

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL
INDEPENDENT HEARINGS PANEL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a further submission to the Stage 1
Proposed Queenstown Lakes District
Council Plan by **ZJV (NZ) Limited**
(Further Submission 1370.1).

**STATEMENT OF EVIDENCE OF JEFFREY ANDREW BROWN
ON BEHALF OF ZJV (NZ LIMITED
TOPIC 13 – QUEENSTOWN MAPPING:
Stream 1A – Queenstown Business and Industrial**

9 June 2017

**BROOKFIELDS
LAWYERS**

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1 Introduction

1.1 My name is Jeffrey Andrew Brown. I have the qualifications of Bachelor of Science with Honours and Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute. I am also a member of the New Zealand Resource Management Law Association. I was employed by the Queenstown Lakes District Council (**QLDC**) from 1992 – 1996, the latter half of that time as the District Planner. Since 1996 I have practiced as an independent resource management planning consultant, and I am currently a director of Brown & Company Planning Group Ltd, a consultancy with offices in Auckland and Queenstown. I have resided in Auckland since 2001.

1.2 **Attachment A** contains a more detailed description of my work and experience.

1.3 I have complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014. This evidence is within my area of expertise, except where I state that I am relying on another person, and I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

1.4 This evidence is on behalf of ZJV (NZ) Limited (further submitter 1370.1) (**Ziptrek**). The further submission opposes the submission by Skyline Enterprises Limited (submission 574).

1.5 Submission 574 in summary seeks to:

- rezone land in the Ben Lomond Reserve (generally occupied by the Skyline facilities including the gondola and terminals and related activities) to a “Commercial Tourism and Recreation Sub-Zone” of the Rural Zone;
- amend the Queenstown Town Centre zone area and provisions; and
- exclude the new zone from the landscape categorisation.

1.6 I have read the Section 42A report / evidence prepared by Ms Evans for the Council and the evidence of Dr Read, Mr Glasner, and Ms Banks.

1.7 My evidence is structured as follows:

Section 2 I address the current planning framework affecting the Ben Lomond area and discuss Skyline’s submission;

Section 3 I comment on the s42A report for this hearing.

2 Current planning framework affecting the Ben Lomond area

2.1 The current planning framework includes several planning “layers” affecting the Ben Lomond area:

- (a) It is zoned Rural in the PDP;
- (b) It is within the outstanding natural landscape (**ONL**) classification in the PDP;
- (c) It is contained in several designations including two recreation reserves: numbers 221 and 248, both administered by the Council. The PDP contains two sets of “conditions” for recreation reserves – the “B” set of conditions (in Chapter 37) apply to designation 221 and the “G” set of conditions apply to designation 248. These set the parameters for activities to be in accordance with the purpose of designations. Neither set of conditions prescribes any activities (but would generally apply to recreational activities given the purpose of the designations), and both sets address: setbacks from roads, separation from neighbours, height, recession lines, site coverage, access and parking, surfacing, glare, noise, and hours of operation. The wording of the two sets of conditions is slightly different, but not materially so;
- (d) It is within the jurisdiction of the Council’s Ben Lomond and Queenstown Hill Reserve Management Plan 2005 (the **RMP**) which was prepared under the Reserves Act 1977. Part 2.1.1 of the RMP states:

2.1.1 Definition and purpose of management plans

Management plans are required under the Reserves Act 1977 to outline a council’s general intentions for use, development and maintenance of its reserves.

The aim of this legislation is to ensure that park development and enjoyment are based on sound principles and that, through involvement, the needs of the public are clearly identified.

Reserve management plans are documents outlining a series of management objectives and policies for the development and operation of individual reserves. Each plan seeks to balance the protection of natural resources with the provision of recreational opportunities that are relevant to the needs of the district.

The process of writing these plans allows the public opportunities to have input and therefore to take part in the decision making which will affect the future of the reserve.

This management plan process is shown below. The plan, once adopted by Council, is kept under continuous review so that it may be adapted to changing circumstances or in accordance with increased knowledge.

The purpose of this plan, therefore, is to embrace the community’s vision for the reserves and provide for the use, enjoyment, maintenance, protection and sensitive development of the reserves, in keeping with the existing character of the area and within the limits of Council’s resources.

The overall objectives of the RMP for Ben Lomond are:

1. **Protection of the high quality scenic landscape values.**
2. **Protection of the reserves natural quiet values.**
3. **Provision for recreation and tourism activities, including commercial activities that do not adversely impact on the landscape, recreation and natural values.**
4. **Enhancement of the reserves biodiversity, through control of wilding pine spread and targeted native bush revegetation.**
5. **Enhanced opportunities for low impact recreation activities, such as walking and mountain biking, through the co-ordinated maintenance, enhancement and development of walking and mountain biking trails information and facilities.**
6. **Harvesting of exotic timber species to the extent that amenity, landscape and recreational opportunities (including safety of existing facilities) are not unduly compromised.**

2.2 Part 4.4 of the operative District Plan contains various objectives, policies and methods (including non-District Plan methods) that recognise, complement and support – but do not seek to duplicate or over-ride – procedures and management plans prepared under the Reserves Act¹. The following “other method” features in Chapter 4.4 of the operative District Plan, for implementing objectives and policies for open space and recreation:

(iv) Other Methods:

To complement the use of District Plan procedures by the use of procedures and management plans under the Reserves Act, by encouraging other agencies to use procedures under their empowering legislation, to manage the layout, design and allocation of activities on publicly-owned open space and recreation areas.

2.3 Hence, RMPs are intended to be the “lead instrument” in managing the resources of reserves and the operative District Plan plays a more complementary support role. (I note that the PDP, in its effort to be streamlined, does not include this sort of guidance and linkage to other instruments that is (in my view) a desirable feature of the operative District Plan).

2.4 In submission 574, Skyline’s Commercial Tourism and Recreation Sub-zone (**CTR Sub-zone**) promotes a liberal rules regime, including permitted activity status for many activities, and this is not necessarily consistent with the RMP. For example, the CTR Sub-zone seeks permitted activity status for commercial activities. “Commercial activities” is widely defined by the PDP, and many commercial activities may not be consistent with the RMP’s objectives of Protection of the reserve’s natural quiet values or the Provision for recreation and tourism activities, including commercial activities that do not adversely impact on the landscape, recreation and natural values.

¹ See the Operative District Plan chapter 4.4, implementation methods to objectives and policies

- 2.5 Further, under section 74(2)(b) of the Act, when preparing or changing a district plan, a territorial authority shall have regard to any management plans and strategies prepared under other Acts, to the extent that their content has a bearing on resource management issues of the district.
- 2.6 In my view, Skyline's CTR Sub-zone provisions would need to be revisited substantially to encapsulate and properly deal with the RMP and all of the other relevant issues before they could be adopted into the PDP. A variation (or later plan change) would likely be necessary, and it would need to address:
- the range of activities that are appropriate in the reserve setting;
 - the spatial layout of activities;
 - the effects of built development, facilities and activities;
 - the effects of traffic, parking and access;
 - the effects of noise and related sensitivities and reverse sensitivities, taking into account all operators;
 - natural hazards;
 - helicopters;
 - forestry; and
 - co-ordination and integration of the public/private realms;
 - co-ordination and integration with the RMP.
- 2.7 Overall, the current planning framework for the Ben Lomond area does not reflect the in situ circumstances as:
- the character of the area is very different to a typical rural zone with an ONL overlay;
 - the conditions of the designations, which were formulated to deal with generally small-scale recreational activities that would typically occur in a recreation reserve, are not well matched with the kinds of large scale commercial activities that have evolved (and are evolving) in the Ben Lomond area; and
 - the RMP, prepared in 2005, is out of date; it pre-dates many activities happening within the reserves and is not very well equipped to deal with, for example, Skyline's recent application for upgrading the gondola and expansion of the upper and lower terminals.
- 2.8 I therefore agree in principle with the concept of an updated, improved approach for planning of the Ben Lomond area. This may more effectively be achieved by a comprehensive review of the RMP, which in any case is well overdue because the RMP is 12 years old.

3 Comment on the s42A report

3.1 I focus on Ms Evans' analysis in her paragraphs 8.18 – 8.31²:

Paragraph 8.18: I agree with Ms Evans that a s32 evaluation is necessary for this matter, including an evaluation of the objectives and the methods to achieve them, which was not presented with the submission;

Paragraph 8.20: There are two matters in this paragraph:

(a) I agree that the Ben Lomond area has some similarities to the ski area sub-zones (**SASZ**) which differ from the generality of the higher elevated rural areas because they are heavily modified and attract large numbers of visitors and staff, but none of the five SASZ areas in the District are designated and subject to an RMP and are therefore distinguishable from the Ben Lomond area;

(b) I agree that if a tourism sub-zone were to be implemented it would need to have a wider application within the Ben Lomond area than just the Skyline operations;

Paragraph 8.21: I disagree that a Sub-zone should be excluded as a method because of the Council's "*general approach ... to avoid the introduction of further site specific or bespoke zones in the PDP [that] can result in a complicated plan that is not efficient to administer*". I consider that in some – indeed many – examples bespoke provisions are the most efficient method for dealing with certain location-specific circumstances, and to foreclose such outcomes is artificial;

Paragraph 8.22: I agree that the Skyline operations, and the other operations in the area, are a significant existing hub of commercial and recreation activities close to the centre of Queenstown that are not typical of much of the rural zone and the ONL.

Paragraph 8.24: I would need to see the wording of a rural zone policy, but at this stage, following on from my discussion in part 2 above, perhaps an appropriate

² S42A report / evidence of Ruth Evans, Stream 1A (Queenstown mapping), dated 24 May 2017

policy for the Ben Lomond area would be for the PDP to acknowledge that the land is designated recreation reserve and subject to the RMP which is the lead instrument for the Ben Lomond area;

Paragraphs 8.25 – 8.29: I broadly agree that the provisions put forward by Skyline are too liberal and would need to be modified significantly, including by recognising a broader range of activities and sensitivities;

Paragraph 8.31: I agree that the rezoning request as presented in Skyline's submission should be rejected.

3.2 At this stage I would need to see a full s32 evaluation, including an analysis of the relevant higher order objectives and the options (District Plan and non-District Plan (RMP) methods) available to achieve the objectives. If PDP provisions are the preferred method, these should address all of the relevant issues at Ben Lomond and not focus primarily on one operator's activities.

J A Brown
9 June 2017

A**Curriculum vitae – Jeffrey Brown****Professional Qualifications**

1986: Bachelor of Science with Honours (Geography), University of Otago

1988: Master of Regional and Resource Planning, University of Otago

1996: Full Member of the New Zealand Planning Institute

Employment Profile

May 05 – present: Director, Brown & Company Planning Group Ltd – resource management planning consultancy based in Queenstown and Auckland. Consultants in resource management/statutory planning, strategic planning, environmental impact assessment, and public liaison and consultation. Involved in numerous resource consent, plan preparation, changes, variations and designations on behalf of property development companies, Councils and other authorities throughout New Zealand.

1998 – May 2005: Director, Baxter Brown Limited – planning and design consultancy (Auckland and Queenstown, New Zealand). Consultants in resource management statutory planning, landscape architecture, urban design, strategic planning, land development, environmental impact assessment, public liaison and consultation.

1996-1998: Director, JBA, Queenstown – resource management consultant.

1989 – 1996: Resource management planner in several local government roles, including Planner (1992 – 1994) and District Planner (1994 – 96), Queenstown-Lakes District Council. Held responsibility for all policy formulation and consent administration.

Other

- New Zealand Planning Institute – presenter at The Art of Presenting Good Planning Evidence workshops for young planners (2016 –)
- Judge, New Zealand Planning Institute Best Practice Awards (2017 –)