

**In the Environment Court
at Christchurch**

In the Matter

of the Resource Management Act
1991 (**Act**)

And

In the Matter

of an appeal under Clause 14(1),
Schedule 1 of the Act

Between

**REMARKABLES STATION
LIMITED, DICKSON STEWART
JARDINE, JILLIAN FRANCES
JARDINE, DICKSON STEWART
JARDINE AND HGW TRUSTEES
LIMITED, JILLIAN FRANCES
JARDINE AND HGW TRUSTEES
LIMITED.**

Appellant

And

**QUEENSTOWN LAKES DISTRICT
COUNCIL**

Respondent

Notice of Appeal by **Remarkables Station Limited**, and
Dickson Stewart Jardine, Jillian Frances Jardine,
Dickson Stewart Jardine and HGW Trustees Limited,
Jillian Frances Jardine and HGW Trustees Limited
(**Jardine Family Land Partnership**) against a decision
on the Proposed Queenstown Lakes District Plan -
Stage 1

Dated: 19th of June 2018

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To: The Registrar
Environment Court
Christchurch

Notice of Appeal

1. Remarkables Station Limited (**RSL**) and Dickson Stewart Jardine, Jillian Frances Jardine, Dickson Stewart Jardine and HGW Trustees Limited, Jillian Frances Jardine and HGW Trustees Limited (**Jardine**) appeals against parts of decisions of the Queenstown Lakes District Council (**Respondent**) on the Queenstown Lakes Proposed District Plan - Stage 1 (**Proposed Plan**).
2. RSL and Jardine made a submission on the Proposed Plan. Some of the land previously owned by the relevant Jardine Family Land Partnership (Lot 6 and Lot 7 DP 452315) has subsequently been sold and is not subject to this appeal.
3. RSL and Jardine are a not trade competitor for the purposes of section 308D of the Act.
4. RSL and Jardine received notice of the Respondent's decisions on 7 May 2018.
5. The decisions were made by the Respondent by ratifying the recommendations of the Independent Hearings Panel (**Panel**).
6. The parts of the decisions that RSL and Jardine is appealing are Report 17.08 Stream 13 Mapping of Coneburn Valley, Queenstown Park and Jacks Point (**Mapping Decision**) and Report 12 Stream 4 Chapter 41 (**Chapter 41 Decision**) as they relate to the rezoning of Homestead Bay namely Lot 8 DP 443832 and Lots 1- 5 DP 452315 (**Land**) which are owned by RSL and Jardine.

General reasons for the appeal

7. The general reasons for this appeal are that the decisions fail to appropriately provide for sensitively designed residential development on the Land, including by and/or to the extent that the decisions:

- (a) do not give effect to the higher order strategic directions, objective and policies in the Proposed Plan;
- (b) do not give effect to the Otago Regional Policy Statement;
- (c) do not give effect to the National Policy Statement on Urban Development Capacity (**NPS Urban Development Capacity**);
- (d) do not represent an efficient use of land under section 7(a);
- (e) fail to achieve the functions of the Council under section 31 of integrated management of the effects of the use and development of land and physical resources;
- (f) fail to meet the requirements of section 32; and
- (g) fail to promote sustainable management of resources and will not achieve the purpose of the Act.

Particular reasons for the appeal

- 8. Without limiting the general reasons for the appeal given above the following are further and/or more particular reasons for the appeal.
- 9. RSL and Jardine specifically seek:
 - (a) rezoning of the Land to the Jacks Point Zone;
 - (b) that the Jacks Point Structure Plan be extended to cover the Land in a manner that provides for residential densities at a mix of densities interspersed by open space areas;
 - (c) extension of the Urban Growth Boundary (**UGB**) to include the entire area to be rezoned;
 - (d) increased density of development within the portion of the Land in the existing Jacks Point structure plan; and
 - (e) a number of changes to the Chapter 41 policies and rules to support the rezoning and relief contained in this appeal.

Appropriateness of the Rezoning

10. For the reasons outlined in this appeal, RSL and Jardine consider it is appropriate to rezone the remainder of the Land in accordance with the Structure Plan **attached as Appendix 1** to this appeal (or an amended version of that Plan) rather than that shown in Figure 8-9 of the Mapping Decision.
11. RSL and Jardine consider the rezoning of this Land is a logical extension of the Jacks Point Zone and the Land has ceased to play an economic or viable role in the performance of Remarkables Station as an operating farm.
12. The Panel recognised in the Mapping Decision that strategically, the Coneburn Valley is suitable for urbanisation and it would be a logical area for expansion of Queenstown long term. It considered that RSL's and Jardine's land is "*easily developed due to the topography, is well-served by roads, has high amenity values and is not within an ONL*".
13. RSL and Jardine consider the Panel erred its subsequent opinion that the Land should not be developed at this time or in the manner proposed. RSL and Jardine presented sufficient evidence available to demonstrate that its proposed relief appropriately utilises the Land. The Mapping Decision places inappropriate weight on the Panel's view on how the land should be urbanised when instead they should have assessed the relief sought in the submission.
14. The proposed rezoning assists with meeting the identified housing supply issues in Queenstown and gives effect to the NPS Urban Development Capacity (as required by section 75(30(a) of the Act) by enabling up to an additional 785 residential unit equivalents across both the Land and other land within Homestead Bay.
15. It is considered the Land has capacity to provide for further additional residential units in addition to those sought on the Structure Plan **attached as Appendix 1** without increasing adverse effects. This would further assist in meeting the identified housing supply issues. Increasing the number of residential units would better give effect to the NPS Urban Development Capacity and further utilise the urbanisation of the Land.

16. While RSL and Jardine support the amendments to Rule 41.4.5.13 to enable 39 residential units in the OSR-South, it opposes the amendment to Rule 41.4.5.14 to limit OSR-North to 10 residential units rather than the 12 sought.
17. It is considered in terms of section 32 of the Act that rezoning the land as shown on the Structure Plan **attached** as **Appendix 1** to this appeal is more a more appropriate way to achieve the objectives of the Proposed Plan than the notified Rural zoning.

Servicing

18. Contrary to the Panel's findings at paragraph 319 of the Mapping Decision sufficient evidence was available that there are appropriate wastewater disposal solutions and RSL's and Jardine's experts identified an area of land for the disposal of treated wastewater.
19. The Land can be entirely self-serviced without any assistance from the Council and access to Council-owned infrastructure can be provided.
20. The Respondent's experts agreed that the proposed storm water solution was appropriate for the proposal and RSL and Jardine considers that the concerns raised regarding the Coneburn Water Supply intake can be addressed at the regional consenting stage.

Noise Effects from the Airstrip

21. The Panel erred in its view that it did not have the necessary evidence in relation to noise effects associated with the use of the airstrip on the Land.
22. RSL and Jardine oppose Rule 27.7.5.4 set out at paragraph 378 of the Mapping Decision as Airport Noise Standard NZS 6805:1992 does not contemplate that residential activity is prohibited within the 55 dB LDN contour, rather new noise sensitive activities should be subject to a requirement to incorporate appropriate acoustic insulation to ensure a satisfactory internal noise environment.
23. Accordingly, RSL and Jardine consider that noise effects can be controlled by way of a rule to ensure that at the time of subdivision (after earthworks have been completed), contour lines are defined and appropriate steps taken to ensure an acceptable level of internal noise amenity. To ensure

this, RSL and Jardine sought that the following rule be added to the subdivision chapter:

“27.7.14.8: Following the construction of State Highway Earthworks and prior to the subdivision of Residential Activity Areas R(HB) A – C an acoustic assessment (Homestead Bay Nosie Contours) shall determine the extent of the 55dBA contour to the south of the existing air strip. Should any residential sites be located between the 55dBA contour and the airstrip the following consent notice shall be registered:

“Any residential building shall be designed to achieve an Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the Homestead Bay Noise Contours. Compliance shall be demonstrated by either installation of mechanical ventilation to achieve the requirements in Table 4 of Chapter 36 or by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open.”

24. The Panel erred in not providing for this rule mechanism to manage any noise effects associated with the airstrip and maintain amenity values while protecting the airstrip from incompatible land uses.

Access

25. In relation to traffic and access, all the traffic engineers agreed that access to the proposed rezoning could be provided and the Panel agreed at paragraph 349 of the Mapping Decision that access from either Maori Jacks Road or SH6 could be provided.

Landscape Effects

26. RSL and Jardine consider that landscape and visibility effects can be appropriately mitigated and the proposed Structure Plan, supported by the landscape assessment of Mr Espie creates a pleasant living environment for those in the proposed residential areas and does not detract from the views of the lake from SH6.
27. The proposed mounds screening Area A-C and D, are considered visually acceptable and do no compromise the current level of openness experienced from SH6.

28. Additionally, proposed zoning offers a Highway Landscape Protection Area which seeks to preserve a level of openness through Rule 41.5.4.10:

“Within the Highway Landscape Protection Area (refer Structure Plan 41.7) the planting and/or growing of any tree shall not obscure views from the State Highway to the mountain peaks beyond the zone.”

29. RSL and Jardine also agree with the Panel’s amendments to Rules 41.2.1.28 and 41.5.1.12 set out in paragraph 376 of the Mapping Decision.

Natural Hazards

30. All experts agreed that that risks posed by natural hazards can be mitigated during the development process and there is no impediment to rezoning from a natural hazards perspective.
31. The Panel accepted this position.

Chapter 41 Policies and Rules

32. RSL and Jardine agree with the Panel’s amendment to renumbered Policy 41.2.4 (notified Policy 41.2.1.26) at paragraph 130 of the Chapter 41 Decision to remove the requirement for infrastructure to be integrated and shifting the focus to the efficient provision of infrastructure which allows for the development of standalone infrastructure schemes.

Relief Sought

33. RSL and Jardine seek the following relief:
- (a) That the Land be rezoned in accordance with the Structure Plan **attached** as **Appendix 1** to this appeal subject to the Panel’s amendment to ORS-South to provide for 39 residential units.
 - (b) Or, notwithstanding the above, that the Structure Plan **attached** as **Appendix 1** be amended (with consequential amendments to the relevant density rules) to provide for further residential units in addition to those shown on the Structure Plan to more efficiently utilise the urbanisation of the Land and the Land be rezoned accordingly.

(c) That the following amendments are made to Chapter 41 (note these are drafted as amendments to the decisions version of Chapter 41):

(i) add the following policy to Chapter 41:

Provide for development within the Homestead Bay area in a way that maintains an open rural for of landscape character and visual amenity as experienced from State Highway 6.

(ii) amend Rule 41.4.4.20 as follows:

Open Space Foreshore (OSF) Activity Area

41.4.4.20 The regeneration of native endemic species and retention of open space. In the OSH, OSR, FBA and V(HD) Activity Areas, no residential units may be constructed until a revegetation plan, including species lists, planting density, and weed and pest control strategies is approved by Council for the gully area identified on the Structure Plan. This plan shall detail a five year planting programme, and a further five year maintenance plan. The goal of the programme shall be to achieve a self-sustaining colony of appropriate indigenous vegetation within ten years. There may be a walking/cycling track constructed within the gully. The plan shall commence execution within the first available planting season following its approval.

(iii) delete Rule 41.5.4.14;

(iv) amend Rule 41.5.5.3 as follows:

“Access to the State Highway

41.5.5.3 Access from State Highway 6 shall be only at the intersections at Maori Jack Road, and Woolshed Road, and Homestead Bay Access and in a third location as approved by RM160562, as shown on the Structure Plan.

(v) amend Rule 41.5.4.7 as follows:

Residential Units

~~41.5.4.7 In the OSH, OSR, and OS Activity Areas, no residential units may be constructed until 80% of the freehold land within the~~

~~Open Space Foreshore Activity Area has been planted with native endemic species.~~

No residential units shall be constructed within R(HB) D & R(HB-SH) A – C Activity Areas until Highway Mitigation Works are completed in accordance with:

(a) "Homestead Bay State Highway Earthworks", Job No. 12471, Drawing No. EW_001, Rev. B & dated Feb 17;

(b) "Landscape Berm Conceptual Layout", Ref: 1171-L1 & dated April 20, 2017;

(c) "Landscape Berm Planting Concept", Ref: 1171-L2 & dated April 20, 2017.

Only 244 residential lots, or non-residential activity that is projected to generate the equivalent traffic volumes, may be built within the Homestead Bay Area of the Jacks Point Zone and utilise Maori Jack Road.

- (vi) amend Rule 41.4.4.5 as follows:

Open Space Landscape (OSL) Activity Area

41.4.4.5 Pastoral and arable farming, endemic revegetation, and pedestrian and cycle trails. There shall be 1 residence accessory to farming activities provided for in the OSL adjacent to State Highway 6 within Lot 8 DP 443832.

- (vii) amend Rule 41.4.4.14 as follows:

41.4.4.14 OSR North

No more than ~~40~~ 12 residential units.

- (viii) amend Rule 41.5.1.1 as follows:

Density

41.5.1.1 The average density of residential units within each of the Residential Activity Areas shall be as follows:

....

R(HB)D & E 10-15 per Ha

R(HB-SH) A – C 10-15 per Ha

- (ix) amend Rule 41.5.1.2 as follows:

Building Height

41.5.1.2 The maximum height of buildings shall be:

a. Residential (R) Activity Areas 8m

b. Rural Living Activity Areas 5m

c. All other buildings and structures 4m

d. Homestead Bay R(HB-SH) A – C: The maximum height of any building shall not exceed the Registered Level directly above that point. For the purposes of this rule “Registered Level” (RL) means the height above sea level as specified on the Structure Plan 41.10.

- (x) add a new rule to Table 9 which reads as follows:

The maximum height of buildings shall be:

Open Space Residential Amenity (OSA) and Open Space Landscape (OSL) limited to one residence within Lot 8 DP 443832: 8m

- (d) That Rule 27.7.5.3 be deleted and replace with the following rule in Chapter 27:

Following the construction of State Highway Earthworks and prior to the subdivision of Residential Activity Areas R(HB) A – C an acoustic assessment (Homestead Bay Noise Contours) shall determine the extent of the 55dBA contour to the south of the existing air strip. Should any residential sites be located between the 55dBA contour and the airstrip the following consent notice shall be registered:

Any residential building shall be designed to achieve an Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the Homestead Bay Noise Contours.

Compliance shall be demonstrated by either installation of mechanical ventilation to achieve the requirements in Table 4 of Chapter 36 or by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open.

- (e) Retention of the 39 residential units in OSR South in Rule 41.4.4.13.
- (f) Any other similar, consequential, or other relief as is necessary to address the issues raised in RSL's and Jardine's appeal or otherwise raised in RSL's and Jardine's submission.

Attached Documents

34. The following documents are **attached** to this notice:
- (a) a copy of the Structure Plan as **Annexure A**;
 - (b) a copy of RSL's and Jardine's submission as **Annexure B**;
 - (c) a copy of the relevant part of the Mapping Decision and Chapter 41 Decision as **Annexure C**; and
 - (d) a list of names and addresses of persons to be served with a copy of this notice as **Annexure D**.

Dated this 19th day of June 2018



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