

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	Treble Cone Investments Limited 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

Introduction

- 1 Treble Cone Investments Limited (**Treble Cone**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Treble Cone made a submission (#2373) and further submission (#2790) on the PDP.
- 3 Treble Cone is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Treble Cone 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 (Stage 2 Variation); and
 - (b) Chapter 25 Earthworks.
- 7 The reasons for appeal and general relief sought are summarised below. The specific provisions and the relief sought by Treble Cone are set out in **Appendix A** to this appeal.

Chapter 6 Landscapes

- 8 Treble Cone 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 Ski Area Sub-Zones.
- 9 However, Treble Cone considers there is merit in retaining in some form the deleted provisions of Chapter 6 which expanded on the relationship between the Landscape Categories, the Strategic Directions Chapter (Chapter 3), and the various rural zones and non-rural zones in the lower order chapters.
- 10 Treble Cone therefore supports either the reinstatement of the deleted provisions or the inclusion of a new 'Interpretation' section, similar to that inserted into Chapter 3 via the planning experts' Joint Witness Statement as part of Stage 1 of the PDP. Such a section is supported to provide greater certainty for plan users.

- 11 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. Treble Cone 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 Ski Area Sub-Zones is further clarified, additional amendments to Chapter 6 may be required in respect of the policies that apply to these zones and subzones.
- 12 The specific provisions of Chapter 6 and the relief sought by Treble Cone are set out in Appendix A to this Appeal.

Chapter 25 Earthworks

- 13 Treble Cone participated in the review of the earthworks provisions conducted through PC 49 under the operative District Plan. Following the resolution of appeals, PC 49 was made operative on 27 July 2017. Whilst it was apparent at the time of PC49 being notified that it would intersect with the District Plan review, the issue proceeded to be considered by the Council and took on-board many of the point raised by submitters, including Treble Cone.
- 14 Under the operative District Plan Chapter 22, and as determined through PC 49, earthworks within the SASZ are exempt from the earthworks rules. This recognises the approach under the operative District Plan, prior to PC49 and of the substantial earthworks that are required in conjunction with ski area operations, including the establishment of ponds for snow making and earthworks for other recreational activities such as cycling and walking.
- 15 Apart from minor changes to integrate with the remainder of the notified Stage 1 topics, Treble Cone submit that Chapter 25 does not need to make any further or significant change to the approach taken under the operative District Plan (as above). Unfortunately, a number of key changes have occurred from the operative provisions.
- 16 Accordingly, Treble Cone are opposed to the decisions of QLDC in Chapter 25 and seek the following changes:
 - (a) An amendment to Rule 25.3.5.6 so that there is an overall exemption for earthworks within the Ski Area Sub Zones;
 - (b) An amendment to Rule 25.3.2.9 so that earthworks volumes shall be measured at completion of earthworks;
 - (c) An amendment to Rule 25.5.19 which would make the earthworks near waterbodies rule less restrictive; and

- (d) An amendment to Rule 25.5.20 so that earthworks within Ski Area Sub Zones are exempt from the rule prohibiting earthworks below the water table of any underground aquifer and artificial drainage of aquifers.

Further and consequential relief sought

- 17 Treble Cone 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 Treble Cone submissions.

Attachments

- 18 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.