

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 **Skipp Williamson**
Appellant

And **Queenstown Lakes District Council**
Respondent

Notice of Appeal

7 May 2019

Appellant's solicitors:

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**anderson
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To The Registrar
Environment Court
Christchurch

- 1 Skipp Williamson (**Williamson**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Williamson made a submission (#499) and further submission (#1206) on Stage 1 of the PDP, and a submission (#2272) and further submission (#2822) on Stage 2 of the PDP.
- 3 Williamson is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Williamson 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) Planning Maps 26, 29 and 13d;
 - (b) Chapter 24 Wakatipu Basin; and
 - (c) Chapter 27 Subdivision and Development.
- 7 The reasons for appeal and general relief sought are summarised out below. The specific provisions and relief sought by Williamson are detailed further in **Appendix A** to this Appeal.

Background

- 8 Williamson has an interest in land at Mooney Road as identified in her submissions and shown on the map attached as **Appendix B (Williamson Land)**.
- 9 In Stage 1 of the PDP the Williamson Land was notified as a combination of Rural Lifestyle Zone (**RLZ**) and Rural Zone. Williamson made a submission on Stage 1 of the PDP, seeking a RLZ zoning over the elevated area within the Williamson Land including some of the 'roll-over' slopes at the edges of Wharehuanui Hills and applied a building restriction area to some of the roll-over areas. The submission also opposed notified rule 27.4.1 and sought to amend the default activity status of subdivision from discretionary to controlled.
- 10 As part of the Wakatipu Basin Variation (**Variation**) the Williamson Land was notified as a combination of Wakatipu Basin Lifestyle Precinct (**WBLP**) and

Wakatipu Basin Rural Amenity Zone (**WBRAZ**). Accordingly the relief sought in submission #499 was deferred to Stage 2. Submission #2272 supported the notified WBLP over the Williamson Land subject to refinements. The refinements sought to move the WBLP boundary in accordance with the submission lodged on Stage 1.

- 11 A submission lodged by Millbrook Country Club (**MCC**) (#2295) opposed parts of the Williamson Land being identified within the WBLP. Council did not notify the MCC submission before the first hearing for Topic 14. The MCC submission was notified after the hearing and Williamson lodged the further submission. The MCC submission sought to oppose a number of WBLP zonings adjacent to the Millbrook Resort Zone. In particular, MCC sought that land above the 440masl contour on specific WBLP properties, be amended to the WBRAZ. Williamson and MCC reached an agreement as to where the WBLP contour should be placed and presented this position at the hearing.
- 12 The Council's section 42A recommendation in respect of the Williamson submission (#2272, #499) was that it was accepted in part (to the extent that the WBLP is retained as notified)¹.
- 13 In Council's Chapter 24 Decision, all of the Williamson Land was rezoned to WBRAZ.

Reasons for Appeal and Relief Sought

Hearing Process

- 14 Williamson raises issues with the manner in which her Stage 2 relief was heard and addressed by Council and the Independent Commission at the Council hearing.
- 15 In the Williamson further submission (#2822) she supported the findings of the Wakatipu Basin Landscape Study (**WB Study**) and the Council's section 32 analysis of Chapter 24, which identified the Williamson Land as WBLP.
- 16 Williamson engaged consultants to present evidence before the Council Hearings Panel (**Panel**) in July 2018, primarily focused on the landscape issues related to the relief sought. Mr Vivian presented planning evidence on behalf of Williamson in respect of the original submission (#2272). That evidence supported the WBLP line as notified. Mr Vivian was not aware of the MCC submission as it had not been notified. He was presented with the MCC submission by the Panel at the hearing and questioned about the proposed

¹ Statement of Evidence Marcus Langman 30 May 2018 section 18 page 51

MCC zone boundary line on the 440masl contour without the benefit of any landscape assessment.

- 17 The Panel scheduled a second hearing for October 2018 to include MCC. Prior to the second hearing Williamson and MCC reached agreement on the WBLP boundary and presented this position to the Panel at the hearing.
- 18 At the second hearing the Panel raised the potential issues of infrastructure and traffic effects with Williamson's witnesses. The Council had not considered infrastructure and traffic effects to be a concern in relation to the relief sought by Williams and Williamson relied on Council's position. Although some submissions raised issues with infrastructure and traffic effects in this area, no expert evidence had been presented to the Panel to support a view contrary to the view of the Council.
- 19 The Panel also raised potential issues regarding the paper road within the Williamson Land. The paper road had not been raised in any submission and had not been presented as an issue in any evidence before the Panel.
- 20 Following the hearing, the Panel received a Memorandum of Counsel on behalf of Council with information on the width of Mooney Road and a supplementary brief of evidence from Mr Langman (Council's witness) addressing potential traffic effects and the effect of the paper road. In his supplementary evidence Mr Langman concluded that his position remained unchanged from that given at the hearing.
- 21 The Panel then issued a Minute which raised a number of concerns including that the Panel had not granted leave for the evidence to be filed, the evidence contradicted information provided in the Memorandum of Counsel provided on 26 October as to the width of Mooney Road, and it contradicted earlier evidence from Council on the topic.
- 22 Following the Panel's Minute the Council withdrew Mr Langman's evidence and the Panel issued its Recommendation Report.
- 23 It is unclear to what extent the Panel relied on the information provided by the submitters and Mr Langman on these issues in reaching its conclusions, and it is considered likely that in part the Panel's decision was based on concerns raised by a lay submitter that were not supported by expert evidence.

Planning Maps 26, 29 and 13d

- 24 The Williamson Land is contained within Landscape Character Unit (LCU) 6: Wharehuanui Hills, and LCU 8: Speargrass Flat. The land within LCU 6 was

notified as WBLP, and the land within LCU 8 as WBRAZ. In the Chapter 24 Decision the Williamson Land within LCU 6 was down-zoned to WBRAZ.

- 25 Williamson opposes the zoning of the entirety of the Williamson Land as WBRAZ, and seeks to reinstate the WBLP zoning over the Williamson Land contained within LCU 6, as per the notified planning maps, and further extend the WBLP boundary over the Williamson Land as sought in submissions #499 and #2272 and amended in the agreement with MCC, attached as **Appendix C**.
- 26 In the Chapter 24 Decision, LCU 6 is described as having a mixture of rural and rural residential land uses, reading as a rural residential landscape in which buildings are reasonably well integrated and 'contribute to a parkland rather than a working rural landscape impression'. LCU 6 has a 'limited perception of naturalness as a consequence of the level of rural residential development evident'. The western part of LCU 6 is identified as having a high capacity to absorb change, and the eastern part of LCU 6 as having a low capacity to absorb change. In the notified version of Chapter 24 however, the entire LCU 6 was identified as having a high capacity to absorb change.
- 27 Williamson considers firstly that the Panel did not have sufficient evidence to rely on to determine that the eastern end of LCU 6 has low capacity to absorb change and that a change in zoning from WBLP to WBRAZ was appropriate, and secondly, that WBLP is the appropriate zoning for the land in LCU 6, given the overriding rural residential existing character, the capacity to absorb change in LCU 6, and the availability of solutions to address potential infrastructure issues.
- 28 The specific amendments sought to the planning maps to classify the relevant parts of the Williamson land as WBLP are attached in **Appendix A** to this Appeal.

Chapter 24 Wakatipu Basin

- 29 Williamson generally supports the Variation, however considers that the separate purposes of the WBRAZ and the WBLP should be more clearly defined through separate objectives and policy suites, and that the WBLP should be better enabled to achieve its primary purpose of providing for rural living opportunities in the Wakatipu Basin.
- 30 Amendments are required to the provisions of Chapter 24 to ensure certainty for landowners in terms of their existing building rights, and to ensure that development in the WBLP is not unreasonably hindered by both a restricted discretionary default activity subdivision regime and restrictive building standards, which act as a double-layer of planning considerations.

- 31 Specific provisions pertaining to the activity status of residential building activities, retention of exotic vegetation, and standards regarding building size, coverage, height and setbacks, are opposed by Williamson for the reasons set out above.
- 32 The specific provisions of Chapter 24 and the relief sought by Williamson are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 33 The subdivision regime proposed for the Wakatipu Basin is opposed. The change in the default activity status of subdivision from controlled in the ODP (for rural living zones) to restricted discretionary for the Wakatipu Basin is a significant change in the approach to management of subdivision, which introduces a level of uncertainty that is inconsistent with the higher order chapters of the PDP and Part 2 of the Act. Coupled with minimum lot sizes and the inclusion in Chapter 24 of restrictive standards on building size and coverage, height and setbacks, the regime is considered too restrictive on the building rights and reasonable expectations of landholders in the Wakatipu Basin.
- 34 In her Stage 2 submission Williamson generally supported the proposed average and minimum lot sizes for the WBLP and the restricted discretionary regime, however this was with the caveat of the Chapter 24 standards being deleted, or amended to exclude building within existing and approved building platforms, and the zoning of the relevant parts of the Williamson Land as WBLP.
- 35 Williamson therefore now considers a restricted discretionary subdivision regime is too restrictive and a controlled regime is more appropriate.
- 36 Williamson does not support the minimum lot size regime proposed for the WBRAZ. A minimum lot size of 80ha is arbitrary and does not reflect existing landholdings – it 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.
- 37 The specific provisions of Chapter 27 and the relief sought by Williamson are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

38 Williamson opposes any changes to provisions contrary to the above and seeks alternative, consequential, or necessary additional relief to that set out in this appeal and to give effect to the matters raised generally in this appeal, or such other changes that give effect to the outcomes sought in Williamson's submissions.

Attachments

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

- (a) **Appendix A** – Relief sought;
- (b) **Appendix B** – Map of the Williamson Land;
- (c) **Appendix C** – WBLP Boundary Line as sought;
- (d) **Appendix D** – A copy of the Appellant's submission and further submissions;
- (e) **Appendix E** A copy of the relevant parts of the decision; and
- (f) **Appendix F** - 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.