

**In the Environment Court
at Christchurch**

In the Matter	of the Resource Management Act 1991 (Act)
And	
In the Matter	of the Queenstown Lakes Proposed District Plan – Stage 2
And	
In the Matter	of an appeal under Clause 14(1), Schedule 1 of the Act
Between	The Trustees of the Spruce Grove Trust
	Appellant
And	Queenstown Lakes District Council
	Respondent

**Notice of Appeal by the Trustees of
the Spruce Grove Trust (Submitter
2512 and 2513) against a decision on
the Proposed Queenstown Lakes
District Plan – Stage 2**

Dated: 7 May 2019

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To: The Registrar
Environment Court
Christchurch

Notice of Appeal

1. The trustees of the Spruce Grove Trust (**Appellant**) appeal against part of decisions of the Queenstown Lakes District Council (**Respondent**) on the Queenstown Lakes Proposed District Plan – Stage 2 (**Proposed Plan**).
2. The Appellant made submissions on the Proposed Plan.
3. The Appellant is not trade competitors for the purposes of section 308D of the Act.
4. The Appellant received notice of the Respondent's decisions on 21 March 2019.
5. The decisions were made by the Respondent by ratifying the recommendations of the Independent Hearings Panel (**Panel**) on 7 March 2019.
6. The part of the decisions that the Appellant is appealing are contained in Report 18.7, Stream 14, Wakatipu Basin, Area E - Eastern Basin (**Mapping Decisions**), as they relate to:
 - (a) 459 Arrowtown – Lake Hayes Road, 9 Orchard Hill Road and 461 Arrowtown – Lake Hayes Road (legally described as Part Lot 2 and Lot 3 DP 19667 and Lots 1-2 Deposited Plan 327817), 29 Butel Road and 9 Butel Road (Legally described as Lots 1-2 Deposited Plan 27846); and
 - (b) 1124 Malaghans Road - legally described as Section 11 SO 447314.

(collectively the **Sites**).

Background

7. Under Stage 1 - Notified Proposed District Plan (**Stage 1**) the Appellant's Sites were zoned Rural.

8. The Appellant lodged submissions on Stage 1 (submission 558 and 559) seeking that the land be included in the Millbrook Resort Zone (**MRZ**).
9. The Appellant's submissions were deferred from being heard under Chapter 43 – MRZ for consideration as part of the Mapping hearing.
10. Subsequently, the Council Memorandum dated 22 December 2017 confirmed that the Appellant's Stage 1 submissions which were previously allocated to Stream 14, would now be considered under Stage 2 – Wakatipu Basin, as submissions against the variation to Stage 1.

Stage 2 of the Proposed District Plan

11. Under Stage 2 of the Notified Queenstown Lakes District Plan (**Proposed Plan**) the Sites were re-zoned from Rural under Stage 1 to Wakatipu Basin Rural Amenity Zone (**WBRAZ**). While the Appellant's original submissions at Stage 1 were not heard and were therefore to be considered live, the Appellant also submitted (submissions 2512 and 2513) on Stage 2 of the Proposed Plan opposing the re-zoning of the Sites to WBRAZ.
12. Consistent with its Stage 1 submissions, the Appellant in its submissions sought that the Sites be included in the MRZ. The Appellant's submissions to re-zone the Sites to MRZ were rejected by the Independent Hearing Commissioners in the Stage 2 Mapping Decision and this recommendation was ratified by the Respondent.

General reasons for the appeal

13. The general reasons for this appeal are that the decision fails to provide for the most appropriate zoning of the Sites because the decision:
 - (a) does not give effect to the higher order strategic directions, objective and policies in the Proposed Plan;
 - (b) does not give effect to the Otago Regional Policy Statement;
 - (c) does not represent an efficient use of land under section 7(b);

- (d) fails to meet the requirements of section 32; and
- (e) fails to promote sustainable management of resources and will not achieve the purpose of the Act.

Particular reasons for the appeal

- 14. Without limiting the general reasons for the appeal given above, the following are further and/or more particular reasons for the appeal.
- 15. The Appellant specifically seeks:
 - (a) That their Sites be rezoned from WBRAZ to MRZ;
 - (b) That the MRZ Structure Plan be extended to cover the Sites in a manner that provides for integrated development which does not detract from the landscape and visual amenity values of the Wakatipu Basin; and
 - (c) A number of changes to Chapter 43 policies and rules as they apply to the Sites which support the rezoning and relief contained in this appeal.

Appropriateness of the Rezoning

- 16. For the reasons outlined in this appeal, the Appellant considers it appropriate to rezone the Sites MRZ rather than WBRAZ.
- 17. The re-zoning of the Sites from WBRAZ to MRZ is most appropriate when achieving Part 2 of the RMA and in particular, will represent the most efficient land use of under s7(b) of the RMA.
- 18. The inclusion of the Sites in the MRZ is a logical extension of the zone upon considering that the land encompassing the Sites.
- 19. The Appellant's request to re-zone the Sites MRZ is supported by the Wakatipu Basin Land Use Planning Study (**WB LUPS**).
- 20. Accordingly, the WB LUPS sets out recommended zone boundaries of the LCU to limit and minimise the potential for development creep. The Appellant's Sites fall within the Millbrook Landscape Character Unit (**LCU 23**). LCU 23 defines land falling within the Millbrook Landscape Character Unit as being dominated by commercial and rural residential

use, displays a low level of naturalness as a consequence of the level of existing and anticipated development and holds a moderate level of capacity to absorb additional development.

21. While the Sites fall within LCU 23, the Sites have been zoned WBRAZ, not in accordance with the boundaries set out in the Character Unit. Accordingly, it is considered that there is a disconnect between the identification of the sites within LCU 23 and the WBRAZ zoning of the sites, as the intention of the WBRAZ, as guided by the Objectives and Policies of the Chapter, is to restrict further development, whereas the WBLPS has identified the area as having a moderate capacity to absorb additional development.
22. The Sites do have capacity to absorb additional development and for this to be integrated into the overall resort development of the MRZ without detracting from the landscape and visual amenity values of the Wakatipu Basin.
23. LCU 23 provides an evidential basis supporting why the Sites should be zoned MRZ. Overall, the objectives, policies and rules under the MRZ better align and are the most appropriate zoning when considering the Sites' characteristics, and against the objectives, policies and rules under the WBRAZ, Chapter 3 Strategic Directions and Part 2 of the RMA.

Relief Sought - Arrowtown – Lake Hayes Road

24. The Appellant seeks the following relief:
 - (a) That the Site be re-zoned from WBRAZ to MRZ;
 - (b) That the MRZ Structure Plan in 43.7, is amended to cover the Site and is amended to incorporate new Residential Activity Areas R20 A, R20 B, R20 C, R 20 D and R 20 E (**R20**) (as attached in **Annexure A**).
 - (c) The land surrounding R20 and within the 25m setback distance is proposed to be included within the Golf Course and Open Space (G1) Activity Area;

(d) That the following amendments are made to Chapter 43 (note these are drafted as amendments to the decisions version of Chapter 43):

(i) R20 is included within Rule 43.4.11 relating to buildings being a controlled activity as follows:

R1 to R13 and R20 A-E of the Residential Activity Area.

(ii) Add a new Discretionary Activity Rule 43.4.X to Chapter 43 as follows:

Buildings

a. Within the G1 Golf Course and Open Space Activity Area

(iii) Include R20 within Rule 43.5.2(c) requiring a 7m minimum setback for buildings from the residential activity area boundary as follows:

c. On Residential Activity Sites 14, ~~and 19~~ and 20 A-E buildings shall be located at least 7m from the Residential Activity Area boundary.

(iv) Include R20 within Rule 43.5.3 as follows:

Building Colours and Materials in Residential Activity Areas R14, R15, R16 and R20 A-E.

(v) Amend Rule 43.5.4 relating to Residential Density as follows:

The maximum number of residential units in the Millbrook Resort Zone (excluding the residential units within the R20 A-E activity area) shall be limited to 450. In the R20 A-E activity area the average density shall be no more than 1 residential unit per 500m².

(vi) Exclude R20 from the overall site coverage for the MRZ in Rule 43.5.11 as follows:

Maximum Total Site Coverage The maximum site coverage shall not exceed 5% of the total area of the Zone. For the

purposes of this Rule, site coverage includes all buildings, accessory, utility and service buildings but excludes weirs, filming towers, ridges and roads and parking areas. Activity area R20 A-E is excluded from this calculation.

- (vii) Add a new Rule 43.5.14 with a Restricted Discretionary activity status pertaining to the maximum site coverage for R20 as follows:

Maximum Site Coverage – R20 A-E Activity Area The maximum building coverage shall not exceed 50% of the site area.

- (e) Any consequential relief to give effect to that zoning and the relief sought in the Appellant's Stage 2 submission.

Relief Sought – Malaghans Road

25. The Appellant seeks the following relief:

- (a) That the Site be re-zoned from WBRAZ to MRZ;
- (b) That the MRZ Structure Plan in 43.7, is amended to cover the entire Site and is amended to incorporate new Residential Activity Areas R21 A and R21 B (**R21**) and the Golf Course and Open Space Activity Area (**G**) (as attached in **Annexure B**).
- (c) That the following amendments are made to Chapter 43 (note these are drafted as amendments to the decisions version of Chapter 43):
- (i) Include R21 in Rule 43.4.10(b) relating to Buildings being a controlled activity as follows:
- b. R1 to R13 and R21 A-B of the Residential Activity Area*
- (ii) Include R21 Activity Area within Rule 43.5.2(c) which will require a 7m minimum setback for buildings from the Residential Activity Area boundary as follows:
- c. On Residential Activity Sites 14, ~~and 19~~ and 21 A-B buildings shall be located at least 7m from the Residential Activity Area boundary.*

- (iii) Include R21 Activity Area within Rule 43.5.3 as follows:

Building Colours and Materials in Residential Activity Areas R14, R15, R16 and R21 A-B.

- (iv) Amend Rule 43.5.4 relating to Residential Density as follows:

The maximum number of residential units in the Millbrook Resort Zone (excluding the residential units within the R21 A-B activity area) shall be limited to 450. In the R21 A-B activity area the average density shall be no more than 1 residential unit per 500m².

- (v) Exclude R21 activity area from the overall site coverage for the MRZ in Rule 43.5.11 as follows:

Maximum Total Site Coverage

Maximum Total Site Coverage The maximum site coverage shall not exceed 5% of the total area of the Zone. For the purposes of this Rule, site coverage includes all buildings, accessory, utility and service buildings but excludes weirs, filming towers, ridges and roads and parking areas. Activity area R21 A-B is excluded from this calculation.

- (vi) Add new Rule 43.5.14 with a Restricted Discretionary activity status pertaining to the maximum site coverage for the R21 Activity Area as follows:

Maximum Site Coverage – R21 A-B Activity Area

The maximum building coverage shall not exceed 50% of the site area.

- (vii) Add new Rule 43.5.15 with a Discretionary activity status pertaining to the visibility of buildings within the R21 activity area from Malaghans Road as follows:

Visibility of Buildings within the Residential R21 A-B Activity Area

No part of any building located within the R21 A-B activity area is to be visible from Malaghans Road. Methods to achieve this

may include restriction on building height, mounding and landscaping.

- (d) Any consequential relief to give effect to that zoning and the relief sought in the Appellant's Stage 2 submission.

Attached Documents

26. The following documents are attached to this notice:

- (a) A copy of the Appellant's Stage 2 submissions (2512 and 2513) as **Annexure A**;
- (b) A copy of the relevant part of the Mapping Decision as **Annexure B**;
- (c) A copy of the Arrowtown, Lake Hayes Road Structure Plan - R20 A-E as **Annexure C**;
- (d) A copy of the Malaghans Road Structure Plan - R21 A-B as **Annexure D**; and
- (e) A list of names and addresses of persons to be served with a copy of this notice as **Annexure E**.

Dated this 7th day of May 2019



Joshua Leckie / Sam Chidgey
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