

Before the Queenstown Lakes District
Council

In the matter of the Resource Management Act 1991

And **The Queenstown Lakes District Proposed District Plan –
Topic 14**

Legal Submissions for

Skipp Williamson (#2822)

Dated 24 October 2018

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**anderson
lloyd.**

May it please the Panel

Introduction

- 1 These legal submissions are presented on behalf of Skipp Williamson (**Williamson**) (Submitter #2822). Williamson has lodged a submission (#2272) and further submission (#2822) on stage 2 of the Proposed District Plan (**PDP**) Topic 14.
- 2 Williamson also lodged a submission on Stage 1 of the PDP (#499) which was supported by a landscape report prepared by Vivian+Espie.
- 3 Williamson lodged these submissions in relation to land which she has an interest in on Mooney Road. This land is legally described as: Lot 1 DP 502810, Lot 2 DP 502810, Lot 1 DP 27602, Lot 2 DP27602, Lot 1 DP 22111, Lot 2 DP 27112, Lot 2 DP 310442, Lot 1 DP 343305, Lot 2 DP 319853, Lot 1 DP 319853, Lot 1 DP27112 and Lot 1 DP 21960 (together **the Land** and outlined in blue on the plan attached to the Williamson further submission as **Appendix A**).
- 4 The Stage 1 submission (#499) sought a Rural Lifestyle zoning over the elevated area within the Land including some of the 'roll-over' slopes at the edges of Wharehuanui Hills and applied a building restriction area to some of the roll-over areas.
- 5 Submission #2272 supported the notified Wakatipu Basin Lifestyle Precinct (**WBLP**) over the Land subject to refinements. The refinements sought to move the WBLP boundary in accordance with the submission lodged on Stage 1.
- 6 A submission lodged by Millbrook Country Club (**MCC**) (#2295) opposes parts of the Land being identified within the WBLP. The areas of the Land that are affected by the MCC opposing submission are hatched in red on the plan attached to the Williamson further submission at **Appendix A**.
- 7 Council did not notify the MCC submission before the first hearing for Topic 14. The MCC submission was notified after the hearing and Williamson lodged the further submission.
- 8 The MCC submission sought to oppose a number of WBLP zonings adjacent to the Millbrook Resort Zone. In particular, MCC sought that land above the 440masl contour on specific WBLP properties, be amended to the Wakatipu Basin Rural Amenity Zone (**WBRAZ**).
- 9 The reasons for the relief sought are not clear in the submission; however appear to relate to potential concerns as to effects on MCC land.

- 10 Under the Operative District Plan (**ODP**) the Land is identified on Planning Map 26 as Rural General Zone.
- 11 Today we will be calling evidence from Mr Carey Vivian (planner) and Mr Stephen Quin (landscape architect) in support of the Williamson submissions.

Further submission #2822

- 12 In the Williamson further submission she supports the findings of the Wakatipu Basin Landscape Study (**WB Study**) and the Council's section 32 analysis of Chapter 24, which identified the Land as WBLP.
- 13 The submission notes that these findings are based upon sound landscape and planning analysis for the relevant areas, and reflect the nature of the Land having capacity to absorb effects of further rural living subdivision and development.
- 14 In contrast the MCC submission does not refer to any planning or landscape analysis or evidence so as to justify why the notified zoning is opposed and the WBRAZ is more appropriate.
- 15 The Williamson further submission notes that the most efficient and effective use of the Land is for future rural living and development use, and therefore it should be identified as WBLP, as notified. The entirety of the MCC submission was opposed for these reasons.

Topic 14 initial hearing

- 16 At the initial Topic 14 hearing Mr Vivian presented evidence on behalf of Williamson in respect of the original submission (#2272). That evidence supported the WBLP line as notified.
- 17 Mr Vivian was not aware of the MCC submission as it had not been notified. His evidence will explain how he was presented with the MCC submission by the Panel at the hearing and questioned about the proposed MCC zone boundary line on the 440masl contour on the spot and without the benefit of any landscape assessment.
- 18 Since the hearing Mr Vivian has had the opportunity to revisit the site with Mr Quin and relying on Mr Quin's detailed assessment and expert opinion he has arrived at a slightly different conclusion than the one he presented at the hearing.
- 19 His evidence concludes that the best planning outcome for the Land is to accept the MCC and Williamson submissions in part by positioning the WBLP zone boundary in the location assessed and drawn by Mr Quin which will be presented in his evidence.

Summary of Williamson position

- 20 The Williamson Land is located within LCU 6 Wharehuanui Hills. The WB Study identified LCU 6 as being suited to absorb additional rural residential development.
- 21 The Williamson submission (#2272) expressed support for the Variation including the proposed minimum and average lot sizes and the description of LCU 6.
- 22 Since the initial Topic 14 hearing Williamson has taken expert landscape and planning advice regarding the location of the WBLP boundary on the Land and how this could be amended to address concerns raised by the Panel, submitters and the Council. The expert analysis that lead to that advice is outlined in the evidence of Mr Quin and Mr Vivian.
- 23 Mr Vivian's evidence concludes that the best planning outcome for the Land is to accept the MCC and Williamson submissions in part by positioning the WBLP zone boundary in the location assessed and drawn by Mr Quin. The line that will be produced by Mr Quin is not considerably different in location compared to the Council's latest position and MCC's position. However, it is well supported by a slope sensitive expert analysis by Mr Quin.
- 24 Adoption of Mr Quin's line will result in the deletion of part of the Landscape Feature line and will require consequential amendment to Schedule 24.8 LCU Mapping (in relation to the hillside "roll-over" area) and the Schedule 24.8 LCU 6 Wharehuanui Hills Description.

MCC position

- 25 Leading up to this hearing we have consulted with MCC regarding the location of the WBLP zone boundary with a view to reaching agreement.
- 26 Counsel for MCC has advised me that MCC has carefully considered its position in respect of the landscape feature that is the ridge line which lies (northwest / southeast) in the vicinity of its boundary with Williamson and the on-going integrity of that landform in terms of the relief that it sought.
- 27 The relief sought by MCC in its submission is that WLBP be removed from (both parcels of land identified on the plan attached to its submission) above 440masl. MCC since advised it is now content for that upper limit to be raised to 475masl, which is consistent with zoned development on the eastern side of the ridge line (Millbrook Resort Zone R16 AA).

28 The boundary line proposed by Mr Quin following his assessment is between the 440masl and the 475masl contour. A plan showing the location of Mr Quin's line was presented to MCC and it has confirmed support of his boundary line.

Council's position

- 29 The Council's section 42A recommendation in respect of the Williamson submission (#2272, #499) was that it is accepted in part (to the extent that the WBLP is retained as notified)¹.
- 30 Mr Langman states in his evidence that the submission has been considered by Council's landscape expert and he supports the WBLP as notified (without any changes to the boundaries of the WBLP as requested by Williamson).
- 31 Mr Langman also noted that no site specific infrastructure, traffic or ecology issues were raised by Council witnesses in relation to the Williamson submission.
- 32 Mr Langman relied on Ms Gilbert's assessment of the submission in her evidence. Ms Gilbert's evidence noted that the extent of the WBLP identified for LCU 6 is very similar to the Williamson request in Stage 1 but not identical. She states that the LCU boundary is consistent with that applied throughout the remainder of the unit and follows the crest of the ridgeline landform.
- 33 Ms Gilbert notes that the Williamson zoning request appears to deviate from the ridgeline crest landform and that to adopt a different methodology in this location raises issues of consistency, and could potentially lead to adverse landscape character and visual amenity effects in relation to LCU 8 Speargrass Flat².
- 34 On that basis, Ms Gilbert opposed the relief sought in the submission to move the WBLP boundary (subsequently rezoning additional land as WBLP) and delete the landscape feature. In her evidence Ms Gilbert notes that the LCU boundary as notified (and therefore WBLP) mapping methodology applied (in the Variation) to this portion of LCU 6 is consistent with that applied throughout the remainder of the unit (and in other elevated landscape units such as LCU Dalefield) and follows the crest of the ridgeline landforms. She further states that:

...LCU (and consequently, the Precinct) delineation methodology ... seeks to use geomorphological boundaries as a first preference (wherever practicable) in recognition of the importance of landform and hydrological patterns in shaping the landscape character of the Basin and to assist in containing the potential for (rural residential) development sprawl³.

¹ Statement of Evidence Marcus Langman 30 May 2018 section 18 page 51

² Ibid paragraph 18.2

³ Statement of Evidence Bridget Gilbert 28 May 2018 paragraphs 19.5 and 19.6 page 47.

35 Ms Gilbert's evidence addresses the submissions of Moloney (#2129) and Nancekivell (#2171) which opposed the identification of the WBLP throughout Mooney Road and sought WBRAZ instead. Ms Gilbert notes in her evidence that their reasoning would appear to focus on water quality, traffic, reverse sensitivity and wastewater issues and that rural character is also mentioned albeit somewhat obliquely⁴.

36 In defending the notified line Ms Gilbert references the WB Study and notes that the study found in relation to LCU 6:

Generally, the area reads as a rural residential landscape in which buildings are reasonably well integrated by landform and vegetation. Whilst larger, more rural lots are evident overall the amenity plantings through tend to contribute to parkland rather than a working rural landscape impression⁵.

37 Ms Gilbert opposed the re-zoning request and concluded that:

This means that while there are some productive properties present within the unit they do not dominate the character of the area. Rather, a reasonably attractive rural lifestyle land use tends to typify the landscape character of LCU 6. Within such a context (and bearing in mind the relatively visually discreet nature of the majority of the unit and its sympathetic landform patterning) additional rural residential development is considered to be appropriate from a landscape perspective...

In my opinion, the consideration of landscape driven assessment criteria that will be required as part of any future subdivision application within the Precinct will ensure that development is responsive to the site specific circumstances and the (visual) amenity of neighbouring properties...the landscape-driven assessment criteria can provide confidence that future subdivisions will be evaluated cognisant of the landscape context in which they are located.⁶

38 Ms Gilbert also considered the MCC submission seeking to restrict the extent of the WBLP in parts of LCU 6 adjacent to Millbrook in her evidence even though the submission had not been notified. She found that virtually all of the south western portion of the Millbrook resort is above the 440m contour thus rendering an argument of visual prominence of development above the 440m contour 'somewhat curious'⁷. She concluded that the Landscape Feature setback, requirement for all subdivision to be a restricted discretionary activity (as a minimum) with landscape driven assessment, will safeguard the visual amenity and landscape character of the Millbrook zone such that the (suggested) 440m contour line restriction is not considered necessary⁸.

⁴ Ibid, paragraph 20.2

⁵ Ibid paragraph 20.3

⁶ Ibid paragraphs 20.4, 20.5 and 20.6

⁷ Statement of Evidence B Gilbert paragraph 57.21

⁸ Ibid paragraph 57.24

- 39 Overall Ms Gilbert's evidence strongly supported the WBLP line as notified. However, following the Topic 14 hearing Ms Gilbert prepared a brief of evidence in reply dated 10 August 2018 (**Reply Evidence**) where she changed her view regarding the location of the WBLP boundary line⁹. Ms Gilbert notes in her Reply Evidence that the Panel queried the extent of the WBLP at the eastern end of LCU 6, specifically in relation to the steep land separating the Mooney Road basin from Millbrook.
- 40 Ms Gilbert considered that on reflection the boundary line should be adjusted in this location as depicted in Figure 5 and 6 of her evidence¹⁰. She justifies this change in position by noting that in considering the effects in relation to Bendemeer she also reviewed the WBLP mapping in this location and closely examined detailed elevation, contour and slope analysis mapping together with site photographs. With respect to the steeper land separating the Mooney Road basin from Millbrook she amended the WBLP line to run along the base of the steeper landform resulting in the steeper land being identified as WBRAZ.
- 41 Mr Quin has considered the location of Ms Gilbert's line in detail and has also closely examined the site topography, landscape features and surrounding views into the site. He considers the line should be located in a slightly different position to that proposed by Ms Gilbert. His evidence considers the areas where the two experts' lines diverge and he explains his assessment and rationale for the divergence.
- 42 Ms Gilbert also considered whether small portions of steeper land to the west of the amended area should also be excluded from WBLP but concluded:
- In my opinion, the very limited scale (extent) and the fragmented patterning of these steeper slopes, together with the patterning of existing rural residential development (which sees buildings through these fragmented steeper areas, albeit on localised elevated land that is of easier contour) suggests a reduced landscape sensitivity. Further, the Precinct assessment criteria that promote the retention of existing landform patterns and the retirement and restoration of steep slopes, and require the consideration of visual effects in views from public places and neighbouring properties, in combination with the Landscape Feature Setback (50m) will ensure the Precinct is appropriate in these discrete locations¹¹.*
- 43 This reasoning and conclusion is consistent with Mr Quin's opinion.
- 44 A further statement of evidence was prepared by Mr Langman dated 15 October 2018 for the purposes of this hearing. Mr Langman addresses the Williamson further submission and notes that the area of concern identified in the further

⁹ Statement of Evidence in Reply Bridget Gilbert dated 10 August 2018 section 7 page 11

¹⁰ Ibid paragraph 7.3

¹¹ Ibid paragraph 7.5

submission is impacted by Ms Gilbert's view in her Reply Evidence. Mr Langman considers that the zone boundary proposed by Ms Gilbert is the most appropriate for achieving the objectives and policies of the plan¹². Mr Vivian disagrees with this view and prefers Mr Quin's zone boundary.

- 45 Mr Langman also notes that the restricted discretionary activity status provided for in Reply Rule 24.4.5 and assessments under Reply Rule 24.7.3 are sufficient to manage the adverse effects of built form on landscape character and amenity in the area as a result of the Precinct zoning¹³. This position is consistent with Mr Vivian's opinion and evidence on the protection afforded by the restricted discretionary status and assessment matters.

Conclusion

- 46 At the previous Topic 14 hearing Williamson sought to retain the WBLP zoning as notified by Council in respect of the Land.
- 47 Council has now changed its position to support in part submission requests to remove the WBLP from elevated parts of the Land. The question is whether WBLP should be removed from the upper slopes and if so to what extent.
- 48 The relevant objectives and policies relating to this matter are noted in Mr Langman's evidence¹⁴. Mr Langman notes that these objectives and policies seek to protect, maintain and enhance landscape and visual amenity values, including providing for activities where they protect, maintain or enhance landscape values of the character units in Schedule 24.8.
- 49 Williamson supports these directives and Mr Vivian concludes in his evidence that these objectives and policies would be better served by lowering the WBLP boundary to exclude the upper and steeper parts of the Land¹⁵.
- 50 Should the proposed Variation zoning structure be adopted, on the basis of the evidence before you prepared by Mr Vivian and Mr Quin, it is entirely appropriate in this instance to recommend the WBLP boundary is located in the position illustrated by Mr Quin.

¹² Statement of Evidence of Marcus Langman dated 15 October 2018 paragraph 3.5

¹³ Ibid paragraph 2.4

¹⁴ Reply Objective 24.2.1 and 24.2.5 and policies 24.2.1.3, and 24.2.1.5, 24.2.1.8, 24.2.1.9 and 24.2.5.1

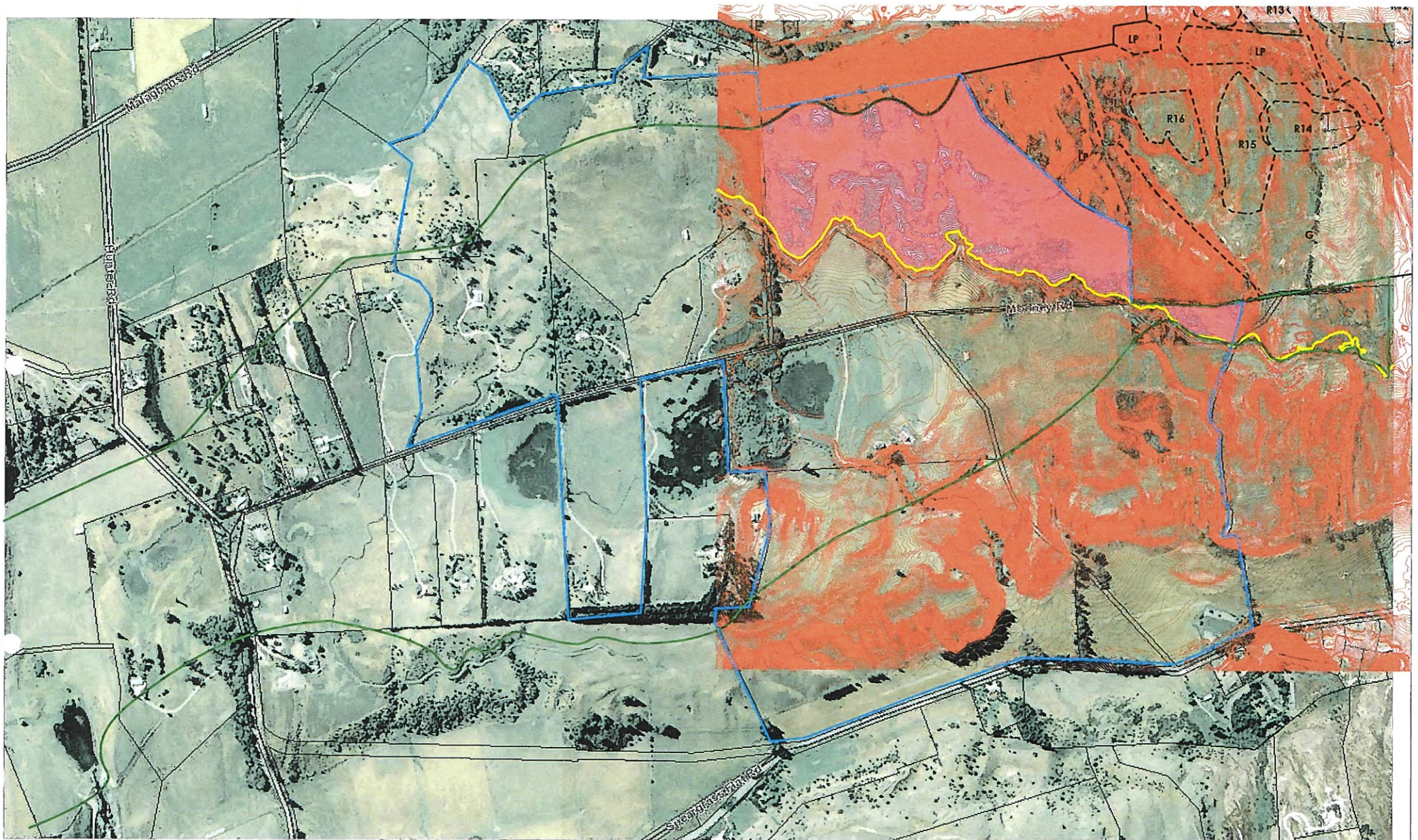
¹⁵ Evidence of Carey Vivian dated 24 October 2018 paragraph 6.2

51 Jurisdiction for the relief sought to amend position of the WBLP boundary as depicted by Mr Quin is provided by the Williamson submission on Stage 1 (#499) and the Variation (#2272) (#2822), the MCC submission (#2295), Moloney (#2129) and Nancekivell (#2171) submissions.

Dated this 24th day of October 2018



VJ Robb
Counsel for Skipp Williamson



The Millbrook submission seeks to rezone the pink area, above 440masl, to Wakatipu Basin Rural Amenity Zone. If not successful, the submitter would like to see this area zoned to Rural General as per the ODP.

Key

-  Property Boundary
-  Lifestyle Precinct as notified
-  440 masl contour

-  Millbrook Property Boundary
-  Millbrook Submission Area

- Millbrook Activity Areas
- R - Residential
- V - Village
- F - Recreational Facilities
- S - Resort Services
- G - Golf Course Open Space
- H - Helipad
- LP - Landscape Protection
- LPM - Landscape Protection (Malaghans)
- Activity Area Boundary

vivian+espie
 resource management and landscape planning
 SKIPP WILLIAMSON FURTHER SUBMISSION
 Mooney Road, Dalefield
 Drawn: KW Scale: NTS Date: 10.08.18 Ref: 1342/001