

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2021] NZEnvC 61

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-056)

and all other appellants concerning
Topic 2 of Stage 1 of the Proposed
Queenstown Lakes District Plan (listed
on the attached Schedule)

Appellants

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

Date of Decision: 7 May 2021

Date of Issue: 7 May 2021

INTERIM DECISION OF THE ENVIRONMENT COURT

**Topic 2: Rural Landscapes
Sub-topic 1: mapping and s293 directions
Decision 2.8**



- A: Directions are made for Queenstown Lakes District Council (“QLDC”) to include in the district plan the updated planning map for Mt Iron ONF (Allenby) as per **Annexure 1**.
- B: Under s293, directions are made in relation to the Mt Alpha ONL and the Pisa/Criffel Range ONL boundary adjustment applications, as per **Annexures 2 and 3**.
- C: Directions are made for QLDC to report back to the court regarding the s293 application for the Clutha River/Mata-Au Corridor.
- D: Costs are reserved and timetable directions will issue in due course.

REASONS

Introduction

[1] This decision follows from Decision 2.4¹ on ‘Topic 2: Rural Landscapes’, in the review (‘PDP’) of the Queenstown Lakes District Plan.

Responses to Decision 2.4

Mt Iron ONF

[2] Allenby Farm Limited (‘Allenby’) appealed aspects of the mapping of the Mt Iron Outstanding Natural Feature (‘ONF’). Decision 2.1 determined that the planning map relevant to the Mt Iron ONF was to be changed to remove ‘Area A’ as challenged in Allenby’s appeal. Decision 2.4 directed QLDC to provide the court with an updated planning map showing the removal of ‘Area A’. QLDC has

¹ [2020] NZEnvC 157.

now done so, as shown in Annexure 1 to this decision.²

[3] The court is satisfied that this updated map accords with the findings in Decision 2.1 and is fit for purpose. Therefore, directions are made for the PDP to be updated accordingly.

Mt Alpha ONL and Pisa/Criffel Range ONL s293 applications

[4] In Decision 2.4 we determined that it was appropriate for s293 directions to be made in relation to the Mt Alpha ONL and the Pisa/Criffel Range ONL but made some drafting refinements to the directions and sought³ a final version of the plan map, accompanying summary of document and a proof copy of the public notice for both the Mt Alpha ONL and the Pisa/Criffel Range ONL boundary adjustments. QLDC has now provided this information to the court.⁴

[5] The court is satisfied with the documentation provided and will make the directions as set out in Annexures 2 and 3.

Clutha River/Mata-Au Corridor s293 application

[6] Decision 2.1 found that the Clutha River/Mata-Au corridor was properly classified ONF (rather than a combination of ONL and ONF) and consequently a complete ONF mapping notation for this corridor was required.

[7] In Decision 2.4, however, we advised that we were not in a position to finally determine whether s293 directions should be made to address those deficiencies in the ODP. We requested QLDC provide the court with its proposed mapping changes and any supporting documentation. We also noted that QLDC's indicative 'Priority Area' ('PA') for the Clutha River/Mata-Au corridor did not

² Memorandum of counsel for QLDC dated 5 October 2020 at [4].

³ Decision 2.4 at [48] and [51].

⁴ Memorandum of counsel for QLDC dated 5 October 2020 at [8]-[10] and Appendices C and D.

appear to fully align with the mapping alteration sought under the s293 process.

[8] QLDC has responded, providing a link to the online mapping tool which shows the proposed amended boundary of the Clutha River ONF (shown as a solid green line). Counsel advises that the amendments have primarily been informed by topography, rather than a values and attributes assessment.⁵ QLDC also confirmed that its indicative PA boundaries for the corridor reflect the proposed amended boundaries.

[9] Reflecting on the court's comments, QLDC considers it would be useful for the landscape experts to conference on the amended boundaries of the Clutha River/Mata-Au ONF, so that any further amendments agreed during that session could be adopted and notified as part of the s293 process. Since the memorandum was lodged, landscape and planning conferencing took place in relation to Topic 2, Ch 3. In relation to the Clutha River/Mata-Au PA, the landscape experts agree that no changes to the PA mapping was required.⁶ We are satisfied with that explanation.

[10] As to the court's comments⁷ on procedural fairness, QLDC accepts that a wider approach to enabling participation is warranted in this case.⁸ QLDC has updated the s293 directions it now seeks.

[11] We are now satisfied that matters are in order for the purposes of s293 directions. We find QLDC's proposed directions appropriate.⁹

⁵ Memorandum of counsel for QLDC dated 5 October 2020 at [15].

⁶ Joint witness statement in relation to strategic policies and priority areas for Topic 2 dated 29 October 2020 at [40].

⁷ Decision 2.4 at [34] and [35].

⁸ Memorandum of counsel for QLDC dated 5 October 2020 at [21].

⁹ Memorandum of counsel for QLDC dated 5 October 2020 at [23].

Outcomes and directions

Mt Iron ONF: Allenby appeal

[12] Completing the findings and determinations in relation to the Mt Iron ONF, QLDC is directed to:

- (a) update the PDP by replacing the relevant map approved by this decision (and as set out in Annexure 1); and
- (a) file a reporting memorandum as to that once completed.

Mt Alpha ONL and Pisa/Criffel Range ONL s293 applications

[13] The s293 directions for Mt Alpha and the Pisa/Criffel Range are set out in Annexures 2 and 3.

Clutha River/Mata-Au Corridor s293 application

[14] To ensure clarity on all matters before QLDC's proposed directions are made, QLDC is directed to file **within 10 working days** of the date of this decision:

- (a) a final version of the 'plan change' (i.e. maps and any related text) in the form intended to be notified;
- (b) a final version of the updated requested directions; and
- (c) a proof copy of the related notices.

[15] Directions will be made by a further decision once QLDC has satisfactorily responded to that direction.

[16] Leave is reserved to seek further (or other) directions.

For the court:



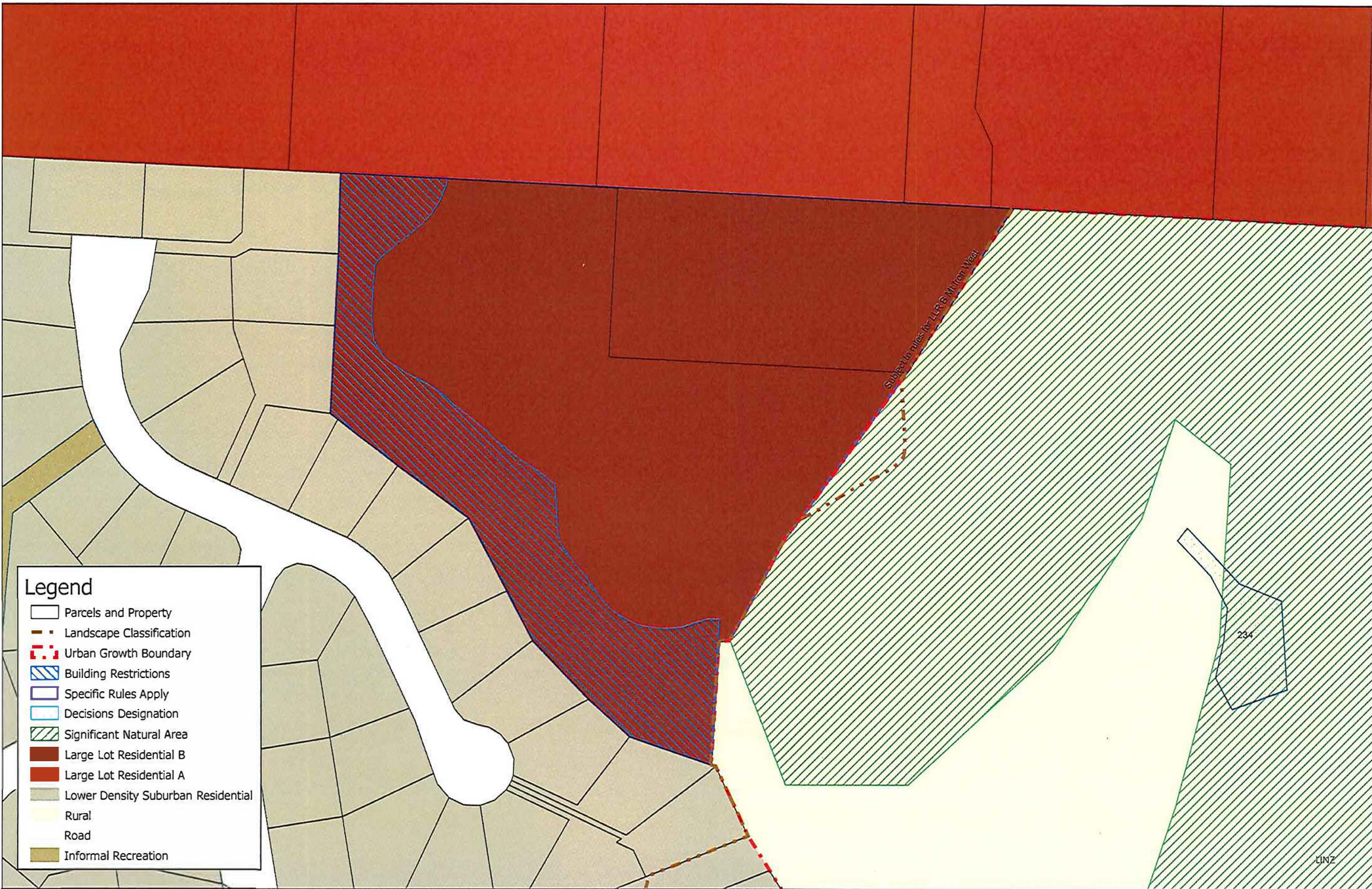
J J M Hassan
Environment Judge
















SCHEDULE

ENV-2018-CHC-053	Federated Farmers of NZ
ENV-2018-CHC-055	Hawthenden Farm Limited
ENV-2018-CHC-082	Kawarau Jet Services Holdings Limited
ENV-2018-CHC-083	Mt Cardrona Station Limited
ENV-2018-CHC-091	Burdon
ENV-2018-CHC-092	Trojan Helmet Limited
ENV-2018-CHC-093	Queenstown Airport Corporation Limited
ENV-2018-CHC-094	The Middleton Family Trust & others
ENV-2018-CHC-095	Seven Albert Town Property Owners
ENV-2018-CHC-099	Bill and Jan Walker Family Trust & others
ENV-2018-CHC-103	Mt Christina Limited
ENV-2018-CHC-104	Soho Ski Area / Blackmans Creek
ENV-2018-CHC-106	Te Anau Developments
ENV-2018-CHC-107	Treble Cone Investments
ENV-2018-CHC-108	Aurora Energy Ltd
ENV-2018-CHC-114	Transpower NZ Ltd
ENV-2018-CHC-115	Willowridge Developments Ltd
ENV-2018-CHC-119	Halfway Bay Lands Limited
ENV-2018-CHC-124	Waterfall Park Developments Limited
ENV-2018-CHC-126	Remarkables Park Limited
ENV-2018-CHC-127	Queenstown Park Limited
ENV-2018-CHC-129	Slopehill Properties Limited
ENV-2018-CHC-130	SYZ Investments Limited
ENV-2018-CHC-131	Real Journeys Limited
ENV-2018-CHC-134	Ngai Tahu Tourism Limited
ENV-2018-CHC-136	Burgess
ENV-2018-CHC-137	Coneburn Preserve Holdings Limited & Others
ENV-2018-CHC-138	Real Journeys (trading as Go Orange Limited)
ENV-2018-CHC-141	Glendhu Bay Trustees Limited
ENV-2018-CHC-142	Queenstown Wharves GP Limited
ENV-2018-CHC-144	James Wilson Cooper
ENV-2018-CHC-145	Glen Dene Limited
ENV-2018-CHC-146	Real Journeys Limited (trading as Canyon Food and Brew Company Limited)
ENV-2018-CHC-148	Allenby Farms Limited
ENV-2018-CHC-150	Darby Planning Limited
ENV-2018-CHC-151	NZ Tungsten Mining
ENV-2018-CHC-160	Lake McKay Station Limited

Annexure 1



Legend

-  Parcels and Property
-  Landscape Classification
-  Urban Growth Boundary
-  Building Restrictions
-  Specific Rules Apply
-  Decisions Designation
-  Significant Natural Area
-  Large Lot Residential B
-  Large Lot Residential A
-  Lower Density Suburban Residential
-  Rural
-  Road
-  Informal Recreation

Mt Iron ONF boundary adjustment
 Allenby Farms Appeal



Date Exported: 5/10/2020



LINZ

Annexure 2

Mt Alpha ONL s293 boundary adjustment

Under s293, to enable consideration of a mapping alteration for the Mt Alpha ONL boundary, it is directed:

- a. within 5 working days of the date of this decision, QLDC must:
 - i. send written notice to all affected landowners advising of the proposed mapping alteration, by way of letter to all registered ratepayers of the relevant street addresses; and
 - ii. publicly notify the proposed mapping alteration, by way of written notice on Council's website, in order to provide other parties, with an interest in the mapping alteration that is greater than the interest the general public has, with an opportunity to join the section 293 process.
- b. any person who is not already a party but who has an interest in the proposed mapping alteration greater than the interest the general public has may give notice under s274 (using Form 33) to join as a party for the purposes of the s293 process for consideration of the proposed mapping alteration, provided that person files that notice within 25 working days of the date of this decision;
- c. where notice is duly filed and the court is satisfied that person has an interest in the proposed mapping alteration greater than the interest the general public has, waiver of the late filing of that notice will be given;
- d. within 35 working days after the date of this decision (or such further period as the court may direct) every party must serve on QLDC and file with the court:
 - i. written notice of whether that party supports or opposes the proposed mapping alteration and related reasons;
 - ii. any affidavit landscape evidence for their position.
- e. within 45 working days after the date of this decision QLDC is to provide to the court a link to the updated Mt Alpha ONL boundary map and file either:
 - i. landscape affidavit evidence in response to any landscape evidence filed by any interested party, including an updated recommendation (if it has changed) on the proposed mapping alteration, together with, an affidavit from Council's planner, outlining the feedback received

from parties; or

- ii. a memorandum of counsel advising that no party opposes Council's proposed mapping alteration.
- f. on receipt of the information listed above, the court will consider the material filed by the parties and issue further directions as to the next steps including as to whether the court wishes to hear further from any party, or whether a determination on the papers can be made.
- g. leave is to be reserved to any party to seek modifications to the directions, on application to the court.

Annexure 3

Pisa/Criffel Range ONL: Lake McKay Station Ltd and Lake McKay Limited Partnership appeal

Under s293, RMA, it is directed:

Notification

- (a) within 5 working days of the date of this decision, QLDC must publish on its website a notice:
 - (i) stating that any person with an interest greater than the interest of the general public in the proposed amendment to the Pisa/Criffel Range ONL mapping may provide to QLDC written comments on the proposed alteration by a date specified in the notice (not less than 10 working days after publication of the notice);
 - (ii) describe the proposed alteration to the ONL map boundary relative to Knoll A3KV;
 - (iii) include a copy of the map attached as Annexure B to this decision; and
 - (iv) provide information on how written comments may be provided to QLDC.

Rights to make written comments

- (b) by the date specified in the notice in (a) (not less than 10 working days after the date QLDC publishes that notice) any person with an interest in the mapping alteration that is greater than the interest of the general public may provide to QLDC:
 - (i) written comments on the proposed mapping alteration; and
 - (ii) any landscape affidavit evidence to support those comments.

Council report

- (c) within 20 working days after the date QLDC publishes the notice in (a), QLDC must file report(s) from a planning and/or landscape expert (as required):
 - (i) summarising all feedback received (if any); and
 - (ii) making recommendations for the court's consideration.

Court's determination

- (d) once the court has received the report from QLDC as directed, this will be considered and the court will then either determine the mapping alteration or issue further directions (if required). Pending the conclusion of those s293 processes, the court reserves final determination of the appropriate ONL boundaries to give effect to the findings in Decision 2.3 (and any concerning the s293 direction). It can be anticipated that, at some stage, QLDC will be called upon to provide an updated set of map(s) to reflect the court's final determinations(s).

