

**Submission to QUEENSTOWN LAKES DISTRICT COUNCIL on
“PROPOSED QUEENSTOWN LAKES DISTRICT PLAN”
(OCTOBER 2015)**

SUBMITTER DETAILS

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Decision sought: To support the proposed Queenstown Lakes District Plan, with the amendments proposed below.

Summary of reasons: Straterra has proposed amendments to overcome the following issues encountered in the pQLDP:

1. Insufficient regard to the implications of the 2014 Supreme Court decision on *King Salmon* for development proposals, particularly in areas covered by s.6 of the RMA. Directions to “avoid effects” and “protect and enhance” the environment in these areas are the same as a blanket prohibition on all economic development, which is against the letter and intent of the RMA.
2. Provisions that derogate from s.6, by, for example, extending the qualifier “inappropriate subdivision, use and development” to all subdivision, use and development.
3. Arbitrary and unjustified favouring of farming over other rural land-uses.
4. Inappropriate inclusion of provisions on greenhouse gas emissions (which are managed under the Climate Change Response Act 2002 regime).
5. Inadequate or incomplete understanding of the nature of mining and quarrying, when recognising and providing for these activities (e.g., the location-specific nature of mineral resources, mining is a temporary land-use, mining earns high wealth off a small footprint, mining is almost always the highest-value use of land, environmental management increasingly follows international and New Zealand best-practice).
6. It is not clear how positive provision for mining interacts with other parts of the plan, e.g., the pro-farming provisions.

7. Provisions on heritage that look to be out of step with the Heritage NZ Pouhere Taonga Act 2014, i.e., full protection from all development cf. the provisions in the HNZPTA for developers to obtain authorities to destroy or modify heritage, subject to criteria.
8. The approach to managing cumulative effects would prevent the modification or expansion of existing activities, particularly within areas where s. 6 applies.

As worded, the pQLDP looks to favour pastoral farming, the wine industry, tourism development (including skifields) and individual lifestyle projects, and to place discriminatory restrictions on other activities, including renewable electricity generation and transmission, and mining and quarrying (including of aggregate for local roading and construction). Where the environmental effects are the same, this distinction is arbitrary and unwarranted. This is at odds with an integrated management perspective (e.g., s.30 (1) (a) of the RMA).

On a positive note, the pQLDC is very well presented, and – unlike most RMA plans – is a pleasure to read. Many aspects of RMA planning are very well handled, particularly the material on compensatory measures, as a subset of the measures to be taken by developers in meeting RMA consenting requirements under the Plan.

STRATERRA’S DETAILED SUBMISSIONS

| QLDC proposal | Straterra proposal | Reasons |
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| <p>3.1 Purpose This chapter sets out the over-arching strategic direction for the management of growth, land use and development in a manner that ensures sustainable management of the Queenstown Lakes District’s special qualities: • Dramatic alpine landscapes free of inappropriate development • Clean air and pristine water • Vibrant and compact town centres • Compact and connected settlements that encourage public transport, biking and walking • Diverse, resilient, inclusive and connected communities • A district providing a variety of lifestyle choices • An innovative and diversifying economy based around a strong visitor industry • A unique and distinctive heritage • Distinctive Ngai Tahu values, rights and interests.</p> | Support with amendment | As originally worded, the provision favours tourism over other activities, without considering the relative merits of different activities, in any given situation. For example, mining is almost always the highest-value land-use. It can be an appropriate land-use in areas covered under section 6 of the RMA. It is valid to place emphasis on innovation and diversification, and these concepts are applied generally, not just in respect of tourism. |
| <p>Goal 3.2.1 Develop a prosperous, resilient and equitable economy.</p> | Support | This statement upholds the purpose of the RMA. |

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| <p>Objective 3.2.1.3 Enable the development of innovative and sustainable enterprises that contribute to diversification of the District’s economic base and create employment opportunities.</p> | <p>Support</p> | <p>Note that mining and quarrying are necessary to the “smart” (innovative and sustainable) economy.</p> |
| <p>Policy 3.2.1.3.2 Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change, and energy and fuel pressures.</p> | <p>Support with amendment</p> | <p>Adaptation to climate change is within scope. Other issues and activities to do with climate change are managed under the Climate Change Response Act 2002 regime. It is important to avoid unnecessary regulatory duplication.</p> |
| <p>Objective 3.2.1.4 Recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided an appropriate sensitive approach is taken to rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests.</p> | <p>Support with amendment</p> | <p>The meaning of “sensitive approach” is unclear. Note that mining is a higher-value use of land than farming, that it is a temporary use of land, and that it earns high wealth off a relatively small footprint.</p> |
| <p>Objective 3.2.4.2 Protect, maintain and enhance areas with significant Nature Conservation Values.</p> | <p>Support with amendment</p> | <p>The amended wording is necessary to provide for appropriate consideration of development proposals in the areas at issue, and for consistency with other proposed amendments to this plan. As currently worded, this amounts to a prohibition on development within such areas, with no consideration of the merits of projects, the likely environmental impacts and proposals for their management.</p> |
| <p>Policy 3.2.4.2.2 Where adverse effects on nature conservation values cannot be avoided, remedied or mitigated on site, consider the use of environmental compensatory measures in as a mechanism for managing residual effects an alternative.</p> | <p>Support with amendment</p> | <p>It is important to provide developers with adequate scope when proposing ways of addressing the residual effects of development, after the standard approaches to on-site effects management have been advanced. Biodiversity offsets, even when made available under a workable framework (which does not exist at present in New Zealand), are not always a suitable tool for mitigation of residual effects; they may not always be cost-effective or practicable. For that reason, the option of compensatory measures generally must always be made available.</p> |
| <p>Objective 3.2.4.5 Preserve or enhance the natural character of the beds and margins of the District’s lakes, rivers and wetlands, and protect them from inappropriate subdivision, use and development.</p> | <p>Support with amendment</p> | <p>For consistency with section 6 (a) of the RMA. Note that mining and quarrying are eligible to be considered appropriate activities in many instances because these activities can be carried out only where there are economic mineral deposits.</p> |

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| <p>Policy 3.2.4.5.1 That subdivision and / or development which may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins be carefully managed so that life-supporting capacity and natural character is maintained or enhanced.</p> | Support | The concept of "careful management" is consistent with outcomes of maintaining or enhancing aspects of the environment. |
| <p>Objective 3.2.4.6 Maintain or enhance the water quality and function of our lakes, rivers and wetlands.</p> | Support | Consistent with the National Policy Statement for Freshwater Management 2014 (NPS-FM). |
| <p>Policy 3.2.4.6.1 That subdivision and / or development be designed so as to avoid, <u>remedy or mitigate</u> adverse effects on the water quality of lakes, rivers and wetlands in the District.</p> | Support with amendment | As worded, the provision exceeds those of the NPS-FM 2014, and is, therefore, <i>ultra vires</i> . As well, much development would be prevented where discharges to water are required. It is preferable to refer directly to the NPS-FM. |
| <p>Objective 3.2.4.8 <u>Provide for adaptation to the effects of</u> Respond positively to cClimate cChange.</p> | Support with amendment | Adaptation falls within the scope of the RMA. Other matters related to climate change are managed under the Climate Change Response Act 2002. |
| <p>Policy 3.2.4.8.1 Concentrate development within existing urban areas, promoting higher density development that is more energy efficient and supports public transport, to limit increases in greenhouse gas emissions in the District.</p> | Support with amendment | Note that the issue of greenhouse gas emissions is managed under the Climate Change Response Act 2002 regime. It is important to avoid unnecessary regulatory duplication. |
| <p>Goal 3.2.5 Our distinctive landscapes are protected from inappropriate development.</p> | Support, subject to the reasons provided. | It is assumed that "distinctive landscapes" are those covered by section 6 (b) of the RMA. Note that mining and quarrying are examples of appropriate development because these activities are location-specific; mining and quarrying can be done only where economic mineral deposits occur. |
| <p>Objective 3.2.5.1 Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from <u>inappropriate</u> subdivision, use and development.</p> | Support with amendment | For consistency with section 6 (b) of the RMA. |
| <p>Policy 3.2.5.1.1 Identify the district's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps, and protect them from the adverse effects of <u>inappropriate</u> subdivision, <u>use</u> and development.</p> | Support with amendment | For consistency with section 6 (b) of the RMA. |

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| <p>Objective 3.2.5.2 Manageinimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.</p> | <p>Support with amendment</p> | <p>The meaning of “minimise” is unclear. Does it mean minimise to zero? Or to some other value? The RMA provides for developers to propose ways of avoiding, remedying and mitigating the effects of activities in ways that meet the purpose of the RMA.</p> |
| <p>Policy 3.2.5.2.1 Identify the district’s Rural Landscape Classification on the district plan maps, and manageinimise the effects of subdivision, use and development on these landscapes.</p> | <p>Support with amendment</p> | <p>The meaning of “minimise” is unclear. Does it mean minimise to zero? Or to some other value? The RMA provides for developers to propose ways of avoiding, remedying and mitigating the effects of activities.</p> |
| <p>Objective 3.2.5.3 Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values, <u>except in the case of the development of location-specific resources.</u></p> | <p>Support with amendment</p> | <p>Note that mining and quarrying are location-specific; mining and quarrying can be done only where economic mineral deposits occur. That is also the case for a number of other activities, such as renewable electricity generation.</p> |
| <p>Objective 3.2.5.5 Recognise that agricultural land use is fundamental to the character of our landscapes, <u>as is a number of other activities.</u></p> | <p>Support with amendment</p> | <p>As worded, a bias in favour of agricultural activities is introduced, which is not supported by the letter and intent of the RMA. To be clear, the RMA is not a pro-farming piece of legislation; it has a broader purpose.</p> |
| <p>Policy 3.2.5.5.1 Give preference to farming activity in rural areas except where it conflicts with significant nature conservation values.</p> | <p>Oppose</p> | <p>This is discriminatory for no good reason, and goes against the letter and intent of the RMA. Note that mining is a much higher-value use of land than farming, and is a temporary land-use. Land returned to farming from mining is typically more productive than it was previously.</p> |
| <p>Policy 3.2.5.5.2 Recognise that the retention of the character of rural areas may be is often dependent on the ongoing viability of farming and that evolving forms of agricultural land use which may change the landscape are anticipated.</p> | <p>Support with amendment</p> | <p>The amendment is proposed to place farming in an appropriate context, consistent with the letter and intent of the RMA, which is not to arbitrarily discriminate in favour of one activity over another. It is noted that “evolving forms” would include mining and quarrying.</p> |
| <p>6.1 Purpose This resource requires protection from inappropriate activities that could degrade its qualities, character and values.</p> | <p>Support, subject to the reasons provided.</p> | <p>Note that mining and quarrying are examples of appropriate development because these activities are location-specific; mining and quarrying can be done only where economic mineral deposits occur.</p> |
| <p>Objective 6.3.1 The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development.</p> | <p>Support, subject to the reasons provided.</p> | <p>Note that mining and quarrying are examples of appropriate development because these activities are location-specific; mining and quarrying can be done only where economic mineral deposits occur.</p> |

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| <p>Policy 6.3.1.3 That subdivision and development proposals located within the Outstanding Natural Landscape, or an Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 because subdivision and development may be is inappropriate in manymost all locations, meaning successful applications will be those that meet the higher standards that location in these areas would reasonably impose exceptional cases.</p> | <p>Support with amendment</p> | <p>The amendment is proposed to provide adequately for the case-by-case consideration of development proposals, their merits, their likely effects, and proposals for managing those effects, in accordance with the letter and spirit of the RMA.</p> <p>Note that mining and quarrying are examples of appropriate development because these activities are location-specific; mining and quarrying can be done only where economic mineral deposits occur.</p> |
| <p>Provision 21.7.1.1 The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.</p> | <p>Oppose</p> | <p>This is unnecessary, and deletion provides consistency with the proposed amendment, above.</p> |
| <p>Policy 6.3.1.4 That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.</p> | <p>Support, subject to the reasons provided.</p> | <p>In practice, mining and quarrying can work very well with farmland or other rural activities. This is because mining is almost always the highest-value use of land, and is a temporary use of land. Farmland used for mining is typically returned into more productive farmland.</p> |
| <p>Objective 6.3.2 Avoid, remedy and mitigate adverse cumulative effects on landscape character and amenity values caused by incremental subdivision and development.</p> | <p>Support with amendment</p> | <p>In light of the 2014 King Salmon Supreme Court decision, the provision as worded would prevent all modification or expansion of existing development. That would be too restrictive. Certainly, cumulative effects should be considered, and it is appropriate to have a suitable plan provision that addresses the issue.</p> |
| <p>Policy 6.3.2.5 Ensure incremental changes from subdivision and development do not degrade to a significant degree landscape quality, character or openness as a result of activities associated with mitigation of the visual effects of proposed development such as screening planting, mounding and earthworks.</p> | <p>Support with amendment</p> | <p>The amendment is proposed to provide reasonably for development proposals to be made and considered, and for consistency with submission points made elsewhere.</p> |
| <p>Policy 6.3.3.2 Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Landscapes adjacent to Outstanding Natural Features would not degrade to a significant degree the landscape quality,</p> | <p>Support with amendment</p> | <p>The amendment is proposed to provide reasonably for development proposals to be made and considered, and for consistency with submission points made elsewhere.</p> |

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| character and visual amenity of Outstanding Natural Features. | | |
| Objective 6.3.4 Protect, maintain or enhance the District's Outstanding Natural Landscapes (ONL). | Support, subject to the reason provided. | The term "maintain" is taken to encompass the concept of avoiding, remedying and mitigating the effects of development. |
| Policy 6.3.4.1 Avoid, <u>remedy and mitigate</u> subdivision and development that would degrade the important qualities of the landscape character and amenity. <u>In situations where, particularly where,</u> there is no or little capacity to absorb change, <u>adverse effects must be managed to be no more than minor.</u> | Support with amendment | The amendment is proposed to provide reasonably for development proposals to be made and considered, and for consistency with submission points made elsewhere. |
| Policy 6.3.4.4 The landscape character and amenity values of the Outstanding Natural Landscape are a significant intrinsic, economic and recreational resource, such that large scale renewable electricity generation or new large scale mineral extraction development proposals including windfarm or hydro energy generation are not likely to be compatible with the Outstanding Natural Landscapes of the District. | Oppose | As worded, the provision takes no consideration of the merits of a mining project, the likely effects on the environment, and proposals for avoiding, remedying or mitigating those effects. For example, the possibility of an underground mine seems to have been overlooked, or of a mine or quarry or electricity scheme being sited where few people are likely to ever see it. |
| Objective 6.3.5 Ensure subdivision and development does not degrade <u>significantly</u> landscape character and diminish visual amenity values of the Rural Landscapes (RLC). | Support with amendment | The amendment is proposed to provide reasonably for development proposals to be made and considered, and for consistency with submission points made elsewhere. |
| Policy 6.3.5.1 Allow subdivision and development only where it will not degrade <u>significantly</u> landscape quality or character, or diminish the visual amenity values identified for any Rural Landscape. | Support with amendment | For the reason provided above. Note that mining is a temporary use of land. When mining is completed, mining companies put the land back as best they can with time doing the rest. In the case of farmland, the result is typically more highly productive farmland. |
| Objective 6.3.7 Recognise and protect, <u>maintain and enhance</u> indigenous biodiversity where it contributes to the visual quality and distinctiveness of the District's landscapes. | Support with amendment | The amendment is proposed to provide reasonably for development proposals to be made and considered, and for consistency with submission points made elsewhere. |
| Policy 6.3.7.1 Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the | Support | This looks like a policy to encourage the use of offsets and other compensatory measures, as part of a mitigation package. If so, that is appropriate. Note that mining and quarrying are a temporary use of land. |

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| intensity in the land use or the retirement of productive farm land. | | |
| Policy 6.3.7.2 Avoid, <u>remedy and mitigate</u> indigenous vegetation clearance where it would <u>significantly</u> degrade the visual character and qualities of the District's distinctive landscapes. | Support with amendment | The amendment is proposed to provide reasonably for development proposals to be made and considered, in context, and for consistency with submission points made elsewhere. |
| Policy 21.2.4.2 Manage/Control the location and type of non-farming activities in the Rural Zone, to <u>manage/minimise or avoid</u> conflict with activities that may <u>or may</u> not be compatible with permitted or established activities. | Support with amendment | Note that mining is almost always the highest-value use of land, and that land owner consent is always needed. Mining would only go ahead if it is a better use of land than some other activity. In practice, mining and farming can and do work well together. Note also that mining is a temporary use of land. When mining is completed, mining companies put the land back as best they can with time doing the rest. In the case of farmland, the result is typically more highly productive farmland. |
| Objective 21.2.5 Recognise for and provide opportunities for mineral extraction providing the location, scale and effects would not degrade <u>significantly</u> amenity, water, landscape and indigenous biodiversity values. | Support with amendment, and subject to the reasons and comment provided | It is not clear how this objective interacts with other objectives relating to specific activities, e.g., farming. Development proposals should be considered on their merits, on their likely effects on the environment, and proposals for their management. The original wording discriminates arbitrarily against mining, compared to other activities, which is against the letter and spirit of the RMA. |
| Policy 21.2.5.1 Recognise the importance and economic value of locally sourced high-quality gravel, rock and other minerals for road making and construction activities, <u>and of the local economic and export contribution of other minerals, including gold and tungsten.</u> | Support with amendment | As originally worded, this provision is excessively restrictive. |
| Policy 21.2.5.2 Recognise prospecting, <u>exploration</u> , and small scale recreational gold mining as activities with limited environmental impact. | Support with amendment | Minerals exploration typically has effects that are no more than minor, or can be managed to be no more than minor, subject to standard conditions. |
| Policy 21.2.5.3 Ensure that during and following the conclusion of mineral extractive activities, sites are progressively rehabilitated in a planned and co-ordinated manner, to enable | Support | This is already a requirement of the RMA. |

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| the establishment of a land use appropriate to the area. | | |
| Policy 21.2.5.4 Ensure potential adverse effects of large-scale extractive activities (including mineral exploration <u>where applicable</u>) are avoided, or remedied <u>or mitigated</u> , particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water. | Support with amendment | For consistency with the RMA, and to differentiate between those exploration activities having minor effects, covered in Policy 21.5.3, and those having effects that are more than minor, such as test pit mining. |
| Objective 21.2.10 Recognise the potential for diversification of farms that utilises the natural or physical resources of farms and supports the sustainability of farming activities. | Support, subject to the reasons provided. | Note that diversification includes mining and quarrying. Both activities are compatible with farming, as discussed elsewhere. |
| Policy 21.2.10.1 Encourage revenue producing activities that can support the long term sustainability of farms in the district. | Support, subject to the reason provided. | Note that revenue producing activities include mining and quarrying. |
| Policy 21.2.10.2 Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural values. | Support, subject to the reasons provided. | Note that revenue producing activities include mining and quarrying. |
| Objective 26.5.1 To recognise and protect, <u>maintain and enhance</u> historic heritage features in the District when managing from the adverse effects of land use, subdivision and development. | Support with amendment | As worded, this provision is at odds with the Heritage NZ Pouhere Taonga Act 2014, which provides for authorities to modify or destroy heritage. Most mining today is done where mining was done in the past. It is appropriate to enable mining in such cases, subject to obtaining authorities under the HNZPTA. |
| Policy 26.5.1.2 Protect, <u>maintain and enhance</u> historic heritage features <u>when managing against</u> adverse effects of land use and development, including cumulative effects, proportionate to their level of significance. | Support with amendment | As worded, this provision is at odds with the Heritage NZ Pouhere Taonga Act 2014, which provides for authorities to modify or destroy heritage. Most mining today is done where mining was done in the past. It is appropriate to enable mining in such cases, subject to obtaining authorities under the HNZPTA. |
| Policy 26.5.1.3 Require the <u>remedying and</u> mitigation of development affecting historic heritage, where it cannot be reasonably avoided, to be proportionate to the level of significance of the feature <u>meet the requirements of</u> | Support with amendment | The amendment is proposed to provide for the working together of the RMA with the HNZPTA. |

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| authorities under the Heritage New Zealand Pouhere Taonga Act 2014. | | |
| 26.12.1 Skippers Heritage Landscape 26.12.3 Key Features to be protected 26.12.3.3 Representative examples of other All other known archaeological sites, including sluiced terraces. | Support with amendment | The evidence of the activities of the old-timers should be protected within reason (as heritage), while taking account of current proposals for mining activities. Most mining today is done where mining was done in the past. It is appropriate to enable mining in such cases, subject to obtaining authorities under the HNZPTA 2014. |
| 26.12.4 Moke Lake and Sefferton Heritage Landscape | Support with amendment, as above | For the reasons stated above. |
| 26.12.7 Glenorchy | Support with amendment, as above | For the reasons stated above. Note that this area retains potential for tungsten exploration and mining. It is appropriate to enable mining in such cases, subject to obtaining authorities under the HNZPTA 2014. |
| 26.12.10 Macetown | Support with amendment, as above | For the reasons stated above. |
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Wellington, 23 October 2015