

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of the **TE PUTAHI LADIES
MILE PROPOSED
VARIATION** to the
**QUEENSTOWN LAKES
DISTRICT PLAN**

**MEMORANDUM OF COUNSEL FOR WINTER MILES AIRSTREAM LIMITED
TO ACCOMPANY EVIDENCE**

1. INTRODUCTION

- 1.1 Winter Miles Airstream Limited ("WMAL") is a Queenstown-based land development company which undertakes a range of subdivision and housing projects in the Queenstown-Lakes District (and throughout New Zealand).
- 1.2 WMAL owns a 3.3267 ha parcel of land ("the Site") currently zoned Rural Lifestyle in the PDP which is located with Sub Area E of the land that is subject to the Ladies Mile variation ("Variation" or "LMV"). The company therefore has a vital interest in the outcome of the LMV process as that will determine the development potential of the Site.
- 1.3 WMAL therefore lodged a primary submission and number of further submissions in relation to the LMV.

Purpose and scope of memorandum

- 1.4 This memorandum has been prepared to accompany the evidence filed by WMAL to assist the Panel in understanding the case to be presented on behalf of WMAL. To that end, this memorandum:
 - (a) Provides a brief overview of WMAL's submissions and further submission on WMAL's primary submission (Section 2).
 - (b) Addresses interpretation of Standard 49.5.33 (Rule 49.5, Table 2) regarding transport infrastructure development triggers (Section 3).
 - (c) Sets out the evidence to be presented on behalf of WMAL in the order we respectfully request it be read (Section 4).
 - (d) Provides a brief synopsis of the key propositions of WMAL's case (Section 5).

2. **WMAL'S SUBMISSIONS**

WMAL primary submission

2.1 WMAL lodged a submission on the LMV on 9 June 2023 which was generally supportive of the LMV and the rezoning of its land within the High Density Residential Precinct.

2.2 However, WMAL opposed the LMV in part, in particular, WMAL considered that some aspects of the LMV are overly restrictive or prescriptive, and do not represent sound resource management principles and practice. In broad terms, WMAL's concerns are:

- (a) That the level of information required to be supplied with resource consents is excessive and unhelpful in providing a clear planning framework.
- (b) That there is insufficient certainty of the 'trigger' points required to be met before development can occur / zoning can be implemented being achieved in a timely manner alongside the support of the Council and other agencies.
- (c) The provisions will encourage or direct development that is not financially feasible or attractive to end users, hindering the development of Ladies Mile.
- (d) Lack of direction on 'affordable housing' has the potential to increase unaffordability of housing.
- (e) The requirement to undertake development that is in "general accordance" with the Structure Plan may be unduly restrictive.
- (f) Residential visitor accommodation does not represent an activity that generates such adverse effects that it be afforded a non-complying activity status.
- (g) The provisions relating to traffic are unduly restrictive, onerous, and contrary to resource management planning.
- (h) Residential flats should not be unreasonably precluded by the provisions, but rather should be recognised as an ancillary residential use that would support the shortage of accommodation in the Wakatipu area.
- (i) The LMV should support the establishment of a primary commercial precinct while refining the location of smaller-scale commercial zoning across the Structure Plan to ensure sufficient provision is made in response to the demand to be established from urban rezoning.
- (j) The LMV should require development in the High Density Residential Precinct to be advanced without affected persons approval and without notification.

WMAL further submissions

2.3 On 3 August 2023, WMAL lodged further submissions in support of the following parties' submissions:

- (a) Ladies Mile Property Syndicate.

- (b) Sanderson Group and Queenstown Commercial Limited.
 - (c) Mary Hill Limited.
 - (d) Milstead Trust.
 - (e) Department of Conservation ("DOC").
 - (f) Waka Kotahi/New Zealand Transport Agency.
- 2.4 WMAL supported the submissions made by Ladies Mile Property Syndicate, Sanderson Group and Queenstown Commercial Limited, Maryhill Limited and Milstead Trust, stating that the points raised in these submissions support the general direction of the WMAL submission and the amendments that it seeks.
- 2.5 WMAL opposed DOC's submission and the relief sought on the basis that, given Ladies Mile is proposed to be a high-density area, DOC's submission points would not support and/or would undermine the levels of density required and proposed in the LMV.
- 2.6 As regards Waka Kotahi's submission, WMAL:
- (a) Supported Waka Kotahi's in principle support of the LMV, as the vision and principles set out in the Transport Strategy are consistent with the outcomes sought by Waka Kotahi.
 - (b) Remained neutral on Waka Kotahi's suggested safety improvements request for involvement in any suggested further discussion with the Council regarding parking provisions.
 - (c) Opposed Waka Kotahi's suggested removal, from two separate policies, the following wording:

"...unless it can be demonstrated that development will avoid future cumulative adverse effects from additional traffic movements, particularly at weekday daily peak periods on State Highway 6."
 - (d) While WMAL supported construction of the roundabout and bus stops prior to development occurring, it did not support any requirement to construct an underpass prior to development occurring. WMAL considered that retaining this wording will allow some flexibility should it be demonstrated that specific infrastructural works are not required.

Further submissions in relation to WMAL's submission

- 2.7 Five further submissions were lodged in relation to WMAL's submission, three in support and two in opposition.

Further submissions in support

- 2.8 Further submissions were lodged in support of the WMAL submission by:
- (a) Ladies Mile Property Syndicate was supportive of the general direction and amendments sought by WMAL in its submission.

- (b) Sanderson Group and Queenstown Commercial Limited also supported the general direction and amendments sought by WMAL in its submission.
- (c) Maryhill Limited supported WMAL's submission, in particular, the relief sought by WMAL for a change to minimum density, to provide a mix of housing typologies, and the enablement of residential flats.

Further submissions in opposition

2.9 Further submissions were lodged in opposition to the WMAL submission by:

- (a) Park Ridge Limited opposed WMAL's submission on the basis that it did not consider the land to be suitable for development, as the roading and infrastructure will not support the scale and intensity of development proposed in the Variation. It also considered that the area proposed is not suitable for the form and scale of development anticipated by the Variation.
- (b) Ladies Mile Pet Lodge opposed WMAL's submission for the same reasons as Park Ridge Limited outlined above.

Section 42A Report

2.10 The section 42A Hearing Report ("Report"), dated 29 September 2023, sets out the reporting officer's recommendations for the LMV in light of the submissions and further submissions.

2.11 The reporting officer acknowledges that many of the submissions seek specific modifications to the LMV. At Section 13 of the Report, the reporting officer provides a set of amended LMV provisions in light of his analysis of submissions and further submissions. The reporting officer recommends accepting the LMV with the amended provisions he has included in Section 13.¹

2.12 The reporting officer accepts in part WMAL's submission against the non-complying activity status that the LMV affords all residential visitor accommodation ("RVA"). While the Report specifies that RVA is still to be avoided in the residential precincts, it includes a provision stating that that RVA be provided for within the Commercial Precinct and Glenpanel Precinct as long as it is consistent with the objectives and policies for those Precincts.²

2.13 The reporting officer has accepted WMAL's suggested removal of the preclusion/non-complying activity status of residential flats.³

2.14 However, the Report does not address WMAL's key concern in its submission relating to development triggers. In regard to development triggers:

- (a) The Report retains the development trigger provisions as they currently are, and the reporting officer states that the provisions are necessary to ensure development and infrastructure are integrated, and so the necessary infrastructure elements are guaranteed to be in place.⁴
- (b) The Report fails to clarify whether the development triggers are intended to apply sub-area by sub-area, or if they are to apply to all

1 section 42A Report at [14.3].

2 section 42A Report at Section 13.

3 section 42A Report at Section 13.

4 section 42A Report at [11.55].

areas across the Ladies Mile Zone. Therefore, sufficient uncertainty regarding these trigger points still remains.

2.15 The reporting officer does not accept any of WMAL's other particular submission points:

(a) The reporting officer rejects WMAL's submission that 5000m² of commercial precinct is provided on WMAL's land, for the reason that he considers no additional commercial land is needed, and rezoning would result in a loss of residential capacity and density.⁵

(b) The reporting officer acknowledges WMAL's submission that there is too much uncertainty that affordable housing will eventuate,⁶ however, he disagrees with these concerns and considers that the interventions proposed in the LMV provisions will provide the best opportunity for the land to be used in the most efficient manner, in the short, medium and long term, in providing for affordable housing.⁷

3. **INTERPRETATION OF INFRASTRUCTURE TRIGGERS**

3.1 WMAL is concerned about the drafting of Standard 49.5.33 (Rule 49.5, Table 2) which identifies transport infrastructure "development triggers" that must be completed prior to development occurring in the "sub-areas" (A – G) within the Medium Density Residential Precinct ("MDR Precinct") or High-Density Residential Precinct ("HDR Precinct").

3.2 Specifically, Standard 49.5.33 states:

*"Development, (except for utilities, the specified infrastructural works and other physical infrastructure) within the Te Pūtahi Ladies Mile Sub-Areas shown on the Structure Plan shall not occur until **all** the corresponding transport infrastructural works listed below are completed."*

(Emphasis ours.)

3.3 On the plain wording of this standard, completion of all of the works listed for sub-areas A - G is required before any development in those sub areas can commence, irrespective of the actual relevance of that particular development trigger to each sub-area.

3.4 It is not clear if this is what was intended by QLDC and this issue has not been addressed by the reporting officer in the section 42A Report.

3.5 A sensible interpretation of this standard suggests that each of the development triggers are to apply on a sub-area basis (and do not apply to all sub-areas across the HDR and MDR Precincts at once).

3.6 Mr Hills has discussed this interpretation issue with Mr Colin Shields, QLDC's traffic expert, who has advised that on his interpretation of Rule 49.5.33, the development triggers apply sub-area by sub-area. That is consistent with Mr Shield's evidence that states:⁸

5 section 42A Report at [12.66]-[12.67].

6 section 42A Report at [11.167].

7 section 42A Report at [11.183].

8 Colin Shields, Statement of Evidence at [98].

"I consider that it is appropriate that the TPLM Variation provisions stage development to integrate with the provision of the infrastructure that is required for that sub area in order to provide the necessary access to and within the sub areas by walking, cycling, bus and private vehicles from the outset of development so that the development can benefit from the transport initiatives immediately."

(Emphasis ours.)

- 3.7 Given the above, WMAL's evidence has been prepared on the basis that the LMV takes the only sensible interpretation available to it, being that the development triggers apply to their corresponding sub-areas and do not apply to all sub-areas within the HDR and MDR Precinct sub-zones at once.

4. **WMAL'S EVIDENCE**

- 4.1 With this memorandum, WMAL is filing evidence from three witnesses in supports of its submissions on the Ladies Mile Variation, namely:

- (a) Greg Wensley – corporate;
- (b) Leo Hills – traffic and transportation; and
- (c) Brett Giddens – planning.

Corporate – Greg Wensley, Winter Miles Airstream Ltd

- 4.2 Mr Greg Wensley is a Director of WMAL, which was established in 2022.

- 4.3 Mr Wensley's evidence will:

- (a) Provide an overview of MWAL and its involvement in the Queenstown Lakes District.
- (b) Outline WMAL's interest in the LMW process.
- (c) Provide an overview of WMAL's position on the Ladies Mile Variation, including the basis for MWAL's support of the Ladies Mile Variation generally and its key concerns in relation to specific provisions proposed by the Ladies Mile Variation.

Traffic / transportation - Leo Hills, Commute Transportation Consultants

- 4.4 Mr Leo Hills has over 24 years' experience as a specialist traffic and transportation engineer and is a director of Commute Transportation Consultants.

- 4.5 Mr Hill's evidence will:

- (a) Address issues of interpretation regarding applicability of infrastructure triggers in Standard 49.5.33 of the Ladies Mile Variation.
- (b) Address the infrastructure triggers for Sub-Area E.

Planning – Brett Giddens, Town Planning Group Limited

4.6 Mr Brett Giddens is a Senior Planner and Managing Director of Town Planning Group with over 20 years' planning experience.

4.7 Mr Giddens' evidence will contain an overall planning assessment and 'wrap up' piece, which addresses key issues with the provisions of the LMV and includes recommended amendments to them.

5. SYNOPSIS OF WMAL'S CASE

5.1 At their most basic level, the key propositions that we submit are supported by the evidence referred to above and, in turn, support the approval of the Variation, with the amendments proposed by WMAL are as follows:

(a) The LMV represents an opportunity to provide a new residential neighbourhood for the Queenstown-Lakes District community and the development of the Ladies Mile area will assist with the provision of affordable housing in the Whakatipu area and the vision of creating an integrated, well-functioning and self-sustaining urban community.

(b) Notwithstanding the above, the Ladies Mile Variation, as notified and with the amendments recommended in the section 42A report, has a number of shortcomings in regard to:

(i) Certain provisions that provide 'triggers' that need to be met before development can occur, or before implementing the Ladies Mile Variation zoning.

(ii) Provisions relating to flexibility regarding the Structure Plan, information requirements for resource consent applications, the provisions for residential visitor accommodation, staging of development, residential flats, commercial activity, provision of infrastructure, and notification issues.

(c) The Ladies Mile Variation, with the amendments proposed by WMAL in accordance with the amendments recommended by Mr Giddens will:

(i) Address the deficiencies referred to in 5.1(b) above.

(ii) Appropriately give effect to all applicable higher order planning instruments, including the NPSUD policy outcome of creating well-functioning urban environments, the Otago Regional Policy Statement ("Otago RPS"), and the PDP.

(iii) Be consistent with all relevant National Environmental Standards.

5.2 Having regard to the above, MWAL submits that it is appropriate that the Ladies Mile Variation be approved, with the amendments sought by WMAL, on that basis that:

(a) In terms of section 32 of the RMA:

(i) The proposed objectives in the Ladies Mile Variation are the 'most appropriate' means of achieving the purpose of the RMA; and

- (ii) The proposed rules and zoning are the 'most appropriate' means of achieving the objectives of the Otago RPS and the PDP.

5.3 The sustainable management purpose of the RMA is addressed and promoted by approving the Ladies Mile Variation, as amended by WMAL, particularly insofar as it will enable the use and development of natural and physical resources in a way and at a rate that will enable the community of Queenstown Lakes District to provide for their social, economic, and cultural wellbeing while:

- (a) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (b) Adequately avoiding or mitigating potential adverse effects.

5.4 Counsel and the WMAL team are grateful to the Panel for its attention to this memorandum.

DATED at Auckland this 20th day of October 2023



S J Berry / C D H Malone

Counsel for Winter Miles Airstream Ltd