

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 **Robert Stewart**

Appellant

And **Queenstown Lakes District Council**

Respondent

Notice of Appeal

18 May 2021

Appellant's solicitors:

Vanessa Robb | Roisin Giles
Anderson Lloyd
Level 2, 13 Camp Street, Queenstown 9300
PO Box 201, Queenstown 9348

p + 64 3 450 0700
vanessa.robbs@al.nz | roisin.giles@al.nz

**anderson
lloyd.**

To: The Registrar
Environment Court
Christchurch

- 1 Robert Stewart appeals against part of the decision of Queenstown Lakes District Council on Stage 3B of the Queenstown Lakes Proposed District Plan (**PDP**).
- 2 Mr Stewart made Submission #31038 on Stage 3B of the PDP.
- 3 He is not a trade competitor for the purpose of section 308D of the RMA.
- 4 He 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 relate to:
 - (a) The Medium Density Residential Zone (**MDRZ**) and Visitor Accommodation Sub-Zone overlay (**VASZ**);
 - (b) The Arthurs Point Urban Growth Boundary (**UGB**); and
 - (c) The PDP Planning Map.
- 7 The reasons for appeal and general relief sought by Mr Stewart are summarised below.

Background

- 8 This appeal relates to land owned by Mr Stewart, located at 201 Arthurs Point Road and legally described as Lots 1 and 2 DP 515200 (the **Site**).
- 9 Mr Stewart has owned the Site for 44 years. During this period, he has restored the Site's historic buildings for the purpose of visitor accommodation. These works have led to the historic Jules Bordeau Store (**Store**) and Jules Bordeau Cottage being listed by QLDC and Heritage New Zealand as Category 2 historic buildings and have brought the Store, constructed in 1860, up to current earthquake standard regulations.
- 10 Mr Stewart has also improved the landscape and visual amenity values of the area by undertaking significant replanting of trees and worked alongside QLDC to achieve the following practical outcomes for the benefit of the wider community:
 - (a) Road realignment and boundary frontage changes to extend the parking area at the Skippers Road/Malaghans Road intersection;

- (b) Widening and straightening of Malaghans Road (including forfeiting land); and
 - (c) Removing 90 year old wilding pines from the Site, including a large number of pines above Skippers Road/Malaghans Road carpark at QLDC's request.
- 11 The Site was zoned Arthurs Point Rural Visitor Zone (**RVZ**) under the Operative District Plan (**ODP**). In Stage 1 of the PDP an Outstanding Natural Landscape (**ONL**) boundary and UGB were introduced around the Arthurs Point urban area. The UGB and ONL boundary followed the cadastral boundaries of the Site, including it in the UGB and excluding it from the ONL.
- 12 In Stage 3B of the PDP the following changes were notified in respect of the Site:
 - (a) The location of the UGB and ONL boundary was amended to cut through the Site, excluding most of it from the UGB and including it within the ONL;
 - (b) The part of the Site within the ONL was zoned Rural;
 - (c) Part of the Site within the UGB was zoned MDRZ with the VASZ overlay (and a smaller part of this land was recommended to be zoned High Density Residential Zone (**HDRZ**)); and
 - (d) Another part of the Site within the UGB was zoned MDRZ without the VASZ overlay and was subject to a Building Restriction Area (**BRA**).
- 13 Mr Stewart's submission #31038 sought either revision to the ODP position or inclusion of all of the Site within the UGB and rezoning to MDRZ with the VASZ overlay, or rezoning to the PDP RVZ.
- 14 At the hearing, Mr Stewart sought a revised position, as follows:
 - (a) That the ONL boundary over the Site be amended to follow the natural topography of the site and the division between the south/southwest facing slopes and the rounded bluff/headland;
 - (b) That the section of the Site adjacent to Arthurs Point Road be zoned HDRZ in accordance with the s42A recommendations;
 - (c) That the additional land excluded from the ONL be zoned MDRZ with the VASZ overlay; and

- (d) That the BRA over the eastern part of his land zoned MDRZ be retained, but that the VASZ be applied to this land also.
- 15 The Independent Hearing Panel recommendations, now the Council decision:
- (a) Identified an amended ONL boundary line based on expert landscape evidence for the Council and Mr Stewart;
 - (b) Approved the HDRZ along Arthurs Point Road as recommended in the s42A report;
 - (c) Extended the VASZ overlay over the part of Mr Stewart's land zoned MDRZ subject to the BRA;
 - (d) Did not grant the relief sought to rezone the part of the Site now outside of the ONL and not zoned HDRZ from Rural to MDRZ with the VASZ overlay; and
 - (e) Did not grant the relief sought to amend the UGB to include the Site.

Reasons for appeal

Natural hazards

- 16 The natural hazard risk for the Site was the primary concern influencing the Independent Hearing Panel's recommendations to not zone the part of the Site excluded from the ONL as MDRZ.
- 17 The Independent Hearing Panel Report 20.9 states:¹
- If [Mr Stewart] were to produce a site specific natural hazard assessment that confirmed that natural hazard risk was manageable, then the landscape evidence of Ms Mellsop and Mr Espie would indicate that MDRZ is the appropriate zone within the redefined ONL boundary.
- 18 In November 2020, to inform consent application RM200960, a site specific geotechnical and geohazard assessment was undertaken to assess natural hazard risk on the Site. RM200960 granted consent for the identification of four visitor accommodation buildings and one residential building.
- 19 The assessment concluded that the Site is not likely to be subject to erosion, debris flow and rock fall, subsidence (including liquefaction),

¹ Independent Hearing Panel *Report and Recommendations of Independent Commissioners* (Queenstown Lakes District Council, Report 20.9 Arthurs Point Mapping, 18 March 2021) at 132.

landslide, inundation or seismic activity, provided appropriate site-specific investigations and design for local stabilisation of excavations and the control and disposal of surface water is undertaken.² QLDC Development Engineer Cameron Jones accepted this assessment and QLDC, as the consent authority, found that the "natural hazards present on site can be appropriately managed".³

- 20 Mr Stewart relies on QLDC's findings in support of the fact natural hazard risk can be managed on the Site and, in light of the Independent Hearing Panel's statement above, considers that MDRZ is the appropriate zone for the land outside of the amended ONL boundary not zoned HDRZ.

Zoning and Urban Growth Boundary

- 21 Mr Stewart supports the HDRZ identified across the lower part of the Site. In the rest of the Site not within the ONL, Mr Stewart seeks that that part of the Site be rezoned MDRZ with the VASZ overlay.
- 22 Rezoning the part of the Site now excluded from the ONL to MDRZ within the VASZ is appropriate from a landscape and natural hazards perspective.
- 23 Amending the UGB to align with the amended ONL boundary would be reflective of the pattern of existing and consented development adjacent to the Site and further up Mt Dewar, and the development on the Site consented by RM200960.

Relief sought

- 24 Mr Stewart seeks the following relief:
- (a) That the UGB be amended to align with the ONL boundary, as demonstrated by the red line in **Appendix A**;
 - (b) That all of the Site not classified as ONL, and not zoned HDRZ, be zoned MDRZ with the VASZ overlay as demonstrated by the orange dotted shading in **Appendix A**; and
 - (c) Any consequential changes to the provisions of the PDP to give effect to the relief sought.

² Ground Consulting Limited *Geotechnical and Geohazard Assessment for Proposed Visitor Accommodation at 20 Arthurs Point Road* (20 November 2020) at [7.8].

³ Decision of the Queenstown Lakes District Council *RM200960* at 7.

Further and consequential relief sought

25 Mr Stewart 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 his submission.

Attachments

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

- (a) **Appendix A** – A map of the zoning and amended UGB sought for the Site;
- (b) **Appendix B** – A copy of Mr Stewart's Stage 3B submission #31038;
- (c) **Appendix C** – A copy of the RM200960 decision;
- (d) **Appendix D** – A copy of the decision appealed; and
- (e) **Appendix E** – A list of names and addresses of persons to be served with this notice.

Dated this 18th day of May 2021



Vanessa Robb/Roisin Giles
Counsel for the Appellant

Address for service of the Appellant

Anderson Lloyd

Level 2, 13 Camp Street

PO Box 201

Queenstown 9300

Phone: 03 450 0700 Fax: 03 450 0799

Email: vanessa.robb@al.nz | roisin.giles@al.nz

Contact persons: Vanessa Robb | Roisin Giles

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.