

**Before Independent Hearing Commissioners
In Queenstown**

Under the Resource Management Act 1991 (the Act)

In the matter of the Proposed Queenstown Lakes District Plan

and the Chapter 37: Chapter 37 Designations (General)

and The New Zealand Transport Agency
Submitter 719

**Statement of Evidence of Anthony (Tony) Stuart MacColl for the New
Zealand Transport Agency**

S0719-NZ Transport Agency-T07-MacColl A-Evidence

Dated 7 October 2016

KENSINGTON SWAN

89 The Terrace
PO Box 10246
Wellington 6143

Ph +64 4 472 7877
Fax +64 4 472 2291
DX SP26517

Solicitor: N McIndoe/E J Hudspith
nicky.mcindoe@kensingtonswan.com/ezekiel.hudspith@kensingtonswan.com

1 Qualifications and Experience

- 1.1 My full name is Anthony Stuart MacColl. I am a Principal Planning Advisor with the Dunedin Regional Office of the New Zealand Transport Agency (**'Transport Agency'**). I have been employed by the Transport Agency, and its predecessor Transit New Zealand, since 2007.
- 1.2 I hold the qualifications of Master of Resource and Environmental Planning from Massey University, and Master of Science from the University of Otago. I am a full member of the New Zealand Planning Institute. I have also completed the Making Good Decisions programme, and am an accredited Hearings Commissioner.
- 1.3 I am authorised to give the following evidence on behalf of the Transport Agency.

2 Scope of Evidence

- 2.1 My statement will address the following matters:
- a The Transport Agency and its involvement in the review of the Queenstown Lakes District Plan (**'Operative Plan'**) to date.
 - b The reports prepared for the Queenstown Lakes District Council (**'Council'**), in relation to Chapter 37- Designations under section 42A of the Resource Management Act (**'RMA'**) (**'Officer's Report'**).
 - c Key state highway designations in the Queenstown Lakes District, including those aspects that are missing from, or are incorrectly represented in, the proposed Queenstown Lakes District Plan (**'Proposed Plan'**).
 - d Other aspects of the Transport Agency's relief as sought in its submission on the Proposed Plan.

3 Executive Summary

- 3.1 In response to a request from the Council, the Transport Agency requested that the Council 'roll over' its designations into the Proposed Plan.
- 3.2 While the Transport Agency's designations (being designation 84 which provides for almost all of the State highway network, and designation 370 which applies at a specific site) have been 'rolled over' into the Proposed Plan, there are a number of inaccuracies or features of the designations that are not accurate in light of alterations that have been made over time.

- 3.3 In particular:
- a The New Kawarau Falls Bridge (authorised by an alteration of designation 84, and now shown in the Operative Plan) has been omitted;
 - b The depiction of the Grant Road Roundabout (SH6) in the larger scale planning maps is inaccurate, as they do not show the widening of the Grant Road roundabout and four lanes between the Grant Road and Eastern Access Road roundabouts with SH6;
 - c An alteration to designation 84 to authorise construction of a variable message sign in Makarora is indicated in the Operative Plan (map 16b) but not in the Proposed Plan;
 - d An alteration to designation 84 at Boyd Road to enable changes in the alignment of SH6 is not shown in the Proposed Plan maps;
 - e An alteration to designation 84 at Peninsula Road to enable changes in the alignment of the State highway 6 and Peninsula Road intersection is not shown on the Proposed Plan maps; and
 - f An alteration to designation 84 at Nevis Bluff is not shown on the Operative or Proposed Plan maps.
- 3.4 I consider that these errors in the Proposed Plan need to be fixed so that the Transport Agency is clearly authorised to undertake work on the projects that are not yet completed (being the New Kawarau Falls Bridge and Boyd Road projects), and to provide for the ongoing operation and maintenance of those projects which have already been completed.
- 3.5 I also consider that a number of other changes are required in order to more clearly and consistently show the State highway designations on the Proposed Plan maps. The relief sought by the Transport Agency in respect of Chapter 37 (in addition to those changes already recommended in the Officer's Report) is set out in full at **Annexure I** of my evidence.

4 The Transport Agency's role in the Plan Change process

- 4.1 The Agency is a Crown entity established under section 93 of the Land Transport Management Act 2003 ('LTMA'). The Transport Agency's statutory objective is 'to

undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest.¹

- 4.2 As a requiring authority under the RMA, and amongst its other functions, the Transport Agency is responsible for the designations relating to the State Highway network. In the Queenstown Lakes District, State Highways are provided for under two designations, Designation 84 and Designation 370.
- 4.3 In 2014 the Council contacted the Transport Agency to advise that the Council was reviewing the Operative Plan and invited the Transport Agency, as a requiring authority, to notify the Council as to whether any designations for “State Highway purposes” in the Operative Plan should be included in the Proposed Plan (with or without modifications).
- 4.4 The Transport Agency responded to the Council’s request via an email from Ian McCabe on 4 February 2015, advising the Council that the Agency would like the designations to “rollover without significant amendments.” That email is attached to this statement of evidence as **Annexure A**.
- 4.5 In Mr McCabe’s email, he also requested that:
- a references in the Proposed Plan to “Transit NZ” be amended to read “NZ Transport Agency”;
 - b State Highway 89 be removed from the list of designations, due to it no longer being a State Highway; and
 - c “Transit NZ Act 1989” should be amended to “Government Roding Powers Act 1989”.
- 4.6 The Proposed Plan was notified on 25 August 2015. [Not all aspects of the existing (Operative Plan) designations were ‘rolled over’ as requested by the Agency, and not all of the requests made in Mr McCabe’s email to the Council had been implemented in the Proposed Plan.
- 4.7 I discuss the omissions and inaccuracies with respect to the designations later in my evidence, with regard to the different projects and alterations to the designations.
- 4.8 After the Proposed Plan was notified, the Transport Agency wrote to the Council on 8 October 2015 in relation to the issues that had been identified. The letter

¹ Section 94 of the LTMA.

sought “urgent rectification” of the Proposed Plan as the Council had not ‘rolled over’ aspects of the State highway designations that cover “key aspects of the state highway network.” The letter also noted that the Council had failed to make corrections requested by Mr McCabe and certain updates to Limited Access Roads (**LARs**) were not reflected in the text of the Proposed Plan. That letter is attached to this statement of evidence as **Annexure B**, and sets out the issues with respect to the designations and LARs in more detail in its schedules.

- 4.9 Furthermore, that letter set out the Agency’s position that it was not appropriate for the “errors to be put to the commissioners to resolve” as they could not “add designations from the plan on the basis of a submission.” Instead, the letter asked that the Council itself rectify the errors, using a ‘slip rule’.
- 4.10 I do not know whether the Transport Agency has received a response to this letter from the Council.
- 4.11 The Transport Agency subsequently lodged a submission² on the Proposed Plan. In relation to Chapter 37 (the chapter for designations), the Transport Agency’s submission requested:
- a deletion of a definition for “SH6 Roundabout Works”;
 - b that designations in chapter 37 of the Proposed Plan be listed in numerical order;
 - c a number of changes with respect to designation 29 in relation to the QLDC Events Centre and Aquatic Centre; and
 - d a number of amendments to the planning maps, including to adopt a consistent method of labelling State highway designations.
- 4.12 The Transport Agency made further submissions dated 16 December 2015, in relation to other aspects of the Proposed Plan (not relevant for present purposes).

5 Omissions and inaccuracies in the designations in the Proposed Plan

- 5.1 There are certain alterations to Designation 84 that have been confirmed and have generally been included in the Operative Plan, but which are missing from, or incorrectly shown in, the Proposed Plan. As the Transport Agency noted in its letter dated 8 October 2015, these alterations cover key aspects of the State

² Dated 23 October 2015.

highway network and relate to important projects in the Queenstown Lakes District. It is important that the designations (as altered) are accurately shown in the Proposed Plan, so that the Transport Agency has certainty that it is authorised to carry out the works to which they relate.

- 5.2 I have listed below the specific projects that the Transport Agency referred to in its 8 October 2015 letter.

New Kawarau Falls Bridge - Alteration RM120413 to designation 84

- 5.3 This alteration to Designation 84 was subject to an appeal to the Environment Court, but the appeal was settled and the alteration confirmed in November 2013. The recommendation from the Council for this alteration, the decision of the Transport Agency on this designation and relevant plans are contained in **Annexure C** to my evidence.
- 5.4 This alteration was sought in order to construct a new two-lane bridge on State Highway 6 over the Kawarau River at Frankton to reduce congestion, increase safety, and provide more secure southern highway access into the Wakatipu Basin.

Operative Plan

- 5.5 This alteration can clearly be identified on planning maps 31, 31a and 33 of the Operative Plan. In each of these maps (all being of the 'larger scale' kind which show designations in blue outline) the designated area for the alteration is labelled by the light blue markings, described in the index for the planning maps as being for a "Designation", and marked "84".
- 5.6 Map 13 of the Operative Plan (which is a smaller scale map that does not show designations in blue outline), shows State highway 6 by the red and black markings described in the index for the planning maps as being for "State Highway (Designation 84)". However, the red and black markings in this map seem to (inaccurately) follow the alignment of the old bridge.
- 5.7 Furthermore, the Designations schedule to the Operative Plan lists separate conditions for the New Kawarau Falls Bridge.³

³ Schedule 1- pg 20

Proposed Plan

- 5.8 Neither the larger scale nor the smaller scale Proposed Plan maps (which have the same numbering as those in the Operative Plan) show the designation crossing the Kawarau River.
- 5.9 In addition, the conditions specific to the New Kawarau Falls Bridge have been omitted from Chapter 37 of the Proposed Plan.

Status of the project

- 5.10 Construction on this bridge began during December 2015 and is presently underway. The Transport Agency has expended significant financial resources on this project and is committed to its completion in reliance on the alteration to Designation 84, which was confirmed in 2013. The Transport Agency relied on the fact that this alteration would be 'rolled over' to the Proposed Plan so that there would be a seamless transition from the Operative Plan to the Proposed Plan.
- 5.11 It is anticipated that this work will be completed by December 2017.

Grant Road Roundabout – Alteration RM110290 to designation 84

- 5.12 This alteration was made in order to authorise the creation of a roundabout at the intersection of Grant Road and State highway 6, and was confirmed on 18 August 2011, subject to conditions. The Council's recommendation for this alteration, the Transport Agency's decision on this alteration and relevant plans are contained in **Annexure D** to my evidence.
- 5.13 On map 13 of the Operative Plan, the designated area for the alteration is labelled by the red and black markings and on maps 31 and 31a; the designated area for the alteration is labelled by the light blue markings and annotated '84'. As discussed below, these representations are now inaccurate, due to the alterations made to Designations 84 and 370 under alteration RM140857.
- 5.14 This alteration is not shown on the larger scale maps 31, 31a and 33 for the Proposed Plan. Also, the smaller scale map 13 does not clearly represent the alterations to the initial designated area on State Highway 6.
- 5.15 The roundabout has been operational since October 2015. Landscaping of the roundabout area is still to be completed.

Eastern Access Road Roundabout and four laning – Alteration RM140857 to designations 84 and 370

- 5.16 The purpose of this alteration was to alter designations 87 and 370 to extend the designated area of the Grant Road and Eastern Access Road roundabouts and provide for four lanes in between them. It was confirmed by Transport Agency decision in October 2011, subject to conditions.
- 5.17 On map 13 of the Operative Plan, the designated area for this alteration is labelled by the red and black markings, and on maps 31 and 31a the designated area for the alteration is labelled by the light blue markings and the number '370'.
- 5.18 Planning maps 31 and 31a of the Proposed Plan provide for the additional designated area (as part of designation 370) that was included under this alteration at the Eastern Access Road roundabout. However:
- a The maps do not show the State highway corridor itself as designated (ie it is not 'filled in' with blue dots the way that other designations on the planning maps are); and
 - b The widening of the Grant Road Roundabout and the additional land required to create four lanes is not shown in either the above-mentioned Operative or Proposed planning maps nor in Proposed Plan Map 33.
- 5.19 The conditions for Designation 370 in Schedule 1 of the Operative Plan and Chapter 37 of the Proposed Plan are accurate.
- 5.20 The Council's recommendation and the Transport Agency's decision for this alteration are attached to this statement of evidence as **Annexure E**.
- 5.21 The works for this project are completed and have been operational for approximately one year.

Makarora Variable Message Sign – Alteration RM150169 designation 84

- 5.22 This alteration was sought to enable the installation of a new variable message sign ('VMS'). The altered designation included a parcel of land to accommodate the new VMS structure. This alteration ensured that a VMS could be installed on the designated land and the land could be accessed for ongoing maintenance within the road reserve of the altered designation.
- 5.23 The Council's recommendation and relevant plans are contained in Annexure **F** to my evidence.

- 5.24 This project is shown in the Operative Plan on maps 2, 16 and 16b. On map 2 (the smaller scale map), the designated area for the alteration is labelled by the red and black markings, and on maps 16 and 16b (the larger scale maps) the designated area for the alteration is labelled by the light blue markings and annotated '84'.
- 5.25 While the Proposed Plan shows the State highway on map 2 (the smaller scale map), the designation (or this particular alteration) is not shown on Map 16 and 16b.
- 5.26 This project has already been completed. However, if it is not 'rolled over' to the District Plan then the Transport Agency may not be authorised to undertake the maintenance of the VMS.

Boyd Road – Alteration RM090645.

- 5.27 This alteration was confirmed on 22 February 2010, subject to conditions. This alteration was sought to facilitate improvements to the alignment of State highway 6 near Boyd Road.
- 5.28 The Council's recommendation for this alteration, the Transport Agency's decision on this alteration, and relevant plans are contained in **Annexure G** to my evidence.
- 5.29 The altered designation was not indicated on the relevant planning maps for the Operative Plan (maps 13 and 31a) or the relevant planning maps for the Proposed Plan (also maps 13 and 31a).
- 5.30 The Transport Agency has secured this land, but the project is not yet underway. It is important that any changes to the designation are shown in the planning maps so that the work to be carried out is clearly authorised.

Peninsula Road – Alteration RM081075.

- 5.31 This alteration was confirmed on 8 February 2010, subject to conditions.
- 5.32 Its purpose was to facilitate improvements to the intersection between State highway 6 and Peninsula Road (including in respect of its alignment). The Council's recommendation (incorrectly labelled as a decision) and relevant plans are contained in **Annexure H** to my evidence.
- 5.33 In both the Operative and Proposed Plans, the State highway designation is shown on map 13, which is the smaller scale map.

5.34 On the larger scale Operative Plan maps (31a and 33) the designation for State highway 6 (including the alteration at Peninsula Road) is not shown. This has not been remedied in the Proposed Plan (31, 31a and 33).

5.35 This project has now been completed.

Nevis Bluff – Alteration RM040909 and RM090555.

5.36 Alteration RM040909 was confirmed on 4 November 2004. The purpose of this alteration was to extend the boundaries of the designation to incorporate land required for Nevis Bluff stabilisation work. This was necessary to ensure the safe and efficient operation of the State highway.

5.37 Alteration RM090555 was confirmed on 9 September 2009. The purpose of this alteration was to provide access to the Nevis Bluff site and as a deposition area for clean dull associated with site works.

5.38 All of the relevant work has now been completed.

5.39 The recommendations (incorrectly labelled as decisions) for each of these alterations and the relevant plans are contained in **Annexure I** to my evidence.

5.40 The designated areas for these alterations are not shown in the planning maps for the Operative or Proposed Plan.

6 The Officer's Report

6.1 The Officer's Report addressed both the 4 February email and the 8 October letter from the Transport Agency, as well as the Transport Agency's submissions on the Proposed Plan.

6.2 In relation to the email and letter, the report recommended that:

- a corrections should be made to the Proposed Plan where it references "Transit NZ";
- b as the Proposed Plan was not yet operative, Clause 16(2), Schedule 1 of the RMA was the applicable 'slip rule' in this case; but
- c because the Council's errors (omitting to include the designation alterations in the Proposed Plan and failing to reflect updates to LARs in the text of the Proposed Plan) were not minor, the Transport Agency is required to notify a separate requirement to remedy this.

- 6.3 In relation to the Transport Agency's submissions, the Report considered that:
- a The schedule of designations should be reordered numerically to make the plan more user friendly, as sought by the Transport Agency;
 - b The changes requested by the Transport Agency to the Designation 29-Council Events Centre and Aquatic Centre should be made; and
 - c State Highway designations are already clearly labelled by red and black hatching (smaller scale maps), or annotated by reference to the appropriate State Highway (larger scale maps). As such the report rejected the Transport Agency's request for a consistent labelling method for maps of different scales.

7 Discussion

- 7.1 I disagree with the Report recommendations listed at paragraphs 6.2(c) and 6.3(c) of this statement of evidence.
- 7.2 The Transport Agency should not be required to go through the process of notifying a requirement for alterations to a designation due to the Council's error. The Transport Agency clearly stated in its 4 February email that it wanted all the State highway purposes designations in the Operative Plan to be 'rolled over' without any significant amendments. Therefore, the onus should be on the Council to correct its mistake.
- 7.3 I understand that there might be some technical difficulties with the Transport Agency notifying a requirement for LARs and I do not think that it should be the Transport Agency's responsibility to ensure that they are referenced correctly in the Proposed Plan. The Council should be required to correct its error, especially after the correct references were provided to it in the Transport Agency's letter dated 8 October 2015.
- 7.4 The planning maps in the Proposed Plan are not clear to navigate and do not correctly identify Designation 84. Labelling is also inconsistent – the approach seems to be to only identify alterations on the larger scale planning maps rather than the whole of the designation.
- 7.5 I agree with the Report recommendation listed at 6.2(b) of this statement of evidence. I consider the changes to the Proposed Plan discussed above should be made under the 'slip rule' to correct the Council's minor errors.

- 7.6 I also agree with the Report recommendations listed at 6.2(a) and 6.3(a) and (b) of this statement of evidence as they support the changes sought in the Transport Agency submissions.
- 7.7 I note that the Officer's Report did not address the Transport Agency's submission in relation to the definition for "SH6 Roundabout Works". I have reviewed the chapters of the Proposed Plan that have been notified to date, and I have not been able to identify any instance of this term being used. I continue to support the deletion of this definition.
- 7.8 I also note that, where the Officer's Report discusses the planning maps from the Proposed Plan that are associated with Designation 84⁴, they have not made mention of map 31a (which shows a state highway but does not identify the designation). Both the schedule and map need to be amended to correct this.
- 7.9 Furthermore, the Officer's Report has recommended removing two maps from Schedule 37.2 (maps 38 and 24).⁵ I agree with the exclusion of map 38; however State highway 6 runs straight through the middle of map 24b. Map 24b of the Proposed Plan should be amended to represent State highway 6 (as being part of designation 84) and map 24 should not be excluded from Schedule 37.2 as it is directly associated with designation 84.
- 7.10 Finally, the Officer's Report states that the Transport Agency was approved as a requiring authority on 19 November 2015 for the purposes of "construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of any State highway or motorway pursuant to the Transit New Zealand Act 1989".⁶
- 7.11 The date given in the Officer Report is incorrect. The Transport Agency was first approved as a requiring authority by way of Gazette notice on 3 March 1994.⁷ This Gazette notice approved then Transit New Zealand as a requiring authority for (relevantly):

its particular network utility operation being the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of any State highway or motorway pursuant to the Transit New Zealand Act 1989.

⁴ Officer's Report, see paragraph 6.73.

⁵ see paragraph 6.90.

⁶ see paragraph 6.72.

⁷ Resource Management (Approval of Transit New Zealand as Requiring Authority) Notice 1994

8 Conclusions

8.1 The Transport Agency seeks:

- a amendments to the Proposed Plan provisions that are provided at **Annexure J** to this evidence; and
- b that the Transport Agency's designations are corrected so that they incorporate the alterations discussed and included in **Annexures C-I** of this evidence.

Anthony Stuart MacColl

7 October 2016