BEFORE THE HEARING COMMISSIONERS
AT QUEENSTOWN

IN THE MATTER	of the Resource Management Act 1991 (**RMA or the Act**)
AND	
IN THE MATTER	of the proposed the Queenstown Lakes District Plan pursuant to Part 2 of the First Schedule to the Resource Management Act 1991
ON BEHALF OF	RCL Henley Downs Ltd (RCL)

STATEMENT OF EVIDENCE OF DANIEL WELLS

6 August 2018

Qualifications and experience

1. My name is Daniel Garth Wells. I am a planning consultant based in Queenstown and am employed by John Edmonds and Associates Ltd. My relevant experience was summarised in my Evidence in Chief as presented to the hearing on the Strategic Directions chapter.

Code of Conduct Statement

2. I have read the Code of Conduct for Expert Witnesses contained within the Environment Court Practice Note 2014, and (although this matter is not before the Environment Court) I have complied with it in the preparation of this evidence. This evidence is within my area of expertise and I confirm I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

Scope of Evidence

3. This statement of evidence is in support the submission of RCL # 2465.

4. I have read the s42A report prepared by Ms Jones and the accompanying statements from Messrs Smith and Crosswell. In this statement, I will be referring to the numbering Ms Jones has used in the s42A recommended unless otherwise stated.

5. RCL is the developer of Hanley's Farm, which owns most of the developable land in the Hanley Downs part of the Jacks Point Zone.

6. While RCL's submission commented on a range of provisions in proposed Chapter 27 (Transport), my evidence will mostly concentrate on some of the issues that are of particular interest to RCL. There were a few matters raised in the submission which I won't address in detail in this statement, (for example suggestions on wording or opportunities to remove provisions thought to be unnecessary), but should the Commissioners wish I would be happy to discuss those at the hearing.

Overall comments in relation to transport and parking rules

7. QLDC's planners propose taking a much more flexible case-by-case approach to larger developments with respect to the parking and other transport infrastructure provision than has been the case under the Operative District Plan.

8. From what I have seen, there has been a (justified) concern about the regressive effects of parking standards for many years throughout the world. As a result there has been a few initiatives to allow planning rules to

encourage transport modes other than private motor vehicles, and it is encouraging that QLDC have turned their mind to this.

9. But as always, there is a balance to be struck between flexibility and certainty. In my opinion, having assessed the proposed chapter, particularly from the perspective of how RCL would be affected by the new regime, I think there is too much uncertainty in the provisions proposed by Ms Jones. As such, I recommend some amendments.

Policies

10. My first comment is in relation to policy 29.2.1.3. RCL requested that this policy be deleted, which I agree with. I have concerns with the policy.

11. One concern I have with this policy is that to "require" initiatives is a very strong verb. In many instances, the location and nature of a development would be such that there are not realistic prospects of undertaking initiatives to promote walking, cycling, and the use of public transport as part of that development. In such circumstances the policy would appear to require an improvement to the wider network. The policy seems quite uncertain as to what a consent applicant may be required to do in terms of wider network upgrades. The activity would already pay development contributions for broader transport improvements. This is a more certain and in my opinion superior approach to collecting the revenue necessary to make ongoing network improvements.

12. The second issue I have is that this appears to me to be potentially laying the foundation for a financial contribution. This is also the case with policy 29.2.4.4. I shall return later to my concerns about the use of financial contributions.

13. As an overall comment, I still consider that there are a lot of policies and sub-policies in this chapter and I would encourage the commissioners to look at opportunities to combine or reduce these. For example, policies 29.2.1.3 and 29.2.4.4 appear to cover the same issue. I think the relief sought in the RCL submission with respect to the policies of this chapter would be useful to that end.

Rules 29.4.7 and 29.4.8

14. While I think that the emerging technology of electric vehicles has a lot of promise, my understanding is that it is not yet certain that they will become a widespread technology. There are other low-carbon alternative technologies that may become prevalent. Further, I don't believe that it should be the responsibility of those providing parking to also provide electric charging. Fuelling a car has long been the responsibility of a car user. Petrol stations provide fuel on a commercial basis and may increasingly offer

charging in the future, or people may charge their vehicles at home. Those providing charging stations would want to receive revenue for the electricity, and it seems unusual to require a development to enter into a commercial venture that is not its core business. So I do not support the additions to rule 29.4.7 and 29.4.8 recommended in the s42A report.

Rule 29.4.10

15. Rule 29.4.10 is of particular concern to me. When I read the notified version of the chapter, it seemed to me that this rule was setting up a form of financial contribution, and a very uncertain one at that. It implies that an activity may be required to make improvements to the transport network beyond the site or provide funds toward that purpose.

16. Presumably there is little need to make the case against financial contributions, particularly given they are to be phased out of the RMA by 2022 as a result of the 2017 amendment to the Act. And I acknowledge that this appears not to be the intent to introduce financial contributions, with recommendations in the s42A report to make changes to make it clear that any required mitigation charges need to be clearly attributable to the effects of the development. I would need to leave it to others with appropriate expertise to determine whether the changes would mean that the recommended provisions not constitute the introduction of financial contributions.

17. Regardless, when I read the provisions I still don't have full confidence that a developer will not be drawn into making a roading upgrade beyond the site where they previously would not have. And tests as to whether there is a "nexus" between the activity and the mitigation require would appear to me to be arguable. My understanding is that there is a history of cases argued in Court over whether a consent condition requiring off-site improvements constitutes a financial contribution, and what a reasonable contribution might be. For example, could the provisions be used to seek funding for a portion of a roundabout upgrade down the road? I can envisage a lot of debate and potentially litigation over whether such a contribution would be reasonable and if so what amount should be paid. Such a debate would be inefficient and undesirable.

18. While the current development contribution funding process may be imperfect, it at least seems to me to be reasonably efficient in that there seems to be limited opportunity to argue on a case-by-case basis what a contribution ought to be. With this and other provisions as proposed, I am concerned we could be facing much debate and litigation over such matters.

19. This rule may also for some sites be a substantial erosion of existing development rights. Previously, where control or discretion is limited, I believe

there hasn't normally been scope to look into such matters for many consents in many zones. Typically such matters have been investigated at the time of a plan change, and once a site has zoning a reasonable understanding can be ascertained of what development is anticipated. My concern is reinforced by the recommendation to extend the rule to allow NZTA to secure such contributions. I can see why NZTA would be in favour of this, but the financial implication for some site owners could be quite significant. Again, I can imagine some protracted debates and litigation arising over whether and to what extent some of these landowners may need to contribute to or undertake off site upgrades.

20. How a landowner or developer could ascertain what they will be required to do or provide (including levels of on site parking) is very unclear to me with how the rule is worded. Such certainty is important for the purposes of due diligence and funding, and I think an applicant needs to have a reasonable idea of what they will be required to do before applying for a resource consent. As a consultant, I would find it difficult to give any such advice with the rule worded as it is.

21. I have doubts that the Section 32 analyses undertaken to date have adequately encapsulated the costs to landowners that may arise as a result of Rule 29.4.10, and the inefficiencies resulting from uncertainty.

22. The submission of RCL sought that this rule be struck out from the Plan. I don't think that the Plan would be deficient if that were to occur (it would operate similarly to the Operative District Plan) but I accept that Council may wish to ensure a greater level of assessment around traffic demand management on larger developments. If that is the case, I note that it is really point b. of this rule that is of particular concern to me from a financial contribution perspective. If that were struck out, and other changes were made to remove reference to electric vehicle and e-bicycle charging (in points c. and h.) for reasons I have already covered, I would be less concerned about the rule. However, as I shall explain below in relation to Rule 29.10, I would like to see standard residential subdivisions of the nature undertaken by RCL excepted from the rule.

Rule 29.5.1

23. The concerns I have outlined above around uncertainty extend to rule 29.5.1 as proposed to be amended in the Section 42A report. While I acknowledge that exempting high traffic generating activities from the parking standards is intended as a concession to address concerns raised in submissions, I believe it only increases uncertainty. In my experience, transport engineering and planning are quite subjective disciplines and there can often a great deal of debate and disagreement between experts throughout a resource consent

processes. This could extend to assessing parking demand. Having a clear idea of what parking will be required is critical to designing and assessing the development capacity of a site. With the rules as proposed, it would be very difficult to make any such assumptions with confidence until the project is well progressed. And I suspect there would be issues around consistency between different applications over time, or at least complaints to that effect.

24. I think a much more efficient and equitable approach is to have a baseline of parking standards in the rules, but to make it clear (via policies and matters of discretion for rules) that they can be breached if the applicant proposes mitigatory measures. The RCL submission suggested what I consider appropriate amendments in line with this. Mitigation can include providing funding or undertaking offsite improvements. If it is offered by the applicant, it can be seen as a form of "environmental compensation" (as opposed to an obligation). But if the applicant doesn't want to go down this route, or agreement can't be reached with Council, there is a reasonable level of certainty in applying standard parking standards as a fall back.

25. For a developer such as RCL at Hanley's Farm, a standard approach of applying two car parks per lot in my opinion provides an appropriate outcome with welcome certainty. There are already provisions in the Subdivision chapter around providing for the likes of walking trails and bus stops. RCL can apply for a consent on this basis, without for example having to engage a traffic expert to estimate the level of parking demand. I do not see a need to change this general approach. However, some discretion to consider whether less car parking may suffice could be useful in the future if more intensive development is proposed and the public transport networks are more developed.

Rule 29.10 and other references to "High Traffic Generating Activities"

26. RCL's submission sought the deletion of reference to "high traffic generating activities" in the plan. Such distinctions are unavoidably arbitrary and lead to problems such as applicants structuring proposals to avoid the threshold. By comparison, development contributions levy quite equally on developments in a manner that is proportionate to their scale. There is also some inherent uncertainty within the definition, with reference to numbers of vehicle trips projected. This relies on a number of assumptions and may again be a point of debate. I do not believe that in order to establish whether a rule has been triggered, one should need to engage a traffic expert (and possibly still be advised that QLDC's experts have concluded otherwise once the consent is lodged).

27. My concerns would be reduced if the definition set out in this rule were not the trigger for financial contributions, but rather narrowed to an increased scrutiny around traffic demand management as I suggested in my comments

on Rule 29.4.10 above. However, even if this is the case, I would recommend that residential subdivisions be excluded from the list of activities deemed to constitute a high traffic demand activity. When I look at the list of matters of discretion in rule 29.4.10, (beyond point b. and references to vehicle charging for which I have outlined my concerns), it is hard for me to envisage a lot of use coming out of assessing a residential subdivision against these. As I have said, the need for provision of cycle and transport infrastructure are already required as part of subdivision applications. Beyond such matters, I struggle to see what travel demand management measures could realistically be employed for a standard residential subdivision in the District. Rather, I suspect that they are more applicable to intensive residential developments (such as apartment buildings) and places of employment.

Rule 29.5.22

28. On other matters, I support the change to 29.5.22 to allow a wider range of factors to be considered with regards to the location of accessways in relation to intersections. I have encountered the situation in Hanley's Farm where the best location from a transport perspective for a vehicle access may not be the best from an urban design perspective. To date QLDC have accepted there are instances where urban design principles should prevail over transport considerations. , So in my opinion it would be appropriate to ensure that there is continued scope for such wider considerations.

Rule 29.5.8

29. I support the change to Rule 29.5.8 to allow residential flats to be parked in tandem as part of a wider residential unit. This is a sensible compromise which I think will address the concerns raised by RCL in its submission. At Hanley's Farm, perhaps as a reflection of the affordability challenges in the District, residential flats have been quite popular. RCL has a design review process with an emphasis on ensuring a house looks attractive from the street and that there is plenty of greenery between the street and house (and no front fence etc). But with many residential flats, because the park has to be out of the tracking curve of cars parked in the garage, many owners are seeking to have a car parked parallel to the road in front of the house. This is not an ideal visual outcome, but one that RCL has been reluctantly approving. The change should address this concern and I suspect may enable a decent number of new residential flats to be built across the District, with associated affordability benefits.

Assessment matters

30. My final comment is in relation to assessment matters. In most zones QLDC have sought to remove these. There are in my opinion a number of efficiencies in maintaining a consistent Plan format and keeping the Plan as brief as possible. When too many provisions are applicable, their significance

can start to become diluted, with scant attention paid to them in Assessments of Environmental Effects and decisions. There are already extensive objectives and policies that will need to be assessed in resource consent applications, which I think provide sufficient guidance to ensure an appropriate assessment of effects.

Dan Wells

6 August 2018