BEFORE THE ENVIRONMENT COURT

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of an appeal under clause 14 of the First Schedule to the Act
BETWEEN	**REMARKABLES PARK LIMITED**
	Appellant
AND	**QUEENSTOWN LAKES DISTRICT COUNCIL**
	Respondent

NOTICE OF APPEAL UNDER CLAUSE 14 OF THE FIRST SCHEDULE TO THE RESOURCE MANAGEMENT ACT 1991

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TO: The Registrar
Environment Court
CHRISTCHURCH

1. **Name of appellant:** Remarkables Park Limited ("**RPL**")

RPL broadly supports the decision of the Queenstown Lakes District Council ("**QLDC**") in respect of proposed private Plan Change 34 ("**PC34**") to the Queenstown Lakes District Council's Operative District Plan (the "**District Plan**"), but appeals some specific and confined aspects of the decision of the QLDC.

2. **Date of decision appealed against:**

22 November 2011.

3. **Date of decision received:**

30 November 2011.

4. **The decision was made by:**

The QLDC.

5. **Description of the subject matter of the decision appealed:**

PC34 is a private plan change request made by RPL. It was accepted by the QLDC.

PC34 seeks to provide further opportunity for large format and other retailing activities within the Remarkables Park Zone ("**RPZ**"), enhance the activity mix within the RPZ, correct various internal anomalies within the RPZ planning framework, and update some provisions.

The QLDC adopted the recommendations of the independent commissioners appointed to hear submissions to largely approve PC34 (in some cases with relatively minor modifications). The only aspect of PC34 to be declined was the request for additional height in Activity Area 8.

RPL broadly supports the decision of the QLDC, but appeals some specific and confined aspects of the decision. In particular, it is noted that RPL does **NOT** appeal the decision of the QLDC in relation to the expansion of Activity Area 5.

6. The reasons of the appeal are:

(a) Some confined aspects of PC34 do not meet the purpose and principles of the Resource Management Act 1991 ("**RMA**") or achieve integrated management;

(b) Some confined aspects of PC34 lack clarity and create uncertainty; and

(c) The specific amendments result in a "better" planning document than the decisions version of PC34.

7. Without derogating from the generality of the above the following further grounds are stated:

7.1 INTRODUCTION

(a) RPL owns and is developing a substantial portion of the land within the RPZ[1]. The RPZ is located on the southern side of the airport. The RPZ provides for a comprehensive and integrated mixed-use urban development over approximately 150 hectares. It enables the establishment of Queenstown's second town centre.

(b) The RPZ has been operative for more than a decade. Some of the terminology and development controls used within the RPZ are out-dated and do not reflect current planning practices. RPL considers that the specific parts of the decision detailed below should be amended to better achieve the purpose of the RMA.

7.2 ACTIVITY AREA 3

River Transport - Part 12.10.3: Objective 2, Explanation and Principal Reasons for Adoption, Activity Area 2 (page 12-68)

(a) PC34 sought to recognise and provide for river transport opportunities and additional termini serving the RPZ. The decision expressed a preference for the

[1] Diversified New Zealand have purchased the established Remarkables Park shopping centre and are undertaking further development within the shopping centre.

phrase "stopping points" over "termini", because the word "termini" refers to the end of a route.

(b) RPL consider that reference should be made to both "stopping points" and "termini" because this clarifies that the proposed water transport facility at the Remarkables Park peninsula (adjacent to the Activity Area 3 mixed use retail area) is to be a proper terminus in the sense of having a ticketing booth and a terminal facility. One (or more) stopping points may be appropriate further downstream, but these will not be directly adjacent to a commercial precinct and terminal facility.

Pedestrian Access - Part 12.10.3: Objective 2, Explanation and Principal Reasons for Adoption, Activity Area 3 (page 12-69)

(c) The decisions version of PC34 included the phrase "...a vibrant mixed use precinct that is pedestrian oriented" within the description of Activity Area 3 under the Explanation and Principal Reasons for Adoption (page 12-69). The reasons for that decision appear to rely on the evidence presented for RPL. However, the wording sought by RPL and supported by its experts included a different phrase within the description of Activity Area 3 under the Explanation and Principal Reasons for Adoption, being a reference to the "inclusion" of pedestrian activities.

(d) RPL prefers the phrase "that includes pedestrian activities" to "that is pedestrian oriented" because Activity Area 3 is relatively large (approximately 12.6 hectares) and will contain roads and vehicle accessways. It will not be developed exclusively for pedestrians. RPL seeks that PC34 be amended accordingly.

7.3 SITE AND BUILDING DESIGN

Part 12.10.3: Objective 4, Policy 2, 3 and Implementation Methods "Remarkables Park Design Review Board" (pages 12-71 to 12-72):

(a) PC34 sought to remove subjective terminology from the RPZ. In particular, some of the phraseology in Policy 2 under Objective 4 invited a highly subjective assessment and created potential uncertainty in terms of the consenting process.

(b) RPL seeks that the phrase "which relates well to development within the Zone and to the alpine setting" be deleted from Policy 2 under Objective 4 to remove subjectivity. RPL also considers that the reference to existing development within

the RPZ might encourage a monotonous form of development rather than encouraging a range of architectural styles.

(c) RPL also seeks the deletion of Policy 3 because it considers that "clusters" of development is a concept that does not fit comfortably with the overall master-planned development within the RPZ.

(d) RPL seeks the deletion of the words "to be refined as appropriate by the Remarkables Park Design Review Board" in the Implementation Methods "Remarkables Park Design Review Board" (second paragraph, 4th bullet point). RPL considers that it is not appropriate for the Remarkables Park Design Review Board to make amendments to the masterplan; that was never the intention of PC34 or the revisions to the Remarkables Park Design Review Board. The intention was that the master plan could be one matter that might guide the Remarkables Park Design Review Board's assessment. There are many other factors that could also be taken into account.

(e) RPL seeks the insertion of the words "economist, developer" after "landscape architect" in the Implementation Method (ii) "Remarkables Park Design Review Board" (fifth paragraph). It considers that the inclusion of these additional disciplines is appropriate, as they can contribute to the overall assessment of the design of development proposals.

7.4 TRANSPORT NETWORKS

Part 12.10.3: Objective 5, Policy 1 and Implementation Methods (page 12-72)

(a) RPL considers that Policy 1 under Objective 5 is unduly prescriptive and does not recognise the proposed design of the street network within the RPZ. Not all streets and accessways need to be physically distinct from one another. As such, it seeks that the phrase "between each where appropriate" be added after the word "distinctions" in Policy 1.

(b) Consistent with item 7.2(b) above, RPL seek that the words "terminus and" be added before "stopping points" in Implementation Method (i)(b) (page 12-72).

7.5 AMENITY, IMAGE, CHARACTER AND DESIGN

Part 12.10.3: Objective 8, Policy 5 (page 12-75)

(a) RPL considers that the wording in Policy 5 in the decisions version of PC34 is overly prescriptive given the various and many viewshafts from within the RPZ to natural features outside the RPZ. It seeks that the word "maintain" in Policy 5 be deleted and replaced with "has regard to". The phrase "has regard to" enables the Council to assess relevant viewshafts and if necessary to impose conditions regarding them.

7.6 ENVIRONMENTAL RESULTS ANTICIPATED

Part 12.10.4: Environmental Results Anticipated (page 12-77)

(a) The decisions version of PC34 amended the 11th bullet point of the "Environmental Results Anticipated" under Part 12.10.4. RPL seeks the addition of the words "low density residential area (Activity Area 1) of the..." after the words "within the" in the 11th bullet point under the "Environmental Results Anticipated" to ensure consistency with other changes to various rules made in the decisions version of PC34. For example, the amendment to Rule 12.11.5.2(vi) in the decisions version of PC34 is directly relevant because it confirms that Rule 12.11.5.2(vi) only applies to Activity Area 1.

7.7 CARPARKING

Rule 12.11.3.2(iv) – Car parking (page 12-78)

(a) RPL considers that the intention of the proposed carparking rule is not accurately reflected in the wording in the decisions version of PC34. The intention is that carparking can be provided in Activity Areas 4 and 8 that could serve development in other Activity Areas.

(b) RPL propose that the words "where the parking is for activities outside Activity Area 4 or Activity Area 8" be inserted after the words "Activity Area 8" in the first line of Rule 12.11.3.2(iv).

(c) RPL also seek that the third bullet point under Rule 12.11.3.2(iv) be deleted and replaced with "Pedestrian movement within the parking area, and pedestrian connectivity with adjoining activity areas". It considers that wording to be a more concise and precise explanation of the intent of the third bullet point.

7.8 TABLE 1

Rule 12.11.3.6 – Table 1 (page 12-82)

(a) RPL seeks various minor amendments to Table 1 to ensure consistency and clarity.

(b) In terms of the "Vehicle Parking" category inserted into Table 1, RPL seeks that the category be amended to read "Vehicle parking in Activity Areas 4 and 8 where the parking is for activities outside Activity Area 4 or Activity Area 8". This is consistent with item 7.7 above.

(c) RPL also seeks the deletion of the discretionary activity status given to this activity in Activity Areas 2a, 2b, 2c, 3, 5, 6 and 7. The inclusion of discretionary status for vehicle parking could render almost any development proposal fully discretionary, which is not the intention of Rule 12.11.3.2(iv) (see above at item 7.7).

7.9 BUILDING HEIGHT IN ACTIVITY AREA 8

Rule 12.11.5.1(iii) – site standard, building height (page 12-83) and Rule 12.11.5.2(ii) – zone standard, building height (page 12-83)

(a) The notified version of PC34 sought to increase height in Activity Area 8. Activity Area 8 is zoned primarily for recreation and commercial recreation activities, and it is likely that buildings greater than 9 metres will be required for these activities (for example, an indoor sports facility). RPL considers that a building greater than 9 metres should not be non-complying given that Activity Area 8 anticipates activities that might require a building of that height. It considers that a better regime is for height above 9m and up to 18m to be assessed against the restricted discretionary provisions of the RPZ. As such, RPL seeks the following amendments:

(i) Insert after the second bullet point of Rule 12.11.5.1(iii) a new bullet point as follows:

- Activity Area 8 9m

(ii) In the last row of the table in Rule 12.11.5.2(ii) (relating to Activity Area 8), delete "9m" and replace with "18m" in the "Maximum Height" column.

7.10 BUILDING DESIGN AND APPEARANCE

12.11.6(d) – Resource Consent Assessment Matters – Building Design and Appearance

(a) The decisions version of PC34 included the words "character of the Activity Area" in the eighth bullet point under 12.11.6(d). RPL considers that those words create ambiguity and could, for example, require that building materials are consistent with existing buildings in an activity area. This could lead to a monotonous development outcome. RPL considers that there is little design or appearance merit in constraining the use of a variety of building materials. Therefore, it seeks the deletion of the words "character of the Activity Area" in the eighth bullet point under 12.11.6(d).

8. Relief Sought

8.1 General Relief

(a) RPL seeks the relief detailed in sections 7.2 to 7.10, and any consequential relief arising directly from the matters raised therein.

DATED the 2nd day of February 2012.

J D Young
Counsel for Remarkables Park Limited

THIS NOTICE OF APPEAL is filed by **JOHN DYLAN YOUNG**, solicitor for the appellant. The address for service of the appellant is at the offices of Brookfields, Lawyers, 11th Floor, 19 Victoria Street West, Auckland 1

Documents for service on the appellant may be left at the address for service or may be:

1. Posted to the solicitor at P O Box 240, Auckland 1

2. Left for the solicitor at Document Exchange for direction to DX CP24134

3. Transmitted to the solicitor by facsimile to 09 379 3224

ANNEXURES

(a) A copy of the appellant's submissions and further submissions marked "**A**".

(b) A copy of the QLDC's decisions on submissions marked "**B**".

(c) A list of the names and addresses of persons to be served with a copy of this notice marked "**C**".

How to become a party to proceedings

If you wish to become a party to the appeal, you must lodge a notice in form 33 with the Environment Court within 15 working days after the period for lodging a notice of appeal ends. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing 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 or 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 Unit of the Department for Courts in Christchurch at:

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CHRISTCHURCH

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