
SUMMARY OF PLANNING EVIDENCE OF BEN FARRELL FOR CHAPTER 26

**For:
Real Journeys Limited (#621/#1341)
Te Anau Developments Limited (#607/#1342)**

TABLED AT QLDC HEARING 29 June 2016

Introduction

1. This summary is to be read in support of my evidence dated 17 June, having regard to Council's legal submission prepared by Ms S Scott dated 24 June. It also considers personal communication undertaken with QLDC after I prepared my evidence dated 17 June.

Matters of clarification

2. Referring to paragraph 3.8-3.11 of Ms Scott's legal submission I would add that:
 - a. A QLDC staff member and Real Journeys disagreed whether consent was required for the planned works (in advance of works occurring in September 2015).
 - b. Real Journeys began physical works on the slipway with the belief that no consent was required.¹ My interpretation also differs to Council's position (3.10 of Ms Scott's legal submission) I do not agree that the replacement of hardwood beams with steel beams is "beyond the concept of maintenance" of a working piece of infrastructure with moveable parts.
 - c. After QLDC requested the works to be stopped, it took six months for Real Journeys to obtain the necessary documentation required to prepare the resource consent application.
3. Referring to paragraph 3.11 of Ms Scott's legal submission:
 - a. I did state that the "particular intervention by QLDC resulted in significant risks, costs and inconveniences to Real Journeys." This is clearly identified in my evidence as the position of Real Journeys staff (upon which I rely).
 - b. Based on discussions with Real Journeys staff, I understand any resource consent requirements affecting Real Journeys' ability to operate and maintain the "TSS Earnslaw" (including works on the slipway) might result in significant risks, costs and inconveniences to Real Journeys and the ability to maintain the "TSS Earnslaw" when required.
4. Referring to paragraph 3.12 of Ms Scott's legal submission, I did not intend to infer that "Council somehow acted inappropriately" or that "there is a link between the Real Journey submission on the PDP, and matters of monitoring and enforcement the heritage provisions of the ODP". My statement "(after Real Journeys made its submission on the Proposed Districts Plan)" is merely a typo that should be deleted.

¹ I was not involved in this dispute. I assume the following: Real Journeys' position relied on the works being permitted under their existing use rights; or permitted by the operative district plan by interpreting the works as being "general maintenance"; or potentially permitted by designation 182 (which includes the Earnslaw slipway). Added to this Real Journeys had previously undertaken similar works on the slipway (around 2013) without any suggestion from QLDC or any other party that such works might require resource consent.

“TSS Earnslaw”

5. The Council's lawyer accepts that the RMA does not contemplate regulation of mobile heritage and that as a matter of law, the listing is ultra vires and as a consequence Item 37 should be removed from the Inventory.² I therefore do not address this further.

Management of the slipway

Heritage status of the slipway

6. Contrary to the suggestion in paragraph 3.3 of Council's legal submission, I did not state (or intend to infer) that all elements of the slipway deserve protection for their heritage values. Real Journeys is not challenging the fact that the slipway has heritage values. Based on my application and interpretation of the following, in my opinion the Slipway is most appropriately classified as a Category 3 item:
 - a. The s42A Report recommends new descriptors be included on page 26-2 of the Heritage Chapter, as follows:
 - i. Category 2 items are those that warrant permanent preservation because they are *very significant* to the District;
 - ii. Category 3 items are appropriate where *“preservation of the heritage resource is encouraged. The Council will be more flexible regarding significant alterations”*.
 - b. Mr Knott advises that the slipway has *“moderate heritage values”*. No party has suggested the heritage values are *“very significant to the District”*.
 - c. The slipway is an operating machine which must be maintained in order for the *“TSS Earnslaw”*. The slipway is not a museum piece and it is not practical for the slipway to be *“preserved in an existing state”*.

Managing the slipway via the resource consent process

7. The key issue is whether or not management of the slipway should be controlled via the resource consent process.
8. For the reasons stated in my evidence and the evidence of Ms Black, in my opinion the Proposed District Plan should be amended to permit the continued use, operation, maintenance, repair and upgrading of the slipway for any purpose associated with the *“TSS Earnslaw”*.

Relocating the Antrim Engine

9. In my opinion it is not appropriate that the district plan discourages (via the non-complying activity status) the onsite relocation of the Antrim engine (or any Category 2 item that can practically be moved onsite). The non-complying activity status imposes unnecessary risks and costs. Relocating an item within the same site (or within its *“setting”*) is a discrete activity and the restricted discretionary activity status enables the potential effects on the heritage values to be addressed via the resource consent process. In the case of the Antrim engine, it is a movable object that might need to be replaced or upgraded (for a variety of practical reasons).

² Par 3.1 QLDC Opening Legal Submission dated 24 June 2016