

**Before the Queenstown Lakes District Council Hearings Panel**

**Under** The Resource Management Act 1991

**In The Matter** of the Rezoning Hearing -Stream 12  
(Upper Clutha Mapping)

**And**  
**In The Matter** of submissions by Lake McKay Station Limited.

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**Statement of Evidence of Michael Kelly on behalf of Lake McKay Station Limited**

**Response to Council S42A Report on Submission 439  
in regard to SNAs (Significant Natural Area) on Lake McKay Station.**

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## **1. INTRODUCTION**

- 1.1. My full name is Michael Robert Kelly. I am a Senior Planning Consultant employed by Opus International Consultants. My qualifications are a Masters of Applied Science degree in Resource Management from Lincoln University and a Bachelor of Science degree in Geology from Victoria University. I have twenty years experience in Planning work in New Zealand under the RMA (1991).
- 1.2. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

## **2. PURPOSE**

- 2.1. The purpose of this report is to respond to the Queenstown Lakes District Council Section 42A Reports:
  - a. Statement of Evidence of Craig Barr – Group 3 Rural - 17 March 2017
  - b. Statement of Evidence of Glenn Davis – Ecology – 17 March 2017
- 2.2. And to provide additional information in support of the Lake McKay Station Ltd submission No. 439 on SNAs (Significant Natural Areas) on Lake McKay Station, Luggate

## **3. BACKGROUND**

- 3.1. The LMS submission on SNAs was to amend the boundaries of some of the SNAs on LMS for the purpose of creating a road corridor through the SNAs where there are currently farm roads passing through the SNAs. The SNAs referred to are E30A, E30B, E30D, E30F and E18G. Mr Barrs (QLDC S42A Report) initially refers to “the removal of SNAs....” we note that LMS is not requesting the removal of the SNAs but is requesting that where existing farm roads pass through these SNAs that corridors of approximately 20m wide that the SNAs rules do not apply to for the purpose of future upgrade of these roads.
- 3.2. Both MR Davis ‘s report and Mr Barrs report have recommended that this aspect of LMS submission is rejected as the proposed rules for SNAs in Chapter 33 allow for maintenance of tracks and they consider that it is reasonable that any greater works than this allowance for maintenance should require a resource consent.
- 3.3. We contend that the rules for SNAs are too restrictive too allow even regular road maintenance without triggering a resource consent let alone a road upgrade. The rules in Chapter 33 for SNAs only allow for earthworks of less than 50m<sup>2</sup> in any one hectare in any continuous period of 5 years (33.5.7.1) and earthworks not to be undertaken on slopes with an angle greater than 20° (33.5.7.2). Also the clearance of indigenous vegetation shall not exceed 50m<sup>2</sup> in area in any continuous period of 5 years (33.5.8)
- 3.4. We need to emphasize that all of the existing farm roads through the SNAs (except for E18G) are on slopes of greater than 20° and therefore any earthworks will trigger the requirement for a resource consent.

- 3.5. Applying for resource consent for the maintenance and/ or upgrade of these roads will be costly, time consuming and onerous for the land owner. Once the SNAs are in place the onus is on the landowner to apply for a consent and to prove either that the effects on indigenous vegetation will be less than minor or because of the restrictive nature of the rules to prove that although the effects may be more than minor but not major. This will no doubt require the services of an Ecologist who has to carry out a site visit and report on the Indigenous vegetation. Even a short report will be in the cost range of \$2,500 to \$5000. The consent application would be in the range of \$2000 to \$3000 including consultant planner and QLDC processing fees. Add another \$1000 to \$2000 for a set of engineering plans that would be required for a consent application. If there is a disagreement between the applicant's ecologist and the council's ecologist on the level of effects of the proposed works, there is potential for the consent application to require a hearing and then the costs keep accumulating. Obtaining the resource consent could easily escalate to \$10,000 and maybe end up being %50 of the cost of the works
- 3.6. If the land that the farm roads are on, is left out of the SNAs, then the Rural zone rules apply. For earthworks in the Rural zone, the maintenance of existing farm tracks is a permitted activity which has an allowance for up to 1000m<sup>3</sup> (Chapter 22 Earthworks, Rule 22.3.3 and Table 22.1). The clearance of indigenous vegetation would be limited to 500m<sup>2</sup> under Rule 33.5.3 as these areas of LMS are within a LENZ area of Level IV or Rule 3.5.2 if the indigenous vegetation is over 2m tall.
- 3.7. We need to re-iterate to the Panel that the SNAs have been imposed on the land owner. On LMS there are 400 ha of SNA imposed. The land owner is not opposed to the majority of the proposed SNAs. Most of the SNAs are in steep sided gullies with rock outcropping and the land is not suitable for development into pasture. The indigenous vegetation in these areas adds to the character of the property and the land owner has no problem with the areas being zoned as SNA. Further the land owner has been consulting with DoC on the potential for the Luggate Gorge SNA to become a Conservation Park. So the land owner is not opposed to the SNAs being on the property but given that they have been imposed over the existing working roads on the farm he does not want to incur large costs on maintaining these roads and the simplest way to do this is to have the road corridors excluded from the SNAs. It is important to emphasise that regular maintenance of farm roads is necessary for the efficient operation of the farm and the safety of farm workers.
- 3.8. We also need to reiterate that adequate consultation has not taken place for the proposed SNAs. Our submission 439 includes the correspondence that describes how the consultation process between the QLDC and the land owners was supposed to take place and that this consultation was not completed before the PDP was notified. When we raised this issue at the hearing last year on Section 33 the Panel issued a minute requesting that the Council Ecologist meet with landowners to complete the consultation before coming back to the Panel (Fifth Procedural Minute of the Hearing Panel - 19 April 2016).
- 3.9. A site visit was carried out by Mr Davis on behalf of the Council in February 2017. A revised boundary for the Dead Horse Creek SNA (E30A) was discussed and Mr Davis advised that a revised boundary may be possible. As the land owner was not present at the site visit Mr Davis was asked to send the revised boundary of E30A to the land owner for comment/ agreement. This did not occur and the first time that we see the revised boundary and see that the exclusion of road corridors were not accepted is with Mr Davis's Report to Council (made available on 21 March 2017). We consider that this is not adequate consultation and it is unfortunate that we have not reached agreement before reporting to the Hearings Panel.

#### **4. FURTHER CONSULTATION**

- 4.1. The land owner is prepared to consult on the SNAs and proposes an amendment to our original submission 439 in regard to the following SNAs as follows:

4.2. E30A the Dead Horse Creek

- a. Accept the revised boundary line on the eastern side of the SNA as proposed by Mr Davis in Appendix 1 of his evidence dated 17th March 2017.
- b. Request that the boundary of the SNA is amended to allow for 20m wide corridors for the existing farm roads that cross through the north and south sections of the SNA.

4.3. E30B – The Tin Hut Creek

- a. Withdraw the request to exclude the areas E30B2 and E30B 3 on the basis that there is are existing corridors through the SNA for the two farm roads that connect the Tin Hut terrace and Luggate Creek flats.

4.4. E30D – Luggate Creek Gorge

- a. Request that the boundary of the SNA is amended to include a 20m wide corridor for the existing farm road as shown in submission 439.
- b. This road is the main thorough fare between the hill country to the south of Luggate Creek and the farm woolshed and yards area near Atkins Road. The hill slope is steep and currently the switch backs are very tight to negotiate in a 4wD vehicle. This section of road is the first one on the list for future development.

4.5. E30F – Alice Burn

- a. Request that the boundary of the SNA is amended to include a 20m wide corridor for the existing farm road as shown in submission 439.

4.6. E18G - Winestock

- a. Request that the boundary of the SNA is amended to include a 20m wide corridor for the existing farm road as shown in submission 439.