

**BEFORE THE HEARINGS PANEL  
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

31043

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of a submission on Stage 3 of the  
Queenstown Lakes Proposed District  
Plan

**BY** **GLEN DENE HOLDINGS LIMITED  
GLEN DENE LIMITED  
RICHARD AND SARAH BURDON**

Submitters

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**OPENING LEGAL SUBMISSIONS ON BEHALF OF THE SUBMITTERS**

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Dated: 31 July 2020

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## **MAY IT PLEASE THE PANEL:**

### **Introduction**

- [1] These legal submissions are on behalf of Richard and Sarah Burdon, Glen Dene Limited, and Glen Dene Holdings Limited (**Submitters**) in respect of their submission on Stage 3 of the Queenstown Lakes Proposed District Plan (**PDP**).
- [2] The Submitters seek the rezoning of their property and adjacent land (**properties**) owned by the Queenstown Lakes District Council (**Council**) from part Rural and part Community Purpose – Campground Zone to Rural Visitor Zone (**RVZ**). The submission also seeks specific rules for the RVZ as it applies to the properties.
- [3] The properties include the property known as the Camp, previously the Lake Hawea Holiday Park, designated by the Council as a Motor Camp and which has provided commercial visitor accommodation for in excess of 40 years. The Submitters seek that the zoning of the properties enables the extension and growth of this existing visitor accommodation activity.
- [4] It is submitted the proposed RVZ and associated provisions sought by the Submitters are the most appropriate outcome for the properties in terms of an analysis under s 32 of the Resource Management Act 1991 (**Act**), and will best accord with Objectives and Policies of the RVZ, the higher order provisions of the PDP, other relevant planning instruments, and Part 2 of the Act.
- [5] It is submitted the officers for the Council in recommending the submission be rejected have failed to have regard to the existing activities on the properties, have overstated the adverse landscape effects of development anticipated by the proposed zoning, and accordingly made an improper analysis of the zoning in comparison with the zoning of the properties as notified.

## Submission History

- [6] This is the third occasion the Submitters have made a submission on the PDP in regard to the properties.
- [7] The Submitters' Stage 1 submission which also sought RVZ was rejected by the Hearings Panel and appealed to the Environment Court.<sup>1</sup> That appeal is on hold pending the outcome of the Stage 3 submission.
- [8] As part of Stage 2 the Submitters sought that the Community Purpose – Campground Zoning applied not just to the Council-owned land but to the entirety of the properties. That submission was also rejected and appealed.<sup>2</sup>
- [9] The need for the Submitters to incur the cost of filing three separate submissions and engage evidence in support of such is a direct result of the Staged nature of the PDP as orchestrated by the Council, which has caused a number of difficulties and resulted in extensive cost to submitters.

## Evidence

- [10] Expert evidence has been filed in support of the submission by Ben Espie (landscape) and Duncan White (planning). Mr Richard Burdon and Ms Sarah Burdon have also filed evidence in support of the submission.
- [11] The evidence of Mr and Mrs Burdon sets out the history of the Camp/Lake Hawea Holiday Park and their association with it. They also explain the demand for the kinds of visitor accommodation activities available on the properties and the need for supply to keep up with such demand.<sup>3</sup>
- [12] The evidence addresses the Submitters' frustration with the Council's handling of the PDP and importantly, the significant costs they have incurred as a result of the current planning framework and zoning of the properties.

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<sup>1</sup> ENV-2018-CHC-147.

<sup>2</sup> ENV-2019-CHC-049.

<sup>3</sup> Evidence of Richard Burdon, 29 May 2020 at 18.

[13] The evidence of Mr Espie undertakes a robust assessment of the appropriateness of the proposed RVZ and the effects of activities anticipated by the zoning on the landscape character of the site and wider Lake Hawea Outstanding Natural Landscape (**ONL**). He concludes:

- (a) The properties are in a part of the Lake Hawea ONL that has the potential to absorb some change;
- (b) The extension of visitor accommodation activities will not significantly detract from the character of the ONL; and
- (c) While some development will be visible, it will be significantly screened by vegetation and will not detract visual amenity to any significant degree.

[14] This conclusion is based on the amendments made to the relief sought, namely:

- (a) A maximum site coverage of 7 percent;
- (b) A requirement for a Vegetation Management Plan to be submitted in regard to buildings along the State Highway; and
- (c) The inclusion of a structure plan.

[15] From a planning perspective, Mr White carries out an assessment of the proposed RVZ having regard to the Council's Rezoning Assessment Principles and s 32AA of the Act. Relying on Mr Espie's evidence and on the basis of a thorough analysis under s 32AA, Mr White concludes the RVZ is the most appropriate zoning for the properties.<sup>4</sup>

### **Section 32AA Resource Management Act 1991**

[16] The rezoning sought by the Submitters and the changes to the zoning as notified must be evaluated pursuant to s 32AA of the Act.

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<sup>4</sup> Evidence of Duncan White, 29 May 2020 at 10.0 – 10.7.

[17] An evaluation under s 32AA must be undertaken in accordance with s 32(1) to (4) and must:

- (a) Examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
- (b) Examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
  - (i) identifying other reasonably practicable options for achieving the objectives; and
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
  - (iii) summarising the reasons for deciding on the provisions; and
- (c) Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal; and
- (d) Identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions.

[18] Mr White's evidence on behalf of the submitters undertakes the required analysis pursuant to s 32AA.

[19] It is submitted this analysis demonstrates the benefits of the proposed zoning will outweigh that of the zoning of the properties as notified.

[20] The RVZ will have substantial benefits in terms of the productive use of land that already contains an established visitor accommodation activity. Conversely, the notified zoning will increase what are already extensive costs for the landowners, as explained by Mr and Mrs Burdon in their evidence.<sup>5</sup>

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<sup>5</sup> Evidence of Sarah Burdon, 29 May 2020 at 15.

[21] The RVZ will allow the properties to be used in a manner that accords with their existing character, whilst ensuring such use is subject to appropriate controls so as to avoid, remedy or mitigate adverse effects on the landscape character of the properties and the wider ONL.

[22] It is submitted the Council in their assessment of the submission and of the amendments made have failed to undertake a similarly robust s 32 analysis as that undertaken by Mr White. Accordingly, it is submitted Mr White's evidence should be preferred by the Panel.

### **Environment Court's Decisions on Stage 1 of the PDP**

[23] The legal submissions for the Council refer to the Court's decisions on Topic 2 and the standard new zonings located within ONLs need to achieve. The submissions also note the 'Exception Zone' framework established by the Court, the purpose of which is to provide a separate set of objectives and policies and "a regime of specified exceptions to the overall regime for ss6(b) and 7(c) of the RMA".<sup>6</sup> The RVZ is included as an Exception Zone.

[24] It is submitted the RVZ as sought by the Submitters accords with the Court's directions and the RVZ framework provides appropriate protection of ONLs from inappropriate development.

### **Part 2 Resource Management Act 1991**

[25] It is submitted the proposed RVZ will:

- (a) Achieve the purpose of the Act (s 5) as it will promote the sustainable management of natural and physical resources. The RVZ will enable one of the district's important economic resources to grow without adversely affecting the quality of the landscape;
- (b) Accord with the matters of national importance (s 6), most relevantly the protection of ONLs from inappropriate subdivision, use and development; and

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<sup>6</sup> Opening Legal Submissions for QLDC, 29 June 2020 at 8.8.

- (c) Achieve the matters in s 7, in particular the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values, the maintenance and enhancement of the quality of the environment, and the finite characteristics of natural and physical resources.

**Conclusion**

- [26] Based on the evidence filed in support of the submission and the analysis under s 32AA of the Act carried out by Mr White, the RVZ is the most appropriate and efficient zoning for the properties.
- [27] The RVZ will enable the extension of longstanding existing activities on the properties, will result in significant economic and other benefits to both the submitters and the public generally, while ensuring that these are not outweighed by adverse effects in terms of landscape and the character of the Lake Hawea ONL.
- [28] It is submitted this evidence be preferred over that of the officers for the Queenstown Lakes District Council (**Council**) and their recommendation to reject the submission.

Dated: 31 July 2020



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G M Todd / B B Gresson  
Counsel for the Submitters