

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	Debbie MacColl 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

- 1 Debbie MacColl (**Debbie**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Debbie made a Stage 2 further submission (#2792) on the PDP.
- 3 Debbie is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Debbie 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;
 - (b) Chapter 24 Wakatipu Basin Variation;
 - (c) Chapter 27 Subdivision;
 - (d) Planning Maps 13d and 30.
- 7 The reasons for appeal and general relief sought are summarised out below. The specific provisions and relief sought by Debbie are detailed further in **Appendix A** to this Appeal.

Background

- 8 Debbie owns land in the area known as "Morven Hill", located on the Western side of Morven Hill and above the state highway (**Land**).
- 9 The Land is zoned Rural Residential under the Operative District Plan (**ODP**). In Stage 1 of the PDP the Land was notified as Rural Residential Zone (**RRZ**).
- 10 The Land was included in the Stage 2 Wakatipu Basin Variation (**Variation**) and was zoned Wakatipu Basin Rural Amenity Zone (**WBRAZ**), identified in Schedule 24.8 as part of Landscape Character Unit (**LCU**) 13 "Lake Hayes Slopes".

Chapter 6 Landscapes

- 11 Debbie 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 WBRAZ, including the Wakatipu Basin Lifestyle Precinct (**WBLP**).

- 12 However, Debbie considers there is merit in retaining in some form the deleted provisions of Chapter 6 which expanded on the relationship between the Landscape Categories and the various rural zones, including the WBRAZ. Rather than the reinstatement of the deleted explanatory text and rules, Debbie supports a new 'Interpretation' section, similar to that inserted into Chapter 3 via the planning experts' Joint Witness Statement as part of Stage 1 of the PDP. Such a section is supported to provide greater certainty for plan users.
- 13 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. Debbie 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 is further clarified, additional amendments to Chapter 6 may be required in respect of the policies that apply to the WBRAZ.
- 14 The specific provisions of Chapter 6 and the relief sought by Debbie are set out in **Appendix A** to this Appeal.

Chapter 24 Wakatipu Basin

- 15 Debbie is generally opposed to the Variation in its entirety, and seeks in the first instance that the Variation be withdrawn.
- 16 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.
- 17 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.
- 18 The specific provisions of Chapter 24 and the relief sought by Debbie are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 19 The subdivision regime proposed for the Wakatipu Basin is opposed. The change in the default activity status of subdivision from controlled in the ODP (for rural living zones) to restricted discretionary for the Wakatipu Basin is a significant change in the approach to management of subdivision, which introduces a level of uncertainty that is inconsistent with the higher order chapters of the PDP and Part 2 of the Act. Coupled with minimum lot sizes and the inclusion in Chapter 24 of restrictive standards on building size and coverage, height and setbacks, the regime is considered too restrictive on the building rights of landholders in the Wakatipu Basin.
- 20 The minimum lot densities introduced for the WBRAZ and WBLP are arbitrary and do not reflect existing landholdings. In particular, a minimum lot density of 80ha in the WBRAZ is illogical and unworkable, and will result in ineffective land use and wasted development opportunities, whilst not guaranteeing protection of landscape character and amenity values. An 80ha minimum is too large to be reasonably maintained as a rural lifestyle block, while being too small to be farmed economically. It ignores the potential for much of the Basin to be sensitively and appropriately developed, and is inconsistent with the high demand for housing in the District.
- 21 A minimum average lot size regime is supported, as opposed to a minimum lot size regime. Two 'sub-precincts' are proposed for the WBLP, so that Council may identify areas within the WBLP which have a greater capacity for higher density development. A two tiered minimum average approach will provide planning flexibility and the resulting range of lot sizes will provide variety and enhance landscape character throughout the Basin.
- 22 The specific provisions of Chapter 27 and the relief sought by Debbie are set out in **Appendix A** to this Appeal.

Planning Maps 13d and 30

- 23 Debbie opposes the Variation in its entirety, and in the first instance seeks that the Land be rezoned RRZ in accordance either the ODP or Stage 1 PDP zoning of the Land.
- 24 In the alternative, Debbie opposes the zoning of the Land as WBRAZ, and seeks that the Land be rezoned as WBLP, 'Precinct A'. Debbie also opposes the identification of LCU 13 as having a 'low' capacity to absorb additional development.
- 25 The zoning of the Land as WBRAZ does not accurately reflect its established character and current utilisation. In reality this part of the Basin is of a rural

living character with average lot sizes and landscape features representative of the WBLP not the WBRAZ. The Land has the capacity to absorb additional development that is sensitive and well designed.

- 26 Zoning the area as WBRAZ enforces limitations on development that are incompatible with the actual use of the Land in practice. The zoning acts as a barrier to appropriate development and reasonable land use in the future, ignores the economic wellbeing of landowners, and results in ineffective land use in the Basin generally. WBLP is a more appropriate zoning for the Land as it reflects its actual established character and current utilisation, and provides for an appropriate degree of development.
- 27 Debbie does not support the reasons given by the Independent Commissioners in their recommendations (Report 18.6) for retaining the WBRAZ zoning in LCU 13. LCU 13 is identified as having a predominantly rural residential land use and a low degree of naturalness, with almost all lot sizes below 10ha. The western side of Morven Hill is within the reticulated wastewater supply so concerns regarding the water quality of Lake Hayes are less relevant than for the eastern side of Lake Hayes. Debbie considers that the zoning of the LCU should reflect actual land use and existing character, and potential adverse effects on landscape from further development should be addressed through the Chapter 24 Standards, rather than via an illogical 80ha minimum lot density regime.
- 28 The specific amendments sought to the planning maps to classify the Land as WBLP are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 29 Debbie 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 submissions.

Attachments

- 30 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



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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.