

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2017-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	Well Smart Investment Holding (NZQN) Limited Appellant
And	Queenstown Lakes District Council Respondent

Notice of Appeal

19 June 2018

Appellant's contact details:

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To The Registrar
Environment Court
Christchurch

- 1 **Well Smart Investment Holding (NZQN) Limited (Well Smart)** appeal against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Well Smart made a submission (#308) on the PDP.
- 3 Well Smart is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Well Smart 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 this appeal relates to are:
 - a) Rule 12.5.9 to the extent that the rule classifies buildings on the site¹ as non-complying activities:
 - buildings above 14m;
 - buildings with more than 4 storeys (excluding basements);
 - building's that protrude through a horizontal plane drawn at 330.1 masl.
 - b) Policy 12.2.2.2;
 - c) Policy 12.2.2.4;
 - d) Policy 12.2.2.5;
 - e) The district plan objectives to the extent that facilitates the above relief sought below.

Background and reasons for the appeal

- 7 Well Smart owns the properties at 65 to 67 Shotover Street and 5 to 15 Hay Street, Queenstown (**Site**) and is developing a hotel in the centre of the Queenstown Central Business District.
- 8 Well Smart made submissions on Stage 1 of the District Plan Review seeking:

That the Site remain Town Centre Zone with no additional controls imposed on development and use beyond those applied to other Town Centre zoned sites, and any such other

¹ Being the land bounded by Man Street, Hay Street, Shotover Street (28 Man St; 30 Man St / 15 Hay St; 9 Hay Street; 5 Hay Street; 3 Hay Street / 67 Shotover Street; 65 Shotover Street)

consequential relief as is necessary to give effect to the submission.

- 9 The submission further identified that the outcome sought was to: “enable the appropriate intensive development of the Site, which will positively contribute to the amenity of the town centre and the wellbeing of the community”
- 10 The decision by QLDC does not give effect to the relief sought by Well Smart and/or does not meet the purpose of the Act (in particular its enabling aspects having particular regard to the efficient use of resources under s7(b)) or other requirements (including integrated management under s31, s32, and to implement the relevant enabling objectives and policies), including because other Town Centre zoned land have less stringent (and thus more permissible) controls on them, for example:
 - (a) The policy framework for Town Centre zoned land under PC50 is more enabling of visitor accommodation activities; and
 - (b) The policy and rule framework for Town Centre zoned land under PC50 is more enabling of higher buildings; and
 - (c) The rules for Height Precinct P1(A) are more permissible than for Height Precinct P1 and P1(i).
- 11 The relief sought below is the most appropriate for achieving the sustainable management of the Site and Queenstown Centre Zone. For example:
 - (a) There is a shortage of visitor accommodation in the Queenstown CBD and Well Smart believes the benefits of new hotel accommodation are highly significant to the local, regional and potentially national economy.
 - (b) The site is not located in the Special Character Area so there are no particularly significant values to be maintained or enhanced at the expense of consideration of the benefits of visitor accommodation development proposals.
 - (c) The subject policies, coupled with the rules, are too onerous and may not allow the benefits of new visitor accommodation developments to be considered under a s.104(1) of the RMA. This is an inefficient land use and is contrary to the purpose of the RMA.
 - (d) Policy 12.2.2.2 is a desirable outcome but should not be a requirement.

Relief sought

- 12 Well Smart request that parts of the PDP be amended so that:
 - (a) Policy 12.2.2.2 is amended as follows:

~~Encourage~~ Require development to:

- a. maintain the existing human scale of the Town Centre as experienced from street level through building articulation and detailing of the façade, which incorporates elements which break down building mass into smaller units which are recognisably connected to the viewer; and
- b. contribute to the quality of streets and other public spaces and people's enjoyment of those places; and
- c. positively respond to the Town Centre's character and contribute to the town's 'sense of place'.

(b) Amend policy 12.2.2.4 as follows:

~~Manage~~ Allow buildings ~~which to~~ exceed the discretionary height standards to ensure in situations where:

- a. the outcome is of a high-quality design, ~~which is superior to that which would be achievable under the permitted height;~~ and
- b. the cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to ~~a small extent~~ provided this is offset or compensated for by the provision or enhancement of additional public space or a pedestrian link within the site; and
- c. the increase in height will facilitate the provision of new residential or visitor accommodation activity.

(c) Delete policy 12.2.2.5

~~Prevent buildings exceeding the maximum height standards except that it may be appropriate to allow additional height in situations where: a. the proposed design is an example of design excellence; and b. building height and bulk have been reduced elsewhere on the site in order to: i. reduce the impact of the proposed building on a listed heritage item; or ii. provide an urban design outcome that has a net benefit to the public environment.~~

~~For the purpose of this policy, urban design outcomes that are beneficial to the public environment include: a. provision of sunlight to any public space of prominence or space where people regularly congregate; b. provision of a new or retention of an existing uncovered pedestrian link or lane; c. where applicable, the restoration and opening up of Horne Creek as part of the public open space network; d. provision of high quality, safe public open space; e. retention of a view shaft to an~~

~~identified landscape feature; f. minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environments. g. the creation of landmark buildings on key block corners and key view terminations~~

- (d) Delete standard 12.5.8.2 so that buildings within Precinct 1 (A) can protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 10m above the street boundary (as a permitted activity).
 - (e) Delete standard 12.5.9 (or the site is excluded from the standard) so that buildings on the site are provided for as a permitted activity up to 12m height and a restricted discretionary activity above 12m height.
 - (f) If necessary, any amendments to the district plan objectives to ensure a consistent and integrated framework of objectives, policies and rules.
- 13 Well Smart 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 Well Smart PDP submissions.
- 14 Well Smart also reserves its right to seek costs in respect of the resolution of its appeal.

Attachments

The following documents are **attached** to this notice:

- a) **Appendix A** - A copy of the Appellants' submission and further submissions;
- b) **Appendix B** - A copy of the relevant parts of the decision; and
- c) **Appendix C** - A list of names and addresses of persons to be served with this notice.

Dated this 19th day of June 2018



Ben Farrell
Planning Consultant for the Appellant

Address for service of the Appellants

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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.