

**BEFORE THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

**I MUA I TE KOOTI TAIAO O AOTEAROA  
I ŌTAUTAHI ROHE**

**IN THE MATTER** of the Resource Management Act 1991 (**RMA**)

**AND**

**IN THE MATTER** an appeal pursuant to clause 14(1) of the RMA  
in relation to Stage 2 of the proposed  
Queenstown Lakes District Plan

**BETWEEN** **QUEENSTOWN PARK LIMITED**

Appellant

**AND** **QUEENSTOWN LAKES DISTRICT COUNCIL**

Respondent

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**NOTICE OF APPEAL ON BEHALF OF QUEENSTOWN PARK LIMITED**

**Dated: 7 May 2019**

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**BROOKFIELDS  
LAWYERS**

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**AUCKLAND**

**TO:** The Registrar  
Environment Court  
Christchurch

## **NOTICE OF APPEAL**

1. Queenstown Park Limited (**QPL** or the **Appellant**) appeals against part of the decisions of the Queenstown Lakes District Council (**QLDC**) in respect of Stage 2 of the review of the Proposed Queenstown Lakes District Plan (**Proposed Plan**).
2. The Appellant made submissions (#2468) and further submissions (#2754) on the Proposed Plan.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
4. The Appellant received notice of the QLDC's decisions on the Independent Hearing Panel's recommendations on 21 March 2019.
5. The parts of the QLDC's decisions that the Appellant is appealing (the **Decisions**) are:
  - a) Report 19.3 Chapter 25 Earthworks;
  - b) Report 19.4 Chapter 29 Transport; and
  - c) Report 19.6 Chapter 38 Open Space.

## **GENERAL GROUNDS FOR APPEAL**

6. QPL's grounds for appeal are that the Decisions:
  - (a) fail to achieve the functions of the QLDC under section 31 of the RMA in respect of the integrated management of the effects of the use, development and protection of land and natural and physical resources of the district;
  - (b) fail to promote sustainable management of resources and will not achieve the purpose of the RMA under section 5 of the RMA;
  - (c) do not enable social, economic and cultural wellbeing;
  - (d) are otherwise inconsistent with Part 2 of the RMA;

- (e) are not appropriate in terms of section 32 of the RMA.

## **SPECIFIC GROUNDS FOR APPEAL**

7. Without limiting the generality of the above, the specific grounds of appeal are set out below.

### **Chapter 25 – Earthworks**

8. QPL’s submissions and further submissions sought that the earthworks provisions in the Operative District Plan, as amended by Plan Change 49, be retained. In the alternative, QPL sought amendments to the Chapter 25 provisions of the Proposed Plan, including better recognition of well-established remedial and mitigation techniques for earthworks, greater recognition of benefits to be derived from earthworks and more enabling controls for earthworks relating to the improvement and formation of track access.
9. The Independent Hearing Panel (**Panel**) accepted a number of QPL’s submissions and rejected others. The Panel rejected a submission seeking to delete the word “minimise” from Objective 25.21. The Panel provided greater provision for the maintenance of existing recreational tracks but did not provide for the formation of new tracks. The Appellant considers that providing for recreational tracks in Queenstown is consistent with the Strategic Direction of the Proposed Plan by providing better public access to the natural environment, for example Policies 3.2.4.5 and 3.3.28 (Decisions Version).

### *Relief Sought*

10. QPL seeks the following relief:
- (a) Objective 25.2.1: Delete the word to “minimise” and insert the words “avoid, remedy or mitigate”.
  - (b) Policy 25.2.2.1.d: Amend to also reference the operational efficiency of activities other than farming.
  - (c) Policy 25.8.10.3: Amend to also reference the operational efficiency of activities other than farming.

- (d) Rule 25.4: Amend to enable earthworks for the improvement and formation / creation of track access as a permitted activity in all zones.
- (e) Assessment Matter 25.8.2.4: Amend as follows:
- For earthworks over 50,000m<sup>3</sup>, whether the proposal is supported with erosion and sediment management design that corresponds to the scale, area, duration of the works and the sensitivity of the receiving environment...*
- (f) Rule 25.5.17: Amend to allow a cut of up to 2m in height as a permitted activity.

## Chapter 29 – Transport

11. QPL's submissions and further submissions supported the policy direction in Chapter 29 to reduce requirements for car parking spaces and to better recognise the benefits of public transport, walkability of developments and co-location of activities to reduce demand for onsite parking. QPL seeks that amendments be made to Chapter 29 to better align the rule framework with this policy direction.

### *Relief Sought*

12. QPL seeks that Chapter 29 be amended as follows:
- a) Rule 29.4.8: Add a matter of discretion as follows:
- Reduction in the reliance on private vehicles*
- b) Assessment Matter 29.7.3.1: Add an additional criterion (f) as follows:
- Reduces demand on the roading network and provides an alternative to cars or other road-based transport*

## Chapter 38 – Open Space and Recreation Zones

13. QPL's submissions and further submissions supported the general direction of Chapter 38 and its recognition of maintaining and enhancing integrated public access connections through walking and cycling tracks; public access along lake and river

margins; and the interface between activities within the open space and recreation zones. The Panel accepted the majority of QPL's submissions which sought wording amendments to the objectives and policies in Chapter 38. One submission point was rejected, relating to the activity status of activities not listed in Activity Table 38.1. The Appellant considers that a Discretionary Activity status is more appropriate and better gives effect to the policy framework which encourages the public use of recreation areas (for example Objective 38.2.1 and Policy 38.2.1.1).

#### *Relief Sought*

14. QPL seeks the following amendments to Chapter 38:
  - a) Rule 38.9.1: Amend the activity status for activities in the Informal Recreation Zone that are not listed in Table 38.1 from Non-Complying to Discretionary.

#### **CONSEQUENTIAL AND FURTHER RELIEF**

15. That the Proposed Plan be amended in a similar or such other way as may be appropriate to address the matters raised in this appeal;
16. Any other similar, consequential, or other relief as is necessary to address the issues raised in this appeal or otherwise raised in the Appellant's submission and further submission.

#### **SERVICE**

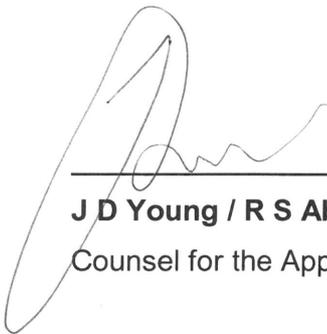
17. An electronic copy of this notice is being served today by email on the QLDC at [dpappeals@qldc.govt.nz](mailto:dpappeals@qldc.govt.nz). Waivers and directions have been made by the Environment Court in relation to the usual requirements of the RMA as to service of this notice to other persons:
  - a) Where the appeal is based on an original submission made by QPL, notice has been electronically served by email to every person that made a further submission on the relevant submission; and
  - b) Where the appeal is based on a further submission made by QPL, notice has been electronically served on the person who made the related original submission and every other person who made a further submission on that same original submission.
18. A copy of this notice has been lodged today with the Environment Court:

- a) electronically by email to [Christine.Mckee@justice.govt.nz](mailto:Christine.Mckee@justice.govt.nz); and
- b) by posting a hard copy to: PO Box 2069, 20 Lichfield Street, Christchurch.

#### **ATTACHED DOCUMENTS**

- c) Copies of the following documents are attached to this notice:
  - (a) The Appellant's submission and further submission (**Annexure A**);
  - (b) The relevant parts of the QLDC's Decision (**Annexure B**); and
  - (c) A list of names and addresses of persons to be served with this notice of appeal (**Annexure C**).

**DATED** this 7<sup>th</sup> day of May 2019



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**J D Young / R S Abraham**  
Counsel for the Appellant

**THIS NOTICE OF APPEAL** is filed by **JOHN DYLAN YOUNG**, solicitor for the Appellant. The address for service of the appellant is at the offices of Brookfields Lawyers, Tower 1, 9<sup>th</sup> Floor, 205 Queen Street, Auckland.

Documents for service on the appellant may be left at the address for service or may be:

1. Posted to the solicitors at PO Box 240, Auckland 1140
2. Left for the solicitors at Document Exchange for direction to DX CP24134.
3. Transmitted to the solicitors by facimile to 09 379 3224.
4. Emailed to the solicitors at [youngj@brookfields.co.nz](mailto:youngj@brookfields.co.nz) / [abraham@brookfields.co.nz](mailto:abraham@brookfields.co.nz)

#### **Advice to recipients of copy of notice of appeal**

*How to become a party to proceedings*

You may become a party to the appeal if you are one of the persons described in section 274(1) of the RMA.

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 of the Resource Management (forms, Fees, and Procedure) Regulations 2003) with the Environment Court by email (to [Christine.Mckee@justice.govt.nz](mailto:Christine.Mckee@justice.govt.nz)) and serve copies of your notice on the Queenstown Lakes District Council and the appellant.

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 RMA.

You may apply to the Environment Court under section 21 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

#### *Advice*

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

