

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

**UNDER** the Resource Management Act 1991 (RMA)  
**IN THE MATTER** of the Te Pūtahi Ladies Mile Plan Variation in accordance  
with section 80B and 80C, and Part 5 of Schedule 1 of the  
Resource Management Act 1991.

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**MEMORANDUM OF COUNSEL ON BEHALF OF THE QUEENSTOWN  
LAKES DISTRICT COUNCIL SEEKING DIRECTIONS**

**DATED 10 OCTOBER 2023**

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## MAY IT PLEASE THE HEARING PANEL

### Introduction

- 1 Counsel for the Queenstown Lakes District Council (**Council**) respectfully seeks amended directions in relation to:
  - (a) Expert conferencing on landscape issues that concern the Slope Hill Outstanding Natural Feature (**Slope Hill ONF**);
  - (b) Rebuttal evidence of Council's expert, Ms Bridget Gilbert;
  - (c) Responses to parties' written questions by Council's expert, Mr Robin Miller; and
  - (d) Other procedural directions in relation to the hearing.

### Early landscape expert conferencing on the Slope Hill ONF

- 2 In Hearing Panel Direction 1 dated 10 August 2023, the Hearing Panel directed that expert conferencing is to occur during the week of 30 October 2023.<sup>1</sup>
- 3 One of the Council's experts, Ms Bridget Gilbert, who is giving landscape evidence in relation to the Slope Hill ONF is unavailable during late October and early November and therefore is unavailable to attend expert conferencing during 30 October – 3 November 2023. Accordingly, the Council respectfully requests a direction that conferencing on landscape issues that concern the Slope Hill ONF occurs earlier, and takes place remotely on 18 October 2023.
- 4 Ms Gilbert's evidence in chief dated 29 September 2023 is limited in scope, and only addresses landscape issues in relation to the Slope Hill ONF, which sits adjacent to the Te Pūtahi Ladies Mile Plan Variation (**TPLM Variation**) area. Principally, Ms Gilbert's evidence addresses:
  - (a) The effect of the TPLM Variation on the Slope Hill ONF; and
  - (b) Submissions that seek to extend the TPLM Variation area into the Slope Hill ONF.
- 5 Accordingly, the Council proposes that early conferencing on landscape is confined to issues that concern the Slope Hill ONF. Conferencing on all other landscape issues is able to occur during the week of 30 October

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<sup>1</sup> Hearing Panel Direction 1 at paragraph 9.11(c).

2023 as directed. The Council's other landscape expert, Steven Skelton, is available to attend conferencing during the week of 30 October 2023.

- 6 Counsel for the Council has contacted all submitters who state they wish to provide expert landscape evidence, to confirm whether they are agreeable to early conferencing on landscape issues that concern the Slope Hill ONF. Of the submitters contacted, only Glenpanel Development Limited (submitter 73) and Milstead Trust (submitter 108) have submission points and further submission points that relate to the Slope Hill ONF. Both submitters have confirmed they are agreeable to their landscape experts, Tony Milne and Dave Compton-Moen, attending early conferencing on this topic.
- 7 Counsel also seeks leave for this conferencing to take place online and without a facilitator, given the limited issues and small number of experts attending conferencing on the Slope Hill ONF. Counsel has also conferred with Glenpanel Development Limited and Milstead Trust who have not raised issue with this.
- 8 Counsel notes that the proposed date for early conferencing of Wednesday 18 October is shortly before submitters' evidence in chief is due on Friday 20 October 2023. Accordingly, to give Glenpanel Development Limited and Milstead Trust's experts suitable time to consider their position in evidence following conferencing, counsel respectfully requests a short extension and seeks a direction that Tony Milne and Dave Compton-Moen file their landscape evidence by 12pm (noon) Wednesday 25 October.
- 9 Counsel submits that early conferencing may help to reduce the scope of the issues that Glenpanel Development Ltd and Milstead Trust's experts needs to address in their evidence in relation to the Slope Hill ONF. Counsel further submits that this approach is supported by paragraph 9.8 of Panel Direction 1, which states:

9.8 The Hearing Panel strongly encourages experts to consult with each other to ensure clarity of issues and concise statements of evidence focused on the key issues that cannot be resolved.

**Rebuttal evidence of Bridget Gilbert**

- 10 Hearing Panel Direction 1 directs that Council's experts may file rebuttal evidence by 10 November 2023.<sup>2</sup>
- 11 As outlined above, the Council's expert, Ms Bridget Gilbert, is unavailable during late October and early November so is also unable to meet the deadline for filing rebuttal evidence.
- 12 Accordingly, the Council respectfully requests a direction that Ms Gilbert files any rebuttal evidence, if required, by 12pm (noon) 24 November 2023.
- 13 Counsel proposes this date so that the deadline for Ms Gilbert's rebuttal evidence aligns with the deadline for experts to file replies to parties' questions of experts.<sup>3</sup> Counsel acknowledges rebuttal may not be required and if required, is likely to be brief given the narrow scope of Ms Gilbert's evidence. Further, the joint witness statement for Slope Hill ONF conferencing will record any disagreement between experts and reasons for disagreement, which will foreshadow the content of Ms Gilbert's rebuttal evidence (if required).

**Robin Miller's reply to questions from submitters**

- 14 Hearing Panel Direction 1 directs that experts whom have been asked questions from parties must provide written answers to questions by 24 November 2023.<sup>4</sup>
- 15 The Council's heritage expert, Mr Robin Miller, is unavailable from mid to late November so will be unable to respond to any questions (if asked by the parties) by the directed deadline.
- 16 Accordingly, the Council respectfully requests a direction that Mr Miller provides written answers to questions from parties (if any) when presenting his evidence at the hearing. Counsel notes that no submitter has indicated that they intend to file heritage evidence and therefore, it is anticipated that there may be no questions for Mr Miller, or in the event there are, that the questions will be limited.

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<sup>2</sup> Hearing Panel Direction 1 at paragraph 9.12.

<sup>3</sup> In accordance with Hearing Panel Direction 1 at paragraph 9.16.

<sup>4</sup> Hearing Panel Direction 1 at paragraph 9.16.

### **Procedural directions in relation to the hearing**

- 17 Hearing Panel Direction 1 directs:
- (a) At paragraph 11.9(a); that unless requested otherwise, legal submissions are to be provided electronically to the Hearing Administrator three working days before they are presented at the hearing; and
  - (b) At paragraph 11.10(b); that unless leave is sought, legal submissions shall not be longer than 20 pages.
- 18 Counsel for the Council respectfully seeks directions in relation to the above.
- 19 In accordance with paragraph 11.9(a), if Council was required to file its legal submissions three working days before they are presented, this would require the Council to file its submissions before experts file replies to parties' questions of experts.<sup>5</sup> As expert's replies to questions could have bearing on the Council's legal submissions, the Council respectfully seeks a direction to file its legal submissions on the opening day of the hearing.
- 20 It is unclear whether paragraph 11.10(b), which concerns length of legal submissions, is intended to apply to the Council given the breadth of issues the Council is to address as proponent of the TPLM Variation and in response to matters raised by submitters.
- 21 In any case, given the breadth of matters that the Council will likely need to address at the hearing, the Council respectfully seeks leave to file legal submissions that are longer than 20 pages.

### **Directions sought**

- 22 For the reasons set out above, the Council respectfully seeks the following directions from the Hearing Panel:
- (a) Expert witness conferencing on landscape issues that concern the Slope Hill ONF is to occur remotely and without a facilitator on **Wednesday 18 October 2023**;

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<sup>5</sup> In accordance with Hearing Panel Direction 1 at paragraph 9.16, experts' replies are due 12pm (noon) 24 November 2023.

- (b) Glenpanel Development Limited (submitter 73) and Milstead Trust (submitter 108)'s experts, Mr Tony Milne and Mr Dave Compton-Moen, must provide their landscape evidence electronically to the Hearing Administrator by **12pm (noon) Wednesday 25 October 2023**;
- (c) Council's expert, Ms Bridget Gilbert, may provide rebuttal evidence electronically to the Hearing Administrator by **12pm (noon) Friday 24 November 2023**;
- (d) If Council's expert, Mr Robin Miller, is asked written questions by parties, he shall provide written answers when presenting his evidence at the hearing;
- (e) The Council's legal submissions are to be provided electronically to the Hearing Administrator on the opening day of the hearing on **Monday 27 November 2023**; and
- (f) The Council may file legal submissions longer than 20 pages.



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L F de Latour / K H Woods

Solicitor for the Queenstown Lakes District Council