

**Before Independent Hearing Commissioners
In Queenstown**

Under the Resource Management Act 1991 (the 'Act')

In the matter of The Proposed Queenstown Lakes District Plan ('Proposed Plan')

and Hearing Stream 14: Chapter 24: Wakatipu Basin and transferred Stage 1 submissions related to Arrowtown and Lake Hayes

and The New Zealand Transport Agency
Submitter 2358

Outline of legal submissions for the New Zealand Transport Agency

Dated 10 July 2018

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May it please the Commissioners

Introduction

- 1 The New Zealand Transport Agency ('**Transport Agency**') has lodged submissions¹ and further submissions² which seek to ensure that the Proposed Plan does not compromise the functionality, efficiency and safety of the transport network. A number of submissions seek re-zoning of land within the Wakatipu Basin, which the Transport Agency is concerned could exceed the capacity of the available transport infrastructure.
- 2 The Transport Agency's position is generally consistent with that outlined by the Council's planning officers, as expressed in their reports prepared under section 42A of the Act ('**Officer Reports**'). There is only one provision where the Transport Agency disagrees with the Officer Reports, which is explained further below.
- 3 The Transport Agency's position is consistent with the operative and proposed Otago Regional Policy Statements, as well as Part 2 of the Act. It is also consistent with key planning documents prepared for the Region, which are explained further in these submissions and in the evidence filed in support of the Transport Agency.

Scope of legal submissions

- 4 These submissions:
 - a Summarise the Transport Agency's position;
 - b Discuss the statutory criteria relevant to assessing the Proposed Plan;
 - c Respond to issues raised by the Council officers in their Officer Reports; and
 - d Outline the relief sought by the Transport Agency.

¹ The Transport Agency submitted on Chapter 24 as part of its submissions on Stage 2, dated 23 February 2018 (submission number 2538).

² The Transport Agency lodged further submissions for Stage 2 on 27 April 2018 (further submission number 2727), and further submissions, dated 16 December 2015 (further submission number 1092), on relevant Stage 1 submissions carried over to be heard in Hearing Stream 14.

Evidence for the Transport Agency

- 5 Two witnesses have prepared evidence in support of the Transport Agency's submissions:
- a Mr Anthony (Tony) MacColl - Principal Planning Advisor with the Dunedin Regional Office of the Transport Agency.
 - b Mr Matthew Gatenby - Principal Engineer Transportation in the Dunedin Office for WSP Opuwahi New Zealand.

The Transport Agency's position

- 6 The overall objective of the Transport Agency in these proceedings is to ensure that the provisions of the Proposed Plan do not enable development with the potential to compromise the functionality, efficiency and safety of the transport network within the Wakatipu Basin. The Transport Agency recognises the importance of urban development in the Queenstown Lakes District, but considers that this should occur in an integrated manner.
- 7 To summarise, the Transport Agency's submissions in relation to Hearing Stream 14:
- a supported provisions which recognise that residential and non-residential activities have the potential to compromise the safety and efficiency of the transport network and efficient provision of infrastructure;
 - b sought amendments to ensure that all aspects of the transport network (pedestrians, cyclists, public transport, active networks, private vehicles and freight) are recognised in the Plan provisions;
 - c supported provisions which require the consideration of parking, access, safety and transportation at the time of consenting;
 - d supported the listing of glare as an assessment matter;
 - e sought that cumulative traffic generation be considered at the time of subdivision; and
 - f sought to improve clarity of expression.

Statutory framework

- 8 The Panel's Recommendation Report 1 ('**Report 1**') on Stage 1 of the Proposed Plan, in particular at paragraphs 31 – 48,³ sets out the statutory requirements for consideration of proposed district plans from *Colonial Vineyard Limited v Marlborough District Council*.⁴ It also addresses the relevant changes through subsequent amendments to the Act and the applicability of the *King Salmon* decision the current plan change.⁵
- 9 Of particular relevance to the Transport Agency's case, section 74(2)(b) of the Act provides that a territorial authority must have regard to any management plans and strategies prepared under other Acts, to the extent that their content has a bearing on resource management issues of the district. The Regional Land Transport Plan ('RLTP') has been prepared in accordance with the Land Transport Management Act 2003 and is directly relevant to the resource management issues in Queenstown.⁶
- 10 As addressed by Mr MacColl in his evidence, the Transport Agency considers that the current and foreseeable capacity of the transport network should be based on those projects that are anticipated by the RLTP. The RLTP is prepared and updated frequently to take into account the needs of the Region.⁷
- 11 The Transport Agency submits that the objectives and policies in the Operative and Proposed Regional Policy Statements support the development of land in the Wakatipu Basin in coordination with the transportation network anticipated by the RLTP.⁸

Part 2 of the Act

- 12 In respect of the sustainable management of the transport network as a resource, the Transport Agency submits that the *King Salmon* 'caveats' do not apply in this case, as the Operative and Proposed Regional Policy Statements are clear, and in most cases quite prescriptive, in relation to the management of transport infrastructure. The Transport Agency agrees with the findings in Report 1 that the

³ Hearing of Submissions on Proposed District Plan. Report 1. Report and recommendations of Independent Commissioners. Introduction. 28 March 2018.

⁴ [2014] NZ EnvC 55.

⁵ *Environmental Defence Society v The New Zealand King Salmon Company Limited* [2014] NZSC 38.

⁶ Sections 12 – 18.

⁷ SOE Mr MacColl, para s 7.1 – 7.3.

⁸ See, for example, 9.6.2 of the Operative Regional Policy Statement and Policy 4.5.7 of the Proposed Regional Policy Statement.

provisions identified in from the relevant policy statements are not invalid or incomplete.⁹

- 13 However, for completeness, the Transport Agency agrees with the analysis of Part 2 in Mr Barr's Officer Report.¹⁰ The Transport Agency submits that its position is consistent with Part 2.

Submissions and the Officers' Reports

- 14 The Transport generally agrees with the position expressed in the Officers' Reports. However, there is one point on which it disagrees, which is the insertion of an assessment matter into Chapter 27 to ensure that cumulative traffic generation be considered for decisions on subdivision, including where subdivision is a restricted discretionary activity under the Proposed Plan. Mr MacColl's evidence is that cumulative effects on transportation can result not only from non-complying activities, but also from restricted discretionary activities.¹¹
- 15 Mr MacColl and Mr Gatenby have responded to points made by other submitters that are relevant to the Transport Agency's submissions in their rebuttal evidence¹². However, there is a particular theme in submitter evidence that the Transport Agency considers requires response in these submissions.
- 16 Some witnesses suggest that land should be re-zoned to allow development in anticipation of upgrades in transport infrastructure which those witnesses see as 'inevitable', in order to meet the demands of an area with a growing population.¹³
- 17 The Transport Agency submits that a re-zoning request should not be granted on the basis that sufficient upgrades (which are not yet comprehensively assessed or planned for under the RLTP) could occur in the future. As outlined by the evidence in support of the Transport Agency, such rezoning does not take into account the capacity of the current transport infrastructure, nor any reasonably foreseeable upgrades to that infrastructure. While plan provisions should apply forward-looking thinking (rather than an 'existing environment' approach),¹⁴ it is

⁹ Report 1 at paras 40 – 41.

¹⁰ Statement of Evidence of Craig Barr, paras 5.4 – 5.13.

¹¹ SOE MacColl at para 5.13.

¹² Rebuttal Evidence of Anthony (Tony) MacColl for the Transport Agency, dated 27 June 2018; Rebuttal Evidence of Matthew Charles Gatenby for the Transport Agency, dated 27 June 2018

¹³ Statement of Evidence of Daniel Thome in support of submitter #838, paras 6.7, 9.2 and 7.2; Statement of Evidence of Karl Geddes in support of Submitters #2489 and #229, paras 9.3 – 9.9.

¹⁴ *Shotover Park Limited v Queenstown Lakes District Council* [2013] NZHC 1712 at para [116].

submitted that allowing this rezoning would not be the most appropriate way to achieve the objectives in the Proposed Plan.

Summary of relief sought

- 18 The Transport Agency asks the Panel to recommend that:
- a Except as described in paragraph (c) below, the provisions and amendments supported by the Transport Agency in its submissions dated 23 February 2018, 27 April 2018 and 16 December 2015 are retained or amended in the form recommended by Mr Barr for the Council;
 - b The provisions and amendments opposed by the Transport Agency in its submissions dated 23 February 2018, 27 April 2018 and 16 December 2015 are rejected either in whole or in part, as recommended by Mr Barr for the Council;
 - c A new assessment matter be inserted into Chapter 27 to allow cumulative traffic effects to be considered in relation to subdivision which is a restricted discretionary activity. **Appendix A** to these submissions contains suggested wording for such an assessment matter; and
 - d Any further or consequential relief considered necessary by the Panel from the recommendations made under 28a. – c. above.

Dated this 10th day of July 2018



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Appendix A Suggested new subdivision assessment matter

New assessment matter for 27.7.6.2 (assessment matters for restricted discretionary activities):

The extent to which the cumulative traffic generation will impact on the capacity of the transport network.