

BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH

ENV-2018-CHC-

I MUA I TE KOOTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of the First Schedule of the
Resource Management Act

BETWEEN **OTAGO REGIONAL COUNCIL**

Appellant

A N D **QUEENSTOWN LAKES DISTRICT COUNCIL**

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT
Dated 18 June 2018

ROSS DOWLING MARQUET GRIFFIN
SOLICITORS
DUNEDIN

Telephone: (03) 477 8046
Facsimile: (03) 477 6998
PO Box 1144
DX YP80015

Solicitor: A J Logan

NOTICE OF APPEAL TO ENVIRONMENT COURT

To The Registrar
Environment Court
Christchurch

1 Otago Regional Council appeals against decisions of the Queenstown Lakes District Council on the Proposed Queenstown Lakes District Plan.

2 Otago Regional Council made a submission dated 23 October 2015 on the Proposed District Plan.

3 Otago Regional Council is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991.

4 Otago Regional Council received notice of the decision on 7 May 2018.

5 The decision was made by Queenstown Lakes District Council.

6 The parts of the decision that Otago Regional Council is appealing are:

6.1 27.10 (formerly 27.9.2 of the notified Proposed District Plan).

6.2 Chapter 28, Natural Hazards, of the Proposed District Plan.

7 The Reasons for the appeal are as follows:

7.1 In paragraph 6.1 of its submission, the Otago Regional Council submitted that where the risk from natural hazard is intolerable, natural hazards must be avoided.

7.2 In its decision, the Respondent erred in failing to determine where natural hazards will be avoided because the risk is intolerable.

7.3 In paragraph 6.2 of its submission, the Otago Regional Council submitted that Objectives and Policies were missing from the Proposed District Plan relating to avoiding and reducing natural hazard risks and applying a precautionary approach.

- 7.4 In its decision, the Respondent erred in failing to include Objectives and Policies to avoid and reduce natural hazard risk and apply a precautionary approach to natural hazard risk.
- 7.5 The Respondent's decisions on Chapter 28, natural hazards, of the Proposed District Plan fail to:
- 7.5.1 Give effect to the purposes and principles of the Resource Management Act.
 - 7.5.2 Give effect to the operative Regional Policy Statement.
 - 7.5.3 Have proper regard to the provisions of the Proposed Otago Regional Policy Statement.
 - 7.5.4 Make adequate and appropriate provision for the avoidance and reduction of natural hazard risk.
 - 7.5.5 Prevent new development occurring where natural hazard risk and residual risks are intolerable to the community, now or in the future.
- 7.6 In paragraph 7.3 of its submission, Otago Regional Council submitted there should be clear policy guidance to help identify what risk is intolerable and therefore when proposals should be declined.
- 7.7 The Respondent erred in failing to identify where risk is intolerable and therefore when a proposal should be declined.
- 7.8 In its submission, Otago Regional Council requested an amendment to Chapter 28 to recognise that where areas subject to natural hazard risk have ongoing maintenance, the community should not incur additional costs.
- 7.9 The Respondent erred in failing to include a provision in Chapter 28 to recognise that in areas subject to natural hazard risk requiring ongoing maintenance additional costs should not be imposed on the community.
- 7.10 In paragraph 7.2 of its submission, Otago Regional Council requested that then Rule 27.9.2 (now 27.10) provide for notifying any application where there is a need to assess whether natural hazard risk extends beyond the site and is tolerable to the community.

- 7.11 The Respondent erred in failing to include in Rule 27.9.2 or elsewhere a requirement for notifying an application where there is a need to assess whether the natural hazards risk extends beyond the site and is tolerable to the community.
- 8 Otago Regional Council seeks the following relief:
- 8.1 More rigorous Objectives, Policies and other provisions for the avoidance and reduction of natural hazard risks.
- 8.2 Objectives, Policies and other provisions applying a precautionary approach to natural hazard risk.
- 8.3 Objectives, Policies or other provisions identifying where risk is intolerable to the community.
- 8.4 Objectives, Policies and other provisions identifying when a proposal should be declined because there is a risk from natural hazards.
- 8.5 Objectives, Policies or other provisions recognising that natural hazard risk, including residual risk, which is intolerable to the community must be avoided, now and into the future.
- 8.6 Objectives, Policies and other provisions recognising ongoing maintenance measures to avoid or mitigate natural hazard risk should not be funded by the wider community.
- 8.7 Provision in Chapter 27 or elsewhere providing for notification of any resource consent application where there is a need to assess whether the risk extends beyond the site and is intolerable to the community.
- 8.8 Such further, other or alternative relief which is necessary or appropriate to address the matters raised in this appeal.
- 9 The Otago Regional Council attaches the following documents to this notice of appeal:
- 9.1 A list of persons to be served;
- 9.2 A copy of its submission;
- 9.3 A copy of the Commissioners' recommendations on Chapters 27 and 28 adopted by the Respondent on 3 May 2018; and

9.4 A copy of the notified and decisions versions of Chapter 27 and Chapter 28 of the Proposed District Plan.


(for Otago Regional Council)

Date: 18 June 2018

Address for service:

Ross Dowling Marquet Griffin Solicitors 50 Princes Street (PO Box 1144 or DX YP80015) Dunedin	
Telephone	(03) 477 8046
Fax	(03) 477 6998
Email	alastair.logan@rossdowling.co.nz
Contact person:	A J Logan

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing [or service] requirements (see form 38).

Your attention is drawn to the Court's minutes dated 26 and 30 April 2018, available at <https://www.qldc.govt.nz/planning/district-plan/proposed-district-plan-stage-1/appeals>

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.