

**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 **THE MILSTEAD TRUST**

Submitter

AND **QUEENSTOWN LAKES DISTRICT COUNCIL**

Planning authority

STATEMENT OF EVIDENCE OF NICOLA 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 Milstead Trust on the Priority Area Landscape Schedules 21.22, particularly relating to the Slope Hill ONF 21.22.6, the methodology behind the development of the Variation and identification of community values. I do not support the primary relief sought (full refusal of the Variation), as I consider it appropriate for ONFL values to be identified in Landscape Schedules, provided of course that the ONFL 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) Capacity
 - (b) Slope Hill ONF Values with particular reference to relevance and accuracy

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 21.22.6 ONF Slope Hill. In summary:
- (a) 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 ONF will be adversely affected by every possible future proposal to a degree that the 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 ONF are so (say) "pristine", that development must effectively be prohibited to avoid adverse effects on those values; but that is far from the case here.
 - (b) I generally agree with the schedule attributes, which relate to the values of the Slope Hill 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. Further, I consider that it is not clear how the schedules are intended to be interpreted and used going forward. In my view the schedule requires amendments to address these points.
 - (c) The amendments to the Slope Hill ONF 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.

CAPACITY

8. I accept that capacity ratings are required by Chapter 3 Strategic Policy 3.3.37 but find that the explanation for the scale terminology given under the Methodology Statement – May 2022¹ 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'². 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.
9. 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 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'*.
10. 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 TTatM³ states that *'an evaluation of (landscape) capacity is a necessarily imprecise process because it involves estimating an unknown future'*.
11. 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

¹ Methodology Statement. May 2022. Appendix c1 attached to the s32 Report

² Eg refer *King Salmon*.

³ Te Tangi a Te Manu. Section 5.49

term **no capacity** will inevitably filter down and will be very difficult to argue against. I am aware of a recent example⁴ 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.

12. I accept the Response to Submissions Version of the PA Schedules goes part way to acknowledge the issue of no capacity by introducing a fifth scale of **Very limited to no landscape capacity**, which is defined as *typically corresponding to a situation in which the landscape is extremely close to its capacity to accommodate development of this type without material compromise of its identified landscape values, and where only an extremely small amount of very sensitively located and designed development is likely to be appropriate.*
13. Notwithstanding this, the capacity ratings set out for farming activities (including earthworks, and farm buildings) on the Slope Hill ONF are identified as **'very limited** and 'rural living as **'very limited to no'** and illustrate the tension between the values of the ONF that have been enhanced by traditional farming practises over the last 100 or so years. I maintain that the consideration of context where within the lower flanks / foothills of the Slope Hill ONF activities that integrate with, and complement / enhance existing land uses, provide for a transition between urban development of the adjacent flats and are located to integrate with natural landscape elements are possible, while still maintaining the values of the ONF.⁵
14. Furthermore, I note that as technology advances there are likely to be situations where developments may be proposed that have not been contemplated by the capacity assessment nor whether or not it is appropriate development in an ONL. 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 ONL values remain intact.

⁴ RM200053_Hydro Attack Limited

⁵ OS139.68 Grant Stalker Family Trust Submission

15. 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. However, I accept that the amendment to a **‘very limited to no’** landscape capacity for rural living provides some scope, in combination with 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.
16. Further, I understand that the capacity ratings address future development activity.”⁶ However, I do not think the schedule is sufficiently clear on this point. This may be addressed by adding in the word “future” to the Landscape Capacity sentence to read;

‘The landscape capacity of the PA ONF Slope Hill for a range of future activities is set out below.

17. On the matter of capacity, the Schedule for Slope Hill ONF indicates a ‘very limited to no’ landscape capacity for farm buildings and rural living. I consider this to be restrictive to ongoing viable farming activity and does not appropriately acknowledge that the established farming activities contribute to the high values of the Slope Hill ONF.

SLOPE HILL ONF VALUES

18. The role of the Landscape Schedules is to identify the landscape values that need to be protected in each priority area (PA). While I understand that the Slope Hill ONF landscape values are deemed to be a ‘starting point’, it is critical that they are relevant and key to identifying why this landscape is an ONF because it is against these values that any future development proposal must be assessed. In addition, Slope Hill is a relatively small ONF compared to other PAs within the district, which means that the scope for variation in values throughout the PA is restricted. Therefore, it is essential that values identified and recorded are accurate and applicable to this ONF.

⁶ Evidence in chief of Mr Head, Appendix 1(j), in response to submission point OS 42.17.

19. 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.
20. Notwithstanding the relatively small area of this PA, I find that some of the values identified as contributing to the Slope Hill ONF are open to misinterpretation or vague without reason, rather than being **key**. In addition, and this applies to all ONFLs, the danger in identifying **all** generic attributes as values can have the effect of debasing the justifiable key values of ONLFs. To be clear, I agree with the need to identify all attributes in a comprehensive manner, but the values derived from these must be those that are key.
21. This is particularly in relation to areas of farmland / pasture assessed as of relatively high naturalness. 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 'relatively high perception of naturalness' applying to the very managed pastoral landcover of Slope Hill and one that clearly has a high level of human influence. I assume the term 'relatively high naturalness' relates to the naturalness spectrum, where grazed pasture would have a lower naturalness than the upper slopes of say 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 / all are stated as having a high perception of naturalness but actually differ widely in naturalness.
22. 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.

23. To be clear, while pasture is natural in the sense of being a natural element, the pastoral 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 the natural landform that is the key attribute of the ONF, so the pasture is valued in that sense but not for its high naturalness per se.
24. This is an example of how the landscape attributes and landscape values are inextricably linked and that to understand and protect landscape values requires consideration of both landscape attributes and landscape values, (refer Ms Gilbert's paragraph 6.15) and reinforces the need for expert understanding of the nuanced interrelationship to determine whether a proposal will adversely affect landscape values attributed to a particular ONL. Further, noting the purpose of the Schedules to include key values leads me to question why the schist outcrops existing on Slope Hill are not described under physical attributes. I regard these as highly natural and key to the Slope Hill ONF as part of the legibility of the roche moutonnée and expressive of the underlying geology that references its Central Otago location. As the roche moutonnée landform is the fundamental underlying ONF value, it is important to understand its elements, and the extent to which they are expressed and remain legible. For example:
- (a) **Smooth and Polished Surfaces:** Roche moutonnées in Central Otago, like those in other glaciated regions, often have smooth and polished rock surfaces on their upstream sides. This smoothing and polishing are the result of the abrasive action of glaciers as they move over the bedrock.
 - (b) **Asymmetrical Shape:** Roche moutonnées typically have an asymmetrical shape, with a gently sloping and elongated side facing downstream (the direction of glacial movement) and a steeper, more rugged side facing upstream. This asymmetry is a characteristic feature resulting from glacial erosion.
 - (c) **Striations:** Some roche moutonnées in Central Otago may exhibit striations—long, parallel grooves or scratches—on their surfaces. These striations are formed by the movement of rocks and debris trapped in the glacier's ice as it grinds against the bedrock.

(d) **Depositional Features:** On the downstream side of roche moutonnées, accumulations of glacial debris, such as moraines or glacial till are often found. These deposits can provide additional evidence of past glacial activity in the region.

25. I also have some reservation about the terminology used. I find it to be misleading and inaccurate leading to the interpretation of some attributes being values worthy of protection. I refer to the matagouri shrubland listed as 'particularly noteworthy indigenous vegetation' identified under Important ecological features and vegetation types. In reality, the areas of matagouri shrubland within the Slope Hill PA are dispersed and not noteworthy in the ordinary dictionary sense nor by being identified as a SNA. I am also aware that kanuka exists on the site but is not listed as indigenous vegetation present on the site. So, while indigenous vegetation may be present in isolated clusters it is hardly sufficiently present to be a value contributing to the ONF. I consider this value to be overstated.
26. Similarly, the transient values⁷ identified as autumn leaf colour and seasonal loss of leaves are not particularly characteristic to Slope Hill nor key to the values that contribute to the Slope Hill ONF. There are other very striking examples of transient attributes that contribute to a memorable value throughout the Wakatipu Basin, such as the line of poplar trees along the access to Chard Farm or the sites containing flowering lupins in the Mackenzie Basin. The transient attributes and values that are mentioned are broadly generic to the Wakatipu Basin but not particularly 'noteworthy' within Slope Hill nor is it a key contributor to the reason Slope Hill is an ONF. I would say however that the light conditions and seasonal snow fall that emphasises the roche moutonnée Slope Hill landform is a transient value that can be legitimately associated with the ONF.
27. With regard to Associative Values, I am aware that concern is raised about the methodology to establish community values. Associative Values must, by default, be those that are community held and widely held and therefore require consultation to affirm.
28. In particular, I understand that Slope Hill holds values that are not described or acknowledged by the Schedule particularly relating to the

⁷ The consistent occurrence of transient features (for example seasonal flowering of vegetation, presence of snow, wildlife at certain times of the year, weather patterns) that contribute to the character, qualities and values of the landscape

historic Glenpanel Homestead constructed in 1909, although high associative values relating to the historic associations of the area are identified, particularly with regard to the contextual value of Threepwood Farm. Notwithstanding the omission of Glenpanel Homestead and Farm, the open pastoral landcover that reveals the roche moutonnée feature is quite clearly the result of over 100 years of farming practises associated with these historic holdings and important to acknowledge.

29. The role of past and continued management of this farmland today is a key influence on the open character and visual coherence that contribute to the high legibility of the Slope Hill ONF as a roche moutonnée feature. Should farm management of the pasture landcover cease, if left to unmanaged and subject to natural processes Slope Hill will rapidly become overrun with exotic plant pests / wilding species noted as willow, hawthorne and broom. Therefore, the maintenance of the ONF values is highly dependent on the continuation of farm management, which may necessitate an onsite presence requiring a farm dwelling and / or farm accessory buildings within the land holding.
30. As mentioned in my evidence above, this suggests that the capacity rating should reflect the necessity for farm buildings and / or farmhouses as onsite farm management as contemplated under the pathway given by Policy 6.3.3.3. I note that the term “rural living” excludes “residential development for farming or other rural production activities”, so farmhouses would not technically be considered as “rural living”.
31. 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 is not enough to justify the ‘*strong*’ shared and recognised values associated specifically with the Slope Hill area.
32. The point I make is that identifying all attributes as values implies that they are values which should be protected equally as part of an ONFL in a way that is inaccurate and misleading. This has the potential to result in

different opinions and protracted arguments between landscape architects assessing a site-specific application.

33. I say this in a cautionary sense not because any of the attributes are immaterial but because not all attributes contribute to the key values of the Slope Hill ONF. This means there is potential for the attributes to be misunderstood as relevant values to the assessment of effects arising from a future proposed development. So, although I agree the attributes should be comprehensively identified, I am of the opinion that the values should be explicit to the particular ONFL. As noted in TTatM *Be precise: these are the values against which the appropriateness or otherwise of an activity will be assessed.*⁸
34. I consider the simplest resolution to address potential confusion would be to reword the Schedule headings and separate the attributes from the values, for example, “Physical Attributes and Values” could become “Physical Attributes”, and so on for the Associative and Perceptual headings. This means that the attributes can capture a comprehensive description, including the less desirable qualities (i.e., pest species) that exist, but do not necessarily contribute to the key values of a particular ONFL. The values can be then more appropriately replace the Summary of Landscape Values as simply The Key Landscape Values.

CONCLUSION

35. The landscape attributes, values and capacity identified in The Slope Hill ONF - Schedule 21.22.6 will be highly relevant and persuasive in future consenting processes even though the schedules are, for the most part, pitched at a high level.
36. 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 amendment to a **‘very**

⁸ Te Tangi a te Manu. Section 8.26

limited to no' landscape capacity for rural living provides some scope, in combination with the ability to provide a finer grained assessment as part of a site-specific proposal, which will determine whether or not there is capacity for development at the consent stage, taking into account mitigation, as well as offset and compensation options.

37. It is important for the schedule to recognise the key values contributing to the Slope Hill ONF 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 Slope Hill ONF are not recorded as values or characteristics that should be protected but should be separated for clarity under the recommended headings for each section of attributes and values. 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 retain the wording as proposed. I recommend that the Panel amend the schedule wording to reflect the recommendations discussed in this brief of evidence.

11 September 2023

Nikki Smetham