

Before Hearing Commissioner
at Queenstown

under: the Conservation Act 1987 and the National Parks Act 1980

in the matter of: submissions in relation to the Minister of Conservation's intention to grant a Concession Application by **Milford Dart Limited** to investigate, construct, operate and maintain a bus tunnel from the Routeburn Road in Mt Aspiring National Park to the Hollyford Road in Fiordland National Park

Statement of evidence in reply of **Michael James Sleigh**

Dated: 20 April 2012

REFERENCE: JM Appleyard (jo.appleyard@chapmantripp.com)
TA Lowe (tania.lowe@chapmantripp.com)

Chapman Tripp
T: +64 3 353 4130
F: +64 3 365 4587

245 Blenheim Road
PO Box 2510, Christchurch 8140
New Zealand

www.chapmantripp.com
Auckland, Wellington,
Christchurch



STATEMENT OF EVIDENCE OF MICHAEL JAMES SLEIGH

- 1 My full name is Michael (*Mike*) James Sleigh.
- 2 I have a Bachelor of Laws from University of Otago, Dunedin and a Bachelor of Political Science from Victoria University, Wellington
- 3 I am a Director of Milford Dart Limited (*Milford Dart*). I am authorised to give this evidence on behalf of Milford Dart.
- 4 For the past 6 years, I have been responsible for:
 - 4.1 leading the development strategy;
 - 4.2 stakeholder and community relationships;
- 5 I am also an investor in several private companies including Southern Hemisphere Proving Grounds based on the Pisa Range near Wanaka which provides counter-seasonal cold-weather testing facilities for the global automotive industry.
- 6 I am a former director and shareholder of Mitre Peak Cruises which continues to operate two cruise boats on Milford Sound and a coach link to Queenstown and carry over 50,000 visitors a year on the Sound.
- 7 I am a member of the Future Christchurch Network which has been established by senior members of the Christchurch business and community organisations to constructively monitor and peer review the processes and decisions of the Canterbury Earthquake Recovery Authority.
- 8 Prior to my role with Milford Dart, I worked for seven years as a senior executive with Meridian Energy, New Zealand's largest electricity generator. I was responsible for its environmental and property affairs and for securing and developing hydro-generation projects. I led the investigation and concept development of the recently consented NZ\$993m North Bank Tunnel Hydro Scheme on the lower Waitaki River and obtaining resource consent to join the new tailrace for the NZ \$230m Second Manapouri Tailrace Tunnel to the existing Manapouri Power Station in Fiordland National Park. I also lead the development of Meridian Energy's Sustainability Policy.
- 9 Prior to this, I worked as a specialist resource management lawyer with several leading New Zealand law firms; Chapman Tripp, Buddle Findlay, Russell McVeagh and Anderson Lloyd. I am also a former member of the National Executive of the Resource Management Law Association.

- 10 I am a founder and trustee of the James Ormond Wallace Trust for young New Zealand film and multi-media artists. I am also a former Trustee of the Christchurch Arts Festival and a former founding Trustee of the Otamahua/Quail Island Ecological Restoration Trust and the Save the St James Theatre Trust.
- 11 I have 11 years experience of public consultation experience including:
- 11.1 obtaining resource consent for the new Manapouri Tunnel Tailrace;
 - 11.2 the initial investigations for Project Aqua and the North Bank Hydro on the Lower Waitaki River;
 - 11.3 on the various agreements with community groups and non-governmental organisation required under ECNZ's recourse consents for the Waitaki hydro scheme; and
 - 11.4 this proposal.
- 12 As a result, I consider I have experience in:
- 12.1 the development and operation of activities in sensitive environmental areas;
 - 12.2 New Zealand tourism;
 - 12.3 public consultation; and
 - 12.4 a good awareness of the issues and opportunities involved in the construction and operation of the Milford Dart Tunnel.

SCOPE OF EVIDENCE

- 13 My evidence in reply will address the following matters raised by submitters and any potential additional mitigation;
- 13.1 Tourism Demand
 - 13.2 World Heritage Status
 - 13.3 Tunnel Construction and Operation
 - 13.4 Public Consultation;
 - 13.5 Hollyford Portal and Spoil Disposal;
 - 13.6 Routeburn Portal;

- 13.7 Routeburn Road;
- 14 In preparing my evidence I have reviewed:
- 14.1 the Concession Application (*Application*);
- 14.2 the Officer's Report to the Decision-maker dated 4 November 2011 (*Officer's Report*);
- 14.3 all the submissions made on the Officer's Report (*Submissions*).
- 15 I have also attended the hearing of all the submissions held at Te Anau, Invercargill and Queenstown.

TOURISM DEMAND

- 16 Submitters in opposition have questioned the demand for a shorter route to Milford Sound. Milford Dart is convinced that such demand exists. This is based on:
- 16.1 The Independent Report prepared by leading New Zealand tourism consultants, Tourism Resource Consultants in August 2007;
- 16.2 The ongoing demand for air travel from Queenstown to Milford Sound;
- 16.3 Interviews with 128 international tourists this summer that had visited Milford Sound by bus and all completed submissions in support of the Milford Dart proposal. When interviewed their common response was that Milford Sound was beautiful but the bus trip was far too long and as a result they wouldn't recommend the trip to others. These submitters were from the following countries:
- (a) UK = 53
- (b) Australia = 22
- (c) Germany = 20
- (d) USA = 10
- (e) France = 10
- (f) Sweden = 7
- (g) Norway = 2

(h) South Africa = 2

(i) Tonga = 1

(j) Luxembourg = 1

- 17 We also believe that visitors to New Zealand should be given a choice of options to visit Milford Sound where that can occur in an environmentally acceptable manner. To remove or limit choice is in effect to make the existing limited options monopolies and prevent innovation and improvement to the visitor experience. Imagine if only one operator was allowed to take buses or operate boats on Milford Sound or flights to Milford Sound were prohibited?
- 18 Whereas we are aware the Minister of Conservation has recently lifted the proposed limit on flights Milford Sound even though it is an activity that we consider has much wider spread environmental impacts than the proposed tunnel.
- 19 The growth of the Southern Lakes Ski Industry is a good example of how a range of options grows the entire market for the benefit of everyone. The existence of 5 different ski areas with a range of good roads connecting them all and increased aircraft flights to Queenstown have been the key ingredients.
- 20 While we note that the tourism impacts outside of the Conservation estate are not relevant to this hearing we do want to assure those existing operators based both in Te Anau and Glenorchy, many of which submitted on this application, that we do want to work with them in the future and in fact it is in both ours and their mutual interest to work together.
- 21 As noted, we will provide open access to the tunnel to any bus operator that meets the relevant safety requirements. Also by shortening the time spent on the actual bus, visitors will have much more time to undertake other activities as well whether it is horse trekking, nature walking, jet boating, visiting glow worm caves, kayaking, visiting Glenorchy or Te Anau or other activities. We will work to promote these additional activities.
- 22 In terms of the tourism issues that are relevant to the National Parks, the most obvious is Milford Dart's ability to relieve the sense of overcrowding at Milford Sound.
- 23 In this regards we don't accept Real Journey's statement at the Te Anau hearing that;

"Overseas visitors don't mind a crowded experience".

24 And we don't think the New Zealand tourism industry should accept such a proposition when the lack of crowds is the very reason people visit New Zealand.

25 Nor do we accept their view that New Zealand should discriminate as to what type of visitors we would like to visit Milford Sound. In that regard we were shocked to hear Real Journey's, Senior Manager stating;

"It [the tunnel] will attract 'once over lightly people'...Once over lightly people are the worst because they are not vested in trip, [they] complain, are awkward..."

26 Interestingly, the only person who gave evidence on the tourist experience of the current bus trip was Mr Spicer who gave evidence in support of the proposed tunnel.

27 Ultimately, provided the Department determines that there are tangible benefits and the impacts are acceptable then it should grant the concession just in the same way that it has agreed to many other tourism and other infrastructure developments in the National Parks over the years. Recent examples of which are discussed in the next section.

WORLD HERITAGE STATUS

28 A number of Submitters have raised concerns that if the tunnel is constructed there is a risk that the four National Parks that comprise the Te Wāhipounamu - South West New Zealand World Heritage Area will lose that status that they were granted by UNESCO in 1990. Some cited the case of the Elbe River as precedent for such a risk.

29 However, on closer examination it appears that they have dramatically overstated the perceived risk and there is little if any likelihood it would occur.

30 Currently there are 936 World Heritage sites. Only two have lost their status. They are;

Arabian Oryx Sanctuary

31 This was listed in 2004 for its ecological values in protecting the Arabian Oryx (antelope) population. However in 2007 it became the first site to be deleted for the following reasons:

"The World Heritage Committee deleted the property because of Oman's decision to reduce the size of the protected area by 90%, in contravention of the Operational Guidelines of the Convention. This was seen by the Committee as destroying the outstanding universal value of the site which was inscribed in 1994.

In 1996, the population of the Arabian Oryx in the site, was at 450 but it has since dwindled to 65 with only about four breeding pairs making its future viability uncertain. This decline is due to poaching and habitat degradation.

After extensive consultation with the State Party, the Committee felt that the unilateral reduction in the size of the Sanctuary and plans to proceed with hydrocarbon prospection would destroy the value and integrity of the property, which is also home to other endangered species including, the Arabian Gazelle and houbara bustard."

- whc.unesco.org/en/new/362

Dresden Elbe Valley

- 32 The Valley was listed in 2004 for its outstanding cultural landscape that:

"integrates the celebrated Baroque setting and suburban garden city into an artistic whole within the river valley"

- whc.unesco.org/en/new/362

- 33 It featured:

"...low meadows and is, crowned by Pillnitz Palace and the centre of Dresden with its numerous monuments and Parks from the 16th to 20th Century".

- 34 However, it was delisted in 2009;

"due to the building of a four-lane bridge in the heart of the cultural landscape.

- 35 In contrast to these two cases, since the creation of the Fiordland World Heritage Area in 1986 (and its subsequent expansion in 1990), the following developments have occurred with no threat to that World Heritage Status:

- 35.1 1992 -Milford Visitor Centre and Carparks constructed - including the removal of Brian Brake's world famous photo point;
- 35.2 2001 - Hump Ridge track with over half of the 55km track and two huts in National Park;
- 35.3 2001- 90 Room, 6 storey high Aoraki Wing added to Hermitage Mt Cook;
- 35.4 2005 - 15 room Aoraki Mt Cook Alpine Lodge;

- 35.5 2007, Sir Edmund Hillary Alpine Centre;
- 35.6 2007 - Old Mountaineer Cafe Mt Cook;
- 35.7 2008 - Routeburn Visitor Centre with 330m of new roading and additional 40+ carparks & bus parks;
- 35.8 2009 - Department of Conservation's Mt Cook Visitor Centre;
- 35.9 2011 - Increase in existing Milford Sound Aircraft Landing Rights to 12,000 landings a year;
- 35.10 2011 - Cleddau Village Flood Protection Works - including the right to clear up to 6.9ha of native forest and discharge sediment into Cleddau River
- 36 Interestingly, none of these developments were mentioned by any of the submitters who raised this issue.
- 37 Ironically, the only potential development that could conceivably risk this important World Heritage Status is the proposed construction of the 198 km Haast - Hollyford Highway and that proposal has been supported by the Mayor of Southland District Council, Frana Cardno who stated in the media;
- "I am not against the Haast Hollyford Road ..."
- Southland Times, 5 June 2009
- 38 While on her blog on the Southland District Council website she stated;
- "There is significant potential in this project ..."
- Mayors Blog, SDC website, 27 February 2010

TUNNEL CONSTRUCTION AND OPERATION

- 39 Issues have been raised about the safe construction and operation of the proposed tunnel. We have discussed those matters in detail with our engineering advisers URS New Zealand Limited who have extensive experience in tunnel design and construction both in New Zealand and worldwide.
- 40 They are of the firm opinion that the tunnel can be safely built and operated and are keen to emphasise that:
- 40.1 The proposed tunnel is akin in design and operation to a rail tunnel of which there are a number in operation in New Zealand - including the 8.6km Otira Tunnel under Arthurs

Pass which is of a smaller diameter and carries over 200,000 visitors a year on the world renowned TranzAlpine Rail journey - rather than a traditional open access car and truck tunnel;

40.2 There is very limited seismic risk as tunnels by their very nature are by far and away the least affected structures due to the fact that they are below ground in a large rock mass rather than a structure above ground;

40.3 It is very unlikely to have any leachate issues due to the type of rock being removed but if any is detected it can be readily managed.

41 Unfortunately preparation of their written evidence in reply has been delayed due to circumstances outside the control of the author, Senior Tunnel Engineer, Mr Ron Fleming and will be forwarded to the Department in writing by 4 May. It is understood the Department will make it available to the Submitters on its website.

PUBLIC CONSULTATION

42 Some submitters have raised concerns that we have not consulted with them in the last few years.

43 We understand and appreciate their frustration in this regard. However, we are keen to point out that we undertook comprehensive consultation when we lodged the application over 6 years ago and we doubt anyone could fault us in that regard. We meet interested parties in Te Anau, Glenorchy, Invercargill, Queenstown, Bluff, Dunedin, Christchurch and Wellington.

44 Unfortunately, neither ourselves, the Department nor the various submitters could have anticipated that this process would take so long to reach a hearing.

45 We mistakenly thought no further consultation was necessary as there had no change to the proposal other than amendments which decreased its impact. However, until the recent submission process ended we were not aware of the degree to which the makeup of the various communities and in particular Glenorchy has changed in the recent years with a number of new people shifting into the area.

46 All we can do now is to undertake that if we are successful in obtaining a concession then before we seek the necessary resource consents we will consult further with the local communities and interest groups in the same manner as we did 6 years ago.

- 47 In the meantime as evidence of our intention in this regard we request that if the Department is to grant the concession it includes the following additional condition in respect of future consultation:

“Community Liaison Group

Within one month of commencing construction of the Milford Dart Tunnel, the Concessionaire shall place a public advertisement in the relevant local Te Anau and Glenorchy newspapers inviting local residents and interested people to attend a meeting to establish respectively Te Anau and Glenorchy Community Liaison Groups;

- (a) the invitation to attend and establish a Community Liaison Group shall be extended to include:
 - (i) private users and concessionaires that use the relevant areas of the National Parks;
 - (ii) all property owners with boundaries adjoining, the relevant areas of the National Parks;
 - (iii) local residents and businesses of Te Anau and Glenorchy;
- (b) a representative of the concession holder shall attend all meetings of the two Community Liaison Groups; and
- (c) the Department of Conservation shall be invited to each send a representative to attend all meetings.

The Concessionaire shall ensure that members of the Community Liaison Groups are provided with the opportunity and facilities to meet at least twice per year.

The main purposes of the Community Liaison Groups shall be to discuss with the concession holder:

- (a) construction management issues;
- (b) the results of all monitoring and reporting required under the concession; and
- (c) any community concerns regarding the effects of the construction and operation of the Milford Dart Tunnel on the National Parks
- (d) any opportunities for other concession holders to benefit from the operation of the Tunnel in terms of promotion and /or integration of their activities.”

- 48 Separately, in the interests of transparency of our activities we request that the Department also adds the following condition requiring that we maintain a complaints register that they can inspect:

"Complaints Register

The Concessionaire shall maintain a Complaints Register for any complaints about the construction activities or operation of the Milford Dart Tunnel received by the Concessionaire in relation to traffic, noise, vibration, dust and glare.

The Register shall record, where this information is available:

- (a) the date, time and duration of the incident that has resulted in a complaint;
- (b) the location of the complainant at the time of the incident; and
- (c) any corrective action undertaken by the concession holder in response to the complaint, including timing of that corrective action.

The Register shall be made available to the Department of Conservation at all reasonable times on request. Complaints received by the consent holder which may relate to compliance with the conditions of this resource consent shall be forwarded to the Department within 48 hours of the complaint being received."

HOLLYFORD PORTAL AND SPOIL DISPOSAL

- 49 Various concerns about the Hollyford Portal and Spoil Disposal on the Air Strip have been raised. I address them as follows;

Vegetation Clearance at Portal

- 50 Concerns have been raised about the clearance of the 0.85 ha of native bush at the Hollyford Portal. We have already indicated that we will do everything we can to minimise the impact of this work.
- 51 However, we believe this clearance needs to be seen in context of both the scale of the overall 2.6 Million hectares within the four National Parks that make up the World Heritage area and also the recent concession and consents that were granted for the clearance of a larger area of native vegetation of a similar type.
- 52 In this regard, in 2010 both the Department and Southland District Council granted approvals for flood protection of the existing Cleddau Village which is used predominately by commercial concessionaires staff and also to provide for its future expansion. The approvals enabled the;

- 52.1 raising of an area of 4.6 hectares by 4.5 metres involving the imported spoil of 104,000m³;
- 52.2 clearance of up to 6.9 hectares for a rock quarry site; and
- 52.3 the temporary diversion of the Cleddau River to enable the extraction of up to 40,000m³ of gravel together with relevant sediment discharges.
- 53 It is interesting to note that Forest and Bird nor many of the other submitters in opposition did not oppose that application, while the Southlands District Council granted the relevant land use consents. None of these parties saw it relevant to raise that matter in the current hearings.
- 54 However to ensure the protection of bats and other rare species we would support the inclusion in the concession of the following conditions that mirrors the conditions that were imposed on the resource consents for the clearance of the rock quarry site referred to:

“That vegetation clearance authorised by this concession for the Hollyford portal shall be limited to that as shown in the plans submitted with the application.

That a survey for the presence of bats shall be undertaken in all areas affected by the work. If bats are present in roosting trees, the bats shall be monitored by a suitably qualified person until the bats depart. The affected trees shall not be removed until the bats depart.

That prior to construction commencing the concession holder shall engage a suitably qualified person who, with a species dog, shall check all construction areas for kiwi prior to vegetation removal. If kiwi are located, they shall be captured and relocated to another nearby suitable habitat area.”

Archaeological Survey of the Spoil Disposal Site

- 55 We confirmed at the hearing in Invercargill that we agreed with the request by Ngai Tahu representatives that an archaeological survey of the proposed Hollyford spoil disposal area be undertaken before construction commences and we request that a condition be included that states;

“Prior to any construction commencing the Concessionaire shall have had an archaeological survey undertaken of the site to the satisfaction of Te Runanga O Ngai Tahu and local Runanga.”

Discharge into the Hollyford River

- 56 While the final approval of any discharge will be determined by the Southland Regional Council, Milford Dart is confident that it can be

achieved with minimal if any environmental effect in the same way that was successfully undertaken for the protection of the Cleddau Village from the Cleddau River and Doubtful Sound from the Second Manapouri Tailrace works.

- 57 Interestingly, again none of the submitters in opposition opposed the relevant concession or consents for that activity.

Impact on Existing Users of the Hollyford Valley

- 58 We are very mindful of the existing users of the Hollyford Valley and the current experience they enjoy and will seek to consult closely with them as outlined earlier.

- 59 However, we do note that the long terms effects of the Tunnel's use following its construction are likely to be less intrusive than many of the activities that are currently undertaken in the valley, including the use of both jet boats, helicopters and aircraft, while the spoil disposal area once re-vegetated will be far less intrusive than the existing Airstrip and Gunn's Camp.

- 60 We also note that if we obtain this concession, we would like to re-enter discussions with Gunn's Camp's trustees in respect of potential workers accommodation, we are mindful that that is their decision and we may need to pursue alternative options outside of the National Park.

ROUTE BURN PORTAL AND ROAD

- 61 Concerns have been raised about the use of the Routeburn Portal and the fact that visitors using the proposed tunnel will not be directly experiencing the Mt Aspiring National Park.

- 62 We recognise that perspective and will work with bus operators using the tunnel to see if they can incorporate nature walks or other activities in their itinerary for this area. We acknowledge that may require further concessions in the future.

- 63 However as evidence of our bona fides in this regard, following discussions at the hearing around the Double Falls Track, we would like to take responsibility for the re-establishment and ongoing maintenance of the Track at the time at which we commence construction of the Routeburn Portal. Accordingly we request that a further condition be added, if the Department is in agreement, that states;

"At the commencement of construction of the Routeburn Portal, the Concessionaire will upgrade the former Double Falls Track to a condition satisfactory to the Department of Conservation and will be responsible for its ongoing maintenance for the period during which it operates under this concession."

Construction Time

64 In terms of construction, we are assured that the above-ground works can be undertaken outside of the main visitor season and the works will take no longer than the time involved in building the new Visitors Centre.

65 It is also important to point out that most of the work will occur underground and will not be heard or seen by visitors.

Electricity Supply

66 Any electricity supply required from the Glenorchy area will be installed underground within the existing formed Routeburn road carriageway.

Safety Improvements to the Routeburn Road

67 Finally in terms of safety improvements to the Routeburn Road, we have listened carefully to the submitters concerns about any changes. As discussed by **Ms Appleyard** in her legal right of reply we consider the road improvements are not relevant to this concession.

68 However we have commissioned Abley Transportation Consultants to prepare a report on the minimum work required to make that part of the road currently within the National Park safe for the additional bus traffic while maintaining its existing natural character.

69 This evidence will be presented by **Mr Andy Carr**, a Senior Traffic Engineer. Suffice to say we are pleased to see that one of the positive outcomes of that recent work is that there is no need to seal the road and that much of the necessary drainage work is already underway by the Queenstown Lakes District Council in terms of its existing road maintenance program.

70 In terms of the removal of trees, this has been limited as far as practicable. While it would be preferred that no trees are removed the impact needs to be kept in context of what occurs in the surrounding natural environment. A good example of this is the number of trees lost by flooding just upstream of the small bridge that you cross on the way to the Routeburn Road end. Any final decisions on tree removal and road formation would only be made in consultation with both the Department and the District Council.

71 In terms of ecological impact we are confident that any potential risk to long-tailed bats and mohua can be avoided by compliance with the relevant concession conditions and that the proposed Predator and Pest Control program funding will only lead to an overall gain for the endangered species of this area.

CONCLUSION

- 72 The hearings we attended in Te Anau and Queenstown reminded us all once again of the great depth of feeling that people have for our National Parks.
- 73 In many cases this depth of feeling was expressed as a desire to see no change to the current levels of access to National Parks and to their use.
- 74 Many of those who spoke also wished to see no change to what they themselves experience when they go into a National Park.
- 75 Although we do not agree with those sentiments, we respect the right of people to express them.
- 76 For us, in hearing them, it means putting even higher importance on ensuring that our proposal has the least effect on the natural values of a National Park. This is while helping to ensure New Zealand can host visitors into our National Parks in a way that continues to sustain and grow our tourist industry.
- 77 At Milford Dart we believe it is important to ensure that modern, low-impact infrastructure be created for our National Park visitors in the same way that our forefathers provided the infrastructure that we all benefit from today.
- 78 This means making the journey to Milford Sound a better and more enjoyable experience for both New Zealand and overseas visitors and this is what we believe our proposal will achieve.
- 79 The enjoyment and understanding we give our visitors will also enable us all to afford what is needed to protect and improve both our unique landscapes and the biodiversity of these important areas for future generations.

Dated: 20 April 2012

Mike Sleigh