

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-

Under the Resource Management Act 1991

In the matter of an appeal under clause 14(1) of Schedule 1 of the RMA in
relation to Stage 3 of the Queenstown Lakes Proposed District
Plan

Between **Wayfare Group Limited**

Appellant

And **Queenstown Lakes District Council**

Respondent

Notice of Appeal

18 May 2021

Appellant's solicitors:

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To: The Registrar
Environment Court
Christchurch

- 1 Wayfare Group Limited (**Wayfare**) appeals against part of the decision of Queenstown Lakes District Council on Stage 3 of the Queenstown Lakes Proposed District Plan (**PDP**).
- 2 Wayfare made submission #3343 on Stage 3 of the PDP.
- 3 Wayfare is not a trade competitor for the purpose of section 308D of the RMA.
- 4 Wayfare received notice of the decision on 1 April 2021.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decision appealed relate to:
 - (a) Chapter 39 Wāhi Tūpuna;
 - (b) The Wāhi Tūpuna overlay detailed in Schedule 39.6 and identified on the PDP planning map; and
 - (c) Chapter 38 Open Space and Recreation Zone.
- 7 The reasons for appeal and general relief sought by Wayfare are summarised below.

Wāhi Tūpuna

Extent of Wāhi Tūpuna Overlay 7: Area surrounding Te Poutu Te Raki (Matukituki River delta, Glendhu Bay and surrounds).

- 8 A small portion of the western extent of Wāhi Tūpuna overlay 7 (in the vicinity of the Treble Cone access road) does not appear to serve any material purpose and should be realigned and deleted from the western side of the Wanaka Mt Aspiring Road¹.

¹ To remove the overlay from SEC 1 SO 23260 SEC 2 SO 22995; Section 1 SO 367599; Section 29 SO 367599; Section 30 SO 367599; and LOTS 3-4 DP 438304 SECS 1, 3, 5-8, 14, 1 9-23, 25-30 SO 3675 99 PT SEC 1 BLK VI MO TATAPU SD SEC 2, 1561R BLK VI MOTATAPU.

Extent of Wāhi Tūpuna Overlays 22: Kā Kamu a Hakitekura (Walter Peak and Cecil Peak) and 33: Whakātipu-Wai-Māori (Lake Wakātipu)

- 9 A small portion of the northwestern extent of Wāhi Tūpuna overlay 22, and the edges of Wāhi Tūpuna overlay 33 around the Lake's edge (which affects Wayfare's interests at Walter Peak) does not appear to serve any material purpose and should be realigned and deleted from the land at Walter Peak².

Extent of Wāhi Tūpuna Overlay 29: Kimiākau (Shotover River)

- 10 The Morning Star Beach Recreation Reserve is highly modified and contains numerous commercial activities including those of an urban character. Wāhi Tūpuna overlay 29 does not appear to serve any material purpose in this location and should be realigned or deleted from the urban characterised parts of the reserve.

Application of Wāhi Tūpuna to Crown owned and managed land

- 11 The application of the Wāhi Tūpuna overlay and associated provisions to land owned and/or operated by Crown entities is unnecessary and a duplication of process.
- 12 Three examples are the areas of land at Walter Peak, Morning Star Beach Recreation Reserve and Treble Cone managed by the Department of Conservation and LINZ. Wayfare and its subsidiaries operate various tourism activities from these sites. Wayfare entities work to achieve the best environmental outcomes from their operations; in particular, earthworks and activities in proximity to waterbodies are carefully managed and appropriate carve outs from the consenting process have been identified. All activities on conservation land are undertaken with the overarching section 4 purpose of the Conservation Act in mind, to give effect to the Treaty of Waitangi. To require Wayfare to obtain consent through the Wāhi Tūpuna chapter as well would be an inefficient duplication of process and is not the most appropriate option overall.

Notification

- 13 Wayfare considers that given that the focus on the Wāhi Tūpuna Chapter is ensuring effects on the cultural values of Manawhenua are considered, notification of activities which trigger rules in Chapter 39 and associated Wāhi Tūpuna provisions in other chapters should be restricted to limited

² Being the land held in Certificates of Title SL3A/830; SL8A/210 SL3A/827; SL3A/828; 751971 752297; 751973 and land legally described as GAZ NO 94-2191 SEC 19 BLK III MID WAKATIPU SD.

notification on Manawhenua only. When an assessment specifically concerns effects on Manawhenua public notification is not required and not appropriate.

Policies 39.2.1.3(a) and (b)

- 14 Policy 39.2.1.3(a) duplicates unnecessarily the policy direction already provided by the provisions in Chapters 3 and 5 and other PDP Chapters, particularly policies 3.3.33, 3.3.34 and 5.3.5.5.
- 15 Policy 39.2.1.3(b) is uncertain and potentially wide reaching in effect. It is at odds with the approach of Chapter 39 of identifying Wāhi Tūpuna overlays and scheduling their specific values and threats.

Open Space

- 16 It is important that positive effects of activities in the Open Space and Recreation Zones can be considered, such as benefits to the community and benefits to the local and national economy through growth in the tourism sector. Creating a planning framework that fails to allow positive effects to be considered (from RDA activities) frustrates the purpose of the concept of sustainable management. To this end it is proposed to insert a matter of discretion into Table 38.5 that provides for the consideration of positive effects.

Relief Sought

- 17 Wayfare seeks the following relief:
 - (a) Amend the PDP planning map to remove Wāhi Tūpuna overlays 22 and 33 from the Walter Peak Land described in footnote 2;
 - (b) Amend the PDP planning map to remove Wāhi Tūpuna overlay 7 from the base of Treble Cone by realigning the boundary of the overlay with the Wanaka – Mount Aspiring Road cadastral boundary;
 - (c) Amend the PDP planning map to remove Wāhi Tūpuna overlay 29 from the Morning Star Beach Recreation Reserve;
 - (d) Remove the application of the Wāhi Tūpuna provisions from land within the Wāhi Tūpuna overlay owned by the Crown, including land managed by the Department of Conservation and LINZ;
 - (e) Introduce a non-notification provision to Chapter 39, and amend the non-notification provisions in Chapter 25 and Chapter 27, to restrict notification of activities requiring consent under Chapter 39 and/or the

related Wāhi Tūpuna provisions to notification to manawhenua, i.e. prevent public notification;

- (f) Delete policies 39.2.1.3(a) and 39.2.1.3(b);
- (g) Otherwise delete or amend the provisions of Chapter 39 and related Wāhi Tūpuna provisions in other chapters as necessary to give effect to the relief sought in this appeal; and
- (h) Insert an additional matter of discretion for restricted discretionary activities in Table 38.5 of the Open Space and Recreation Zone Chapter, to ensure the "positive effects" and/or "benefits" of an activity can be considered.

Further and consequential relief

- 18 Wayfare 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 Wayfare submission.

Attachments

- 19 The following documents are attached to this notice:
- (a) **Appendix A** – A copy of Wayfare's submission #3343;
 - (b) **Appendix B** - A copy of the Wāhi Tūpuna decision appealed; and
 - (c) **Appendix C** – A copy of the Open Space and Recreation Zone decision appealed; and
 - (d) **Appendix D** – A list of names and addresses of persons to be served with this notice.

Dated this 18th day of May 2021



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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).

Advice

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