

IN THE MATTER

**of the Resource Management Act 1991
("Act")**

AND

IN THE MATTER

**of the Proposed Queenstown Lakes
District Council Proposed District Plan**

AND

IN THE MATTER

**of submissions and further submissions by
BOARD OF AIRLINE
REPRESENTATIVES NEW ZEALAND INC
("BARNZ"):**

S271.11 - 14

S271.18

FS 1077 to S433.60.

**LEGAL SUBMISSIONS ON BEHALF OF
THE BOARD OF AIRLINE REPRESENTATIVES OF NEW ZEALAND INC
IN RELATION TO CHAPTER 7**

26 OCTOBER 2016

CONTENTS

1. INTRODUCTION.....	2
2. SUMMARY OF BARNZ’S KEY SUBMISSIONS.....	3
3. STATUTORY FRAMEWORK	4
Role of the National Airspace Policy of New Zealand	5
Role of NZS: 6805.....	6
The proposed Regional Policy Statement	6
Application of policies to BARNZ’s submissions	7
4. MANAGEMENT OF EFFECTS INCLUDING REVERSE SENSITIVITY	9
5. SHOULD DEVELOPMENT OPPORTUNITIES BE GRANDPARENTED?	10
6. RELEVANCE OF PC35	12
7. INFILL DEVELOPMENT WITHIN ANB AND OCB – RESPONSE TO S42A REPORTS.....	13
Density inside the ANB	13
Density in the area between the ANB and the OCB.....	14
Minimum lot size in the OCB (including the ANB).....	15
Notification.....	15
8. CONCLUSION	16

1. INTRODUCTION

- 1.1 The Board of Airline Representatives of New Zealand Inc (“BARNZ”) is an incorporated society representing the airlines that operate scheduled international and domestic services utilising airports throughout New Zealand. BARNZ works with the airports and local and regional councils to address matters that have the potential to impact on the safe and efficient operation of the airlines.
- 1.2 BARNZ has a history of active participation in planning matters at the major airports in New Zealand. It has most recently participated in the development of the Auckland Unitary Plan. BARNZ considers that it is important that the provisions in district plans appropriately provide for airport infrastructure as a major contributor to the regional and national economies.
- 1.3 BARNZ will call evidence from Mr John Beckett, Executive Director of BARNZ and Mr Eric Morgan, an expert in aviation.
- 1.4 Mr Beckett’s evidence addresses:
 - (a) BARNZ’s approach to the airport topic;
 - (b) The background to BARNZ;
 - (c) The importance of Queenstown Airport;
 - (d) Reverse sensitivity effects and their potential impact.
- 1.5 Mr Morgan addresses:
 - (a) NZS 6805:1992 and its relevance to the issue of land use planning and lot size in the Low Density Residential Zone (“LDRZ”);
 - (b) Forecast growth and what it means for flight activity at Queenstown Airport;
 - (c) Runway utilisation and the associated reverse sensitivity and annoyance effects;
 - (d) The intent of recent plan changes 19 and 35;
 - (e) The Council’s section 32, 32AA and 42A reports; and

- (f) The potential reverse sensitivity and annoyance effects that require consideration.

2. SUMMARY OF BARNZ'S KEY SUBMISSIONS

2.1 In its submissions and further submissions BARNZ seeks:

- (a) subdivision within the Outer Control Boundary ("OCB") to a minimum lot size of 600m² (as recommended by the Council's s42A Chapter 27 report).¹
- (b) a density provision of 1 dwelling per 450m² in line with Plan Change 35 ("PC 35") and as proposed by the s42A Chapter 7 report;^{2, 3}
- (c) retention of rule 7.4.11 which limits residential units to one per site within the Air Noise Boundary ("ANB") (contrary to the s42A report recommendations);⁴
- (d) a requirement for notice to be served on Queenstown Airport Corporation ("QAC") for applications for activities sensitive to aircraft noise ("ASAN") which do not comply with the acoustic treatment requirements;⁵
- (e) consequential amendments to the objectives and policies to address the matters above, as addressed in BARNZ's submissions and further submissions.⁶

2.2 The key issue in contention relating to intensification - and as raised by the above submissions and narrowed by the evidence - is:

Is it appropriate to restrict the intensification of residential properties in the low density residential zone where there are significant effects caused by aircraft noise on external amenity that are not able to be mitigated by acoustic insulation and ventilation?

¹ Submission #271.18

² S42A Chapter 7 Report proposed new rules 7.4.9 and 7.4.10

³ Submission #271.14

⁴ Submission #271.11

⁵ BARNZ FS 1077 to 433.60 – for the reasons outlined by Mr Morgan at para 8.8

⁶ See BARNZ's submissions 271.11 and FS 1077 to the QAC submissions

2.3 The following factors are considered relevant to the determination of appropriateness:

- (a) Amenity effects on future residents;
- (b) Reverse sensitivity effects on the airport and its users;
- (c) The need for residential growth and the potential impact of constraints on future residential development;
- (d) The desirability of retaining existing development opportunities for the existing land owners;
- (e) The relief sought by the parties including the extent to which different limitations should be applied as between the ANB and the OCB.

2.4 BARNZ says that allowing increased intensification, especially within the ANB:

- (a) puts at risk the future growth and development of the airport;
and
 - (b) creates amenity effects on future residents;
- in exchange for*
- (c) a limited number of new dwellings; and
 - (d) the future development opportunities of a few land owners.

2.5 When potential costs are weighed against potential benefits, it is clear that the risks in (a) and (b) are significantly greater than (c) and (d). Accordingly, the plan rules should avoid residential intensification in the ANB, (which is consistent with its approach to the Industrial, Commercial and Rural zones inside the OCB) and limit intensification in the LDRZ between the ANB and OCB.

3. STATUTORY FRAMEWORK

3.1 It is not proposed to repeat the full statutory framework, which has been set out for the Panel in the legal submissions of other parties.⁷

3.2 Notwithstanding, within the statutory framework and relevant to Queenstown Airport, it is drawn to the Panel's attention that the

⁷ For example, see QAC legal submissions Topic 04 paras 45 - 65

Council has, by virtue of s31 of the Act, the functions, for the purpose of giving effect to the Act of:

- (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
- (b) ...
- (d) the control of the emission of noise and the mitigation of the effects of noise:...
- (f) any other functions specified in this Act.

3.3 Section 3 of the Act provides that the meaning of effect includes, *inter alia*, future effects as well as positive effects.⁸

3.4 When preparing its District Plan the local authority must also “have regard to” any proposed regional policy statement (“RPS”) as well as management plans and strategies prepared under other Acts (s74).⁹ This extends to the National Airspace Policy prepared under the Civil Aviation Act 1990 and New Zealand Standard 6805:1992 “Airport Noise Management and Land Use Planning” (“**NZS: 6805**”) prepared under the Standards Act 1988. Both of these documents contain guidance for land use planning that can be appropriately described as a type of “management plan” or “strategy” for managing issues associated with airports.

Role of the National Airspace Policy of New Zealand

3.5 The National Airspace Policy creates a framework to guide the aviation sector (airports, airlines, and Airways NZ) towards integrating future airspace design and emerging technologies to be employed in communications, navigation and surveillance/air traffic management. The objective is to provide certainty for the nation and for the aviation sector’s future investments in air navigation and Air Traffic Management equipment.

⁸ RMA s3

⁹ The words “shall have regard to” indicate that such matters must be considered, but not necessarily followed. These words are not synonymous with “shall take into account”. If the appropriate matters had to be taken into account, they must necessarily affect the discretion of the decision-maker. See *Haddon v Auckland RC* (1993) 1B ELRNZ 8, [1994] NZRMA 49.

- 3.6 The “integrated” section of the National Airspace Policy observes the important interface between airspace and land use planning and recognises that:

“Airport Authorities and local authorities should work together in a strategic, co-operative and integrated way to ensure that planning documents (including those under the Resource Management Act) appropriately reflect noise contours and/or controls and approach and departure paths that take account of current and projected traffic flows.

Resource Management Act planning tools (including plan rules and designations) should as far as practicable seek to avoid the establishment of land uses or activities and potential obstacles or hazards that are incompatible with aerodrome operations or create adverse effects.” (emphasis added)

Role of NZS: 6805

- 3.7 The Airspace Policy approach to airport planning - with its two distinct elements - is endorsed by NZS: 6805. This standard is used by all local authorities and airports around New Zealand to address the resource management issue of aircraft noise.
- 3.8 While it is recognised that the NZS: 6805 is a guideline only¹⁰, it is also a document to which the Panel is required to “have regard” under s74.
- 3.9 The Standards Association of New Zealand published NZS: 6805 in 1992 to provide a consistent approach to noise planning around New Zealand airports. NZS: 6805 was finalised after several years of preparation and consultation, including with the Ministry of Transport, the Department of Health, Airline representatives, Local Authorities, residents' action groups, acoustic consultants and others.
- 3.10 NZS: 6805 adopts a two pronged approach to the issue of noise, being controls on airport noise as well as controls on land use.

The proposed Regional Policy Statement

- 3.11 On 1 October 2016 the decisions version of the Otago Proposed Regional Policy Statement (“RPS”) was released. (New) Policy 4.3 is

¹⁰ *Wellington International Airport Ltd v Wellington City Council* [1997] NZEnvC W102/97 at page 52

directly relevant to the issues at hand and now provides (per the decisions' version):

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; and
- b) Avoiding significant adverse effects on the functional needs of such infrastructure; and
- c) Avoiding, remedying or mitigating other adverse effects on the functional needs of such infrastructure; and
- d) Protecting infrastructure corridors from sensitive activities, now and for the future.

- 3.12 It is clear that, subject to any appeals, there is now a clear policy direction to protect regional infrastructure (which includes the Airport) by restricting the establishment of activities that may result in reverse sensitivity effects on it. It is noted that the Proposed RPS was notified in 2015, after the interim decisions on PC35.

Application of policies to BARNZ's submissions

- 3.13 It is submitted that there is a crucial difference between the recommended planning approach in NZS: 6805 as between noise sensitive uses inside the ANB (above 65 dB L_{dn}) and noise sensitive activities in the area between the ANB and the OCB (between 55 dB L_{dn} and 65 dB L_{dn}). In the ANB, new residential use is to be prohibited (with no caveat). This contrasts with the approach to new residential use within the OCB for which the NZS recommends the prohibition of such uses with the caveat "unless a district plan permits such uses, subject to a requirement to incorporate appropriate acoustic insulation to ensure a satisfactory noise environment...".
- 3.14 Within the context of controls on land use, Mr Morgan points out that:¹¹

It is important to recognise that NZS 6805:1992 does not recommend acoustic treatment as a default position for new noise sensitive activities inside the ANB. If that was the case then all that the Standard would require was a given internal sound level (e.g. 40 dB L_{dn}) for all new activities. In recognition that nothing can be done about aircraft noise in the

¹¹ Primary evidence of E Morgan at para 4.9

external environment and the amenity issues that arise as a result, it recommends a land use planning approach.

- 3.15 In his summary of evidence Mr Chiles considers that the controls proposed by the s42A report are “appropriate to protect internal amenity”¹². He acknowledges that “While this is not a perfect solution as there remain issues of external amenity, in my opinion it is an appropriate method that allows broader planning issues to be taken into account, as opposed to simply prohibiting houses from large areas around all infrastructure”.¹³ As a noise expert he appropriately does not elaborate on those broader planning issues. Instead he summarises the situation by concluding:

The controls proposed for airport sound in the Low Density Residential Zone (Chapter 7) are generally in accordance with NZS: 6805 and Plan Change 35 to the Operative District Plan (ODP). I consider these controls to be appropriate to protect internal residential amenity. (emphasis added).

- 3.16 As Mr Chiles does not distinguish between the controls in the LDRZ as they apply to the ANB and the OCB, it is inferred that his reference to the plan provisions as being “generally in accordance with NZS 6805” refers only to the area between the ANB and OCB. This is also consistent with his reference to the controls applying to “large areas” (clearly the ANB cannot be described as such). Put simply, the proposition is that Mr Chiles avoids concluding that the land use controls in the ANB specifically are consistent with NZS: 6805, as it is evident that they are not. It is also noted that Mr Chiles avoids stating that the controls are appropriate to protect external amenity in the LDRZ – again it is evident they are not. When it comes to consideration of intensification within the ANB the Panel is accordingly asked to give consideration to:

- (a) what Mr Chiles does not say;
- (b) whether intensification within the ANB can be described as consistent with NZS: 6805; and
- (c) whether it is appropriate to apply “broader planning reasons” to the ANB in the face of NZS: 6805.

- 3.17 The planning reasons are addressed in section 7 below.

¹² Summary of Evidence of S Chiles (006) at para 4

¹³ Ibid

4. MANAGEMENT OF EFFECTS INCLUDING REVERSE SENSITIVITY

4.1 There are two types of effects associated with aircraft noise that need to be avoided or mitigated:

- (a) Effects of aircraft noise on people; and
- (b) Reverse sensitivity effects on airport operations.

4.2 The effects of aircraft noise on people are managed through mitigation including ventilation and acoustic insulation of buildings. However, as this mitigation does not address the adverse effects of aircraft noise in the outdoor environment or when windows and doors are open, this is not a complete answer to the management of effects, as acknowledged by Mr Chiles. Mitigation of reverse sensitivity effects is therefore generally achieved through land use limitations on certain types of development¹⁴ within the air noise contours (per NZS: 6805).

4.3 It is settled law that the adverse effects of potentially incompatible uses should be avoided, remedied or mitigated where they would be likely to place restrictions on, or inevitably come into conflict with, the use of other resources.¹⁵ The concept of reverse sensitivity has been described as:¹⁶

[T]he legal vulnerability of an established activity to complaint from a new land use. It arises when an established use is causing adverse environmental impact to nearby land, and a new, benign activity is proposed for the land. The "sensitivity" is this: if the new use is permitted, the established use **may be required** to restrict its operations or mitigate its effects so as not to adversely affect the new activity.

[emphasis added]

4.4 The imposition of operational restrictions to mitigate reverse sensitivity effects are not a strict requirement. Rather, the Environment Court has made it clear that the established use "may be required to" restrict its operations. There is no requirement in the definition of reverse sensitivity for the established use to show that there are actual effects on the lawfully existing activity; the potential for effects is enough. The definition of "effect" includes existing effects, future effects and

¹⁴ The restrictions are usually placed on activities that are sensitive to aircraft noise, such as residential dwellings, education facilities and the like.

¹⁵ Nolan, *Environmental and Resource Management Law*, 5th ed, p 858

¹⁶ *Affco New Zealand v Napier City Council* [2004] NZEnvC W 082/04 at [29].

potential effects.¹⁷ It is important to be clear that noise from the airport is predicted to increase over time.¹⁸

4.5 Reverse sensitivity effects can play out in many ways but the effects of most concern ultimately culminate in curfews and other noise restrictions that directly impact on the ability of the Airport and airlines to efficiently operate. In addition to direct restrictions as identified in the evidence of Mr Beckett, such costs can also result in consequential impacts for airlines through reduced capacity and increased landing charges.¹⁹ Mr Beckett explains how, as seen at other airports, if noise issues are not well managed there is the very real potential that there will be ever increasing calls from the community for more restrictive operational controls.²⁰ Such restrictions would inevitably have a significant economic and social impact.²¹

4.6 Although existing use rights for present land use in the aircraft noise areas cannot be altered, the revised district plan is a further opportunity to focus on appropriate land use planning provisions for the future. In the ANB the plan can prevent more people from being inappropriately exposed to noise, and in the OCB it can ensure that a limited number of people will come to the noise and that if they do, there are controls in place to mitigate the noise.

5. SHOULD DEVELOPMENT OPPORTUNITIES BE GRANDPARENTED?

5.1 The proposition by other submitters and the Council is that owners of residential land within the ANB should be “grandparented” existing, yet unfulfilled development opportunities to use of that land.

5.2 In response to this, it is submitted that it is a long standing principle of planning law that existing private property rights may be diminished or affected by environmental regulation. The RMA enables constraints to

¹⁷ RMA Section 3

¹⁸ Primary evidence of J Kyle, 29 February 2016. Mr Kyle’s evidence explains how the Airport is going to have to increase from its current approximately 14.5 million passengers per year as it does now to 40 million passengers per year by 2044. (paras 4.4 and 5.20)

¹⁹ Primary evidence of J Beckett (006) at paras 5.8- 5.10

²⁰ Primary evidence of J Beckett (006) at para 5.7

²¹ Primary evidence of J Beckett (006) at para 5.9

be placed on the existing rights of private landowners in order to advance the greater good of the community and the environment.²² The question is not whether such regulation can be imposed but whether it should be imposed having regard to the greater good of the community and the environment.

- 5.3 In the landmark *Falkner* case the High Court held that the concept of sustainable management takes priority over private property rights.²³ Following this line of argument the Environment Court, in the *New Zealand Suncern Construction Ltd v Auckland City Council* case said:²⁴

“It is inherent in the nature of district plans that they impose some restraint, without compensation, on the freedom to use and develop land as the owners and occupiers might prefer.”

- 5.4 That is not to say that planning law does not continue to recognise that there may be situations where plan provisions may be onerous. As such section 85 of the RMA, instead of providing for compensation, provides a remedy for landowners to challenge plan provisions through a submission on a plan, where they consider that the provisions of the plan would render their land incapable of reasonable use. The argument by applicants under a section 85 claim would need to establish that, for example, the aircraft noise overlay provisions made their land incapable of reasonable use. In this regard case law has established that “reasonable use is not synonymous with optimum financial return”, and that “a landowner's wish to use the land in a way that maximises its value [does not] make that use alone reasonable, and others unreasonable”.²⁵ I am not aware of any submitters having made an application under section 85, and in my view no such claim would be successful given the provisions of both the zoning and airport noise overlays do not limit existing development or prevent development on a vacant site.²⁶

²² Berry J, Vella J. RMLA Property Rights Roadshow 2010, Planning controls and property rights – striking the balance. July 2010

²³ *Falkner v Gisborne District Council* [1995] 3 NZLR 622 at p632, [1995] NZRMA 462 “The Act is simply not about the vindication of person property rights, but about the sustainable management of resources”.

²⁴ [1996] NZRMA 411 at p24

²⁵ *Fore World Developments Ltd v Napier CC* [2006] NZEnvC W029/06 at paras 122 and 125.

²⁶ Under section 9 and 10 of the RMA existing activities are allowed to continue in breach of a plan in certain circumstances, including where the use has been lawfully established before the

- 5.5 To allow for intensification of sites within the ANB on the basis that a development opportunity to intensify currently exists, would result in the very reverse sensitivity effects that the location of the ANB is designed to avoid.
- 5.6 Reliance on PC 35 as having cemented in the grandparenting approach is an equally insufficient response, for the reasons outlined below.

6. RELEVANCE OF PC35

- 6.1 PC 35 concerned a plan change initiated by the QAC to amend the District Plan by revising the existing air noise boundaries and introducing related land use controls and funding mechanisms for new noise mitigation measures.
- 6.2 PC 35 did not seek to change development opportunities for the residential areas inside the ANB. The key change was that new ASAN including alterations and extensions to existing buildings within the ANB would require ventilation and insulation.²⁷ As part of the appeals process many of the plan provisions were settled as between the parties, so the decisions of the Environment Court did not specifically address the concept of grandparenting development opportunities within the ANB and the desirability of adopting an approach consistent with NZS: 6805.
- 6.3 The summary statement of Amanda Leith (para 16) characterises BARNZ's evidence as "attempting to relitigate Plan Change 35 (PC 35) in relation to retention of existing development rights." Ms Leith nevertheless acknowledges "that the Environment Court's decision on PC 35 is not binding on the Council and submitters are entitled to bring evidence to this hearing on notified (and submitted on) PDP provisions", yet rejects BARNZ's submissions without further justification / elaboration.

rule became operative or the proposed plan was notified; and where the effects of the use are the same or similar in character, intensity and scale to those which existed before the rule became operative or the proposed plan was notified.

²⁷ Summary of operative plan provisions compared to proposed PC35 plan change provisions, Planners Report PC35 at pp5-6

- 6.4 In the determination of a proposed plan the proceedings are in the nature of an enquiry to ascertain the extent to which land use controls are necessary, whether the controls are the most appropriate approach and to ensure that the controls achieve the objectives and policies of the plan.²⁸ The Panel must therefore ensure that it does not defer to PC 35 alone as providing sufficient basis to determine “appropriateness”.
- 6.5 For the avoidance of doubt, BARNZ considers that many of the PC 35 provisions are appropriate and have been the subject of careful consideration as part of the Environment Court’s decisions, but questions whether this is the case in relation to additional intensification within the ANB. The fact that Rule 7.4.11 was included in the plan as notified, despite not having formed part of PC 35, suggests that, in any event, BARNZ’s challenge to the proposed deletion of Rule 7.4.11 is not unfounded. Furthermore, the proposed RPS has subsequently provided further policy direction as regards managing reverse sensitivity effects on infrastructure, as discussed in section 3.

7. INFILL DEVELOPMENT WITHIN ANB AND OCB – RESPONSE TO S42A REPORTS

Density inside the ANB

- 7.1 As a whole, the Council’s planning evidence supporting intensification within the ANB relies on three points:
- (a) population pressures and housing demand which are issues for the district;
 - (b) that the LDRZ properties within the ANB are well located in terms of access to amenities and transportation; and
 - (c) consistency with the ODP and PC 35.²⁹
- 7.2 The potential for reverse sensitivity is acknowledged by Ms Leith as a reason for not altering the existing density provision within the ANB of one residential unit per 450m² (i.e rejecting the application of the

²⁸ *Kerr Trusts v Whangarei District Council* [2004] NZEnvC A060/04 at [15]

²⁹ Evidence of A Leith (006) at para 9.53

gentle density provisions within the ANB), while conversely recommending deletion of rule 7.4.11.³⁰

- 7.3 It is submitted that if reverse sensitivity is the justification for limiting intensification to some extent, the question of whether it should limit all intensification should be evaluated. The s32AA report fails to do this in the context of examining deletion of Rule 7.4.11 – it identifies no costs at all. There is therefore no consideration of the effects on the increased numbers of people who may be exposed to aircraft noise, and no analysis of the extent to which enabling further intensification will meet the residential growth objectives of the plan. The Council’s fall-back position is that this is consistent with the density of the ODP and PC 35.
- 7.4 To address this lacuna Mr Morgan has assessed the properties within the ANB that have development potential pursuant to the plan provisions. His calculation is that removing Rule 7.4.11 while retaining a density limit of 1 dwelling per 450m² will enable an additional 18 dwellings. The effectiveness and efficiency of rule 7.4.11 from the airport’s perspective and from the perspective of those future residents could be significant, yet if the rule is deleted and 18 dwellings cannot be established, this is inconsequential in the scheme of the estimated 10,000 – 16,000 new dwellings required in the district by 2045.
- 7.5 It is submitted that deletion of rule 7.4.11 only serves to exacerbate the already inconsistent treatment of ASAN within the OCB; i.e ASAN in industrial or rural areas within the OCB are prohibited activities (consistent with NZS 6805) - despite the noise effects being greater within the ANB.

Density in the area between the ANB and the OCB

- 7.6 The s42A report acknowledges the “benefit in allowing an increased density within the OCB, given this location is well located and has good access to amenities” but rejects an increased density as being inconsistent with the PC 35 position.

³⁰ Ibid

7.7 This results in recommended changes to objective 7.2.3 (revised chapter 7.2.2) to exclude the 'gentle density' provisions from the OCB.³¹

7.8 Although BARNZ supports this approach, it does so on the grounds that coupled with acoustic controls, this is generally consistent with NZS: 6805, the reverse sensitivity provisions of the plan³², the proposed RPS and can be accepted as a compromise approach given the scale of the area between the ANB and OCB.

Minimum lot size in the OCB (including the ANB)

7.9 Ms Leith supports amendment to rule 27.6.1 to require a minimum lot area for subdivision of 600m² within the ANB and OCB.³³ This is supported by BARNZ for the reasons referred to in paragraph 7.8 above. Additionally, as illustrated by Mr Morgan this will ensure that after allowing for constraints, only 2 properties in the ANB will be able to be subdivided.³⁴

Notification

7.10 The QAC (433), supported by BARNZ, requested a new provision to specify that Queenstown Airport should be served notice for any development which does not comply with rules 7.5.3 (revised chapter 7.5.4) or 7.5.4 (revised chapter 7.5.5).

7.11 The primary evidence of Ms Leith (para 12.17) observes that this is not necessary "given that the activity status for breaches of 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5) is non-complying which would allow consideration of effects upon Queenstown Airport and possible notification." In her summary of evidence Ms Leith declines to make a recommendation in advance of BARNZ's presentation.

7.12 As outlined by Mr Beckett, BARNZ has experienced situations where planners have omitted to consider reverse sensitivity effects on an

³¹ Evidence of A Leith (006) at para 9.56. BARNZ (FS1077) was a further submitter to QAC 433.

³² Refer objective 4.2.3 and Policy 4.2.3.8

³³ Summary of Evidence A Leith (006) at para 31

³⁴ Primary Evidence of E Morgan (006) at para 8.5, footnote 15

airport when determining a requirement for notification.³⁵ Mr Morgan observes that this is about “avoiding unanticipated consequences compromising airport operations”. It is submitted that it is important in achieving integrated management to ensure that a case by case assessment does not inadvertently overlook airport considerations, and that there is more to gain than lose by incorporating a clear and specific requirement.

8. CONCLUSION

8.1 BARNZ seeks strong land use controls as an integral part of providing for the sustainable management of the Airport. As recognised by the proposed RPS, careful planning at and around airports is crucial to enable their operations and future growth. Responsible and sound decision-making requires the prudent safeguarding of the Airport for present and future New Zealanders to ensure that it can serve the needs of the district and region.

8.2 The concern is that, more people living in the aircraft noise areas creates a not fanciful risk of an increase in demand for restrictions on the Airport. Any constraints on airport operations have the potential to quickly become constraints on the region’s development which will inevitably adversely affect the social and economic well-being of Queenstown and the sustainable management of a significant physical resource.

8.3 In summary, it is submitted that if the development of ASAN in the ANB is not avoided, and if development of ASAN in the area between the ANB and OCB is not appropriately restricted in terms of density, the NZS: 6805 objective of achieving a consistent approach to land use planning for airports is undermined. Most significantly, when weighed against all considerations, BARNZ contends that an approach to land use planning which prevents intensification within the ANB and which limits intensification within the area between the ANB and OCB better promotes sustainable management on the basis that:

³⁵ Para 5.16 (a)

- (a) there is no significant effect on the numbers of residential dwellings that will be required to meet the overall needs of the district;
 - (b) there is a reduction in potential cost to the airport and its users which could limit the growth of the district
 - (c) the plan will limit the numbers of people exposed to noise, particularly in the external environment, in the future
 - (d) there will be greater consistency with NZS: 6805
 - (e) the plan will give effect to the provisions of the proposed RPS
 - (f) there is no legal impediment to altering development opportunities.
- 8.4 Within the OCB limited density controls (1/450m²) should be applied, also in conjunction with the requirement for acoustic mitigation. This is the appropriate compromise approach to mitigate the reverse sensitivity effects, while enabling the social and economic well-being of the community in a manner consistent with s5 of the Act.

Gill Chappell

Counsel for BARNZ