the *Thurlow* case cautions councils to turn their minds to traffic issues and to ensure they have adequate evidence before them to perform their role. She stated the Council does not accept that the proposed plan change is deficient, and that it has based its approach to traffic issues on professional, peer-reviewed advice, which includes modelling of the predicted development enabled by Plan Change 50.

## Submissions and Evidence for Submitters

- 8.49 **Mr Donald McDonald** (on behalf of Craig Stobo 50/21) presented a written

<sup>40</sup> At paragraph 7.7 of Council's closing legal submissions

<sup>41</sup> At paragraphs 7.9 to 7.12 of Council's closing legal submissions

<sup>42</sup> At paragraph 7.13 of Council's closing legal submissions.

<sup>43</sup> At paragraphs 7.13 to 7.1 of Council's closing legal submissions

response to the Commission.

- 8.50 Mr Stobo's submission highlighted that the existing QTC is not yet maximised to the full extent of the height limits permitted under the District Plan, and that it is currently uneconomic for landlords to provide for commercial offices above ground floor retail.
- 8.51 Mr Stobo noted that extensive areas of Frankton have been provided for redevelopment and that, in his opinion, this will draw commercial and retail activity away from the QTC. He provided an example of a 2014 Colliers International publication,<sup>44</sup> which showed a comparison between prime retail in the QTC (at \$1,100 to \$1,500 per m<sup>2</sup> per annum) versus fringe retail (Gorge Road) at \$350 to \$500 per m<sup>2</sup>. By comparison, Frankton pays \$250 to \$700 per m<sup>2</sup> per annum. Coupled with car parking, Mr Stobo considered that it would be very difficult to prevent "the accelerating drift" of new commercial and retail activity towards the airport precinct. He did not consider that Plan Change 50 would prevent this drift to Frankton.
- 8.52 **Mr and Mrs McDonald (50/31)**, who operate a local visitor accommodation business within the proposed Isle Street sub-zone, addressed the Commission in relation to concerns over the mixed use model proposed for the Isle Street sub-zone. The McDonalds also raised concern in relation to the proposed changes sought in the submission of MSPL, which they opposed.
- 8.53 **Mr Basil Walker (50/55)** presented to the Commission on a number of preliminary issues. He considered that the hearing should be rescheduled on the basis that (i) the Council has failed to provide timely and relevant evidence relating to the proposed Lakeview Holiday Park and altered boundaries relating to this area, (ii) the lack of master plan for the Lakeview Holiday Park and its associated designation, and (iii) the lack of detail relating to the new Lakeview Holiday Park management plan and a recent 25 year contract. Mr Walker also argued that the process adopted by the Council in advancing with proposed plan change did not accord with section 14 of the Local Government Act in relation to stewardship.
- 8.54 Mr Walker also raised concerns relating to the construction of a convention centre and the costs linked to this aspect of the proposed plan change. He considered that local consultants should have been utilised to assess Plan Change 50. Further concerns were advanced in relation to traffic generation. Mr Walker championed the provision of 500 car parks to support a convention centre, although he questioned whether the parking areas would eliminate the need for some of the commercial areas proposed within the Lakeview sub-zone. Mr Walker presented a development scheme of his own, which he considered to be superior to Council's proposed plan change.

#### **Memorial Property Limited (50/39)**

- 8.55 **Mr Holm's** opening legal submission for MPL (50/39) raised specific concern regarding the scale of Plan Change 50.<sup>45</sup> He submitted that the extent of the proposed plan change was unjustified. MPL raised specific concerns in evidence, principally in relation to the potential adverse effects of the scale of proposed development, which included traffic (congestion and parking) and the long-term impact on the economic wellbeing of the existing town centre.
- 8.56 Mr Holm raised issue with the haste at which Plan Change 50 has been advanced, and questioned whether this was directly related to the facilitation of the proposed

<sup>44</sup> Titled Market Review and Outlook 2014.

<sup>45</sup> At paragraph 1.4 of Mr Holm's opening legal submissions.

convention centre on the Lakeview site.

- 8.57 **Mr Dan Wells**, a planning consultant for MPL, presented planning evidence that addressed the Commission on the scale of Plan Change 50. Mr Wells stated that in his estimate approximately 170,000m<sup>2</sup> of potential floor space would be added to the QTCZ through the Lakeview sub-zone, by virtue of Plan Change 50.
- 8.58 Mr Wells' evidence addressed the preferred directions for the expansion of the QTC. He submitted that there was some commonality between the 2009 Queenstown Town Centre Strategy and the 2012 District Plan consultation in terms of the scale of town centre zoning contemplated, and the preferred directions of that expansion. Based on his own analysis, Mr Wells considered the approach that Council was taking to the proposed plan change to be fundamentally misconceived.
- 8.59 Mr Wells' evidence addressed the need for commercial space. He criticised the focus of the Section 32 and Section 42A reports, alongside the Council's evidence, which he considered appeared almost exclusively to be on the *retail* component of the 'commercial activity' definition. A key function of the town centre is to provide office space, an issue Mr Wells considered to have been given inadequate consideration in these reports.
- 8.60 Mr Wells provided the Commission with numerous examples of vacant or undeveloped sites within the existing QTCZ, and stated that a considerable amount of commercial development (including retail) could occur in these locations. He noted that each of these areas are, on their own, larger than the 0.5 hectares of total vacant land said to be available in the McDermott Miller Strategy Report and Section 32 report for commercial development in the Queenstown and Arrowtown Town Centres.<sup>46</sup> While not an economist, Mr Wells stated that there is a real risk that the shortage of commercially zoned land has been greatly exaggerated and that, in his opinion, there is no 'urgent' need to significantly extend the QTCZ, as has been argued in the Section 32 Report and the evidence of Mr Kyle.
- 8.61 **Mr Tim Kelly's** EIC provided a detailed analysis of the ITA submitted with the proposed plan change and raised specific concerns in relation to the potential transportation implications.
- 8.62 Mr Kelly addressed the Commission on the Inner Links project, which was developed to provide an alternative route for traffic to avoid the busiest parts of the inner road network. He submitted that the analysis undertaken by Council broadly suggests that, without additional road capacity, problems can only be avoided if aggressive Travel Demand Management (TDM) measures are introduced which shift 20% of car travel to other modes. Mr Kelly noted that he considered the level of change of this scale to be optimistic.<sup>47</sup>
- 8.63 Despite the reduction in bus fares, the numbers using bus services are low. For the 2014 year, Mr Kelly's analysis has indicated that 85% of people travelling into the town centre on the three main arterial routes did so by car, with only 2% travelling by bus, 1% cycling and 11% walking.<sup>48</sup>
- 8.64 Mr Kelly submitted that the ability of the network to accommodate the additional travel demands associated with Plan Change 50 appears heavily reliant on securing significant changes in travel behaviour if adverse effects are to be avoided. In reality, historical changes in travel behaviour have been modest, variable over time

---

<sup>46</sup> At paragraph 34 of Mr Wells' primary evidence.

<sup>47</sup> At paragraph 23 of Mr Kelly's primary evidence.

<sup>48</sup> At paragraph 18 of Mr Kelly's primary evidence.

and subject to a range of external economic factors.<sup>49</sup>

- 8.65 In Mr Kelly's experience, the effects of plan changes can be problematic to assess because the pattern of development enabled by their provisions may be quite different from the expected or actual outturn. As such, he considered the appropriate analytical approach would be to consider a range of credible development scenarios, and to assess the likelihood of the resulting effects at the limits of this range.<sup>50</sup>
- 8.66 Mr Kelly considered that the assumptions in support of Plan Change 50 would at best represent a lower-end estimate in terms of the amount of commercial development that might occur. In his view it would be prudent to test a scenario involving a higher proportion of land being developed for commercial purposes (perhaps more than 50% of the floor space made available by Plan Change 50).<sup>51</sup>
- 8.67 Mr Kelly submitted that plots from the traffic model included in the ITA illustrate that the baseline network will be subject to a number of operational problems by 2026, especially in the more critical PM peak period.<sup>52</sup>
- 8.68 **Mr Tony Butson**, a director of MPL, identified that office rentals in the CBD have experienced little growth in recent years, and there is consequently a significant amount of vacant space.
- 8.69 **Mr Johnny Stevenson**, a director of MPL, considered that there are sites in Queenstown that remain undeveloped as it is not economic to do so, and that there is a surplus of office space.
- 8.70 **Ms Cath Gilmour (50/48)** presented a written statement that addressed her earlier submission. The Commission notes for completeness that Ms Gilmour's submission records that she is a Queenstown Lakes District Councillor but that she was making her submission as an individual. Accordingly, we have considered Ms Gilmour's submission on this basis. In summary, Ms Gilmour addressed the Commission on four specific areas of concern: (i) a lack of evidence that the level of town centre expansion proposed is either necessary or beneficial, (ii) a lack of commitment to affordable housing, (iii) a lack of integration with the Town Centre objectives and rules that are proposed to form part of the District Plan review, and (iv) the lack of surety of good urban planning outcomes.
- 8.71 Ms Gilmour considered that incorporating such a huge swathe of land under the "town centre" banner risks diminishing the vibrancy of the downtown area to the same extent as if all of the activity had moved out to Frankton (as feared).
- 8.72 Given that the proposed plan change is enabling, Ms Gilmour was of the view that developers could, conceivably, establish retail and commercial activities on what is currently considered to be residential land. Similar concerns were raised with respect to the potential proliferation of office and retail activities in the Isle Street sub-zone area. Ms Gilmour questioned the urgency of the QTC expansion, and how much of this intensification could be provided as part of the proposed QTCZ changes to be advanced under the District Plan Review. She also raised concerns relating to the extent of additional floor space that could be enabled by Plan Change 50.
- 8.73 Ms Gilmour considered that the lack of commitment to affordable housing is contrary

<sup>49</sup> At paragraph 19 of Mr Kelly's primary evidence.

<sup>50</sup> At paragraphs 33 and 35 of Mr Kelly's primary evidence.

<sup>51</sup> At paragraph 60 and 61 of Mr Kelly's primary evidence.

<sup>52</sup> At paragraph 46 of Mr Kelly's primary evidence.

to three very explicit Council resolutions, as set out in her original submission. In terms of mitigating “adverse effects”, Ms Gilmour noted that the site currently provides affordable housing for 300 people, whereas the proposed plan change does not provide any affordable housing (contrary to the policy direction in Plan Change 24), nor does it include a commitment to providing opportunities for low and moderate income households to reside in the proposed plan change area.

- 8.74 Another issue raised by Ms Gilmour was the lack of provisions to support good urban outcomes. In her view there is a need for future development to be subject to strong design guidelines (which would include a height restriction of 12 metres in the Isle Street sub-zone). Ms Gilmour submitted that the Lakeview sub-zone should be supported by an outline plan designating actual land use, as well as further provisions governing the level of urban design, and affordable/community housing. She considered that the outline plan and structure plan should be subject to an Urban Design Panel review process. Furthermore, Ms Gilmour advanced that little attention has been paid to the purposes of public reserves in the proposed plan change.
- 8.75 **Ms Laura McPhail** presented a statement on behalf of Mr Geoff McPhail (a further submitter in support of an original submission by Mr Tai Ward-Holmes (submission number 50/07)). Ms McPhail explained that her family has a lease in perpetuity for Cabin Site 159 (originally Cabin Site 148) and a fixed term lease for Cabin Site 162, both of which are located on Antrim Street. The McPhail family is opposed to the inclusion of Antrim Street and Earnslaw Street (of the Lynch Block) in the plan change, and requested that this area to be exempted. The cabins provide affordable accommodation for many direct and wider family members.
- 8.76 **Mr Tim McGeorge (50/25)** sought the expansion of the Plan Change 50 to include the block of land bounded by Lake Street, Man Street, Thompson Street, and Brunswick Street, including 48 and 52 Man Street. Mr McGeorge argued that excluding the subject land from the proposed plan change is illogical.

**Mr Christopher Mace and Queenstown Trust (50/17)**

- 8.77 **Mr Holm** appeared for Mr Mace, who is the owner of 15 Brunswick Street, and the Queenstown Trust, which owns 3, 5, 9 and 11 Brunswick Street. Mr Holm raised general concerns with regard to road safety and traffic generation, and discussed the need for the realignment of Man Street. He submitted that Plan Change 50 should be based on solid evidence that the roading network, public parking provision and on-site parking rules are adequate to accommodate the land use activities proposed, and that the amenity of neighbouring residences can be protected. Mr Holm submitted that CMQT supports the evidence of Mr Kelly for MPL (50/39) in relation to clause (b) of his client’s submission. He noted that the Commission did not need to consider the relief sought within clause (c) of his client’s primary submission.

**Mr John Thompson (50/24)**

- 8.78 **Ms Baker-Galloway and Mr Goldsmith** presented a joint written legal submission on behalf of their client, Mr John Thompson. Mr Thompson’s property interests relate to 5, 7, 11 and 15 Man Street and 19 Brecon Street, which form a contiguous plot of land comprising 2,644m<sup>2</sup> in area. This land is wholly contained within the area that forms the eastern block of the Isle Street sub-zone.
- 8.79 Ms Baker-Galloway argued that given the largely commercial make-up of adjoining properties, the eastern block of the Isle Street sub-zone warranted special consideration to ensure that the planning provisions both enable and encourage the

expansion of the QTC to this vicinity.

8.80 Ms Baker-Galloway addressed the Commission on the key differences between the two Isle Street sub-zone blocks, and sought the following specific amendments to the planning provisions supporting the eastern Isle Street sub-zone:

- That the maximum site coverage be increased to 80% to enable flexibility (from 70% under Site Standard 10.6.5.1(i)(e)). Ms Baker-Galloway considered that limiting site coverage to 70% to protect residential uses should be given limited weight, particularly as the eastern block is unlikely to be developed for residential purposes.
- The deletion of the 1.5 metre side yard setback (under Site Standard 10.6.5.1(iv)(g)), which Mr Bird had recommended be removed in his primary evidence.
- The 6 metre rear yard set-back recommended in Mr Kyle's supplementary evidence (Site Standard 10.6.5.1(iv)(g) in Mr Kyle's Appendix C) be deleted on the basis that it would restrict the future development of Mr Thompson's land. The Commission also notes that Ms Baker-Galloway questioned whether there was scope for the Council to make this change on the basis that no submitter specifically requested this amendment;
- The recession plan (under Site Standard 10.6.5.1(xi)(i)) was opposed on the basis that it would create poor design outcomes. The alternative stepped height setback proposed by Mr Bird (as set out in Mr Kyle's Appendix C) was not supported on similar grounds. Ms Baker-Galloway considered that the justification for the stepped height setback was not relevant to Mr Thompson's land.
- Mr Thompson had submitted in support of the height uplift for the Isle Street sub-zone, which provides for an increase in the height of buildings to 15.5 metres in height (under standard 10.6.5.2(i) as notified), and does not support its deletion as recommended by the Section 42A reporting officer or Council witnesses.
- Mr Thompson also supported amendments to existing assessment matters on the basis that many do not reflect the character of this changing and developing environment.

8.81 Ms Baker-Galloway discussed the various amendments sought to the planning provisions in support of Mr Thompson's submission, which are recorded at paragraphs 40, 41, 52 and 53 of her legal submissions.

#### **New Zealand Institute of Architects Southern Branch (50/15)**

8.82 Ms Macleod and Mr Stevens presented a joint statement of evidence addressing the submission of NZIASB (50/15) and raised issues in relation to (i) the use of community reserve land, (ii) the need to expand the town centre, (iii) the location of the conference centre and (iv) numerous technical concerns relating to the proposed plan change objectives, policies and rules and (v) the role of the urban design panel.

8.83 In broad terms, the NZIASB (50/15) submission addressed three specific concerns: the extent of the town centre expansion, where this should occur and the methods that support and seek to ensure that future built form enabled by the proposed plan change replicates or is in harmony with the existing QTC.

#### **Skyline Enterprises Limited (50/22)**

8.84 Mr Staniland, the CEO of Skyline, presented a statement setting out the company's support for the proposed plan change. He considered that it was a sensible approach to increase the height of buildings at the base of the Ben Lomond Reserve,

as there would be no environmental impacts and the increased height is more likely to be attractive to developers. Mr Staniland submitted that Skyline supports a convention centre in principal, and that its location on the Lakeview site will increase the appeal and product offering of Queenstown, as well as acting as a catalyst to underwrite the likely success of the proposed plan change.

#### **IHG Queenstown Ltd and Carter Queenstown Ltd (50/32)**

- 8.85 **Mr John Edmonds**, an experienced planning consultant, presented evidence on behalf of IHG and Carter (50/32). IHG and Carter is the owner of 7,228m<sup>2</sup> of land, located within the rectangular block bounded by Lake Esplanade (Beach Street), Lake Street, Man Street and Hay Street, part of which comprises the Crowne Plaza hotel building. This land forms part of the Beach Street Block, which comprises part of the proposed plan change area. Mr Edmonds identified four specific issues raised in the IHG and Carter submission, including: (i) the inclusion of the submitter's area of interest within the QTCZ, (ii) building height, (iii) rules relating to noise and verandas, and (iv) the location of the convention centre.
- 8.86 **Mr Michael Wyatt**, an experienced local Queenstown architect, presented evidence on his preferred location for a proposed convention centre. He described his "ideal location" as the land at the corner of Man and Hay Streets, which is contained by the James Clouston Memorial Park. One of the reasons given was that this area is visually and physically well connected to the existing CBD.

#### **HW Holdings Ltd (50/37)**

- 8.87 **Mr John Edmonds** presented evidence addressing the HW Holdings (50/37) submission. He explained that HW Holdings owns nine contiguous parcels of land at 23 to 29 Thompson Street adjoining the western edge of the proposed Lakeview sub-zone. The property owned by the submitter comprises a land area measuring 4,530m<sup>2</sup> in area, and is currently zoned HDRZ. Mr Edmonds addressed the Commission on a number of issues relevant to HW Holdings' primary submission, including (i) that Restricted Discretionary Activity status should apply to the future resource consent for a convention centre in the Lakeview sub-zone, (ii) the location of the adjoining 'view shaft' in relation to the HW Holdings land and the potential for this to be utilised as a service lane, and (iii) issues in relation to the future widening of Thompson Street and the lack of any detail relating to future widening on the Lakeview sub-zone structure plan.

#### **Watertight Investments Limited (50/33) and Mr C Hockey (50/36)**

- 8.88 Mr Edmonds addressed the submissions of Watertight (50/33) and Mr Hockey (50/36) on behalf of these parties. Both submitters own land in the eastern block of the Isle Street sub-zone.
- 8.89 Watertight is the owner of land at 50, 52 and 54 Camp Street. The combined land area of these sites totals approximately 1,500m<sup>2</sup>. Mr Hockey is the owner of land at 4 and 8 Isle Street, and has an interest in 2 Isle Street. The combined land area of these sites totals 1,700m<sup>2</sup>.
- 8.90 Mr Edmonds confirmed that both Watertight and Mr Hockey support the intention to rezone their respective land holdings to QTCZ.
- 8.91 Both submitters made further submissions (Watertight FS50/33/01 and Hockey FS50/36/01) in support of Mr Thompson's primary submissions.
- 8.92 Mr Edmonds did not support the proposed 6 metre rear yard setback proposed for

the Isle Street sub-zone, as he did not consider this to be an efficient use of this land resource.

### **Reid Investment Trust (50/03)**

- 8.93 **Mr Paul Arnesen**, an experienced planning consultant, presented evidence on behalf of Reid Investment, the owner of the properties at 65 to 67 Shotover Street and 5 to 15 Hay Street, Queenstown. These sites adjoin the proposed plan change boundary.
- 8.94 Mr Arnesen considered that Plan Change 50 should be amended to include the removal of the TCTZ. In his opinion, some controls on retail and restaurant activities in the proposed Lakeview sub-zone would be necessary to avoid creating a disparate town centre environment. Without amendments to address these matters, he considered that Plan Change 50 would not meet the sustainable management purpose of the Act.
- 8.95 Mr Arnesen endorsed the legal submissions of Mr Todd on behalf of MSPL, which concluded that proposed rezoning of the TCTZ falls within the scope of Plan Change 50. In Mr Arnesen's opinion, there is no reason for retaining the TCTZ should Plan Change 50 be adopted, as the land subject to the TCTZ will no longer form a transition between the QTCZ and the HDRZ.
- 8.96 Mr Arnesen sought the removal of the TCTZ. Without that outcome, he considered that Plan Change 50 is fatally (and unnecessarily) flawed, and that the proposed plan change should be rejected.
- 8.97 In addressing the Lakeview sub-zone, Mr Arnesen noted that the only restraint on commercial activities is the requirement that retail tenancies not exceed 400m<sup>2</sup>. He voiced concern in relation to the lack of control with regard to the overall quantum of retail development in the zone, or the scale or quantum of potential restaurant and entertainment facility activities. In his opinion, the lack of appropriate controls would enable the establishment of a retail centre within the Lakeview sub-zone.<sup>53</sup> Mr Arnesen was less concerned with the development of a retail centre (or strip) in areas such as the Isle Street sub-zone, given that this is less likely due to multiple land holdings.
- 8.98 In Mr Arnesen's opinion, the establishment of two separate centres in downtown Queenstown would represent poor urban form. The division of the potential 'centres' by a less pedestrian-friendly and vibrant area would, in turn, create an 'awkward' space. In his view the Lakeview sub-zone should be subject to additional controls to avoid the possibility of the creation of two separate town centres, and to encourage the establishment of retail and restaurant facilities in closer proximity to the established centre of Queenstown.

### **Queenstown Lakes Community Housing Trust (50/42)**

- 8.99 **Mr Stephen Brent** for the QLCHT submitted a statement requesting the need for Plan Change 50 to be amended to reflect the Council's intention to implement and give effect to Plan Change 24. The Trust sought that the provision of affordable and community housing be included within the proposed plan change.
- 8.100 Mr Brent provided the Commission with an overview of Objective 1, including the associated definitions for 'community housing' and 'retention mechanisms' that were introduced by Plan Change 24 into the 'District Wide' and 'Definitions' sections of

---

<sup>53</sup> At paragraph 5.3 of Mr Arnesen's evidence.

the District Plan. Mr Brent submitted that Objective 1 is disjunctive and offers a choice between two forms of housing outcome. Only one option seeks to provide for a retention mechanism, whereby a binding agreement is established that protects the long term affordability of community housing.

- 8.101 Without such mechanisms as the 'retention mechanism' being entrenched within the proposed plan change, Mr Brent considered that there is the potential for the proposed plan change area to be developed without community housing and, accordingly, any benefits to the community would not be delivered.

**Mr Allan Huntington (50/30)**

- 8.102 **Mr Huntington**, an experienced local architect, presented a statement that addressed the lack of consideration by Plan Change 50 to the loss of residential land adjacent the town centre. Mr Huntington's statement was focused on the Lakeview sub-zone, which he did not consider was required for town centre expansion.
- 8.103 Mr Huntington submitted that there are still substantial redevelopment opportunities within lower Beach Street and Shotover Street, as well as new commercial areas such as the Henry Street precinct. Potentially Brecon, Isle, and Hay Streets could also be considered, along with Gorge Road and Robins Roads, as areas for long-term town centre growth.
- 8.104 Mr Huntington stated that the Lakeview land development and convention centre is geographically isolated from the CBD by distance, elevation and a main traffic thoroughfare (Man Street), and that it will be difficult to draw people to the Lakeview area. As an example, Mr Huntington submitted that when the Steamer Wharf development was first established, the majority of tenancies were direct retail; however it was found that shoppers would not extend themselves to the 125 metre walk across Earnslaw Park.
- 8.105 Mr Huntington considered that there is a risk that developers may favour either cheaper or more greenfields land for property development, as opposed the upgrade or redevelopment of the existing town centre. As a consequence, Plan Change 50 may dilute the QTC and weaken the viability of existing retail tenancies. He also considered that there is a high risk that Lakeview will slow the rejuvenation and vibrancy of the existing town centre.
- 8.106 Mr Huntington submitted that the proposed convention centre location and underlying land should be retained for high density residential development. He considered there was an "enormous opportunity" to develop Lakeview and adjacent land for residential purposes. He also presented the Commission with a plan identifying the availability of up to 42,000m<sup>2</sup> of residential land (based on a 50% coverage, which would allow a gross building footprint of 21,000m<sup>2</sup> and, at three stories, a maximum of 63,000m<sup>2</sup> of building area). Mr Huntington considered that this level of development would provide for 500 to 600 residential units, or 1500 to 1800 residents.

**Mrs Margaret Walker (50/19)**

- 8.107 **Mr Colin Walker** presented a statement on behalf of his mother, Mrs Margaret Walker, who has lived at 36 Man Street for 63 years. Mrs Walker was concerned about the proposed planning changes to the Beach Street Block, which her land forms a part of.
- 8.108 Mrs Walker is opposed to the re-zoning of the Beach Street Block to QTCZ, as in her view this would potentially change the nature of land use within the Beach Street

Block. Ms Walker considered it important that the Beach Street Block remain residential, and not become a commercial aspect of the QTC. Alternatively, Ms Walker sought amendments to the height, bulk and location requirements to ensure that her amenity is adequately protected. The Commission addresses Ms Walker's submission points at section 9.12 of this report.

- 8.109 Mrs Walker was also concerned that re-zoning the Beach Street Block to QTCZ would result in the removal of the requirement to provide for onsite car parking, and as a consequence could result in further traffic and parking congestion on neighbouring streets that are already highly congested.

**Ngai Tahu Tourism Ltd (50/34)**

- 8.110 **Mr John Edmonds** addressed the Commission on the NTTL submission to increase the height provisions applicable in the Lakeview sub-zone. He also addressed the implications of the existing protected trees and discussed the car parking relief sought by NTTL. The Commission addresses Mr Edmonds' submissions at section 9.5 and 9.10 in more detail.
- 8.111 **Mr Tai Ward-Holmes (50/07)** is a resident of 161 Antrim Street. His submission represented a group of long-time residents, and a project development company, Queenstown Heritage Cottages. Mr Ward-Holmes was opposed to the proposed plan change and the potential removal of the existing cottages on Antrim Street.
- 8.112 Mr Ward-Holmes raised specific concerns relating to the underlying lease arrangements for the Lynch Block, which were expanded on by Mr David Stringer (50/06) in a written statement appended as Appendix A to Mr Ward-Holmes' statement. Both submitters raised concerns over the demise of the cottages on Antrim Street, and are opposed to the removal of the 'kiwiana' cribs or batches. Mr Ward-Holmes provided the Commission with an overview of an alternative proposal advanced by Queenstown Heritage Cottages. His proposal sought to retain the existing cottages in the Antrim Street/Earnslaw Street area and to provide for the retention of a nine cottages to facilitate a unique historical working model accommodation precinct.
- 8.113 Mr Ward-Holmes considered that the Lakeview site should be developed as a park and recreation facility for use by future generations. He considered that the convention centre, if it proceeds, should be developed by private enterprise rather than Council. He also submitted that Queenstown is adequately catered for with conference facilities.
- 8.114 **Mr Michael Legge (50/01)** raised a specific concern relating to the scale of the high-rise development proposed as part of Plan Change 50. Mr Legge considered that the public should be provided more information about the proposed plan change, and that a referendum should be held for ratepayers to determine whether the scale of development is acceptable to the community.

**Maximum Mojo Holdings Limited (50/16), The Dairy Guesthouse 2003 Limited (50/26), Any Old Fish Company Holdings Limited (50/28)**

- 8.115 **Mr Graeme Todd** and **Mr Scott Freeman** appeared for MMHL (50/16), Dairy Guesthouse (50/26), and Any Old Fish (50/28).
- 8.116 Mr Todd, counsel for Dairy Guesthouse (50/26) and Any Old Fish (50/28), briefly addressed the Commission on the issues of concern to his clients. Dairy Guesthouse is located on the corner of Brecon Street and Isle Street. Any Old Fish is the registered owner of the property located at 37 Man Street. Both submitters

have raised concerns relating to the provisions for the Isle Street sub-zone as notified.

- 8.17 Mr Freeman is a planning consultant, as well as a director and shareholder of MMHL, which has owned 19 Man Street since late 2003. Mr Freeman acknowledged that he was not appearing before the Commission as a planning expert, due to his conflicted interest as a property owner affected by Plan Change 50. Mr Freeman acknowledged that any weight placed on his views would be at the discretion of the Commission.
- 8.118 Mr Freeman, together with Mr Todd's clients, considered that the two rectangular shaped blocks located to the north of Man Street (within the proposed Isle Street sub-zone) should be included in the expansion of the QTCZ as proposed by Plan Change 50. He stated that without the Isle Street sub-zone, the Lakeview sub-zone would be an isolated area of commercial zoning, separated from the QTCZ. In the submitters' view, both sub-zones are intricately linked in terms of their function and are an appropriate location for the expansion of the QTCZ. The submitters' believe that the two sub-zones cannot and should not be separated.
- 8.119 Mr Freeman specifically addressed the Commission on the planning provisions that were of specific concern to the submitters, and areas where he considered that further amendments were required. The Commission discusses these in more detail in Section 9.11 of this decision.

#### **Man Street Properties Limited (50/27)**

- 8.120 Mr Freeman addressed the Commission in an expert capacity on behalf of MSPL as the registered proprietor of the podium level site located on top of the Man Street car parking building and comprising 3,961m<sup>2</sup> in area, which is located within the TCTZ. His evidence addressed various concerns, including the District Plan provisions applying to the MSPL site, the amendments sought by MSPL (which related to building height/coverage and building setback from Man Street) and the rationale for the amendments sought by MSPL.
- 8.121 On the basis of the increase in building height proposed by Plan Change 50, Mr Freeman considered that a specific rule for the MSPL site allowing an increase in building height should be investigated. Using the podium as the 'original' ground level, Mr Freeman put forward a proposal to establish four 'zones', consisting of:
- Zone A: Maximum building height of 12 metres (area 1,370m<sup>2</sup>);
  - Zone B: Maximum building height of 12 metres (area 1,405m<sup>2</sup>);
  - Zone C: Maximum building height of 4 metres (area 455m<sup>2</sup>);
  - Zone D: Maximum building height of 4 metres (area 95m<sup>2</sup>)
- 8.122 The proposed height zones were illustrated on the plans compiled by Aurum Survey Consultants Limited attached to the MSPL submission, as well as to Mr Freeman's primary evidence.
- 8.123 Mr Freeman considered it appropriate to increase the building coverage for the site from 70% to 80%. By way of comparison, the building coverage proposed for the Lakeview and Isle Street sub-zones is 80% and 70% respectively, while the majority of the existing QTCZ provides a building coverage of 80%.
- 8.124 Mr Freeman submitted that the TCTZ provides for a 4.5 metre setback from Man Street. He noted that in the proposed Isle Street sub-zone a maximum setback of 1.5 metres has been recommended for sites that adjoin Man Street. Mr Freeman

submitted that on a comparative basis it would be appropriate to reduce the TCTZ building setback to 3 metres.

- 8.125 With the introduction of commercial zoning within the Isle Street sub-zone (and the commercial zoning to the west), Mr Freeman noted that the primary purpose of the TCTZ (and the specific controls that apply to this land) was now redundant. He submitted that this was a view also shared by Mr Kyle, in addition to the views expressed in the Reid Investment submission and the evidence provided by Mr Arnesen.<sup>54</sup>

**For Kelso Investments Limited and Chengs Capital Investment Limited (50/35), Queenstown Gold Limited (50/38)**

- 8.126 **Mr Graeme Todd**, counsel for submitters (50/35) and (50/38), and **Mr Edmonds** addressed the Commission with respect to the submissions of these entities.
- 8.127 Mr Edmonds presented evidence on behalf of Kelso and Chengs (50/35), and noted that the submitter owns 1, 3 and 5 Shotover Street, 67 Stanley Street (with the exception of one unit), and 2 and 4 Gorge Road. The sites are currently zoned High Density Residential sub-zone A.
- 8.128 Mr Edmonds provided a very useful overview of the history of the zoning in this locality and considered that the existing zoning does not reflect the historical or existing character of this area. In his opinion, the sites represent a more logical and natural extension of the QTCZ compared to the majority of what is proposed by Plan Change 50 as (i) the sites are located within immediate proximity of the existing QTCZ, and (ii) the sites already reflect a character that is consistent with typical town centre uses (as acknowledged in Council's 2009 Queenstown Town Centre Strategy), having been historically established. Mr Edmonds then addressed the Commission on the implications of rezoning the sites to QTCZ.
- 8.129 Mr Edmonds also presented evidence on behalf of QGL. He submitted that his client sought that the area to the east of Brecon Street currently zoned High Density Residential with a 'Commercial Precinct' overlay be rezoned to QTCZ. Mr Edmonds noted that QGL opposed the 24 metre height limit sought by BSPL (50/10/05) by way of their further submission F50/38/01.

**For Remarkables Jet Limited (50/49)**

- 8.130 **Ms Jenny Carter**, planner for the Porter Group Limited, and **Mr Alistair Porter**, a director of RJL, presented statements to the Commission addressing the relief sought by RJL.
- 8.131 Ms Carter raised concerns regarding the timing of Plan Change 50, and noted that this had been advanced before Council's District Plan review. She commented that the Section 32 report had addressed the supply issues raised in the report prepared by McDermott Miller,<sup>55</sup> and noted that the direction and size of the proposed plan change is contrary to the "walkability" concern addressed in the Town Centre Review adopted by Council on 30 October 2014. Ms Carter stated that there are tensions between the Growth Management Strategy, the Queenstown Town Centre Strategy, and Plan Change 50, which have not been adequately addressed in the Section 32 evaluation. She did not consider the proposed plan change to be the most appropriate means of achieving the purpose of the Act, as it failed to evaluate the alternative promoted by Council in the Queenstown Town Centre Strategy, which

<sup>54</sup> At paragraph 36 of Mr Freeman's evidence.

<sup>55</sup> Attached as Appendix A to the Section 32 evaluation report.

recommended expansion to the north of the existing QTC.

- 8.132 Ms Carter expressed concern in relation to traffic and transportation, relying on the evidence of Mr Kelly. She then addressed the Commission on the Controlled Activity status applying to the convention centre, and concerns relating to the need to submit an integrated travel assessment.
- 8.133 Amongst other matters, Mr Porter considered that any extension of the QTC could be more appropriately located on the existing Wakatipu High School site by Gorge Road, given that the school is being relocated to Remarkables Park in the near future.

**For Brecon Street Partnership Limited (50/10)**

- 8.134 **Mr Russell Bartlett QC**, counsel for BSPL, addressed the Commission on the preliminary jurisdictional issue raised by BSPL's increased height relief. He concluded that there is no authority for the proposition that a submission on a proposed height rule is not "on the proposed plan change".
- 8.135 Mr Bartlett addressed the Commission on issues raised in Mr Bird's evidence relating to the effects of BSPL's proposed height relief. He was particularly critical of Mr Bird's evidence, which he contended provided no analysis of the difference in effect between a 12 metre and a 19 metre structure. Further, there had been no assessment of visual dominance from areas such as the Queenstown recreation grounds, Queenstown Primary School playing fields or parts of the QTC. Mr Bartlett raised similar concerns regarding Dr Read's evidence.
- 8.136 **Mr Graham Wilkinson**, a director of BSPL, presented a statement that described his interest in 34 Brecon Street and provided an overview of earlier preliminary design work by Warren & Mahoney in relation to a mixed use commercial and accommodation model for the site, as referred to in Mr Gibbs' evidence. Mr Wilkinson considered that the site is one of Queenstown's "best" for various land uses, such as a hotel, high-density residential accommodation, a form of moderate commercial activity or a mixture of all three. He considered that the 12 metre height limit proposed represents a lost opportunity, which in his opinion has no logic or fairness.
- 8.137 **Mr David Gibbs**, an urban designer at Konstrukt Architects Ltd, submitted that 34 Brecon Street and the Isle Street sub-zones are exceptionally well suited to an expansion of the town centre, by virtue of proximity, established pedestrian links, and an established pattern of foot traffic to and from the Skyline gondola. In his view Plan Change 50 does not appropriately recognise the importance of this area in this regard.
- 8.138 Mr Gibbs considered that Plan Change 50 is inappropriately restrictive with regard to the development controls that are to be applied to the eastern end of the Lakeview sub-zone and the Isle Street sub-zone, which, in his opinion, would hamper the efficient utilisation of the site.<sup>56</sup> He considered that Plan Change 50 places an inappropriate emphasis on the effect that the development of 34 Brecon Street will have on the Queenstown cemetery.
- 8.139 Mr Gibbs addressed the Commission on the Queenstown Town Centre Strategy (December 2009), which recognised the appropriateness of the Isle Street and Brecon Street areas for town centre expansion. Mr Gibbs considered that the 12 metre height limit proposed by Plan Change 50 for the Brecon Street and Isle Street

<sup>56</sup> At paragraph 5(d) of Mr Gibbs' primary evidence.

areas would preclude the construction of “moderate sized hotels” because it would be uneconomic to build them at that height.

- 8.140 By way of example, Mr Gibbs referred, with approval, to an earlier development scheme prepared by Warren and Mahoney for 34 Brecon Street, which provided for five semi-independent blocks arranged around a courtyard. The buildings comprising the development varied in height up to a maximum of 23.5 metres.
- 8.141 Lastly, Mr Gibbs addressed the Commission on the evidence of Council witnesses and issues raised in the Section 42A officer’s report.
- 8.142 **Mr Ian Munro**, a planning consultant with Urbanism Plus, provided planning evidence in support of the BSPL submission, in particular the District Plan policy framework and the proposed rule framework.
- 8.143 A key issue raised by Mr Munro was his contention that the Council’s design experts favoured preserving the existing environment and views around Queenstown, supporting change only where there would be no or only very minimal adverse “change” effects on the visual environment and their assessment of locals’ appreciation of it.<sup>57</sup> Mr Munro considered that Dr Read and the earlier Height Limit Study were preoccupied with maintaining a predominantly low-rise environment. In his opinion, excessive importance was placed on this issue, rather than maximising the potential of land within convenient walking distance of Queenstown’s town centre to facilitate development; for instance, assisting to consolidate and reinforce Queenstown and reducing car dependence.<sup>58</sup>
- 8.144 Mr Munro preferred an alternative approach to Plan Change 50, as contained in the BSPL submission. This involved maximising the development potential on land close to the town centre in such a way that it would not have significant “change” effects, while preserving the maximum possible concentration of Queenstown. Such a strategy would, in his view, ideally contribute to the stated aims in the District Plan of slowing the spread of growth “outwards” where that can be avoided.
- 8.145 Mr Munro provided an overview of the proposed rule framework supporting BSPL’s submission, which provides for a building of 15 metres in height (total) at the cemetery boundary, additional height up to 19 metres as a Controlled Activity and 22.5 metres as a Restricted Discretionary Activity – each with up to 2 metres as habitable roof shape and plant space above. The additional height would be required to be set back by either a realigned Cemetery Road (as would the lower part of such a building), or by a cemetery setback of 17 metres.<sup>59</sup>
- 8.146 **Mr Trevor Shrieber** provided the Commission with a brief overview of the survey that he undertook from users of the adjoining cemetery.

**For Mr Adam and Ms Kirsten Zaki (50/56) and Mr Carl and Ms Lorraine Holt (50/57) (late submitters)**

- 8.147 **Mr Chris Thomsen**, counsel for Mr and Ms Zaki and Mr and Ms Holt, addressed the Commission on key issues of concern to his clients. Mr Thomsen’s clients lodged late submissions, and as a consequence Mr Thomsen’s legal submissions were presented at the reconvened hearing on 16 January 2015.
- 8.148 Mr Thomsen addressed the rezoning of the Beach Street Block, submitting that the proposed plan change failed to adequately respond to properties to the rear of the

<sup>57</sup> At paragraph 2.7 of Mr Munro’s primary evidence.

<sup>58</sup> At paragraph 2.7 of Mr Munro’s primary evidence.

<sup>59</sup> At paragraph 6.31 of Mr Munro’s primary evidence.

existing Crowne Plaza Hotel, which include both Mrs Walker's and his clients' land. Mr Thomsen stated that if Plan Change 50 were to achieve a consistent response, it would make sense to rezone Lot 1 DP 15037 (comprising the existing Crowne Plaza Hotel) to QTCZ, with the remainder of the Beach Street Block to be retained as HDRZ.<sup>60</sup> In the alternative, Mr Thomsen requested specific amendments to the side-yard setback, height, noise and building coverage. These are expanded on in section 9.12 of this report.

**Ms Lucy Bell (50/58)**

- 8.149 At the re-convened hearing dated 16 January 2015, we accepted a late submission from Ms Lucy Bell, who addressed us on 165 Antrim Street and its ownership issues. Ms Bell discussed the accuracy of the plan change boundary line around 165 Antrim Street, and submitted that at least four cabins were located outside of the proposed plan change boundary.

**Submitter's Reply**

**IHG Queenstown Limited/Carter Queenstown Limited (50/32)**

- 8.150 **Ms Lauren Semple, for IHG and Carter**, lodged written closing submissions raising concerns that the most recent version of the Plan Change 50 provisions circulated by Mr Kyle would make all visitor accommodation and commercial activity a Restricted Discretionary Activity. Ms Semple submitted that her client did not, and would not, have supported any amendment to the proposed zoning had it considered that such amendment would alter the activity status to its detriment. Ms Semple sought the deletion of Rule 10.6.3.2A(iii) insofar as it applies to the submitter's land.

**Memorial Property Limited (50/39) and Mr Christopher Mace and Queenstown Trust (50/17)**

- 8.151 **Mr Holm** submitted that MPL and CMQT had recommended that the town centre zoning proposals of Plan Change 50 be declined. He stated that despite caucusing, there remained:
- (a) No convincing rationale for the scale or direction of the Plan Change 50 expansion of the existing town centre; and
  - (b) Potentially adverse impacts, which he submitted had not been adequately addressed in considering an expansion of such magnitude and long term significance. In particular, the evidence of Mr Kelly had demonstrated that traffic and parking effects have received only the most superficial evaluation. There remain unnecessary risks posed by the scope of Plan Change 50 to the existing (and future) town centre character and amenity.
- 8.152 Mr Holm addressed the Commission on the alternative High Density Residential zoning approach, set out at paragraph 16(a) to (l) of his closing legal submissions (including Attachments 1 to 5). The alternative HDR zoning approach advanced by MPL would provide for a proposed convention centre (and associated hotels and commercial development) by creating a sub-zone or precinct within the existing HDRZ, which also applies to the Council's Lakeview site. The "Lynch Block" would have its own sub-zone to enable a greater scale of development than it currently possesses.

---

<sup>60</sup> Refer paragraph 22 of Mr Thomsen's opening legal submissions tabled during the reconvened hearing dated 16<sup>th</sup> January 2015.

- 8.153 At paragraph 16(k), Mr Holm addressed the proposed controls for commercial activities, which would be subject to Controlled Activity status under the alternative rule framework attached to his closing legal submissions. The total amount of retail would be limited to 6,500m<sup>2</sup>, with an additional rule limiting retail to 10% of the total floor space within the sub-zone (the rationale for this '10%' figure is identified in footnote 7 of the evidence of Mr Wells<sup>61</sup>). This would ensure the implementation of the position agreed in expert conferencing and echoed in the recommended policy that commercial activities be of a nature and scale that support other predominant activities.
- 8.154 Mr Holm submitted that the MPL alternative zoning approach would be far more integrated and aligned with the settled objectives and policies of the existing District Plan in relation to protecting the character, function and amenity of the town centre, than Plan Change 50. He stated that the key element of the amendments requested to the plan change by MPL was the exclusion of the future scale and growth of the town centre, leaving this to be dealt with in the forthcoming District Plan review.<sup>62</sup> Such an approach would allow Council sufficient time to develop coherent proposals for the future town centre that would take into account the Council's key traffic and parking strategy, which was not available until after the hearing had concluded.
- 8.155 The Commission notes that the alternative HDR zoning option advanced by MPL is addressed in section 9.1 of this report.

#### **Remarkables Jet Limited (50/49)**

- 8.156 The closing legal submissions for RJL (50/49) addressed a number of specific issues relating to traffic effects and the Transport Strategy, relevant case law, the Plan Change 50 process generally and the principles of the Act.
- 8.157 Mr Young and Ms Davidson, for RJL, submitted that Plan Change 50 must be rejected because it has failed to adequately address critical transportation and traffic issues. A detailed overview of Mr Kelly's evidence was provided.
- 8.158 It was submitted that Sections 5 and 7 of the Act are highly relevant to Plan Change 50. In discussing the Supreme Court decision in *Environmental Defence Society v New Zealand King Salmon Company Ltd*, the RJL submission stated that Section 5 of the Act needs to be read as an integrated whole in term of its sustainable management purpose. Accordingly, the Commission must be sure that Plan Change 50 manages traffic and transport effects "immediately". Council's proposal to deal with those effects later must fail to achieve the purpose of the Act.
- 8.159 Mr Young and Ms Davidson raised specific concern with regard to the absence of the Council's Transport Strategy, and argued that the orthodox approach to such a significant expansion of the town centre would be to prepare and include a CBD wide transport strategy from the outset.
- 8.160 RJL's closing submissions raised specific concerns relating to the evidence on traffic effects and the reliance on single development options. The conclusions of Mr Kelly (for MPL) were supported and the assessment of traffic effects considered inadequate for the following reasons:
- (a) The ITA assessments were reliant upon a range of "critical assumptions" that

<sup>61</sup> Which reads "... the definition of Visitor Accommodation includes the following 'May include some centralised services or facilities, such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are associated with the visitor accommodation activity' which I [Mr Wells] understand is often accepted to include internal shops etc. The transport section makes reference to up to 10% of visitor accommodation sites being used for related on site activities before this has an effect on car parking requirements, which is often used as a guide as to the scale of 'centralised services or facilities' which are acceptable".

<sup>62</sup> At paragraphs 8, 10 of Mr Holm's closing legal submissions.

- are unclear and have not been subject to sensitivity testing or peer review;
- (b) There is no recognition that other credible development scenarios exist;
  - (c) Traffic analysis is predicated on a significant shift in travel behaviour;
  - (d) The measures to achieve such a shift were to be outlined in the Transport Strategy, and the Transport Strategy does not include any measures on how this shift will be achieved; and
  - (e) Reliance on a shortage of car parking as a means to encourage a change in travel behaviours is poorly placed and has not been informed by any relevant supply/demand assessment.
- 8.161 RJL's closing submission then addresses the *Thurlow Consulting* case, which concerned an inadequate transport assessment and related issues.
- 8.162 Lastly, RJL's closing submission reinforced that RJL is not a trade competitor, rather it is a CBD investor in wharf, future jet boating and tourism facilities. RJL submitted that while it shares the same directors as Remarkables Park Limited ('RPL'), which is advancing its own convention centre, the outcome of Plan Change 50 has no bearing on the proposed convention centre on RPL land.

### **Brecon Street Properties Limited (50/10)**

- 8.163 **Mr Bartlett QC's** closing submissions, lodged on behalf of BSPL, addressed the submitter's primary submissions points and the relief sought, as well as further submissions to the 30 primary submissions.
- 8.164 Mr Bartlett confirmed that BSPL supports the extension of the town centre zoning, and the express provision being made in the District Plan for the development of a large scale convention centre. He drew attention to BSPL's evidence that the seven-storey height sought in the primary submission could be achieved within a limit of 22.5 metres, as long as provision was made to allow for habitable space to be permitted within the 2.5 metre roof bonus.
- 8.165 BSPL accepted the evidence and submissions of Council that despite its present locational preferences, the Lakeview sub-zone provisions are not designed to favour any particular site for the establishment of a convention centre. Mr Bartlett recorded that BSPL, from a commercial point of view, is indifferent as to where a conference centre may be located within the Lakeview sub-zone.
- 8.166 Through BSPL's further submissions (F50/10/09 and F50/10/10) in response to the Queenstown Chamber of Commerce (F50/10/13) and the NZIASB primary submissions, BSPL queried the present need for an expansion of the town centre to the scale proposed by Council. Mr Bartlett submitted that the Commission has now heard the further evidence of Mr Kyle and Mr Gibbs, in which each suggested a reduction in the extent of the Lakeview sub-zone with respect to commercial and retail activities.<sup>63</sup>
- 8.167 Mr Bartlett's closing submission set out Mr Munro's response as to what practical restrictions on retail activity could be imposed in respect of the Lakeview sub-zone. Based on Mr Munro's advice, the following definition of ancillary retail and ancillary commercial activity was proposed:

*"Ancillary Retail or Ancillary Commercial activity means a subordinate retail or commercial activity proposed to serve the needs of users of a primary activity occurring on that site. Examples include a restaurant or souvenir shop in association with a hotel. Ancillary Retail or Ancillary Commercial activities must:*

- *be less than 10% of the gross floor area of the primary activity (individually or cumulatively); and*

<sup>63</sup> At paragraph 11 of Mr Bartlett's closing legal submissions.

- *have no means of customer access other than through the primary activity; and*
- *have no signage or branding other than inside the primary activity."*

- 8.168 Mr Bartlett submitted that limiting the extent of future retail and office development within the Lakeview sub-zone (in terms of Mr Gibbs' evidence) would not constrain the choices available for the location of a convention centre, but would alleviate concern surrounding the risk of a disconnected retail node establishing within an oversized commercial expansion area.
- 8.169 In relation to the height of a future development at 34 Brecon Street, Mr Bartlett submitted that Council experts' initial concerns included a shading of the adjoining area, and views from the presently adjacent cemetery. As a consensus of caucusing, an agreement was reached amongst the planners, designers and architects present that shading would not, of its own, be sufficient reason to disallow the height recommended by Mr Gibbs.
- 8.170 Mr Bartlett submitted that any building at 34 Brecon Street would obstruct views to some extent. He stated that the Commission's legal assessment in terms of Part 2 of the Act and sections 31 and 32 involve not treating that view as an end in itself, but in the context of:
- Other views readily available from public places in and around Queenstown; and
  - Acknowledging that the land at 34 Brecon Street is a significant physical asset that should be developed in a sustainable way.<sup>64</sup>
- 8.171 Mr Bartlett stated that determining the appropriate development intensity for 34 Brecon Street requires the exercise of an overall judgement and the application of a sense of proportion as to the issues raised by the submitters' respective experts. He submitted that the visual analysis provided by BSPL established that the site is capable of absorbing buildings significantly higher than the 12 metres provided for in the proposed plan change. Mr Bartlett concluded that the long to medium distance visual impact of providing for a 24 metre maximum height is not significant, and that the effects on the cemetery could be mitigated by the roading realignment proposed by BSPL.
- 8.172 Mr Bartlett concluded that even a "significant" adverse effect on what is an approximately 300-degree arc of view from the cemetery should, in the final evaluation, be subordinate to the Part 2 duty to establish rules allowing for the sustainable development of 34 Brecon Street.<sup>65</sup>

## The Officer's Report

- 8.173 **Mr Bryce's** Section 42A report dated 6<sup>th</sup> November 2014 discussed the matters raised by submitters and further submitters to assist the Commission in our consideration of these matters.
- 8.174 Mr Bryce addressed the Commission following the presentation of evidence and submissions and prior to the conclusion of the hearing to address matters that had been raised by the parties who appeared before us. He stated that his fundamental views and recommendations on Plan Change 50 have not changed through the course of the hearing. Mr Bryce confirmed that he agreed with the proposed amendments to the Plan Change 50 planning provisions set out in the further supplementary evidence submitted by Mr Kyle dated 18<sup>th</sup> February 2015.

<sup>64</sup> At paragraph 24 of Mr Bartlett's closing legal submissions.

<sup>65</sup> At paragraph 30 of Mr Bartlett's closing legal submissions.

## 9.0 ASSESSMENT

- 9.0.1 The Act requires that submission points be addressed by grouping them according to the provisions of the proposed plan change to which they relate, or the matters to which they relate. For convenience, we have followed the general format set out in Mr Bryce's Section 42A report, which is to group submission points on the basis of 14 general issues raised:
- Process issues related to consultation and the Section 32 evaluation;
  - The need for the plan change;
  - Impacts on the existing Queenstown Town Centre;
  - Appropriateness of a convention centre within Lakeview sub-zone;
  - Transportation, traffic effects, walking and cycling and connectivity;
  - Loss of affordable housing;
  - Effects on landscape and visual amenity values;
  - Effects on Infrastructure;
  - Effects on heritage values;
  - Resource management issues raised by planning provisions proposed for the Lakeview sub-zone;
  - Resource management issues raised by planning provisions proposed for the Isle Street sub-zone;
  - Resource management issues raised by planning provisions proposed for the Beach Street Block;
  - Consistency with the District Plan and Regional Policy Statement; and
  - Consistency with Part II of the Act;
- 9.0.2 The full list of the submitters and further submitters to Plan Change 50 is provided in **Appendix 3**.
- 9.0.3 Our evaluation in relation to each of the issues raised is structured as follows:
- A general summary of the issue and the main points raised in the submissions and further submissions.
  - A discussion that reflects our assessment of the submission points relating to the issue and which form the basis of our recommendations.
  - Our recommendations on the submission points in relation to each issue. The recommendations state whether each submission point is to be **accepted, accepted in part** or **rejected**.
- 9.0.4 We attach at **Appendix 1** Plan Change 50 as amended by our recommendations.
- 9.0.5 The Commission acknowledges that the submission points represent a summary only of each submission and that the actual submission or further submission concerned may contain additional material. Submission points are identified by three numbers (for example, 50/01/1) in the summary at **Appendix 2** and in our recommendations in Sections 9.1 – 9.14 of this report.
- 9.0.6 The Commission confirms that it has given consideration to the full contents of all submissions and further submissions, copies of which were provided to the Commission prior to the hearing.

## 9.1 PROCESS ISSUES RELATED TO CONSULTATION AND THE SECTION 32 EVALUATION

### The Issues and Decisions Requested

9.1.2 This section includes issues and concerns raised by submitters in relation to:

- Consultation processes; and
- The adequacy of the Section 32 evaluation.

9.1.3 Each is discussed in turn below.

### Discussion & Reasons

#### The adequacy of the consultation processes

9.1.4 Robins Road Limited (50/8/02) submitted that there has been a failure to consult with parties located within wider areas on the periphery of the Town Centre. This submission was supported by the further submission by RJL (F50/49/04). The Commission was not presented any further evidence on this matter from either the original submitter or by RJL.

9.1.5 An overview of the consultation process adopted as part of the preparation stage of Plan Change 50 is set out in section 4.0 of the Section 32 report. At section 6.2 of the Section 42A report Mr Bryce outlined the consultation processes adopted by Council with respect to landowners and key stakeholders associated with the proposed plan change. The Section 42A report records that:

- The proposed plan change was publically notified in three separate newspapers, including the Otago Daily Times on 13<sup>th</sup> September 2014, and the Mirror and The Wanaka Sun (in the week of 17<sup>th</sup> September 2014);
- All of the information supporting Plan Change 50 was made available on the Council's website on 13<sup>th</sup> September 2014;
- The notification of Plan Change 50 was undertaken in accordance with Part 2 of the First Schedule of the Act, with 639 parties consulted as part of this notification process;<sup>66</sup>
- The period of 20 working days provided as part of the notification process for original submissions complied with the statutory timeframes under the Act, as did the maximum number of 10 working days provided for further submissions.<sup>67</sup>

9.1.6 The Commission notes that Clause 3 of the First Schedule to the Act sets out the requirements with respect to consultation where a local authority prepares a plan change. The Commission has also had regard to the requirements of consultation listed in Section 82 of the Local Government Act 2002.

9.1.7 We are satisfied that Council, in advancing this plan change, undertook an appropriate level of consultation prior to lodging the proposed plan change and that the correct processes in terms of consultation with affected parties was followed. Further, the Commission is satisfied that interested parties have had an opportunity to respond to Plan Change 50 via the statutory process that has underpinned this plan change process, including the submission and further submission processes and throughout the subsequent hearing.

<sup>66</sup> Including 382 owners of land within or adjoining Plan Change 50, 105 occupiers, 127 parties linked with the existing cabins on the Lakeview site, and 25 statutory parties

<sup>67</sup> At page 12 of the Section 42A report.

### **The adequacy of the Section 32 evaluation**

- 9.1.8 Plan Change 50 was notified following the amendments to the Resource Management Amendment Act 2013 that came into effect on 4 December 2013. The proposed plan change was accompanied by a comprehensive Section 32 evaluation, which included an analysis of various options.
- 9.1.9 The Section 42A report addressed the adequacy of the Section 32 evaluation under the following sub-headings:
- Identification of reasonably practicable options (or alternatives);<sup>68</sup>
  - Consideration of other alternative zoning options;<sup>69</sup> and
  - Adequacy of the benefits and costs of the effects of the provisions.<sup>70</sup>
- 9.1.10 The Commission has considered the adequacy of the Section 32 evaluation and associated submissions in the context of the above headings.

#### **1. Identification of reasonably practicable options (or alternatives)**

- 9.1.11 Addressing the ‘identification of reasonably practicable options (or alternatives)’, the Section 42A report noted that Section 32(1)(b)(i) of the Resource Management Amendment Act 2013 introduced a new requirement in relation to an evaluation report. When examining whether the provisions are the most appropriate way to achieve the objectives of the plan change, an evaluation report must identify reasonably practicable options for achieving those objectives. However, all that is required is that any other reasonably practicable options are identified.
- 9.1.12 The Commission has given consideration to four alternative planning options that the Section 32 evaluation considered to address the identified resource management issues. These options included:
1. *Inserting new provisions in the HDRZ of the District Plan to provide for commercial activities, a convention centre and fewer restrictions on residential activities and buildings within the plan change area; or*
  2. *Rezoning the plan change area to QTCZ with no changes to these provisions; or*
  3. *Maintaining the status quo (the “do nothing” approach); or*
  4. *Rezoning the site to the QTCZ but including sub-zones for the Isle Street and Lakeview sites to provide specific built outcomes for these areas, and to provide specific provisions for the Beach Street site that manages built form and noise at this site.*
- 9.1.13 The original submission of MPL (50/39/08) questioned whether QTC zoning would be the most appropriate zoning for the Lakeview area.<sup>71</sup> It considered that alternative zoning that more precisely controls the range of activities enabled is likely to be more appropriate, and that a sub-zone or precinct in an amended HDRZ could provide for a proposed convention centre (together with associated hotels and commercial development). This alternative zoning option is discussed in the evidence of Mr Wells,<sup>72</sup> and is expanded on in MPL’s closing legal submissions.
- 9.1.14 The Commission has considered the key changes proposed to the HDRZ by MPL as set out at paragraph 16(a) to (l) of Mr Holm’s closing legal (including Attachments

<sup>68</sup> 50/39/08 and 50/39/09, 50/30/02, 50/43/07, 50/44/01, 50/45/01, 50/49/02.

<sup>69</sup> 50/43/07, 50/44/01, 50/45/01, 50/49/02, 50/08/01.

<sup>70</sup> 50/18/02, 50/24/11, 50/19/03, 50/49/05

<sup>71</sup> Opposed by Man Street Properties (F50/27/09), Any Old Fish Company (F50/28/09), The Diary Guest House (F50/26/09), and supported by RJL (F50/49/05).

<sup>72</sup> Refer to the planning evidence of Mr Wells (paragraphs 115-117, page 33).

1 to 5). We note that the alternative option advanced by MPL essentially reflects Option 1 of the Section 32 evaluation, albeit with further refinements to address issues raised during the hearing. The Section 32 evaluation discounted Option 1 on the basis that the objectives of the HDRZ are focused on residential activities and provide for residential amenity values. While the submitter's alternative provisions seek to advance the objectives of Plan Change 50 through further amendments to the objectives, policies and supporting methods, we are not persuaded that the alternative option advanced by MPL is the most effective or efficient option to address the resource management issues identified by Plan Change 50. In reaching this conclusion, we have taken into account the following:

- (i) While we acknowledge that the key element of the change requested to Plan Change 50 by MPL is the exclusion of the future scale and growth of the town centre, (leaving it to be dealt with in the forthcoming District Plan Review), the alternative option only addresses the Lakeview sub-zone and, as a consequence, does not appropriately respond to the broader urban design and resource management issues that Plan Change 50 seeks to provide for.
- (ii) The majority of experts present during conferencing on 10<sup>th</sup> February 2015 agreed that both Isle Street sub-zone blocks (east and west) should be rezoned "commercial", rather than HDRZ.<sup>73</sup> We note that MPL's planner, Mr Wells, stated that he did not consider the re-zoning of the Isle Street sub-zones to be necessary if the Lakeview sub-zone was not rezoned.<sup>74</sup> However, he identified during conferencing that he supported some limited town centre re-zoning of the Beach Street block, the Isle Street sub-zones (excluding the western block<sup>75</sup>) and Brecon Street (both sides) to QTCZ.<sup>76</sup>
- (iii) The alternative option introduces a "disconnect" between the scale of buildings proposed within the existing QTCZ and the Lakeview sub-zone. While Mr Holm submitted that it would be more appropriate to advance any change to the planning provisions for the Isle Street blocks through the impending District Plan Review, we consider it more effective and efficient for these areas to be addressed as part of Plan Change 50, given the potential disconnect should these areas not be successfully rezoned as part of the District Plan Review.
- (iv) The submitter's alternative option has the potential to promote a very poor urban design and resource management response. Evidence has identified the importance of the Isle Street sub-zone in linking the Lakeview sub-zone to the existing QTCZ.<sup>77</sup> In his evidence, Mr Bird stated that Plan Change 50 seeks to transform the typically suburban character of the two Isle Street blocks into an integral part of a much more urban Town Centre, and to create a relatively continuous urban character link to the Lakeview sub-zone.<sup>78</sup> Mr Bird concluded that the two Isle Street blocks and the Beach Street block have very good connections to the existing town centre and can legitimately claim to

<sup>73</sup> Refer Item 5 - Isle Street sub-zone paragraph (i) of the Planning and Urban Design JWS dated 12th February 2015, John Edmonds, John Kyle, Doug Weir, Clinton Bird, Nigel Bryce, David Gibbs, Scott Freeman and Gillian MacLeod agreed that both Isle Street sub-zone blocks (east and west) should be rezoned commercial, rather than HDRZ.

<sup>74</sup> At paragraph 107 of his evidence.

<sup>75</sup> Refer Item 3 - Extent of Town Centre Zoning paragraph (vii) of the Planning and Urban Design JWS dated 12th February 2015, where Mr Wells states that he remains unconvinced as to the appropriateness of the Isle Street sub-zone extending westward from those properties that front Brecon Street.

<sup>76</sup> Refer Item 3 - Extent of Town Centre Zoning paragraph (vii) of the Planning and Urban Design JWS dated 12<sup>th</sup> February 2015.

<sup>77</sup> Page 32 of the Section 32 evaluation identifies the importance of the Isle Street sub-zone enables a connection through to the commercial overlay on Brecon Street, and then to the Lakeview site. The primary evidence of Mr Kyle at paragraph 5.5 identified that the rezoning of this land will provide additional space for the enablement of a mixed of activities, including visitor accommodation, residential, and commercial activities, which reflect the location of this land proximate to the town centre.

<sup>78</sup> Refer paragraph 10.50 of Mr Bird's primary evidence.

be “very good candidates” for extension of the town centre<sup>79</sup>, with both Mr Bird and Mr Gibbs favouring some ‘up-scaling’ of development within the Isle Street sub-zone.

- (v) The alternative option would result in the deletion of the Lakeview sub-zone Structure Plan and height limit requirements, which essentially negates the “master plan” approach advanced by Council for the Lakeview sub-zone. We consider that this creates the potential for the Lakeview sub-zone to be developed in a less integrated and potentially more ad hoc manner. This outcome is echoed in Council’s closing legal submissions where it was submitted that: *“None of the urban design considerations that have informed the Council’s proposal and that strive to produce a welcoming precinct with vibrancy, bustle and a sense of place has informed the [MPL] proposal”*.<sup>80</sup>
- (vi) The alternative option proposed by MPL limits building height to 12 metres within the HDRZ sub-zone E (Lakeview), total building coverage for all buildings to 35% across the HDRZ sub-zone E (Lakeview) and places a cap on commercial activity floor space to 6,500m<sup>2</sup> in the HDRZ sub-zone E (Lakeview). The Commission does not consider this approach, in its entirety, to be an efficient or effective approach to the utilisation of this scarce land resource.

9.1.15 As a consequence, the Commission does not fully support the alternative option advanced by MPL in its closing legal submissions. We do, however, note that we have recommended further amendments to the planning provisions to address issues relating to scale of commercial office and retail activities within the Lakeview sub-zone, which respond directly to the concerns raised by MPL.

9.1.16 The original submission of Mr Allan Huntington (50/30/01, 50/30/02, and 50/30/06)<sup>81</sup> sought the retention of the HDRZ but proposed an increase in the height rule with respect to the Lakeview sub-zone to 10 metres, plus a roof bonus of 2 metres. Mr Huntington also submitted that both the convention centre zoning on the Lakeview site and the proposed plan change in its entirety be withdrawn. The Commission notes that the relief sought reflects Option 1 set out above, which was discounted on the basis that the objectives of the HDRZ are focused on residential activities and providing for residential amenity values, and that this option would not address the capacity issues underpinning the need for expansion of the QTCZ. Accordingly, we do not support the relief sought by Allan Huntington in its entirety, however note that subsequent amendments to Plan Change 50, in particular the deletion of the QTCZ over the Lynch Block and retention of the HDRZ with respect to this area, will accommodate part of the relief sought by this submitter.

## 2. Consideration of Other Alternative Zoning Options

9.1.17 The Section 42A report identified five submissions (Joy Veint (50/43/07), Douglas Veint (50/44/01), Janet Sarginson (50/45/01), RJL (50/49/02), Robins Road Limited submission (50/08/01)) that proposed that any expansion of the town centre would more appropriately be located in the area between the existing town centre and extending outwards towards Gorge Road. IHG and Carter, and Kelso and Chengs both provided further submissions (F50/35/01 and F50/32/03)<sup>82</sup> explaining that in their opinion the most logical areas for expansion of the town centre are those areas adjacent to the existing QTCZ, including the area to the east bordering Gorge Road.

<sup>79</sup> Refer paragraph 48 of Mr Gibbs’ primary evidence.

<sup>80</sup> At paragraph 6.3 of Council’s closing legal submissions.

<sup>81</sup> Opposed by Brecon Street Partnership Limited (F50/10/30), and supported by Remarkables Jet Limited (F50/49/03).

<sup>82</sup> In support of original submission 50/49/02.

- 9.1.18 Mr Edmonds, on behalf of Kelso and Chengs (50/35), submitted that the 2009 Town Centre Strategy had identified areas for possible expansion of the QTC, including areas adjacent to Brecon Street (part of which is included within the Plan Change 50 zone boundary) and an area extending towards Gorge Road.<sup>83</sup> Similarly, Mr Porter, on behalf of RJL (50/49), submitted that the QTC extension should include the existing Wakatipu High School site on Gorge Road, given that the school is being relocated to Remarkables Park.
- 9.1.19 The Commission notes that these alternative options were not assessed as part of the Section 32 evaluation. While there may be some merit in the alternative options, in our view they are more appropriately advanced as part of the District Plan Review. We note, for completeness, that we have no jurisdiction to include additional areas into our evaluation of Plan Change 50.
- 9.1.20 The Commission is satisfied that the Section 32 evaluation attached to the notified plan change was adequate to enable potential submitters to understand the likely issues and effects arising from the plan change and to determine whether they agreed or disagreed with the provisions of the plan change. Submitters have had an opportunity to respond to issues raised through the plan change process, including but not limited to the submission and further submission processes, and during the hearing process.

### 3. Adequacy of the benefits and costs of the effects of the provisions

- 9.1.21 A number of submitters raised concerns with respect to the adequacy of the benefits and costs of the effects of the relevant provisions supporting Plan Change 50. John Thompson (50/24/11)<sup>84</sup> submitted that the benefits and costs of the effects of the provisions relating to the Isle Street sub-zone have not, in some cases, been adequately quantified. Similarly, Marjory Pack and John Allan (50/18/02) raised specific concerns about the adequacy of the Section 32 evaluation in this respect.
- 9.1.22 The Commission has considered the evidence in relation to the majority of the changes that were introduced to the Isle Street sub-zone in Mr Kyle's supplementary planning evidence, including the evaluation of the benefits and costs of the amended planning provisions.<sup>85</sup> We are satisfied that the benefits and costs of the revised planning provisions, to the extent that they relate to the Isle Street sub-zone, have been adequately evaluated and that the changes that have been made to the Isle Street sub-zone appropriately respond to the issues raised by these submitters.

## Commission's Recommendations

1. That the submissions by Allan Huntington (50/30/01 and 50/30/02) and the further submission by Remarkables Jet Limited (F50/49/03) be **accepted in part**, on the basis that amendments made to the Lakeview sub-zone (retention of the 'Lynch Block' as HDRZ) seek to address part of the relief sought by these submitters.
2. That the submissions by John Thompson (50/24/11) and Marjory Pack and John Allan (50/18/02) and the further submissions by The Dairy Guesthouse 2003 Limited (F50/26/11), Man Street Properties Limited (F50/27/11), Any Old Fish Company Holdings Limited (F50/28/11), Watertight Investments Limited (F50/33/01), C Hockey (F50/36/01) be **accepted in part** on the basis that the

<sup>83</sup> At paragraph 3.6.

<sup>84</sup> Supported by Watertight Investments (F50/33/01), C Hockey (F50/36/01), Man Street Properties (F50/27/11), Any Old Fish Company (F50/28/11) and The Dairy Guest House (F50/26/11).

<sup>85</sup> With the Section 32AA evaluation included as Attachment 2 to Mr Kyle's supplementary planning evidence dated 19<sup>th</sup> December 2014.

amendments that have been made and subsequently evaluated in terms of the benefits and costs, have, in part, addressed the issues raised by these submitters.

3. That the submissions by Robins Road Limited (50/8/02) and Memorial Property Limited (50/39/08), and Remarkables Jet Limited (F50/49/04) be **rejected** for the reasons set out above.
4. That the submissions by Joy Veint (50/43/07), Douglas Veint (50/44/01), Janet Sarginson (50/45/01), Remarkables Jet Limited (50/49/02), Robins Road Limited (50/08/01), Brecon Street Partnership Limited (F50/10/30), Memorial Property Limited (50/39/08), Kelso Investments Limited and Chengs Capital Investment Limited (F50/35/01) and IHG Queenstown Ltd and Carter Queenstown (F50/32/03) be **rejected** for the reasons set out above.

## 9.2 NEED FOR PLAN CHANGE

### The issues and Decisions Requested

9.2.1 Seven original submissions raised a concern as to whether the proposed additional town centre zoning is 'needed' in Queenstown.<sup>86</sup> The relief sought by these submitters ranged from rejection of the proposed plan change in its entirety, to its approval subject to revisions to address the concerns raised with respect to various provisions. The issues raised included:

- There has been no analysis of empty office space or land in the existing QTC, given that there appears to be office space within the town centre still to be built or empty;
- Frankton is now the hub for residents and Queenstown is the centre for tourists. This is the direction the community took some time ago with the development of Remarkables Park, the location of the Events Centre and Alpine Aqualand, as well as the large adjacent residential subdivisions. The concern that Frankton's success will diminish Queenstown's potential is unfounded;
- The supporting report by McDermott Miller substantially underestimated the amount of unutilised commercial development capacity in the QTC;
- The rationale for extending the QTCZ is ill-founded;
- The primary justification for the size of the Plan Change 50 town centre extension is to incorporate the proposed convention centre site; however, the submitter queries if this is the most efficient, cost effective solution for households and businesses in the district;
- The proposed plan change is at odds with its position and evidence for Plan Change 19, which indicated that there was enough town centre/commercial land available to meet demand for the next 20 to 30 years;
- At no stage have the consultants proved a point of need, success or requirement for the proposed plan change.

### Discussion & Reasons

9.2.2 The Section 32 evaluation identified that the key resource management issue that Plan Change 50 seeks to address is a shortage of commercially zoned land in the QTC, as established by McDermott Miller Strategies Ltd in their report dated

<sup>86</sup> 50/15/03, 50/39/04, 50/48/05, 50/49/03, 50/55/01.

November 2013.<sup>87</sup> MMS identified that there is only 0.5 hectares of town centre-zoned land available in the Wakatipu area and Arrowtown. The MMS report also identified an oversupply of land zoned for business in the Frankton area.

9.2.3 We first address the ostensible oversupply of commercially zoned land in Frankton, and then respond to the existing supply of land in the QTC.

9.2.4 The Commission has received evidence from both Mr McDermott and Mr Colegrave on the need for the proposed plan change. Theirs was the only expert economic evidence that comprehensively addressed retail and commercial land supply presented during the course of the hearing; however, as set out below, a number of submitters presented statements on this issue, together with relevant planning evidence.

9.2.5 Mr McDermott told the Commission that he was asked to peer review the MMS Report for the Council. Notwithstanding a District Wide oversupply of commercial land as a result of commitments made to additional commercial zoning in the Frankton area, the MMS Report nonetheless recommended the expansion of the QTC. Mr McDermott considered that this reflected the QTC's importance as the heart of alpine and adventure tourism in New Zealand, and fully supported the conclusions reached.

9.2.6 Mr McDermott stated that he had been requested by Council to examine more closely the proposition underpinning his conclusion that the two main centres (Queenstown Town Centre and Frankton) could be differentiated in functional terms and, accordingly, whether they were subject to different drivers of growth. If so, planning for their respective land uses could be undertaken more or less independently.

9.2.7 The Commission has summarised the following key points raised in Mr McDermott's evidence:

- An analysis of relevant data with respect to the QTC and Frankton area supported the conclusion that the centres fulfil different functions;<sup>88</sup>
- Frankton remains the focus of light industry and is developing significant large scale retail capacity, with an emphasis on goods and services for households;
- QTC and the rest of central Queenstown still dominate total retail figures, but with a greater emphasis on sales of goods and services to individuals and on service employment with a District wide orientation;
- QTC is more diverse and more focused on visitor facilities and services, which underpin Queenstown's growth. It also remains the centre of high order business and community services;
- A review of retail spending patterns from MarketView<sup>89</sup> indicates that spending in QTC was 1.75 times greater than the spending in Frankton. Some 73% of spending in the town centre was visitor-related, with almost half of that (47%) attributable to overseas visitors and the balance to visitors from elsewhere in New Zealand. In contrast, only 6% of card-based spending in Frankton was by overseas visitors, with local (QLDC) residents accounting for 66% of sales and visitors from other parts of New Zealand for 27%;<sup>90</sup>
- The main result of any over-zoning of commercial land in Frankton is most likely to be strong competition within Frankton itself.<sup>91</sup>

<sup>87</sup> Attached as Appendix A to the Section 32 report and referred to hereinafter as the "MMS Report".

<sup>88</sup> Paragraph 25 of Mr McDermott's evidence.

<sup>89</sup> based on BNZ card and Paymark EFTPOS transactions for the year ending September 2014 for core retail spending (excluding automotive categories but including hospitality).

<sup>90</sup> Paragraph 31 of Mr McDermott's evidence.

<sup>91</sup> Paragraph 45 of Mr McDermott's evidence.

- 9.2.8 The Commission questioned Mr McDermott further in relation to the potential for competition between the two centres, and the likely impact of the surplus of commercially zoned land in Frankton on the QTC. Mr McDermott considered that at its highest level the two centres are likely to be complementary to each other, rather than in direct competition. While there is an over-supply of commercial land in Frankton, given the different functions that the Frankton and Queenstown centres fulfil, the land capacity issues identified in relation to the QTC have the potential to constrain the ability for future investment in activities directly related to tourism. Accordingly, irrespective of the supply of land available for development in Frankton, the evidence before the Commission was that an undersupply of land in the QTC would ultimately constrain economic growth in the tourism industry due to the specialist tourism role that QTC provides and which is favoured by the tourism industry.
- 9.2.9 Mr Colegrave, during questioning by the Commission, stated that there is a shortfall of 20,000m<sup>2</sup> of retail gross floor area across the District, and that the 22,000m<sup>2</sup> of retail development currently under construction at Frankton will start to fill this gap. The Commission understands that on the back of strong tourism growth, the 20,000m<sup>2</sup> gross floor area of commercial/retail space provided for by the proposed plan change is required to address the current and future capacity of the QTC and to support the future growth of the tourism sector.
- 9.2.10 RJL (50/49/03), in its original submission, considered that the proposed plan change is at odds with the Council's position and evidence for Plan Change 19, which indicated that there was enough town centre/commercial land available to meet demand for the next 20 to 30 years. This was a matter discussed in the Section 42A report, in which Mr Bryce stated: "*[t]he retail caucus statement<sup>92</sup> that formed part of Plan Change 19 provided a table that set out the main areas that were currently zoned and available for retail purposes, and identified that 41,100m<sup>2</sup> was available before the implementation of PC19. Most of this was located within the Frankton zoned business areas. Importantly, no additional zoned land was identified as being available to service the Queenstown Town Centre.*"<sup>93</sup> The Commission therefore accepts that the Plan Change 19 process did not identify any land available in the QTC in addition to what has already been zoned.
- 9.2.11 Based on the evidence of Mr McDermott, as well as the supporting technical reports to the Section 32 evaluation, we are satisfied that the QTC functions very differently to Frankton in that there is a much greater focus on tourism related investment, development and the provision of services associated with tourism. The Commission accepts, based on the evidence before it, that the Queenstown and Frankton centres can be differentiated in functional terms and that the proposed plan change is unlikely to have any negative impact on the growth of the Frankton centre. Rather, the two centres are complementary in their purpose and function and both remain important to the economic growth of the District generally.
- 9.2.12 Turning to the issue of the supply of commercial land available in the QTC, the Commission notes that a number of parties questioned whether there was evidence of an under supply of commercial land in the QTCZ.
- 9.2.13 In its original submission (50/39/04),<sup>94</sup> MPL considered that the supporting report by McDermott Miller substantially underestimated the amount of unutilised commercial and development capacity in the QTC. Mr Wells, the planning consultant for MPL,

<sup>92</sup> At paragraph 38, page 11 of the retail caucus statement.

<sup>93</sup> At page 23 of the Section 42A report.

<sup>94</sup> Supported by Remarkables Park Limited (F50/49/05).

was of the view that office space is a key function of the QTC and he considered that there had been inadequate consideration given to commercial capacity in the MMS report. Mr Wells stated that he had been advised that there is a “large” amount of vacant space in Queenstown above ground floor that could be utilised for offices, or other uses such as visitor accommodation, and that many buildings are not built to the maximum height permitted under the District Plan. Mr Stevenson, a director of MPL, submitted that there are sites in Queenstown still undeveloped because “it is not economic to do so”, and that there is currently a surplus of office space. Similarly, Mr Butson, a director of MPL, identified that office rentals in the CBD have had little growth in recent years and that there is an abundance of vacant space.

- 9.2.14 The NZIASB submission (50/15/03)<sup>95</sup> raised similar issues to MPL. It noted that there has not been any analysis of existing empty office space or land in the town centre, and that there appeared to be office space within the town centre that was either vacant or yet to be constructed. As a result, the NZIASB considered that expanding the area of the town centre to the extent proposed by Plan Change 50 has the potential to grossly undermine the economic viability of the existing town centre.
- 9.2.15 Ms Macleod and Mr Stevens, for the NZIASB, presented evidence at the hearing explaining the organisation’s concerns in relation to the extent of the proposed town centre expansion. Ms Macleod provided an overview of her understanding of commercial space and the difficulties that some sites on the outer fringes of the QTC have had in achieving viable development outcomes. Examples discussed included the Church Lane development (with existing vacant land fronting Earl Street) and Steamer Wharf, which Ms Macleod highlighted as an example of a successfully designed development that has struggled to maintain viable tenancies. The NZIASB’s submission raised the valid inference that if existing development within the existing QTC has found it difficult to achieve viable development outcomes over the last 20 years, the proposed expansion may not be required.
- 9.2.16 While the Commission appreciates the concerns raised by parties such as MPL and the NZIASB, the Section 32 evaluation signalled a clear need for the QTC to consolidate and enliven Queenstown in order to facilitate growth. The report concluded that this would require the provision of additional capacity to facilitate the development of new hotels, together with the establishment and upgrading of tourist facilities (such as a convention centre) and businesses to broaden the range of tourism offerings and to facilitate growth in the important tourism sector.<sup>96</sup>
- 9.2.17 The Commission notes that a number of witnesses considered that the proposed plan change appropriately provided for the long-term growth of the QTC and the District. Mr Kyle’s supplementary evidence stated: *“[w]hile District Plans are intended to have a typical shelf life of 10 years, it is my view that fundamental zoning questions such as this one should adopt a much longer perspective (in the order of 50 years). A failure to take such a longer term view in the context of the growth that Queenstown has and continues to experience, would inevitably mean that land located around the established town centre will be developed for other purposes, and opportunities to provide for a town centre with a more diversified range of core functions would likely be foreclosed.”* Mr Munro accepted that the proposed plan change could have a 60 year development phase.
- 9.2.18 It is clear from the evidence before the Commission that while there may be surplus office floor space and undeveloped land within the QTC currently, these areas are unlikely to accommodate or, more importantly, enable the growth that is required in the QTC to support future tourism activities. Mr McDermott commented that the Colliers 2014 “Market Review and Outlook”<sup>97</sup> predicted that prime CBD property

<sup>95</sup> Supported by Remarkables Park Limited (F50/49/02) and Brecon Street Partnership Limited (F50/10/14).

<sup>96</sup> At page 6 of the Section 32 evaluation.

<sup>97</sup> Page 9, Colliers International, Queenstown, Dunedin and Wanaka, Market Review and Outlook, 2014.

would continue to be scarce and to trade at low yields, and anticipated rental growth for prime ground floor retail CBD property.<sup>98</sup> Further, Mr Colegrave, in responding to questions from the Commission, stated that a detailed audit of every shop in the QTC had identified that there was less than a 2% vacancy rate, which he indicated was extremely low.

- 9.2.19 Touching on the issue of QTC capacity, the Commission received a statement from Mr Jeff Staniland, the CEO of Skyline. Skyline owns and operates seven properties and has around 80 tenants in the CBD. Mr Staniland submitted that in the view of Skyline, which is an experienced property owner, landlord, tenant and tourism business operator, the CBD is reaching capacity and that there is presently an unmet demand for both retail and food and beverage space to lease. Mr Staniland considered that in view of the recent rapid increase in visitor numbers (including domestic, Australian, and growth in Asian visitor markets such as China and India) it is vital that the CBD is expanded to provide room for growth.
- 9.2.20 Mr Staniland's comments about the potential growth in international tourism were supported by the evidence of Mr McDermott. Mr McDermott highlighted the strong passenger growth that has occurred at Queenstown Airport since 2009, with average compound growth of 12.8% a year over the ensuing five years. He noted that according to the Annual Review 2013-2014 published by Queenstown Airport Limited in 2014, 1.25 million passengers arrived at or departed from the airport, of which international arrivals accounted for 25% of the total.<sup>99</sup> Since the Global Financial Crisis the Australian market in particular had increased significantly and has recently accelerated as a result of increasing numbers of direct flights to the east coast of Australia. He indicated that based on current airline intentions, this market is expected to continue to expand as more direct flights are offered, potentially boosted by securing the capacity to offer evening flights.<sup>100</sup>
- 9.2.21 In addressing new visitor accommodation opportunities to support tourism growth, Mr McDermott highlighted that given the age and character of existing hotel stock in Queenstown, new accommodation on a substantial site in this locality could well include a five star hotel, catering for a segment of the market not particularly well served at the moment. Mr McDermott's evidence included an attached report,<sup>101</sup> which stated:

*"The distribution of recent investment in accommodation has been examined using building consent data covering the period 2006 to 2013. The construction of the Kawarau Hilton Hotel in the Kelvin Heights area dominates the value of new construction during a period where little capacity was otherwise added outside the traditional Queenstown Hill centre of tourist accommodation. ... Refurbishment and extensions (represented by building consents for additions and alterations) were greater in the central area... . The relatively high level of alterations in the centre relative to new construction may reflect both the age of much of the existing tourism accommodation and the limited number of sites available for new development. The latter is an issue that the proposed plan change should correct, at least for the immediate future."<sup>102</sup>*

- 9.2.22 Mr Walker (50/55/01) questioned the need for the proposed plan change more broadly. Mr Porter, for RJL (50/49), questioned the need for land to be rezoned to accommodate future expansion of visitor accommodation facilities when many of the existing hotels around the periphery of the QTCZ are located within the existing

<sup>98</sup> Paragraph 50 of Mr McDermott's evidence.

<sup>99</sup> Paragraph 57 of Mr McDermott's EIC.

<sup>100</sup> Paragraph 58 of Mr McDermott's EIC.

<sup>101</sup> McDermott Consultants Ltd Report, titled "The Case for Zoning Additional Commercial Space in Queenstown Town Centre (dated 12<sup>th</sup> September 2014)

<sup>102</sup> Refer page 19-20 of McDermott Consultants Ltd Report, titled "The Case for Zoning Additional Commercial Space in Queenstown Town Centre (dated 12<sup>th</sup> September 2014)

HDRZ. He further noted that some of the existing demand for higher quality accommodation will be met by the recent approval of the Eichardt's Stage 2 development, which is to be developed as a boutique hotel and retail premises fronting Marine Parade. However, the evidence before the Commission is plainly that there is a need for expansion of the QTCZ to accommodate a wider range of land use activities that cannot currently be located within the existing QTCZ or, without rezoning, on land that is in close proximity to the existing QTC.

- 9.2.23 When asked by the Commission about what would happen if the proposed plan change did not proceed and the proposed expansion of commercial capacity was not provided for, Mr Colegrave stated that it would mainly be a case of "missed opportunities". He emphasised that the District's economy is only strong because of tourism, and that tourism is only as strong as its weakest link. He indicated that currently the weakest link is the airport; however, once "constraints" are "loosened" and airport capacity grows (for example, with the planned introduction of evening flights), the next constraint will be the CBD and the tourism-related activities that can be accommodated there.
- 9.2.24 Plan Change 50 is one of the Council's preferred strategic responses to the capacity issues facing the QTC. We accept the evidence of Mr Kyle and Mr Munro that in the development of a robust and defensible plan for the QTC, a long-term horizon is required.<sup>103</sup> The Commission has considered the information before it and, based on the evidence of Mr Colegrave and Mr McDermott, has concluded that there is a very real risk that without further expansion of the QTCZ, the currently limited capacity of the QTC will constrain future tourism growth to the detriment of the local economy. The Commission considers that there is a very clear need for Plan Change 50 to enable further ongoing investment opportunities in support of the tourism industry and to underpin the future growth and viability of the QTC. In reaching this conclusion, however, we note that this growth must be managed in a way that ensures that the viability and vibrancy of existing QTC is not undermined, which is discussed in the next section of this report.

## Commission's Recommendation

1. That the submissions by NZIA Southern Branch (50/15/03), Mr Allan Huntington (50/30/03), Memorial Property Limited (50/39/04), Craig Stobo (50/21/01), Mr Basil Walker (50/55/01), Remarkables Jet Limited (50/49/03), Cath Gilmour (50/48/05) and the further submissions by Remarkables Park Limited (F50/49/02, F50/49/05) and Brecon Street Partnership Limited (F50/10/14) **be rejected**.

## 9.3 IMPACT ON THE EXISTING QUEENSTOWN TOWN CENTRE

### The Issues and Decisions Requested

- 9.3.1 The potential impact of Plan Change 50 on the viability and vitality of the existing QTC was one of the key issues raised in submissions and was the subject of extensive discussion and conferencing during the course of the hearing. Three original submissions specifically addressed this issue or matters directly linked to this issue.<sup>104</sup> The points raised included:

- The need to strategically stage the release of commercial capacity so that it

<sup>103</sup> In this respect we note that some of the submissions were very short term in their perspectives.

<sup>104</sup> 50/11/03, 50/39/01, 50/39/02, 50/39/06, 50/49/02, 50/49/02.

does not compete with the existing Queenstown CBD;

- The risk of a competing rather than complementary retail and office precinct emerging, which could undermine the vitality of the existing town centre;
- The risk that both public and private investment could be diverted away from the existing town centre as a result of Plan Change 50;
- The proposed expansion would undermine the character and heritage of Queenstown's downtown and surrounding area, and as a result adversely impact on its tourism appeal;
- The proposed plan change in its current form would seek to draw people away from the existing CBD;
- The proposed plan change has failed to consider the sequencing of the town centre expansion to ensure consolidated development of the CBD takes place, as opposed to the negative effects of sporadic development.

9.3.2 The Commission notes, for completeness, that the staging outcome sought in the original submissions of the Queenstown Chamber of Commerce (50/11) and RJL (50/49) were, in turn, supported by a further submissions from BSPL (50/10), Kelso and Chengs (50/35), and IHG and Carter (50/32).

## Discussion & Reasons

### Scale of the Town Centre Extension

9.3.3 The Commission notes that the scale of the town centre expansion introduced by Plan Change 50 was a central issue raised by submitters during the hearing process, particularly in relation to the potential impacts of additional traffic and related effects on the existing QTC.

9.3.4 In its original submissions MPL (50/39/01, 50/39/02 and 50/39/06)<sup>105</sup> submitted that much of the proposed extension of the QTC is significantly separated by distance, elevation changes and street layouts. Accordingly there is a risk of a competing, rather than complementary, retail and office precinct emerging as a disconnected commercial node, which could undermine the vitality of the existing town centre. In his opening legal submission Mr Holm, for MPL, raised specific concerns with regard to the rationale for the scale of Plan Change 50.<sup>106</sup> These related to the potential adverse effects of the proposed scale of development, including traffic (congestion and parking) and the longer term impacts, in particular the economic wellbeing of the existing town centre. The Commission has addressed transportation issues at section 9.5 of this report.

9.3.5 MPL's principal concern was essentially that the expanded area of town centre proposed is too large and has the potential to grossly undermine the existing QTC unless development is managed in a sympathetic and appropriate way, particularly with regard to commercial and retail development.

9.3.6 The Commission received a range of evidence relating to the scale of Plan Change 50. In addressing the economic impacts, Mr Colegrave identified a default scenario for the proposed plan change, which comprised the following land use scenario:

- (a) 4 hotels (410 rooms in total)
- (b) 2 blocks of high density residential (310 dwellings)
- (c) 1 block of medium density residential (6 dwellings)
- (d) 3 blocks of commercial and retail use (total GFA of 20,230m<sup>2</sup>), and

<sup>105</sup> Opposed by Man Street Properties (F50/27/09), Any Old Fish Company (F50/28/09), The Diary Guest House (F50/26/09), and supported in part by Brecon Street Partnership Limited (F50/10/36) and Kelso Investments Limited and Chengs Capital Investment Limited (F50/35/06), and supported by Remarkables Jet Limited (F50/49/05).

<sup>106</sup> At paragraph 1.4 of Mr Holm's opening legal submissions.

(e) hot pools

- 9.3.7 The above default scenario was assessed without a convention centre to ensure that the proposed plan change could be supported in the event that a convention centre was not subsequently developed.
- 9.3.8 The Section 42A report<sup>107</sup> commented that Plan Change 50 has the potential to provide for a total of 19,309m<sup>2</sup> of retail and office space (between the Lakeview and Isle Street sub-zones) based on the various land use scenarios analysed by Insight Economics.<sup>108</sup> Based on the evidence of Mr Colegrave and the Section 42A report, the Commission considers, as a starting point, that the proposed plan change has the potential to accommodate between 19,309m<sup>2</sup> and 20,230m<sup>2</sup> of commercial and retail development.
- 9.3.9 A key concern of MPL was that other than the existing limitation over large format retail activities (the 400m<sup>2</sup> floor space limit on individual tenancies), Plan Change 50 is not supported by a rule framework that seeks to control the level of commercial activities that could occur across the Plan Change 50 zoned land.
- 9.3.10 During the course of the hearing there were a number of issues identified with respect to the scale of the plan change proposed that the Commission considered required further consideration by experts. The principal issue was that the overall scale of development advanced by Plan Change 50 was ambiguous and needed to be clarified. Another issue was whether the methods supporting Plan Change 50 effectively address the potential for commercial and retail activities that are not complementary to the anticipated predominant activities, such as hotels or a convention centre (should this be advanced), to establish in the Lakeview sub-zone. As noted previously, this issue was focused on the fact that the supporting method only sought to restrict large-scale retail units (over 400m<sup>2</sup> GFA per tenancy) and did not mitigate the potential proliferation of commercial offices and sub-400m<sup>2</sup> GFA retail units. As will be discussed further below, this became a matter of some focus at the hearing.
- 9.3.11 The Council subsequently sought to clarify the scale of development, which was partly addressed in Mr Speedy's supplementary evidence. Mr Speedy submitted that of the total 10.7ha Lakeview site, 3.6ha is proposed as development land (excluding the preferred convention centre site), with the majority (59%) of the Lakeview land area to be retained for reserves and a road/pedestrian network. Table 3 of Mr Speedy's supplementary evidence identified that the total developable land equates to 41% of the total Lakeview site, with a convention centre site comprising 0.9ha (or 8% of this total). He noted that the total capacity for development in terms of gross floor area that could be established on the development land was uncertain until such time as the Council undertakes a market engagement process with potential developers.<sup>109</sup> However, depending on the level of market uptake, Mr Speedy noted that retail and related activities proposed within the Lakeview site are expected to accommodate approximately 6,500m<sup>2</sup> GFA. The property advice that Council has received to date suggests this scale of retail/commercial development is appropriate and will be necessary to complement the larger (additional) anchor activities proposed. The Commission notes, for completeness, that the 6,500m<sup>2</sup> GFA figure referred to by Mr Speedy excludes any

<sup>107</sup> The Section 42A report (at page 25) discusses the breakdown of floor space provided for within the Insight Economics report. Mr Bryce noted that the report provides indicative commercial and retail uses comprising 6,500m<sup>2</sup> for the Lakeview sub-zone (which was split evenly between three uses: boutique office space, high-end retail, and high-end cafes/restaurants/bars as well as tourism and recreational activities). Insight Economics included potential development at 34 Brecon Street in its analysis, and assessed one development scenario providing for a total gross floor area of 8,209m<sup>2</sup> spread across three levels: the bottom floor housing retail, and the upper floors housing office space. Our interpretation of the rule framework proposed by MPL is that it would restrict all commercial activities across the entire HDR sub-zone E (Lakeview), including 34 Brecon Street, to 6,500m<sup>2</sup>.

<sup>108</sup> As part of this conferencing process, the commission understands that 19,000m<sup>2</sup> of commercial floor space (retail and office) was used as the basis for discussion of the potential scale of commercial and retail activities.

<sup>109</sup> At paragraphs 4 to 15 of Mr Speedy's supplementary evidence.

commercial or retail development on 34 Brecon Street, as this was provided with its own indicative land use scenario.<sup>110</sup>

- 9.3.12 The economic evidence of Council's experts presented at the beginning of the hearing specifically addressed the issue of scale; however we note that this evidence was particularly focused on larger scale retail activities. In essence, the evidence satisfied us that it is highly unlikely that larger scale retail and commercial activities would prefer the Lakeview sub-zone to the existing QTC. We accept this to be a reasonable assumption.
- 9.3.13 Mr Colegrave considered the scope for potential adverse effects, particularly flow-on effects on other centres, which may result from Plan Change 50. Overall, he concluded that any significant adverse effects are highly unlikely for several reasons, including:
- (a) Retail development is unlikely to occur at a scale that would undermine the health and vitality of other centres; and
  - (b) Based on detailed desktop studies and site visits, other centres are trading well with few vacancies and high footfall. As a result, these existing centres should be well placed to withstand any trade impacts caused by the plan change.<sup>111</sup>
- 9.3.14 Mr Colegrave addressed the perceived risk of public and private investment being diverted from the QTC as a result of the proposed plan change. He concluded that any such risks are minor, mainly because future development on the Lakeview site is likely to differ from the kind of development that would normally occur in the CBD.<sup>112</sup> In Mr Colegrave's opinion, this is because existing CBD businesses are oriented towards tourism activities, whereas the anticipated activity mix at Lakeview comprises the predominant uses: a proposed conference centre and large scale visitor accommodation, commercial recreation and tourism activities. This, in turn, reflects Lakeview's more remote location and walkability.<sup>113</sup>
- 9.3.15 The Commission questioned Mr Colegrave further on this issue given that he had highlighted the pressing need for the CBD to expand, yet considered that the development that would occur on the Lakeview sub-zone would differ from the kind of development more appropriately located in the CBD. In responding to this matter, Mr Colegrave noted that he considers the CBD and the Lakeview sub-zone as "precincts", and that within the CBD there are different parts with different functions. The parts of the CBD that form the very core are there because "that is where they need to be, and where they want to be". In his view the Lakeview sub-zone will attract other forms of commercial operation that would either choose not to or, due to size, be physically unable to locate in the CBD core. Through questioning, Mr Colegrave highlighted that the Lakeview site is more likely to attract high end hotels and ancillary activities, together with some very high end small destination retail and offices; whereas in his view the CBD is driven by food and beverage, restaurants, bars and cafes (with 60% of all CBD retail employment associated with food and beverage). Importantly, Mr Colegrave considered that development at Lakeview would be the catalyst for growth more generally in the CBD and the wider District. He explained that hotels and increased levels of activity on the Lakeview site would almost certainly be beneficial to the CBD and that the development anticipated would be complementary, not in substitution.
- 9.3.16 Similarly, the Commission questioned Mr McDermott on the kind of retail businesses

<sup>110</sup> Which the Insight Economics report identified as being subject to an indicative land use scenario providing for a total gross floor area of 8,209m<sup>2</sup> over the 34 Brecon Street site.

<sup>111</sup> At paragraph 6.6 of Council's closing legal submissions.

<sup>112</sup> At paragraph 1.3 of his primary evidence.

<sup>113</sup> At paragraph 5.2 of his primary evidence.

likely to be attracted to the proposed plan change areas. Mr McDermott considered that any such activities would likely comprise primarily relatively small service/convenience stores to service the local visitor or resident population. He did not consider that the proposed plan change is likely to attract existing businesses out of the existing core into an area that will have its own distinctive character, primarily as the continuous nature of foot traffic in the core would be much more appealing to a retailer than what is being advanced by Plan Change 50. In Mr McDermott's opinion it is more likely that if a convention centre or hotels were developed on the Lakeview site, trade would flow into the QTC rather than be enticed to relocate to the proposed plan change area. By way of example Mr McDermott cited the quality and diversity of catering and hospitality that currently exists in the core, which he considered would be difficult to replicate, as many people prefer to leave their hotels to dine in restaurants. Mr McDermott was of the view that the kind of development anticipated by Plan Change 50 would have a positive impact on businesses in the existing CBD core.

- 9.3.17 The Commission, at the reconvened hearing dated 16<sup>th</sup> January 2015, requested that the extent of the proposed re-zoning of the Lakeview sub-zone be the subject of further witness conferencing specifically focused on whether methods are required to control unanticipated commercial and retail development that is not associated with a predominant use, and the management of edge effects on the Lakeview sub-zone.<sup>114</sup> Conferencing was undertaken on 9<sup>th</sup> and 10<sup>th</sup> February 2015.
- 9.3.18 During the expert witness conferencing, a number of witnesses considered that the Lakeview sub-zone should be reduced in scale towards the western end of the Lakeview site, and that the proposed convention centre be located closer to the eastern end of the site (or towards the Brecon Street end of the sub-zone).
- 9.3.19 At item 3(vii) of the Planning and Urban Design JWS, Mr Wells, relying on the evidence of Mr Kelly, considered that the transport effects of commercial and retail activities exceeding 19,000m<sup>2</sup> (which he understands has been assumed in the transport modelling) are unknown and could be significant. He considered that the most appropriate means by which to appropriately control the anticipated 19,000m<sup>2</sup> of commercial activity (retail and office) would be to limit the town centre zoning (QTCZ provisions) to:
- The Beach Street Block;
  - The Isle Street sub-zone blocks (except that Mr Wells remained unconvinced as to the appropriateness of the Isle Street sub-zone extending westward from those properties that front Brecon Street); and
  - Brecon Street (both sides).
- 9.3.20 In Mr Wells' view, the eastern part of the Lakeview sub-zone should be rezoned specifically to accommodate a convention centre and an appropriate scale of commercial activity, with the balance of the Lakeview sub-zone to be retained as HDRZ with additional height provisions.<sup>115</sup>
- 9.3.21 Similarly, Ms Macleod, Mr Edmonds and Mr Gibbs supported the re-zoning of the Beach Street, Isle Street sub-zone blocks and Brecon Street (both sides) to QTCZ, and the re-zoning of the eastern part of the Lakeview sub-zone to accommodate a convention centre and an appropriate scale of related commercial activity. These witnesses considered that the balance of the Lakeview sub-zone should be retained as HDRZ with additional height provisions. As we will note shortly, BSPL provided a formal response to this proposed zone reduction in the further supplementary

<sup>114</sup> As reflected in Item 3 of the Direction issued by the Commission dated 16/1/2015.

<sup>115</sup> This rezoning was also supported by Gillian MacLeod, John Edmonds and David Gibbs, as set out at Item 3(v) of the Planning and Urban Design JWS.

evidence of Mr Munro and Mr Gibbs and as part of BSPL's closing legal submissions.

- 9.3.22 Conversely, Mr Kyle,<sup>116</sup> responding directly to Mr Wells' recommended relief, considered that placing a limitation (whether a cap or reduction in the zone area) over commercial development in the Lakeview sub-zone would not be sufficiently flexible to respond to the market conditions over the lifetime of the zone. In his view, such a limitation was not supported by the economic evidence (of Mr Colegrave and Mr McDermott).<sup>117</sup> Mr Kyle noted that any limitation would potentially result in first-in-time developers "hoarding" the commercial floor space allocation.
- 9.3.23 Experts involved in the conferencing all agreed that the western extent of the Lakeview sub-zone land (generally described as the Lynch Block) should be retained as HDRZ to (i) encourage more intensive residential development in the area, (ii) manage "edge effects" at boundaries of the plan change area and (iii) limit the extent of the commercial activities that could locate within the Lakeview sub-zone generally.<sup>118</sup> Mr Kyle's further supplementary evidence addressed the Commission on the necessary amendments to Plan Change 50 to enable this change, including suggested wording to be inserted into the District Plan rule framework at 7.5.2 (which governs the HDRZ). The Commission supports, in principle, the amendment proposed by Mr Kyle to the western end of the Lakeview sub-zone on the basis that this will appropriately respond to the potential adverse effects of commercial uses becoming established in close proximity to the adjoining residential zone to the west of Glasgow Street. Further, this amendment goes a considerable way to addressing the scale issues (in the worst case a second "mini town centre") raised by a number of submitters.
- 9.3.24 As a result of the planning and urban design conferencing, Mr Kyle was requested to consider the need to impose additional limitations on the potential establishment of multiple commercial activities that might be unrelated to predominant activities in the Lakeview sub-zone.<sup>119</sup> This issue was addressed in Mr Kyle's further supplementary evidence, where he suggested that a new method associated with predominant activities anticipated in the Lakeview sub-zone be introduced.<sup>120</sup> Essentially, the proposed method (a new zone standard) was intended to complement the existing limitation over large format retail activities (the 400m<sup>2</sup> GFA floor space limit on individual tenancies); however, it also sought to preclude the establishment of combined retail, licensed premises and/or office activities exceeding 6,500m<sup>2</sup> in gross floor area within the Lakeview zone in the event that such activities proceeded ahead of a defined predominant use.<sup>121</sup> The Commission notes, for completeness, that the method advanced by Mr Kyle sought to ensure that priority is given to a convention centre, visitor accommodation, commercial recreation and/or commercial tourist activities over retail and office uses within the Lakeview sub-zone. This contrasts with the overall commercial cap of 6,500m<sup>2</sup> advanced by MPL in its closing legal submissions.<sup>122</sup>

<sup>116</sup> Planning and Urban Design JWS at Item 3 - Extent of Town Centre Zoning paragraph (viii) of the Planning and Urban Design JWS dated 12th February 2015.

<sup>117</sup> Insight Economics report (at page 10) supporting the Section 32 evaluation and concluded that in relation to the Isle Street sub-zone, retail caps are not only unnecessary, but unwise. First, there is minimal retail activity likely at the site and any retail that will occur cannot exceed 400m<sup>2</sup> maximum gross floor area per tenancy (in order to deter large format retail). Secondly, applying retail caps to the Isle Street Blocks is essentially hindering inter-CBD competition and this is not recommended. That is, by zoning this area as a sub-zone of the CBD it is no longer a development outside of the QTC, and should instead be treated as an extension of CBD activity.

<sup>118</sup> Refer to the Planning and Urban Design JWS.

<sup>119</sup> Mr Kyle was tasked to undertake this task due to time constraints during this conferencing session.

<sup>120</sup> A new definition of predominant uses is proposed which means: a convention centre, visitor accommodation, commercial recreation and/or commercial tourist activities within the Lakeview sub-zone area, but excludes the existing Queenstown Municipal Camping Ground.

<sup>121</sup> At paragraphs 9 and 10 of Mr Kyle's further supplementary evidence dated 18<sup>th</sup> February 2015.

<sup>122</sup> At paragraph 16(a) (k) of Mr Holm's legal submissions.

- 9.3.25 During the 23<sup>rd</sup> February 2015 reconvened hearing a number of concerns were raised by submitters, and also by the Panel, in relation to Mr Kyle's proposed method. In particular, there was concern that the new rule would not effectively address the potential for Plan Change 50 to facilitate a greater proportion of commercial activities than that established by the evidence, including the potential for proliferation of multiple sub-400m<sup>2</sup> GFA retail tenancies, once a predominant use had been established on the Lakeview sub-zone. Mr Munro questioned whether Mr Kyle's "cap" on the establishment of retail activities in advance of a defined predominant activity on the Lakeview site should be replaced with a control on the western half of the site requiring a discretionary resource consent for any retail activity that was not accessory or ancillary to the predominant activities.<sup>123</sup>
- 9.3.26 The Commission considers that the requirement to first establish the predominant uses, which comprise the key economic growth anchors as set out in Mr Kyle's further supplementary evidence, is prima facie appropriate. However, we are not persuaded that the proposed method advanced by Mr Kyle effectively addresses the key concerns, particularly as once the first predominant use has been established on the Lakeview site, the proposed zone standard would essentially become redundant and of no effect. Accordingly, the risk of proliferation of multiple sub-400m<sup>2</sup> GFA retail or commercial office units would remain to some degree, notwithstanding the establishment of an anticipated predominant use on the site.
- 9.3.27 The Commission notes that Mr McDermott considered that the only retail activities likely to be located in the Lakeview sub-zone would be ancillary or complementary to the visitor facilities, and perhaps local housing.<sup>124</sup> In this regard, the Commission notes that Mr Munro, Mr Wells and Mr Arnesen all advanced an approach which sought to ensure that commercial or retail activities that did occur within the Lakeview sub-zone were complementary or ancillary to defined predominant activities. On the basis of Mr McDermott's evidence, and that of the experts involved in the conferencing, the Commission considers it appropriate to explore the effectiveness of a rule framework that (i) limits the extent of retail and commercial activities on the Lakeview sub-zone to those that are ancillary to predominant activities, and (ii) imposes a 6,500m<sup>2</sup> maximum gross floor area threshold 'cap' on non-ancillary retail and non-ancillary commercial activities, beyond which the need for resource consent would be triggered.

### **Ancillary Retail and Ancillary Commercial Activities**

- 9.3.28 In his further supplementary evidence Mr Munro supported the evidence of Mr Gibbs, who considered that the only way to address the risk of a disconnected retail node establishing within an "oversized" commercial expansion area was to limit its size.<sup>125</sup> Mr Gibbs considered that the most effective means of achieving a satisfactory limitation would be for the town centre expansion envisaged by Plan Change 50 to be contained to a realistic geographical extent and to link this area directly to the convention centre and hotels.<sup>126</sup> Mr Munro commented that there is a logical and defensible basis for expanding the QTCZ to accommodate growth, which in his view should be focused on the Isle St and Brecon Street areas (which he termed "Lakeview East") in accordance with the alternative zoning response promoted by Mr Gibbs.<sup>127</sup> The Commission understands Mr Gibbs' alternative zoning proposal to reflect the following key attributes:

- The area of Brecon Street already identified as having a commercial activity overlay, the Isle Street sub-zone, and the land west of Brecon Street be rezoned as per Plan Change 50 and identified as "Lakeview East";

<sup>123</sup> At paragraph 4.9 of Mr Munro's further supplementary evidence.

<sup>124</sup> At paragraph 6 of Mr McDermott's EIC.

<sup>125</sup> At paragraph 4.5.

<sup>126</sup> At paragraph 8 of Mr Gibbs's further supplementary evidence dated 20<sup>th</sup> February 2015.

<sup>127</sup> Appendix 1 of his further supplementary evidence dated 20<sup>th</sup> February 2015.

- The proposed Lakeview zone west of Mr Gibbs' town centre boundary (identified as "Lakeview West") is best suited for non-retail and non-commercial activities. Plan Change 50 as proposed should apply, except that any commercial or retail activity not ancillary to visitor accommodation or a convention centre should have fully Discretionary Activity status;
- The "Lynch Block" should be rezoned HDRZ as per Mr Kyle's recommendations.

9.3.29 During the 23<sup>rd</sup> February 2015 reconvened hearing the Commission invited a response from Mr Munro as to what practical restrictions on retail and commercial activity (not associated with a predominant use in the Lakeview sub-zone) could sensibly be imposed. Mr Munro proposed that any activity that did not meet the following definition of ancillary retail/ancillary commercial activities should be accorded fully Discretionary Activity status:

*"Ancillary Retail or Ancillary Commercial activity means a subordinate retail or commercial activity proposed to serve the needs of users of a primary activity occurring on that site.*

*Examples include a restaurant or souvenir shop in association with a hotel. Ancillary Retail or Ancillary Commercial activities must:*

- *be less than 10% of the gross floor area of the primary activity (individually or cumulatively); and*
- *have no means of customer access other than through the primary activity; and*
- *have no signage or branding other than inside the primary activity."*

9.3.30 In responding to Mr Munro's proposed definition, Council, in its closing legal submissions, argued that this very narrow definition would confine ancillary activities not only to no more than 10% of the gross floor area of the primary activity but would require that they have no means of customer access other than through the primary activity. Further, there could be no signage or branding outside the primary activity. The Council argued there is no demonstrable need to limit development in ways other than those already proposed, the consequence of which may be to curtail the economic benefits to Queenstown that Plan Change 50 has been designed to achieve.

9.3.31 The Commission notes that Mr Arnesen's evidence is also relevant to this issue. To avoid the possibility of the creation of two separate town centres and to encourage the establishment of retail and restaurant facilities in closer proximity to the established centre of Queenstown, Mr Arnesen considered that the Lakeview sub-zone should be subject to additional controls. In his opinion 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, and with associated constraints on the scale of such ancillary activities. In this regard, Mr Arnesen considered that a gross floor area trading footprint of approximately 300m<sup>2</sup> would be appropriate. In his opinion, this would enable the establishment of a convention centre, hotels, and higher intensity residential development within the Lakeview sub-zone, while requiring expansion of core retail and restaurant activities in closer proximity to the existing town centre.<sup>128</sup>

9.3.32 We have considered the various reduced zone options promoted by submitters and the suggested methods advanced by Council to control inappropriate retail and commercial development within the Lakeview sub-zone. For BSPL, Mr Gibbs' stated preference was to "contain the geographical extent" of the Lakeview sub-zone to address the risk of a disconnected retail node establishing within an oversized commercial expansion area. Mr Wells, for MPL, reached a similar conclusion. While the alternative zoning options advanced by BSPL sought to

<sup>128</sup> At paragraph 5.6 of Mr Arnesen's evidence.

provide for a convention centre and associated visitor accommodation facilities, the Commission considers that the ‘ancillary retail or ancillary commercial activity’ definition provided by Mr Munro may be too prescriptive and inflexible to satisfactorily respond to this issue. That said, we do, however, support its central thrust and consider that the concept of “ancillary retail and ancillary commercial activities” linked to the anticipated predominant uses (as defined) to be an effective method of responding to the potential proliferation of non-ancillary retail and commercial activities within the Lakeview sub-zone. As a consequence, the Commission has introduced an alternative definition of ‘ancillary retail and ancillary commercial activities’ and integrated this into the Council’s proposed Restricted Discretionary Activity rule framework by way of a bespoke rule that links all predominant uses, and their overarching matters of discretion, under the umbrella of one keystone method.

- 9.3.33 The Commission considers the definition of “ancillary retail and ancillary commercial activity” to be a fundamental component of the new rule framework. In developing a definition, the Commission has been guided by that proposed by Mr Munro. Our definition is as follows:

*“Ancillary Retail or Ancillary Commercial activity means any retail or commercial use within the Lakeview sub-zone that is on the same site as a predominant use (as defined) or building housing a predominant use, and whose use is incidental to that predominant use. The Ancillary Retail or Ancillary Commercial activities must be consented at the same time as the predominant use.*

*Examples include a restaurant or souvenir shop in association with a hotel or retail activity associated with a commercial recreation and or tourist activity.*

- 9.3.34 The requirement for ancillary retail and ancillary commercial activities to be consented at the same time as the predominant uses means that it is highly likely that these activities will be integrated in a comprehensive manner as part of the future development of the Lakeview sub-zone. We do not consider it either appropriate or necessary to introduce a threshold with respect to the floor area for an ‘ancillary retail activity’ or ‘ancillary commercial activity’ as recommended by Mr Munro, and we are not convinced that the use needs to be “internalised” for it to be ancillary or complementary in nature. These kinds of arbitrary restrictions were not justified by any of the evidence that we heard in relation to the establishment of predominant uses, supported by ancillary retail or commercial uses, on the Lakeview site.
- 9.3.35 The Commission agrees with Mr Munro that any commercial or retail activity that is not ancillary to the predominant uses in the Lakeview sub-zone should be addressed through a separate consent process. We consider this to be an effective response. However, as this is a town centre zone in relation to which some degree of commercial and retail activity is anticipated, we have adopted a Restricted Discretionary Activity status rather than fully Discretionary, with the matters of discretion appropriately focused on the impact of non-ancillary commercial and retail uses within the Lakeview sub-zone on the existing QTC. This aligns with the activity status preferred by Mr Kyle, and supported by Mr Bryce.

### **6,500m<sup>2</sup> Maximum Gross Floor Area Threshold for the Lakeview sub-zone**

- 9.3.36 Notwithstanding the amendments set out above, the Commission has concluded that some form of limit on the establishment of commercial and retail activities within the Lakeview sub-zone that are not ancillary to the defined predominant uses is appropriate to address the concerns raised in relation to the potential proliferation of commercial and retail related activities in the Lakeview sub-zone. As set out in

paragraph 9.3.26, the Commission is not persuaded that the zone standard advanced by Mr Kyle would be effective, as it essentially becomes redundant once the first predominant use is established (which may be very small in nature and scale) and does not adequately respond to the potential for proliferation of sub-400m<sup>2</sup> retail or commercial activities. We accept the consensus of the planning experts that there remains an inherent risk that a disconnected retail node may be established on the Lakeview sub-zone if non-ancillary or non-associated commercial and retail uses that exceed a combined gross floor area of 6,500m<sup>2</sup> are not adequately controlled.

- 9.3.37 Rather than the imposition of an outright ‘cap’, which none of the economic evidence supported, we have introduced a further refinement to our Restricted Discretionary Activity rule framework to address the proliferation of non-ancillary commercial and retail development. This essentially establishes a gross floor area of 6,500m<sup>2</sup> as a ‘threshold’ beyond which the viability of the existing QTC must be considered as a matter of discretion. Importantly, the proposed rule framework does not preclude the establishment of non-ancillary retail and commercial activities on the Lakeview sub-zone. Rather, the Commission’s method seeks to ensure that where this does occur it is assessed through a restricted discretionary consent pathway, where (i) impacts on the viability of the existing QTC must be appropriately assessed on a case-by-case basis, and (ii) the cumulative effects of non-ancillary retail and commercial activities are to be assessed in situations where existing and consented commercial and retail activities exceed a maximum gross floor area of 6,500m<sup>2</sup> across the sub-zone. The Commission also records that this limitation only applies to the Lakeview sub-zone, excluding 34 Brecon Street. It does not impact on the potential for the development of all forms of commercial and retail activities at 34 Brecon Street, in the Isle Street sub-zones, or the Beach Street Block (which remain, however, subject to other standards that apply to such activities within these respective areas).
- 9.3.38 Having considered all of the evidence before us, we have formulated an approach that in our view provides an adequate level of control over any undesirable expansion of non-ancillary retail and commercial activities on the Lakeview site. The alternative rule framework also seeks to retain sufficient flexibility for appropriate development to occur without unnecessary restriction in response to changing market conditions over the lifetime of the zone. The amended rule framework provides for the following:
- A definition of “ancillary retail and ancillary commercial activity” has been incorporated into the Lakeview sub-zone policy and rule framework;
  - The consenting of ancillary retail and ancillary commercial activities associated with predominant activities is now linked to a revised Restricted Discretionary Activity rule that governs predominant uses within the Lakeview sub-zone. This amalgamates Council’s proposed rule 10.6.3.2A(i), (ii) and part of (iii) into one rule governing predominant uses (and includes the addition of commercial recreation and/or commercial tourist activity with a gross floor area of more than 400m<sup>2</sup>);
  - Commercial and retail activities with a gross floor area of 400m<sup>2</sup> or less per tenancy that do not fall within the definition of “ancillary retail and ancillary commercial uses” must be assessed as a Restricted Discretionary Activity, with Council’s discretion limited to (i) any impact on the viability of the QTCZ from non-ancillary retail and commercial activities establishing within the Lakeview sub zone, particularly where existing and consented commercial and retail activities exceed a maximum gross floor area of 6,500m<sup>2</sup> in the Lakeview

sub zone (34 Brecon Street is excluded from this 6,500m<sup>2</sup> assessment), and (ii) traffic generation, access, parking and loading.

- Commercial and retail activities with a maximum gross floor area in excess of 400m<sup>2</sup> per tenancy that do not fall within the definition of ancillary retail and ancillary commercial uses must be assessed as a Restricted Discretionary Activity, with Council's discretion limited to (i) any impact on the viability of the QTCZ from non-ancillary retail and commercial activities establishing within the Lakeview sub zone, particularly where existing and consented commercial and retail activities exceed a maximum gross floor area of 6,500m<sup>2</sup> in the Lakeview sub zone (34 Brecon Street is excluded from this 6,500m<sup>2</sup> assessment), and (ii) is subject to an ITA requirement similar to the predominant uses within the Lakeview sub zone.
- Retail activities that exceed a maximum gross floor area of 400m<sup>2</sup> per tenancy are defined as a Non-Complying Activity (rather than as a breach of a zone standard as had previously been recommended). This rule has been further amended to ensure that retail activities that fall within the definition of ancillary retail activity within the Lakeview sub-zone are exempt from this rule.

These amendments are set out in **Appendix 1** to this report.

- 9.3.39 We have excluded 34 Brecon Street (which forms part of the Lakeview sub-zone) from the application of the Restricted Discretionary regime set out above. It was plain from the evidence that the most logical and desirable area for the expansion of the QTC is towards Isle and Brecon Streets, or Lakeview "east" as it was described by Mr Munro. Accordingly, we have concluded that to ensure that development is both enabled and incentivised in this location, the rule regime applying to the Isle Street sub-zone (East) and 34 Brecon Street should be as consistent as possible, particularly as 34 Brecon Street already has the benefit of a commercial precinct overlay. However, this exemption does not apply to any application for a convention centre on the 34 Brecon Street site, as a convention centre was not contemplated by the commercial precinct rules and an ITA would be required in these circumstances for the reasons already discussed.
- 9.3.40 The Commission considers that the approach adopted represents an appropriate and sensible middle ground between imposing an outright development 'cap', which none of the economic evidence supported, and a method that seeks to ensure that the vibrancy of the existing QTC is appropriately provided for.
- 9.3.41 The Commission has already discussed the alternative zoning approach advanced by MPL at section of 9.1 of this decision. This provides some similarities to the approach advanced by BSPL, in that it sought to geographically limit certain commercial land use activities within the Lakeview site. As noted above, neither approach is considered to effectively respond to the resource management issues raised above. The additional methods that we have adopted will, in our view, effectively mitigate the risk of the potential proliferation of commercial activities and the formation of a disconnected retail and commercial node raised by both MPL and BSPL, and which remained a concern of these submitters in their closing submissions.

### **Staging Response**

- 9.3.42 A number of submitters sought that Plan Change 50 be staged as a method to manage the nature and scale of development proposed by Plan Change 50. This issue was addressed in the Section 42A report.<sup>129</sup>

<sup>129</sup> At page 25 of the Section 42A report.

- 9.3.43 To ensure the commercial offering at the Lakeview site supports and complements (as opposed to competes with) the existing QTC, the Queenstown Chamber of Commerce (50/11/03) sought to strategically stage the release of commercial capacity. Staging of commercial land was a matter also raised by RJL (50/49/02), which considered that staging of the proposed Town Centre expansion has not been properly considered. In its view, sound planning would suggest that a staged development should occur, whereby the land closest to the current CBD would be developed first, and only then would a further stage of development be considered. The staging outcome sought in the original submissions of 50/11 and 50/49, were, in turn, supported by further submissions from submitters F50/10/09, F50/35/05, and F50/32/03, F50/49/01.
- 9.3.44 The Commission notes that during conferencing Mr Arnesen promoted the staging of those areas that are closest to the existing QTCZ (being the Beach Street Block and Isle Street sub-zone) before the development of Lakeview sub-zone. Mr Arnesen also recommended that the Lakeview sub-zone be staged and that this be advanced through reducing the size of the Lakeview sub-zone and by introducing provisions at the eastern end of the Lakeview sub-zone that are more enabling.
- 9.3.45 Mr Colegrave concluded that he considered a staging requirement to be unnecessary for two reasons.<sup>130</sup> First, he did not believe that the Lakeview area would compete directly with the CBD, but rather will complement and reinforce it for the reasons previously discussed. Secondly, it is, in his view, highly likely that future development will be “staged” for commercial reasons anyway.
- 9.3.46 Having considered the evidence in relation to staging, the Commission has formed the view that, particularly given the new rule framework adopted with respect to non-ancillary retail and commercial activities, formal staging of the Lakeview sub-zone is unnecessary and may limit the effectiveness of the proposed plan change. Accordingly we do not support the relief sought by submitters.

## Commission’s Recommendation

1. That the submissions by Memorial Properties Limited (50/39/01, 50/39/02, 50/39/06), Queenstown Chamber of Commerce (50/11/03), Remarkables Jet Ltd (50/49/02) and the further submissions of Brecon Street Partnership Limited (F50/10/09, F50/10/36), Kelso Investments Limited and Chengs Capital Investment Limited (F50/35/05 and F50/35/06), and IHG Queenstown Ltd and Carter Queenstown (F50/32/03) and Remarkables Jet Ltd (F50/49/01 and F50/49/05) be **rejected** for the reasons set out above.

## 9.4 APPROPRIATENESS OF A CONVENTION CENTRE WITHIN LAKEVIEW SUB-ZONE

### The Issues and Decisions Requested

- 9.4.1 Thirteen submissions raised issues of relevance to the development and siting of a proposed convention centre within the Lakeview sub-zone.<sup>131</sup> The issues are summarised as follows:

<sup>130</sup> At paragraph 5.1 of his EIC.

<sup>131</sup> 50/04/09, 50/05/03, 50/11/01, 50/11/02, 50/09/03, 50/15/04, 50/22/02, 50/30/04, 50/39/07, 50/43/06, 50/48/09, 50/21/02, 50/37/03, 50/55/01.

- The Lakeview site should be developed as a park and car parking area instead of a convention centre.
- The private sector should build the hotel/convention centre by the airport where there is more room, parking and no ‘taxpayer risks’;
- International trends suggest there is no need for more convention centres. No convention centres should be built;
- The proposed convention centre is required to diversify the current economic base, and to provide for additional visitors outside of the seasonal peaks of summer and winter to support the existing businesses in the District;
- The location of the conference centre is too far from the town centre for walking and the associated commercial activity will “struggle”;
- The development of a convention centre within central Queenstown will strengthen the commercial, social and civic role of this urban setting in the context of the Wakatipu Basin;
- The location of any convention centre permitted as a Controlled Activity should be limited to the area shown in the attached annotated Structure Plan (refer to MPL submission 50/39), or the activity status of a convention centre raised to restricted discretionary, with a matter of discretion listed as “*the suitability of the proposed location*”;
- A convention centre should be easily accessible to all by road, with plenty of parking and no “danger zones” to contend with;
- The economic benefits of a convention centre (which ostensibly includes 466 full-time equivalents) in the District are too optimistic;
- Businesses (who will benefit) should be rated to pay for a convention centre, not residents;
- Any building or development within the adjoining Lakeview sub-zone, including a convention centre, should be a Restricted Discretionary consent process (rather than Controlled Activity);
- The convention centre should be redesigned and built immediately using community design and building expertise;
- The convention centre, commercial activities and visitor accommodation on the Lakeview site will diminish the opportunities for suitable long term residential accommodation in this area.

9.4.2 The relief sought by the original submitters ranged from the withdrawal of the convention centre on the Lakeview sub-zone, alternative siting of the convention centre within the Lakeview site, changes to the activity status applying to the development of a convention centre, and full support of the convention centre on the basis of the economic benefits that would be derived.

## Discussion & Reason

### **Economic Benefits of a Convention Centre**

9.4.3 Mr Bryce, in his Section 42A report, stated “[i]n addressing the convention centre and the submissions to the same, it is important to reinforce here that the plan change, itself, only seeks to establish a policy and rule framework to guide the development of such a facility within the Lakeview sub-zone (it also provides for a rule framework for a convention centre outside of the Lakeview sub-zone). The actual development of the convention centre will be subject to a separate resource consent process, should Plan Change 50 be adopted.”<sup>132</sup> A similar conclusion was reached by Mr Kyle in the Planning and Urban Design JWS, where he noted that the plan change does not require a convention centre; rather, it simply enables its

<sup>132</sup> At page 29 of the Section 42A report.

provision by defining it as an activity and providing an appropriate rule framework.

- 9.4.4 The evidence before the Commission was that the plan change will deliver economic benefits with or without a convention centre. The Council has been careful to advance Plan Change 50 on the basis that the plan change is not dependent on a convention centre, given that no decision has yet been made as to whether a convention centre will be developed on the Lakeview site. Ms Campbell, in her closing legal submissions, explained that although most assessments were undertaken assuming the construction of a convention centre (because such a stance provided a "worst case" envelope of effects), two economic assessments were carried out: a default scenario (without a convention centre) and a second scenario that included the development of a convention centre.
- 9.4.5 Mr Colegrave concluded that even in the absence of a convention centre, the estimated economic impacts of construction for the default scenario would be:
- (a) \$86 million of additional regional GDP,*
  - (b) 1,650 additional full-time jobs for 1 year, and*
  - (c) \$65 million of additional household income."<sup>133</sup>*
- 9.4.6 Further, Mr Colegrave estimated that the ongoing economic impacts of business operations would be:<sup>134</sup>
- (a) \$177 million of additional regional GDP,*
  - (b) 2,370 additional full-time jobs, and*
  - (c) \$121 million of additional household income."*
- 9.4.7 Mr Colegrave estimated that the effect of regional impacts (including flow on effects) from a proposed Convention Centre would be:<sup>135</sup>
- (a) Construction impacts equal to a \$10.2 million boost in GDP, and 118 fulltime jobs for 1 year.*
  - (b) Annual operational impacts equal to GDP of nearly \$31 million and full time jobs for around 460 people."*
- 9.4.8 Mr Colegrave considered that in addition to these quantifiable economic impacts, a convention centre would also deliver a range of other enduring strategic benefits. These included:
- (a) Smoothing of tourism seasonality;*
  - (b) Enabling new networking and strategic alliance opportunities;*
  - (c) Exposing local firms to new skills, technologies and technique;*
  - (d) Increasing competition amongst the local network of conference venues; and*
  - (e) Improving knowledge of the area generally through destination marketing."*
- 9.4.9 The Commission received a number of submissions that supported the provision in Plan Change 50 for the location of a convention centre in the Lakeview sub-zone. The Queenstown Chamber of Commerce (50/11/01, 50/11/02) considered that a convention centre is important to diversify the current economic base of Queenstown, as it would cater for additional visitors outside of the seasonal peaks of summer and winter, and support existing businesses in the District. Similarly, Skyline (50/22/02) supported a convention centre from the perspective of increasing the appeal and product offering of Queenstown, and also on the basis that it would act as a catalyst for the success of Plan Change 50 by providing the impetus for complementary development activity.

<sup>133</sup> Paragraph 4.5 of Mr Colegrave's evidence.

<sup>134</sup> At paragraph 4.6 of Mr Colegrave's evidence.

<sup>135</sup> At paragraph 4.8 of Mr Colegrave's evidence.

- 9.4.10 The Commission is satisfied that the Section 32 evaluation has clearly articulated the environmental, economic, social and cultural effects of the proposed plan change and associated convention centre if this was to be developed, including the opportunities for economic growth and employment. The evidence presented by Mr Colegrave and Mr McDermott was that the plan change is not dependent on a convention centre to provide for economic growth and enhanced employment opportunities; however, should a convention centre be advanced: *“it is expected that this, together with associated visitor services and accommodation, will lift the income potential of tourism growth by attracting higher spending visitors and increasing the share of business travellers...”*<sup>136</sup>
- 9.4.11 The Commission also received a number of submissions and statements from submitters questioning the appropriateness of a convention centre. Mr Basil Walker (50/55/01) highlighted concerns that the convention centre options consulted on were not affordable using ratepayer funds. Similarly, Ms Cath Gilmour (50/48/09) raised questions about the voracity of the economic analysis in support of a convention centre, commenting that an independent report prepared by central Government (prepared by NZIER) sought their own assessment of the possible economic impact of a convention centre, including associated employment benefits. Mr D.J and Ms E.J Cassells (50/09/03) and Ms Daniela Bagozzi (50/05/03) also raised concerns with respect to the siting of a convention centre in the Lakeview sub-zone. Mr David Odell (50/04/09) considered that the Lakeview site should be developed as a park and for parking instead of a convention centre, and considered that the private sector should build the hotel/convention centre by the airport where there is more room, parking and no financial risk to taxpayers.
- 9.4.12 Responding to the concerns raised by Ms Gilmour (50/48/09), Mr Colegrave noted that the employment estimates in his own assessment were sourced directly from a Council commissioned report by BERL, which he considered provided a reliable estimate of potential effects. The BERL estimates differed from the NZIER employment figures due to differences in the underlying methodologies.<sup>137</sup> The Commission’s assessment of the economic benefits of a convention centre has relied on Mr Colegrave’s employment figures.
- 9.4.13 While the Commission has noted the submitters’ concerns, it is not the function of the Panel to address the *viability* of a convention centre in our decision on this plan change. Whether the Council chooses to advance the development of a convention centre is subject to a separate consultation process under the Local Government Act 2002 and the Council Long Term Plan processes. As a consequence, viability and the means by which the Council elects to fund a convention centre (if it were to proceed) are not within the Commission’s jurisdiction. As a consequence, the Commission has recommended rejection of these submissions.

### **Location of a Convention Centre**

- 9.4.14 The siting of a convention centre was the subject of extensive evidence during the hearing process and much debate during expert witness conferencing. A number of submitters raised specific concerns about the proposed indicative location of the convention centre and potential issues with regard to its distance from the existing QTC (including NZIASB (50/15/04), MPL (50/39/07), Joy Veint (50/43/06)). A number of original submissions were supported by further submissions from IHG and Carter (F50/32/01) (to submission point 50/39/07, recommending that locating a proposed convention centre closer to the edge of the QTC would ensure that it is

<sup>136</sup> At paragraph 54 of Mr McDermott’s evidence.

<sup>137</sup> Paragraph 5.4 of Mr Colegrave’s evidence.

more accessible), and BSPL (F50/10/14) and RJL (F50/49/02) in support of the NZIASB submission (50/15/04), which considered that the proposed location for a conference centre is too far from the town centre for walking and that associated commercial activity will “struggle”.

- 9.4.15 The NZIASB was represented by Ms McLeod and Mr Stevens at the hearing. The evidence of the NZIASB was that the proposed siting of a convention centre towards the western end of the Lakeview site has the potential to weaken, disperse and dilute the vibrant compact central town centre that has taken many years to consolidate. While Ms McLeod and Mr Stevens agreed that the Lakeview site generally was appropriate for a convention centre, they considered that it would be better located close to the existing reserve at the corner of Hay and Man Streets.
- 9.4.16 This alternative siting was also favoured by Mr Wyatt and Mr Edmonds for IHG and Carter (50/32) (who provided a further submission in response to MPL’s submission promoting the same alternative location for a convention centre). In support of IHG and Carter’s further submission, Mr Edmonds submitted that the Issues Section of the QTCZ promotes “the consolidation and maintenance of existing town centres” and that fragmentation can result in a loss of vitality, convenience and accessibility (further advanced under Objective 1 and Policy 1.1). Mr Edmonds noted that the plan change does not make any change to these provisions. In his opinion, the location within the Lakeview sub-zone for a convention centre that would achieve the urban consolidation objective of the District Plan is at the corner of Hay and Man Streets.
- 9.4.17 The position of various experts on the most appropriate location for a convention centre was distilled in the Planning and Urban Design JWS as follows:
- Mr Wells and Mr Edmonds considered that the location of a convention centre should be specifically identified in the plan change (and identified in the Structure Plan). Their preferred location, referred to in the MPL submission 50/39, is on the corner of Hay Street and Man Street (similar to Mr Gibbs’ ‘Site 3’);
  - Mr Gibbs also considered that the siting of a convention centre should be identified in the Structure Plan. His preferred location is ‘Site 3’ in the Fearon Hay and Populous Queenstown Lakes Development Master Plan, dated December 2013;
  - Mr Kyle, Mr Bryce, Mr Bird and Mr Weir did not consider it necessary to identify a specific site for a convention centre in the Lakeview sub-zone Structure Plan. If a convention centre did not eventually proceed, in their view the integrity of the plan change would be undiminished, as it would only be necessary to find an alternative development occupying a footprint of approximately 7,500m<sup>2</sup> (such as a visitor accommodation or high density residential development). As a consequence, none of these witnesses or the reporting officer considered it appropriate or necessary to reduce the size of the Lakeview sub-zone on the premise that a convention centre may not proceed.
- 9.4.18 There appears to be an apparent nexus between those submitters and their witnesses that sought greater specificity over the siting of a convention centre, vis a vis the Council and its witnesses who have promoted limited control on the basis that the plan change simply seeks to provide for the policy and rule framework to enable a convention centre. In the end, as recorded during the reconvened hearing on 26<sup>th</sup> February 2015, the location of a convention centre is not something that the

Commission can ultimately determine, given that no decision has been made on this facility.

9.4.19 Ms Campbell in her closing legal submissions for the Council stated:

*“The Plan Change is to enable subsequent development, all of which will need to be specifically considered through the resource consent process. The Plan Change provisions attached to Mr Kyle's February evidence facilitate the provision of a convention centre by providing Restricted Discretionary Activity status for it. They do not provide a convention centre or assure that one will be built. The Council has been careful to evaluate Plan Change 50 on this basis. Although most assessments were undertaken assuming the construction of a convention centre (because such a stance provided a "worst case" envelope of effects), importantly the economic assessments were made on the basis of a convention centre proceeding under the zoning and also on the basis of a scenario without a convention centre....”<sup>138</sup>*

9.4.20 As noted earlier in this decision BSPL, in its closing submission, acknowledged that the Lakeview sub-zone provisions are not designed to favour any particular site for the establishment of a convention centre, and that the eventual location of any convention centre will ultimately be determined by the market and through the resource consent process.<sup>139</sup>

9.4.21 For the reasons explored in this section, the Commission is not persuaded that it is either appropriate or necessary to specify a specific site for a convention centre in the Lakeview sub-zone, and accepts the evidence of the Council witnesses in this respect. Given that no decision has yet been made in relation to whether or not a convention centre will proceed or who the developer might be, to determine the specific site now would be premature. Accordingly, we reject those submissions that seek an alternative location for a convention centre.

### **Controlled Activity Status for a Convention Centre**

9.4.22 The Commission received extensive evidence from submitters that considered a convention centre is more appropriately sited at the eastern end of the Lakeview sub-zone. The Council, through the evidence of Mr Speedy and Mr Weir, provided the Commission with an overview of the master plan approach to the Lakeview sub-zone, and explained why Council had selected a preferred location adjacent to the public square at the western end of the sub-zone.

9.4.23 The notified plan change proposed that any convention centre located in the Lakeview sub-zone be assessed as a Controlled Activity. The Commission notes that a number of submissions sought relief ranging from a change to the activity status for all building or development within Lakeview sub-zone; the requirement for a Restricted Discretionary Activity consent for any convention centre, or the complete withdrawal of provision for a convention centre from the Lakeview sub-zone in its entirety.

9.4.24 MPL (50/39/01, 50/39/7, 50/39/10) raised concern in relation to the proposed Controlled Activity status of a convention centre and the associated lack of any real control over its location within the Lakeview area. Although MPL, in principle, supported the development of a convention centre near the QTC, it requested that the convention centre either:

- (i) *“be limited to the location allowed via a Controlled Activity for a convention centre to the site within the submission (located immediately adjoining Man Street) within the*

<sup>138</sup> At paragraph 3.2 of Council's closing legal submissions.

<sup>139</sup> At paragraph 6 of BSPL closing legal submissions.

*Lakeview sub-zone*”;

or

- (ii) *“that the activity status of a convention centre be raised to a restricted discretionary, with a matter of discretion listed as ‘the suitability of the proposed location’ with associated assessment matters included to address, amongst other matters, the consideration of the benefits that may be afforded to the existing town centre as a result of factors such as the walking distance for conference delegates to the existing town centre.”*

- 9.4.25 HW Holdings submitted that building or development within the adjoining Lakeview sub-zone should be assessed as a Restricted Discretionary Activity (rather than as a Controlled Activity). The Committee notes, for completeness, that the issues raised by HW Holdings relating to the siting of outdoor storage areas have been addressed through amendments to Rule 10.6.3.2A(i) Restricted Discretionary Activities (a) Convention Centres located within the Lakeview sub-zone.
- 9.4.26 Mr Allan Huntington (50/30/01 and 50/30/04) opposed the provision of a convention centre as a Controlled Activity and sought that the proposed convention centre be withdrawn. He considered that a convention centre, together with associated commercial and visitor accommodation on Lakeview, would diminish the opportunities for suitable long-term residential development in this area. The Commission notes that the retention of the ‘Lynch Block’ as HDRZ may go some way to addressing the concerns of this submitter. We also note that residential activity is, in fact, enabled by the Plan Change 50 provisions within the Lakeview sub-zone.
- 9.4.27 Mr Kyle’s supplementary evidence stated that the revised rule framework for the Lakeview sub-zone proposes that convention centres, visitor accommodation and large scale (over 400m<sup>2</sup> in gross floor area) commercial activities in the Lakeview sub-zone be assigned Restricted Discretionary Activity status. We accept Mr Kyle’s recommendation that a convention centre in the Lakeview sub-zone should be assessed as a Restricted Discretionary Activity, noting that if a convention centre was to be located outside the Lakeview sub-zone (but in the QTCZ) it would be assessed as a fully Discretionary Activity. While the matters over which the Council’s discretion would be limited do not extend to the location of a convention centre under the proposed rule framework, the Commission considers that the revised activity status addresses in part the original submissions of Mr Huntington (50/30/01 and 50/30/04) and MPL (50/39/01, 50/39/7, 50/39/10).

## Commission’s Recommendation

1. That the submissions by Queenstown Chamber of Commerce (50/11/01, 50/11/02) and Skyline Enterprises Limited (50/22/02) be **accepted**.
2. That the submissions by H W Holdings Limited (50/37/03), and Memorial Property Limited (50/39/07 and 50/39/10) be **accepted in part**.
3. That the submissions by Mr Allan Huntington (50/30/01 and 50/30/04), NZIA Southern Branch (50/15/04), Ms Gilmour (50/48/09), Mr Walker (50/55/01), Mr DJ and Ms EJ Cassells (50/09/03), Daniela Bagozzi (50/05/03), David Odell (50/04/09) and further submissions IHG Queenstown Ltd and Carter Queenstown (F50/32/01), Brecon Street Partnership Limited (F50/10/14 and F50/10/15) and Remarkables Jet Limited (F50/49/02) be **rejected** for the reasons set out above.

## 9.5 TRANSPORTATION, TRAFFIC EFFECTS, WALKING AND CYCLING, AND CONNECTIVITY

### The Issues and Decisions Requested

9.5.1 Seventeen submitters commented on specific matters with regard to transportation and parking effects in relation to various aspects of Plan Change 50.<sup>140</sup>

9.5.2 The relevant issues raised in submissions are summarised as follows:

#### *Overall Plan Change:*

- The plan change will only compound traffic and parking problems;
- Concerns were expressed with regard to assumptions that the current transportation network will not be changed materially, when significant adverse effects under the 'status quo' have already been identified;
- Congestion on roads in the CBD will only deteriorate as a result of traffic making its way through town to the high density commercial zone that will be created by the plan change;
- It is important that current transport business planning is integrated with the preparation of the town structure plan proposed in the plan change documentation;
- A review of the Council's parking pricing and supply should be undertaken before or during the preparation of the structure plan, particularly as the plan change signals a limitation on the provision of off-street parking on the Lakeview site;
- The plan change would generate significant adverse effects on the CBD and wider road networks, including Frankton Road. The transport assessment was inadequate; and
- Consideration should be given to whether the convention centre site would make for a suitable transit hub for public passenger transport.

#### *Lakeview sub-zone*

One submitter has specifically raised matters relating to parking within the Lakeview sub-zone:<sup>141</sup>

- The requirement for the provision of parking for commercial recreation activities in the Lakeview Sub-Zone should be deleted or, alternatively, provision made for a substantial reduction in the on-site car-parking requirements to be provided; and
- Provision should be made for a publicly owned communal parking facility.

#### *Beach Street Block*

One submitter has specifically raised a matter relating to parking within the Beach Street Block.<sup>142</sup>

- Changing the zoning without providing adequate parking provision will increase the parking problem in the area. Car parking is important and should be retained.

<sup>140</sup> 50/04/02, 50/05/04, 50/39/03, 50/43/05, 50/46/01, 50/46/02, 50/49/07, 50/29/01, 50/11/05, 50/44/01, 50/55/01 50/31/05, 50/12/04, 50/21/07, 50/26/03, 50/28/03, 50/33/03, 50/36/03, 50/34/04.

<sup>141</sup> 50/34/04.

<sup>142</sup> 50/19/04.

### *Isle Street sub-zone*

Seven submitters specifically raised matters relating to parking within the Isle Street sub-zone.<sup>143</sup> The relevant concerns are summarised as follows:

- The lack of provision for on-site parking within the Isle Street sub-zone;
- The ability to park vehicles within the road boundary setback should be retained;
- There is a lack of street parking in 'downtown' Queenstown and local people and visitors are parking at the outer perimeters. Hay, Man, Isle & Brecon Streets are currently very congested. It was also contended that it is incorrect to assume that visitors staying in town will not need cars.

9.5.3 In summary, the submitters variously requested that the plan change be rejected in its entirety or that amendments be made to aspects of the plan change to make parking more enabling. Some submitters supported the plan change on the proviso that a more detailed traffic assessment was carried out and appropriate measures to address concerns enabled through the plan change.

## **Discussion & Reasons**

9.5.4 In addressing the issues raised by submitters, the Commission has adopted the sub headings set out in the Section 42A report, which identified the following key issues:

1. The adequacy of the transport assessment and modelling;
2. The traffic effects of the plan change;
3. Parking issues in relation to the Lakeview sub-zone;
4. Parking issues in relation to the Isle Street sub-zone; and
5. Parking issues in relation to the Reach Street Block.

9.5.5 At paragraph 9.5.31 of this report the Commission also addresses an issue raised during the course of the hearing in relation to the appropriateness of the Plan Change 50 process being conducted independently of and in parallel to the proposed Town Centre Transport Strategy.<sup>144</sup> This was a matter raised by Mr Wells<sup>145</sup> and Mr Kelly<sup>146</sup> and in the closing submissions of MPL and RJJ.

9.5.6 The Commission first explores the issues raised by submitters, and then discusses how these have been addressed in the plan change as notified and through the hearing.

### **Adequacy of Traffic Assessment & Modelling**

9.5.7 A key issue raised by a number of original submitters related to the adequacy of the transport assessment underpinning Plan Change 50. RJJ in its original submission (50/49/07) considered that the transport assessment was inadequate and that Plan Change 50 would generate significant adverse effects on the CBD and wider road networks, including Frankton Road. This was reiterated in the closing legal submissions of RJJ, which we address below.

9.5.8 MPL (50/39/03) raised concerns about some of the assumptions that have been used for modelling, particularly traffic modelling. MPL considered that the land use activities enabled by the zoning could differ significantly from what was assumed in

<sup>143</sup> 50/12/04, 50/21/07, 50/26/03, 50/28/03, 50/33/03 50/36/03, 50/34/04.

<sup>144</sup> The 'proposed Transport Strategy'.

<sup>145</sup> At paragraphs 57 and 58 of Mr Wells' evidence.

<sup>146</sup> At paragraphs 20 to 27 of Mr Kelly's evidence.

that modelling and, as a result, substantially greater traffic flows could be generated than has been assumed. The submitter requested that either an adequately sized public car parking area(s) be identified in the District Plan or, alternatively, more rigorous on-site car parking standards applied. The Commission notes, for completeness, that Mr Kelly for MPL was the only transport witness to prepare written evidence, other than the evidence produced by Mr McKenzie and Mr Mander for the Council.

9.5.9 Plan Change 50 is supported by an Integrated Travel Assessment (“ITA”) prepared by Traffic Design Group,<sup>147</sup> which assessed the transportation requirements generated by Plan Change 50.<sup>148</sup> Mr McKenzie, for the Council, presented evidence on the transportation and parking issues, the key points of which are summarised as follows:

- The traffic volumes generated by Plan Change 50 have been assessed based on likely development scenarios and these, in turn, have been analysed using the Council’s Inner Links traffic model;
- The ITA assessed the full development potential of the land subject to the plan change against the complying residential and visitor accommodation activities that could be undertaken under the existing HDRZ. Around 300 vehicle movements per hour at peak times was estimated from these existing activities.<sup>149</sup>
- The ITA calculated that potential development under the plan change (including each of the proposed sub-zones) over a 10 to 12 year period could increase traffic by up to approximately 290 vehicle movements per hour in the AM peak hour and 720 vehicle movements in the PM peak hour above what the HDRZ would generate.<sup>150</sup>
- Based on the modelling carried out, the additional traffic that would potentially be generated as a result of the plan change can be readily accommodated on the Queenstown road network;
- A key guiding principal of the ITA was the integration of sustainable travel modes into the development of the site to actively promote alternative transport modes (to reduce reliance on private car use, reduce the demand for parking, and reduce the number of vehicles on the road network). The Council is currently advancing a comprehensive parking management strategy to support this modal shift; and
- The plan change introduced appropriate parking requirements for each activity type proposed, which includes both minimum and maximum rates of provision.

9.5.10 Mr McKenzie’s supplementary evidence clarified that contrary to his earlier evidence in relation to the expected generation of vehicle movements from the development of land within the Plan Change 50 area, the ITA did not incorporate the Council’s stated goal of creating a 20% shift in sustainable travel modes. Rather, for the purpose of calculating the traffic likely to be generated from the land use activities ultimately envisaged on the Plan Change 50 land, the modelling assumed that no modal shift would occur.<sup>151</sup>

9.5.11 Mr Kelly raised a number of specific issues in relation to the Plan Change 50 traffic assessment. He noted that TDG assessed the additional vehicular trip generation associated with the proposed activities as comprising 393 and 788 trips in the weekday AM and PM peak periods respectively, with a breakdown between the

<sup>147</sup> Herein referred to as the ‘ITA’.

<sup>148</sup> Appendix I attached to the Section 32 evaluation.

<sup>149</sup> At paragraph 8.2 of Mr McKenzie’s evidence.

<sup>150</sup> At paragraph 8.3 of Mr McKenzie’s evidence.

<sup>151</sup> At paragraphs 9 to 11 of Mr McKenzie’s supplementary evidence.

components of development set out at Table 2 of the ITA.<sup>152</sup> In Mr Kelly's experience, the effects of plan changes can be problematic to assess because the pattern of development enabled by its provisions may be quite different from the expected or actual outturn. In such situations, he considered the appropriate analytical approach is to consider a range of credible development scenarios, and to assess the likelihood of effects at the limits of this range.<sup>153</sup> Mr Kelly's concerns were supported by Mr Wells, who was similarly concerned that the modelling undertaken relied on land use assumptions that had anticipated very little commercial development, notwithstanding that the plan change had not proposed any restriction on such use.<sup>154</sup>

- 9.5.12 During the course of the hearing a number of significant changes to the plan change provisions were recommended to address the transportation issues raised by submitters. The most important change was the introduction of the requirement for an ITA to be prepared for all large-scale development proposals (predominant uses) in both the Lakeview sub-zone the Beach Street Block, which will be assessed as a Restricted Discretionary Activity.
- 9.5.13 In order to manage the potential transportation issues raised by the larger scale development envisaged as part of Plan Change 50, Mr McKenzie, in his supplementary evidence, explained that the planning provisions supporting Plan Change 50 had been amended to provide for an additional level of travel demand management and travel planning through the requirement to prepare an ITA. Mr McKenzie stated that this approach will actively and deliberately encourage all activity development within the plan change area to increase the proportion of visitors to the site travelling in non-car, higher occupancy modes and to effectively reduce the traffic generation impacts on the wider Queenstown road network. Expanding on this, Mr Kyle, in his supplementary evidence, supported the recommended amendments to the activity status for convention centres, visitor accommodation and large scale (over 400m<sup>2</sup> in gross floor area) commercial activities in the Lakeview sub-zone. These activities were previously provided for as Controlled Activities (with control being exercised over the provision of parking and pedestrian linkages (for all buildings)).
- 9.5.14 MPL (50/39/03) and other submitters expressed concern with regard to traffic generation associated with the "proliferation of commercial activities" that would result from the plan change. The transportation issues raised by the plan change, including the proposed amendments to the supporting policy and methods, were the subject of expert witness conferencing which helpfully narrowed the key transport and parking issues. Mr Kelly remained concerned that significant retail activity could occur in relation to units below the 400m<sup>2</sup> threshold and that, even for larger developments, Council may have difficulty taking account of cumulative effects where a number of consent applications are being considered concurrently. Mr Wells recorded similar concerns. He did not agree that assessing traffic effects on a case-by-case basis in relation to large resource consents would satisfactorily manage cumulative traffic effects on the transport network. Mr Wells considered that there is the potential for many permitted developments to become established (including residential and sub-400m<sup>2</sup> commercial units) without any consideration of the traffic effects that would be generated. For resource consents that would require ITAs, Mr Wells was not satisfied that their incremental consideration would ensure that effects on the transport network are considered in an integrated manner.
- 9.5.15 Mr McKenzie, responding to Mr Kelly's concerns, considered that based on the economic assessment information assembled by Council and prepared for Plan Change 50, the likelihood of a large number of sub-400m<sup>2</sup> retail proposals and

<sup>152</sup> At paragraphs 33 and 35 of Mr Kelly's evidence.

<sup>153</sup> At paragraphs 33 and 35 of Mr Kelly's evidence.

<sup>154</sup> At paragraph 65 of Mr Wells' evidence.

parallel applications of sub-400m<sup>2</sup> developments are unlikely. Further, based on Council's advice, Mr McKenzie expects that retail activities within the Plan Change 50 area would be highly complementary (potentially resulting in reduced trip generation numbers) to the more significant activities that would be subject to Restricted Discretionary Activity status and hence Integrated Transport Assessments.

- 9.5.16 The Commission has, as noted in section 9.3 of this decision, partly addressed this issue by the elevation of sub-400m<sup>2</sup> GFA non-ancillary retail and commercial activities to restricted discretionary status. The Commission has further expanded the matter of discretion applicable to sub-400m<sup>2</sup> GFA non-ancillary retail and commercial activities to provide for the consideration of traffic generation, access, parking and loading. While this is not a full ITA requirement, it nonetheless provides for consideration of traffic effects relating to smaller scale non-ancillary commercial and retail activities. We consider this to be an effective and efficient response to the submitters' concerns.
- 9.5.17 Addressing the transport issues at the conferencing, Mr Munro, Mr Kyle and Mr Bryce considered that the land use mix, including a convention centre, used as the basis for traffic modelling (to 2026) was reasonable for that purpose. With respect to the amended planning provisions, Mr Kyle and Mr Bryce considered that proposed Rule 10.6.3.2A (as amended in Mr Kyle's supplementary evidence dated December 2014, amended provisions), which proposes a Restricted Discretionary Activity (for a convention centre, visitor accommodation and other predominant activities greater than 400m<sup>2</sup>) was an effective method for managing transport effects.
- 9.5.18 In its closing legal submissions, RJL raised a specific concern that modelling of different development scenarios had not been undertaken to underpin the traffic modelling. In response to this, Ms Campbell, in her closing legal submissions, stated *"Mr McKenzie is satisfied that the future development scenario that informs the traffic modelling is realistic. It is not a "worst case scenario", neither is it a best case scenario. It does not make sense for Plan Change 50 to be planned, funded and built around an unrealistic worst case possibility. Forward planning requires an evaluation of probabilities, not just possibilities. The Council does not accept that there is any significant value in modelling the traffic outcomes of scenarios that it considers less likely to eventuate."*
- 9.5.19 While Commission acknowledges submitters' concerns that there has been no recognition of the potential traffic effects of other credible development scenarios, on the basis of the evidence provided to us, including the economic evidence of Mr Colegrave and Mr McDermott, we consider the basis of the modelling carried out to be both reasonable and appropriate for these purposes. The Commission has, as noted in section 9.3 of this decision, sought to manage the proliferation of non-ancillary retail or commercial activities in the Lakeview sub-zone; including the expansion of the rule framework to require non-ancillary retail and commercial activities to be assessed as a Restricted Discretionary Activity. As a consequence, the Commission is satisfied that the plan change has provided for a development scenario that reflects the anticipated development outcomes for the Lakeview site in particular.
- 9.5.20 The RJL submission criticised the way in which traffic issues have been considered and addressed. Ms Campbell responded to five submissions that the Council considered to be misguided or wrong:
- (a) RJL's submission that "Plan Change 50 is 'heavily reliant' on securing significant changes in travel behaviour";
  - (b) RJL's characterisation of Mr McKenzie's evidence as accepting that the traffic is bad and stating that Plan Change 50 will only make it marginally worse;
  - (c) RJL's criticism that more modelling of different development scenarios has not

- been undertaken;
- (d) RJL's submission that ITAs will not enable cumulative traffic effects to be considered;
- (e) RJL's submission that there are parallels between Plan Change 50 and the circumstances in *Thurlow Consulting Engineers & Surveyors Ltd v Auckland City Council*.

9.5.21 We have already addressed the modelling of different scenarios above.

9.5.22 In addressing RJL's submission that Plan Change 50 is 'heavily reliant' on securing significant changes in travel behaviour, the Commission notes that contrary to the Council evidence presented at the commencement of the hearing, there were no travel design management discounts applied to any of the Plan Change 50 traffic modelling scenarios. Mr Kelly and Mr McKenzie both agreed that this has resulted in some conservatism in the modelling. This matter was appropriately summarised in the supplementary evidence of Mr McKenzie, where he stated: *"[i]f a similar range and scale of traffic demand management initiatives to those assumed in the Inner Links modelling for the surrounding areas of the Queenstown Town Centre were to be introduced into the Lakeview site assessment, then the modelled traffic volumes would be in the order of up to 20% lower than those reported on in the ITA and in my primary statement of evidence. My estimates of trip generation are therefore conservatively high and would over-estimate actual demands should these activities be developed on-site."*<sup>155</sup>

9.5.23 In addressing RJL's submission that ITAs will not enable cumulative traffic effects to be considered, the Commission notes that a similar concern was raised by Mr Holm on behalf of MPL in his interim supplementary legal submissions submitted during the reconvened hearing dated 16<sup>th</sup> December 2015, and also by Mr Kelly and Mr Wells in their respective joint witness statements.

9.5.24 Mr Holm submitted that the ITA approach advanced by Council: *"means that potential effects of each application are considered at the individual rather than the collective level. It places responsibility on the applicant for each individual development to assess travel demands – rather than at a town wide level."*<sup>156</sup>

9.5.25 In addressing the issue of cumulative effects, the Council's closing legal submissions stated: *"[e]ach ITA will involve consideration of the effect of adding the proposed activity to the activities in the existing environment. Thus in each ITA the cumulative effects, at that point in time, will be considered."*<sup>157</sup>

9.5.26 The Commission considers that, on balance, it would be more effective for the proposed provisions to specifically reference the need for cumulative effects to be considered as part of any future integrated transport assessment. We have therefore recommended amendments to the supporting assessment criteria relating to the relevant Restricted Discretionary Activity rules that require the submission of ITAs for particular activities, to provide for specific reference to the cumulative effect of the proposed activity taking into account the existing and consented environment. These amendments are set out in **Appendix 1** to this report.

9.5.27 Another issue raised by submitters during the hearing was the promotion of the plan change in advance of other strategic transport processes being considered by Council. Mr Mander helpfully provided an overview of the development of the Town Centre Transport Strategy presently being undertaken by Council. In Mr Kelly's view, notification of a plan change that has a potentially significant effect on the town centre traffic environment prior to the finalisation of a transport strategy that should

<sup>155</sup> At paragraph 11 of Mr McKenzie's supplementary evidence.

<sup>156</sup> At paragraph 3.3 of Mr Holm's interim supplementary legal submissions submitted during the reconvened hearing dated 16<sup>th</sup> December 2015.

<sup>157</sup> At paragraph 7.13 of Council's closing legal submissions.

provide the context for considering Plan Change 50, was putting “the cart before the horse”. He noted that the draft transport strategy remains subject to a consultative process that, in his view, has an uncertain outcome (for example; the introduction of additional parking charges and travel design management).

- 9.5.28 Mr McKenzie considered that the process of transport strategy development would necessarily include some future changes in transport management and control but at the same time would reflect emerging changes within the town centre. He considered the parallel processes of Plan Change 50 and the transport strategy to be appropriate, particularly in the context of the QTC’s recent significant and continuing growth. In essence, the transport strategy will be akin to a “living document” and will need to respond to all changes in the town centre environment as they occur. This would include changes required in the event that one or more of the proposed strategies are unsuccessful.
- 9.5.29 RJJ, in its closing legal submissions, also criticised the role and place of the Transport Strategy. The Council replied that: *“[s]uch strategies, as their name suggests, fill a strategic and aspirational role. They are not static documents and are intended to evolve. The Transport Strategy will not just respond to Plan Change 50, but to other private and Council-initiated plan changes, including the upcoming District Plan review. There is no logical reason to hold up Plan Change 50 for the Transport Strategy while other plan change initiatives proceed regardless. The Transport Strategy will develop and evolve as needed.”*
- 9.5.30 Mr Mander also addressed the Otago Regional Council submission (50/46/01 and 50/46/02), which makes reference to the preparation of ‘the town structure plan’. ORC sought integration of transport and business planning with the development of the structure plan, and the review of parking supply and pricing before or during the preparation of the structure plan. ORC submitted that the plan change be integrated with the wider strategies Council is pursuing through the development of its proposed town centre transport strategy. Mr Mander noted that encouraging a shift towards the use of alternatives to the single occupant car is a key component of the strategy that Council is presently developing. He commented that the plan change provisions support this objective and, accordingly, the Council’s ambitions in this regard.<sup>158</sup>
- 9.5.31 Having fully considered the evidence before us, we are satisfied that Plan Change 50 can be advanced in parallel with the proposed Council Transport Strategy, particularly given the underlying requirement that all new development within the Lakeview sub-zone and Beach Street Block in excess of a gross floor area of 400m<sup>2</sup>, which includes the anticipated predominant uses, requires the submission of an ITA and, accordingly, will be assessed as a Restricted Discretionary Activity. Although we recognise that it would have been desirable to have the Transport Strategy agreed prior to the assessment of Plan Change 50, in reality a number of material assumptions would remain, not the least of which is the effectiveness of some of the proposed strategies (such as a 20% reduction in the use of private cars) and the impact on traffic effects if these measures are not successful. On the contrary, the requisite ITA will be based on the traffic and transportation environment that exists at the date of any resource consent application, and is expected to provide a more tailored solution to the management of traffic effects that is materially more certain than that of the very broad non-specific assessment originally proposed, particularly with respect to consideration of the cumulative effects of the proposed development.

### **Parking issues with respect to the Lakeview sub-zone**

- 9.5.32 The Section 42A report noted that a “balanced approach” to the provision of on-site car parking is recommended for the Lakeview sub-zone (including 34 Brecon

<sup>158</sup> At paragraphs 4.2 and 4.3 of Mr Mander’s evidence.

Street).<sup>159</sup> As such, a convention centre, a hot pools activity (defined as a commercial recreational activity) and residential activities would require on-site car parking. For other activities, Plan Change 50 does not require the provision of any minimum car parking. These recommendations have been incorporated into the proposal through appropriate rules and standards.

9.5.33 Mr McKenzie provided a detailed breakdown of the proposed parking standards applicable to the Lakeview sub-zone, summarised as follows:

- No minimum car parking is required for unit-type visitor accommodation. Instead, a maximum of 1 space per unit up to 15 units and 1 space per 2 units thereafter for guests, plus a maximum of 1 space per 10 units for staff is proposed. In order to maximise the potential for sustainable travel modes, particularly the passenger transport modes, it was recommended that a minimum of 1 on-site coach park be provided per 30 units. This would ensure that larger facilities, where tour groups are expected to stay, would be able to adequately accommodate the buses on which those groups rely;
- For commercial activities in the Lakeview sub-zone it is proposed to remove the minimum parking requirement, in line with the existing rules for the QTCZ. This approach was supported by the Council's developing and evolving transport strategy approach that, in Mr McKenzie's opinion, promotes a strong shared parking strategy whereby primary activity parking is able to be shared with the complementary activities within the sub-zone;
- The proposed parking requirement for a convention centre is 1 visitor parking space for every 10m<sup>2</sup> of public floor area, or 1 space per 10 seats, whichever is greater. Mr McKenzie considered that this parking provision is appropriate when compared to other major centres that provide convention facilities;
- Provision has been made for a dedicated coach parking and pick up/drop off area associated with a convention centre activity, equivalent to the visitor accommodation coach parking requirements of the District Plan for room-type accommodation (hotels); and
- Mr McKenzie recommended that a parking supply rate of 1 space per 5 people be applied to all commercial recreational activities within the Lakeview sub-zone. With respect to the hot pool facility that is proposed on the Lakeview sub-zone, Mr McKenzie anticipated that a significant proportion of hot pools custom could be generated from the immediate vicinity of the site, both within the Lakeview sub-zone and the wider local residential and visitor accommodation catchment.

9.5.34 In formulating his recommendations, Mr McKenzie anticipated a strong shared parking strategy for the Lakeview sub-zone, with primary activity parking (associated with a convention centre for example) being shared with the complementary activities within the sub-zone; for example, tourism operators, cafés and restaurants. However, he is cognisant that shared parking will need to be appropriately managed to ensure sufficient parking is provided to balance on-site and off-site parking demands.

9.5.35 Plan Change 50 does not require the provision of parking provision for other retail and commercial activities that could develop at the Lakeview sub-zone, which is the same as existing parking requirements for retail and commercial activities in the QTCZ.

9.5.36 Mr McKenzie was of the opinion that activities on the Lakeview site will draw on and be complementary to each other, on the basis of their geographic proximity to each other and the rates of attraction to similar tourist and visitor catchment populations.

---

<sup>159</sup> At page 58 of the Section 42A report.

Accordingly, his analysis has provided for shared-use factors to be applied to the base trip generation forecasts for what would otherwise have been stand-alone activities as follows:

- (i) Convention Centre: no shared use (as this is a major generator of activity);
- (ii) Hotel: 70% of hotel traffic would be drawn from other Lakeview activities;
- (iii) Apartments/Residential: 30% of residential traffic would be drawn from other Lakeview activities; and
- (iv) Hot pools: 40% of traffic would be drawn from other Lakeview activities.

- 9.5.37 Mr McKenzie stated that in his opinion, based on his experience and appreciation of the Queenstown environment where shared-purpose trips are frequent rather than the exception, the above shared use factors are appropriate.<sup>160</sup>
- 9.5.38 In his Section 42A report, Mr Bryce responded to issues raised by submitters with regard to parking rates applicable to the Lakeview sub-zone. In particular, he addressed the submission by NTTL (50/34/03, 50/34/04) relating to the application of parking standards for commercial recreational activities. Mr Bryce did not recommend any specific changes to address the relief sought by the submitter.
- 9.5.39 Mr Edmonds explained the reasons for NTTL's submission that the plan change should provide for car parking requirements to be met by the use of shared off-site car parking facilities. In essence, this was due to the high parking ratios that are to be applied to commercial recreational activities (one park for every five people that the facility is designed to cater for) and the fact that the area of land being considered by NTTL within the Lakeview sub-zone is constrained by existing protected trees.
- 9.5.40 Mr McKenzie addressed the submission of NTTL and other submitters who sought alternative relief for parking standards, explaining that the rates he has recommended are drawn from surveyed demand data for specific activities and current best practice in terms of parking management.<sup>161</sup>
- 9.5.41 Overall, the Commission is satisfied that the level of parking that is provided for the Lakeview sub-zone can be appropriately addressed by the policy and rule framework now proposed in the further supplementary evidence of Mr Kyle. Parking management is clearly articulated as a matter of discretion and reflected in the ITA requirement for all predominant uses or larger scale commercial development exceeding 400m<sup>2</sup> within the Lakeview sub-zone and the Beach Street Block As discussed above, for other areas of Plan Change 50, the parking rates are drawn from surveyed demand, which is an appropriate basis for the determination of the proposed rules.

### **Parking issues in relation to the Isle Street sub-zone**

- 9.5.42 Gillian & Donald McDonald (50/31/05) who operate a local visitor accommodation business within the proposed Isle Street sub-zone, expressed the view that the proposed plan change does not provide for sufficient onsite car parking. They stated that their guests are all independent travellers and that approximately 70% travel by car. They currently provide parking for 50% of their guest rooms; however, do not consider that to be sufficient. The submitters (50/12/04, 50/31/05) requested that the current HDRZ rules be applied to residential use of any building.
- 9.5.43 Plan Change 50 has proposed that the Isle Street sub-zone and the Beach Street block would adopt the existing QTCZ parking provisions, which do not required any on-site car parking to be provided. Mr Kyle commented that this does not preclude

<sup>160</sup> At paragraph 6 of Mr McKenzie's supplementary evidence.

<sup>161</sup> At paragraph 11.18 of Mr McKenzie's primary evidence.

the provision of on-site car parking where this is considered necessary by a developer.<sup>162</sup> Based on the evidence of Mr McKenzie and Mr Mander, the Commission accepts that the parking approach advanced by the Council, which is to be supported by a programme of measures including parking management and public transport (to be adopted under the proposed Town Centre Transport Strategy), will reduce reliance on private vehicles.

- 9.5.44 A number of submitters (including Mr Stobo (50/21/07), Dairy Guesthouse (50/26/03), Any Old Fish (50/28/03), Watertight (50/33/03) and Mr Hockey (50/36/03)) raised concerns about the parking restrictions that were proposed to be imposed in relation to the front yards of the Isle Street sub-zone under Rule 10.6.5.1 Site Standard (f). Submitters also questioned how reasonable and practical the rule would be. This was a matter addressed in the Section 42A report, where Mr Bryce recommended that Rule 10.6.5.1 Site Standard (f) be amended to only apply to the construction of new buildings within the Isle Street sub-zone from the notification of this plan change. In all other respects, parking in the front yard should be permitted. Mr Bryce's suggested amendment was accepted by Council and has been incorporated into the rule framework. Mr Freeman advised that Dairy Guesthouse is comfortable with the amendments to Rule 10.6.5.1(f) in that it protects car parking areas within the road setbacks.

#### **Parking issues in relation to the Beach Street Block**

- 9.5.45 Mrs Margaret Walker (50/19/04) raised a concern that the plan change removes the need for the provision of car parking on site. She considered that this change would add to the parking issues that already exist on the road bordering her property, and sought that the parking provisions be retained. IHG and Carter (F50/32/02) opposed Mrs Walker's submission and disagreed that provision for on-site parking is necessary in the QTCZ. For the reasons set out in paragraph 9.5.48 above, the Commission considers the approach advanced by Council to be acceptable and notes that on-site parking is not precluded should this be necessary in relation to any individual development.

#### **Man Street Realignment**

- 9.5.46 Mr Holm, for the CMQT (50/17), addressed the Commission on a number of issues raised by the submitters, collectively the owners of 3, 5, 9, 11, and 15 Brunswick Street. The principal concern related to traffic generation and corresponding safety issues should Man Street not be realigned in the vicinity of the submitters' properties. CMQT's submission (50/17/01) noted that the proposed Lake View Structure Plan did not make provision for any roading realignment of Man Street. Mr Holm submitted that Plan Change 50 should be based on evidence that the roading network, public parking provision and on-site parking rules are adequate to accommodate the land use activities proposed and to protect the amenity of neighbouring residences.
- 9.5.47 NTTL opposed CMQT's submission via further submission F50/34/01, and was not convinced of the need to realign Thompson Street. It considered that an alignment as suggested would be incompatible with the use of the site for a hot pools complex.
- 9.5.48 Mr McKenzie noted that provision has been made in the plan change for the widening of the Thompson Street road reserve between Glasgow Street and Man Street, and the associated provision of a corner splay at the right-angle bend at the eastern end of Thompson Street.<sup>163</sup> In his opinion, the widening and corner splay

<sup>162</sup> At paragraph 8.43 of Mr Kyle's primary evidence.

<sup>163</sup> At paragraph 10.4 of Mr McKenzie's primary evidence.

are not required to mitigate any transportation effects resulting from development change; however, the opportunity has been taken to include these relatively minor boundary changes to future-proof this part of the network.<sup>164</sup> The Commission understands that the planning provisions ensure that the Lakeview sub-zone structure plan does not preclude a future curve easing to accommodate this corner splay.

- 9.5.49 While the Commission notes the evidence of Mr McKenzie on this point, other than the exemption provided to the Lakeview sub-zone Structure Plan, none of the rules specifically require consideration of safety issues or resultant road widening improvements. As a consequence, there appears to be no direct correlation between the likely increase in traffic generation on the Lakeview sub-zone, and the potential need for Thompson Street to be widened to alleviate safety issues. We are also cognisant of the evidence of Mr Kyle, where he noted that the lane marked on the Structure Plan located along the western end of the Lakeview site could well provide access to the sites within the Lakeview subzone and also to land identified as part of the Lynch Block.<sup>165</sup> For this reason, the Commission considers it appropriate that the Restricted Discretionary Activity rules relating to a convention centre and visitor accommodation for the Lakeview sub-zone be amended to require an additional matter of discretion to address road safety improvements to the transportation network as a consequence of the proposed development of the Lakeview sub-zone.
- 9.5.50 We note that NTTL's further submission (F50/34/01) raised concerns that the proposed corner splay realignment could be incompatible with the use of the site for a hot pools complex. While such safety measures may pose a constraint to the future development of this part of the Lakeview sub-zone, the Commission is not persuaded that this is a sufficiently compelling reason to offset the future road realignment of Thompson Street, should this be required for the safety and amenity of adjoining residences.

## Commission's Recommendations

1. That the submissions by Craig Stobo (50/21/07), The Dairy Guesthouse 2003 Limited (50/26/03), Any Old Fish Company Limited (50/28/03), Watertight Investments Limited (50/33/03), C. Hockey (50/36/03), and IHG Queenstown Ltd and Carter Queenstown (F50/32/02) be **supported**.
2. That the submissions by Otago Regional Council submission (50/46/01 and 50/46/02, Christopher Mace and Queenstown Trust (50/17/01) and Queenstown Chamber of Commerce (50/11/05) be **supported, in part**.
3. That the submissions by Ngai Tahu Tourism Limited (50/34/03 and 50/34/04 and further submission F50/34/01) be **rejected**.
4. That the submissions by Remarkables Jet Limited (50/49/07), Memorial Property Limited (50/39/03), Margaret Walker (50/19/04), Daniela Bagozzi (50/05/04), David Odell (50/04/02), Joy Veint (50/43/05, Doug and Betty Brown (50/29/01), Douglas Veint (50/44/01), Alan Bunting (50/12/04) and Gillian & Donald McDonald (50/31/05) be **rejected**.

<sup>164</sup> At paragraph 10.5 of Mr McKenzie's primary evidence.

<sup>165</sup> At paragraph 8.32 of Mr Kyle's primary evidence.

## 9.6 LOSS OF AFFORDABLE HOUSING

### The Issues and Decisions Requested

9.6.1 Six original submissions were received that raised concerns relating to the loss of affordable housing, or a lack of affordable replacements through the development of the Lakeview sub-zone.<sup>166</sup> The issues raised are summarised as:

- Displacement of a large number of families and people resulting in pressure on an already tight rental market;
- Loss of affordable housing would create the potential for a very negative social effect;
- The cabins and cribs should be allowed to stay;
- Council should consider extending cabin and crib leases to reflect the potential staged nature of the Lakeview sub-zone;
- Plan Change 50 does not address the mitigation of lost affordable housing options;
- The lack of objectives relating to affordable housing in the proposed plan change is of concern;
- Plan Change 50 needs to be consistent with the objectives of Plan Change 24 and in this respect the provision of affordable and community housing should be included within the plan change;
- The plan change mentions the concept of affordable housing, but there is no commitment to providing any. This goes against one of the development principles adopted by Council in December last year and Plan Change 24;
- The proposed plan change provisions will not deliver a high density residential outcome, if that is a desired outcome for the area; and
- The plan change is largely silent in relation to any residential development opportunities that could be pursued, in particular affordable housing opportunities on Council-owned land.

9.6.2 The relief sought by the original submitters was extensive, including rejection of the plan change, the retention of existing cabins, the need for the plan change to address Plan Change 24 on affordable housing outcomes, and that 30% of any residential uptake on reserve and Council-owned land be set aside for community housing.

### Discussion & Reasons

9.6.3 The Section 42A report contended that the delivery of affordable housing is underpinned in the District Plan through Plan Change 24.<sup>167</sup> Mr Bryce considered that Objective 1 undermines the policy outcomes of Plan Change 24. He submitted that Objective 1 is inherently disjunctive, and therefore offers a choice between two forms of housing outcomes: “*access to Community Housing, or the provision of a range of residential activity that contributes to housing affordability in the District*”. In his opinion, the disjunctive nature of Objective 1 does not favour one form of affordable housing over another, and will ultimately need to be determined on a case-by-case basis.

9.6.4 The Commission notes that the Section 32 evaluation stated:<sup>168</sup> “[t]he subject plan change also takes into account the housing diversity issues facing the District. Through the proposed plan change, some limitations on residential development will be addressed,

<sup>166</sup> 50/02/01, 50/04/07, 50/15/02, 50/42/01, 50/48/02, 50/49/04.

<sup>167</sup> Hereafter referred to as ‘PC24’.

<sup>168</sup> Page 8 of the Section 32 report.

*providing improved opportunities for higher density and greater diversity in housing options. While housing affordability issues will not be directly addressed through the subject plan change, resultant housing at the sites will provide accommodation options where transportation and heating costs can be reduced to due proximity to the town centre and sustainable building design.” [Emphasis added].*

- 9.6.5 Mr Bryce stated that, in his opinion, the key issue is whether the outcome providing greater housing flexibility will enable Plan Change 50 to achieve Objective 1 of part 4.10 of the District Plan, and to provide a range of housing options within the Lakeview and Isle Street sub-zones. This accords with the second thread of Objective 1, being “*the provision of a range of Residential Activity that contributes to housing affordability in the District.*”
- 9.6.6 In Mr Kyle’s opinion, the above District Wide objective and policies are fairly limited. He considered that for zones affected by Plan Change 50 (the HDRZ and the QTCZ), the affordable housing provisions are limited to the assessment matters applying to non-complying resource consent applications.<sup>169</sup> Mr Kyle stated that the provisions applying to the Lakeview sub-zone and the Isle Street sub-zone enable higher density residential area in these sub-zones.
- 9.6.7 The Commission understands that Plan Change 50 seeks to relax the residential activity controls in the Lakeview and Isle Street sub-zones, so as to (i) enable the market to determine appropriate residential form and scale and (ii) to assist in providing more diverse housing options for the community. In achieving these outcomes, Mr Kyle stated that there are no restrictions in the provisions relating to the Lakeview or Isle Street sub-zones that limit the density of residential units. The additional building height allows a higher percentage of building coverage, in addition to opportunities for lower cost and varied housing to be developed on the subject land.
- 9.6.8 Mr Kyle acknowledged that there would be some residential displacement associated with the current process, however he considered that this is more directly related to the tenure of the existing cabins, not as a direct result of the plan change. The cabins are on the Lakeview site by virtue of licence agreements with the Council, all of which terminate in 2015. We note that while the cribs and cabins presently located in the plan change area have historic value, their suitability as housing stock is questionable as a result of the generally poor condition of many of the cabins, and an inefficient use of this valuable land resource.
- 9.6.9 Mr Kyle recommended amending the assessment matters supporting Plan Change 50 to ensure that developing areas in the Lakeview and Isle Street sub-zones that currently do not achieve standards for height and site coverage trigger the consideration of an affordable housing contribution. The Commission understands that this would essentially bring the Plan Change 50 provisions in line with the existing QTCZ criterion, which relates to height zone standard infringements that require consideration to be given to affordable housing. We consider this to be an appropriate amendment to the assessment matters.
- 9.6.10 Mr Kyle also addressed the Commission on other affordable housing initiatives being advanced by Council. Mr Kyle’s supplementary planning evidence provided an overview of the *Queenstown Lakes Housing Accord* and the *Council Lead Policy: Housing Accords and Special Housing Areas Act 2013 Implementation Guidelines*, dated 30 October 2014. This is a process that the Council has entered into with the Government to address housing affordability issues in the district through its initiatives under the Housing Accord and Special Housing Areas Act 2013. The

---

<sup>169</sup> At paragraph 8.10 of Mr Kyle’s primary evidence.

Commission understands from Mr Kyle's evidence that a key facet of the Council lead policy for implementing the Housing Accord is the establishment of Special Housing Areas, within which affordable housing will be provided.<sup>170</sup>

- 9.6.11 As was evident to the Commissioners throughout the course of this hearing, a number of submitters considered the provisions for affordable housing within the Lakeview sub-zone to be inadequate. Certain submitters also considered that the 'Lynch Block' should not form part of the plan change. Both Mr Walker (50/55) and Mr Tai Ward-Holmes (50/07) addressed the Commission on this issue.
- 9.6.12 As set out in the Planning and Urban Design JWS, Mr Kyle's further supplementary evidence proposed the retention of the HDRZ over the "Lynch Block" to address the 'edge effects' raised during the course of the hearing. The Commission considers that the retention of the HDRZ over the western end of the Lakeview sub-zone (while retaining the height, bulk and location controls for buildings as notified in Plan Change 50) is appropriate. While retaining the potential for this area to be utilised for visitor accommodation through a Restricted Discretionary Activity resource consent (where the development footprint exceeds 500m<sup>2</sup> under rule 7.5.3.3(ii)), the HDRZ provisions are more appropriately geared towards high density residential development, which, in the Commission's opinion, may assist the advancement of affordable housing initiatives over this part of the Lakeview sub-zone.
- 9.6.13 The Commission also notes that the retention of the HDRZ over the 'Lynch Block' means that any future residential development will be subject to the assessment criteria of this zone, including affordable housing and the promotion of housing diversity. As indicated by Mr Bryce in his Section 42A report, and set out above, residential development footprints over 500m<sup>2</sup> require resource consent as a Restricted Discretionary Activity with respect to assessment matter 7.7.2(v), which requires that consideration to be given to *"adaptable designs that provide a mixture of unit sizes and numbers of bedrooms to create flexibility in terms of future reuses over the longer term so as to ensure a sustainable community."*<sup>171</sup> Mr Bryce noted that while this criterion does not specifically promote affordable housing, it does encourage housing diversity, which, in turn, may increase housing choice to meet the preferences and needs of the community. Further, the Commission notes that the existing HDRZ provisions also require new comprehensive housing developments to consider: *"[w]hether and the extent to which the proposal will facilitate the provision of a range of Residential Activity that contributes to housing affordability in the District."* As such, the Commission considers that the retention of the HDRZ over the 'Lynch Block' is more likely to encourage the consideration of future affordable housing initiatives.
- 9.6.14 RJL (50/49/04) considered that the proposed plan change provisions will not deliver a high density residential outcome, if that is indeed a desired outcome for the area. The Commission notes that the retention of the HDRZ over the Lynch Block will assist in securing this outcome.
- 9.6.15 The Commission considers that retaining the 'Lynch Block' as HDRZ does not prevent this area being utilised in a manner that is consistent with the policy direction set out above. Retention of the proposed height, bulk and location requirements means that the HDRZ will be able to be utilised in a more efficient manner, potentially encouraging affordable housing outcomes. While Plan Change 50 does not provide specifically for affordable housing in terms of direct access to community housing, the provisions will invariably provide for a range of residential activity that contributes to housing affordability in the District.

<sup>170</sup> At paragraph 24 to 28 of Mr Kyle's supplementary planning evidence.

<sup>171</sup> In accordance with assessment matter 7.7.2(iv)(c) Choice (i).

- 9.6.16 Addressing his concerns, Mr Huntington (50/30/01) opposed the plan change and considered that the emphasis of Plan Change 50 on commercial and visitor accommodation development would be detrimental to HDRZ land close to the town centre. As noted previously, the Commission considers that retention of the Lynch block as a HDRZ will go some way to addressing this submitter's concern. The Commission also notes that Mr Huntington (50/30/06) supported a height increase for high density residential development on the Lakeview site to a 10 metre maximum with a 2 metre roof form bonus. The retention of a 12 metre height limit (plus roof bonus) largely reflects the relief sought by the submitter.
- 9.6.17 Ms Darkin (submission 50/02/01) sought that a concession be made with regard to housing issues, given that a large number of families and individuals could be displaced, with resulting pressure on an already tight rental market. The original submission by Mr David Odell (50/04/07) commented that the existing cabins provide an important source of housing for families living and working in Queenstown. He considered that the plan change would displace a range of residents, including families, elderly and disabled individuals, and fledgling business owners.
- 9.6.18 The QLCHT (50/42/01) requested that Plan Change 50 be amended so as to be consistent with the objectives of Plan Change 24, and sought that the provision of affordable and community housing be included within the plan change. Similarly, the NZIASB (50/15/02), raised concerns with the lack of objectives in the proposed plan change to promote uses such as affordable housing, community services or community amenity. The NZIASB (50/15/02) requested that 30% of any residential uptake on reserve and council-owned land be exclusively set aside for community housing. Ms Cath Gilmour (50/48/02) noted that the plan change mentions the concept of affordable housing without making a commitment to providing any by way of a retention mechanism.
- 9.6.19 It is evident that a number of submitters will not feel that affordable housing has been adequately addressed by this plan change. While affordable housing is a major issue of concern, there is no simple solution. Council is currently addressing the provision of affordable housing through the facilitation of Special Housing Areas throughout the District. There are other methods to promote intensification, such as providing sufficient variety of different types of housing development (for example, through high density provisions) that support the availability of housing and its affordability. In our view, Plan Change 50 (as amended in relation to the Lynch block) provides sufficient opportunity for a variety of housing types to be delivered as part of any future development of the Lakeview sub-zone. On this basis, the Commission considers that the provisions supporting Plan Change 50 are effective in providing for a range of housing diversity and affordability outcomes, and broadly accord with the policy outcomes under Objective 1, set out above.

## Commission's Recommendations

1. That the submissions by Queenstown Lakes Community Housing Trust (50/42/01), Ms Darkin (submission 50/02/01), David Odell (50/04/07), NZIA Southern Branch (50/15/02), Ms Cath Gilmour (50/48/02) be **rejected**.

## 9.7 EFFECTS ON LANDSCAPE AND VISUAL AMENITY VALUES

### The Issues and Decisions Requested

9.7.1 Five original submissions raised concerns about the scale, height and density of development and the corresponding effects on visual amenity and landscape values.<sup>172</sup> The matters are summarised as follows:

- The proposed building height limits in the Plan Change 50 area could detract from the visual amenity and landscape qualities of Queenstown and its surrounds;
- The approval of high rise buildings will impact on the natural landscape;
- The visual impact of Queenstown’s mountain landscapes will be “gone forever”;
- The plan change has the potential to generate significant adverse amenity effects, particularly with respect to the maximum height limits;
- The plan change allows for the development of buildings up to 28 metres in height against the backdrop of the Ben Lomond Recreational Reserve mountains, which are identified as Outstanding Natural Landscapes - Wakatipu Basin;<sup>173</sup>
- The Queenstown Height study assumes retention of the ‘green finger’ of the Lakeview campground in terms of mitigating the effects of increased height on the landscape
- The proposed height limits will result in significant adverse effects that are more than minor. New urban development should be avoided in Outstanding Natural Landscape (Wakatipu Basin) areas.

#### **Height Limit – 34 Brecon Street & Amendments to Height Limit Plan**

9.7.2 One submission was received from BSPL (50/10) that specifically addressed the height limit proposed for 34 Brecon Street, which forms part of the Lakeview sub-zone.<sup>174</sup> BSPL considered that the 12 metre maximum height proposed is neither effective nor efficient, and is anomalous compared to the building heights promoted by Council as acceptable on its own less-well located land in this environment. The submitter sought revisions to the Height Limit Plan to provide for a range of height limits with regard to both 34 Brecon Street and the wider Lakeview sub-zone, which included the following relief:

- Amendment of the plan change to provide for building heights up to seven habitable storeys on the site at 34 Brecon Street and similar increases in maximum building heights between that site and the proposed sub-zone ‘peak’ of 26 metres, together with the incorporation of complementary bulk and location requirements to maintain suitable amenity on adjacent sites;<sup>175</sup>
- Amendment of the Height Limit Plan to provide for buildings at 34 Brecon Street up to 19 metres as a Controlled Activity, and amendment of rules 10.6.3.3, 10.6.4 and/or 10.6.5.1(xi)(d) to provide, as a non-notified Restricted Discretionary Activity, buildings up to 24 metres in height;<sup>176</sup>
- An alternative to the above measures, reduction of the proposed Restricted Discretionary height limit from 24 to 22.5 metres, provided that 10.6.5.1(xi)(f) is also amended to allow habitable space inside the 2 metre roof bonus;

<sup>172</sup> 50/39/05, 50/43/02, 50/45/03, 50/49/06, 50/48/11, 50/49/06.

<sup>173</sup> Hereafter referred to as ‘ONL (WB)’.

<sup>174</sup> 50/10/02.

<sup>175</sup> 50/10/02.

<sup>176</sup> 50/10/05.

- Amendment of clause 10.6.5.1(i)(d) so that any building at 34 Brecon St with a height greater than 19 metres must comply with a maximum building coverage of 70%;<sup>177</sup> and
- Amendment of the Structure Plan and Height Limit Plan to add a building setback of 17 metres from the existing southern boundary of the cemetery, applying to all buildings with a height above 15 metres. BSPL also noted that if Cemetery Road was realigned in accordance with its submission points, all buildings would need to be clear of that road from the ground and no further setback would be required unless the road was narrower than 17 metres.<sup>178</sup>

9.7.3 The further submission by QGL (FS50/38/01) was opposed to the relief sought by BSPL (50/10). This submitter considered that allowing higher buildings than is currently proposed in Plan Change 50 (in particular as high as 24 metres as sought by BSPL) was inappropriate as it could adversely affect the amenity and character of the surrounding neighbourhood and detract from wider landscape values. QGL submitted that the relief sought by BSPL be rejected.

9.7.4 In summary, the submitters sought a range of relief, including rejection of the plan change through to a reduction of the height limits enabled to align with other comparable zonings of the District Plan.

## Discussion & Reasons

### Lakeview Sub- Zone (excluding 34 Brecon Street)

9.7.5 We address the landscape and visual amenity considerations raised by the broader plan change before considering 34 Brecon Street specifically.

9.7.6 The Commission notes that Plan Change 50 was informed by a number of technical documents supporting the Section 32 evaluation that addressed the landscape and visual amenity values of Plan Change 50.<sup>179</sup> A landscape and visual assessment report prepared by Dr Marion Read together with a number of additional photomontages (in addition to those that form part of Council's evidence) were prepared by Council as an aid to understanding the landscape and visual effects of Plan Change 50.

9.7.8 The Section 42A report noted that while the plan change is contained within the urban boundary, the Lakeview sub-zone is directly adjacent to the Ben Lomond Scenic Reserve, which was identified as an Outstanding Natural Landscape (Wakatipu Basin) ("ONL(WB)") in Environment Court decision C180/99 as recorded in Appendix 8A (Map 1 of the District Plan).<sup>180</sup> Dr Read, the landscape architect for the Council, reached a similar conclusion in her evidence.<sup>181</sup>

9.7.9 In addressing the existing HDRZ and the permitted baseline, the Section 42A report noted that the majority of larger scale development within the HDRZ is provided for either as a Controlled Activity, or as a Restricted Discretionary Activity (with respect to visitor accommodation or residential development exceeding three residential

---

<sup>177</sup> 50/10/06.

<sup>178</sup> 50/10/07.

<sup>179</sup> The AEE at page 6-7 (attached as Appendix B to the Section 32 evaluation), the Queenstown Height Study Landscape and Urban Design Assessment ('the Height Study') (attached as Appendix B to the AEE), and the Clinton Bird: Urban Design Peer Review ('the Bird Report') (attached as Appendix B to the AEE).

<sup>180</sup> Refer page 8 of Clinton Bird Report attached as Appendix F of the AEE (attached as Appendix B to the Section 32 evaluation).

<sup>181</sup> Refer paragraph 5.5 of Dr Read's evidence.

units on the Crowne Plaza site, or residential units greater than 500m<sup>2</sup> in area).<sup>182</sup> However, Mr Bryce considered it entirely feasible, given the smaller scale of individual properties, to envisage that some form of residential development up to 8 metres in height could be advanced within the Isle Street sub-zone under the permitted baseline. The Section 42A report noted that both the earlier Height Limit Study and the Read landscape report concluded that significant progressive change in the landscape character is likely to occur (even in the absence of the additional building height introduced by the plan change), given the underlying height limits that apply to the existing HDRZ.<sup>183</sup> The Commission notes that this is also an important consideration for 34 Brecon Street, which we discuss in more detailed below.

- 9.7.10 Dr Read considered that the townscape, which in her opinion comprises a “fine-grained urban form”, forms the mid-ground between the natural landscapes of the lake and the mountains. Both of these natural landscape areas include but are not dominated by structures, which include jetties and similar built forms around parts of the lake margin, and the Skyline and gondola on the mountainside. Dr Read concluded, however, that the lake and surrounding maintains retain, overall, a predominantly natural character.<sup>184</sup>
- 9.7.11 In discussing the transition away from the existing fine-grained urban form, Dr Read highlighted that the proposed increase in the building coverage to 80% in the Lakeview sub-zone and 70% in the Isle Street sub-zone (increased from 65% building coverage under the HDRZ), coupled with the proposed height increases for buildings to 12 metres, with varying heights proposed in the Lakeview sub-zone of between 4.5 metres and 26 metres, would result in a coarsening of the grain of the township, in particular within the Isle Street sub-zone. Dr Read considered that this would inevitably result in an alteration to the existing character of the township. Importantly, however, she concluded that the proposed plan change would not alter the character of the lake or lakeside areas, or that of the face of Ben Lomond and Bowen Peak. As a consequence, Dr Read concluded that the overall change in landscape character on the wider landscape as a result of the provisions of the proposed plan change would be relatively insignificant.<sup>185</sup>
- 9.7.12 Addressing the effects of the plan change on visual amenity values, Dr Read considered that the greatest impact on views and view quality would be experienced in public views from the Queenstown foreshore and the Botanic Gardens. In Dr Read’s opinion, development occurring to the height and bulk limits proposed in the plan change would diminish the fine-grain and quaint appearance of the urban component of these views. However, the degree of the impact beyond that anticipated by the High Density Residential zoning would, in Dr Read’s opinion, not be great and would not significantly reduce the picturesque quality of the overall views. She concluded that views of the lake and its foreshore would not be substantially altered, and neither would views of Ben Lomond or Bowen Peak, save that a very small sliver of the latter would no longer be visible from these viewpoints.
- 9.7.13 Mr Bird included a number of photomontages taken from a series of selected public viewpoints from places in and around Queenstown in his evidence. While the Commission appreciates that the photomontages do not represent the likely ‘architectural’ outcomes of Plan Change 50, they were helpful in guiding our assessment of the maximum building heights enabled on various parts of the plan change areas (including the inclusion of the 2 metre roof bonus where this is applicable). The Commission notes, for completeness, that Figure 33 of Mr Bird’s evidence illustrates just one ‘indicative’ example of a more architecturally realistic

<sup>182</sup> At paragraph 42 of the Section 42A report.

<sup>183</sup> The Commission understands that the HDRZ provides for either 7 metres or 8 metres in height (depending upon the gradient of the ground).

<sup>184</sup> At paragraph 6.1 of Dr Read’s evidence.

<sup>185</sup> At paragraph 6.5 of Dr Read’s evidence.

development outcome. Figures addressing 34 Brecon Street also provided more extensive architectural details, as did the photomontages provided from Glasgow Street looking east towards the Lakeview sub-zone.

- 9.7.14 Mr Bird submitted that the photomontages demonstrate that the overall urban design outcome in the Lakeview and Isle Street sub-zones that would result from the combined effects of the Structure Plan, the Height Limit Plan and the District Plan rules will be of a development grain, scale, height and character both appropriate and complementary to the Lakeview and Isle Street sub-zone sites and their local and greater Queenstown contexts. Mr Bird considered that, in the context of the Lakeview sub-zone, the photomontages support his conclusion that the potential building bulk enabled by a combination of the Structure Plan and the Height Limit Plan will result in a collective building mass that is appropriately subservient in scale to the ONL(WB) of the Ben Lomond Scenic Reserve.<sup>186</sup>
- 9.7.15 Addressing the broader landscape and visual amenity considerations raised by the plan change, the Commission is satisfied that the plan change will not result in a scale of development that would introduce unacceptable effects on the landscape and visual amenity values of the adjoining ONL(WB). In reaching this conclusion, we have had regard to the photomontages attached to the evidence of Mr Bird, including the more detailed Figure 33, which provides further architectural rendering. In relation to the Lakeview sub-zone, we consider that the logical stepping down of building heights following the existing contour of the Lakeview site (as set out in the Height Limit Plan) appropriately addresses and responds to the topography to the rear of the site, and concentrates larger-scaled building heights in locations with a greater ability to absorb future development.
- 9.7.16 While a number of submitters have raised specific concerns in relation to the overall height limits facilitated by the plan change, the Commission notes that the Lakeview sub-zone Height Limit Plan restricts future development any higher than 12 metres to a relatively discrete area of the sub-zone. Addressing this issue at the hearing, Mr Speedy explained that the highest component of the Height Limit Plan, at 26 metres, represents only 1.3% of the total development area within the Lakeview sub-zone.<sup>187</sup> He clarified that overall, 80% of all future development envisaged within the Lakeview sub-zone will comprise a maximum of 12 metres (equivalent to three storeys) in height. The Commission notes that for the majority of the Lakeview sub-zone, this will represent one additional storey over the existing HDRZ height limit of 8 metres, which reflects a modest up-scaling of the height limits across the Lakeview sub-zone area.
- 9.7.17 Addressing visual amenity considerations, Ms Gilmour (50/48/11), expressed concern about the loss of green space within the Lakeview sub-zone. This was a matter addressed in the Section 42A report, and in the evidence of Dr Read and Mr Bird. Dr Read considered that the reserve areas that have been proposed in the Lakeview sub-zone (comprising both existing and new reserves) satisfactorily balance the increase in built form.<sup>188</sup>
- 9.7.18 The Commission concurs with the conclusion reached by Mr Bryce in his Section 42A report that: *"in context with (i) the reserve land to be retained and public areas (such as the square), (ii) the view shafts that have been integrated within the design of the Lakeview sub-zone structure plan, (iii) the retention of existing protected trees, and (iv) the additional landscaping that is required to be implemented at the time of development, I am satisfied that an appropriately balance of 'green space' will be achieved to assist with 'breaking up' the built form proposed within the Lakeview sub-zone."*<sup>189</sup> We have also had

<sup>186</sup> At paragraph 8.10 of Mr Bird's primary evidence.

<sup>187</sup> At paragraph 3 of Mr Speedy's supplementary planning evidence.

<sup>188</sup> At paragraph 6.4 of Dr Read's evidence.

<sup>189</sup> At page 45 of the Section 42A report.

regard to Mr Speedy's supplementary evidence,<sup>190</sup> which addressed the total area of reserve land proposed within the Lakeview sub-zone. Mr Speedy explained that of the total 10.7ha Lakeview site, 59% of the sub-zone land area would comprise reserve and a road/pedestrian network as reflected within the Structure Plan for the Lakeview sub-zone.<sup>191</sup> The Commission notes, for completeness, that Dr Read's recommendation that landscaping be provided as a matter of control for all new buildings, which was supported by Mr Bryce, was adopted by Mr Kyle for Council in the amended rule framework.

- 9.7.19 As a consequence, the Commission considers that the Height Limit Plan and Structure Plan supporting the Lakeview sub-zone achieves an appropriate balance between enabling the efficient use of this land resource, while seeking to maintain the landscape and visual amenity values of the adjoining ONL(WB) of Ben Lomond and Bowen Peak. As a consequence, we have concluded that the proposed scale of development is acceptable and consistent with the relevant objectives, policies and Part 2 of the Act (and which is discussed in more detail in section 11.0 of this report).

### **Isle Street Sub-Zone**

- 9.7.20 In addressing the height limits applicable to the Isle Street sub-zone in his Section 42A report, Mr Bryce raised a specific issue with respect to the 15.5 metre maximum building height limit for sites in excess of 2,000m<sup>2</sup> that have frontages to both Isle and Man Streets. In his opinion there appears to be no defined logic to the introduction of a 15.5 metre height limit to the Isle Street sub-zone when development of a similar scale appears in only a relatively discrete number of areas within the Lakeview sub-zone (which is an area that has a demonstrated ability to integrate and absorb larger scale development).<sup>192</sup>
- 9.7.21 At the hearing, Mr Bird recommended deletion of the 15.5 metre maximum building height limit proposed under Zone Standard 10.6.5.2(i)(a) (bullet point 7). He considered that this provision would be contrary to the urban design and landform/built form objectives of having taller buildings tucked as closely as possible into the toe of Ben Lomond, stepping down in height as buildings move away from that location towards the existing town centre and the lake.
- 9.7.22 Ms Gilmour raised similar issue in her submission at the hearing. She advised that she was not aware of any landscape/urban planning/visual impact justification for the increase in height for large-scale buildings in the Isle Street sub-zone. Ms Gilmour sought that this area of the plan change be subject to a 12 metre height limit.
- 9.7.23 As the Commission will address more fully in section 9.11 of this decision, the submission by Mr Thompson (50/24/08) and the supporting legal submissions of Ms Baker-Galloway raised a number of valid issues relating to the efficient use of the eastern block of the Isle Street sub-zone. From an effects based point of view, based on the evidence before us we do not accept that there is a significant level of difference in terms of visual amenity between the 12 metre height limit (plus the 2 metre roof bonus) as compared to the 15.5 metre height limit provided under Rule 10.6.5.2(i)(a) for the eastern Isle Street sub-zone. Accordingly we do not support the deletion of this rule on landscape or visual amenity grounds for this particular area of the sub-zone. However, we accept that the deletion of the rule is appropriate in relation to the western Isle Street sub-zone, as will be fully discussed in section 9.11 of this decision.

<sup>190</sup> At paragraph 10 of Mr Speedy's supplementary planning evidence.

<sup>191</sup> Mr Speedy notes that the Council has granted a lease to a private operator to manage the Lakeview Holiday Park and is considering a similar lease arrangement for the hot pools site under the Reserves Act 1977.

<sup>192</sup> At page 79 of the Section 42A report.

### **34 Brecon Street**

- 9.7.24 The Commission was addressed at some length on the landscape and visual amenity values raised by BSPL in relation to 34 Brecon Street, noting that this involved extensive evidence produced by both Council and BSPL. The evidence was primarily focussed on the appropriateness of the proposed increase in the height limits sought by BSPL and the corresponding impact on the adjoining ONL(WB), wider public views of the plan change and impacts on the adjoining Queenstown cemetery.
- 9.7.25 BSPL(50/10) is the owner of 34 Brecon Street. While BSPL supports, in part, Plan Change 50, it sought an increased height limit for its property located at 34 Brecon Street, as set out previously. BSPL argued that the part of the sub-zone that is closest to the existing 'core' should provide for similar or greater height than that proposed for the remainder of the Lakeview sub-zone. The Commission notes that BSPL produced extensive planning and urban design evidence in support of its submission and further submissions.
- 9.7.26 Mr Gibbs considered that while the western end of the Lakeview sub-zone may be a suitable location for a convention centre and associated activities, it would fall to the eastern end of the Lakeview and Isle Street sub-zones to effectively meet the need for expansion of the town centre.<sup>193</sup> He considered that Plan Change 50 is inappropriately restrictive in relation to the development controls that are intended to be applied to the eastern end of the Lakeview sub-zone and the Isle Street sub-zone. As a consequence, in his view the efficient utilisation of the site would be hampered.<sup>194</sup> Mr Gibbs considered that the plan change does not provide a cogent argument as to why buildings with a maximum height of 26 metres are permitted at the north-western end of the Lakeview site but a restriction of 12 metres is mandated at the eastern end, where there are superior connections to the existing QTCZ. Mr Gibbs' evidence was supported by Mr Munro.
- 9.7.27 Mr Munro presented an overview of the proposed rule framework supporting BSPL's submission. In summary, this provided for buildings of up to 15 metres in height at the cemetery boundary, additional height up to 19 metres as a Controlled Activity, with a further increase to 22.5 metres as a Restricted Discretionary Activity. Each scenario also included an additional 2 metres of height as habitable roof space, supported with roof plant that was proposed to exceed this maximum height by up to 3 metres, provided the plant was no more than 40m<sup>2</sup> area and at least 10 metres back from any road boundary.<sup>195</sup> Any height over 15 metres would be required to be set back from the cemetery by 17 metres, or by a realignment of Cemetery Road.<sup>196</sup>
- 9.7.28 In addressing the proposed rule framework, the Commission notes that BSPL (50/10/07) sought an amendment to the Lakeview sub-zone Structure Plan to provide for the realignment of part of Cemetery Road. While this is a matter supported by Mr Bird and Dr Read, as discussed by Mr Bryce in the Section 42A report,<sup>197</sup> the stopping of Cemetery Road does not form part of this plan change process. Mr Gibbs was highly critical that the plan change did not address the realignment of Cemetery Road in view of the strong support from its advisors. He considered it "iniquitous" of Council not to have provided for the potential realignment within the Urban Design Framework and Structure Plan.<sup>198</sup> Noting this

<sup>193</sup> Refer paragraph 5(d) of Mr Gibbs' primary evidence.

<sup>194</sup> Refer paragraph 5(b) of Mr Gibbs' primary evidence.

<sup>195</sup> Mr Munro at paragraph 5.1(c) of his primary evidence, notes that this roof plant bonus have been taken from Plan Change 50, Rule 10.6.5.2(i)(a)).

<sup>196</sup> At paragraph 6.31 of Mr Munro's primary evidence.

<sup>197</sup> At page 71 of the Section 42A report.

<sup>198</sup> At paragraph 16 of Mr Gibbs' primary evidence.

concern, Mr Kyle recommended an amendment to Rule 10.6.5.1(xiii) to provide an exclusion from the requirement to obtain resource consent for any future proposal to realign Cemetery Road along the northern boundary of the sub-zone to link it to Brecon Street. While this does not immediately provide for the setback mitigation sought by BSPL, any future re-alignment of Cemetery Road can be given effect to without constituting a breach of the Site Standard that applies to the Lakeview sub-zone Structure Plan.

- 9.7.29 The amendment of the Lakeview Structure Plan and Height Limit Plan to add a building setback of 17 metres from the existing southern boundary of the cemetery, which is to apply to all buildings with heights above 15 metres, was discussed by Mr Gibbs (refer Figure 4, and Appendix B). Mr Gibbs considered that this control would ensure that development of 34 Brecon St would not dominate the cemetery, irrespective of whether or not Cemetery Road is relocated.<sup>199</sup> The Commission notes, for completeness, that Mr Bird disagreed with Mr Gibb's evidence as, in his opinion, a 24 metre high building would generally be viewed from the higher ground of the cemetery. Accordingly, a 24 metre building (even with a 17 metre set-back for buildings above 15 metres in height) would be highly visible from the cemetery. Mr Bird considered that only as a viewer approached the shared boundary would the 15 metre high component begin to eclipse the additional 9 metres of building height because of the increasingly steep angle of view.

### **Loss of Visual Amenity and Landscape Values associated with 34 Brecon Street**

- 9.7.30 The Commission heard extensive evidence from Mr Bird and Dr Read in relation to landscape, visual amenity and associated urban design considerations in relation to the proposals advanced by BPSL. Both witnesses raised concern about the extent of the proposed height limit and its corresponding impact on the adjoining Queenstown cemetery, together with the potential loss of outlook to wider landscapes from this public space.
- 9.7.31 Dr Read and Mr Bird both relied on the Height Limit Study to draw attention to the sensitivity of the eastern end of the Lakeview sub-zone from both a landscape and urban design point of view. The Height Study observed that the Brecon Street area *"has less potential to absorb significant building height increases than the adjacent Lakeview Park area, as it is separated from the steeply sloping land of Ben Lomond by the cemetery open space. Buildings over three or four storeys could have significant adverse effects on landscape and heritage values, by:*
- (a) *Dominating and shadowing the cemetery and potentially blocking views from this important public space to the Remarkables, Cecil Peak, Queenstown Hill and the town;*
  - (b) *Visually dominating views for Queenstown Recreation grounds, Queenstown Primary School playing fields and parts of the town centre;*
  - (c) *Potentially obscuring vistas up Brecon Street and Camp Street to the gondola and Ben Lomond.*<sup>200</sup>
- 9.7.32 In addressing issues raised during the hearing, including shading effects, the Planning and Urban Design JWS recorded the agreement of the experts present that the proposed scale of development sought by BSPL would not result in adverse shading effects on adjoining properties (including the Council camping ground). Mr Bird and Mr Weir noted that the trees that are to be retained and protected as part of the plan change eclipse some of the shading effects that would be created by a 24 metre high building on the shortest day of the year (10am on 21<sup>st</sup> June). They considered that, in the absence of any other factors, the difference in shading

<sup>199</sup> At paragraph 24 of Mr Gibbs' primary evidence.

<sup>200</sup> At page 16 of the Queenstown Height Study Landscape and Urban Design Assessment (attached as Appendix B to the AEE).

effects between a 12 metre and 24 metre high building would not comprise sufficient reason to limit the height of any building on 34 Brecon Street to less than 24 metres.<sup>201</sup> As a consequence, the Commission accepts that the 24 metre height limit proposed by BPSL would not generate detrimental shading effects on adjoining properties, including the Queenstown cemetery.

- 9.7.33 Notwithstanding their agreement in relation to the effects of shading, Mr Bird and Mr Weir continued to oppose a 24 metre height limit for 34 Brecon Street at the conferencing, on the grounds set out in their primary and supplementary evidence. On the contrary, Mr Gibbs and Mr Munro were of the opinion that a 24 metre building height limit is appropriate for 34 Brecon Street. The Planning and Urban Design JWS recorded that no agreement was reached with respect to the effects of an increase in the height limit of any building on 34 Brecon Street in relation to the cemetery, the effects on views and dominance from viewpoints other than from the cemetery, and the sustainable use of the Brecon Street site.
- 9.7.34 Addressing the effects on the adjoining Queenstown cemetery, Mr Bird endeavoured to compare the effects of a 12 metre building (as provided by Plan Change 50) to the BSPL preferred 24 metre high building on the cemetery. His supplementary evidence included Figure 1, which provided photomontages of buildings at the two height limits. Mr Bird concluded that the 12 metre high building sits comfortably alongside the cemetery, whereas the 24 metre high building (which is twice the height) begins to take visually dominant command of the cemetery.
- 9.7.35 Mr Bird's supplementary evidence included Figure 17 (taken from Mr Gibbs' Appendix B), which provided a photomontage comparing the two height limits. Mr Bird considered that a 12 metre high building would enable the large scale and grandeur of the Remarkables mountain range (on the left) and Cecil Peak (on the right) to remain fully legible and to comprise the predominant natural elements in the overall scene. He was of the opinion that by appearing to be taller than the Remarkables mountain range and obscuring much of its view, a 24 metre high building would visually distort and diminish its apparent scale and grandeur.
- 9.7.36 In terms of broader views of the plan change site, including 34 Brecon Street, one of the key issues raised by BSPL and Council witnesses was the difference of opinion in relation to the importance placed on building scale reflecting underlying topography. Both Council urban design and landscape architect witnesses reinforced the importance of ensuring that built form follows the existing topography of the plan change area. At 12 metres, Dr Read considered that the proposal complies with the Height Limit Study recommendation that the increase in building height within the area proposed for the plan change be limited to "one story higher than those most proximate". She considered that this would ensure that built form within the plan change area would not dominate or overshadow the neighbouring areas. A height limit of 12 metres would also help to ensure that the underlying topography remains expressed through the built form.<sup>202</sup>
- 9.7.37 Mr Bird, in his supplementary evidence, was of the opinion that the Height Limit Plan would enable a visually legible gentle slope from the tallest buildings located to the west of the Lakeview sub-zone, to the lower buildings in the east where the Lakeview and Isle Street sub-zones merge with the low lying Gorge Road valley. He concluded that the plan change achieves a synchronicity between the sloping topography of the natural landform underlying the two sub-zones and the built form constructed on top of it.<sup>203</sup>
- 9.7.38 Mr Gibbs and Mr Munro considered the key driver to be the proximity of the land to

<sup>201</sup> Refer Item 4 - 34 Brecon Street paragraph (viii) of the Planning and Urban Design JWS dated 12th February 2015.

<sup>202</sup> At paragraph 6.1 of Dr Read's evidence.

<sup>203</sup> At paragraph 50 of Mr Bird's primary evidence.

the existing QTC and the ability for the site to be utilised in a more efficient manner. Mr Gibbs concluded that the conditions that enable larger scale development on the Lakeview site are also found on 34 Brecon Street. In his opinion, the most effective way to preserve townscape values is to support the town by intensifying close to the its “heart” so that businesses benefit from the agglomeration effect.<sup>204</sup>

- 9.7.39 The supplementary evidence of Mr Bird provided three additional photomontages.<sup>205</sup> We found these particularly helpful, given that they assist to articulate the potential visual dominance of a 24 metre high structure from wider public places.
- 9.7.40 Addressing views from wider public places, Mr Munro’s supplementary evidence confirmed that he remains of the view that Mr Gibbs’ primary evidence is more reliable than Mr Bird’s for the reasons given in his primary evidence. Other than Mr Munro’s comments with respect to his reliance of Mr Gibbs’s primary evidence, the Commission notes that BSPL provided a further response justifying the appropriateness of a 24 metre high development following receipt of the additional photomontages supplied by Mr Bird in his supplementary evidence (Figures 13, 14 and 15).
- 9.7.41 Dr Read considered that it is in views from the Queenstown foreshore and the Botanic Gardens that the greatest impact on view and view quality will occur as a consequence of the plan change. While Dr Read did not have the benefit of reviewing the additional photomontages attached to Mr Bird’s supplementary evidence, her primary evidence concluded that, in her opinion, buildings of 24 metres in height would be excessively dominant both over the cemetery and in the wider context of urban development at the foot of Bowen Peak.
- 9.7.42 The Commission questioned Dr Read on the scale of development proposed by BPSL for the 34 Brecon Street site. Dr Read stated that she considered development of the scale requested to be inappropriate, as it would visually dominate the cemetery. She noted that the 34 Brecon Street site does not have the backdrop that the south-western end of the Lakeview sub-zone has (where the plan change proposes to allow a height limit of 24 metres), which is nestled at the base of the mountain range. Dr Read concluded that the effect on views from the cemetery would potentially be significant should a building of 24 metres in height be developed on 34 Brecon Street.<sup>206</sup>
- 9.7.43 Addressing the context of views from public places, Dr Read stated that a 24 metre high building on 34 Brecon Street, when viewed from Shotover Street, would be very prominent. She considered that the building would appear almost a third as high from this perspective [her Appendix 3] as the skyline, and would significantly detract from the visual amenity of the mountain slope behind it. In her opinion it would appear as a very strong dominating structure when viewed from the QTC.
- 9.7.44 Overall, the Commission accepts the evidence of Mr Bird and Dr Read that a full 24 metre high development on 34 Brecon Street site may potentially be visually dominant from wider public places and from the adjoining cemetery. There is a risk that a development of this scale would create an abrupt and visually truncated “eastern end” to the enabled development silhouette/profile of the Lakeview and Isle Street sub-zones against the backdrop of the Ben Lomond Scenic Reserve, as noted by Dr Bird.<sup>207</sup> Such an outcome is evident in Figure 13 attached to Mr Bird’s supplementary evidence.

<sup>204</sup> At paragraph 18 of Mr Gibbs’ primary evidence.

<sup>205</sup> One from original Viewpoint 6 on the waterfront edge of Queenstown Bay, one from Viewpoint 8, approximately mid-way along the footpath on the lakeside edge of Queenstown Gardens and one from Viewpoint 2, at the far western end of the footpath following the lakeside edge of Queenstown Gardens.

<sup>206</sup> At paragraph 7.2 of Dr Read’s evidence.

<sup>207</sup> At paragraph 50 of Mr Bird’s primary evidence.

- 9.7.45 In his closing legal submissions, Mr Bartlett QC submitted that the visual analysis provided by BSPL establishes that the site is capable of absorbing buildings significantly higher than the 12 metres permitted as a Controlled Activity by the plan change. Having considered the evidence of Mr Bird, Dr Read, Mr Munro, Mr Weir and Mr Gibbs and adopting a balanced approach, which factors in visual amenity, landscape and the efficient use of a scarce resource (commercial land), we have concluded that while a 24 metre high building would prima facie be inappropriate, a building in excess of 12 metres in height may well be acceptable on this site. However, we have concluded that the extent of the additional building height permitted as a Controlled Activity should be limited to 15.5 metres (with the addition of a 2 metre roof bonus comprising no more than 40m<sup>2</sup> in area, and located a minimum distance of 17 metres from the adjoining Queenstown cemetery boundary and 10 metres from adjoining road boundaries)<sup>208</sup>. As we have previously determined in relation to the eastern block of the Isle Street sub-zone, from a landscape and visual amenity perspective the Commission is not persuaded that there is a significant difference in built form when comparing a 12 metre (plus 2 metre roof bonus) building to a 15.5 metre high building on this relatively large site. Supporting this point, we note that Appendix B to Mr Gibbs' evidence proposed a 15 metre height limit (beyond which a 17 metre setback would be required). We accept that a building height of 15.5 metres would impact only minimally on wider outlooks to the Remarkables mountain range when viewed from the adjoining cemetery. Further, and importantly, this scale of development will remain generally consistent with the scale of buildings permitted on the Isle Street east sub-zone and the wider Lakeview sub-zone in this locality.
- 9.7.46 In addressing Figures 13 and 14 attached to Mr Bird's supplementary evidence, the Commission is not persuaded that there would be a significant difference in effects from allowing a building height of 15.5 metres (plus a constrained 2 metre roof bonus) on the 34 Brecon Street site. Views from the wider public places depicted in the Figures would not, in the Commission's opinion, detract from the landscape and visual amenity values of Ben Lomond Scenic Reserve to the north any more than the heights permitted by Plan Change 50 for the remaining areas of the Lakeview sub-zone.
- 9.7.47 The alternative 15.5 metre height limit preferred by the Commission for 34 Brecon Street would enable an additional storey (or up to four storeys) for a future development on this site, while ensuring that the scale of development appropriately responds to the proximity of the adjoining Queenstown Cemetery. The Commission also notes, for completeness, that at four storeys, any development would accord with the three to four storey height limit discussed in the Council's Height Limit Study.
- 9.7.48 The Commission considers that, on balance, a development higher than 15.5 metres on 34 Brecon Street may be acceptable; however, to ensure that any effects on visual amenity and landscape are appropriately mitigated, any building with a proposed height over 15.5 metres should be assessed on its merits as a Restricted Discretionary Activity. This is consistent with the evidence of Mr Kyle, who was of the opinion that higher buildings would be more appropriately advanced through a resource consent process, where issues such as design quality, physical setbacks, and the ability to provide for visual breaks within the development to maintain views to wider landscapes can be considered in more detail. We are cognisant that in supporting a 15.5 metre height limit (including a 2 metre roof bonus provision comprising no more than 40m<sup>2</sup> in area), roof plant will need to be carefully designed. This is a matter that was specifically addressed by BSPL (submission 50/10/05).

<sup>208</sup> We understand that Mr Munro, at paragraph 5.1(c) of his primary evidence, has adopted the roof plant bonus sought within the relief of BSPL from the Plan Change 50 provisions attached as Appendix C to Mr Kyle's primary evidence and set out in Rule 10.6.5.2(i)(a)). The only difference to the wording of the rule now proposed is the 17 metre setback applied off the adjoining Queenstown cemetery boundary.

## Commission's Recommendations

1. That the submissions by Brecon Street Partnership Limited (50/10/07 and 50/10/05) and the further submission by Queenstown Gold Limited (F50/38/01) be **accepted in part**.
2. That the submissions by Brecon Street Partnership Limited (50/10/02, 50/10/03 and 50/10/06) be **rejected**.
3. That the submissions by Memorial Property Limited (50/39/05), Joy Veint (50/43/02), Janet Sarginson (50/45/03), Remarkables Jet Limited (50/49/06), Cath Gilmour (50/48/11) be **rejected**.

## 9.8 EFFECTS ON INFRASTRUCTURE

### The Issues and Decisions Requested

9.8.1 Four original submissions raised issues of relevance to infrastructure effects, including:<sup>209</sup>

- A moratorium should be placed on new high rise buildings in Queenstown, due to infrastructure, traffic management and other costs;
- Council needs to adopt a lead role in dealing with planning, and the provision of infrastructure servicing solutions in terms of the Isle Street sub-zone;
- Stormwater requires treatment prior to discharging it into the lake. Stormwater is also occasionally inadequate in the Isle Street area; and
- Sewerage pipes in the Isle Street area occasionally become blocked and may need to be upgraded.

### Discussion & Reasons

9.8.2 The Section 42A report provided a comprehensive overview of the infrastructure issues raised by the plan change.<sup>210</sup> Mr Bryce noted that Holmes Consulting Group carried out an assessment of infrastructure services to the Lakeview site to inform the plan change.<sup>211</sup> This assessment included the Lakeview sub-zone, Isle Street sub-zone and 34 Brecon Street - the latter added following consultation. No significant impediments were identified in this report; however, existing capacity issues in relation to various components of infrastructure means that upgrades will be required to address the anticipated level of development under Plan Change 50.

9.8.3 Ms Jarvis, for the Council, presented evidence in relation to the infrastructural upgrades required to give effect to the plan change. She maintained that land subject to the plan change is well served by water and wastewater infrastructure; however, some minor upgrading to the servicing infrastructure would be required as the Lakeview sub-zone site is developed (and possibly the Isle Street sub-zone). In particular, updating of the stormwater pipe network will be required to accommodate additional stormwater discharges resulting from an expected decrease in permeable surfaces.

9.8.4 Mr Kyle concluded that, in his opinion, the plan change would make efficient use of

<sup>209</sup> 50/05/04, 50/26/04 and 50/28/04, 50/48/07.

<sup>210</sup> At pages 63 to 65 of the Section 42A report.

<sup>211</sup> Attached as Appendix D to the AEE.

existing utility infrastructure in terms of Section 7(b) of the Act.<sup>212</sup> The Commission accepts this conclusion. No recommendations are made with respect to the submissions that have addressed service infrastructure, on the basis that the supporting technical assessments and evidence have confirmed that the plan change can be supported by existing infrastructure, subject to upgrading where required.

## Commission's Recommendations

1. That the submissions by Ms Daniela Bagozzi (50/05/04), The Dairy Guesthouse 2003 Limited (50/26/04), Any Old Fish Company Holdings Limited (50/28/04), and Ms Cath Gilmour (50/48/07) be **rejected**.

## 9.9 EFFECTS ON HERITAGE VALUES

### The Issues and Decisions Requested

9.9.1 Four submitters specifically raised concerns in relation to this issue as follows:<sup>213</sup>

- Many existing cabins on the Lakeview site have heritage value; they represent a tourist attraction and maintain a link to the past of Queenstown as a family holiday resort;
- The removal of 'Kiwiana' cribs/batches on Antrim Street and Earnslaw Street as opposed. The cribs should be retained through partial exclusion of the Lakeview sub-zone over this area of site;
- The Council should consider options for the retention of a small number of the Thompson Street cribs, as representative examples of Queenstown's development from a domestic tourism base into a major international tourist destination;
- Whilst the cemetery is recognised in the Inventory of Protected Features as a Category 2 heritage item, the heritage rules are not able to influence the form of development on adjoining sites; and
- Given the identified significance of the heritage trees as a tangible reminder of the area's use as a recreation reserve for the people of Queenstown, which reflects the beautification initiatives of the early residents, protected heritage trees deserve explicit recognition in the provisions of the proposed plan change.

9.9.2 The Commission notes that most submissions sought amendments to the plan change to provide for the retention of the existing cribs on Antrim Street and Earnslaw Street, or that greater recognition be given to listed trees and heritage features within the plan change boundary.

### Discussion & Reasons

9.9.3 The evidence of Dr Cawte was the only formal heritage evidence presented to the Commission, although a number of submitters gave statements that addressed heritage issues during the course of the hearing. The Commission has also considered the submission of Heritage New Zealand.

<sup>212</sup> At paragraph 7.18 of Mr Kyle's primary evidence.

<sup>213</sup> 50/05/01, 50/20/02, 50/06/01, 50/41/01.

9.9.4 Dr Cawte advised that his firm had prepared the heritage impact assessment for land subject to the plan change.<sup>214</sup> The heritage impact assessment identified the presence or absence of heritage and archaeological sites within the Lakeview and Isle Street sub-zones. Dr Cawte noted that at least 11 archaeological sites within the Lakeview and Isle Street sub-zones had been identified. He also identified a number of existing post-1900 heritage buildings within the freehold area and the “Lynch Block” of the Lakeview sub-zone, and noted that these cribs reflect an important period in Queenstown’s development.

### **Glenarm Cottage**

9.9.5 Dr Cawte considered that the most significant archaeological site identified (based on an evaluation of assessment criteria) is an extant 1880’s cottage, referred to as the ‘Glenarm Cottage’, located on the corner of Man and Camp Streets.<sup>215</sup> He considered Glenarm Cottage to be a “rare type” of archaeological site in that the dwelling is one of a few remaining structures from this period that is still occupied for its intended purpose. Mr Cawte noted that the cottage is currently protected under the District Plan at a Category 2 level. In his opinion, the building’s small footprint and single storey means that it would be threatened by a plan change that permits more intensive development than that currently allowed under existing plan rules. While not forming part of this current plan change process, Dr Cawte recommended that the protection of this cottage be elevated to Category 1 as part of the District Plan review.

9.9.6 Mr Kyle, in his supplementary planning evidence, responded to the Commission’s earlier questioning of Dr Cawte. He recommended that, subject to jurisdiction, there should be an amendment to Controlled Activity Rule 10.6.3.2 to include a specific matter of control to manage potential adverse effects on the heritage values of Glenarm Cottage.<sup>216</sup> However, Mr Edmonds considered the provisions recommended by Mr Kyle to be inappropriate and requested their deletion, as there are no similar controls applying throughout the District Plan for listed heritage buildings and features. It was subsequently agreed amongst witnesses at the Planning and Urban Design conferencing that Mr Kyle’s proposed matter of control was not essential,<sup>217</sup> as the existing provision already requires the consideration of the design and appearance of buildings, and this necessarily requires a contextual assessment.<sup>218</sup>

9.9.7 The Commission is therefore satisfied that an appropriate contextual assessment will be required for any future development adjacent to Glenarm Cottage. This would require consideration of design and appearance, as well as the developmental relationship with important heritage buildings such as Glenarm Cottage.<sup>219</sup>

### **Cribs**

9.9.8 Dr Cawte advised that the freehold land comprising the majority of the plan change area and the “Lynch Block” respectively contain character cribs that are not covered by the pre-1900 protections of the Heritage New Zealand Pouhere Taonga Act 2014.<sup>220</sup> They do, however, reflect the transition from a mining town to holiday destination, an important period in Queenstown’s history.<sup>221</sup> Dr Cawte considered that these cribs reflect an intermediary period in this growth, whereby the majority of

<sup>214</sup> Hereafter referred to as the ‘EIA’.

<sup>215</sup> Refer paragraph 7.6 of Dr Cawte’s evidence.

<sup>216</sup> Refer paragraphs 21 to 23 of Mr Kyle’s supplementary planning evidence.

<sup>217</sup> Including John Kyle, Clinton Bird, Doug Weir, Nigel Bryce and Gillian MacLeod.

<sup>218</sup> As referred under Item 5(iii) of the Planning and Urban Design JWS dated 12<sup>th</sup> February 2015.

<sup>219</sup> As required under Controlled Activity rule 10.6.3.2(i) and assessment matters under 10.10.2(iv)(d).

<sup>220</sup> Hereafter referred to as ‘HNZPTA’

<sup>221</sup> Refer paragraph 7.7 of Dr Cawte’s evidence.

tourists were domestic and based around the family unit. Subsequently, there was a shift from mainly domestic tourists to a larger number of international visitors. Accordingly, in his view the cribs are a remnant of an interesting and important period in Queenstown's history. Dr Cawte considered that Thompson Street, which is located within the freehold area, boasts the best examples of these cribs. Other examples of extant heritage relating to this period exist at 52, 54, and 56 Camp Street.

- 9.9.9 As a mitigation measure commensurate to their heritage value, it was Dr Cawte's recommendation that the Thompson Street cribs should be classified under the equivalent of Level 4 of the Heritage New Zealand Guidelines for Investigation and Recording of Buildings (2006), as a means of understanding this formative period of Queenstown's development. He noted that the Council has already undertaken this work, and that it provides an interesting insight into the emergence of the tourism industry as it relates to domestic crib-dwelling families.
- 9.9.10 Heritage New Zealand's primary submission (50/20/02) encouraged the Council to consider options for the retention of a small number of the Thompson Street cribs, as representative examples of Queenstown's development from a domestic tourism base into a major international tourist destination. If retention was not possible, Heritage New Zealand encouraged the Council to facilitate the relocation of the cribs in order to avoid their demolition.
- 9.9.11 Mr Bryce's Section 42A report records that a number of submitters (50/05/01, 50/06/01, 50/07/01, 50/41/01) sought the retention of the cribs on Antrim Street and Earnslaw Street. A further submission received by Mr Geoff McPhail (F50/59/01) supported the original submission of Mr Tai Ward-Holmes (50/07).
- 9.9.12 Mr Ward-Holmes (50/07) presented a statement to the Commission (which included a statement from Mr David Stringer (50/06)). Both submitters raised concerns relating to the demise of the cottages on Antrim Street, and were opposed to the removal of the 'kiwiana' cribs or batches. Mr Ward-Holmes provided the Commission with an overview of an alternative proposal advanced by Queenstown Heritage Cottages (which he represents), to retain the existing cottages in the Antrim Street/Earnslaw Street area. He also sought to provide for the retention of nine cottages, with the goal of establishing a unique historical working model accommodation precinct.
- 9.9.13 BSPL (50/10) lodged a further submission (F50/10/08) that opposed submissions 50/06/01 and 50/07/01 seeking the retention of these cabins. BSPL stated that the cabins do not have sufficient heritage quality to outweigh the benefit of development of the site.
- 9.9.14 The Committee questioned Dr Cawte on the importance of the cribs, the period of time over which these cribs were developed and their historical significance. Dr Cawte explained that the emergence of Queenstown as a tourist destination is reflected within the evolution of the cribs, which have evolved and changed since 1935 (with cribs first being constructed in the Thompson Street locality).
- 9.9.15 Evidence before the Commission suggested that while the existing cribs are important in that they reflect the cultural and social changes experienced in Queenstown from the mid-1930's, they are not of sufficient overall significance to warrant retention. Commensurate to their heritage value, Dr Cawte's recommendation to Council that the Thompson Street cribs should be recorded is, in our view, an appropriate mitigation measure.

- 9.9.16 Ms Campbell, in her opening legal submissions,<sup>222</sup> together with Mr Speedy for the Council,<sup>223</sup> advised that a commercial arrangement is already in place for some of the cribs to be relocated and utilised elsewhere. Ms Campbell submitted that the relocation of a number of these existing cribs would assist to mitigate any adverse effects on historic heritage, and that the Heritage New Zealand primary submission contemplated such an outcome without disapproval. The Commission is satisfied that any adverse effect on the historic heritage of the cribs has been appropriately provided for as part of this aspect of the plan change.
- 9.9.17 In addressing Mr Ward-Holmes's response that a number of the existing cribs be protected by an alternative proposal advanced by Queenstown Heritage Cottages, the Commission recommends that this matter be discussed directly with the Council. We do not have jurisdiction to rule on this issue, as it is a private law matter between the lessees and Council as the landowner. We understand that retention of existing cribs within the plan change boundary is subject to existing licences, which we have been advised are due to expire 30 September 2015. Given that the Lynch Block's retention as HDRZ is proposed, there may be opportunity for Queenstown Heritage Cottages to discuss retention options with the Council directly in relation to this matter.

### **Queenstown Cemetery**

- 9.9.18 Heritage New Zealand's original submission (50/20/03) requested that the effects of adjoining development on the setting of the cemetery be taken into consideration as part of the plan change. Heritage New Zealand also considered it important that overly dominant buildings and lack of connection to the wider zone should not marginalise the cemetery. BSPL (50/10) lodged a further submission (F50/10/18) opposing this submission. Heritage New Zealand's additional response to the Commission expanded on its primary submission relating to the effects of the plan change on the Queenstown cemetery, asserting that the cemetery has significant heritage and amenity values.<sup>224</sup>
- 9.9.19 In terms of mitigating the effects of future development at 34 Brecon Street on the cemetery, Heritage New Zealand saw merit in a land swap between the Council and BSPL involving the realignment of Cemetery Road so that it runs along the side of the cemetery boundary (thereby creating an open space buffer of between 15 and 20 metres). Heritage New Zealand did not make any specific recommendations as to the appropriate height for any future development at 34 Brecon Street.
- 9.9.20 Dr Cawte addressed the effects on Queenstown cemetery, and noted that while not directly impacted by the proposed plan change, adjacent developments facilitated by the plan change could have a negative impact. The cemetery is considered a large archaeological site and an important heritage place bordering 34 Brecon Street and the Lakeview sub-zone.<sup>225</sup>
- 9.9.21 Dr Cawte maintained that building heights should take into account the effects of shading, and not "enclose" the area or significantly impact on views (especially from the main orientation), as this could adversely affect a visitor's experience. He also noted that consideration should be given to noise and consistency of  $d_{in}$  at the boundary – a potentially significant detraction from the expected values of the cemetery.<sup>226</sup>

<sup>222</sup> At paragraph 5.5 of Ms Campbell's opening legal submissions.

<sup>223</sup> Refer paragraph 1.12 of Dr Cawte's evidence.

<sup>224</sup> Dated 19<sup>th</sup> November 2014.

<sup>225</sup> Refer paragraph 8.4 of Dr Cawte's evidence.

<sup>226</sup> Refer paragraph 8.7 of Dr Cawte's evidence.

- 9.9.22 Dr Cawte submitted that a realignment of Cemetery Road could result in heritage benefits. In his view realignment of the road would create a buffer zone between the cemetery and private property, reducing the impact of adjoining structures and their ability to enclose the cemetery, as well as improving the connectivity to the township. Importantly, it would allow for the main entry to be reinstated, which would return the cemetery entrance to its historic format.<sup>227</sup>
- 9.9.23 The Committee questioned Dr Cawte on the impact that the inclusion of 34 Brecon Street into the plan change would have on the Queenstown cemetery. Dr Cawte explained that the primary objective of heritage sites is to enhance visitor experience, and in his view the current amenity of the cemetery should be maintained.
- 9.9.24 In terms of the cemetery, Mr Munro accepted that there are long standing views from the cemetery across the town centre and distant peaks; however, he considered that these are more correctly described as of “a general character” or relate to the “amenity value” of the cemetery, as opposed to its essential quality as a heritage item (as, for instance, the layout of tombstones often leads people away from the view rather than framing the views of people looking at tombstones).<sup>228</sup> While we agree that these values may be considered to be of general or amenity character, we accept Dr Cawte’s evidence that heritage sites are mainly about visitor experience and their interactions with the history of the heritage site.
- 9.9.25 Mr Munro addressed the Commission on the survey data compiled from cemetery users,<sup>229</sup> which demonstrated that users ostensibly placed considerably lower value on views from the cemetery to the southern mountains than Dr Cawte may have presumed.<sup>230</sup> While useful in defining user numbers and the purpose of their visit, we do not accept that the survey data was a useful gauge of the potential adverse effect on visitor experience of the scale of development proposed by BSPL. On the contrary, based on the evidence before us, the proposed scale of development has the potential to erode the amenity values that exist for current and future visitors to the cemetery (which is currently still actively used for burials), and may, in turn adversely impact on visitor experiences at the cemetery.
- 9.9.26 The Commission also records that at the Planning and Urban Design conferencing, both Mr Bird and Mr Weir agreed that the difference in shading effects of 12 metre and 24 metre high buildings on 34 Brecon Street would not be a reason to limit development on 34 Brecon Street to less than 24 metres. The Commission understands that if shading created by the existing environment is also taken into account, the analysis demonstrates that the additional height sought does not create substantially different or additional adverse effects. On this basis, the Commission records that shading effects on the cemetery would not appear to compromise the amenity values of visitors when existing environmental features are also taken into account.
- 9.9.27 As has been noted in section 9.7 of this report, the Commission accepts that at a height of 15.5 metres there would be very little additional dominance created by a building on 34 Brecon Street as compared to a 12 metre height limit plus 2 metre roof bonus. As a consequence, we have supported the inclusion of a 15.5 metre height limit for this property as a Controlled Activity. A matter of control has been introduced to ensure that any adverse effects on the heritage values of the cemetery are adequately mitigated. In reaching this conclusion we are satisfied that the historic values of the cemetery will be appropriately maintained.

<sup>227</sup> Refer paragraph 8.9 of Dr Cawte’s evidence.

<sup>228</sup> At paragraph 6.7 of Mr Munro’s primary evidence.

<sup>229</sup> As set out in the statement of Mr Trevor Schrieber.

<sup>230</sup> At paragraph 6.11 of Mr Munro’s primary evidence.

9.9.28 Mr Bryce's Section 42A report recommended that an additional matter of control be included in the District Plan to ensure that the interface with the cemetery is assessed when resource consent is sought for buildings on sites adjacent to the cemetery. This was supported by Mr Kyle (albeit with minor wording changes) and incorporated in his recommended planning provisions. We accept that this recommended amendment is appropriate.

### **Protected Trees**

9.9.29 The Commission notes that Heritage New Zealand's original submission (50/20/04) identified two groups of heritage trees that are recognised in the District Plan Inventory of Protected Features (references 198 and 214).<sup>231</sup>

9.9.30 Heritage New Zealand (50/20/04, 50/20/05) identified the significance of the trees as a tangible reminder of the use of this area as a recreation reserve for the people of Queenstown and the beautification initiatives of the very early residents. In its view, the protected heritage trees deserve explicit recognition in the provisions of the proposed plan change.

9.9.31 Mr Bryce's Section 42A report addressed this submission, noting that the existing protected trees located within the Lakeview sub-zone are to be retained.<sup>232</sup> Mr Bryce considered that the existing trees are sufficiently protected through the existing District Plan provisions, and that any physical works within close proximity will trigger the need for a full Discretionary Activity resource consent under Part 13 (Heritage).<sup>233</sup> He noted that Part 13 of the District Plan already contains Objective 2 (Heritage Trees) and associated supporting policies that reflect the outcome sought by the submitter. Further, Rule 10.6.2 requires the consideration of District Wide rules (including Part 13 - Heritage). As a consequence Mr Bryce did not recommend the amendments sought by Heritage New Zealand. The Commission agrees with Mr Bryce with respect to this aspect of the relief sought by Heritage New Zealand.

9.9.32 The submission by NTTL (50/34/05) sought that the location of the trees, and the tree-root protection areas, be more accurately defined through this plan change process. Mr Kyle addressed this matter, submitting that as these trees will retain their current protection status under the District Plan, their ultimate management will need to be consistent with the District Plan provisions.<sup>234</sup> The Commission agrees with Mr Kyle's response to this submission. We consider the outcome sought by NTTL to be more appropriately addressed through a detailed design linked to the future resource consent process, rather than through this plan change (an outcome also supported by Mr Bryce in his Section 42A report).<sup>235</sup>

### **Commission's Recommendations**

1. That the further submission by Brecon Street Partnership Limited (F50/10/08) be **accepted**.
2. That the submissions by Heritage New Zealand (50/20/02 and 50/20/03) be **accepted in part**.

<sup>231</sup> The group of trees includes two mature wellingtonia trees (*Sequoiadendron giganteum*), six oaks (*Quercus robur*), and four cedars (*Cedrus deodara*) and Wellingtonia (*Sequoiadendron giganteum*) Ref. No. 151 (QLDC District Plan) adjacent to the Isle Street sub-zone.

<sup>232</sup> At page 53 of the Section 42A Officer's report.

<sup>233</sup> Under Rule 13.2.3.2(iii).

<sup>234</sup> At paragraph 8.21 of Mr Kyle's primary evidence.

<sup>235</sup> At page 76 of the Section 42A report.

3. That the submissions by Heritage New Zealand (50/20/04 and 50/20/05), Daniela Bagozzi (50/05/01), Mr David Stringer (50/06/01), Mr Thai Ward-Holmes (50/07/01), Mark and Ann McKenzie (50/41/01), Ngai Tahu Tourism Limited (50/34/05), and the further submissions by Brecon Street Partnership Limited (F50/10/09) and Mr Geoff McPhail (F50/59/01) be **rejected**.

## 9.10 RESOURCE MANAGEMENT ISSUES RAISED BY PLANNING PROVISIONS FOR THE LAKEVIEW SUB-ZONE

### The Issues and Decisions Requested

#### Height Limits for the Lakeview Sub-Zone

9.10.1 With the exception of one additional submission point raised by BSPL (the remainder having been addressed within section 9.7 above),<sup>236</sup> 10 submitters specifically raised issues relating to the height provisions within the Lakeview sub-zone as follows:<sup>237</sup>

- Although a height increase for high density residential development on the Lakeview site is appropriate, the height limit should be reduced to a 10 metre maximum with a 2 metre roof bonus;
- General concerns relating to the scale, height and density of the proposed development;
- The 26 metre height allowance against the Ben Lomond Reserve would be visually disastrous and should be amended;
- A 4.5 metre height limit for the 'lease area' as indicated in Figure 3 - Lakeview sub-zone Height Limit Plan is unnecessarily restrictive and would curtail the development of this site; and
- The proposed height increase on the Man Street boundary, directly against higher ground, for example, the camping ground, should be withdrawn.

9.10.2 A range of additional submissions relating to the various Lakeview sub-zone provisions included:

#### Building Setbacks

- There should be a generous setback of 50 metres or a 7 metre height restriction within 50 metres of the street boundary in the Lakeview sub-zone where this has a frontage to Isle Street and Hay Street.<sup>238</sup>

#### Structure Plan

- The Structure Plan rule should be amended to ensure that the view shaft cannot be varied so that it might be located within the submitter's land;<sup>239</sup>
- The Structure Plan should be amended to allow further building on the strip of land marked as reserve on the north;<sup>240</sup> and
- The 'active frontage' areas shown on the Figure 2 of the Structure Plan, as they relate to the 'lease area' for the hot pools, should be deleted.<sup>241</sup>

<sup>236</sup> 50/10/08.

<sup>237</sup> 50/01/01, 50/09/02, 50/40/01, 50/21/03, 50/23/06, 50/30/05 and 50/30/06, 50/31/07, 50/34/07, 50/49/06. 50/43/02.

<sup>238</sup> 50/23/06, 50/31/07.

<sup>239</sup> 50/37/04.

<sup>240</sup> 50/40/07.

<sup>241</sup> 50/34/06.

### Strengthen Provisions Relating to Use of Reserve Land

- There is a need to strengthen the rules relating to noise, light spill, vehicle and pedestrian access, odour and visually bland or dominant buildings, wall and fence controls on the reserve land proposed to front Thompson Street in the Lakeview Structure Plan to protect the amenity of nearby residential properties and public places.<sup>242</sup>

### Additional Development on Reserve Land

- The Structure Plan should be amended to allow further building on the strip of land marked as reserve to the north of the Structure Plan.<sup>243</sup>

## **Discussion & Reasons**

### **Height Limits for the Lakeview Sub-Zone**

- 9.10.3 Two submitters (Michael Legge 50/01/01, Joy Veint 50/43/02) considered that Plan Change 50's 'high rise' approach would result in environmental and visual damage. Mr Legge submitted that the unique alpine resort character of the town would be lost if high rise buildings are permitted "right up to the District's mountains" and that the town could resemble 'Surfers' Paradise'. MPL (50/39/05) considered that the proposed building height limits (in both sub-zones) could detract from the visual amenity and landscape qualities of Queenstown and its surrounds. Similarly, Mr Craig Stobo (50/21/03) did not support the change to allow buildings up to 26 metres high at the boundary of the Ben Lomond Reserve. Mr Huntington (50/30/06) sought the retention of the HDRZ but proposed an increase in the height rule with respect to the Lakeview sub-zone to 10 metres plus a roof bonus of 2 metres.
- 9.10.4 The landscape and visual amenity effects of the proposed buildings heights have already been discussed in section 9.7 above. Accordingly we need not repeat our findings on landscape and visual amenity considerations.
- 9.10.5 Mr Bird noted that the Height Limit Plan illustrates the specific areas of the Lakeview sub-zone to which various maximum building heights apply. These heights range from 4.5 metres (at the yellow end of the spectrum), via incremental steps of 12 metres (3 storeys), 15.5 metres (4 storeys), 19 metres (5 storeys), 22.5 metres (6 storeys), to a maximum height of 26 metres (7 storeys) (at the red end of the spectrum), excluding the possible 2 metre roof bonus to promote attractive roof design. Based on Mr Bird's experience, it is generally accepted internationally that buildings of 6 to 7 storeys in height are 'medium rise', and *not* 'high rise'.<sup>244</sup> Mr Bird considered that the vast majority of the Lakeview sub-zone is subject to a maximum building height limit of 12 metres (3 storeys), which is little more than the height of a typical residential town house. Buildings of this height would, in his opinion, be considered 'low rise'.<sup>245</sup> We accept Mr Bird's evidence, which was not disputed by any of the expert witnesses, and have concluded that the proposed height limits in the Lakeview sub-zone are appropriate.

### **Additional Building Setbacks**

- 9.10.6 The original submissions of Nigel Brown (50/23/06) and Gillian and Donald McDonald (50/31/07), sought a generous setback of 50 metres or a 7 metre height

<sup>242</sup> 50/17/01.

<sup>243</sup> 50/40/07.

<sup>244</sup> At paragraph 10.10 of Mr Bird's primary evidence.

<sup>245</sup> At paragraph 10.11 of Mr Bird's primary evidence.

restriction within 50 metres of the street boundary in the Lakeview sub-zone where sites have a frontage to Isle Street and Hay Street. Mr Bird considered that the height reduction relief would be contrary to the urban intensification and built form/streetscape character objectives of Plan Change 50.<sup>246</sup> Further, the Commission notes that this would not appropriately articulate the proposed QTCZ height limits and would relate poorly to larger scale buildings located within the adjoining Isle Street sub-zone. The relief sought in relation to building setback off Isle Street and Hay Street would also result in an inconsistent urban design response.

- 9.10.7 Overall, the Commission considers that the building setbacks proposed for the Lakeview sub-zone are appropriate.

### **Height Limit – Hot pools Site**

- 9.10.8 NTTL (50/34/07) requested that the proposed Plan Change 50 rules for building height within the 'lease area' remain consistent with the rules for Recreation Reserves, and accordingly be increased to a maximum height of 8 metres. Mr Huntington (50/30/05) stated that maintaining the height of the hot pool complex consistent with that of adjacent land would result in a higher value and premium for what is a community asset. The Commission notes, for completeness, that the adjoining land is zoned HDRZ, which provides for either 7 metres or 8 metres in height depending on the gradient of the site.
- 9.10.9 Mr Edmonds addressed the NTTL submission. He advised that the submitter has an interest in leasing approximately 7,500m<sup>2</sup> of land located to the west of the intersection of Man and Thompson Streets, generally indicated as 'reserve' on Figure 2 of the 'Lakeview Sub-Zone Structure Plan'. It is NTTL's intention to establish a commercial hot pool facility on this land, together with associated spa treatment rooms and ancillary retail, service and administrative activities (the scope of which have not yet been determined).
- 9.10.10 Mr Edmonds commented that the existing trees located within the proposed 'lease area' are protected under the District Plan and, as such, these trees have the potential to constrain the submitter's future development aspirations. He considered that it is unlikely that an appropriate "entry" building and commercial retail activities associated with the hot pool operation could be accommodated within the 4.5 metre height limit mandated by the Lakeview sub-zone Structure Plan. Mr Edmonds explained that an 8 metre height limit was sought to provide greater flexibility in relation to the submitter's future development aspirations for the proposed 'lease area'.
- 9.10.11 Mr Bird considered that raising the maximum permitted building height limit from 4.5 metres to 8 metres on the Hot Pools site would substantially compromise the rationale for the height limits proposed in the Lakeview sub-zone. In Mr Bird's opinion, an increase in the height limit at this site would also compromise the visual prominence and functional significance of a building on the proposed convention centre site in relation to the square generally and, in particular, to the main entrance into the square from Man Street and the James Clouston Memorial Park.<sup>247</sup>
- 9.10.12 Dr Read considered that limiting the height of any future building to 4.5 metres would protect the contribution that this reserve land will make to reducing the visual effects of development to the north. In her opinion, increasing the height of development beyond 4.5 metres has the potential to generate increased effects in

<sup>246</sup> Refer paragraph 10.58 of Mr Bird's primary evidence.

<sup>247</sup> At paragraph 10.34 of Mr Bird's primary evidence.

relation to the visual dominance of buildings in this part of the site. Dr Read was emphatic that this is a sensitive site that should contribute some “green amenity” to the overall development of the Lakeview site. Accordingly she opposed to the relief sought by NTTL.<sup>248</sup>

9.10.13 Based on the evidence of Mr Bird and Dr Read, the Commission does not support the relief sought by NTTL and recommends that the height limit as notified be retained for this part of the Lakeview sub-zone. We note that any proposed increase in height for a specific proposal would appropriately be assessed as a Restricted Discretionary Activity within the rule framework.

### **Building Coverage**

9.10.14 Justin Wright (50/40/03 and 50/40/04) submitted that the minimum building coverage on both the Lakeview and Isle St sub-zones should be increased to a minimum of 95%. Mr Bird considered the maximum 80% coverage proposed for the Lakeview sub-zone to be sufficient to enable the efficient and sustainable use of this scarce and valuable Queenstown land resource. We concur with Mr Bird and deal with submission (50/40/03) under the Isle Street building coverage at section 9.11 of this decision.

### **Structure Plan**

9.10.15 HW Holdings (50/37/04) sought that Rule 10.6.5.1(xiii) be amended to ensure that the secondary view shaft adjacent to its land cannot be relocated within the submitter’s land. The submitter was also concerned that the secondary view-shaft could become a service lane or used as the back-of-house area for the convention centre (as a location for skip bins, deliveries and other low amenity functions). It sought that the uses of the view shaft be limited to landscaping, pedestrian and cycling purposes only. Further, HW Holdings (50/37/03) sought the introduction of assessment matters (linked to the submitter’s request for a Restricted Discretionary Activity for the convention centre) to ensure that any development of land within the Lakeview sub-zone to the east of the submitter’s land be managed to avoid the location of service or back-of-house facilities adjacent to the common boundary.

9.10.16 These matters were comprehensively addressed by Mr Kyle,<sup>249</sup> as well as during caucusing in December 2014. Agreement with respect to the siting of outdoor storage areas was reached through amendments to Rule 10.6.3.2A(i) Restricted Discretionary Activities (a) Convention Centres located within the Lakeview sub-zone. We accept that the proposed agreed change to the activity status is both necessary and appropriate (subject to our comprehensive revisions to the rule framework for predominant uses in the Lakeview sub-zone as discussed above); however, we do not consider that any additional assessment matters are required to address the submitter’s concerns in view of the matters of discretion governing predominant uses that have now been introduced.

### **Active Frontage**

9.10.17 In its original submission (50/34/06), NTTL noted that the Structure Plan (Figure 2 at page 10-17) indicated a solid red line around most of the eastern and the entire northern boundary of the proposed lease area, which represents an ‘active frontage area’. The submitter sought that the ‘active frontage’ areas shown on the Figure 2 Structure Plan, as they relate to the lease area, be deleted.

9.10.18 Mr Bird considered it important that all frontages to the proposed Market Square

<sup>248</sup> Refer paragraphs 7.9 to 7.12 of Dr Read’s evidence.

<sup>249</sup> At paragraph 8.32 of Mr Kyle’s primary evidence.

assist in “activating” the square. In his opinion there must be the “strongest possible visual and functional interaction” between the hot pools site and the square if the square is to maximise its potential to become a publicly attractive, engaging, vital place for events to take place and for people to linger.<sup>250</sup> Without the active frontage rule applying along this boundary, there is, in his opinion, a very real danger that future development could “turn its back” on the square. On the basis of the evidence of Mr Bird, the Commission does not support the relief sought by NTTL. We are persuaded that the active frontage is an integral component of the plan change, and that it is appropriate in all of the circumstances. Further, we did not hear any evidence that might establish that compliance with the active frontage requirements would significantly adversely impact on any development on the hot pools site.

### **Additional Development on Reserve Land**

9.10.19 Mr Justin Wright (50/40/07) supported the plan change but requested that the Structure Plan be amended to allow further building on the strip of land marked as reserve to the north of the Structure Plan. He wished to see this urban space developed so that Council could realise the valued added to the Council-owned asset.

9.10.20 In addressing this submission, the Section 42A report noted that the land that forms part of the proposed reserve provides an open space buffer to the wider ONL(WB) of Ben Lomond and Bob’s Peak landscapes. Mr Bryce noted that extending the urban boundary into this reserve and the ONL(WB) was not an outcome that he supported.<sup>251</sup> The Commission agrees with this conclusion.

### **Strengthen Provisions Relating to Use of Reserve Land**

9.10.21 CMQT (50/17/01) are the owners of 15 Brunswick Street and 3, 5, 9 and 11 Brunswick Street. CMQT (50/17/02) requested that Council ensures Plan Change 50 contains adequate provisions and controls for the reserve land proposed to front Thompson Street in the Lakeview sub-zone Structure Plan to address noise, light spill, vehicle and pedestrian access, odour, visually bland or dominant buildings, and wall and fence controls to appropriately protect the amenity of nearby residential properties and public places. CMQT also requested that the noise rules for the wider zone be strengthened to ensure that the amenity of properties and public places within and beyond the zone are appropriately protected. This submission was opposed by NTTL in its further submission (F50/34/01),<sup>252</sup> which considered that the changes sought by CMQT are unnecessary and could compromise the ability of the site to be used for the purpose of a hot pool complex.

9.10.22 The Commission considers that the issues raised by CMQT have been appropriately addressed in the Section 42A report and/or have been responded to during the course of the hearing. Building design, lighting and glare, noise and other amenity related provisions are all appropriately provided for within the proposed planning provisions supporting Plan Change 50, as amended as a result of this hearing.

### **Outline Development Plan**

9.10.23 Ms Gilmour (submission 50/48/06) suggested that an outline development plan be required to give more surety to the eventual shape of the plan change area. She noted that in this District the Urban Design Panel has been utilised effectively to assist with the assessment of outline development plans and subsequent building

<sup>250</sup> At paragraph 10.46 of Mr Bird’s primary evidence.

<sup>251</sup> At page 75 of the Section 42A report.

<sup>252</sup> Hereafter referred to as ‘NTTL’.

design. Ms Gilmour's proposal would necessitate the obtaining a resource consent for land use activities within the new zone, once the layout of buildings, public spaces, access and the like had been confirmed.

9.10.24 Currently, the proposed Structure Plan and associated performance standards for the zone seek to manage the effects of land use activities that would ultimately locate on this land without the requirement for an outline development plan. While the Commission generally supports the use of outline plan processes, which provide greater detail in support of plan changes (and which could have assisted greatly in addressing matters raised during this hearing process), we have concluded that an outline development plan should not be required for the Lakeview sub-zone, given the overriding purposes of the Lakeview Height Limit Plan and Structure Plan and the desire by Council to provide for a degree of flexibility for the future development of the Lakeview sub-zone. We note that the Lakeview sub-zone is supported with appropriate assessment matters that provide clear urban design guidance.

### **Internal Floor-to-Floor Height Amendment**

9.10.25 BSPL (50/10/08) sought an amendment to Rule 10.6.5.1(xiv)(a)(d) to specify a minimum 3.5 metre ground floor floor-to-ceiling height limit so as to remove the uncertainty that exists around inter-floor and service height in a floor-to-floor requirement, and to ensure the most efficient possible use of space. This was a matter addressed in Mr Bird's supplementary evidence, where he agreed that a minimum 3.5 metre ground floor floor-to-ceiling height would deliver an acceptable urban design outcome. The Commission accepts this amendment.

## **Commission's Recommendations**

1. That the submission by Brecon Street Partnership Limited (50/10/08) be **accepted**.
2. That the submissions Marjory Pack and John Allan (50/18/03) and HW Holdings NZ Limited (50/37/04) be **accepted in part**.
3. That the submissions of Mr Nigel Brown (50/23/06), Ms Gillian and Mr Allan Huntington (50/30/05, 50/30/06), Mr DJ and Ms EJ Cassells (50/09/02), Mr Craig Stobo (50/21/03), Mr Nigel Brown (50/23/06), 50/31/07, Ngai Tahu Tourism Limited (50/34/06 and 50/34/07), Memorial Property Limited (50/39/05), Remarkables Jet Limited (50/49/06), Mr Justin Wright (50/40/01, 50/40/04 and 50/40/07), HW Holdings Limited (50/37/04), Ms Gilmour (50/48/06) and Mr Christopher Mace and Queenstown Trust (50/17/02) be **rejected**.

## **9.11 RESOURCE MANAGEMENT ISSUES RAISED BY PLANNING PROVISIONS FOR THE ISLE STREET SUB-ZONE**

### **The Issues and Decisions Requested**

#### **Policy Framework**

9.11.1 Marjory Pack and John Allan (50/18/03) requested a number of specific amendments to the Isle Street sub-zone policy framework.<sup>253</sup> The relief sought is

---

<sup>253</sup> 50/18/03.

set out in detail in Mr Bryce's Section 42A report.<sup>254</sup> The Commission adopts this aspect of Mr Bryce's report in full and agrees with his suggested amendments to Policy 1.2, which replaces the words "*in close proximity to the town centre*" to "*within the vicinity of the town centre*". The revised wording aligns with the changes proposed in Issues 10.2.3 (third bullet point). The Commission notes that this amendment was incorporated in Mr Kyle's final recommended rule framework, as set out in his further supplementary evidence.

9.11.2 The Commission notes that Mr Bryce did not recommend adopting any further amendments to the policy framework, given that the relief sought advances the "suburban elements" of the proposed Isle Street sub-zone. The Commission is satisfied that proposed Policy 1.5, which supports Objective 1, will promote an appropriate mixed-use environment facilitating both commercial and high density residential development within the Isle Street sub-zone. As we have set out at paragraph 9.11.12 of this report, further amendments are proposed to the Isle Street sub-zone to more appropriately respond to the differences in character between the western and eastern blocks. In our view these amendments directly respond to the relief sought by Marjory Pack and John Allan.

### **Height Limits for the Isle Street Sub-Zone**

9.11.3 Nine submitters have specifically raised issues with regard to the height provisions in the Isle Street sub-zone.<sup>255</sup> These included:

- The 12 metre height limit was considered to be appropriate; however, more detailed work is required be undertaken with regard to the potential loss of outlook from a number of properties, particularly properties that front onto Isle Street.
- When calculating height, the current ground levels should be adopted for the Isle Street Sub-Zone, as opposed to the original ground levels;
- The proposed increases in the height limits are inappropriate due to loss of sun (which will cause shading in winter and summer). The existing HDRZ height limit (7 metres) should be retained;
- The height increase proposed for the properties adjoining Man Street was strongly opposed;
- The combination of the 12 metre height limit in conjunction with the proposed site restrictions dictates unusual built form. Qualitative volumetric controls as opposed to maximum height limits, setbacks and recession planes should be considered in the alternative;
- The proposed height limits are totally out of scale for the area, particularly the 15.5 metres for sites over 2,000m<sup>2</sup>, and would lead significant shading of adjoining properties and Man Street;
- Site Standard 10.6.5.1(xi) Building and Façade Height (e) should be amended to reduce the maximum height limit to 10 metres given the existing character of the zone. The reference to the Isle Street sub-zone under 10.6.5.1 Site Standard (xi) Building and Façade Height (f) should be deleted;
- Zone Standard 10.6.5.2(i)(a) Bullet Points 7 to 10 inclusive should be deleted; and
- The proposal to allow the amalgamation of 2,000m<sup>2</sup> sites (four existing sites) should not be allowed, as buildings of this scale would "dwarf" the area and the CBD.

9.11.4 The relief sought ranged from full support of the provisions, as publically notified, to requesting further relaxing of the proposed standards, to seeking the rejection of the proposed height limits and retention of HDRZ height standards.

<sup>254</sup> At page 65 and 66 of the Section 42A Officer's report.

<sup>255</sup> 50/12/01, 50/13/01 and 02, 50/14/01, 50/16/03, 50/18/07 and 08, 50/21/06, 50/26/02, 50/28/02, 50/31/04.

### **Height Recession Plane**

9.11.5 Nine submitters specifically raised issues relating to the proposed height recession plane requirements in the Isle Street sub-zone.<sup>256</sup> These included:

- The need for a recession plane control was questioned. In particular, it was considered that a 45 degree recession plane commencing 5 metres above the boundary would be overly restrictive and could result in poor design outcomes, including unattractive built forms;
- There may be an issue as to how a 'northern boundary' will be interpreted with respect to the recession plane rule (it may, for example be more efficient to name the street boundaries to which this rule applies rather than refer to cardinal points);
- A report on the economics of the development should be commissioned by Council to ensure the proposed rules do not create a set of conditions that make the proposed plan unfeasible;
- Recession planes should be removed altogether;
- Council should undertake further assessment in relation to the exact makeup of the proposed recession planes, particularly considering the proposed mixed use of the Isle Street sub-zone. Recession planes should either be deleted and an alternative design solution put forward, or the angle/height of the recession planes relaxed;
- The current high-density limits and rules for the Isle Street sub-zone should be retained. Alternatively, a 5 metre height restriction on the Man Street rear boundaries with a horizontal plane towards Man Street to a maximum of 12 metres should be provided; and
- The recession planes from internal boundaries for the Isle Street sub-zone (10.6.5.1 (xi)(i) appear to be different than those of the QTCZ and Lakeview sub-zone, without justification. The same provisions should apply.

9.11.6 The relief sought questioned the appropriateness of the proposed recession plane provisions and requested their removal, replacement with the existing HDRZ or QTCZ provisions or that a more suitable alternative response be provided for.

### **Building Coverage**

9.11.7 Six submitters specifically raised issues of relevance to the building coverage proposed in the Isle Street sub-zone.<sup>257</sup> These included:

- The proposed site coverage and setbacks within the Isle Street sub-zone were opposed. Site coverage should be "increased to 60%" and setbacks should be provided in relation to all boundaries;
- The proposed maximum coverage in Isle Street sub-zone (70%) is less than some other areas of the town centre, including the new Lakeview sub-zone (80%);
- A site coverage of 70% is too intensive; and
- The minimum building cover on both the Lakeview site and the Isle Street sub-zone to be increased to a minimum of 95%.

### **Yard Setbacks**

9.11.8 Five submitters raised issues in relation to the yard setbacks proposed in the Isle

<sup>256</sup> 50/13/01, 50/21/08, 50/24/08, 50/26/02, 50/28/02, 50/31/02, 50/33/02, 50/36/02, 50/40/05/06.

<sup>257</sup> 50/12/02, 50/23/04, 50/24/02, 50/31/03, 50/40/03, 50/41/03.

Street sub-zone.<sup>258</sup> These included:

- The proposed internal setbacks will disrupt the continuity of the road frontages within the Isle Street sub-zone;
- Although the proposed internal setbacks may provide for natural light to penetrate into a building or buildings, the setbacks could create small narrow tunnels between sites, which would most likely end up as dead or redundant space;
- The Isle Street sub-zone has a minimum setback from side boundaries of 1.5 metres, (10.6.5.1(iv)(g)) whereas the QTCZ, the TCTZ and the Lakeview sub-zone have no such restrictions;
- Site Standard 10.6.5.1(iv)(g), which currently proposes a reduction of 0.5 metres from the 2 metre setback required under the HDRZ rules, should be amended; and
- Site Standard 10.6.5.1 (iv)(g) should be amended to provide for a 2 metre setback from internal boundaries where the subject site is located adjacent to a site containing a residential unit built prior to the date of notification of the plan change.

### **Noise Standards and Bars**

9.11.9 Five submitters raised concern in relation to noise and the operation of bars proposed within the Isle Street sub-zone.<sup>259</sup> These included:

- An objection to the potential noise from bars, restaurants and night clubs. These activities are not appropriate in the Isle Street sub-zone and should be a Prohibited Activity;
- A recommendation that any bars wishing to operate after 2200hrs should require consent on a notified basis. The proposed non-notification exemption was not supported;
- It was noted that noise from the premises licensed for the sale of liquor is restricted in the Isle Street sub-zone to certain levels between 10pm and 8am (under Rule 10.6.5.1.xv), which the submitter understands to be a different approach to that advanced within the QTCZ and Lakeview sub-zone. The different treatment for the Isle Street Sub-Zone was not justified; and
- The noise assessment carried out by Mr Chiles was questioned, in particular his comment that: *"It is understood that it is not desired to limit nightlife to a specific part of the plan change area..."*. It was noted that there was no discussion in the report about why this should or should not be so;
- It was recommended that the sale of liquor in the Isle Street sub-zone between the hours of 11pm and 7am should be classified as a Restricted Discretionary Activity and noise should not be excluded from the notification clause 10.6.4.

### **Removal of 400m<sup>2</sup> Retail Floor Area**

9.11.10 Two submissions were received directly relating to retail restrictions within the Isle Street sub-zone, and included:

- Zone Standard 10.6.5.2(iv) should be amended to delete reference to the 400m<sup>2</sup> retail tenancy restriction in the Isle Street sub-zone,<sup>260</sup> and
- The maximum retail space is 400m<sup>2</sup> per tenancy in the Isle Street sub-zone (10.6.5.2(iv)). Breach of this standard would result in assessment of the

<sup>258</sup> 50/16/04, 50/18/07, 50/24/06, 50/26/03, 50/28/03.

<sup>259</sup> 50/48/04, 50/12/05, 50/21/09, 50/24/04, 50/18/05 and 50/18/06.

<sup>260</sup> 50/18/08.

development as a Non-Complying Activity. Such a stringent status is not justified,<sup>261</sup>

### **Amendments to Assessment Matters Applicable to the Isle Street sub-zone**

9.11.11 Two submissions were received recommending amendments to assessment matters predominantly in relation to the Isle Street sub-zone and the urban design outcomes across the plan change area more generally, and included:

- The proposed assessment matters that address urban design outcomes should be replaced with one assessment matter which requires an urban design panel review mechanism,<sup>262</sup> and
- Amendments are required to assessment matters that are inappropriate for an area that is effectively destined to change in character and will be in transition for some time.<sup>263</sup>

## **Discussion & Reasons**

### **Should the Isle Street Sub-Zone be Treated Differently?**

9.11.12 Mr Bird discussed the tension between the outcomes sought by submitters. He commented that in the case of the Isle Street sub-zone, every effort had been made to strike a reasonable balance between minimising any adverse effects that Plan Change 50-complying development may have on the residential amenity of existing properties and enabling development that is more appropriately urban in character to fulfil the objective of the sub-zone.<sup>264</sup>

9.11.13 It became clear during the course of the hearing through submissions and the presentation of evidence that there is a very real difference, in terms of both character and existing land use activity, between the two blocks that comprise the Isle Street sub-zones. This raised the question as to whether the two Isle Street blocks should be treated differently to more appropriately address the resource management issues raised with respect to each block. In acknowledging this difference, the Planning and Urban Design JWS recorded expert witness support for treating Isle Street sub-zone (east) differently to Isle Street sub-zone (west),<sup>265</sup> and subject to scope, the rezoning of Isle Street sub-zone (East) area to QTCZ.

9.11.14 The Commission notes that Mr Thompson (50/24), supported by the further submissions of Watertight (F50/33/01), Mr Hockey (F50/36/01), MSPL (F50/27/11), Any Old Fish (F50/28/11) and Dairy Guesthouse (F50/26/11) sought to make the existing provisions of the Isle Street east sub-zone more enabling. Ms Baker-Galloway, counsel for Mr Thompson, submitted that given the level of commercial development that has already been advanced and the level of consolidation by existing landowners in the Isle Street sub-zone (East), this area forms the logical and obvious site for the initial expansion of the QTC. She pointed out that the eastern block of the Isle Street sub-zone is collectively held by four landowners, who are currently well positioned to develop their sites. She stressed that the eastern Isle Street block is not a 'residential block' in the normal sense of the term. In conclusion, Ms Baker-Galloway submitted that Mr Thompson's land should be supported by planning provisions that are not unnecessarily restrictive with respect to height, coverage, set back and recession plane/stepped height provisions.

9.11.15 Ms Baker-Galloway requested the Commission carefully consider whether the same

<sup>261</sup> 50/24/09.

<sup>262</sup> 50/15/05.

<sup>263</sup> 50/24/10.

<sup>264</sup> Refer paragraph 10.53 of Mr Bird's primary evidence.

<sup>265</sup> Including John Edmonds, John Kyle, Doug Weir, Clinton Bird, Nigel Bryce and Gillian MacLeod.

planning provisions should apply to both blocks that comprise the Isle Street sub-zone, or whether there may be a case for different plan provisions to apply to the eastern block as compared to the western block (which is currently more residential in character).

- 9.11.16 The Commission notes that Mr Edmonds (for Watertight (50/33) and Mr Hockey (50/36)) reached a similar conclusion to Ms Baker-Galloway. In Mr Edmonds' opinion, the eastern part of the Isle Street sub-zone is quite distinct from the western Isle Street sub-zone in terms of character and change in elevation. He noted that the eastern part of the Isle Street sub-zone is immediately bordered by the existing commercial precinct that exists to the north of this block (in which the Queenstown Medical Centre is presently located), which has influenced the character of land use activities located in the vicinity.
- 9.11.17 In her closing legal submissions at Annexure 2, Ms Campbell very helpfully included a table demonstrating the differences between the QTCZ Site and Zone Standards and those proposed under Plan Change 50. She submitted that there is a range of matters where the QTCZ is more liberal (such as the approach to visitor accommodation) and others where development could occur without the safeguards and improvements encapsulated in the plan change provisions (such as the requirement for the acoustic treatment of residential buildings). Having reviewed the differences, we have concluded that the most appropriate path forward is to amend the Plan Change 50 provisions to accommodate the relief sought by submitters, rather than adoption of the QTCZ provisions. This will provide more enabling planning provisions for the eastern Isle Street sub-zone to better reflect its existing and emerging urban character, while retaining the benefits of the proposed plan change rules.
- 9.11.18 Having considered the evidence before us, in particular the recommendations of the planning experts following caucusing, the Commission accepts that the two Isle Street blocks should be treated differently. The Commission recommends that the Isle Street sub-zone be separated into Isle Street sub-zone (West) and Isle Street sub-zone (East), with the introduction of the following planning provisions:
- An 80% building coverage be applied to Isle Street sub-zone (East), with Isle Street (West) to remain at 70%;
  - The proposed 6 metre rear yard setback will only apply to Isle Street sub-zone (West);
  - The 15.5 metre height limit that was exempted under Zone Standard 10.6.5.2(i)(a)(bullet point seven) be retained, but only with respect to Isle Street sub-zone (East);
  - The 15.5 metre height limit rule be amended such that the requirement to have frontage on both Man Street and Isle Street is deleted (this provision therefore only applies to sites greater than 2,000m<sup>2</sup> that front either Man Street or Isle Street, within the Isle Street sub-zone (East)).

### **12 metre Height Limit**

- 9.11.19 In his Section 42A report, Mr Bryce noted that most of the submissions in support of retaining the 12 metre height limit for the Isle Street sub-zone raised specific concerns with regard to the supporting recession plane and the potential for the provisions as notified to result in a "lopsided" development outcome. A number of submissions (Dairy Guesthouse 50/26/02, Any Old Fish 50/28/02, and MMHL 50/16/03) and the further submissions of Mr John Thompson (F50/24/04, F50/24/05, F50/24/13), BSPL (F50/10/16, F50/10/17) and Berry and Co (F60/50/03) considered that more detailed work needs to be undertaken as to the potential loss of outlook from a number of properties, particularly properties that front onto Isle Street, and

that current ground levels should be adopted for the Isle Street sub-zone (as opposed to the original ground levels).

- 9.11.20 Conversely, those submitters in opposition or partial opposition to the proposed height limits (Mr Alan Bunting (50/12/01), Alan and Marie Brown (50/14/01), Marjory Pack and John Allan (50/18/07), Browns Boutique Hotel (50/31/02)) sought the retention of a lower scale, less dense, semi urban or suburban environment. The Commission notes that original submitters 50/10, 50/26, 50/27, 50/28, raised further submissions including BSPL (F50/10/12, F50/10/17, F50/10/17, F50/10/11, F50/10/30, F50/10/30), MSPL (F50/27/02, F50/27/04), Any Old Fish (F50/28/02, F50/28/04) and Dairy Guesthouse (F50/26/02, F50/26/04) that opposed the relief sought by submitters seeking lower height limits.
- 9.11.21 Mr Bryce noted that the proposed 12 metre height limit would provide an additional storey as compared to the HDRZ height limits that currently apply throughout the Isle Street sub-zone, and would also ensure that building plant, which is typically sited on the roof, is able to be integrated into the roof form. He identified that the Monitoring Report for the Town Centre Zones concluded:<sup>266</sup> *“The most frequently breached Zone Standard was for breaches relating to height and recession planes. Breaches of these standards require assessment as a non-complying activity. Previous feedback on height controls suggested the use of greater discretion in height controls to enable unsightly building plant, such as heat pumps, to be hidden within the roof structure, thus creating a better design outcome.”* Based on this information, Mr Bryce considered the additional 2 metre roof bonus to be an important design response to ensure that unsightly roof plant is able to be internalised within the roof. The Commission agrees with this recommendation, and it is plain from Council’s monitoring of the existing QTC height provisions that the adoption of the 2 metre additional roof bonus provision is an appropriate response to promoting good urban design and planning practice.
- 9.11.22 For the Council, Mr Bird gave evidence that the 12 metre height limit is proposed to apply to the majority of the land to which Plan Change 50 applies. In his opinion, any reduction in this height (as sought within the submission of Marjory Pack and John Allan (50/18/07)) would be counter to the urban intensification and built form/streetscape character objectives of Plan Change 50.<sup>267</sup>
- 9.11.23 As noted at section 9.7 of this report, Dr Read confirmed that the 12 metre height limit complies with the Queenstown Height Study recommendation that the increase in building height within the area now proposed for the plan change be limited to one story higher than the most proximate developments. In her opinion this would ensure that built form within the plan change area would not dominate or overshadow the neighbouring areas and that the underlying topography would remain expressed through the built form.
- 9.11.24 As we have already discussed, the Commission considers that the 12 metre height limit (plus 2 metre roof bonus) should apply to both of the Isle Street sub-zones, with the exception of those sites on Isle Street (East) that are 2,000m<sup>2</sup> or larger and front either Isle Street or Man Street, in which case an uplift in the total height limit to 15.5 metres may be advanced through Site Standard 10.6.5.2(i)).
- 9.11.25 The Commission has considered the submissions of Dairy Guesthouse (50/26/02), MSPL (50/27/02), and Any Old Fish (50/28/02) that current ground levels, as opposed to original ground levels, should be adopted for the Isle Street sub-zone. This matter was addressed by Mr Kyle in his primary evidence. Mr Kyle confirmed

<sup>266</sup> Prepared by the Council in May 2012, at page 19.

<sup>267</sup> Refer paragraph 10.58 of Mr Bird’s primary evidence.

that the maximum building height limits under the District Plan are based on original ground levels, prior to any earthworks being carried out. He considered it more appropriate to retain the definition of ground level as it applies to the maximum building height for the Isle Street sub-zone, as the introduction of a 'current ground level' definition would unfairly advantage those sites where earthworks have already occurred.<sup>268</sup> The Commission accepts Mr Kyle's position on this matter.

### **Alternative Height Rule for Isle Street sub-zone (West)**

9.11.26 During conferencing undertaken in December 2014, Mr Nigel Brown (50/23) proposed an alternative building height limit for the western-most block in the Isle Street sub-zone. The effect of the proposed rule, as the Commission understands it, was to create two stepped maximum building height envelopes between Isle Street and Man Street. One envelope would have, as its upper limit, a *horizontal* plane extending south-eastwards from a maximum height of 7 metres above the front (north-western) boundary with Isle Street to whatever height above ground level was reached at a line set back 6 metres from the rear (south-eastern) boundary of the site. The second envelope would have, as its upper limit, a *horizontal* plane extending from a point 7 metres above the rear (north-western) boundary of a Man street property to whatever height was reached at the front (south-eastern) boundary of the site.

9.11.27 Mr Freeman (although not in the capacity of an expert due to a disclosed conflict of interest) addressed the Commission on the Isle Street sub-zone.<sup>269</sup> He stated that the submitters that he represented were generally comfortable with the planning provisions and additional analysis that related to the Isle Street sub-zone (West), as provided by Mr Bird in his primary evidence. Mr Freeman supported the maximum building height limit of 12 metres above ground level (plus a 2 metre roof bonus) as outlined in Rules 10.6.5.1(xi)(e) and (f). In his view this height limit (particularly with the allowance of a 2 metre roof bonus) would enable greater efficiencies in terms of building design, functioning and layout, and a much better building aesthetic.

9.11.28 We have had regard to the relief sought by Mr Brown; however, we note that from an urban design perspective Mr Bird remains supportive of the 12 metre height limit proposed and associated development controls for the Isle Street sub-zone (West) as outlined in the plan provisions presented by Mr Kyle in his supplementary evidence.<sup>270</sup> While the western Isle Street sub-zone block currently retains a largely residential character; this is likely to change over time (primarily as a result of location and proximity to the town centre). The artificial constraining of future development through the use of height limits designed to favour the existing status quo is neither necessary nor desirable, would have adverse effects on the efficient use of this land resource and would not further the objectives of the plan change.

9.11.29 For the reasons set out above, the Commission supports the 12 metre height limit (plus 2 metre roof bonus) provided for Isle Street sub-zone (West) (as set out in Appendix 1 of Mr Kyle's further supplementary evidence).

### **15.5 metre Height Limit in the Isle Street (East) sub-zone**

9.11.30 The plan change provided for a 15.5 metre discretionary height limit for sites with an area greater than 2,000m<sup>2</sup> and with frontages to both Isle and Man Streets (under Site Standard 10.6.5.2(i) as notified).

<sup>268</sup> At paragraphs 8.36 to 8.37 of Mr Kyle's primary evidence.

<sup>269</sup> Appearing for Maximum Mojo Holdings Limited (50/16) The Dairy Guesthouse 2003 Limited (50/26) Any Old Fish Company Holdings Limited (50/28).

<sup>270</sup> As discussed in Mr Bird's supplementary evidence at paragraphs 55 to 58.

- 9.11.31 Marjory Pack and John Allan (50/18/08) opposed the proposed zoning of the Isle Street block and sought specific rejection of the 15.5 metre height provision. They also sought the deletion of Zone Standard 10.6.5.2(i)(a) Bullet Points 7 to 10 inclusive. Further, Gillian & Donald McDonald (50/31/04) submitted that the amalgamation of 2,000m<sup>2</sup> sites should not be allowed. Nigel Brown (50/23/03) considered that the proposed height limits are totally out of scale for the area, particularly with respect to 15.5 metres for sites over 2,000m<sup>2</sup>. He requested that the amalgamation of 2,000m<sup>2</sup> sites be a Non-Complying Activity. This relief was opposed by BSPL in its further submission (F50/10/22 and F50/10/25).
- 9.11.32 Mr John Thompson (50/24/08) supported the discretionary height uplift for the Isle Street sub-zone; however, he submitted that the requirement to have frontage on both Man and Isle Streets to meet this standard was not justified and sought its deletion. This relief was subsequently opposed by the further submissions of Dairy Guesthouse (F50/26/12), MSPL (F50/27/12), Any Old Fish (F50/28/12) and supported by Watertight (F50/33/01), and Mr Hockey (F50/36/01).
- 9.11.33 Mr Bryce recommended that the 15.5 metre height uplift provision be deleted. In his opinion there appeared to be no defined logic to applying a 15.5 metre height limit to the Isle Street sub-zone, when development of a similar scale appears in only a relatively discrete number of areas within the Lakeview sub-zone (which he noted was an area that has a demonstrated ability to integrate and absorb larger scale development). He noted that the Height Limit Study did not identify this area as capable of absorbing larger scale development to the same extent.<sup>271</sup> Responding to the submission of Nigel Brown (50/23/07) in his Section 42A report, Mr Bryce stated that if his recommendation relating to the deletion of Site Standard 10.6.5.2(i) was not adopted, he considered the relief sought by the submitter to be acceptable. He noted that Mr Brown's proposed relief reflects the existing zone standard relating to height under Rule 10.6.5.2(i), which applies to the majority of the existing QTCZ.<sup>272</sup>
- 9.11.34 At the hearing, Mr Bird supported the deletion of the 15.5 metre height limit from the Isle Street sub-zone provisions. He considered that this would enable the construction of buildings higher than the maximum permitted in the Lakeview sub-zone land to the north-west of the Isle Street sub-zone, which would be contrary to the urban design and landform/built form objectives of having taller buildings tucked as closely as possible into the toe of Ben Lomond, stepping down in height as they move away from that location.<sup>273</sup>
- 9.11.35 Ms Baker Galloway, on behalf of Mr Thompson, submitted that given the lack of identified adverse environmental effects raised by this provision (when compared to the 12 metre height limit with the addition of a 2 metre roof bonus) and the overall benefit that this aspect of the plan change would have in enabling four storey development, the 15.5 metre height limit should be retained.<sup>274</sup> In her submission, retention of the height limit would promote the efficient development of this land.
- 9.11.36 Having considered the issues raised by submitters and the evidence presented by Council on this provision, we consider the 15.5 metre height limit on sites greater than 2,000m<sup>2</sup> to be effective and efficient in supporting the outcomes promoted within the Isle Street sub-zone (East) area. A height uplift to a maximum of 15.5 metres would provide for an additional storey to be considered and assessed as a Controlled Activity under Site Standard 10.6.5.1(xi)(e), which would provide

<sup>271</sup> At page 79 of the Section 42A Officer's report.

<sup>272</sup> At page 91 of Mr Bryce's Section 42A report.

<sup>273</sup> Refer paragraph 10.53 of Mr Bird's primary evidence.

<sup>274</sup> At paragraph 51 of Ms Baker-Galloway's opening legal submissions.

sufficient scope for a detailed assessment of the design and appearance of future development. This differs from the provisions of the plan change as notified, which required the additional 1.5 metre uplift (as compared to a 12 metre building plus 2 metre roof bonus) to be assessed as a Restricted Discretionary Activity. However, as any breach of the height limits in the plan change area would in effect be assessed as a Restricted Discretionary Activity, this would render the uplift provision pointless. We were persuaded by the evidence that the effects of an uplift of 1.5 metres in building height on the Isle Street sub-zone (East) would be relatively insignificant. Accordingly, we consider it appropriate to provide for the additional height uplift for areas greater than 2,000m<sup>2</sup> within the Controlled Activity framework. It should be noted that in relation to the amended rule framework we have specifically excluded the bonus roof provision from applying to the 1.5 metre uplift. The assessment criteria have been strengthened to ensure that any adverse effects are minimised during the consent process.

9.11.37 However, we do not consider this method to be an effective response for the western block of the Isle Street sub-zone for the reasons advanced by Council witnesses and Mr Bryce. The character, proximity to the town centre, commercial overlay and ownership arrangements of the two blocks are quite different, and in our view justify differential treatment. We are also cognisant of our decision with regard to the increasing the height of buildings on 34 Brecon Street to 15.5 metres, which will allay Mr Bird's concern in relation to the urban design and landform/built form objectives of having the taller buildings tucked as closely as possible into the toe of Ben Lomond, stepping down in height as they move away from that location (in this case, towards the existing QTC). Overall, we are satisfied that our approach is consistent with the plan change objectives, while facilitating the optimum development potential of this land.

9.11.38 The Commission further supports the submission by Mr Thompson (50/24/08) which was supported by Watertight (F50/33/01), and Mr Hockey (F50/36/01) that the requirement to have frontage on both Man and Isle Street to meet Site Standard 10.6.5.1(xi)(e) is not justified. Having considered the rationale behind the rule, we support amending this provision such that it applies to properties exceeding 2,000m<sup>2</sup> in area that have frontage to either Isle Street or Man Street.

### **Recession Plane**

9.11.39 Plan Change 50 proposed that in relation to internal boundaries within the Isle Street sub-zone, no part of any building should protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 5 metres above ground level of the site boundary for the southern, eastern and western (and including the north-western, south-western and south-eastern) boundaries of the site. The notified provisions do not mandate recession plane requirements for the northern/north-east property boundaries.

9.11.40 Mr Justin Wright (50/40/05) sought that all recession plane rules be removed from the Isle Street sub-zone. He raised concerns that the implication of the rule on building form had not been tested and would likely lead to poor building design that would be detrimental to urban form and to the environment. Similar concerns were raised by Louise Wright (50/13/01, 02) who considered that within the Isle Street sub-zone the combination of a 12 metre height limit, in conjunction with the proposed site restrictions, would result in "unusual" built form. In her view, the resultant built forms would be asymmetrical and truncated as a result of the domination of the recession planes.

9.11.41 The submission by MMHL (50/16/03), supported by the submissions of Any Old Fish (50/28/02) and Dairy Guesthouse (50/26/02), addressed the broad concern that has

been raised by submitters in support of the application of the QTCZ provisions over the Isle Street blocks. The submitters considered that further assessment should be undertaken by Council to ascertain the exact makeup of the presently proposed recession planes, particularly considering the mixed use of the Isle Street Sub-Zone. In their view the recession planes should either be deleted, an alternative design solution formulated, or the angle/height of the recession planes relaxed. The further submission by Berry & Co (F50/60/03) supported the removal of the recession plane and recommended that another design solution be put forward.

9.11.42 The submissions of Mr Hockey (50/36/02) and Watertight (50/33/02), in addressing the building height controls, questioned the need for a recession plane control. In particular, the submitters considered that the recession plane requirement was overly restrictive and could result in poor design outcomes, including unattractive built forms. The submitters requested that the recession plane rule be removed or amended, so as to allow greater building height closer to boundaries, and to exempt the rule's application to boundaries between sites held in common ownership.

9.11.43 The further submissions by John Thompson (F50/24/13, F50/24/04, F50/24/17) supported (in part) the submissions of Any Old Fish (50/28/02), MMHL (50/16/03), and Watertight (50/33/02).

9.11.44 Addressing the height recession planes, Mr Bird agreed with submitters that when viewed from the street, the two different side boundary requirements proposed as part of the recession planes promoted by Plan Change 50 could result in an odd-looking, lop-sided building form, which might appear to be "leaning" towards the north-eastern boundary.<sup>275</sup>

9.11.45 To avoid any built forms with odd-looking 45 degree slopes, Mr Bird promoted alternative recession plane controls as follows:

- "(a) On all side boundaries of a site adjoining an existing residential building constructed before Plan Change 50 was notified:*
- (i) For the first 8 metres in height (approximately two storeys): No set back controls; and*
  - (ii) From 8 metres in height to 12 metres in height: a minimum 3.2m set back from the side boundaries (with the exception of the north and north-eastern boundaries) is required for all buildings (see Figures 41 and 42); and*
- (b) Where any immediately neighbouring building has been constructed in accordance with the Plan Change 50 set-back controls, the set-back controls do not apply to the either of the two side boundaries; and*
- (c) Buildings shall be set-back a minimum of 6 metres from any rear boundary."*

9.11.46 Louise Wright (50/13/02) considered that qualitative volumetric controls, as opposed to maximum height limits, setbacks and recession planes should be adopted. This is a matter that was addressed by Mr Bird, who did not support this relief on the grounds that the resulting built forms would tend to be "unpredictable" in terms of bulk and location. Further, in his view the height limits contemplated in the Isle Street sub-zone are insufficient to ever achieve a tall, slim, elegant, tower form.<sup>276</sup>

9.11.47 In addressing the recession plane issue, Mr Freeman agreed with Mr Bird (and Mr Kyle/Mr Bryce) that the recession lines proposed as part of the notified plan change provisions should be deleted from the Isle Street sub-zone. He advised that the submitters that he represents are supportive of the intention of proposed Rule 10.6.5.1(xi)(i) outlined in the evidence of Mr Kyle and Mr Bird.<sup>277</sup> However, he

<sup>275</sup> At paragraph 10.71 of Mr Bird's primary evidence.

<sup>276</sup> At paragraph 10.91 of Mr Bird's primary evidence.

<sup>277</sup> Maximum Mojo Holdings Limited (50/16) The Dairy Guesthouse 2003 Limited (50/26) Any Old Fish Company Holdings Limited (50/28).

recommended the use of a specific interpretative diagram(s) in Appendix 4 of the District Plan to address scenarios where properties may be amalgamated in the future.

- 9.11.48 The Commission notes that the revised recession plane provisions attached to the further supplementary evidence of Mr Kyle provided two interpretation diagrams to explain the functioning of the recession plane rules. The revised provisions also clarified that: *“the 3.2 metre setback control (that forms part of the proposed recession plane control) does not apply where any building on any adjoining site has been issued building consent after the 17<sup>th</sup> September 2014, in which case no side yard setback is required.”* In addressing the issue raised by Mr Freeman with regard to the need to address instances where properties are amalgamated, the Commission notes that this does not appear to have been addressed within the proposed recession plane rules. In responding to this issue, we consider it appropriate that the rule be amended to exclude situations where properties are amalgamated into one title and developed as a single development unit (with the exception of the Glenarm Cottage property located within the Isle Street sub-zone).

### **Building Coverage**

- 9.11.49 John Thompson (50/24/02) requested that the maximum site coverage (under Rule 10.6.5.1(i)(e)) for the Isle Street sub-zone be increased to 80%. This submission was supported by the further submissions of BSPL (F50/10/25), Watertight (F50/33/01), C Hockey (F50/36/01), MSPL (F50/27/11), Any Old Fish (F50/28/11), and Dairy Guesthouse (F50/26/11). Similarly, Justin Wright (50/40/03) recommended an increase in the minimum building coverage on both the Lakeview and Isle Street sub-zones to 95%.
- 9.11.50 Conversely, Nigel Brown (50/23/04), Gillian & Donald McDonald (50/31/03) and Alan Bunting (50/12/02) all requested reductions in building coverage to between 55 and 60 percent. The relief sought by these original submitters was opposed in the further submissions of BSPL (F50/10/22, F50/10/31), MSPL (F50/27/02), Any Old Fish (F50/28/02, F50/28/11), and Dairy Guesthouse (F50/26/02, F50/26/11).
- 9.11.51 In his Section 42A report, Mr Bryce noted that the front yard requirement provides a maximum 1.5 metre setback, which would essentially pull development to the front of the site. His Figure 5 identified that for a “typical” property within the Isle Street sub-zone, the effect of the 1.5 metre maximum setback off the front yard, in combination with the 70% building coverage, meant that there would usually be an undeveloped area to the rear of approximately 10 metres in depth.
- 9.11.52 Mr Bryce, addressing the relief sought by Justin Wright (50/40/03), outlined his key concerns with regard to the suggested increase in the building coverage from 80% to 95%. In his view, an increase in building coverage of this magnitude would potentially reduce the area to the rear of each site that could be utilised for functional areas to support the future uses envisaged for this zone and restrict access to sunlight and daylight into these areas.
- 9.11.53 The Commission considers that an increase in site coverage to 80% for the eastern block of the Isle Street sub-zone is appropriate, given that many of these sites are owned in common by a limited number of parties. As with the application of the 15.5 metre height limit to the eastern Isle Street sub-zone, the Commission considers that it is a more efficient use of this land resource to enable greater building coverage over this block. We were not persuaded that the effects of relaxing these rules would result in any material adverse effects either within the Isle Street sub-zone (East), or to the neighbouring areas.

9.11.54 Mr Bird noted that should a typical Isle Street sub-zone site (of, say, 17 metres wide by 34.4 metres deep = 584.8m<sup>2</sup>) be developed with no front yard set-back, no side yards and only a 6 metre rear yard set-back, the site coverage would be 82.55%. If the same site were developed with a 1.5 metre maximum front yard setback, the site coverage would be 78.19%. As a consequence of this, we see some limitation in applying the proposed 80% site coverage to the western block of the Isle Street sub-zone, where the 1.5 metre setback is to be retained, as the site coverage for sites located within this block would automatically fall below 80%. Accordingly, we are comfortable that the site coverage for the Isle Street sub-zone (West) be retained at 70%, a position that was supported by Mr Freeman and the other submitters that have an interest in this block.

### **Yard Setbacks**

9.11.55 In his Section 42A report Mr Bryce noted that a range of submissions had been received that sought greater setbacks for the Isle Street sub-zone (in excess of the 1.5 metre side yards that have been proposed in Site Standard 10.6.5.1(iv)(g) or, alternatively, deletion of the side yards altogether to maintain consistency with the QTCZ.<sup>278</sup> The submission by MMHL (50/16/04), which is supported by the further submissions by Berry & Co (F50/60/03) and John Thompson (F50/24/04), also raised specific concern with regard to the potential for the proposed setbacks between buildings to create “narrow tunnels” between sites. Mr Thompson (50/24/06) sought the deletion of the minimum setback rule from side boundaries of 1.5 metres.

9.11.56 Dairy Guesthouse (50/26/03) and Any Old Fish (50/28/03) considered that the ability to park vehicles within the road boundary setback should be retained. These submitters recommended that provision be made for pedestrian links to be incorporated into the Isle Street Sub-Zone structure plan, as well as provision for a service lane to run through the two blocks (in a central manner).

9.11.57 Mr Bird agreed with those submitters that favour the abolition of all side yards. In his opinion, side yards in an urban environment are more often than not a “*waste of space and relatively little use to anybody*”. He considered that side yards have the potential to undermine the requisite spatial definition and containment of the street space, and promote a suburban rather than an urban streetscape character.<sup>279</sup>

9.11.58 As an alternative, Mr Bird recommended that all buildings be set back a minimum of 6 metres from any rear boundary. This is to ensure there would be a minimum 6 metres of outlook between any ground level living area, a minimum 6 metre dimension to any outdoor living space, and a minimum of 12 metres separating the rear walls of buildings on sites backing directly on to one another.

9.11.59 Mr Bird also recommended that no front yard setbacks be permitted on Brecon Street. The reason for this was that Brecon Street, which has high pedestrian traffic to and from the Skyline gondola, has the potential to be developed into a much more urban, pedestrian-oriented street with ground level retail and/or commercial services abutting the footpath.

9.11.60 Mr Edmonds, for Mr C Hockey (50/36) and Watertight (50/33), did not support the proposed 6 metre rear yard setback for the Isle Street sub-zone, and did not consider this to be an efficient use of this land resource. Similarly, Ms Baker-Galloway, on behalf of Mr Thompson, recommended that the 6 metre rear yard be deleted on the basis that it would restrict the future development of Mr Thompson’s

<sup>278</sup> At page 79 of the Section 42A Officer’s report.

<sup>279</sup> At paragraph 10.81 of Mr Bird’s primary evidence.

block. The Commission also notes that Ms Baker-Galloway questioned whether there was scope for the Council to introduce a 6 metre yard setback on the basis that no submitter had specifically requested this amendment.

- 9.11.61 Mr Freeman commented that MMHL (50/16), Dairy Guesthouse (50/26) and Any Old Fish (50/28) are supportive of proposed new Rule 10.6.5.1(iv)(g), which provides a 6 metre building setback from the rear yard boundary. In their view the new rule would have a range of benefits, namely allowing some additional light into the properties/buildings that adjoin the setback, maintenance of some views and a useable area for car parking and other on-site outdoor activities. Both Dairy Guesthouse and Any Old Fish submitted that pedestrian links and a service lane should run through the two blocks comprising the Isle Street Sub-Zone. Mr Freeman acknowledged that a 6 metre rear yard setback running through the two blocks might present an opportunity to “future proof” two service lanes within the two blocks contained in the Isle Street sub-zone.
- 9.11.62 However, Mr Freeman considered that further clarification is required in relation to the application of the 6 metre rear yard building setback for corner sites in the Isle Street sub-zone. This matter was subsequently addressed in the supplementary further evidence of Mr Kyle by way of a note exempting rear yard requirements from corner sites.
- 9.11.63 The Commission has considered the appropriateness of the 6 metre rear yard setback and agree that it would effectively promote an area to the rear of each site that could be utilised for multiple purposes, as outlined in the evidence of Mr Bird. We question, however whether this method is an appropriate response in relation to the eastern block of the Isle Street sub-zone. Having considered the land ownership structure within Isle Street sub-zone (east), we consider it unlikely that a 6 metre lane way would have any utility in this block. We agree with Ms Baker Galloway that the proposed 6 metre rear yard is essentially redundant in the eastern block due to the combination of street frontage setback and site coverage requirements, as buildings would be forced to the front of the site.
- 9.11.64 While the Commission considers that a 6 metre rear yard setback would ensure that there is consistency applied to the siting of buildings within the two Isle Street sub-zone blocks, and that this is likely to promote a more consistent urban design response, we are not convinced that the 6 metre rear yard is required for the eastern block of the Isle Street sub-zone in view of the existing front yard and building coverage requirements. The evidence plainly demonstrated that the character of the two blocks is quite different, with the eastern Isle Street area highly likely to be developed as town centre in the near future. Accordingly, we recommend that the 6 metre rear yard setback provision be deleted with respect to the Isle Street sub-zone (East). This is consistent with the conclusions reached by the experts during conferencing, and with the provisions of the QTCZ, which do not contain any requirements for yard setbacks.

### **Noise & Bars Operating within Both Lakeview and Isle Street Sub-Zones**

- 9.11.65 Submitters have questioned the appropriateness of the proposed noise controls in relation to licenced premises in the Isle Street sub-zone. Mr Thompson (50/24/04) recommended that the standards be amended to the standard QTCZ provisions for noise arising from premises licensed for sale of liquor and any consequential changes. Ms Gilmour (50/48/04) requested that both noise and licensing requirements in relation to the Plan Change 50 area be amended to reflect the Town Centre Transition Zone requirements advanced as part of the proposed District Plan Review.

- 9.11.66 Mr Alan Bunting (50/12/05) objected to the potential noise from bars, restaurants and night clubs and requested that these activities be a Prohibited Activity in the Isle Street sub-zone. Mr Stobo (50/21/09) submitted that any bars wishing to operate after 2200hrs should require resource consent on a notified basis. Ms Pack and Mr Allan (50/18/05) requested that rather than adopting a permissive approach to the sale of liquor, the sale of liquor in the Isle Street sub-zone between the hours of 11pm and 7am should require consent as a Restricted Discretionary Activity. This submitter (50/18/06) also opposed 'noise' being included within the notification exemption clause 10.6.4.
- 9.11.67 Mr Bryce's Section 42A report addressed noise considerations in relation to both the Isle Street and Lakeview sub-zones. He noted that proposed Site Standard 10.6.5.1(xv) differs from the existing QTCZ noise rules, as it provides a discretionary consenting pathway for bars and restaurants to operate after 2200hrs within outdoor areas. Importantly, the provisions as notified allow a case-by-case assessment as a Discretionary Activity through a non-notified resource consent process. The Commission notes that the notification exemption attracted a number of submissions seeking its deletion or amendment.
- 9.11.68 In terms of the issue raised with respect to notification (by submitters 50/18/05, 50/18/06, 50/21/09), Mr Bryce considered that given the existing number of residential properties within the Isle Street sub-zone, the notification exemption should not apply to the Isle Street sub-zone. He recommended that this clause be amended so that it only applies to the Lakeview sub-zone, given that this area has greater separation from adjoining residential areas.
- 9.11.69 Dr Chiles, addressing noise considerations for the Council, commented that a considerable amount of work has been done on the noise rules for the QTC, which will be addressed and implemented through the District Plan review process. He observed that both visitor accommodation and residential activities are important aspects of the overall plan change proposal. In his opinion it was not appropriate to adopt an approach similar to that under consideration for the existing town centre; which is to provide a more permissive noise limit for bars and restaurants. Dr Chiles considered that as flexibility is required with regard to the location of bars and restaurants in the plan change area, noise effects from individual bars and restaurants operating with outdoor areas after 2200hrs should be assessed on a case-by-case basis by way of a Discretionary Activity resource consent.<sup>280</sup>
- 9.11.70 The Commission notes that in his evidence in chief, Mr Kyle adopted the change proposed by Mr Bryce that the notification exemption should only apply to the Lakeview sub-zone. As a consequence of further discussions in relation to this matter during the hearing, the notification exemption was subsequently deleted altogether as part of Mr Kyle's supplementary evidence. The Commission accepts these recommended changes and notes that the retention of the HDRZ over the Lynch Block will ensure that the operation of bars and restaurants after 2200hrs will be greatly limited (given that these activities will be subject to a more onerous consent process under the HDRZ rules).
- 9.11.71 Mr Chiles recommended that within the plan change area all critical listening environments should be subject to sound insulation requirements to provide protection from sleep disturbance and for amenity.<sup>281</sup> As a consequence, reverse sensitivity effects are managed by specific rules requiring appropriate levels of insulation for visitor accommodation and residential activities within the Lakeview and Isle Street sub-zones.

<sup>280</sup> At paragraph 4.4 of Mr Chiles' evidence.

<sup>281</sup> At paragraph 4.7 of Mr Chiles' evidence.

9.11.72 Overall, the Commission accepts that the revised planning provisions will adequately respond to the notification exemption issues raised by submitters, while providing some flexibility for these activities to be considered on a case by case basis.

### **Removal of 400m<sup>2</sup> Retail Floor Area**

9.11.73 The maximum retail space is 400m<sup>2</sup> per tenancy in the Isle Street Sub-Zone (Rule 10.6.5.2.(iv)), which, if breached, requires resource consent as a Non-Complying Activity. Mr Thompson (50/24/09) considered that such a stringent status is not justified and sought that this provision be deleted. This submission was in turn supported by the further submissions of Watertight (F50/33/01), C Hockey (F50/36/01), MSPL (F50/27/11), Any Old Fish (F50/28/11), and Dairy Guesthouse (F50/26/11).

9.11.74 Marjory Pack and John Allan (50/18/08) sought that the rule be amended to include commercial activities (as well as retail) and that the Isle Street sub-zone restrict commercial activities to maximum gross floor area of 400m<sup>2</sup> per tenancy. This submission was in turn opposed by further submissions by Mr John Thompson (F50/24/10).

9.11.75 Based on the evidence presented to the Commission, we do not support the deletion of the 400m<sup>2</sup> retail floor space non-complying threshold. On the contrary, the evidence we have accepted shows that large format retail is not considered appropriate within either of the Lakeview or the Isle Street sub-zones, and as such restrictions have been imposed such that any retail activity cannot exceed a 400m<sup>2</sup> maximum gross floor area per tenancy. In considering the nature of the existing rule framework, which provides for this retail threshold as a Zone Standard, the Commission considers that a more effective outcome is to simply state that retail activities that exceed a maximum gross floor area of 400m<sup>2</sup> per tenancy is a Non-Complying Activity in these sub-zones (as set out under the Non-Complying Activity Rule 10.6.3.4).

9.11.76 Addressing the relief sought by Marjory Pack and John Allan (50/18/08), the Commission does not consider that restricting commercial activities to a maximum gross floor area of 400m<sup>2</sup> per tenancy within the Isle Street sub-zone to be an appropriate response, and notes that it is not consistent with the Plan Change objectives.

### **Assessment Matters**

9.11.77 NZIASB (50/15/05) recommended that the proposed assessment matters addressing urban design outcomes be replaced with one assessment matter that would require an urban design panel review mechanism, as follows:

*"A positive review by the QLDC Urban Design Panel."*

9.11.78 The relief sought by NZIASB was supported by RJL (F50/49/02) but opposed by Mr John Thompson (F50/24/02) through their respective further submissions.

9.11.79 The introduction of an urban design panel review requirement was a matter addressed in Ms Campbell's opening submissions. Ms Campbell submitted that the Council considered that it would not be appropriate to require that development receive a "positive review" by an urban design panel through the introduction of a specific District Plan provision. The Council's main concern was that this would duplicate its urban design criteria (as currently set out in the District Plan) and that the use of an urban design panel is a matter of process, rather than a legal requirement. The Commission accepts the Council's position on this and, as a

consequence, we do not support the relief sought by NZIASB.

9.11.80 Mr John Thompson (50/24/10) sought amendments to assessment matters that he considered to be inappropriate for an area that is effectively destined to change in character, and that will be in transition for some time. Mr C Hockey (F50/36/01), Watertight (50/33/01) and BSPL (F50/10/27) lodged further submissions that supported of Mr Thompson's submission in its entirety.

9.11.81 Mr Bryce appropriately requested leave of the Committee to address this relief, given that a number of these provisions also relate to the wider QTC. In his verbal response at the conclusion of the hearing, Mr Bryce reaffirmed his earlier view that the assessment matters are of broad application; accordingly, he did not support their deletion. He noted that amendments have been made to certain assessment matters where this has been necessary to address sub-zone specific issues.

9.11.82 In relation to the assessment matters with respect to the 15.5 metre height uplift, Ms Baker Galloway, for Mr Thompson, submitted that it would be appropriate to add additional "discretionary" activity assessment matters as follows:

- “1. *The extent to which additional height will enable better quality urban design internal outcomes, in respect of floor to ceiling heights for the uses proposed within the building.*
2. *The extent to which additional building height of the proposed building, when considered in conjunction with any other buildings within the same block which exceed the 12 metre discretionary height limit would result in adverse cumulative effects upon the wider townscape.*<sup>282</sup>

9.11.83 In view of the Commission's decision to support the retention of a 15.5 metre height uplift within Isle Street sub-zone (East), we accept that, in principle, the additional assessment criteria suggested in Ms Baker-Galloway's submission are appropriate. Assessment criteria have been included in the revised rule framework to this effect.

9.11.84 In reviewing the assessment matters supporting the QTCZ, we have observed that there are no assessment matters applicable to the establishment of visitor accommodation in the Isle Street sub-zone. We consider that this is an oversight given that the criteria listed under 10.10.2(vi) Controlled Activity – Visitor Accommodation apply to the Town Centre Transition sub-zone. The Commission has consequently adopted a number of relevant assessment matters that apply to the visitor accommodation activities listed in section 7.7.2(ii) at 10.10.2(vi).

## Commission's Recommendations

1. That the submissions by Marjory Pack and John Allan (50/18/06 and 50/18/08), Gillian & Donald McDonald (50/31/04), Maximum Mojo Holdings Limited (50/16/04), John Thompson (50/24/02, 50/24/08, and F50/24/02), Craig Stobo (5021/09), and the further submissions of The Dairy Guesthouse 2003 Limited (F50/26/12), MSPL (F50/27/12), Any Old Fish Company Holdings Limited (F50/28/12) and Berry & Co (F50/60/03) be **accepted**.
2. That the submissions by Marjory Pack and John Allan (50/18/03), Dairy Guesthouse (50/26/03) Any Old Fish Company Holdings Limited (50/28/02, 50/28/03), Maximum Mojo Holdings Limited (50/16/03), Watertight Investments Limited (50/33/02), C Hockey (50/36/02) and, Mr Justin Wright (50/40/05), Louise Wright (50/13/01 and 50/13/02), Browns Boutique Hotel

<sup>282</sup> At paragraph 53 of Ms Baker-Galloway's opening legal submissions.

(50/31/02) be **accepted in part**.

3. That the submissions by Nigel Brown (50/23/03 and 50/23/07), John Thompson (50/24/06, 50/24/09 and 50/24/10), Mr Alan Bunting (50/12/01, 50/12/02 and 50/12/05), Ms Gilmour (50/48/04), Gillian & Donald McDonald (50/31/03), Marjory Pack and John Allan (50/18/05, 50/18/07, 50/18/08) and the further submissions of Remarkables Jet Limited (F50/49/02), Brecon Street Partnership Limited (F50/10/27), The Dairy Guesthouse 2003 Limited (F50/26/11 and F50/26/12), MSPL (F50/27/11 and F50/27/12), Any Old Fish Company Limited (F50/28/11 and F50/28/12), Mr C Hockey (F50/36/01) and Watertight Investments Limited (F50/33/01) be **rejected**.

## 9.12 RESOURCE MANAGEMENT ISSUES RAISED BY PLANNING PROVISIONS FOR BEACH STREET BLOCK

### The Issues and Decisions Requested

- 9.12.1 Five submitters specifically raised issues relating to the Beach Street Block with respect to noise, height and the need for verandas,<sup>283</sup> which included:
- The rezoning of Beach, Hay, Lake, and Man Street to QTCZ should be declined;
  - There is a need to amend the plan provisions relating to height under Rule 10.6.5.2, as the rules do not include any provisions for sections 10, 11, and 18 Blk VIII;
  - The proposed height and noise changes to the Beach Street block could impact on neighbouring residences. An explanation was sought as to how the changes would be managed to limit their impact;
  - The specific noise rule for the block of land bound by Lake Esplanade, Lake Street, Man Street and Hay Street (Noise Rule 10.6.5.2(ii)(b)) should be removed and the operative town centre-wide noise rule be applied to this block; and
  - Rule 10.6.5.1(vi), which requires the provision of a veranda along the Hay Street frontage of its land, should be deleted.
- 9.12.2 The relief sought by submitters ranged from proposed amendments to the Beach Street block provisions (to reflect the existing QTCZ rules), to deletion of the proposed provisions.

### Discussion & Reasons

#### **Appropriateness of Queenstown Town Centre Zoning**

- 9.12.3 Mrs Margaret Walker (50/19/01) opposed the rezoning of Beach, Hay, Lake, and Man Street to QTCZ, and requested that this be declined. She considered that a change from residential use would cause rates to increase, therefore making it difficult for her to remain in the property she has resided in for 63 years.
- 9.12.4 Mr and Ms Zaki (50/56/04) and Mr and Ms Holt (50/57/03), raised concerns largely identical to those raised by Ms Walker. Mr Thomsen, legal counsel for these submitters, submitted that the plan change had failed to adequately consider the properties to the rear of the existing Crowne Plaza Hotel in the re-zoning of the Beach Street Block, which included Ms Walker's and his clients' land. He maintained

<sup>283</sup> 50/19/01 and 50/19/05, 50/21/10, 50/32/02 and 50/32/03.

that in terms of the plan change's consistency along Beach Street, it would be prudent to rezone Lot 1 DP 15037 (comprising the existing Crowne Plaza Hotel) to QTCZ, with the balance of the Beach Street Block be retained as HDRZ.<sup>284</sup> In the alternative, Mr Thomsen requested specific amendments to the side yard setback, height, noise and building coverage. Each of these requested amendments are discussed in more detail below.

- 9.12.5 Mr Edmonds, representing IHG and Carter (50/32), which owns the Crowne Plaza property together with the four adjoining residential properties to the north, considered that his client's land is an appropriate and logical extension of the QTC, and that the proposed re-zoning is consistent with the Council's objectives of maintaining compact commercial centres.
- 9.12.6 Following the consideration of evidence during the reconvened hearing dated 16 January 2015, the Commission requested that a range of issues be caucused on, including the re-zoning of the Beach Street Block (with regard to, in particular, the four rectangular sections located to the rear of the existing Crowne Plaza Hotel site). Due to the late submissions received from the Mr and Ms Holt and Mr and Ms Zaki, the Commission requested that the earlier agreement reached at the December 2014 conferencing be revisited.
- 9.12.7 The Commission notes that Planning and Urban Design JWS recorded that all experts in attendance<sup>285</sup> supported the re-zoning of the Beach Street Block to QTCZ in relation to that part of the block currently occupied by the Crowne Plaza hotel.<sup>286</sup>
- 9.12.8 Mr Tim Williams, a planning consultant engaged by Mr and Ms Zaki and Mr and Ms Holt, participated in the caucusing. He considered that, with the exception of Lot 1 DP 15037 (comprising the existing Crowne Plaza Hotel) the remaining properties (including the four properties owned by IHG and Carter and the residential properties fronting Man Street) be retained as HDRZ.<sup>287</sup>
- 9.12.9 The Planning and Urban Design JWS recorded that Mr Edmonds, Mr Kyle and Mr Bryce supported the rezoning of the entire Beach Street block as QTCZ (as notified), subject to height being addressed as a site standard and any height infringement correspondingly assessed as a Restricted Discretionary Activity. It was recommended that the assessment of any height infringement be supported by associated assessment criteria that have regard to the amenity of the adjoining residences. The Commission has addressed this issue by the introduction of appropriate assessment criteria to mitigate this concern.
- 9.12.10 Having considered the evidence before us, we consider the proposed rezoning of the entire Beach Street Block to QTCZ to remain appropriate. We accept that issues raised by submitters concerning bulk and location requirements (applicable to the lots fronting the submitters' properties) can be appropriately addressed through amendments to the relevant rules affecting the Beach Street Block.
- 9.12.11 We have concluded that the amended site standards discussed below represent an appropriate compromise between the requirements of the Crowne Plaza, and the amenity of the submitters on Man Street overlooking the Crowne Plaza land.

### **Height Limit**

<sup>284</sup> Refer paragraph 22 of Mr Thomsen's opening legal submissions tabled during the reconvened hearing dated 16<sup>th</sup> January 2015.

<sup>285</sup> Including John Edmonds, John Kyle, Doug Weir, Clinton Bird, Nigel Bryce, Dan Wells, Gillian MacLeod, David Gibbs and Tim Williams.

<sup>286</sup> As set out as Item 6(i) of the Planning and Urban Design JWS.

<sup>287</sup> As set out as Item 6(iii) of the Planning and Urban Design JWS.

- 9.12.12 Mrs Walker was concerned that IHG and Carter (50/32), the owner of the Crowne Plaza Hotel, intends to redevelop land to the rear of the existing hotel. Ms Walker (50/19/05) requested that areas of land fronting her property (comprising Sections 10, 11 and 18 Blk III) be specifically included within Zone Standard 10.6.5.2(i)(a) to ensure that these lots remain subject to the 7 metre height limit specified under HDRZ rule 7.5.5.3(v). Essentially, the outcome of Ms Walker's proposed relief would be that the entire Beach Street Block, with the exception of the existing Crowne Plaza site comprising Lot 1 DP15037, would remain subject to a 7 metre height limit. This relief was opposed by IHG and Carter via further submission (FS50/32/02).
- 9.12.13 Addressing Mrs Walker's submission,<sup>288</sup> Mr Edmonds explained the two height rules for the Beach Street Block: first, the geometric shape provided for the Crowne Plaza Hotel and, secondly, the standard height rules for residential land that apply to the remaining sites. Mr Edmonds' preferred approach was to address any uncertainty relating to the height limit that should apply to land to the north of the existing Crowne Plaza Hotel (Sections 10, 11, 14 to 17 and Lots 1 and 2 DP 444132 and Lot 1 DP 7187) by including these lots in Site Standard 10.6.5.1(ix) (new rule (j)), which would provide that this land remains subject to 7 metre height limit as a Restricted Discretionary Activity.
- 9.12.14 Mr Kyle's supplementary evidence addressed proposed revisions to the Beach Street Block following the conference of experts in December 2014. In relation to building height, he suggested an alternative height limit for the Crowne Plaza hotel, which diverges from the geometric shape currently provided. The proposed new rule would require that the height of the hotel be limited to the height of the current buildings as at December 2014. Mr Edmonds' supplementary evidence noted that the geometric shape rule currently applying to the hotel building actually facilitates a greater height (in order to accommodate lift shafts and other infrastructure); accordingly, he did not support Mr Kyle's proposed new rule. Mr Edmonds requested that the land above the hotel be provided with a 7 metre height limit, and fall under a site standard.<sup>289</sup>
- 9.12.15 Mr Thomsen considered that the retention of the status quo of a 7 metre height limit was appropriate, and that simplification is a desirable outcome. He did not, however, agree with the "level of control" being changed from that of a zone standard to a site standard, on the basis that any breach should be assessed as a Non-Complying rather than a Restricted Discretionary Activity.
- 9.12.16 The Planning and Urban Design JWS considered that the existing operative HDRZ height rule (which provides for a 7 metre height limit) should apply to the four adjacent lots (including the lots adjacent to the Zaki, Holt and Walker properties). This height limit would not apply to Lot 1 DP 15037, comprising the existing Crowne Plaza Hotel, which is subject to its own geometric height requirement under the existing District Plan provisions. We consider that this will adequately preserve the current amenity of the residential properties and is, prima facie, an acceptable outcome for Ms Walker (50/19), Mr and Ms Zaki (50/56) and Mr and Ms Holt (50/57).

### **Activity Status Applying to Non-Compliance with Height Provisions**

- 9.12.17 As noted above, Mr Edmonds, Mr Kyle and Mr Bryce supported the proposal that the height limit for the Beach Street Block be subject to a site standard. Accordingly, any infringements would be addressed as a Restricted Discretionary Activity (supported by associated assessment criteria that have regard to the

<sup>288</sup> Mrs Walker's primary submission (50/19/05) sought that the height limit under 10.6.5.2 needs to be amended to include sections 10, 11, and 18 Blk VIII.

<sup>289</sup> At paragraphs 16 to 20 of Mr Edmonds' Supplementary evidence.

amenity of the adjoining residences).<sup>290</sup>

- 9.12.18 Mr Williams, however, considered that any infringement of the height limits should be addressed by way of a Zone Standard (Non-complying Activity), as opposed to a Site Standard (Restricted Discretionary). His rationale was that a Non-Complying Activity process would provide a greater level of scrutiny, and more appropriately reflects the importance of height to the amenity of adjacent residential properties. Similarly, Mr Thomsen submitted that if Sections 10, 11, 17 and 18 (owned by IHG and Carter) are not retained as HDRZ, these lots should be subject to a Zone Standard under 10.6.5.2(i)(a).
- 9.12.19 As discussed in Mr Kyle's further supplementary evidence, the key issue raised by submitters in relating to the application of Restricted Discretionary Activity status to height infringement was that applications could potentially be exempted from notification. This issue derives from the existing wording in Rule 10.6.3.3(v).<sup>291</sup> Mr Kyle submitted that this rule states that activities that breach site standards for the zone are to be considered as discretionary activities; however, it then purports to restrict the Council's discretion to the matters specified in the standards not complied with.<sup>292</sup> Mr Kyle noted that the key issue for submitters is that Rule 10.6.4 (which relates to non-notification of resource consent applications) specifically exempts Restricted Discretionary Activity applications from public notification. In order to rectify the matter, Mr Kyle suggested an amendment to Rule 10.6.4 to make it clear that it is only Restricted Discretionary Activities in Rule 10.6.3.2A(i) that are subject to this exemption.<sup>293</sup>
- 9.12.20 The Commission considers that Mr Kyle's proposed amendment to Rule 10.6.4 appropriately addresses the issues raised by submitters. We note that the broader height limits applicable to the area subject to Plan Change 50 are subject to a site standard rather than a zone standard; accordingly, the retention of a site standard in relation to the Beach Street Block results in a more consistent approach to consideration of this issue. Further, given the removal of the non-notification dispensation and the provision of specific assessment matters to address the effects of any additional height, we consider that the proposed rule framework adequately safeguards the interests of the submitters while avoiding the introduction of unnecessary hurdles to development of the adjoining land in what is a town centre zone.

### **Side Yard Setback**

- 9.12.21 As part of the December 2014 caucusing, a 2 metre yard set back from any north-western boundary of land that bounded Hay, Lake, Beach, and Man Streets (excluding Lot 1 DP 15307) was agreed.<sup>294</sup>
- 9.12.22 Mr Thomsen submitted that a 2 metre setback might assist with providing additional landscaping; however, this was not a matter over which Council has reserved control under Rule 10.6.3.2(i) in relation to new buildings. He noted, however, that landscaping does form a matter of discretion under Rule 10.6.3.2(vi)(e), which applies to new visitor accommodation development.
- 9.12.23 While the Commission acknowledges that additional landscaping in support of this

<sup>290</sup> As set out as Item 6(i) of the Planning and Urban Design JWS.

<sup>291</sup> See 10.6.5.1 Site Standards on pages 10-35, 10-36 and 10-42.

<sup>292</sup> We understand that this was a matter debated at some length during conferencing. The interpretation of the rule framework in this respect is uncertain and should be addressed comprehensively during the District Plan review. However, by providing appropriate assessment matters in relation to standards not complied with (for example, height) it is our intention that any breach of a site standard be assessed as a Restricted Discretionary Activity.

<sup>293</sup> Paragraph 12 of Mr Kyle's further supplementary evidence dated 18<sup>th</sup> February 2015.

<sup>294</sup> See rule 10.6.5.1(iv)(h).

yard setback would prima facie be an appropriate resource management response to address the interfaces with the adjoining residential properties, the scope to achieve this within the existing planning provisions is extremely limited. On balance, we not promote any further changes to Rule 10.6.3.2(i), as it may result in unintended consequences for other sites within the QTCZ.

### **Building Coverage**

- 9.12.24 Mr Thomsen postulated that a significant consequence of the proposed rezoning of the Beach Street Block to QTCZ is the increase in building coverage to 80% of the site as a Controlled Activity (Rules 10.6.3.2(i) and 10.6.5.1(i)(c)) without notification (Rule 10.6.4(i)). By way of comparison, he submitted that the current HDRZ provides for 70% site coverage, and any coverage exceeding this would be assessed as a Non-Complying activity.
- 9.12.25 Mr Thomsen explained that any increase in building coverage affects the relationship of the adjoining Man Street properties with Lake Wakatipu. In his submission, introducing a more prominent built form on sites between the submitters' properties and the lake would adversely diminish views of the lake from these properties.
- 9.12.26 The Commission acknowledges Mr Thomsen's concerns; however, it is important that the Beach Street block (which is located immediately adjacent to the adjoining QTC) be utilised in an effective and efficient manner. Having considered the evidence before us, we have formed the view that the proposed increase in building coverage from 70% to 80% is, on balance, acceptable for this block. It is acknowledged, however, that given the amenity issues raised by Mr Thomsen's clients, the notification exemption for building coverage may not be appropriate. Accordingly, while we support retention of the 80% building coverage over the Beach Street Block, we recommend that the notification exemption provision supporting the QTCZ (under rule 10.6.4(i)) be specifically amended to exclude Sections 10, 11, 17 and 18. This will, in our view, provide an appropriate balance between promoting the efficient use of scarce land, while acknowledging the amenity concerns of the existing properties fronting Man Street.

### **Veranda Provisions**

- 9.12.27 Mr Edmonds raised a specific issue with the veranda requirement under Site Standard 10.6.5.1(vi), which mandates the construction of a veranda alongside the Hay Street frontage of the site as part of any building or redevelopment. Mr Edmonds submitted that parts of the Crowne Plaza site have limited pedestrian access due to existing landscaping and boundary walls, which imposes a constraint on establishing a continuous veranda. As consequence, Mr Edmonds recommended an amendment to Site Standard 10.6.5.1(vi), such that the rule only applies to Hay Street (between Beach Street and Man Street) where a footpath immediately adjoins the site).
- 9.12.28 Mr Kyle's supplementary evidence noted that agreement had been reached in relation to the amendment of proposed Site Standard 10.6.5.1(vi) (veranda), given Mr Edmonds' client's concerns that any works undertaken at the Crowne Plaza site would trigger a requirement to erect a veranda along Hay and Shotover Streets. Mr Kyle submitted that the recommended amendment to this rule would ensure that only work taking place on Lot 1 DP 15307 immediately adjacent to these street frontages would trigger this rule.
- 9.12.29 The Commission considers this proposed amendment to be an appropriate response to the veranda issue.

## **Noise**

- 9.12.30 Turning to noise limits for the Beach Street block, Mr Kyle explained that the intention when drafting Plan Change 50 was for this block to retain the noise limits currently applicable to the HDRZ.
- 9.12.31 Mr Edmonds considered that the proposed noise standards for the Beach Street Block are appropriate, and already apply to other areas that interface between the QTCZ and the HDRZ. He did, however, submit that if the existing QTCZ noise standards were considered appropriate for other areas of the plan change area (such as those applying to the Lakeview sub-zone), they should similarly apply to the Beach Street Block.
- 9.12.32 Mr Kyle, in his supplementary evidence, explained that retention of the HDRZ noise standards proposed for the Beach Street block were primarily for the protection of existing residents, such as Mrs Walker, who may be affected by increases in noise generated on other sites. Mr Kyle did not make any recommended changes to the notified noise rules for this site.
- 9.12.33 The Commission has been persuaded that the noise limits proposed for the Beach Street Block is an appropriate response, in that it will address the amenity-related concerns of existing residential property owners located within this part of the plan change area. One area of concern to us was the difference in approach to the application of the noise rules within the Plan Change 50 area, and in particular the different regimes that were proposed to apply to the Isle Street West and Beach Street blocks. Although we have made relatively significant changes to the noise provisions that will apply to the Isle Street sub-zone (West), we note these are still less stringent than the noise rules applicable to the Beach Street block. However, in our view, the changes to the western Isle Street sub-zone will provide adequate safeguards for residents of that sub-zone without unnecessarily limiting development in this area. These amended rules could, in our opinion, also be satisfactorily applied to the Beach Street block, which would provide more consistency in relation to the management of noise effects within the plan change area. However, as the Beach Street commercial landowners did not oppose the proposed noise limits, we are prepared to accept the recommendation of Council in this regard.

## **Activity Status for Commercial and Visitor Accommodation**

- 9.12.34 Ms Semple's closing submission for IHG and Carter raised a specific concern relating to the Rule 10.6.3.2A (iii).<sup>295</sup> She submitted that the effect of this provision would be to render all visitor accommodation or commercial activity on IHG and Carter's land a Restricted Discretionary Activity.<sup>296</sup>
- 9.12.35 Ms Semple submitted that IHG and Carter does not support any amendment to the zoning, as this would alter the activity status to its detriment.
- 9.12.36 In response, Ms Campbell noted that the Council's proposal to change the activity status of major activities to "Restricted Discretionary" was discussed at the conferencing held in early December last year.<sup>297</sup> The conferencing statement headed Conferencing Joint Statement to the Panel of Commissioners dated 9 December 2014' addressed this issue at issue 4(b), which records:

*"It was agreed that the LV ITA provision would be extended to the Beach Street block for VA,*

<sup>295</sup> Relating to commercial activities with a gross floor area of more than 400m<sup>2</sup> in the Lakeview sub-zone and Commercial Activities and Visitor Accommodation within land bounded by Hay, Beach, Lake and Man Streets.

<sup>296</sup> At paragraph 7 to 10 of Ms Semple's closing legal submissions on behalf of IHG (50/32).

<sup>297</sup> At paragraph 5.2 of the Council's closing legal submissions.

*CC and commercial over 400m<sup>2</sup>.*”

Ms Campbell noted that Mr Edmonds, the planner for IHG and Carter, was present during this conferencing and signed the Conferencing Joint Statement.

- 9.12.37 Ms Campbell submitted that the Council accepted that the wording of proposed Rule 10.6.3.2A(iii) should be amended to apply to commercial activities with a gross floor area of more than 400m<sup>2</sup>, rather than commercial activities generally, and requested an amendment to 10.6.3.2A(iii) so that it only applies to commercial activities with a gross floor area of more than 400m<sup>2</sup>.
- 9.12.38 The Commission acknowledges this amendment and notes that Mr Edmonds (for IHG and Carter) formally agreed to this amendment as part of his planning role in the December 2014 conference process.

### **Commission’s Recommendations**

1. That the submissions IHG Queenstown Limited and Carter Queenstown (50/32/01), Adam and Kirsten Zaki (50/56/03), Carl and Lorraine Holt (50/57/03) be **accepted**.
2. That the submissions by Margaret Walker (50/19/05), IHG Queenstown Limited and Carter Queenstown (50/32/03), Adam and Kirsten Zaki (50/56/02 and 50/56/04), Carl and Lorraine Holt (50/57/04) be **accepted in part**.
3. That the submissions by Margaret Walker (50/19/01), IHG Queenstown Limited and Carter Queenstown (50/32/02), Adam and Kirsten Zaki (50/56/05) and Carl and Lorraine Holt (50/57/02 and 50/57/05) be **rejected**.

## **9.13 CONSISTENCY WITH THE DISTRICT PLAN AND REGIONAL POLICY STATEMENT**

### **The Issues and Decisions Requested**

- 9.13.1 One submitter questioned the consistency between the District Plan and regional statutory planning documents. RJL (50/49/01) submitted that the plan change is not the most appropriate method for achieving the objectives of the District Plan, as its efficiency and effectiveness is inconsistent with the Otago Regional Policy Statement and the Otago Regional Plan.

### **Discussion & Reasons**

- 9.13.2 Section 72 of the Act states that the purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Act. In assessing whether the proposed objective is the most appropriate way to achieve the purpose of the Act, it is important to assess the proposed objective’s consistency with the other objectives in the District Plan.
- 9.13.2 Mr Bryce’s Section 42A report includes (as Appendix D) a detailed assessment of the relevant objectives of both the District Plan and Operative Otago Regional Policy Statement.
- 9.13.3 In his principal evidence, Mr Kyle examined the objectives in Chapter 10 of the

District Plan that apply to the QTCZ. He considered these objectives to be relevant, as they will be read alongside proposed Objective 10.2.4.3. These include the following Objectives 10.1.3.1 to 10.1.3.5, which apply generally to all Town Centres:

- “Objective 1 Maintenance and Consolidation of the existing Town Centres and Activities Therein Viable Town Centres which respond to new challenges and initiatives but which are compatible with the natural and physical environment.*
- Objective 2 Amenity Enhancement of the amenity, character, heritage, environmental quality and appearance of the town centres.*
- Objective 3 Built Form Maintenance and enhancement of a built form and style within each town centre that respects and enhances the existing character, quality and amenity values of each town centre and the needs of present and future activities.*
- Objective 4 Town Centre and Building Appearance Visually exciting and aesthetically pleasing town centres which reflect their physical and historical setting.*
- Objective 5 Pedestrian and Amenity Linkages An attractive, convenient and comprehensive network of pedestrian linkages within town centres.”*

9.13.4 The Commission considers that the plan change, as amended by this decision, provides for the maintenance and consolidation of the QTC as required under Objective 1. The evidence before the Commission was that the plan change is consistent with the consolidation outcomes of the District Plan, although a range of submitters have questioned whether the siting of a convention centre in the Council’s preferred location sufficiently achieves this outcome. The Commission considers that the consolidation outcomes will be achieved irrespective of a convention centre, given that its eventual development is not a necessary component of the plan change.

9.13.5 We accept, based on the evidence of Mr Bird and Dr Read, that the proposed height limits advanced under Plan Change 50 will promote built form that is consistent with the Objective 3 outcomes. Although an increase in the height limit of up to 15.5 metres for the 34 Brecon Street site has been supported, we do not recommend adoption of the larger scale elements sought within the relief of BSPL (50/10), which has the potential to undermine this Objective. Further, we consider that the plan change (as amended) will adequately respond to the physical and historical setting of areas such as the Queenstown cemetery and the adjoining ONL(WB) of Ben Lomond Reserve (in accordance with Objective 4).

9.13.6 The Commission considers that the plan change is consistent with Objective 5. The planning provisions for the Isle Street and Lakeview sub-zone, and the Structure Plan (and underlying Urban Design Framework upon which the Structure Plan is promulgated) are all geared towards promoting enhanced pedestrian connections and active street frontages. The service lanes and alignment of view shafts with adjoining road corridors is an important element of the Lakeview sub-zone. In order to encourage a variety of transportation modes, pedestrian links to the site are required, and are to be considered as part of any future resource consent for the predominant activities within the Lakeview sub-zone.

9.13.7 Mr Kyle noted that Objectives 10.2.4.1 – 10.2.4.5 (as amended) are specific to the QTC, in particular:

- “Objective 1 Maintenance and Consolidation of the Town Centre - Maintenance and enhancement of the Queenstown Town Centre as the principal commercial, administration, cultural and visitor focus for the District.*

*Objective 2 Character and Heritage - A town centre in which the built form, public space and linkages reflects, protects and enhances the distinctive built heritage and image which creates its essential character.*

*Objective 4 Accessibility and Parking - A town centre which is accessible to people.”*

9.13.8 For similar reasons to those set out above, the Commission considers that the plan change accords with Objectives 1 and 2 outlined above.

9.13.9 The Town Centre Transport Strategy commissioned by Council is presently under development. The evidence before the Commission was that the plan change promotes parking outcomes consistent with the QTC, and that parking for predominant activities within the Lakeview sub-zone can be appropriately provided for on site. The plan change promotes an appropriate level of accessibility through the planning provisions.

9.13.10 The most relevant objectives in Section 4 of the District Plan are those associated with part 4.9, Urban Growth, and include:

*“Objective 1 Natural Environment and Landscape Values - Growth and development consistent with the maintenance of the quality of the natural environment and landscape values.*

*Objective 2 Existing Urban Areas and Communities - Urban growth which has regard for the built character and amenity values of the existing urban areas and enables people and communities to provide for their social, cultural and economic well-being.*

*Objective 3 Residential Growth - Provision for residential growth sufficient to meet the District’s needs.*

*Objective 4 Business Activity and Growth - A pattern of land use which promotes a close relationship and good access between living, working and leisure environments.*

*Objective 5 Visitor Accommodation Activities - To enable visitor accommodation activities to occur while ensuring any adverse effects are avoided, remedied or mitigated.*

*Objective 7 Sustainable Management of Development - The scale and distribution of urban development is effectively managed.”*

9.13.11 The Commission considers that the Lakeview Structure Plan and Height Limit Plan will facilitate an acceptable level of intensification. The associated building height limits are acceptable in the context of their setting and relationship with QTC. The extension of the QTCZ will enable the Queenstown community to provide for its social, cultural and economic wellbeing by underpinning development opportunities that support the tourism industry.

9.13.12 In terms of Urban Growth Objective 4, the Commission is satisfied that the plan change will provide for the future growth of the QTC, and that the key outcomes will ensure that predominant activities are advanced in a manner that enables tourism growth to occur without compromising the existing viability of the QTC.

9.13.13 Section 4, part 4.10 addresses Affordable and Community Housing:

*“Objective 1 Access to Community Housing or the provision of a range of Residential Activity that contributes to housing affordability in the District”*

9.13.14 The Commission considers that the provisions supporting Plan Change 50 are effective in providing a range of housing diversity and affordability outcomes, and

broadly accord with the policy outcomes under Objective 1 set out above.

9.13.15 In terms of those objectives relating to Urban Growth, Plan Change 50 avoids urbanisation of ONL(WB) land, and development is located in manner that provides for logical connection to existing infrastructure and services.

*“14.1.3 Objective 1 Efficiency - Efficient use of the District’s existing and future transportation resource and of fossil fuel usage associated with transportation.*

*14.1.3 Objective 2 Safety and Accessibility - Maintenance and improvement of access, ease and safety of pedestrian and vehicle movement throughout the District.*

*14.1.3 Objective 3 Environmental Effects of Transportation - Minimal adverse effects on the surrounding environment as a result of road construction and road traffic.”*

9.13.16 The Commission is satisfied that revised planning provisions supporting the plan change will promote the efficient use of the District’s existing transportation networks through the requirement for an ITA and associated planning provisions, which will in turn promote and encourage modal shifts in travel to and from the plan change area.

9.13.17 Mr Bryce’s Section 42A report addressed the relevant objectives under the Operative Otago Regional Policy Statement. The Commission agrees that the plan change gives effect to Objective 5.4.1(b), as it will enable the Queenstown community to provide for its social, cultural and economic wellbeing by underpinning development opportunities that support the tourism industry. As noted above, while not specifically providing for community housing, the plan change will provide for greater housing density and diversity.

9.13.18 Objective 5.4.3 seeks to protect Otago’s outstanding natural features and landscapes from inappropriate subdivision, use and development. The plan change does this by ensuring that the QTC extension does not encroach onto the ONL(WB), and locates development within the existing urban boundary of Queenstown. Further large-scale development is sited in locations with the greatest potential to absorb the scale of development proposed.

9.13.19 Objective 9.4.2 seeks to promote the sustainable management of Otago’s infrastructure to meet the present and reasonably foreseeable needs of its communities. Based on the evidence before the Commission, there is no infrastructural impediment raised by this plan change that cannot otherwise be addressed as part of the future development of the plan change area, and the future detailed design and ITA assessments that will be required.

9.13.20 The Commission’s overall assessment is that Plan Change 50, as amended in **Appendix 1** to this report, is consistent with the relevant objectives of the District Plan and the Operative Otago Regional Policy Statement.

## **Commission’s Recommendations**

1. That the submission by Remarkables Jet Limited (50/49/01) be **rejected**.

## 9.14 CONSISTENCY WITH PART 2 OF THE RESOURCE MANAGEMENT ACT

### The Issues and Decisions Requested

9.14.1 One submitter has specifically raised an issue relating to whether the Plan Change gives effect to Part 2 of The Act. RJL (50/49) argued that the Plan Change does not accord with, or assist the territorial authority to carry out its functions to achieve the purpose of the Act, because it does not give effect to Part 2. The submitter recommended that the plan change be rejected.

### Discussion & Reasons

9.14.2 The Commission has undertaken a detailed analysis of relevant Part 2 matters in section 11.0 below. We have concluded that Plan Change 50, as amended by this decision, will promote the sustainable management of natural and physical resources in accordance with Section 5(2) of the Act.

### Commission's Recommendations

1. That the submission by Remarkables Jet Limited (50/49/1) be **rejected**.

## 10.0 RE-EVALUATION UNDER SECTION 32AA RMA

10.1 Under Section 32AA of the Act, a further evaluation is required only for any changes that have been made, or are recommended to be made, to the proposal since the evaluation report for the proposal was completed (together referred to as the "changes"). Changes and consequential changes have been proposed since the Section 32 report was issued; accordingly a further evaluation is required, commensurate with the scale and significance of the changes. The Commission has undertaken a further evaluation utilising the table format that was appended to the supplementary evidence of Mr Kyle on behalf of the Council. While the Commission has accepted the majority of changes advanced by Mr Kyle in his further supplementary evidence, we have recommended a number of further amendments to address the issues that we considered had not been adequately addressed in the final planning provisions appended to Mr Kyle's further supplementary evidence.

10.2 The Commission has itemised in paragraph 10.3 those changes to the existing policy, rules and other methods that we have supported that were addressed within the original Section 32 evaluation, Mr Bryce's Section 42A re-evaluation (in section 7.0 of his Section 42A report), and the further re-evaluation undertaken within Mr Kyle's supplementary evidence (dated 19<sup>th</sup> December 2014, Attachment 2). We have concluded that the provisions set out in paragraph 10.3 are both effective and efficient in responding to Objective 10.2.4.3 (as amended in this decision report).

10.3 The amendments include:

- Proposed Amendment to the Implementation Method;
- Section 10.1.3 - Amendment to Policy 2.1;
- Section 10.1.3 - Amendment to Policy 3.2;

- Section 10.1.3 - Amendment to Policy 4.1
- Section 10.2.4 - Amendments to Policy 1.2;
- Section 10.2.4 - Amendments to Proposed Policies 3.2, 3.3, 3.5, 3.7, 3.8, 3.9, 3.10;
- Implementation Methods (i)(a) to (c);
- Section 10.2.4 - Amendments to existing Policy 5.1;
- 10.2.5 Environmental Results Anticipated (iii) and (x);
- Controlled Activity 10.6.3.2(vi);
- Convention Centre (Discretionary Activity Rule 10.6.3.3(iv));
- Deletion of proposed amendment to existing Non-Notification Rule 10.6.4(ii) (bullet point three);
- Site Standard 10.6.5.1 (i)(d) (Building Coverage (Lakeview sub-zone));
- Site Standard 10.6.5.1 (iv)(d) (Glasgow Street setback);
- Site Standard 10.6.5.1 (iv)(h) (2 metre north-western boundary setback);
- Site Standard 10.6.5.1 (vi)(a) (Verandas);
- Site Standard 10.6.5.1 (vii)(b) and (d);
- Site Standard 10.6.5.1 (xi)(d), (g), (h) and (i) (third bullet point);
- Site Standard 10.6.5.1 (xiii) (Lakeview sub-zone structure plan);
- Site Standard 10.6.5.1 (xiv)(a), (b), (c) and (d) (Active frontages Lakeview sub-zone);
- Zone Standard 10.6.5.2(i)(a) (bullet point eight);
- Zone Standard 10.6.5.2(ii)(b) (Noise);
- Figure 2 (Lakeview Structure Plan);
- Assessment Matters 10.10.2(iii) and (iv).

10.3 As a consequence of amendments that have been made by the Commission in response to the resource management issues raised, we have undertaken a further re-evaluation of the proposed policies, rules and other methods that either formed part of the notified version of Plan Change 50, or were subsequently introduced to respond to issues raised during the course of this hearing. As the Commission has recommended changes to parts of the proposed provisions, these also require re-evaluation. In arriving at our conclusions, the scale and significance of the amendments and consequent effects have been considered. The Commission has set out our re-evaluation in the Re-evaluation Table attached as **Appendix 4** to this report. We have also evaluated the new Restricted Discretionary Activity rule regime introduced to address the proliferation of non-ancillary retail and commercial activities within the Lakeview sub-zone.

10.4 The further re-evaluation addresses the following provisions:

- 10.2.4.3 Proposed Objective;
- Section 10.2.2 (Values)
- Section 10.2.4 – Further amendments to Proposed Policy 1.5;
- Section 10.2.4 – Further amendments to Proposed Policies 3.1, 3.4, 3.6;
- Controlled Activity 10.6.3.2(i);
- Controlled Activity 10.6.3.2(iv);
- New Restricted Discretionary Activity Rule 10.6.3.2A(i)(a), (b) and (c) (Predominant Uses);
- Amendments to Proposed Restricted Discretionary Activity Rule 10.6.3.2A(ii) (Visitor Accommodation with a gross floor area of over 400m<sup>2</sup> in the Beach Street Block);
- New Restricted Discretionary Activity Rule 10.6.3.2A(iii)(Commercial Activities less than 400m<sup>2</sup> gross floor area per tenancy that do not fall within definition of ancillary retail and ancillary commercial);
- New Restricted Discretionary Activity Rule 10.6.3.2A(iv)(Commercial Activities

greater than 400m<sup>2</sup> gross floor area that do not fall within definition of ancillary retail and ancillary commercial);

- Amendments to existing Non-Complying Activity Rule 10.6.3.4(vi);
- New Non-Complying Activity Rule 10.6.3.4(vii);
- Amendment to existing Non-Notification Rule 10.6.4(i) and (ii) (bullet point two);
- Site Standard 10.6.5.1 (i)(e) and (f) (Building coverage Isle Street West and East);
- Site Standard 10.6.5.1 (iv)(e)(setbacks Brecon Street/front yard setback);
- Site Standard 10.6.5.1 (iv)(f)(front yard setback);
- Site Standard 10.6.5.1 (iv)(g)(rear yard setback);
- Site Standard 10.6.5.1 (vii)(a), (c), (e)(Residential Activities);
- Site Standard 10.6.5.1 (xi)(c), (e), (f), (i);
- Site Standard 10.6.5.1 (xv);
- Site Standard 10.6.5.1 (xvi);
- Zone Standard 10.6.5.2(i)(a)(bullet point seven);
- Zone Standard 10.6.5.2(i)(e);
- Zone Standard 10.6.5.2(ii)(f);
- Zone Standard 10.6.5.2(iv);
- Figure 3 – Lakeview sub-zone Height Limit Plan;
- Assessment Matter 10.10.2(i)(c);
- Amendment to Assessment Matter 10.10.2(vi);
- Amendment to Assessment Matter 10.10.2(viii);
- Amendment to Assessment Matter 10.10.2(ix);
- New Assessment Matter 10.10.2(x);
- New Assessment Matter 10.10.2(xi);
- New Assessment Matter 10.10.2(xii);
- New Assessment Matter 10.10.2(xiii);
- New Assessment Matter 10.10.2(xx); and
- Amendments to the Proposed Zoning Maps 35 and 36;
- Amendments to Section 7 (Residential) to reflect retention of the Lynch Block as HDRZ with QTCZ Lakeview sub-zone bulk and location requirements.

10.5 We note, for completeness, that the provisions shaded in grey have been amended to reflect the changes to the Isle Street sub-zones (West and East) and incorporate appropriate references.

10.6 Our main findings are as summarised follows:

- (a) **Objectives/Policies** - The Commission has provided further amendments to Objective 10.2.4.3 and the supporting policy framework to more appropriately reflect those ancillary retail and ancillary commercial activities that support the predominant uses within the Lakeview sub-zone. The amendments are considered to be the most effective way of managing the ancillary retail and commercial activities anticipated within the Lakeview sub-zone.
- (b) **Revised Rule Framework for Predominant Uses** - The combining of three previous Restricted Discretionary Activity rules governing a convention centre, visitor accommodation and commercial activities with a gross floor area of more than 400m<sup>2</sup> into one rule governing predominant uses (and associated ancillary retail and commercial activities) is considered to be highly efficient both in terms of plan administration, and also in terms of adopting a more logical and practical consenting regime. The Commission considers the amended rule regime supporting predominant uses greatly

improves the effectiveness of the rules in terms of managing adverse effects, while clearly establishing the matters over which discretion is limited.

- (c) **New Rule Framework for Non-Ancillary Retail and Commercial** - The new Restricted Discretionary Activity rules governing non-ancillary retail and commercial activities that fall below 400m<sup>2</sup> gross floor area per tenancy, and commercial activities with a gross floor area of more than 400m<sup>2</sup>, are considered to be highly efficient in responding to the potential proliferation of these land use activities. These rules are considered to be an efficient and effective method of managing impacts on the viability of the existing Queenstown Town Centre, including the management of the cumulative effects of non-ancillary retail and commercial activities where these exceed a maximum gross floor area of 6,500m<sup>2</sup> across the Lakeview sub-zone;
- (d) **Amended Rules Supporting Isle Street sub-zone (West and East)** - The proposed amended provisions are considered more effective in providing clear guidance to District Plan users and decision makers regarding the development expectations in relation to the Isle Street sub-zones. The revised rule framework is more responsive to the underlying resource management issues that apply to each sub-zone and is therefore considered to be more effective.
- (e) **Amended Assessment Matters** – The revised assessment matters seek to provide further guidance on those changes that have been promulgated as a consequence of this decision, as broadly set out under paragraphs 10.6(a) to (d) above.

10.7 Taking into account the efficiency and effectiveness of those amended and/or newly proposed provisions supporting Plan Change 50 (which have been set out in broad terms in Appendix 4 of this decision report), the Commission has concluded that the amended rule framework is appropriate and will assist in achieving Objective 10.2.4.1 and amended Objective 10.2.4.3 of the District Plan.

## 11.0 PART 2 OF THE ACT

11.1 The Act defines its purpose as the sustainable management of natural and physical resources.<sup>298</sup> This is the over-arching purpose that guides those authorities exercising functions under the Act, such as the Council. The Act requires that, in achieving this purpose, such authorities or 'persons':

- Must consider various matters of national importance which, relevantly, include the protection of outstanding natural features, landscapes and historic heritage from inappropriate subdivision, use, and development;<sup>299</sup> and
- Must have particular regard to 'other matters', which include the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values and the maintenance and enhancement of the

<sup>298</sup> The Act defines sustainable management as meaning: Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

<sup>299</sup> Sections 6(b) and 6(f) of the Act.

quality of the environment.

- 11.2 The Commission notes that there were a number of matters relevant to Section 6 raised by Plan Change 50, as well as issues of relevance under Section 7 of the Act.
- 11.3 In relation to Section 6, the evidence of Dr Read identified that Ben Lomond and Bowen Peak are generally accepted to be a part of an Outstanding Natural Landscape (Wakatipu Basin), as defined by the District Plan.<sup>300</sup> In her opinion the proposed plan change will result in a “coarsening” of the urban form within the plan change area, which will have a minor effect on the contribution of the townscape to the picturesque quality of views of Queenstown Bay and Ben Lomond/Bowen Peak. However, the high visual amenity of broader public views will be retained.<sup>301</sup>
- 11.4 The Commission has partitioned its assessment of landscape and visual amenity values into three broad categories, being (i) the Lakeview sub-zone (excluding 34 Brecon Street), (ii) 34 Brecon Street, and (iii) the Isle Street sub-zone (west and east blocks). Given that the height limit for the Beach Street Block (excluding Lot 1 DP15037) remains in accordance with the 7 metre height limit for this area under the existing HDRZ, we do not consider there will be any significant impacts on landscape and visual amenity values as a result of this aspect of the plan change.
- 11.5 As recorded at paragraph 9.7.19, the Commission considers that the Height Limit Plan and Structure Plan supporting the Lakeview sub-zone achieves an appropriate balance between enabling the efficient use of this land resource while maintaining the landscape and visual amenity values of the adjoining ONL(WB) of Ben Lomond and Bowen Peak. In the context of Section 6(b) of the Act, the Lakeview sub-zone (excluding 34 Brecon Street) is not considered to be an ‘inappropriate’ development.
- 11.6 As recorded at paragraphs 9.7.47 and 9.7.48 of this decision, the Commission considers that a 15.5 metre height limit (with a 2 metre roof bonus provision as defined) is appropriate for development at 34 Brecon Street. While there will be some loss of views to the Remarkables mountain range from the adjoining Queenstown Cemetery, the extent of this impact is considered to be appropriate in the context of this urban setting. When viewing the site from wider public places such as the Botanical Gardens and the beach frontage along Marine Parade, the increased height limit for 34 Brecon Street will not, in our assessment, diminish the landscape and visual amenity values of Ben Lomond Scenic Reserve to the north. Accordingly, the Commission considers a building height of 15.5 metres (plus 2 metre roof bonus, comprising 40m<sup>2</sup> in area) to be acceptable in Section 6(b) terms.
- 11.7 The Commission considers both the proposed 15.5 metre height limit provided for under Rule 10.6.5.2(i)(a) for the Isle Street sub-zone (East) and the broader 12 metre height limit (with 2 metre roof bonus) for the Isle Street sub-zone (West and East) to be acceptable. Buildings at these heights will not detract from landscape or visual amenity values of Ben Lomond Scenic Reserve to the rear (to the north).
- 11.8 Dr Cawte raised matters that require the Commission to have particular regard to Section 6(f) of the Act. He described the existing cabins on the Lakeview site as having some heritage value. Mr Kyle considered that while he did not read Dr Cawte’s evidence as identifying the cabins’ values as being so significant as to require their ongoing protection, an appropriate mitigation response is required through the recording and documentation of these cabins in accordance with Heritage New Zealand Guidelines. As a consequence of this recording, Mr Kyle

<sup>300</sup> At paragraph 5.5 of Dr Read’s evidence.

<sup>301</sup> At paragraph 8.2 of Dr Read’s evidence.

considers that the plan change would not result in use or development that is inappropriate.<sup>302</sup> The Commission agrees with Mr Kyle's conclusion on this point. We are satisfied that any adverse effects on the historic heritage of the area have been appropriately mitigated as part the plan change, and that heritage issues do not militate against achieving section 6(f) outcomes.

11.9 Section 7 directs that in achieving the purpose of the Act the Commission is to have particular regard to certain matters, which include the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values, the maintenance and enhancement of the quality of the environment, and any finite characteristics of natural and physical resources.

11.10 In relation to Objective 1 of Part 4.10 of the District Plan, the Section 32 evaluation addressed the efficient use of land as follows:

*"The objective [of the plan change] seeks to enable the efficient use of the Lakeview site. This site is located within the urban confines of Queenstown and the objective provides for the intensification and diversification of land use at the site in a manner that accommodates growth and complements the Queenstown commercial centre while providing for a high quality urban environment..."*<sup>303</sup>

11.11 The Commission is satisfied that Plan Change 50 promotes the efficient use and development of natural and physical resources. In reaching this conclusion, the Commission records:

- The plan change provides for the more intensive use of 'brown fields' land;
- The plan change is located within the Queenstown urban boundary;
- All land within the plan change is to be serviced with existing service infrastructure and roading.
- All land contained within the plan change will require infrastructure to be upgraded within proximity to the existing QTC. This is considered to be more efficient than having to establish new infrastructure, or connect to infrastructure located further away; and
- The plan change is located on the periphery of the existing QTC and offers opportunities to implement sustainable transport outcomes by adopting integrated, multi-modal and demand-managed transport outcomes supporting the plan change areas. This may involve utilising walking, cycling and passenger transport options as alternatives to providing for car parking and vehicle movements into and out of the sub-zone.

11.12 The Commission notes that a central tenet of the BSPL submission and supporting evidence in relation to 34 Brecon Street was to provide for the optimal development potential of land close to the town centre in such a way that it did not have significant "change" effects, while contributing to the stated aims in the District Plan of consolidating growth. We have concluded that while promoting the efficient use of this land resource is desirable, ultimately the scale of development proposed (a height limit of 24 metres) could not be adequately integrated with this setting and, accordingly, there was a risk that the quality of the existing environment could be diminished. The alternative 15.5 metre height limit preferred by the Commission would enable an additional storey (or up to four storeys) for future development on this property, which in our analysis appropriately responds to BSPL's objective of maximising the development potential of this site, while responding to the heritage and landscape and amenity considerations raised by this aspect of the plan change.

<sup>302</sup> As set out at paragraph 7.15 of Mr Kyle's primary evidence dated 10<sup>th</sup> November 2014

<sup>303</sup> Refer page 24 of the Section 32 evaluation.

- 11.13 Plan Change 50 is supported with an array of plan performance standards, which will ensure that future development within the plan change area is advanced in a manner that maintains and enhances amenity values in accordance with section 7(c) of the Act. Further, the scale of development proposed and associated supporting planning provisions seek to ensure that future development harmonises with the existing QTC and adjoining suburban areas. Over time it is envisaged that the quality of this urban area will be enhanced through appropriate built form and landscaped areas in accordance with section 7(f) of the Act.
- 11.14 Section 8 requires the Commission to, in exercising its functions, take into account the principles of the Treaty of Waitangi. No issues were raised through reports or evidence in relation to section 8. While the future development will increase the level of hard surfaces and potential runoff into adjoining sensitive receiving environments, the Commission accepts that the infrastructure and serving measures advanced as part of this plan change will ensure that future development will not result in discharges that compromise the quality of the receiving waters of Lake Wakatipu, or the life force or 'mauri' of this water body.
- 11.15 We have concluded that Plan Change 50, as amended in **Appendix 1** (attached) is effective and efficient, and achieves the purpose of the Act. We are satisfied that Plan Change 50, as amended, will promote the sustainable management of natural and physical resources in accordance with section 5(2) of the Act.

## 12.0 OUTCOME

### Summary of Findings

- 12.1 The key issue for the Commission is to determine whether the land subject to Plan Change 50 should be rezoned from High Density Residential to the Queenstown Town Centre Zone (including the Lakeview sub-zone and Isle Street sub-zone).
- 12.2 Following our consideration of Plan Change 50, the submissions and further submissions (including submissions and evidence presented at the hearing), the Section 32 evaluation and supporting technical reports, and the Section 42A report, the Commission has concluded that the plan change should be adopted subject to the proposed amendments set out in **Appendix 1**.
- 12.3 The Commission has discussed the specific issues and points raised in submissions in detail in Sections 9.1 to 9.14 above. In some instances we have accepted or accepted in part submission points, resulting in modifications to Plan Change 50 (as notified) and which are attached at **Appendix 1**.
- 12.4 The Commission acknowledges that there are some matters that have been raised by submitters that cannot be resolved through our decision on Plan Change 50 for jurisdictional reasons. These include:
- The "Area" submissions, which sought to have additional land holdings included within the plan change area;
  - The "Amendment" submissions, which sought to amend or delete elements of the operative District Plan that have not been addressed by the plan change.

12.5 In this respect, the Commission also acknowledges that there are matters that are outside the scope of our recommendations but that should be included in Council's District Plan Review (which we understand is to be notified in August 2015). We also note that some simplification of the policy and rule framework would be desirable through the course of the review. The relevant matters include:

- The rezoning of the two contiguous parcels of land (Lot 1 DP306661 and Lot 2 DP27703), on the eastern side of upper Brecon Street comprising 5,713m<sup>2</sup> to QTCZ as sought within the submission by QGL (50/38/01);
- The re-zoning of the existing TCTZ (fronting Man Street) as sought by MSPL (50/27);
- The rezoning of the area bounded by Shotover Street, Stanley Street, Gorge Road, Home Creek and Designation 232 to QTCZ, as sought in the submission of Kelso and Chengs (50/35); and
- The interpretation of the rule framework in relation to the Restricted Discretionary or fully Discretionary Activity status of a proposal where a Site Standard has been breached.

12.6 The key amendments that have resulted from the Commission's consideration of Plan change 50 are summarised as follows:

- A reduction in the extent of the Plan Change 50 area to be rezoned QTCZ. The western end of the Lakeview sub-zone, confined to that area of land referred to as the 'Lynch Block', has been excluded from the Town Centre zoning and the High Density Residential zoning that currently applies to this area retained, with the exception that the Lakeview sub-zone bulk and location requirements will continue to apply over this area.
- Amendments to Objective 10.2.4.3 and the supporting policy framework to more appropriately reflect ancillary retail and ancillary commercial activities that support the predominant uses within the Lakeview sub-zone have been recommended. A new definition of "ancillary retail and ancillary commercial uses" has been introduced into the Lakeview sub-zone policy and rule framework;
- A revised rule framework for predominant uses located within the Lakeview sub-zone has been formulated by combining the three previous Restricted Discretionary Activity rules governing a convention centre, visitor accommodation and commercial activities with a gross floor area of more than 400m<sup>2</sup> into one rule governing predominant uses (and associated ancillary retail and commercial activities). Matters of discretion have been expanded to give clear guidance in relation to the matters required to be considered.
- A new rule framework for non-ancillary retail and commercial activities that fall below 400m<sup>2</sup> gross floor area per tenancy and commercial activities with a gross floor area of more than 400m<sup>2</sup> has been introduced to manage impacts on the viability of the existing Queenstown Town Centre, including the management of the cumulative effects of non-ancillary retail and commercial activities where these exceed a maximum gross floor area of 6,500m<sup>2</sup> across the Lakeview sub-zone;
- The Isle Street sub-zone has been split into two areas, with revised planning provisions supporting the Isle Street sub-zone (West) and the Isle Street sub-zone (East) introduced. A revised zone map reflecting the amendment to the Isle Street sub-zones has been proposed;

- Amended rules supporting the Isle Street sub-zone (West) and (East), which are more responsive to the underlying resource management issues that apply to each sub-zone area, have been introduced. This includes the ability for development to be increased to a height of 15.5 metres within Isle Street sub-zone (East) as a Controlled Activity where sites are greater than 2,000m<sup>2</sup> and front either Man Street or Isle Street;
- The height limit for any buildings on 34 Brecon Street as a Controlled Activity has been increased to a total of 15.5 metres (plus a small roof bonus);
- Any future re-alignment of Cemetery Road (as reflected within amended Site Standard 10.6.5.1(xiii) Lakeview sub-zone Structure Plan) has been exempted from having to advance through a specific consent process;
- An exemption from providing a veranda has been introduced in the Beach Street block, unless building works take place on the road boundary.
- Amended assessment matters to provide further guidance on those changes that have been promulgated as a consequence of this decision, as broadly set out above, have been introduced.

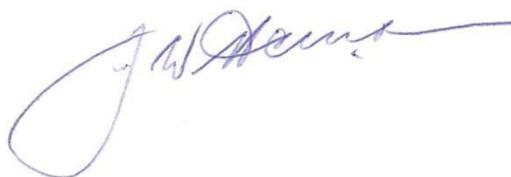
12.7 These amended provisions are attached as **Appendix 1**.

12.8 Following our consideration of Plan Change 50 and the submissions and further submissions received, we have concluded that the submissions and further submissions should be accepted, accepted in part or rejected as detailed in Sections 9.1 to 9.14 of this report.

12.9 We have arrived at our recommendations having had regard to the matters to be considered in terms of Section 74, the provisions of Section 32 and Part 2 of the Act, and in particular the purpose of the Act set out in Section 5.

12.10 The outcome of our consideration is that we **recommend** that Plan Change 50, as amended, be incorporated into the Queenstown Lakes District Plan.

12.11 This report incorporating our recommendations on Plan Change 50 is dated **16 June 2015**.



**SIR JOHN HANSEN**  
**CHAIRMAN**



**JANE TAYLOR**  
**COMMISSIONER**

**ATTACHMENTS**

Appendix 1	Amended Planning Provisions
Appendix 1a	District Plan Index
Appendix 1b	Planning Maps 35 and 36
Appendix 1c	Town Centre Objectives and Policies Section
Appendix 1d	Rules for Town Centre
Appendix 1e	Rules for Revised Transport Section
Appendix 1f	Ancillary Amendments Rule
Appendix 2	Summary of the Decisions Requested and Further Submissions Received
Appendix 3	List of Submitters and Further Submitters
Appendix 4	Section 32AA Re-Evaluation Table