

In the Environment Court of New Zealand
Christchurch Registry

I Te Kooti Taiao O Aotearoa

Ōtautahi Rohe

ENV-2024-CHC-

Under the Resource Management Act 1991 (the Act)

In the matter of an appeal under Clause 14(1) of the First Schedule of the Act

And in the matter of the decisions by Queenstown Lakes District Council in respect of the Priority Area Landscape Schedules Variation to the Proposed District Plan

Between Treespace No1 Limited Partnership
Appellant

And Queenstown Lakes District Council
Respondent

Notice of Appeal of Treespace No1 Limited Partnership on the Queenstown Lakes District Council Priority Area Landscape Schedules Variation to the Proposed District Plan

Dated 5 August 2024



LRB Legal
PROTECTING YOUR RIGHTS AND INTERESTS

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To: The Registrar
Environment Court
Christchurch

- 1 Treespace No1 Limited Partnership (the 'Applicant') ('Treespace') appeals against the decisions of the Queenstown Lakes District Council (the 'Respondent') on the Proposed variation to Chapter 21 Rural Zone of the Proposed Queenstown Lakes District Plan to introduce Priority Area Landscape Schedules 21.22 and 21.23. ONL Central Whakatipu Basin 22.22.15 ("Variation to Chapter 21").
- 2 Treespace made a submission (number 96), and statements of evidence were presented on it's behalf by Scott Freeman (Planning) and Stephen Skelton (Landscape) on the Variation to Chapter 21.
- 3 Treespace is not a trade competitor for the purpose of section 308D of the Act.
- 4 Treespace received notification of the decision on 21 June 2024.
- 5 The decision was made by the Respondent.

Provisions being appealed

- 6 The decisions that Treespace is appealing are the Respondent's decisions on the Variation to Chapter 21 that relate to the 'Landscape Capacity' rating for renewable energy generation. Specifically, Appendix 4, Landscape Schedules, provision 21.22.15, Landscape Capacity (x).

General reasons for the appeal

- 7 The general reasons for this appeal are that, in the absence of the relief sought, the Respondent's decisions:
 - a Will not reflect the ability of the landscape to absorb different activities in certain locations, where more detailed analysis has been undertaken, and site specific responses are more appropriate;
 - b Would be inconsistent with national and local government direction, including the Ministry for Environment, National Policy Statement for Renewable Electricity Generation 2011, and the Respondents Climate and Biodiversity Plan 2022-2025;

- c Will not promote the sustainable management of resources, and will therefore not achieve the purpose of the Act, including by not meeting the reasonably foreseeable needs of future generations;
- d Will not promote the efficient use of natural and physical resources;
- e Will not promote matters of national significance relating to renewable electricity generation, including:
 - i the need to develop, operate, maintain and upgrade renewable electricity generation activities throughout New Zealand; and
 - ii the benefits of renewable electricity generation.¹
- f Do not represent the most appropriate way to achieve the objectives of the Variation to Chapter 21, as required by section 32 of the RMA; and
- g Will not assist the Respondent in achieving Part 2 of the Act by providing for the use of natural and physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing (section 5(2)).

Reasons for appeal of particular provisions

- 8 Without limiting the generality of paragraph 7, the reasons of Treespace for appealing the provisions listed above are:
 - a Landscape Capacity (x) as currently worded is too general, and does not allow for or acknowledge that there are differing levels of landscape quality within ONL's and there should be the ability for site specific provision of small renewable energy activities where appropriate.

¹ Ministry for Environment, National Policy Statement for Renewable Electricity Generation 2011, pg 4

Treespace is in the process of implementing a comprehensive development for land on Mt Dewar, RM181638. Mt Dewar is to be contained within the 'Central Whakatipu Basin Priority Area ONL' under Variation to Chapter 21. As part of the process for obtaining consent for RM181638, a hearing was held before independent commissioners, and a substantial and detailed landscape assessment was carried out. The Commissioners for RM181638 found that the landscape quality of the ONL that Treespace's development sits within is of a much lower level than other ONL's of similar or higher elevations of Coronet Peak. The Commissioners stated that the *'lower part of the front faces of Mount Dewar have greater potential to absorb change than land within the ONL's generally.'*²

- b Landscape Capacity (x) is inconsistent with national direction. The National Policy Statement on Renewable Energy provides clear direction that decision makers shall recognise and provide for the benefits of renewable electricity generation activities, and that district plans shall enable and provide for small and community scale electricity generation activities:

A. Recognising the benefits of renewable electricity generation activities

POLICY A

Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities. These benefits include, but are not limited to:

- a) maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;
- b) maintaining or increasing security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation;
- c) using renewable natural resources rather than finite resources;
- d) the reversibility of the adverse effects on the environment of some renewable electricity generation technologies;
- e) avoiding reliance on imported fuels for the purposes of generating electricity.

F. Incorporating provisions for small and community-scale renewable electricity generation activities into regional policy statements and regional and district plans

POLICY F

As part of giving effect to Policies E1 to E4, regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of small and community-scale distributed renewable electricity generation from any renewable energy source to the extent applicable to the region or district.

² RM181638 Decision of Commission re-issued 20 November 2019, paras 215-218 and 307

- c On 27 June 2019 the Respondent declared a climate and ecological emergency. As part of its response to this declaration the Respondent developed a Climate and Biodiversity Plan 2022-2025, which sets out the Respondents commitment to working with the community to address the emergency.

Action 3.2 of the Plan states '*Review the Energy Chapter of the District Plan to remove barriers to small scale and community scale renewable energy solutions.*'. The Respondent's team identified as being responsible for this Action is stated as 'Planning Policy'. It is obvious that in parallel with this review and enabling of solutions in the Energy Chapter the Planning Policy team should not be making inconsistent decisions through other planning policy documents/processes.

Relief sought

- 9 Treespace seeks the following relief:
 - a Amendments to the 'Landscape Capacity' rating (and any related provisions) in order to address the reasons for the appeal as set out in this notice, specifically (amendments to the decisions version of the Variation to Chapter 21 in underline/strike-out):
 - (x) Renewable energy generation – no landscape capacity for large scale renewable energy developments. ~~Very~~-Limited landscape capacity for discreetly located community and small-scale renewable energy generation. A community scheme means a scheme that supplies 100 or less residential dwellings.
 - b Such further or alternative relief, or ancillary changes, that resolve the concerns set out in this notice of appeal; and
 - c Costs
- 10 The following documents are attached to this notice of appeal:
 - a Appendix A: A copy of the submission and evidence of Treespace on the Variation to Chapter 21; and
 - b Appendix B: A list of names and addresses of persons to be served with this notice of appeal; and
 - c Appendix C: A copy of the relevant parts of the decision.

11 Treespace agrees to participate in mediation or other alternative dispute resolution mechanism.

Dated 5 August 2024



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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 submission or 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).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the part of the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

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

Appendix B

List of names and addresses of persons to be served

Appendix C

Copy of the relevant parts of the decision on the Variation to
Chapter 21