

Summary of Planning Evidence of Brett Giddens

1. My name is Brett Giddens. I have provided planning evidence in support of a number of submitters, as set out in my evidence in chief dated 19 June 2020. My qualifications and experience are detailed in that evidence.
2. The Council's proposal, as stated in the section 32 report, is to identify sites of cultural significance and protect the values of Wāhi Tūpuna through provisions in the district plan, primarily, this is through the introduction of a new Chapter 39.¹
3. I do not disagree with the importance of manawhenua interests in the district and I support recognising and providing for Wāhi Tūpuna within the Queenstown Lakes Proposed District Plan (**PDP**), through support from the Operative Regional Policy Statement (**oRPS**) and the Resource Management Act 1991 (**RMA**).
4. I summarise the issues raised in my evidence as follows:
 - a. Firstly, I find difficulties with the process adopted by the Council to get to 'where we are at' with Chapter 39, including what information was relied on to inform the initial section 32 evaluation that underpins the notified provisions. The result of my LGIOMA request confirms that very limited information was relied on. In my opinion, the evaluation falls well short in terms of section 32 (1) (c) which requires an evaluation report to contain "*a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal*", and also falls short in terms of its costs and benefit analysis [section 32 (2)] and the consideration of reasonably practicable alternatives [section 32 (1) (b) (i)].
 - b. Secondly, the timing for including the provisions of Chapter 39 into the PDP is problematic, taking into account that the PDP already includes numerous zonings that are beyond challenge. The proposed provisions have the effect in some cases of unwinding the activities that are enabled through those provisions.
 - c. Thirdly, the issues around what appears to be the arbitrary mapping of some Wāhi Tūpuna area in the District, and the lack of a Cultural Impact Assessment (**CIA**) specific to properties that are subject to the notified overlay. The burden of the risk, cost and uncertainty are placed on the landowner and I consider this is detrimental in terms of the "costs" analysis of the proposal under section 32 (2) of the RMA.
 - d. The provisions seek to establish a "restricted discretionary" planning regime that requires almost all activities within a Wāhi Tūpuna overlay into a consenting process that directs the requirement for consultation, a CIA and/or affected persons approval. If approval is not obtained from manawhenua, then the logical next step would be for an application to be considered at a limited notified hearing which comes with the risk of decline. While I consider that there will no doubt be areas and sites that should be afforded such protection, I struggle to see the justification for the overlay in all of its specific

locations, and the very broad triggers for restricted discretionary status, forcing what could easily be an expensive and protracted consenting process.

- e. And finally, I consider that it is notable that Chapter 5 (Tangata Whenua) of the PDP already contains strategic objectives and policies that give effect to the oRPS. In my opinion, there is no need for further duplication of objectives and policies within a district-wide chapter. If there are further provisions that are required to give effect to the higher order provisions then I consider that the most appropriate place is to have them within the respective zones in Part 3 and 4 of the PDP; this would allow consideration to be given to how any new Wāhi Tūpuna provisions sit against the objectives and policies, and rule framework for the respective zone.
5. In my opinion, it is likely that the provisions will have unintended consequences by increasing uncertainty, cost and risks to landowners subject to the Wāhi Tūpuna overlay.
6. Turning to the submitter's properties, to the best of my knowledge, I understand that the Council has not undertaken a CIA on any of these properties. The information that I was provided from the Council confirms what information was relied on to ascertain the cultural values under Chapter 39 and did not identify any information or values specific to the submitter's properties.
7. I am also unsure if there has been any formal response from the Council in regard to my query at paragraph [35] of my evidence where I refer to where the overlay traverses only part of a site, whether the entire area of a "site" is affected by the Chapter 39 provisions. This issue is of direct importance to a number of submitters and should be clarified in the provisions.
8. In conclusion, I consider there needs to be a balance between the identification of a Wāhi Tūpuna overlay and managing competing expectations already contained in the PDP (to give effect to the operative RPS and other statutory documents, including the NPS-UDC).
9. In my opinion, Chapter 39 should be deleted with a revised Wāhi Tūpuna overlay included in the PDP that is underpinned by a district wide CIA that provides an evidential basis for the location of the overlay and the values that are to be protected and managed.
10. An alternative option could be to place this process on hold to allow the district wide CIA to be completed and used to inform a revised set of provisions.
11. I am happy to answer any questions that the commission may have.