

In the Environment Court of New Zealand  
Christchurch Registry

I Te Koti Taiao o Aotearoa  
Ōtautahi Rohe

**ENV-2018-CHC-**

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Under	the Resource Management Act 1991 ( <b>RMA</b> )
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	<b>Universal Developments Limited</b>  Appellant
And	<b>Queenstown Lakes District Council</b>  Respondent

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**Notice of Appeal**

19 June 2018

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**Appellant's solicitors:**

Maree Baker-Galloway | Rosie Hill  
Anderson Lloyd  
Level 2, 13 Camp Street, Queenstown 9300  
PO Box 201, Queenstown 9348  
DX Box ZP95010 Queenstown  
p + 64 3 450 0700 | f + 64 3 450 0799  
maree.baker-galloway@al.nz | rosie.hill@al.nz

**anderson  
lloyd.**

**To** The Registrar  
Environment Court  
Christchurch

- 1 Universal Developments Limited (**Universal**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Universal made a submission (#177) and further submission (#1029) on the PDP.
- 3 Universal is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Universal 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 appealed relate to:
  - (a) Chapter 3 Strategic Direction;
  - (b) Chapter 4 Urban Development;
  - (c) Chapter 8 Medium Density Residential;
  - (d) Chapter 9 High Density Residential;
  - (e) Chapter 16 Mixed Business Use;
  - (f) Chapter 27 Subdivision;
  - (g) Planning Map 31a.
- 7 Reasons for appeal

#### **Frankton North Specific Issues**

- 8 Universal Developments owns land legally described as Lot 2 DP 497316, held in CFR 764774 (**Site**), adjacent to SH6 Frankton-Ladies Mile Highway. The Site was notified as medium density Residential Zoning (**MDR**) through the PDP, and has been retained as such in the Council's Decisions. Universal submitted generally on the notified zoning of its Site and on submissions which sought alternative zonings (#717, #751, #847, #399).
- 9 A broad range of submissions were lodged to the PDP seeking alternative zoning outcomes for the Site and adjacent land, within the Urban Growth Boundary and zoned MBU / MDR to the north of SH6 (collectively referred to as **Frankton**

**North**) as indicated coloured orange and dark red in **Appendix B**. Those submissions sought a range of outcomes from Rural Zone, to alternative zoning which provides for residential, light industry, service activities, trade based suppliers, and storage, through any mixture of Low, Medium, or High Density Residential, Industrial, Mixed Business Use, or Local Shopping Centre Zones.

- 10 In the course of hearings on the Frankton North Land, Universal worked constructively with adjacent landholder submitters to present a joint proposal to Council which involved a comprehensive site-specific set of provisions for Mixed Business Use Zoning, including structure plan access and specific subdivision rules. Universal has broad standing in respect of seeking or supporting notified and alternative zonings of its site and the Frankton North land, if that is considered necessary or appropriate.
- 11 The Council's Decision in part accepted this relief; however the Universal Site has not been rezoned from MDR as originally notified. This Decision is contrary to the Council's expert evidence presented in the course of the hearings, seeking High Density Residential Zone over the Site, and contrary to the Submitter's expert evidence produced, seeking a specific Frankton North Mixed Business Use Zone. The Council's Decision is considered to be an inefficient and ineffective use of the Site as it does not provide for higher density residential opportunities and mixed commercial activities, for which there is a current and projected shortfall of zoning across the District.
- 12 The Council's reasoning for not rezoning the Site as HDR (despite Council's planning experts recommending that status) included the following:

The balance of the sites, which are outside the OCB should remain MDRZ in our opinion, rather than HDRZ recommended by Ms K Banks. This is for two reasons. Firstly, MDRZ would provide a better transition to the Rural land which would commence at the property boundaries slightly above the bottom of Ferry Hill. Secondly we do not think that the site would not really provide good alternative access to nearby commercial and employment centres by pedestrians, cyclists and public transport, as the zone purpose for HDRZ suggests, even after the installation of safe crossing points. Further, the nearest centre, which is Five Mile, does not provide a full range of commercial, community and social facilities in any case<sup>1</sup>.
- 13 This reasoning is not justifiable given that a transition to rural land can be perceived as being provided for within the rural land, and the Site is within walking distance to the wider Frankton area including five mile, which once developed will be a full service centre. The consequence of the MDR provisions applicable to the Site also results in confusion as to whether future development within the Site must provide direct access to SH6, or whether access can be

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<sup>1</sup> Para 99, Council Decision Report 17-6

facilitated through alternative routes to the Site. The Site currently has frontage to SH6, and potential access to the Highway (in the instance of future upgrading) however also has access options through Ferry Hill Drive and Tucker Beach. **Appendix A** further sets out detailed relief in respect of providing for these alternative access options.

- 14 Among other concerns, the Council's Decision referred to a concern for rezoning the Frankton North land Mixed Business Use as undermining the viability and functioning of the Frankton Commercial areas. Mechanisms to address these concerns can be included in any subsequent rezoning of the Frankton North land, such as by including limitations on ground floor areas so as to reduce impacts on other large format retail in Frankton.
- 15 The Council's PDP Decision fails to adequately provide for the higher order provisions of the PDP, the operative and proposed RPS, Part 2 of the Act, and therefore is not the most effective and efficient zoning having regard to the requisite section 32 assessment.
- 16 Without derogating from the generality of the issues identified above, Universal now seeks the following outcomes in the PDP:
  - (a) Rezoning of the Site and surrounding Frankton North land to enable higher density residential and / or mixed commercial and activities, through either a combination or a rezoning of the following: High Density Residential, or Mixed Business Use, or other zoning which would achieve similar outcomes; and
  - (b) Consequential amendments to the provisions of the above zone chapters to provide a site-specific regime for the Site and the Frankton North land, including by way of structure plan and associated subdivision rules; and
  - (c) Consequential amendments to any strategic and higher order provisions of the PDP so as to support and give effect to the ultimate Frankton North zoning; and
- 17 The particulars of the relief sought by Universal are further set out in Appendices **A, B, and C** to this Appeal.
- 18 The rezoning relief as set out in this Appeal is considered to provide for a more efficient and effective development regime for the Frankton north land, which will positively contribute to the District's projected shortfall in commercial zoned land and current housing affordability and supply issues. This relief better achieves:
  - (a) The higher order provisions of the PDP, proposed and operative Regional Policy Statements;

- (b) Section 32 of the Act;
- (c) Part 2 of the Act.

### **General Medium Density Residential Issues**

- 19 Universal also has interests in land elsewhere in the District, and which is affected by Chapters 3, 4, and 8 (MDR) of the PDP. Universal seeks general amendments to those chapters to facilitate a more efficient and effective planning regime for residential development in residential zoned areas. Universal considers it important that the residential zones, in particular the MDR Zone, enable residential development unconstrained by unnecessary subdivision and land use rules which otherwise inhibit the ability for those zones to achieve their purpose. Broader activities, such as community and commercial activities, are also important to facilitate in the MDR Zone, where this contributes to an integrated outcome for mixed residential communities.
- 20 The particular relief set out in respect of these Chapters, applicable to areas other than the Frankton North land, is set out in **Appendix A** to this Appeal.

### **Chapter 3 Strategic Direction**

- 21 Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. The nature of Chapter 3 applying as higher order provisions to all other provisions of the PDP means that Universal interests are affected by Chapter 3.
- 22 Significant changes to the content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. Universal therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 23 Universal opposes those provisions of Chapter 3 which do not provide for efficient and effective urban development, and which do not provide sufficiently for the social, economic, and cultural wellbeing of people and communities.
- 24 The specific provisions of Chapter 3 and the relief sought by Universal are set out in **Appendix A** to this Appeal.

### **Chapter 4 Urban Development**

- 25 Chapter 4 provides for 'hard' urban edges by ensuring a transition to adjacent rural zones is provided for within a UGB. This is opposed on the basis that land zoned for development within a UGB should be used for that purpose and not unnecessarily constrained.

- 26 The specific provisions of Chapter 4 and the relief sought by Universal are set out in **Appendix A** to this Appeal.

#### **Chapter 27 Subdivision**

- 27 Universal is in particular concerned with the removal of a controlled activity subdivision status for residential and business zoned land. Controlled activity status is critical to the successful development and completion of subdivision within developable zones (including Mixed Business Use, Township, Special, and Residential). These are zones which are anticipated for further subdivision and development, and therefore subdivision should be enabled to achieve the purpose as land use change is expected. These are zones in which the anticipated level of effects for the Zone have been considered and accepted at a local and District Wide level.

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

#### **Further and consequential relief sought**

- 29 Universal seeks alternative, consequential, or additional relief to that set out in this appeal necessary to give effect to the matters raised generally in this appeal and Universal's PDP submission and further submission.

## **Attachments**

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

**Appendix A** – Relief sought

**Appendix B** – Location of Frankton North Land

**Appendix C** – Proposed Frankton North Structure Plan

**Appendix D** - A copy of the Appellant's submission and further submission;

**Appendix E** - A copy of the relevant parts of the decision; and

**Appendix F** - A list of names and addresses of persons to be served with this notice.

Dated this 19<sup>th</sup> day of June 2018



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Maree Baker-Galloway/Rosie Hill  
Counsel for the Appellant

### **Address for service of the Appellants**

Anderson Lloyd

Level 2, 13 Camp Street

PO Box 201

Queenstown 9300

Phone: 03 450 0700 Fax: 03 450 0799

Email: maree.baker-galloway@al.nz | rosie.hill@al.nz

Contact persons: Maree Baker-Galloway | Rosie Hill

### **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.