

**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** **REMARKABLES PARK LIMITED**

Appellant

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

Respondent

---

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

**Dated: 7 May 2019**

---

---

**BROOKFIELDS  
LAWYERS**

J D Young / R S Abraham  
Telephone No. 09 979 2248  
Fax No. 09 379 3224

[youngj@brookfields.co.nz](mailto:youngj@brookfields.co.nz) / [abraham@brookfields.co.nz](mailto:abraham@brookfields.co.nz)

P O Box 240  
DX CP24134

**AUCKLAND**

**TO:** The Registrar  
Environment Court  
Christchurch

## **NOTICE OF APPEAL**

1. Remarkables Park Limited (**RPL** 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. RPL'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. RPL’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, RPL 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 RPL’s submissions and rejected others. 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. RPL seeks the following relief:
- (a) Objective 25.2.1: Delete the word to “minimise” and insert the words “avoid, remedy or mitigate”.
- (b) Rule 25.3.4.5.h: Amend to also provide an exemption for earthworks for the formation / creation of new recreational tracks.
- (c) Rule 25.4: Amend to enable earthworks for the improvement and formation / creation of track access as a permitted activity in all zones.

## Chapter 29 – Transport

11. RPL's submissions and further submissions supported the policy direction in Chapter 29 of the Proposed Plan 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. RPL made submissions and further submissions seeking to reduce the car parking ratios and requirements to better align the rules in Chapter 29 with the strategic direction set out in Stage 1 of the Proposed Plan review, where increasing density of existing areas has been promoted.
12. The Panel accepted a number of RPL's submissions and rejected others. The Appellant remains concerned that the rule framework in Chapter 29 does not go far enough to meet the policy framework established in the Proposed Plan, for example (but not limited to) it will not lead to achievement of:
  - a) Objective 29.2.1c and d: an integrated, safe and efficient transport network that reduces dependency on private motor vehicles and promotes the use of shared, public, and active transport and reduces the dominance and congestion of vehicles; or
  - b) Objective 29.2.2d: Parking, loading, access and onsite manoeuvring that contributes towards facilitating an increase in walking and cycling and the use of public transport.

### *Relief Sought*

13. RPL seeks that Chapter 29 be amended as follows:
  - a) Rule 29.5.2: Amend as follows:

*The following activities may provide some or all of the parking spaces required by Table 29.4 off-site (on a different site to that which the land-use activity is located on),*

- (i) *Residential units and visitor accommodation units or activities in any High Density Residential Zone, Medium Density Zone, or Business Mixed Use Zone ~~located within 800m of an established public transport facility or a public transport facility identified on~~*

~~any Council Active Transport Network Plan may provide all of the car parking required off-site.~~

...

(v) Any commercial activity may provide all the required car parking off-site.

~~(v)(vi)~~ off-site parking spaces provided in accordance with the above rules 29.5.2(d)(i)-(iv)(v) must be:

...

- b) Rule 29.5.3: Amend to refer to latest NZ Standard.
- c) Rule 29.5.4: Delete.
- d) 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*

- e) Rule 29.8.15: Amend as follows:

*1 per ~~6-4~~ guest rooms up to 40 ~~60~~ guest rooms; thereafter 1 per 8-5 guest rooms.*

- f) Rule 29.8.16: Amend as follows:

*1 per ~~5-3~~ guest rooms up to 40 ~~60~~ guest rooms; thereafter 1 per 7-5 guest rooms.*

- g) Rules 29.8.15 and 29.8.16: Amend as follows:

...

*In addition, where over 50 beds are proposed over one or more sites; 1 coach park per 50 guest rooms up to a maximum of 2 coach parks, provided that coach parks may overlay the required car parking spaces or may be located off-site, provided that where located off-site in accordance with Rule 29.5.2, a loading area shall be provided on the site containing the visitor accommodation.*

Each coach park that is provided equates to an equivalent of 30 car parks for the purposes of compliance with minimum car parking requirements.

h) Rule 29.8.41.1: Amend as follows:

*In calculating the total parking requirement:*

a. *The requirement for residents / visitors and the requirement for guests / staff shall be added together (including fractional spaces), then rounded up or down in accordance with 29.9.38.1(c) below.*

b. *Where a development comprises more than one activity, the parking requirements for all activities shall be added together (including fractional spaces), and then rounded up or down in accordance with 29.9.38.1(c) below.*

...

f. *When calculating the overall parking requirements for a development, the separation of area into different activities (for the purposed of b. above) will be required where the gross floor area of an activity (or public floor space or other such measurement that the standards for the relevant activity is based upon) exceeds 10% of the total gross floor space of the development. The total parking requirement for any development shall be the sum of the requirements for each area.*

i) Table 29.11: Update to refer to the latest New Zealand standard rather than retain the classes and dimensions from the Operative District Plan.

14. In addition, the Appellant seeks that the QLDC undertake modelling and analysis of the parking requirements in conjunction with the proposed bulk and location of visitor accommodation development be undertaken to inform rule framework.

### **Chapter 38 – Open Space and Recreation Zones**

15. RPL'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. RPL's submissions and further submissions sought several changes to Chapter 38 to better align the rule framework with the policy framework of the Proposed Plan.

16. The Decisions accept several of RPL's submissions but rejects others. The Appellant considers that the rule framework does not give effect to, for example, Objective 3.2.6 (Decisions Version) or Objective 38.2.1 and Policy 38.2.1.1 which support public use and recreation of open space land in the District.

#### *Relief Sought*

17. RPL 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.
  - b) Oppose the protection of established activities that are contrary to the proposed policy framework;
  - c) Amend Planning Map 31a to rezone the land at the southern end of Riverside Road that is shown as unformed road to "Informal Recreation"
  - d) Amend Planning Map 31a to show land in the Shotover delta (below and to the north-east of the RESA) within the Informal Recreation zone to Active Sport and Recreation
  - e) Amend Planning Map 36 to rezone land on the landward side of the jetty from 'Informal Recreation' zone to Town Centre zone. In the alternative, rezone the land to a more enabling zone that provides specific provision for water-based activities, for example the Civic Space zone or Community Purpose Zone.

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

18. 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;
19. 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**

20. 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

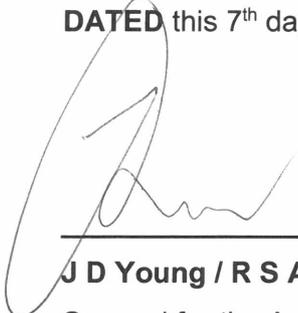
Court in relation to the usual requirements of the RMA as to service of this notice to other persons:

- 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.
21. 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



---

**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.