

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 455 (W and M Grant)

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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 responds to the planning evidence presented on behalf of Submitter 455 (W and M Grant) 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 Ms Lucy Milton (Planning) dated 9 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 by W and M Grant to rezone the land on the Hansen Road / Frankton Ladies Miles Highway<sup>1</sup> from Rural to either a Medium Density Residential zone (with a Visitor Accommodation Overlay) or an alternative zone that enables a range of commercial activities.
- 1.11 The reasons given by QAC for its submission included a concern that the proposed rezoning is counter to the land use management regime established under Plan Change 35 (PC35) and that the rezoning request would have potentially significant adverse effects that have not been appropriately assessed in terms of section 32 of the Act.<sup>2</sup>

## **2. REBUTTAL EVIDENCE**

- 2.1 In her EIC, Ms Milton focuses on why the notified Rural zoning of the Submitters is not appropriate. Ms Milton does not specifically identify what she considers to be an appropriate alternative land use zone.

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<sup>1</sup> Legally described Lot 1, Deposited Plan 355881 Sections 22 27-28 30 Block XXI & Section 125 Block I Shotover Survey District.

<sup>2</sup> Further Submission 1340.112 and 1340.113.

2.2 Ms Milton makes two statements in her evidence that on their face appear to be incorrect, and which therefore require a response from me to clarify.

2.3 In paragraph 5.9 of her statement of evidence, Ms Milton states that:

*Furthermore, the location of the Airport Outer Control Boundary (AOCB) essentially prohibits any building development from occurring in future if the subject site was to remain within the Rural zone. This further confirms that the site would be left vacant with the only possible opportunity of that land to be utilised by permitted activities, i.e. those farming activities identified above. It is noted that the adjacent proposed LSCZ is also located within the AOCB, but has been deemed that development is appropriate. This further supports the reasons why the subject site should not remain within the Rural zone.*

2.4 To clarify, I note that the location of the Outer Control Boundary (OCB) does not prohibit *buildings* from being established in the Rural zone. The planning framework established under PC35 is concerned with the establishment of *activities sensitive to aircraft noise (ASAN)*. Accordingly, under the PC35 approach ASAN, not buildings as suggested by Ms Milton, are prohibited within the OCB in the Rural Zone.

2.5 With respect to the suggestion that Local Shopping Centre Zone is considered appropriate within the OCB, it is important that I clarify that the Local Shopping Centre Zone located at Frankton roundabout is a well established zone that existed prior to the promulgation of PC35. The development rights enabled within the zone under the Operative District Plan were “grandfathered” by PC35 and a similar approach has been carried forward in the Proposed District Plan. While Ms Milton does not expressly state that the submitter’s land should be zoned Local Shopping Centre Zone, I anticipate this is what she is alluding to in this statement.

2.6 As set out in my EIC, I do not support rezoning proposals that will enable the intensification of ASAN within the OCB for Queenstown Airport for reasons including (in summary):

2.6.1 The NZ Standard for Aircraft Noise Management and Land Use Planning NZS6805: 1992 (the NZ Standard) recommends that all

new activities, schools, hospitals and other noise sensitive activities should be prohibited unless a plan permits such use;<sup>3</sup>

2.6.2 While acoustic treatment / mechanical ventilation can be used as a method for mitigating the effects of aircraft noise within critical listening environments, such methods are not effective at addressing the effects on outdoor amenity and general utilization or enjoyment of a resident's/landowners property.<sup>4</sup>

2.6.3 Today's aircraft noise scenario is not the ultimately permitted outcome provided by Plan Change 35 (PC35). Aircraft noise effects experienced at the site will therefore grow incrementally until the noise levels permitted by the aircraft noise boundaries are reached. <sup>5</sup>

2.6.4 Rezoning requests that ultimately allow for the intensification of ASAN within the OCB will ultimately increase the number of people exposed to the increasing effects of aircraft noise over time. Such activity will inevitably give rise to an increased risk of potential reverse sensitivity effects on the Airport. <sup>6</sup>

2.6.5 As a result, QAC may be required to curtail aircraft operations because of growing community pressure about aircraft noise.<sup>7</sup>

2.7 The Local Shopping Centre Zone provides for an element of ASAN development, therefore it would be reasonable to assume that establishing such a zoning over the submitter's land would result in the intensification of ASAN, as compared with the status quo.

2.8 In light of the above, I maintain that the rezoning request should be rejected in order to ensure that operations at Queenstown Airport are appropriately protected from potential reverse sensitivity effects. The Airport is infrastructure of regional and national significance, which serves

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<sup>3</sup> Paragraph 3.15, Statement of Evidence of John Kyle, dated 9 June 2017.

<sup>4</sup> Paragraph 5.8, Statement of Evidence of John Kyle, dated 9 June 2017.

<sup>5</sup> Paragraph 5.6, Statement of Evidence of John Kyle, dated 9 June 2017.

<sup>6</sup> Paragraph 5.8, Statement of Evidence of John Kyle, dated 9 June 2017.

<sup>7</sup> Paragraph 5.9, Statement of Evidence of John Kyle, dated 9 June 2017.

to justify such protection, in my opinion. Similarly, rejecting the rezoning request will avoid the adverse effects of aircraft noise on the amenity of ASAN that might otherwise establish within the zone.

- 2.9 Alternatively, I could support the rezoning from an airport noise perspective provided that appropriately drafted provisions that prohibit the intensification of ASAN on the submitters land within the OCB are included in the PDP. Such an approach would be consistent with the NZ Standard and the recommended planning framework proposed by Mr Ferguson with respect to Submitters 399, 717 and 751.<sup>8</sup>

**J KYLE**

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<sup>8</sup> Statement of Evidence of Mr Ferguson, dated 12 June 2017.