

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 **Mark Tylden**  
Appellant

And **Queenstown Lakes District Council**  
Respondent

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**Notice of Appeal**

7 May 2019

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**Appellant's solicitors:**

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**anderson  
lloyd.**

**To** The Registrar  
Environment Court  
Christchurch

- 1 Mark Tylden appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Mark Tylden, as part of the 'Ladies Mile Consortium', made a submission (#535) on Stage 1 of the PDP and a submission (#2489) and further submission (#2766) on Stage 2 of the PDP.
- 3 Mark Tylden is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Mark Tylden 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) Planning Maps 13d, 30 and 30a.
- 7 The reasons for appeal and general relief sought are summarised out below. The specific provisions and relief sought by Mark Tylden are detailed further in **Appendix A** to this Appeal.

## **Background**

- 8 Mark Tylden and neighbouring land owner GW Stalker Family Trust have an interest in land along 'Ladies Mile' / State Highway 6. This appeal concerns the land for which both parties have an interest, identified in the map attached as **Appendix A (Ladies Mile Land)**.
- 9 Under the Operative District Plan the Ladies Mile Land was zoned Rural General.
- 10 In Stage 1 of the PDP the Ladies Mile Land was notified as Rural. The Outstanding Natural Feature (**ONF**) boundary along the south-west of the Slope Hill ONF ran through the Ladies Mile Land as illustrated in notified Stage 1 PDP Planning Map 30 attached as **Appendix B**.
- 11 In Stage 1 the Ladies Mile Consortium submission sought that the ONF boundary be amended and that the Ladies Mile Land (as well as neighbouring land along State Highway 6) be rezoned from Rural to Rural Lifestyle Zone (**RLZ**), up to the amended ONF boundary, as illustrated in the Proposed Zone map attached as **Appendix C**.

- 12 The Ladies Mile Land was not initially included in the Stage 2 Wakatipu Basin Variation (**Variation**). However, the Ladies Mile Consortium lodged a Stage 2 submission seeking to make amendments to its Stage 1 submission, or in the alternative, to include the Ladies Mile Land in the Variation and to rezone it Land to Wakatipu Basin Lifestyle Precinct (up to the amended ONF boundary).
- 13 On 13 March 2018 the Stage 2 Hearing Panel issued a Decision granting leave for part of the Ladies Mile Consortium Stage 2 submission, including the rezoning relief, to be included in Stage 2. As such the rezoning relief sought in the Stage 1 submission was also deferred to Stage 2.
- 14 As illustrated in Decision Version PDP Planning Map 30, attached as **Appendix D**, the Decision on the Variation rezoned part of the Ladies Mile Land to RLZ, and amended the ONF boundary as sought in the Stage 1 submission. However, the northern part of the Ladies Mile Land, between the unformed legal road and the amended ONF boundary, was not rezoned to RLZ but was retained as Rural Zone.
- 15 This appeal concerns only the zoning of the Ladies Mile Land as RLZ.

#### **Planning Maps 13d 30 and 30a**

- 16 The zoning of part of the Ladies Mile Land as RLZ zone is supported, however the zoning of the northern part of the Land between the ONF boundary and the unformed legal road as Rural Zone is opposed.
- 17 Mark Tylden seeks that planning maps 13d, 30 and 30a be amended so that all of the Ladies Mile Land south of the ONF boundary is zoned RLZ.
- 18 In deciding to amend the ONF boundary as sought in the Stage 1 submission, the Council Decision relied on the landscape evidence of Helen Mellsop, that the lower more developed slopes of Slope Hill should be excluded from the Slope Hill ONF<sup>1</sup>.
- 19 Ms Mellsop's landscape evidence sets out her reasoning as follows<sup>2</sup>:

**6.20** Having assessed the character of the landscape in the areas between the notified boundary and that sought by submitters, I agree with the submitters that the ONF boundary should exclude the Glenpanel homestead and curtilage and the dwellings at 399 Frankton Ladies Mile Highway and 14 Lower Shotover Road. The Glenpanel

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<sup>1</sup> Report and recommendations of Independent Commissioners regarding mapping of Wakatipu Basin and Arrowtown, Report 18.11 – Area I Ladies Mile, 15 February 2019, at [14]-[16].

<sup>2</sup> Statement of Evidence of Helen Juliet Mellsop on behalf of Queenstown Lakes District Council, 28 May 2018, at [6.20]-[6.21].

homestead and curtilage is largely on the flats rather than the hill slope and is included within the indicative boundary of the potential Ladies Mile Special Housing Area in the QLDC Housing Accords and Special Housing Areas Act 2013 Implementation Policy, dated 29 October 2017. The dwellings and associated development and domestic planting at 399 Frankton Ladies Mile Highway and 14 Lower Shotover Road are clearly located within the topographical feature of Slope Hill. However this is also true of rural living development on the western slopes of the hill.

**6.21** The Court's reasoning for the location of the ONF boundary in C216/2001 was to exclude domesticated landscape patterns on the lower slopes. While the existence of dwellings and some domestication should not disqualify a landscape or landscape feature from consideration as an ONL or ONF, in the Springbank area I consider the dwellings and curtilage areas discussed above (with the exception of Glenpanel homestead) are more appropriately included with the other more domesticated lower slopes of Slope Hill. These are zoned Amenity Zone under the notified Stage 2 PDP.

20 In respect of the rezoning of the Ladies Mile Land to RLZ, Council's Decision discussed the Ladies Mile Land generally, and determined that due to existing development and the potential for future urbanisation, an appropriate zoning for the Land was RLZ.<sup>3</sup> There was no discussion of the unformed legal road in terms of it being the appropriate boundary for the RLZ.

21 The recommendation made by the Independent Commissioner, adopted as Council's Decision, read as follows:

**71.** In summary, for the reasons given above, we recommend the following map amendments in this area.

...

b. Rural Lifestyle in respect of the land at 516 Frankton-Ladies Mile Highway (Lot 4 DP 22156) **and the land on the northern side of Frankton-Ladies Mile Highway, between Lower Shotover Road and Threepwood**, with a 75m Building Restriction Area applied from the boundary with Frankton-Ladies Mile Highway;

...

(emphasis added)

22 As there was no discussion as to whether the RLZ over the Ladies Mile Land should end at the ONF boundary or the unformed legal road, and the Council's

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<sup>3</sup> Report and recommendations of Independent Commissioners regarding mapping of Wakatipu Basin and Arrowtown, Report 18.11 – Area I Ladies Mile, 15 February 2019, at [69].

Decision appears to support the rezoning of the all of the Ladies Mile Land to RLZ as requested in the submissions, it appears likely that the retention of the Rural zoning between the ONF boundary and the unformed legal road was an error.

- 23 On the merits, Mark Tylden considers that RLZ is the more appropriate zoning for this part of the Ladies Mile Land, as:
- (a) The level of existing development is more characteristic of the Rural Lifestyle Zone than the Rural Zone;
  - (b) The Ladies Mile Land in its entirety has been earmarked for future urbanisation through the Council's Housing Accords and Special Housing Areas Lead Policy;
  - (c) There is no justification for a different zoning on this part of the Ladies Mile Land as compared to the remainder of the Land; and
  - (d) The ONF boundary is a more appropriate boundary for the RLZ than the unformed legal road.

**Further and consequential relief sought**

- 24 Mark Tylden 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 Mark Tylden submissions.

## Attachments

25 The following documents are **attached** to this notice:

- (a) **Appendix A** – Map of the Ladies Mile Land;
- (b) **Appendix B** – Notified Stage 1 PDP Planning Map 30;
- (c) **Appendix C** – Proposed Zone map;
- (d) **Appendix D** – Decision Version Stage 2 PDP Planning Map 30;
- (e) **Appendix E** – A copy of the Appellant's submission and further submissions;
- (f) **Appendix F** - A copy of the relevant parts of the decision; and
- (g) **Appendix G** - A list of names and addresses of persons to be served with this notice.

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



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Maree Baker-Galloway/Roisin Giles  
Counsel for the Appellant

### **Address for service of the Appellants**

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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.