

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2019-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 **Arrowtown Lifestyle Retirement Village Joint Venture**
Appellant

And **Queenstown Lakes District Council**
Respondent

Notice of Appeal

7 May 2019

Appellant's solicitors:

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To The Registrar
Environment Court
Christchurch

- 1 Arrowtown Lifestyle Retirement Village Joint Venture (**ALRVJV**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 ALRVJV made a Stage 2 submission (#2505) and further submission (#2769) on the PDP.
- 3 ALRVJV is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 ALRVJV received notice of the decision on 21 March 2019.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 6 Landscapes;
 - (b) Chapter 24 Wakatipu Basin Variation;
 - (c) Chapter 27 Subdivision;
 - (d) Planning Maps 13d and 26.
- 7 The reasons for appeal and general relief sought are summarised out below. The specific provisions and relief sought by ALRVJV are detailed further in **Appendix A** to this Appeal.

Background

- 8 ALRVJV owns land known as the Arrowtown Lifestyle Retirement Village (**ALRV**), located at McDonnell Road, held in Certificate of Title 766317 (**Land**).
- 9 In Stage 1 of the PDP the Land was notified as Rural.
- 10 The Land was included in the Stage 2 Wakatipu Basin Variation (**Variation**) and was zoned Wakatipu Basin Rural Amenity Zone (**WBRAZ**), identified in Schedule 24.8 as part of Landscape Character Unit (**LCU**) 24 "South Arrowtown".
- 11 The ALRV is a Special Housing Area (**SHA**), and resource consent SH160141 is in the process of being implemented for the development of a comprehensive retirement village. The development is a dense arrangement of buildings up to

three storeys high which is visible from a number of locations beyond the Land itself.

Chapter 6 Landscapes

- 12 ALRVJV supports in principle the Stage 2 Variation to the provisions of Chapter 6, in so far as they clarify and confirm that the Outstanding Natural Feature, Outstanding Natural Landscape, and Rural Character Landscape categories (**Landscape Categories**) and associated policies of Chapter 6 do not apply to the WBRAZ, including the Wakatipu Basin Lifestyle Precinct (**WBLP**).
- 13 However, ALRVJV considers there is merit in retaining in some form the deleted provisions of Chapter 6 which expanded on the relationship between the Landscape Categories and the various rural zones, including the WBRAZ. Rather than the reinstatement of the deleted explanatory text and rules, ALRVJV supports a new 'Interpretation' section, similar to that inserted into Chapter 3 via the planning experts' Joint Witness Statement as part of Stage 1 of the PDP. Such a section is supported to provide greater certainty for plan users.
- 14 As part of Stage 1 of the PDP, Chapters 3 and 6 are currently before the Court and have been subject to significant re-write through mediation and expert conferencing. ALRVJV considers that following decisions from the Court on Topics 1 and 2 of Stage 1 of the PDP, and as the relationship between the Landscape Categories and the WBRAZ is further clarified, additional amendments to Chapter 6 may be required in respect of the policies that apply to the WBRAZ.
- 15 The specific provisions of Chapter 6 and the relief sought by ALRVJV are set out in **Appendix A** to this Appeal.

Chapter 24 Wakatipu Basin

- 16 ALRVJV is generally opposed to the Variation in its entirety, and seeks in the first instance that the Variation be withdrawn.
- 17 The Variation does not reflect the historical and existing development of the Wakatipu Basin. It provides for an arbitrary subdivision and development regime that is not compatible with the established character and land uses in the Basin, and does not sufficiently provide for or enable the social, economic and cultural benefits of rural living development.
- 18 The provisions of Chapter 24, together with the subdivision regime for the Basin set out in Chapter 27, create an unnecessarily restrictive regime for development and land use that unreasonably limits landholders' rights. The

provisions of Chapter 24 should be amended to better recognise landholders' existing rights, to provide for appropriate future development, and to better enable rural living opportunities.

- 19 The specific provisions of Chapter 24 and the relief sought by ALRVJV are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 20 The subdivision regime proposed for the Wakatipu Basin is opposed. The change in the default activity status of subdivision from controlled in the ODP (for rural living zones) to restricted discretionary for the Wakatipu Basin is a significant change in the approach to management of subdivision, which introduces a level of uncertainty that is inconsistent with the higher order chapters of the PDP and Part 2 of the Act. Coupled with minimum lot sizes and the inclusion in Chapter 24 of restrictive standards on building size and coverage, height and setbacks, the regime is considered too restrictive on the building rights of landholders in the Wakatipu Basin.

- 21 The minimum lot densities introduced for the WBRAZ and WBLP are arbitrary and do not reflect existing landholdings. In particular, a minimum lot density of 80ha in the WBRAZ is illogical and unworkable, and will result in ineffective land use and wasted development opportunities, whilst not guaranteeing protection of landscape character and amenity values. An 80ha minimum is too large to be reasonably maintained as a rural lifestyle block, while being too small to be farmed economically. It ignores the potential for much of the Basin to be sensitively and appropriately developed, and is inconsistent with the high demand for housing in the District.

- 22 A minimum average lot size regime is supported, as opposed to a minimum lot size regime. Two 'sub-precincts' are proposed for the WBLP, so that Council may identify areas within the WBLP which have a greater capacity for higher density development. A two tiered minimum average approach will provide planning flexibility and the resulting range of lot sizes will provide variety and enhance landscape character throughout the Basin.

- 23 The specific provisions of Chapter 27 and the relief sought by ALRVJV are set out in **Appendix A** to this Appeal.

Planning Maps 13d and 26

- 24 ALRVJV opposes the Variation in its entirety, and specifically opposes the zoning of the Land as WBRAZ.

- 25 The WBRAZ zoning over the Land and most of LCU 24 fails to recognise the existence of the ALRV SHA and the current implementation of SH160141, approved development on neighbouring land, and the established character of LCU 24 and its high capacity to absorb further development.
- 26 The Independent Commissioners' recommendations (Report 18.7) failed to specifically address the ALRVJV request to rezone the Land to WBLP. However land owned by Boxer Hills Trust to the north of the Land was also sought to be rezoned to WBLP - this submission was addressed in the report and the rezoning was recommended. When assessing the Boxer Hills rezoning request the Independent Commissioners identified the clearly urban character of the ALRV, which influenced their rezoning recommendations. Given the Land is clearly urban in nature and the Boxer Hills land has been rezoned to WBLP, it is unclear why the Land was not also rezoned.
- 27 Schedule 24.8 identifies LCU 24 as having a 'high' capacity to absorb additional development, a low level of naturalness, and a sense of place characterised by the predominant land uses of the golf course, rural residential development, and the retirement village. The ALRV is explicitly referenced in the schedule in relation to the key role it plays in the existing and anticipated character of the LCU:
- The Arrowtown Lifestyle Retirement Village SHA anticipates an urban patterning of buildings ranging from one storey units along the McDonnell Road edge to three storey buildings in the central western margins of the area.*
- The Arrowtown Lifestyle Retirement Village will have implications for future settlement patterns for the land around it south and west of McDonnell Road.*
- ...Arrowtown Lifestyle Retirement Village SHA which confers a distinctly urban character in a prominent and sizeable part of the unit...*
- 28 Given the landscape character and amenity values identified in Schedule 24.8, it is unreasonable that the majority of the land within LCU 24 has been zoned WBRAZ. This zoning fails to provide for appropriate future development that is clearly anticipated for the LCU and is able to be adsorbed. It enforces limitations on development that are incompatible with the actual use of the Land in practice, and undermines the economic investment of ALRVJV in the Land thus far. It is maintained that a higher density zoning is necessary to provide for the social, cultural and economic wellbeing of landholders in LCU 24.
- 29 At the Council hearing concerns were raised that despite the potential for the LCU to absorb further development and possibly provide for urban development in the future, rezoning the LCU to WBLP would make such future urbanisation difficult. If this concern is maintained by Council ALRVJV consider it would be

most appropriate to withdraw the Land (and any surrounding area considered suitable for future urbanisation) from the Variation and Stage 2 of the PDP, so that an appropriate zoning providing for an efficient degree of urban development can be determined. The Independent Commissioners recommended that Council undertake a structure planning exercise for LCU 24. They proposed a Future Urban Zone or similar zoning might be appropriate for the LCU. ALRVJV would support withdrawal of the Land or the entire LCU 24 from the Variation to enable such a structure planning exercise to be undertaken.

- 30 In the first instance, ALRVJV seeks that the Land be rezoned to a high density zoning that appropriately reflects the SHA status of the Land and the implementation of SH160141.
- 31 In the alternative, ALRVJV seeks that the Land be rezoned as WBLP, 'Precinct A' with a minimum average lot density of 4000m².
- 32 The specific amendments sought to the planning maps in relation to the ALRVJV Land are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 33 ALRVJV opposes any further provisions and seeks alternative, consequential, or necessary additional relief to that set out in this appeal to give effect to the matters raised generally in this appeal, or such other changes that give effect to the outcomes sought in the ALRVJV submissions.

Attachments

34 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 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).

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 and (or) the decision (or part of 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 in Christchurch.