

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUHAHI**

ENV-2024-CHC-054 – 057, 059 - 070

UNDER

the Resource Management Act 1991

**IN THE MATTER
OF**

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

**AND IN THE
MATTER OF**

an application under section 281 for waiver
of the time period for filing a notice of
appeal

**APPLICATION FOR WAIVER OF TIME TO FILE AN APPEAL ON
DECISIONS BY THE QUEENSTOWN LAKES DISTRICT COUNCIL ON
THE PRIORITY AREA LANDSCAPE SCHEDULES VARIATION TO THE
PROPOSED DISTRICT PLAN**

1ST OCTOBER 2024

Form 38
Application for waiver or directions

Section 281, Resource Management Act 1991

**TO: The Registrar
 Environment Court
 Christchurch**

AND TO: The Respondent (Queenstown Lakes District Council)

1 **Arthurs Point Outstanding National Landscape Society Incorporated** (“APONLS”) applies for a waiver under Section 281 RMA in respect of the time period for filing an appeal under Schedule 1 RMA, Clause 14(4) (“Appeal”).

2 The Appeal relates to the decision by Queenstown Lakes District Council (“QLDC”) on the Priority Area Landscape Schedules Variation (“Variation”) to the Proposed District Plan (“PDP”), released on 21 June 2024 (“the Variation Decision”).

3 APONLS is a s274 party to the following proceedings on appeal from the Decision:

Gertrude’s Saddlery Limited v Queenstown Lakes District Council ENV-2024-CHC-056, being Gertrude Saddlery Limited’s appeal (“GSL”) on the Variation Decision (“the GSL Variation Appeal”)

4 APONLS seeks a waiver of the time period for filing its Appeal as provided under Schedule 1 RMA, Clause 14(4), **on the following grounds:**

4.1 Background:-

- (a) Our interest in the Variation Decision relates to two Priority Areas (“PAs”): the West Wakatipu Basin PA and the Kimiākau Shotover River PA and in particular the land area at Atley Road shown at paragraph 15 of our Appeal (“the subject land”).
- (b) The Society was formed in 2018 to protect the internationally recognised outstanding natural landscape (“ONL”), outstanding national features and amenity that the members of APONLS enjoy as residents of Arthurs Point. The Society’s members are concerned that, if unchecked, insensitive development at Arthurs Point will not only ruin the ONL and compromise the Shotover River (as an outstanding natural feature) but will severely compound the problems we already see with our over-stretched local transport network and infrastructure.
- (c) The vast majority of our members live or work locally in Arthurs Point and so the adverse effects of inappropriate development are felt everyday. As such our interest in the area that is greater than that of the general public.

4.2 Explanation for our delay:-

- (a) Being an incorporated society group of layman landowners and local community members, we operate with very limited resources in terms of funds and time and specialist expertise. We do what we can as a group

while working our jobs and careers and spending time with our families. We also we rely on advice from professional advisors when it comes to navigating the QLDC Proposed District Plan hearings, variations and appeal processes, but we can't afford to get professional advisors to help us on every "front" that has opened up in relation to the Arthurs Point ONL.

- (b) In terms of "fronts", APONLS is involved as a s274 party in the following proceedings that relate to the Arthurs Point area:

Gertrude's Saddlery Limited v Queenstown Lakes District Council
ENV-2023-CHC-088

Which is GSL's appeal against the QLDC decision to (amongst other things) decline GSL's rezoning request at 111 Atley Road, Arthurs Point ("GSL Rezoning Appeal"). A large part of this appeal concerns whether or not areas of the Arthurs Point are ONL.

Gertrude's Saddlery Limited v Queenstown Lakes District Council
ENV-2022-CHC-063

This is declaration proceedings filed by GSL in relation to the Variation.¹

- (c) We have legal counsel and a planning expert engaged for the above two proceedings, but in the interests of trying to keep our members' costs to a minimum we do not have legal counsel instructed in relation to the Variation.
- (d) We have been managing the Variation process ourselves, starting from the feedback phase in 2020. APONLS made a submission (#122) and a further submission (#241) on the Variation, and participated at the hearing, and called evidence (including expert evidence). We have been helped by our planning expert along the way as well.
- (e) We filed a s274 notice on the GSL Variation Appeal on time (Monday 26 August). We then continued to focus our attention and efforts on the upcoming mediation for the GSL Rezoning Appeal.
- (f) After the GLS Rezoning Appeal mediation day on 22 August, we realised there may be more to the Variation appeals than we thought.
- (g) Our members have found the Variation process incredibly overwhelming and we have concerns that we might not understand everything that is happening, not only in the documentation but also in the processes. For example, The Variation Decision says that the Panel *has no jurisdiction to consider or make recommendations on the PA, ONF, ONL and RCL mapping amendments proposed in submissions and further submissions.*² But then in the same paragraph the Variation Decision says *a number of the mapping submissions have very helpfully assisted us with clarification of the application of the PA Schedules to non-Rural zoned land and, in some cases, will lead to minor adjustments through the Council's proposed clause 16 process.*
- (h) Then, the GSL appeal states: *the Respondent has not yet undertaken the clause 16 correction of the Shotover River PA boundary. Until the clause*

¹ These Declaration Proceedings were placed on hold in December 2023.

² Variation Decision, at paragraph 68.

16 correction is undertaken, and not subject to any challenge, the Appellant appeals the Decision on the findings in respect of the mapping of the boundary of the Shotover River PA and the Shotover River ONF as it relates to the Appellant's land – namely that the Decision erred in its finding there was no jurisdiction in the Variation process to make changes to priority area or ONF boundaries.³

- (i) And now on reflection we feel nervous about not having our own Appeal, which asks for different relief to GSL, in the mix. It seems obvious the topic is an important one because GSL has filed its own appeal and we now feel we should have done the same.
- (j) We filed the Appeal on Friday 27 September and in our email to the Registrar we said we understood the court may require a waiver for late filing and that we would produce that in due course. We then contacted a lawyer on Friday afternoon to help us understand what an application for waiver of time needs to include.
- (k) The Registrar replied on Monday 30 September to say that our appeal could not be processed until an Application for Waiver of Time was provided. We have, with some assistance from the lawyer, prepared this Application for Waiver document without further delay and in the hopes that the Court may consider it alongside the QLDC's case management memorandum also filed today.
- (l) We have been participating in the QLDC PDP process and various appeals and litigation for over six years now. It has been an incredibly costly and fatiguing process. While we have tried to be economical and effective in our approach to the different "fronts", we are now very concerned about the implications of not having standing to be involved in this process.

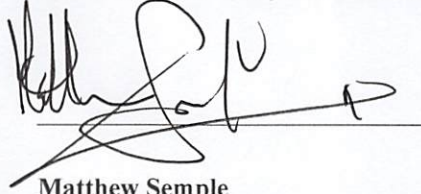
4.3 Despite the time that has passed since the appeal deadline, we believe there will be no disadvantage to other parties:-

- (a) Only three parties made further submissions that opposed the APONLS original submission on the Variation. Two of those parties have filed their own appeals: GSL, and Catherine and Christopher Phoon. The third party was Arthurs Point Trustees Limited ("APTL").
- (b) Because we are a s274 party to the GSL Variation Appeal we have been receiving the QLDC lawyer's emails about case management matters. The draft memorandum QLDC circulated on Wednesday 18th September states that no mediation time is available until the first quarter of 2025.
- (c) So there is time for APTL or any other interested person to join as a s274 party to our Appeal without causing delay to the progression of the Variation Decision appeals.

³ GSL Variation Appeal, at paragraph 25.

- 5 We respectfully request that our application for waiver of time to file our Appeal on the Variation Decision be accepted.

Dated this 1st day of October 2024

A handwritten signature in black ink, appearing to read 'Matthew Semple', written over a horizontal line.

Matthew Semple

The Treasurer

ON BEHALF OF Arthurs Point Outstanding National Landscape Society Incorporated

Address for Service for Arthurs Point Outstanding National Landscape Society Incorporated

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