

**BEFORE AN INDEPENDENT HEARING PANEL
APPOINTED BY QUEENSTOWN LAKES DISTRICT COUNCIL**

UNDER THE Resource Management Act 1991

IN THE MATTER of a Variation to the proposed Queenstown Lakes District Plan (Te Pūtahi Ladies Mile) in accordance with Part 5 of Schedule 1 to the Resource Management Act 1991

**MEMORANDUM OF COUNSEL ON BEHALF OF THE ANNA HUTCHINSON FAMILY
TRUST REGARDING FACTUAL MATTERS IN COUNCIL'S RIGHT OF REPLY
SUBMISSIONS AND REPORT**

DATED: 1 FEBRUARY 2024

Counsel acting:
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MAY IT PLEASE THE HEARING PANEL

- 1.** This memorandum is filed on behalf of the Anna Hutchinson Family Trust (**Trust**), a submitter on the Variation, and relates to factual matters advanced in the closing legal submissions¹ and the section 42A right of reply report of Mr Jeff Brown² on behalf of the Queenstown Lakes District Council (**QLDC**).
- 2.** The purpose of this memorandum is to alert the Panel to material factual errors in those documents which directly relate and seek to respond to the oral legal submissions made on behalf of the Trust at the hearing (which were not made lightly nor without foundation). The inaccuracies advanced on behalf of QLDC are respectfully submitted to be material and are highly prejudicial to the Trust's interests, to the extent that they are advanced to support the QLDC position on scope to consider the Trust's relief and/or raise an inference that the Trust's case was advanced on the basis of overstatement or factual inaccuracy.
- 3.** The specific inaccuracies are as follows:

 - (a) Paragraph 64 of QLDC's closing legal submissions;
 - (b) Paragraph 79(b) of QLDC's closing legal submissions; and
 - (c) Paragraphs 19.1 – 19.5 of the section 42A right of reply report.
- 4.** I advise that an affidavit is currently being prepared by Mr Werner Murray on behalf of the Trust, which will identify the instances of involvement for and on behalf of the Trust in QLDC's TPLM masterplan process, as well as other engagement with QLDC on the subject matter in advance of the TPLM Variation being notified. The Panel will need to consider this affidavit to ensure that its deliberations and recommendations to the Minister are made on a correct understanding of the factual position. The Panel is therefore requested to not close the hearing until Mr Murray's affidavit is filed and considered by the Panel.

¹ Dated 26 January 2024

² Dated 30 January 2024

5. In terms of timing, it is anticipated that the affidavit will be filed with the QLDC hearings administrator later today or tomorrow.
6. As a preliminary observation, the fundamentally incorrect position advanced on behalf QLDC is both surprising and disturbing to the Trust, given the importance of the issue and the efforts it has made over the years. It suggests (at best) a failure to keep accurate records (noting of course that the TPLM masterplan process was a Local Government Act 2002 process rather than one conducted under the statutory framework of the RMA). As to the recollection of various people involved in the issues on behalf of QLDC (as referred to in Mr Brown's right of reply at paragraph 19.4), it is difficult to understand why they have not recalled the Trust's land nor interests being raised on several occasions, including through the masterplan process.
7. While it relates to a separate (albeit related) matter, it is noted that a submission made in QLDC's closing legal submissions at paragraph 72 is also materially inaccurate and misleading. The TPLM Variation, while discrete in nature when considered in isolation, arises in the context of a full (albeit staged) review of the QLDC District Plan. This is submitted to call into question the accuracy and reliability of the QLDC closing submissions on scope, and the distinction that is sought to be advanced in paragraph 72 and again at paragraphs 74-78.
8. Finally, it is noted that the QLDC's closing legal submissions³ inappropriately seek to place reliance on factual material advanced outside the hearing process, about which a memorandum has been filed on behalf of the Trust dated 23 January 2024. The position advanced on behalf of the Trust in its 23 January memorandum applies equally to QLDC's closing legal submissions at paragraph 81.

³ At para 81

9. I would be prepared to participate, at short notice, in a telephone conference with the Panel and counsel for QLDC about this matter should that assist the Panel.

DATED this 1st day of February 2024



James Winchester
Counsel for the Trust