

BEFORE THE ENVIRONMENT COURT

ENV-2018-CHC- 000148

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of an appeal pursuant to
Clause 14 of the First
Schedule to the Act

BETWEEN Allenby Farms Limited

Appellant

AND

Queenstown Lakes
District Council

Respondent

**NOTICE OF PERSON'S WISH TO BE PARTY TO
PROCEEDINGS**

MACALISTER TODD PHILLIPS

Barristers, Solicitors, Notaries

3rd Floor, 11-17 Church Street

Queenstown 9300

P O Box 653, DX ZP95001, Queenstown 9348

Telephone: (03) 441 0125 Fax: (03) 442 8116

Solicitor Acting: Jayne Elizabeth Macdonald

To: The Registrar
Environment Court
Christchurch

1. Name of party giving notice:

Malcolm Burgess, Sally Burgess, Ian Neale, Angie Neale, Anthony Marsh, Jacquetta Bates, Luc Waite, Katie Waite, Craig Barclay, Christine Barclay, Ross Andrews, Jeanette Andrews, Viv Evers and Bruce Evers are a group of residents in Rob Roy Lane, Wanaka, known collectively as the “Rob Roy Residents group”.

2. The relevant proceedings are:

ENV-2018-CHC-000148

3. The party giving notice is:

A group of persons who has an interest in the appeal greater than the interest that the general public has. Our interest is greater than the public in general because we are neighbours directly adjoining the Allenby Farms property and we stand to be directly affected by the significant range of relief Allenby Farms are seeking in their appeal. Allenby Farms propose a large residential development close to our properties with specific changes to the Outstanding Natural Feature Boundary (ONF) and Urban Growth Boundary (UGB) adjoining our properties. These changes are in conflict with the long-term development plans for this area. They are a continuation of the uncertainty and confusion regarding these boundaries and the zone boundaries and their alignment in this location.

We are not trade competitors for the purposes of section 308C or 308CA of the Resource Management Act 1991.

4. All of the proceedings are of interest to the party giving notice.

5. The relief sought is opposed.

The decision of the Respondent is supported for the following reasons.

5.1 Summary of proposed changes sought in appeal

- 5.1.1 The Appellant proposes the creation of a new Mt Iron Park Rural Lifestyle (MIPRL) zone adjacent to our properties. It seeks new policy

or policy changes in chapters 3, 6, 22, 27 and 33 of the Proposed District Plan (“PDP”) to facilitate the development of the MIPRL.

5.1.2 The appeal also proposes changes to PDP maps 18 and 21 to give effect to this proposal as follows:

(a) Modification of Significant Natural Area E18C is sought to reduce parts of the SNA which are not considered to meet the threshold required for determining 'significance' under Chapter 33 of the PDP, and to extend the SNA over other areas which section 6(c) RMA values and which would benefit from further ecological maintenance and enhancement.

(b) Amendment of the Urban Growth Boundary (UGB) in relation to the Appellants land to include Mt Iron within the UGB;

(c) Amendment of the Outstanding Natural Feature Boundary for Mt Iron to exclude those parts of Mt Iron which do not exhibit section 6(b) outstanding characteristics and features;

(d) Remove the existing Building Restriction Area (BRA) from land adjacent to the Wanaka – Luggate Highway (SH84) and create a new BRA containing the prominent western slopes of Mt Iron below the SNA.

(e) Create the proposed MIPRL Zone. This zoning would replace the proposed Rural zoning of this area of the site in the PDP.

5.1.3 The changes sought to the policies and boundaries, if accepted, will reduce the protections currently afforded the ONF that is Mt Iron. Moving the ONF and UGB boundaries will make development on the western flanks of Mt Iron much more likely. This is inconsistent with the historic approach to development in this area of Wanaka and contrary to the development pattern produced by Allenby Farms and endorsed by Council through multiple consent processes.

5.2 History of mapping and inaccuracies and Section 293 RMA

5.2.1 In the late 1990’s Allenby Farms provided QLDC a pattern for overall development of the land on the west of Mt Iron as part of their subdivision plan. The outer boundary of that pattern identified a Low Density Residential (LDR) zone boundary aligned to the subdivisions cadastral boundaries and thereby created the rationale for the current location of the ONF boundary as notified. Our properties are on that boundary. The rationale for seeking a change to the ONF boundary to exclude parts of the western side of Mt Iron is not consistent with that approach.

- 5.2.2 The location of the ONF boundary has been reinforced through Council evidence to the PDP hearings and through independent reports. The Read report of 2014 noted that the western boundary of Mt Iron ONF had already been compromised by development. Dr Read recommended no further development be undertaken on the western flank of Mt Iron and that the ONF boundary be aligned to the zone boundary. Believing the boundaries to be one and the same, the report mapped the ONF boundary to the cadastral boundaries of the eastern most properties (our properties) in the development.
- 5.2.3 Allenby Farms have consistently stated in consent applications and hearings that subdivisions in this location were taken to the extent of the LDR zone identified in that pattern of development and that no further development was sought or proposed on Mt Iron. Similar assurances were provided by Allenby's agents on the sale of these properties. Notwithstanding those assurances there is a resource consent application lodged with QLDC by Allenby Farms for development of five sections within the existing ONF boundary. The application is currently on hold at the request of the applicant.
- 5.2.4 The LDR zone boundary was mapped by Council staff in 1998 at a location proximate to the pattern provided by Allenby Farms, without being completely aligned to the cadastral boundaries. That boundary was slightly amended in the 2015 PDP maps as notified. We have conducted a review of the 1998 LDR Zone process and have found inconsistencies over a period of 20 years with the mapping of the zone boundary location. This confusion over the LDR Zone boundary location has contributed to the ongoing misalignment of the LDR Zone boundary in this location, evidenced by the fact that PDP planning maps as notified include some of the LDR Zone within the ONF boundary. Most of such land is also outside the notified Urban Growth Boundary (UGB), which was not aligned with either the zone, or ONF boundaries.
- 5.2.5 Noting these inconsistencies, and lacking jurisdiction to recommend the zone boundary be shifted to the UGB in its notified location, the Commissioners instead recommended the UGB be aligned to the LDR zone boundary (there being jurisdiction to do so). The Commissioners did not have evidence to move the ONF boundary. The Commissioners also recommended to Council that the misalignment of these boundaries needs to be reviewed.
- 5.2.6 This less than satisfactory state of affairs, coupled with the recommendation of the Hearing Commissioners to review the mapping

errors/inconsistencies lends itself to being addressed via Section 293 of the Act.

5.3 Building Restriction Area

- 5.3.1 The Building Restriction Area (BRA) now offered for the western flank of Mt Iron is inconsistently described in the maps appended to the appeal but amounts to about 5.5 hectares on the western flank of Mt Iron. Under the proposed Allenby Farms plan this would be excluded from the ONF.
- 5.3.2 Allenby Farm's submissions sought a BRA in this area that was aligned to our cadastral boundaries. At some point in the process it moved to align to what appears to be a recently identified LDR zone boundary. This has created confusion and needs clarification.
- 5.3.3 Creation of the BRA proposed by Allenby Farms is not certain. It is contingent on the establishment of the MIPRL zone on the North side of Mt Iron. Without that exchange occurring the proposed BRA does not come into effect. Any protection it might afford to further development of this site is therefore conditional at best.
- 5.3.4 The uncertain protection of a BRA should be contrasted with the policies in the PDP, which, as they relate to ONF, effectively constrain development in these areas in all but the most exceptional cases. Policies 3.2.1.5, 3.3.30 and 6.3.12 refer.

5.4 Section 6(b) ONL's and ONF's

- 5.4.1 Section 6(b) of the Act, to which the PDP policy restricting development on the ONF applies, provides for protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. Mt Iron clearly fits that criteria. Seeking to exclude portions of Mt Iron from ONF, which during the initial stages of the 2015 PDP process Allenby themselves identified as visually sensitive and suitable for protection from the effects of further development, is inconsistent with the intention of the Act.
- 5.4.2 Any potential development in this area is inconsistent with the planning approach put forward by Allenby Farms, as noted above, and will have a more than minor impact on visual amenity of Mt Iron for residents and visitors to Wanaka. One hundred and twenty thousand people walked the Mt Iron track in the last year. It is clearly a

significant feature on the Wanaka landscape that should be protected at any cost.

- 5.4.3 As immediate neighbours, the inconsistencies in the alignment of the Urban Growth Boundary, LDR Zone boundary, ONF line and proposed BRA creates significant uncertainty as to the potential for future development immediately adjoining our properties and any such development, along with the development of the proposed Mt Iron Park Rural Lifestyle Zone, is likely to result in significant adverse cumulative effects on our privacy and residential amenity and the landscape and ecological values of the Outstanding Natural Feature of Mt. Iron.

6. The party giving notice agrees to participate in mediation or other alternative dispute resolution of the proceedings.



Jayne Macdonald on behalf of Rob Roy residents group

Date: 9 July 2018

Address for Service of Person wishing to be a party:

c/o Macalister Todd Phillips

Level 3, 11-17 Church Street

P O Box 653

Queenstown 9300

Telephone: 03 441 0127

Fax/email: 03 442 8116 / jmacdonald@mactodd.co.nz

Contact person: Jayne Macdonald