

**BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV:

In the Matter

of an appeal pursuant to
clause 14 of the First
Schedule of the Resource
Management Act 1991

Between

**LAKE MCKAY LIMITED
PARTNERSHIP**

Appellant

And

**QUEENSTOWN LAKES
DISTRICT COUNCIL**

Respondent

NOTICE OF APPEAL

**GALLAWAY COOK ALLAN
LAWYERS
DUNEDIN**

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NOTICE OF APPEAL

To: The Registrar

Environment Court

Christchurch Registry

1. Lake McKay Limited Partnership appeals against a decision of the Queenstown Lakes District Council on the following:
 - (a) Queenstown Lakes District Council - Proposed District Plan Stage 3;
2. Lake McKay Limited Partnership made a submission regarding the Queenstown Lakes District Council Proposed District Plan (OS 3196).
3. Lake McKay Limited Partnership is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. Lake McKay Limited Partnership received notice of the decision on 1 April 2021.
5. The decision was made by Queenstown Lakes District Council.
6. The Decision Lake McKay Limited Partnership is appealing is:
 - (a) Parts of the Decision that decline Settlement Zone over the portion of the appeal site north of 24 Atkins road, Luggate;
 - (b) Parts of the Decision that apply a Building Restriction Area (Landscape) over the northern escarpment of the site; and
 - (c) Parts of the Decision that require development within the Building Restriction Area (Hazard) on the south of the site to be a non-complying activity.
7. For clarity, Lake McKay Limited Partnership do not appeal the decision of the Commission to re-zone the site Settlement, however appeal the limited extent of re-zoning, and the overlays imposed on the recommended Settlement areas.

8. The reasons for the appeal are:

Settlement Zoning North of Atkins Road

- (a) The Commission was incorrect where it held that the development north west of Atkins Road is visually inconsistent/not integrated with the Rural Residential Zone south of the road;
- (b) The Commission placed insufficient weight on the Evidence of Landscape Architects that there would be no significant visual distinction between areas north west and south east of Atkins road;
- (c) The Commission was incorrect where they held there was no defensible boundary to prevent further development to the north and east of the site. The panel gave insufficient weight to planning mechanisms available to address future development proposed outside of the site, including but not limited to the application of urban development boundaries;
- (d) Development infrastructure is available.
- (e) The Commission incorrectly applied the National Policy Statement – Urban Development 2020, in particular Objective 6 and Policy 8.
 - (i) The Commission have artificially segregated a proposal that provides significant development capacity; and
 - (ii) The Commission have failed to give sufficient weight to the fact that the development is integrated with infrastructure planning and available infrastructure capacity.

Building Restriction Area – Landscape

- (f) The Commission erred in finding that the Building Restriction Area within the northern escarpment was necessary from a landscape perspective.

- (g) The panel includes the Building Restriction Area, which was only included as a mitigation element between development on the upper and lower terrace. Without development consistent with Settlement Zone densities on the lower terrace, the Building Restriction Area serves no purpose and is therefore inappropriate.
- (h) The extent of the BRA as mapped by Council does not accurately identify the extent of the 'escarpment face' as visually assessed by Landscape Architects.

Building Restriction Area – Hazards

- (i) The Commission was incorrect when they held that Non-Complying status within the Building Restriction Area to the south of the site is require to implement the supporting Policy or to adequately manage hazard risk.
 - (j) The Commission placed insufficient weight on the geotechnical Evidence before them that the hazard issues could be resolved through design stage. Any outstanding hazard concerns can be addressed through Restricted Discretionary Activity Status.
9. Lake McKay Limited Partnership seek the following relief:
- (a) Zoning of the land identified in **Appendix A** as Settlement as shaded Grey and outlined in Blue;
 - (b) The removal of the Building Restriction Area (Landscape) from the site; and
 - (c) A Restricted Discretionary status for development within Building Restriction Area (Hazard).
10. I attach the following documents to this notice:
- (a) A copy of my original submission (**Appendix B**) ;
 - (b) A copy of Report 20.8: Chapter 20, Section 5.4 (**Appendix C**); and

- (c) A list of names and addresses of persons to be served with a copy of this notice (**Appendix D**).

A handwritten signature in blue ink, appearing to be 'ML' followed by a flourish.

Phil Page/Derek McLachlan

Solicitor for the Appellant

DATED 18 May 2021

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Advice to Recipients of Copy of Notice*How to Become a Party to Proceedings*

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends. 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).

How to Obtain Copies of Documents Relating to Appeal

The copy of this notice served on you does not attach a copy of the relevant decision. These documents may be obtained, on request, from the Appellant.

Advice

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