

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First Schedule of the Act

BETWEEN SYZ INVESTMENTS LIMITED
(ENV-2018-CHC-130)
REMARKABLES PARK LIMITED
(ENV-2018-CHC-126)
OTAGO REGIONAL COUNCIL
(ENV-2018-CHC-79)
MT CHRISTINA LIMITED
(ENV-2018-CHC-103)
BILL AND JAN WALKER FAMILY TRUST
(ENV-2018-CHC-99)
UNIVERSAL DEVELOPMENTS LIMITED
(ENV-2018-CHC-101)
FRED VAN BRANDENBURG
(ENV-2018-CHC-71)
Appellants

AND QUEENSTOWN LAKES DISTRICT COUNCIL
Respondent

Environment Judge J J M Hassan – sitting alone pursuant to s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 8 May 2020

CONSENT ORDER



A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed, and Queenstown Lakes District Council is directed to:
 - (a) amend Chapter 27 (Subdivision and Development) as set out in Appendix 1, attached to and forming part of this consent order;
 - (b) make any consequential changes to the planning maps resulting from the above amendments.
- (2) the following appeal points are dismissed:
 - (a) ENV-2018-CHC-130-019;
 - (b) ENV-2018-CHC-126-017;
 - (c) ENV-2018-CHC-103-011;
 - (d) ENV-2018-CHC-099-021;
 - (e) ENV-2018-CHC-101-012;
 - (f) ENV-2018-CHC-071-006;
 - (g) ENV-2018-CHC-065-006;
 - (h) ENV-2018-CHC-071-005;
 - (i) ENV-2018-CHC-101-011;
 - (j) ENV-2018-CHC-086-003.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This is an appeal by SYZ Investments Limited, Remarkables Park Limited, Otago Regional Council, Mt Christina Limited, Bill and Jan Walker Family Trust & others, Universal Developments Limited, and Fred van Brandenburg against parts of a decision of the Queenstown Lakes District Council ('Council') on Chapter 27 of the Proposed Queenstown Lakes District Plan – Stage 1. It relates to Topic 7 (Subdivision and Development).



[2] The court received a consent memorandum of the parties dated 24 June 2019,¹ and a subsequent memorandum dated 27 November 2019 which confirmed and rectified an error in the earlier memorandum received.²

[3] Responding to the identification of s274 parties that had not signed the joint memorandum, the court issued a Minute dated 27 February 2020 providing opportunity to those s274 parties to express their views on the relief sought by consent order. No response has been received.

[4] The court has now considered the consent memoranda which propose to partially resolve these appeals.

Orders

[5] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that all parties to the proceedings:

- (a) have executed the memorandum requesting this order;
- (b) are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA including, in particular, pt 2.

J J M Hassan
Environment Judge



¹ Joint memorandum of parties dated 24 June 2019.

² A joint memorandum on behalf of the parties interested in Rule 25.5.7 who participated in mediation regarding Topic 7 of the PDP was provided in response to the Environment Court's email correspondence with the parties dated 21 October 2019. This queried whether the striking out of the phrase "but not be limited by" from Rule 27.9.3 was an error. The memorandum confirms this was an error as the striking out is not a matter to be confirmed by the court now.

APPENDIX 1

(amendments shown in underline and ~~strikethrough~~ text)

CHAPTER 27 – SUBDIVISION

POLICIES

27.2.2.1 *Ensure subdivision design in urban areas provides a high level of amenity for future residents by aligning roads and allotments to maximise sunlight access.*

27.2.5.5 *Ensure appropriate design and amenity associated with roading, vehicle access ways, trails and trail connections, walkways and cycle ways are provided for within subdivisions by having regard to:*

- a. the location, alignment, gradients and pattern of roading, vehicle parking, service lanes, access to lots, trails, walkways and cycle ways, and their safety and efficiency;
- b. the number, location, provision and gradients of access ways and crossings from roads to lots for vehicles, cycles and pedestrians, and their safety and efficiency;
- c. the standard of construction and formation of roads, private access ways, vehicle crossings, service lanes, walkways, cycle ways and trails;
- d. the provision and vesting of corner splays or rounding at road intersections;
- e. the provision for and standard of street lighting, having particular regard to siting and location, the provision for public safety and the avoidance of upward light spill adversely affecting views of the night sky;
- f. the provision of appropriate tree planting within roads in urban areas;
- g. any requirements for widening, formation or upgrading of existing roads;
- h. any provisions relating to access for future subdivision on adjoining land;
- i. the provision and location of public transport routes and bus shelters in urban areas.

RULE 27.5.7 All urban subdivision activities, unless otherwise provided for, within the following zones:

1. Lower Density Suburban Residential Zone;
2. Medium Density Residential Zone;
3. High Density Residential Zone;
4. Town Centre Zones;
5. Arrowtown Residential Historic Management Zone;
6. Large Lot Residential Zone;
7. Local Shopping Centre;
8. Business Mixed Use Zone;
9. Airport Zone - Queenstown.

Discretion is restricted to:

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- a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions;
- b. Internal roading design and provision, relating to access to and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots, and on lot sizes and dimensions;
- c. property access and roading;
- d. esplanade provision;
- e. the adequacy of ~~on-site~~ measures to address the risk of natural ~~and other~~ hazards ~~on land within the subdivision~~;³
- f. fire fighting water supply;
- g. water supply;
- h. stormwater design and disposal;
- i. sewage treatment and disposal;
- j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks;
- k. open space and recreation;
- l. ecological and natural values;
- m. historic heritage;
- n. easements.

For the avoidance of doubt, where a site is governed by a Structure Plan, that is included in the District Plan, subdivision activities shall be assessed in accordance with Rule 27.7.1.

Rule 27.7.1 Subdivision consistent with a Structure Plan that is included in the District Plan.

Control is reserved to:

- a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions;
- b. internal roading design and provision, and any consequential effects on the layout of lots, and on lot sizes and dimensions;
- c. property access and roading;
- d. esplanade provision;
- e. the adequacy of ~~on-site~~ measures to address the risk of natural ~~and other~~ hazards ~~on land within the subdivision~~;
- f. fire fighting water supply;

³

Amendments to matter of discretion 27.5.7(e) are agreed, however appeals related to the activity status of subdivision remain live at this time.



- g. water supply;
- h. stormwater design and disposal;
- i. sewage treatment and disposal;
- j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks;
- k. open space and recreation; and
- l. ecological and natural values;
- m. historic heritage;
- n. easements;

any additional matters relevant to achievement of the objectives and policies in part 27.3 of this Chapter.

Rule 27.9.3 Restricted Discretionary Activity Subdivision Activities

In considering whether or not to grant consent or impose conditions under Rules 27.5.7 and 27.5.8, the Council shall have regard to, ~~but not be limited by~~, the following assessment criteria:

27.9.3.1 Assessment Matters in relation to Rule 27.5.7 (Urban Subdivision Activities)

- a. whether lot sizes and dimensions are appropriate in respect of widening, formation or upgrading of existing and proposed roads and any provisions required for access for future subdivision on adjoining land;
- b. consistency with the principles and outcomes of the QLDC Subdivision Design Guidelines;
- c. whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and the proposed means for their protection;
- d. the effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance;
- e. whether the location, alignment, gradients and pattern of roading, service lanes, pedestrian accessways and cycle ways is appropriate, including as regards their safety and efficiency;
- f. the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;
- g. whether the purposes for the creation of esplanade reserves or strips set out in section 229 of the Act are achieved;
- h. whether services are to be provided in accordance with Council's Code of Practice for Subdivision;
- i. whether effects on electricity and telecommunication networks are appropriately managed;



- j. whether appropriate easements are provided for existing and proposed access and services;
- k. the extent to which natural hazard risk is appropriately managed in accordance with the relevant provisions of Chapter 28:

27.10 Rules – Non-Notification of Applications

Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:

- ~~a. where the site adjoins or has access onto a State Highway;~~
- ~~ba. where the Council is required to undertake statutory consultation with iwi;~~
- ~~eb. where the application falls within the ambit of Rule 27.5.4;~~
- ~~ec. where the application falls within the ambit of Rule 27.5.10 and the written approval of Transpower New Zealand Limited has not been obtained to the application.~~
- d. where discretion or control relates to property access and roading and the site adjoins or has access directly onto a State Highway, an activity may be limited notified, in respect of those matters of discretion or control, if the written approval of the New Zealand Transport Agency has not been obtained to the application.
- d.(i). notwithstanding d. above, where an application falls within the ambit of Rule 27.7.9, an activity may be limited notified if the written approval of the New Zealand Transport Agency has not been obtained to the application.

