



## Form 5

### Submission on Proposed Queenstown Lakes District Plan - Stage 3

#### Clause 6 of Schedule 1, Resource Management Act 1991

To: Queenstown Lakes District Council

Submitter: Minaret Station Limited

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#### 1.0 Background:

- 1.1 The submitter owns and operates Minaret Station, a working high country station on the western shore of Lake Wanaka. The station comprises Run 337 and 337A held on Record of Title OTA2/1316.
- 1.2 Run 337 measures 9,758.4 hectares extending from the Albert Burn at its northern extent to the Estuary Burn at its southern extent with the Estuary Burn forming the boundary between Run 337 and 337A. Run 337A measures 10,182.8 hectares in area extending south from the Estuary Burn to the Minaret Burn which forms the southern and western boundaries of the station. Lake Wanaka and its margins form the station's eastern boundary. Please refer to the location plan attached as **Appendix A** to this submission.

- 1.3 Minaret Station runs in the order of 12,000 deer, 1,000 sheep and 1,500 cattle, raised to supply premium export and domestic markets. The station is also home to Minaret Station Alpine Lodge, a world class luxury visitor accommodation lodge located in the upper reaches of the Estuary Burn Valley. Minaret Station Ltd conduct commercial recreation activities throughout the property with an emphasis on areas adjacent to the lake all of which is encompassed by the area identified as wāhi tūpuna.
- 1.4 The station is accessible by air or by boat only.
- 1.5 As shown on the location plan (being an extract from the PDP Stage 3 Maps) attached as **Appendix A** to this submission approximately 3,250 hectares of Minaret Station (approximately 16%) has been identified as wāhi tūpuna. The areas of the station that have been identified as wāhi tūpuna represent approximately 68% of the deer farm and includes all of the station's paddocks and associated infrastructure, all of the barge landing sites, the airstrips and all farm buildings including the homestead and staff accommodation facilities.
- 1.6 The wāhi tūpuna area that covers Minaret Station is scheduled as Area 6 (Makarore & Tiore Pātea) in Chapter 39 of the Proposed District Plan. The values identified within Makarore & Tiore Pātea are listed as pounamu, settlements, archaeological values, ara tawhito (trails or routes) and mahika kai (food gathering). The recognised threats to those values are listed as:
- Gravel extraction
  - Earthworks
  - Commercial and commercial recreation activities
  - Activities affecting water quality
  - Subdivision and development
  - Buildings and structures
  - Energy and utility activities
  - Activities affecting ridgelines and upper slopes
  - Exotic species including wilding pines

- 1.7 Minaret Station is 100% Crown Pastoral Lease land and as such is administered by the Commissioner of Crown Lands. With the move away from tenure review the Crown will be the long term steward of all remaining pastoral land, including Minaret Station, and the Crown is implementing changes to the regulatory and operational systems governing Crown pastoral land in order that it can take a stronger stewardship role. Part of the stronger stewardship role will include increased monitoring of activities on pastoral lease land.
- 1.8 The use and operation of pastoral lease land is governed by statutory provisions under the Crown Pastoral Land Act 1998 and the Land Act 1948. In addition contractual provisions can apply to specific leases. Under the statutory and contractual provisions the Commissioner of Crown Lands has the authority to make decisions about pastoral leases included applications by leaseholders to carry out activities for which the Commissioner's consent is required.
- 1.9 Leaseholders are required to practice good husbandry in the farming of the land being careful land management and adherence to responsible farming practices such that the land is farmed appropriately and within the terms of the lease and statutory requirements.
- 1.10 On pastoral lease land the prior written consent of the Commissioner of Crown Lands is required to undertake certain activities. There 'discretionary actions or activities' include:
- The granting of easements;
  - The removal of timber;
  - Commercial activities (including recreation, tourism and accommodation activities);
  - The burning of vegetation;
  - Activities affecting or disturbing soil; and
  - Any variation of stock limits.
- 1.11 Discretionary soil disturbance activities include:
- Clearing or felling of any bush or scrub;
  - Cropping, cultivating, draining or ploughing;
  - Top-dressing;
  - Sowing with seed;
  - Planting trees;

- Forming any path, road or track; and
- Any other activity affecting, or involving the disturbance of soil.

1.12 In considering any request for consent for a discretionary action or activity the Commissioner of Crown Lands must take into consideration the protection of 'inherent values' and the practicality of using the land for farming. Under the Crown Pastoral Land Act 1998 'inherent values' includes cultural, ecological, historical, recreational or scientific attributes or characteristics of the land.

**2.0 Minaret Station Limited's submission relates to the following provisions of the Queenstown Lakes District Council's Proposed District Plan:**

- Stage 3 Wāhi Tūpuna mapping
- The objectives, policies and rules of Proposed Chapter 39 - Wāhi Tūpuna
- The proposed variations to Chapter 25 - Earthworks

**3.0 Minaret Station Limited's submission is that:**

Minaret Station Limited (MSL) support the majority of Minaret Station not being identified as wāhi tūpuna.

MSL **oppose** the mapping of wāhi tūpuna areas and scheduling of values and recognised threats that is not supported by robust and transparent assessment that takes into account the specific circumstances and characteristics of the properties affected.

3.1 MSL support the concept of cultural mapping in an effort to record stories and place names for future generations. MSL also supports the protection of specific cultural sites of importance and accept that there may be values of significance to Māori on Minaret Station. However, the mapping of wāhi tūpuna areas appears to have been undertaken at a high level with the extents of identified wāhi tūpuna areas appearing arbitrary. In the absence of detailed analysis and a clear methodology of how the extents of the wāhi tūpuna areas have been defined MSL cannot have confidence that they are not being unreasonably and unfairly burdened by the identified wāhi tūpuna area.

- 3.2 It is understood that Ngāi Tahu have provided Council with maps identifying the wāhi tūpuna areas and those maps have been incorporated into the Stage 3 mapping. No explanation, evidence or methodology has been made available to the public or the affected landowners to support the extents of the identified wāhi tūpuna areas.
- 3.3 A number of values identified in wāhi tūpuna areas appear to be location specific such as urupā (burial places), nohoaka (settlements) and ara tawhito (trails or routes). MSL submit that if such values are present they could be more accurately identified and mapped to provide landowners, Council and tangata whenua with greater certainty in terms of the location and extents of such values.
- 3.4 Other values such as archaeological values and mahika kai are broad and appear to already be addressed, at least to an extent, by the provisions of Chapter 25 - Earthworks (in particular Rules 25.5.11, 25.5.12, 25.5.13 and 25.5.14) and Chapter 33 - Indigenous Vegetation and Biodiversity. Similarly many of the recognised threats (such as subdivision and development, roads, and activities affected ridgelines and upper slopes) appear to already be addressed through the provisions Chapter 6 - Landscape and Rural Character and Chapter 21 - Rural.
- 3.5 MSL submit that if wāhi tūpuna areas are to be identified on the planning maps then the extents of those areas must be supported by robust methodology, analysis and reasoning with the values present and recognised threats to those values being scheduled to a level of detail that provides suitable direction to landowners in terms of what is of significance and requires protection and how best to manage their property in order to avoid compromising those values.
- 3.6 In addition the mapping of wāhi tūpuna areas should take into consideration the specific circumstances and characteristics of the affected properties (such as land tenure) and other processes that may already be in place to provide for the protection of inherent values.

**MSL oppose proposed Rule 39.4.1.**

- 3.7 Proposed Rule 39.4.1 states that any farm building within a wāhi tūpuna area shall be a restricted discretionary activity with Council's discretion being limited to effects on cultural values of Manawhenua.

- 3.8 Under Stage 1 of the Proposed District Plan Rules 21.4.2 and 21.8.1 provided for farm buildings within an Outstanding Natural Landscape as a permitted activity provided they:
- Are on a landholding greater than 100ha; and
  - Do not exceed a density of one farm building per 50 hectares; and
  - Do not exceed 4m in height and/or 100m<sup>2</sup> in floor area; and
  - Are not located at an elevation greater than 600masl; and
  - Do not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the building.
- 3.9 If the above standards are breached a restricted discretionary activity resource consent would be required.
- 3.10 A 100m<sup>2</sup> / 4m high building is small by farming standards however the provision for such buildings as a permitted activity is a response to and helps to give effect to the higher order provisions of the Proposed District Plan that acknowledge the contribution farming makes to the District's economy and the management of the District's Outstanding Natural Landscapes.
- 3.11 The whole of Minaret Station is identified as an Outstanding Natural Landscape and with the exception of a short section of steeply sloping land at the southern end of the station the identified wāhi tūpuna area covers all of the land below 600masl and all of the station's land that is suitable for cropping, cultivation and finishing of livestock.
- 3.12 Proposed Rule 39.4.1 therefore effectively removes MSL's right, established through Stage 1 of the PDP, to construct a permitted farm building anywhere on the station.

MSL oppose proposed Rule 39.5.2

- 3.13 Proposed Rule 39.5.2 states that, in the Rural Zone, any building or structure within a wāhi tūpuna area where activities affecting water quality are a recognised threat shall be setback a minimum of 20m from any waterbody. A breach of Rule 39.5.2 would trigger a restricted discretionary activity resource consent with Council's discretion being restricted to effects on cultural values of Manawhenua.

3.14 Under Stage 1 of the Proposed District Plan ‘building’ is defined as having the same meaning as the Building Act 2004 but excluding (amongst other things):

- fences and walls not exceeding 2m in height;
- retaining walls that support no more than 2 vertical meters of earthworks; and
- structures less than 5m<sup>2</sup> in area and less than 2m in height above ground level.

3.15 The term ‘structure’ is defined in the Proposed District Plan as meaning:

*“any building, equipment device or other facility made by people and which is fixed to land and includes any raft.”*

3.16 By including reference to ‘any structure’ in proposed Rule 39.5.2 small structures and arguably fences within 20m of a waterbody would require resource consent. Being a working station that adjoins Lake Wanaka with approximately 28km of lake frontage and through which a number of streams and creeks flow the potential restriction on fencing within 20m of a waterbody, along with the restriction on small structures that could otherwise be constructed as a permitted activity, is of particular concern to MSL and would add unnecessary cost and uncertainty to the ongoing operation of the station.

MSL **oppose** proposed Rules 25.4.5.1 and 25.5.2.

3.17 Proposed Rule 25.4.5.1 states that any earthworks that modify, damage or destroy a wāhi tapu, wāhi tūpuna or other site of significance to Māori requires a restricted discretionary activity resource consent. Given that any earthworks within a wāhi tūpuna area would modify that area Rule 25.4.5.1 appears to conflict with Rule 25.5.2 which sets the threshold for permitted earthworks in a wāhi tūpuna area at 10m<sup>3</sup>.

3.18 In addition the 10m<sup>3</sup> threshold on permitted earthworks within a wāhi tūpuna area is impractical and unnecessarily restrictive. Under provision 25.3.2.10 a range of activities are exempt from the rules in Table 25.2 (and Tables 25.1 and 25.3) including:

- Erosion and sediment control except where subject to Rule 25.5.19 setback from waterbodies;
- The digging of holes for offal pits;

- Fence posts;
- Drilling bores;
- Planting riparian vegetation;
- Maintenance of existing vehicle and recreational accesses and tracks, excluding their expansion;
- Deposition of spoil from drain clearance within the site the drain crosses;
- Cultivation and cropping;
- Fencing where cut and fill does not exceed 1m in height and earthworks do not exceed 1m in width.

3.19 While the above provides for some of the routine earthworks required for the ongoing operation of Minaret Station and its farming activities it does not provide for earthworks associated with the extension of tracks or accessways, the clearance and levelling of building pads or yards or gravel extraction (which given the remote nature of the station is likely to be required for the maintenance of existing tracks). In addition it is unclear whether earthworks associated with cultivation and cropping would extend to the clearance, levelling and cultivation of new paddocks.

### Conclusion

3.20 Proposed Chapter 39 and its associated variations will have a significant effect on parts of the Rural Zone and associated provisions that were notified and decided as part of Stages 1 and 2 of the Proposed District Plan. MSL participated in Stages 1 and 2 and to relitigate the provisions that affect the submitters property in a third stage is unjust, particularly as the proposed provisions effectively remove rights established under Stages 1 and 2.

3.21 Minaret Station is already covered by an Outstanding Natural Landscape classification and includes a number of Significant Natural Areas. In addition, being pastoral lease land, the use and operation of the station is further restricted under the applicable legislation<sup>1</sup> which includes mechanisms to consider the protection of the land's inherent values including cultural values. The identification of the majority of the station's land that is practically suited to cropping, cultivation and the rearing of cattle as wāhi tūpuna unnecessarily and

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<sup>1</sup> Crown Pastoral Land Act 1998 and Land Act 1948

unreasonably adds further restrictions on the ongoing operation of the existing farming activities.

3.22 The further restrictions and consent requirements associated with the identification of the wāhi tūpuna area will add unreasonable cost and uncertainty and do not adequately provide for practical farming on Minaret Station.

3.23 Overall MSL submit that Proposed Chapter 39 - Wāhi Tūpuna and its associated variations:

- do not promote or give effect to Part 2 of the Act,
- do not meet section 32 of the Act,
- are contrary to the purposes and provisions of the Act and other relevant planning documents;
- are inappropriate and inconsistent with the purpose and principles of the Act;
- conflict with and do not give effect to the higher order provisions of the Proposed District Plan and in particular Strategic Objectives 3.2.1, 3.2.1.7 and 3.3.20 and Policies 6.3.7 and 6.3.14; and
- are not the most appropriate method for achieving the objectives of the Proposed District Plan having regard to its efficiency and effectiveness and taking into account the costs and benefits.

**4.0 The submitter seeks the following decision from the Queenstown Lakes District Council:**

4.1 Decline Chapter 39 and its associated mapping and variations until such time as the mapping of wāhi tūpuna areas and the scheduling of their values and recognised threats is carried out in a fair and consistent manner and to a level of detail that takes into account the specifics of individual properties and provides meaningful direction to landowners and Council as to the extents of the wāhi tūpuna areas and the associated values and threats.

4.2 That the mapping and scheduling of values and recognised threats is supported by a clear methodology and an appropriate level of detail.

4.3 That if/when Chapter 39 is adopted a new policy be included that states:

Recognise and provide for the ongoing operation of existing farming activities within wāhi tūpuna areas.

4.4 That proposed Rule 39.4.1 is deleted.

4.5 That proposed Rule 39.5.2 is deleted or reworded to remove the reference to ‘structures’ as follows:

**39.5.2 Any buildings ~~or structures~~:**

- a. within a wāhi tūpuna area (identified in Schedule 39.6);
- b. where activities affecting water quality are a recognised threat; and
- c. are within the following zones;
  - i. Rural;
  - ii. Rural Residential and Rural Lifestyle; or
  - iii. Gibbston Character.

*Shall be setback a minimum of 20m from a waterbody.*

4.6 That proposed Rule 25.4.5.1 is deleted.

4.7 That proposed Rule 25.5.2 is deleted or reworded to exclude earthworks associated with farming activities as follows:

<b>Rule</b>	<b>Table 25.2 - Maximum Volume</b>	<b>Maximum Total Volume</b>
25.5.2	Wāhi Tūpuna areas <b><u>(with the exception of earthworks associated with farming activities)</u></b>	10m <sup>3</sup>

4.8 The submitter also seeks such further or consequential or alternative amendments necessary to give effect to this submission, and to:

- Promote the sustainable management of resources and achieve the purpose of the Resource Management Act 1991;
- Meet the reasonably foreseeable needs of future generations;
- Enable social, economic and cultural wellbeing;
- Avoid, remedy or mitigate the adverse effects of the activities enabled by the Variation; and
- Represent the most appropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of other means available in terms of section 32 and other provisions of the Act.

**5.0 The submitter could not gain an advantage in trade competition through this submission.**

**6.0 The submitter wishes to be heard in support of their submission.**

**7.0 If others make a similar submission the submitter would consider presenting a joint case at a hearing.**



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**Scott Edgar (on behalf of Minaret Station Limited)**

18 November 2019

Minaret Station Limited - Stage 3 Proposed District Plan Submission - Appendix A - Location Plan and Extents of Wāhi Tūpuna Area

