

**BEFORE HEARING COMMISSIONERS  
IN QUEENSTOWN | TĀHUNA ROHE**

**UNDER THE** Resource Management Act 1991 (“**Act**”)

**IN THE MATTER OF** a variation to Chapter 21 Rural Zone of the Proposed Queenstown Lakes District Plan, to introduce Priority Area Landscape Schedules 21.22 and 21.23 (**PA Schedules**)

**AND IN THE MATTER OF** a submission on the PA Schedules

**BETWEEN** **HAWTHENDEN TRUST**

Submitter

**AND** **QUEENSTOWN LAKES DISTRICT COUNCIL**

Planning authority

**STATEMENT OF EVIDENCE OF NIKKI SMETHAM**

*Before a Hearing Panel: Jane Taylor (Chair),  
Commissioner Peter Kensington and Councillor Quentin Smith*

**INTRODUCTION**

**Background, qualifications and experience**

1. My full name is Nicola (Nikki) Jane Smetham. I am a Senior Landscape Architect with Rough Milne Mitchell Landscape Architects Limited (RMM), formerly Rough and Milne Landscape Architects Limited and have held this position since 2009.
2. I hold a Bachelor of Landscape Architecture from Lincoln University. I am a registered member of the New Zealand Institute of Landscape Architects, and a member of the Resource Management Law Association of New Zealand.

3. I have over 25 years' experience as a landscape architect and for the last 14 years I have specialised in landscape assessment work. This has included undertaking landscape and visual effects assessments associated with a wide variety of development proposals throughout New Zealand but most particularly in the Queenstown Lakes District, Central Otago, Dunedin, Hurunui, Christchurch / Banks Peninsula and the Selwyn District.
4. Work I have undertaken specifically in the Queenstown Lakes District includes evidence on the ONL boundary on behalf of Hawthenden Limited, landscape assessment and evidence for Mt Iron Junction, evidence on behalf of a submitter in opposition to the proposed Mt Dewar development, attending Environment Court Mediation for the Sticky Forest Plan Change, landscape assessment and evidence for Nature Preservation Trustee, landscape assessment and evidence for Damper Bay. I also advised on the landscape and visual assessment for the proposed expansion to the Cardrona Ski Area and in addition undertaken peer review work within the district. I have previously presented expert evidence at council hearings and before the Environment Court including attending and preparing a Joint Statement on Topic 2 – Rural Landscape appeals.

#### **Purpose and scope of evidence**

5. I have been asked to provide evidence in support of the submission by Hawthenden Limited on the Priority Area Landscape Schedules 21.22, particularly relating to the 21.22.19 PA ONL Mount Alpha. I do not support the primary relief sought (full refusal of the Variation), as I consider it appropriate for ONL values to be identified in Landscape Schedules, provided of course that the ONL values to be recorded are relevant and accurate. With that in mind, I specifically oppose the following aspects of the Variation, and have generally limited my evidence to these matters under the headings listed below:
  - (a) Mt Alpha ONL Values with particular reference to relevance and accuracy
  - (b) Capacity

#### **Expert witness code of conduct**

6. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's 2023 Practice Note. While this is not an Environment Court hearing, I have read and agree to comply with that 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.

### **SUMMARY OF EVIDENCE**

7. My evidence addresses the landscape attributes, values and capacity in Schedule 21.22.19 ONL Mount Alpha. In summary:
- (a) While I understand the ONL boundaries are out of scope for this hearing I do not resile from my submission statement where I disagree with the ONL boundary because it does not capture the Mt Alpha Fan entirely but a short, truncated segment of the fan. In my view, to draw a boundary that encloses only part of a landform erodes the rationale for the ONL boundary on the basis of its geomorphological values, and further when the level of naturalness is questionable.
  - (b) I generally agree with the schedule attributes, which relate to the values of the Mount Alpha mountain slopes at a high level except that I find the format of the Schedule promotes unnecessary confusion between attributes and values, undermining the relationship between attributes and values and the accuracy of some attributes.
  - (c) The amendments to the Mount Alpha ONL are proposed to ensure an accurate high level starting point that reduces the potential for misinterpretation and future arguments between experts on site level assessments.
  - (d) In my view, the determination of 'no' landscape capacity for some activities is absolute, overly persuasive and will undermine future site assessments. I consider that it is in practice, impossible to predetermine whether the values of the ONL will be adversely affected by every possible future proposal to a degree that no proposal could proceed without unduly undermining the values of

an ONL, without the details of a proposed development in terms of scale, extent, nature etc. This might be the case in some cases where the values of a particular ONL are so (say) “pristine”, that development must effectively be prohibited to avoid adverse effects on those values; but that is far from the case on the fan.

### MT ALPHA VALUES

8. The role of the Landscape Schedules is to identify the landscape values that need to be protected in each priority area (PA) and avoid future cumulative effects. While I understand that the Mount Alpha ONL values are deemed to be a ‘starting point’, it is critical that they are relevant and key to identifying why this landscape is an ONL because it is against these values that any future development proposal must be assessed.
9. Not all ONFLs are equal — each ONFL will have different attributes that interact to define values sufficient to be considered an ONL. Chapter 3, at 3.3.38 seeks the identification of the **key** physical, sensory and associative attributes that contribute to the values of the Feature or Landscape that are to be protected.
10. On that matter, I find that some of the values identified as contributing to the Mount Alpha ONL are open to misinterpretation. This is particularly in relation to the ‘*high level of perceived naturalness, despite management of vegetation for pastoral farming*’ stated under the Naturalness attributes and values heading in the Schedule. Ms Gilbert’s EIC paragraph 5.8 states that it is well established in case law that farming areas (including pastoral areas) can qualify as s6(b) (RMA) landscape and features. I do not dispute this – there is always a degree of perceived naturalness that occurs within a rural landscape. In reality, few parts of rural New Zealand are devoid of the signs of human influence and presence – it is a matter of degree. However, I question the validity of a ‘high perception of naturalness’ applying to the very managed pastoral landcover of the fan that clearly has a high level of human influence.
11. I assume that a varying degree of naturalness will be recognised by a layperson, although perception will differ depending on individual knowledge. Given the Schedules are the result of an expert assessment

by the landscape architects in the project team, I expect that a reasoned understanding of naturalness to be applied.

12. The degree of naturalness attributed to the fan is elevated in importance because of the close proximity to the steep, largely unmodified mountain backdrop of Mount Alpha. According to the naturalness spectrum, grazed pasture and cropping would have a lower naturalness than the upper slopes of the surrounding mountain slopes where a lower level of human intervention prevails and the natural process of colonisation occurs, rendering a patchy mosaic of vegetation. My concern is that both are lumped together but actually differ widely in naturalness. Although the Schedule records that farming land uses modifies perceptions of naturalness it doesn't go far enough and acknowledge the different degrees of naturalness due to the highly managed / cultivated landcover.
13. To be clear, while pasture is natural in the sense of being a natural element, the pastoral and at times crop landcover is managed through a more intensive managed regime than the steep upper mountain slopes. The pastoral landcover and its inevitable open character is valued because it reinforces the legibility of a very **small part** of the Mount Alpha fan so the pasture is valued in that sense but not for its high naturalness per se.
14. The open pastoral landcover that reveals the fan feature is the quite clearly the result of over 100 years of farming practises associated with an historic holding and important to acknowledge. The role of past and continued management of this farmland today is a key influence on the open character and visual coherence values that differ vastly from the upper mountain slopes of Mt Alpha.
15. The 'Important shared and recognised attributes and values' appear to rely on values identified by a view or vista of the general area in tourism publications. I find this to be fundamentally flawed because in reality views from the Wakatipu Basin incorporate multiple landscapes over huge distances. While I accept that there are broad values relating to the views over the Wakatipu Basin in general I think that a visual juxtaposition of the Mount Alpha fan is not enough to justify the '*very highly*' shared and recognised values associated specifically with the lower cultivated slopes of the fan.

16. I maintain that the values of the broader Mount Alpha ONL are sufficiently different to the fan in a similar way to the pastoral corridor along the Wanaka Mt Aspiring Road. In my view, this overlooks the fact that some parts of the ONL (the fan and the Waterfall Creek to Damper Bay valley) have a domesticated pastoral character that is directly related to the difference in the underlying landforms. This pastoral character was acknowledged in the Environment Court Decision C73/2002 but the valley was classified as part of the broad scale Mt Alpha ONL simply because it was too narrow to be a landscape in its own right.<sup>1</sup> Similarly the fan is included without sufficient justification and to me this undermines the underlying rationale for the boundary line and values of the ONL.
17. In my view these aspects and differences are significant enough to warrant the fan being identified as a Rural Character Landscape rather than an ONL

### **CAPACITY**

18. Critically the capacity ratings relate to the inclusion of the fan as part of a broader ONL that is not justified on the basis of sufficient outstandingness and naturalness. Notwithstanding the questionable inclusion of the fan as part of the ONL I find that the explanation for the scale terminology given under the Methodology Statement – May 2022<sup>2</sup> to be flawed. The reason offered at 3.11 states the preference to use a ‘less absolute’ terminology. I consider that the use of the word ‘**no**’ as a capacity rating is absolute, determinative, and misleading with onerous implications for applying the schedules at a site level. ‘No’ means ‘no’ in much the same way ‘avoid’ means ‘not allow’<sup>3</sup>. To my mind, a determination of ‘**no**’ capacity at a high level leaves no room for an alternative interpretation at a subsequent site level assessment.
19. In my view, the implication of a ‘**no**’ capacity description conflicts with the intended application of the PA Schedules described in the Preamble to Schedules 21.22 and 21.23, despite the acknowledgement that ‘*The capacity ratings and associated descriptions are based on an assessment*

---

<sup>1</sup> C73/2002, paras 38 - 42

<sup>2</sup> Methodology Statement. May 2022. Appendix c1 attached to the s32 Report

<sup>3</sup> Eg refer *King Salmon*.

*of each PA as a whole and should not be taken as prescribing the capacity of specific sites’ and that ‘Landscape capacity is not a fixed concept, and it may change over time as development occurs or landscape characteristics change. In addition, across each PA there is likely to be variation in landscape capacity, which will require detailed consideration and assessment through future plan changes or resource consent applications’.*

20. Landscape capacity in relation to ONFL means the ‘capacity’ of a landscape to absorb or accommodate development without compromising its identified landscape values. The definition of landscape capacity provided by TTatM<sup>4</sup> states that *‘an evaluation of (landscape) capacity is a necessarily imprecise process because it involves estimating an unknown future’.*
21. As set out in Ms Gilbert’s EIC paragraph 9.7 (c), no capacity risks being interpreted as a prohibition for future development of a PA, which doesn’t align with the District Plan. I agree. The capacity scale and particularly the term **‘no capacity’** will inevitably filter down and will be very difficult to argue against. I am aware of a recent example where decision makers have been focussed on the semantics of the capacity scale without a clear understanding of how the high-level values outlined in the Schedules apply to a specific proposal on a specific site within a PA ONFL.
22. The capacity for activities on the fan is identified independently from the steep mountain slopes due to the significantly different underlying geomorphology, landcover and land use. The landscape capacity suggests that there are substantive differences between the values within this ONL as a consequence of a nominal boundary line. Notwithstanding this, the capacity ratings set out for the Mount Alpha ONL range between **‘some’** landscape capacity for commercial recreational activities limited by precluding built infrastructure on the fan, a **‘limited’** landscape capacity for farming activities (including earthworks, and farm buildings) and **‘no’** landscape capacity for visitor accommodation and tourism related activities, urban expansions and rural living.
23. I consider these capacity ratings to be inconsistent with the landscape values of the fan, the surrounding Wanaka context and also inconsistent

---

<sup>4</sup> Te Tangi a Te Manu. Section 5.49

with the consented Hillend development within the lower slopes of the Mount Alpha ONL adjacent to the fan. To my mind the determination of landscape capacity ignores consideration of the adjoining RCL context and proximity to urban Wanaka where there is potential for activities that integrate with, and complement / enhance existing land uses, and provide for a transition between urban development of the adjacent flats.

24. Additionally, while reference to landscape restoration and enhancement is made, there is no acknowledgement that mitigation, offsets or benefits to landscape arising from a proposal may alter the capacity of the landscape to absorb a development in a way that relevant values whether they pertain to an ONL or RCL remain intact.
25. For the above reasons I do not resile from my opinion that 'no' effectively means 'no', and the identification of 'no' capacity at a high-level means that there is no likely or realistic alternative conclusion at a site level – therefore rendering the application process as futile. I argue that without the detail (scale, extent location) of a proposed development there is simply no way to determine in advance whether or not a particular development will adversely affect the values of an ONL. The ability to provide a finer grained assessment as part of a site-specific proposal, which will determine whether or not there is a higher capacity for development must be contemplated without the undue persuasion of '**no**' capacity.

## **CONCLUSION**

26. It is important for the schedule to recognise the **key** values contributing to the Mount Alpha ONL and that this is reflected in the capacity ratings. It is also essential that attributes, which do not contribute to the outstanding values of the Mount Alpha are not recorded as values or characteristics that should be protected but should be separated for clarity and grounded by a defensible logic. In some cases, further explanation will be required to explain the interrelated nature of some attributes and their contribution to the identified values. As I have explained above, I do not consider it is appropriate to include the fan as part of the broader ONL because the fan displays values more akin to a rural character landscape rather than an ONL.



27. The landscape attributes, values and capacity identified in Mount Alpha ONL - Schedule 21.22.19 will be highly relevant and persuasive in future consenting processes even though the schedules are, for the most part, pitched at a high level.
28. I do not resile from my opinion that 'no' means 'no' and the identification of 'no' capacity at a high-level means that there is no effective alternative conclusion at a site level. It risks resulting in de facto prohibited activities. I argue that without the detail (scale, extent location) of a proposed development there is simply no way to determine in advance whether or not that a particular development will adversely affect the values of an ONFL (at least, not without very detailed and comprehensive evidence about a particular ONFL). However, I accept that the ability to provide a finer grained assessment as part of a site-specific proposal, will offer some scope to determine whether or not there is capacity for development at the consent stage, taking into account mitigation, as well as offset and compensation options.

**8 September 2023**

**Nikki Smetham**