BEFORE THE HEARINGS PANEL
FOR THE PROPOSED QUEENSTOWN LAKES DISTRICT PLAN

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of the Queenstown Lakes Proposed District Plan
AND	
IN THE MATTER	of Hearing Stream 16 – Chapter 39 – Wāhi Tūpuna

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STATEMENT OF EVIDENCE OF NICHOLAS KARL GEDDES

ON BEHALF OF SUBMISSIONS

3168, 3170, 3172, 3173, 3175, 3176, 3177, 3179, 3180, 3182, 3183 & 3219

Dated 10th June 2020

QUALIFICATIONS AND EXPERIENCE

1 My name is Nicholas Karl Geddes. I hold a degree of Bachelor of Science majoring in Geography and Graduate Diploma in Environmental Science from Otago University.

2 I have sixteen years' experience as a resource management practitioner, with past positions as a Planner in local Government in Auckland, private practice in Queenstown and contract work in London, England. I currently hold a planning consultant position with Clark Fortune McDonald & Associates Limited.

3 I was employed by a Queenstown consultancy in 1999 before moving to Auckland City Council in 2001 where I held a senior planning position with Auckland City Environments. Leaving Auckland in 2005 I worked in London as a planner for two and a half years before returning to Queenstown where I have been practicing as a planning consultant since.

4 I have been a practicing consultant involved in a wide range of developments, district plan policy development and the preparation and presentation of expert evidence before Councils and Environment Court.

5 I have read the Code of Conduct for Expert Witnesses in the Environment Court consolidated Practice Note (2014). I agree to comply with this Code of Conduct. This evidence is within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

6 I have authored submissions on Stages 1 & 2 of the plan review, prepared evidence and attended hearings in relation to the following chapters:

- Stage 1, Chapters 4, 7, 21, 22, 27 & 41.
- Planning Maps in relation to Submissions 314, 328, 323, 336 & 347.
- Stage 2, Chapters 24 & 29.

7 I have authored submissions on Stage 3 in relation to Chapters 18A & 39.

SCOPE OF EVIDENCE

8 Submitter details are provided in Appendix 1 to my evidence.

9 I have prepared evidence in relation to the submissions listed on the covering sheet. I will assess and explain:

a. Consent Process;

b. Consent Costs;

c. Residential Submissions;

d. Rural Submissions;

e. Rural Lifestyle Submission.

10 In the preparation of this evidence I have reviewed the following:

a. Stage 3 public notice of hearings, Stage 3 Section 32 Evaluation Reports and Stage 3 Council s.42A Reports.

b. The relevant submissions and further submissions of other submitters.

c. Evidence of behalf of Kā Rūnaka by Mr M Bathgate, Ms L Carter, Mr E Ellison, Mr D Higgins and Ms E Kleinlangevelsloo.

Abbreviations:

Queenstown Lakes District Council - "QLDC"
Proposed District Plan – "PDP"
Operative District Plan – "ODP"
Lower Density Suburban Residential Zone – "LDSRZ"
Rural Zone – "RZ"
Rural Lifestyle Zone – "RLZ"
Resource Management Act 1991 – "RMA"
Strategic section 42A report – "Ss.42A"
Partially Operative Otago Regional Policy Statement 2019 – "POORPS"

Consent Process

11 I disagree with the s.32 evaluation that the proposal (Chapter 39) provides a clear approach for plan users[1].

12 In my reading of the s.32 evaluation I understand that Council have worked with Manawhenua / Aukaha in a partnership in the preparation of the s.32 evaluation[2] and at a number of points the evaluation is entirely dependent on the advice from Manawhenua / Aukaha[3].

13 The s.32 evaluation is unable to undertake a complete evaluation as Manawhenua are in a unique position in that they are the *only party that can understand the extent of effects as well as the party that would experience these effects directly*[4].

14 Any resource consent application must be made in accordance with Schedule 4 of the RMA where an assessment of actual and potential effects on the environment[5] is a prerequisite to lodging any consent application. This requires any applicant to demonstrate an understanding of the actual and potential effects on the environment to assessing identify and assess any effects as part of their resource consent application.

15 Mindful that Manawhenua are the only party that can understand the extent of effects[6], I believe pre-application consultation with Manawhenua is unavoidable as it is seemingly the only avenue available to the applicant to correctly establish the actual and potential effects of their future application towards meeting the requirements of Schedule 4 of the RMA and have an application accepted by the local authority for processing. The applicant becomes dependent on Manawhenua in this regard.

16 Upon receipt of any application made under Chapter 39, the local authority must determine whether the applicant has correctly assessed the actual and potential effects and if so, accept the application for processing. I am uncertain how the local authority can undertake this review without consulting with Manawhenua to review the actual and potential effects.

[1] Section 32 Evaluation, Chapter 39, Wāhi Tūpuna at paragraph [5.15].

[2] Section 32 Evaluation, Chapter 39, Wāhi Tūpuna at paragraphs [3.1, 4.23 & 5.18].

[3] Section 32 Evaluation, Chapter 39, Wāhi Tūpuna at paragraph [5.34].

[4] Section 32 Evaluation, Chapter 39, Wāhi Tūpuna at paragraph [5.50].

[5] Clause 2 (a) (f) and Clause 6, Schedule 4, RMA - Information required in application for resource consent.

[6] Section 32 Evaluation, Chapter 39, Wāhi Tūpuna at paragraph [5.50].

17 Again, given Manawhenua are the only party that can understand the extent of effects, the local authority in determining whether a resource consent application of this nature can be approved or otherwise, the local authority must consult with Manawhenua to establish whether any adverse effects are acceptable and/or what conditions of consent are required (if approved). Therefore, the local authority is dependent on Manawhenua in this regard.

18 In my opinion, the position of Manawhenua in the consent process and the inability of the local authority to have any "authority" on these matters makes the consent process for this typology of consent extremely awkward in terms making defensible decision making with any level of independence.

19 In addition, the position of Manawhenua at each step of the consent process seemingly nullifies the reason for entertaining the process. For example, it would be apparent as part of pre-application consultation if Manawhenua found that the magnitude of an applications (activities) effect is unacceptable. If so, there would be little point in lodging the resource consent application to have it refused. Equally, if the magnitude of effect is deemed acceptable you may question why there is a need to be burdened with the cost of the process when it has been established at the pre-application stage the effect is acceptable and inevitably the consent will be approved.

Consent Costs

20 It is stated in the s.32 evaluation that Aukaha will charge on a cost recovery basis to obtain information about effects on cultural values for all consent applications within identified Wāhi Tūpuna[7] where the cost for future applicants to likely be $315.00. It is not clear if this estimate relates to pre-application consultation and/or assessment of the application on behalf of the local authority.

21 Notwithstanding, the resource consent lodgement fee (deposit) for minor earthworks is $3,015.00 while the breach of a performance standard (other than earthworks) is $1300.00. While I cannot find any advice on the requisite lodgement fee for an application made under Chapter 39 alone, I would like to assume it would be closer to $1300.00 than $3,015.00.

22 So collectively, the QLDC fee to lodge an application made under Chapter 39 alone would be $1615.00.

[7] Section 32 Evaluation, Chapter 39, Wāhi Tūpuna at paragraph [5.58].

Residential Submissions

23 Submissions: 3173, 3179, 3219, 3177, 3172, 3170 and 3176 relate to land currently zoned Lower Density Suburban Residential (LDSR) and I refer to these as *"residential submissions"*.

24 The LDSR zone replaces the Low Density Suburban Residential Zone and is now operative and beyond challenge. The s32 evaluation for Lower Density Suburban Residential carried a strong thrust in increasing residential density and reducing minimum allotment sizes in order to promote residential infill development and make the most efficient use of existing residential zones. The changes in the residential planning framework were supported by the QLDC dwelling capacity evidence submitted in Stage 1 which sought to rely on existing residential zones to meet the projected 'demand' in dwelling capacity modelling.

25 The s32 evaluation for Chapter 39 does not author any analysis as to whether this Chapter is in alignment with or would not frustrate the direction and ambitions that Stage 1 s.32 reporting sought for the LDSR Zone in relation to relaxing controls within residential zones to promote residential infill development.

26 A majority of the Wakatipu's LDSR zones are located on sloping topography. All of the *residential submissions* are located on the southern side of Queenstown Hill which has sloping topography over residential areas typically around a 35% grade. In order for landscaping works to form level and usable private outdoor spaces such as terraced gardens and pathways will in most instances require a cut and fill combined volume of earthworks which will exceed the $10m^3$ maximum permitted volume.

27 For example;

(a) A 1m wide garden pathway on sloping land (at 35% grade) can exceed no more than 5.5m in length before the proposed maximum permitted volume is exceeded and the consent process discussed earlier must be entertained.

(b) The working of soil to a depth of 300mm in any vegetable garden which measures 5m x 6m will exceed the $10m^3$ maximum permitted volume and technically require a resource consent.

(c) Earthworks would typically include a combination of cut and fill volumes. However, it can apply only to fill volumes where material is imported to a site and used for either gardening related purposes or construction fill purposes.

28 The likelihood each property owner would undertake (a) to (d) above is low. However, the $1615.00 lodgement fee if a consent is required is considered to be extremely

prohibitive in relation to the nature of the activity and when viewed against the operative permitted activity expectations within the LDSR zone.

29 The s.32 evaluation records that there are areas where the extent of development means that values have been reduced to an extent that further development is not expected to contribute to further reduction in values[8]. In my reading, this suggests there is a threshold in relation to development where once surpassed the value to Manawhenua has been sufficiently diminished that no further protection is justified.

30 The evidence of Mr Bathgate confirms that where the wāhi tūpuna appears over an urban area the rules that are specific to wāhi tupuna do not apply[9]. Then suggests improved wording in relation to which particular provisions will apply[10] and despite having no recognised threats listed for this wāhi tupuna confirms that these sites are still significant and may form part of any resource consent assessment for discretionary and non-complying activities[11] (my emphasis).

31 If Mr Bathgate is suggesting none of the wāhi tupuna rules will apply to urban areas this is directly aligned with the relief sought by submitters 3173, 3179, 3219, 3177, 3172, 3170 and 3176.

32 However, if there are provisions that will apply to urban areas and potentially in relation to any discretionary or non-complying resource consents. I am uncertain in what part of the plan review process submitters would be to make comment on these provisions.

Relief - Earthworks

33 Based upon my evidence in relation to the Residential Submissions, the evidence of Mr Bathgate (in part) and to ensure a more robust consent process, I believe that either;

(a) None of the wāhi tupuna rules should apply to any urban areas;

Or

(b) The maximum total volume for earthworks in an wāhi tupuna zoned LDSR should be the same as Rule 25.5.2 being 300m^3. As part of any earthworks consent under this rule, the relevant Chapter 39 assessment criteria for earthworks in an wāhi tupuna should be inserted into assessment matter 25.8.7 – *"Cultural, heritage and archaeological values"*.

[8] Section 32 Evaluation, Chapter 39, Wāhi Tūpuna at paragraph [5.4].

[9] SOE, Michael Bathgate, 29th May 2020 at paragraph [49].

[10] SOE, Michael Bathgate, 29th May 2020 at paragraph [51].

[11] SOE, Michael Bathgate, 29th May 2020 at paragraph [53].

Relief - Buildings

34 Rule 39.5.1 (a) and its matter of discretion should be incorporated into PDP Chapter 7 Rule 7.5.14.

Rural Submissions

35 Submissions: 3183, 3175 and 3180 relate to land currently zoned Rural where 3175 and 3180 relate to land owned and/or currently farmed by the Middleton Family while 3183 relates to land managed or farmed by The Station at Waitiri / Waitipu Ltd.

36 The Middleton Family's farming operation has continued for three generations. This family have offered some observations on earthworks required for the daily operation of their farm:

(a) Gateways become unpractically muddy during winter months and require river gravels to be spread around the gate. Each time this occurs it requires 5.4m^3 of earthworks. It would require only two muddy gates to invoke a resource consent application process.

(b) The Middleton Family have cleared three overland drains this year. Each time this has required an estimated volume of earthworks of 6.75m^3 or a total this year of 20.25m^3.

(c) To clear a firebreak essentially requires the removal of combustible material. However, it does eventuate in the removal of a volume of earth at the same time. Given the area of land a fire break requires, it is anticipated to exceed 10m^3.

37 The likelihood any farming operation undertake (a) to (c) above is certain as their livelihood relies upon the operation of the farm and the activities listed above are currently part of their seasonal operations.

38 Therefore, if they cannot accurately forecast these operations to apply for one consent per year they will incur a $1615.00 lodgement fee each time a consent is required. This cost is considered to be extremely prohibitive on their farming operation while the type of operation is often unpredictable, and the activity required reactionary (drain clearance) to avoid further property damage.

39 In relation to the nature of the activity when viewed against the permitted activities within the PDP Rural zone I believe the 10m^3 earthworks restriction to be extremely prohibitive to the daily operation of a farm. For this reason, coupled with those listed

above I believe that the 10m^3 earthworks restriction is contrary to the following provisions of the PDP and POORPS:

- Rural Chapter 21 – Objective 21.2.1 and related policies 21.2.1.1 & 21.2.1.2.
- Strategic Chapter 3 – Objective 3.2.1.7 & 3.3.20.
- Partially Operative Otago Regional Policy Statement 2019 – Objective 5.3 and related policy 5.3.1.

40 The evidence of Mr Bathgate and Mr Ellison confirms that one of the issues of greatest concern is the impact of earthworks on the form of ridgelines and elevated slopes (landform protection / modification)[12]. Or at least, earthworks on valley floors or otherwise in visually recessive locations are less likely to impact upon wāhi tupuna values than those on ridgelines, elevated or upper slopes[13].

41 Mr Bathgate deliberates the relevance of a threshold set by elevation above sea level as his discussions with cultural experts[14] leads him to understand 600masl is too high and 400masl is more appropriate[15]. Further, he notes the considerable difference between the 10m^3 proposed maximum volume notified for wāhi tupuna and the 1000m^3 volume applying within the Rural Zone, regardless of the fact that much of the zone is comprised of Outstanding Natural Landscape[16].

42 Pursuant to Rule 25.5.2 the maximum volume of earthworks within an Outstanding Natural Landscape is 10m^3.

Relief - Earthworks

43 Based upon my evidence in relation to the Rural Submissions, the evidence of Mr Bathgate (in part) and to ensure a more robust consent process, I believe that either;

(a) None of the wāhi tupuna earthworks rules should apply to any rural area should the relevant Chapter 39 assessment criteria for earthworks in an wāhi tupuna area be considered in full for any earthworks in excess of 10m^3 in an ONL pursuant to Rule 25.5.2.

Or

[12] SOE, Michael Bathgate, 29th May 2020 at paragraph [62].

[13] SOE, Michael Bathgate, 29th May 2020 at paragraph [67].

[14] I cannot find any reference to these cultural experts as no other expert evidence mentions these elevational thresholds.

[15] SOE, Michael Bathgate, 29th May 2020 at paragraph [70].

[16] SOE, Michael Bathgate, 29th May 2020 at paragraph [73].

(b) The maximum total volume for earthworks in an wāhi tupuna zoned Rural should be the same as Rule 25.5.6 being 1000m^3. As part of any earthworks consent under this rule, the relevant Chapter 39 assessment criteria for earthworks in an wāhi tupuna should be inserted into assessment matter 25.8.7 – *"Cultural, heritage and archaeological values"*.

Relief - Buildings

44 The relevant Chapter 39 objectives and policies and any related assessment criteria to be considered as part of any activity which cannot meet proposed Rule 39.4.1 and 39.5.2 (a) should appear for assessment against any activity which cannot meet existing PDP Chapter 21 Rule 21.8.1 - *Construction, Extension or Replacement of a Farm Building.*

AND

45 Rule 39.5.2 (b) and (c) as well as the matters of discretion should be incorporated into PDP Chapter 21 Rule 21.5.4 – *Setback of buildings from Water bodies*.

Rural Lifestyle Submission

46 Submission 3168 relates to land zoned Rural Lifestyle.

47 In a similar vein to the residential submissions already discussed, the rural living use of this land is a permitted activity where the current earthworks control enables landscaping works and a limited amount of hobby farming which will in most instances require a cut and fill combined volume of earthworks which will exceed the 10m^3 maximum permitted volume.

48 The evidence of Mr Bathgate in relation to the *non-application of the wāhi tupuna earthworks rule from urban environment zones recognises the highly modified nature of these built environments or the intention for them to be built on if not already developed. The difference between 10m^3 maximum volume and the 300-500m^3 maximum volume in these urban zones (outside of heritage areas) is marked*[17].

49 I do not consider that the Rural Lifestyle zone is highly modified by comparison to the LDSRZ. However, the permitted volume of earthworks in the RLZ is 400m^3. This is less than the Town Centre Zone which I do consider to be highly modified and only 100m^3

[17] SOE, Michael Bathgate, 29th May 2020 at paragraph [65].

greater than the LDSRZ. Importantly, 400m^3 is within the range set by Mr Bathgate above.

50 The Rural Lifestyle Zone(s) do not occupy land which contain *ridgelines and elevated slopes* as described in the evidence of Mr Bathgate and Mr Ellison but appears predominately on the *valley floors*. Typically, these zones have been located where they are somewhat *visually recessive locations* in order to accommodate residential living without compromising landscape values.

Relief - Earthworks

51 Based upon the above, coupled with the evidence of Mr Bathgate (in part) and to ensure a more robust consent process, I believe that either;

(c) None of the wāhi tupuna earthworks rules should apply to any Rural Lifestyle Zone.

Or

(d) The maximum total volume for earthworks in an wāhi tupuna zoned Rural Lifestyle should be the same as Rule 25.5.4 being 400m^3. As part of any earthworks consent under this rule, the relevant Chapter 39 assessment criteria for earthworks in an wāhi tupuna should be inserted into assessment matter 25.8.7 – *"Cultural, heritage and archaeological values"*.

Relief - Buildings

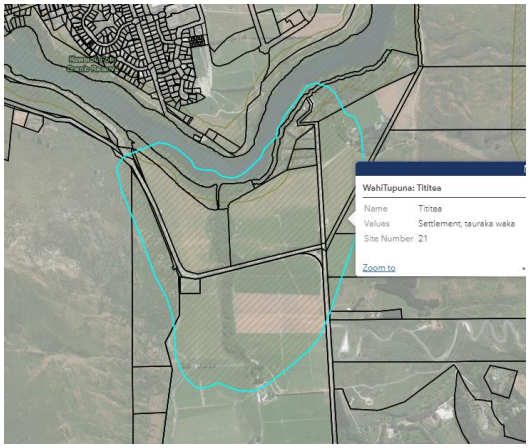
52 Rule 39.5.2 (a)-(c) and its matter of discretion should be incorporated into PDP Chapter 22 Rule 22.5.6 – *Setback of buildings from Water bodies*.

Nick Geddes
10th June 2020

Appendix 1

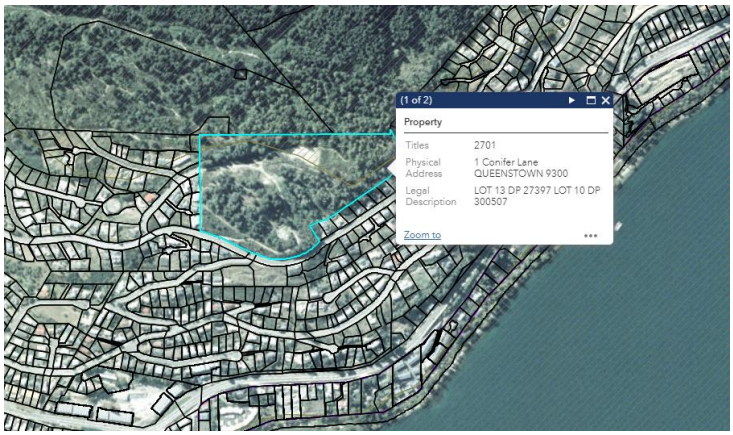
Submitter Details

Submitter 3168 N Gutzewitz & J Boyd:



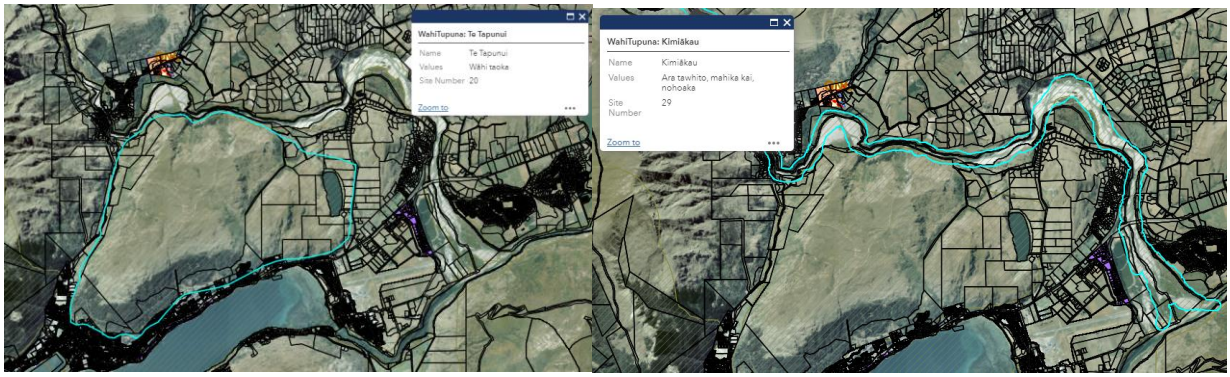
Submitter 3170 G & S Hensman, P Hensman:

Submitter 3172 G & P Hensman, Southern Lakes Holdings Ltd:

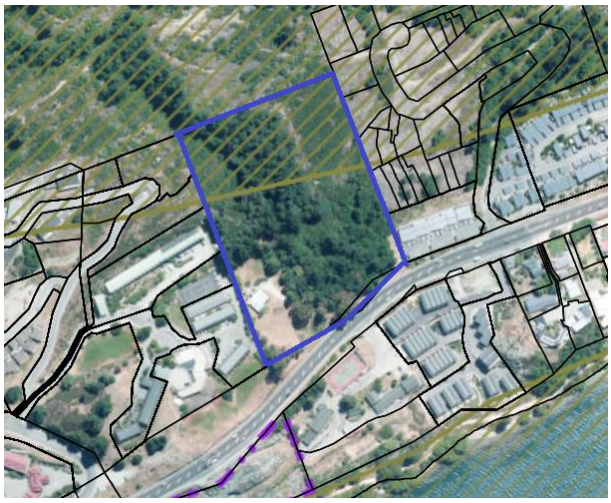


Submitter 3173 A & I Middleton:

Submitter 3175 Middleton Family Trust:

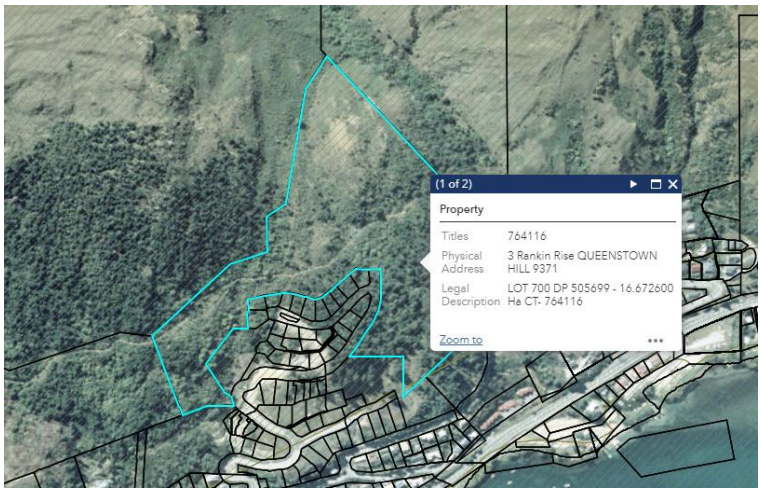


Submitter 3176 Mt Crystal Ltd

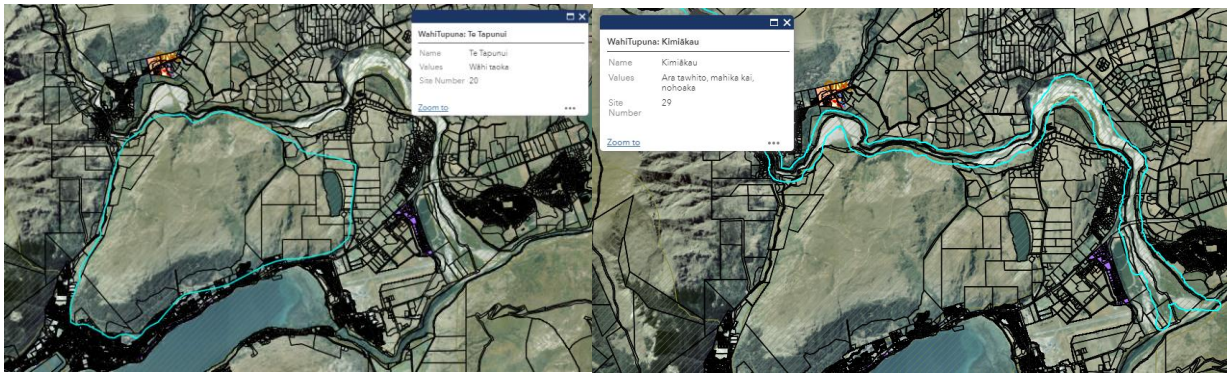


Submitter 3177 N T McDonald:

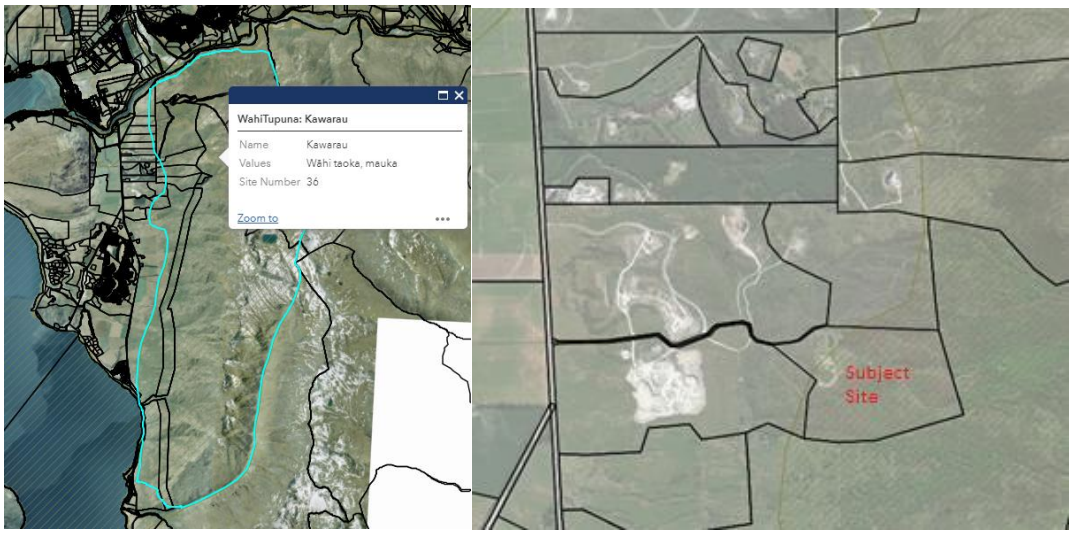
Submitter 3179 Queenstown Hill Developments Ltd & Remarkable Heights Ltd



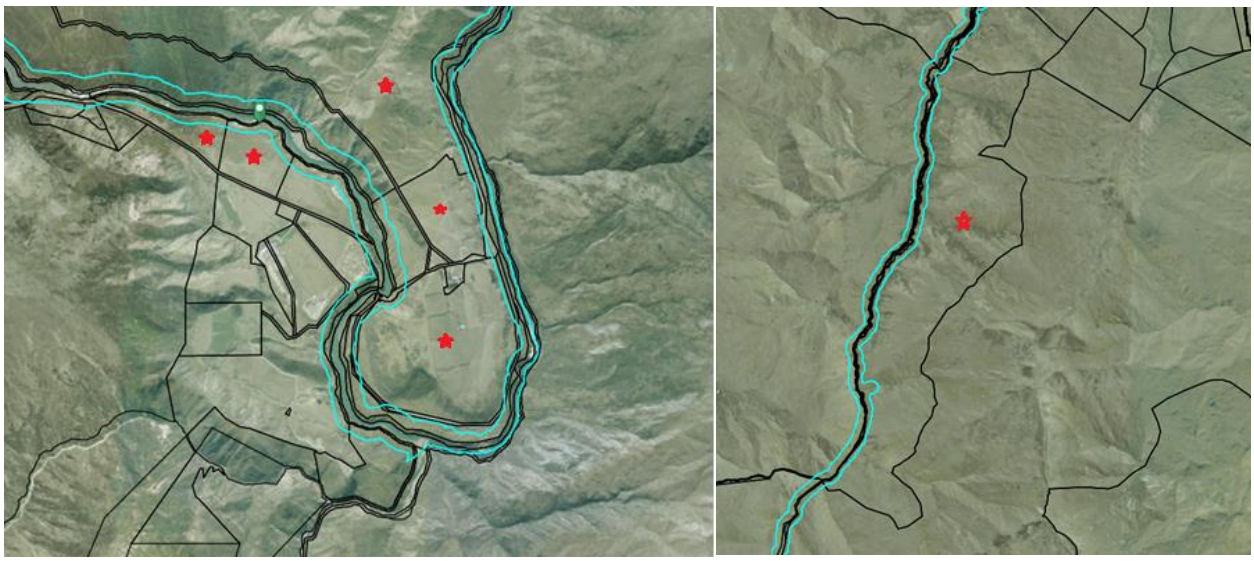
Submitter 3180 C Campbell & R Neale:



Submitter 3182 Scope Resources Ltd:



Submitter 3183 The Station at Waitiri & Waitipu Ltd:



Submitter 3219 Alpha Properties NZ Ltd: