

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 18 (Chapter 20 Settlement Zone)

**AND** Further Submitter 3425 (Greenvale Station Limited)

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**REBUTTAL EVIDENCE OF MEGAN JUSTICE**

**(FURTHER SUBMITTER 3425)**

15 June 2020

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## **1. INTRODUCTION**

### **QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is Megan Justice. I am an Associate Consultant with the firm Mitchell Daysh Limited, which practices as a planning and environmental consultancy throughout New Zealand.
- 1.2 I have prepared evidence in chief for Hearing Stream 18, dated 29 May 2020.
- 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**

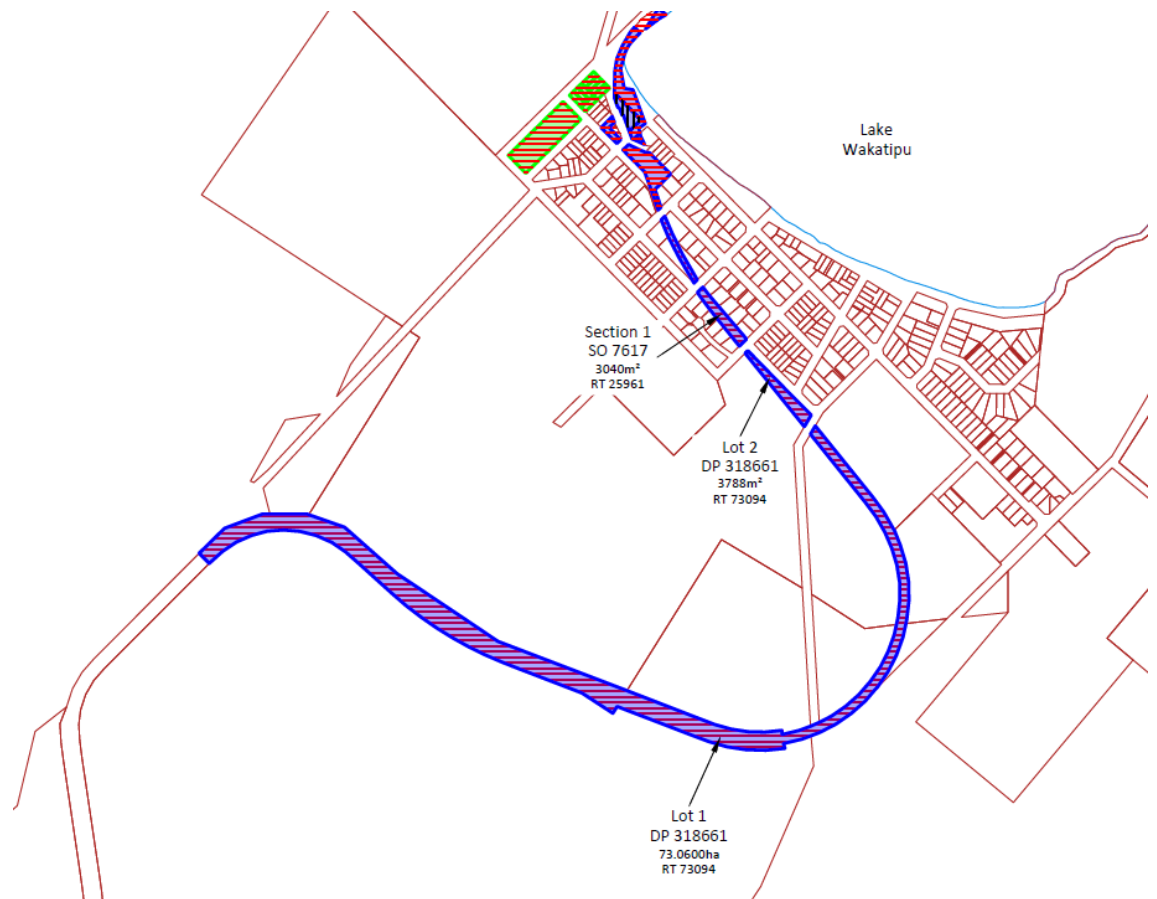
- 1.4 This statement of rebuttal evidence relates to the evidence presented on behalf of Submitter 3297 Kingston Lifestyle Properties Limited (“**KLPL**”) with respect to Hearing Stream 18 Settlement Zone.
- 1.5 In preparing this brief of evidence, I confirm that I have read the evidence of Mr Neville Simpson (Mechanical Engineer) and Mr Tim Grace (Planner), on behalf of KLPL, dated 29 May 2020.

### **CORRECTION TO EVIDENCE IN CHIEF**

- 1.6 I wish to take this opportunity to correct a statement made in my evidence in chief. At paragraphs 2.2.1 and 2.7 of my evidence in chief for Greenvale Station Limited, I stated that I understood that fires from the Kingston Flyer had occurred on Greenvale Station land. Mr Wilkins has since clarified that the fires witnessed on the 2nd of January 2020 were on railway land, immediately adjacent to Greenvale Station. Mr Wilkins will elaborate on this further in his statement.

## OVERVIEW OF GREENVALE STATION LIMITED'S FURTHER SUBMISSION

- 1.7 KLPL filed a submission seeking the rezoning of land containing the Kingston Flyer Railway Corridor to Settlement Zone with a Commercial Precinct Overlay. Within the area sought to be rezoned, the submission sought to broadly enable the recommencement of the historic Kingston Flyer railway and establish associated development including potential retail activities, restaurant and bar, residential and service apartments, visitor accommodation and hotel opportunities. The land sought to be rezoned includes Lot 1 DP 318661, which is shown in Figure 1 below, and which partially adjoins Greenvale Station.



**Figure 1: Exert from KVLS submission**

- 1.8 Greenvale Station Limited's submission opposed the KLPL submission due to concerns about the potential effects of the Kingston Flyer operations, and particularly the potential fire risks, and the absence of a section 32 evaluation. The further submission also questions whether

part of the land to be rezoned extended beyond the extent of the notified plan and therefore was not 'on the plan'.

## REBUTTAL EVIDENCE

- 1.9 Mr Grace has submitted planning evidence in support of the submission by KLPL. At paragraphs 10 to 22 of his evidence, Mr Grace presents planning arguments for accepting the rezoning relief sought for the “balance Kingston Flyer land” within Section 1, SO 10898<sup>1</sup> (which comprises the railway corridor and passes through the Kingston Township and the Kingston Village Special Zone, before travelling past the farm land of Greenvale Station).
- 1.10 I have two concerns regarding Mr Grace’s evidence. Firstly, it is unclear from Mr Grace’s evidence whether or not KLPL is still seeking to rezone the other parcels of land that were sought be rezoned in the submission, namely Lots 1 and 2, DP 318661 (refer to Figure 1 above which identifies these parcels), and also Lot 6, DP 306647, which is the rail corridor land located between Shropshire Street and Gloucester Street.
- 1.11 Secondly, if these parcels of land,<sup>2</sup> are still sought for rezoning to the Settlement Zone with the Commercial Precinct Overlay, then careful consideration of the costs and benefits of rezoning the land to enable the activities that are provided by in the Settlement Zone-Commercial Precinct Overlay, is required to fulfill the requirements of section 32 of the Resource Management Act 1991 (“**the Act**”).
- 1.12 Activities provided for in the Settlement Zone, and within the Settlement Zone with the Commercial Precinct Overlay, as notified include:
- 1.12.1 Residential units and residential visitor accommodation – Permitted; and

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<sup>1</sup> Refer to map at paragraph 16(c) of Mr Grace’s evidence, dated 29 May 2020.

<sup>2</sup> Lots 1 and 2 DP 318661, and Lot 6 DP 306647.

1.12.2 Commercial activities, and commercial recreation activities and community activities are Controlled Activities, and resource consent for these activities cannot be declined.

1.13 My understanding of the relief sought by KLPL via changes to the zoning and provisions, is that the commercial recreation use of the Kingston Flyer would be a controlled activity under Rule 20.4.5, as it would be within the Settlement Zone and Commercial Precinct Overlay. Control is limited to hours of operation, parking, access and traffic generation, location and screening of recycling and waste, servicing and noise. These matters of control do not enable the Council to consider or impose conditions to manage the fire risk of the operation. Fire risk to adjoining properties is the primary concern held by Greenvale Station Limited. For that reason, I do not consider the controlled activity consent process to be appropriate to enable the consideration of this risk, and to enable appropriate measures to manage this risk to be implemented.

1.14 The rezoning sought by KLPL would however enable a wide range of activities to occur within the rail corridor land, including for instance, retail or restaurant activities up to 200m<sup>2</sup> in area, as a controlled activity. As described in the evidence of Mr Simpson,<sup>3</sup> the Kingston Flyer has operated intermittently at Kingston since 1971 through to 1979, then did not operate again until 1982. Since 1982 its operation has been intermittent. If the KLPL land is not used for the Kingston Flyer activity, it could be developed to accommodate those activities provided for in the Settlement Zone Commercial Precinct Overlay. Full consideration of the use of the land for the types of activities that are provided for in this zone is therefore required. In my view, this evaluation should include evaluation of the costs and benefits, and the environmental effects of the changes sought by KLPL on neighbouring land uses, to determine if the changes sought are the most appropriate to achieve the purpose of the Act.

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<sup>3</sup> Refer paragraphs 10-14 of Mr Simpson's evidence for Submitter 3297, dated 20 May 2020.

- 1.15 Further, the new Rule 20.4.19 that is sought to apply to the land identified in the KLPL submission, would enable “*the use and operation of the Kingston Flyer steam locomotives, shunting engines and rolling stock on the existing railway lines and other railway infrastructure within the Settlement Zone and Commercial Precinct at Kingston*” as a permitted activity,<sup>4</sup> and would not be subject to the Settlement Zone standards or any other District Wide rules or standards.
- 1.16 Again, this is a broad sweeping change for which a fulsome evaluation that meets the requirements of s32 of the Act is required. While the use of the Kingston Flyer line network for the Kingston Flyer has a long history in the township, and will likely provide positive economic effects for the village, the unfettered use of the steam locomotive through the township and farm areas requires careful consideration. The resource consent process provides this opportunity, and the opportunity to manage any identified adverse effects, such as fire risk.
- 1.17 The consequences of the additional changes to the provisions sought by Mr Grace to Rule 20.5.1 (to have no minimum site size for land within the Kingston Commercial Precinct), and Rule 20.5.7 (to enable buildings up to the road boundary) has also not been considered. If the Settlement Zone and Commercial Precinct Overlay is applied to all the land included in the KLPL submission, then the exclusion of the subject land from the residential density rule has the potential result in adverse effects on immediately adjoining landowners through the township which have not been considered.
- 1.18 In addition, Mr Grace is seeking to change the activity status for residential activities in the Commercial Precinct from being permitted activities to Restricted Discretionary activities.<sup>5</sup> This rule, as drafted by Mr Grace, would apply to all Commercial Precinct and/or Visitor Accommodation sub-zones in Settlement Zoned land in the District. This proposed amendment is in clear conflict with Rule 20.4.1, which provides

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<sup>4</sup> Evidence of Mr Grace for Kingston Lifestyle Properties Limited, Submitter 3297, dated 29 May 2020, Appendix 1.

<sup>5</sup> Evidence of Mr Grace for Kingston Lifestyle Properties Limited, Submitter 3297, dated 29 May 2020, Appendix 1, Rule 20.4.7.

for residential units as a permitted activity in all areas of the Settlement Zone, regardless of whether or not the site is within a Commercial Precinct or Visitor Accommodation Overlay. Enabling residential activities as a permitted activity in all parts of the Settlement Zone is appropriate, and aligns with the intent of this zone, which is to provide for low-intensity residential living, as described by Objective 20.2.1.<sup>6</sup> In my view, the proposed amendment to Rule 20.4.7 is inappropriate as it does not achieve this objective.

- 1.19 At paragraph 24 of Mr Grace's evidence, he states that the private use of the Kingston Flyer railway is a permitted activity under the Proposed District Plan. I am aware that, at the time of writing, KLPL has applied for a certificate of compliance to confirm that the non-commercial use of the train is a permitted activity. This certificate has not been granted by the Council at the time of writing.

## **M JUSTICE**

**15 June 2020**

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<sup>6</sup> Objective 2.2.1 - Well designed, low intensity residential development is enabled within settlements located amidst the wider Rural Zone.