

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

Decision No. [2022] NZEnvC 244

IN THE MATTER of the Resource Management Act 1991

AND of appeals pursuant to clause 14 of the
First Schedule of the Act

BETWEEN UPPER CLUTHA
ENVIRONMENTAL SOCIETY
INCORPORATED

(ENV-2018-CHC-56)

and all other parties concerning
Topic 2 to Stage 1, specifically the
mapping of the Clutha River /
Mata Au ONF corridor, of the
Proposed Queenstown Lakes
District Plan

Parties

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Court: Environment Judge J J M Hassan
Environment Commissioner K A Edmonds
Environment Commissioner J T Baines

Hearing: In Chambers at Christchurch

Last case event: 20 October 2022

Date of Decision: 29 November 2022

Date of Issue: 29 November 2022



DETERMINATION THE ENVIRONMENT COURT

Topic 2: Rural Landscapes

Section 293 determination on the Clutha River/Mata Au ONF corridor Decision 2.15

A: Directions are made for Queenstown Lakes District Council to amend the proposed Queenstown Lakes District Plan as set out in Appendices 1 and 2 and file a reporting memorandum once that is completed.

REASONS

Introduction

[1] This decision relates to Topic 2 of the staged consideration of the appeal points on the review of the Proposed Queenstown Lakes District Plan (“PDP”). Topic 2 concerns PDP provisions in relation to landscapes and rural character.

Background

[2] The issue of the mapping of the Clutha River/Mata Au ONF corridor was firstly addressed by the court in Decision 2.1.¹ In this decision, the court determined that the Clutha River/Mata Au corridor should be classified as ONF, rather than ONL, with any changes to the boundaries a matter for evaluation. Under s293 RMA, directions were made in Decision 2.9² for Queenstown Lakes District Council (“QLDC”) to notify the proposed boundary adjustments (the ‘proposal’). Notification occurred on 21 September 2021.

[3] In decision 2.14³ the court considered that QLDC’s proposed mapping and classification of the Clutha River/Mata Au corridor ONF is appropriate. The

¹ *Hawthenden Ltd v Queenstown Lakes District Council* [2019] NZEnvC 160.

² [2021] NZEnvC 124.

³ [2022] NZEnvC 198.

court also determined that r 25.4.2 required amendments to exclude the Woodfield land from complying with the 10m³ earthworks volume.

[4] Directions were therefore made in decision 2.14⁴ for QLDC to confer with the s274 parties and file a memorandum proposing directions for the preparation of a final revised complete set of amended provisions for the court's final approval and directions, including maps and an amended r 25.5.2.

Memorandum of counsel

[5] Counsel for QLDC filed its memorandum as to the above directions on 20 October 2022. Rather than propose a timetable, the memorandum included the revised complete set of amended provisions and the change to the plan map, seeking directions from the court that they be confirmed as final.

[6] Counsel advises that the court's proposed drafting of r 25.5.2 is appropriate subject to including the current (Outstanding Natural Landscape) earthworks for the Woodfield land (216 Stevenson Road, RD2, Wanaka, legally described as Lot 6 DP 325795 and held in Record of Title 104103). However, it advises that the current drafting is silent on what maximum earthworks volume should apply to that land instead. Accordingly, QLDC proposes a further amendment to r 25.5.2 to include the reference to the specific earthworks threshold that applies to the Woodfield property. This is set out in Appendix A.

[7] Regarding the revised ONF mapping, QLDC has also provided a plan showing the amended ONF boundary in relation to the Red Brick Block. This is in accordance with decision 2.14 to exclude the land legally described at Lot 1 DP 25265 (Red Bridge Block) from the ONF and reclassify it as Rural Character Landscape.⁵ The amended maps are set out in Appendix B.

⁴ [2022] NZEnvC 198.

⁵ [2022] NZEnvC 198 at [42]-[43].

[8] Finally, QLDC advises that it conferred with the s274 parties, who are agreeable to the directions sought.

Evaluation

[9] The court has considered QLDC's memorandum in conjunction with the s293 proposal, and the associated information and evidence filed. The court is therefore satisfied it is appropriate to make the requested direction to effect the changes sought to the PDP. Directions are made accordingly.

Outcome

[10] Under ss279(1)(b), 290(2) and 293 RMA, the s293 proposal for the Clutha River/Mata Au corridor is approved to the extent outlined in the memorandum of QLDC dated 20 October 2022.

[11] QLDC is directed to:

- (a) amend and update the PDP by incorporating the new wording of r 25.4.2 as set out in Appendix A, and new maps as set out in Appendix B; and
- (b) file a reporting memorandum as to that once completed.

For the court



J J M Hassan
Environment Judge

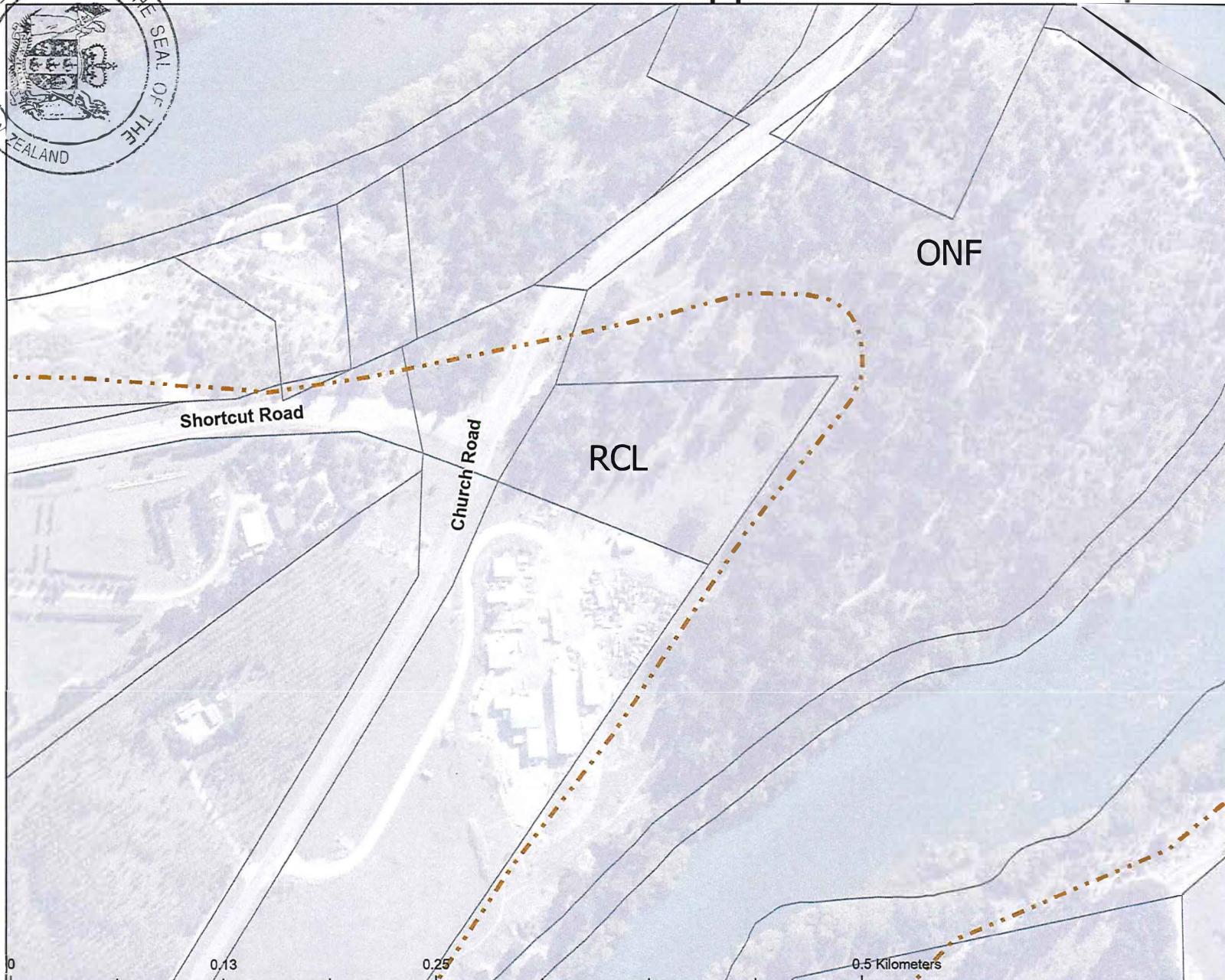


Appendix A

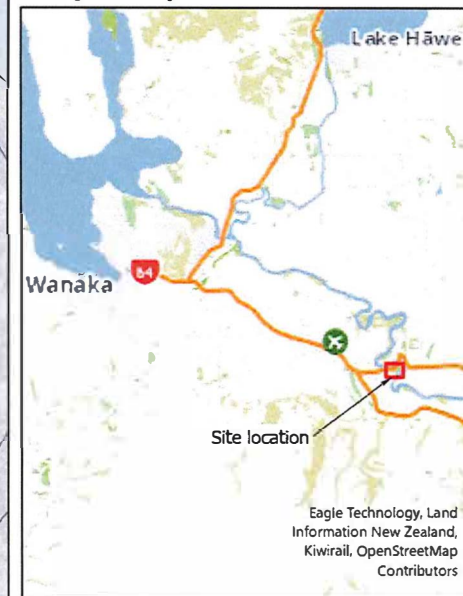
Rule	Table 25.2 – maximum volume	Maximum total volume
25.5.2	<p>Heritage Landscape Overlay Area</p> <p>Heritage Precinct</p> <p>Outstanding Natural Feature <u>except for the following parcel of land within the Clutha/Mata Au:</u></p> <p>i. <u>Lot 6 DP 325795 held in Record of Title 104103.</u></p> <p><u>The maximum earthworks volume for Lot 6 DP 325795 is 1000m³.</u></p>	10m ³

Appendix B

ENV-2018-CHC-056 Upper Clutha Landscape Classification



Key Map



Legend

Feature Type

- Landscape Classification
- Parcels and Properties

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