

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

**IN THE MATTER OF** of the Resource Management Act 1991

**AND**

**IN THE MATTER OF** Queenstown Lakes Proposed District Plan Hearing  
Stream 13 (Queenstown Mapping Hearings)

**AND** Submitter 717 (the Jandel Trust, Jaron Lyell McMillan)

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**REBUTTAL EVIDENCE OF JOHN CLIFFORD KYLE  
(SUBMITTER 433 AND FURTHER SUBMITTER 1340)**

7 July 2017

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## **1. INTRODUCTION**

### **QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is John Kyle. I am a founding director of the firm Mitchell Daysh Limited.
- 1.2 I have prepared evidence in chief for Hearing Stream 13 (dated 9 June 2017).
- 1.3 I confirm my obligations in terms of the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

### **SCOPE OF EVIDENCE**

- 1.4 This statement of rebuttal evidence relates to the evidence presented on behalf of Submitter 717 (the Jandel Trust / Lyell McMillan) with respect to Hearing Stream 13 – Queenstown Mapping Hearing.
- 1.5 In preparing this brief of evidence, I confirm that I have read and reviewed:
- 1.5.1 The evidence of Mr Chris Ferguson (Planning) dated 12 June 2017; and,
- 1.5.2 The supplementary statement of evidence of Kim Banks relating to Dwelling Capacity dated 19 June 2017.

#### *General comment regarding the scope of rebuttal evidence*

- 1.6 I have only prepared rebuttal evidence where Evidence in Chief (EIC) that has been prepared by a witness in support of a rezoning request which specifically addresses potential aircraft noise effects and related issues in respect of which a response is required that is in addition to what is set out in my EIC.

- 1.7 To clarify, the fact that I have not prepared rebuttal evidence in respect of all submissions addressed in any EIC should not be taken as acceptance of the matters raised in the EIC filed for those submitters.
- 1.8 Rather, for the rezoning requests affected by aircraft noise for which no EIC has been filed that addresses aircraft noise effects or related issues I maintain the opinions expressed in my EIC, and do not consider it necessary to make any further comment on those submissions at this point in time.
- 1.9 I note however that issues may be raised in submitters' rebuttal evidence that do require a further response from me, which will be provided at the hearing.

#### **OVERVIEW OF QAC'S FURTHER SUBMISSION**

- 1.10 QAC submitted in opposition to the submission of the Jandel Trust / Jaron Lyell McMillan to rezone the land at 179 Frankton-Ladies Miles Highway and the wider area to a Business Mixed Use or Industrial zone.
- 1.11 The reasons given for QAC's submission included a concern that the proposed rezoning is contrary to the land use management regime established under Plan Change 35 (PC35), and that the rezoning would have potentially significant adverse effects that have not been appropriately assessed in terms of section 32 of the Act.<sup>1</sup>

## **2. REBUTTAL EVIDENCE**

- 2.1 Mr Ferguson has prepared EIC on behalf of a number of submitters with an interest in the area of land located to the north of State Highway 6, between Hansen Road and Quail Rise (referred to as "the site").<sup>2</sup>
- 2.2 Mr Ferguson has evaluated a range of potential land use zones that could be established over the site, including:

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<sup>1</sup> Further Submission 1340.140.

<sup>2</sup> Submitters 177 (Universal Developments Limited), 399 (Peter and Margaret Arnott and the Fernlea Trust), Submitter 717 (The Jandel Trust / Jaron Lyell McMillan), 751 (Hansen Family Partnerships) and 847 (FII Holdings Limited).

- 2.2.1 A Business Mixed Use Zone;
  - 2.2.2 A mixture of Business Mixed Use, Medium Density Residential and High Density Residential Zones;
  - 2.2.3 A mixture of High Density Residential and Rural Zones (Rural where the land is located within the Outer Control Boundary (OCB) or an Outstanding Natural Landscape);
  - 2.2.4 A Medium Density Residential Zone; or,
  - 2.2.5 Retention of status quo under the Operative District Plan (all Rural zone).
- 2.3 Mr Ferguson concludes that establishing a Business Mixed Use zone over the site is the most appropriate for achieving the range of objectives dealing with the role of Frankton, urban growth, protection of the Airport and landscape values.<sup>3</sup> The proposed policy framework for the Business Mixed Use Zone is set out in Appendix 5 of Mr Ferguson’s evidence in chief (dated 12 June 2017).

2.4 The provisions of most relevance to the Airport are set out below:

*New Objective 16.2.3: The development of land fronting State Highway 6 (between Hansen Road and Ferry Hill Drive) provides a high quality mixed-use environment which is sensitive to its location at the entrance to Queenstown, minimises traffic impacts to the State Highway network, is appropriately serviced and addresses reverse sensitivity effects from road and aircraft noise.*

*New Policy 16.2.3.8: Prevent Activities Sensitive to Aircraft Noise within the Outer Control Boundary of Queenstown Airport.*

*New Rule 16.4.17: Activities Sensitive to Aircraft Noise (ASAN) between the Queenstown Airport Air Noise Boundary (Ldn65)(ANB) and the Queenstown Airport Outer Control Boundary (Ldn55)(OCB) - PR*

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<sup>3</sup> Paragraph 3.5, Statement of Evidence of Chris Ferguson, dated 12 June 2017.

### **Within the OCB**

- 2.5 Within the OCB, the planning framework proposed by Mr Ferguson is largely consistent with the recommended land use management approach described in the New Zealand Standard for Aircraft Noise Management and Land Use Planning 6805:1992 (the NZ Standard). That is, it is proposed that all new activities sensitive to aircraft noise (ASAN) be prohibited within the OCB.
- 2.6 Subject to the following amendments, I generally support the approach suggested by Mr Ferguson for the site. His suggested approach for ASAN within the OCB at Queenstown Airport is appropriate. The reasons for my support for his suggested approach are set out in paragraphs 3.14 to 3.16, 4.2 to 4.3 and 5.5 to 5.13 of my EIC.

#### *Policy 16.2.3.8*

- 2.7 Mr Ferguson's Proposed Policy 16.2.3.8 seeks to "prevent" ASAN within the OCB. In order to ensure consistency with the drafting approach used in other chapters of the Proposed District Plan (PDP), the Operative District Plan (specifically Frankton Flats B) and Plan Change 35, as well as the language of the Resource Management Act, I consider that Policy 16.2.3.8 should be amended as follows:

*~~Prevent~~Prohibit Activities Sensitive to Aircraft Noise within the Outer Control Boundary of Queenstown Airport.*

#### *New Policy and Rule*

- 2.8 Mr Ferguson has provided an overview of the existing environment between Hansen Road and Quail Rise.<sup>4</sup> Based on this overview I understand that the existing environment includes a small number of existing buildings containing ASAN.
- 2.9 In my view, it is appropriate to recognise that there may be circumstances where additions or alterations are required to these existing buildings

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<sup>4</sup> Paragraphs 5.1 to 5.7, Statement of Evidence of Chris Ferguson, dated 12 June 2017.

containing ASAN. I consider that such alterations or additions would not be inappropriate in this location, provided they are subject to a requirement to incorporate appropriate acoustic treatment to mitigate effects of aircraft noise. This is consistent with the approach adopted during PC35. I therefore recommend that the following additional policy and method apply to Mr Ferguson's recommended Business Mixed Use Zone.

***New Policy 16.2.3.9: Require, as necessary, mechanical ventilation for any alternations or additions to Critical Listening Environments within any existing buildings that contain an Activity Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary.***

***New Rule 16.5.11.6: Airport Noise – Queenstown Airport (excluding any non-critical listening environments) within the Outer Control Boundary (OCB).***

*Alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise (ASAN) shall be designed to achieve an Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the 2037 Noise Contours.*

- 2.10 I understand that Mr Ferguson's recommended Rule 16.5.11.2 requires acoustic insulation and mechanical ventilation of buildings within 80m of State Highway 6. I therefore anticipate that some reconciliation may be required between proposed Rules 16.5.11.2 and 16.5.11.6 to avoid any inconsistencies or duplication, however that is beyond my area of expertise.

### **Beyond the OCB**

- 2.11 In paragraph 6.4 to 6.8 of my EIC I set out why I do not support rezoning requests that would enable the intensification of ASAN within the area generally shown in Appendix D of Mr Day's evidence. My opinion is based on the following:

- 2.11.1 Aircraft noise effects do not stop at the OCB and are still experienced, albeit to a progressively lesser extent, beyond the OCB.<sup>5</sup>
- 2.11.2 Rezoning proposals will ultimately bring more people to the aircraft noise effect both now and into the future.<sup>6</sup>
- 2.11.3 QAC has experienced a sustained period of passenger growth in recent years, with recent forecasts indicating that this growth has the potential to reach 3.2 million passengers per annum by 2025.<sup>7</sup>
- 2.11.4 With such significant growth on the horizon, I consider it appropriate to adopt a cautious approach for rezoning requests beyond the OCB, as the built form outcomes arising from the PDP are likely to extend beyond the life cycle of the PDP.
- 2.12 The location of the OCB over the submitter's landholdings is primarily a consequence of aircraft movements associated with general aviation on the cross-wind runway. This differs from many other rezoning requests which relate to land affected by noise from scheduled aircraft. I understand that QAC's recent passenger growth forecasts are driven primarily by growth in scheduled aircraft using the main runway. In my view, it is therefore appropriate to adopt a cautious approach to rezoning proposals located within those areas identified in Appendix D of Mr Day's evidence that are most heavily influenced by scheduled aviation. The area of the Submitter's land located beyond the OCB is not heavily influenced by scheduled aviation, hence why I am not so concerned about this proposal from a potential reverse sensitivity and amenity perspective.

## **J KYLE**

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<sup>5</sup> Paragraph 6.4, Statement of Evidence of John Kyle, dated 9 June 2017.

<sup>6</sup> Paragraph 6.4, Statement of Evidence of John Kyle, dated 9 June 2017.

<sup>7</sup> Paragraph 6.5, Statement of Evidence of John Kyle, dated 9 June 2017.