
BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER OF

Queenstown Lakes Proposed District Plan –
Chapter 16 – Business Mixed Use Zone

**STATEMENT OF EVIDENCE OF SCOTT FREEMAN
ON BEHALF THE FOLLOWING SUBMITTERS:**

542 – G H & P J HENSMAN

545 – HIGH PEAKS LIMITED

550 – NGAI TAHU PROPETY LIMITED

556 – SKYLINE ENTERPRISED LIMITED

634 – TROJAN HOLDINGS LIMITED

18th November 2016



INTRODUCTION

1. My name is Scott Anthony Freeman and I reside in Queenstown. I am a Director of Southern Planning Group Limited, a Queenstown based resource management planning consultancy. I hold the degree of Bachelor of Planning from the University of Auckland. I have over 19 years experience in the field of resource management planning.
2. I have previously worked for the Queenstown Lakes District Council and later Civic Corporation Limited from 1997–1999. During this period I was employed as a consents planner responsible for processing a variety of land use and subdivision consents on behalf of the Council.
3. Since late 1999, I have been practicing as a resource management planning consultant, primarily within the Queenstown Lakes District. I formed Southern Planning Group in 2003. I am the sole director at Southern Planning Group.
4. Throughout my professional career, I have been involved in a range of resource consent and policy matters. I have made numerous appearances in front of various district and regional councils and the Environment Court.
5. From the variety of working roles that I have performed as described in the preceding paragraphs, I have acquired a sound knowledge and experience of the resource management planning issues that are faced in the Queenstown area and the wider District.
6. Whilst I acknowledge that this is a Council hearing I confirm that I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Consolidated Practice Note 2014 and have complied with it in preparing this evidence.
7. I have read the Section 32 reports and the Section 42A Report (and supporting documentation) prepared by the Council officer in respect of Chapter 16 (Business Mixed Use Zone).
8. I confirm that the matters addressed in this brief of evidence are within my area of expertise except where I advise otherwise and that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

SCOPE OF EVIDENCE

8. I have been engaged by a number of submitters to provide expert planning evidence on the proposed Business Mixed Use Zone (Chapter 16) of the Proposed District Plan ("PDP"). The five submitters consist of the following parties:

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- 542 G H & P J Hensman ("the Hensman's")
 - 545 High Peaks Limited ("High Peaks")
 - 550 Ngai Tahu Property Limited ("Ngai Tahu")
 - 556 Skyline Enterprises Limited ("Skyline")
 - 634 Trojan Holdings Limited ("Trojan")
9. It is noted that Ngai Tahu lodged a further submission on the PDP that addressed the submissions of Erna Spijkerbosch (#392) and NZIA (#238).
10. Where I am addressing a matter that is generic to all the submitters, the term "submitters" will relate to all five submitters. There are various matters that are specific to certain submitters, and as such, I will directly reference the subject submitter in those cases.
11. My brief of evidence is set out as follows:
- a) The Submitters
 - b) Business Mixed Use Zone
 - c) Summary of my opinions
 - d) **Appendix [A]** – Aerial Map

THE SUBMITTERS

12. The submitters who I have been engaged by in relation to the Business Mixed Use Zone ("BMUZ") of the PDP all have land interests in the Gorge Road area as outlined below. As such, the focus of this evidence is attributed to the BMUZ in this locality.
13. The specific land either owned by the submitters or in which they hold an interest in the Gorge Road area is illustrated on the Aerial Map that is contained within **Appendix A**.
14. A brief description of each submitters land or interest is detailed below.

G H & P J Hensman (542)

15. The Hensman's land consists of four contiguous properties on the northern side of Hylton Place. Such properties have the physical addresses of 2, 4, 6 and 8 Hylton Place.
16. The existing use of the Hensman's land consists of a car sales yard, a residential dwelling and a vacant section.

High Peaks Limited (545)

17. High Peaks owns the commercial property located at 51 Gorge Road. This land contains a number of commercial buildings and is presently used as a commercial dry cleaning facility and professional office.

Ngai Tahu Property Limited (550)

18. Ngai Tahu do not own land in the Gorge Road area. However, pursuant to Section 9 of the Ngai Tahu Claims Settlement Act 1998, Ngai Tahu has a first right of refusal on the land contained within the existing Wakatipu High School site, should the Crown decide to formally sell such in the future.
19. The Wakatipu High School occupies an area of 3.9761 hectares, with frontage to Gorge Road, Sawmill Place and Fryer Street.
20. As noted in the original Ngai Tahu submission, Lots 6 and 7 DP 8700 (34 and 38 Sawmill Road) are presently owned by the Ministry of Education and are utilised for education purposes through the existence of a number of classrooms. Ngai Tahu submitted that Lots 6 and 7 DP 8700 should be included within the BMUZ (as such were excluded in the notified PDP), however, it is understood that this specific issue will be addressed via the Queenstown 'mapping' hearing in 2017. As such, I will not address Lots 6 and 7 DP 8700 in this evidence.

Skyline Enterprises Limited (556)

21. The Skyline land is located is located at 16 Hylton Place. This land is presently used for residential purposes.

Trojan Holdings Limited (634)

22. Trojan owns the land located on both side of Gorge Road, with the physical addresses being 97, 101, 103, 109, 116, 120 and 121 Gorge Road. This land is used for a variety of commercial, industrial and commercial transport related uses.

BUSINESS MIXED USE ZONE

23. As a whole, the submitters are generally in support of the BMUZ in the Gorge Road locality. The BMUZ is seeking to replace (in part) the Business Zone and High Density Residential Zone (Sub-Zone A) from the Operative District Plan ("ODP") that presently exists in the Gorge Road locality.

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24. Overall, I agree with the planning rationale in terms of the proposed imposition of the BMUZ in the Gorge Road locality. The BMUZ is an opportunity that will provide for the appropriate intensification of urban form and land uses in close proximity to central Queenstown.
25. The Gorge Road locality is an urban environment that is in transition. Commercial and industrial activities are moving out to Frankton, whilst the new Wakatipu High School is presently being constructed within Remarkables Park, which will necessitate the closing down of the existing Wakatipu High School in the near future. Allied to these factors is that the residential housing stock is generally older in the Gorge Road locality. For the most part, this area is not a high quality environment, and in short, it is ripe for significant urban regeneration with the corresponding increase in residents living in this location.
26. I have considered the opinions and recommendations of Ms Bowbyes in the Section 42A Hearing Report ("Officers Report") for the BMUZ. I am in general agreement with the opinions and recommendations in the Officer's Report, with a few exceptions. My views on the Officer's Report are outlined below. I note where I refer to a planning provision from within the BMUZ, such reference emanates from "Appendix 1 – Recommended Chapter with tracked changes", unless otherwise stated.

Purpose of the Business Mixed Use Zone

27. I support the unaltered 'purpose' of the BMUZ, which has the intention of providing a high quality urban environment that accommodates a range of complimentary activities, with such activities supplementing central Queenstown.

Objectives and Policies

28. In terms of the recommended amendments to the objectives and policies within the BMUZ as contained in the Officers Report, I make the following observations, where provisions have been altered from the notified BMUZ in the PDP.

29. Policy 16.2.1.3 states:

Avoid activities that have noxious, offensive, or undesirable qualities from locating within the Business Mixed Use Zone to ensure that ~~appropriate levels of amenity are maintained~~ a high quality urban environment is maintained.

30. In my opinion, the amendment to Policy 16.2.1.3 accords with the intention to provide a high quality urban environment within the BMUZ. I agree with the amendments to this policy.

31. Notified Policy 16.2.1.4 has been deleted in the Officers Report. This policy stated:

~~*Residential and visitor accommodation activities are enabled, while acknowledging that there will be a lower level of amenity than residential zones due to the mix of activities provided for.*~~

32. I agree with the Officers Report, in that notified Policy 16.2.1.4 did contradict the high quality outcomes anticipated within the BMUZ, including a high standard of amenity as envisaged through Policy 16.2.2.3.

33. Policy 16.2.1.4 states:

~~*For sites fronting Gorge Road in Queenstown, discourage the establishment of high density residential and visitor accommodation activities at ground floor level, except where commercial and/or business activities continue to have primacy at the interface with the street.*~~

34. I agree with the Officers Report in terms of the deletion of the words 'high density' from Policy 16.2.1.5. In effect, this policy appropriately captures all residential and visitor accommodation activities that 'front' Gorge Road.

35. I do not have an issue with the approach of Policy 16.2.1.5, which seeks to implement Objective 16.2.1 by avoiding residential and visitor accommodation activities from establishing at ground floor level in close proximity to Gorge Road. Specifically, maintaining the commercial use of ground floor tenancies fronting Gorge Road will maintain a mix of viable commercial and residential land uses by promoting commercial business at the street interface.

36. The primary question (or issue) I have with Policy 16.2.1.5 (and Rule 16.5.3 that implements this policy) is what constitutes 'fronting' in terms of location or proximity to Gorge Road for residential or visitor accommodation activities. The term 'fronting' in my opinion is open to interpretation. For instance, a residential building with residential activities on the ground floor could be set back 50m (a significant distance in an urban environment) on the Wakatipu High School site and still deemed to front Gorge Road. In my opinion, the desired goal via Policy 16.2.1.5 and Rule 16.5.3 are the correct approach, however, to provide certainty, it would be advisable to include a specific setback distance (i.e. 10 m) for the allowance of ground floor residential or visitor accommodation activities that front Gorge Road.

37. Policy 16.2.1.7 states:

Ensure that the location and direction of lights does not cause significant glare to other properties, roads and public places and promote lighting design that mitigates adverse effects on the night sky, and provide a safe and well lit environment for pedestrians.

38. I agree with the Officers Report in relation to the additional requirements for Policy 16.2.1.7. A safe and well lit environment is imperative for an area that will accommodate a significantly larger residential and working population in time.

39. Policy 16.2.1.8 states:

Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects ~~and to be consistent with the appropriate levels of amenity on public places and adjoining residential zones.~~

40. In my view, the amendments in the Officers Report for Policy 16.2.8 are appropriate, because in my experience, appropriate screening needs to occur for outdoor storage areas as such are generally located in prominent positions (i.e. next to a roading corridor). Screening is an effective approach, combined with the appropriate location where possible.

41. The Officers Report has introduced a new policy, being Policy 16.2.1.9, which states:

Minimise opportunities for criminal activity through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of lot configuration and the street network, carparking areas, public and semi-public spaces, accessways/pedestrian links/lanes, and landscaping.

42. In my opinion, this is a well intentioned policy, bearing in mind the anticipated high density built environment that is enabled through the BMUZ (and corresponding increase in residents, visitors and workers to the area).

43. Objective 16.2.2 has been amended in the Officers Report to state the following:

New development achieves high quality building and urban design outcomes that minimises adverse effects on adjoining residential areas and public spaces.

44. I agree with the observations in the Officers Report, in that 'design outcomes' in this objective should be expanded to include buildings and urban design considerations. Both are fundamental factors in the future development of the BMUZ. The addition of 'public spaces' is also appropriate,

bearing in mind that Gorge Road is one of the main thoroughfares into central Queenstown, coupled with the role that Warren Park will perform as a public greenspace moving forward.

45. Policy 16.2.2.3 states:

Require a high standard of amenity, and manage compatibility issues of activities within and between developments through site layout, landscaping and design measures.

46. The introduction of a minimum landscaping requirement (as addressed below), coupled with the strengthening of this matter in Policy 16.2.2.3 is appropriate in my opinion. The desired outcome for the land contained within the BMUZ is a high density environment, and landscaping, even though such will likely be a small component of this environment, will assist in providing quality amenity levels and the partial softening of built form.

47. Policy 16.2.2.7 in the Officers Report has been amended to state as follows:

Allow buildings between 12m and 20m heights in the Queenstown Business Mixed Use Zone in situations when:

- *The outcome is of high quality design;*
- *The additional height would not result in shading that would adversely impact on adjoining residential-zoned land and/or public space; and*
- *The increase in height would facilitate the provision of residential activity.*

48. The amendments and strengthening of Policy 16.2.2.7 (and Rules 16.4.2 and 16.5.8) in my view are appropriate.

49. Policy 16.2.2.7 will enable buildings to occur between 12m and 20m, provided a number of parameters are adhered to. Such parameters include a high quality design, minimisation of shading effects on surrounding land, and the facilitation of residential activity. In my opinion, such parameters are appropriate incentives for additional building height, or alternatively, provide the consent authority with a clear mandate to discourage and/or decline a building between 12m and 20m in height.

50. The Officers Report has introduced Policy 16.2.2.8 that deals with the operational and functional requirements of non-residential activities. This policy states:

Apply consideration of the operational and functional requirements of non-residential activities as part of achieving high quality building and urban design outcomes.

51. Policy 16.2.2.8 is appropriate in my opinion, as both new and existing non-residential activities will occur or continue to operate in the BMUZ. Consideration has to be given to the operation and functional requirements for such activities.

52. Policy 16.2.2.9 is new in its entirety and states:

For any proposal to substantially develop or redevelop a site containing Horne Creek in the Gorge Road area, the following shall apply:

a) For sites that contain any section of the creek that is not culverted:

- Require the layout and design of new buildings, location of outdoor living spaces and landscaping to integrate with the creek;
- Require any landscaping on the banks of the creek to consist of native plant species that will have a positive effect on the ecology of the creek.

b) For sites that contain any section of the creek that is culverted (excluding where it passes beneath a road or driveway):

- Require the daylighting of the creek to assist with improving the creek's ecological values and to provide visual amenity, acknowledging that this may not be possible on sites where the creek is located within the main body of the site and when daylighting would have a significant impact on the ability for the site to be developed.
- Where daylighting occurs, part (a) of this policy applies.

53. My comments in relation to Policy 16.2.2.9 are also attributable to the portion of Rule 16.4.2 that also deals with Horne Creek.

54. On the eastern side of Gorge Road within the BMUZ, Horne Creek is predominately contained within an underground culvert. This culvert runs directly under the land owned by Trojan and High Peaks.

55. Mr Church has outlined various ecological benefits¹ of daylighting Horne Creek, while Mr Church also considers that a strategic aim would be to create an access easement along the creek

¹ Tim Church Evidence (2 November 2016) – paragraph 31.4

alignment as an alternative for a non-trafficable north/south route parallel with the busy Gorge Road².

56. The ecological benefits and overall strategic aim as stated by Mr Church are worthy of consideration in my view (as are the views contained in the Officers Report on this topic). However, I have a number of issues with the practicalities and realisation of actually daylighting Horne Creek in this location.
57. To realise the full benefits of daylighting Horne Creek, a large number of individual landowners would need to buy into the approach – over a significant timeframe. In my view, there is likely to be strong resistance to the daylighting as valuable land will be consumed by the opened creek and the planted margins. It could be argued that for the bigger sites, the loss of land is a reasonably minor issue, however, the daylighting of the creek will still occupy valuable land and lead to a development opportunity loss. For smaller narrow sites, the daylighting of Horne Creek will render a sizeable portion of the site unusable in terms of development.
58. The daylighting of Horne Creek will also impose significant costs on a landowner should they decide to substantially develop or redevelop a site, whilst the practicalities of diverting the creek will not be possible unless a number of landowners agree to such by diverting the creek within their respective sites.
59. It is also possible that an inconsistent approach could prevail with the daylighting of Horne Creek through different opening and treatment approaches to the margins of the creek. There could also be examples where Horne Creek is opened up, but the properties either side contain culverts with buildings on top, with such buildings potentially remaining unaltered for a long time period. For small narrow sites via this example, it is questionable as to amenity and ecological benefits.
60. I also consider that Policy 16.2.2.9 and the applicable aspect of Rule 16.4.2 has a large degree of uncertainty as to the actual implementation of these planning provisions. It could very well be argued between various parties as to what ‘substantially develop or redevelop’ constitutes, or who defines ‘where practicable’ in terms of the daylighting of Horne Creek. If I use the High Peaks land as an example, in my opinion, it would certainly not be practical to daylight Horne Creek in this site (or even the nearby sites), as the creek occupies the front portion of the site and therefore future development would need to be setback from Gorge Road resulting in a disjointed street frontage and commercial disadvantage in terms of visibility.
61. Should it be decided that the daylighting of Horne Creek is an appropriate outcome in the BMUZ, I consider this should be subject to a separate process undertaken outside of the PDP process. This

² Tim Church Evidence (2 November 2016) – paragraph 31.8

process should be led by the Queenstown Lakes District Council and the Otago Regional Council, with direct input from the affected private landowners. The process should also undertake a full assessment of the benefits and costs to all parties, and consideration of the practicalities of achieving the desired outcome of opening Horne Creek. In my view, a Council led initiative will lead to a more coherent and holistic approach on this issue, as opposed to potentially requiring individual landowners to daylight Horne Creek on a case by case basis. This in my opinion will lead to an ad-hoc outcome.

Rules - Activities

62. The following observations are attributable to the 'Rules – Activities' as contained in the Officers Report, in light of the points contained in the submissions by the submitters.
63. Rule 16.4.2 deals with buildings in the BMUZ and now states the following:

*~~*Discretion is restricted to consideration of all of the following: external appearance, materials, signage platform, lighting, impact on the street, Horne Creek (in the Gorge Road area) and natural hazards to ensure that:~~*

- *The impact of the building on the streetscape including whether it contributes positively to the visual quality, vitality, safety and interest of streets and public places by providing active and articulated street frontages and avoids large expanses of blank walls fronting public spaces;*
- *Whether the design of the building blends well with and contributes to an integrated built form and is sympathetic to the surrounding natural environment;*
- *~~The external appearance of the building is sympathetic to the surrounding natural and built environment;~~*
- *Building materials;*
- *Glazing treatment;*
- *Symmetry;*
- *Vertical and horizontal emphasis;*
- *Location of storage;*
- *Signage platforms;*
- *Landscaping;*
- *~~The detail of the facade is sympathetic to other buildings in the vicinity, having regard to; building materials, glazing treatment, symmetry, external appearance, vertical and horizontal emphasis and storage;~~*

- ~~Where residential units are proposed as part of a development, the extent to which the provision of open space is provided on site either through private open space or communal open space, or a combination thereof; and~~
- Where substantial development or redevelopment is proposed for a site containing Horne Creek (in the Gorge Road area), the integration of the development with the creek, including site layout, landscaping and, where practicable, the daylighting of culverted sections of the creek; and
- ~~Where a site is subject to any Natural hazards and where the proposal to results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses including considering the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.^[1]~~
- Assessment Matters relating to natural hazards:
 - the nature and degree of risk the hazard(s) pose to people and property;
 - whether the proposal will alter the risk to any site; and
 - whether such risk can be avoided or sufficiently reduced.

64. Having considered the rationale in the Officers Report and in particular the views of Mr Church (paragraphs 30.1 and 30.4), I now agree that the status of Restricted Discretionary is appropriate for buildings in the BMUZ, in particular when dealing with built form between 12m and 20m in height. With the exception of the integration of Horne Creek (as addressed above), I support the remaining matters of discretion under Rule 16.4.2. These matters of discretion (coupled with the policy direction for the BMUZ) will provide appropriate direction and/or control in the consideration and assessment of new built form in the BMUZ.

65. Rule 16.4.4 deals with Visitor Accommodation in the BMUZ. The Officers Report has now recommended that visitor accommodation is classified as a Controlled Activity in the BMUZ. I agree with the Officers Report in this regard.

66. Rule 16.5.1 deals with setbacks and sunlight for certain sites in the BMUZ.

Setbacks and sunlight access – sites adjoining a Residential zone or separated by a road from a Residential zone

16.5.1.1 Buildings on sites adjoining, or separated by a road from, a Residential zone shall not project beyond a recession line constructed at ~~an~~ the following angles of 35° inclined towards the site from points 3m above the Residential zone boundary:

(a) 45° applied on the northern boundary; and

(b) 35° applied on all other boundaries

16.5.1.2 Where a site adjoins a Residential Zone all buildings shall be set back not less than 3m.

*Discretion is restricted to consideration of all of the following:

- the visual effects of the height, scale, location and appearance of the building, in terms of visual dominance and loss of residential privacy on adjoining properties and any resultant shading effects; and
- screen planting.

67. I agree with the rationale in the Officers Report and Mr Church in terms of the amendments associated with Rule 16.5.1.

68. Rule 16.5.3 deals with the siting of residential and visitor accommodation activities, and this provision states the following:

Residential activities and visitor accommodation activities located on sites fronting Gorge Road in Queenstown

(a) All residential activities and visitor accommodation activities fronting Gorge Road in Queenstown shall be restricted to first floor level or above, with the exception of foyer and stairway spaces at ground level to facilitate access to upper levels.

(b) In all instances where residential activities occur at ground floor level, a landscaped front yard setback of a minimum depth of 2m shall be provided along the site frontage, excluding accessways.

*Discretion is restricted to consideration of all of the following:

- the effects of residential and visitor accommodation activities at ground floor level on surrounding buildings and activities;
- location of residential and visitor accommodation activities at ground floor level relative to the public realm; and
- the maintenance of active and articulated street frontages; and
- the effects on privacy for occupants and visual amenity.

69. I have addressed the requirements of Rule 16.5.3 above when dealing with Policy 16.2.1.4.

70. Rule 16.5.7 deals with landscaping in the BMUZ, and states the following:

Landscaping

Landscaping shall be provided on a minimum of 10% of the site area.

Discretion is restricted to consideration of all of the following:

- Design, scale and type of landscaping, including the species used;
- Location of landscaping;
- Amenity values;
- Where appropriate, the use of indigenous species within the Horne Creek riparian area that supports the establishment of ecological corridors.

71. I am comfortable with the insertion of a minimum landscaping requirement in the BMUZ, based on the comments above when dealing with this matter.
72. Rule 16.5.8 deals with the maximum building height in the BMUZ. This provision states:

Maximum building height

The maximum building height shall be:

- 16.5.78.1 **Queenstown**
- a. *Up to 12m – Permitted*
- b. *12m to 20m – Restricted Discretionary**
- 16.5.78.2 **Wanaka**
- a. *Up to 12m – Permitted*

**Discretion is restricted to consideration of all of the following:*

- *the design and quality of the building, including the use of articulated facades, active street frontages and the treatment of corner sites;*
- *modulated roof forms, including screening of plant and services*
- *material use and quality;*
- *the avoidance of large monolithic buildings; and*
- *the impact on the street scene;*
- *privacy and outlook for residential uses*
- *sunlight access to adjoining residential zoned land and/or public space;*
- *Crime Prevention Through Environmental Design (CPTED) considerations;*
- *where appropriate, the integration of Horne Creek into the development and landscaping;*
and
- *facilitation of the provision of residential activities.*

16.5.8.3 Any fourth storey (excluding basements) and above shall be set back a minimum of 3m from the building frontage.

73. I agree with the observations contained in the Officers Report and Mr Church in relation to the amendments to Rule 16.5.8 as outlined above. In my opinion, the matters of discretion provide

appropriate 'teeth' for the consenting authority to approve, modify or decline buildings that are proposed between 12m and 20 metres in height.

SUMMARY

74. Overall, in my opinion the amendments to the provisions of the BMUZ as contained in the Officers Report are generally appropriate, and implement the strategic approach of the PDP and the purpose of the Resource Management Act 1991.



Scott Freeman

18th November 2016

APPENDIX [A]

Aerial Site Map

