

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Stage 3b of the
Proposed District Plan

**REBUTTAL EVIDENCE OF EMMA JANE TURNER
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

Planning: Arthurs Point North Rezoning

12 June 2020

 **Simpson Grierson**
Barristers & Solicitors

S J Scott / R Mortiaux
Telephone: +64-3-968 4018
Facsimile: +64-3-379 5023
Email: sarah.scott@simpsongrierson.com
PO Box 874
SOLICITORS
CHRISTCHURCH 8140

CONTENTS

	PAGE
1. INTRODUCTION	1
2. SCOPE.....	1
SUBMITTER EVIDENCE ON REZONING REQUESTS	2
3. Carey Vivian For Robert Stewart (31038)	2
4. Emma Ryder for Arthurs Point Trustees Limited (APTL) (31042)	5
5. John Edmonds For Coronet Peak Properties Limited (CPPL) (31040).....	7
SUBMITTER EVIDENCE ON TEXT AT ARTHURS POINT NORTH	8
6. Tony Koia and David Happs for Koia Architects Queenstown Limited, Koia Investments Queenstown Limited and Rakau QueensTown Limited (31004).....	8

1. INTRODUCTION

1.1 My full name is Emma Jane Turner. My qualifications and experience are set out in my statement of evidence in chief dated 18 March 2020.

1.2 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise except where I state that I am relying on the evidence of another person. The Council, as my employer, has agreed for me to give expert evidence on its behalf in accordance with my duties under the Code of Conduct.

2. SCOPE

2.1 My rebuttal evidence is provided in response to the following evidence filed on behalf of various submitters:

Submitter evidence on rezoning requests:

- (a) Carey Vivian on behalf of Robert Stewart (**31038**);
- (b) Emma Ryder on behalf of Arthurs Point Land Trustee Limited (**31042**);
- (c) John Edmonds on behalf of Coronet Peak Properties Limited (**31040**);

Submitter evidence on Chapter 9 text:

- (d) (Joint statement) Tony Koia and David Happs on behalf of Koia Architects Queenstown Limited, Koia Investments Queenstown Limited and Rakau Queenstown Limited (**31004**).

2.2 I also confirm that I have read the following statements of evidence and consider that no response is needed:

- (a) Benjamin Espie on behalf of Robert Stewart (**31038**);

- (b) Scott Freeman and Stephen Skelton on behalf of Arthurs Point Woods Limited (**31031**) and QRC Shotover Limited (**31032**).

SUBMITTER EVIDENCE ON REZONING REQUESTS

3. CAREY VIVIAN FOR ROBERT STEWART (31038)

- 3.1** Mr Carey Vivian has filed planning evidence, (containing a Preliminary Geotech Appraisal) supported by landscape evidence provided by Mr Ben Espie. Mr Vivian's evidence considers the most appropriate location for the Urban Growth Boundary (**UGB**) and Outstanding Natural Landscape (**ONL**) boundaries, and an area sought to be rezoned Medium Density Residential Zone (**MDRZ**) for Lot 1 DP 515200, at 201 Arthurs Point Road.
- 3.2** At paragraph 3.2 Mr Vivian also recommends amending the activity status for buildings within the area of the site proposed to be zoned MDRZ, from permitted activity status (MDRZ Rule 8.4.6) to Restricted Discretionary (**RDA**).

Mr Vivian's Proposed MDRZ

- 3.3** With regard to Mr Vivian's proposed area of MDRZ, my s42A report noted an absence of hazard information for the rezoning of Arthurs Point North.¹ Mr Vivian has attached a Preliminary Geotech Appraisal as Attachment A to his evidence as well as a S32AA evaluation as Attachment B. This Preliminary Geotech Appraisal by Peter Forrest notes the most significant hazard feature of the site is the Active Schist Landslide, with the overall risk for the site considered to be moderate to high.
- 3.4** Most significantly, in terms of my position Mr Forrest notes that:

"There are a number of risks based on the desk study information that require further substantiation through investigation before understanding

1 Paragraph 4.16

the geotechnical constraints that may or may not influence the partial residential development from a geotechnical perspective.”²

- 3.1** It goes on to state that *“the infrastructure costs required to stabilise the site to allow development may be prohibitive”*.³
- 3.2** Mr Bond in his rebuttal agrees with Mr Forrest’s preliminary assessment that the risk posed to the site associated with landslide is Moderate to High.⁴ Mr Bond considers that foundations and other engineering solutions, possibly of a prohibitive cost, could lower the hazard risk. I consider the non-standard approach required to lower the risk indicates an urban zone may not be the most appropriate zone for the affected area, this includes the area proposed by Mr Vivian as MDRZ.
- 3.3** I remain concerned with rezoning the site to MDRZ from Rural Zone due to the extent of the hazards present on the site, the management of which is a matter of national importance. The Active Schist Landslide has an overall risk of moderate to high, requiring an ‘above standard’ engineering solution. Having a bespoke rule with the activity status of RDA as Mr Vivian recommends⁵ gives a strong indication that development of this site for MDRZ development is anticipated by the PDP (albeit any conditions could be imposed dependent on the matters of discretion). The evidence currently available from both Mr Forrest and Mr Bond suggests that providing this signal and level of certainty about the land being suitable for MDRZ development would not achieve the objectives of the PDP in relation to natural hazards as explained by the relevant policies in my assessment, detailed in paragraph 4.17 of my Section 42A Report.
- 3.4** I retain the view that the rezoning sought would be contrary to 28.3.1.2, 28.3.2.1, 28.3.2.2 which seek to avoid significantly increasing risks associated with natural hazards, and preclude exposing vulnerable activities to hazard risk, or creating risks to human life where this is deemed to be “intolerable”. The clear direction of the PORPS, which, cautions against reliance on engineering solutions⁶ to natural hazards

2 First paragraph top of page 25 of Mr Vivian’s evidence, the second page of Attachment A.
3 Second to last bullet point of page 27 of Mr Vivian’s evidence, the fourth page of Attachment A.
4 Paragraph 4.3
5 Paragraph 3.2
6 PORPS Policy 4.1.10

also provides relevant direction that cautions against this rezoning. I also consider Mr Vivian's suggested approach of bespoke planning rules for individual sites is an inefficient and ineffective method when there is a zone framework (i.e. the Rural Zone) that more appropriately manages natural hazard risk and doesn't carry any presumption that urban development is anticipated.

3.5 I note that both Ms Mellsop for the Council and Mr Espie for the submitter agree that the current urban edge is "*a very abrupt and geometric-looking end to the Arthurs Point North built area*".⁷ From a landscape perspective, Ms Mellsop does not oppose the rezoning to MDRZ⁸ and consequential movement of the ONL⁹ (with minor amendments to the location as proposed by Mr Espie).

3.6 Overall, I consider that the most appropriate zone to manage the social and economic impacts of the Active Schist Landslide hazard risk on the site is Rural Zone. I consider that a Rural Zone for this portion of the site best achieves the objectives of the Natural Hazards Chapter. My recommendation from my s42A report remains unchanged.

VASZ

3.7 Mr Vivian additionally notes that Robert Stewart's original submission requested a Visitor Accommodation Subzone (**VASZ**) over the portion of the property with the Building Restriction Area (**BRA**) over it. I did not consider this in my s42A report. The BRA is restrictive of the development of buildings¹⁰, whereas the VASZ is more enabling of Visitor Accommodation activities. The combination of a BRA and VASZ is not something that is present elsewhere in the PDP, and the outcomes sought through the two methods are contradictory. While the submitter originally sought removal of this BRA, at paragraph 4.3 Mr Vivian confirms that Mr Stewart accepts the recommendation of my s42A report for the retention of the BRA on the site.

3.8 I consider that while a Visitor Accommodation activity may be appropriate within the existing building; due to the contradicting

7 Paragraph 5.4 of Mr Ben Espies Evidence

8 Paragraph 6.3

9 Paragraph 6.5

10 Non-complying activity status pursuant to rule 8.5.16

intentions of the BRA and the VASZ I consider that applying a VASZ to this site with the BRA would undermine the restrictive intention of the BRA. I therefore, recommend that the VASZ is not applied to the site.

4. EMMA RYDER FOR ARTHURS POINT TRUSTEES LIMITED (APTL) (31042)

4.1 Ms Emma Ryder has filed planning evidence in relation to the zoning of the land at 182 Arthurs Point Road. Specifically, Ms Ryder considers from paragraph 57 that the High Density Residential Zone (**HDRZ**) should be applied to the whole submission site, rather than split zones as recommended in my s42a report. Additionally, from paragraph 66 Ms Ryder considers that BRA 2 should only cover the western section of the submission site, and that BRA 3 should be removed (BRAs numbered as depicted in Figure 3 of my S42A report).

4.2 The BRAs cover areas where if built development occurred would have a more than minor impact on landscape values. As the submitter has not provided any landscape evidence or proposed extent of BRA 2 my view in relation to BRA 2 remains the same as my s42a recommendation¹¹. In my view BRA 3, while not considered in my s42A report, is an important end to the developed Arthurs Point North area. It is visible from within the Arthurs Point North area and for quite a distance into the ONL, this is confirmed and elaborated on by Ms Mellsop in paragraph 6.2 of their rebuttal. Therefore, BRA 3 is important in relation to strategic objectives that seek to avoid adverse effects of the landscape and natural character of the District's ONLs¹².

4.3 I note that the submitter has not provided any landscape evidence to support their request to remove the BRA. In her landscape report¹³ Ms Mellsop classified this area as having moderate landscape sensitivity. The level of development recommended by Ms Mellsop is lower than the development permitted in the MDRZ and in my view the design guidelines are not sufficient to protect the ONL in this location. The BRA bisects the knoll so if the BRA were removed it would allow for 8m high buildings (MDRZ) at the top of the knoll. Ms Mellsop outlines the impacts that built development on this knoll would have in paragraph 6.2 of her rebuttal. This level of development would have significant

11 Paragraph 9.2

12 S.O. 3.3.30

13 QLDC Rural Visitor Zone Review Landscape Assessment

impacts on the landscape values of the wider ONL and adjacent rural areas.

4.4 While I consider the flat areas of Arthurs Point North to be well placed for development due to the ability of those areas to absorb development from a landscape perspective¹⁴, I do not consider the knoll where BRA 3 is located to be an appropriate location for development. I consider retaining walls that are large enough to be considered a building by the PDP definition of building may have impacts on the landscape values. In my opinion a non-complying resource consent pursuant to Rule 8.5.16 is the most appropriate way to manage the impacts buildings have on landscape values and the adjacent ONL.

4.5 Ms Ryder presents current consents as her reasoning for recommending much of the relief sought by APTL¹⁵. The Operative District Plan (**ODP**) Rural Visitor Zone (**RVZ**) enables building as a controlled activity pursuant to Rule 12.4.3.2.iii. This controlled activity status and the ability for many consents to have been granted that may be inappropriate for the greater landscape context, in my view, demonstrates the failings of the ODP RVZ. The zoning and overlays recommended in my s42A report are more suitable for the landscape context. I consider that the mix of MDRZ with BRAs and HDRZ are the most appropriate way to address the impacts on the landscape while enabling landowners to provide for their economic wellbeing.

4.6 Finally, Ms Ryder outlines concerns that a resource consent for a whole site is assessed as per the most restrictive part of the application¹⁶. In my view this is not the case, as the provisions that apply to the MDRZ are used for the portion of the site zoned MDRZ and the provisions that apply for the HDRZ apply for that portion of the site zoned HDRZ. My recommendation from my s42A report remains unchanged.

14 QLDC Rural Visitor Zone Review Landscape Assessment
15 Paragraph 22
16 Paragraph 67

**5. JOHN EDMONDS FOR CORONET PEAK PROPERTIES LIMITED (CPPL)
(31040)**

5.1 Mr John Edmonds has filed evidence in relation to the rezoning of 161 Arthurs Point Road. Mr Edmonds states at paragraph 27 that CPPL disagrees with my recommendation to end the HDRZ at the toe of Mt Dewar. Additionally, Mr Edmonds notes that the activity status of Visitor Accommodation should be Controlled rather than RD.

5.2 Ms Mellsop's landscape report¹⁷ recommends that the flat areas have the greatest ability to absorb development, and the sloped area only able to absorb low density sensitively designed development. Therefore, developing the sloped area to a density allowed for by the HDRZ could negatively affect the landscape values around Arthurs Point North. Additionally, while split zoning is not as simple as single zoned sites, cadastral boundaries have no relationship to the environment. I consider the toe of Mount Dewar is a legible edge to the zone, whereas, if it were to continue up the slope there would be no easily definable edge to the zone. At paragraph 31, Mr Edmonds states *"the portion of the site to be zoned MDRZ is small and will not change the overall anticipated development on the site"*. After undertaking yield calculations¹⁸ (Table 1), I consider that MDRZ results in much less development on the site than HDRZ. The area recommended to be MDRZ on their site is approximately 2450m².

Table 1: Yield and coverage calculations for small section of APLT site.

	MDRZ	HDRZ
Yield	6	14
Maximum coverage	45%, approx. 750m ²	70%, approx. 1166m ²

5.3 I consider the MDRZ best manages the impacts on the environment while allowing landowners to appropriately develop their land for their economic wellbeing.

5.4 In response to the request to make Visitor Accommodation controlled activity status rather than RD I consider there may be times when we would not want to grant a consent for visitor accommodation in the

17 QLDC Rural Visitor Zone Review Landscape Assessment

18 Calculated using 32% for roads and infrastructure allowances and an area of 250m² for MDRZ density and 115m² for HDRZ density

HDRZ at Arthurs Point North, particularly given the purpose, objective and policies of the zones. In my view, a Controlled activity status could have negative social impacts for those living and visiting the Arthurs Point North area, particularly as the definition of Visitor Accommodation includes “*services or facilities that are directly associated with, and ancillary to, the visitor accommodation*”. The RD activity status is consistent across all of the residential zones¹⁹ and applies to other HDRZ areas which have existing visitor accommodation activity such as the HDRZ along SH6A. I consider an RD activity status better meets the objectives and policies of the zone and allows landowners to apply for a resource consent in order to have the social, economic and environmental effects of the particular development appropriately taken into account. Therefore, I consider the RD activity status to be more appropriate than the Controlled activity status sought by CPPL.

SUBMITTER EVIDENCE ON TEXT AT ARTHURS POINT NORTH

6. TONY KOIA AND DAVID HAPPS FOR KOIA ARCHITECTS QUEENSTOWN LIMITED, KOIA INVESTMENTS QUEENSTOWN LIMITED AND RAKAU QUEENSTOWN LIMITED (31004).

- 6.1** Mr Tony Koia and Mr David Happs have filed a joint statement in relation to the gross floor area (**GFA**) of commercial activities, setbacks from State Highways and recession planes. The statement does not mention any qualifications nor refers to the Code of Conduct, but I assume they are both architects.
- 6.2** Their evidence is for the whole Arthurs Point North area rather than a specific site.
- 6.3** Regarding Rule 9.4.1 which limits the GFA of commercial activities in the HDRZ, Mr Koia and Mr Happs feel that 100m² is a very small area for commercial uses²⁰. They consider the activity status for commercial activities over this rule should be Discretionary rather than Non-

19 LDSR- 7.4.6A, MDRZ-8.4.11, HDRZ-9.4.6
20 First paragraph of the second page of their statement.

Complying; they also consider that commercial recreation should not be considered separately from commercial activity²¹.

- 6.4** The objectives and policies of the HDRZ direct that commercial development is small scale and generates minimal amenity value impacts²² and ensure that commercial development is of low scale and intensity²³. I consider the GFA of 100m² is of low scale and intensity. I acknowledge that there are commercial operations in the Arthurs Point North area that are greater than 100m².
- 6.5** However, I have insufficient information to recommend a GFA for which an RD activity status may be appropriate to apply in the Arthurs Point North HDRZ. The submitter has not provided economic evidence to support their proposal of an increase from 100m². I consider an economic assessment would be useful to assess whether provision of larger GFA would undermine the viability and role of other commercial centres. I consider that if an RD activity was included for a larger GFA it would still be appropriate to have a NC activity status for large commercial activities so that the commercial activities did not develop at a scale inappropriate for the HDRZ. I consider it is appropriate that commercial and commercial recreation activities are considered separately, as they generate differing environmental effects.
- 6.6** They state that the setbacks from Arthurs Point Road should be 2m. I note that Arthurs Point Road is not a State Highway and therefore, for the HDRZ the setback from the road would be 2m.
- 6.7** Mr Koia and Mr Happs consider the flaws of recession plane rules and propose a height in relation to boundary rule as an alternative. Recession planes are used in the PDP residential zones as an approach to manage the effects of buildings on adjacent sites; these include shading and privacy effects. I consider recession planes are an appropriate management method of effects of buildings on adjacent sites.

21 Page 2 of the joint statement.
22 Objective 9.2.5
23 Policy 9.2.5.1

6.8 There is an exemption to the recession plane rule where recession planes do not apply to site boundaries adjoining a road. The non-compliance status of recession planes is an RD when HDRZ is on both sides of the boundary which I don't consider to be overly onerous. I agree that there are flaws in using recession planes to manage these effects as outlined by Mr Koia and Mr Happs²⁴. I consider there may be benefits of using the sliding scale method outlined in their evidence.

6.9 However, in my view this method would be inconsistent with the way the effect of buildings on adjacent properties is managed in the balance of the HDRZ and in other residential zones. I therefore consider it would be inefficient and unduly complicated to apply this method to Arthurs Point North only, whilst utilising the established method of height recession planes throughout the balance of the HDRZ. My recommendation from my s42A report remains unchanged.



Emma Jane Turner

12 June 2020