

**In the Environment Court
at Christchurch**

ENV- 2021-CHC

**I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe**

In the Matter

of the Resource Management Act
1991 (**Act**)

And

In the Matter

of the Queenstown Lakes
Proposed District Plan – Stage 3

And

In the Matter

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

Between

NPR Trading Limited

Appellant

And

Queenstown Lakes District
Council

Respondent

**Notice of Appeal by **NPR Trading
Limited** against a decision on the
Proposed Queenstown Lakes District
Plan – Stage 3**

Dated: 18 May 2021

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To: The Registrar
Environment Court
Christchurch

Notice of Appeal

1. NPR Trading Limited (**Appellant**) appeals against part of a decision of the Queenstown Lakes District Council (**Council**) on the Queenstown Lakes Proposed District Plan – Stage 3 (**PDP**).
2. The Appellant made a submission on the PDP (submission #3298) and a further submission (#3455).
3. The Appellant is not a trade competitor for the purposes of section 308D of the Act.
4. The Appellant received notice of the Council's decision on 1 April 2021.
5. The decision was made by the Council through adopting the recommendations of the Independent Hearings Panel (**Panel**) on 18 March 2021.
6. The Appellant is appealing the part of the PDP as it relates to the restrictions on office, commercial, retail, food and beverage and other related activities in the General Industrial Zone (**GIZ**) and the extent and nature of the GIZ on and around Ballantyne Road/ Gordon Road, Wanaka. These parts of the decision are contained in Stream 17 – Chapter 18A – General Industrial Zone, Report 20.3 and the associated text and maps.

Background

7. The Appellant owns 15 Gordon Road, Wanaka. The premises at 15 Gordon Road are leased to commercial tenants.
8. The Appellant's land is zoned Industrial A under the Operative District Plan (**ODP**) which allows for a range of activities including offices, commercial and business not ancillary to an industrial use.
9. Under the Stage 3 Notified Proposed District Plan (**Stage 3**) the Appellants land was included in the GIZ.

10. The Appellant lodged a submission (submission #3298) seeking that that the proposed GIZ provisions be amended to allow for office, commercial retail, food and beverage and other related activities not ancillary to industrial or service activity. Alternatively, the submission sought that the proposed amendments to the provisions be confined to the GIZ as it applies to the land along Gordon Road. Alternatively the submission sought that the land along Gordon Road be rezoned Business Mixed Use Zone (**BMUZ**) with appropriate restrictions on residential and visitor accommodation.
11. The Appellant also lodged a further submission (submission #3455).¹ Without limiting the reasons listed in the further submission the Appellant supported the following parts of the relevant original submissions:
 - (a) the proposals to rezone the area west of Ballantyne Road as BMUZ with appropriate restrictions on residential and visitor accommodation use adjacent to industrial activities; and
 - (b) a variation of the GIZ to allow for office, retail, commercial trade supply and other related activities; and.
 - (c) the flexibility a varied GIZ or BMUZ would provide for existing uses and smaller lot sizes.
12. The Council's decision rejected parts of the Appellant's submission and further submission that sought the relaxation of the proposed GIZ zoning and declined to relax the provisions along the Gordon Road corridor to the extent sought in the submission.
13. In rejecting parts of the Appellant's submission, the Council retained the prohibition (through a prohibited activity status) on new office, commercial and retail activities not ancillary to industrial or service activities within the GIZ and maintained restrictions on trade supply within the GIZ.

¹ The Appellant's further submission was on the following original submissions: Tussock Rise Limited (#3128), Bright Sky Land Limited (#3130), Tekoa House Limited (#3147), Alpine Estates Limited (#3161), Orchard Road Holdings Limited (#3165), Willowridge Developments Limited (#3201), Upper Clutha Transport Limited (#3270), Nigel Perkins (#3283), The Breen Construction Company Limited (#3234), J C Breen Family Trust (#3235), Alpine Nominees Limited (#3266), 86 Ballantyne Road Partnership (#3286) and Ben and Hamish Acland (#3300).

General reasons for the Appeal

14. The part of the Council's decision appealed:
 - (a) does not give effect to the higher order strategic directions, objective and policies in the PDP;
 - (b) does not give effect to the Otago Regional Policy Statement (**ORPS**) and National Policy Statement on Urban Development 2020 (**NPS-UD**);
 - (c) does not represent an efficient use of land under section 7(b); and
 - (d) overall, fails to promote sustainable management of natural and physical resources and therefore, does not achieve the purpose of the Act.

Particular Reasons for the Appeal

15. An industrial zone in this part of Wanaka that is more permissive in relation to office, commercial, retail (including trade supply) and other related land uses is more appropriate in terms of existing use, future demand and management of adverse effects.
16. The decision fails to have appropriate regard to the general character of the land to the west of Ballantyne Road, which is a mix of service, industrial, commercial, office and retail more appropriately suited to a more permissive zone framework.
17. The decision fails to have appropriate regard to the location, size and use of the GIZ land to the west of Ballantyne Road. It fails to address the lack of demand for heavy industrial activity in an area of the relevant size, location and proximity to residential activities. Accordingly, it fails to acknowledge that the GIZ zoning to the west of Ballantyne Road does not provide meaningful capacity for industrial activities.
18. Given the current mix of activities in the Ballantyne Road area, the proposed GIZ fails to give effect to Strategic Policy 3.3.8, which seeks to avoid non-industrial activity in industrial zones.

19. The decision errs in that it fails to recognise that the prohibited activity status for office, retail and commercial activity is unjustified in light of the historical land use and future demand in the area. A more relaxed zone framework that provides for office, retail, commercial and other related activity to be tested as to their appropriateness of establishing in an appropriate manner better reflects the balance of activities currently present in the area and is most appropriate in terms of future demand.
20. The decision errs in that it fails to appropriately recognise existing and consented commercial buildings on both the lead subject of this appeal and the wider Ballantyne Road/ Gordon Road area. The decision fails to recognise the physical nature of these buildings, being designed for commercial, retail, office and trade supply use, and to address commercial reality in terms of the turn-over of tenants within the buildings.
21. The decision does not appropriately address the traffic effects of the GIZ near Wanaka Town centre and the deterrent that transport effects will have on demand for industrial land uses.

Relief Sought

22. The Appellant seeks that the following relief:
 - (a) Amendments to the GIZ provisions to:
 - (i) allow office, commercial, retail (including trade supply and food and beverage) and other related land uses that are not ancillary to Industrial and Service Activities; and
 - (ii) provide for existing and consented office, retail, commercial and trade supply premises to continue to be used into the future in a flexible manner. Allow for such premises to be occupied by new tenants and appropriately upgraded and modified.
 - (b) Without limiting the generality of the relief set out at paragraph 22(a) above, the Appellant seeks the specific amendments to the provisions set out at **Appendix 1**.
 - (c) As alternative relief, the Appellant seeks that:

- (i) the amendments to the GIZ provisions set out at paragraphs (a) – (b) above apply to the area of GIZ land on the west side of Ballantyne Road and Strategic Policy 3.3.8 is amended to provide that it does not apply to the relevant part of the GIZ; or
 - (ii) the area of GIZ land on the west side of Ballantyne Road identified in the map at **Appendix 2** be rezoned to BMUZ (with some restriction on residential and visitor accommodation use where sites are adjacent to industrial activities).
- (d) any other additional or consequential relief to the PDP text (including to the strategic chapters, objectives, policies, definitions and chapter names) or maps that will give effect to the matters raised in this appeal.

Attached Documents

23. The following documents are **attached** to this notice:

- (a) amendments sought to Chapter 18A GIZ as **Appendix 1**;
- (b) plan showing location of land proposed to be rezoned to BMUZ as **Appendix 2**;
- (c) a copy of the Appellant's Stage 3 submission as **Appendix 3**;
- (d) a copy of the Appellant's Stage 3 further submission as **Appendix 4**;
- (e) a copy of the relevant part of the Decision as **Appendix 5**; and
- (f) a list of names and addresses of persons to be served with a copy of this notice as **Appendix 6**.

Dated this 18th day of May 2021

A handwritten signature in blue ink, appearing to read 'K. Hockly', is written above a horizontal line.

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