

BEFORE THE HEARINGS PANEL FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER OF

Stage 3 of the Proposed District Plan

STATEMENT OF EVIDENCE OF SCOTT SNEDDON EDGAR

ON BEHALF OF THE FOLLOWING SUBMITTERS AND FURTHER SUBMITTERS:

MINARET STATION LIMITED (SUBMITTER #3208 AND FURTHER SUBMITTER #3424)

**GRANT AND JANET COCHRANE, JAMES AND JONELLE COCHRANE AND STAYROD TRUSTEES
(COCHRANE) LIMITED (SUBMITTER #3227 AND FURTHER SUBMITTER #3426) ECO**

SUSTAINABILITY DEVELOPMENT LIMITED (SUBMITTER #3230)

RUN 505 LIMITED (SUBMITTER #3236 AND FURTHER SUBMITTER #3425)

UPPER CLUTHA TRANSPORT LIMITED (SUBMITTER #3256 AND #3270)

CRAIG JOLLY, MAREE SHAW AND LINDSEY DEY (SUBMITTER #3276)

I C TRUSTEES LIMITED AND JUDITH MUIR (SUBMITTER #3277)

ZOZZY LIMITED (SUBMITTER #3279)

TIM BURDON (SUBMITTER #3304)

BENJAMIN GORDON (SUBMITTER #3330)

**CATTLE FLAT STATION LIMITED AND ASPIRING HELICOPTERS LIMITED (SUBMITTER # 3399 AND
FURTHER SUBMITTER #3422)**

MATTHEW CHAPMAN (FURTHER SUBMITTER #3431)

19th June 2020



Introduction

- 1 My name is Scott Sneddon Edgar. I am a Resource Management Planner and hold a Bachelor of Arts Degree (Honours) in Town and Country Planning from Strathclyde University in Glasgow, Scotland. I am an Associate Member of the New Zealand Planning Institute.
- 2 I am an independent planning consultant based in Wanaka. Prior to my current position I was employed by Southern Land Limited, a Wanaka based survey and planning consultancy, from October 2006 to November 2018. During my time at Southern Land I was involved principally with the preparation of resource consent applications and the presentation of planning evidence at Council hearings. I was also involved in the preparation of submissions and further submissions on Stage 1 of the Proposed District Plan, participation in the Stage 1 hearings and subsequent appeals and Environment Court proceedings.
- 3 Prior to relocating to New Zealand in 2005 I worked as a development control planner with various Scottish local authorities in both rural and urban regions.
- 4 Upon my arrival in New Zealand I was employed as a resource consents planner in the Wanaka office of Civic Corporation Limited before taking up a position with Southern Land Limited. I have a total of 21 years' planning experience, 15 of which have been gained in New Zealand.

Code of Conduct

- 5 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court of New Zealand Practice Note 2014 and I agree to comply with it. In that regard I confirm that this evidence is written within my expertise, except where I state that I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Executive Summary

- 6 In this evidence I find that:
 - The mapping of the notified wāhi tūpuna areas is not supported by adequate information in terms of the methodology through which the areas of significance have been identified and consequently that the assessment of the efficiency and effectiveness of the provisions is inadequate and does not reflect the scale and significance of the

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environmental, economic, social and cultural effects that could be anticipated from the implementation of the proposal;

- The mapping of the wāhi tūpuna areas does not give effect to Policy 5.4.5.1 of the PDP which directs that wāhi tūpuna areas and all their components are to be shown on the District Plan maps;
- That the additional information provided by Mr Ellison is a helpful addition to Schedule 39.6 in terms of assisting Council and plan users to better understand the background and values of each identified wāhi tūpuna area;
- That the amendments to the wāhi tūpuna rules relating to earthworks and farm buildings recommended by Mr Bathgate are generally appropriate subject to some further refinement to provide for earthworks associated with approved building platforms and farm buildings on valley floors where the elevation exceeds 400masl;
- That an amendment to Rule 39.5.2, which relates to the setback of buildings and structures from waterbodies would enable farming activities while allowing for the potential effects of more significant structures to be appropriately managed.

Scope of Evidence

7 I have been engaged by the following parties to provide expert planning evidence relating to the Chapter 39 - Wāhi Tūpuna and its associated mapping and variations:

- Minaret Station Limited (Submitter #3208 and Further Submitter #3424)(Minaret Station)
- Grant and Janet Cochrane, James and Jonelle Cochrane and Stayrod Trustees (Cochrane) Limited (Submitter #3227 and Further Submitter #3426)(West Wanaka Station)
- Eco Sustainability Development Limited (Submitter #3230)(ESD)
- Run 505 Limited (Submitter #3236 and Further Submitter #3425)(Run 505)
- Upper Clutha Transport Limited (Submitter #3256)(UCT)
- Craig Jolly, Maree Shaw and Lindsey Dey (Submitter #3276)(Jolly)
- I C Trustees Limited and Judith Muir (Submitter #3277)(Muir)

- Zozzy Limited (Submitter #3279)(Zozzy)
- Tim Burdon (Submitter #3304)(Mt Burke Station)
- Benjamin Gordon (Submitter #3330)(Gordon)
- Cattle Flat Station Limited and Aspiring Helicopters Limited (Submitter # 3399 and Further Submitter #3422)(Cattle Flat Station)
- Matthew Chapman (Further Submitter #3431)(Chapman)

8 In this evidence I refer collectively to the above parties as ‘the submitters’.

9 In preparing this evidence I have read and considered the following documents and information:

- The Partially Operative Regional Policy Statement for Otago 2019;
- Kai Tahu ki Otago Natural Resource Management Plan 2005;
- Te Tangi a Taurira ‘The Cry of the People’ - Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008;
- Council’s Proposed District Plan in particular Chapter 3 - Strategic Direction, Chapter 5 - Tangata Whenua and Chapter 39 - Wāhi Tūpuna;
- Council’s s32 assessment and s42A Report relating to Chapter 39 - Wāhi Tūpuna and associated mapping and variations;
- The evidence of Mr Higgins, Dr Carter, Mr Ellison, Ms Kleinlangevelsloo and Mr Bathgate for Kā Rūnaka.

10 My brief of evidence is set out as follows:

- Submissions
- Statutory Framework
- Identification and Mapping of Wāhi Tūpuna Areas
- Schedule 39.6
- Earthworks
- Farm Buildings

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- Setbacks from Waterbodies
- Other Matters

Submissions

11 The submitters generally do not oppose the concept of cultural mapping and acknowledge that there may be sites or values of significance on, or in the vicinity of, their properties. However the submitters express a range of concerns that can be grouped into the following themes:

Identification and Mapping of Wāhi Tūpuna Areas

12 All of the submitters raise concern regarding what appears to be a broad brush approach to the identification and mapping of wāhi tūpuna areas and the lack of a clear and transparent methodology and explanation for their identification.

Earthworks

13 All of the submitters oppose Rules 25.4.5 and 25.5.2 and the limits they impose on permitted earthworks within wāhi tūpuna areas. The reasons for the opposition to the earthworks provisions largely relate to earthworks associated with farming activities, the development of existing residential properties and/or the added cost and uncertainty that the proposed limits will create.

14 In addition the submission of ESD and the Chapman further submission raise concerns regarding the restrictions the provisions will impose on the ability to access, service, landscape and build on consented building platforms as a permitted activity.

Farm Buildings

15 The submissions of Minaret Station, West Wanaka Station, Run 505, Muir, Burdon and Cattle Flat Station oppose Rule 39.4.1 which makes all farm buildings within wāhi tūpuna areas a restricted discretionary activity, effectively removing the permitted activity status of farm buildings¹ established through Stage 1 of the Proposed District Plan.

¹ Subject to compliance with relevant standards
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Setbacks from Waterbodies

16 The submissions of Minaret Station, West Wanaka Station, Run 505, Burdon and Cattle Flat Station, being submitters whose properties adjoin or contain water bodies, oppose Rule 39.5.2 which imposes a 20m setback for buildings and structures from waterbodies primarily due to the inclusion of structures which further restricts otherwise permitted farming activities and in particular fencing.

Further Submissions

17 The further submissions of Minaret Station, West Wanaka Station, Run 505, Cattle Flat Station and Chapman oppose the following submissions:

- John Warwick Bell (Submission 3062) on the basis that it sought to introduce other groups as interests parties in wāhi tūpuna areas;
- Contact Energy (Submission 3213) on the basis that it supports the wāhi tūpuna mapping and provisions in their entirety and fails to recognise the potential impact of those provisions on other landowners who are likely to experience increased uncertainty, delay and costs associated with the provisions;
- Aukaha (Submission 3289) and Te Ao Marama Inc (Submission 3313) on the basis that those submissions appear to seek to extend the scope of the wāhi tūpuna provisions which would result in further uncertainty, delay and costs.

18 In addition the Chapman further submission supports the submissions of Matukituki Trust (Submission 3210), West Wanaka Station (Submission 3227) and ESD (Submission 3230).

Statutory Framework

19 The statutory framework relevant to the consideration of the proposed Wāhi Tūpuna Chapter and its associated mapping and variations is set out in Council's s32 assessment and in the evidence of Ms Kleinlangevelsloo. For the sake of brevity I adopt those descriptions of the relevant statutory framework however I would note the following provisions from Chapter 3 - Strategic Direction of the Proposed District Plan that I consider are also of relevance:

3.2 Strategic Objectives

3.2.1 The development of a prosperous, resilient and equitable economy in the District (addresses Issue 1)

3.2.1.7 *Agricultural land uses are enabled provided those uses are consistent with:*

- a. *The protection of the landscape values of Outstanding Natural Features and Outstanding Natural Landscapes;*
- b. *The maintenance of the landscape character of Rural Character Landscapes and the maintenance or enhancement of their visual amenity values; and*
- c. *The maintenance of significant natural conservation values.*

3.2.1.8 *Diversification of land use in rural areas beyond traditional activities, including farming is enabled provided that:*

- a. *The landscape values of Outstanding Natural Features and Outstanding Natural Landscapes are protected;*
- b. *The landscape character of Rural Character Landscapes is maintained and their visual amenity values are maintained or enhanced; and*
- c. *Significant natural conservation values and Ngai Tahu values, interests and customary resources, are maintained.*

3.3 Strategic Policies

Rural Activities

3.3.20 *Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with:*

- a. *Protection of the landscape values of Outstanding Natural Features or Outstanding Natural Landscapes;*
- b. *Maintenance of the landscape character and maintenance or enhancement of the visual amenity values of Rural Character Landscape; or*
- c. *Maintenance of significant conservation values or Ngai Tahu values, interests or customary resources.*

Identification and Mapping of Wāhi Tūpuna Areas

20 I understand that the wāhi tūpuna areas have been mapped using large topographical maps by the Otago rūnaka and confirmed by the Southland rūnaka². The areas were mapped without regard to cadastral or zone boundaries³ and were converted into a GIS layer before

being provided to Council⁴ for incorporation into the Proposed District Plan. Beyond this no further details of the methodology or reasoning for the identification of the wāhi tūpuna areas have been provided.

21 Policy 5.3.1.4 of Chapter 5 - Tangata Whenua recognises that only tangata whenua can identify their relationship and that of their culture and traditions with their ancestral lands, water sites, wāhi tapu, tōpuni and other taonga. I acknowledge and accept this and agree that tangata whenua are the sole authority in terms of the mapping of the wāhi tūpuna areas. I do not wish to question the values or significance of the identified wāhi tūpuna areas. That being said I consider that the incorporation of the identified wāhi tūpuna areas into the PDP with no explanation of the reasoning or methodology for their identification has caused significant concern and uncertainty for affected landowners.

22 As outlined in Council's s32 assessment⁵ the National Planning Standard require that any plan section on Sites of Significance to Māori should include (among other things) sites of significance that are identified through an agreed process with tangata whenua and a description of the agreed process of identification and how this process has been implemented. I appreciate that Stage 3 of the PDP is not intended to implement the National Planning Standard however I consider that the inclusion of these matters in the Planning Standard indicates that, while tangata whenua are the sole authority on matters of significance to Māori, the inclusion of details regarding the process of identification of sites of significance and how it has been implemented is an important and valuable component of Plans and that it is not an unreasonable expectation that this information would be made available.

² Paragraphs 45 and 46 of Ms Kleinlangevelsloo's evidence

³ Paragraphs 46 of Mr Ellison, Ms Kleinlangevelsloo and Mr Bathgate's evidence

⁴ Paragraph 5.10 of Council's s32 Report and Paragraph 46 of Ms Kleinlangevelsloo's evidence ⁵ Paragraph 4.18 of s32 Assessment

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23 I consider that the provision of reasoning and a detailed methodology for identification would have assisted affected landowners in gaining an understanding of the concept of wāhi tūpuna, the values of significance to Māori and the potential threats identified which would give affected landowners greater confidence that their land is not being unduly burdened with the wāhi tūpuna overlay.

24 Without a clear and transparent methodology there is, in my opinion, uncertainty as to the accuracy of the mapping and whether the intentions of the rūnaka have been appropriately conveyed through the incorporation of the mapped wāhi tūpuna areas into the PDP. Again I

acknowledge that the rūnaka are the sole authority in these matters however from a review of the mapped wāhi tūpuna areas there appear to be a number of anomalies. I have attached extracts from the mapping to illustrate some of these anomalies as Appendix A to this evidence. Figures 1 to 6 show parts of the Clutha River/Mata-Au, Cardrona River, Arrow River and the Shotover and Kawarau Rivers at various locations that are not covered by their associated wāhi tūpuna areas. In addition Figure 7 shows the wāhi tūpuna area associated with the Kawarau River at Frankton where the wāhi tūpuna appears to follow cadastral boundaries.

25 In addition it appears that the wāhi tūpuna areas associated with the rivers have been drawn using a 200m wide drawing tool. This is illustrated in Figure 1 and Figure 5 where the wāhi tūpuna areas are consistently 200m wide. Where the rivers widen or meander the wāhi tūpuna areas appear to have been drawn with multiple sweeps of the 200m wide drawing tool resulting in irregular edges to the wāhi tūpuna areas and what appear to be missed parts of the rivers as illustrated in Figures 3, 4 and 6. The irregular edges of the wāhi tūpuna areas often do not appear to reflect topographic features or setbacks from rivers but rather appear to be a product of the rather blunt drawing tool used to map these areas.

26 While these anomalies may or may not in themselves be significant and I appreciate that there may be reasons for the approach taken and resultant extents of the wāhi tūpuna areas I consider that in the absence of any detailed methodology there will be uncertainty for landowners as to why their property, or parts of their property, is covered by a wāhi tūpuna area that does not appear to relate to a consistently defined feature or whether their property

is located within a wāhi tūpuna area because it is of significance to Māori or because a broad brush approach was taken to identifying the extents of the wāhi tūpuna area.

27 For other wāhi tūpuna areas that are not directly associated with a lake or a river some explanation as to how the extents of the wāhi tūpuna areas were arrived at would assist affected landowners to understand and have greater confidence in how the areas have been defined. For example details of whether any ridgelines, prominent slopes, contour lines, vegetation cover or specific views were used to identify the extents of wāhi tūpuna areas would assist affected landowners gain a better understanding of how the areas have been mapped.

28 A number of the submitters questioned whether the wāhi tūpuna areas and the values they contain could be more accurately mapped, particularly location specific values or features such as ara tawhito etc.

29 Ms. Picard notes in her s42A report⁶ that some values are not readily definable in terms of location while the confirmation of the location of other values may compromise the values themselves. This matter is further addressed in the evidence of Mr Ellison⁷ where he states that a broad mapping approach is preferable as it avoids the need to publicly identify individual sites of importance and better reflects the broader associations manawhenua have with the landscape.

30 Ms. Picard states at paragraph 4.4 that the broad mapping approach, informed by tangata whenua, is consistent with Method 4.1.1 of the PORPS. I note that Method 4.1.1 is to include objectives, policies and methods to implement Policy 2.2.2⁸ by:

- a. *Including provisions to recognise the wāhi tūpuna and to protect the values that contribute to wāhi tūpuna being significant;*
- b. *Identifying the location on plans of the wāhi tūpuna to be protected and the values that contribute to their significance, using the guide in Schedule 1C to assist.*

31 The wāhi tūpuna values listed in Schedule 39.6 generally appear to be location specific or capable of being identified on a plan. Method 4.1.1 b. could be interpreted as meaning that both the wāhi tūpuna areas and the values that contribute to their significance are identified on plans. This interpretation appears to be consistent with Objective 5.4.5 and Policy 5.4.5.1 of Chapter 5 - Tangata Whenua of the Proposed District Plan which are:

Objective 5.4.5 Wāhi tūpuna and all their components are appropriately managed and protected.

⁶ Paragraphs 4.2 to 4.5

⁷ Paragraphs 40 and 41

⁸ *Policy 2.2.2 Recognising sites of cultural significance*

Recognise and provide for the protection of wāhi tūpuna, by all of the following:

- a) Avoiding significant adverse effects on those values that contribute to the identified wāhi tūpuna being significant;*
- b) Avoiding, remedying, or mitigating other adverse effects on the identified wāhi tūpuna;*
- c) Managing the identified wāhi tūpuna sites in a culturally appropriate manner.*

Policy 5.4.5.1 Identify wāhi tūpuna and all their components on the District Plan maps in order to facilitate their protection from adverse effects of subdivision, use and development.

32 While I accept Mr Ellison's evidence that the significance of a wāhi tūpuna cannot be distilled down to the individual values or components that contribute to its overall significance I consider that Policy 5.4.5.1 does direct that a greater degree of detail is required including the mapping of the components that make up, or are contained within, the wāhi tūpuna areas.

33 In her s42A report⁵ Ms Picard states that the wāhi tūpuna overlay was provided by kā rūnaka as being representative of the areas of significance and that Council is not in a position to justify their extent. I agree and accept that tangata whenua are the sole authority in this regard however I consider that Council has an obligation to ensure that sufficient detail is provided to justify and explain the extents of the identified wāhi tūpuna areas. In the absence of such information I do not consider that a fair and balanced assessment of the efficiency and effectiveness of the provisions can be undertaken and that Council's s32 assessment does not contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that could be anticipated from the implementation of the proposal.

⁵ Paragraph 4.5

Schedule 39.6

34 I consider that the additional information provided by Mr Ellison which provides a description and background to each wāhi tūpuna area, to be incorporated into Schedule 39.6, is helpful and will assist Council and plan users to better understand the reasons why each wāhi tūpuna area is of significance.

Earthworks

35 As outlined above all of the submitters on behalf of whom this evidence is presented opposed the earthworks Rules 25.4.5.1 and 25.5.2. I consider that the recommended amendments to the earthworks rules set out in the evidence of Mr. Bathgate go some way to addressing the concerns of the submitters in this regard.

36 The proposed amendments to Rule 25.5.11 indirectly address the specific concerns of ESD relating to earthworks associated with development on consented building platforms in that

the building platforms at Emerald Bluffs are all below 400masl and are suitably setback from waterbodies, skylines and terrace edges. In a broader sense however I consider that there may be situations where approved residential building platforms do not fall within the exemptions from the 10m³ earthworks limit set out in Mr Bathgate's amended rule. I consider that, in those circumstances, a landowner would have a reasonable expectation that they could carry out earthworks necessary to form access, install services, landscape and construct buildings within the approved building platform particularly given that the consent process to establish the building platform is likely to have been a publicly notified process with notice being served on iwi groups as is standard practice in the District. I therefore consider that, while Mr Bathgate's recommended amendments indirectly address the concerns of ESD as they relate to Emerald Bluffs, there is merit in excluding earthworks associated with the construction of buildings within approved building platforms from the wāhi tūpuna earthworks provisions.

37 In addition I consider that, while Mr. Bathgate's recommended amendments relax the provisions relating to earthworks within wāhi tūpuna areas to an extent they do not adequately provide for development on valley floors that may be higher than 400masl.

38 I understand that the reasoning for the identification of the 400masl contour as the threshold for permitted earthworks within a wāhi tūpuna areas is that it is based on the levels of Lake

Wanaka, Lake Hawea and Lake Wakatipu and provides for earthworks on the lower slopes and valley floors in the vicinity of those lakes. While many of the identified wāhi tūpuna areas would be captured by this amendment it does not account for lower slopes and valley floors that are higher than 400masl. Specifically much of the floor of the Cardrona Valley is above 400masl including the property of Run 505 and Ben Gordon (being a director of Run 505 Ltd).

39 The paddocks of Run 505 located on the floor of the Cardrona Valley and partially covered by identified wāhi tūpuna Area 10 - Ōrau are located at an elevation between 425masl and 475masl (the 400 masl contour being located approximately 1km to the south of Spotts Creek). The floor of the Cardrona Valley includes flat, low lying paddocks as far south as the Cardrona Township and would appear to exhibit similar characteristics to the valley floors and lower slopes where manawhenua have resolved that the 10m³ limit for earthworks within wāhi tūpuna need not apply. The Cardrona Township is located at an elevation of approximately 600masl.

40 I therefore generally support Mr. Bathgate’s recommended amendments to Rule 25.5.11 subject to further amendments to provide for earthworks associated with the construction of buildings within approved building platforms and on the floor of the Cardrona Valley where the elevation exceeds 400masl.

41 The further amendments to Rule 25.5.11 that I would recommend are as follows (adopting Mr. Bathgate’s recommended amendments with further amendments shown underlined/~~struck through~~):

Rule Table 25.2	Table 25.2 - Maximum Volume	Maximum Total Volume
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25.5.11	<p>owing Wāhi Tūpuna areas:</p> <p>Tūpāpaku (Number 5)</p> <p>pu (Number 9)</p> <p>ka (Number 12)</p> <p>ju (Number 16)</p> <p>nui (Number 20)</p> <p>Hakitekura (Number 22)</p> <p>nata o Hakitekura (Number 27)</p> <p>Wāhi Tūpuna areas not listed above:</p> <p>Earthworks within 20m of the bed of any waterbody</p> <p>Earthworks located at an elevation exceeding 400 masl <u>except that within Ōrau (Number 12) where earthworks may be located up to an elevation not exceeding 600 masl</u></p> <p>Earthworks within a wāhi tūpuna that</p> <ul style="list-style-type: none"> • modify a skyline or terrace edge when viewed either from adjoining • sites or formed roads within 2km of the location of the proposed earthworks. <p><u>the exception that earthworks</u></p> <p><u>ed with buildings, access, servicing and</u></p> <ul style="list-style-type: none"> • <u>ping activities within an approved</u> <p><u>With</u></p>	10m ³
	<p><u>residential building platform are not captured by this rule.</u></p>	

42 I note that there may be other similar scenarios within the district where a wāhi tūpuna area includes land on a valley floor that is higher in elevation than 400masl and further additions to Rule 25.5.11 may be worth considering in such circumstances.

Farm Buildings

43 Similarly I consider that Mr Bathgate’s recommended amendments to Rule 39.4.1 relating to farm buildings within wāhi tūpuna areas go some way to addressing the concerns expressed by the submitters however they do not provide for farm buildings within wāhi tūpuna Area 10 - Ōrau where the floor of the Cardrona Valley is at an elevation exceeding 400masl.

44 I therefore consider that Rule 39.4.1 should be amended as follows (adopting Mr. Bathgate’s recommended amendments with further amendments shown underlined/~~struck through~~):

	Table 39.4 - Activity	Activity Status
39.4.1	<p>Any farm building within a wāhi tūpuna area that:</p> <ul style="list-style-type: none"> a. Is located at an elevation exceeding 400 masl <u>or within Ōrau (Number 12) at an elevation exceeding 600 masl</u>; or b. Modifies a skyline or terrace edge when viewed either from adjoining sites, or formed roads within 2km of the location of the proposed building. <p>Except that clause (a) does not apply to a farm building that is a replacement for an existing, lawfully established farm building or situated within 30m of an existing, lawfully established farm building on the same site.</p> <p>Discretion is restricted to:</p> <p>Effects on cultural values of Manawhenua</p>	RD

Setbacks from Waterbodies

45 The submissions of Minaret Station, West Wanaka Station, Run 505, Burdon and Cattle Flat Station oppose Rule 39.5.2 which imposes a 20m setback for buildings and structures from waterbodies primarily due to the inclusion of structures which further restricts otherwise permitted farming activities.

46 The farming activities that would be restricted by the inclusion of structures within the setback rule include fencing and small sheds or shelters. Being farming properties that adjoin waterbodies the potential restriction on fencing is of particular concern.

47 In his evidence Mr Bathgate states⁶ that cultural experts have advised that structures such as post and wire fencing may be acceptable within the setback from waterbodies on the basis that they do not block views of waterbodies, adversely affect natural character or the accessibility of the waterbodies. If that is the case I consider that provision should be made within Rule 39.5.2 for such structures.

48 In addition Mr Bathgate indicates⁷ that some further refinement relating to structures that may be acceptable within the setbacks from waterbodies may be appropriate and that the exemptions to the definitions⁸ of buildings would be a suitable starting point for considering this refinement. I am not aware of any functional need to locate the structures that are exempt from the PDP and Building Act definitions of buildings in close proximity to waterbodies other than small structures less than 5m² in area and/or no more than 2m in height. Such small structures would for example provide for a pump shed or shelter but not larger structures that may more significantly affect natural character or views.

49 I therefore consider that the following amendments should be made to Rule 39.5.2 to provide for these structures:

	Table 39.5 - Setback from water bodies within a wāhi tūpuna area	Non-compliance status
39.5.2	Any buildings or structures <u>except for post and wire fences and structures less than 5m² in area and/or not more than 2m in height:</u>	RD Discretion is restricted to:

⁶ Paragraph 137

⁷ Paragraph 139

⁸ PDP Definitions and Building Act 2004

	<p>a. Within a wāhi tūpuna area (identified in Schedule 39.6);</p> <p>b. Are within the following zones:</p> <ul style="list-style-type: none"> i. Rural; ii. Rural Residential and Rural Lifestyle; or iii. Gibbston Character <p>Shall be setback a minimum of 20m from a the bed of a wetland, river or lake.</p>	<p>a. Effects on cultural values of Manawhenua</p>
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Other Matters

50 I agree with Ms. Picard⁹ that the identification of other parties (i.e. Forest and Bird and the Federated Mountain Club Inc.) as groups with an interest in wāhi tūpuna is inappropriate and that submission 3062 should be rejected.

Part 2 Assessment

51 Under Section 32 of the RMA the extent to which the objectives of a proposed plan are the most appropriate way to achieve the purpose of the Act, and whether the provisions of the proposed plan are the most appropriate way of achieving those objectives, must be examined.

52 I consider that the objectives and policies of the Proposed District Plan, as they relate to Strategic Direction and Tangata Whenua, are an appropriate means of achieving the purpose of the Act. In addition I consider that the objectives and policies of Chapter 39 - Wāhi Tūpuna (including the amendments recommended in Ms Picard’s s42A report) appropriately give effect to the higher order provisions of the Proposed District Plan.

53 I consider however that, given the lack of information presented in terms of the process and methodology through which the wāhi tūpuna areas have been identified and that the component parts of wāhi tūpuna areas have not been mapped, there is uncertainty as to

⁹ S42A Report, Paragraph 3.5
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whether the proposed provisions (in this case the maps) are the most appropriate means of achieving the higher order provisions of the Proposed District Plan.

Conclusion

54 Overall I consider that the purpose of the Act could be better achieved through a more robust and transparent identification process for wāhi tūpuna areas and their component parts. That being said I consider that, if it is found that the mapping process has been undertaken to a sufficient level of detail, the amendments to the wāhi tūpuna rules set out in this evidence would better provide for the enablement of farming activities (and other activities) while appropriately managing potential adverse effects on the values of the identified wāhi tūpuna areas.



Scott Sneddon Edgar

19th June 2020

Appendix A - Example Wāhi Tūpuna Mapping Anomalies

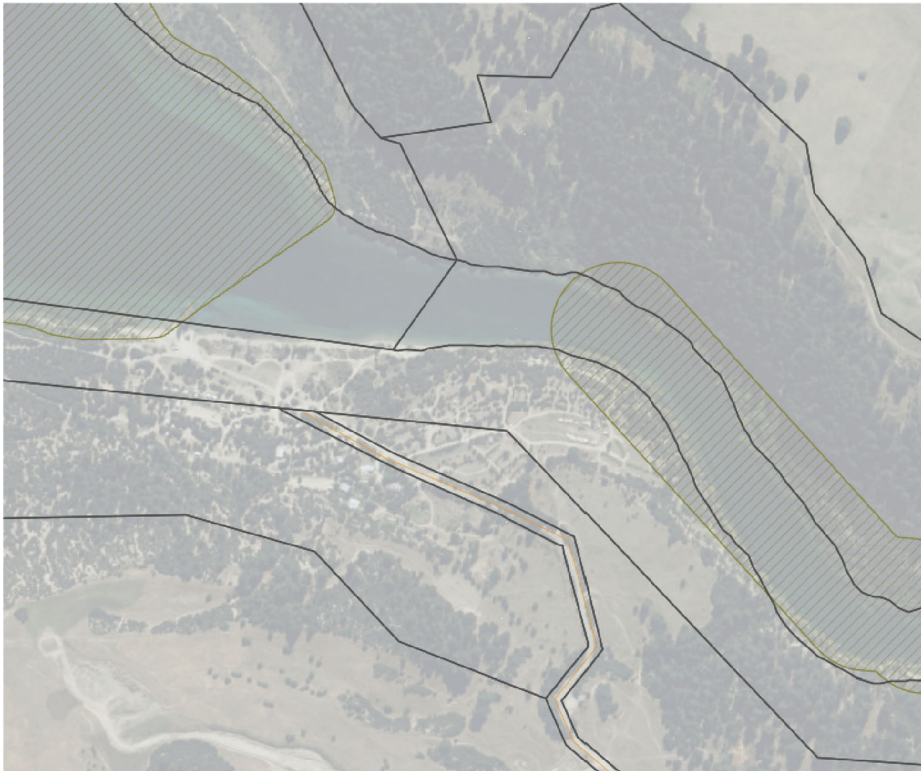


Figure 1 - Lake Wanaka Outlet

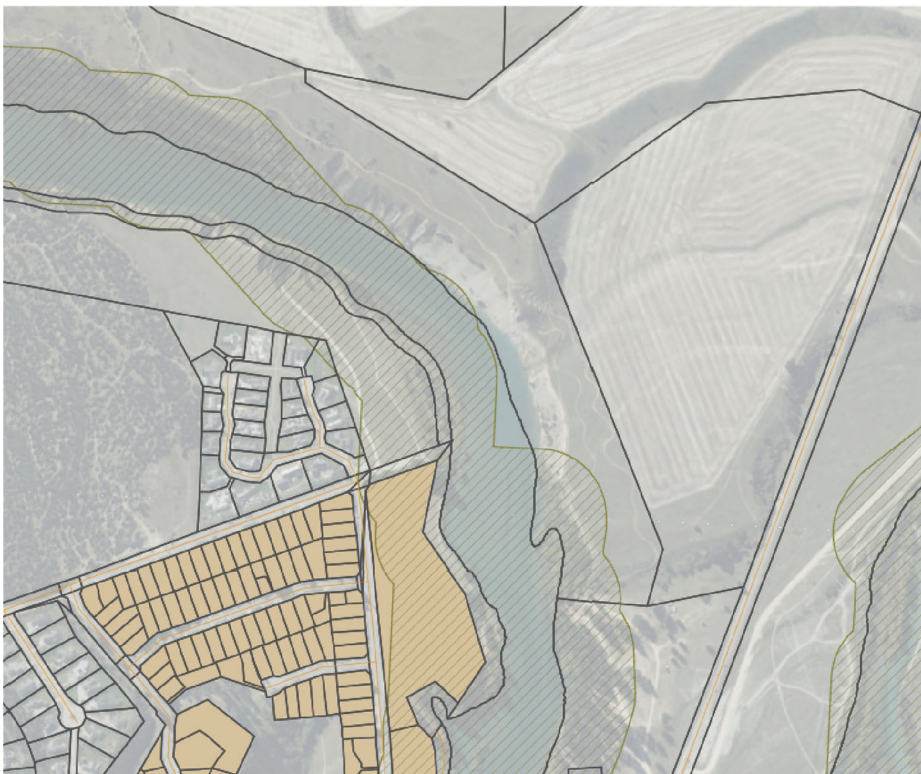


Figure 2 - Clutha River / Mata-Au at Albert Town



Figure 3 - Cardrona River at Riverbank Road



Figure 4 - Cardrona River north of the Cardrona Township



Figure 5 - Arrow River at Macetown



Figure 6 - Confluence of the Shotover and Kawarau Rivers



Figure 7 - Kawarau River at Frankton