BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL PROPOSED DISTRICT PLAN HEARINGS PANEL

UNDER	**the Resource Management Act 1991**
IN THE MATTER OF	**the Proposed Queenstown Lakes District Plan**

STATEMENT OF EVIDENCE OF BEN FARRELL
ON THE SUBMISSION BY REAL JOURNEYS LIMITED AND SUBSIDARY COMPANIES (REAL JOURNEYS GROUP) ON STREAM 15 OF PROPOSED DISTRICT PLAN

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Introduction

Qualifications and experience

1. My full name is Ben Farrell. I am an Independent Planning Consultant based in Queenstown. My expertise and experience as a planner have been identified in my other briefs of planning evidence on Proposed District Plan Review.

Code of Conduct

2. I confirm that I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court Practice Note dated 1 December 2014. I generally agree to comply with this Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of evidence

3. Drawing on the submissions by the Real Journeys Group and evidence of Ms Fiona Black, my evidence deals with the appropriateness of the proposed amendments being sought by the Real Journeys Group in relation to:

   (a) Transport

   (b) Earthworks

   (c) Signage

   (d) Open Space and Recreation

   (e) Restricted Discretionary Activities (all chapters)

   (f) Assessment Matters (all chapters)

4. In preparing this evidence I refer to the following documents:

   (a) Otago Regional Public Transport Plan (2014);

   (b) Proposed QLDC District Plan (Stage 1 and Variation);

   (c) Otago Regional Policy Statement (RPS);

   (d) Proposed Regional Policy Statement (PRPS);

   (e) QLDC s.42A Reports of Vicki Jones (Transport), Jerome Wyeth (Earthworks), Amanda Leith (Signage), Christine Edgley (Open Space), and supporting technical evidence by Stuart Crosswell, Michael Smith; Trent Sunich, and Jeannie Galavazi all dated 23 July 2018;

   (f) Submissions; and

   (g) Evidence of Fiona Black on behalf of the Real Journeys Group dated 9 August 2018.

Transport

5. The relief sought by Real Journeys revolves around three key issues:

   (a) Recognition of the benefits of and provision for the role of private transport infrastructure and services alongside public transport services

   (b) Recognition of the benefits of and provision for water transport services and infrastructure

   (c) Provisions that help reduce the traffic congestion issues in Queenstown.

6. For the reasons set out in the evidence of Ms Black I believe it is appropriate for private tourism-transport activities which provide a regular and unexclusive transport service (for example the Queenstown Water Taxi, the "TSS Earnslaw", and the numerous coach operations) to be promoted in the District Plan in the same way that any other public transport service (and associated infrastructure) is promoted.

7. In addition to the reasons provided by Ms Black I consider it would be neither efficient or integrated (in relation to managing natural and physical resources) to ignore the existing role and future opportunities of private transport services in the District. For example, until recently (with the new $2 bus in the Wakatipu Basin) all public transport services in the District have been provided by the private sector with no subsidies from government. The private sector has invested heavily, over a long period of time, to provide transport services (with associated infrastructure) and this forms part of the environment. A District Plan framework that promotes new public transport services and infrastructure over this established system presents an efficiency risk (in respect of this previous investment). This risk along with any actual or potential costs on existing transportation providers has not been identified or evaluated in Council's s.32 evaluation. I believe that a district plan framework that lends greater weight to new transport service activities without recognising or providing for the role of the existing transport system will result in sub-optimal transportation outcomes.

8. The Council's approach could fail to apply an integrated approach because it would not properly define the transport network as a whole. If an integrated resource management approach is not taken then the District Plan could risk being contrary to the policy direction likely to be set in the PRPS (Objective 1.1 and Policy 1.1.1).

9. Having reviewed the s.32 Report for the Transport chapter it appears Councils' approach is not based on any environmental effects (i.e. Council has not advanced any effects based reason why transport for the public provided by private providers should be treated any differently).

10. It would be inconsistent with the meaning of the term "public transport service" as defined in the Land Transport Management Act, to exclude private/commercial transport operations from provisions applying to these activities in the District Plan:

> ***public transport service -***
>
> *(a) means, subject to paragraph (b), a service for the carriage of passengers for hire or reward by means of— (i) a large passenger service vehicle; or (ii) a small passenger service vehicle; or (iii) a ferry; or (iv) a hovercraft; or (v) a rail vehicle; or (vi) any other mode of transport (other than air transport) that is available to the public generally; but (b) in relation to Part 5, does not include— (i) an excluded passenger service; or (ii) a shuttle service.*

11. Also, excluding the following services would appear to be inconsistent with the meaning of public transport services adopted in the Otago Regional Public Transport Plan (2014)[1]:

    (a) scheduled bus or passenger rail

    (b) shuttle services

    (c) taxi services

    (d) private hire services

    (e) other types of service operating on demand (whether with a bus, van or vessel)

    (f) community-based schemes and informal arrangements

    (g) emergency and medical-related transport services.

12. In my opinion it is appropriate for the District Plan to recognise and provide for any transport service that offers unexclusive and regular trips between destinations. This is because these activities form part of the transportation system and are effective at moving members of the public, including visitors, around the District and do not have any adverse effects that are any different.

13. I note that in my evidence for the Stream 1b hearing I supported new provisions to recognise the benefits of and to provide for "**public**" water-based transport activities. At that time I assumed the term "**public**" included water transport activities such as the Queenstown Water Taxi and the "TSS Earnslaw".

14. For the above reasons I believe the relief being sought by the Real Journeys Group to generally create a more even playing is appropriate[2].

15. Notwithstanding the above discussion, I do support some promotion of public transport services over non-public transport services on the commonly held understanding that public transport systems are more effective at reducing congestion. Accordingly, it could be more appropriate for the references to "public" to remain if the applied meaning of "public" is broadened or clarified to capture:

    (a) Existing transport services/operators that meet the LTMA definition of public transport service; and

    (b) Commercial **water transport** services operated by tourism operators.

16. The proposed definition of "**transport infrastructure**" has a land-based emphasis and I believe it is appropriate that this be amended to clarify or ensure that this definition also captures water and shore-based infrastructure, for example wharves, shelters, seating, lighting, parking, bike racks (etc.).

17. I generally support the new policy 29.2.1.7 being recommended by Ms Jones. It is an example of a policy that promotes activities and development which might help reduce traffic congestion.

Earthworks

18. I generally support the amendments being recommended by Mr Wyeth and for brevity will not discuss these matters. In the following I discuss areas of disagreement.

[1] Page 22

[2] Namely amending Policies 29.2.1.1, 29.2.1.2, 29.2.1.3, 29.2.1.4, 29.2.3.6, 29.2.4.8, 29.2.2.1, 29.2.2.5, 29.2.2.8, 29.2.3.6, Policy 29.2.4.4, Objective 29.2.4, and Rule 29.6.2

Policy 25.2.1.2

19. I generally support the recommended amendments to Objective 25.2.5 and supporting policies 25.2.1.2, except the amended version implies (or could be interpreted) as saying that clauses (a)-(g) are required to be implemented at the risk of overriding and undermining the enabling intent of the policy amendments. In my opinion this can be remedied by inserting the word "help" into policy 25.2.1.2 as follows:

> *Policy 25.2.1.2*
>
> *Manage the adverse effects of earthworks to avoid inappropriate adverse effects and minimise other adverse effects to **help**: …*
>
> *(a) Protect the values of Outstanding Natural Features and Landscapes…*

20. Without such further amendment the policy would in my view inappropriately be too onerous because it could be read as seeking to avoid effects and/or protect environmental values without the qualifier "from inappropriate development".

General Rules 25.3.1.1 and 25.3.1.2

21. The introduction of these new General Rules has created some uncertainty (in my view) and it would be helpful if the following matters were clarified, in either evidence (by the Council) or amendments to the District Plan text to avoid uncertainty that could lead to inefficient administration of the District Plan:

    (a) Rules 25.3.1.1 and 25.3.1.2 use the phrase "**do not prevail**". This implies rules in both the earthworks chapter and other chapters seek to manage the same activity but the provisions in the other chapters are to be afforded more weight. This creates unnecessary duplication that I expect will create confusion and uncertainty. I believe the rules should be amended further to clarify that the earthworks rules in Chapter 25 do not apply where the subject activity is managed by another chapter (for example Chapter 33 in relation to vegetation clearance and biodiversity and Chapter 26 in relation to Historic Heritage).

    (b) Notwithstanding the above point, Rule 25.3.1.1 introduces a new term to the earthworks standards "**land disturbance**". I assume the term "land disturbance" is not intended to capture earthworks but this is not explicit and creates uncertainty. In my opinion this matter should be clarified, by amending the rule or inserting an advice note, otherwise the rule may result in potentially inappropriate management outcomes (in addition to inefficient outcomes). For example, if the term "**land disturbance**" has the effect of requiring resource consent for earthworks in the SASZs (because Chapter 33 has specific provisions affecting alpine environments), then the rule would not be appropriate because the clear intent of the earthworks chapter is to generally permit earthworks in SASZs.

Rules 25.5.20 and 25.3.4.5 - Overlapping QLDC and ORC functions

22. I acknowledge that Territorial Authorities are able to duplicate/overlap provisions and responsibilities but I consider it would be more appropriate for all the Proposed Rules relating to earthworks within or near waterbodies (including 25.5.20 and 25.3.4.5) to align with the permitted activity standards in the Regional Water Plan. In this regard:

(a) Having a planning framework where the Regional and District Plan methods overlap and conflict will in my view create inefficiencies by requiring duplication of processes.

(b) The Council seems to be implying that the ORC planning regime is inadequate and intervention (proactive management) is required:

> *As the ORP:W does not control land use activities, and only focuses on the effects of discharges, there is less opportunity to proactively manage the potential adverse effects of sedimentation entering waterbodies from land disturbance activities. I note that approach taken by ORC to manage sedimentation from land use activities differs to the approach taken by other regional councils, which is discussed in more detail in Issue 2 below and in the s32 Report*[3]*.*

(c) I am not aware of evidence identifying that the Regional Water Plan provisions are deficient (insofar as the activities which proposed District Plan rules 25.5.20 and 25.3.4.5 are seeking to manage). In my view the Council has not provided sufficient evidence to justify that the environmental effects of land uses permitted by rules 13.5.1 and 14.5.1 of the Regional Water Plan warrant management (intervention) under the District Plan.

(d) There is no significant resource management issue (including any significant environmental effect) that justifies QLDC imposing a resource consent requirement for earthworks that might alter the beds of waterbodies or associated with installing, maintaining, upgrading or removing structures in or near waterbodies when ORC has a clear and dominant function and responsibility for managing environmental values of waterbodies, including water quality. The Council is proposing a shift in the current effects base regime into "proactive" land management.

(e) Generally, I do not agree with the reasons provided in the s.42A report that requiring resource consent for activities governed by Rules 13.5.1 (Alteration of the bed of a lake or river, or of a Regionally Significant Wetland) and 14.3.1 of the Regional Water Plan (works associated a defence structure) are the most appropriate means of implementing the relevant statutory matters (as being those listed in paragraph 4 of the s.42A Report). .

23. I agree with the relief being sought by Real Journeys to amend Rule 25.3.4.5 to permit earthworks undertaken for the installation of rock culverts, rock armouring and deepening stream beds to divert the scree, water and rocks away from the structures.

24. In respect of Rule 25.5.20 I believe that 10m is a very large and inappropriate setback standard. In my experience most earthworks activities can be carried out within 10m of a waterbody without affecting the waterbody, especially if erosion and sediment control measures are employed (as is proposed to be required by Standard 25.5.12). I do not think QLDC has satisfactorily identified the appropriateness of imposing a 10m setback for earthworks from waterbodies. Alternative setback distances, for example 3m could provide enough setback on flat land, 5m on sloping land, and 10m on steep land. In my experience[4] the topography of the subject land is a significant factor in the likelihood of earthworks affecting water quality and natural values of waterbodies and earthworks carried out within 3m of the top of a bank on flat land or gently sloping land is not likely to result in any adverse effects on the waterbody.

[3] As stated in paragraph 4.30 of the s.42A Report:

[4] Which includes recent plan preparation work for the Southland Regional Council to develop rules to manage soil disturbance activities near waterbodies

Signage

25. I have read the evidence of Ms Fiona Black and I generally support her evidence in respect of the relief sought by the RJG in respect of Signage. In addition to Ms Black's evidence I consider:

    (a) There are no significant resource management issues or reasons why interpretation signage should not be included alongside information and directional signage in proposed provisions. I therefore support the relief sought by the RJG to amend the Zone purpose, policies 31.2.1.5, 31.2.1.7, Objective 31.2.4, and policy 31.2.4.2.

    (b) It is appropriate for temporary event and sponsorship signage to be permitted. Events require sponsorship from numerous sources and enabling temporary signage for marketing support for events results in a positive environmental outcome (including social/commercial benefits to the sponsors) without giving rise to any significant adverse environmental effects. I therefore support the relief sought by the RJG to amend policy 31.2.6.2.

    (c) In my opinion there is no reasonable justification to include rules or standards restricting the design, size or number of signs at the Cardona Alpine Resort because signage is not on public land and will not be visible from any public space (this is a unique feature of this resort). An exception is where permanent signage might be visible from neighbouring properties or public spaces (namely the main road), where I agree signage should be managed via rules and standards in the District Plan. I therefore support the new provisions recommended in the s.42A Report (Objective 31.2.7 and Policy 31.2.7.1 except that Policy 31.2.7.1 should include reference to "sponsorship" (for the reasons outlined above). I also think Policy 31.2.7.2 could be amended slightly to direct the methods and decision-makers to focus on maintaining views and amenity from surrounding public places, rather than directing signs to be of a limited size and suitable location. For example:

        Policy 31.2.7.2 "Manage signs advertising commercial activities within Ski Area Sub-Zones so that views and amenity values of surrounding public places can be maintained".

Open Space and Recreation

26. I have read the evidence of Ms Fiona Black and I generally support her evidence in respect of the relief sought by the RJG in respect of Chapter 31. In addition to Ms Black's evidence I:

    (a) Support the relief the RJG is seeking to Objective 38.2.1 and I agree with Ms Black that Objective 38.2.1 is not appropriate (as currently worded) because it implies only the Council reserves and recreation assets are required to meet the open space and recreation needs of the District's residents and visitors. The private sector, primarily commercial recreation operators, contribute to and in my opinion provide a significant role in meeting the open space and recreation needs of residents and visitors.

    (b) Support the relief the RJG is seeking to Policy 38.2.1.3 because it is not always possible, practical or particularly beneficial (for example where some degradation of insignificant ecological values occurs in place of significant recreation benefits) to always "protect and enhance" ecological values that are of no significance.

    (c) Agree that the application of Policy 38.2.1.4 would benefit from clarification which conflicts, and how, conflicts are to be managed. Amendments such as cross-referencing the other polices and methods that relate to or seek to implement this policy is an example of how clarification could be provided (I am not sure which provisions relate back to this policy).

    (d) Consider that Policy 38.2.1.5 is very stringent and I support the amendments requested by the RJG so the focus of the policy is focused on the compatibility of new activities with existing activities.

    (e) Agree that the term "significantly" should be introduced into Policies 38.2.2.5, 38.2.3.2, and policy 38.2.3.2 because it is almost inevitable that any new proposal in a public space can be argued to "degrade" a visual amenity values or natural character or landforms.

    (f) Agree Objective 38.2.3 should be amended as sought by the RJG because the objective as currently written does not provide for some commercial activities that could potentially be appropriate, for example tours[5] and temporary events/activities such as ceremonies (e.g. weddings), fashion shows, and product launches.

[5] For example Queenstown Segway

Restricted Discretionary Activities (all chapters)

27. For all the proposed chapters Real Journeys seeks clarification that the benefits of an activity will be included in the matters upon which Council has restricted its discretion. In my experience (working across New Zealand) there has been inconsistency as to whether or not the benefits of an RDA should be considered. In my view it is appropriate (and will be more efficient and effective than not) if the District Plan clarifies this point for the benefit of all people administering the District Plan. Instead of listing "benefits of the proposed activity" in each RDA rule, this matter could be stated once in a general rule that applies across the whole District Plan or stated once in the general rules for each Chapter respectively.

Assessment Matters (all chapters)

28. In my opinion the proposed list of Assessment Matters (for example in Chapters 25 and 31) are helpful in providing some guidance when assessing matters of discretion and applicable objectives and policies. However, the Assessment Matters are not the most appropriate method for implementing any objective. When completing an AEE or preparing reports and decisions on a resource consent application for an earthworks activity these Assessment Matters should not (in my opinion) need to be listed or assessed:

    (a) The matters will not always be applicable to every resource consent application;

    (b) The level of assessment required by an applicant and the council or decision maker should be commensurate with the scale of environmental effects (as directed in the 4th Schedule of the RMA).

    (c) Assessing each of the assessment matters creates costs (monetary and/or time/opportunity costs). In my opinion such costs and time efforts are not necessary.

    (d) In my view the objectives, policies and matters of discretion provide the appropriate provisions to be considered under s.104(1)(b).

    (e) Alternative methods exist which I consider more appropriate. **Firstly**, the Assessment Matters could be removed from the District Plan and published alongside the District Plan in a separate non-statutory "guidelines" document. **Secondly**, the introductory clause in the Assessment Matters section (e.g. 25.8.1 and 31.12.1, could be amended to insert wording that clarifies the Assessment Matters are not mandatory and should be applied in an extent commensurable to the scale of effects of proposals on a case-by-case basis.

    (f) I do not think the Council has considered the above alternative options in its respective chapter or overall s.32 evaluations.

SIGNED
Ben Farrell