

Before the Queenstown Lakes District  
Council

In the matter of           the Resource Management Act 1991

And

In the matter of           the Queenstown Lakes District Proposed District Plan – Hearing  
Stream 08

And

In the matter of           Chapter 12, Queenstown Town Centre Zone

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**AMENDED Legal Submissions for John Thompson and MacFarlane Investments  
Limited (Further Submission 1274)**

Dated 1 December 2016

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## Introduction

- 1 These submissions are presented on behalf of Further Submitter 1274 John Thompson and MacFarlane Investments Limited (**John Thompson**).
- 2 John Thompson owns approx. 3,900sqm of land within the Isle Street East (ISE) sub zone bounded by Man Street on its northern boundary and Brecon Street on its eastern boundary located on the opposite (northern) side of Man Street from the Sofitel Hotel. That land is potentially affected, by the matters addressed in these submissions and the supporting evidence. However John Thompson's primary concern is a broader one of appropriate urban design outcomes in this area. The ultimate urban design decided upon by the Panel will have direct consequences for the development of the land within the ISE sub zone.
- 3 John Thompson has accumulated this property over a period of 30 years and was previously involved in the planning debates which established the current operative height limits on the Sofitel Hotel site and the (current) Queenstown Town Centre Transition Zone. At the time those height limits were set they established an appropriate relationship between height limits in this general area, taking into account the particular characteristics and topography of the parcels of land involved. John Thompson acknowledges that those previously established height limits will change, notwithstanding that the Sofitel height is fixed in time. What he seeks to ensure is that, overall, appropriate height relationships are maintained and good urban design outcomes are achieved.
- 4 John Thompson has no concerns about the general approach of the Council's urban design expert Tim Church. Accordingly John Thompson is not calling separate urban design evidence. The primary purpose of these submissions, and the supporting evidence, is to draw the attention of the Panel and Tim Church to factual matters which appear to have been overlooked by the s42A Report and which could potentially lead to undesirable urban design outcomes. John Thompson then proposes one alternative height limit which he suggests would result in more desirable outcomes.
- 5 John Thompson's concerns are limited to part of the northern half of the block bounded by Man Street, Hay Street, Shotover Street and Brecon Street (**Man Street Block**), namely the 'Language School' site as defined in the evidence of John Edmonds.
- 6 It is acknowledged that the currently proposed sloping height limit based upon original ground level applicable to the Language School site is 12m 'as of right' with a 2m restricted discretionary activity bonus up to 14m. These submissions, and the supporting evidence, assume that such a combination of rules anticipates that the 2m bonus will be applied for and there is a reasonable expectation it

would be granted. Therefore the 14m height limit is used for the purpose of these submissions and the supporting evidence, without reference to the lower 12m height limit. All relevant figures can be adjusted, if necessary, to reflect the lower 12m height limit.

### **Jurisdiction**

- 7 Counsel adopts, and will not repeat, submissions previously made to the Panel that scope and jurisdiction are determined by the combination of all relevant submissions lodged to the Proposed District Plan (**PDP**), and that evidence can be led by any submitter provided it falls within that overall scope and jurisdiction.
- 8 John Thompson relies upon the following submissions lodged to the PDP as providing jurisdiction for the height limit outcomes proposed by him:
  - (a) Original Submission 417 by John Boyle which requests that the maximum building heights enabled in the Man Street Block be no greater than those enabled in the Operative District Plan (**ODP**);
  - (b) Original Submission 398 by Man Street Properties Limited (**MSPL**) which requests a complex mixture of height limits within the Man Street Block based upon 'flat plane' RL or masl levels rather than height limits based upon height above original ground level.

### **s42A Report Deficiencies**

- 9 Historic difficulties with establishing height above original ground level (prior to any development) within many parts of the district generally, and in relation to the Man Street Block and the Sofitel Hotel site in particular, are well known and well documented. Those difficulties are referred to in the evidence of John Edmonds<sup>1</sup> and the evidence of Tim Williams for MSPL<sup>2</sup>.
- 10 Given that complex planning history, those known difficulties, and the opportunity presented by the PDP to properly address those issues, it is disappointing that the opportunity has not been taken, either in the PDP as notified or in the amended height regime now proposed by the s42A Report. This is evidenced in a number of respects (referring only to the latest version rules now being proposed by the Council officers).
- 11 There is lack of attention to detail in the drafting. By way of example, Rule 12.5.10.3 refers to a height "... 4m above RL312.0 masl (412.0m Otago Datum)",

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<sup>1</sup> Evidence of John Edmonds dated 18 November 2016, at paragraph 11 on page 3

<sup>2</sup> Evidence of Timothy Williams dated 18 November 2016, at paragraph 16 on page 5

Rule 12.5.10.4.a refers to a height "...11m above 327.1 masl" and Rule 12.5.10.5.c refers to a height "... RL332.20 masl (being 432.20 Otago Datum)". Queries about the consistency of that drafting include:

- (a) Why refer to a height "11m above 327.1 masl" instead of just saying "338.1 masl"?
  - (b) Why do some height limits refer to "RL" whereas others do not?
  - (c) Why do some height limits refer to an equivalent Otago Datum height whereas others do not?
- 12 This confused and inconsistent approach extends to the recommended maximum height limits applicable to the northern half of the Man Street Block. The middle section (Areas C, A, D and B on the plan in Rule 12.5.10.4) are recommended to be based upon flat plane masl levels whereas the western end and the eastern end (both marked P1 on the map in Rule 12.5.10.4) are recommended to be based upon a maximum height above original ground level. Past difficulties with that latter approach are well known and are detailed in the evidence of John Edmonds<sup>3</sup>, including uncertainty about the original ground level (because original development took place so long ago) and the likely planning outcome involving landowners trying to push through a sloping height plane which, in part, illogically prevents appropriate development.
- 13 The s42A Report contains no analysis which compares the merits and demerits of the two different approaches and justifies the retention of the historic approach within the two P1 areas instead of changing to a flat plane approach which, in these particular circumstances, would create greater certainty for the landowners and more logical and sensible development outcomes.
- 14 John Thompson queries the accuracy of the 'Model Views' contained in Appendix A1 Graphic Supplement Amendment attached to the Memorandum of Counsel for the QLDC dated 18 November 2016. In particular:
- (a) Referring to the dark blue indicative building in Precinct P6, that dark blue building does not correctly reflect the Sofitel Hotel which actually exists and is part of the existing environment;
  - (b) The evidence of John Edmonds<sup>4</sup> points out that the maximum height limit applicable to the upper part of the Language School is about 8m higher

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<sup>3</sup> Evidence of John Edmonds dated 18 November 2016, paragraphs 9 – 11 on page 3

<sup>4</sup> Evidence of John Edmonds dated 18 November 2016, at paragraph 13 referring to the Height Plans in Appendix 1

than the Sofitel Hotel. While it is difficult to tell exactly because the 'Model Views' produced for the Council do not contain cross sections and do not detail specific heights, the indicative dark brown building on the Language School site in Precinct P1 does not appear to be 8m higher than the Sofitel Hotel.

- 15 I submit for John Thompson that the points identified in the previous paragraph have the following consequences:
- (a) The s42A Report, and Tim Church's evidence in particular, do not appear to appreciate that the recommended height regime could result in a building on the Language School site, at the top of the pedestrian stairs on Brecon Street, extending up to 8m above the Sofitel Hotel. Accordingly the urban design consequences of such a building, in terms of the relationship between that building and the Sofitel Hotel in the context of the important pedestrian thoroughfare going up the Brecon Street stairs, is not assessed;
  - (b) The consequential potential height profile of buildings along Man Street identified in the evidence of John Edmonds<sup>5</sup> being a 332.2 masl Sofitel Hotel, rising to 341 masl Language School site building, dropping to a building on the Carpark, and then rising again on the Well Smart Block, is not assessed.
- 16 I submit that John Edmonds' recommended approach to height on the Language School should be preferred for the following reasons:
- (a) It avoids uncertainty about interpreting original ground level;
  - (b) It avoids the possibility of an anomalous 'tower' development on the upper part of the Language School Site;
  - (c) In the context of the adjoining carpark, it is logical that whatever masl height plane is applied to the Language School site should extend southwards to the same extent as the adjoining Carpark;
  - (d) In the context of the existing Sofitel Hotel directly across Brecon Street, which rises sheer from Brecon Street up to the 332.2 masl height for a considerable distance along Brecon Street, there is a degree of logic in an equivalent building on the Language School site extending about the same distance to the south.

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<sup>5</sup> Evidence of John Edmonds dated 18 November 2016, at paragraph 12

Dated this 1st day of December 2016

A handwritten signature in black ink, appearing to read "Warwick Goldsmith". The signature is written in a cursive, flowing style.

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Warwick Goldsmith  
Counsel for John Thompson and  
MacFarlane Investments Limited