

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 ( <b>RMA</b> )
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	<b>Felzar Properties Limited</b>
	Appellant
And	<b>Queenstown Lakes District Council</b>
	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 Felzar Properties Limited (**Felzar**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).

2 Felzar made a submission (#229) on Stage 1 of the PDP.

3 Felzar is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).

4 Felzar 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 relief sought and the reasons for appeal are set out below.

### **Background**

8 Felzar owns land located adjoining the southern end of Lake Hayes, along Lake Hayes-Arrow Junction Highway / State Highway 6 (**SH6**), legally described as PT SEC 115 and PT SEC 210R Blkk III Shotover SD, held in certificate of title OT301/59 (**Land**).

9 Under the Operative District Plan the Land was zoned Rural General.

10 In Stage 1 of the PDP the Land was notified as Rural. Felzar lodged submission #229 seeking that the Land be rezoned to Rural Residential.

11 In Stage 2 of the PDP the Land was included in the Wakatipu Basin Variation (**Variation**). The Land was notified as Wakatipu Basin Rural Amenity Zone (**WBRAZ**).

12 By way of Memorandum on 22 December 2017 the Council confirmed to the Hearing Panel that the relief sought in submission #229 was deemed to be "on" the Variation. As such the relief sought was transferred to Stage 2.

13 The Decision on the Variation zoned the Land WBRAZ.

### **Relief sought**

- 14 The zoning of Land as WBRAZ is opposed.
- 15 In the first instance Felzar seeks that the Land be rezoned to Rural Residential Zone as sought in submission #229.
- 16 In the alternative, Felzar seeks that the Land be rezoned WBLP.

### **Reasons for relief sought**

- 17 The zoning of the Land as WBRAZ does not accurately reflect the existing character, land uses and lot densities of the surrounding Ladies Mile – Lake Hayes area:
  - (a) The Land sits within Landscape Character Unit (LCU) 10 Ladies Mile. LCU 10 is identified in Schedule 24.8 as being characterised by rural residential land use, a low sense of naturalness, and generally smaller lot sizes below 10ha. LCU 10 is identified as having a 'high' capacity to absorb additional development.
  - (b) The 'Ladies Mile' area to the west of the Land has been earmarked for future development / urbanisation. The surrounding area is adjacent to SH6, and a large number of small lot rural residential developments are located along the highway.
- 18 The Land has the capacity to absorb additional development that is sensitive and well designed:
  - (a) Due to existing vegetation bordering Lake Hayes, additional development can be reasonably screened from the Lake. Future planting could be used to screen developed from SH6.
  - (b) Chapter 24 imposes restrictive standards on density, building materials, size, coverage, height and setbacks that apply to both the WBRAZ and WBLP. Similar standards apply to the Rural Residential Zone. Felzar considers that reliance on these standards is sufficient to ensure suitable development outcomes on the Land which maintain or enhance landscape character and amenity values, without the requirement for the Land to be zoned WBRAZ.
  - (c) The level of development that can reasonably be accommodated on the Land in accordance with the standards will be of the same character as the existing rural residential development in the surrounding area.

- 19 Concerns regarding the water quality of Lake Hayes do not justify a complete bar of development within the Lake Hayes Catchment:
- (a) Council's decision to 'down-zone' all land within the Lake Hayes Catchment not serviced by a reticulated wastewater treatment scheme to WBRAZ relied on one-sided presentations relating to the effects on water quality in the Lake Hayes Catchment which were not adequately supported by evidence.
  - (b) Given that management of water quality is a Regional Council function, it is unreasonable for the District Council to use a zoning as a complete bar to development based on water quality concerns. Water quality should instead be addressed through the appropriate Regional Council mechanisms.
  - (c) In this circumstance it is likely that development on the Land could be serviced by the Council reticulated wastewater treatment scheme, so the zoning of WBRAZ is not justified.
- 20 The WBRAZ zoning acts as a barrier to appropriate development and reasonable land use in the future, ignores the economic wellbeing of the landowner, and results in ineffective land use in the Basin generally.
- 21 Rural Residential or WBLP is a more appropriate zoning for the Land as it reflects the actual established character and current utilisation of the Land, and provides for an appropriate degree of future development.

**Further and consequential relief sought**

- 22 Felzar 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 Felzar submissions.

## Attachments

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

- (a) **Appendix A** – A copy of the Appellant's submission;
- (b) **Appendix B** - A copy of the relevant parts of the decision; and
- (c) **Appendix C** - 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.