BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of a hearing before the Hearings Panel on Chapter 2 (Definitions) of the Queenstown Lakes Proposed District Plan (Stage 1)

STATEMENT OF EVIDENCE OF TIMOTHY JAMES HEATH
ON BEHALF OF BUNNINGS LIMITED

RETAIL / ECONOMIC MATTERS

6 MARCH 2017

INTRODUCTION

1. My full name is Timothy James Heath.

2. I am a Property Consultant, Retail Analyst and Urban Demographer for Property Economics Limited, based in Auckland. I hold a double degree from the University of Auckland:

(i) Bachelor of Arts 1991 (Geography); and

(ii) Bachelor of Planning 1993.

3. I am also proprietor and founding director of Property Economics Limited, a consultancy providing property research services to both the private and public sectors throughout New Zealand. I have undertaken such work for 20 years, with the last 14 years of these as Managing Director of Property Economics Limited. I regularly appear before Council, Environment Court and Board of Inquiry hearings on retail economic matters.

4. I advise district and regional councils throughout New Zealand in relation to retail, industrial and business land use issues as well as strategic forward planning. I also provide consultancy services to a number of private sector clients in respect of a wide range of property issues, including retail economic impact assessments, commercial and industrial market assessments, and forecasting market growth and land requirements across all property sectors.

5. I am familiar with the Queenstown, Frankton Flats and wider Queenstown Lakes District (**District**) retail environments having undertaken detailed retail, commercial and industrial assessments across the District over the last 20 years. Much of this work involved assessing retail markets, distributional and economic effects of new development, and longer term strategic outlooks and implications for the purpose of forward land use planning. More recently, I provided retail economic evidence before the Environment Court in relation to the Plan Change 19 hearings (relating to Frankton Flats) in Queenstown.

6. Further to this, I have recently assisted Christchurch City Council and Hamilton City Council in the successful development of appropriate policy settings within the Business Chapters of their 2nd Generation District Plans through hearing and Environment Court processes.

7. I have appeared before this Hearing Panel (**Panel**) twice before as part of this Proposed District Plan (**PDP**) process in relation to the Business Chapters, specifically Hearing Stream 8 relating to the extent of retail and commercial office activity within the Local Shopping Centre Zone and Wanaka Airport, and Hearing Stream 9 relating to Resort Zones (specifically Jacks Point Village).

8. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

9. I have been engaged by Bunnings Limited (**Bunnings**) to provide specific evidence focused on the appropriate definition for Bunnings' activities within the PDP, and whether Trade Supplier and Building Supplier stores, as defined in the Chapter 2 Definitions in the PDP, should fall within the definition of Retail in the PDP.

PROPOSED DISTRICT PLAN DEFINITIONS

10. The PDP Chapter 2 definition for Trade Supplier means:

A business engaged in sales to businesses and institutional customers and may include sales to the general public, and wholly consists of suppliers of goods in one or more of the following:

- *Automotive and marine suppliers*
- *Building suppliers*
- *Catering equipment suppliers*
- *Farming and agricultural suppliers*
- *Garden and patio suppliers*
- *Hire services (except hire or loan of books, video, DVD and other similar home entertainment items)*
- *Industrial clothing and safety equipment suppliers*
- *Office furniture, equipment and systems suppliers.*

Building Supplier means a business primarily engaged in selling goods for consumption or use in the construction, modification, cladding, fixed decoration or outfitting of buildings and without limiting the generality of this term, includes suppliers of:

- *Glazing*
- *Awnings and window coverings*
- *Bathroom, toilet and sauna installations*
- *Electrical materials and plumbing supplies*
- *Heating, cooling and ventilation installations*
- *Kitchen and laundry installations, excluding stand-alone appliances*
- *Paint, varnish and wallcoverings*
- *Permanent floor coverings*
- *Power tools and equipment*
- *Locks, safes and security installations*
- *Timber and building materials*

11. Bunnings, and other hardware and building supply outlets of a similar type (also referred to as Home Improvement stores), would sell products (or a range of products) within most of the categories listed under both proposed Trade Supplier and Building Supplier definitions. Based on the PDP definitions for Trade Supplier and Building Supplier, it is clear that a Bunnings store would satisfy a store type that would fall under both these definitions.

CHANGING FACE OF BUILDING SUPPLY STORES

12. To build the base context, it is useful to understand the changing face of hardware, building supply and home improvement stores over recent years. Like all ANZSIC[1] sectors, hardware and building supply activity is a morphing beast in terms of the way goods and services are delivered to the market, and, therefore, the locational attributes required to service the market efficiently and effectively.

13. Under many 1st Generation District Plans, hardware stores and more traditional ‘town centre’ retail activity were all categorised as retail stores, primarily because they had similar locational requirements at that time, sought ‘centre’ locations, and

[1] *Australia New Zealand Standard Industrial Classification.*

focused on direct retail sales to the general public. However, the traditional hardware stores have evolved and grown in size over the last 10-15 years to 'mega' stores (in a New Zealand retail context) as a result of broadening their product range and refocusing their attention on the trade and building supply market. This has led to their store footprint requirements increasing by 5-10 times than the older stand-alone hardware store (i.e. Hammer Hardware), resulting in them no longer being able to easily '*fit into'* a centre environment (either spatially, or by comparison to other types of retail within that environment), and being no longer appropriate to sit within a retail definition within a planning context. Stores, like those operated by Bunnings, no longer compete directly with retail stores, but instead now with more traditional trade and construction business activities that were or are generally sited in industrial locations (eg ITM, or Carters), and store effects began to fall more on trade sector activity than retail activity. This has led to many 2nd Generation District Plans updating their (planning) thinking and frameworks to more appropriately treat such stores, given the shift in any environmental 'effects' from that change away from retailing activities to trade suppliers (predominantly).

14. Hardware and building supply stores generate sales from both the general public (predominantly sourced through DIY sales) and trade-based sales. Trade-based activity (or business-to-business transactions) includes activities that place a heavy reliance on the 'trade market' (such as builders, contractors, sub-contractors, construction companies, project managers and developers) to purchase their products and less on the general public as a proportion of total store sales. Activity types would include stores such as plumbing stores, electrical stores, building supply and home improvement stores, bathroom and kitchen showrooms, tile warehouses, carpet showrooms, paint outlets and the like. These activities are not 'typical' town centre / main street store types in today's retail environment, and as such existing retail centres do not rely on these store types to remain viable and vibrant centres, and therefore do not pose any risk of generating any consequential adverse retail distribution effects on existing retail centres in a RMA context.

15. However, these activities are a fundamental part of the market (particularly in Queenstown with its high construction rate) and typically locate on non-centre business / industrial zoned land, due to lower cost structures and the ability to secure larger sites than what is typically available in town centre environments. They can also generate additional truck movements to the stores, and attract four wheel drive vehicles with trailers etc that carry building and home improvement materials away from the store. They are also often non-cash focused with many trade businesses having trade accounts.

TRADE VS DISTRIBUTIONAL EFFECTS

16. Another source of differentiation between retail and trade supply, and why in my view building supply and home improvement stores like Bunnings' should not be classified as a retail store in the PDP, is that those stores only have propensity to generate trade competition effects on a centre store that sells similar products, while the potential for these to generate significant adverse flow on distributional effects is typically implausible. I am not aware of any hardware and building supply consent application being declined on the basis it would generate significant adverse retail distributional effects on a centre.

17. To assist in understanding differences between trade and retail activity effects, and the general ability of trade and building activity to generate consequential economic impacts under the RMA, there is first a need to differentiate between trade competition effects and flow-on retail distribution effects. By themselves trade competition effects do not provide the relevant justification for declining a resource consent under the RMA, unless they are of a level that generates significant adverse flow-on retail distribution effects on the receiving centre environment.

18. Trade competition effects (in a generalised retail sense) are the retail trade impacts of retail activity on other similar or 'like' retail activity. It basically reflects a direct cause / effect relationship as a result of a simple repatriation of retail sales among retailer operators. In essence, it represents a redistribution of retail sales as opposed to a loss to the community brought about by the relocation of those sales.

19. Retail distribution effects are generated as the result of consequential trade competition effects. These effects can range across the spectrum (positive and negative) depending on the level of effects generated, which is heavily dependent on the scale, type and location of the proposed retail activity, among other attributes. Where the patterns of performance, amenity and commercial activity within an existing centre (or associated flow-on benefits from retail activity within that location) would not change significantly within a locality, then the retail distribution effects are not considered to be significant in a RMA context.

20. Conversely, the 'significant effect' threshold is breached where a new business (or cluster of businesses) affects key businesses in an existing centre to such a degree that the centre's performance (and potentially viability) is eroded, causing a significant decline in its function and amenity, and disenabling the people and communities who rely upon those existing (declining) centre(s) for their social and economic wellbeing.

21. Retail distributional effects are differentiated from the effects of trade competition on trading competitors, which are to be disregarded pursuant to s104(3)(a) of the RMA with reference to any resource consent applications. Although retail distributional effects are a relevant consideration for a consent authority, it should be noted that case law has made it clear that those effects must be significant[2] (but not necessarily ruinous) before they could properly be regarded as going beyond the effects ordinarily associated with trade competition.

TRADE ACTIVITY IN RETAIL / COMMERCIAL CENTRES

22. The types of trade activities the PDP seeks to include within the definition of retail activity[3] (which currently treats a large hardware and building supply stores similar to a small fashion store in a planning context) would create significant tension (and likely conflict) with existing centre activity, quality of environment and centre amenity, apart from the commercial realisms that are highly unlikely to be overcome.

23. The existing centre network itself is highly unlikely to be able to adequately facilitate the large sites and floor plates required to accommodate modern day, large footprint hardware, garden and building supply stores which typically require 2-3ha land holdings. Sites in commercial centres are typically small in size, often tightly held by their owners, have disjointed ownership structures, fragmented subdivision patterns, and typically have higher yielding land uses competing for any available / potential development sites. These 'real world' practical

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2 *Northcote Mainstreet v North Shore City Council* (High Court, CIV-2003-404-5292), Randerson J stated: *"In regard to shopping centres, I would not, with respect, subscribe to the view that the adverse effects of some competing retail development must be such, as to be ruinous before they could be considered. But they must, at the least, seriously threaten the viability of the centre as a whole with on-going consequential effects for the community served by that centre."*

3 *Retail sales / retail / retailing: Means the direct sale or hire to the public from any site, and / or the display or offering for sale or hire to the public on any site of goods, merchandise or equipment, but excludes recreational activities.*

limitations, in conjunction with the earlier identified morphing of this store type over the last decade, means these stores are more appropriately treated (in a planning context) like other trade / light industrial activity, not as retail.

24. The counterfactual position is, if large hardware and building supply stores did consume 2-3ha of centre land, there would be limited centre land left to accommodate more traditional retail store growth, particularly alienating smaller retail stores from the locations the PDP is trying to encourage them establish. It is also likely to have significant commercial implications with land prices likely to be forced up as retailers clambering to secure the limited centre land resource.

25. In a nutshell, there appears a disconnect between the definition of building suppliers and trade supplied and their inclusion within the broader definition of "retail", which may preclude their ability (depending upon matters to be determined at a later stage of the PDP process) to establish on industrial zoned land within the district. This, in effect, leaves these store types in '*no man's land'* in respect to locational options with planning ideology fighting commercial practicalities. Adopting a pragmatic approach, the commercial reality is that most trade-oriented activity is unlikely to be able to afford to be sited in centre locations as a result of the property economics involved with such. This is not solely based around the price of commercial land and the ability to secure (or accumulate) a suitably sized land holding, but the ongoing investment return expectation from the development which would generate rental rates that are likely to be unsustainable for many trade activities over an extended period of time.

26. This is before any evaluation on the appropriateness of having trade activities in centres, and the raft of considerations involved with such an assessment (noise, odour, traffic, reverse sensitivity, urban design, to name a few). It is for this reason industrial zones have been specifically demarcated in many 2nd Generation District Plans,[4] so that many of the potential adverse effects associated with cross pollination of different land uses (especially trade and light industrial activity) are appropriately managed. It is also for that reason that a number of 2nd Generation District Plans have acted to explicitly exclude hardware and building supply stores from the definition of retail, to avoid bringing those two (quite different uses) into conflict.

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4 *Refer EIC Kay Panther Knight, paragraphs 25-33.*

27. The PDP's definition of retail, and its treatment of hardware and building supply trade stores specifically, appears to be inconsistent with other types of trade stores (such as kitchen showrooms, electrical stores, floor covering stores, plumbing stores) which, according to my understanding of the current (notified) proposed framework, would be permitted to establish in industrial zones within the district. It is difficult to see any justification (whether based on effects on a centre, or the consumption of industrial land) to demarcate hardware and building supply stores from those other types of trade stores. In my view, they are both appropriately excluded from the definition of retail, to reflect the significant differences between those types of activities and the contemporary (and now commonly understood) definition of retail activity within planning instruments today.

CONCLUSION

28. In my professional opinion, hardware, building supply and home improvement stores, like those operated by Bunnings, are more appropriately categorised as a trade activity rather than a retail activity given the vastly different built form, role, function, trading patterns, performance ($/sqm), locational requirements and site attributes.

29. As such, I support the Bunnings submission that building supply and trade supply stores should be excluded from the proposed definition of retail activity in the PDP.

Tim Heath
6 March 2017