

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2019-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	The Crown Investment Trust
	Appellant
And	Queenstown Lakes District Council
	Respondent

Notice of Appeal

7 May 2019

Appellant's solicitors:

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To The Registrar
Environment Court
Christchurch

- 1 The Crown Investment Trust (**CIT**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 CIT made a submission (#2307) on Stage 2 of the PDP. CIT is the successor of the Stage 1 submission (#761) and further submission (#1150) made by ORFEL Limited, the previous owners of the land the subject of this appeal.
- 3 CIT is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 CIT received notice of the decision on 21 March 2019.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 6 Landscapes;
 - (b) Chapter 24 Wakatipu Basin Variation;
 - (c) Chapter 27 Subdivision;
 - (d) Planning Maps 13d and 31;
 - (e) Visitor Accommodation Variation.
- 7 The reasons for appeal are summarised below. The specific provisions and the relief sought by CIT are set out in **Appendix A** to this appeal.

Background

- 8 CIT owns land located south of Fitzpatrick Road and north of the Shotover River, legally described as Lot 1 DP 476877, held in Certificate of Title 660779 (**Land**).
- 9 In Stage 1 of the PDP the majority of the Land was notified as Rural, with the upper northern part of the Land notified as Rural Lifestyle. ORFEL made a submission on Stage 1 of the PDP, seeking that the majority of the Land be rezoned to Rural Lifestyle Zone.
- 10 The Land was included in the Stage 2 Wakatipu Basin Variation (**Variation**) and the majority of the Land was zoned Wakatipu Basin Lifestyle Precinct (**WBLP**),

with the small remainder bordering the Shotover River classified Outstanding Natural Landscape. The Land was identified in Schedule 24.8 as part of Landscape Character Unit (**LCU**) 2 Fitzpatrick Basin.

- 11 The Decision on the Variation rezoned the majority of the Land to Wakatipu Basin Rural Amenity Zone (**WBRAZ**).

Chapter 6 Landscapes

- 12 CIT supports in principle the Stage 2 Variation to the provisions of Chapter 6, in so far as they clarify and confirm that the Outstanding Natural Feature, Outstanding Natural Landscape, and Rural Character Landscape categories (**Landscape Categories**) and associated policies of Chapter 6 do not apply to the WBRAZ, including the WBLP.
- 13 However, CIT considers there is merit in retaining in some form the deleted provisions of Chapter 6 which expanded on the relationship between the Landscape Categories and the various rural zones, including the WBRAZ.
- 14 As part of Stage 1 of the PDP, Chapters 3 and 6 are currently before the Court and have been subject to significant re-write through mediation and expert conferencing. CIT considers that following decisions from the Court on Topics 1 and 2 of Stage 1 of the PDP, and as the relationship between the Landscape Categories and the WBRAZ is further clarified, additional amendments to Chapter 6 may be required in respect of the policies that apply to the WBRAZ.
- 15 The specific provisions of Chapter 6 and the relief sought by CIT are set out in **Appendix A** to this Appeal.

Chapter 24 Wakatipu Basin

- 16 CIT is generally opposed to the Variation in its entirety, and seeks in the first instance that the Variation be withdrawn and its Stage 1 relief be considered.
- 17 The provisions of Chapter 24, together with the subdivision regime for the Basin set out in Chapter 27, create an unnecessarily restrictive regime for development and land use that unreasonably limits landholders' rights, and does not sufficiently provide for or enable the social, economic and cultural benefits of rural living development.
- 18 In particular, the rules regarding building rights are overly restrictive. CIT considers that all buildings for residential activities within the WBLP should be permitted, while any building for residential activities within the remainder of the WBRAZ should be permitted when construction occurs within an approved building platform. The WBLP has been identified as having a higher capacity to absorb further development than the remainder of the WBRAZ, and as such

rural living development should be enabled in this area. Similarly, where development has been contemplated and provided for through the approval of a building platform, it is unreasonable to require further resource consent if all building standards are complied with. The standards within Chapter 24 regarding building coverage, height and setbacks are considered to be (subject to further amendments proposed in this appeal) appropriate tools to ensure development occurs in a manner that maintains or enhances landscape character and amenity values, without the need for further consent.

- 19 The specific provisions of Chapter 24 and the relief sought by CIT are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 20 The subdivision regime proposed for the Wakatipu Basin is opposed. The change in the default activity status of subdivision from controlled in the ODP (for rural living zones) to restricted discretionary for the Wakatipu Basin is a significant change in the approach to management of subdivision, which introduces a level of uncertainty that is inconsistent with the higher order chapters of the PDP and Part 2 of the Act. Coupled with minimum lot sizes and the inclusion in Chapter 24 of restrictive standards on building size and coverage, height and setbacks, the regime is considered too restrictive on the building rights of landholders in the Wakatipu Basin.
- 21 The minimum lot density introduced for the WBRAZ is arbitrary and does not reflect existing landholdings. A minimum lot density of 80ha is illogical and unworkable, and will result in ineffective land use and wasted development opportunities, whilst not guaranteeing protection of landscape character and amenity values. An 80ha minimum is too large to be reasonably maintained as a rural lifestyle block, while being too small to be farmed economically. It ignores the potential for much of the Basin to be sensitivity and appropriately developed.
- 22 The specific provisions of Chapter 27 and the relief sought by CIT are set out in **Appendix A** to this Appeal.

Planning Maps 13d and 31

- 23 CIT opposes the Variation in its entirety, and in the first instance seeks that the Land be rezoned RLZ in accordance with its Stage 1 submission.
- 24 In the alternative, CIT opposes the zoning of the Land as WBRAZ, and seeks that the Land be rezoned to WBLP as notified. CIT also opposes the inclusion of the Land in LCU 3 Shotover River Terrace, and seeks that the Land be re-included in LCU 2 Fitzpatrick Basin, as notified.

- 25 The Fitzpatrick Basin has a mixed rural lifestyle/rural residential character. This character also applies to the land extending to and bordering the north of the Shotover River – established rural lifestyle and rural residential development is evident in this area. There is no definitive difference in the topography and landscape character of the land south of Fitzpatrick Road that justifies the amendment to the LCU boundaries recommended by the Independent Commissioners, to remove this land from LCU 2 and include it in LCU 3. As such, CIT considers the appropriate classification of the Land and the surrounding area is within LCU 2.
- 26 Zoning the Land as WBRAZ ignores the capacity of the Land to absorb additional development that is sensitive and well designed. It is considered that appropriate development can occur on the Land to WBLP densities, whilst maintaining landscape character and amenity values, through reliance on the building standards for coverage, height, and particularly setbacks from Escarpments, Ridgeline, and River Cliff Features. Zoning the land as WBRAZ therefore prevents the opportunity for reasonable land use in the future, ignoring the economic wellbeing of the landowner, and resulting in ineffective land use generally.
- 27 It is noted that at the Council hearing the Independent Commissioners were not presented with submissions or evidence supporting the relief sought by Mr Hardley (submitter #2440) to rezone the Land to WBRAZ. Council's experts initially agreed with the WBLP zoning, later providing supplementary landscape evidence in the alternative. CIT did not have the opportunity to present submissions or evidence on the potential rezoning of the Land to WBRAZ.
- 28 The specific amendments sought to the planning maps to classify the CIT land as WBLP are set out in **Appendix A** to this Appeal.

Visitor Accommodation Variation

- 29 CIT opposes the Visitor Accommodation Variation which introduces overly restrictive rules for Residential Visitor Accommodation (**RVA**) and Homestays within the WBRAZ, particularly the WBLP.
- 30 CIT considers that due to the generally high capacity of the WBLP to absorb appropriate additional development, and the predominantly rural residential character of the WBLP, RVA and Homestay activities can be accommodated whilst maintaining landscape character and rural residential amenity values. Further, given the WBLP is predominately rural residential in character, reverse sensitively effects from farming and other non-residential activities are not likely to arise.

- 31 CIT considers that RVA and Homestay activities within the WBLP beyond 90 nights per 12 month period should be a controlled activity, in line with the activity status in the remainder of the WBRAZ.
- 32 Enabling RVA and Homestay activities within the WBRAZ and WBLP supports the social, cultural and economic needs of both residents and visitors of the Wakatipu Basin.
- 33 The specific provisions of Chapter 24 (Visitor Accommodation Variation) and the relief sought by CIT are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 34 CIT opposes any further provisions and 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 CIT submissions.

Attachments

- 35 The following documents are **attached** to this notice:
- (a) **Appendix A** – Relief sought;
 - (b) **Appendix B** – A copy of the Appellant's submission and further submissions;
 - (c) **Appendix C** - A copy of the relevant parts of the decision; and
 - (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 7th day of May 2019

Maree Baker-Galloway

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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).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.