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Form 13: Submission on application concerning resource consent

Resource Management Act 1991

To: Central Otago District Council

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

This is a submission on an application from TKO Holdings Ltd (the **Applicant**) for a resource consent.

Description of activity: The application proposes to subdivide Lot 1 DP 561457 into 33 new developable allotments, with 30 proposed to be for residential and travellers' accommodation purposes, one balance lot, and three lots to be vested as road. Lots 28, 31 and 32 are proposed to be able to be used for a mixture of potential communal, leisure, accommodation and commercial activities.

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

¹ Refer section 53 Conservation Act 1987

² Conservation Act 1987, section 6.

2. DOC is also the authority responsible for processing applications under the Wildlife Act 1953. The Wildlife Act 1953 will apply to works around any protected species.
3. The Applicant has not made mention of the conservation covenant that partly covers the site. The purpose of this covenant is as follows:

C The Landholders and the Minister have agreed that the land be managed with the following conservation objectives:

- i Protecting and enhancing the natural character of the land with particular regard to the natural functioning of ecosystems and to the native flora and fauna in their diverse communities and dynamic inter-relationships with their earth substrate and water courses and the atmosphere.*
- ii Protecting the land as an area representative of a significant part of the ecological character of the Dunstan Ecological District as referred to in the draft survey report for the Protected Natural Areas Programme for the Lindis Pisa and Dunstan Ecological Districts dated February 1987.*
- iii Maintaining the landscape values of the land as referred to in the "Application for exchange of property rights" submitted to the Commissioner of Crown Lands.*
- iv Maintaining the historic values of the land as referred to in "The rich fields of Bendigo" by Jill Hamel 1993".*

4. Amongst other things, under the Covenant the Applicant must gain approval from the Minister of Conservation to erect any fence, building, structure or other improvements near historic sites on the land, any cultivation earthworks on the land near historic sites, or any tree planting near historic sites.

Reasons for the Director-General's submission

5. The proposed activity would have **adverse effects** and potentially significant adverse effects on the environment with the proposed clearance of four hectares of indigenous vegetation in an ecosystem dominated by At-Risk plant species, and with the presence of at least two Threatened plant species. The removal of indigenous vegetation would also have adverse effects on lizards and lizard habitat including the At-Risk – declining Kawarau gecko (*Woodworthia "Cromwell"*) Further, the development will impact the habitat of Threatened avifauna.
6. I consider that the site contains **significant indigenous biodiversity values** and is a significant natural area using the assessment criteria in Appendix 1 of the National Policy Statement for Indigenous Biodiversity 2023 (NPSIB), the criteria for the identification of areas of significant indigenous vegetation and habitat of indigenous fauna in Schedule 4 of the Partially

Operative Otago Regional Policy Statement 2019 (ORPS) and significance criteria for indigenous biodiversity Appendix 2 in the proposed Otago Regional Policy Statement 2021.

7. I consider that the application and assessment of effects has not fully identified the Threatened or At-Risk 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.
8. The application proposes to remove two historic heritage sites and part of another historic heritage site. Some of these sites are located within the Conservation Covenant.
9. I am not convinced that the proposed methods to avoid, remedy or mitigate adverse effects on the natural environment and historic heritage, including the proposed compensation, is sufficient to appropriately address the adverse effects.
10. 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 fauna;
 - b. Objectives 14.3.2 and 16.3.6 of the CODP and associated policies regarding recognition and appropriate protection of historic heritage sites and heritage values;
 - c. Objectives 3.1 and 3.2 of the Partially Operative ORPS 2019 and associated policies requiring recognition and maintenance of values (including intrinsic values) of ecosystems and natural resources and identification and protection of significant and highly-valued natural resources.
 - d. Objective ECO-O1 of the proposed ORPS 2021 and associated policies related to halting the decline quality, quantity and diversity of indigenous biodiversity.
 - e. Objective 2.1 of the NPSIB and associated policies requiring maintenance of indigenous biodiversity.
11. As the application does not 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). Further, it does not recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development, and therefore does not accord with section 6(f) of the Act.

Decision sought

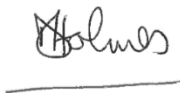
12. I seek the following decision from the Council:
 - a) That the consent authority **declines the application**, given the reasons outlined above;

- 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. the application is amended to avoid identified historic heritage sites particularly within the conservation covenant area, and ongoing protection of those sites is ensured, and
 - iii. suitable conditions and compensation to address my concerns.

13. 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.



Nicola Holmes

Pou Matarautaki Operations Manager

Central Otago District

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

Date: 12 October 2023

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:

Attn: Amelia Ching, Planner

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Department of Conservation

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From: [Amelia Ching](#)
To: [Resource Consents](#)
Subject: TKO Holdings Ltd - Department of Conservation Submission
Date: Thursday, 12 October 2023 9:01:25 am
Attachments: [image001.png](#)
[image002.png](#)
[TKO Holdings Ltd - Department of Conservation Submission.pdf](#)

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Kia ora

Please find attached the submission of the Department of Conservation on the application from TKO Holdings Ltd to subdivide Lot 1 DP 561457 into 33 new developable allotments. Could you please confirm receipt of this email.

I note that the Applicants address for service in the public notice does not include an email address. If you are able to provide an email address we will serve our submission electronically.

Kind regards,

Amelia Ching

RMA Planner | Kaiwhakahaere penapenarawa
Christchurch | Otautahi
Phone: +64 27 627 7705

Please note that my usual working hours are Monday and Tuesday 7:30 am – 4 pm, and Friday 7:30 am - 11:30 am.

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