

SECTION 293 PROPOSAL
PROPOSED ALTERATION TO THE CLUTHA RIVER / MATA AU
OUTSTANDING NATURAL FEATURE CORRIDOR

1. The document provides a summary of the proposal to alter the landscape classification and mapping of parts of the Clutha River Corridor, and outlines the process for providing feedback on the proposed alterations. It also includes links to maps that show the extent of the amended Clutha River Corridor.

Background

2. During April and May 2019 the Environment Court (**Court**) heard a number of appeals concerning aspects of the Council's Proposed District Plan, namely those relating to the District's Outstanding Natural Features and Landscapes (**ONFs and ONLs**). Two of these appeals sought to change the mapped extent and / or landscape classification of parts of the Clutha River Corridor, as it relates to land in and around Albert Town, and near the confluence of the Hawea and Clutha Rivers. Council opposed those appeals.
3. ONFs and ONLs are features or landscapes that have national importance, and which are to be protected from inappropriate subdivision, use and development pursuant to section 6 of the Resource Management Act 1991 (**RMA**).
4. On 20 September 2019 the Environment Court released a decision⁷ refusing the appeals. In its decision, the Court held that the Clutha River Corridor should properly be categorised as an ONF, rather than an ONL (which was its classification within the PDP decisions version).
5. As a result of this determination, the Environment Court directed that the Council update the PDP maps so that the Clutha River Corridor is identified as an ONF, and also that the boundaries of the ONF reflect the enclosing escarpments on either side of the river.
6. Council has since completed the necessary mapping exercise, which has been endorsed by a group of landscape experts as part of the Court process. The proposed directions for the section 293 process were confirmed in the Court's decision dated 7 May 2021.⁸
7. A link to the updated PDP map showing the Clutha River Corridor reclassified as an ONF, and with amended boundaries, is as follows:

<http://qldc.maps.arcgis.com/apps/webappviewer/index.html?id=09766231fa5a4eb096f1a019baa27b6e>

Effect of alterations

⁷ *Hawthenden Limited v Queenstown Lakes District Council* [2019] NZEnvC 160.

⁸ *Upper Clutha Environmental Society Incorporated v Queenstown Lakes District Council* [2021] NZEnvC 61.

8. As shown on the enclosed maps, the proposed alteration to the landscape classification will not affect land that was already categorised as ONF (being the section of the Clutha River from the Lake Wanaka outflow to just west of Albert Town). It will, however, affect land to the east of that section, which was previously categorised as ONL or Rural Character Landscape (**RCL**). The regulatory impact of the proposed alterations is discussed below.
9. ONFs are characterised as distinctive landforms or areas, and considered to be more sensitive to effects from subdivision, use and development. As a result, land within ONFs is subject to more restrictive rules than land within ONLs or RCLs.
10. The following table identifies rules that have different requirements depending on whether land is within the ONL, ONF or RCL landscape classification.

Rule	Rural Zone ONF	Rural Zone ONL	Rural Zone RCL
Chapter 25 Earthworks permitted volume (cut and fill)	10m ³	1000m ³	1000m ³
Chapter 21 Rural Zone Farm Buildings	Farm buildings are not permitted and require a resource consent.	Farm buildings are permitted up to a height of 4m and ground floor area of 100m ² ⁹	Farm buildings are permitted up to a height of 5m and ground floor area of 300m ² .
Chapter 21 Rural Zone Mining	Mining on an ONF requires a non-complying activity resource consent.	Mining requires a discretionary activity resource consent.	Mining requires a discretionary activity resource consent.
Chapter 21 Rural Zone Forestry	A non-complying activity resource consent is required.	A non-complying activity resource consent is required.	A discretionary activity resource consent is required

⁹ Providing all the criteria in Rule 21.8.1 are met including achieving a minimum landholding of 100ha, and a density not more than one farm building per 50ha of area, and must protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the location of the proposed building.

Chapter 21 Rural Zone Assessment Matters	Landscape Assessment matters in part 21.21.1 apply.	Landscape Assessment matters in part 21.21.1 apply.	Landscape Assessment matters in part 21.21.2 apply. These are less restrictive than the landscape assessment matters for the ONL/F.
Chapter 30 Energy and Utilities Small and community Scale Distributed electricity generation and solar water heating (Rule 30.4.1.4)	A discretionary activity resource consent is required	A discretionary activity resource consent is required	Permitted subject to standards. A discretionary activity required if permitted standards are not met.
Chapter 30 Energy and Utilities Buildings (associated with a utility)	A discretionary activity resource consent is required	A discretionary activity resource consent is required	Permitted subject to standards. Controlled activity required if permitted standards are not met.

11. If you wish to discuss the operation of the relevant provisions with Council in more detail, please contact the Council's duty policy planner at PDPenquiries@qldc.govt.nz or at 03 441 0499.

Section 293 process / next steps

12. Section 293 of the RMA allows the Environment Court to direct appropriate procedural steps that provide for the consideration and determination of amendments to planning documents (ie. provisions and maps).
13. In this case, the Environment Court has directed that a section 293 process be used in relation to the proposed alterations to the Clutha River / Mata Au ONF Corridor.
14. This document has been prepared to accompany a public notice, which advises of the proposed alterations and the associated directions issued by the Court.
15. The directions allow for the making of written comments on the proposed alterations. 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 using the s293 form provided, by email to pdpsubmission@qldc.govt.nz.
16. The complete directions issued by the Court are set out below:

Under s293, to enable consideration of mapping alternations and a change to the landscape classification for the Clutha River / Mata Au ONF Corridor, it is directed:

Notification

- a. Within 10 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, an opportunity to join the section 293 process.

Rights to make written comments

- b. by the date specified in the notice in (a)(i) and (ii) (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 mapping alteration, may provide to Council:
 - (i) written comments on the proposed mapping alteration; 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:
 - (i) a report which summarises the feedback received (if any), and which provides a link to all written comments received (should the Court wish to review that documentation);
 - (ii) affidavit evidence in response to any evidence filed (from a planning and/or landscape expert), which supports any

- modified recommendations for the proposed mapping alteration; and
- (iii) a link to the updated Clutha River/Mata Au Corridor ONF map, which reflects any modified recommendations (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 part to seek modifications to the directions, on application to the court.