

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

IN THE MATTER of the Resource Management Act 1991

AND of an application for waiver and
directions under s 281 of the Act

BETWEEN QUEENSTOWN LAKES DISTRICT
COUNCIL

(ENV-2021-CHC-14)

Applicant

MINUTE OF THE ENVIRONMENT COURT
(1 April 2021)

Introduction

[1] The Registrar has referred to me the notice of motion for the Queenstown Lakes District Council ('Council') dated 25 March 2021 seeking directions on potential appeals on Stage 3 and 3B of the proposed Queenstown Lakes District Plan Review ('PDP'/'Stage 3').

[2] The Council has confirmed it intends to publicly notify its decisions on Stage 3 on 1 April 2021. This would mean the appeal period ends on 18 May 2021, with the s274 period ending 16 June 2021. Any potential appellants and s274 parties should note that the filing fee for lodging an appeal is \$511.11 and there is no filing fee for joining an appeal under s274. The filing fees on the court website relate to proceedings that commenced with the Council post-September 2017.

[3] The notice of motion has been filed (essentially being the same approach taken in Stages 1 and 2) to:

QLDC Stage 3 – notice of motion



- (a) provide information to the court on the PDP process so far, including an outline of the content of, and Council hearings for, Stage 3;
- (b) indicate the Council's preliminary thoughts on options for the case management of the Stage 3 appeals (including potential grouping of appeals into topics, and other procedural matters); and
- (c) seek, pursuant to s281 of the RMA, various waivers and directions that may assist to streamline the filing and service of any notices of appeal, s274 notices, and any other court documentation relating to these appeals.

[4] The Council anticipates there to be the following nine topics in Stage 3, the details being similar to those at the Council level (with the opportunity to break them into sub-topics once the specific appeal points are known):

- (a) **Wāhi Tūpuna (Chapter 39)** and variations to the following Stage 1 and 2 chapters: Definitions (Chapter 2), Tangata Whenua (Chapter 5), Queenstown Town Centre (Chapter 12), Wānaka Town Centre (Chapter 13), Arrowtown Town Centre (Chapter 14), Local Shopping Centre (Chapter 15), Business Mixed Use (Chapter 16), Earthworks (Chapter 25), Historic Heritage (Chapter 26), Subdivision and Development (Chapter 27), Transport (Chapter 29), and Energy and Utilities (Chapter 30);
- (b) **General Industrial Zone (Chapter 18)** and variations to the following Stage 1 and 2 chapters: Earthworks (Chapter 25), Subdivision and Development (Chapter 27), Transport (Chapter 29), Signs (Chapter 31) and Noise (Chapter 36);
- (c) **Three Parks Commercial and Three Parks Business (Chapters 19A and 19B)** and variations to the following Stage 1 and 2 chapters: Lower Density Suburban Residential (Chapter 7), High Density Residential (Chapter 9), Business Mixed Use (Chapter 16), Earthworks (Chapter 25), Subdivision and Development (Chapter



- 27), Signs (Chapter 31) Energy and Utilities (Chapter 30);
- (d) **Settlement Zone (Chapter 20)** and variations to the following Stage 1 and 2 chapters: Definitions (Chapter 2), Strategic Direction (Chapter 3), Urban Development (Chapter 4), Lower Density Suburban Residential (Chapter 7), Local Shopping Centre Zone (Chapter 15), Rural (Chapter 21), Rural Residential and Rural Lifestyle (Chapter 22), Earthworks (Chapter 25), Subdivision and Development (Chapter 27), Transport (Chapter 29), Signs (Chapter 31), Noise (Chapter 36), and Open Space and Recreation Zones (Chapter 38);
- (e) **Rural Visitor Zone (Chapter 46)** and variations to the following Stage 1 and 2 chapters: Earthworks (Chapter 25), Subdivision and Development (Chapter 27), Signs (Chapter 31), and Noise (Chapter 36);
- (f) **101 Ballantyne Road zoning** at the former oxidation pond site in Wanaka;
- (g) **Arthur's Point zoning** and variations to the following Stage 1 chapter: High Density Residential (Chapter 9) on and adjoining land zoned Rural Visitor Zone in the ODP;
- (h) **Variations and plan maps** (Variations to the following Stage 1 and 2 Chapters and plan maps: Open Space and Recreation Zone (variation to Chapters 29, 36 and 38); Glare (variations to Chapters 7-9 and 12-16); Firefighting water supply (variation to Chapters 21-24 and 38), Wānaka Medium Density Residential Zoning; Frankton Road Height Controls (variation to planning maps 31A, 32 and 37)); and
- (i) **Design Guidelines for the Business Mixed Use and Residential Zones (applies to Chapters 7, 8, 9 and 16).**

[5] As with Stages 1 and 2, the Council will undertake a number of tasks immediately after any appeals (and associated s274 notices) are served, specifically:



- (a) review all notices of appeal (and associated s274 notices) to identify the relevant topics covered by each notice of appeal (and s274 notice);
- (b) identify whether further particulars are required in relation to certain appeals so that the Council will be able to formulate a position on those appeal points;
- (c) identify the parts of the PDP that are subject to appeal or are beyond challenge (and therefore deemed operative in terms of s86F of the RMA). This step involves preparation and maintenance of an Appeals Version of the PDP chapters and an electronic plan viewer identifying land subject to site specific appeals; and
- (d) identify and advise the court of any jurisdictional issues that should be addressed prior to or alongside any mediation.

[6] The Council also anticipates filing a memorandum setting out a proposed approach to the case management of the Stage 3 appeals and seeks that the court grant a period of eight weeks to undertake the tasks above and file the memorandum. I consider the eight weeks is appropriate given the amount of time required to undertake the work and the fact that there are competing Stages 1 and 2 mediations and hearings during the same period.

[7] As with Stages 1 and 2, the Council considers mediation in the first instance is beneficial and could possibly commence in November and December 2021. The court will set aside Commissioner resourcing for this propose but notes that any dates should not interfere with Stages 1 and 2 proceedings which should have priority.

[8] Lastly, the Council also seeks waivers and directions for the service of appeals and s274 notices to streamline the process for all parties involved.¹ I consider the proposed directions are appropriate and have generally been

¹ Grounds set out in paragraph 4.4 of the notice of motion.



successful in the previous stages so will make the orders sought.

Directions

[9] Accordingly, under s281 of the RMA, I direct:

(a) notices of appeal:

(i) any notice of appeal (in relation to the Council's decisions on the provisions of Stage 3 of the PDP) must be:

- lodged with the Environment Court electronically by email to: Christine.McKee@justice.govt.nz and by posting a hard copy to: PO Box 2069, 20 Lichfield Street, Christchurch;
- served on the Council electronically by email to dpappeals@qldc.govt.nz; and
- served on the person who made the original submission which is the subject of the appeal, and every person who made a further submission on the same original submission;

(ii) the requirement to serve a copy of any notice of appeal and attachments on every person who made a submission on the provision or matter to which the appeal relates is waived. The related written notice requirement ("Advice to recipients") is also waived;

(iii) any notice of appeal must be in pdf format, with a title following the format NOTICE OF APPEAL BY [NAME OF APPELLANT]. Any appendices must be separate pdf documents, with titles following the format APPENDIX [1] TO NOTICE OF APPEAL BY [NAME OF APPELLANT];

(iv) service of the notice of appeal on every other person (not being an original or further submitter – all of whom are to be served



in accordance with [9](a)(i) above) who made a submission on a provision or matter to which the appeal relates will be deemed to be effected by the Council uploading copies of all notices of appeal onto its website within five working days after the appeal period closes.

(b) section 274 notices:

(i) any s274 notice must be:

- lodged with the Environment Court electronically by email to Christine.McKee@justice.govt.nz;
- served on the Council electronically by email to dpappeals@qldc.govt.nz; and
- served on the appellant electronically on any email address provided in the notice of appeal;

(ii) the requirement to lodge a signed original and one hard copy of any s274 notice with the Environment Court is waived;

(iii) the requirement for s274 parties to serve their notice/ form 33 on all other parties is waived;

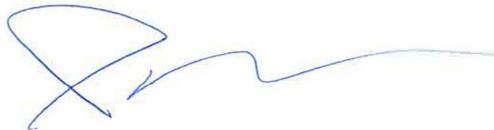
(iv) any s274 notice must be served on the Council within 20 working days after the period for lodging a notice of appeal ends. The requirement for s274 parties to serve their notice within 15 working days after the period for lodging a notice of appeal ends is waived;

(v) any s274 notice must be in pdf format, with a title following the format SECTION 274 NOTICE BY [NAME OF PARTY] JOINING [NAME OF APPELLANT]. Any appendices must be separate pdf document, with titles following the format APPENDIX [1] TO SECTION 274 NOTICE BY [NAME OF PARTY] JOINING [NAME OF APPELLANT]. A separate s274 notice must be filed in respect of each appeal being joined;



- (vi) service of s274 notices on all other parties will be deemed to be effected by the Council uploading copies of s274 notices onto its website within 15 working days after the s274 period closes.
- (c) the Council is to file its first reporting memorandum within eight weeks following the close of the s274 period (being on or around **11 August 2021**);
- (d) the Council will serve notice on all Stage 3 PDP submitters (in electronic form, unless no electronic address is available) that the waivers and directions have been made and that they can be found on the Council's website.

[10] Leave is reserved for the Council to apply for further (or other) directions.



J J M Hassan
Environment Judge



Issued: 1 April 2021