

## SECTION 293 PROPOSAL

### PROPOSED ALTERATION TO CHAPTER 6 OF THE PROPOSED DISTRICT PLAN, POLICY 6.3.3.3

1. The document provides a summary of the proposal to amend Policy 6.3.3.3 of Chapter 6 of the Queenstown Lakes Proposed District Plan, by extending its application to Outstanding Natural Features (**ONFs**), in addition to Outstanding Natural Landscapes (**ONLs**). It also outlines the process for providing feedback on the proposed amendment.

#### Background

2. The decisions made by Queenstown Lakes District Council on Stage 1 of the Proposed District Plan (**PDP**) confirmed the following drafting of what was then Policy 6.3.14. That policy read:

*Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities that may modify the landscape, providing the quality and character of the Outstanding Natural Landscape is maintained.*

3. From April to May 2019, the Environment Court (**Court**) heard a number of appeals concerning provisions in Chapters 3 and 6 of the PDP, including Policy 6.3.14.
4. The appeals heard by the Court sought various forms of relief, ranging from deletion of the policy in its entirety, to amendments so that it provided for further diversification of activities within the Rural Zone.
5. In a decision released on 19 December 2019<sup>1</sup>, the Court provisionally determined that Policy 6.3.14 (renumbered as 6.3.3.3) should be amended to read:

*For working farms within Outstanding Natural Features and Outstanding Natural Landscapes:*

- a. *recognise that viable farming involves activities that may modify the landscape; and*
  - b. *enable those activities in a way that is consistent with protecting the values of Outstanding Natural Features and Outstanding Natural Landscapes.*
6. After providing opportunities for the parties to respond to this provisional drafting by way of additional submissions, the Court, in its recent decision released on 7 May 2021, determined that the revised drafting would assist to achieve the Chapter 3 strategic objectives for ONFs and ONLs.<sup>2</sup>
  7. As a result of this finding, and because of the lack of jurisdiction provided by the relevant appeals to make the amendment, the Court issued directions for a section 293 process to be timetabled.

#### Effect of alterations

8. The amendment will result in an extension of the policy so that it applies to land within both ONFs and ONLs.

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1 [2019] NZEnvC 205

2 [2021] NZEnvC 60 at [176 -177]

9. The practical effect of this extension is that when consent is sought by 'working farms', for farming activities within ONFs, those applications will need to engage with Policy 6.3.3.3. Policy 6.3.3.3 recognises that farming activities may modify the landscape, and enables those activities in a manner that is consistent with protecting the values of ONFs and ONLs.
10. If you wish to discuss this operation of the relevant provisions with Council in more detail, please contact the Council's duty policy planner at [pdpenquiries@qldc.govt.nz](mailto:pdpenquiries@qldc.govt.nz) or at 03 441 0499.

### **Section 293 process / next steps**

11. Section 293 of the Resource Management Act 1991 allows the Environment Court to direct appropriate procedural steps to provide for the consideration and determination of amendments to planning documents that arise during hearings, but which lack jurisdiction.
12. In this case, the Environment Court has directed that a section 293 process be used to address the proposed amendments to Policy 6.3.3.3.
13. This document has been prepared to accompany a public notice, which advises of the proposed amendment and the associated directions issued by the Court.
14. The directions allow for the making of written comments on the proposed amendment, by **17<sup>th</sup> November 2021**. After all written comments are received, the Council will file a report with the Court, and the Court will then consider the matter further. Please provide any written comments on the section 293 form provided, by email at [pdpsubmission@qldc.govt.nz](mailto:pdpsubmission@qldc.govt.nz).
15. The complete directions issued by the Court are set out below:

Under s293, to enable consideration of an amendment to Policy 6.3.3.3 to also refer to Outstanding Natural Features (ONFs), it is directed:

#### *Notification*

- a. Within 15 working days of the date of this decision, QLDC must:
  - (i) send written notice by way of letter to all registered ratepayers of land within the extent of the mapped ONFs on the PDP plan maps, advising of the proposed amendment to Policy 6.3.3.3; and
  - (ii) publicly notify the proposed policy amendment, by way of notice uploaded to Council's website, in order to provide other parties, with an interest in the amendment to Policy 6.3.3.3, an opportunity to join the section 293 process.

#### *Rights to make written comments*

- b. By the date specified in the notices required by (a)(i) and (ii) (but not less than 15 working days after the date of written notice), any affected landowners or any other person with an interest in the proposed amendment to Policy 6.3.3.3, may provide to Council:
  - (i) written comments on the proposed policy amendment; and
  - (ii) any supporting affidavit evidence.

*Council report*

- c. Within 15 working days after the date on which written comments are to be provided in accordance with (b), Council must file with the Court, and serve on all parties that provided written comments:
  - (i) a report which summarises the feedback received (if any),
  - (ii) a link to all written comments received (should the Court wish to review that documentation); and
  - (ii) affidavit evidence in response to any evidence filed, which supports any modified recommendations for the proposed policy alteration (if any).

*Court's determination*

- d. On receipt of all of the information listed under (b) and (c), the Court will consider the material filed by the parties and issue further directions as to the next steps, including whether the Court wishes to hear further from any party, or whether a determination on the papers can be made.
- e. Leave is reserved to any party to seek modifications to these directions, on application to the Court.