

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-099

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 G W Stalker Family Trust, Mark Tylden, Sam Strain, Bill and Jan Walker Family Trust (**Ladies Mile Consortium**)

Appellant

And **Queenstown Lakes District Council**

Respondent

AMENDED Notice of Appeal

2 November 2018~~19 June 2018~~

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To The Registrar
Environment Court
Christchurch

- 1 G W Stalker Family Trust, Mark Tylden, Sam Strain, Bill and Jan Walker Family Trust (**Ladies Mile Consortium**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Ladies Mile Consortium made submissions (#532), (#535), and further submissions (#1259), and (#1262) on the PDP.
- 3 Ladies Mile Consortium is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Ladies Mile Consortium received notice of the decision on 7 May 2018.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 3 Strategic Direction;
 - (b) Chapter 6 Landscapes;
 - (c) Chapter 22 Rural Residential and Rural Lifestyle;
 - (d) Chapter 27 Subdivision;
- 7 Reasons for appeal

Background

- 8 The Ladies Mile Consortium are a group of landowners along the strip of State Highway 6 known as 'Ladies Mile'. The Ladies Mile Consortium presented submissions on Stage 1 of the PDP, seeking the rezoning of their land to Rural Lifestyle and that the Rural Lifestyle Zone establishes a framework for the efficient and effective use of the natural resources of the District by providing for a comprehensive set of objectives and provisions to enable rural living and subdivisions.
- 9 In the Submissions, specific provisions were sought to be amended in Chapter 22 to provide for unique planning aspects of Ladies Mile, as well as general changes to the Chapter 22 objectives, policies, and rules, to enable a more efficient subdivision and development regime for rural living. Further changes were also sought in respect of higher order chapters 3, 6, and 27 to reflect the intent of this overall relief.

- 10 While the rezoning aspect of those submissions has been deferred to stage 2 hearings, given implications of the Wakatipu Basin Variation, decisions on the text of Stage 1 chapters have been confirmed and are now the subject of this appeal.
- 11 Through stage 2, the Ladies Mile Consortium continues to seek relief for a Rural Lifestyle Zone, with amended Ladies Mile specific provisions.

Chapter 3 Strategic Direction

- 12 Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. The nature of Chapter 3 applying as higher order provisions to all other provisions of the PDP means that Ladies Mile Consortium interests are affected by Chapter 3.
- 13 Significant changes to content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. Ladies Mile Consortium therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 14 Ladies Mile Consortium opposes those provisions of Chapter 3 which do not provide for appropriate diversification of land uses (particularly in the Rural Zones and in chapter 6 Landscapes which do not provide sufficiently for the social, economic, and cultural wellbeing of people and communities.
- 15 The specific provisions of Chapter 3 and the relief sought by Ladies Mile Consortium are set out in **Appendix A** to this Appeal.

Chapter 6 Landscapes

- 16 Ladies Mile Consortium opposes those policies relating to the preference for farming as the means to protect landscape values as these are disproportionately weighted towards the protection of agriculture and fail to provide for those rural landscapes where pastoral farming does not occur such as in identified rural living zones. Farming is one method for using rural resources productively, but its long term sustainability is uncertain particularly in this district, and there are other uses of rural land that are compatible with the protection of landscape values.
- 17 Ladies Mile Consortium seek in particular to clarify that provisions of Chapter 6 are not applicable to the Rural Lifestyle and Rural Residential Zones of Chapter 22.
- 18 The specific provisions of Chapter 6 and the relief sought by Ladies Mile Consortium are set out in **Appendix A** to this Appeal.

Chapter 22 Rural Residential and Rural Lifestyle

- 20 Specific Amendments are sought to the Rural Residential and Rural Lifestyle Zone to ensure an efficient and effective rural living development regime, consistent with the purpose of the Zone.
- 21 The specific provisions of Chapter 22 and the relief sought by Ladies Mile Consortium are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision

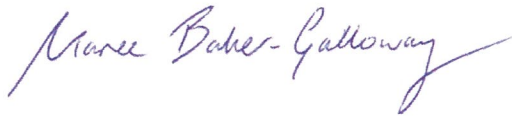
- 22 Subdivision in the rural living zones has been amended through Stage 1 of the PDP to change from a controlled activity regime, to restricted discretionary. The Ladies Mile Consortium opposes this change as it fundamentally undermines the ability for the Zone to achieve its purpose of rural living development to approved density standards. There is no adequate justification in the decision from Council to remove the controlled activity status, and consequentially significantly reduce certainty and landowners rights. The Council can adequately address and control any adverse effects on infrastructure, landscape, amenity values, and other adverse effects through an effective controlled activity regime.
- 23 Rural living zones are sought to be included in the list of recognised non-notified subdivision activities in Chapter 27, given the strategic importance of rural living to the District.
- 24 The specific provisions of Chapter 27 and the relief sought by Ladies Mile Consortium are set out in **Appendix A** to this Appeal.

Attachments

25 The following documents are **attached** to this notice:

- (a) **Appendix A** – relief sought;
- (b) **Appendix B** - A copy of the Appellants' submissions 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 ~~1st~~^{19th} day of ~~June~~November 2018



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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).

Advice

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

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 3 Strategic Direction		
<p>Strategic policy 3.2.5.2</p> <p>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.</p>	<p>Clarify this policy does not apply to rural living zones, including the Ladies Mile area, or otherwise clarify the application of the policy</p>	<p>Clarify strategic policy 3.2.5.2 does not apply to rural living zones, including the Ladies Mile area; or</p> <p>Amend so 3.2.5.2 as follows</p> <p>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.</p>
<p>Policy 3.3.23</p> <p>Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas</p>	<p>This policy is unclear as to what it applies to – given there is no annotation on planning maps identifying areas which 'cannot absorb further change'</p>	<p>Delete policy 3.3.23 or otherwise amend to clarify what areas it is applicable to by reference to planning maps</p>
<p>Policy 3.3.24 Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character. (relevant to</p>	<p>Ensure this policy is not applicable to rural living zones as this would otherwise undermine the purpose of those zones</p>	<p>Clarify strategic policy 3.3.24 does not apply to rural living zones, including the Ladies Mile area</p>

Provision (PDP decision varied)	Reason for appeal	Relief sought
S.O. 3.2.1.8, 3.2.5.1 and 3.2.5.2		
<p>Policy 3.3.32</p> <p>Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded. (relevant to S.O. 3.2.19 and 3.2.5.2)</p>	<p>Ensure this policy is not applicable to rural living zones as this would otherwise undermine the purpose of those zones</p>	<p>Clarify strategic policy 3.3.32 does not apply to rural living zones, including the Ladies Mile area or otherwise amend the policy to better enable rural living and subdivision.</p>
<p>New policy 3.3.2x</p>	<p>The current policy 3.3.2.xx recognises the need to 'provide for rural living opportunities in appropriate locations'. This is the only positive policy which acknowledges the existence and benefits of rural living development. In light of the new objective and policy suite sought in Chapter 24, which further recognises the benefits of rural living development, it is important that this is also recognised at the strategic level. The specifics of these provisions are to be addressed further in Stage 2, however given the</p>	<p>3.3.2.xx New Policy – Recognise and provide for the amenity, social, cultural, and economic benefits of rural living development</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
	uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	
Chapter 6 Landscapes		
<p>Policy 6.3.3</p> <p>Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).</p>	<p>No provisions of the landscape category should be applicable to rural living zones as this could undermine the purpose and objective of those zones to achieve rural living</p>	<p>Amend Policy 6.3.3 as follows:</p> <p>Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated—(3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).</p>
<p>Policy 6.3.4</p> <p>Avoid urban development and subdivision to urban densities in the rural zones. (3.2.2.1, 3.2.5.1, 3.2.5.2, 3.3.13-15, 3.3.23, 3.3.30, 3.3.32).</p>	<p>Policy 6.3.4 is applicable to rural living zones. This does not take into account existing consented development which is of an urban nature, such as the Queenstown Country Club on Ladies Mile. The avoidance policy will not allow future development in areas which could be suitable for this, such as Ladies Mile in the future</p>	<p>Delete policy 6.3.4 or otherwise amend to exclude Ladies Mile from its application</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
<p>Policy 6.3.7</p> <p>Enable continuation of the contribution low-intensity pastoral farming on large landholdings makes to the District's landscape character. (3.2.1.7, 3.2.5.1, 3.2.5.2, 3.3.20)</p>	<p>Applying this policy in the rural living zones which provides primacy for farming is contrary to the purpose and objective of chapter 22, to enable rural living development.</p>	<p>Delete policy 6.3.7 or otherwise amend to exclude rural living zones and / or Ladies Mile</p>
<p>Policies 6.3.19 – 6.3.29 (managing activities in Rural character Landscapes</p>	<p>Clarify that rural living zones are excluded from assessment against these policies, or otherwise amend to enable rural living development to occur within those rural living zones, and in particular, Ladies Mile.</p>	<p>Clarify that rural living zones, and including Ladies Mile, are excluded from assessment against 6.3.19 -6.3.29, or otherwise amend those policies to ensure an efficient rural living development regime for Chapter 22 is achieved.</p>
<p>New policy 6.3.xx Rural living and development in the Wakatipu Basin</p>	<p>Provide specific policy support for rural living and development in the Wakatipu Basin, and specifically ladies mile and its distinctive development aspects. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal</p>	<p><u>New Policy 6.3.1.xx - Recognise the distinctive character of the Wakatipu Basin and the amenity benefits of rural living development in this area.</u></p>
<p>Chapter 4 Urban Development</p>	<p>The entirety of Chapter 4 and the consequence of identification of urban growth boundaries on planning maps is appealed given this chapter could materially affect landowners on Ladies</p>	<p>The entirety of Chapter 4 be placed on hold pending the outcome of Stage 2 decisions</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
	<p>Mile, who may be affected by ultimate placement of UGBs through the determination of Stage 2 of the PDP.</p>	
Chapter 22 Rural Residential and Rural Lifestyle		
<p>Policy 22.2.1.4</p> <p>Manage anticipated activities that are located near Outstanding Natural Features and Outstanding Natural Landscapes so that they do not diminish the qualities of these landscapes and their importance as part of the District's landscapes.</p>	<p>This policy is an unnecessary repetition of provisions included in Chapter 6 and is uncertain in its application as to what development constitutes being 'near' ONL / ONFs. The policy should be limited to adverse effects on views to ONLs / ONFs if it is to be retained.</p>	<p>Delete policy 22.2.1.4 or otherwise amend to clarify what is near an ONL / ONF</p>
<p>Policy 22.2.2.2</p> <p>Any development, including subdivision located on the periphery of residential and township areas, shall avoid undermining the integrity of the urban rural edge and where applicable, the urban growth boundaries.</p>	<p>This policy is unclear in its application as the urban rural edge is not defined, particularly in places like Ladies Mile where it is partly developed to an urban density and partly remains rural. This is also duplication of Chapter 4.</p>	<p>Delete policy 22.2.2.2</p>
<p>Policy 22.2.3.1</p> <p>Discourage new development that requires servicing and infrastructure at a cost to the community</p>	<p>The application of this policy is unclear, given that many infrastructure upgrades will bear some cost to the community through Council and Government contributions. This is also repetition of subdivision and development policies relevant to</p>	<p>Delete policy 22.2.3.1</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
	landowners bearing the costs of subdivision	
New Objectives and policy suite – Ladies Mile 22.2..x	Specific objectives and policies are sought in respect of Ladies Mile to recognise its importance as a gateway entrance to Queenstown and its rural residential nature. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	Insert new objectives and policies (22.2.x) which recognise and provide for the Ladies Mile gateway precinct. These policies will ensure that rural residential activities can develop in this area while recognising the importance of the SH6 functioning and reflecting existing development which has occurred on and near Ladies Mile.
Rule 22.5.12 Residential Density: Rural Lifestyle Zone 22.5.12.1 – One residential unit within each building platform 22.5.12.2 on sites less than 2ha there must be only one residential unit	There is no justification for the limitation of one unit per building platform, where in most instances building platforms are large (1000m ²) and through innovative design can lead to better outcomes in terms of provision of greater housing opportunities and a mix of housing types in the District. The submitters have also sought a different density of 4000m ² lot sizes for the Ladies Mile area. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	Amend Rule 22.5.12.1 – 12.5.12.3 to provide for two units per building platform, and a smaller density of 4000m ² lot sizes for the Ladies Mile area.
New Table 7: Ladies Mile Rural Lifestyle Zone	Provide site specific standards relevant to development in the Ladies Mile area. The specifics of these provisions are to be	Provide new Table 7 within Chapter 22 specifically to address development within the Ladies Mile area.

Provision (PDP decision version)	Reason for appeal	Relief sought
	addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	
Chapter 27 subdivision		
New objective and policy suite – Ladies Mile 27.3.x	Specific objectives and policies are sought in respect of Ladies Mile to recognise its important as a gateway entrance to Queenstown and its rural residential nature. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	Insert new objectives and policies (22.2.x) which recognise and provide for the Ladies Mile gateway precinct. And ensure subdivision in this location can be undertaken efficiently and effectively.
Rule 27.5.8 All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones	The default activity status for rural living subdivision is opposed on the basis there is no justification to remove the existing controlled activity regime. Matters of control should be reserved to those which are necessary to achieve the Chapter 22 overall purpose and objectives which are to enable rural living opportunities and maintain and enhance amenity landscape values	Amend Rule 27.5.8 to provide a default controlled activity status and refine the listed matters of control to just those necessary to achieve the Chapter 22 purpose and objectives.
Provision 27.10 – Non-Notification	Subdivision adjoining a state highway is exempted from the presumption of non-notification under 27.10(a); this will	Delete 27.10(a)

Provision (PDP decision version)	Reason for appeal	Relief sought
Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:	undermine the ability for Ladies Mile to develop in accordance with its role and function as a gateway precinct	
a. where the site adjoins or has access onto a State Highway:		

Appendix B - A copy of the Appellants' submissions and further submissions;

Appendix C - A copy of the relevant parts of the decision; and

Appendix D - A list of names and addresses of persons to be served with this notice.