

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 **Bridesdale Farm Developments Limited**

Appellant

And **Queenstown Lakes District Council**

Respondent

**Notice of Appeal – Bridesdale Farm Developments Limited – Stage 2 QLDC
Proposed District Plan**

[BFDL Appeal A – ONL Landscape Classification]

7 May 2019

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To The Registrar
Environment Court
Christchurch

Background

- 1 Bridesdale Farm Developments Limited (**BFDL**) appeals against part of the decision of Queenstown Lakes District Council (**QLDC**) on Stage 2 of the proposed Queenstown Lakes District Plan (**PDP**).
- 2 BFDL made a submission (#655) on Stage 1 of the PDP which was carried over and heard and decided as part of Stage 2 of the PDP.
- 3 BFDL is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 BFDL received notice of the decision on 21 March 2019.
- 5 The decision was made by QLDC.
- 6 The part of the decision appealed (**Decision**) relates to:
 - (a) Planning Maps 13, 13d, 30 and 30a.
- 7 BFDL's Submission 655 raises two separate issues which BFDL is challenging through the Stage 2 appeal process:
 - (a) The landscape classification of an area of land, specifically whether that land should be classified as Outstanding Natural Landscape (**ONL**) or Rural Character Landscape (**RCL**);
 - (b) The appropriate zoning of the area of land referred to in (a) above.
- 8 It is anticipated that the two issues identified in the previous paragraph will be dealt with at different times (and possibly by differently constituted divisions of the Court), with the landscape classification issue likely to be heard and determined prior to the zoning issue. Therefore those two issues are being addressed through two different Notices of Appeal. This appeal addresses the landscape classification issue.

Reasons for appeal

- 9 This appeal relates to an area of land located on the river flat adjoining the northern (true left) bank of the Kawarau River and the western (true right) bank of Hayes Creek, south of and below the residential areas known as Lake Hayes Estate and Bridesdale. The subject area is referred to as the '**Bridesdale River Flat**' in this Notice of Appeal. The appeal affects Planning Maps 13 and 13d

(larger scale), and 30 and 30a (smaller scale). **Appendix A** contains a copy of part of Planning Map 30a, on which is drawn a black circle which contains the Bridesdale River Flat.

- 10 Submission 655 sought to relocate the relevant section of ONL Boundary from its location on the Planning Maps as notified southwards to align with the true left bank of the Kawarau River and the true right bank of Hayes Creek. **Appendix B** contains a copy of the (relevant part of) Submission 655. **Appendix C** contains a plan identifying the proposed relocation of the relevant section of ONL Boundary.
- 11 **Appendix D** contains a copy of pages 4-6 of Report 18.11 which in turn contains Part 2.3 which details the Recommendation on this aspect of Submission 655 which was accepted by QLDC in its Decision. The Decision rejected this aspect of Submission 655 and retained the relevant section of ONL Boundary generally in its position as notified.

Grounds of appeal

- 12 The grounds of appeal are that the Decision:
- (a) Did not apply the appropriate standard when determining the landscape classification of the Bridesdale River Flat, in the context of the Queenstown Lakes District within which 96.97% of the land is classified as ONL or Outstanding Natural Feature (**ONF**);
 - (b) Did not properly consider and take into account the evidence presented in support of the relief sought by Submission 655;
 - (c) Did not carry out a first principles landscape analysis in order to determine the appropriate position of the ONL Boundary under challenge, and in particular did not consider the factors normally considered relevant to determination of an ONL Boundary;
 - (d) Did not address or respond to factors put to the Hearing Panel in legal submissions as being relevant to determination of an ONL Boundary;
 - (e) Did not give appropriate weight to the activities, and consequential effects on landscape character, enabled and likely to flow from the Informal Recreation zoning of the western half of the Bridesdale River Flat which is owned or managed by QLDC as Recreation Reserve;
 - (f) Inappropriately took into account the recommendations of another Hearing Panel in relation to the appropriate zonings to be applied to the Bridesdale River Flat when, as a matter of principle, the determination as to landscape classification should have preceded the determination of

appropriate zonings rather than be informed by the determination of appropriate zonings;

- (g) Inappropriately took into account Environment Court decisions discussing the extent of a landscape when the approach taken to ONL Boundary determinations in the PDP has resulted in the numerous small areas of land being classified as RCL;
- (h) Did not give appropriate consideration to the significant mature tree buffer which largely separates the Kawarau River from the Bridesdale River Flat;
- (i) Is not a decision the QLDC could reasonably have made had it taken proper account of, and accorded appropriate weight to, the full range of factors relevant to determination of an ONL Boundary as presented in legal submissions and in evidence;
- (j) Is not in accordance with sound resource management practice and will not give appropriate effect to the purpose and principles of the RMA.

Relief sought

13 BFDL seeks:

- (a) That the relevant section of ONL Boundary be relocated southwards, to align with the true left bank of the Kawarau River and true right bank of Hayes Creek, as sought in Submission 655 and as illustrated in the plan in **Appendix C**;
- (b) Consequential amendment to the landscape classification of the land affected by that relocation (ie: that the relevant area of land be reclassified from ONL to RCL);
- (c) That Planning Maps 13, 13d, 30 and 30a be amended accordingly.

Further and consequential relief sought

14 BFDL seeks such alternative, consequential, or additional relief to that set out in this appeal as may be appropriate or necessary to give effect to the matters raised generally in this appeal and BFDL's Submission 655.

Attachments

15 The following documents are attached to this notice:

- (a) **Appendix A** – marked 'A' a copy of part Planning Map 30a on which is drawn a black circle which contains the Bridesdale River Flat;

- (b) **Appendix B** – marked 'B' a copy of the (relevant part of) the Appellant's Submission 655;
- (c) **Appendix C** – marked 'C' a Plan showing (marked yellow) the proposed relocation of the ONL Boundary;
- (d) **Appendix D** – marked 'D' a copy of the relevant part of the Decision;
- (e) **Appendix E** - 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).

Advice

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