

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

**IN THE MATTER OF** of the Resource Management Act 1991

**AND**

**IN THE MATTER OF** Queenstown Lakes Proposed District Plan Hearing  
Stream 13 (Queenstown Mapping Hearings)

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**STATEMENT OF EVIDENCE BY JOHN CLIFFORD KYLE**  
**(SUBMITTER 433 AND FURTHER SUBMITTER 1340)**

9 June 2017

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## **1. INTRODUCTION**

### **QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is John Kyle. I am a founding director of the firm Mitchell Daysh Limited.
- 1.2 My qualifications and experience are set out in paragraphs 1.1 to 1.6 of my statement of evidence for Hearing Stream 1B of the Proposed Queenstown Lakes District Plan (PDP), dated 29 February 2016.
- 1.3 I confirm my obligations in terms of the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 1.4 Mitchell Daysh Limited has been commissioned by the Queenstown Airport Corporation (QAC) to provide resource management advice with respect to the PDP. My firm prepared the submissions and further submissions on behalf of QAC.
- 1.5 This hearing specifically relates to submissions regarding the Queenstown Planning Maps contained in the PDP.

### **SCOPE OF EVIDENCE**

- 1.6 The Queenstown Airport Corporation (QAC) filed a number of submissions and further submissions with respect to the Queenstown Planning Maps. In summary QAC's submission and/or further submission:
- 1.6.1 Opposed the location of the Air Noise Boundary (ANB) and Outer Control Boundary (OCB) as depicted on Maps 31a, 33 and 37 of the PDP because these are mapped incorrectly;<sup>1</sup>

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<sup>1</sup> Submission 433.119-20 and paragraph 4.37 of QAC's covering submission dated 23 October 2015.

- 1.6.2 Opposed the location of Designation 576 and/or 230 on Planning Map 31a;<sup>2</sup>
- 1.6.3 Opposed submissions seeking amendments to planning maps that result in the intensification of Activities Sensitive to Aircraft Noise (ASAN<sup>3</sup>) both within and beyond QAC's aircraft noise boundaries;<sup>4</sup>
- 1.6.4 Opposed submissions seeking amendments to the planning maps that would result in a new Airport Mixed Use Zone on Queenstown Hill;<sup>5</sup> and
- 1.6.5 Supported submissions seeking to amend the land use zone over Lot 1 DP 472825 from Rural to Industrial Zone and to uplift the Aerodrome Purposes designation from the site;<sup>6</sup>
- 1.7 QAC also made a submission regarding the extent of the Airport Mixed Use Zone. I understand that a decision regarding the extent of the Airport Mixed Use Zone will be based on the information received as part of the hearings for Chapter 17.<sup>7</sup> I therefore do not address this matter further in my statement of evidence.
- 1.8 With respect to the Remarkables Park Zone, QAC made further submissions in support of a submission seeking to show the accurate location of the Eastern Access Road and the location of the Ministry of Education designation on Hawthorne Drive<sup>8</sup>. Based on the section 42A report, I understand these submissions are not considered to be "on the plan".<sup>9</sup> I therefore do not address these submissions any further.

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<sup>2</sup> Submission 433.131-132.

<sup>3</sup> Activities Sensitive to Aircraft Noise (ASAN) means any residential activity, visitor accommodation, community activity and day care facility as defined in this District Plan including all outdoor spaces associated with any educational facility but excludes police stations, fire stations, courthouses, probation and detention centres, government and local government offices.

<sup>4</sup> Submitters 16, 48, 125, 128, 141, 150, 238, 328, 336, 338, 347, 389, 391, 399, 318, 408, 425, 429, 434, 455, 488, 501, 533, 661, 717, 751, 790, 806, 828, 840.

<sup>5</sup> Submitter 393.

<sup>6</sup> Submitter 807.

<sup>7</sup> Minute concerning proposal to extend Airport Mixed Use Zone, dated 19 May 2017.

<sup>8</sup> Submission 807.13-14 and 807.13-14.

<sup>9</sup> Paragraph 3.11 of the Strategic Overview and Common Themes s42A report, dated 25 May 2017.

- 1.9 By way of summary, in this statement of evidence I will:
- 1.9.1 Provide an overview of the background context of Queenstown Airport.
  - 1.9.2 Provide an overview of the relevant national, regional and local policy framework;
  - 1.9.3 Discuss the NZ Standard 6805:1992 and how it relates to the Queenstown Mapping Hearing;
  - 1.9.4 Provide an overview of Plan Change 35 (PC35) and the associated notice of requirement (NOR) insofar as this is relevant to the Queenstown Mapping Hearing;
  - 1.9.5 Set out a response to submissions seeking an alternative land use zone which will enable the intensification of ASAN within the ANB or OCB at Queenstown Airport;
  - 1.9.6 Set out a response to submissions seeking an alternative land use zone which will enable the intensification of ASAN beyond, but in close proximity to the ANB or OCB at Queenstown Airport;
  - 1.9.7 Provide specific comment with respect to submissions that seek amendments to the planning maps that do not relate to ASAN.
- 1.10 With the exception of two submissions, QAC's interest in this hearing is primarily in the capacity as a further submitter. Accordingly, this statement of evidence sets out a response based on the information (which is sometimes limited) that can be derived from submissions. I understand that a rebuttal opportunity will be available to respond to any new information that is presented by submitters in support of their submissions.

#### **DOCUMENTS REVIEWED**

- 1.11 In preparing this brief of evidence, I confirm that I have read and reviewed:

- 1.11.1 QAC's submissions and further submissions on the PDP;
- 1.11.2 Various other relevant submissions and further submissions;<sup>10</sup>
- 1.11.3 The section 42A reports prepared for the Queenstown mapping and rezoning hearings and the relevant expert evidence (dated 24 and 25 May 2017);
- 1.11.4 The evidence of Ms Tregidga and Mr Day (dated 9 June 2017);
- 1.11.5 The New Zealand Standard for Airport Noise Management and Land Use Planning NZS6805: 1992 (the NZ Standard);
- 1.11.6 The National Policy Statement on Urban Development Capacity 2016 (NPS-UDC);
- 1.11.7 The relevant sections of the operative and decisions version of the Regional Policy Statement for Otago (the Operative RPS and the Proposed RPS respectively);
- 1.11.8 Chapter 3 Strategic Directions and Chapter 4 Urban Development of the PDP (Council's right of reply version dated 7 April 2017);

## **2. BACKGROUND CONTEXT**

2.1 The significance of Queenstown Airport and the planning framework within which it operates has been previously described in the following statements of evidence:

- 2.1.1 John Kyle, Statement of Evidence Hearing Stream 1B, dated 29<sup>th</sup> February 2016;
- 2.1.2 Mr Mark Edghill, Statement of Evidence Hearing Stream 1B, date 29<sup>th</sup> February 2016;

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<sup>10</sup> Submissions 16, 48, 125, 128, 141, 150, 238, 328, 336, 338, 347, 389, 391, 393, 399, 318, 408, 425, 429, 434, 455, 488, 501, 533, 661, 717, 751, 790, 806, 807 828, 840.

2.1.3 Ms Rachel Tregidga, Statement of Evidence Hearing Stream 8, dated 18 November 2016;

2.1.4 Ms Rachel Tregidga, Statement of Evidence Hearing Stream 13, dated 9<sup>th</sup> June 2017.

2.2 All four of these statements of evidence provide the contextual basis for some of the opinions I express in this evidence.

### **3. STATUTORY AND NON-STATUTORY CONSIDERATIONS**

3.1 Section 75 of the Resource Management Act 1999 (“RMA” or “the Act”) requires that a district plan must give effect to:

*(a) any national policy statement; and;*

*(b) ...*

*(c) any regional policy statement.*

3.2 Of particular relevance to this hearing is the NPS-UDC and the proposed and operative RPS.

#### **NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT CAPACITY (NPS-UDC)**

3.3 The NPS-UDC came into effect on 1 December 2016. The NPS-UDC has been developed to recognise the national significance of:

*(a) Urban environments and the need to enable such environments to develop and change; and*

*(b) Providing sufficient development capacity to meet the needs of people and communities and future generations in urban environments.*

3.4 A number of the NPS-UDC objectives and policies have immediate legal effect<sup>11</sup>, while others have rolling implementation dates.<sup>12</sup> Based on a

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<sup>11</sup> Objective OA1 to OD2 and Policies PA1 to PA4, PC1 to PC4 and PD1 to PD4.

memorandum filed on 3 March 2017, I understand that the Council is reasonably satisfied that the Stage 1 provisions of the PDP give effect to those NPS-UDC provisions that have immediate legal effect. The Council is currently updating its development capacity model for Queenstown to provide further quantitative evidence of this fact.

- 3.5 I understand that the results of the updated development capacity model will be presented to submitters on the 16<sup>th</sup> June 2017. I understand there will be an opportunity to respond to this evidence in due course (via rebuttal evidence).

### **REGIONAL POLICY DOCUMENTS**

- 3.6 The Operative and Proposed RPS provide policy directives around the sustainable management and use of infrastructure. I have addressed both of these documents in my earlier statements of evidence<sup>13</sup> therefore I do not intend to repeat that information here. I would like to highlight however, Policy 4.3.4 of the decisions version of the Proposed RPS (dated 1 October 2016)<sup>14</sup> which aims to:

*Protect infrastructure of national or regional significance, by all of the following:*

- a) Restricting the establishment of activities that may result in reverse sensitivity effects;*
- b) Avoiding significant adverse effects on the functional needs of such infrastructure;*
- c) Avoiding, remedying or mitigating other adverse effects on the functional needs of such infrastructure;*
- d) Protecting infrastructure corridors from sensitive activities, now and for the future.*

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<sup>12</sup> Policy PB1, PB5-7, PC9 PC12-14.

<sup>13</sup> Paragraphs 4.11 and 4.12, Statement of Evidence of John Kyle, dated 29 February 2016; Paragraphs 4.2 to 4.11, Statement of Evidence of John Kyle, dated 18 November 2016.

<sup>14</sup> Policy 4.3.4 is currently subject to three appeals. The scope of these appeals is such that this policy is likely to become more restrictive if the appeals are successful.

3.7 In my view, this policy provides a clear direction to Otago's territorial authorities that the future operation and use of regionally or nationally significant infrastructure<sup>15</sup> should be protected from activities that may give rise to reverse sensitivity. This is of particular relevance to this hearing. A number of submitters are seeking to rezone land in a manner that would provide for the intensification of ASAN both within and beyond the Queenstown Airport aircraft noise boundaries. Such development has the potential to give rise to significant adverse reverse sensitivity effects on QAC and would compromise the use of corridors (i.e. flight paths) by both current and future generations.

*National Policy Statement on Urban Development Capacity 2016*

3.8 With respect to the NPS-UDC, there is a requirement under section 61(1)(da) of the RMA for regional policy statements to be prepared in accordance with any national policy statement. Despite there being a timing misalignment between decisions being issued on the Proposed RPS (1 October 2017) and the NPS-UDC becoming operative (1 December 2016), it appears that the ORC was cognisant of the pending NPS-UDC when issuing its final decision. Specifically, Objective 4.5 and the attendant policies seeks to ensure that urban growth and development is well designed, reflects local character and integrates efficiently with adjoining urban and rural environments.<sup>16</sup>

3.9 Policy 4.5.1 specifically states:

*Manage urban growth and development in a strategic and coordinated way, by all of the following:*

- a) *Ensuring there is sufficient residential, commercial and industrial land capacity, to cater for the demand for such land, over at least the next 20 years;*

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<sup>15</sup> Policy 4.3.2 identifies ports and airports and associated navigational infrastructure.

<sup>16</sup> Objective 4.5 of the decisions version of the Proposed RPS, dated 1 October 2016.

- b) *Coordinating urban growth and development and the extension of urban areas with relevant infrastructure development programmes, to provide infrastructure in an efficient and effective way;*
- c) *Identifying future growth areas and managing the subdivision, use and development of rural land outside these areas to achieve all of the following:*
  - i) *Minimise adverse effects on rural activities and significant soils;*
  - ii) *Minimise competing demands for natural resources;*
  - iii) *Maintain or enhance significant biological diversity, landscape or natural character values;*
  - iv) *Maintain important cultural or historic heritage values;*
  - v) *Avoid land with significant risk from natural hazards;*
- d) *Considering the need for urban growth boundaries to control urban expansion;*
- e) *Ensuring efficient use of land;*
- f) *Encouraging the use of low or no emission heating systems;*
- g) *Giving effect to the principles of good urban design in Schedule 5;*
- h) *Restricting the location of activities that may result in reverse sensitivity effects on existing activities.*

3.10 In my view, this policy provides clear guidance that territorial authorities need to ensure that sufficient land is available to meet residential, commercial or industrial demand over the next 20 years (sub-paragraph (a)). However, such opportunities should not give rise to reverse sensitivity effects on existing activities.

#### **PROPOSED DISTRICT PLAN**

3.11 I have reviewed the summary of the PDP Strategic Direction and Zone provisions described by Ms Kim Banks in section 8 of the Strategic Overview and Common Themes section 42A report. I generally agree

with the summary prepared by Ms Banks, however would like to highlight the following provisions from the Chapter 4<sup>17</sup> of the PDP that specifically relate to the management of noise sensitive activities surrounding Queenstown Airport:

*Objective 4.2.5      Maintain and promote the efficient operation of Queenstown Airport and set appropriate noise limits in order to protect airport operations and to manage the adverse effects of aircraft noise on any Activity Sensitive to Aircraft Noise.*

*Policy 4.2.5.1      To ensure appropriate noise boundaries are established and maintained to enable operations at Queenstown Airport to continue and to expand over time.*

*Policy 4.2.5.2      To manage the adverse effects of noise from aircraft on any Activity Sensitive to Aircraft Noise within the airport noise boundaries whilst at the same time providing for the efficient operation of Queenstown Airport.*

*Objective 4.2.6      Manage urban growth issues on land in proximity to Queenstown Airport to ensure that the operational capacity and integrity of the Airport is not significantly compromised.*

*Policy 4.2.6.1      To protect the airport from reverse sensitivity effects of Activity Sensitive to Aircraft Noise via a range of zoning methods, including where appropriate the use of prohibited activity status.*

*Policy 4.2.6.2      Ensure that Critical Listening Environments of all new and alterations and additions to existing buildings containing Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary or Outer Control Boundary are designed and built to achieve appropriate Indoor Design Sound Levels.*

3.12      The purpose of Chapter 4 Urban Development is described as being to “...set out the objectives and policies for managing the spatial location

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<sup>17</sup> Council's right of reply version of Chapter 4 Urban Development, dated 7 April 2017.

*and layout of urban development within the District*". Objectives 4.2.5, 4.2.6 and the attendant policies therefore provide the higher order planning framework for managing the establishment of activities sensitive to aircraft noise within the lower order chapters of the PDP.

- 3.13 I will return to these provisions later in section 5 and 6 with respect to submissions seeking to rezone land within and immediately beyond the aircraft noise boundaries at Queenstown Airport.

#### **THE NEW ZEALAND STANDARD ON AIRPORT NOISE MANAGEMENT AND LAND USE PLANNING**

- 3.14 The New Zealand Standard for Airport Noise Management and Land Use Planning NZS6805:1992 (the NZ Standard) is recognised as the key guiding document for managing aircraft noise at New Zealand Airports.

- 3.15 I have previously provided an overview of the NZ Standard in my statement of evidence for Hearing Stream 1B of the PDP<sup>18</sup>. Mr Day has subsequently provided a detailed overview and interpretation of the NZ Standard in his statement of evidence for this Hearing Stream.<sup>19</sup> I do not intend to repeat that evidence, however I do wish to highlight the following key recommendations described in the NZ Standard:

3.15.1 That all new residential activities, schools, hospitals and other noise sensitive uses within an airport's ANB should be prohibited.<sup>20</sup>

3.15.2 that all new residential activities, schools, hospitals and other noise sensitive uses within an airport's OCB should be prohibited unless a district plan permits such uses.<sup>21</sup>

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<sup>18</sup> Paragraphs 5.11 to 5.31, Statement of Evidence of John Kyle, dated 29 February 2016.

<sup>19</sup> Paragraphs 21 to 33, Statement of Evidence of Chris Day, dated 9 June 2017.

<sup>20</sup> Paragraph 26, Statement of Evidence of Chris Day, dated 9 June 2017 and Table 1 of the NZ Standard.

<sup>21</sup> Paragraph 25, Statement of Evidence of Chris Day, dated 9 June 2017 and Table 2 of the NZ Standard.

3.15.3 That all alterations or additions to existing residences or other noise sensitive uses within an airports' ANB and OCB shall only be permitted if fitted with appropriate acoustic insulation.<sup>22</sup>

3.15.4 That all existing residential properties are provided with appropriate acoustic insulation to ensure a satisfactory internal noise environment.<sup>23</sup>

3.16 In my view, the NZ Standard provides clear guidance regarding how noise sensitive activities should be managed within an Airport's aircraft noise boundaries. This approach is supported by acoustic expert Mr Day.<sup>24</sup>

#### **4. PLAN CHANGE 35 AND THE ASSOCIATED NOTICE OF REQUIREMENT**

4.1 The history of PC35 and the associated NOR is set out in my statement of evidence for Hearing Stream 1B.<sup>25</sup> For the benefit of the Panel, I provide an overview of this evidence in **Appendix A** as it forms the basis for a number of the opinions expressed in this statement of evidence.

4.2 Overall, PC35 and the associated NOR established a land use management framework that was largely in accordance with the principles described in the NZ Standard. PC35 also promoted a strong policy based dissuasion against the development of further plan changes that would result in land within the OCB being rezoned for noise sensitive (ASAN) development. Mr Day has provided an overview of the PC35 planning framework from an acoustics perspective and maintains that this approach is appropriate for managing the effects of aircraft noise.<sup>26</sup>

4.3 In my view, it is important to consider that the framework established via PC35 was subject to recent and extensive Court proceedings involving

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<sup>22</sup> Table 1 and 2 of the NZ Standard.

<sup>23</sup> Table 1 of the NZ Standard.

<sup>24</sup> Paragraph 31, Statement of Evidence of Chris Day, dated 9 June 2017.

<sup>25</sup> Paragraph 5.1 to 5.33, Statement of Evidence of John Kyle, dated 29 February 2016.

<sup>26</sup> Paragraphs 39, Statement of Evidence of Chris Day, dated 9 June 2017.

QAC, QLDC and other affected parties including residents most affected by aircraft noise. This included a robust evaluation of the provisions under section 32 of the RMA.<sup>27</sup> As an overarching comment, there does not appear to have been an equivalent section 32 evaluation provided by any of the submitters seeking to rezone land within the ANB or OCB that would suggest that departure from the PC35 approach is most appropriate way of achieving the purpose of the Act.

## **5. REZONING REQUESTS WITHIN THE ANB AND/OR OCB AT QUEENSTOWN AIRPORT**

- 5.1 QAC filed a number of further submissions in opposition to submissions seeking to rezone land in a manner that would enable the intensification of ASAN within the ANB or OCB at Queenstown Airport.
- 5.2 Within this statement of evidence, I do not deal with the specifics of each of the submission opposed by QAC. All of the submissions involve an element ASAN enablement, for which rezoning in the manner sought by each submitter would inevitably bring more people to the effect of aircraft noise.
- 5.3 QAC filed further submissions in opposition to the following original submissions relating to land within the ANB and/or OCB for Queenstown Airport:
- 5.3.1 Russell March (Submitter 128);
  - 5.3.2 Barbara Williams (Submitter 141);
  - 5.3.3 NZIA and Architecture + Women Southern (Submitter 238);
  - 5.3.4 Peter and Margaret Arnott (Submitter 399);
  - 5.3.5 Otago Foundation Trust (Submitter 408);
  - 5.3.6 W and M Grant (Submitter 455);

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<sup>27</sup> Note that section 32 has been amended on two occasions since the promulgation of PC35.

- 5.3.7 Schist Holdings Limited and BNZL Properties Limited (Submitter 488);
  - 5.3.8 The Jandel Trust (Submitter 717);
  - 5.3.9 Hansen Family Partnership (Submitter 751);
  - 5.3.10 Queenstown Lakes District Council (Submitter 790);
  - 5.3.11 Queenstown Park Limited (Submitter 806);
  - 5.3.12 Brett Giddens (Submitter 828);
  - 5.3.13 C and S Hansen (Submitter 840);
- 5.4 While some of the above submissions specifically sought that land within the ANB or OCB be rezoned to Low, Medium or High Density Residential, others sought a commercial or business type zoning.
- 5.5 All of the above zones provide for varying degrees of ASAN development. For the most part, the operative planning framework, as it applies to the submitters' land, does not enable ASAN development.
- 5.6 As previously noted in evidence for Hearing Stream 6, the air noise boundaries established under PC35 and the associated NOR reflect the predicted position of the noise boundaries in the year 2037. It is therefore important to understand that today's aircraft noise scenario is not the ultimately permitted outcome. In reality, growth in flight numbers at Queenstown Airport and thus aircraft noise will increase incrementally over time until the noise contours are reached.
- 5.7 Based on the passenger forecasts described by Ms Tregidga<sup>28</sup> and the observed aircraft growth rates and compliance monitoring results described by Mr Day<sup>29</sup>, initial indications are that QAC will likely reach the 2037 noise contours well ahead of the initial predictions (i.e. before the year 2037). QAC is undertaking further work in this regard to understand

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<sup>28</sup> Paragraphs 13 to 19, Statement of Evidence of Rachel Tregidga, dated 9 June 2017.

<sup>29</sup> Paragraph 76 and 80, Statement of Evidence of Chris Day, dated 9 June 2017.

when the contours are likely to be reached and what, if any effect future passenger forecasts will have on the location of the current contours.

- 5.8 Rezoning requests that ultimately allow for the intensification of ASAN within the ANB or OCB will ultimately increase the number of people exposed to the increasing effects of aircraft noise over time. Mr Day has shown that such activity will inevitably lead to an increase in reverse sensitivity concerns.
- 5.9 As a result, QAC may be required to curtail aircraft operations because of growing community pressure about aircraft noise. If the operation of the Airport is unduly curtailed as a consequence of this pressure and projected growth cannot be accommodated, then this will compromise the attractiveness of Queenstown as a destination for airlines, which could result in the curtailment of aircraft activity over time. This would likely have a significant effect on the essential underpinnings of the Queenstown economy.
- 5.10 In dealing with the various submissions it is evident to me that there is ongoing pressure to provide for the intensification of ASAN at Frankton, both within the ANB and OCB. I accept that there are a number of pressures brought to bear on the Council to intensify such uses at locations like Frankton, for a variety of reasons. Notwithstanding this, it remains my view that any decision that brings additional people to the impact of aircraft noise promotes a very poor outcome and would not appropriately provide for the needs of future generations. This is consistent with the evidence of Mr Day who does not support the intensification of ASAN within these areas.<sup>30</sup>
- 5.11 As described by Mr Day, there is also often a misconception that providing for acoustic treatment and/or mechanical ventilation of buildings containing ASAN is sufficient for managing the effects of aircraft noise and the potential reverse sensitivity effects on the airport. I note Mr Day's reasons for this, as set out paragraphs 62 to 66 of his evidence. Most notably for the Queenstown context, it is important to note that

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<sup>30</sup> Paragraphs 43, Statement of Evidence of Chris Day, dated 9 June 2017.

acoustic treatment/mechanical ventilation is not effective at addressing the effects on outdoor amenity. Residents located within close proximity to the airport can and do find that the utilisation and enjoyment of their property (particularly outdoors in the summer months) is affected by aircraft noise. Acoustic treatment cannot mitigate this effect.

*Statutory and non-statutory evaluation*

- 5.12 Rezoning requests within the ANB or OCB which enable the intensification of ASAN is contrary to the NZ Standard and the land use management approach established via PC 35. Such rezoning requests will inevitably give rise to reverse sensitivity effects for QAC and may ultimately result in the curtailment of aircraft operations. Such outcomes are inconsistent with Policy 4.3.4 of the Proposed RPS and will not achieve the urban development outcomes sought by PDP Objective 4.2.6.
- 5.13 Furthermore, insufficient information (or in most instances, no information) has been provided by the submitters to satisfy the requirements inherent in section 32 of the Act, including an evaluation of the costs to the Queenstown economy that potential future restriction or curtailment of airport operations would bring.

*Section 42A report*

- 5.14 The section 42A report recommends rejecting all but one of the rezoning submissions identified in paragraph 5.3. For the reasons set out in paragraphs 5.4 to 5.13 above, I support the recommendations of the section 42A officer with respect to these submissions.
- 5.15 I do not support the section 42A report recommendation to accept the rezoning submission proposed by submitter 790. Submitter 790 (QLDC) seeks to rezone an 850m<sup>2</sup> site from rural to Low Density Residential.
- 5.16 While I acknowledge that this site is the only parcel of land along Boyes Crescent that is subject to a rural zone, it is zoned for such purposes as it is currently owned by the Council and is part of a designated reserve

which is contiguous with the site. The site is also designated and held for reserve purposes under the Reserves Act 1977.

- 5.17 In order to on sell or develop this land for residential purposes, a number of steps are required, including uplifting the designation and removing the reserves classification. In my view, there are a number of barriers to this land being considered for residential purposes. Furthermore, allowing this rezoning request could provide a precedence for other “exceptions”, where the adjacent land zoning is used as a justification for enable “just one more dwelling”.
- 5.18 I therefore do not support this rezoning request and maintain that it is contrary to the previously identified objectives and policies of the Proposed RPS and PDP.

#### *Summary*

- 5.19 Accepting rezoning requests that provide the opportunity for a greater number of ASAN to establish with the ANB and OCB will potentially give rise to adverse reverse sensitivity effects on QAC and will expose a greater number of people to the adverse effects of aircraft noise. Such rezoning requests are also inconsistent with Policy 4.3.4 of the Proposed RPS and Objective 4.2.6 of the PDP and have not been adequately evaluated by the proponents under section 32 of the Act.
- 5.20 On this basis, I do not support the rezoning requests proposed by the submitters identified in paragraph 5.3.

## **6. REZONING REQUESTS BEYOND THE OCB AT QUEENSTOWN AIRPORT**

- 6.1 QAC filed a number of submissions in opposition to submissions seeking an alternative land use zoning that may result in the intensification of ASAN beyond the PC35 OCB.
- 6.2 Specifically, QAC filed further submissions with respect to the following submissions;

- 6.2.1 DS EE Properties Limited (Submitter 16);
  - 6.2.2 Kerr Ritchie Architects (Submitter 48);
  - 6.2.3 Kenneth Muir (Submitter 125);
  - 6.2.4 Mount Crystal Limited (Submitter 150);
  - 6.2.5 Bruce Grant (Submitter 318);
  - 6.2.6 Noel Gutzewitz (328);
  - 6.2.7 Middleton Family Trust (Submitter 336);
  - 6.2.8 Middleton Family Trust (Submitter 338);
  - 6.2.9 Remarkables Heights Limited (Submitter 347);
  - 6.2.10 Body Corporate 22362 (Submitter 389);
  - 6.2.11 Sam McLeod (Submitter 391);
  - 6.2.12 Bonisch Consultants (Submitter 425);
  - 6.2.13 FS Mee Developments Co Limited (Submitter 429);
  - 6.2.14 Bruce Grant (Submitter 434);
  - 6.2.15 Winton Partners Fund Management No.2 Limited (533);
  - 6.2.16 Land Information New Zealand (661);
  - 6.2.17 Queenstown Park Limited (806);
- 6.3 These submissions all fall within an area affected by aircraft noise as described by Mr Day and shown in Appendix D his statement of evidence.

- 6.4 As set out by Mr Day, it is important to recognise that aircraft noise effects do not stop at the OCB.<sup>31</sup> Aircraft noise is still experienced, albeit to a lesser degree, beyond the ANB and OCB. Rezoning currently vacant and undeveloped land and/or enabling the intensification of existing residentially zoned land will simply bring more people to the aircraft noise effect both now and into the future.
- 6.5 As described by Ms Tregidga, QAC has experienced a sustained period of passenger growth in recent years, with forecasts indicating that this growth has the potential to reach 3.2 million passengers per annum by 2025. With such significant growth on the horizon, I consider it appropriate to adopt a cautious approach for rezoning requests beyond the OCB, as the built form outcomes arising from the PDP are likely to extend beyond the life cycle of the PDP.
- 6.6 At Queenstown Airport, the OCB (55dB Ldn contour) has typically been applied as the “line” within which noise sensitive activities are discouraged. As noted by Mr Day, Christchurch Airport takes a more conservative approach and discourages such activities within the 50db Ldn.<sup>32</sup> This is 5dB more protective than Queenstown and the NZ Standard. Applying a more conservative land use management response is therefore not without precedent.
- 6.7 All too often the experience in New Zealand (and off shore) is that insufficient foresight has been applied to the protection of significant assets such as airports, meaning unwise land use decisions are taken to allow sensitive uses to encroach on the footprint of impact created by such infrastructure. Already ports, airports and other industries in New Zealand have had operations curtailed due to reverse sensitivity effects. Whilst I accept that balancing is often necessary between competing land uses, early recognition that facilities such as airports inevitably grow and develop is important to and should inform land use planning decisions. The best form of protection available to avoid potential reverse sensitivity effects is to avoid development “coming to the effect” in the first place.

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<sup>31</sup> Paragraph 81 to 86, Statement of Evidence of Chris Day, dated 9 June 2017.

<sup>32</sup> Paragraph 36, Statement of Evidence of Chris Day, dated 9 June 2017.

- 6.8 It is on this basis, and the evidence of Ms Tregidga and Mr Day regarding passenger growth and possible future noise effects that I do not support the rezoning requests that would enable intensifications of ASAN within the area generally shown in Appendix D of Mr Day’s evidence. In my view, rejecting these rezoning requests would ensure that Queenstown Airport, which is infrastructure of regional and national significance, is protected both now and into the future (ORC Proposed RPS Policy 4.3.4).

#### **SECTION 42A REPORT**

- 6.9 The section 42A reports recommend rejecting 17<sup>33</sup> and accepting or accepting<sup>34</sup> in part two of the submissions identified in paragraph 6.2.
- 6.10 Generally, the section 42A reports do not specifically identify aircraft noise related reasons for rejecting these submissions.
- 6.11 While I support the overall outcome recommended by the section 42A report officers (i.e. to reject the submissions), I consider that the section 42A report officers do not afford appropriate weight to the relevant Proposed RPS and Chapter 4 Urban Development provisions referred to above when making their recommendations.

#### **7. MAPPED EXTENT OF AIRCRAFT NOISE BOUNDARIES**

- 7.1 QAC filed a submission in opposition to the notified extent of the aircraft noise boundaries depicted on planning maps 31a, 33 and 37 of the PDP.<sup>35</sup>
- 7.2 QAC submitted that it is appropriate to include the “with Lot 6” noise boundaries (as shown in Annexure B of the submission) in the PDP for the following reasons:

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<sup>33</sup> Paragraphs 27.13 (Submitter 48), Group 1A section 42A report, dated 25 May 2017. Paragraph 6.20 (Submitters 16 and 125), 13.20 (Submitter 338), 23.13 (Submitter 318 and 434), 26.16 (Submitter 429), 24.23 (Submitter 533) and 25.9 (Submitter 661) Group 1B section 42A report, dated 24 May 2017; Paragraphs 5.19 (Submitter 336), 6.19 (Submitter 150), 7.13 (Submitter 389) and 37.14 (Submitter 391), Group 1C section 42A report, dated 24 May 2017; Paragraphs 18.14 (Submitter 328) and 26.19 (Submitter 806), Group 2 section 42A report, dated 24 May 2017.

<sup>34</sup> Paragraph 28.23 (Submitter 425), Group 1B section 42A report, dated 24 May 2017; Paragraph 4.15 (Submitter 347), Group 1C section 42A report, dated 24 May 2017.

<sup>35</sup> Prior to the PDP being notified, an electronic version of the noise contours was provided to the Council for inclusion in the PDP. The file provided was outdated however and does not show the extent of the “without Lot 6” noise boundaries currently before the Environment Court.

*“They are the same as those contained in QLDC’s first instance decision on PC35;*

*They are the larger of the two sets of boundaries currently before the Court, so including them is the conservative of the two available approaches;*

*If the “With Lot 6” noise boundaries are not included in the Proposed Plan, it is unclear how they can be incorporated into it at a later date when confirmed by the Environment Court, other than by way of a further plan change or variation, which would be inefficient when there is an opportunity to include them via the current review process.”*

- 7.3 The section 42A report has recommended that QAC’s submission be accepted.<sup>36</sup>
- 7.4 I understand that this recommendation may give rise to some legal issues which Ms Wolt will address in her legal submissions. I therefore do not address this recommendation any further in my evidence. I do wish to clarify however, the relationship between PC35, the NOR that accompanied PC35 and the separate NOR relating to “Lot 6” as this appears to be creating some confusion for the section 42A report officer.
- 7.5 PC35 was accompanied by an NOR to alter the text of the Aerodrome Purposes Designation. This NOR was filed at the same time as PC35 and specifically inserted new conditions into the designation which imposed obligations on QAC regarding the management of aircraft noise effects.
- 7.6 The “Lot 6” NOR was an alteration to the extent of the Aerodrome Purposes Designation. This NOR is intended to provide for General Aviation activities on the area of land referred to as “Lot 6”. This NOR was filed with the EPA in 2010.
- 7.7 Despite being for two distinctly separate purposes, the two proceedings have aligned and are now “related” as the location of the noise boundary in the vicinity of Lot 6 depends on the outcome of the Lot 6 proceedings.

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<sup>36</sup> Supplementary section 42A report / Statement of Evidence of Kimberly Banks, Strategic Overview and Common themes, revised section 26 only, dated 6 June 2017.

## **8. QUEENSTOWN HILL SUBMISSION**

- 8.1 QAC filed a further submission in opposition to submissions seeking to establish a new Airport Mixed Use zone on Queenstown Hill.
- 8.2 At the time of preparing this statement of evidence, no section 32 evaluation or supporting technical assessments have been provided by the submitter to the Council which demonstrate that establishing a new Airport Mixed Use zone is the most appropriate way of achieving the purpose of the Resource Management Act 1991 or the objectives of the PDP. Additionally, no evidence has been produced that demonstrates that the proposal is feasible or safe from an aeronautical perspective.
- 8.3 In the absence of a satisfactory section 32 evaluation and associated reportage that supports the proposed rezoning of Queenstown Hill, it is my view that the merits of this submission is difficult to assess.

## **9. AVIEMORE CORPORATION LIMITED (SUBMITTER 418)**

- 9.1 Submitter 418 filed a submission seeking to rezone a parcel of land at southern end of Glenda Drive from Rural to Industrial A. Submitter 807 also filed a submission with respect to this land, seeking that the Aerodrome Purposes Designation be uplifted from this land.
- 9.2 QAC filed further submissions in support of both of these submissions.<sup>37</sup>
- 9.3 The section 42A report recommends that the rezoning request be the subject of a variation during a future stage of the PDP review as the Industrial Zone is not part of Stage 1 of the PDP review.<sup>38</sup> In my view, this is appropriate and would not give rise to any adverse reverse sensitivity effects for QAC as the establishment of ASAN within the Industrial Zone is a prohibited activity.<sup>39</sup>

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<sup>37</sup> Further submissions 1340.102 and 1340.150.

<sup>38</sup> Paragraph 7.2 of the Group 1A Section 42A report, dated 24<sup>th</sup> May 2017.

<sup>39</sup> Environment Court confirmed Rule 11.3.3.5(i) Chapter 11 Business and Industrial Areas, dated 13 May 2013.

## **10. DESIGNATION 230 AND 570**

- 10.1 As set out in my evidence for Hearing Stream 7 (Designations), Designation 230 is for meteorological purposes. It provides for an automatic weather station at Queenstown Airport.
- 10.2 QAC filed two submissions with respect to this designation. These submissions sought to clarify the location of the MetService designation.
- 10.3 It is not entirely clear from my reading of the section 42A report what is being recommended with respect to the mapped location of Designation 230 and 576.<sup>40</sup>
- 10.4 To summarise my evidence from Hearing Stream 7;
- 10.4.1 In the centre of QAC's Aerodrome Purposes Designation is a small area shown as Designation 230.
- 10.4.2 To the north of this designation (and still within QAC's Designation 2) is Designation 576.
- 10.4.3 When MetService gave notice of their requirement to roll over Designation 230, the accompanying map showed that Designation 230 was located in the same position as Designation 576.
- 10.4.4 The mapped location of Designation 230, as shown on Planning Map 31a is therefore incorrect. The correct location is shown by the area identified as Designation 576.

## **11. CONCLUSIONS**

- 11.1 The built form outcomes that will result from submissions seeking to "upzone" land within the PDP will extend beyond the planning horizon of the PDP. Given the considerable number of submissions seeking to "upzone" land just beyond the existing OCB, QAC took a long term,

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<sup>40</sup> Paragraphs 24.3 to 24.4, Strategic Overview and Common Themes section 42A report, dated 25 May 2017.

cautious approach when filing further submissions to ensure that its operations and functioning is protected from increased reverse sensitivity effects beyond the lifecycle of the plan.

- 11.2 Unanticipated and unprecedented growth at the Airport combined with recent passenger forecasting has demonstrated that the 2037 noise contours are likely to be reached much earlier than anticipated. QAC's cautious approach is therefore justified in my view, and is supported by both expert acoustic advice and by the statutory and non-statutory framework within which the PDP has to be considered.
- 11.3 I consider that, in order to protect the long-term viability of the airport and to protect the community from the increasing effects of aircraft noise, both now and into the future, all rezoning requests that seek to enable the intensification of ASAN within the area identified by Mr Day should be rejected.

**John Kyle**

**9 June 2017**

## APPENDIX A: OVERVIEW OF PLAN CHANGE 35 AND THE ASSOCIATED NOTICE OF REQUIREMENT TO ALTER DESIGNATION 2

### DECISION MAKING PROCESS<sup>41</sup>

1. PC35 and the associated NOR was promulgated by QAC in 2008.
2. The purpose of PC35 was to put in place an appropriate management regime for land use around Queenstown Airport while providing for the predicted ongoing growth of the Airport. Accordingly, the Plan Change updated the Airport's noise boundaries to provide for predicted growth in airport operations to 2037, and amended various zone provisions relating to land within those updated boundaries likely to be affected by increased airport noise.
3. PC35 was adopted by QLDC and following the hearing of submissions, was confirmed on 1<sup>st</sup> November 2010.
4. PC35 was the subject of a number of appeals to the Environment Court. The appeals were largely resolved by agreement in early 2012, which was jointly presented to the Court during the course of two hearings and the filing of subsequent memoranda.
5. During the course of the Court proceedings the provisions were, at the Court's direction, redrafted by the parties to correct errors, ambiguities and inconsistencies contained in QLDC's decision on the Plan Change. A final set of provisions, giving effect to the Court's directions, was filed jointly by the parties in May 2013.
6. The Court issued three interim decisions that together, confirmed the Plan Change, as agreed by the parties: *Air New Zealand Ltd v Queenstown Lakes District Council* [2013] NZEnvC 28, [2012] NZEnvC 195, [2013] NZEnvC 93.
7. The Court's decisions were framed as 'interim' because it did not make a final decision on the Planning Map 31a which shows the location of the

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<sup>41</sup> Amended from QAC's original covering submission, dated 23 October 2015.

updated ANB and OCB, in particular, the location of these boundaries in the vicinity of Lot 6 DP 304345 (Lot 6).

8. Lot 6 is owned by Remarkables Park Limited (RPL), which was an appellant in the PC35 proceedings. Part of Lot 6 is subject to a notice of requirement (NOR) by QAC for Aerodrome Purposes (Lot 6 NOR). This NOR is intended to provide QAC with approximately 16ha of additional land to be used for general aviation purposes.
9. The outcome of the Lot 6 NOR proceeding will affect the location of the PC35 ANB and, to a much lesser extent, the OCB, but in both cases, only in the vicinity of Lot 6.
10. The extent of the effect is known to the Court and to the parties to the PC35 proceedings however, because during the PC35 proceedings the parties jointly presented the Court with two different versions of the noise boundaries – one that provides for the designation of part of Lot 6 (i.e. assumes the Lot 6 NOR is confirmed, labelled “With Lot 6”) and one that does not (labelled “Without Lot 6”).
11. Excepting the decision on the location of the noise boundaries in the vicinity of Lot 6, the appeals on PC35 have been resolved. There is no opportunity for any further debate as to the content or wording of the objectives, policies and rules addressed by PC35, and the Court is *functus officio* in respect its decisions on these provisions.
12. Accordingly, under section 86F of the RMA the PC35 provisions can and are being treated as operative by the Queenstown Lakes District Council.

#### **OVERVIEW OF PC35 PROVISIONS**

13. In order to achieve a balance between accommodating the needs of the Airport on an on-going basis and providing for the health, amenity values and development aspirations of those people occupying and using land surrounding the Airport, the following planning framework was established via PC35:

### **District Wide Provisions**

14. Within the higher order provisions, there is a district wide direction to manage urban growth on land in proximity to Queenstown Airport to ensure that the operational capacity of the Airport is not significantly compromised now or in to the future (i.e. the obligations on the community).<sup>42</sup>
15. Within the higher order provisions, there is a corresponding obligation for QAC to maintain and promote the efficient operation of the Airport, set appropriate noise limits to protect airport operations and to manage the adverse effects of aircraft noise on any ASAN.<sup>43</sup>

### **Low Density Residential**

16. Within the Low Density Residential zone, PC35 imposes a requirement for any new and alterations or additions to existing buildings containing ASAN to provide mechanical ventilation for Critical Listening Environments on sites located within the OCB to achieve an Indoor Sound Level of 40dB Ldn, based on 2037 Noise Contours.<sup>44</sup>
17. Within the Low Density Residential zone, PC35 imposes a requirement for any new and alterations or additions to existing buildings containing ASAN to provide mechanical ventilation and sound insulation for sites located within the ANB, to achieve an Indoor Sound Level of 40dB Ldn, based on 2037 Noise Contours.<sup>45</sup>

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<sup>42</sup> Environment Court confirmed Objective 8 and Policies 8.1 to 8.5, section 4.9.3 of Chapter 4 District Wide Issues, dated 13 May 2013.

<sup>43</sup> Environment Court confirmed Objective 7 and Policies 7.1 to 7.3, section 4.9.3 of Chapter 4 District Wide Issues, dated 13 May 2013.

<sup>44</sup> Environment Court confirmed Policy 3.11 (Section 7.1.2), Objective 5 and Policy 11 (section 7.2.3) and Rules 7.5.5.3(vi)(b) and 7.5.6.3(vii)(b) Chapter 7 Residential Areas, dated 13 May 2013.

<sup>45</sup> Environment Court confirmed Policy 3.11 (Section 7.1.2), Objective 5 and Policy 11 (section 7.2.3) and Rules 7.5.5.3(vi)(a) and 7.5.6.3(vii)(a) Chapter 7 Residential Areas, dated 13 May 2013.

### **Rural and Industrial Zones**

18. Within the Rural and Industrial zone, PC35 prohibits any new ASAN within the ANB or OCB.<sup>46</sup>
19. For alterations or additions to existing buildings containing ASAN, PC35 requires mechanical ventilation of Critical Listening Environments for sites located within the ANB or OCB, to achieve an Indoor Sound Level of 40dB Ldn, based on 2037 Noise Contours.<sup>47</sup>

### **Remarkables Park Zone**

20. Within the Remarkables Park zone, PC35 prohibits all residential, visitor accommodation and community activities within the 2037 60dB Noise Contour.<sup>48</sup>
21. For all new and alterations or additions to existing buildings containing residential, educational facilities or visitor accommodation, within a specified area (as shown as Figure 2 of Environment Court endorsed provisions) require Critical Listening Environments to achieve an Indoor Sound Level of 40dB Ldn, based on 2037 Noise Contours.<sup>49</sup>

### **Frankton Flats A**

22. Within the Frankton Flats A Zone, PC35 specifies a maximum threshold for visitor accommodation units, health care facilities and educational facilities and Critical Listening Environments these activities to achieve an Indoor Sound Level of 40dB Ldn, based on 2037 Noise Contours. All other ASAN within the zone are prohibited.<sup>50</sup>

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<sup>46</sup> Environment Court confirmed Policy 7.2 (Section 5.2) and Rule 5.3.3.5(iii) Chapter 5 Rural Areas, and Rule 11.3.3.5 Chapter 11 Business and Industrial Areas, dated 13 May 2013.

<sup>47</sup> Environment Court confirmed Policy 7.3 (Section 5.2) and Rule 5.3.5.2(vii) Chapter 5 Rural Areas, and Rule 11.3.5.3(iii) Chapter 11 Business and Industrial Areas, dated 13 May 2013.

<sup>48</sup> Environment Court confirmed Rule 12.11.3.6 Table 1, Chapter 12 Remarkables Park Zone, dated 13 May 2013.

<sup>49</sup> Environment Court confirmed Rule 12.11.5.1 (v) and Rule 12.11.5.2(iv) Chapter 12 Remarkables Park Zone, dated 13 May 2013.

<sup>50</sup> Environment Court confirmed Rules 12.18.3.3(ii) and 12.18.3.5(iv), Chapter 12 Frankton Flats Zone, dated 13 May 2013.

## OVERVIEW OF DESIGNATION 2

23. To complement the land use management regime established under PC35, QAC gave notice of requirement to alter Designation 2 to introduce obligations on QAC for the management and mitigation of noise generating activities at the airport. In summary, this NOR<sup>51</sup>:
- a. Obliges QAC to offer 100% funding of noise mitigation for Critical Listening Environments of buildings located within the ANB (65dB Noise Contour) that existed at the time the NOR was confirmed. This mitigation is required to achieve an indoor design sound level of 40dB Ldn or less based on the 2037 Noise Contours;
  - b. Obliges QAC to offer to part fund retrofitting, over time, of mechanical ventilation of any Critical Listening Environment within existing buildings containing ASAN between the ANB and the 2037 60dB Noise Contour. Specifically, QAC is required to provide 75% funding;
  - c. Sets out QAC's monitoring requirements for aircraft noise at Queenstown Airport to ensure compliance with noise limits at the defined noise boundaries;
  - d. Requires QAC to prepare and implement a Noise Management Plan; and,
  - e. Establishes and sets out the purpose of the Queenstown Airport Liaison Committee.

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<sup>51</sup> Environment Court confirmed Designation Conditions 4, 6 -25, dated 13 May 2013.