
Form 13: Submission on application concerning resource consent

Resource Management Act 1991

To: Central Otago District Council

Name of submitter: Director-General of Conservation (the **Director-General**)

This is a submission on an application from Enfield Limited (the **Applicant**) for a resource consent.

Description of activity: Subdivision and land use consent are sought for an 11-lot subdivision, and associated earthworks and vegetation clearance to create building platforms and upgrade access, at 191 Fay Lane, Queensberry, Central Otago.

Trade competition: I am not a trade competitor for the purposes of section 308B of the Resource Management Act 1991.

My submission relates to: The whole application.

My submission is: I oppose the application.

The Director-General's interest in the Application

1. The Director-General of Conservation (the **Director-General**) has all the powers reasonably necessary to enable the Department of Conservation (**DOC**) to perform its functions.¹ The Conservation Act 1987 (the **CA**) sets out DOC's functions which include (amongst other things) management of land and natural and historic resources for conservation purposes, preservation so far as is practicable of all indigenous freshwater fisheries, protection of recreational freshwater fisheries and freshwater fish habitats and advocacy for the conservation of natural resources and historic heritage.² Section 2 of the CA defines 'conservation' to mean *'the preservation and protection of natural and historic resources for*

¹ Refer section 53 Conservation Act 1987

² Conservation Act 1987, section 6.

the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation’.

2. DOC is also the authority responsible for processing applications under the Wildlife Act 1953. I understand that an approval under this Act will be required for the Proposal prior to construction commencing.

Reasons for the Director-General’s submission

3. The proposed activity would have **adverse effects** and potentially significant adverse effects on the environment with the proposed clearance of 0.6ha of indigenous-dominant vegetation, together with 2.7ha of exotic-dominant vegetation that contains approximately 328 indigenous shrubs. The AEE by Wildland Consultants Ltd (October 2023) records that the following At Risk or Threatened species are present at the site:
 - a. Kānuka (*Kunzea serotina*); Threatened-Nationally Vulnerable
 - b. Desert broom (*Carimichaelia petrei*); At Risk-Declining
 - c. Matagouri (*Discaria toumatou*); At Risk-Declining
 - d. Mānuka (*Leptospermum scoparium*); At Risk-Declining
 - e. *Olearia lineata*; At Risk-Declining
 - f. *Raoulia australis*; At Risk-Declining
 - g. *Raoulia beauverdii*; At Risk-Declining
4. However, I note that the threat rankings of New Zealand indigenous vascular plant species have recently been reviewed, and as a result Kānuka, Mānuka and Matagouri are now classified as Not Threatened. The threat classifications for the other species listed above are unchanged.
5. In addition, I note that the site contains habitat suitable for spring annual plant species, including New Zealand mousetail (*Myosurus minimus* subsp. *novae-zelandiae*, Threatened-Nationally Vulnerable), *Ceratocephala pungens* (Threatened-Nationally Critical), and *Myosotis brevis* (Threatened-Nationally Vulnerable). The AEE states that “Considerable search effort was undertaken for spring annuals during the November site visit [3 and 4 November 2022], but no individuals were observed.” However, I note that:

- a. The AEE only mentions two of the three species referred to above (*Myosotis brevis* is not mentioned). I am concerned that this means that this species was not searched for during the site visit.
 - b. Spring annual species can be difficult to find. I am concerned that a single two-day search is not sufficient to confirm that these threatened species are not present, given the likelihood there were many other tasks being undertaken during the two-day ecological survey. I am not convinced a thorough survey has been undertaken specifically on the sites that will be impacted by the development.
6. The removal of vegetation would also have adverse effects on lizards and lizard habitat, including two At Risk-Declining species. These are the Kowarau gecko (*Woodworthia "Cromwell"*) and the Tussock skink (*Oligosoma chionocholescens*). The total area of potential lizard habitat proposed for clearance is 3.22ha. Potential effects of this activity on lizards are injury, death and loss of habitat. I note that it is not obvious whether the subdivision will be pet cat-free or not. If pet cats are allowed, this will add another pressure to lizards through predation and or injury. The AEE recommends that a Lizard Management Plan (LMP) and Wildlife Act Authority be developed "clearly demonstrating mitigation of adverse effects of the development on lizards". The application does not appear to contain any detail of a proposed condition to respond to the recommended LMP and does not refer to any condition relating to pets on the subdivision.
7. The AEE acknowledges that the site contains **significant indigenous biodiversity values** which meet the "Criteria for identifying areas that qualify as significant natural areas" set out in Appendix 1 of the National Policy Statement for Indigenous Biodiversity 2023 (NPSIB). Although the AEE does not assess the site against either the criteria for the identification of areas of significant indigenous vegetation and habitat of indigenous fauna in Schedule 4 of the Operative Otago Regional Policy Statement 2019, or the significance criteria for indigenous biodiversity Appendix 2 in the proposed Otago Regional Policy Statement 2021, I consider that it is likely to meet both of those sets of criteria as well.
8. In relation to the spring annual species referred to above, for the reasons given in paragraph 5 I consider that the application and assessment of effects has not fully identified the Threatened species present and affected by the proposed activity. Therefore, the assessment of effects is inadequate to understand the actual and potential effects of the proposed activity.

9. In addition, the AEE recommends that replanting with an approximate area of one hectare be undertaken as a way to “minimise and remediate” the adverse effects from the clearance. I consider that a larger area would be appropriate, given that the clearance will be affecting mature vegetation, and there will be a considerable time lag before the replanted area reaches maturity. Therefore, I am not convinced that the proposed methods to avoid, remedy or mitigate adverse effects on the site’s significant indigenous biodiversity values are sufficient to appropriately address the adverse effects.
10. Lastly, the Suitable Low Flammability Species planting list provided for Fire Risk Mitigation contains some native species that are not native to the Central Otago area and are known to spread into surrounding environments. In other words, they are native weeds. We seek a more ecologically appropriate planting list for this purpose.
11. As currently configured, the application is contrary to the provisions of the Central Otago District Plan (CODP), and relevant higher order documents, including but not limited to:
 - a. Objective 4.3.8 of the CODP and associated policies regarding the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
 - b. Objectives 3.1 and 3.2 of the Operative ORPS 2019 and associated policies requiring recognition and maintenance of values (including intrinsic values) of ecosystems and identification and protection of significant and highly-valued natural resources.
 - c. Objective ECO-O1 of the proposed ORPS 2021 and associated policies related to halting the decline in the condition, quantity and diversity of indigenous biodiversity.
 - d. Objective 2.1 of the NPSIB and associated policies requiring maintenance of indigenous biodiversity.
12. As the application does not adequately recognise and provide for the protection of significant indigenous vegetation and significant habitat of indigenous fauna, it does not accord with section 6(c) of the Resource Management Act 1991 (the Act).

Decision sought

13. I seek the following decision from the Council:
 - a) That the consent authority **declines the application**, for the reasons outlined above;

b) If the consent authority is minded to grant the application, that it imposes the following requirements:

- i. further ecological assessments to accurately identify species present at the site and the ecological significance of the site, to ensure ecological effects are appropriately considered and avoided, mitigated and / or remedied as appropriate, and to inform and quantify any necessary offsets and compensation and / or any other mitigation measures,
- ii. suitable conditions and compensation to address my concerns, including but not limited to the following condition wording (or similar) in relation to a Lizard Management Plan:

“The Consent Holder shall, at least 20 working days’ prior to commencing works authorised by this resource consent, submit a Lizard Management Plan (LMP) to [relevant Authority] for certification. The LMP shall be prepared by a suitably qualified and experienced herpetologist with the objective to minimise any potential disturbance of lizards within the site.

The LMP shall contain at the minimum the following:

- a. An outline of the survey method undertaken. This survey should follow best practice.
- b. An outline of any proposed salvage methods. Salvage should be undertaken in accordance with the *Key principles for lizard salvage and transfer in New Zealand* (DOC, 2019).
- c. Pre-approval to translocate salvaged lizards to an agreed destination (agreement will need to be sought from the consenting authority, DOC and Iwi).
- d. The actions that will be undertaken to compensate for the loss of lizards and their habitat within the development area.
- e. Measures to ensure consistency with requirements of the Wildlife Act 1953.”

14. I also seek such alternative and/or additional relief as may be necessary and appropriate to address my concerns.

I **do wish to be heard** in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.



Charlie Sklenar

Manager Operations, Central Otago District

Southern South Island Region

Acting pursuant to delegated authority on behalf of Penny Nelson, Director-General of Conservation

Date: 3 April 2025

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

Address for service:

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