

BEFORE THE OTAGO REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Otago Regional Policy Statement 2021

**OPENING LEGAL SUBMISSIONS ON BEHALF OF QUEENSTOWN
LAKES DISTRICT COUNCIL (138)**

Hearing Week 2

8 FEBRUARY 2023

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MAY IT PLEASE THE PANEL:

Introduction

- 1 These opening legal submissions are filed on behalf of Queenstown Lakes District Council (**QLDC**) on the Otago Regional Council's Proposed Regional Policy Statement (**pRPS**).
- 2 The purpose of these opening legal submissions is to:
 - (a) provide an overview of QLDC's submission;
 - (b) provide the context for QLDC's submission;
 - (c) outline QLDC's intended involvement in the hearing; and
 - (d) introduce QLDC's first witnesses, Kathryn Russell (SRMR) and Luke Place (AIR) (who is scheduled to appear on Friday).

Overview of QLDC's submission on the pRPS

- 3 The pRPS provides the overarching policy direction that guides the management of natural and physical resources across the Otago region. It fundamentally describes how QLDC is to undertake its resource management obligations under the Resource Management Act 1991 (**RMA**). Consequently, QLDC has a considerable interest in the objectives, policies and methods contained within the pRPS and has engaged with ORC, and various other parties in the pRPS development processes over a number of years.
- 4 QLDC generally supports the overall approach taken within the pRPS. However, QLDC seeks amendments to a number of pRPS provisions to better clarify their effectiveness and efficiency and to focus the roles of the Regional Council and District Councils with respect to these provisions. As a District Council in the Otago Region, QLDC is required to give effect to the pRPS in its own district plan. QLDC has been reviewing its district plan in stages since 2015. We provide an update on QLDC's district plan review below at paragraph 11.
- 5 In support of QLDC's submission, QLDC has filed:
 - (a) Evidence in Chief of:
 - (i) Craig Barr – Energy and Infrastructure;
 - (ii) Elizabeth Simpson – Urban Form and Development;

- (iii) Kathryn Russell – Significant resource management issues and Biodiversity;
 - (iv) Luke Place – Air and Hazards and Risks;
 - (v) Sarah Picard – Natural features and Landscapes; and
 - (vi) Vicki Jones – Land and Freshwater and Transport.
- (b) Rebuttal Evidence of:
- (i) Craig Barr – Energy and Infrastructure;
 - (ii) Elizabeth Simpson – Urban Form and Development; and
 - (iii) Luke Place – Air and Hazards and Risks
- 6 In some specific pRPS chapters, QLDC seeks more substantial amendments to provisions or has an interest in provisions through its further submission. QLDC has a particular interest in:
- (a) Chapter 11 EIT – Energy and Infrastructure;
 - (b) Chapter 11: EIT – Transport;
 - (c) Chapter 12: Hazards and Risks; and
 - (d) Chapter 15 Urban Form and Development;
- 7 QLDC will likely present further legal submissions to support QLDC’s submission and evidence on these chapters when these topics are heard. We discuss QLDC’s intended involvement in the hearing below at paragraph 18.

Context for QLDC’s submission

Legal Framework

- 8 As a territorial authority in the Otago Region, under section 73 of the RMA, QLDC is required to give effect to the pRPS in its own district plan.
- 9 Section 73 of the RMA provides that:

73 Preparation and change of district plans

...

*(4) A local authority **must amend a proposed district plan** or district plan to give effect to a regional policy statement, if—*

- (a) ***the statement contains a provision to which the plan does not give effect; and***
- (b) *one of the following occurs:*
 - (i) *the statement is reviewed under section 79 and not changed or replaced; or*
 - (ii) *the statement is reviewed under section 79 and is changed or replaced and the **change or replacement becomes operative**; or*
 - (iii) *the statement is changed or varied and becomes operative.*

(5) *A local authority must comply with subsection (4)—*

- (a) *within the time specified in the statement, if a time is specified; or*
- (b) *as soon as reasonably practicable, in any other case.*

(Emphasis added)

- 10 While QLDC may need to make amendments to its district plan once the pRPS becomes operative, QLDC has been reviewing its district plan in stages since 2015.
- 11 To date QLDC has notified and made decisions on its Proposed District Plan (**PDP**) in three stages and is currently working through Environment Court appeals made against a number of provisions. These three stages comprise the majority of the district's land. Appeals received against Stages 1 and 2 of the PDP have mostly been resolved through consent order or through decisions of the Environment Court. The appeals topics that have been resolved (or mostly resolved) include:
 - (a) Strategic Direction and the Landscapes and Rural Character (resolved by an interim decision of the Environment Court);
 - (b) Town Centre, Residential, Rural Residential, Rural Lifestyle and Rural Zones;
 - (c) Subdivision and Development;
 - (d) Natural Hazards; and
 - (e) Commercial Airports and Informal Airports, Energy and Utilities.

- 12 QLDC and its communities have invested significantly in the PDP development process, including where plan provisions have been rigorously tested and determined by the Environment Court. The Regional Council has been involved in the PDP development process and has had considerable input into a number of chapters. QLDC respectfully submits that weight is given to its submission where appropriate so that the pRPS integrates with the PDP and recent decisions of the Court. QLDC's evidence sets out where this is appropriate on matters that QLDC has an interest in.
- 13 With the above legislative context in mind, and to give further context to QLDC's submission, below QLDC outlines:
- (a) The issues facing the district relevant to the pRPS; and
 - (b) how QLDC is addressing these issues through its planning workstreams.

Overview of issues affecting QLDC

- 14 The Queenstown Lakes District faces a range of resource management issues, many of which are unique to the district, including:
- (a) A significant portion of the district is classified as an Outstanding Natural Landscape or an Outstanding Natural Feature. However, the rapid rate of resident and visitor growth is putting pressure on the values associated with these landscapes and features, and the amenity values associated with the district's rural environments. Growth pressures have resulted in urban development occurring over an increasingly large and dispersed area. This is changing some areas from a rural character or natural landscape to a more modified rural and urban environment;
 - (b) Growth pressure in the past has resulted in incremental development that is not necessarily strategic, i.e. where urban development has not been well aligned with transport and three waters infrastructure. This pace of growth has been challenging for infrastructure investment planning;
 - (c) The pace and form of urban growth has created a need for greater transport options that more effectively serve communities. This has made it difficult to facilitate road and pedestrian connections between new residential developments, places of employment, and social

infrastructure. In other areas, infill development is putting pressure on social infrastructure;

- (d) The need for affordable housing options. Given the popularity of the district as a holiday destination, many dwellings are unoccupied or used as short-term rentals for visitors. Building costs for new houses are significantly higher than the New Zealand average, and the common housing typology does not suit all people's needs. The shortage of affordable housing is affecting the recruitment and retention of workers to the district.
- (e) The district is located within a dynamic alpine environment that is subject to a range of natural hazards. In some instances, these natural hazards interact with urban areas, infrastructure and the district's well known tourism assets. These natural hazard events present risks to people and property that need to be carefully managed, and present constraints for areas of new or proposed development.

15 QLDC has sought to address the above issues through a number of planning workstreams. These include:

- (a) **PDP Landscape Schedules:** QLDC recently notified a variation to PDP Chapter 21 Rural Zone to introduce landscape schedules.¹ These schedules set out the landscape values for priority area landscapes across the Whakatipu Basin and Upper Clutha. The proposed landscape schedules seek to make clearer what aspects of these landscapes are to be protected, maintained or enhanced, and identify the capacity of these landscapes to absorb further development.
- (b) **Inclusionary Zoning:** QLDC recently notified a plan change to its PDP to introduce Inclusionary Zoning provisions. This plan change is intended to help more people access affordable housing in the district. The proposal would require most new residential subdivisions and developments² to pay an affordable housing financial contribution to be provided to the Queenstown Lakes Community Housing Trust that will deliver access to affordable housing.

¹ The notification of Landscape Schedules was directed by the Court to support additional strategic policies in QLDC's PDP. Refer policies 3.3.39 – 3.3.42 QLDC PDP and *Upper Clutha Environmental Society Incorporated v Queenstown Lakes District Council*, Interim Decisions 2.2 and 2.7, [2019] NZEnvC 206 and [2021] NZEnvC 60.

² Excluding any area where affordable housing contributions have already been agreed.

- (c) **Te Putahi Ladies Mile Masterplan:** QLDC adopted a Council-led Masterplan at Ladies Mile to provide a holistic approach to planning for growth within this area of the Whakatipu Basin. The Masterplan provides an opportunity to deliver efficient land use including medium to medium-high density urban development. QLDC has sought approval from the Minister for the Environment to carry out a variation to its PDP through the Streamlined Planning Process that will give effect to the Ladies Mile Masterplan.
- (d) **Queenstown Lakes Spatial Plan (QLSP):** In July 2021 QLDC, in partnership with central Government, Aukaka and Te Ao Marama Inc developed the QLSP. The QLSP provides a long term framework for managing growth. It directs growth in a way that will make positive changes to the environment, housing, access to jobs and opportunities, the wellbeing of the community and the experience of visitors. It sets the scene for a consolidated approach to accommodating future growth primarily within and around the existing urban areas of Queenstown and Wānaka.
- (e) **Queenstown Lakes Future Development Strategy:** QLDC is now in the process of developing a Future Development Strategy as required under the National Policy Statement on Urban Development. This Future Development Strategy will be informed by the QLSP and sets the long term (30 year) strategic approach to urban growth within the district.
- (f) **National Policy Statement on Urban Development – Policy 5 Intensification:** The Queenstown Lakes District is identified as a Tier 2 local authority within the National Policy Statement on Urban Development. Policy 5 of the National Policy Statement on Urban Development requires QLDC to amend its district plan to enable heights and density of urban form commensurate to its level of accessibility, public transport and demand for housing and business use.

16 QLDC appreciates a number of the above issues and planning responses are unique to the Queenstown Lakes District. However, QLDC seeks to highlight these issues and workstreams to ensure that the pRPS provides an overview of the resource management issues that is representative of the whole region.

- 17 QLDC considers the pRPS to be a critically important vehicle to ensure the efficient and effective development and implementation of these (and other) important workstreams to address the district's unique resource management issues.

Involvement in hearing

- 18 QLDC understands the Panel intends to hear the submissions grouped under the various Chapter headings of the pRPS. Accordingly, QLDC will attend each of the hearing topics that it is interested in, either in person or through remote attendance, in accordance with the Notice of Hearing schedule.
- 19 Further to these opening legal submissions, QLDC intends to present further topic specific legal submissions to support its pRPS submission and evidence, in particular, for those chapters listed at paragraph 6 above.
- 20 Experts that have given evidence on behalf of QLDC will be available to speak to their evidence under the relevant topic hearing. While QLDC has not filed evidence on every provision that it has submitted on, its experts can be made available for any questions the Panel may have on amendments to provisions not discussed in evidence. If the Panel does wish to question witnesses on these provisions, to assist experts to prepare, QLDC respectfully request the Panel advises in advance if it has questions for witnesses on these provisions.

QLDC submission on SRMR and Air

- 21 Two experts will appear this week in support of QLDC's submission on the chapters relating to significant resource management issues for the region (**SRMR**) and Air.
- 22 Kathryn Russell will present evidence on SRMR. Ms Russell will highlight the main points of her evidence on SRMR-14 economic impact snapshot, and is available to answer questions from the Panel.

23 Luke Place will present evidence on Air on Friday. Mr Place will highlight the main points in his evidence and rebuttal evidence that clarify QLDC's position on provisions that relate to air quality and discharges to air, and reverse sensitivity effects of discharges to air. Mr Place is also available to answer questions from the Panel with respect to QLDC's submission on the AIR topic.

Dated this 8th day of February 2023



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K H Woods / J G Robertson

Counsel for Queenstown Lakes District Council