

In the Environment Court of New Zealand  
Christchurch Registry

I Te Koti Taiao o Aotearoa  
Ōtautahi Rohe

**ENV-2018-CHC-099**

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|------------------|---|
| Under            | the Resource Management Act 1991  |
| In the matter of | an appeal under Clause 14(1) of Schedule 1 of the Resource Management Act 1991  |
| Between          | G W Stalker Family Trust, Mark Tylden, Sam Strain, Bill and Jan Walker Family Trust ( <b>Ladies Mile Consortium</b> ) |
|                  | Appellant   |
| And              | <b>Queenstown Lakes District Council</b>  |
|                  | Respondent  |

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**Memorandum of Counsel seeking leave to withdraw appeal points from Notice of Appeal**

22 May 2019

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**Appellant's solicitor:**  
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lloyd.**

**May it please the Court**

- 1 This Memorandum of Counsel is filed on behalf of G W Stalker Family Trust, Mark Tylden, Sam Strain, and Bill and Jan Walker Family Trust (**Ladies Mile Consortium**).
- 2 The Ladies Mile Consortium filed an appeal (ENV-2018-CHC-099) on Stage 1 of the Queenstown Lakes Proposed District Plan (**PDP**).
- 3 The Ladies Mile Consortium now seek leave to withdraw those appeal points from its Stage 1 appeal which have not yet be heard by the Court or mediated, being all appeal points on Chapter 22 (Rural Residential and Rural Lifestyle) and those appeal points on Chapter 27 (Subdivision) related to the Rural Residential and Rural Lifestyle Zones and the Ladies Mile.
- 4 Attached as **Appendix A** is a table of the relief sought by the Ladies Mile Consortium in its Stage 1 appeal, with those appeal points now sought to be withdrawn show in red text and struck through.
- 5 Given the appeal points sought to be withdrawn are yet to be heard by the Court or mediated, and mediation is not scheduled until September 2019, it is submitted there is no prejudice to any other party in granting leave for the withdrawal, and no issue as to costs.

Dated this 22<sup>nd</sup> day of May 2018

*Maree Baker-Galloway*

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Maree Baker-Galloway  
Counsel for the Appellant

**Appendix A** – Appeal points sought to be withdrawn from Notice of Appeal

\*Appeal points sought to be withdrawn are shown in red with text struck through.

| Provision (PDP decision version)  | Reason for appeal   | Relief sought  |
|---|---|--|
| <b>Chapter 3 Strategic Direction</b>  |   |  |
| <p>Strategic policy 3.2.5.2</p> <p>The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.</p> | <p>Clarify this policy does not apply to rural living zones, including the Ladies Mile area, or otherwise clarify the application of the policy</p>           | <p>Clarify strategic policy 3.2.5.2 does not apply to rural living zones, including the Ladies Mile area; or</p> <p>Amend so 3.2.5.2 as follows</p> <p>The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change <del>without materially detracting from those values.</del></p> |
| <p>Policy 3.3.23</p> <p>Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas.</p>  | <p>This policy is unclear as to what it applies to – given there is no annotation on planning maps identifying areas which 'cannot absorb further change'</p> | <p>Delete policy 3.3.23 or otherwise amend to clarify what areas it is applicable to by reference to planning maps</p>   |
| <p>Policy 3.3.24 Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment</p>   | <p>Ensure this policy is not applicable to rural living zones as this would otherwise undermine the purpose of those zones</p>                                | <p>Clarify strategic policy 3.3.24 does not apply to rural living zones, including the Ladies Mile area</p>  |

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|--|--|--|
| to the point where the area is no longer rural in character. (relevant to S.O. 3.2.1.8, 3.2.5.1 and 3.2.5.2)   |  |  |
| <p>Policy 3.3.32</p> <p>Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded. (relevant to S.O. 3.2.19 and 3.2.5.2)</p> | <p>Ensure this policy is not applicable to rural living zones as this would otherwise undermine the purpose of those zones</p>   | <p>Clarify strategic policy 3.3.32 does not apply to rural living zones, including the Ladies Mile area or otherwise amend the policy to better enable rural living and subdivision.</p> |
| <p>New policy 3.3.2x</p>   | <p>The current policy 3.3.2.xx 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</p> | <p><b>3.3.2.xx New Policy</b> – Recognise and provide for the amenity, social, cultural, and economic benefits of rural living development</p>   |

| Provision (PDP decision version)   | Reason for appeal  | Relief sought   |
|--|--|---|
|  | approach to staging the District Plan, also form part of this appeal   |   |
| <b>Chapter 6 Landscapes</b>  |  |   |
| <p>Policy 6.3.3</p> <p>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).</p> | <p>No provisions of the landscape category should be applicable to rural living zones as this could undermine the purpose and objective of those zones to achieve rural living</p>   | <p>Amend Policy 6.3.3 as follows:</p> <p>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 <del>apply unless otherwise stated.</del> (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).</p> |
| <p>Policy 6.3.4</p> <p>Avoid urban development and subdivision to urban densities in the rural zones. (3.2.2.1, 3.2.5.1, 3.2.5.2, 3.3.13-15, 3.3.23, 3.3.30, 3.3.32).</p>  | <p>Policy 6.3.4 is applicable to rural living zones. This does not take into account existing consented development which is of an urban nature, such as the Queenstown Country Club on Ladies Mile. The avoidance policy will not allow future development in areas which could be suitable for this, such as Ladies Mile in the future</p> | <p>Delete policy 6.3.4 or otherwise amend to exclude Ladies Mile from its application</p>   |
| <p>Policy 6.3.7</p>  | <p>Applying this policy in the rural living zones which provides primacy for farming is contrary to the</p>  | <p>Delete policy 6.3.7 or otherwise amend to exclude rural living zones and / or Ladies Mile</p>  |

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|--|---|---|
| Enable continuation of the contribution low-intensity pastoral farming on large landholdings makes to the District's landscape character. (3.2.1.7, 3.2.5.1, 3.2.5.2, 3.3.20). | purpose and objective of chapter 22, to enable rural living development.  |   |
| Policies 6.3.19 – 6.3.29 (managing activities in Rural character Landscapes  | Clarify that rural living zones are excluded from assessment against these policies, or otherwise amend to enable rural living development to occur within those rural living zones, and in particular, Ladies Mile.  | Clarify that rural living zones, and including Ladies Mile, are excluded 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. |
| New policy 6.3.xx Rural living and development in the Wakatipu Basin   | Provide specific policy support for rural living and development in the Wakatipu Basin, and specifically ladies mile and its distinctive development aspects. 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 | <b><u>New Policy 6.3.1.xx - Recognise the distinctive character of the Wakatipu Basin and the amenity benefits of rural living development in this area.</u></b>  |
| <b>Chapter 4 Urban Development</b>   |   |   |
|  | The entirety of Chapter 4 and the consequence of identification of urban growth boundaries on planning maps is appealed given this chapter could materially affect landowners on Ladies Mile, who may be affected by ultimate placement of UGBs through the determination of Stage 2 of the   | The entirety of Chapter 4 be placed on hold pending the outcome of Stage 2 decisions  |

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|---|---|---|
|   | PDP.  |   |
| <b>Chapter 22 Rural Residential and Rural Lifestyle</b>   |   |   |
| <p><del>Policy 22.2.1.4</del></p> <p><del>Manage anticipated activities that are located near Outstanding Natural Features and Outstanding Natural Landscapes so that they do not diminish the qualities of these landscapes and their importance as part of the District's landscapes.</del></p> | <p><del>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.</del></p>   | <p><del>Delete policy 22.2.1.4 or otherwise amend to clarify what is near an ONL / ONF</del></p>  |
| <p><del>Policy 22.2.2.2</del></p> <p><del>Any development, including subdivision located on the periphery of residential and township areas, shall avoid undermining the integrity of the urban rural edge and where applicable, the urban growth boundaries.</del></p>                           | <p><del>This policy is unclear in its application as the urban rural edge is not defined, particularly in places like Ladies Mile where it is partly developed to an urban density and partly remains rural. This is also duplication of Chapter 4.</del></p>   | <p><del>Delete policy 22.2.2.2</del></p>  |
| <p><del>New Objectives and policy suite — Ladies Mile 22.2..x</del></p>   | <p><del>Specific objectives and policies are sought in respect of Ladies Mile to recognise its importance as a gateway entrance to Queenstown and its rural residential nature. 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</del></p> | <p><del>Insert new objectives and policies (22.2.x) which recognise and provide for the Ladies Mile gateway precinct. These policies will ensure that rural residential activities can develop in this area while recognising the importance of the SH6 functioning and reflecting existing development which has occurred on and near Ladies Mile.</del></p> |

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|--|--|--|
| <p><del>Rule 22.5.12 Residential Density: Rural Lifestyle Zone</del></p> <p><del>22.5.12.1 — One residential unit within each building platform</del></p> <p><del>22.5.12.2 on sites less than 2ha there must be only one residential unit</del></p> | <p><del>There is no justification for the limitation of one unit per building platform, where in most instances building platforms are large (1000m<sup>2</sup>) 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 submitters have also sought a different density of 4000m<sup>2</sup> lot sizes for the Ladies Mile area. 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</del></p> | <p><del>Amend Rule 22.5.12.1 — 12.5.12.3 to provide for two units per building platform, and a smaller density of 4000m<sup>2</sup> lot sizes for the Ladies Mile area.</del></p>                                      |
| <p><del>New Table 7: Ladies Mile Rural Lifestyle Zone</del></p>  | <p><del>Provide site specific standards relevant to development in the Ladies Mile area. 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</del></p>   | <p><del>Provide new Table 7 within Chapter 22 specifically to address development within the Ladies Mile area.</del></p>   |
| <p><b>Chapter 27 subdivision</b></p>   |  |  |
| <p><del>New objective and policy suite — Ladies Mile 27.3.x</del></p>  | <p><del>Specific objectives and policies are sought in respect of Ladies Mile to recognise its important as a gateway entrance to Queenstown and its rural residential nature. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's</del></p>  | <p><del>Insert new objectives and policies (22.2.x) which recognise and provide for the Ladies Mile gateway precinct. And ensure subdivision in this location can be undertaken efficiently and effectively.</del></p> |

| Provision (PDP decision version)   | Reason for appeal   | Relief sought   |
|--|---|---|
|  | <del>approach to staging the District Plan, also form part of this appeal</del>   |   |
| <del>Rule 27.5.8 All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones</del>  | <del>The default activity status for rural living subdivision is opposed on the basis there is no justification to remove the existing controlled activity regime. Matters of control should be reserved to those which are necessary to achieve the Chapter 22 overall purpose and objectives which are to enable rural living opportunities and maintain and enhance amenity landscape values</del> | <del>Amend Rule 27.5.8 to provide a default controlled activity status and refine the listed matters of control to just those necessary to achieve the Chapter 22 purpose and objectives.</del> |
| <p>Provision 27.10 – Non-Notification</p> <p>Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:</p> <p>a. where the site adjoins or has access onto a State Highway;</p> <p>...</p> | <p>Subdivision adjoining a state highway is exempted from the presumption of non-notification under 27.10(a); this will undermine the ability for Ladies Mile to develop in accordance with its role and function as a gateway precinct</p>   | <p>Delete 27.10(a)</p>  |