

**Before the Queenstown Lakes District Council Proposed District Plan
Hearings Panel**

Under of the Resource Management Act 1991

In the matter of the proposed Queenstown Lakes District Plan (Chapter 3 -
Strategic Direction)

**Statement of Evidence of Ainsley Jean Mcleod:
on behalf of the New Zealand Fire Service Commission**

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1. INTRODUCTION

1.1 My full name is Ainsley Jean McLeod. I have been employed by Beca Limited (**Beca**) for the past 16 years and hold the position of Technical Director of Planning. I hold the qualifications of a Bachelor of Arts (Geography and Anthropology) and a Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.

1.2 I have over 19 years' experience in planning practice, during which time I have undertaken a broad range of both consenting and policy planning work including advice in relation to the preparation of policy documents from a national through to a territorial local authority level. I have also prepared, and processed, numerous applications for resource consent and notices of requirement for designations. I have acted as an expert witness on a number of occasions.

1.3 Beca has a longstanding contract with the New Zealand Fire Service Commission (**the Commission**) to review and respond to all notified plans, plan changes, resource consents and engineering codes of practice that may impact on the Commission's properties and operations of the New Zealand Fire Service (**the Fire Service**) across New Zealand. Since 2006, I have been responsible for the delivery of all planning advice given under this contract and as such am familiar with the Commission's role and responsibilities. In this role, I have reviewed the submission and further submissions made by the Commission on the Queenstown Lakes District Proposed District Plan (**proposed District Plan**).

1.4 I am providing planning evidence on behalf of the Commission in relation to Chapter 3 – Strategic Direction. My evidence specifically addresses:

- (a) the Commission's submission on Chapter 3 – Strategic Direction; and
- (b) the 'Section 42A Hearings Report' dated 19 February 2016.

1.5 My evidence should be read in conjunction with the evidence of **Mr Keith McIntosh** who details the Commission's role, responsibilities, property interests in the Queenstown Lakes District and interests in the proposed District Plan.

1.6 In preparing this evidence I have reviewed the following documents:

- (a) the Section 42A Hearings Report and Section 32 Reports;
- (b) the operative Regional Policy Statement for Otago 1998 (**operative ORPS**);

- (c) the proposed Regional Policy Statement for Otago 2015 (**proposed ORPS**) including the associated Section 42A Report on Decisions Requested and the summary of submissions received;
- (d) NZS PAS 4509 New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008 (**Code of Practice**);
- (e) the New Zealand Fire Service Commission's Strategic Plan 2012-2017; and
- (f) the New Zealand Fire Service Commission's Statement of Intent 2014 - 2018.¹

1.7 The consideration included in my evidence is made in the context of the statutory framework for decisions on the proposed District Plan set out in the Resource Management Act 1991 (**RMA**) and the on-going guidance provided by the modified *Long Bay* test.²

2. CODE OF CONDUCT

- 2.1 In accordance with the 'Minute and Directions of Hearings Commissioners on Procedures for Hearing of Submissions' dated 25 January 2016, I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court's 2014 Practice Note. I have complied with the Practice Note when preparing my written statement of evidence, and will do so when I give oral evidence before the hearings panel.
- 2.2 My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my areas of expertise.
- 2.3 The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

¹ Prepared under the Crown Entities Act 2004.

² *Long Bay – Okura Great Park Society v North Shore City Council* EnvC A078/2008, 16 July 2008, at [34], *High Country Rosehip Orchards Ltd v Mackenzie District Council* [2011] NZEnvC 387 and *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC 55.

3. THE COMMISSION'S INTEREST IN THE PROPOSED DISTRICT PLAN AND SUBMISSION ON CHAPTER 3 – STRATEGIC DIRECTION

3.1 The Commission's interest in the proposed District Plan is underpinned by its responsibility of providing an efficient and effective emergency service, including the promotion of fire safety throughout Queenstown Lakes District, as provided by the Fire Service Act 1975 (FSA). Section 20 of the FSA states the following:

"20. Commission to promote fire safety

- (1) It shall be a matter of prime importance for the Commission to take an active and co-ordinating role in the promotion of fire safety in New Zealand.*
- (2) In so promoting fire safety, the Commission shall be concerned to—*
 - (a) reduce continually the incidence of fire and the attendant risk to life and property;*
 - (b) achieve unity and completeness of fire safety law and practice."*

3.2 To achieve this, the Commission requires:

- (a) the ability to construct and operate NZFS fire stations in locations which will enable rapid response times to fires and other emergencies within each community area;
- (b) the ability to provide training facilities for fire fighters and other emergency service workers;
- (c) appropriate water supply for all fire fighting activities to enable efficient and effective responses to fire emergencies; and
- (d) adequate access to subdivisions and developments (and associated water supplies) to ensure that fire appliances, and firefighters, are able to access fire emergencies and extinguish fires.

3.3 The proposed District Plan provides an opportunity to deliver these outcomes, and therefore the requirements of the Commission, through the inclusion of appropriate objectives, policies and rules that enable emergency service facilities, fire-fighting water supply and fire appliance access. It is on this basis that the Commission's submission seeks the inclusion of an additional Objective in Chapter 3 as follows:

"provision for comprehensive emergency services throughout the city, including for their necessary access to properties and the water required for firefighting."

3.4 Appendix 2 to the ‘Section 42A Hearing Report’³ recommends that the Commission’s submission be rejected. However, no reasons are given for this recommendation in the body of the Report.

4. PLANNING CONSIDERATION

Revised Relief

4.1 I have reflected on the relief sought by the Commission alongside the form and content of Chapter 3 and consider that the new Objective sought by the Commission would benefit from limited refinement in the context of its logical ‘home’ within Goal 6 (3.2.6) - ‘Enable a safe and healthy community that is strong, diverse and inclusive for all people’. I therefore support the inclusion of an amended version of the relief sought by the Commission that is refined in a manner that is consistent with the intent of the Commission’s submission and the form of Chapter 3 as follows:

“3.2.6.X **Objective** – *Provide for the health and safety of people and communities by enabling emergency services.*

Policies

3.2.6.X.1 *Enable the development and on-going use of emergency service facilities.*

3.2.6.X.2 *Provide adequate property access and firefighting water to ensure an efficient and effective emergency response.”*

4.2 My support for the inclusion of the new Objective and Policies set out in paragraph 4.1 above is summarised below and addressed in further detail in the remainder of my evidence. The revised relief:

- (a) has better regard to the proposed ORPS in a manner that will give effect to the proposed ORPS at the time it is made operative;
- (b) is generally consistent with the approach taken to emergency services throughout the proposed District Plan, insofar as the proposed District Plan anticipates emergency service facilities (as community facilities) across the District.
- (c) is consistent with the priority given to firefighting water supply in section 14(3) of the RMA and appropriately has regard to the requirements of NZS PAS 4509:2008 and the statutory obligations of the Commission;

³ Page 7.

- (d) better achieves the purpose of the RMA, and is the most appropriate way to do so having regard to section 32; and
- (e) better enables the Commission to achieve its statutory obligations under the FSA and its stated vision and outcomes set out in the Commission's Statement of Intent 2014 – 2018.

The Operative and Proposed Regional Policy Statements for Otago

- 4.3 The proposed ORPS includes a number of detailed policies that are specific to lifeline utilities and essential or emergency services. Emergency services are defined by the proposed ORPS as including the NZFS (by reference to section 4 of the Civil Defence and Emergency Management Act 2002).
- 4.4 In summary the Policies in the proposed ORPS (insofar as they relate to emergency services):
- (a) direct an assessment of the consequences of hazards by considering emergency services and the implications for emergency services (Policy 3.2.3(g) and (h));
 - (b) seek an assessment of the availability of, and ability to provide, emergency services during and after a natural hazard event (Policy 3.2.5(e));
 - (c) seek the reduction of existing natural hazard risk by providing for the relocation of facilities for emergency services (where appropriate and practicable), and by enabling the development, operation and maintenance of facilities for emergency services (Policy 3.2.7(e) and (f));
 - (d) provide for hard mitigation measures or engineering interventions on public land for a facility for emergency services (Policy 3.2.11(b));
 - (e) seek the management of infrastructure activities to protect the functioning of emergency services (Policy 3.4.2(g));
 - (f) require the design of facilities for emergency services to maintain their ability to function and take into account the operational co-dependence with other lifeline utilities and essential services (Policy 3.4.3); and
 - (g) protect the on-going functioning of emergency services including by managing effects on such services (Policy 3.4.4).
- 4.5 I give substantial weight to the content of the proposed ORPS, and specifically the Policies set out above. This is on the basis that I have reviewed the decisions

requested in submissions and have concluded that no submissions have sought to substantially amend or ‘dilute’ the policies insofar as they relate to emergency services. This means that these Policies are unlikely to be substantially altered by decision-makers. When the proposed ORPS is made operative the proposed District Plan is required to give effect to these Policies which are likely to be in the same or similar form as those currently proposed.

- 4.6 On this basis I consider that, in order to have regard (and in the future ‘give effect to’) the Policies set out above, it is necessary for the proposed District Plan to include a specific policy approach for emergency services that both provides for, and protects, emergency service facilities and associated emergency service operations and functions. It is my view that the proposed ORPS gives a particularly strong direction in relation to emergency service facilities and functions.
- 4.7 I acknowledge that the proposed District Plan must also give effect to the operative ORPS. I have reviewed this document and am of the view that the operative ORPS does not provide any specific or direct references to emergency services that would guide the detailed content of the proposed District Plan. Rather, the operative ORPS reflects section 5 of the RMA by making a number of more general references to the need to enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety.

Firefighting Water Supply and Access

- 4.8 The second Policy (3.2.6.X.2) sought by the Commission seeks the provision of adequate property access and firefighting water to ensure an efficient and effective emergency response.
- 4.9 I consider that specific, and high level, policy recognition of the need for appropriate water supplies and access for emergency services is appropriate because the proposed Policy:
- (a) more directly enables the Commission to meet its statutory obligations under the FSA;
 - (b) gives appropriate recognition to the importance of firefighting water supply in a manner that is consistent with the priority given to water for firefighting in section 14 (restrictions relating to water) of the RMA as follows:

"(3) A person is not prohibited by subsection (2) from taking, using, damming, or diverting any water, heat, or energy if –

(e) *the water is required to be taken or used for firefighting purposes."*

(c) reflects the content, and intent, of the Code of Practice in relation to both water supplies and fire appliance access requirements.

4.10 In this regard I note that the Code of Practice is a New Zealand Standard. I understand that the Environment Court has made it clear in *McIntyre v Christchurch City Council* [1996] NZRMA 286 that standards are deserving of respect.

4.11 I acknowledge that the Code of Practice on its own, is non-mandatory but can be made mandatory through incorporation into relevant bylaws or district plans. I am aware of many examples where the Code of Practice has been included in district plans and am of the opinion that it is becoming common practice to do so. I understand that in the Queenstown Lakes District there is currently a Memorandum of Understanding between the Council and NZFS whereby it is agreed that compliance with the Code of Practice is achieved through the inclusion of a condition on resource consents as necessary.

4.12 Having the requirement to comply with the Code of Practice set out in the Plan will provide clarity as to the relevance of the Code of Practice to users of the Plan.

Section 32 and Part 2 of the RMA

4.13 I acknowledge that the Hearings Panel is required to undertake a re-evaluation of changes to the proposal under section 32AA. On this basis, I have considered the relief sought by the Commission against the relevant matters in section 32(1) - (4) in a form that reflects the approach taken in the section 42A Hearings Report.

4.14 Section 32(1)(a) requires an examination of the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act.

4.15 The proposed new Objective 3.2.6.X seeks to enable emergency services in order to provide for the health and safety of people and communities. In my opinion emergency services are critical to the safety of people and communities. The sustainable management purpose of the RMA clearly seeks the enablement of people and communities to provide for their health and safety. I do not consider that any other Objective (nor accompanying Policies) in Chapter 3 achieves the purpose of the RMA in this regard and I therefore consider that the proposed new Objective 3.2.6.X is both necessary and the most appropriate way to achieve the purpose of the RMA. Similarly, appropriately providing for emergency services enables the mitigation of relatively low probability but high consequence adverse effects of

natural hazards, fires and other events on the environment, including people and communities.

- 4.16 I have considered whether the proposed new Objective 3.2.6.X is appropriate in the context of Chapter 3 compared with elsewhere in the proposed District Plan. In this regard, I have concluded that a Chapter 3 location is appropriate and consistent with the district-wide sustainable management emphasis given within Chapter 3 (as described in paragraphs 8.1 to 8.9 of the Section 42A Hearings Report). It is also consistent with the strong policy approach in relation to emergency services and natural hazards in the proposed ORPS.
- 4.17 Section 32(1)(b) requires an examination of whether the provisions of the proposal are the most appropriate way to achieve the objectives by:
- (a) identifying other reasonably practicable options for achieving the objectives;
 - (b) assessing the efficiency and effectiveness of the provisions in achieving the objectives with reference to section 32(2); and
 - (c) summarising the reasons for deciding on the provisions.
- 4.18 In terms of the recommended new Policies 3.2.6.X.1 and 3.2.6.x.2, I consider that these proposed Policies provide a clear direction in terms of how proposed Objective 3.2.6.X is to be implemented. Short of further refinements or a ‘do-nothing’ approach, I do not consider there to be further reasonably practicable options to achieve Objective 3.2.6.X.
- 4.19 In my opinion costs associated with implementing the proposed Policies are limited to the potential for a small to moderate increase in the costs of some developments associated with the provision of an adequate firefighting water supply and adequate access for emergency service vehicles. Conversely, the costs of the inadequate provision for emergency services, including firefighting water supply or emergency vehicle access, have the potential to be significant in terms of the adverse, and at times catastrophic, impacts as a result of a compromised ability to provide an effective and timely emergency response.
- 4.20 I consider that the proposed new Policies have significant benefits in terms of providing a district-wide approach to providing for the safety of people and communities by enabling emergency services through both the recognition of the need for emergency service facilities and by ensuring that any emergency response can be carried out effectively.

4.21 It is therefore my conclusion that the proposed new Policies are the most efficient and effective way to achieve the proposed new Objective 3.2.6.X; have regard to the relevant Policies of the proposed ORPS; and achieve the purpose of the RMA because they appropriately enable people and communities to provide for their safety and wellbeing through by enabling emergency services across the Queenstown Lakes District while mitigating the potential adverse effects of natural hazards, fire and other events on the environment.

5. CONCLUSION

5.1 It is my conclusion that inclusion of a new Objective and accompanying Policies in Chapter 3 to specifically enable emergency services is appropriate and necessary to:

- (a) be consistent with the approach taken to emergency services and facilities in the proposed ORPS;
- (b) provide a policy platform for the general approach to emergency services (as community facilities) throughout the proposed District Plan;
- (c) enable the Commission to meet its statutory obligations; and
- (d) achieve the purpose of the RMA by enabling people and communities to provide for their health, safety and well-being and by mitigating the potential adverse effects of natural hazards, fire and other emergencies.



Ainsley Jean McLeod

26 February 2016