

**In the Environment Court
at Christchurch**

ENV-2019-CHC-

Under	Resource Management Act 1991 (Act)
And	
In the Matter of	an appeal pursuant to Clause 14(1), Schedule 1 of the Act
Between	BOXER HILL TRUST Appellant
And	QUEENSTOWN LAKES DISTRICT COUNCIL Respondent

**Notice of Appeal by **Boxer Hill
Trust** against a Decision on the
Proposed Queenstown Lakes District
Plan – Stage 2**

Dated: 7 May 2019

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To: The Registrar
Environment Court
Christchurch

Notice of Appeal

1. Boxer Hill Trust (**BHT**) appeals against part of the decision by the Queenstown Lakes District Council (**Respondent**) on the Proposed Queenstown Lakes District Plan – Stage 2 (**Proposed Plan**).
2. BHT made submissions on the Proposed Plan (Stage 1 submission no. 452 and further submission 1157 and Stage 2 submission no. 2385 and further submission 2795 (together the **Submissions**)).
3. BHT is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991 (**Act**).
4. BHT received notice of the Respondent's decision on 21 March 2019.
5. The decision was made by the Respondent by ratifying the recommendations of the Independent Hearings Panel (**Panel**).
6. The parts of the decision that BHT is appealing are the decisions to down-zone the land located adjacent to the intersection of Arrowtown-Lake Hayes and Hogans Gully Roads and legally described as Lot 6 DP392663 (RT 413071) and Lot 2 DP 501981 (RT 755878) from Wakaitipu Basin Lifestyle Precinct (**WBLP**) to Wakaitipu Basin Rural Amenity Zone (**WBRAZ**) and to reject BHT's Submissions generally supporting the WBLP zoning of this land.
7. The specific parts of the decision that BHT is appealing are contained in the following chapters and reports:
 - (a) Chapter 6 (Stage 2 Chapter 24 Wakaitipu Basin Pt 2 Variations);
 - (b) Chapter 24 Wakaitipu Basin (Panel Recommendation Reports 18.1, 18.2 and 18.5);
 - (c) Chapter 27 (Stage 2 Chapter 24 Wakaitipu Basin Pt 2 Variations);
and
 - (d) Maps 13d and 26.

Reasons for Appeal

8. BHT and a related entity own approximately 19.7ha of land located adjacent to the intersection of the Arrowtown-Lakes Hayes and Hogans Gully Roads, as generally shown in the plan **attached** as **Appendix A**.
9. The notified zoning of the land under Stage 2 of the Proposed Plan was WBLP. BHT filed Submissions in support of the notified WBLP zoning, subject to modification of some of the WBLP zone provisions. The Respondent's section 42A reports and evidence supported the notified zoning.
10. The decision was to reject the notified zoning and down-zone the land to WBRAZ for reasons pertaining primarily to water quality issues and in particular the ability to connect to a reticulated waste water network. Landscape effects were also given as a reason for the down-zoning.
11. The decision to down-zone the land is flawed for reasons including that:
 - (a) In respect of water quality issues:
 - (i) the use of land for the purpose of the maintenance and enhancement of water quality is a function of the Regional Council, not the Respondent and the Respondent acted outside its jurisdiction in making the decision for reasons pertaining to water quality;
 - (ii) the Regional Council did not oppose the notified WBLP zoning of the land;
 - (iii) effects on water quality as a result of the WBLP zoning were not raised as an issue in respect of the land by any other submitter;
 - (iv) there was no cogent evidence in respect of water quality issues before the Respondent that supports the decision;
 - (v) the expert reports that accompanied BHT's Stage 1 submission demonstrated that waste water could be adequately managed by an on-site system or by connecting

to the Respondent's reticulated network. This evidence was not considered or assessed in the decision; and

- (vi) if any doubt remains, the management of waste water can be appropriately addressed at the time of resource consent.
- (b) In respect of landscape issues, the decision is flawed for reasons including that:
- (i) it fails to recognise or have adequate regard to the land's ability to absorb change and development;
 - (ii) it fails to have adequate regard to the findings of Wakatipu Basin Land Use Study;
 - (iii) it fails to have adequate regard to BHT's evidence in respect of landscape issues, in particular the expert landscape assessment that accompanied its Stage 1 submission; and
 - (iv) it fails to have adequate regard to the existing and likely future environment.

12. In addition, the decision fails to meet the requirements and purpose of the Act in that it:

- (a) fails to achieve integrated management of the effects of the use and development of land and associated natural and physical resources as required by section 31 of the Act;
- (b) fails to examine and evaluate all of the evidence to determine the most appropriate way of achieving the purpose of the Act as required by section 32 of the Act;
- (c) does not meet the requirements of section 72 – 76 of the Act;
- (d) does not represent an efficient use of land under section 7(a) of the Act; and
- (e) fails to promote the Act's sustainable management purpose.

Relief Sought

13. BHT seeks the following relief:

- (a) Zone the land generally shown in **Appendix A** as WBLP, and make the modifications to the WBLP zone (including Chapters 6 and 27) detailed in Section 3 of BHT's submission dated 23 February 2018 and/or any other modifications that may be necessary to ensure that development outcomes within the WBLP are appropriately certain and enabled; or
- (b) amend the Proposed Plan in a similar or such other way, including any such other combination of plan provisions, zoning, rules and standards so as to address the matters raised in and achieve the intent of BHT's appeal, Submissions and evidence; and
- (c) any similar, alternative, consequential or other relief as may be necessary to address the issues raised in this appeal or otherwise raised in BHT's Submissions and evidence.

Attached Documents

14. The following documents are **attached** to this notice:
- (a) A plan showing the general location of the land addressed by the appeal (**Appendix A**).
 - (b) A copy of BHT's submissions (**Appendix B**), namely:
 - (i) submission 452 dated 23 October 2015;
 - (ii) further submission 1157 dated 18 December 2015;
 - (iii) submission 2385 dated 23 February 2018; and
 - (iv) further submission 2795 dated 27 April 2018.
 - (c) The relevant parts of the Respondent's Decisions (**Appendix C**), namely:
 - (i) Report 18.1 Chapter 24 Wakatipu Basin;
 - (ii) Report 18.2 Chapter 24 Wakatipu Basin Mapping Intro;
 - (iii) Report 18.5 Chapter 24 Wakatipu Basin Area C Central Basin;

- (iv) Stage 2 Chapter 24 Wakatipu Basin;
 - (v) Stage 2 Chapter 24 Wakatipu Basin Pt 2 Variations;
 - (vi) PDP Decisions Version Map 13d Wakatipu Basin Rural Amenity Zone; and
 - (vii) PDP Decisions Version Map 26 Speargrass Flat Millbrook.
- (d) A list of the names and addresses of the persons to be served with a copy of this notice of appeal (**Appendix D**).

Dated this 7th day of May 2019



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Advice to Recipients of Copy of Notice of Appeal

A copy of the documents referred to in paragraph 14 of this notice may be obtained, on request, from BHT.

How to become a 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 lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, in accordance with the amended filing and service requirements set out below.

Your right to be a party to the proceedings in the Environment Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Act.

You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (see form 38).

Service requirements in accordance with ENV-2019-CHC-009

The requirements relating to filing and service of section 274 notices have been amended so that section 274 notices must be, within 20 working days after the period for lodging a notice of appeal ends:

- lodged with the Environment Court electronically by email to christine.mckee@justive.govt.nz;
- served on the Council at dpappeals@qldc.govt.nz; and
- served on BHT at rebecca.wolt@laneneave.co.nz / kelsey.barry@laneneave.co.nz

Service of section 274 notices on all other parties will be deemed to be effected by the Council uploading copies of the section 274 notices onto its website within 15 working days after the section 274 period closes.