Before the Queenstown Lakes District Plan Hearings Panel

In the Matter of	The Resource Management Act 1991
And	
In the Matter of	Hearing Stream 12 (Upper Clutha Mapping) of the Proposed Queenstown Lakes District Plan

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SUPPLEMENTARY PLANNING EVIDENCE OF GRAHAM RUTHERFORD TAYLOR

ON BEHALF OF JOHN MAY (FS1094.7)

14 JUNE 2017

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INTRODUCTION

1. My name is Graham Rutherford Taylor. I am a consultant planner and a director of Resource Management Group Limited, a Christchurch based consultancy. I have 28 years experience as a planner with local authorities and consultancies in Wellington and Christchurch, working predominantly in Canterbury and the wider South Island. I have been a director of RMG since 2000. I am a full member of the New Zealand Planning Institute, and an accredited hearings commissioner.

2. I provided a brief of evidence dated 4 April 2017 in respect of further submission (FS1094.7) in opposition to submissions made by Glendhu Bay Trustees Ltd (*"GBT"* - Submitter 583) concerning zoning of land referred to as the proposed Glendhu Station Zone (*"GBZ"*) at Parkins Bay in the Proposed QLDC District Plan (*"PDP"*).

3. My evidence was based on the submissions and relief sought as originally lodged by GBT. The subsequent planning evidence in chief lodged on 4 April 2017 by Chris Fergusson for GBT included a substantially revised set of zone provisions. These were further refined by the supplementary evidence of Mr Fergusson dated 6 June 2017, which was discussed at the Stream 12 hearing by witnesses for GBT on 8 – 9 June.

4. Although the original GBT submission and relief sought may still be technically "live" before the Panel, I have taken on board the statements by Mr Fergusson in his evidence that the 4 April revised proposals are *"a more appropriate way to achieve the objectives of the PDP"*, and that the subsequent 6 June amendments *"are appropriate to more clearly emphasise the protection of the ONL…"*. Given these statements I have assumed that Mr Fergusson no longer supports the earlier relief and amended rules, therefore my supplementary evidence is based on the 6 June revised proposal only.

5. The latest iterations of zone provisions are significantly different from those on which my original evidence was based. Whilst some of the amendments may on the surface address issues discussed in my evidence, they do not completely address all of them, and in some respects raise additional deficiencies and/or areas of concern. My supplementary evidence concentrates on those matters, including reference to the alternative reduced Activity Area OS/F plan included with Mr Fergusson's supplementary evidence.

6. I have read and am familiar with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I have complied with it in preparing this evidence

and I agree to comply with it in presenting evidence at the hearing. The evidence that I give is within my area of expertise except where I state that my evidence is given in reliance on another person's evidence. I have considered all material facts know to me that might alter or detract from the opinions I express in this evidence.

AREAS OF CONCERN

7. The submission of Mr May was lodged on the premise that he only opposes those parts of the submission that would result in development outcomes that are different from those authorised by the existing resource consents granted by the Environment Court. I note that in questions from the Panel, the developer Mr Darby also confirmed that GBT are not seeking (other than the 8 additional residential sites) anything further than what they already have consent for.

8. I accept that the existing resource consents provide a consented baseline environment against which the submissions may be assessed.

9. However I still consider that the revised proposals do not properly reflect the development approved by the Environment Court. Whilst some areas have been improved, they still result in a potential for an increased level of development under a policy framework that will be more enabling of development at the expense of Outstanding Landscape ("*ONL*") values, such that the overriding provisions of s6(b) if the RMA are not met.

10. In particular, my concerns relate to:

- Reduced ONL protection;
- Potential development including Visitor Accommodation in OS/F area (in particular former area L);
- Area R Building controls;
- Lack of staging provisions;
- Potential Camp Ground development
- Other matters raised in my evidence in chief

11. I maintain my opinion that better control over the effects of development on the ONL is achieved through full discretionary activity status under the rural zone provisions, as is the case under the operative plan, and under the notified proposed plan rules. This allows consideration of all effects of the development and use of land, and facilitates wider public

participation through notification provisions where the effects determine this to be necessary.

OUTSTANDING NATURAL LANDSCAPE PROTECTION

12. All expert evidence agrees that the GBT site is located in an ONL. I note that the submitter's landscape and planning evidence also now agrees that the Fern Burn area over which the ONL was originally sought to be uplifted cannot be separated from the overall ONL.

13. The protection of ONL's from inappropriate subdivision, use and development is a fundamental matter of National Importance under s6(b) of the RMA, and is of District-Wide importance under both the Operative and Proposed District Plans, and in the Otago Regional Policy Statement. The wording of s.6 is directive – it requires that the Council shall recognise and provide for protection of ONL's. Given that the ONL status of the land is essentially settled, it is necessary to consider whether the proposed District Plan controls provide the necessary protection under s6(b).

14. In my evidence in chief I identified and discussed relevant Objectives and Policies of the Operative and Proposed Otago Regional Policy Statement, and Chapters 3, 6 and 21 of the Proposed QLDC Plan which support this. I concluded that the policy framework of the PDP was more strongly worded and leads to a greater requirement for protection of ONL's compared to the operative plan.

15. In particular I noted the wording of proposed Policy 6.3.1.3 that subdivision and development proposals in an ONL be assessed against the assessment matters in 21.7.1 and 21.7.2 *"because subdivision and development is inappropriate in almost all locations, meaning successful applications will be exceptional cases."*

16. Assessment matter 21.7.1 then goes on to reassert that *"the applicable activities are inappropriate in almost all cases within the zone".*

17. These are also considered in the context of the Rural Objectives and Policies in Chapter 21, in particular *Objective 21.2.8 - Avoid subdivision and development in areas that are identified as being unsuitable for development*, and associated *Policy 21.2.8.1 Assess subdivision and development proposals against the applicable District Wide chapters, in particular, the objectives and policies of the Natural Hazards and Landscape chapters*.

18. There is a clear emphasis in the rural zone chapter on avoiding development in areas that are unsuitable for development, by reference to the Landscape chapters.

19. The revised provisions now proposed by Mr Fergusson will result in an overall greater enabling focus for the GSZ than provided by the Chapter 21 rural provisions.

20. The sole objective for the zone in 44.3.1 is the provision of a *"tourism, residential and visitor accommodation development set within a framework.."*. That framework is described as *"... rural open space, protecting and enhancing natural character, and the outstanding natural landscapes, and providing biodiversity enhancement and recreation benefits."*

21. My reading of this objective is that it places primacy on development. The subsequent matters referred to describe a framework within which this may be set, of which the ONL is but one of several matters. I consider that given the importance of s6(b), that this should be the elevated to a prime objective for any provisions.

22. There is no reference to the ONL in any of the subsequent policies. There is general reference to landscape values in some policies, however these may be read in the context of the zone and the activity areas those policies relate to, rather than the overarching ONL values. For example policy 44.3.11 refers to the *"qualities of the Glendhu Station, Glendhu Bay and Parkins Bay landscape"* rather than the broader ONL. In the context of the proposed GBZ provisions, such qualities would be taken to include the built environment as anticipated by the rules – rather than the wider ONL values.

23. Several policies are of an enabling nature. In respect of residential development, policy 44.3.1.10 is *"to provide for residential and visitor accommodation within the Farm Homestead, Lake Shore and Residences Activity Areas, where the design, external appearance and location of buildings in these areas reflects the qualities of the landscape"*

24. There is no reference to the ONL provisions, or the s6(b) requirement to protect the ONL from inappropriate development. There is only a requirement for design, external appearance and location to reflect the qualities of the landscape, whatever that may mean.

25. Similarly Policy 44.3.1.11 relating to Commercial and Visitor Accommodation activities in the Lake Shore Activity Area requires a high standard of building design and landscaping, to mitigate effects on visual amenity and natural character. There is no mention of ONL provisions, or what visual amenity and natural character may or may not entail in this

location. A localised assessment would yield quite different results from an assessment against the broader landscape.

26. This theme is repeated in other proposed policies, and I not intend to provide a blow by blow summary of all provisions. Rather I consider that the proposed Objective and Policy framework for the zone is overly enabling towards development, at the expense of protection of what should be over-arching ONL values.

27. I was particularly concerned at the responses to questions from the Panel provided by Ms Pfluger. Whilst she acknowledges in her evidence that the site is located within an ONL, she also stated that once the development was completed, there would be a case for removal of the site from the ONL, on the basis that it would no longer exhibit ONL characteristics. I consider that this reinforces that the proposals do not meet the s6(b) requirements.

VISITOR ACCOMMODATION ON OS/F ACTIVITY AREA

28. I note that the revised proposals have deleted provisions relating to a proposed Lodge in Area L as included in the original submission. Former Area L is located in the northern part of the alternative OS/F activity area as now proposed by Mr Fergusson on page 3 of his supplementary evidence.

29. In my evidence I described it as being in a distinctive and completely separate landscape catchment from the remainder of the GBT development. It directly faces Mt Aspiring Road, and is highly visible from public areas on Mt Aspiring and West Wanaka Roads, and the Diamond Lake reserve and walking tracks. It is also directly viewed from sites and building platforms in Mr May's Emerald Bluffs development.

30. Whilst the revised proposal no longer includes Area L, the policy and rule framework is still highly enabling and supportive of visitor accommodation establishing in this area, such that it would be difficult to exercise control over any proposed development. My concerns with the effects of development in this area have not been reduced.

31. In particular, I note that proposed Policy 44.3.1.15 includes enabling small scale eco-themed visitor accommodation within the OS/F activity area. Proposed rule 44.5.7 then makes visitor accommodation including buildings a discretionary activity in the OS/F activity area. Rule 44.5.10(e) specifically includes *"small scale eco-themed visitor accommodation"* in the list of activities specifically provided for in the structure plan for the OS/F activity area. Small scale eco-themed visitor accommodation is not defined. There is no building coverage limit in the

proposed zone standard, and proposed rule 44.6.9 would allow a building height of 8m for non-farm buildings in the area – twice that of residential buildings in Activity Area R.

32. Mr Fergusson has now also proposed a reduction in the size of the GSZ which includes an alternative reduced OS/F activity area. This is accompanied by the identification of an *Open Space Protection Area* overlay replacing the previous *Covenant Protection Area* overlay, within which building would be a non-complying activity under rule 44.5.9. This has been defined by Mr Fergusson by reference to the covenant areas included in the Environment Court decision. It encompasses almost all of the alternative OS/F activity area with the only exception being former Area L.

33. The exclusion of Area L from the Open Space Protection Area overlay arises simply because the area was not subject to previous covenants imposed by the Environment Court decision. The background to this is that the area was originally included as a proposed lodge site in the applications before the Environment Court and then referred to as covenant Area D. However the Lodge proposals and Area D were withdrawn from the application prior to the Environment Court decision, and no covenant conditions were ever imposed over this area. The fact that the area was not covenanted in the Court decision is not in my view a reflection of its landscape values, as no assessment of these has been undertaken, nor does it constitute a basis for exclusion from the overlay area.

34. The area has not been subject to any specific assessment of its suitability or otherwise for development in terms of effects on the ONL. In fact the GBT evidence remains silent on any landscape assessment of this area for development – despite the Courts decision recording that a robust assessment of landscape effects would be required if any future development were proposed.

35. The implication of the framework now being proposed is that whilst visitor accommodation including buildings would be a discretionary activity in the OS/F area, former Area L is the only part of the activity area in which visitor accommodation would not be non-complying, as it is the only area excluded from the Open Space Protection Area overlay. The enabling statements contained in the policies and rules would essentially direct visitor accommodation development to this area (being the only area that is not non-complying), and provide a strong direction that development is anticipated to occur. The proposed zone standards do not limit site coverage. They signal a built form including 8m high buildings.

36. I consider that under this framework it would be almost impossible to resist significant built development occurring in this area. Discretionary activity status would imply that applications for consent are anticipated and appropriate in this area.

37. This is despite the fact that the landscape evidence for GBT does not address the effects of development in this land on the ONL at all. This land is beyond the area subject to the original Court approval, therefore I do not consider that its inclusion is necessary to recognise the existing consented environment.

38. I do not consider that the evidence submitted addresses the inclusion of former Area L in the OS/F activity area, and the consequential exclusion from the Open Space Protection Area, nor does it support the provisions that would be highly supportive of establishment of visitor accommodation activities on this land.

AREA R BUILDING CONTROLS

39. The control of buildings and activities in Area R are subject to two separate activity rules. Proposed rule 44.5.2(c) would make building within a homesite overlay a controlled activity in the area subject to a range of controls and assessment matters. As controlled activities consent cannot be refused, and applications would be a considered on a non-notified basis with no affected parties. I also note that the maximum curtilage and building coverage for each homesite is proposed to be 1000m^2 and 400m^2 respectively. Whilst the maximum height is proposed as 4m above prescribed datum levels, I also note that rule 44.6.9(k) would provide for this to be increased to 6m as a restricted discretionary activity.

40. This will result in an increased level and visual effect of built development that is significantly greater in effect on the ONL than that authorised by the Courts decision. I note that the original approved residences were described as being designed on *"geomorphic principles"*. The proposal was described by the applicants architect and recorded in the Courts decision as "*a generic house design capable of being placed on each site with only minor modification. The dwellings will be 3.6m high and provide 250-300m^2 floor space on a single level, plus garaging. They will be partially sunk into the ground, and their roofs will be covered in "local grasses". Walls will be of natural concrete, and windows are to be deeply recessed to limit glare. Garaging and vehicle access will be kept to the rear of the dwellings to lessen their*

impact. In general the curtilage area would be between 900m^2 and 1400.^{2}, though on house site 10 it would be 1942m^2.[1]*"*

41. The Court in paragraph 257 of its decision then placed significant emphasis on these design elements in reaching its conclusions as to effects on the coherence of the ONL.

42. It is clear to me that although the specific house designs are not referenced in the approved conditions and consent documents (the homesite plans and building areas including levels are), that they do form part of the fuller application, therefore are included in the scope of the overall consent. They were critical to the Courts decision.

43. The GBT proposals depart significantly from these design principles. Firstly the building coverage for each residence will potentially increase by up to 60% above that on which the consent was granted. The lack of specific designs now means that a variety of larger buildings with differing built form and materials will now occur. This potentially may include buildings up to 6m in height – compared to the 3.6m originally proposed. A further 8 dwellings are also proposed.

44. I note that the supplementary evidence provided by Ms Pfluger provides some assessment of the visual impact of development – however the assessment is limited. In particular it only assesses visibility of buildings from locations on the Wanaka – Mount Aspiring Road. It does not assess visibility from other public viewpoints including the lakeshore and surface areas, walking tracks, or other surrounding land and roads. These are areas which may all attract high levels of public access and recreational use, and from where visibility of the development has not been assessed. Ms Pfluger also has not assessed the potential impact of higher and larger buildings.

45. I consider that part of this failing arises from poorly worded policies and assessment matters relating to visibility and effects on the ONL.

46. Proposed Policy 44.3.1.1(d)(i) is to *"Protect the qualities of the Glendhu Station, Glendhu Bay and Parkins Bay landscape from adverse effects of inappropriate subdivision use and development by:…*

(d) (i) Maintaining views into the site when viewed from Lake Wanaka and maintaining views across the site when viewed from the Wanaka – Mount Aspiring Road; and…"

[1] Para 5. [2010] NZEnvC 432

47. The policy is silent on the overall landscape values of the greater ONL – rather it discusses protecting *qualities* of three specific sub-areas within the zone. These qualities are not defined – however given the range of policies concerned with enabling development in the GSZ, would need to be read in that context. This potentially places greater emphasis on protecting qualities attributed to the activities proposed in the zone, rather than protection of the ONL.

48. Sub-clause (d)(i) then limits consideration of *views* from Lake Wanaka and the Wanaka – Mount Aspiring Road. It only concerns itself with *"views"* rather than the broader qualities of the site within the ONL. This could be very narrowly interpreted. It also does not consider effects on views from other locations.

49. The matters over which discretion is limited under rule 44.5.2(a) are then similarly constrained. Control is limited to external appearance of buildings *..."with respect to the effect on visual and landscape values of the area".* There is no reference to the ONL, meaning that consideration could be limited to the immediate area of a proposal only.

50. Further assessment matter (ii) is then limited to *"visibility of buildings from the Wanaka – Mount Aspiring Road"*. There is no requirement to consider visibility from other locations – indeed the restrictions on discretion would preclude this.

51. I consider visibility from other publicly and privately accessible viewpoints and subsequent effects on the values of the ONL to be of critical importance – as they were to the Court. In particular, the lake surface and foreshore areas, and walking tracks are locations which attract high levels of recreational use, where people are likely to dwell for longer periods of time, compared to persons passing the site on the road for a relatively fleeting period.

52. For these reasons I do not consider that the revised provisions and evidence adequately assess the potential effect of such a higher level of development on the ONL.

53. The second part of the activity rules dealing with Area R is rule 44.5.4, which makes residential and visitor accommodation a restricted discretionary activity – subject to provision of a spatial layout plan and revegetation strategy. The rule does not control buildings – they remain controlled under 44.5.2 which I have discussed above.

54. The problem arises in that although the rule requires the provision of such plans, there is no robust mechanism to require their subsequent implementation. Given that buildings themselves are only controlled activities, they are able to be erected whether or not spatial

layout and revegetation plans have been approved and/or implemented. Whilst the *use* of the building may require consent – it becomes difficult to enforce if the building is already there under a different rule.

55. There are several assessment matters to the rule, however they relate to establishment of vegetative cover and earthworks for greater site enhancement and remediation, as well as addressing the effects of certain buildings and structures. These all relate to the built environment rather than the residential occupation of the buildings themselves.

56. Further, I note that the matters to be included in such plans only address screening of buildings from the road – and do not include other viewpoints.

57. I consider that the combination of controls on residential / visitor accommodation development in Area R is deficient, and will potentially result in significant development beyond that anticipated by the Court, with subsequent adverse effects on the qualities and values of the ONL.

LACK OF STAGING PROVISIONS

58. Condition 5 of the original Court decision included detailed requirements as to staging of the development including critical earthworks and revegetation requirements, provision of 'public good' elements such as tracks, and staging of residential units. Conditions 7 and 8 also included specific requirements for completion and certification of certain earthworks and vegetation prior to the construction of residential units.

59. The GBT proposals do not include any comparable requirements for staging.

60. I note that in answering panel questions Mr Darby advised that he did not consider staging was an important consideration of the Court. However the Court did specifically discuss staging in respect of screening of buildings in its final decision[2] where it recorded that the staging of development was deliberately related to the visibility of dwellings and kanuka growth rates.

61. I consider that retention of staging requirements to ensure that vegetation and earthworks are established prior to the erection of buildings is essential to avoiding adverse effects of development on the ONL. I also consider this to be important to ensure that provision of walking tracks and other public good elements being offered by GBT as having a positive

[2] Para 29 [2012] NZEnvC 43

effect, should also be subject to staging requirements - otherwise there would be no compulsion or mechanism to require these to occur.

62. I note that there are standards for construction of public access trails in rule 44.6.1, but no actual rule requiring that they be provided in the first instance.

POTENTIAL CAMP GROUND DEVELOPMENT

63. Proposed rule 44.5.5 would provide for a Camping Ground within activity area GS(C) as a restricted discretionary activity. Rule 44.5.10(b) also includes *"visitor accommodation (limited to the establishment and operation of a camping ground"* as listed activities in the activity area. There is no maximum site coverage or building area rule for the activity area.

64. The camping ground area does not form part of the existing resource consent.

65. I note that the evidence of Mr Fergusson suggests 'traditional' camping ground activities (which I have assumed to mean Tents / Caravans and Ablution blocks with some cabins), and he goes no to state that more intense or built up forms of visitor accommodation such as a hotel or resort are not anticipated. However that the definition of *Camping Ground* in the PDP is tied to the Camping Ground Regulations 1985, which does not limit use in this way. That definition does not limit camping grounds to traditional tent and caravan sites – and could be interpreted to cover all types of visitor accommodation, including permanent motels and hotel type units, comprising significant buildings. It could also include semi-permanent accommodation such as trailer parks. I consider that these may give rise to greater visual effects than those anticipated by more traditional camping.

66. The GS(C) activity area is highly visible from surrounding viewpoints. I do not consider that the potential effect of such built development has been properly taken into account by GBT in their submission and evidence.

OTHER MATTERS RAISED IN EARLIER EVIDENCE

67. My evidence of 4 April raised a number of concerns with aspects of the original GBT submission, some of which have been partially addressed or amended as a result of the revised proposals. I discuss these as follows:

Area R Residential Development

68. I have discussed my concerns with Area R above. My earlier evidence was also concerned with the potential for additional dwellings to be erected, and the lack of a specific spatial layout plan.

69. In my opinion these concerns would be only partially met by the provision of the homesite overlay plan, which reinstates the original 42 approved building platforms (plus 8 new ones) and rule 44.6.7(a) which would limit development to 50 residential or visitor accommodation units. Exceedance of this would be provided for as a discretionary activity.

70. My concern remains that discretionary activity status, in the context of the proposed GBZ objectives, policies and rules sends the wrong message to users of the plan that additional development is acceptable, albeit through a consent process. The plan provides a rule that anticipates applications being made. This is quite different from the situation under the resource consent which includes conditions requiring covenants to prevent further development.

71. I find this to be at odds with the GBT statements that they only seek approval for the consented level of development. I am also concerned that once development proceeds, the new zone provisions, which are more enabling of development than the rural zones, will form a new environmental baseline against which future applications may be assessed, resulting in a further erosion of the ONL values.

72. This has already been signalled in the responses to questions by Ms Pfluger, who stated that once development had occurred, there would be formed a basis for future uplifting of the ONL provisions from the site. To me the logical conclusion of this is that the provision of the zone will not achieve the requirements of s6(b) and protect the ONL from inappropriate development.

Lodge Area L

73. I have discussed my concerns with Activity Area L earlier in this supplementary evidence. Although GBT now propose removal of Area L from their proposed rules, my concerns as to potential visitor accommodation development in the northern facing part of Area OS/F remain.

Controlled Activity Provisions / Non-Notification

74. I acknowledge that the revised proposal significantly reduces the range of applications that may be subject to non-notification under rule 44.7.2. However I remain concerned with the use of controlled activity status, with ensuing non-notification, for activities – including the range of buildings potentially subject to rule 44.5.2 – which includes the key residential activity area.

75. I have discussed my concerns with the controls now proposed in this area above, and consider that it results in a significant departure from the built development that would have been anticipated by the resource consent and conditions.

76. Given that larger buildings are proposed, with a potentially wider range of styles and materials used, I consider it important that the ability to grant or refuse consent, and the discretion to require notification and /or identification of affected parties be available.

Revegetation Strategy

77. My earlier evidence was critical of the original GBT submission in that it did not apply requirements for the revegetation strategy to areas beyond Activity Area R, including re-vegetation proposals, and other works including fencing and tracks in these areas.

78. The amended provisions now include requirements for a strategy to include these matters in rule 44.5.4, which I have discussed previously.

79. However this rule only relates to the use of residential and visitor accommodation (excluding buildings) in Activity Area R. There is no apparent mechanism to require implementation of such plans and strategies – or how it might apply to land outside the activity area which may or may not be under the control of property owners in Area R.

80. I therefore have significant doubts as to the practicability and enforceability of such provisions. Once residential or visitor accommodation sites are established, subdivided and occupied, it would become difficult if not impossible to enforce revegetation requirements in respect of land over which new home owners have no ownership or control.

Fern Burn

81. I acknowledge that the revised GBT position is that it no longer seeks exclusion of the Fern Burn area from the ONL.

82. I do however note that the revised proposal does now propose that an area of the Fern Burn now be changed from activity area GS(OS/F) to GS(G). I would be concerned if this change were to lead to additional building development in this area that has not been contemplated or assessed from a landscape perspective.

Graham Taylor

MNZPI

14 June 2017