


**Barnhill Corporate Trustee Ltd and DE, ME Bunn and LA Green # 2509 and Morgan Ferry Ltd #2449 – Summary Legal Issues – 24 July 2018**

- 1 The specific areas sought for rezoning have been carefully selected based on their suitability for different uses namely rural visitor and rural living given their topography and accessibility. We encourage the panel to undertake another site visit.
- 2 Particularly compelling in this instance is the story of the of the farming history. Farming in the basin is generally challenging. The experience of both submitters is that it is difficult to sustain viable operations, and for the Bunn family (Barnhill) this has been significantly exacerbated by the Queenstown Trail.
- 3 Therefore what is sought in terms of planning outcomes is a rural visitor hub in the centre of the community for both visitors and residents to enjoy, and nodes of rural living in close vicinity. Based on the topography including rocky outcrops, wetlands and slopes it is considered that a minimum lot size of 4000 m<sup>2</sup> along with other standards generally consistent with the lifestyle precinct would be the most appropriate outcome for this specific site. See the attached **appendix** summarising key provisions sought. If it is determined that there is no ability to amend and apply the operative rural visitor zone to the site, then the same outcome can effectively be achieved by inserting either a specific precinct overlay within the WBRAZ, or specific rules that have the same as effect as the application of the amended rural visitor rules sought both in stage I and stage II submissions.
- 4 In addition to enabling the submitters to make a more viable use of the land compared to farming, the other truly positive effects of the proposed rezoning are the creation of a community as envisaged by the submitters that would enable more people to enjoy the Wakatipu Basin rural living amenity at a scale where residents can genuinely develop a sense of place and community, and the creation of a visitor zone that would enable provision of facilities that would enhance trail users' experiences and meet a currently unmet need.
- 5 It is important not to conflate the consideration of amenity values under section 7(c) with the protection of ONFLs from inappropriate development within section 6(b). Done well, tourism, recreation and quality rural living opportunities will enhance the amenity values of the submitters' land, however the zoning of WBRAZ will not enable that enhancement. [Case law on "maintain and enhance amenity values" and giving effect to RPS].
- 6 The assessment of the likely effects of the proposed rezoning cannot, in my submission, give weight to the experience of trail users where the trail is easement rather than legal road, as that part of the trail is deemed not to be a public place.
- 7 In respect of infrastructure namely road incapacity it is submitted that it cannot be as simple as saying because the current predictions are for the system to reach capacity there shall be no more developments in one particular geographical area given that contributing factors such as

traffic from beyond the area are beyond the council's control. There is a concerning material inconsistency with the approach taken by NZTA compared to other infrastructure providers such as the Ministry of Education and District Health Board.

Dated this 24<sup>th</sup> day of July 2018

*Maree Baker-Galloway* 

Maree Baker-Galloway/Vanessa Robb

## **Key Planning Provisions for the Barnhill/Morven Ferry Limited Land**

### **Amended Rural Visitor Zone – Barnhill Land**

- Visitor Accommodation (Controlled Activity – Existing Rule 12.4.3.2(vi))
- Buildings (Restricted Discretionary Activity – New Rule 12.4.3.3A(i))
- Maximum Building Footprint: 300m<sup>2</sup>, with the exception of one viticultural building to 500m<sup>2</sup> within Area B (Restricted Discretionary to breach – New Rule 12.4.3.3A(ii))
- Residential Activities (except for works accommodation) (Discretionary Activity – New Rule 12.4.3.3va)
- Production of Wine ('activity' itself is permitted pursuant to amended Rule 12.4.3.4(v))
- Potential non-notification of Buildings (new rule 12.4.4(ii))
- Internal setbacks – 6m from zone boundary plus 10m from zone boundary for residential building and 20m for visitor accommodation buildings (existing Rule 12.4.5.1(i)).
- Maximum Building Height – 6m, except for one viticultural building up to 10m in height in Area B – New Rule 12.4.5.2(i)(a) – non-complying to breach)
- Maximum Building Coverage – 1500m<sup>2</sup> in Area A, 3000m<sup>2</sup> in Area B (new rule 12.4.5.2(vi) – non-complying activity to breach)
- Road Setback – 35m from Morven Ferry Road (new rule 12.4.5.2(vii) – non-complying activity to breach)
- Amended Assessment Matters that deal buildings (12.5.2(viii)), site coverage (12.5.2(xx) and residential activities (12.5.2(xxi)).

### **Rural Residential Zone/Wakatipu Basin Lifestyle Precinct Provisions – Residential Activities (Compared to rebuttal Version)**

- Subdivision: (Restricted Discretionary to breach) (Rule 27.4.3). Note, a 4000m<sup>2</sup> minimum allotment regime is proposed and submitter prefers a controlled activity regime with control over location of the building platform amongst other matters (27.7.6.1).
- Identification of a land use building platform – Restricted Discretionary Activity (Rule 24.4.XA) but submitter seeks that creation on new building platforms (or houses if deemed not to be a landuse activity) be controlled (table 24.2, 24.4.26)) Note also additional controls over building and materials promoted in 24.5.5
- The construction of buildings outside of a building platform – Restricted Discretionary Activity (Rule 24.4.5)
- Internal building setback – 10m (Rule 24.5.2) but submitter seeks 6m generally and 15m from lot 1 DP 41193 (24.5.2))
- Setback from roads – 75m (Rule 24.5.4). Note, the submitter has sought a 10m setback via its submission
- External colour controls (Rule 24.5.XC) (Restricted Discretionary to breach)
- Alterations to buildings not contained within a building platform – (Rule 24.5.XD) (Restricted Discretionary to breach)
- Maximum building coverage – 15% of lot area or 500m<sup>2</sup> ground floor area, whichever is the lesser (Rule 24.5.1) (Restricted Discretionary to breach) but submitter seeks 1000m<sup>2</sup>
- Height of buildings – 6m (Rule 24.5.3) (Restricted Discretionary to breach between 6m to 8m, non-complying over 8m)(noting that submitters originally sought 8m, but for this site now accept 6m)
- Setback from waterbodies – 30m (Rule 24.5.7) (Restricted Discretionary to breach)



Mouth of Mill Creek 7/07/2018



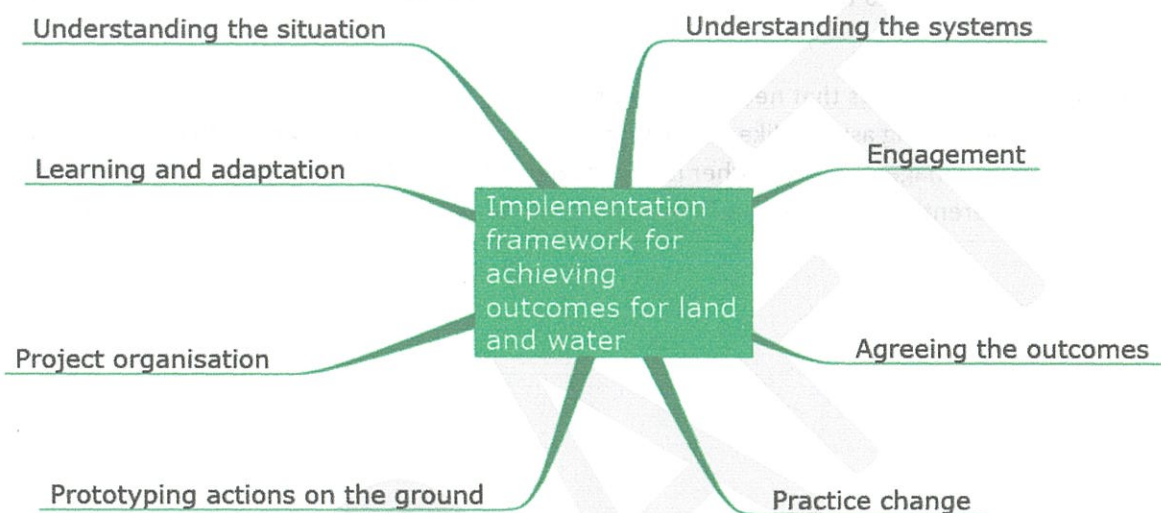
Cnr Rutherford Rd & Slope Hill Rd 7/07/2018





## Proposed steps for moving from a strategy for Lake Hayes to action on the ground

The proposed steps broadly follow an adaptive management framework of 'Plan>Do>Monitor>Review'. They are intended to assist moving on from a strategy document to achieving action on the ground. Multiple aspects have been identified as important for this transition<sup>1</sup>, figure below, and although there will be multiple iterations of some of these aspects throughout [the](#) process, some broad sequential steps have been identified.



Step 1. Identify a group of interested citizens broadly representative of the interested community and issues in the area and who are interested in action on the ground. This is likely to be revisited after steps 2 and 3. The group might include community, farming, viticulture, tourism, developers, recreation, district and regional council. It would need to involve mana whenua.

Step 2. With this group, build a good understanding of the catchment situation, environmental, economic, social, institutional and cultural. Understanding all the factors that are influencing the situation you are trying to manage, or address, is the first step in building an accurate picture of what implementation approach has the greatest chance of success. This step also involves understanding what the matters of concern are for different people. This information has been largely, although not entirely collected, through the previous strategy documents.

Step 3. Build a simple system understanding of the area, looking at the causes of the different issues, understanding the community and networks and understanding the adaptive capacity of the area to make change. Building a systems view is about looking at the system in question in its entirety, enabling consideration of the different drivers, and their relationships and influences across scales and timeframes.

<sup>1</sup> Research currently underway at Manaaki Whenua

Step 4. Based on the previous steps, assess if all the necessary people are involved, then determine and agree long-term outcomes (these don't just have to be environmental) and note how the group thinks those outcomes might be achieved.

Step 5. For each of the long-term outcomes, use the systems understanding developed in step 2 and try and understand all the contributing factors to achieving that outcome. Identify what needs to change with those who actions are influencing the situation. Detailing what practices might need to change, who would be involved, why they might change and who could help.

Step 6. Of all these possible actions, prioritise some. Based on how the group thinks change occurs, identify your proposed course of action and methodology over the short term to influencing the changes required. Identify how you will know if you have been successful or not, and consider how you will learn and adapt to this information (noting that some environmental impacts take some time to be seen).

There are two other aspects that need to be considered throughout. Firstly the 'project' organisation, considering aspects like resourcing, who is making decisions and with what authority, governance, risk management. The other is engagement, considering the purpose, plan and process for engaging different stakeholders and the wider community into the implementation effort