

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-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	Darby Planning Limited
	Appellant
And	Queenstown Lakes District Council
	Respondent

Notice of Appeal

19 June 2018

Appellant's solicitors:

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To The Registrar
Environment Court
Christchurch

1 Darby Planning LP (**DPL**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).

2 DPL made a submission (#608) and further submission (#1313) on the PDP.

3 DL is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).

4 DPL received notice of the decision on 7 May 2018.

5 The decision was made by Queenstown Lakes District Council (**QLDC**).

6 The parts of the decisions appealed relate to:

- (a) Chapter 3 Strategic Direction;
- (b) Chapter 4 Urban Growth;
- (c) Chapter 6 Landscapes;
- (d) Chapter 21 Rural;
- (e) Chapter 22 Rural Residential / Lifestyle;
- (f) Chapter 27 Subdivision.

7 Reasons for appeal

Chapter 3 Strategic Direction

8 Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. DPL has varied interests in land across different zones of the PDP as set out in its original and further submissions. The nature of Chapter 3 applying as higher order provisions to all other provisions of the PDP means that all of those DPL interests are affected by Chapter 3.

9 DPL has a proven track record and a strong ethic of land stewardship and management of resources sensitively through a masterplanning based approach that integrates use and management of land into the landscape in which they are located and the wider environment.

- 10 Significant changes to content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. DPL therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 11 DPL opposes those provisions of Chapter 3 which do not provide for appropriate diversification of land uses (particularly in the Rural Zones and in chapter 6 Landscapes), and which do not provide sufficiently for the social, economic, and cultural wellbeing of people and communities.
- 12 The specific provisions of Chapter 3 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 4 Urban Growth

- 13 The provisions of the PDP seek to play a much greater role in the management of urban growth. The relevant new objectives and policies seek to introduce controls on Urban Development in particular through the creation of Urban Growth Boundaries. The focus of the policies is on the concentration of urban development within existing urban areas and related settlements together with the introduction of stronger policies to avoid urban development within rural areas.
- 14 If urban growth boundaries are to be retained, DPL seeks a clearer and more efficient regime for their future amendments to account for the Queenstown Lakes District as a High Growth Area under the National Policy Statement Urban Development 2016.
- 15 The provisions of Chapter 4 should also be amended to ensure that urban growth within those urban growth boundaries are not unnecessarily restricted, and are not used as buffers for adjacent urban development occurring in areas not within an urban growth boundary.
- 16 The specific provisions of Chapter 4 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 6 Landscapes

- 17 DPL has significant interests within the rural areas of the Queenstown Lakes District, including Jacks Point, Parkins Bay, Wyuna, Soho and Treble Cone Ski areas, Mount Christina, Amisfield vineyard and winery, Lakes Hayes and Morven Ferry. The general approach taken to land development within these areas places a high value on the protection and maintenance of landscape values. Equally, farming and rural based activities, including rural living and other accommodation are activities which are supported as a means of

managing the land, together with the use of land for other recreation, landscape management or viticulture purposes.

- 18 DPL opposes those policies relating to the preference for farming as the means to protect landscape values as these are disproportionately weighted towards the protection of agriculture and fails to provide for those rural landscapes where pastoral farming does not occur such as within the conservation estate or other land held for recreation purposes including ski areas. Farming is one method for using rural resources productively, but its long term sustainability is uncertain particularly in this district, and there are other uses of rural land that are compatible with the protection of landscape values. Other natural factors, processes and human activities have shaped the landscape of the district in addition to farming.
- 19 DPL opposes those landscape provisions which establish a more than minor threshold or transience of effects into the determination of what is appropriate development in a landscape. This is a higher standard than that which is provided for in section 6(b) of the Act and is unjustified where the legislature has provided that such landscapes are only required to be protected from 'inappropriate' development. What is appropriate or inappropriate in a particular landscape, and based on a particular proposal may be a broader question than simply a more than minor effects assessment.
- 20 DPL considers that the PDP is fundamentally flawed in recognising that over 97% of the District is classified as a section 6(b) landscape and requests that landscape mapping be undertaken from a first principles landscape basis, applying the criterion that such landscapes to qualify must be 'outstanding or preeminent within the District'.
- 21 Where landscapes are specifically mapped in the PDP these should also be further particularised in the text of the plan so as to detail those characteristics and features which are existing in the landscapes. Such characteristics and features will better inform future decision making and assessments as to appropriateness of effects.
- 22 The specific provisions of Chapter 6 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 21 Rural

- 23 DPL considers that the policies relating to the value of farming as fundamental to the management of landscape values are disproportionately weighted towards the protection of agriculture and fail to provides for those rural landscapes where pastoral farming does not occur such as within the

conservation estate or other land held for recreation, visitor, residential or other purposes including ski areas.

- 24 As can be demonstrated through the range of projects undertaken through the master planning and design of DPL, rural areas are becoming increasingly diverse in their importance as a resource for not only farming, but also viticulture, visitor accommodation, residential, tourism and recreation activities, particularly where those activities enable ecological, open space, conservation public access and amenity values to be protected and enhanced. The policies need to recognise and provide for those activities as contributing to both the diversity and protection and enhancement of the full breadth of values in relation to rural land that positively contribute to the District's social, cultural and economic well-being.
- 25 The specific provisions of Chapter 21 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 22 Rural Residential / Lifestyle

- 26 DPL considers that Rural living zones should achieve their primary purpose of providing for rural living opportunities and the associated benefits of such development for social, cultural, and economic wellbeing. Such zones have been located in areas which are identified to have capacity to absorb the effects of additional development for rural living. It is therefore unnecessary and inefficient for these zones to repeat landscape preservation and amenity protections afforded in higher order chapters and the Rural Zone. Such provisions hinder development in areas where such development is anticipated to occur and is an inefficient use of a relatively valuable land resource.
- 27 Specific provisions pertaining to visitor accommodation, setbacks, buildings within building platforms and density are opposed by DPL for the reasons set out above, in particular their inefficiency to achieve integrated and streamlined planning outcomes.
- 28 The specific provisions of Chapter 22 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 29 The notified provisions within Chapter 27 Subdivision and Development also provide a significant change in approach to the management of subdivision through the default status of subdivision as a discretionary activity (unrestricted), the removal of matters of control and related assessment matters and the reformulation of an expanded suite of objectives and policies to establish the framework formerly covered through the controlled activity regime

under the operative District Plan. Coupled with these changes is an expanded non notification clause relating to most discretionary activities subdivisions to remove risk of notification.

- 30 The fundamental change from a controlled activity regime to a restricted discretionary regime introduces a level of uncertainty that is inconsistent with the higher order chapters of the PDP and Part 2 of the Act.
- 31 The specific provisions of Chapter 27 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 32 DPL opposes any further provisions 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 and DPL's PDP submissions.

Attachments

- 33 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 19th day of June 2018



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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).

Advice

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