

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First
Schedule of the Act

BETWEEN BARNHILL CORPORATE
TRUSTEE LIMITED & D E, M E
BUNN & L A GREEN

(ENV-2021-CHC-017)

and all other appellants listed in the
attached schedule

Appellants

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

**MINUTE OF THE ENVIRONMENT COURT
(11 October 2021)**

Introduction

[1] This Minute makes directions on a number of outstanding matters, specifically:

- (a) multiple s274 party notices filed on behalf of Tussock Rise Ltd (“TRL”) dated 22 September 2021, and an application for waiver to join the following appeals out of time:
 - (i) J C Breen Family Trust (ENV-2021-CHC-041);



- (ii) NPR Trading Ltd (ENV-2021-CHC-042);
- (iii) Alpine Nominees Ltd (ENV-2021-CHC-045);
- (iv) 86 Ballantyne Road Partnership (ENV-2021-CHC-046);
- (b) a s274 notice and supporting waiver application dated 9 September 2021 on behalf of HWR Property Group Limited, UCT Limited and Allied Concrete to join the TRL appeals (Stage 1 and 3) out of time;
- (c) a memorandum of counsel on behalf of the appellants Glen Dene Ltd, Glen Dene Holdings Ltd and Sarah Burdon (collectively ‘Glen Dene’) dated 23 September 2021; and
- (d) a second reporting memorandum of counsel for QLDC¹ dated 24 September 2021, regarding case management proposals for Stages 3 and 3B appeals (together ‘Stage 3’) in the Queenstown Lakes District Plan review.

Tussock Rise Ltd

[2] In respect to the substantive TRL appeals, the court previously directed² TRL to file a memorandum giving particulars of its Stages 1 and 3 appeal rezoning proposals and then granted a broad waiver under s281 for relevant parties to join the appeals within 15 working days. The court received TRL’s memorandum and a number of s274 parties joined.

[3] Subsequently, s274 notice was filed on behalf of HWR Property Group Limited, UCT Limited and Allied Concrete. HWR and UCT own land with industrial zoning near the TRL site. Allied occupies the HWR land for its concrete batching business. The s274 notice is accompanied by a request for waiver to join the TRL appeals out of time. It explains that, despite HWR and UCT being served the Stage 1 appeal in accordance with the 9 June 2021 directions, they did not file a s274 notice on time due to an administration oversight (notice of the appeal having been received by the accounts’ department and not been passed on to the

¹ Queenstown Lakes District Council.

² Minute dated 9 June 2021.

property team), the opportunity to join within the timeframes was overlooked.

[4] The court also received four s274 notices on behalf of TRL, and an application for waiver to join four other Stage 3 appeals out of time. TRL submits that it is directly affected by the subject matter of the appeals (as the appeals relate to land owned by TRL), it needs to become a s274 party in order to participate at mediation and that granting the waiver would not prejudice any parties.

[5] I am satisfied that those seeking to join appeals each qualify under s274 for the reasons given. My preliminary view is that no party would be unduly prejudiced by grant of the waivers sought, given mediation has not yet occurred or appeals progressed. However, my directions allow for parties to oppose the application such that these matters can be further considered if need be. If no opposition is received, the waiver applications will be granted accordingly.

[6] I note that other Stage 3 appeals/topics have now been allocated mediation dates. Given the large number of likely parties to this appeal, there would be value in making bespoke timetabling directions, including in regard to mediation. A direction is made for QLDC to confer with parties and file a reporting memorandum with proposed directions. If need be, a judicial teleconference would be convened. However, it is hoped that consensus can be reached such that timetable directions can be simply made by further Minute.

Chapter 39 – Wāhi Tūpuna

Glen Dene's position

[7] Glen Dene's memorandum dated 23 September 2021 confirms the relief sought in their appeal; in relation to Chapter 39 – Wāhi Tūpuna they consider the relief can be carved out from Glen Dene's rezoning relief and be scheduled alongside other appeals relating to the Wāhi Tūpuna provisions.

[8] Glen Dene notes from the court's Minute dated 13 September 2021, that

appeals seeking the deletion of the provisions in their entirety are not to be subject to mediation and are to be scheduled for hearing. While Glen Dene continue to seek the removal of Ch 39 in its entirety, they agree to attend mediation on the basis of narrower, site specific, Wāhi Tūpuna mapping relief.

QLDC's position

[9] QLDC confirmed in its memorandum dated 24 September 2021 that, while it recognises that Glen Dene will not withdraw the relief sought, it still seeks to proceed to mediation in the first instance.

[10] As canvased previously, QLDC confirms that it is prepared to mediate these appeals in relation to relief that does not seek the deletion of Ch 39 and its overlays in their entirety. QLDC advises that Glen Dene's position is that this relief can be carved out from Glen Dene's rezoning relief and scheduled alongside the other Wāhi Tūpuna appeals (Topic 34, subtopic 2). QLDC confirm that it is comfortable with this approach.

[11] QLDC also submits that changes to the provisions in chapter 39 could be discussed at the Topic 34, sub-topic 1 mediation. It seeks directions. I am advised that Glen Dene has confirmed it does seek some amendments to the provisions of Ch 39 and has described the changes it seeks.

[12] I consider the propositions generally appropriate and grant the directions accordingly.

Zoning

[13] As per paragraph [28](f) of the court's Minute, Glen Dene was required to confirm what it considered the most appropriate and preferred zoning for its land. Glen Dene has confirmed in its memorandum that its preferred zoning is Rural Visitor ('RV'), as sought in its Stage 3 submissions and appeal. QLDC subsequently proposes that the RV appeal relief can be scheduled alongside the

other RV rezoning appeals, namely Topic 38, sub-topic 2.

[14] I consider this request appropriate and grant the direction accordingly.

Directions

[15] I direct:

- (a) any party seeking to oppose the waiver application must do so, giving reasons, by memorandum of counsel to be filed by **Wednesday 13 October 2021**;
- (b) if no memorandum in opposition is so filed, waiver is granted effective **Thursday 14 October 2021** so as that s274 joinder to the requested appeals is granted;
- (c) QLDC is to confer with parties to the TRL appeal and, by **Friday 22 October 2021**, file a further memorandum proposing timetabling directions, including for mediation;
- (d) in relation to Glen Dene:
 - (i) the rezoning relief is hereby allocated to Topic 38 (RVZ), sub-topic 2;
 - (ii) the site-specific Wāhi Tūpuna mapping relief is hereby allocated to Topic 34, sub-topic 2; and
 - (iii) the text relief to Chapter 39 is hereby allocated to Topic 34, sub-topic 1.

[16] Leave is reserved for any party to apply for further (or other) directions.



J J M Hassan
Environment Judge

Issued: 11 October 2021



Schedule

ENV-2018-CHC-121 Tussock Rise Ltd
ENV-2019-CHC-049 Glen Dene Limited & Ors
ENV-2021-CHC-022 M Scaife
ENV-2021-CHC-023 R Stewart
ENV-2021-CHC-024 M Thomas
ENV-2021-CHC-025 Streat Developments Limited
ENV-2021-CHC-026 Aurora Energy Limited
ENV-2021-CHC-027 K Muir
ENV-2021-CHC-028 Kingston Lifestyle Properties Limited
ENV-2021-CHC-029 Gibbston Valley Station Limited
ENV-2021-CHC-030 Malaghans Investments Limited
ENV-2021-CHC-031 Cardrona Cattle Company Limited
ENV-2021-CHC-032 Cardrona Village Limited
ENV-2021-CHC-033 Gibbston Valley Station Limited
ENV-2021-CHC-034 Cardrona Cattle Company Limited
ENV-2021-CHC-035 Mandalea Properties Limited
ENV-2021-CHC-036 Lake McKay Limited Partnership
ENV-2021-CHC-037 Universal Developments Hawea Limited
ENV-2021-CHC-038 Corbridge Estates Limited Partnership
ENV-2021-CHC-039 C & J Properties Limited
ENV-2021-CHC-040 Arthurs Point Land Trust
ENV-2021-CHC-041 J C Breen Family Trust
ENV-2021-CHC-042 NPR Trading Limited
ENV-2021-CHC-043 Integrity Group Holdings NZ Ltd
ENV-2021-CHC-044 Bush Creek Investments Limited
ENV-2021-CHC-045 Alpine Nominees Limited
ENV-2021-CHC-046 Ballantyne Properties Limited
ENV-2021-CHC-047 Upper Clutha Transport Limited
ENV-2021-CHC-048 Queenstown Airport Corporation Limited

ENV-2021-CHC-049 Kingston Lifestyle Properties Limited
ENV-2021-CHC-050 Cardrona Village Limited
ENV-2021-CHC-051 Schist Holdings Limited
ENV-2021-CHC-052 Queenstown Park Limited & Remarkables Park Limited
ENV-2021-CHC-053 Wayfare Group Limited
ENV-2021-CHC-054 Aspiring Helicopters & Ors
ENV-2021-CHC-055 Kā Rūnaka
ENV-2021-CHC-056 Quartz Commercial Group Limited
ENV-2021-CHC-057 Glen Dene Limited & Ors
ENV-2021-CHC-058 Beech Cottage Trustees Limited
ENV-2021-CHC-059 Tussock Rise Limited
ENV-2021-CHC-060 The Station at Waitiri Limited
ENV-2021-CHC-061 The Station at Waitiri Limited
ENV-2021-CHC-062 Chard Farm Limited