

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-103

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	Mt Christina Limited Appellant
And	Queenstown Lakes District Council Respondent

AMENDED Notice of Appeal (2)

~~19 June 28 August 2 November~~ 2018

Appellant's solicitors:

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To The Registrar
Environment Court
Christchurch

- 1 Mt Christina Limited (**MCL**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 MCL made a submission (#764) and further submission (#1325) on the PDP.
- 3 MCL is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 MCL 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 6 Landscapes;~~
 - (c) Chapter 22 Rural Residential / Lifestyle;
 - (d) Chapter 27 Subdivision
- 7 Reasons for appeal

Background

- 8 Mount Christina Ltd owns land alongside the Glenorchy - Paradise Road, approximately 440 m south of Lovers Leap Road and 12 km north of Glenorchy Township. Its land has been identified within the Rural Residential and Rural General Zone under the PDP. It has the same zoning under the operative District Plan.
- 9 The MCL submission sought to amend extend the notified Rural Lifestyle zoning over the boundary of the MCL site and provide for site specific provisions within that site recognising the development potential in that area. The submission was successful in seeking a revised rezoning over the Site, however further amendments are required to the PDP provisions to ensure that rural lifestyle development can occur on this site as an efficient and effective use of resources.

Chapter 3 Strategic Direction

- 40 ~~Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. The nature of Chapter 3 applying~~

~~as higher order provisions to all other provisions of the PDP means that MCL interests are affected by Chapter 3.~~

- ~~11 — Significant changes to content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. MCL therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.~~
- ~~12 — Amendments to chapter 3 provisions are sought so as to ensure that appropriate rural living and development can be undertaken in accordance with the underlying provisions applicable to a particular zone. New policies are also sought to recognise the benefits rural living and development. Post EDS v King Salmon, there is a risk of incompleteness to a planning instrument where matters are not sufficiently covered and which are otherwise provided for in the Act. The benefits of rural living and associated economic wellbeing, amenity, employment and enjoyment of landscapes are not otherwise provided for within the Strategic Direction Chapter.~~
- ~~13 — The specific provisions of Chapter 3 and the relief sought by MCL are set out in **Appendix A** to this Appeal.~~

Chapter 6 Landscapes

- ~~14 — MCL opposes those provisions which provide a presumption that further subdivision and development in the ONL will be generally inappropriate. This is inconsistent with the effects based approach envisaged under the RMA, and with the identification of rural living zones which are within the ONL (such as Mt Christina), the purpose of which is to provide for rural living subdivision.~~
- ~~15 — Clarification is sought to the application of the ONL category to rural living zones. LHL opposes the inclusion of those zones into the ONL category as this does not provide for the recognition of the importance and benefits of rural living to be carried out in those areas identified as having capacity to absorb such development.~~
- ~~16 — The specific provisions of Chapter 6 and the relief sought by MCL are set out in **Appendix A** to this Appeal.~~

Chapter 22 Rural Lifestyle and Rural Residential

- 17 Amendments to visitor accommodation are sought so as to provide for this as a restricted discretionary rather than discretionary activity.
- 18 The specific provisions of Chapter 22 and the relief sought by MCL are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 19 Subdivision is sought to be a controlled activity and processed non-notified in rural living zones. These zones are specifically recognised for the ability to provide for further rural living and development and therefore a controlled and non-notified activity status is most appropriate to achieve this purpose.
- 20 The specific provisions of Chapter 27 and the relief sought by MCL are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 21 MCL 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 MCL's PDP submissions.

Attachments

- 22 The following documents are **attached** to this notice:
- (a) **Appendix A** – relief sought
 - (b) **Appendix B** - A copy of the Appellants' 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 ~~2nd~~^{4th} day of ~~June~~^{November} 2018



Maree Baker-Galloway/Rosie Hill
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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

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 3 Strategic Direction		
3.3.24	This policy seeks to control cumulative effects of rural lifestyle development where this results in the area becoming 'no longer rural in character'. Ensure this policy is not applicable to rural living zones or the WB Precinct as this would otherwise undermine the purpose of those zones	Clarify strategic policy 3.3.24 does not apply to rural living zones or the WB Precinct, including the Site.
3.3.32	Ensure this policy is not applicable to rural living zones or the WB Precinct as this would otherwise undermine the purpose of those zones	Clarify strategic policy 3.3.32 does not apply to rural living zones, or the WB Precinct or otherwise amend the policy to better enable rural living and subdivision.
New policy 3.3.2x	The current policy 3.3.22 recognises the need to 'provide for rural living opportunities in appropriate locations'. This is the only positive policy which acknowledges the existence and benefits of rural living development. In light of the new objective and policy suite sought in Chapter 24, which further recognises the benefits of rural living development, it is important that this is also recognised at the strategic level. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	3.3.2.xx New Policy <u>Recognise and provide for the amenity, social, cultural, and economic benefits of rural living development</u>

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 6 Landscapes		
Values 6.2	The open character of rural land is a key element of the landscape character that can be vulnerable to degradation from subdivision, development and non-farming activities. The prevalence of large farms and landholdings contributes to the open space and rural working character of the landscape. The predominance of open space over housing and related domestic elements is a strong determinant of the character of the District's rural landscapes.	Amend to recognise that diversification of rural land use beyond historical agricultural use can provide for positive social cultural and environmental benefits. (strategic objective 3.2.1.8)
6.3.3 Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).	Clarify that landscape categories do not apply to RR, RLZ, Wakatipu Basin Lifestyle Precinct and special zones as those are areas which have been identified as suitable for further development. Clarify whether 'special zones' is useful terminology specifically refer to other resort zones. There is no logical basis for the inclusion of rural living zones, including the Wakatipu Basin Lifestyle Precinct in the RCL overlay as this provides for an unnecessary layer of landscape planning assessment over an area which has been specifically identified as suitable for further rural living subdivision and development	6.3.3 Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).
Policies 6.3.19 — 6.3.29 (managing activities in Rural	Clarify that rural living zones are excluded from assessment against	Clarify that rural living zones and the WB Precinct are excluded

Provision (PDP decision version)	Reason for appeal	Relief sought
character Landscapes)	these policies, or otherwise amend to enable rural living development to occur within those rural living zones or the WB Precinct, and in particular, the Site.	from assessment against 6.3.19 – 6.3.29, or otherwise amend those policies to ensure an efficient rural living development regime for Chapter 22 is achieved.
Chapter 22 Rural Residential and Rural Lifestyle		
Policy 22.2.1.4	This policy is an unnecessary repetition of provisions included in Chapter 6 and is uncertain in its application as to what development constitutes being 'near' ONL / ONFs. The policy should be limited to adverse effects on views to ONLs / ONFs if it is to be retained.	Delete policy 22.2.1.4 or otherwise amend to clarify what is near an ONL / ONF
Rule 22.4.11 Visitor Accommodation	<p>The Councils decision is to make visitor accommodation a discretionary activity and has not accepted the submissions seeking this to be a RD Activity.</p> <p>Note that stage 2 visitor accommodation only deals with short term stays through the new definitions and rules relating to residential visitor accommodation and homestays. The decisions on Chapter 22 remain relevant for visitor accommodation generally i.e. for stays beyond 90 days.</p>	<p>Amend Rule 22.4.11 to provide for visitor accommodation as a restricted discretionary activity, where Councils discretion is restricted to:</p> <ul style="list-style-type: none"> – <u>Impacts on the amenity values of neighbouring properties</u> – <u>Traffic generation, access and parking</u> – <u>Noise</u> – <u>Signs and lighting</u> <p><u>The external appearance, bulk and scale of building</u></p>
Rule 22.5.12 Residential Density: Rural Lifestyle Zone	There is no justification for the limitation of one unit per building platform, where in most instances building platforms are large	Amend Rule 22.5.12.1 to provide for two residential units per building platform

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Provision (PDP decision version)	Reason for appeal	Relief sought
	(1000m²) and through innovative design can lead to better outcomes in terms of provision of greater housing opportunities and a mix of housing types in the District. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	
Chapter 27 Subdivision and Development		
Rule 27.5.8 all subdivision within the RR and RL zones – as a restricted discretionary activity	Wide discretion created within the RL zone relating to the location and size of building platforms, in respect to visibility, landscape and amenity effects. The scope of this discretion is considered to undermine the realisation of yield under the min and average lot sizes, which may not be attainable under this discretion.	Amend Rule 27.5.8 to provide for a controlled activity status in rural living zones
Provision 27.10 – Non-Notification	Subdivision within rural living zones should be non-notified on the basis that those areas are identified as capable of absorbing effects of further rural living subdivision and development	Include rural living zones in 27.10 non-notification of subdivision

Appendix B - A copy of the Appellants' submission and further submissions

Appendix C - A copy of the relevant parts of the decision

Appendix D - A list of names and addresses of persons to be served with this notice.