

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an appeal under Clause 14(1) of
Schedule 1 to the Act
BETWEEN **THE DIRECTOR-GENERAL OF
CONSERVATION**
Appellant
AND **QUEENSTOWN LAKES DISTRICT
COUNCIL**
Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON
PROPOSED QUEENSTOWN LAKES DISTRICT PLAN
ON BEHALF OF
THE DIRECTOR-GENERAL OF CONSERVATION**

Dated 18 June 2018

Department of Conservation
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Christchurch 8011

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Notice of appeal to Environment Court against decision on proposed plan

Clause 14(1) of Schedule 1, Resource Management Act 1991

To The Registrar
Environment Court
Christchurch

1. I, Lewis Vernon Sanson, Director-General of Conservation (DGC), appeal against part of a decision of Queenstown Lakes District Council on the Proposed Queenstown Lakes District Plan (the plan).
2. I made a submission on the plan.
3. I am not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. I received notice of the decision on 7 May 2018.
5. The parts of the decision that this appeal relates to are decisions on **Chapter 33 – Indigenous Vegetation and Biodiversity**
6. The parts of the decision that are appealed and the reasons for the appeal are as follows:

6.1 Indigenous vegetation clearance rules 33.3.3.2 and 33.3.3.3

- (a) The DGC opposes amendments to the notified versions of rules 33.3.3.2 and 33.3.3.3.
- (b) The amendments increase the vegetation coverage thresholds under which indigenous vegetation clearance is permitted.
- (c) The increased thresholds include either structural dominance and 50% coverage/total species or, in the absence of structural dominance, 67% coverage/total species.
- (d) The increased thresholds enable the clearance of potentially significant indigenous vegetation and habitats of indigenous fauna as a permitted activity, without any assessment of significance or effects on biodiversity.
- (e) The decision therefore enables clearance of indigenous vegetation in a manner that does not ensure the District's indigenous biodiversity values are protected, maintained or enhanced, contrary to policy 33.2.1.7.

6.2 Rule 33.3.3.5 and deletion of schedule 33.7

- (a) The DGC opposes the decision to amend the notified version by deleting clause 33.3.3.5 as notified.
- (b) The DGC opposes the deletion of schedule 33.7
- (c) Clause 33.3.3.5, as notified, provided that permitted activity status does not apply to clearance of threatened plant species listed in schedule 33.7 despite provisions permitting indigenous vegetation clearance within specified thresholds.
- (d) In the notified version of the plan, the effect of rule 33.3.3.5 and schedule 33.7 was to make any clearance of threatened plant species (as opposed to indigenous vegetation generally) an activity for which resource consent is required.
- (e) Areas containing threatened plant species are likely to meet the criteria for significant indigenous vegetation in the proposed Otago Regional Policy Statement.
- (f) The amendment to clause 33.3.3.5 allows clearance of significant indigenous vegetation and significant habitats for indigenous fauna, including fragmented or isolated areas of threatened plant species, without any consideration of the adverse effects of the vegetation clearance including assessing the effects of the activity on biodiversity values.
- (g) The decisions to amend clause 33.3.3.5 and delete schedule 33.7 enable the clearance of threatened plant species as a permitted activity, unless coverage thresholds are reached, without first assessing whether the presence of threatened plant species means the relevant area qualifies as significant indigenous vegetation or habitat.

6.3 Table 2 of Rule 33.5. Deletion of the notified version of rules 33.5.3 and 33.5.6 (permitted activity standards for clearance of indigenous vegetation other than in Significant Natural Areas or Alpine Environments)

- (a) The DGC opposes the decision to remove limits on clearance of indigenous vegetation within land environments that have less than 20% remaining cover of indigenous vegetation and to allow the clearance of threatened plants as a permitted activity.

- (b) The decision enables clearance of indigenous vegetation that is likely to qualify as significant indigenous vegetation without first determining its significance.
- (c) Permitting the clearance of threatened plant species and of indigenous vegetation in threatened land environments is likely to result in a loss of indigenous biological diversity in the district.

6.4 Table 3 - Permitted activity standards for activities in Significant Natural Areas, rules 33.5.3 to 33.5.5

- (a) The DGC opposes the decision to allow for clearance, as a permitted activity, of indigenous vegetation and habitats of indigenous fauna within Significant Natural Areas, and in areas that meet criteria for classification as a significant natural area.
- (b) The clearance of indigenous vegetation and habitats in significant natural areas without managing adverse effects in accordance with policy 33.2.1.6 is likely to result in a loss of indigenous biological diversity and is inconsistent with policies 33.2.1.7, 33.2.2.1 and 33.2.2.2.

6.5 Policy 33.2.1.8.b.iii - Criteria for determining the significance of indigenous vegetation and habitats of indigenous fauna.

- (a) In Policy 33.2.1.8.b.iii a criterion for determining the significance of indigenous vegetation and habitats of indigenous fauna is "Rarity". In the notified version of the plan, the equivalent policy 33.2.1.9(b) was that rarity of indigenous vegetation and habitats is indicated by a reduction to less than 20 per cent of the former extent.
- (b) The decision changes the criterion for significance by determining that a reduction to less than 10% of the former extent indicates rarity of vegetation or habitats.
- (c) Determining that vegetation or habitats only qualify as significant when reduced to 10% of their former extent is inconsistent with the decision version of the proposed Otago Regional Policy Statement (RPS). The RPS provides, at appendix 4, that areas are significant where *Indigenous vegetation or habitat of indigenous fauna has been reduced to less than 20% of its former extent nationally, regionally or within a relevant land*

environment, ecological district, or freshwater environment including wetlands.

7. The DGC seeks the following relief:
- 7.1 Reinststate the following provisions:
Rules 33.3.3.2, 33.3.3.3; and
Rule 33.3.3.5 and schedule 33.7; and
Rules 33.5.3 and 33.5; and
Schedule 33.9 (Land environment maps);
as notified in August 2015, and delete the equivalent text in the decisions version.
 - 7.2 Amend the standards in Rule 33.5 Table 3 (33.5.5 – 33.5.5) so that clearance of indigenous vegetation and habitats of indigenous fauna in significant natural areas may only occur in exceptional circumstances as a non-complying activity; and
 - 7.3 Amend Policy 33.2.1.8.b.iii to ensure it is consistent with the RPS by deleting “10%” and replacing it with “20%”; and
 - 7.4 Any further, consequential or alternative relief necessary or appropriate to address the appeal points and reasons stated and give effect to the relief sought.
8. The following documents are attached to this notice:
- (a) a copy of the DGC’s submission (Attachment A – Relevant Parts of the Director-General’s Submission).
 - (b) a copy of the relevant parts of the decision (Attachment B – The Relevant Decision of Queenstown Lakes District Council).
 - (c) a list of names and addresses of persons to be served with a copy of this notice (Attachment C – Parties served with this notice)



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Aaron Fleming

Director Operations - Southern South Island

(Under delegated authority from the Director-General of Conservation)

Dated 18 June 2018

Address for service:

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How to become party to proceedings

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you 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
- (b) within 20 working days after the period for lodging a notice of appeal ends, you 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 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 relevant submission and the relevant decision (or part of the decision). 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.