

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2024] NZEnvC 134

IN THE MATTER

of the Resource Management Act 1991

AND

an appeal under cl 14 of Schedule 1 of
the Act

BETWEEN

**WATERFALL PARK
DEVELOPMENTS LIMITED**

(ENV-2019-CHC-90)

Appellant

AND

**QUEENSTOWN LAKES DISTRICT
COUNCIL**

Respondent

Court: Environment Judge J J M Hassan
Environment Commissioner M C G Mabin

Hearing: In Chambers

Last case event: 14 May 2024

Date of Decision: 7 June 2024

Date of Issue: 7 June 2024

**THIRD DECISION OF THE ENVIRONMENT COURT
Stage 2: Topic 31 – Ayrburn**

A: A Modified WBRAZ is the most appropriate zoning outcome for the part
of the site known as Ayrburn Farm.

B: Queenstown Lakes District Council is to provide a full set of updated



provisions for the court's approval (including any maps) for the purposes of making an update to the PDP. This is to be filed within **20 working days** from the date of this decision.

C: Costs are reserved, and a timetable is directed.

REASONS

Introduction

[1] This decision is on Topic 31 in Stage 2 of the review of the Queenstown Lakes District Plan ('PDP'). It concerns an appeal by Waterfall Park Developments Limited ('WPDL') against decisions by Queenstown Lakes District Council ('QLDC') in relation to the PDP.

[2] WPDL owns land at 343 Arrowtown Lake Hayes Road ('Site'). Its appeal sought an extension to the mapped boundaries of the Arrowtown Urban Growth Boundary ('Arrowtown UGB') towards and including part of the Site, and change to the zoning of the Site from Wakatipu Basin Rural Amenity Zone ('WBRAZ') to a mix of zonings.¹

[3] WPDL's relief was opposed by QLDC. Various aspects were opposed by the s274 parties to the appeal. Those s274 parties included James and Rebecca Hadley ('Hadleys').

Interim decision

[4] In an interim decision, the court finally determined some aspects of the appeal to the effect that:

(a) the Arrowtown UGB is to remain unchanged; and

¹ As discussed in *Waterfall Park Developments Ltd v Queenstown Lakes District Council* [2023] NZEnvC 207 ('interim decision').

- (b) Waterfall Park Zone is confirmed for the portion of the Site known as Ayrburn Domain, subject to the various provisions specified in that decision (with associated directions for QLDC to update the PDP, including the planning maps and the mapped boundaries of LCU 23 and LCU 8 in PDP Sch 24.8).

[5] The balance of the Site is known as Ayrburn Farm. For this part, the interim decision rejected some of the zoning options put forward, leaving for determination whether the most appropriate zoning outcome should be either WBRAZ or WBRAZ subject to some modifications as discussed in the decision ('Modified WBRAZ'). The interim decision included directions for WPDL to file a memorandum to advise whether or not it wished to pursue a Modified WBRAZ option for Ayrburn Farm.²

Second decision

[6] The court considered WPDL's preference for a Modified WBRAZ and responses to directions. The second decision was issued on this matter on 22 April 2024,³ with the court finding that with the exception of proposed Obj 27.3.25, the updated set of provisions dated 8 December 2023 ('8 December version') reflected the findings in the interim decision concerning a Modified WBRAZ zoning outcome, subject to the following:

- (a) amendments to Pol 27.3.25.2;
- (b) deletion of proposed r 27.7.xx.2(i) and its replacement with Pol 27.3.25.11; and
- (c) consequential changes to Sch 24.8 LCU 8.

[7] Directions were made for supplementary submissions on the final wording

² Interim decision at [140(a)].

³ *Waterfall Park Developments Ltd v Queenstown Lakes District Council* [2024] NZEnvC 087 ('second decision').

of Obj 27.3.25 and/or possible Pol 27.3.25.11. Leave was reserved for final determination of whether Modified WBRAZ or unmodified WBRAZ is the most appropriate zoning outcome. Responses by memorandum were filed on behalf of QLDC and the Hadleys. Counsel informed the court that WPDL has nothing further to add.

Objective 27.3.25

[8] QLDC advises that in the event that the court finds that a Modified WBRAZ outcome is appropriate, it supports the wording of Obj 27.3.25 as the court proposed in the second decision:

Subdivision that provides for limited rural living, provided landscape character, visual amenity values and ecological and water quality values are maintained or enhanced.

[9] QLDC agrees that it is important for there to be policy differentiation between the Lifestyle Precinct and any areas of Modified WBRAZ. QLDC considers the amended wording proposed by the court would achieve that end, by introducing a more directive requirement relative to the outcomes sought to be achieved for any subdivision (which was not provided by the words “have particular regard to”).

[10] The Hadleys endorse the drafting suggested by the court.

[11] We confirm the objective wording.

Policy 27.3.25.11

[12] QLDC understands and agrees with the court’s reasoning for the deletion of WPDL’s proposed Pol 27.7.x.x.2(i) and supports the introduction of a replacement policy.

[13] With reference to the provisional wording set out in the second decision,

QLDC has reflected on the other policies proposed by WPDL in their 8 December version provisions. QLDC notes that proposed Pol 27.3.25.3 addresses the Open Space Activity Area, which raises the potential to incorporate new Pol 27.3.25.11 with that policy, for example:

Avoid buildings within Activity Area OS, as identified on the Ayrburn Structure Plan, and provide for the consistent and integrated management of Activity Area OS.

[14] However, QLDC considers that the introduction of a standalone new policy may be clearer overall.

[15] The Hadleys endorse the drafting suggested by the court.

[16] We approve QLDC's suggested policy wording.

WBRAZ or modified WBRAZ

[17] Leave was reserved for final determination of whether Modified WBRAZ or unmodified WBRAZ is the most appropriate zoning outcome for Ayrburn Farm. The second decision indicated that if no parties sought to make submissions on the wording of Obj 27.3.25 and/or possible Pol 27.3.25.11, it could be anticipated that a Modified WBRAZ outcome including those provisions will be confirmed.⁴

[18] We find a Modified WBRAZ is the most appropriate zoning outcome for the part of the Site known as Ayrburn Farm.

Outcome

[19] The Site known as Ayrburn Farm is to be Modified WBRAZ according to

⁴ Second decision, at [51(a)].

our decisions' describe.

[20] QLDC is to provide a full set of updated provisions for the court's approval (including any maps) for the purposes of making an update to the PDP. This is to be filed within **20 working days** from the date of this decision.

[21] The Hadleys and QLDC have sought a costs timetable. As signalled in the second decision, a timetable is directed as follows:

- (a) any application for costs shall be made within **14 days**;
- (b) any opposition is to be filed within a further **7 days**; and
- (c) any reply is to be lodged with a further **7 days**.

For the court



J J M Hassan
Environment Judge

