

TO: The Hearing Administrator, Lynley Scott, [DP.Hearings@qldc.govt.nz](mailto:DP.Hearings@qldc.govt.nz)

**BEFORE AN INDEPENDENT HEARING PANEL  
APPOINTED BY QUEENSTOWN LAKES DISTRICT COUNCIL**

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

**IN THE MATTER OF** a Variation to the proposed Queenstown Lakes District Plan (Te Pūtahi Ladies Mile) in accordance with Part 5 of Schedule 1 to the Resource Management Act 1991 (“**Variation**”)

**BETWEEN** **GLENPANEL DEVELOPMENT LIMITED (“GDL”)**  
Submitter

**AND** **QUEENSTOWN LAKES DISTRICT COUNCIL (“QLDC”)**  
Proponent of the Variation

**FIFTH MEMORANDUM ON BEHALF OF GDL:  
APPLICATION FOR LEAVE TO CROSS EXAMINE**

*Before a Hearing Panel:* David Allen (Chair), & Commissioners Gillian Crowcroft, Hoani Langsbury, Judith Makinson and Ian Munro

1. In its Minute 1, the Panel stated at [9.14]:

While there is the ability to, the Hearing Panel is not minded to provide for cross examination during the hearing. Instead, a proposed written question and answer process is provided as set out below ...

2. At [16.1], the Panel further stated:

Any submitter may seek, in writing to the Hearing Administrator, variations to these Directions, or additional directions, from the Hearing Panel. Any such notice must provide the reasons for seeking the variation or additional directions and clearly state what direction is sought.

3. GDL availed itself of the opportunity to pose written questions, including the following question to Mr Skelton:

Do you accept that:

- (a) you had previously indicated to Glenpanel Development Limited’s Mark Tylden that you could support up to at least six residential sites on the ONF?; and

- (b) in any event, you are sufficiently familiar with the site to have a view on the relief sought in respect of the slight extension of the TPLM Variation area up the toe of the slope, with a corresponding shift in the ONF line, and the proposed location of the UGB; and
- (c) if so, you are able, and should, to best assist the Panel, give evidence as to your opinion on the relief sought.

4. Mr Skelton's answer was as follows:

- (a) I do not recall any such conversation with Mr Tylden and have provided no written landscape advice supporting a proposal for residential development within the Slope Hill ONF.

However, I have also worked for Mr Tylden in preparing the Flints Park SHA application. During that exercise we tested the inclusion of development low in the ONF but resolved to leave all built development out of the ONF as mapped at that time.

- (b & c) I have not been engaged to address the Slope Hill ONF boundary matters as they relate to the TPLM Variation Area or the Glenpanel submission seeking to shift the ONF boundary. As I have not undertaken a detailed assessment or consideration of the Slope Hill ONF lines, I defer to Bridget Gilbert's evidence on behalf of the Council.

5. GDL is concerned that Mr Skelton's written answers are not accurate, and, if necessary, will seek leave to bring evidence that directly challenges Mr Skelton's written answers on these matters; although GDL notes that it could most likely put such evidence to the Panel through the "2-page" summary statements of its witnesses or attachments thereto (ie without leave).

6. The issue of what development might be appropriate on part of what is currently identified in the PDP as ONF is a very important matter for GDL. Putting aside any question of jurisdiction, GDL considers it essential that the Panel have the best evidence before it – including the opinion of any appropriately qualified and informed expert, irrespective of any argued limitations of their "engagement".

7. In addition:

- (a) GDL considers that eliciting such opinion will be of substantial help to the Panel in ascertaining facts of consequence to the determination of GDL's position (ie the effects of certain development on what is currently identified as ONF): refer s25 Evidence Act 2006.

- (b) GDL effectively has a duty to put the contrary evidence to Mr Skelton, in accordance with the rule in *Browne v Dunn*, and as effectively codified in s92 of the Evidence Act 2006.
  - (c) As these matters go to a fundamental question of reliability and integrity of the witness, they should be put to him directly, and in open hearing, rather than left to (say) another round of written questions where the ability to obfuscate again remains equally present.
  - (d) Any cross examination, if allowed, will be short and focused, on this one issue (ie Mr Skelton's previous opinion as to development on the ONF), and is anticipated would take 15 minutes or less.
  - (e) Providing an opportunity to elicit evidence in support of GDL's case from a witness who has substantial knowledge of the matters at issue (having previously advised GDL in respect of the very site specific matters in question) who is already giving evidence before the Panel and is available to it (ie no "witness summons" is required), is particularly important in the current SPP process, as there is no ability to appeal on the merits and bring any further evidence (as would usually be the case with a usual council-level RMA hearing).
  - (f) Put another way, refusal of the opportunity for cross examination on this issue of considerable importance to GDL, in these circumstances, could be seen as a breach of natural justice giving rise to a ground for judicial review on the matter.
8. For all these reasons, GDL respectfully requests that leave be granted for its representative to cross examine Mr Skelton on this issue.

**29 November 2023**  
**James Gardner-Hopkins**  
**Project Manager**