

**BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2021-CHC-

IN THE MATTER

of an appeal under the Resource Management Act (1991) to the Environment Court against decisions on the proposed Queenstown Lakes District Council District Plan (Stage 3)

BETWEEN

**MINARET STATION LIMITED and
WEST WANAKA STATION and
ASPIRING HELICOPTERS
LIMITED and CATTLE FLAT
STATION**

Appellants

West Wanaka Stat

AND

**QUEENSTOWN LAKES
DISTRICT COUNCIL**

Respondent

**NOTICE OF APPEAL BY MINARET STATION LIMITED AND WEST
WANAKA STATION AND ASPIRING HELICOPTERS LIMITED AND CATTLE
FLAT STATION**

Under clause 14(1) of the Resource Management Act 1991

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STATION and ASPIRING HELICOPTERS LIMITED and CATTLE
FLAT STATION**

Under clause 14(1) of the Resource Management Act 1991

To: The Registrar
Environment Court
Christchurch

1. Minaret Station Limited, West Wanaka Station, Aspiring Helicopters Limited and Cattle Flat Station (“Appellants”) appeal certain decisions of the Queenstown Lakes District Council (“Council”) on the Queenstown Lakes Proposed District Plan (PDP)(Stage 3).
2. The Appellants made submissions (#3208, #3227 and #3399) on the PDP Stage 3.
3. The Appellants are not trade competitors for the purpose of section 308D of the Resource Management Act 1991 (RMA)
4. The Appellants received notice of the decision on 1 April 2021.
5. The decision was made by the Council.
6. The decisions appealed relate to:
 - (a) Those contained in the Report 20.2 of the QLDC Independent Commissioners relating to Chapter 39 - Wāhi Tūpuna and Related Variations to Chapters 2, 12-16, 25-27, 29 and 30
 - (b) The provisions of that decision that the Appellants are appealing are Rules 39.4.1, 39.4.2 and 39.4.3 and the level of detail conveyed in the mapping of wāhi tūpuna areas.

Background

7. The Appellants own and operate high country stations, tourism and commercial recreation activities in the West Wanaka area.

8. Minaret Station Limited owns and operates Minaret Station, a 19,941 hectares high country station on the western shore of Lake Wanaka.
9. Approximately 16% of Minaret Station (around 3,250 hectares) has been identified as forming part of Wāhi Tūpuna Area 6 (Makarore & Tiore Pātea) through Stage 3 of the PDP. The 3,250 hectares of Minaret Station that have been identified as wāhi tūpuna comprise approximately 68% of the land area used for deer farming and includes all of the station's paddocks and associated infrastructure, all of the station's barge landing sites and airstrips (the station being only accessible by air or by boat) and all of the station's farm buildings, homestead and workers accommodation. In addition the station includes a luxury alpine lodge and associated visitor and commercial recreation activities.
10. West Wanaka Station lies to the south of Minaret Station and comprises 6.482 hectares of land.
11. Approximately 33% of West Wanaka Station (around 2,115 hectares) has been identified as forming part of Wāhi Tūpuna Areas 7 (the area surrounding Te Poutu Te Raki) and 31 (Mātakitaki) through Stage 3 of the PDP. The areas of the station that have been identified as wāhi tūpuna include almost all of the station's paddocks, the homestead, all farm buildings, the bridge that provides access to the station and the majority of the station's internal roading.
12. Cattle Flat Station is located in the Motatapu Valley to the west of West Wanaka Station and comprises 3,214 hectares, 33% of which (around 1,050 hectares) is identified as forming part of Wāhi Tūpuna Area 7 (the area surrounding Te Poutu Te Raki) and 31 (Mātakitaki) through Stage 3 of the PDP. Cattle Flat Station also includes a commercial helicopter operation (Aspiring Helicopters Ltd).
13. The areas of Cattle Flat Station that have been identified as wāhi tūpuna include the majority of the station's paddocks, the homestead, all farm buildings and the commercial helicopter operation.
14. The Appellants' submissions opposed (among other things):

- the mapping of wāhi tūpuna areas and the scheduling of values and recognised threats in the absence of robust and transparent assessment; and
- the level of detail shown in the mapping of the wāhi tūpuna areas; and
- the activity status of farm buildings within identified wāhi tūpuna areas (Rule 39.4.1).

Reasons for the Appeal

The reasons for this appeal are:

15. The Appellants understood from evidence presented at the hearings that Kā Rūnaka wished “for the farm building rule to be less onerous to the rural community and to more closely target those areas of greatest potential threat to cultural values.”¹ and consequently it was recommended (on behalf of Kā Rūnaka) that farm buildings within wāhi tūpuna areas at lower elevations be made a permitted activity.
16. In addition it was recommended (on behalf of Kā Rūnaka) that an exception be made such that farm buildings at higher elevations (i.e. elevations greater than 400masl) that are a replacement of, or located within 30m of an existing farm building be provided for as a permitted activity.²
17. The Appellants support that recommendation however through redrafting of the provisions in the decision the exception for replacement and/or new farm buildings within 30m of an existing farm building has (in Rule 39.4.1) been applied to all permitted farm buildings regardless of elevation. This unnecessarily restricts the scope for permitted farm buildings within the areas of wāhi tūpuna that have been identified by Kā Rūnaka as being less sensitive to the potential effects of farm buildings.
18. Rule 39.4.3 identifies the construction of a farm building within an identified wāhi tūpuna area that modifies a skyline or terrace edge when

¹ Paragraph 108 of the Statement of Evidence of Michael Bathgate on behalf of Kā Rūnaka

² Paragraph 109 of the Statement of Evidence of Michael Bathgate on behalf of Kā Rūnaka

viewed from a public place within 2km of the building as a restricted discretionary activity with Council's discretion being restricted to effects on Manawhenua values.

19. Minaret Station spans approximately 19km of the western shore of Lake Wanaka exposing almost the entirety of the identified wāhi tūpuna area to public view from the surface of the lake. Similarly West Wanaka Station adjoins Lake Wanaka and the Matukituki River and is crossed by Department of Conservation tracks and unformed legal roads. Mt Aspiring Road passes through Cattle Flat Station and the eastern boundaries of the station are formed by the Motatapu and Matukituki Rivers. Given the extent of the public places within 2km of various landholdings the assessment process required to determine whether a proposed farm building as a permitted activity (i.e. whether it modifies a skyline or terrace edge when viewed from a public place) could in itself be onerous, time consuming and costly.
20. Further, what constitutes a skyline or terrace edge is not defined in the PDP and consequently there is some ambiguity in terms of the areas to be avoided in the positioning of farm buildings.
21. While the mapping of certain values such as urupā or pounamu may be culturally sensitive and inappropriate the mapping of geographic features such as skylines, ridges and terrace edges would provide clarity in terms of the areas sensitive to modification and allow landowners to position farm buildings accordingly so as to avoid the need for resource consent or an onerous assessment process to determine whether the proposed building is or is not permitted.

Relief sought

The Appellants seek the following relief:

22. That the appeal is allowed.
23. That Rule 39.4.1 and 39.4.2 are amended as follows (deletions shown ~~struck through~~ / additions shown underlined):

| | Table 39.4 - Activity | Activity Status |
|--|-----------------------|-----------------|
|--|-----------------------|-----------------|

| | | |
|--------|---|----|
| 39.4.1 | Construction or replacement, or an extension to a, farm building where the new or extended building is all located within 30m of an existing farm building within an identified Wāhi Tūpuna area <u>unless otherwise identified as a restricted discretionary activity in the following rules.</u> | P |
| 39.4.2 | <p>Construction of a farm building within an identified Wāhi Tūpuna area, other than provided for by Rule 39.4.1:</p> <ul style="list-style-type: none"> a. where located at an elevation exceeding 400 masl, except in Ōrau (Wāhi Tūpuna 11); b. in Ōrau (Wāhi Tūpuna 11), where located at an elevation exceeding 600 masl. <p><u>Unless the farm building is a replacement of, or situated entirely within 30m of, an existing, lawfully established farm building.</u></p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Effects on Manawhenua values. | RD |

24. That sensitive skylines and terrace edges are shown on the wāhi tūpuna maps and that Rule 39.4.3 is amended as follows (deletions shown ~~struck through~~ / additions shown underlined):

| | Table 39.4 - Activity | Activity Status |
|--|-----------------------|-----------------|
|--|-----------------------|-----------------|

| | | |
|--------|--|----|
| 39.4.3 | <p>Construction of a farm building within an identified Wāhi Tūpuna area <u>that modifies</u> modifying a skyline or terrace edge, <u>as shown on the Wāhi Tūpuna maps</u>, when viewed from a public place within 2 km of the farm building.</p> <p>Discretion is restricted to:</p> <p>a. Effects on Manawhenua values.</p> | RD |
|--------|--|----|

25. Any other additional or consequential relief to the Proposed Plan, including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations that will fully give effect to the matters raised in this appeal.
26. The Appellants agree to participate in mediation or alternative dispute resolution.

DATED this 18th day of May 2021



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Scott Edgar (on behalf of Minaret Station Limited, West Wanaka Station, Aspiring Helicopters Limited and Cattle Flat Station)

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Attached to this Notice of Appeal are the following documents:

- (a) A copy of Minaret Station Limited's original submission (Appendix 1);
- (b) A copy of West Wanaka Station's original submission (Appendix 2);
- (c) A copy of Aspiring Helicopters Limited and Cattle Flat Station's original submission (Appendix 3);
- (d) A copy of the Decision (Appendix 4);
- (e) A copy of the Statement of Evidence of Michael Bathgate on behalf of Kā Rūnaka (Appendix 5).

Advice to Recipients of Copy of Notice of Appeal

1. How to become party to proceedings:

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

2. How to obtain copies of documents relating to appeal:

The copy of this notice served on you does not attach a copy of the Appellant's submission and/or the decision appealed. These documents may be obtained, on request, from the Appellant.

3. Advice:

If you have any questions about this notice, contact the Environment Court unit of the Department for courts in Christchurch.

Contact Details of Environment Court for Lodging Documents

Documents may be lodged with the Environment Court by lodging them with the Registrar:

The Christchurch address of the Environment Court is:

282 Durham Street
Christchurch 8013

Its Postal address is:

P O Box 2069
Christchurch 8140

And its telephone and fax numbers are:

Telephone: (03) 962 4170
Fax: (03) 962 4171