

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of appeals under clause 14 of
Schedule 1 of the Act against
decisions of the Queenstown
Lakes District Council on Stage
3 and 3b of the Proposed
Queenstown Lakes District Plan

BETWEEN **BARNHILL CORPORATE
TRUSTEE LIMITED & DE, ME
BUNN & LA GREEN**
and all other appellants
concerning Stage 3 and 3b of
the Proposed Queenstown
Lakes District Plan

AND **QUEENSTOWN LAKES
DISTRICT COUNCIL**

Respondent

**SECOND REPORTING MEMORANDUM OF COUNSEL FOR QUEENSTOWN
LAKES DISTRICT COUNCIL REGARDING CASE MANAGEMENT
PROPOSALS FOR STAGE 3 AND 3B APPEALS**

24 September 2021

Queenstown Lakes District Council
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ENV-2021-CHC-022	M Scaife
ENV-2021-CHC-023	R Stewart
ENV-2021-CHC-024	M Thomas
ENV-2021-CHC-025	Streat Developments Limited
ENV-2021-CHC-026	Aurora Energy Limited
ENV-2021-CHC-027	K Muir
ENV-2021-CHC-028	Kingston Lifestyle Properties Limited
ENV-2021-CHC-029	Gibbston Valley Station Limited
ENV-2021-CHC-030	Malaghans Investments Limited
ENV-2021-CHC-031	Cardrona Cattle Company Limited
ENV-2021-CHC-032	Cardrona Village Limited
ENV-2021-CHC-033	Gibbston Valley Station Limited
ENV-2021-CHC-034	Cardrona Cattle Company Limited
ENV-2021-CHC-035	Mandalea Properties Limited
ENV-2021-CHC-036	Lake McKay Limited Partnership
ENV-2021-CHC-037	Universal Developments Hawea Limited
ENV-2021-CHC-038	Corbridge Estates Limited Partnership
ENV-2021-CHC-039	C & J Properties Limited
ENV-2021-CHC-040	Arthurs Point Land Trust
ENV-2021-CHC-041	J C Breen Family Trust
ENV-2021-CHC-042	NPR Trading Limited
ENV-2021-CHC-043	86 Ballantyne Road Partnership
ENV-2021-CHC-044	Bush Creek Investments Limited
ENV-2021-CHC-045	Alpine Nominees Limited
ENV-2021-CHC-046	Ballantyne Properties Limited
ENV-2021-CHC-047	Upper Clutha Transport Limited
ENV-2021-CHC-048	Queenstown Airport Corporation Limited
ENV-2021-CHC-049	Kingston Lifestyle Properties Limited
ENV-2021-CHC-050	Cardrona Village Limited
ENV-2021-CHC-051	Schist Holdings Limited
ENV-2021-CHC-052	Queenstown Park Limited & Remarkables Park Limited
ENV-2021-CHC-053	Wayfare Group Limited
ENV-2021-CHC-054	Aspiring Helicopters & Ors

ENV-2021-CHC-055	Kā Rūnaka
ENV-2021-CHC-056	Quartz Commercial Group Limited
ENV-2021-CHC-057	Glen Dene Limited & Ors
ENV-2021-CHC-058	Beech Cottage Trustees Limited
ENV-2021-CHC-059	Tussock Rise Limited
ENV-2021-CHC-060	The Station at Waitiri Limited
ENV-2021-CHC-061	The Station at Waitiri Limited
ENV-2021-CHC-062	Chard Farm Limited

MAY IT PLEASE THE COURT

1. This memorandum is filed on behalf of Queenstown Lakes District Council (**Council**) in response to the directions issued by the Court in its Minute dated 13 September 2021 (**Minute**). Those directions included a direction for the Council to report to the Court on three undetermined appeals lodged against Stage 1 of the Queenstown Lakes Proposed District Plan (**PDP**), namely:

- 1.1 Halfway Bay Lands Limited (ENV-2018-CHC-119);
- 1.2 Willowridge Developments Limited (ENV-2018-CHC-115); and
- 1.3 Loch Linnhe Station Limited (ENV-2018-CHC-068),

(collectively referred to in this memorandum as the '**Stage 1 appeals**').

2. The Council addresses these Stage 1 appeals below, and also reports on the following matters:

- 2.1 the Council's decision on Wayfare Group Limited's Walter Peak submission;¹ and
- 2.2 certain wāhi tūpuna appeals seeking the deletion of Chapter 39 (wāhi tūpuna) in its entirety.²

Stage 1 appeals

3. As set out in the Council's case management memorandum dated 11 August 2021 (**case management memorandum**), there were a number of Stage 1 and 2 appeals that sought zoning outcomes that had not yet been notified. These appeals were put on hold pending the outcome of Stage 3.

4. At the time of preparing the 11 August 2021 case management memorandum, the Stage 1 appeals were subject to further discussions between the parties.

1 Allocated to Hearing Stream 19 of the Queenstown Lakes Proposed District Plan.
2 K Muir, ENV-2021-CHC-027; Kingston Lifestyle Properties Limited, ENV-2021-CHC-028; Gibbston Valley Station Limited, ENV-2021-CHC-029; Cardrona Village Limited, ENV-2021-CHC-032; and Beech Cottage Limited, ENV-2021-CHC-058; Glen Den/Burdon appeal, ENV-2021-CHC-057.

5. The Council has engaged in further discussions with the appellants to the Stage 1 appeals. Those discussions have resulted in:
 - 5.1 Loch Linnhe Station Limited formally withdrawing its Stage 1 appeal (ENV-2018-CHC-068) by way of notice dated 20 September 2021; and
 - 5.2 Willowridge Developments Limited (**Willowridge**) formally withdrawing its relief insofar as it relates to any Stage 3 zoning outcomes, by way of notice dated 20 September 2021. Counsel for Willowridge has confirmed the only outstanding appeal point relates to Chapter 21 Assessment Matters which is allocated to Topic 18 (which is part of Stage 2 of the PDP).
6. Despite numerous attempts to contact the representative for Halfway Bay Lands Limited, the Council has not received any response. Consequently, the Council is unable to report to the Court on whether the appellant wishes to pursue its Stage 1 appeal at this time.

The Council's decision on Wayfare Group Limited's Walter Peak submission and Te Anau Developments Limited's Stage 1 appeal

7. Wayfare Group Limited (**Wayfare**) lodged a submission on Stage 3 of the PDP in relation to the zoning of Walter Peak. Specifically, Wayfare's submission sought that Walter Peak, which was notified as rural visitor zone (**RVZ**) through Stage 3, be rezoned to a bespoke Walter Peak Tourism Zone.
8. Wayfare's submission is closely linked to the Stage 1 appeal lodged by Te Anau Developments Limited (ENV-2018-CHC-106) which sought that a portion of the Walter Peak site be rezoned from Rural General to RVZ. The appeal also sought various amendments to the PDP provisions insofar as they related to the tourism activities at Walter Peak, including Chapters 2, 6, 21, 30, 35 and 36. The rezoning aspect of the appeal was put on hold as the RVZ had not, at that time, been notified for submissions. All of the remaining appeal points were allocated to other PDP topics and are now either subject to an issued consent order,³ or a decision of the Environment Court.
9. Given that the Walter Peak site, including that part of the site subject to the Te Anau Developments Limited (**Te Anau**) appeal, was notified as RVZ through Stage 3 of

the PDP, the Council's preliminary position was that the Te Anau Stage 1 rezoning relief had effectively been granted. Consequently, prior to filing its case management memorandum, the Council conferred with the appellant, seeking confirmation that the Stage 1 rezoning relief would be withdrawn.

10. Counsel for Te Anau, expressed to the Council, its preference for the Stage 1 appeal to remain on hold until a decision had been issued by Council on Wayfare's submission. The Court subsequently directed, at paragraph [17](a) of its Minute, that the Council inform the Court of its decision on Wayfare's submission so that any necessary further directions could be made.
11. The Council has now issued its decision on the Wayfare submission.⁴ The decision rejects the bespoke Walter Peak Tourism Zone as proposed by Wayfare, and retains RVZ for Walter Peak (including over the land subject to the Te Anau appeal), subject to site some site specific amendments to the notified RVZ provisions.
12. The Council has not yet had an opportunity to engage in discussions with Te Anau as to how it would like to manage its appeal going forward. Given the rezoning relief sought by Te Anau, in its Stage 1 appeal, has been granted, the Council's preliminary view is that Te Anau's Stage 1 rezoning relief should now be withdrawn. The Council intends to report back to the Court once it has had the opportunity to discuss matters further with Te Anau.

Wāhi Tūpuna appeals

13. Six appeals sought deletion of Chapter 39 (Wāhi Tūpuna) in its entirety. The Council recorded its opposition to this relief in its case management memorandum, and explained that it would be impractical to mediate. The Court, at paragraph [23] of its Minute agreed with Council's position, and in the event these parties intended to pursue this relief, directed Council to confer with parties and file a proposed evidence timetable.
14. The Council has since engaged in discussions with five of these appellants (K Muir, ENV-2021-CHC-027; Kingston Lifestyle Properties Limited, ENV-2021-CHC-028; Gibbston Valley Station Limited, ENV-2021-CHC-029; Cardrona Village Limited, ENV-2021-CHC-032; and Beech Cottage Limited, ENV-2021-CHC-058), seeking

4 Report and Recommendations of Independent Commissioners – Report 20.7A: <https://www.qldc.govt.nz/your-council/district-plan/proposed-district-plan/decisions-of-council>

confirmation, as to whether the appellants wish to pursue their relief seeking deletion of Chapter 39 through a hearing.

15. The parties have confirmed that while this relief will not be withdrawn, they wish to proceed to mediation in the first instance. As prefaced in its earlier case management memorandum, the Council is prepared to mediate these appeals in relation to relief that does not seek the deletion of Chapter 39 and its overlays in their entirety. These appeals are already allocated to the Topic 34 (Wāhi Tūpuna) mediations and no further directions are sought in relation to these appeals at this time.
16. The appeal lodged by Glen Dene Limited & S Burdon⁵ (**Glen Dene appeal**) also sought deletion of Chapter 39. Counsel for the appellants have recently filed a memorandum⁶ confirming that the appellants wish to attend mediation in relation to site specific wāhi tūpuna mapping relief. The appellants' position is that this relief can be carved out from the appellants' rezoning relief and scheduled alongside the other wāhi tūpuna appeals (Topic 34, subtopic 2).
17. The Council is comfortable with this approach. The Council has subsequently asked the appellants whether it seeks any changes to the provisions in Chapter 39 that could be discussed at the Topic 34, subtopic 1 mediation. The appellants have confirmed that they do seek some amendments to the provisions of Chapter 39 (the appellants have helpfully described the changes they seek). Consequently, the Council considers it appropriate for that aspect of the Glen Dene appeal to be allocated to the Topic 34, subtopic 1 mediation as well.
18. At paragraph [28](f) of its Minute, the Court directed Glen Dene / S Burdon to confirm the most appropriate and preferred zoning for its land. The Court made clear in its Minute⁷ that Glen Dene / S Burdon would be required, at the proper time, to make a choice as to the most appropriate zoning for its land to ensure parties had certainty before mediation. In its memorandum,⁸ Glen Dene / S Burdon has confirmed that its preferred zoning is RVZ, as sought in its Stage 3 submission and

5 ENV-2021-CHC-057.

6 Dated 23 September 2021.

8 Dated 23 September 2021.

appeal.⁹ On that basis, the Council considers that the RVZ appeal relief can be scheduled alongside the other RVZ rezoning appeals (Topic 38, subtopic 2).

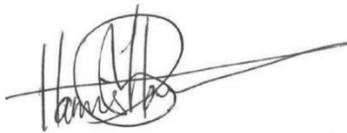
Directions sought

19. The Council respectfully proposes the following further case management directions:

19.1 In relation to the Glen Dene appeal:

- (a) the rezoning relief be allocated to Topic 38 (RVZ), subtopic 2 (rezonings);
- (b) the site specific wāhi tūpuna mapping relief be allocated to Topic 34, subtopic 2 (mapping); and
- (c) the text relief to Chapter 39 be allocated to Topic 34, subtopic 1 (text).

DATED this 24th day of September 2021



R P Mortiaux / H P Harwood
Secondment counsel for Queenstown Lakes
District Council

⁹ Counsel for Glen Dene / S Burden has subsequently clarified with the Council that, in addition to RVZ being the appellants' preferred zoning, the appellants also consider that the RVZ zoning is the most appropriate zoning for their land.