

**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** **Queenstown Wharves GP Limited**

Appellant

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

Respondent

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**NOTICE OF APPEAL ON BEHALF OF QUEENSTOWN WHARVES GP LIMITED**

**Date: 19 June 2018**

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**BROOKFIELDS  
LAWYERS**

J D Young  
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**AUCKLAND**

To The Registrar  
Environment Court  
Christchurch

**Queenstown Wharves GP Limited** (“**QWL**”) 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. QWL made submissions and further submissions on the Proposed Plan.
2. QWL is not a trade competitor for the purposes of section 308D of the RMA.
3. QWL 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 QWL is appealing**

4. QWL appeals those parts of the Decisions relating to Chapters 6, 12 and 21.

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

5. QWL is a listed company that owns the St Omer and O’Regan wharves which are located within the Queenstown Town Centre Waterfront Zone. QWL also owns a wharf at Kelvin Heights.
6. QWL’s principal interest is to ensure that the Proposed Plan makes appropriate provision for the use and management of wharves, including for public transport and commercial recreation activities. QWL also seeks to ensure that the Proposed Plan provides sufficient flexibility for such activities.
7. QWL’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.
- 8. Without limiting the generality of the above, the specific chapters, Decisions, and grounds of the appeal are set out below.

## **CHAPTER 6**

- 9. QWL's submissions and further submissions addressed the Chapter 6 Objectives and Policies dealing with lakes, rivers and their margins. In particular, QWL sought recognition of the community and recreational benefits arising from access to and the use of rivers and lakes and their margins.
- 10. There are no Objectives in Chapter 6. Policies 6.3.30 to 6.3.33 address "Managing Activities on Lakes and Rivers".

### **Relief Sought**

- (a) Amend Policy 6.3.30 to read "Manage the location, intensity and scale of buildings, jetties, moorings and infrastructure on the surface and margins of water bodies to respond to landscape character and amenity values";
- (b) Amend Policy 6.3.31 to read "Recognise that the character of the Frankton Arm includes established jetties and wharves";
- (c) Amend Policy 6.3.32 to read "Recognise the urban character of Queenstown Bay and provide for structures and facilities on the surface and margins of water bodies"; and
- (d) Delete Policy 6.3.33.

## **CHAPTER 12**

- 11. QWL made submissions and further submissions on Chapter 12 with a focus on the management of Queenstown Bay and appropriate provision for the use and development of wharves.
- 12. It sought recognition of the importance of providing public transport links and enabling commercial recreation activities. Policy 12.2.5.7 responds to this request and is supported by QWL. However, the Recommendations and Decisions do not seem to support the inclusion of Policy 12.2.5.7.

13. QWL also sought a less restrictive rule regime in relation to “Commercial Surface of Water Activities”.

#### **Relief Sought**

- (a) Delete Policy 12.2.5.2;
- (b) Retain Policy 12.2.5.7;
- (c) Add a policy that reads “Enable use and development of existing wharves for water-based activities including ferry services, commercial recreation, retail and food and beverage based activities”;
- (d) Amend Rule 12.4.7.2 by applying “Controlled Activity” status; and
- (e) Amend Rule 12.4.8.2 by applying “Restricted Discretionary” status with discretion limited to matters of design and public access along the jetty.

#### **CHAPTER 21**

14. QWL submitted on Objective 21.2.12 and associated policies, which address lakes, rivers and their margins in the Rural Zone. In short, QWL considered that natural character will not always be able to be protected, maintained or enhanced when access to lakes and rivers is sought to be provided. A change in natural character may not necessarily be adverse.

#### **Relief Sought**

- (a) Amend Objective 21.2.12 to read “Avoid, remedy or mitigate any adverse effects on the natural character of lakes and rivers and their margins, while providing for appropriate activities on the surface of lakes and rivers, including recreation, commercial recreation and public transport”;
- (b) Amend Policy 21.2.12.3 to clarify that it does not apply to the Kowarau River or the Frankton Arm;
- (c) Amend Policy 21.2.12.8 by deleting the words “...in a way that avoids adverse effects on the environment as far as possible, or where avoidance is not practicable, remedies or mitigates such adverse effects”;

- (d) Add a new policy that reads “Recognise that the Kawarau River between the Kawarau Falls Bridge and Bungy Bridge and the Frankton Arm provide an important resource for water-based transport”;
- (e) Amend Rules 21.15.6, 21.15.7 and 21.15.8 to provide for “public” jetties and moorings and “public” structures and moorings as a “Controlled” activity (and apply the current matters for discretion at (a), (b) and (f) of Rule 21.15.6 as matters for control); and
- (f) Amend Rule 21.16.2 to provide for “public” jetties and moorings as a “Controlled” activity (and apply the current matters for discretion at (a), (b) and (f) of Rule 21.15.6 as matters for control).

### **CONSEQUENTIAL AND FURTHER RELIEF**

15. In addition to the specific relief set out above, QPL 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 the Appellant’s submissions.

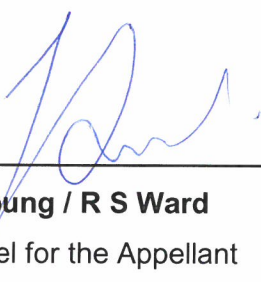
### **Service**

16. 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.
17. 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

18. 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



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**J D Young / R S Ward**

Counsel for the Appellant

**THIS NOTICE OF APPEAL** is filed by **JOHN YOUNG**, solicitor for Queenstown Wharves GP 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 facsimile 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.