

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-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 **Lesley and Jerry Burdon**
Appellant

And **Queenstown Lakes District Council**
Respondent

Notice of Appeal

19 June 2018

Appellant's solicitors:
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To The Registrar
Environment Court
Christchurch

- 1 Lesley and Jerry Burdon (**Burdons**) appeal against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 The Burdons made a submission (#581) on the PDP.
- 3 The Burdons are not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 The Burdons 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 decision appealed relate to:
 - (a) Chapter 3 Strategic Direction;
 - (b) Chapter 6 Landscapes;
 - (c) Chapter 22 Rural Residential and Rural Lifestyle;
 - (d) Chapter 27 Subdivision;
 - (e) Planning map 8 – Wanaka Rural.
- 7 Reasons for appeal

Background

- 8 The Burdons own Lot 1 DP 396356, Lake Hawea (**Site**). The PDP zones the Site Rural General. This zoning is identified on Proposed Planning Map 8 – Wanaka Rural. The Burdons oppose the zoning of the Site PDP as set out in the original submission, as it does not:
 - (a) Achieve an efficient land use of the land;
 - (b) Provide for opportunities to maintain and enhance the environment through rezoning, for example through additional ecological and amenity benefits;
 - (c) Achieve the higher order provisions of the PDP, or the operative or proposed Regional Policy Statement (**RPS**);
 - (d) Achieve section 32 or Part 2 of the Act.

- 9 For these reasons, the Burdons seek a site specific zoning be included within Chapter 22 (**The Glen Dene Rural Lifestyle Zone**) which provides for limited further subdivision and development as well as a suite of site-specific objectives, policies, and rules, which recognise site-specific resource management issues and ensure a more effective long term management regime for the land.
- 10 General relief sought in respect of higher order provisions of the Plan are set out in **Appendix A**. A site specific landscape plan, which could be included as a Structure Plan within Chapter 22 / Chapter 27 for the proposed Glen Dene Rural Lifestyle Zone is included in this Appeal as **Appendix B**.

Chapter 3 Strategic Direction

- 11 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 the Burdons' interests are affected by Chapter 3.
- 12 Significant changes to content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. The Burdons therefore consider that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 13 The Burdons oppose 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.
- 14 The specific provisions of Chapter 3 and the relief sought by the Burdons are set out in **Appendix A** to this Appeal.

Chapter 6 Landscapes

- 15 The Burdons oppose 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.
- 16 The Burdons seek in particular to clarify that provisions of Chapter 6 are not applicable to the Rural Lifestyle and Rural Residential Zones of Chapter 22.
- 17 The specific provisions of Chapter 6 and the relief sought by the Burdons are set out in **Appendix A** to this Appeal.

Chapter 22 Rural Residential and Rural Lifestyle

- 18 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, as set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision

- 19 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 Burdons oppose 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.
- 20 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.
- 21 The specific provisions of Chapter 27 and the relief sought by the Burdons are set out in **Appendix A** to this Appeal.

Section 32 Analysis

- 22 Key resource management issues relevant to this zoning are whether the proposed rezoning is consistent with the identification of the land as ONL, whether those parts of the site with less ability to absorb change are protected from inappropriate development, whether zoning can give great protection to ecological values. In summary, those identified issues are met in respect of this rezoning through:
- (a) Enabling rural living development in appropriate locations whilst specific provisions are included in the plan to ensure any adverse effects on landscape values and amenity values of the Outstanding Natural Landscape are avoided, remedied or mitigated
 - (b) The protection of vast areas of the site considered the most sensitive to change from a landscape perspective from development. The area in which development may occur is limited to five specified areas (including the existing house).
 - (c) Encouraging the protection and regeneration of indigenous vegetation throughout the site enhancing natural character. The proposed zone

change is considered to be the most appropriate option to address the identified resource management issue when considered against the alternatives. The proposal is consistent with the purpose of the Act and aligns with existing and proposed Regional Policy Statement and the provisions of the Proposed District Plan. The effects on the environment as a result of the zone change are addressed under the cost and benefit analysis above and are assessed as minor.

General Relief

23 The Burdons seek the relief attached, or seek alternative, consequential, or necessary additional relief to that set out in this appeal and to give effect to the matters raised generally in this appeal and the Burdons' PDP submission.

Attachments

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

- (a) **Appendix A** – relief sought;
- (b) **Appendix B** – Proposed rezoning plan Glen Dene Rural Lifestyle Zone;
- (c) **Appendix C** - A copy of the Appellant's submission;
- (d) **Appendix D**- A copy of the relevant parts of the decision; and
- (e) **Appendix E** - A list of names and addresses of persons to be served with this notice.

Dated this 19th day of June 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.