

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 (**RMA**)

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

Between **Schist Holdings Limited**
Appellant

And **Queenstown Lakes District Council**
Respondent

Notice of Appeal

18 May 2021

Appellant's planning consultant:

C/- Carey Vivian
Vivian and Espie Ltd
PO Box 2514
Wakatipu Mail Centre
Queenstown 9349

To: The Registrar
Environment Court
Christchurch

- 1 Schist Holdings Limited (**SHL**) appeals against part of the decision of Queenstown Lakes District Council on Stage 3B of the Queenstown Lakes Proposed District Plan (**PDP**).
- 2 SHL made Submission #3111 on Stage 3 the PDP.
- 3 SHL is not a trade competitor for the purpose of section 308D of the RMA.
- 4 SHL 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 relates to are:
 - (a) Chapter 18: General Industrial Zone of the PDP;
 - (b) The PDP Planning Maps.
- 7 The reasons for appeal and general relief sought by SHL are summarised below.

Background

- 8 SHL own Lot 1 DP 545971 located at 209 Glenda Drive, Queenstown.
- 9 SHL have several commercial buildings located on the site. They also hold an unimplemented resource consent for a further building on the site, which includes a significant component of office use.
- 10 SHL property was zoned General Industrial under Stage 3 of the PDP review.
- 11 SHL made a comprehensive submission on the proposed zoning, seeking the split the General Industrial zone into A and B zones to reflect the different nature of the existing industrial areas within the Queenstown-Lakes district QR, in the alternative, amend Chapter 18 to reflect the different nature of the areas currently zoned Industrial A, in particular the Glenda Drive industrial zone which is more 'business' in nature and has more office and commercial uses than industrial or light industrial activity.
- 12 A copy of SHL submission is attached to the appeal.
- 13 The Council's decision does not specifically address SHL submission. However, it does record SHL as being "accepted in part" at page 99 and 100.

Reasons for appeal

14 The reasons for the appeal are:

- (a) SHL hold a resource consent application for the construction of two buildings on their site, both of which include a component of office space. One of the buildings has been constructed. Construction of the second building has been delayed due to Covid-19.
- (b) The objectives, policies and rules enable “*Existing office, retail and commercial activities*” that were “*lawfully established*” to continue as a permitted activity (Rule 18A.4.5). It is unclear whether the reference to “existing” in these objectives, policies and rules includes consented (but as yet built) buildings and uses.
- (c) SHL consider the objectives, policies and rules with respect to offices, retail and commercial activities, particularly within the Glenda Drive area, are unnecessarily prescriptive and are not effects based. The rules provide little certainty for the established businesses in Glenda Drive to grow, diversify and adapt to new markets (Strategic Objective 3.2.1.6).
- (c) The Council’s ground truthing showed the Glenda Drive area comprises a number of activities. Glenda Drive was first established in the 1970’s and it will be very difficult to now ascertain whether offices, retail and commercial activities, including changes in tenancies over the years, were “lawfully established”.
- (d) Glenda Drive, for the reasons outlined in SHL submission, is more appropriately zoned something more akin to the Business Mixed Use Zone (with relevant modifications as necessary).

Relief sought

15 SHL seeks the following relief:

- (a) Amend Rule 18A.4.5 as follows:

18A.2.2.1 Avoid Manage activities that are not compatible with the primary function of the zone and that have the ability to displace or constrain the establishment, operation and long term viability of Industrial and Service activities including:

- a. **Office, Retail and Commercial activities unless:**
 - i. they are ancillary to Industrial or Service activities, or
 - ii. the activity is an ~~existing~~ Office, Retail or Commercial activity lawfully or consented established prior to [xx date Chapter 18A becomes operative] and has remained the same or similar character, intensity and scale;

- b. **Large Format Retail;**
- c. **Residential Activity, Residential Units and Residential Flats, and**
- d. **Visitor accommodation, Residential Visitor accommodation and Homestay activities.**

(c) Amend Rule 18A.4.5 as follows:

18A.4.5	Existing Office, Retail or Commercial activities lawfully established <u>or consented</u> prior to [date rules become operative], including the relocation <u>or expansion</u> of the existing Office, Retail or Commercial activity within the same building or tenancy on the same site as the lawfully established <u>or consented</u> activity.	P
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(b) Amend Rule 18A.4.17 as follows:

18A.4.17	Existing Office, Retail and Commercial activities <u>prior to</u> [date rules become operative] that do not comply with rule 18A.4.5.	NG <u>D</u>
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(c) Amend Rule 18A.4.18 as follows:

18A.4.18	Office, Retail and Commercial activities not otherwise identified.	PR <u>NC</u>
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(d) Amend Rule 18A.5.2 as follows:

18A.5.2	<p>Existing Office, Commercial or Retail activities provided for under 18A.4.5:</p> <ul style="list-style-type: none"> a. Must occur within the same building or tenancy on the same site as the lawfully established <u>or consented</u> activity; and b. Must not result in an increase to: <ul style="list-style-type: none"> i. the gross floor area occupied by the existing lawfully established <u>or consented</u> activity of more than 40<u>30</u>%; ii. any outdoor area occupied by the existing lawfully established <u>or consented</u> activity <u>of more than 30</u>%. 	NG <u>D</u>
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Further and consequential relief sought

- 16 SHL 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 SHL's submission.

Attachments

- 17 The following documents are **attached** to this notice:
- (a) **Appendix [1]** – A copy of the SHL's submission #3111;
 - (b) **Appendix [2]** – A copy of the decision appealed; and
 - (c) **Appendix [3]** – A list of names and addresses of persons to be served with this notice.

Dated this 18th day of May 2021



Carey Vivian
Planning Consultant for the Appellant

Address for service of the Appellant

Vivian and Espie Limited

PO Box 2514

Wakatipu Mail Centre

Queenstown 9349

Phone: 03 441 4189

Email: carey@vivianespie.co.nz

Contact person: Carey Vivian

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.