

**BEFORE THE HEARINGS PANEL  
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

3328

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of a submission on Stage 3 of the  
Queenstown Lakes Proposed District  
Plan

**BY** **QUARTZ COMMERCIAL GROUP  
LIMITED**

Submitter

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**LEGAL SUBMISSIONS ON BEHALF OF THE SUBMITTER**

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Dated: 31 July 2020

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## **MAY IT PLEASE THE PANEL:**

### **Introduction**

- [1] These submissions are in support of the submission by Quartz Commercial Group Limited (**Quartz**) on Stage 3 of the Queenstown Lakes District Council Proposed District Plan (**PDP**).
- [2] Quartz is the owner of land at Capell Avenue, Lake Hawea, (Lot 1 DP 27336) and the operator of the Lake Hawea Hotel located on the adjoining property to the north, being 1 Capell Avenue (Lot 1 DP 300387).
- [3] Quartz in its submission seeks the Visitor Accommodation Subzone (**VASZ**) located over the northern property and part of the southern property be extended to cover the entirety of both properties.
- [4] Quartz also seeks amendments to the provisions of the Low Density Suburban Residential Zone (**LDSRZ**) and VASZ as they relate to the properties.

### **Evidence**

- [5] Expert planning evidence of Timothy Williams has been filed in support of Quartz's submission. Mr Williams recommends the adoption of the relief sought in the submission in terms of both the extension of the VASZ and the amendments to the provisions as they relate to the properties.
- [6] The basis for Mr Williams' recommendation to amend the provisions is essentially that the provisions are aligned with the existing provisions that apply to the properties under the ODP VAS and underlying Township Zone.
- [7] Mr Williams' evidence addresses the fact that LDSRZ land that is within a VASZ differs in nature to land that is not. The PDP is intended to be more enabling of visitor accommodation and associated activities that are located within the VASZ. This is reflected in the Objectives and Policies for the LDSRZ which encourage visitor accommodation within the VAS and seek to control it outside the VASZ.

- [8] However, these differences are not reflected in the Rules for the LDSRZ which unlike the ODP Township Zone simply offer blanket restrictions across the LDSRZ and do not provide specific recognition of the VASZ.
- [9] It is submitted this is a failure of the Zoning and creates a disconnect between the Objectives and Policies of the LDSRZ and the Rules which must give effect to such. When land is recognised as being suitable for particular activities as demonstrated by the identification of such land within a Sub-Zone, the Rules should reflect this.
- [10] This is especially the case when the land in question contains an established visitor accommodation activity and has been identified as being part of the VASZ for a number of years.

### **Council Planning Recommendation**

- [11] Ms Devlin in her Section 42A Report on the zoning of the properties has recommended Quartz's submission seeking the extension of the VASZ be accepted.
- [12] Ms Bowbyes in her Section 42A Report in relation to the provisions of the VASZ and underlying LDSRZ as they relate to the property recommends rejection of Quartz's submission seeking amendments to such provisions.
- [13] The basis for Ms Bowbyes recommended rejection of the submission appears to be that:
- (a) Because Quartz only had scope to seek site-specific amendments, the relief sought would be akin to that of subzone,<sup>1</sup> and
  - (b) There is still a consenting pathway for the activities sought to be enabled by the VASZ.<sup>2</sup>
- [14] The reason why Quartz can only seek site-specific amendments is because at the time the provisions of the LDSRZ and VASZ were notified, the zoning of Quartz's property was not notified and was zoned

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<sup>1</sup> Section 42A Report of Amy Bowbyes on behalf of QLDC, 18 March 2020 at 9.7.

<sup>2</sup> Rebuttal evidence of Amy Bowbyes on behalf of QLDC, 12 June 2020 at 9.3.

Township under the PDP. It therefore had no reason to make submissions on the zoning provisions at that time and could not be expected to submit on such based on speculation that its property would be zoned LDSRZ.

- [15] The situation Quartz and other submitters are now in is a direct consequence of the decision of the Council to undertake a staged PDP and not notify all properties as a particular zone at the time it notified the provisions of such zone.
- [16] Given the need for Quartz to seek site specific provisions is a consequence of the Council's approach, it is submitted it would be inappropriate for the Council to now oppose such relief and hamstringing submitters who seek an amended zone provisions as they apply to their sites.
- [17] It is further submitted it is not acceptable, as Ms Bowbyes has done, to simply say that the landowner can carry out the activities on the property through applications for resource consent. For activities that are clearly contemplated within a subzone to have to go through a consenting pathway is inefficient and inequitable to the landowner.
- [18] Further, and as identified in Mr Williams' evidence, in the case of informal airports there is no such consenting pathway as they are a prohibited activity.

### **Section 32AA Resource Management Act 1991**

- [19] The site specific amendments sought by Quartz in its submission and the changes the notified provisions must be evaluated pursuant to s 32AA of the Act.
- [20] An evaluation under s 32AA must be undertaken in accordance with s 32(1) to (4) and must:
  - (a) Examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

- (b) Examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
  - (i) identifying other reasonably practicable options for achieving the objectives; and
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
  - (iii) summarising the reasons for deciding on the provisions; and
- (c) Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal; and
- (d) Identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions.

[21] Mr Williams' evidence undertakes the required analysis pursuant to s 32AA. He concludes "the changes to the provisions are considered more effective and efficient than the notified provisions. They provide a more focussed framework and recognition of visitor accommodation activity. In particular they recognise that the functional and built form attributes differ within VASZ from a typical low-density residential environment. These changes combined with the method of identifying VASZ ensures the most appropriate way to achieve the objectives".<sup>3</sup>

[22] It is submitted the Council in their assessment of the submission and of the amendments made have failed to undertake a similarly robust s 32 analysis as that undertaken by Mr Williams. Accordingly, it is submitted Mr Williams' evidence should be preferred by the Panel.

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<sup>3</sup> Evidence of Timothy Williams, 29 May 2020 at Appendix B.

**Part 2 Resource Management Act 1991**

[23] It is submitted the proposed extension of the VASZ and associated amendments to the provisions will:

- (a) Achieve the purpose of the Act (s 5) as it will promote the sustainable management of natural and physical resources. The provisions will enable an existing and important economic resources to grow without adversely affecting the quality of the environment, and without the need for unnecessary resource consent applications;
- (b) Not be contrary to any of the matters of national importance (s 6); and
- (c) Achieve the matters in s 7, in particular 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 the finite characteristics of natural and physical resources.

**Conclusion**

[24] Based on the evidence filed in support of the submission and the analysis under s 32AA of the Act carried out by Mr Williams, the VASZ should be extended over the properties and bespoke provisions should apply in respect of such zoning.

[25] It is submitted this evidence be preferred over that of the officers for the Queenstown Lakes District Council (**Council**) and their recommendation to reject the submission seeking such amendments to provisions.

Dated: 31 July 2020



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G M Todd / B B Gresson  
Counsel for the Submitter