

BEFORE THE QUEENSTOWN-LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Stage 3 of the Proposed Queenstown-  
Lakes District Plan

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Statement of evidence of **Andrew Maclellan** for Otago Regional Council (3342), in relation  
to Chapter 39 Wāhi Tūpuna

19 June 2020

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## **Statement of Professional Qualifications and Experience**

1. My full name is Andrew Cameron MacLennan. I am a Senior Resource Management Consultant at the firm Incite, which has offices in Auckland, Wellington, and Christchurch.
2. I hold a Bachelor of Science in Land Planning and Development from Otago University and a Masters in Resource and Environmental Planning, from Massey University. I am an Associate member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
3. I have 8 years' planning experience working in both local government and the private sector. My experience includes both regional and district plan development, including the preparation of s32 and s42A reports. I also have experience in the preparation and processing of resource consents for territorial authorities and private clients.
4. I assisted the Otago Regional Council (ORC) with the preparation of the submission and further submission on Proposed Queenstown Lakes District Plan - Stage 3. I have been engaged by the ORC as expert planning witness on other Proposed Queenstown Lakes District Plan matters including relevantly: Chapters 3, 6, 21 and 25.

## **Code of Conduct**

5. I confirm that I have read the Hearing Commissioners minute and direction on Procedures for the Hearing of Submissions and I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note of 2014. I have complied with the Practice Note when preparing my written statement of evidence, and will do so when I give oral evidence.
6. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.

7. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## **Scope**

8. The Otago Regional Council (ORC) submitted on Chapter 39 - Wāhi Tūpuna within the proposed District Plan provisions for Stage 3. The ORC's submission supported the majority of the provisions within the Wāhi Tūpuna chapter and sought that the provisions were retained as notified, as it was considered the provisions within the Wāhi Tūpuna chapter generally give effect to the objectives and policies of the partially operative Regional Policy Statement for Otago (PORPS). I agree with this assessment. The amendments sought within the evidence below seek to provide greater clarity as to how the provisions of Chapter 39 are to be interpreted.
9. This evidence does not comment on the provisions which the ORC's submission supported and to which the reporting officer has not recommended a change. This evidence will focus on the provisions which the ORC submission sought changes to being:
  - Policy 39.2.1.2 (a) and Rules 39.5.1(b), 39.5.2(b), and 39.5.3(b).
  - Policies 39.2.1.3 and 39.2.1.4

### **Policy 39.2.1.2(a) and Rules 39.5.1(b), 39.5.2(b), and 39.5.3(b).**

10. The ORC submission noted that subsection (a) of 39.2.1.2 states that activities affecting water quality, including buildings or structures in close proximity to waterbodies have been identified as activities that may be incompatible with values held by Mana whenau. This concept is also repeated in Rules 39.5.1(b), 39.5.2(b), and 39.5.3(b). The ORC submission stated that it was unclear which activities affecting water quality would be recognised as a 'threat'. The Reporting Officer (para 11.11) considers that buildings are defined by the district plan in Chapter 2 and considers this provides clear meaning to this part of the provision.
11. The clarity sought within the ORC submission was not concerned with the definition of a building within the PDP. It sought greater clarity as to when an activity affecting water quality would be recognised as a threat. It appears the intent of subsection

(b) is to link Rules 39.5.1, 39.5.2, and 39.5.3 with the threats listed within 39.6 - Schedule of Wāhi Tūpuna. However, I consider this is not clear from the current drafting.

12. To add greater certainty to the plan provisions I consider that subsection (b) within Rules 39.5.1, 39.5.2, and 39.5.3 should be amended to refer to 39.6 Schedule of Wāhi Tūpuna as follows:

*b. where activities affecting water quality are a recognised threat within 39.6 - Schedule of Wāhi Tūpuna; and*

### **Policies 39.2.1.3 and 39.2.1.4**

13. The ORC submission suggested that there was a disconnect between Policies 39.2.1.3 and 39.2.1.4 and Policy 2.2.2 of the RPS 2019. ORC's submission stated that with some minor drafting amendments Policy 39.2.1.4 can give effect to part (a) of Policy 2.2.2, and a new Policy 39.2.1.3 was required to give effect to part (b) of Policy 2.2.2.
14. The Reporting Officer (para 3.9 - 3.11) has largely agreed with the amendments suggested by ORC with the exception of the use of the term 'non-significant' for effects not considered 'significant effects'. The Reporting Officer states that PDP Policy 3.3.34 uses 'other adverse effects' to distinguish from 'significant adverse effects' in relation to Wāhi Tūpuna and considers the phrase 'other adverse effects' provides a more consistent approach. I support the consistent drafting approach suggested by the reporting officer.
15. I note that Mr Bathgate from Aukaha has provided evidence on the drafting suggested by the Reporting Officer. In paragraph 32 of his evidence he states that phrase "any other adverse effects", lacks clarity when the policy is read on its own without reference to Policy 39.2.1.3. As a drafting solution, Mr Bathgate suggests combining Policies 39.2.1.3 and 39.2.1.4 as limbs (a) and (b) of Policy 39.2.1.3. I support this drafting approach and agree that combining Policies 39.2.1.3 and 39.2.1.4 would improve clarity of meaning and be a more effective way of achieving both Policy 2.2.2 of the PORPS and Objective 39.2.1.

A handwritten signature in black ink, appearing to read 'A MacLennan', written in a cursive style.

Andrew MacLennan  
19 June 2020