

26 July 2018

Commissioners my name is James Hadley. Thank you for the opportunity to speak today.

I am appearing before you today as a long term resident of the Wakatipu Basin and a submitter under this process. I generally support the submission and outcomes requested by Rebecca Hadley.

I have been following the hearings over the last couple of weeks and have listened to the recordings of various submitters and the questions of the Commissioners. The purpose of my submission today is to attempt to assist you by highlighting some of the “noise” that has been generated by some submitters in relation to the Arrowtown to North Lake Hayes area of the Basin.

I have noticed that recently you have been asked to consider;

1. That Millbrook is an urban place.
2. That Urban Growth Boundaries should be extended and amalgamated to include areas which are now purported to be urban.
3. That certain properties have no access.
4. That roads subject to appeal are fait accompli and will be built.
5. That public walkways are not public.

In particular, Mr Goldsmith for Ayrburn, likes to confuse parties to this process by creating the illusion of certainty over many of these items.

### **THE CLAIMED NO ACCESS TO WATERFALL PARK**

It concerns me that Mr Goldsmith has represented to you under questioning that Waterfall Park does not have a legal access. This is errant nonsense. It does. Councils own GIS mapping system even refers to it as “Waterfall Park Road”. I have attached a drawing which highlights this access and connection to Arrowtown – Lake Hayes Road.

Yes, the existing road formation serving the land meanders across other property, but the fact remains that should one choose to do so it is feasible to construct an access to the Waterfall Park land using the existing Road Reserve provisions.

If there is a capacity limit associated with such an access, that is a constraint which can be overcome by a commercial solution. It should not be a matter for a PDP hearing to resolve, facilitate or accommodate. The land ownership is in fact now common so access re-routing is no longer constrained by the existing road reserve boundaries and indeed a northern alternative has now been confirmed by Waterfall Park/Ayrburn – where under questioning by Commissioner Robinson it was also conceded that third party land approval for this access was not required.

In essence, the supposed lack of access to Waterfall Park has been used as a lever to justify the creation of an all new road corridor of significant scale to unlock requested new development areas in Ayrburn. Mr Goldsmith has acknowledged that this road is subject to an appeal to the Environment Court, but likes to paint the picture that this road, or some similar road, is a certainty because of his claimed access constraint. The validity of that claim will be tested in the fullness of time, but I submit that it cannot be relied on in decision making at this juncture. I also have faith in the insight of the Environment Court.

Mr Dent, the flood expert for Ayrburn, when questioned by Commissioner Robinson, has confirmed that he relies on the all new road as an integral part of his flood mitigation work to achieve a “tolerable” level of flood risk. To be clear, it is the location of the road that is integral in Mr Dent’s solution.

So, in the case of the Ayrburn/Waterfall Park road, we actually have the perverse situation where a road has been proposed and sited using the following design drivers;

1. An all new road is required to the south so we can conduct flood mitigation work which in turn will allow land development. Specifically, the road is required so it can dam and attenuate flood water. This is the main priority.
2. That to justify the all new road and its location (to facilitate the flood mitigation work), we will claim there is no existing access and that an alternate more northern location of a new or upgraded access is also not feasible.

All other planning arguments, including landscape, have then been retrofitted around these drivers. To me, this is poor practice in a sensitive landscape.

## **COUNTRYSIDE TRAIL**

The 'Countryside Trail' walkway from Christine's Hill near Millbrook to Speargrass Flat Road is another area where Mr Goldsmith likes to take some license. He is desperate to get relief from the small percentage of the trail which utilises an easement rather than road reserve so that he can avoid classification of views from this area as being those from a Public Place. A simple inspection of any accurate drawing will confirm the vast majority of the trail is within existing road reserve and regardless, meandering in and out of an unseen surveyor's line does not change the reality for the many trail users.

This Countryside walkway was one of the first created by the Wakatipu Trails Trust and it has become iconic to users. It is a very popular trail with high numbers of users and probably one of the highest proportions of pedestrian users in the rural parts of the Wakatipu Basin. Data from the Wakatipu Trails Trust shows that this trail had 7,000 users in 2017 and extrapolating year to date data is tracking towards 9,000 users in 2018. Living next to the trail since it's construction nearly 10 years ago, and being a frequent user, I feel qualified to talk to its qualities.

Mr Skelton was lyrical about the Arrowtown – Lake Hayes Road and it's iconic nature with various highlights, "breathing space" and 'sense of place' along it's route. The Countryside Trail on the western boundary of the proposed Ayrburn rezoning is exactly the same, except I submit the experiential nature for a pedestrian or a cyclist is much more intense than for a visitor or resident driving inside a hermetically sealed vehicle along a road. As such, it needs to be treated with even greater respect and sensitivity.

Whilst I am sure you have done a site visit to this area I encourage you to experience the trail - not as Commissioners on a cold winters day in June with leaves off the trees and probably with a guide providing a distracting commentary, but as normal human beings free of mind.

You will find travelling south that as you leave the resort feel of Millbrook you immediately notice the transition to the ruralness of the descent where you will see wildlife (native hawks and falcons, rabbits, other birdlife), you notice the open paddocks as a stark transition to what you have just left behind at Millbrook. You get a sense of freedom (breathing space) and you are then called to walk to what is the next settlement (being the edge of the existing north lake hayes area) but which is also clearly different to the resort feel of Millbrook which you have just left. These are all highlights on this journey that provide a sense of place to users. Should the

Ayrburn proposal proceed this crucial breathing space and contrast provided by the existing Rural General zoned paddocks east and west of the trail will be lost on this iconic section of the walkway. Many people will simply say – what simpleton allowed this?

Various experts, including those from Ayrburn, talked about the need to protect the openness of the farm paddocks each side of Arrowtown – Lake Hayes Road before the climb up McIntyre’s Hill. My point here is that the same is true in reverse from the Public Walkway on the western boundary of Ayrburn. You can’t have it both ways. If you value one then you must value the other. It is irrational to argue otherwise.

Similarly, you can not argue protection of a sense of place on the walkway by arbitrary application of simple setback of 75m used for roads. This is particularly so from an elevated view. There is no parallel between the relevance of a State Highway setback with development already on one side of the highway and an iconic pedestrian walkway. In one case you are travelling at speed inside a sealed motor vehicle and in the other you are external, moving at slow speed or stationary and open to all sensory experiences including noise and smell.

Ms Gilbert for QLDC has attempted to infer some relevance to a setback used on a section of trail through the Lower Shotover Triangle. This trail is not comparable with the Countryside trail from Millbrook for the following reasons;

- It is adjacent modified land presently with no building development so gives the impression of a larger setback than really exists. Further, the modified land includes artificial mounding (ironically conceived by Mr Goldsmith and his cohorts) akin to a World War I embattlements which provide little or no sense of place.
- The approach to the trail is not viewed from elevation and does not ‘draw’ a user to the next location as occurs with the Countryside trail – this section of Triangle trail is merely a conduit at this location.

I submit that Ms Gilbert suggested setback of 75m is of more benefit to the privacy of residents in future developments than it is to the protection of the landscape and trail users. In other words, the minority benefit from her solution.

The semantics around Urban Growth boundaries has been hard to listen to. I tend to rely on my school certificate geography and I wonder if amongst all the legal bluster whether having a look at some town planning fundamentals might be useful.

Taking the wider Arrowtown area to include Millbrook to McDonnell Road and Arrowtown to North Lake Hayes, I see that if all rezoning proposals are approved by you we will end up with;

- a development footprint which is 5 or 6 times as large as the current Arrowtown township.
- The population in this area or mesh block will more than double.
- No substantive change in employment or business zoning within Arrowtown will occur commensurate with a doubling in population.
- A continuous ribbon of development from Arrowtown to Ladies Mile to Frankton will result. Mr Skelton's Arrowtown – Lake Hayes road journey will have different sorts of highlights.
- A mixture of densities, but predominantly rural residential type development and densities. Most importantly there will be an incongruous bookend at North Lake Hayes being the highly urbanised and isolated Ayrburn Zone. So, moving north to south you will go from urban Arrowtown to low density rural residential or resort zones to highly urban Ayrburn – it's even hard to say.

When I look at this outcome I think it is poor in a landuse and a living sense. People are being encouraged to live away from their places of employment when frankly this is not required. It is not a responsible position to take.

I am particularly concerned about the Ayrburn and Waterfall Park proposals as in my view it will be the straw that breaks the camels back in terms of permitting the poor outcomes I have just highlighted. Ms Gilbert has opined that the Ayrburn land and Waterfall Park have already been the subject of 3 unsuccessful SHA proposals along with other development proposals and as such some development on the land is inevitable. I think that viewpoint is myopic.

What Ms Gilbert fails to acknowledge is the counterfactual. That is, there has been no development for very good reason and those before her, and indeed those before you, Commissioners, have recognised the sensitivity and importance of the area over some decades and chose not to permit development.

In closing on Ayrburn, I will call a spade a spade. It is clear that Ayrburn has become a thorn in the side of Council in terms of consent and planning administration. That is not reason enough to resile from sound practice and yield to the weight of submission from a property developer who continues to try and squeeze more from the land than it will give – “sweating the asset” I think is the modern parlance. The land is the land and it has some basic constraints and always has. It is worth remembering that the Council, nor anyone else, made the developer purchase the land. Put simply, I don't expect relief from others when I do something silly and I fail to see why the Council or anyone else should depart from good practice and be obligated to provide

any form of relief in this instance. Let's at least send it to the Environment Court with a sound and principled solution.

## **AVENUE TRUST AND XRAY TRUST**

I wish to briefly mention Avenue Trust and Xray Trust. I understand Mr McGuinness has already given a submission which highlighted the illegal earthworks which were irresponsibly performed at 471 Speargrass Flat Road. I have a copy of the abatement notice with me if you would like a copy.

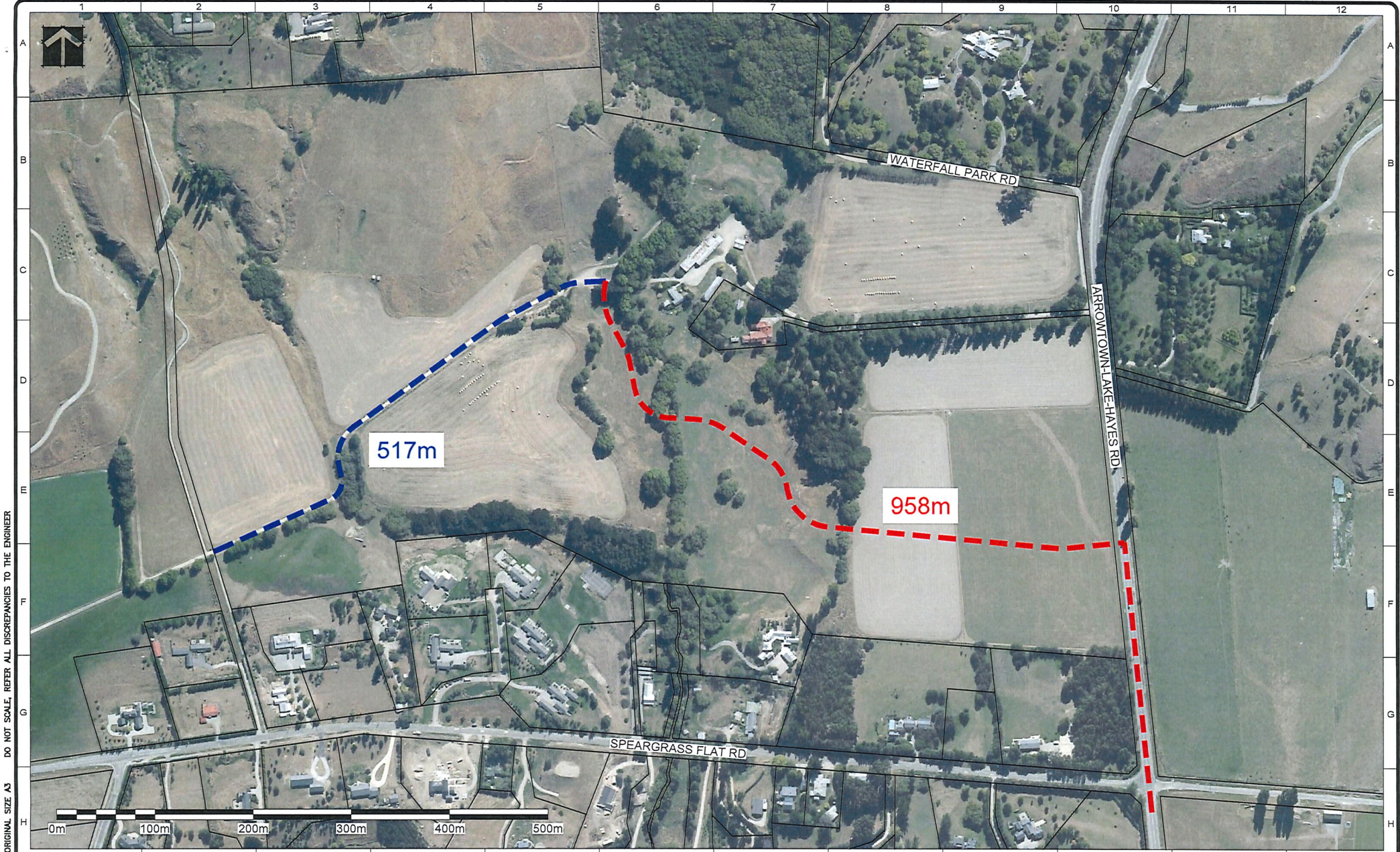
What this issue has highlighted for me – and indeed I'd like to think for you – is that Ms Gilbert can not treat her Precinct Zones in isolation without considering the very significant consequential effects of providing physical access or enabling works across other landscape areas she wishes to protect.

Ms Gilbert has highlighted the need to protect the open landscape along the north side of Speargrass Flat Road and I strongly support this view. However, she undermines that position by then identifying plateau land at elevation (which can only be accessed from Speargrass Flat), as Lifestyle Precinct. The illegal earthworks at 471 Speargrass Flat Road highlight how the landscape Ms Gilbert wishes to protect, will be compromised and damaged by the enabling works which will no doubt be argued at the time of resource consent as fait accompli because of her other Precinct zoning. It is my submission that this is clear evidence that her analysis of this element of LCU8 is flawed. As such, both the nodal flats proposal by Avenues and X-ray Trusts and the Precinct Zoning on the upper plateau area should not be permitted.

Finally, I wish to commend the effort of Ms Gilbert and QLDC in producing the WBLUS. However, I am concerned that there is a tendency to rely on Ms Gilbert's view without question.


My point here is again one of first principles. I totally agree with appointment of an independent party external to the District to advise on the WBLUS ahead of those with any local expertise or bias, but it defies logic (and indeed probability) that the independent import will be correct 100% of the time while the locals will be wrong 100% of the time. There will surely be a balance, and at some point, a clear justification for taking heed to some extent of those who have practiced in the District for some time. In this regard, I see no reason for you as a Commission to adopt in whole Ms Gilbert's landscape classifications without amendment, and nor should it come as a surprise to Ms Gilbert should you choose not to adopt all of her recommendations.





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Form 48

**ABATEMENT NOTICE**

**Section 324, Resource Management Act 1991**

- To: Base Contracting Limited  
As the company undertaking works at 471 Speargrass Flat Road, Wakatipu Basin, 9371. Address for Service for Base Contracting Limited: [REDACTED]
- To: Haylee Maree Pyle  
In their capacity as owner of 471 Speargrass Flat Road, Wakatipu Basin, 9371.  
Address for service for Haylee Maree Pyle; [REDACTED]
- To: Craig Leonard Heatley  
In their capacity as owner of 471 Speargrass Flat Road, Wakatipu Basin, 9371.  
Address for service for Craig Leonard Heatley; [REDACTED]
- To: Gregory Bernard Horton  
In their capacity as owner of 471 Speargrass Flat Road, Wakatipu Basin, 9371.  
Address for service for Gregory Bernard Horton; [REDACTED]
- To: Sophia Louise Heatley  
In their capacity as owner of 471 Speargrass Flat Road, Wakatipu Basin, 9371.  
Address for service for Sophia Louise Heatley; [REDACTED]

**1. Queenstown Lakes District Council gives you notice that, in accordance with section 322(1)(a) i and ii of the Resource Management Act 1991 you must take the following action:**

Clause 1: Cease all unlawful works on the property, 471 Speargrass Flat Road, Wakatipu Basin, 9371 until such time that an appropriate resource consent has been granted, unless information can be provided to Council from a suitably qualified person demonstrating compliance with Queenstown Lakes District Plan Rules.

**2. The location to which this abatement notice applies is:**

471 Speargrass Flat Road, Wakatipu Basin, 9371 – Legally described as LOT 3 DP 475822

**3. You must comply with this abatement notice within the following period:**

Clause 1: Immediately

**4. This notice is issued under sections 322(1)(a) i and ii of the Resource Management Act 1991.**

**5. The reasons for this notice are;**

I Jackson Kevin Hurley, Enforcement Officer appointed as an Officer of the Queenstown Lakes District Council, pursuant to section 38(1)(a) of the Resource Management Act 1991, have reasonable grounds to believe that you are contravening a provision of the Queenstown Lakes District Plan, namely rule 22.3.3 (ii)(a) Height of cut and fill and slope, Rural General:

**(a) Rural General Zone, Rural Visitor Zone and Gibbston Character Zone:**

- (i) No road, track or access way shall have an upslope cut or batter greater than 1 metre in height, measured vertically.**
- (ii) All cuts and batters shall be laid back such that their angle from the horizontal is no more than 65 degrees.**
- (iii) The maximum height of any fill shall not exceed 2 metres.**

The issuing of this abatement notice follows correspondence with [REDACTED] of Baxter Design including the following:

**On 20/06/2018** Following a complaint from a member of the public, Queenstown Lakes District Council Monitoring and Enforcement officer Jackson Hurley undertook a site inspection at 471 Speargrass Flat Road. On site Mr Hurley had a discussion with an Employee of Base Contracting Limited, from this discussion and observations of works Mr Hurley formed a belief that works had nearly been completed.

**On 03/07/2018** Following a request for information surrounding the subject works by Mr Hurley, [REDACTED] (Project Manager) provided photographs of the site before works had commenced and generally explained plans for the works, including details on sections of gabion basket retaining walls to be installed.

**On 04/07/2018** From review of the information provided Mr Hurley formed a belief that the subject works breached Queenstown Lakes District Plan Rules and Emailed [REDACTED] explaining that as a result of the breaches an application for a retrospective resource consent is required by 13<sup>th</sup> July 2018. At this time works were permitted to continue due to believing the majority had been completed.

**On 05/07/2018** Mr Hurley received photographs that demonstrated that further works had taken place beyond what was anticipated. Therefore Mr Hurley issued a verbal cease works to [REDACTED] until such time that appropriate consents had been acquired, [REDACTED] accepted this request.

- 6. If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below).
- 7. You have the right to appeal to the Environment Court against the whole or any part of this notice. If you wish to appeal, you must lodge a notice of appeal using form 49 with the Environment Court within 15 working days of being served with this notice.
- 8. An appeal does not automatically stay the notice and so you must continue to comply with it, unless you also apply for a stay from an Environment Judge under section 325(3A) of the Resource Management Act 1991. To obtain a stay you must lodge both an appeal and a stay with the Environment Court.
- 9. You also have the right to apply in writing to the Queenstown Lakes District Council to change or cancel this notice in accordance with section 325A of the Resource Management Act 1991.

**10. Queenstown Lakes District Council authorised the enforcement officer who issued this notice. Its address is:**

Queenstown Lakes District Council, Private Bag 50072, Queenstown. Telephone number (03) 441 0499 or Email [services@qldc.govt.nz](mailto:services@qldc.govt.nz)

**11. The enforcement officer is acting under the following authorisation:**

Jackson Kevin Hurley Enforcement Officer appointed under section 38(1) of the Resource Management Act 1991 by the Queenstown Lakes District Council has authority to issue and serve abatement notices under section 322 (1) of the Act. Warrant Holder Number: 6105

.....  
Signature of enforcement officer

.....  
Date