

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV-2021-CHCH-0000

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

an appeal under Schedule 1, Clause 14(1), of the
Act

BETWEEN

CARDRONA CATTLE COMPANY LIMITED

Appellant

AND

QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

**NOTICE OF APPEAL BY CARDRONA CATTLE COMPANY LIMITED:
RURAL VISITOR ZONE**

18 MAY 2021

Counsel instructed:

JGH BARRISTER

J D K Gardner-Hopkins

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PO Box 25-160

WELLINGTON

TO: The Registrar
 Environment Court
 PO Box 2069
 20 Lichfield Street
CHRISTCHURCH
Christine.McKee@justice.govt.nz

AND TO: The Respondent
dpappeals@gldc.govt.nz

(NOTE: Service on submitters and further submitters is waived pursuant to the Environment Court's directions of 1 April 2020]

Notice of appeal

1. Cardrona Cattle Company Limited, as successor to the original submitter, David Henderson, ("**appellant**") appeals the following decision ("**decision**") made by the Queenstown Lakes District Council ("**QLDC**"):

Decisions on Chapter 46 Rural Visitor Zone and Related Variations to Chapters 25, 27, 31 and 36 of Stage 3b of the Queenstown Lakes District Proposed District Plan ("**PDP**")

2. The appellant received notification of the Decision on 1 April 2021.
3. The appellant made a submission on the PDP on or around 18 November 2019, referenced as #31039.
4. The appellant is not a trade competitor for the purposes of Section 308D of the Act.

Decision / part of Decision appealed against

5. The Decision refused the request to rezone the appellant's site to Rural Visitor Zone ("**RVZ**").
6. The appeal relates to the Decision to:
 - (a) reject the rezoning of the appellant's site (and the neighbouring site) to RVZ; and
 - (b) depart substantively from the provisions of the RVZ as notified.

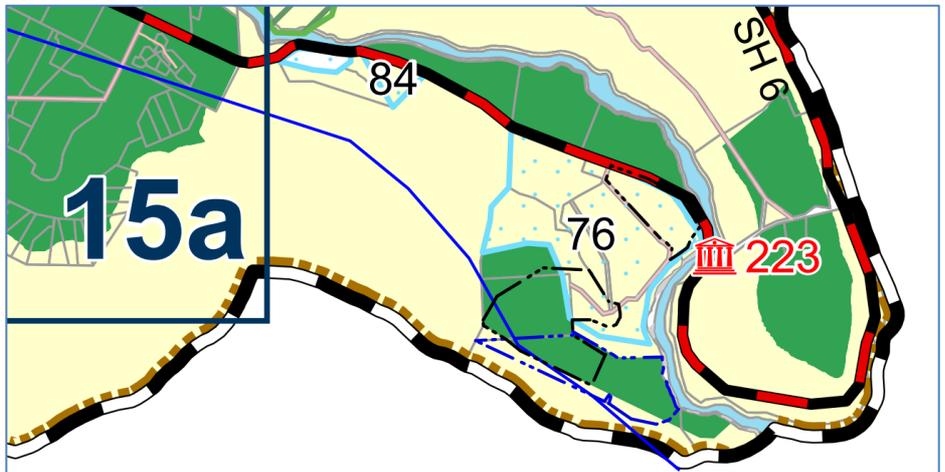
Reasons for the appeal

Background

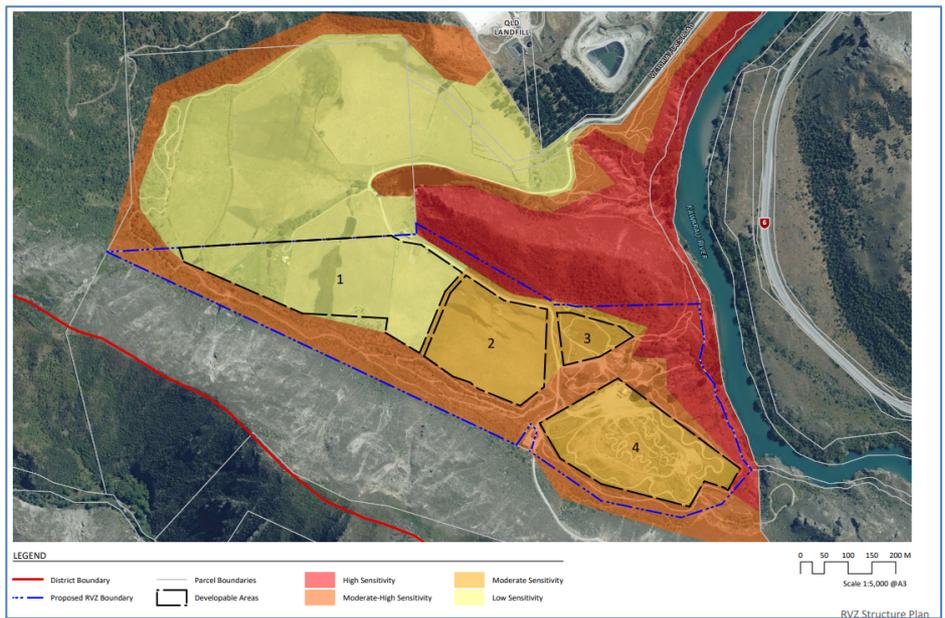
7. The appellant sought to rezone approximately 41 hectares of its land located at Victoria Flats in the Gibbston Valley from Gibbston Character Zone and Rural Zone (Outstanding Natural Landscape) to Rural Visitor Zone, shown in red in the first image below:



8. The following image also shows the Proposed District Plan zoning (the previous image being at a better scale to show the area of Rural Zone and Gibbston Character Zone, but was still showing the operative zoning, and that zoning has largely moved on):



9. The Structure Plan presented by the appellant's landscape expert further shows the following:



10. The Hearing Panel decision report on the appellants submission is at [645] to [655] of the decision, and made the following observations or statements in relation to the submission:
- (a) The landscape expert for the appellant considered that approximately half of the rezoning area as having low landscape sensitivity and suitable for development as Rural Visitor Zone. The remaining half was of moderate landscape sensitivity and could absorb a smaller amount of development.
 - (b) The Council's landscape expert considered the site could have capacity to accommodate the type of development anticipated by the RVZ, subject to the provision of a detailed landscape analysis and assessment. This is due to the site's containment, visually and physically, by the localised topography, only passing views available from SH6 to the east, favourable topography for sensitively designed and located development; and the modified character of the site;
 - (c) The Council's hazard expert identified that parts of the site may be affected by landslides, but the risk to those areas is low;
 - (d) The Council's viticulture advisor described that the site is capable of growing grapes and viticulture on the site is economically viable.
11. The Council's planning evidence identified that while the site has some of the key characteristics for RVZ, being remoteness and difficult to see from public locations, there was not sufficient information regarding planning or viticulture issues did not support rezoning to RVZ1.
12. The Hearing Panel found that the landscape evidence was limited and was not supported by planning evidence. There was no planning evaluation of the site or any site-specific provisions based on the landscape expert's findings. The limited evidence was not sufficient to support the request to rezone the site within the Rural Visitor Zone.

Appeal – specific reasons

13. The Hearing Panel erred procedurally and/or substantively, in:
- (a) finding that the site was not suitable for Rural Visitor Zoning;
 - (b) failing to consider a range of methods (including associated objectives or policies) to manage the effects development at the site under the Rural Visitor Zone;
 - (c) amending the notified objectives, policies and rules to a significant extent from the notified version, which will create an inefficient implementation regime, requiring the assessment of matters satisfied as part of the rezoning process (i.e. hazards, reverse sensitivity/compatibility with rural activities, landscape effects), contrary to the original intention of the zone and its provisions.

¹ Section 42a report of Emily Suzanne Grace On behalf Of Queenstown Lakes District Council Chapter 46 Rural Visitor Zone – text, variation and mapping. 18 March 2020 at [11.2].

14. While no findings were reached by the Hearing Panel, the appellant strongly refutes the assertion by the Council's viticultural advisor that grapes and viticulture is economic on the site. Even if grapes were desirable to be planted on the site, the rezoning does not interfere with this from occurring.
15. The appellant considers the rezoning of the site to RVZ as the most appropriate zoning outcome.

General reasons for the appeal

16. The general reasons for this appeal are that the Decision (as it currently stands) generally, in not rezoning the site to RVZ, and, in its current form, if the site were rezoned to RVZ:
- (a) fails to promote sustainable management of resources, including the enabling of people and communities to provide for their social and economic well-being, and will not achieve the section 5 purpose of the Act;
 - (b) fails to promote the efficient use and development of the land, a matter to have particular regard to under section 7(b) of the Act;
 - (c) in respect of land that is anticipated by its zoning for use and development:
 - (i) fails to achieve or implement the relevant district-wide objectives and policies of the PDP that supported that zoning;
 - (ii) fails to achieve or implement the relevant objectives and policies of the zone in question; and/ or
 - (iii) otherwise to support and/or is otherwise inconsistent with achieving the land use outcomes anticipated by the relevant zoning;
 - (d) fails to achieve the functions of the Council under section 31 of integrated management of the effects of the use and development of land and physical resources;
 - (e) fails to meet the requirements of section 32;
 - (f) is procedurally unfair and inefficient.
17. In contrast, granting the appeal will generally, and particularly in in respect of the Site will achieve all of the matters/ outcomes or otherwise address the issues identified above in paragraph [16] immediately above.

Relief sought

18. The Appellant seeks the following relief:
- (a) rezoning of the site to RVZ including amending the plan maps to identify the Victoria Flats Rural Visitor Zone and areas of low,

moderate or high landscape sensitivity, or any other plan notations;

- (b) return to the notified objectives and policies, or an amendment that better achieves the purpose of the RVZ, better implements the strategic objectives and policies, and directs a more efficient and effective set of rules and their administration;
- (c) providing location specific rules to the Victoria Flats Rural Visitor Zone to manage the effects of rural visitor activities;
- (d) inclusion of a structure plan and objectives, policies and rules to Chapter 27 Subdivision and Development to effectively manage any future subdivision;
- (e) any other additional or consequential relief to the PDP, including but not limited to, the maps, issues, objectives, policies, rules, controls, discretions, assessment criteria and explanations to give effect to the appellant's original submission and this notice of appeal;
- (f) costs.

Alternative dispute resolution

19. The appellant agrees to participate in mediation or other alternative dispute resolution of the proceeding.

Attachments

20. The following documents are attached to this notice.
- (a) a copy of the appellant's original submission; and
 - (b) a copy of the Decision.

[The Environment Court has waived the requirement to serve submitters and further submitters, and so no list of submitters to be served is required to be filed with this notice. It has also waived the "advice to recipients" requirement, and so that advice is omitted from the notice to the appeal.]

DATED 18 May 2021



J D K Gardner-Hopkins
Counsel for the appellant

The appellant's address for service is C/- James Gardner-Hopkins, Barrister, PO Box 25-160, Wellington 6011.

Documents for service on the appellant may be sent to that address for service or may be emailed to james@jghbarrister.com. Service by email is preferred, with receipt confirmed by return email.

Attachment 1 - the appellant's submission

Attachment 2 - the Decision