

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

**Decision No. [2021] NZEnvC 154**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First Schedule of the Act

BETWEEN UPPER CLUTHA  
ENVIRONMENTAL SOCIETY  
INCORPORATED

(ENV-2018-CHC-56)

and all other appellants concerning  
Topic 2 of Stage 1 of the Proposed  
Queenstown Lakes District Plan (listed  
on the attached Schedule)

Appellants

AND QUEENSTOWN LAKES DISTRICT  
COUNCIL

Respondent

Court: Environment Judge J J M Hassan  
Environment Commissioner K A Edmonds  
Environment Commissioner J T Baines

Hearing: In Chambers at Christchurch

Date of Decision: 5 October 2021

Date of Issue: 5 October 2021

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**INTERIM DECISION OF THE ENVIRONMENT COURT**

**Topic 2: Rural Landscapes, Policy 6.3.3.3 s293 directions  
Decision 2.11**

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A: Under s293, RMA,<sup>1</sup> directions are made in relation to Policy 6.3.3.3 of the Proposed Queenstown Lakes District Plan as per Annexure 1.

## REASONS

### Introduction

[1] As directed by Decision 2.7,<sup>2</sup> QLDC<sup>3</sup> has filed proposed directions for the intended s293 process for Policy 6.3.3.3.

[2] The background to these matters is traversed in Decision 2.7. As directed by Decision 2.7, on 28 May 2021 QLDC filed a reporting memorandum attaching a set of proposed directions for the required s293 process and provided a proof copy of the public notice and a summary document to be included in the ‘package’ to be publicly notified.<sup>4</sup>

### Outcome and directions

[3] We are satisfied that matters are in order for s293 directions to be made and that QLDC’s proposed directions are appropriate. Accordingly, directions are made pursuant to s293 as set out in Annexure 1.

For the court



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**J J M Hassan**  
**Environment Judge**

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<sup>1</sup> Resource Management Act 1991.

<sup>2</sup> [2021] NZEnvC 60 at [177] and [239].

<sup>3</sup> Queenstown Lakes District Council.

<sup>4</sup> QLDC memorandum of counsel dated 28 May 2021, Appendix A.

## SCHEDULE

ENV-2018-CHC-053	Federated Farmers of NZ
ENV-2018-CHC-055	Hawthenden Farm Limited
ENV-2018-CHC-082	Kawarau Jet Services Holdings Limited
ENV-2018-CHC-083	Mt Cardrona Station Limited
ENV-2018-CHC-091	Burdon
ENV-2018-CHC-092	Trojan Helmet Limited
ENV-2018-CHC-093	Queenstown Airport Corporation Limited
ENV-2018-CHC-094	The Middleton Family Trust & others
ENV-2018-CHC-095	Seven Albert Town Property Owners
ENV-2018-CHC-099	Bill and Jan Walker Family Trust & others
ENV-2018-CHC-103	Mt Christina Limited
ENV-2018-CHC-104	Soho Ski Area / Blackmans Creek
ENV-2018-CHC-106	Te Anau Developments
ENV-2018-CHC-107	Treble Cone Investments
ENV-2018-CHC-108	Aurora Energy Ltd
ENV-2018-CHC-114	Transpower NZ Ltd
ENV-2018-CHC-115	Willowridge Developments Ltd
ENV-2018-CHC-119	Halfway Bay Lands Limited
ENV-2018-CHC-124	Waterfall Park Developments Limited
ENV-2018-CHC-126	Remarkables Park Limited
ENV-2018-CHC-127	Queenstown Park Limited
ENV-2018-CHC-129	Slopehill Properties Limited
ENV-2018-CHC-130	SYZ Investments Limited
ENV-2018-CHC-131	Real Journeys Limited
ENV-2018-CHC-134	Ngai Tahu Tourism Limited
ENV-2018-CHC-136	Burgess
ENV-2018-CHC-137	Coneburn Preserve Holdings Limited & Others
ENV-2018-CHC-138	Real Journeys (trading as Go Orange Limited)
ENV-2018-CHC-141	Glendhu Bay Trustees Limited
ENV-2018-CHC-142	Queenstown Wharves GP Limited
ENV-2018-CHC-144	James Wilson Cooper
ENV-2018-CHC-145	Glen Dene Limited
ENV-2018-CHC-146	Real Journeys Limited (trading as Canyon Food and Brew Company Limited)
ENV-2018-CHC-148	Allenby Farms Limited
ENV-2018-CHC-150	Darby Planning Limited
ENV-2018-CHC-151	NZ Tungsten Mining
ENV-2018-CHC-160	Lake McKay Station Limited

## Annexure 1

### SECTION 293 DOCUMENTATION IN RELATION TO POLICY 6.3.3.3

#### Proposed section 293 directions

Under s293, to enable consideration of an amendment to Policy 6.3.3.3 to also refer to Outstanding Natural Features (ONFs), it is directed:

##### *Notification*

- b. Within 15 working days of the date of this decision, QLDC must:
  - (iii) send written notice by way of letter to all registered ratepayers of land within the extent of the mapped ONFs on the PDP plan maps, advising of the proposed amendment to Policy 6.3.3.3; and
  - (iv) publicly notify the proposed policy amendment, by way of notice uploaded to Council's website, in order to provide other parties, with an interest in the amendment to Policy 6.3.3.3, an opportunity to join the section 293 process.

##### *Rights to make written comments*

- b. By the date specified in the notices required by (a)(i) and (ii) (but not less than 15 working days after the date of written notice), any affected landowners or any other person with an interest in the proposed amendment to Policy 6.3.3.3, may provide to Council:
  - (i) written comments on the proposed policy amendment; and
  - (ii) any supporting affidavit evidence.

##### *Council report*

- c. Within 15 working days after the date on which written comments are to be provided in accordance with (b), Council must file with the Court, and serve on all parties that provided written comments:
  - (i) a report which summarises the feedback received (if any),
  - (ii) a link to all written comments received (should the Court wish to review that documentation); and
  - (ii) affidavit evidence in response to any evidence filed, which supports any modified recommendations for the proposed policy alteration (if any).

##### *Court's determination*

- d. On receipt of all of the information listed under (b) and (c), the Court will consider the material filed by the parties and issue further directions as to the next steps, including whether the Court wishes to hear further from any party, or whether a determination on the papers can be made.
- e. Leave is reserved to any party to seek modifications to these directions, on application to the Court.

## Proposed Public Notice

### PUBLIC NOTICE

#### Section 293 proposal: Proposed amendment to Policy 6.3.3.3 of the Proposed Queenstown Lakes District Plan

Queenstown Lakes District Council gives public notice as of **XXX 2021** of a section 293 process directed by the Environment Court in relation to a proposed amendment to Policy 6.3.3.3.

The proposed amendment involves an extension of the application of Policy 6.3.3.3, so that it applies to Outstanding Natural Features (ONFs) in addition to Outstanding Natural Landscapes (ONLs).

#### Documentation

A summary document outlining the proposed amendment, a copy of the directions confirmed by the Environment Court, and a s293 feedback form to be used when providing written comments can be:

- viewed online at: <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/appeals>
- inspected at any of the following locations during business hours. (Council offices 8.30-5pm. Library opening hours vary, please check [www.codc-qldc.govt.nz](http://www.codc-qldc.govt.nz) for details).

#### Council offices:

- 10 Gorge Road, Queenstown
- 74 Shotover Street, Queenstown
- Wanaka Service Centre, 47 Ardmore Street Wanaka

#### Public Libraries:

- Queenstown Library: 10 Gorge Road
- Wanaka Library: Dunmore Street
- Arrowtown Library: 58 Buckingham Street
- Makarora Library: Rata Road
- Glenorchy Library: 13 Islay Street
- Lake Hāwea Library: Myra Street
- Kingston Library: 48 Kent Street

- Copies of the documentation can also be requested by contacting Queenstown Lakes District Council:
  - Call: 03 441 1499 (Queenstown) or 03 443 0024 (Wanaka)
  - Email: [PDPenquiries@qldc.govt.nz](mailto:PDPenquiries@qldc.govt.nz)

#### Written feedback on the proposed alteration

Any affected landowner and any person who has an interest in the proposed amendments may provide to Queenstown Lakes District Council written comments on the proposed amendment to Policy 6.3.3.3 (with any supporting evidence) by no later than **XXX 2021**.

Written comments (and supporting evidence) may be lodged with the Queenstown Lakes District Council by:

- Email to [pdpsubmission@qldc.govt.nz](mailto:pdpsubmission@qldc.govt.nz) , using the feedback form available online (subject line: QLDC PDP Policy 6.3.3.3 s293 submission)
- Post: Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348, Attention: QLDC PDP Policy 6.3.3.3 s293 submission

### **What happens next?**

After all written comments have been received and reviewed, Queenstown Lakes District Council is required to provide a report to the Environment Court that summarises all feedback received, provides a position on the proposed amendment and affidavit evidence (if additional amendments are considered appropriate in light of the feedback received). After that, the Court will consider all material filed by the parties and decide whether it is in a position to determine the proposed amendment, or issue further directions (as required).

The procedural directions issued by the Court are set out in full in the summary document available online, or for inspection at the locations specified above.

## Proposed summary document for public notification

### SECTION 293 PROPOSAL

#### PROPOSED ALTERATION TO CHAPTER 6 OF THE PROPOSED DISTRICT PLAN, POLICY 6.3.3.3

31. The document provides a summary of the proposal to amend Policy 6.3.3.3 of Chapter 6 of the Queenstown Lakes Proposed District Plan, by extending its application to Outstanding Natural Features (**ONFs**), in addition to Outstanding Natural Landscapes (**ONLs**). It also outlines the process for providing feedback on the proposed amendment.

#### Background

32. The decisions made by Queenstown Lakes District Council on Stage 1 of the Proposed District Plan (**PDP**) confirmed the following drafting of what was then Policy 6.3.14. That policy read:

*Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities that may modify the landscape, providing the quality and character of the Outstanding Natural Landscape is maintained.*

33. From April to May 2019, the Environment Court (**Court**) heard a number of appeals concerning provisions in Chapters 3 and 6 of the PDP, including Policy 6.3.14.
34. The appeals heard by the Court sought various forms of relief, ranging from deletion of the policy in its entirety, to amendments so that it provided for further diversification of activities within the Rural Zone.
35. In a decision released on 19 December 2019<sup>14</sup>, the Court provisionally determined that Policy 6.3.14 (renumbered as 6.3.3.3) should be amended to read:

*For working farms within Outstanding Natural Features and Outstanding Natural Landscapes:*

- a. *recognise that viable farming involves activities that may modify the landscape; and*
  - b. *enable those activities in a way that is consistent with protecting the values of Outstanding Natural Features and Outstanding Natural Landscapes.*
36. After providing opportunities for the parties to respond to this provisional drafting by way of additional submissions, the Court, in its recent decision released on 7 May 2021, determined that the revised drafting would assist to achieve the Chapter 3 strategic objectives for ONFs and ONLs.<sup>15</sup>
37. As a result of this finding, and because of the lack of jurisdiction provided by the relevant appeals to make the amendment, the Court issued directions for a section 293 process to be timetabled.

#### Effect of alterations

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<sup>14</sup> [2019] NZEnvC 205

<sup>15</sup> [2021] NZEnvC 60 at [176 -177]

38. The amendment will result in an extension of the policy so that it applies to land within both ONFs and ONLs.
39. The practical effect of this extension is that when consent is sought by 'working farms', for farming activities within ONFs, those applications will need to engage with Policy 6.3.3.3. Policy 6.3.3.3 recognises that farming activities may modify the landscape, and enables those activities in a manner that is consistent with protecting the values of ONFs and ONLs.
40. If you wish to discuss this operation of the relevant provisions with Council in more detail, please contact the Council's duty policy planner at [pdpenquiries@qldc.govt.nz](mailto:pdpenquiries@qldc.govt.nz) or at 03 441 0499.

### Section 293 process / next steps

41. Section 293 of the Resource Management Act 1991 allows the Environment Court to direct appropriate procedural steps to provide for the consideration and determination of amendments to planning documents that arise during hearings, but which lack jurisdiction.
42. In this case, the Environment Court has directed that a section 293 process be used to address the proposed amendments to Policy 6.3.3.3.
43. This document has been prepared to accompany a public notice, which advises of the proposed amendment and the associated directions issued by the Court.
44. The directions allow for the making of written comments on the proposed amendment, by **XXX 2021**. After all written comments are received, the Council will file a report with the Court, and the Court will then consider the matter further. Please provide any written comments on the section 293 form provided, by email at [pdpsubmission@qldc.govt.nz](mailto:pdpsubmission@qldc.govt.nz).
45. The complete directions issued by the Court are set out below:

Under s293, to enable consideration of an amendment to Policy 6.3.3.3 to also refer to Outstanding Natural Features (ONFs), it is directed:

#### *Notification*

- c. Within 15 working days of the date of this decision, QLDC must:
  - (v) send written notice by way of letter to all registered ratepayers of land within the extent of the mapped ONFs on the PDP plan maps, advising of the proposed amendment to Policy 6.3.3.3; and
  - (vi) publicly notify the proposed policy amendment, by way of notice uploaded to Council's website, in order to provide other parties, with an interest in the amendment to Policy 6.3.3.3, an opportunity to join the section 293 process.

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- b. By the date specified in the notices required by (a)(i) and (ii) (but not less than 15 working days after the date of written notice), any affected landowners or any other person with an interest in the proposed amendment to Policy 6.3.3.3, may provide to Council:
- (i) written comments on the proposed policy amendment; and
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*Council report*

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*Court's determination*

- d. On receipt of all of the information listed under (b) and (c), the Court will consider the material filed by the parties and issue further directions as to the next steps, including whether the Court wishes to hear further from any party, or whether a determination on the papers can be made.
- e. Leave is reserved to any party to seek modifications to these directions, on application to the Court.

