

**BEFORE COMMISSIONERS APPOINTED BY  
QUEENSTOWN LAKES DISTRICT COUNCIL**

**IN THE MATTER** of Resource Management Act 1991

**AND**

**IN THE MATTER** of submission of Jeremy Bell  
Investments Limited and Submission  
782/784 and FS1030/1091

---

**SYNOPSIS OF SUBMISSIONS OF COUNSEL**

---

---

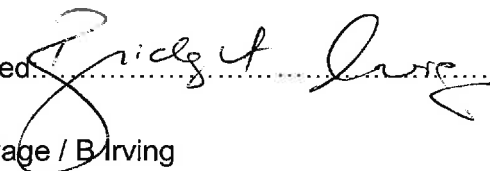
**GALLAWAY COOK ALLAN  
LAWYERS  
DUNEDIN**

Solicitor on record: Phil Page / Bridget Irving  
P O Box 143, Dunedin 9054  
Ph: (03) 477 7312  
Fax: (03) 477 5564  
Email: phil.page@gallawaycookallan.co.nz  
Email: bridget.irving@gallawaycookallan.co.nz

**MAY IT PLEASE THE COMMISSIONERS:**

1. The indigenous vegetation provisions as they relate to land outside of SNA's or below 1070m do not achieve the purpose of the Act. In particular the obligation to safeguard the life supporting capacity of soils.
2. The indigenous vegetation and rural provisions do not give effect to the National Policy Statement for Freshwater Management.
3. The indigenous vegetation and rural provisions do not give effect to the Operative Otago Regional Policy Statement.
4. The indigenous vegetation provisions are inconsistent with the Proposed Regional Policy Statement for Otago.
5. The indigenous vegetation provisions (in particular the definition of clearance of vegetation, Rule 33.3.3 and 33.5) is inconsistent with the Regional Plan: Water for Otago.
6. The indigenous vegetation provisions do not achieve the objectives and policies of the Strategic Directions section and preclude the objectives of the Rural Zone being achieved that promote farming as the predominant land use in the Rural Zone.
7. The identification of SNA's addresses the Council's obligations with respect to section 6(c) matters. The more general vegetation management tools based on the LENZ Classification and the threatened species list are not necessary for Council to satisfy its obligations under section 6(c).
8. LENZ Classification is a surrogate indicia that is not an appropriate basis for restricting the use of land for farming.
9. The LENZ classification system is concerned with habitat for indigenous vegetation between flora and fauna. Habitat protection is provided for fauna only. The adaptation of the LENZ classification system would be a misapplication of section 6(c).
10. The indigenous vegetation provisions go beyond what is required to 'maintain indigenous biological diversity' under section 31(1)(b)(iii).

11. The Proposed National Policy Statement on Indigenous Biodiversity is not a matter to be considered by the territorial authority.
12. The rules are difficult to interpret and unclear. This makes them inefficient and ineffective.
13. The all encompassing definition of indigenous vegetation and low thresholds for removal within the vegetation clearance rules will create significant regulatory and compliance costs.
14. The Queenstown Lakes District Council does not have jurisdiction to control the use of water. The definition of vegetation clearance purports to control the use of water. Control of the use of water is not a function held by a territorial authority under section 31.
15. The section 32 analysis fails to recognise or assess the economic cost of restricting the use of spray irrigation through the definition of "Clearance of Vegetation".
16. There is no reason to single out irrigation as a form of vegetation clearance through competitive exclusion when the same phenomenon occurs in dry land farming. (Evidence of Dr Peter Espie.)
17. The Rules (33.3.3) are uncertain, inconsistent and create ambiguity as to the application of the Rules at 33.5. The issues identified by the Court in *Royal Forest and Bird Society of New Zealand v. Dougal Innes* [2014] NZEnvC 72 have not been resolved by the proposed District Plan.
18. A process to specifically identify areas of indigenous vegetation that are not significant but warrants maintenance is required.

Signed:  .....

PJ Page / B Irving

Counsel for Jeremy Bell Investments Limited

22 April 2016