

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-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 **Speargrass Properties Limited**
Appellant

And **Queenstown Lakes District Council**
Respondent

**Notice of Appeal – Speargrass Properties Limited – Stage 2 QLDC
Proposed District Plan**

[Appeal re ONL Landscape Classification]

7 May 2019

Counsel for the Appellant:
Maree Baker Galloway
Anderson Lloyd
Level 2, 13 Camp Street, Queenstown 9300
PO Box 201, Queenstown 9348
DX Box ZP95010 Queenstown
p + 64 3 450 0700 | f + 64 3 450 0799
maree.baker-galloway@al.nz

Warwick Goldsmith
Barrister
P + 64 21 2208824
warwick.goldsmith@gmail.com

To The Registrar
Environment Court
Christchurch

Background

- 1 Speargrass Properties Limited (**SPL**) appeals against part of the decision of Queenstown Lakes District Council (**QLDC**) on Stage 2 of the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Michaela Meehan made a submission (#526) on Stage 1 of the PDP which was carried over and heard and decided as part of Stage 2 of the PDP. SPL is the successor of Michaela Meehan under Section 2A of the Resource Management Act 1991 (**RMA**).
- 3 SPL is not a trade competitor for the purpose of section 308D RMA.
- 4 SPL received notice of the decision on 21 March 2019.
- 5 The decision was made by QLDC.
- 6 The part of the decision appealed (**Decision**) relates to:
 - (a) Planning Maps 13, 13d and 29.

Reasons for appeal

- 7 This appeal relates to the location of a small section of the Outstanding Natural Landscape (**ONL**) Boundary in the northwest part of the Wakatipu Basin. The appeal affects Planning Maps 13 and 13d (large scale) and 29 (small scale). **Appendix A** contains a copy of part of Planning Map 29, on which is drawn a black circle which contains the section of ONL Boundary under challenge in this appeal.
- 8 Submission 526 sought to relocate the relevant section of ONL Boundary some distance to the west. **Appendix B** contains a copy of Submission 526 which includes a plan identifying (in red) the notified ONL Boundary and (in yellow) the amended ONL Boundary sought by Submission 526.
- 9 The Decision accepted Submission 526 in part by relocating the relevant section of ONL Boundary a short distance to the west but not as far as requested in Submission 526. **Appendix C** contains a copy of pages 3 – 6 of Report 18.4 which in turn contains Part 2.3 which details the Recommendation on Submission 526 which was accepted by QLDC in its Decision. Page 4

contains a plan which identifies (in red) the notified ONL Boundary and (in yellow) the amended ONL Boundary sought in Submission 526. Page 5 contains a plan which identifies (in red) the notified ONL Boundary, (in green) the amended ONL Boundary sought by Submission 526, and (in blue) the amended ONL Boundary determined in the Decision.

- 10 This appeal does not challenge that part of the Decision to the extent that it partially accepts Submission 526 (and relocates the ONL Boundary a short distance westwards) but does challenge that part of the Decision which did not relocate the ONL Boundary as far to the west as sought in Submission 526.

Grounds of appeal

- 11 The grounds of appeal are that the Decision:
- (a) Did not properly consider and take into account the evidence presented in support of the relief sought by Submission 526;
 - (b) Did not carry out a first principles landscape analysis in order to determine the appropriate position of the ONL Boundary under challenge, and in particular did not consider the factors normally considered relevant to determination of an ONL Boundary;
 - (c) Did not examine the justification for the notified position of the ONL Boundary under challenge (that being an essential component of the case presented in support of Submission 526);
 - (d) Inappropriately referred to the reasoning contained in consent decisions approving new building platforms in the general area subject to Submission 526 in respect of why those building platforms were approved, and did not properly take into account the consequence of those building platform approvals when determining the ONL Boundary;
 - (e) Wrongly relied just upon visibility of the consented building platforms from a particular viewpoint (the valley below), did not take into account other viewpoints, and did not take into account non-visibility landscape aspects consequential upon the approval of those building platforms;
 - (f) Incorrectly distinguished those recently approved building platforms from building platforms previously consented (and which had previously been considered relevant to the location of the ONL Boundary);

- (g) Incorrectly focused on the consented building platform factor to the exclusion of other factors relevant to determination of an ONL Boundary, particularly topographical and vegetation factors;
- (h) Did not address or respond to factors put to the Hearing Panel in legal submissions as being relevant to determination of an ONL Boundary;
- (i) Did not provide any valid, landscape based analysis or explanation resulting in its determination to relocate the ONL Boundary a short distance but not to the extent sought in Submission 526;
- (j) Is not a decision the QLDC could reasonably have made had it taken proper account of, and accorded appropriate weight to, the full range of factors relevant to determination of an ONL Boundary as presented in legal submissions and evidence;
- (k) Is not in accordance with sound resource management practice and does not give appropriate effect to the purpose and principles of the RMA.

Relief sought

12 SPL seeks that:

- (a) the relevant section of ONL Boundary be relocated further to the west, to the position sought in Submission 526;
- (b) consequential amendments are made to the landscape classification of the land affected by that relocation (ie: that the relevant area of land be reclassified from ONL to Rural Character Landscape);
- (c) that Planning Maps 13, 13d and 29 be amended accordingly.

Further and consequential relief sought

13 SPL seeks such alternative, consequential, or additional relief to that set out in this appeal as may be appropriate or necessary to give effect to the matters raised generally in this appeal and in Submission 526.

Attachments

14 The following documents are attached to this notice:

- (a) **Appendix A** – marked 'A' a copy of the relevant part of Planning Map 29 (with annotated black circle approximately identifying the section of ONL Boundary under challenge);

- (b) **Appendix B** – marked 'B' a copy of Submission 526;
- (c) **Appendix C** – marked 'C' a copy of the relevant part of the Decision, being Part 2.3 on pages 3 – 6 of Hearing Panel Report 18.4;
- (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/Warwick Goldsmith
Counsel for the Appellant

Address for service of the Appellants

Anderson Lloyd
Level 2, 13 Camp Street
PO Box 201
Queenstown 9300

Phone: 03 450 0700 Fax: 03 450 0799
Email: maree.baker-galloway@al.nz | warwick.goldsmith@gmail.com
Contact persons: Maree Baker-Galloway | Warwick Goldsmith

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).

Advice

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