

In the Environment Court of New Zealand  
Christchurch Registry

I Te Koti Taiao o Aotearoa  
Ōtautahi Rohe

**ENV-2019-CHC-**

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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 **Henley Downs Farm Holdings Limited and Henley Downs Land Holdings Limited**

Appellant

And **Queenstown Lakes District Council**

Appellant

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**Notice of Appeal**

7 May 2019

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**Appellant's solicitors:**

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**To** The Registrar  
Environment Court  
Christchurch

### **Introduction**

- 1 Henley Downs Farm Holdings Limited and Henley Downs Land Holdings Limited (**Jacks Point**) appeals against part of the decision of Queenstown Lakes District Council on Stage 2 of the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Jacks Point made a submission (#2381) and further submission (#2788) on the PDP.
- 3 Jacks Point is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Jacks Point 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);
  - (b) Chapter 25 Earthworks (including amendments to Chapter 2 Definitions);
  - (c) Chapter 27 Subdivision;
  - (d) Chapter 29 Transport;
  - (e) Chapter 38 Open Space and Recreation / Planning Map 41; and
  - (f) Visitor Accommodation Variation.
- 7 The reasons for appeal and general relief sought are summarised below. The specific provisions and the relief sought by Jacks Point are set out in **Appendix A** to this Appeal.

### **Chapter 25 Earthworks**

- 8 Henley Downs seeks a number of changes to the Earthworks Chapter to achieve the following outcomes:
  - (a) A range of minor edits to Rules to improve administration and clarity of language;
  - (b) Amendments to the rules for earthworks on access ways and maximum height of fill so that they do not apply to private roads;

- (c) Amendments to the rule for earthworks near water bodies so that it is less restrictive; and
  - (d) Amendment of the definition of Earthworks to give 'cleanfill' a separate definition.
- 9 The specific provisions of Chapter 25 and the relief sought by Jacks Point is set out in **Appendix A** to this Appeal.

### **Chapter 29 Transport**

- 10 Jacks Point seeks changes to the Transport Chapter, in particular, the amendment of Rule 29.4.11 High Traffic Generating Activities.
- 11 Jacks Point opposes the application of the High Traffic Generating Activity Rule (**HGTA**) to the Jacks Point Zone. The Council's decision makes exemptions to the rule on the basis of District Plan provisions approved on the basis of an Integrated Transport Assessment. The Jacks Point Zone has been structure planned: embedded into the District Plan via zone-specific provisions that manage effects on the adjoining transport network; seeks to provide appropriate connections into that transport network; and collectively provides for a known level of development via density provisions and/or caps on certain types of activities.
- 12 In the case of the Jacks Point Zone, the key elements of an integrated assessment have been embedded into the structure plan and zone provisions where the application of the HGTA rule would result in unnecessary duplication of issues that have already been traversed through the structure planning process and the development of the related planning provisions for that structure planned area.
- 13 Jacks Point considers that the HGTA rule will further undermine the ability for the Plan to realise the objective of the Jacks Point Zone which is to provide an integrated community. Further barriers to realising new development and subdivision anticipated by the Zone fail to have particular regard to the efficient use and development of existing natural and physical resources under s7(b) of the Act. Factors that should be given regard to include the established network of road, trails and the network of open space providing multiple modes of access to and within Jacks Point that reduce reliance on motor vehicles.

### **Visitor Accommodation Variation**

- 14 Jacks Point generally supports the approach to regulate the effects of short term stays for paying visitors and guests within residential areas as this aligns with the constitutional arrangements at Jacks Point. There are however, commercial

areas such as the Village, where visitor accommodation is an anticipated outcome and where further rules are unnecessary.

- 15 Accordingly, Jacks Point seeks changes to the new standards to ensure they only apply within the Jacks Point residential areas and not the Village, Lodge and Homesite Activity Areas.
- 16 Also in relation to visitor accommodation, the variation to the definition of visitor accommodation (which now excludes residential visitor accommodation (RVA) and homestays) has created an anomaly whereby within some zones, such as Jacks Point, the new rules relating to RVAs and homestays are not supported by a framework of related objectives or policies. This undermines the effectiveness of this regime.
- 17 The specific provisions of the Visitor Accommodation Variation and the relief sought by Jacks Point is set out in **Appendix A** to this Appeal.

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

#### *Planning maps*

- 18 An area of Council administered reserve within the Jacks Point Zone Open Space Amenity Activity Area has been zoned Informal Recreation. Jacks Point is concerned at the impact of this zoning on the integrity of the Structure Plan and the objective for the Jacks Point Zone, which has not been considered in assessing the proposed zone change.
- 19 Jacks Point is opposed to the Informal Recreation zoning as it fails to achieve the objective of the Jacks Point Zone of having an integrated community within a framework of open space and recreation amenities. It also compromises in part the purpose of the structure plan to establish the spatial layout of development within the Zone.

### **Variation to Stage 1 Chapter 6 Landscapes**

- 20 Jacks Point supports in principle the Stage 2 Variation to the provisions of Chapter 6, insofar as they clarify and confirm the relationship between the Outstanding Natural Feature, Outstanding Natural Landscape, and Rural Character Landscape categories (**Landscape Categories**), the Strategic Direction Chapter (Chapter 3) and the lower order chapters of the PDP.
- 21 However, Jacks Point considers there is merit in retaining in some form the deleted provisions of Chapter 6 which expanded on this relationship. Jacks Point 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.

- 22 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. GBT 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, Chapter 3 and the lower order chapters is further clarified, additional and consequential amendments may be required to the policies of Chapter 6 as decided in Stage 1, dependent on whether or not they are considered to apply to the Open Space and Recreation Zone.
- 23 The specific provisions of Chapter 6 and the relief sought by Jacks Point is set out in **Appendix A** to this Appeal.

#### **Further and consequential relief sought**

- 24 Jacks Point 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 Jacks Point submissions.

#### **Attachments**

- 25 The following documents are attached to this notice:
- (e) **Appendix A** – Relief sought;
  - (f) **Appendix B** – A copy of the Appellant's submission and further submissions;
  - (g) **Appendix C** - A copy of the relevant parts of the decision; and
  - (h) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 7<sup>th</sup> day of May 2019

*Maree Baker-Galloway*

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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.