

IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

ENV-

I TE KŌTI TAIAO
ŌTAUTAHI ROHE

BETWEEN

CASSIDY TRUST

Appellant

AND

QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

NOTICE OF APPEAL BY CASSIDY TRUST

Under clause 14(1) of the Resource Management Act 1991

Solicitor Acting: S M Chadwick

Webb Farry
Lawyers
79 Stuart Street
PO Box 5541
Dunedin

Telephone: (03) 477 1078
Facsimile: (03) 477 5754
Email: schadwick@webbfary.co.nz

NOTICE OF APPEAL BY CASSIDY TRUST

Under clause 14(1) of the Resource Management Act 1991

To: The Registrar
Environment Court
Christchurch

- 1 The Cassidy Trust ("Appellant") appeals certain decisions of the Queenstown Lakes District Council ("Council") on the Queenstown Lakes Proposed District Plan Stage 1 ("PDP/Stage 1") and the subsequent variation to provisions concerning subdivision and residential development in the Wakatipu basin as part of the Queenstown Lakes Proposed District Plan Stage 2 ("PDP/Stage 2").
- 2 The Appellant made submissions on both PDP/Stage 1 and PDP/Stage 2 including in respect of the plan provisions that relate to the zoning, subdivision and residential use of the Appellant's land.
- 3 Under clause 16B(1) of Schedule 1 of the Resource Management Act 1991 ("RMA") the Appellant's submissions on PDP/Stage 1 provisions are deemed to be a submission on the subsequent variation in PDP/Stage 2, and the Appellant also made a separate and additional submission in respect of the PDP/Stage 2.
- 4 The Appellant received notice of the Council's decisions on 21 March 2019.
- 5 The Appellant is not a trade competitor for the purposes of section 308D of the RMA.
- 6 The decision was made by the Council.
- 7 The decision appealed is:
 - a The zoning of the Appellant's land and surrounding landscape;
 - b The classification of a subdivision and any residential activity on the Appellant's land and surrounding landscape up to the existing and more appropriate landscape and/or geomorphological boundary; and
 - c The provisions introduced by PDP/Stage 1 and PDP/Stage 2 restricting and regulating subdivision and residential use of the Appellant's land.

- 8 The reasons for the appeal are:
- a The Appellant's land has been inappropriately zoned as Wakatipu Basin Rural Amenity Zone ("RAZ");
 - b The Council acknowledged that the key determiner of zoning in the area around the Appellant's land is landscape matters, and there are no infrastructure or other issues which would limit making further provision for subdivision and/or residential development in this area;
 - c The edge of the Wakatipu Basin Lifestyle Precinct ("LP") should properly be delineated with reference to landscape and/or geomorphological features rather than cadastral or road boundaries;
 - d By applying landscape and/or geomorphological features to define the LP boundary, the lower slopes of Slope Hill which encompass the Appellant's property should more appropriately fall within Landscape Unit 9 ("LCU9"), rather than Landscape Unit 11 ("LCU11"), and these lower slopes should more appropriately be zoned LP;
 - e The lower slopes of Slope Hill to the east of Lower Shotover Road encompassing the Appellant's property have a well established rural living character including vegetation patterns commonly associated with the rural living land use;
 - f The lower slopes to the east of Lower Shotover Road encompassing the Appellant's property have the capacity to absorb subdivision and development to the extent provided for by the LP, without significantly compromising landscape character and visual amenity values;
 - g The existing pattern of residential development and lot sizes in the area of the Appellant's property substantially limits its use for rural or any other productive purposes;
 - h The inclusion of the Appellant's property within the RAZ fails to acknowledge the site's established character, its ability to absorb change and its potential to provide further rural living opportunities;
 - i Inclusion of the Appellant's property within the RAZ is an inefficient use of the land resource, particularly given the requirement on Council to ensure

that there is sufficient development capacity for residential land in order to meet the demands of the Queenstown Lakes District;

- j RAZ zoning does not give effect to Strategic Objective 3.2.5.2 which requires that:

The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.

- k The inclusion of the Appellant's property within the LP will better give effect to the higher order provisions of the Queenstown Lakes District Plan, and be more consistent with Strategic Objective 3.2.5.2 and Strategic Policies 3.3.22, 3.3.24 and 3.3.32;

- l Further provision should be made through the PDP/Stage 2 provisions of chapter 24 and the associated zoning to enable and promote well-designed subdivision and residential development on the lower slopes of Slope Hill to the east of Lower Shotover Road encompassing the Appellant's property, and in the wider LP zone; and

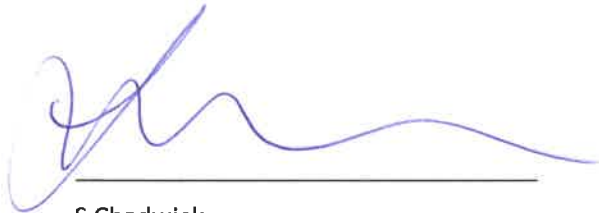
- m There was no scope for Council to make a decision to zone the Appellant's property RAZ in the PDP/Stage 2, where the RAZ is considerably more restrictive than any zoning of the Appellant's property that could potentially have been applied as a result of the provisions originally notified in PDP/Stage 1.

9 The Appellant seeks the following relief:

- a That the appeal is allowed;
- b That the boundary of the LP be aligned along the appropriate landscape and/or geomorphological features encompassing the Appellant's property;
- c LCU 9 should be recognised as including the lower slopes of Slope Hill to the east of Lower Shotover Road;
- d The lower slopes of Slope Hill encompassing the Appellant's land should be rezoned LP; and

- e That the provisions of the proposed District Plan, including the rules governing subdivision and residential development applicable to the LP and the Appellant's land, be amended to better enable and facilitate well-designed subdivision and residential development;
- f Such consequential relief as is appropriate to ensure the outcome of the appeal is consistent with the other provisions of the Queenstown Lakes District Plan, with particular reference to the fact that so many of the provisions of the Queenstown Lakes District Plan are under development and/or subject to appeal;
- g Such other relief as the Court sees fit; and
- h Costs.

DATED this 7th day of May 2019



S Chadwick
Counsel for Cassidy Trust

Address for service of Appellants:

Webb Farry Lawyers
79 Stuart Street
Dunedin 9016
PO Box 5541
Dunedin 9054
Telephone: (03) 477 1078
Email: schadwick@webbfarry.co.nz

Attached to this Notice of Appeal are the following documents:

- 1 A copy of the following submissions made for the Cassidy Trust:
 - A First submission from Edward Cassidy on the PDP/Stage 1 (undated, submission reference 13);
 - B Submission on behalf of the Cassidy Trust PDP/Stage 1 dated 23 October 2015 (submission reference 631);
 - C Submission by Cassidy Trust PDP/Stage 2 dated 18 February 2018 (submission reference 2144).
- 2 It is noted that all other requirements relating to service of the appeal and provision of attachments have been waived as set out in the Environment Court Minute dated 21 March 2019.
- 3 For completeness it is further noted that the decision reports which are relevant to this appeal are the Report and Recommendations of the Independent Commissioners regarding Chapter 24 and Wakatipu Basin Planning Maps, including Reports 18.1, 18.2, 18.3 & 18.5.