

Before the Queenstown Lakes District Council

Under the Resource Management Act 1991

In the matter of a submission under clause 6, Schedule 1 of the Resource Management Act 1991 on Stage 3B of the Queenstown Lakes Proposed District Plan

Between **Wayfare Group Limited (#31024)**

Submitter

---

**Memorandum of Counsel for Wayfare Group Limited**

09 July 2021

---

**Applicant's solicitors:**

Maree Baker-Galloway |  
Anderson Lloyd  
Level 2, 13 Camp Street, Queenstown 9300  
PO Box 201, Queenstown 9348

p + 64 3 450 0700  
maree.baker-galloway@al.nz |

**anderson  
lloyd.**

## **May it please the Commissioners**

- 1 This Memorandum of Counsel responds to matters raised by the Commission in its Minute dated 7 July 2021 (**Minute 48**).

## **Proposed Regional Policy Statement (pRPS) policy direction**

### ***Landscape***

- 2 Counsel has reviewed the pRPS and agrees with Council's conclusions that it is sufficiently similar to the operative RPS (**oRPS**) such that no further or additional considerations are required for the Panel to take into account in terms of a landscape assessment.
- 3 Counsel notes that, at para 6.5 of Mr Mathee's reply evidence, he states:

I consider that the direction in Chapter 3 of the PDP already gives effect to the pRPS provisions.

- 4 For completeness, Counsel reiterates the points made in opening submissions that:
  - (a) Chapters 3 and 6 have not been confirmed to a point that they are to be regarded as 'operative' under the RMA, and therefore the Operative District Plan (**ODP**) is not yet to be treated as 'inoperative' (relevant to higher order landscape policies and objectives).
  - (b) Given this 'uncertainty' between the two plans, the Panel must turn its mind to consider the oRPS and pRPS in their own right and apply those provisions to the proposed rezoning. It is not sufficient to rely on the PDP chapters 3 and 6 as having fully and completely implemented the pRPS or oRPS.
  - (c) Wayfare has set out relief sought in respect of Chapters 3 and 6 PDP required to achieve / give effect to the relief sought in its rezoning proposal.

### ***Natural hazards***

- 5 Counsel considers the pRPS is more prescriptive than the oRPS as to how hazards are identified and managed, but overall it is not less enabling in terms of development opportunities which involve hazard management.
- 6 The pRPS does not effectively introduce any new language or test compared to the PDP Chapter 28, other than provides a specific methodology for identifying the difference between "acceptable", "tolerable", and "significant" natural hazard risk.
- 7 Wayfare considers that a further hazard related policy as suggested in Mr Mathee's reply is superfluous because:

- (a) Expert evidence put to the Panel has determined that areas outside of the identified 'Hazard Management Area' and 'Natural Hazard Building Restriction Areas' are at a 'low risk' from natural hazards; and
  - (b) Natural hazards are a matter of control in the proposed Walter Peak Tourism Zone, Rule 12 (controlled activity for buildings). Therefore controls through resource consent can adequately manage any suggested response to natural hazards risks outside of the above identified areas.
- 8 If the Panel are however minded to agree with Mr Mathee's advice on a further policy, Wayfare suggests the following amendments in order to ensure the policy is helpfully directive towards the specific hazards relevant for the Site. Removal of the reference to exceedance of a tolerable level is also consistent with other specific zones / chapters in the PDP, such as Ski Area Subzones, and Jacks Point.

~~46.2.2.14~~ Within the Walter Peak ~~Rural Visitor~~ Tourism Zone, when assessing applications for buildings, ensure that any alluvial and liquefaction natural hazard risk is managed, including by controlling location, scale, and adopting mitigation measures where necessary, ~~so risk from natural hazards does not exceed a tolerable level.~~

#### **Weighting of pRPS and oRPS**

- 9 Counsel agrees with Mr Wakefield's submission (in his Reply submissions at 4.3), that very little weight should be afforded the Proposed RPS, given the early stage with which it has reached in the First Schedule RMA process.

**Counsel for Wayfare Group Limited**  
**09 July 2021**

