

**BEFORE THE QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (the "Act")

**AND**

**IN THE MATTER** of the Queenstown Lakes District Proposed District Plan

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**SYNOPSIS OF SUBMISSIONS FOR:**  
New Zealand Tungsten Mining (#519/#1287)

Hearing Stream 1 (Chapter 3- Strategic Direction, chapter 4- Urban  
Development, Chapter 6- Landscapes)  
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## MAY IT PLEASE THE PANEL

### 1. Introduction

- 1.1 The submission by New Zealand Tungsten Mining Limited ("NZTM ") addressed a wide range of provisions across chapters 3 and 6 of the Proposed District Plan (PDP).
- 1.2 NZTM is calling expert evidence from Carey Vivian in relation to these chapters.
- 1.3 By way of background, NZTM holds two exploration permits and a prospecting permit within the district, and have been exploring since 2001. They also have resource consent to undertake exploration drilling in the Mt. Alfred area, currently have a resource consent application being processed by Council to conduct drilling within the Whakaari Conservation Area, and are particularly focused on the potential of the tungsten resource at both of those sites.
- 1.4 These legal submissions adopt the legal submissions presented by Counsel for submitters 608, 610 and 613 on the topics of:
  - (a) Scope
  - (b) Section 32
  - (c) Diversification of the Rural Zone
  - (d) Existing environment
  - (e) King Salmon
  - (f) Goals

And as a result do not intend to duplicate those submissions again today.

- 1.5 We have also reviewed the presentation that you will receive from Mr Knapp of Strattera. We endorse much of the evidence that will be presented by Mr Knapp, and do not propose to duplicate it unnecessarily. In particular we endorse and emphasis the following points:
  - (a) Mining is a temporary and comparatively very high value use of land. Once the significant benefits have been gained from winning a particular mineral, the land and associated natural resources can be rehabilitated and restored. The effects of mining are not permanent, or even long term these days.

- (b) Mining in the Queenstown Lakes District has specific, known potential in respect of the following minerals, (along with a summary of their uses):
- (i) Gold – jewellery, investment, technology
  - (ii) Tungsten – tool-making, heat and wear-resistant metal
  - (iii) Aggregates – roading and construction
- (c) Given the high value of mineral resources, miners are well placed to undertake mitigation and compensation actions such as biodiversity offsetting, that have the potential to result in an overall net gain and net benefit in terms of biodiversity values, that wouldn't otherwise be able to be achieved.

## 2. **Summary – Benefits and Balance**

2.1 The key concern for NZTM at the strategic level is that the potential benefits from mineral resources may be prevented from being realised, because the right balance has not been struck. With the changes to provisions sought by NZTM, a balance that gives better effect to the purpose of the Act can be achieved. It will still protect important natural and landscape values as provided for by sections 6 and 7, but it will better allow for proposed mining operations to be assessed on their merits, on a case by case basis.

2.2 Crown owned minerals in particular provide an income and direct benefits both to the Crown in the form of royalties and taxes paid by mining companies, and to community of the area where mining occurs. The purpose of the Crown Minerals Act is:

### *1A Purpose*

*(1) The purpose of this Act is to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand.*

*(2) To this end, this Act provides for—*

*(a) the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals; and*

*(b) the effective management and regulation of the exercise of those rights; and*

*(c) the carrying out, in accordance with good industry practice, of activities in respect of those rights; and*

*(d) a fair financial return to the Crown for its minerals.*

2.3 If the mineral resources that exist in the Queenstown Lakes District rural areas is effectively sterilised by unbalanced objectives and policies, the purpose of the Crown Minerals Act will be frustrated, and the significant benefits foregone.

- 2.4 New Zealand's mining industry, while a small player on the international market, is a significant contributor to the New Zealand economy. In 2012 the minerals sector provided \$2.8 billion worth of exports which equated to at least 6.2% of all national exports.<sup>1</sup> On the West Coast alone one third of household income is earned directly and indirectly from mining that is derived from a footprint of only 14 square kilometres.<sup>2</sup> The petroleum and minerals sector accounts for 2.5% of New Zealand's GDP.<sup>3</sup> In 2012 the Government was paid a total of \$380 million in levies, taxes and royalties from the mining industry.<sup>4</sup>
- 2.5 Minerals are highly valued as they are necessary to support of range of uses and technologies that benefit society. Those benefits can be significant, and can only be gained if access to the minerals is allowed for.
- 2.6 Not only are the benefits significant, any adverse effects are temporary and modern mining methods and rehabilitation techniques continue to advance and improve, are less than under previous mining methods. This will be illustrated by Mr Knapp. The District Plan should therefore allow for mining proposals and their medium to long term effects to be assessed on their merits, in a manner consistent with the purpose of the Act.
- 2.7 The best planning outcome in this regard would be based on a comprehensive understanding of the mineral resources in the ground. However, we do not have that understanding on a district wide basis. We know there is significant potential throughout many parts of the district, but more prospecting and exploration is needed to map the true extent of the resources, and therefore that cannot be addressed on a locational basis in the plan; hence NZPAM prospecting and exploration permits. Therefore, the next best approach is to ensure an assessment can be made on a case by case basis, and that the regime is not so protective at the outset as to prevent an appropriate consideration of the temporary effects of a particular mining proposal.
- 2.8 Overall the PDP does not yet achieve the right balance for the sustainable management of the district's natural and physical resources. Insufficient emphasis is placed on the need to enable the responsible use and development of our resources. Chapter 3 should be about enabling the use of natural and physical

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<sup>1</sup> NZ Government Sectors Report 2013, Featured Sector, Petroleum and Minerals, page 5 and 10; This figure includes gold and silver, but excludes coal. The value of coal exports is confidential

<sup>2</sup> HANSARD, (12 February 2014), 696, NZPD, 15843

<sup>3</sup> NZ Government Sectors Report 2013, Featured Sector, Petroleum and Minerals, page 10; This figure includes gold and silver, but excludes coal. The value of coal exports is confidential

<sup>4</sup> NZ Government Sectors Report 2013, Featured Sector, Petroleum and Minerals, page 10; This figure includes gold and silver, but excludes coal. The value of coal exports is confidential

resources to the greatest extent possible, consistent with the concept of sustainable management. Chapter 6 should be about ensuring that as activities are enabled, adverse effects are managed (not necessarily avoided) so that the environmental outcomes that result are the use and development of resources to facilitate economic and social wellbeing, while also attending to the matters in section 5(2)(a)(b) and (c) of the RMA. As presently drafted it appears the PDP is more focused on protection than enablement. That is not what the RMA calls for, and not what Otago or Queenstown Lakes District needs.

### 3. **Use (mining, access and ancillary activities) within ONLs and ONFs**

- 3.1 Mining differs from other land uses that occur in the rural zone because suitable locations for mining are wholly dictated by the location of the mineral resource. There is no ability to consider alternative sites where the activity could occur and then consider a range of factors to weigh up the most appropriate site. "New sites" cannot be found, if the minerals are not there or are not economically recoverable. The consequence is that if mining is unacceptable in a particular location because of other considerations, then that represents a development opportunity foregone. The opportunity cannot be realised elsewhere.
- 3.2 In my submission changes are needed to chapters 3 and 6 to better allow for the locationally constrained nature of mining (and its precursor, exploration), an activity which cannot be re-directed to other areas.
- 3.3 In some instances strategically important mineral resources may be co-located with areas of district importance in terms of landscape and/or biodiversity. The PDP needs to recognise in these instances that there is a need to strike a balance and that protection and enhancement of the natural values at the expense of the development of the mineral resource may not promote sustainable management.
- 3.4 The presumption that development within and ONFL will be 'inappropriate in many locations'<sup>5</sup> is unfounded by the Council section 32 reports as that statement leads to a presupposition of an outcome. Development within an ONFL should be assessed for its appropriateness in accordance with Part 2 of the RMA on a case by case basis, without being subject to an uninformed predetermination. Mining, once subjected to scrutiny in respect of the proposed modern mining method and rehabilitation could be an appropriate development activity which is site specific and

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<sup>5</sup> See PDP policy 6.3.1.3

which can be carried out in a manner which appropriately recognises and provides for section 6(b) matters.

#### 4. **Recognising the wide range of activities which exist in the Rural Zone**

- 4.1 The section 42A Officers' Report clearly acknowledges the multitude of submitters' concerns over the need to recognise rural land within the district for its diverse values, beyond those provided by productive agricultural practices<sup>6</sup>.
- 4.2 Recognition of broader activities which exist within the rural sector and within landscape classifications including ONFLs is vital to the effective and efficient use of resources. Mining is included in the group of activities.
5. The only reference in the s42A Report to the enabling concepts embodied in s7(b), and the related benefits, is:

*"The purpose of the Rural Zone is to provide for farming activities and manage the effects of other activities seeking to utilise the rural land resource (ie: skiing, commercial recreation activities, mining, forestry and industrial activities)"<sup>7</sup>*

#### 6. **Giving effect to the Operative Regional Policy Statement**

- 6.1 The Otago RPS came into effect in 1998 and is currently under the process of review and replacement through the proposed RPS (notified May 2015).
- 6.2 The RPS provides a general description of the Otago Region in its Regional Description chapter which includes the following;

*The use of Otago's natural and physical resources (eg. land and water) has, since the 1860's, supported primary production activities. Mining, farming, horticulture, viticulture and forestry have formed the basis of Otago's development and continue to be major sources of revenue"<sup>8</sup>.*

And;

*Otago's early wealth and development was largely due to gold mining. Today, both alluvial and hard rock mining, such as Macraes mining operation, occurs in the region and contributes to the regional economy. Modern mining practices, if properly managed and controlled, significantly reduce adverse effects on water, air and soil resources in comparison with the old practices. In*

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<sup>6</sup> Section 42A Report, Chapters 3 & 4; para 12.108

<sup>7</sup> s32 Evaluation Report – Landscape, Part 6 on page 22, second paragraph

<sup>8</sup> Operative Otago Regional Policy Statement, provision 3.3, Chapter 3

*some instances rehabilitation of mined areas may produce land of higher quality than that which existed prior to mining. While Otago's economy is heavily dependent on primary industry sectors, the winning and processing of minerals in the region provides further opportunities for diversification and economic development"<sup>9</sup>.*

- 6.3 In terms of objectives and policies that the district plan is required to give effect to, the following are key.

***Objective 5.4.5 To promote the sustainable management of Otago's mineral resources in order to meet the present and reasonably foreseeable needs of Otago's communities.***

*Mineral resources are fixed in their location and therefore can only be used, developed or protected where they are found. Because of this, other development activities establishing over or in close proximity to minerals can adversely impact upon the future use or development of that mineral resource. Taking into account the present and future availability of mineral resources is an important factor in enabling the people and communities of Otago to provide for their well being, and in providing for the efficient use and development of the mineral resource.*

***Policy 5.5.8 To recognise known mineral deposits and to consider the potential for access to those mineral resources to be compromised or removed by other alternative land development.***

*Minerals are a finite natural resource that are important to the present and future economic and social well being of Otago's people and communities. It is important that known mineral deposits are recognised and that resource management in Otago provides for their sustainable management. This requires consideration of the potential for access to mineral resources to be compromised or removed as a result of alternative land development.*

***Anticipated Environmental Result 5.7.11 Otago's communities are able to utilise the region's mineral resources for their present and reasonably foreseeable needs.***

- 6.4 NZTM submits that the above higher order provisions of the RPS are appropriate in that they address and allow for the significant contributions that mining has made to the region historically, and the potential for future contributions which still exist today. That is addressed both in terms of economic benefits, as well as for natural and physical features.
- 6.5 By contrast, the PDP does not adequately recognise the benefits of mining (or even the existence of mining) within the District either historically, or in the future. That is an anomaly in light of the significant importance mining has played in the founding and growth of the District.

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<sup>9</sup> Ibid, provision 3.4, Chapter 3

- 6.6 Little weight can be given to the proposed Regional Policy Statement at this stage of its process. A decision from the council is yet to issue, and there was significant challenge from a range of perspectives, to the provisions relevant to mining.
- 6.7 The section 42A Officers' Report for the PDP clearly acknowledges the multitude of submitters' concerns over the need to recognise rural land within the District for its diverse values, beyond those provided by productive agricultural practices<sup>10</sup>.
- 6.8 Such omission appears to have been overlooked in the section 32 and 42A reports, and has led to what is acknowledged as being a 'farming focussed' District Plan. That outcome is both undesirable in terms of providing for the social, economic, and cultural wellbeing of people and their communities, and is inconsistent with the Otago Regional Policy Statement.
- 6.9 Those provisions which are proposed by NZTM through chapter 3 and chapter 6 in particular which seek to specifically recognise the place of mining within the District should accordingly be accepted.

Dated this 22<sup>nd</sup> day of March 2016



Maree Baker-Galloway

Counsel for NZTM

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<sup>10</sup> Section 42A Report, Chapters 3 & 4; para 12.108