

**BEFORE THE COMMISSIONERS APPOINTED BY  
THE QUEENSTOWN LAKES DISTRICT COUNCIL**

**Submitter 31021**

**IN THE MATTER** of Queenstown Lakes District  
Council Proposed District Plan  
Stage 3

**IN THE MATTER** **RURAL VISITOR ZONE**

**CORBRIDGE ESTATE LIMITED  
PARTNERSHIP**

**Submitter**

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**SUBMISSIONS OF COUNSEL IN RESPONSE TO QUESTIONS**

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## **SUBMISSIONS OF COUNSEL IN RESPONSE TO QUESTIONS**

May it please the Commissioners:

1. These submissions address two matters raised by the Commissioners during the hearing of the Corbridge Submission on 6 August 2020.
  - a. Whether lack of funding in the Council's LTP for infrastructure upgrades to service the Corbridge site is fatal to the proposed rezoning;
  - b. Updating the Commissioners on the Green Fees used in the financial modelling discussed in the evidence of Mr Colegrave;
2. The following is also filed with these submissions:
  - a. Revised Landscape sensitivity mapping and structure plan to remove any overlap between the High Landscape Sensitivity Area and AA1 at the North of the site.
  - b. Updated suite of provisions. 2 copies of these are filed. One including track changes suggested by Ms Grace (and an indication of whether those proposed changes are accepted by Corbridge) and a 'clean' version that retains comments highlighting the key changes proposed by Corbridge and/or responses to substantive comments from Ms Grace.
3. Finally, Counsel briefly addresses the matter of the QAC's legal submissions/evidence.

## **INFRASTRUCTURE PROVISION**

4. Commissioner Robinson asked a question of Counsel regarding *Foreworld Developments Ltd v. Napier City Council* [2005] NZEnvC 38 and whether that case created jurisprudence that is contrary to the submission made by Counsel at paragraph [57] of opening submissions.
5. It is submitted that *Foreworld* is not applicable to the Corbridge circumstances. *Foreworld* deals with a 'deferred residential zoning', whereby the reason for deferral was lack of infrastructure. In that

case the Council had commissioned a number of strategic urban development and infrastructure studies. Ultimately it concluded that it could not justify the capital cost of the sewage reticulation for the land in question. An element of this decision was a lack of willingness on behalf of the relevant community to pay the necessary connection fees to cover the costs of the provisions of the services. The Court's concern in that case was that the deferred zoning may create an expectation that services would be provided, when it was clear on the evidence that the Council did not intend to provide them.

6. The Court stated:

*“It is bad resource management practice and contrary to the purpose of the Act...to zone land for an activity when the infrastructure necessary to allow that activity to occur without adverse effects on the environment does not exist, and there is no commitment to provide it”*

7. The circumstances of the current case are entirely different for the following reasons:

- a. The proposed RVZ zone does not create any expectations with respect to services. As set out in paragraph [58]-[59] of Counsels opening submissions the policies in the RVZ zone leave the question of how services can be provided open<sup>1</sup>. This is quite different from the policy expectations created with respect to urban zones.
- b. The evidence presented on behalf of Corbridge demonstrates that there are appropriate servicing methods available without requiring any connection to Council infrastructure. Corbridge has demonstrated the commitment to providing the services.
- c. The Council has not specifically investigated the serviceability or otherwise of the Corbridge Site.

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<sup>1</sup> Refer Policy 46.2.2.6

- d. As discussed in opening submissions the Council possesses the necessary regulatory tools to recover the costs of infrastructure upgrades if they were carried out.<sup>2</sup>
8. *Foreworld* (amongst other cases) was discussed in *Norsho Bulc Ltd v Auckland Council*<sup>3</sup>. The Court in that case confirmed that it is open to a Council to refuse a plan change on the grounds of lack of infrastructure, although this was on the basis that the proposal will result in unnecessary expense to the ratepayers.
9. It is submitted that this is a key consideration, and an issue that does not arise in the Corbridge situation. Therefore the fact that the site may not be provided with a connection to Council infrastructure is not determinative.

### **GREEN FEES**

10. Mr Colegrave advised the Commissioners that the Green Fees used in the financial modelling would have been in the order of \$150. He reviewed the model and advises that the Green Fees used in the financial model were as follows:
- a. District Residents - \$135 (20% of guests)
  - b. Tourist (affiliates) - \$210 (40% of guests)
  - c. Tourists (non-affiliates) - \$280 (40% of guests)

### **QAC SUBMISSIONS**

11. On Monday 10 August Counsel was able to review the Legal Submissions filed by Ms Wolt on behalf of Queenstown Airport Corporation.
12. Counsel wishes to record agreement with the message sent by the Chairman via email from Planning Support officer Katherine Robertson dated 8 August 2020.

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<sup>3</sup> *Norsho Bulc Ltd v Auckland Council* [2017] NZEnvC 109 at [93] - [94]

13. Much of the material in Ms Wolt's document is evidence. Some of it Corbridge does not wish to quibble over, such as the matters related to ownership of the airport and the like<sup>4</sup>.
14. However, much of the balance of the 'submissions' stray into evidence, whether it be planning or acoustic evidence. Unfortunately this evidence contains various inaccuracies or is incomplete. Because QAC elected not to file this evidence in accordance with the timetable for Stream 18 Corbridge has been unable to address it. This gives rise to prejudice.
15. QAC is an experienced and sophisticated participant in these regulatory processes. The failure to file evidence is inexplicable.
16. Counsel agrees that no weight can be placed on the matters of evidence presented in Ms Wolt's submissions.



Signed:

B Irving

Counsel for Corbridge Estate Limited Partnership

13 August 2020

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<sup>4</sup> S31054-QAC-T18-WoltR-Legal Submissions at [7]-[16]