

**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 **Oasis in the Basin
Association (Further Submission
1289)**.

**STATEMENT OF EVIDENCE OF JEFFREY ANDREW BROWN
ON BEHALF OF OASIS IN THE BASIN ASSOCIATION
TOPIC 13 – QUEENSTOWN MAPPING:
Queenstown Urban – Frankton and South**

9 June 2017

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 Oasis in the Basin Association (further submitter 1289) (**Oasis**). The further submission is in opposition to the submission by the Middleton Family Trust (submission 338).

1.5 Submission 338 seeks to rezone land north of Lake Johnson from the Rural Zone to the Rural Residential (**RR**) Zone (18ha) and the Low Density Residential (**LDR**) Zone (76.5ha), to be serviced by a road from State Highway 6 off the new roundabout at Hawthorne Drive, and to shift the proposed Outstanding Natural Landscape (**ONL**) boundary to a minor extent.

1.6 I have read the Section 42A report / evidence prepared by Ms Banks for the Council and the evidence of Dr Read and Mr Glasner. I have also read the draft evidence of Mr Goldsmith, Mr Carr and Mr Skelton for Oasis. I comment on this material through my evidence.

1.7 My evidence is structured as follows:

Section 2 I address the effects on the environment of the proposed rezonings;

Section 3 I address s32 of the Act with specific focus on principles for rezoning;

Section 4 I conclude with a discussion of Part 2 of the Act.

- 1.8 My brief is limited to land classified as ONL in the notified PDP. The proposed RR zoning is within the area being considered in the Wakatipu Basin Land Use Planning Study and outside the ONL, and I therefore do not further comment on it. This evidence therefore focusses on the majority of the LDR rezoning proposal.

2 Effects on the environment of the proposed LDR rezoning

- 2.1 The LDR zoning is proposed on land that is reasonably close to Frankton Corner and to the Frankton Flats zones, and that it could provide for a large number of residential which would contribute to the housing needs of the District. This is a positive effect of the proposal.
- 2.2 It may be that the land could be efficiently accessed and serviced, although there is no information to determine if the traffic and infrastructure effects would be adverse or not.
- 2.3 The land is within the ONL. I agree with Mr Skelton and Dr Read that the LDR zoning in this location, and the access road to it, would have very high¹ or significant² adverse effects on the landscape values of the ONL, and on the rural amenity values of Lake Johnson and its environs.
- 2.4 The zoning would also urbanise an existing undeveloped area and would foreclose the opportunity for Lake Johnson, its margins and its wider naturalness to be an undeveloped and remote “getaway” close to the urban settlement areas of Queenstown and Frankton.
- 2.5 Overall, the very high (or significantly) adverse adverse effects of the LDR zoning on the landscape values of the area outweigh any positive effects of the zoning, in my view.

3 Section 32 evaluation

- 3.1 In previous hearing topics the Council’s planning witnesses have set out principles for considering the various requests for rezonings³, and I have found those principles a useful means of applying s32⁴. I address each of these principles below.

- (a) Whether the change is consistent with the objectives and policies of the proposed zone. This applies to both the type of zone in addition to the zone boundary.

¹ Evidence of Steve Skelton, dated 9 June 2017, para 35

² Evidence of Dr Marion Read, dated 24 May 2017, para 10.10

³ Including the First Statement of Evidence of Kim Banks for Stream 11, dated 10 March 2017, paragraphs 13.9 – 13.12; and the Statement of Evidence of Craig Barr for Stream 12, dated 17 March 2017

⁴ I have addressed the principles in my evidence for Ski Area Subzones (evidence for Mount Cardrona Station Limited; and for Jeremy Bell Investments Limited)

3.2 The relevant PDP objectives and policies for the LDR zone relate to residential amenity (height, coverage, character and so on); infrastructure; avoiding reverse incompatibilities with the airport and the state highway; the community and commercial development within residential environments; and with Arrowtown character issues. The LDR zone objectives and policies largely do not relate to the appropriateness of the LDR zone in a particular location; rather, the appropriateness of the location of the LDR zone is a function of higher order objectives and policies (and these are addressed under other principles, below).

3.3 The only relevant LDR zone objective or policy that relates to the location of the LDR zone is Policy 7.2.1.1⁵ which states:

7.2.1.1 Low density zoning and development is located in areas that are well serviced by public infrastructure, and is designed in a manner consistent with the capacity of infrastructure networks.

3.4 Mr Glasner indicates that detailed modelling would be required to demonstrate the effects of the rezoning on public infrastructure. That modelling has not been carried out. As with many examples of large scale development, infrastructure engineering solutions are often available but I am unsure if this zoning and development can be serviced in a way that the policy would be achieved.

(b) Whether the zone proposed / sought is more appropriate than the proposed zone

3.5 The PDP's notified zone is the Rural Zone, within the ONL. I deal with this in more detail in the next principle (relating to strategic chapters of the PDP), but simply note here that the proposed LDR Zone would not be appropriate in this location as it is within the ONL and would have adverse effects on landscape values, as discussed in more detail by Dr Read and Mr Skelton.

(c) Whether the change is consistent with and does not compromise PDP Strategic chapters and in particular the Strategic Direction, Urban Development, and Landscape chapters

3.6 Higher order goals, objectives and policies from Chapter 3 (Strategic Direction), Chapter 4 (Urban Development), and Chapter 6 (Landscape) are relevant and I address these below.

3.7 The relevant Strategic Direction provisions are:

⁵ This policy is from the Council's right of reply version, in the statement by Nicola Leith dated 11 November 2016 for Hearing Stream 06

- 3.2.2 Goal – The strategic and integrated management of urban growth**
- 3.2.2.1 Objective - Ensure urban development occurs in a logical manner:**
- that promotes a compact, well designed and integrated urban form;
 - that manages the cost of Council infrastructure; and
 - that protects the District’s rural landscapes from sporadic and sprawling development.
- Policies**
- 3.2.2.1.1 Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Jacks Point), Arrowtown and Wanaka.**
- 3.2.5 Goal – Our distinctive landscapes are protected from inappropriate development.**
- 3.2.5.1 Objective – Protection of the natural character quality of the Outstanding Natural Features and Landscapes and Outstanding Natural Features from inappropriate subdivision, use and development.**
- Policies**
- 3.2.5.1.1 Identify the district’s Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps.**
- 3.2.5.3 Objective – New urban subdivision, use or development will occur in those areas that have potential to absorb change without detracting from landscape and visual amenity values.**
- Policies**
- 3.2.5.3.1 Direct urban development to be within Urban Growth Boundaries (UGB’s) where these apply, or within the existing rural townships. Urban development will be enabled within Urban Growth Boundaries and discouraged outside them. ...**

3.8 I consider that the proposed LDR zoning is not consistent with these higher order Strategic Direction provisions because:

- (a) although the land is a short drive from Frankton Corner and the Frankton Flats zones, urban development within it could not be said to be consistent with a compact and integrated urban form (Objective 3.2.2.1);
- (b) it would not protect the rural landscape from sporadic and sprawling, and inappropriate development (Objectives 3.2.2.1 and 3.2.5.1); and
- (c) the land is outside the Queenstown UGB, where urban development is discouraged. Although some parts of the District’s rural areas have potential to accommodate urban growth, this location, in the ONL and in a sensitive location adjacent to Lake Johnson, does not have potential to absorb change without significant detracting from the landscape and visual amenity values (Objective 3.2.5.3).

3.9 I therefore consider that the LDR zone would not fulfil the PDP's Strategic Direction goals of "strategic and integrated management of urban growth" or "distinctive landscapes are protected from inappropriate development".

3.10 The relevant Urban Development chapter provisions are:

4.2 Objectives and Policies

4.2.1 Objective - Urban development is integrated with infrastructure and services and is undertaken in a manner that protects the environment, rural amenity and outstanding natural landscapes and features.

Policies

4.2.1.1 Land within the major urban settlements will provide the focus for urban development, with a lesser extent accommodated within smaller rural townships.

4.2.1.2 Urban development is integrated with existing public infrastructure, and is designed and located in a manner consistent with the capacity of existing networks.

4.2.1.3 Encourage a higher density of residential development in locations that have convenient access to public transport routes, cycleways or are in close proximity to community and education facilities.

4.2.1.4 Development enhances connections to public recreation facilities, reserves, open space and active transport networks.

4.2.1.5 Urban development is contained within existing settlements.

4.2.1.6 Avoid sporadic urban development that would adversely affect the natural environment, rural amenity or landscape values; the efficiency and functionality of infrastructure; or compromise the viability of a nearby township. ...

4.2.2 Objective - Urban Growth Boundaries are established as a tool to manage the growth of major centres within distinct and defensible urban edges.

Policies

4.2.2.1 Urban Growth Boundaries define the limits of urban growth, ensuring that urban development is contained within those identified boundaries, and urban development is avoided outside of those identified boundaries.

4.2.2.2 Urban Growth Boundaries are of a scale and form which is consistent with the anticipated demand for urban development over the planning period, and the appropriateness of the land to accommodate growth. ...

Queenstown

4.2.4 Objective - Manage the scale and location of urban growth in the Queenstown Urban Growth Boundary.

Policies

4.2.4.1 Limit the spatial growth of Queenstown so that:

- the natural environment is protected from encroachment by urban development
- sprawling of residential settlements into rural areas is avoided
- residential settlements become better connected through the coordinated delivery of infrastructure and community facilities
- land use and transport networks are integrated and the viability of public and active transport is improved

- **the provision of infrastructure occurs in a logical and sequenced manner**

3.11 I consider that the proposed LDR zoning is not consistent with these higher order Urban Development provisions because:

- (a) urban development could not be undertaken in a manner that protects the outstanding natural landscapes and features and the rural amenity (Objective 4.2.1);
- (b) it is not contained within an existing settlement; it is a new urban location (Policies 4.2.1.1 4.2.1.2 and 4.2.1.5);
- (c) it would not avoid sporadic urban development that would adversely affect the natural environment, rural amenity or landscape values (Policy 4.2.1.6); and
- (d) it would not achieve spatial growth that protects the natural environment from encroachment by urban development (Policies 4.2.4.1).

3.12 I therefore consider that the LDR zoning does not achieve the higher order objectives and policies for Urban Development.

3.13 The relevant Landscape chapter provisions are:

6.3 Objectives and Policies

6.3.1 Objective - Landscapes are managed and protected from the adverse effects of subdivision, use and development.

Policies ...

- 6.3.1.4 Discourage urban subdivision and urban development in the Rural Zones.**
- 6.3.1.5 Encourage Rural Lifestyle and Rural Residential Zone plan changes in preference to ad-hoc subdivision and development and ensure these occur in areas where the landscape can accommodate change.**
- 6.3.1.6 When locating urban growth boundaries or extending urban settlements through plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise degradation of the values derived from open rural landscapes.**
- 6.3.1.7 Ensure that the location and direction of lights avoids degradation of the night sky, landscape character and sense of remoteness where it is an important part of that character.**
- 6.3.1.8 Ensure the District's distinctive landscapes are not degraded by forestry and timber harvesting activities.**
- 6.3.1.9 Recognise that low-intensity pastoral farming on large landholdings contributes to the District's landscape character.**
- 6.3.1.10 Recognise the importance of protecting the landscape character and visual amenity values, particularly as viewed from public places.**

- 6.3.2 Objective - Landscapes are protected from the adverse cumulative effects of subdivision, use and development.**
- Policies**
- 6.3.2.1 Acknowledge that subdivision and development in the rural zones, specifically residential development, has a finite capacity if the District's landscape quality, character and amenity values are to be sustained.**
- 6.3.2.2 Allow residential subdivision and development only in locations where the District's landscape character and visual amenity would not be degraded.**
- 6.3.3 Objective – The protection, maintenance or enhancement of the District's Outstanding Natural Features and Landscapes (ONF/ONL) from the adverse effects of inappropriate development.**
- Policies**
- 6.3.3.1 Avoid subdivision and development on Outstanding Natural Features that does not protect, maintain or enhance Outstanding Natural Features.**
- 6.3.3.2 Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Landscapes adjacent to Outstanding Natural Features would not degrade the landscape quality, character and visual amenity of Outstanding Natural Features.**
- 6.3.3.3 Avoid subdivision and development that would degrade the important qualities of the landscape character and amenity, particularly where there is no or little capacity to absorb change.**

3.14 I consider that the proposed LDR zoning is not consistent with these higher order Landscape provisions because:

- (a) the ONL in this area would not be protected from from the adverse effects of subdivision, use and development (Objective 6.3.1), and it would not be consistent with discouraging urban subdivision and urban development in the rural zones (Policy 6.3.1.4);
- (b) it would not avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and would not minimise degradation of the open ONL landscape (Policy 6.3.1.6);
- (c) it would not avoid degradation of the night sky, landscape character and sense of remoteness where it is an important part of that character (Policy 6.3.1.7);
- (d) it would not protect the landscape character and visual amenity values when viewed from various public places as discussed by Mr Skelton and Dr Read (Policy 6.3.1.10);
- (e) high quality, undeveloped lake environments in the Basin are a finite resource which should be sustained (Policy 6.3.2.1);

- (f) it would enable residential subdivision and development in a location where the District's landscape character and visual amenity would be degraded (Policy 6.3.2.2);
- (g) it would not protect the ONL nearby from the adverse effects of inappropriate development (Objective 6.3.3);
- (h) it would not ensure that subdivision and development in the ONL adjacent to the nearby ONF (Ferry Hill) would not degrade the landscape quality, character and visual amenity of the ONF (Policies 6.3.3.1 and 6.3.3.2);
- (i) it would not avoid subdivision and development that would degrade the important qualities of the landscape where there is no or little capacity to absorb change (Policy 6.3.3.3).

3.15 I therefore consider that the LDR zoning would not achieve the higher order Landscape provisions of the PDP because of the location within and effects on the ONL.

- (d) The overall impacts of the rezoning gives effect to the ORPS

3.16 The operative Regional Policy Statement contains objectives and allied policies that are relevant to this proposal, including:

- 4.4.1 to 4.4.5 (Manawhenua Perspective);
- 5.4.1 to 5.4.5 (Land); and
- 9.4.1 to 9.4.3 (Built Environment);

3.17 The subject matter of these provisions is not materially different to that of the PDP's higher order provisions, including in relation to avoiding, remedying or mitigating degradation of Otago's natural and physical resources resulting from activities utilising the land resource (Objective 5.4.2); and protecting Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development (Policy 5.4.3). I consider that the LDR zoning is, broadly, contrary to the relevant ORPS provisions.

3.18 The ORPS provisions are the settled provisions to achieve the purpose of the Act, and the higher order PDP provisions are intended to be the most appropriate district-plan level provisions to achieve the purpose of the Act, under s32(1)(a). The duty under section 32(1)(b) is to examine whether the provisions in the proposal are the most appropriate way to achieve the objectives. In my view, given my above assessment I consider that the higher order provisions would not be achieved by the LDR rezoning proposed in the submission. The rural

zone provisions, along with the ONL overlay, are the most appropriate provisions to achieve the higher order objectives.

(e) Economic costs and benefits are considered

3.19 Economic costs and benefits include:

- The LDR zone has benefits in relation to providing land to accommodate residential growth in this area, and the benefits the construction of the subdivision and dwellings would bring to the District;
- This would be at the significant cost of the loss of ONL values and the overall amenity values of the Lake Johnson setting;

3.20 I consider that the economic benefits of the LDR zone are outweighed by the costs.

(f) **Zone changes could take into account the issues debated in recent plan changes**

3.21 No recent zone changes are relevant.

(g) **Changes to the zone boundaries are consistent with the maps in the PDP that indicate additional overlays or constraints (e.g. Airport Obstacle Limitation Surfaces, SNAs, Building restriction Areas, ONF/ONL);**

3.22 There are no overlays or constraints other than the ONL classification of the area. Dr Read and Mr Skelton have addressed the ONL issues and I agree with their evidence.

(h) **Changes should take into account the location and environmental features of the site (e.g. the existing and consented environment, existing buildings, significant features and infrastructure);**

3.23 There are no buildings, significant features (other than the landscape classification) or infrastructure of relevance to the LDR rezoning.

(i) **Zone changes recognise the availability or lack of major infrastructure (e.g. water, wastewater, roads);**

(j) **Zone changes take into account effects on water, wastewater and roading network capacity, and are not just limited to the site specific effects of extending infrastructure;**

3.24 These principles are relevant. The rezonings will require significant infrastructure extensions, as discussed by Mr Glasner.

- (k) There is adequate separation between incompatible land uses**
- (l) Rezoning in lieu of resource consent approvals, where a portion of the site has capacity of absorb more development does not necessarily mean another zone is more appropriate; and**
- (m) Zoning is not determined by existing resource consents and existing use rights, these will be taken into account.**

3.25 These principles are not relevant. There are no incompatible land uses; there are no relevant resource consents or existing use rights.

3.26 The principles include additional “context factors” which I address as follows:

- (a) The layout of road access, public open space and community facilities;**

3.27 The road access is proposed to be from SH6 at the Hawthorne Drive roundabout. Dr Read and Mr Skelton both consider that this access will adversely affect landscape values and I agree with their assessments.

- (b) Land with physical challenges such as steep topography, poor ground conditions, instability or natural hazards**

3.28 The land is steep in parts but there are large flat areas which look to be physically capable of development.

- (c) Land with other identified significance values (environmental, cultural, amenity, heritage); and**

- (d) The vulnerability of the wider area the subject land is part of to the adverse effects of development.**

3.29 The land is part of the ONL classification. Mr Skelton, as discussed above, and I agree with his findings. Also, the Lake Johnson area has significant amenity values that are vulnerable to the adverse effects of development, as discussed by Mr Goldsmith.

3.30 In summary, for the reasons expressed above I consider that when assessed in the context of the Council’s principles for evaluating zone changes under the PDP process, the LDR zoning is not appropriate.

4 Part 2 of the Act

Section 6

- 4.1 In relation to s6(b) (the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development), I agree with Mr Skelton's and Dr Read's opinion that the LDR zone would have very high or significant adverse effects on the ONL values and therefore the subdivision, use and development enabled by the zoning would be inappropriate.

Section 7

- 4.2 The LDR zoning is directly relevant to the following matters to which particular regard must be given under s7:

- (b) the efficient use and development of natural and physical resources;**
- (c) the maintenance and enhancement of amenity values;**
- (f) maintenance and enhancement of the quality of the environment:**

- 4.3 It may be that the LDR development of this land could be carried out efficiently in terms of traffic and infrastructure, but I am not sure about that. Broadly, however, I do not consider that the urbanisation of ONL land is an efficient use of the District's resources, give that there are other rural locations that could better absorb urban development without adversely affecting ONLs.

- 4.4 The urban development of the land would not maintain and enhance the amenity values or the quality of the environment of Lake Johnson and its wider context.

Section 5

- 4.5 I consider that the new LDR zoning could assist in providing for well-being by meeting in part the housing needs of the District, but that this would not assist the District in sustaining the ONL's role in meeting the reasonably foreseeable needs of future generations – given that the natural splendour of the District is a prime driver of the District's popularity as a place to live and visit. The urbanisation of the ONL would not avoid, remedy or mitigate adverse effects on the environment.

- 4.6 For these reasons, in my view is that the LDR zoning does not achieve the purpose and principles of the Act.

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 –)