

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

Of the Variation to the Proposed District  
Plan, Priority Area Landscape Schedules

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**SUMMARY STATEMENT ON BEHALF OF**

**DR JOHN COSSENS**

Date: 7<sup>th</sup> November 2023

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## MAY IT PLEASE THE COMMISSION

1. Good afternoon, and thank you for the opportunity to speak to you on the matter of the landscape schedules.
2. There has been a lot of words written about the landscape schedule methodology and I stand by everything I have said, the flaws are obvious to both expert and lay people and have not been defended by the Council but I don't intend going into that here.
3. It seems to me the process the Council has undertaken here has been 'about face'. That is, the development of the landscape schedules should have focused on people (values, attitudes, perceptions, etc) rather than on seeking expert driven opinions of landscape values. The effects of the landscape schedules will have a significant effect on people, most notably residents and landowners, and yet effects on these people have hardly rated a mention. From my own experience of the consenting process where there is inconsistency, uncertainty and arbitrary landscape opinions and decision making this can have profound effects on people and families especially when decisions are appealed and end up in the environment court. Already the draft landscape schedules are being used by landscape consultants, particularly Council experts, in subdivision resource consent applications.
4. In my view, the landscape schedule development has been combative and litigious. The so called initial feedback Council asked for, was then accepted, or rejected by the landscape, planning and landscape peer review consultants. The same is happening now in these hearings where it seems the process is whether to accept or reject submissions based on how it fits with the Council landscape narrative. That to me is not consultation, nor is it seeking resident buy-in or taking the community with

you. The High Court held that consultation happens before a decision (that is, the notified decision) is made. That did not happen here.

5. The essence of principles of the RMA also seems to have been forgotten, namely,

*the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety ...*

6. Rather, the focus of the schedules appears to have been on a narrow understanding of landscape from a landscape consultants' point of view and an attempt to limit development in the rural zone wherever possible based on previously held views of rural development in the Upper Clutha basin. As someone who has lived here for a while, it seems inconceivable that there is nowhere in the rural areas of the Upper Clutha that could accommodate further sustainable development.
7. In my view, there is nowhere in the landscape schedules which identifies what those most affected, namely residents and the local community, value. There is nowhere which states what landscape values residents consider most important, and there is nowhere which identifies how changes to those values will be measured over time.
8. If the council or commission cannot state or point to where community and resident values have been identified in the landscape schedules, then I consider the landscape schedule are a failure. The opinions and landscape values of residents should be a counterbalance to those of experts but they are nowhere to be found. Not only that but the essence of the Environment Court PDP decisions 2.1 and 2.2 where the Court in relying on the decisions of *Matakana, Man O'War Station and King Salmon* considered the Council had fallen well short in identifying what is to be protected, where

and why, and considered the listing of relevant values, provided they are properly informed and expressed, would help plug the gap that currently exists in the PDP. My submission is that because of the way the Council has gone about developing the schedules, that gap still exists.

9. The principal reason I got involved in the PDP appeals was because I felt we had been treated very poorly and inconsistently by the Council and its experts in regard a 4 lot rural subdivision on Te Awa Road, which is located in the West of Hawea RCL PA and that same lack of due process had flowed through into the PDP. In my view the PDP was expert led, rather than community driven.
10. In short, and very briefly, we were declined 1 of the 4 lots by Commissioners, but the conditions were so restrictive and tied to that one lot, that we had to no choice but to appeal and we began a journey that took us to the Environment Court, and further to the High Court, on other matters related to due process.
11. The crux of the case was a proposed dwelling 740 metres from SH6 and 350m from Te Awa Road in an area surrounded by other dwellings. At the time, the council were relying on an argument put forward by their landscape expert Ms Mellsop that this one dwelling would have a negative effect on the '*open, pastoral character*' of the area, a term that had been largely rejected by the Environment Court (most notably Judge Jackson) for 20 years but had now been introduced into the PDP(again by Ms Mellsop).
12. At no time was the Council prepared to negotiate and I think they saw it as a test case for the new PDP given 'open landscape' was a pivotal phrase of the PDP but we were eventually successful at the Environment Court in obtaining the fourth lot but at great cost, time, and stress.

13. However, what I find most galling and perverse is that a little over 3 years on, in 2023, a neighbouring property to ours was also granted consent for 4 lots with the closest dwelling 209m from SH6 and an even lesser distance to Te Awa road. The landscape experts concluded there would be a low effect of this subdivision on the rural amenity and landscape of the area. So what has changed? A discretionary decision made even though the capacity in the landscape schedule for that area was one of very limited capacity. What's also ironic is that this area was one which Mr Haworth and the UCESI had recommended in the PDP as an area which could be subdivided down to 2ha minimum size lots even though they had appealed against our 4 lot subdivision with an average size of 5ha. The inconsistency very much remains.

14. In its 2019 decision 2.2 the environment Court very succinctly summed up my concerns:

*[70] Dr Cossens offered a perspective as a longstanding resident and business owner in Upper Clutha who has experienced uncertainty, cost, and delay in seeking development consent in the Rural zone (albeit under the prior ODP regime). As he acknowledged, he shares common ground with UCESI about the uncertainty of the Upper Clutha RCLs. He also sees value in an Upper Clutha Basin Land Use Planning Study that engages with the community. He parts company with Mr Haworth on preferred planning outcomes.*

*[71] Dr Cossens expressed concern about the inadequacies in the DV's Rural and RCL provisions, particularly their lack of clear direction. He described the regime as too simplistic and generalised ("broad brush"). He noted that the DV does not recognise the proper role of "relevant publics" (e.g. visitors, locals, residents) in determining sensory and perceptual values. In addition, he is concerned that the DV does not make clear what constitutes a 'rural character landscape' and how cumulative effects are measured.*

*He also referred to its lack of identification of "significant future threats to this environment". Related to those concerns, he commented about a lack of any "real substantive research into perceptual and sensory values associated with the landscapes of this area". He urged that any work to remediate these deficiencies should include proper gauging of public perceptions.*

[72] *On the matter of cumulative effects, he added:*

*. . . all landscape experts highlight the difficulty in defining and measuring 'cumulative effect' yet the Council has tried to make it a cornerstone of their PDP policy, objectives, and rules in the rural zone. Without sufficient clarification of how to define and measure 'cumulative effect' the vagueness of the concept will only be perpetuated, and inconsistency will remain.*

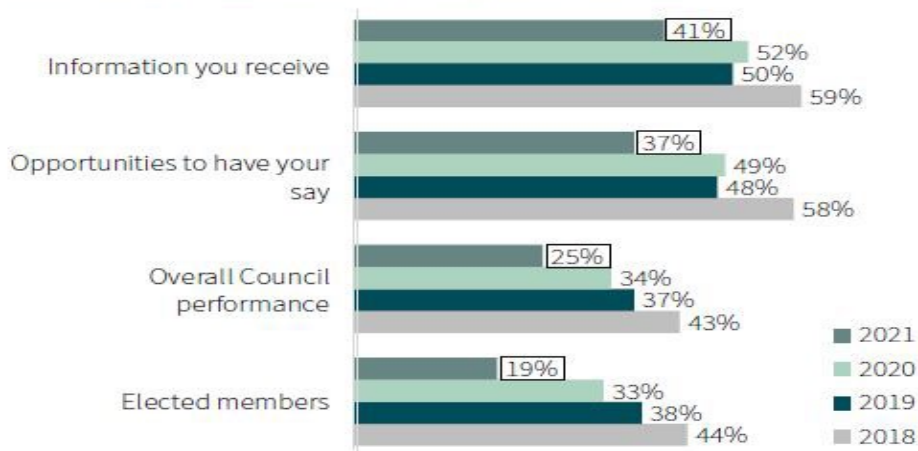
15. So I was absolutely delighted with the decisions of the Environment Court in recognising the need for an Upper Clutha Panning study and directing the Council to create landscape value schedules for priority areas. I was very hopeful that residents, developers, planning and landscape experts, Council and decision makers would have a clear direction and clarity of where development should or shouldn't happen.
16. However, sadly, I have been bitterly disappointed by the process the Council has used in undertaking the landscape study and the outcome of the landscape schedule development. It appears to me the Council has taken nothing from the criticism in the various EC decisions and certainly have not brought the community with them or undertaken a community led planning study. The result being that conflict and uncertainty remain, and the wholly inefficient ad hoc, discretionary regime will perpetuate.
17. I consider that inconsistency will remain where capacity is a lottery, cumulative facts are not measurable and development potential has not been identified.
18. I have spent most of my working life undertaking market research, and ironically for a number of years did the QLDC public opinion surveys. So while I know what I am talking about, in this case, you don't need to be an expert to know the community survey/feedback was a farce.

19. In recent weeks the QLDC has released its 2023 annual residents' opinion survey for the community to complete. It is being conducted by Versus Research and last year cost about \$30,000. From last year research the Council has released some key points

Key points from the 2022 survey include:

- 77% of residents rate their quality of life as good or better.
- 16% said they had a place to live today but were worried about losing it in the future.
- 20% indicated they needed to move in the last 12 months.
- 20% had no disposable income or couldn't cover expenses.
- 91% agreed their neighbourhood was safe.
- Satisfaction amongst users of council facilities was generally high.
- Satisfaction with council performance and satisfaction with elected members was at 20% and 19% respectively.

### ANNUAL TRENDS: TOTAL SATISFIED



20. It is a very good survey with longitudinal benefits, that is, change can be measured and trends identified. If we apply similar key requirements to the landscape schedules, how will change be measured?





For example,

What key landscape values of the Cardona/Mt Barker RCL PA are most important to people (residents, locals, etc)?

How do they rate the importance of those key values?

What are residents' satisfaction with those key values now?

In 2,5 or ten years' time what values have changed, either in importance or satisfaction.

Likewise, what negative values do residents not want, and how are they rated now? Will they have changed in 2,5 and 10 years' time?

21. The ability to measure how landscapes (values, perceptions, attitudes) change over time is critical to the measurement of cumulative effects and therefore must be an essential part of the landscape schedules but is sadly lacking in their current form. There has been no opinion from the consultants on how the landscapes may look in 5, 10 or 20 years' time. I recall Judge Jackson one of the key aspects of his decision making was the predictive aspect of how things might look in the future. Would it not be helpful to know how landscapes might look in the future and how residents have a rated a particular value and whether they change over time?
22. Lay people and residents should not be shut out of the planning and consenting process and even undertaking their own applications because the plans and schedules have become too complex and only for the experts to interpret as I consider has is happening here. To hear that the Council's landscape consultants consider the schedules are really only for expert use is an indictment on their approach to the schedules.
23. I heard Commissioner Smith asking Mr Gardner Hopkins what values did he consider has been left out of a particular PA by the experts. To my mind suggesting that if there were none left out then that corrected any failings in the community consultation is not a reason to forgo community consultation

for as the saying goes, '*not only must justice be done, but be seen to be done.*' If the consultation is not reliable and robust and fair, then why do it? Why not just stick with just landscape experts. I say again, why bother? It seems to me the consultation becomes just a token exercise.

24. I am familiar with the legal concept that procedural errors can be cured on appeal but in my view these hearings are not a de novo appeal and as such procedural errors would not be cured by these hearings and the only course of action for the Commissioners would be to recommend further study into community and resident perceptions. This recommendation would be similar to the Wakatipu Basin Study recommended by the PDP hearings panel.
25. In summary, I would ask the panel to very carefully consider whether the landscape schedules:
  - a. Have truly met the principles of the RMA
  - b. Have been informed by robust research which has established community and resident landscape values
  - c. Allow for landscape values to be measured over time
  - d. Allow for cumulative effects to be measured
  - e. Have taken into account their affects on people as much as landscapes.

Thank you

John Cossens

Wanaka

7<sup>th</sup> Nov 2023