

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-

Under the Resource Management Act 1991

In the matter of an appeal under clause 14(1) of Schedule 1 of the RMA in
relation to Stage 3 of the Queenstown Lakes Proposed District
Plan

Between **Chard Farm Limited**

Appellant

And **Queenstown Lakes District Council**

Respondent

Notice of Appeal

21 May 2021

Appellant's solicitors:

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To: The Registrar
Environment Court
Christchurch

- 1 Chard Farm Limited (**Chard Farm**) appeals against part of the decision of Queenstown Lakes District Council on Stage 3 of the Queenstown Lakes Proposed District Plan (**PDP**).
- 2 Chard Farm made submission #3299 on Stage 3 of the PDP.
- 3 Chard Farm is not a trade competitor for the purpose of section 308D of the RMA.
- 4 Chard Farm received notice of the decision on 1 April 2021.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decision appealed relate to:
 - (a) Chapter 39 Wāhi Tūpuna; and
 - (b) The Wāhi Tūpuna overlay detailed in Schedule 39.6 and identified on the PDP planning map.
- 7 The reasons for appeal and general relief sought by Chard Farm are summarised below.

Reasons

- 8 Chard Farm owns land at 205 Chard Farm Road within the Gibbston Character Zone (**GCZ**), operated as a vineyard, winery and cellar door and held in certificates of title 616264, 616263, 35069 and 35068 (**Land**).
- 9 Part of the Land is within Wāhi Tūpuna overlay 24: Kawarau River.

Extent of Wāhi Tūpuna Overlay 24

- 10 The portion of the Kawarau River Wāhi Tūpuna overlay which extends over the Land does not appear to serve any material purpose and should be realigned to the "edge" of the Kawarau River as delineated by the private property boundaries.

Application of Wāhi Tūpuna to the Gibbston Character Zone

- 11 In its recommendations to QLDC the Independent Hearings Panel considered that urban zoned land within the Wāhi Tūpuna overlay should

be treated differently from non-urban land, in that the earthworks and subdivision rules should not apply to urban land.

- 12 Land within the Wāhi Tūpuna overlay in the GCZ should be treated the same way as urban land. The GCZ is a small scale bespoke zone catering to commercial viticulture activities and ancillary retail and industrial activities. It has a distinct purpose from the rural and rural-living zones of the district, and is not enabling of subdivision. In this sense it is more similar in nature to urban zoned land than non-urban land. As such it is appropriate that the earthworks and subdivision rules not apply to land in the GCZ.
- 13 Further, activities undertaken in the GCZ that trigger the Wāhi Tūpuna provisions, such as the earthworks rules, are likely to be necessary for operational reasons. Requiring compliance with an additional layer of consenting is burdensome for viticulture operators and at odds with the purpose of the GCZ to promote viticulture activities.

Notification

- 14 Chard Farm considers that given that the focus on the Wāhi Tūpuna Chapter is ensuring effects on the cultural values of Manawhenua are considered, notification of activities which trigger rules in Chapter 39 and associated Wāhi Tūpuna provisions in other chapters should be restricted to limited notification on Manawhenua only. When an assessment specifically concerns effects on Manawhenua public notification is not required and not appropriate.

Policies 39.2.1.3(a) and (b)

- 15 Policy 39.2.1.3(a) duplicates unnecessarily the policy direction already provided by the provisions in Chapters 3 and 5 and other PDP Chapters, particularly policies 3.3.33, 3.3.34 and 5.3.5.5.
- 16 Policy 39.2.1.3(b) is uncertain and potentially wide reaching in effect. It is at odds with the approach of Chapter 39 of identifying Wāhi Tūpuna overlays and scheduling their specific values and threats.

Relief Sought

- 17 Chard Farm seeks the following relief:
 - (a) Amend the PDP planning map to remove Wāhi Tūpuna overlay 24 from the Land by realigning the boundary of the overlay with the edge of the Kowarau River, at the property boundary of the Land;

- (b) Amend the provisions of Chapter 39 and related provisions of Chapters 25 and 27 to remove the application of the Wāhi Tūpuna earthworks and subdivision rules from land within the overlay zoned Gibbston Character Zone;
- (c) Introduce a non-notification provision to Chapter 39, and amend the non-notification provisions in Chapter 25 and Chapter 27, to restrict notification of activities requiring consent under Chapter 39 and/or the related Wāhi Tūpuna provisions to notification to Manawhenua, i.e. prevent public notification;
- (d) Delete policies 39.2.1.3(a) and 39.2.1.3(b); and
- (e) Otherwise delete or amend the provisions of Chapter 39 and related Wāhi Tūpuna provisions in other chapters as necessary to give effect to the relief sought in this appeal.

Further and consequential relief

- 18 Chard Farm seeks alternative, consequential, or necessary additional relief to that set out in this appeal to give effect to the matters raised generally in this appeal or such other changes that give effect to the outcomes sought in the Chard Farm submission.

Attachments

- 19 The following documents are attached to this notice:
- (a) **Appendix A** – A copy of Chard Farm's submission #3299;
 - (b) **Appendix B** - A copy of the decision appealed; and
 - (c) **Appendix C** – A list of names and addresses of persons to be served with this notice.

Dated this 21st day of May 2021



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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.