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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STATEMENT OF PLANNING EVIDENCE OF GRAHAM RUTHERFORD TAYLOR

ON BEHALF OF JOHN MAY (FS1094.7)

4 APRIL 2017

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 have been engaged by John May to provide planning evidence in respect of his 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 at Parkins Bay.

3. 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.

BACKGROUND AND SCOPE OF EVIDENCE

4. Further submission FS1094.7 opposes the GBT submission to the extent that it is inconsistent with the 2012 Environment Court decisions concerning the Parkins Bay Preserve Limited applications for the land, *Upper Clutha Tracks Trust and Ors. Vs Queenstown Lakes District Council* [2012] NZEnvC 43, 79, and the earlier decision [2010] NZEnvC 432. I have read and am familiar with the relevant parts of those decisions. Those decisions allowed a particular development of the site for activities including:

    - An 18 Hole Golf Course
    - A series of lakeside buildings including a club house, jetty and 12 visitor accommodation units
    - 42 Residences / visitor accommodation units
    - Ecological enhancement of 65ha of land
    - Covenanted areas precluding stock
    - Various public access proposals

5. The critical matter considered by the Environment Court was the effects of the then proposed development on the Outstanding Natural Landscape ("ONL") values of the site and surrounding environment. All of the site is identified as being within an ONL in both the Operative and Proposed Plans. The Council is required to recognise and provide for the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development as a matter of national importance under s6(b) of the RMA.

6. The approved development is subject to a comprehensive suite of approved plans and conditions, designed to avoid and mitigate adverse effects on the ONL.

7. Mr May resides on Roys Peninsula, and is the developer of the Emerald Bluffs subdivision, located in the Rural Lifestyle zone to the north of the submitters site. The Emerald Bluffs subdivision has been planned as a very low density, environmentally sustainable development, sensitive to the unique landforms and environment in which it is located. It includes a comprehensive scheme to restore and enhance natural vegetation and habitat, and specific controls to minimise the impact of buildings and built form. Some sites within the development have direct views towards the submitters land and in particular Area L where the proposed lodge site is located.

8. As detailed in his further submission, I understand that Mr May accepts the Courts decision and the level of activity authorised by it. His submission is concerned with aspects of the proposed rezoning that go significantly beyond it and/or reduce the level of certainty over necessary mitigation measures and environmental compensation that formed a key part of the Environment Court's decision.

9. I have compared the proposed zone provisions contained in the GBT submission, and agree that there are several key areas where the proposed Glendhu Station Zone differs from the approved proposal. I note that Mr Barr has also carried out a similar exercise in Table 1 of his s42A report which I adopt.

10. I consider that the proposed rules framework will result in an increased level of development and a significant watering down of the specific controls and mitigation measures imposed in conditions by the Environment Court, such that significant adverse effects on the environment, in particular on those Outstanding Landscape (ONL) values will occur. I do not therefore agree with the assertion in para 2 of the GBT submission that the new zone would better reflect the nature of the approved development. On the contrary it proposes more development and less environmental protection.

11. I consider that better control over the effects of development on the ONL is achieved through full discretionary activity status, 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.

12. The matters which I have concern with, and on which my evidence focusses are:

- Additional Residential units in Area R, and reduction in mitigation measures
- New Lodge Area L
- Controlled activity provisions / non-notification of applications
- Changes to proposed revegetation strategy / landscape protection / regeneration areas
- Proposed change in landscape status for Fern Burn area

13. I have read and am familiar with the following documents:

- The relevant Operative and Notified Proposed District Plan provisions
- Environment Court Decisions [2012] NZEnvC 43, 79, and [2010] NZEnvC 432
- GBT Submission 583
- John May Submission FS1094.7
- s42.A Planning Report (Stream 12 - Upper Clutha Mapping) by Craig Barr, dated 17 March 2017
- s42A Landscape Report (Stream 12 - Upper Clutha Mapping) by Marion Read dated 17 March 2017
- s42A Ecology Report (Stream 12 – Upper Clutha Mapping) by Glenn Alistair Davis, dated 17 March 2017
- s42A Landscape Report (Streams 1A & 1B – Introduction, Strategic Directions, Urban Development and Landscape) by Marion Read dated 19 February 2016
- Landscape Evidence of Andrew William Craig for John May dated 13 June 2017

14. I have relied on the evidence of Mr Craig in respect of landscape matters.

15. I also concur with the s.42A evidence and conclusions of Ms Read, Mr Barr, and Mr Davis and do not intend to repeat matters contained in those briefs.

16. I have visited and am familiar with the site and surrounding area.

PROTECTION OF OUTSTANDING NATURAL LANDSCAPES

17. In order to assess the submission it is necessary to appreciate the importance of the ONL provisions in the proposed plan.

18. All of the land subject to the submission is contained in an ONL in both the Operative and Proposed Plans. Other than the GBT submission concerning the Fern Burn area, I understand there to be no submissions challenging the ONL status of the balance of the land. All of the proposed development areas including areas R and L are therefore within uncontested ONL areas.

19. The protection of ONL's is a fundamental matter of National Importance under the RMA, and of District-Wide Importance under both the Operative and Proposed District Plans, and in the Otago Regional Policy Statement.

20. Section 6(b) of the RMA requires that the Council, in exercising its powers under the RMA, as a matter of national importance, shall recognise and provide for … *"the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development."*

21. 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).

22. That is not to say that no subdivision, use or development can occur – rather whether or not it is inappropriate. I agree that this will depend on the specific nature of individual ONL areas, both in a site specific meaning, and also in the context of the wider ONL surrounding it. Ms Read and Mr Craig have both discussed this in detail.

23. Further to this, the Operative Otago Regional Policy Statement includes:

Policy 5.4.3 – "To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.": and

Policy 5.5.6 – "To recognise and provide for the protection of Otago's outstanding natural features and landscapes which:

(a) Are unique to or characteristic of the region; or

(b) Are representative of a particular landform or land cover occurring in the Otago region or of the collective characteristics which give Otago its particular character; or

(c) Represent areas of cultural or historic significance in Otago; or

(d) Contain visually or scientifically significant geological features; or

(e) Have characteristics of cultural, historical and spiritual value that are regionally significant for Tangata Whenua and have been identified in accordance with Tikanga Maori."

24. These again reinforce the matters of national importance in section 6(b). Under s75(3)(c) of the RMA the Council is required to give effect to the Regional Policy Statement. Given that the ONL areas are uncontested (except for Fern Burn area) I consider they must be considered to have met the necessary characteristics in Policy 5.5.6.

25. I note that decisions on the Proposed Otago Regional Policy Statement Review were released in October 2016 however some provisions are subject to appeals. This includes parts of proposed Objective 3.2 concerning protection and enhancement of significant and highly-valued natural resources – which includes ONL's.

26. The Proposed Plan includes specific objectives and policies concerning landscape and ONL's which I consider meet the directive requirements of s6(b) and 75(3)(c). These are contained in Chapters 3, 6 and 21 of the Proposed Plan, and are attached to Mr Craigs evidence therefore I shall not repeat them.

27. I have compared the relevant proposed plan objectives and policies with those contained in section 4 of the operative plan. Although they are worded differently, the emphasis on protection of ONL's from inappropriate subdivision, use and development is similar. If anything, I consider that the proposed plan provisions are more strongly worded and lead to a greater requirement for protection of ONL's compared to the operative plan.

28. In particular I note 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."

29. Policy 21.7.1 then goes on to reassert that "the applicable activities are inappropriate in almost all cases within the zone".

30. I consider this to be highly relevant – particularly in the context of the Environment Court decisions on the resource consent. The approved development was subject to detailed plans and conditions, which were considered necessary in terms of the operative plan provisions to avoid and mitigate adverse effects. I consider that given the stronger policy direction in the proposed plan, such detail is now even more important – however the proposed rules would result in a significant weakening of protection and controls, and will not achieve the necessary s6(b) matters. Specific zoning and controlled activity status for most activities will create a signal that such development is contemplated and appropriate, when it is not.

31. I do not consider that the proposed Glendhu Station zone provisions will meet the requirements of s6(b) and 75(3), and I consider they will not give effect to the objectives and policies of the proposed plan.

AREA R – RESIDENTIAL DEVELOPMENT

32. The approved development proposes 42 residential units in the area referred to in the consent as Development Area B. This is now contained in Area R of the proposed Glendhu Station zone. The consent is subject to specific plans which determine the individual locations of building platforms, including heights, and vegetation areas. I note that the Court referred to the potential for a further 8 units which was signalled at the time. My understanding is that these additional units may have been included in earlier proposals, but were removed from the application at some stage during the original Council consent process. They were not considered by the Court and the decision records that additional consent would be required.

33. Condition 41(ii) of the consent also requires a Covenant over Area B to limit development in perpetuity against further development. It records that a further application would be required for the additional 8 units, and that this would require *rigorous assessment*. I do not consider that the proposed provisions for Area R will achieve this. I also consider that they will weaken the controls previously considered necessary for the approved 42 units. This is despite the proposed plan policy framework suggesting that controls should be stronger.

34. In particular, I note that the proposed Area R rules would no longer require adherence to the specific location plans on which the resource consent is based. The proposed rules would make all buildings a controlled activity under 44.5.2. Rule 44.5.4 would also apply in relation to a spatial layout plan and revegetation strategy – again as a controlled activity. If a plan has not been approved, any development becomes fully discretionary under 44.5.7.

35. Rule 44.5.4 would require that a spatial layout plan include the location of all building sites, heights, curtilage, access, etc - however is only subject to two matters of discretion, being landscape and amenity values and nature conservation values. These are very broadly worded and there is no real guidance as to what these values are in this location. For example there is no guidance as to separation and density of buildings. Although the site is within the ONL, I consider that recognition of development potential through re-zoning will '*undermine*' the importance of the ONL in this location – sending a message that it is somehow of lesser importance than other ONL's.

36. There is no specific reference in either rules 44.5.2 or 44.5.4 to the ONL provisions, and I note that in relation to buildings in 44.5.2, the only control requiring assessment of landscape values relates to external appearance. Other controls such as bulk and location, earthworks and landscaping, exterior lighting and access and parking are not required to consider effects on landscape values.

37. What is of particular concern is that as a controlled activity, the spatial layout plan and subsequent building resource consents cannot be declined, and the assessment matters are quite weak in the context of the potential effects on the ONL. I consider this at odds with the policy direction for ONL's in the proposed plan.

38. Further, the submission proposes a new rule 44.7.1 that controlled activity applications under these rules be non-notified, and that no written approvals from any person be required. Area R is on a highly prominent landform, on a foreground slope and ridgeline which will be directly visible to members of the public on the Mt Aspiring Road, and within Glendhu Bay.

39. Protection of ONL's from inappropriate use, subdivision and development is a matter of national, regional and district importance. In a district context ONL's are highly valued, and are a critical part of the special character of the Queenstown Lakes area. In this respect I consider that the ability for public involvement in any resource consent process should not be precluded.

40. I note that proposed Rule 44.6.7 would limit development in Area R to 50 residential or visitor accommodation units. However exceedance of this is provided for as a discretionary activity. Again this sends a message to users of the plan that additional development may be anticipated albeit through the consent process. It suggests that additional development could be in accordance with the objectives and policies of the plan.

41. Under the proposed rules, and in the absence of the specific building platform location control of the existing consent, I can foresee a scenario developing whereby initial development of the land for up to 50 households may occur – but then be used to establish a new environmental baseline to justify further development. As a discretionary activity this may be difficult to decline.

42. I consider this to be strongly at odds with the direction of the Courts decision, in particular the covenants that would prevent further development in perpetuity. In imposing this, I consider that the Court considered that there was a finite limit to the development that this part of the ONL could absorb. I also consider it inconsistent with the exceptional circumstances referred to in Policies 6.3.1.3 and 21.7.1.

43. For these reasons (and without prejudice to my opinion that the rezoning should not proceed), I consider that exceedance of the 50 unit limit should be a non-complying activity.

LODGE AREA L

44. The proposed Lodge Area L was not included in the consents granted by the Environment Court. I note that it is referred to in passing only in paragraph 23 of the Courts decision as a potential future application. It did however form part of the overall application site, and is within the ONL, as confirmed by the Court and in the operative and proposed plans.

45. As it is not part of the approved development, I do not consider that it *"better reflects the nature of the approved development"* which is the general basis for the GBT submission.

46. The GBT submission now proposes a lodge, and up to 10 additional residential or visitor accommodation units in this area. The rules would permit buildings of up to 12m in height (ie: approx. three storeys) in what is a highly visible and unique part of the site. There are no rules proposed concerning spatial planning or revegetation strategy for the area. The only controls would be those for buildings under 44.5.2 which I have discussed above. This would be a non-notified, controlled activity application that cannot be declined.

47. Area L is located in the northern part of the proposed Glendhu Station zone. It is on north facing slopes above Mt Aspiring Road to the west of the Glendhu Bluffs Conservation Reserve. 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.

48. I consider that Area L is a distinctive and completely separate landscape catchment from the balance of the approved development. The approved development is located and oriented towards Parkins Bay, which is separated by a ridgeline and the DOC reserve, and approximately 2km distance from Area L.

49. Area L has a more natural alpine wilderness appearance associated with its rocky mountainous backdrop compared to the existing approved areas.

50. The submitters s32AA report does not address the effects of development in Area L. In fact the landscape assessment does not discuss this area at all.

51. I consider that the submission is deficient and does not contain the necessary assessment required to support inclusion of Area L. Given the unique landscape characteristics and the high public visibility, I consider that the potential effects of buildings up to 12m in height, with only limited control over building appearance through a non-notified consent process, will be inconsistent with the ONL provisions. There has been no assessment undertaken in accordance with the *"level of detail that corresponds to the scale and significance of the changes"* as required by s32AA(1)(c) of the RMA.

52. Again I note the strong direction in Policies 6.3.1.3 and 21.7.1 that development in ONL's will be inappropriate in most cases, and only allowed in exceptional circumstances. I do not consider that proposed lodge area will achieve this.

CONTROLLED ACTIVITY PROVISIONS

53. I have already discussed my concerns regarding the GBT submission proposed use of controlled activity provisions, and the corresponding submission that such applications be non-notified, with no affected party approvals required.

54. The proposed Glendhu Station zone rules would make almost all activities in the zone controlled within certain areas, including Buildings, Mining, Area R spatial / Revegetation Strategy, and Commercial and visitor accommodation in the Farm Homestead Activity Area.

55. I consider that the matters of control and assessment matters are generally lacking, and pay little regard to the ONL status of the land. There is no reference at all to landscape values (let alone ONL status) in some of the rules and assessment matters.

56. Despite the Proposed Plan policies concerning ONL's being more strongly worded than the operative plan, the change to controlled activity status is a significant weakening of the

control that is currently in place under the operative and proposed (as notified) plan rules which impose full discretionary activity status.

57. I consider that it leads to a potential degradation of the ONL status of the land, and wrongly signals that the land is somehow a *'second class'* ONL where a lower standard will apply compared to ONL's in the balance of the District.

58. It also leads to a diminishment in opportunity for public involvement in the consent process for activities that may have significant adverse effects, despite ONL's being of high national and district importance.

REVEGETATION STRATEGY / LANDSCAPE PROTECTION / REGENERATION AREAS

59. The existing consents are subject to requirements in condition 6 for a revegetation strategy covering areas referred to in the Master Plans. These include parts of what would become Areas R, G and OS/F in the proposed zone. In addition, the existing consent requires further conditions and covenants including landscape protection areas, and provision of fencing for stock exclusion / vegetation regeneration.

60. However proposed Rule 44.5.4 only requires a revegetation strategy for Area R (residential units). It therefore excludes revegetation strategies for the parts of Areas G and OS/F adjoining and between the identified Area R outlines that were previously deemed to be necessary in the Courts decision. The proposed rule also refers to gully and moraine slope revegetation areas, however these do not appear on the structure plan and I understand would be outside Area R in any case. Similarly there is reference to regeneration of "rough" areas of the golf course – however these are also outside of Area R therefore not subject to the rule. I have attached as **Annexure One** a plan superimposing Area R over the approved Master Plan, which shows significant areas of required revegetation that would not be required by the proposed rule.

61. The proposed rules also contain no equivalent to the former landscape protection areas and fencing requirements. The landscape protection areas are indicated on the proposed Map 7 enlargement, but there are no rules relating to them. Similarly, the fencing requirements are limited to stock passing through Area R, and do not include the previous fencing required – particularly in Areas OS/F and L to the west of the main development area. These are also indicated in red on the attached copy of the approved masterplan.

62. These areas are also discussed in Mr Davis's s.42A Ecology evidence. I concur with his assessment.

63. I consider that the exclusion of the previously required mitigation measures from the proposed rules will result in a further weakening of the standard that was considered to be necessary by the Court. Given the continued ONL status of the land, and the stronger policy direction of the proposed plan, I consider it necessary that these standards be maintained.

FERN BURN

64. The GBT submission seeks that the area referred to as Fern Burn Valley be identified as a Rural Landscape, instead of the present ONL classification. The reason given in support of this relates to a previous 2002 Environment Court determination in C73/2002. No further supporting information is provided. I note that this has been specifically discussed by Mr Craig and Ms Read along with other ONL assessment matters. Whether or not the area should be included within the ONL is a matter requiring specific landscape assessment.

65. I note and concur with Ms Read's comments that the 2002 decision has been effectively surpassed by the Courts 2012 decision, which she discusses in para 6.3 of her evidence. The Court held that the area of the Fern Burn flats is so small in the context of the scale of the mountains around them, that they cannot be regarded as a separate landscape.

66. Given the Courts more recent determination, I agree that the Fern Burn flats should remain within the ONL.

CONCLUSIONS

67. For the reasons outlined in my assessment above, I consider that the GBT submissions should be disallowed. I consider that full discretionary activity status for development, as provided for in the Operative and Proposed Plan Rural zones, is necessary in order for the Council to give effect to its duties under s6(b) and 75(3)(c) in respect of the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.

Graham Taylor
MNZPI
2 April 2017

ANNEXURE ONE – AREA R SUPERIMPOSED OVER APPROVED MASTER PLAN