

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA I TE KOOTI TAIAO O AOTEAROA
I ŌTAUTAHI ROHE**

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER an appeal pursuant to clause 14(1) of the RMA
in relation to Stage 2 of the proposed
Queenstown Lakes District Plan

BETWEEN **ZJV (NZ) LIMITED**

Appellant

AND **QUEENSTOWN LAKES DISTRICT COUNCIL**

Respondent

NOTICE OF APPEAL ON BEHALF OF ZJV (NZ) LIMITED

Dated: 7 May 2019

**BROOKFIELDS
LAWYERS**

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To: The Registrar
Environment Court
Christchurch

Notice of Appeal

1. ZJV (NZ) Limited (the **Appellant**) appeals against part of the decisions of the Queenstown Lakes District Council (**QLDC**) in respect of Stage 2 of the Proposed Queenstown Lakes District Plan (**Proposed Plan**).
2. The Appellant made submissions (#2485) and further submissions (#2778) on the Proposed Plan.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
4. The Appellant received notice of the QLDC's decisions on the Independent Hearing Panel's recommendations on 21 March 2019.
5. The parts of the QLDC's decisions that the Appellant is appealing (the **Decisions**) are:
 - a) Report 19.6 Chapter 38 Open Space and Recreation Zone.

Grounds for Appeal

General Grounds

6. The Appellant operates 'Ziptrek Ecotours', an adventure ecotourism business on Bob's Peak in the Ben Lomond Reserve. Ziptrek Ecotours takes guests on guided zipline tours from the top of the Ben Lomond Reserve, through forest canopy and connecting aerial treetop platforms (treehouses) that descend the Ben Lomond mountain.
7. Environmental sustainability is at the heart of the Appellant's business. Ziptrek Ecotours has won numerous sustainable business awards since opening in 2009. In 2019, Ziptrek Ecotours was selected as one of 41 finalists in the country for the new '100% Pure New Zealand Experience' tourism award. This represents the top 3% of the best tourism products in Aotearoa. From the ground up, Ziptrek is built from a sustainability focus expressed in its story to every guest. Ziptrek Ecotours utilises trees

as structures, has remote solar power running all on location systems, utilises the gondola to minimise fossil based transport of people, has planted thousands of native trees and amongst many other things is the largest communicator of the 'Natural Step' scientific framework in the world. Zipline tours have a strong focus on delivering guests with environmental awareness and appreciation of the natural environment, alongside their zipping experience.

8. Maintaining and enhancing the amenity and natural landscape values of the Ben Lomond Reserve environment and its enclosed forest are of great importance to the Appellant, both to ensure the continued enjoyment of its customers' zipline experiences, and for its inherent values in alignment with the philosophy of Ziptrek Ecotours' business.
9. In addition, Ziptrek Ecotours requires the continued existence of the trees to which its treehouses are attached, and the ability to undertake minor pruning activity for health and safety purposes.
10. Accordingly, through this appeal the Appellant is concerned to ensure that the Proposed Plan appropriately manages activities on the Ben Lomond Reserve to preserve its naturalness and amenity values, and to enable Ziptrek Ecotours to continue to operate its business in accordance with its lease agreement with the QLDC.

Particular Reasons

11. The particular reasons for the Appellant's appeal are that the Decisions on Chapter 38:
 - (a) reduce controls on future development in the Ben Lomond Reserve, enabling development at a significantly greater intensity and scale than is appropriate;
 - (b) enable development that is insensitive of the Outstanding Natural Landscape environment and the Ben Lomond Reserve Management Plan;
 - (c) do not show that adequate assessment was undertaken demonstrating that the Ben Lomond Reserve is the most appropriate location in Queenstown for new and larger commercial recreation development;
 - (d) reduce opportunities for limited or public notification for future development within the Ben Lomond Reserve which is inappropriate for development on

publicly owned land and an environment with multiple reserve lease holders and users; and

- (e) does not adequately explain, in section 32 terms, how the existing rule framework for the Ben Lomond Reserve is not operating effectively or efficiently.

12. In addition, the Decisions on Chapter 38:

- (a) fail to achieve the functions of the QLDC under section 31 of the RMA in respect of the integrated management of the effects of the use, development and protection of land and natural and physical resources of the district;
- (b) fail to promote sustainable management of resources and will not achieve the purpose of the RMA under section 5 of the RMA;
- (c) fail to protect outstanding natural landscapes from inappropriate use and development under section 6(b) of the RMA;
- (d) fail to maintain and enhance amenity values and maintain and enhance the quality of the environment under sections 7(c) and 7(f) of the RMA;
- (e) fail to meet the requirements of section 32 of the RMA; and
- (f) do not give effect to the operative and proposed Regional Policy Statement.

Relief Sought

13. The Appellant seeks the following relief:

Planning Maps

14. That the area of land contained within the Ben Lomond Sub Zone be amended as follows:

- a) Reduce the southern and western boundaries of the Ben Lomond Sub Zone – Bobs Peak Area to exclude land subject to the Appellant's lease with the QLDC.

- b) Reduce the width of the Ben Lomond Sub-Zone – Corridor Area to exclude land subject to the Appellant's lease with the QLDC.

Chapter 38

- 15. The Appellant seeks that a structure plan be formulated for the Bob's Peak Area in substitute for the Rule Framework for the Ben Lomond Sub-Zone – Bob's Peak Area contained in the Decisions. A structure plan would better address the unique planning challenges on the reserve and provide greater certainty of long-term planning for all reserve users. A structure plan should identify, at least:
 - a) the range of activities that are appropriate in the reserve setting;
 - b) the spatial layout of activities;
 - c) the effects of built development, facilities and activities;
 - d) the effects of noise and related sensitivities and reverse sensitivities, taking into account all operators;
 - e) natural hazards;
 - f) forestry;
 - g) whether helicopters are appropriate;
 - h) co-ordination and integration of the public / private realms; and
 - i) co-ordination and integration with the Ben Lomond Reserve Management Plan.

- 16. Should the relief listed at paragraph 15 not be accepted, the Appellant seeks that Chapter 38 be amended as follows:
 - a) Add the following additional matters of discretion to Rule 38.11.1 (Buildings):
 - i) Location and external appearance of buildings
 - ii) Relationship of buildings with open space
 - iii) Methods of access to activities within the reserve
 - iv) Effects of the building and related activities on nearby reserve users and existing recreation activities
 - v) Sensitivity of the building to natural and open space values of the reserve
 - vi) The maintenance and enhancement of biodiversity and ecological values

- b) Amend Rule 38.11.3 (Commercial recreation activity and ancillary commercial activity) to add additional matters of discretion as follows:
- i) The nature of the activity and its appropriateness in the context of the reserve
 - ii) Sensitivity to the natural and open space values of the reserve
- c) Amend Rule 38.11.4 (Harvesting and management of forestry) to add additional matter of discretion as follows:
- i) Effects on existing recreation activities and reserve users
- d) Amend Rule 38.11.10 (Building Height Standards) as follows:

Building Height

...
d. Treehouse structures and other buildings associated with zipline operations up to 20m: RD

Discretion is restricted to the following:

- Sensitivity of structure to the natural and open space values of the reserve
- Health and Safety
- Landscape and Visual Amenity Values
- Effects on existing recreation uses

- e) Amend the activity status for Rule 38.11.9 from Non-Complying to Prohibited.

Consequential and Further Relief

17. That the Proposed Plan be amended in a similar or such other way as may be appropriate to address the matters raised in this appeal;
18. Any other similar, consequential, or other relief as is necessary to address the issues raised in this appeal or otherwise raised in the Appellant's submission and further submission.

Service

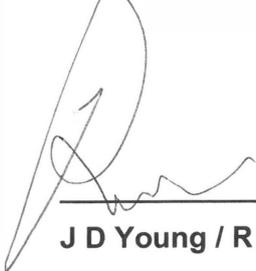
19. An electronic copy of this notice is being served today by email on the QLDC at dpappeals@qldc.govt.nz. Waivers and directions have been made by the Environment Court in relation to the usual requirements of the RMA as to service of this notice to other persons:

- a) Where the appeal is based on an original submission made by QPL, notice has been electronically served by email to every person that made a further submission on the relevant submission; and
 - b) Where the appeal is based on a further submission made by QPL, notice has been electronically served on the person who made the related original submission and every other person who made a further submission on that same original submission.
20. A copy of this notice has been lodged today with the Environment Court:
- a) electronically by email to Christine.Mckee@justice.govt.nz; and
 - b) by posting a hard copy to: PO Box 2069, 20 Lichfield Street, Christchurch.

Attached Documents

- c) Copies of the following documents are attached to this notice:
 - (a) The Appellant's submission and further submission (**Annexure A**);
 - (b) The relevant parts of the QLDC's Decision (**Annexure B**); and
 - (c) A list of names and addresses of persons to be served with this notice of appeal (**Annexure C**).

DATED this 7th day of May 2019



J D Young / R S Abraham

Counsel for the Appellant

THIS NOTICE OF APPEAL is filed by **JOHN DYLAN YOUNG**, solicitor for the Appellant. The address for service of the appellant is at the offices of Brookfields Lawyers, Tower 1, 9th Floor, 205 Queen Street, Auckland.

Documents for service on the appellant may be left at the address for service or may be:

1. Posted to the solicitors at PO Box 240, Auckland 1140
2. Left for the solicitors at Document Exchange for direction to DX CP24134.
3. Transmitted to the solicitors by facimile to 09 379 3224.
4. Emailed to the solicitors at youngj@brookfields.co.nz / abraham@brookfields.co.nz

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

You may become a party to the appeal if you are one of the persons described in section 274(1) of the RMA.

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 of the Resource Management (forms, Fees, and Procedure) Regulations 2003) with the Environment Court by email (to Christine.Mckee@justice.govt.nz) and serve copies of your notice on the Queenstown Lakes District Council and the appellant.

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 RMA.

You may apply to the Environment Court under section 21 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.