

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2019-CHC-

Under	the Resource Management Act 1991 (RMA)
In the matter of	an appeal under clause 14(1) of Schedule 1 of the RMA in relation to the proposed Queenstown Lakes District Plan
Between	Darby Planning Limited Partnership Appellant
And	Queenstown Lakes District Council Respondent

Notice of Appeal

7 May 2019

Appellant's solicitors:
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To The Registrar
Environment Court
Christchurch

Introduction

- 1 Darby Planning LP (**DPL**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 DPL made a submission (#2376) on the PDP.
- 3 DPL is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 DPL received notice of the decision on 21 March 2019.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 6 Landscapes (Stage 2 Variation);
 - (b) Chapter 24 Wakatipu Basin;
 - (c) Chapter 25 Earthworks (including amendments to Chapter 2 Definitions and Chapter 27 Subdivision and Development);
 - (d) Chapter 29 Transport; and
 - (e) Visitor Accommodation Variation.
- 7 The reasons for appeal and general relief sought are summarised below. The specific provisions and relief sought by DPL are detailed further in **Appendix A** to this Appeal.

Chapter 6 Landscapes

- 8 DPL supports in principle the Stage 2 Variation to the provisions of Chapter 6, in so far as they clarify and confirm that the Outstanding Natural Feature, Outstanding Natural Landscape, and Rural Character Landscape categories (**Landscape Categories**) and associated policies of Chapter 6 do not apply to the Ski Area Sub-Zones or the Wakatipu Basin Rural Amenity Zone (**WBRAZ**), including the Wakatipu Basin Lifestyle Precinct (**WBLP**).
- 9 However, DPL considers there is merit in retaining in some form the deleted provisions of Chapter 6 which expanded on the relationship between the

Landscape Categories, the Strategic Directions Chapter (Chapter 3), and the various rural zones and non-rural zones in the lower order chapters.

- 10 As part of Stage 1 of the PDP, Chapters 3 and 6 are currently before the Court and have been subject to significant re-write through mediation and expert conferencing. DPL considers that following decisions from the Court on Topics 1 and 2 of Stage 1 of the PDP, and as the relationship between the Landscape Categories and the WBRAZ and the Ski Area Sub-Zones is further clarified, additional amendments to Chapter 6 may be required in respect of the policies that apply to these zones and subzones.
- 11 The specific provisions of Chapter 6 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 24 Wakatipu Basin

- 12 DPL is generally opposed to the Variation in its entirety, and seeks in the first instance that the Variation be withdrawn.
- 13 The Variation does not reflect the historical and existing development of the Wakatipu Basin. It provides for an arbitrary subdivision and development regime that is not compatible with the established character and land uses in the Basin, and does not sufficiently provide for or enable the social, economic and cultural benefits of rural living development.
- 14 The provisions of Chapter 24, together with the subdivision regime for the Basin set out in Chapter 27, create an unnecessarily restrictive regime for development and land use that unreasonably limits landholders' rights. The provisions of Chapter 24 should be amended to better recognise landholders' existing rights, to provide for appropriate future development, and to better enable rural living opportunities.
- 15 The specific provisions of Chapter 24 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 25 Earthworks

- 16 DPL seeks a number of changes to the Earthworks Chapter to achieve the following outcomes:
 - (a) Amendments to the new standards that introduce further controls over earthworks within new zones or that amend existing zones, as follows:
 - (i) For the Jacks Point Zone, to amend the volume triggers to integrate with the changes advanced by Jacks Point at the Stage 1 PDP hearing on Chapter 41;

- (ii) For the Ski Area Sub-Zones, to amend a general rule with the effect of exempting earthworks within Ski Area Sub-Zones from a number of rules in the Earthworks Chapter; and
 - (iii) For the proposed Glendhu Station Zone, to introduce changes to the maximum volume table to provide for this Zone to ensure appropriate volume triggers are provided.
- 17 The specific provisions of Chapter 25 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 29 Transport

- 18 DPL seeks changes to the Transport Chapter, in particular, the amendment of Rule 29.4.11 High Traffic Generating Activities.
- 19 DPL opposes the application of the High Traffic Generating Activity Rule (**HGTA**) to the Jacks Point Zone. The Council's decision makes exemptions to the rule on the basis of District Plan provisions approved on the basis of an Integrated Transport Assessment. The Jacks Point Zone has been structure planned: embedded into the District Plan via zone-specific provisions that manage effects on the adjoining transport network; seeks to provide appropriate connections into that transport network; and collectively provides for a known level of development via density provisions and/or caps on certain types of activities.
- 20 In the case of the Jacks Point Zone, the key elements of an integrated assessment have been embedded into the structure plan and zone provisions where the application of the HGTA rule would result in unnecessary duplication of issues that have already been traversed through the structure planning process and the development of the related planning provisions for that structure planned area.
- 21 DPL considers that the HGTA rule will further undermine the ability for the Plan to realise the objective of the Jacks Point Zone which is to provide an integrated community. Further barriers to realising new development and subdivision anticipated by the Zone fail to have particular regard to the efficient use and development of existing natural and physical resources under s7(b) of the Act. Factors that should be given regard to include the established network of road, trails and the network of open space providing multiple modes of access to and within Jacks Point that reduce reliance on motor vehicles.
- 22 DPL considers that the requirement for parking areas within Ski Area Sub Zones (**SASZs**) fails to recognise the sensitivity of these areas to landscape and visual amenity effects. The application of Rule 29.5.12 to parking areas for Ski Area Activities in the SASZs conflicts with Rule 21.1.24 that requires resource consent

for night lighting within the SASZs. DPL seeks to exempt parking associated with Ski Area Activities in the SASZs from Rule 29.5.12.

- 23 The specific provisions of Chapter 29 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Visitor Accommodation Variation

- 24 The variation to the definition of visitor accommodation (which now excludes residential visitor accommodation (**RVA**) and homestays) has created an anomaly whereby within some zones, such as Jacks Point, the new rules relating to RVAs and homestays are not supported by a framework of related objectives and policies. This undermines the effectiveness of the regime. The relief sought by DPL is to amend the definition of Visitor Accommodation to exclude RVA and Homestays only where such activities comply with the standards within the relevant zones applying to those activities. The effect of this change is to ensure that any RVA or Homestay activity that fails to comply within the new standards can be supported by the existing framework of objectives and policies relating to Visitor Accommodation.

- 25 DPL opposes the activity status for RVA and homestays within the Rural Residential and Rural Lifestyle Zones (Chapter 22) and Wakatipu Basin Lifestyle Precinct (Chapter 24). The Visitor Accommodation Variation provides less certainty through the imposition of new standards requiring discretionary activity resource consent to exceed. DPL seeks that a breach of standards in the Rural Lifestyle, Rural Residential and WBLP also be controlled activities, in line with the rules for RVA and homestays within the Rural Zone and WBRAZ (excluding the WBLP).

- 26 The specific provisions of the Visitor Accommodation Variation and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 27 DPL opposes any further provisions and seeks alternative, consequential, or necessary additional relief to that set out in this appeal to give effect to the matters raised generally in this appeal, or such other changes that give effect to the outcomes sought in the DPL submissions.

Attachments

- 28 The following documents are **attached** to this notice:

- (a) **Appendix A** – Relief sought;

- (b) **Appendix B** – A copy of the Appellant's submission and further submissions;
- (c) **Appendix C** - A copy of the relevant parts of the decision; and
- (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 7th day of May 2019

Maree Baker-Galloway

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.