

IN THE MATTER

Of the Resource Management Act 1991

AND

IN THE MATTER OF

Queenstown Lakes District Council Proposed Plan

Chapters 21 Rural Zone, 33 Indigenous Vegetation and
Biodiversity and 34 Wilding Exotic Trees

By

Queenstown Lakes District Council

Submissions by Susan Elizabeth Maturin – Regional Manager Conservation & Volunteers –
Otago Southland

On behalf of the Royal Forest and Bird Protection Society

May 2016

Royal Forest and Bird Protection
Society
Box 6230
Dunedin

Introduction

1. My name is Susan Elizabeth Maturin. I am the Otago/Southland Field Officer for the Royal Forest and Bird Protection Society.
2. I have an MSc Hons in Natural Resource Management, specialising in ecology and over 20 years experience working in ecological management, resource management, planning and conservation in Canterbury, Waitaki, Otago and Southland. I have been involved in rapid ecological assessments of the Ecological Districts in Queenstown Lakes, Otago, high country tenure reviews, and river and wetland wildlife surveys.
3. Forest and Bird is a national organisation comprising over 70,000 members and supporters in 56 branches throughout New Zealand, including Southland. The main object of the Society is to take all reasonable steps within the power of the Society to preserve and protect New Zealand's remaining flora and fauna, and natural features of New Zealand, for the benefit of the public including future generations.
4. I represent the National Office of the Forest and Bird Protection Society.
5. Today I will concentrate on the submission points which have not been recommended for acceptance by the S42 A Report. (Planner's report)
6. Please note that the summary of submissions often includes additional strikeout which was not part of the amendments requested in my submission and this sometimes makes the amendment sought confusing to follow. Please refer to my original submission.
7. In writing these further submissions we have relied upon the wording in Appendix 2 in the Planner's Reports.

Chapter 33 Indigenous Vegetation and Biodiversity

Overview of Forest and Bird's Submission.

8. Forest and Bird largely supported the definitions, and are very pleased to see that the Planner has recommended retaining the proposal to include the deliberate application of water as a form of clearance. Regarding application of water as a normal farm activity is not helpful as it is the effect of clearance that is important, by whatever means.
9. Forest and Bird generally supported the listing of sites identified as Significant Natural Areas, and sought the inclusion of scientifically based criteria for the ongoing assessment of indigenous vegetation for significance and potential additional SNA's to be applied at the time of resource consent. With regard to identified SNA's Forest and Bird sought non compliance status for the clearance of indigenous vegetation in any SNA, with exceptions for maintenance of existing infrastructure. For non-significant indigenous vegetation and habitats Forest and Bird sought discretionary status for clearance beyond 500^{m²} of indigenous vegetation generally or 1000^{m²} of tall tussock grassland. In recognition of the fact that it is unlikely that all sites meeting the criteria for SNA's will be scheduled Forest and Bird sought discretionary status for any clearance of specific types of vegetation which are likely to be assessed as

significant. We also supported the Department of Conservation's request for no permitted clearance of sites that meet SNA criteria.

10. Forest and Bird supported the preference for avoidance of adverse effects and the use of biodiversity offsets and no net loss in relation to the residual adverse effects of any unavoidable indigenous vegetation clearance only after appropriate avoidance, minimisation, remediation and mitigation measures have been taken.
11. The proposals which will apply throughout the district are more certain and relevant to achieving the Otago RPS and the RM Act, than the current plan, and we congratulate Council and Staff.

Policy 33.2.1.1

12. As proposed this policy only provides for the identification of Significant Natural Areas. It does not identify what the policy approach is with regards to the purpose of identifying them. If the Hearing Commissioners consider it is not appropriate to include such direction within this policy then Forest and Bird suggests that another policy is added which specifically sets out what council's approach is towards SNA's . I note that the Planner has suggested a change to the policy for "clarity" changing "resource consent process" to "development proposals". Forest and Bird opposes this change as it is unclear how council will require a development proposal to identify SNA's other than through a resource consent process.
13. Areas meeting SNA criteria are commonly identified through resource consent processes.
14. In terms of protection of SNA's I agree this should be wider than consent processes so that protection is captured by conditions on permitted activities. The identification and protection of SNA's is necessary to give effect to the purpose of the Act and achieve s6(c).

Policy 33.2.1.2

15. Forest and Bird endorses the Planner's recommendations to retain this policy as notified.

Policy 33.2.1.3

16. The Planner has not accepted the amendments sought in Forest and Bird's submission, or the Department of Conservation's submission which Forest and Bird supported.
17. Forest and Bird asks the Panel to consider amending the policy as sought by DoC., that biodiversity which meets the criteria in policy 33.2.1.9 (now 10), should be excluded from standards that permit removal of indigenous vegetation.

"Provide standards in the District Plan for indigenous vegetation that is not identified as a Significant Natural Area or threatened species or captured under the criteria in Policy 33.2.1.9, which are practical to apply and that permit the removal of a limited area of indigenous vegetation".

18. For consistency in terminology the term "clearance" rather than removal should be used.

Policy 33.2.1.5

19. The Planner has rejected Forest and Bird's submission on this policy, however the amended chapter references our submission with regards to changes made to this policy. The wording proposed in the amended chapter does not give effect to Forest and Bird's submission which seeks that such anticipated activities "must be undertaken in a way that protects the significant indigenous vegetation and habitats of indigenous fauna and maintains and enhances indigenous biodiversity".
20. The wording suggested by the Planner changes the scope of the policy by limiting the consideration of effects to only "effects of clearance". The amendments also removes consideration of "efficient use" which Councils must have particular regard to under s7(b) of the RMA.

Policy 33.2.1.7

21. The term "biodiversity values" is used many times in this chapter. It is not defined in the RMA. Our submission sought to enhance clarity by dropping the word "values" and using the term "indigenous biodiversity" which is the terminology used in the RMA.

Policy 33.2.1.8

22. Forest and Bird agrees with the Planner's recommendations to delete reference to compensation and the addition of the concept of no net loss. However we prefer the recommendations for Policy 33.2.1.8 put forward in the Statement of Evidence by Dr Laurence Barea for the Director General of Conservation. The suggested more detailed policy and inclusion of Biodiversity Offset Guidelines in a Schedule provides greater clarity. We observe that Environment Canterbury has included criteria to apply to the use of biodiversity offsets in the Canterbury Regional Policy Statement (policy 9.3.6 – Limitations on the use of biodiversity offsets).

Planner's Recommended New Policy 33.2.1.9

23. Forest and Bird supports this new policy as Queenstown Lakes District is particularly important for wildlife habitats associated with lakes, wetlands and rivers.

Old Policy 33.2.1.9 now 10

24. I endorse the Planner's acceptance of Forest and Bird's recommended addition to include Pattern and new criteria C, within the criteria for assessing significance.

Forest and Bird's - New Policy

25. Forest and Bird sought a new policy to assist in the implementation of Objective 33.2.1 in relation to enhancement of indigenous biodiversity. There are no policies that provide any guidance for enhancement to use indigenous species that naturally occur or previously occurred in the area.

26. “Facilitate and support restoration of degraded natural ecosystems and indigenous habitats using indigenous species that naturally occur and/or previously occurred in the area.” (The strike through word was my mistake).

Objective 33.2.2

27. The Planner rejected our submission, and we accept that there is no need for it provided the planner’s recommendations for policy 33.2.10 are accepted.

Policy 33.2.2.1

28. Forest and Bird supports the Planner’s recommendation to accept this submission. This is necessary to ensure that potential SNA’s are captured. The current schedule of SNA’s is bound to be incomplete, as it relied heavily on a desk top survey (which in itself contained incomplete surveys), and even if intensive surveys are undertaken, areas are missed due to landowner concerns, or overlooked. Over a decade conservation understanding and knowledge changes, some species that are not listed as threatened now may become threatened. For example grey shrublands were not considered as important in the past as they are today. Shrub species once thought to be common are now at risk (eg *Olearia lineata*). Sites that are assessed to meet the criteria used to identify SNAs, but not scheduled should be treated in the same manner as sites that have been identified and scheduled.
29. The Environment Court in considering Variation 1 of the Proposed Regional Land and Riverbed Management Plan for the West Coast said at Para [111] *“We find that there is a policy gap if there is no specific policy that deals with non-scheduled wetlands that are assessed to be a significant wetland under the Appendix 8 criteria. Policies 5A.3. 1 and 5A.3.2 do not adequately deal with these wetlands and therefore there is a failure to implement the Objective (and it follows Part 2). On this we concur with Ms Todd and Ms Cameron.(Friends of Shearer Swamp v WCRC [2012] NZEnvC 006); and further at Para 113:*
30. *[113] We find that if non-scheduled wetlands are assessed in accordance with Appendix 8 criteria and found to be significant there is no policy justification to treat them any differently. The Regional Council is over-stating the potential consequences of including the policies proposed by Ms Todd and Ms Legarth, particularly given the range of activities that are permitted by the Plan rule regime and would not require resource consent.*

Policy 33.2.2.2

31. Forest and Bird accepts allowing some clearance of SNA’s in exceptional circumstances, and in allowing this we would expect that significant adverse effects are avoided.
32. We accept in part the Planner’s recommendations and we consider that the policy would have further certainty if it explicitly states that significant adverse effects have to be avoided. Forest and Bird suggests:

Allow the clearance of indigenous vegetation within Significant Natural Areas only in exceptional circumstances and ensure that clearance is undertaken in a manner that avoids

significant adverse effects and retains the values of the area in circumstances where these activities will have a low impact or offer compensation commensurate to the nature and scale of the clearance.

33. The term values is broad, and unless each SNA has a values description this phrase can be subjective. If the plan clearly identifies what these values might be and how effects on them would be considered then we think this approach may be acceptable.
34. However we suggest that the wording set out in Forest and Bird's original submission provides a clearer policy approach for how council intends to consider vegetation clearance within these significant areas.

Policy 33.2.2.3

35. The Planner rejected our proposed amendments which were designed to ensure that any clearance within SNA's would only be permitted for maintenance of existing uses, including roads and structures excluding their expansion. We oppose providing for clearance for new activities. We agree that it is reasonable to allow the continuation of existing uses, but provided there is no increase in intensity.
36. As argued in my original submission the construction of fences and even small scale tracks can have significant effects on biodiversity, and may not maintain the values of the SNA. Not only by the clearance of vegetation but also by creating passage for pests and weeds. The Exemptions in 33.3.4.2 mean that no standards are provided for the permitted activities.
37. We note that there is no exemption for new tracks, which we endorse. We assume that new "small scale farm tracks" in SNA's will require a consent, as most will be captured by the earthworks restriction in Table 3, which gives guidance to what may constitute a "small scale farm track".

Rule 33.3.4 – Exemptions

38. Forest and Bird seeks that QE II Covenants not be exempt from the rules in Table 3. The Planner considers this is not necessary as Covenants are seen as generally more protective than district plan rules.
39. While this may be true for many covenants Council cannot rely on another party to meet council requirements under the RMA, and it cannot be guaranteed that there will be restrictions on the clearance of indigenous vegetation that are equivalent to those established in the District Plan.
40. The Queen Elizabeth the Second Trust 1977 provides for open space covenants which are defined as:
"Open space means any area of land or body of water that serves to preserve or to facilitate the preservation of any landscape of aesthetic, cultural, recreational, scenic, scientific, or social interest or value."
41. Section 20 sets out the functions of the Trust which are:

'The general functions of the Trust shall be to encourage and promote, for the benefit and enjoyment of the present and future generations of the people of New Zealand, the provision, protection, preservation, and enhancement of open space.'

42. As Forest and Bird understands the details of how an area is to be protected by a covenant are negotiated with the Covenanter and can be given expression through a management plan, neither of which are publicly available. Covenants are not required to be consistent with the policies and objectives of the District Plan. Consequently the Council can not be certain of meeting its plan or its obligations under the RMA.

33.4. Rules Clearance of Indigenous Vegetation

Table 1

43. Forest and Bird seeks that any vegetation clearance in SNA's be non complying if it does not meet the permitted standards.
44. The policies set out to protect SNA's and avoid activities within SNA's. Policy 33.2.2.2 only provides for vegetation clearance in SNA's in exceptional circumstances. These policies provide strong backing for a non-complying (NC) status and NC status gives effect to this policy where as discretionary does not. The NC gateway tests mean the activity will either need to meet these policies or the adverse effects of the activity on the environment will be minor. A NC status adds certainty to the policies, the intent of which are to only grant consents in exceptional circumstances or where the adverse effects are less than minor.

33.5 Table 2

45. The proposed rule is a significant improvement upon the existing rule, however it still allows clearance in areas that are potentially SNA's, and consequently does not provide certainty that areas of significant indigenous vegetation, will be recognised and protected, with the exception of areas containing threatened species.
46. I am uncertain as to how "site" is determined. The definitions in the proposed plan contain a definition of site in relation to Lots and certificates of title. Forest and Bird is aware that there have been clarity issues with this term in the Mackenzie District Plan. Forest and Bird considers that the plan must give better guidance as to the meaning of site in these tables.
47. To deal with the problem of identifying and protecting sites that meet the criteria for significance but are not listed in the schedule Forest and Bird sought that there be no permitted standard for clearance of indigenous vegetation occurring within threatened LENZ Environments with less than 20% remaining in indigenous cover, and listed special ecosystems that are a feature of the Queenstown District.
48. It is likely that many of the remaining special areas of indigenous vegetation and habitats will occur in the threatened LENZ environments and as we read the proposed rule clearance up to 500m² in any site and 50m² of any site less than 10ha, may be cleared in threatened environments and up to 5000m² in other circumstances.

49. Forest and Bird also supported DoC's submission that there be no clearance of an area identified as significant under the criteria in Policy 33.2.1.10.
50. Forest and Bird's preference is to find the best workable mechanism that ensures that areas that meet the criteria for significance are not either deliberately or inadvertently cleared through a permitted activity status. Our submission sought to achieve this by defining specific types of vegetation, for which any clearance would require resource consent. This was based, using advice from Landcare Scientist, Dr Susan Walker, on the Waitaki Rule which we have found to be workable.
51. Provision for 5000m² is as the Planner acknowledged reasonably large and Forest and Bird considers there remains a need to assess for significance on a case by case basis as applications for resource consents are lodged.

Definitions

Biodiversity offsets

52. Forest and Bird supported the Department of Conservations request for a definition of Biodiversity offsetting and no net loss. This is needed in order to provide clarity to the plan and a consistent framework through out the district. We note that Ecologist Mr Glen Davis considered this would be helpful. Forest and Bird supports and endorses the evidence provided by Dr Laurence Barea for the Department of Conservation, which sets out definitions for Biodiversity Offsets and No Net Loss. We observe that the Canterbury Regional Policy Statement has a definition of No Net Loss, and Biodiversity Offset.

Clearance of Vegetation

53. Forest and Bird endorses the Planner's recommendation to add direct drilling and the initial inclusion of irrigation, for the reasons outlined by Mr Craig Barr, and Ecologist Mr Glen Davis in his evidence for the Council.

Chapter 34 Wilding Exotic Trees

54. We congratulate Council and their Planners for the comprehensive measures to tackle wilding trees, and agree with the Planner's recommendations for additional species to be listed as prohibited.
55. We have observed some push back from submitters regarding some species and we urge you to stick with the list and the additions as recommended by the Planner. Rowan is a problem. For example around Makarora it can be seen establishing under the forest canopy primarily where there are light gaps and along the margins. The berries make it very attractive to birds - hence the forest threat.

34.1 Purpose

56. The Planner has not accepted Forest and Bird's request to include consideration of wilding tree impacts on water yield, although he did consider it had merit and does fit with Council's

responsibilities for integrated management. Reflecting this purpose for preventing wilding tree spread would assist Council achieve Objective 21.2.3 – *“Safeguard the life supporting capacity of water through the integrated management of the effects of activities.”* Council’s Ecological expert, Mr Glen Davis acknowledges that dense infestations of wildings will reduce water yield, and notes that the invasion of wildings in riparian zones, valley bottoms and hillside depressions has a disproportionate effect on stream flow.

57. The Planner considers that the effects on water yield are more relevant to forestry. We don’t disagree, however Forest and Bird considers that the purpose of Chapter 34 is to prevent the spread of wildings, and if left unchecked wildings can form dense stands which can impact on water yield just as they can threaten the productive value of land. Potential impacts on water yield are an important reason for preventing the spread of wildings. This is all the more critical because wilding forests can exceed commercial plantations in area and thus have a potentially significant effect in excess of that of the plantation. No distinction should be made as to the origin of the trees.
58. Given that District Plans are required to promote sustainable management and achieve integrated management, and that one of the outcomes of preventing the spread of wildings is the protection of the water harvesting abilities of land, it makes sense that the protection of water resources should be included in Objective 34.2.

New Policies

59. Forest and Bird’s preference is for Radiata Pine to remain prohibited as it is an acknowledged wilding species, and despite the proposed standards there remain considerable risks. We note that the ability to carry out controls on any wildings spreading to neighboring properties is dependent upon landowner agreements, which may not always be forthcoming, or may be given and then withdrawn by a new owner. We draw your attention to the recent MOU signed by Landcorp and the Department of Conservation in relation to the management of potential wildings from Douglas Fir planted by Landcorp in the vicinity of Te Papanui Conservation Park. <http://www.odt.co.nz/regions/otago/384001/wilding-management-accord>.
60. Failure of owners to adhere to conditions, and lack of enforcement is high through out New Zealand, as demonstrated by Marie Brown et.al. in their book “Vanishing Nature”. If plantings of radiata are provided for, Council will need to ensure that they have adequate resources assigned to ensure a high level of compliance and enforcement. Council may wish to also consider the use of bonds to enable Council to undertake control in the event of, for example, bankruptcy of the plantings owners.

Chapter 21 Rural Zone

Objective 21.2.3.1 Safeguard the life supporting capacity of water through integrated management of the effects of activities

61. Forest and Bird is concerned that the plan as a whole does not adequately address the issue of the preservation and protection of wetlands and their margins from inappropriate development, a S6a RMA Matter of National Importance. Wetlands are also a National Priority to protect. Our submission sought to address this in several respects, only one of which has been recommended for adoption by the Planner, i.e. Objective 21.2.5 in relation to

ensuring mineral extraction does not degrade water and wetlands. We were possibly remiss in that it could be considered more relevant to address wetlands in the Biodiversity chapter. However our submission sought the addition of the term water bodies which includes wetlands, into Objective 21.2.3.1. On reflection we should have sought that addition for Objective 21.2.12 and sought the inclusion of wetlands into the corresponding policy 21.2.12.5. Our submission sought a new policy to support an amended Objective 21.2.3.1; to Avoid the degradation of natural wetlands.

62. Forest and Bird would be satisfied if this intention was added to Policy 21.2.12.5.

21.5 Rules – Standards

21.5.7 Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)

63. Forest and Bird largely supports this rule, but submitted that it needs to be extended to deer and beef cattle. The Government's recent consultation document; Next Steps for Freshwater 2016, proposes to introduce a national regulation that requires exclusion of dairy cattle on milking platforms from water bodies by July 2017.
64. It is appropriate that the rule also includes dry grazing. The Sustainable Dairying Water Accord (SDWA) which covers nearly all dairy suppliers requires stock to be excluded from "dairy farm" waterways by 1 June 2017. The SDWA definition of "dairy farm" prior to 1 June 2017 is limited to the milking platform and excludes any dairying grazing land that is owned by the same person or entity as the milking platform and/or farmed in association with the milking platform. However, after 1 June 2017 the definition of "dairy farm" in the Accord changes to include not only the milking platform, but also any land regularly used for the grazing of dairy stock (whether or not contiguous with the milking platform) that is owned or leased by same entity as the milking platform.
65. As nearly every dairy support operation (owned by the dairy farmer) has known for many years, they will be required by the Sustainable Dairying Water Accord to exclude stock from waterways on their support land from 1 June 2017. This plan needs to be in step with that expectation.
66. The Planner does not recommend including deer and beef cattle as grazing of these animals is generally less intensive.
67. The Government intends to extend the regulation to include deer on intensive farms on the plains by 2025 and on lowland rolling hills by 2030 and similarly for all beef cattle. These dates are within the time frame of the proposed QLDC Plan and it would be appropriate to include these stock classes and require their exclusion by specified dates. Forest and Bird is calling for both beef and deer on plains (0–3°) be required to comply by 2020 and on lowland/rolling hills (4–15°) by 2025.

68. Intensive deer farming has significant adverse effects on water quality, for example a study in Southland on the effect of deer wallowing on water quality showed that downstream concentrations of faecal coliforms were about 20 times higher than upstream of the wallowing site,¹ and Eyles et al. (2002) found streams draining deer farms showed high average levels of thermo-tolerant *Campylobacter* second only to dairy catchments.²
69. Cattle also cause significant damage to 'riparian' habitats along the edges of streams, wetlands, and lakes, which can radically alter stream ecology.³

In conclusion

- 71 Forest and Bird commends the Council for the substantial progress made in the identification and protection of SNAs, recognition of the importance of maintaining indigenous biodiversity, and wilding trees. Getting stock out of water ways is the next major step forward.

Sue Maturin

Regional Conservation and Volunteer Manager

Otago Southland

¹ De Klein C.A.M; et al., 2003: Environmental impacts of intensive deer farming in New Zealand – a review. http://www.grassland.org.nz/publications/nzgrassland_publication_2515.pdf

² De Klein C.A.M; et al., 2003: Environmental impacts of intensive deer farming in New Zealand – a review. http://www.grassland.org.nz/publications/nzgrassland_publication_2515.pdf

³ www.niwa.co.nz/publications/wa/water-atmosphere-1-july-2010/how-clean-are-our-rivers+&cd=2&hl=en&ct=clnk&gl=nz&client=firefox-b-ab

