

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2019-CHC-

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 the proposed Queenstown Lakes District Plan
Between	Mark and Jane Taylor Appellant
And	Queenstown Lakes District Council Respondent

Notice of Appeal

7 May 2019

Appellant's solicitors:

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To The Registrar
Environment Court
Christchurch

- 1 Mark and Jane Taylor (**Taylors**) appeal against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 The Taylors made a submission (#444) on Stage 1 of the PDP.
- 3 The Taylors are not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 The Taylors 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) Chapter 24 Wakatipu Basin Variation;
 - (b) Chapter 27 Subdivision;
 - (c) Planning Maps 13d and 26;
- 7 The reasons for appeal are summarised below. The specific provisions and the relief sought by the Taylors are set out in **Appendix A** to this appeal.

Background

- 8 The Taylors own land located at 418 Speargrass Flat Road, legally described as Lot 1 DP 349040, held in Certificate of Title 201181 (**Land**).
- 9 In Stage 1 of the PDP the majority of the Land was notified as Rural Residential Zone (**RRZ**) and the remainder as Rural Zone.
- 10 The Land was included in the Stage 2 Wakatipu Basin Variation (**Variation**) and the entirety of the Land was notified as Wakatipu Basin Lifestyle Precinct (**WBLP**). The Land was identified in Schedule 24.8 as part of Landscape Character Unit (**LCU**) 12 Lake Hayes Rural Residential. The relief sought in submission #444 was deemed to be "on" the Variation and the submission was transferred to Stage 2.
- 11 The Decision on the Variation rezoned the entirety of the Land to Wakatipu Basin Rural Amenity Zone (**WBRAZ**).

Chapter 24 Wakatipu Basin

- 12 The Taylors are generally opposed to the Variation in its entirety, and seek in the first instance that the Variation be withdrawn and their Stage 1 relief be considered.
- 13 The provisions of Chapter 24, together with the subdivision regime for the Basin set out in Chapter 27, create an unnecessarily restrictive regime for development and land use that unreasonably limits landholders' rights, and does not sufficiently provide for or enable the social, economic and cultural benefits of rural living development.
- 14 In particular, the rules regarding building rights are overly restrictive and undermine the existing rights of landowners. The Taylors consider that where the construction or alteration of a building was a controlled activity under the ODP it should remain a controlled activity under the PDP. This is particularly relevant for landowners who were within the Rural Residential Zone under the ODP and have now been down-zoned to WBRAZ. There is no sound landscaping, planning or environmental justification to depart from the ODP position, and to do so ignores the economic investment of landowners in the Wakatipu Basin and their reasonable reliance on the established regime.
- 15 The specific provisions of Chapter 24 and the relief sought by the Taylors are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 16 The subdivision regime proposed for the Wakatipu Basin is opposed.
- 17 The minimum lot densities introduced for the WBRAZ and WBLP are arbitrary and do not reflect existing landholdings. A minimum lot density of 80ha for the WBRAZ is illogical and unworkable, and will result in ineffective land use and wasted development opportunities, whilst not guaranteeing protection of landscape character and amenity values. An 80ha minimum is too large to be reasonably maintained as a rural lifestyle block, while being too small to be farmed economically. It ignores the potential for much of the Basin to be sensitivity and appropriately developed.
- 18 A minimum average lot size regime is supported for the WBLP, as opposed to a minimum lot size regime. This approach provides planning flexibility and the resulting range of lot sizes will provide variety and enhance landscape character throughout the Basin. 4000m² is considered to be an appropriate minimum average lot size, as this reflects the existing ODP position in the Rural Residential Zone, and allows for a limited degree of future development in existing WBLP landholdings.

- 19 The specific provisions of Chapter 27 and the relief sought by the Taylors are set out in **Appendix A** to this Appeal.

Planning Maps 13d and 26

- 20 The Taylors oppose the Variation in its entirety, and in the first instance seek that the Land be rezoned Rural Residential Zone in accordance with their Stage 1 submission.
- 21 In the alternative, the Taylors oppose the zoning of the Land as WBRAZ, and seek that the Land be rezoned to WBLP as notified.
- 22 The zoning of the Land as WBRAZ does not accurately reflect its established character and current utilisation. The Land is located within LCU 12 Lake Hayes Rural Residential, which is identified as having a predominant rural residential land use, a low perception of naturalness, and overall a high capacity to absorb additional development. The Land itself is of a dominant rural residential character which has been landscaped as a formal garden over the past 35 years, and appears as a node of residential development within a manicured site. The vegetation present on the site also assists in screening development and activities from Speargrass Flat Road and neighbouring sites. As such it is considered unjustified that the majority of LCU 12 has been retained as WBLP while the Land has been down-zoned to WBRAZ, when it has capacity to absorb development and shares the same rural residential characteristics as neighbouring land within the LCU.
- 23 The concerns raised regarding the water quality of Lake Hayes do not justify a complete bar of development within the Lake Hayes Catchment. 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.
- 24 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.
- 25 In general, zoning the area as WBRAZ enforces limitations on development that are incompatible with the actual use of the Land in practice. The zoning acts as a barrier to appropriate development and reasonable land use in the future, ignores the economic wellbeing of landowners, and results in ineffective land use in the Basin generally. WBLP or Rural Residential Zone is a more appropriate zoning for the Land as it reflects its actual established character and current utilisation, and provides for an appropriate degree of development.

26 The specific amendments sought to the planning maps to classify the Land as WBLP or Rural Residential Zone are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

27 The Taylors opposes any further provisions and 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 submission #444.

Attachments

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

- (a) **Appendix A** – Relief sought;
- (b) **Appendix B** – A copy of the Appellant's submission and further submissions;
- (c) **Appendix C** - A copy of the relevant parts of the decision; and
- (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 7th day of May 2019



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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.