

BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH

ENV-2018-CHC-000102

I MUA I TE KOOTI TAIAO
I ŌTAUTAHI ROHE

IN THE MATTER of the Resource Management Act 1991
(**the Act**)

AND

IN THE MATTER of an appeal under clause 14 of Schedule
1 of the Act

BETWEEN RCL Queenstown Pty Ltd
RCL Henley Downs Ltd
RCL Jacks Point Ltd

Appellants

AND Queenstown Lakes District Council

Respondent

(AMENDED) NOTICE OF APPEAL



ATKINS | HOLM | MAJUREY

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TO: The Registrar
Environment Court
CHRISTCHURCH

1. RCL Queenstown Pty Ltd, RCL Henley Downs Ltd, and RCL Jacks Point Ltd (together "**RCL**") appeal a decision of the Queenstown Lakes District Council ("**QLDC**") on stage 1 of the Proposed Queenstown Lakes District Plan ("**Proposed Plan**").
2. RCL owns:
 - (a) All of the undeveloped Hanley's Farm Residential (R(HD) and R(HD-SH)) land in the Hanley Downs part of the Jacks Point Zone (save for the portion of R(HD)-E that is located on Lot 6 DP 398514);
 - (b) The majority of the areas labelled OSA and Rural Living (RL) in the Hanley Downs part of the Jacks Point Zone;
 - (c) Other significant landholdings throughout the Jacks Point Zone.
3. The zoning in the Operative District Plan for the Hanley's Farm Zone was recently the subject of Plan Change 44. Queenstown Lakes District Council notified its decision on Plan Change 44 in March 2016. Subdivision and development in Hanley Downs (commonly referred to as "Hanley's Farm") has proceeded since in accordance with that decision.
4. RCL made a submission on the Proposed Plan which emphasised its broad support for incorporation of the decision in Plan Change 44 to the Operative District Plan which QLDC had recently issued.
5. RCL is not a trade competitor for the purposes of section 308D of the Act.

6. RCL received notice of the decision on 7 May 2018.
7. The decision was made by the QLDC.
8. The parts of the decision that RCL is appealing relate to the Jacks Point Zone, in particular:
 - (a) The reduction of the allowable residential density in the area labelled in R(HD)-F on the Structure Plan (in respect to rule 41.5.1.1);
 - (b) The reconfiguration of the OSA areas (as shown on the Structure Plan at Annexure D of this notice);
 - (c) The introduction of an advice note stating "min setback 35m" along the eastern boundary of the R(HD)-E area;
 - (d) The declining of RCL's request in its submission to amend proposed rule 41.5.5.4 to require 1m side yard building setback rules on all sites (and as set out in rules 41.5.1.6 and 41.5.1.7 in the Decision);
 - (e) The increase in side yard building setback requirements as set out in rules 41.5.1.6 and 41.5.1.7 in the Decision;
 - (f) The introduction of a requirement for houses on individual lot sizes smaller than 380m² to obtain a resource consent (in respect to rule 41.4.1.5);
 - (g) The declining of RCL's request to remove or liberalise the recession plane (height-to-boundary) rules as they apply to Hanley's Farm (proposed rule 41.5.12.4 and rule 41.5.1.4 in the Decision);
 - (h) The introduction of recession planes for sites between 380m² and 550m² (rule 41.5.1.4 in the Decision); and

- (i) The declining of RCL's request to create an Activity referred to as "Open Space Community and Recreation Activity Area" on Lot 12 DP 364700 with associated controls as set out in RCL's submission.

REASONS FOR APPEAL

- 9. The reasons for this appeal are that the parts of the decision appealed:
 - (a) Do not promote the purpose of the Act being the sustainable management of resources (section 5);
 - (b) Are contrary to Part 2 and other provisions of the Act;
 - (c) Are contrary to other relevant planning documents and the findings of the recent decision on Plan Change 44;
 - (d) Will not meet the reasonable foreseeable needs of future generations;
 - (e) Do not meet the requirements of s 32 of the Act.
- 10. In particular, and without limiting the generality of paragraph 9 above:
 - (a) The reduced allowable residential density in the area labelled in R(HD)-F is not justified by landscape or other amenity concerns, with the effect that land appropriate for residential development will not be efficiently utilised;
 - (b) The reconfiguration of the OSA within R(HD)-E will provide inferior shapes and locations for parks inhibit the efficient development of surrounding residential land and will not will not appropriately protect landscape values;

- (c) The reconfiguration of the OSA area (as shown on the Structure Plan) between the R(HD)-A, R(HD)-C, and R(HD-SH)-1 areas is unnecessary and is an inefficient use of land that is appropriate for development. Through R(HD)-D the exact alignment of future floodway works is unknown and should not be precisely shown as an OSA area;
- (d) The introduction of an advice note stating "min setback 35m" along the eastern boundary of the R(HD)-E area is unnecessary and creates uncertainty in the application of rules. It is unclear what submissions were relied on to make this change;
- (e) The declining of RCL's request to reduce side yard setbacks fails to provide for the efficient development of residential sites in Hanley Downs. The rules are not consistent with Policy 41.2.1.12 of the Jacks Point Zone. Such setbacks are not required to achieve a high standard of amenity, as demonstrated by the emerging character of the Hanley's Farm urban area;
- (f) The increase in side yard building setbacks will restrict the ability of houses to fit on sites and may lead to the development of larger sites. This would be an inefficient use of land and would not be consistent with Policy 41.2.1.12 of the Jacks Point Zone. There is no compelling urban design or other amenity case supporting the decision. Further, it appears that no exemption for accessory buildings such as garages has been provided for, which is a conventional rule important for the reasonable development and use of residential sites. It is unclear what submissions were relied on to make these changes;

- (g) The introduction of a requirement for houses on individual lot sizes smaller than 380m² to obtain a resource consent failed to properly account for the inefficiencies and costs of introducing such a requirement on those seeking affordable housing. This has the potential to discourage the development of sections of this size which would reduce the numbers of homes built in Hanley's Farm, and result in the inefficient use of land. It is unclear what submissions were relied on to make this change;
- (h) The declining of RCL's request to remove or liberalise the recession plane (height-to-boundary) rules as they apply to Hanley Downs and the introduction of recession planes for sites between 380m² and 550m² failed to properly account for the characteristics of development in Hanley's Farm. Such rules will prevent or restrict reasonable development of sites. These rules are not consistent with Policy 41.2.1.12 of the Jacks Point Zone. Of particular concern is that the rules as proposed have no exemption for sloping sites, meaning some sites may be impossible to build on without significant excavation or infringing the height limit. It is unclear what submissions were relied on for the introduction of recession planes for sites between 380m² and 550m²;
- (i) The declining of RCL's request to create an Activity referred to as "Open Space Community and Recreation Activity Area" on Lot 12 DP 364700 was in error. The outcome sought by RCL provides an appropriate use of land inside the Urban Growth Boundary, with appropriate regard to constraints such as landscape sensitivities. A range of appropriate standards were proposed in RCL's submission and

subsequent additions and modifications in the evidence presented at the Council hearing by RCL's witnesses.

RELIEF SOUGHT

11. The Appellant seeks the following relief:
 - (a) Restoration of the density rules as notified in the Proposed District Plan in the area labelled in R(HD)-F on the Structure Plan;
 - (b) The OSA configuration within R(HD)-E as shown Structure Plan in the notified in the Proposed District Plan;
 - (c) The configuration of the OSA areas (as shown on the Structure Plan) between the R(HD)-A, R(HD)-C, and R(HD-SH)-1 to align with the extent of completed drainage works and reserve areas: or the Open Space Areas be shown indicatively as per the notified version;
 - (d) The OSA area through R(HD)-D to be shown indicatively as Open Space, as per the notified version;
 - (e) Delete the advice note on the Structure Plan stating "min setback 35m" along the eastern boundary of the R(HD)-E area;
 - (f) That 1m side yard building setbacks be applied on all sites with appropriate exemptions for accessory buildings. Alternatively, that the plan be amended to make side yard setbacks a matter to be established during the subdivision process;
 - (g) The removal of resource consent requirements for individual lots smaller than 380m² and reversion to the

rules of the notified Proposed District Plan. These rules enabled the development of such smaller sites without the need for a resource consents by ensuring specific design controls are established at the subdivision stage;

- (h) Delete recession plane rules, or apply those recession planes that have been approved through various subdivisions to date in Hanley's Farm;
- (i) Create an Activity referred to as "Open Space Community and Recreation Activity Area" on Lot 12 DP 364700 as described in RCL's submission to the Proposed District Plan;
- (j) Such further orders, relief, consequential amendments or other amendments (including to objectives, policies, rules, other methods, definitions, and other provisions) as are considered appropriate and necessary to address the concerns set out above; and
- (k) Costs of and incidental to this appeal.

ATTACHMENTS

- 12. The following documents are attached to this notice:
 - (a) A copy of RCL's submission (Annexure A);
 - (b) A copy of the relevant decision (Annexure B);
 - (c) A list of relevant names and addresses of persons to be served with a copy of this notice (Annexure C).



DATE: 10 July 2018

Mike Holm / Rowan Ashton

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ADVICE TO RECIPIENTS OF COPY OF NOTICE*How to become party to proceedings*

You may be a party to the appeal if,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, you 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
- (b) within 20 working days after the period for lodging a notice of appeal ends, you 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 requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.