

**BEFORE THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Queenstown Lakes Proposed District Plan

**BETWEEN** **Remarkables Park Limited**

Appellant

**AND** **Queenstown Lakes District Council**

Respondent

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**NOTICE OF APPEAL ON BEHALF OF REMARKABLES PARK LIMITED**

**Dated: 19 June 2018**

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**BROOKFIELDS  
LAWYERS**

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To The Registrar  
Environment Court  
Christchurch

**Remarakables Park Limited** (“**RPL**”) appeals against part of the decision of the Queenstown Lakes District Council (“**QLDC**”) in respect of Stage 1 of the Proposed Queenstown Lakes District Plan (“**Proposed Plan**”).

1. RPL made submissions and further submissions on the Proposed Plan.
2. RPL is not a trade competitor for the purposes of section 308D of the RMA.
3. RPL received notice of the Independent Hearings Panel’s (“**Panel**”) recommendations on the Proposed Plan (“**Recommendations**”) on the 28 March 2018 and notice of the Council’s decisions on the recommendations (“**Decisions**”) on the 7 May 2018.

#### **Parts of the Decision that RPL is appealing**

4. RPL appeals those parts of the Decisions relating to Chapters 3, 4, 6, 12 and 27 and the mapping of the Upper Clutha and Queenstown (other than the Wakatipu Basin).

#### **General Grounds for Appeal**

5. RPL’s grounds for appeal are that the Decisions on the chapters listed at paragraph 4 above will not:
  - (a) Promote sustainable management;
  - (b) Enable social, economic and cultural wellbeing;
  - (c) Otherwise be consistent with Part 2 of the Resource Management Act 1991 (**RMA**);  
and
  - (d) Be appropriate in terms of section 32 of the RMA.
6. Without limiting the generality of the above, the specific chapters, Decisions, and grounds of the appeal are set out below.

## CHAPTER 3

7. Chapter 3 sets out the broad strategic direction for the district. RPL's submissions and further submissions sought to ensure that existing commercial centres were recognised and provided for. QPL also sought a more effects-based approach to the drafting of objectives and policies to achieve greater clarity.

### ***Town Centres***

8. RPL opposes Objectives 3.2.1.2 and 3.2.1.3. The zoning in Frankton (in particular the Remarkables Park Zone (**RPZ**) on the southern Frankton Flats) provides potential capacity for this area to exceed the size of the Queenstown and Wanaka town centres. RPL seeks that this area be recognised in the Strategic Directions Chapter as functioning in a similar manner to the Queenstown and Wanaka town centres.
9. While the RPZ did not form part of Stage 1 of the district plan review, the objectives and policies in the Strategic Directions Chapter have implications for it. As such, RPL seeks that Objectives 3.2.1.2 and 3.2.1.3 be amended to recognise the RPZ as a town centre. Policy 3.3.2 should also recognise the RPZ as a town centre.

### ***Relief Sought***

10. RPL seeks that Objectives 3.2.1.2 and 3.2.1.3, and Policy 3.3.2 be amended to recognise the RPZ as a town centre.

### ***Urban Development***

11. Strategic Objective 3.2.2 addresses urban growth. Policies 3.3.13, 3.3.14, and 3.3.15 are intended to implement Objective 3.2.2. Policy 3.3.13 provides the provenance for urban growth boundaries to be applied. Policy 3.3.14 seeks to avoid urban development outside identified urban growth boundaries.
12. RPL's submissions and further submissions on the Proposed Plan stated that urban sprawl was not a pressing issue for the district and that exceptions to the urban growth boundary should be expressly provided for in appropriate circumstances.
13. RPL considers that the urban growth framework in the objectives and policies is too rigid and should provide greater flexibility.

***Relief Sought***

14. Objective 3.2.2, Policy 3.3.13 and Policy 3.3.14 be amended to:
  - (a) Expressly provide for exceptions to the restriction on urban development outside the urban growth boundary; and/or
  - (b) Acknowledge that it may be appropriate for there to be urban components to development in Rural zones; and/or
  - (c) A new policy be added addressing paragraph 14 (a) and (b) above.

**CHAPTER 4**

14. Chapter 4 of the Proposed Plan addresses urban development. Objective 4.2.1 and Policies 4.2.1.2 / 4.2.1.3 seek to avoid urban development outside urban growth boundaries with the only exception apply to “existing rural settlements”.
15. As noted above, RPL’s submissions and further submissions on the Proposed Plan stated that urban sprawl was not a pressing issue for the district and that exceptions to the urban growth boundary should be expressly provided for in appropriate circumstances.
16. RPL opposes the exception being limited “existing rural settlements”. It considers that new rural settlements may be appropriate in certain locations (such as rural areas within close proximity to existing urban areas).

***Relief Sought***

17. Objective 4.2.1, Policy 4.2.1.2 and Policy 4.2.1.3 be amended to:
  - (a) Expressly provide for exceptions to the restriction on urban development outside the urban growth boundary; and/or
  - (b) Acknowledge that it may be appropriate for there to be urban components to development in Rural zones; and/or
  - (c) Expressly acknowledge that new rural settlements may be appropriate in certain locations; and/or
  - (d) Add a new policy addressing paragraph 17 (a), (b) and (c) above.

## CHAPTER 6

18. Chapter 6 addresses Landscapes and Rural Character.
19. RPL's submissions and further submissions stated that there should be some recognition that development could occur within areas identified as Outstanding Natural Landscapes (**ONL**), particularly where environmental benefits are achieved (such as improved water quality and better protection of significant natural areas). In that regard, RPL supports Policy 6.3.9 and 6.3.10 as it applies to the various Rural Zones.
20. However, Policy 6.3.12 states that "...subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes" which places a significant limitation on vast areas of the district. RPL opposes Policy 6.3.12.
21. RPL also opposes Policy 6.3.14 to the extent that it does not acknowledge that retirement or reduction of farming activities can be beneficial from a landscape perspective. While RPL supports recognition of existing farming activities, it also seeks recognition of the benefits of other activities in Rural areas (such as tourism activities) that deliver good environmental outcomes.
22. RPL opposes Policy 6.3.16 because it does not consider that "openness" should be elevated above any other characteristics of ONL.

### ***Relief Sought***

23. Policy 6.3.12 be deleted or amended to exclude the statement quoted above at paragraph 20.
24. A new policy be added recognising that retirement or reduction of farming activities may be appropriate in ONLs.
25. Policy 6.3.16 be deleted.

## CHAPTER 12

27. Chapter 12 addresses the Queenstown Town Centre.
28. RPL opposes the inclusion of the phrase "It serves as the principal administrative centre for the district and offers the greatest variety of activities for residents and visitors". RPL considers that the RPZ and Frankton are zoned to provide a similar variety of activities and represents a large and more diverse commercial area than the Queenstown Town Centre.

In addition, RPZ and Frankton provides capacity for growth that will see it exceed the size of Queenstown Town Centre. RPL relies on paragraphs 8 and 9 above. RPL seeks that the sentence quoted above be deleted.

29. RPL also sought express recognition and provisions for:
  - (a) water based public ferry options; and
  - (b) a compact and walkable Queenstown Town Centre,
30. The Recommendations recommend that submissions seeking a policy referring to provision of a public ferry service be rejected (at paragraph 227). However, the Recommended Chapter 12 provisions (Appendix 1 to Report 11) include a policy requiring provision for “public water ferry services” (Policy 12.2.5.7). RPL supports the inclusion of Policy 12.2.5.7.
31. RPL also supported controlled activity status for wharfs and jetties under Rule 12.4.7.1 and commercial surface of water activities under Rule 12.4.7.2. It remains of the view the controlled activity status is appropriate given the recognitions of the importance of water-based activities in the objectives and policies.

### ***Relief Sought***

32. Delete the sentence “It serves as the principal administrative centre for the district and offers the greatest variety of activities for residents and visitors” from the zone purpose.
33. Retain or insert Policy 12.2.5.7 in Appendix 1 to Report 11.
34. Amend the activity status under Rule 12.4.7.1 from discretionary to controlled.
35. Amend the activity status under Rule 12.4.7.2 from discretionary to controlled.

### **CHAPTER 27**

42. Chapter 27 addresses subdivision. As noted above, the RPZ was excluded from stage 1 of the district plan review. However, RPL’s submission sought that the RPZ be expressly excluded from Chapter 27. The Recommendations stated (paragraph 214 of Report 7):

“We do not think it is helpful to state on a piecemeal basis that Chapter 27 does not apply to the Remarkables Park Zone and the requested Queenstown Park Special Zone as Queenstown Park Limited proposes. We discussed with counsel from the Council how Chapter 27, once finalised, will interrelate with the ODP subdivision provisions that will continue to apply in a number of zones (including the Remarkables Park Zone, which forms part of the ODP). We will discuss this issue in greater detail in our consideration of the notified Section 27.3. For

the same reason, however, we agree with Mr Bryce's recommendation that what was the first part of the fifth paragraph of Section 27.1 should delete reference to provisions for assessment of subdivisions outside Chapter 27."

43. RPL retains the view that Chapter 27 should contain an explicit statement that subdivision within the RPZ is subject to the provisions of the RPZ. In the absence of such an explicit statement, a reader of the Proposed Plan would assume that the Chapter 27 applies to the RPZ as there is nothing to suggest otherwise.

### **Relief Sought**

44. Chapter 27 be amended to include an explicit statement that subdivision within the RPZ is subject to the provisions of the RPZ.

### **CONSEQUENTIAL AND FURTHER RELIEF**

17. In addition to the specific relief set out above, RPL seeks such other orders, relief or other consequential amendments as are considered appropriate or necessary by the Court to address the concerns set out in this appeal and the relief requested in RPL's submissions.

### **SERVICE**

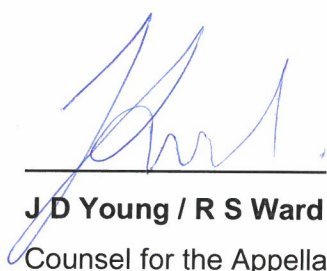
18. An electronic copy of this notice is being served today by email on the QLDC at [dpappeals@qldc.govt.nz](mailto:dpappeals@qldc.govt.nz). Waivers and directions have been made by the Environment Court in relation to the usual requirements of the RMA as to service of this notice to other persons:
- (a) Where the appeal is based on an original submission made by RPL, notice has been electronically served by email to every person that made a further submission on the relevant submission; and
  - (b) Where the appeal is based on a further submission made by RPL, notice has been electronically served on the person who made the related original submission and every other person who made a further submission on that same original submission.
19. A copy of this notice has been lodged today with the Environment Court:
- (a) electronically by email to [Christine.Mckee@justice.govt.nz](mailto:Christine.Mckee@justice.govt.nz); and
  - (b) by posting a hard copy to: PO Box 2069, 20 Lichfield Street, Christchurch.

## Attachments

20. Copies of the following documents are attached to this notice:

- (a) The original submissions; and
- (b) The relevant parts of the Decision.

**DATED** the 19<sup>th</sup> day of June 2018



**J D Young / R S Ward**  
Counsel for the Appellant

**THIS NOTICE OF APPEAL** is filed by **JOHN YOUNG**, solicitor for Queenstown Park Limited. The address for service of the appellant is at the offices of Brookfields Lawyers, Tower 1, 9<sup>th</sup> Floor, 205 Queen Street, Auckland.

Documents for service on the appellant may be left at the address for service or may be:

- 1. Posted to the solicitors at PO Box 240, Auckland 1140
- 2. Left for the solicitors at Document Exchange for direction to DX CP24134.
- 3. Transmitted to the solicitors by facimile to 09 379 3224.
- 4. Emailed to the solicitors at [youngj@brookfields.co.nz](mailto:youngj@brookfields.co.nz) / [ward@brookfields.co.nz](mailto:ward@brookfields.co.nz)

### **Advice to recipients of copy of notice of appeal**

#### *How to become a party to proceedings*

You may become a party to the appeal if you are one of the persons described in section 274(1) of the RMA.

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 of the Resource Management (forms, Fees, and Procedure) Regulations 2003) with the Environment Court



by email (to [Christine.Mckee@justice.govt.nz](mailto:Christine.Mckee@justice.govt.nz)) and serve copies of your notice on the Queenstown Lakes District Council and the appellant.

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 RMA.

You may apply to the Environment Court under section 21 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

*Advice*

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