

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2019-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 **Len McFadgen**

Appellant

And **Queenstown Lakes District Council**

Respondent

Notice of Appeal

7 May 2019

Appellant's solicitors:

Maree Baker-Galloway | Roisin Giles
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 | roisin.giles@al.nz

**anderson
lloyd.**

To The Registrar
Environment Court
Christchurch

- 1 Len McFadgen appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Len McFadgen made a submission (#2529) and further submission (#2748) on Stage 1 of the PDP.
- 3 Len McFadgen is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 Len McFadgen received notice of the decision on 21 March 2019.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 24 Wakatipu Basin Variation;
 - (b) Chapter 27 Subdivision;
 - (c) Planning Maps 13d and 29.
- 7 The reasons for appeal and general relief sought are summarised out below. The specific provisions and relief sought by Len McFadgen are detailed further in **Appendix A** to this Appeal.

Background

- 8 Len McFadgen owns land located at 210 Domain Road, legal described as Lot 1 DP 20253 Blk V Shotover SD (**Land**).
- 9 In Stage 1 of the PDP the Land was notified as Rural Lifestyle Zone (**RLZ**).
- 10 The Land was included in the Stage 2 Wakatipu Basin Variation (**Variation**) and was zoned Wakatipu Basin Lifestyle Precinct (**WBLP**), identified in Schedule 24.8 as part of Landscape Character Unit (**LCU**) 9 Hawthorn Triangle.

Chapter 24 Wakatipu Basin

- 11 Len McFadgen generally supports the Variation and the zoning of the Land as WBLP. However a number of detailed amendments to the provisions of Chapter 24 are sought.

- 12 The rules regarding construction of residential buildings, the density and building standards, and the restricted discretionary subdivision regime proposed under Chapter 27, together create an unnecessarily restrictive regime for development and land use that unreasonably limits landholders' rights.
- 13 The WBLP zoning and the associated objectives, policies, rules and standards do not fully recognise the established character and existing land use of the Hawthorn Triangle, and the high capacity of this area to absorb further development. The limitations imposed on further development in this area mean that Chapter 24 fails to provide for or enable the social, economic and cultural benefits of rural living development.
- 14 Specific amendments are proposed to the provisions of Chapter 24 to better recognise landholders' existing rights, to provide more completely for appropriate future development, and to better enable rural living opportunities.
- 15 The specific provisions of Chapter 24 and the relief sought by Len McFadgen are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 16 The subdivision regime proposed for the Wakatipu Basin is opposed. The change in the default activity status of subdivision from controlled in the ODP (for rural living zones) to restricted discretionary for the Wakatipu Basin is a significant change in the approach to management of subdivision, which introduces a level of uncertainty that is inconsistent with the higher order chapters of the PDP and Part 2 of the Act. Coupled with minimum lot sizes and the inclusion in Chapter 24 of restrictive standards on building size and coverage, height and setbacks, the regime is considered too restrictive on the building rights of landholders in the Wakatipu Basin.
- 17 The minimum lot density and average lot density introduced for the WBLP does not reflect existing landholdings and does not provide sufficient flexibility or capacity for further appropriate development. Within areas such as the Hawthorn Triangle in particular, which is identified as having a high capacity to absorb additional development, subdivision to a higher density should be provided for.
- 18 A minimum average lot size regime is supported, as opposed to a minimum lot size regime. Two 'sub-precincts' are proposed for the WBLP, so that Council may identify areas within the WBLP which have a greater capacity for higher density development, such as the Hawthorn Triangle. A two tiered minimum average approach will provide planning flexibility and the resulting range of lot sizes will provide variety and enhance landscape character throughout the Basin. This is particularly important for land such as Len McFadgen's Land,

where natural features such as Protected Trees require greater planning flexibility in order to utilise the Land effectively.

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

Planning Maps 13d and 29

- 20 Len McFadgen supports the zoning of the Land as WBLP, subject to amendments to the rules for construction of residential buildings, minimum and average lot size, and the standards for building coverage, building height, and setbacks.
- 21 Len McFadgen seeks that the Land be included within WBLP 'Precinct A' with a minimum average lot size of 4000m². This higher density is considered appropriate due to the high capacity of the Land to absorb further development, and the natural features of the Land, such as the presence of Protected Trees, which require a flexible planning approach.
- 22 The specific amendments sought to the planning maps to classify the Len McFadgen land as WBLP 'Precinct A' are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 23 Len McFadgen opposes any further provisions and seeks alternative, consequential, or necessary additional relief to that set out in this appeal to give effect to the matters raised generally in this appeal, or such other changes that give effect to the outcomes sought in the Len McFadgen submissions.

Attachments

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

- (a) **Appendix A** – Relief sought;
- (b) **Appendix B** – A copy of the Appellant's submission and further submissions;
- (c) **Appendix C** - A copy of the relevant parts of the decision; and
- (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 7th day of May 2019

Maree Baker-Galloway

Maree Baker-Galloway/Roisin Giles
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 | roisin.giles@al.nz

Contact persons: Maree Baker-Galloway | Roisin Giles

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).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice

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