

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV-2019-CHC-

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14(1), First Schedule of the Act

BETWEEN **A Feeley, E Borrie & LP Trustees Limited**

Appellant

AND **Queenstown Lakes District Council**

Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON THE
PROPOSED QUEENSTOWN LAKES DISTRICT PLAN**

TO: The Registrar
Environment Court
Christchurch

- 1 **A Feeley, E Borrie & LP Trustees Limited ("Appellant")** appeals against decisions of the Queenstown Lakes District Council ("**Respondent**") on its Proposed Queenstown Lakes District Plan ("**Proposed Plan**").
- 2 The Appellant made a submission on the Proposed Plan.
- 3 The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 ("**RMA**" or "**the Act**").
- 4 The Appellant received notice of the decisions on 21 March 2019 and understands that the appeal period closes 7 May 2019.
- 5 The parts of the decisions appealed, reasons for the appeal and relief sought are set out below:
- 6 The decisions appealed are as follows:
 - (a) Decision Report 18.7 Chapter 24 Wakatipu Basin Area E Eastern Basin - Mapping of Wakatipu Basin
 - (b) PDP Decision Version Map 27 Arrowtown
 - (c) PDP Decision Version Map 26 Speargrass Flat, Millbrook
- 7 The reasons for the appeal are as follows:
 - 7.1 The Appellant owns land legally described as Section 9 BLK VII Shotover Survey District, located at 508 Arrowtown – Lake Hayes Road. The land is 6.2117 hectares in area.
 - 7.2 The Proposed District Plan sought to re-zone this land from Rural General Zone to Wakatipu Basin Rural Amenity Zone.
 - 7.3 The Appellant submitted in opposition to this zoning, and sought the land be rezoned to Low Density Residential Zone to align with the findings of the Wakatipu Basin Land Use Planning Study which

concluded that the site was suitable for urban development.¹ This study, commissioned by the Respondent, included the classification of the Wakatipu Basin rural areas in terms of landscape values and the ability for the areas to absorb change. The Appellant's site was classified as having a 'High' capacity to absorb change, and suitable for urban land uses.

- 7.4 At the hearing however, a more refined zoning for the land was presented by the Appellant, that sought part of the site be zoned the Lower Density Suburban Zone (which is a new zone that replaced the Low Density Residential Zone via the decisions on Stage 1 of the District Plan review), and part of the site Rural Residential Zone – Arrowtown West Sub-Zone. The site-specific provisions of the proposed Rural Residential - Arrowtown West Sub-Zone related to density, setbacks, landscaping, fencing and vehicle access. This zoning approach also sought to preclude development in the vicinity of the elevated rocky outcrop near the south-western corner of the site.
- 7.5 The Decision rejected the submission and retained the notified Wakatipu Basin Rural Amenity Zone over the site.
- 7.6 The reasons for the Appellant's appeal is that the Decisions:
- (a) do not give effect to the relevant provisions on the Proposed District Plan, in particular, the provisions of the Strategic Directions Chapter and the Urban Development Chapter.
 - (b) do not give effect to the relevant provisions of the National Policy Statement on Urban Development Capacity 2016.
 - (c) do not have sufficient regard for the section 32AA evaluation presented by the Appellant that concluded that the zoning outcome sought by the Appellant was the most appropriate way to give effect to the relevant objectives of the Proposed District Plan.
 - (d) do not apply a consistent approach to decision making, in that the decisions on other submissions which sought that land is rezoned state that submitters are entitled to rely on the findings of the

¹ Wakatipu Basin Land Use Study, March 2017, prepared by Barry Kaye Associates Ltd, Bridget Gilbert Landscape Architecture and Strateg.ease., paragraphs 6.15-6.18.

Wakatipu Basin Land Use Study² but this approach was not applied to the decision made on the Appellant's submission.

- (e) fail to meet the requirements of section 32 of the Act.
- (f) do not represent an efficient use of land under section 7(a) of the Act; and
- (g) fail to promote sustainable management of resources and will not achieve the purpose of the Act.

8. Relief Sought

8.1 The Appellant seeks the following relief:

- (a) That the land legally described as Section 9 BLK VII Shotover Survey District, located at 508 Arrowtown – Lake Hayes Road, and which is 6.2117 hectares in area, be zoned in accordance with the relief sought by the submitter at the first instance hearing before the respondent, generally as set out in Figure 1 below and in accordance with the site-specific provisions attached to this notice as **Appendix A**:

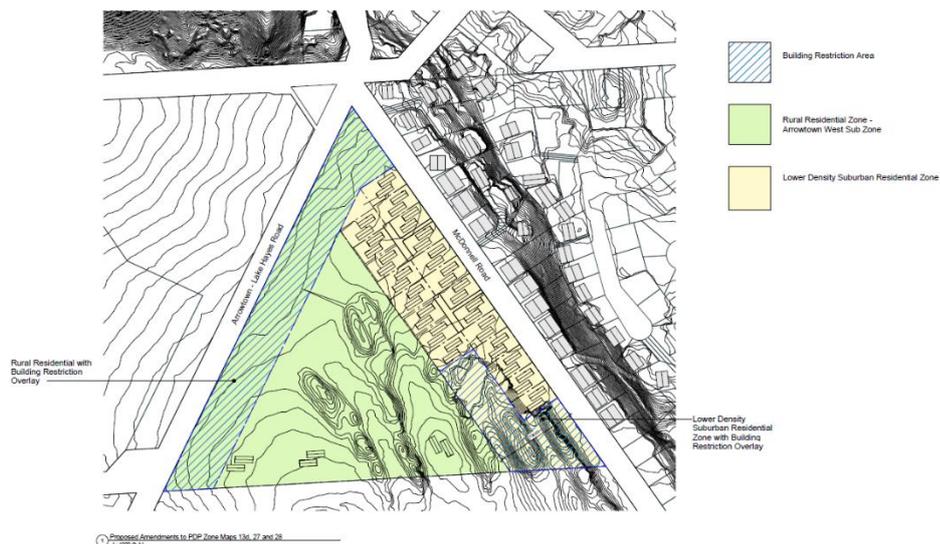


Figure 1: Zoning sought for Appellant's land at 508 Arrowtown – Lake Hayes Road.

² At decision report 18.11, paragraph 3.6.1.

- (b) That, if necessary, the Arrowtown Urban Growth Boundary be amended to include that part of the Appellant's land sought to be zoned Lower Density Suburban Residential Zone.

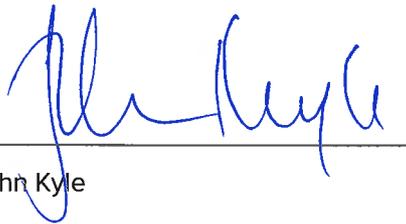
Further Relief Sought

- 9 In addition to the matters set out above, the Appellant seeks the following relief:
- (a) Any similar relief with like effect which addresses the Appellant's concerns;
 - (b) Any consequential amendments which arise from the Appellant's submission, the reasons for the appeal or the relief sought; and
 - (c) Such other relief as the Court considers appropriate.

Attachments

- 10 Copies of the following documents are attached to this appeal:
- (a) The site-specific Rural Residential Zone provisions sought for the Appellant's land (**Appendix A**);
 - (b) The Appellant's submission (**Appendix B**);
 - (c) The relevant parts of the Respondent's decisions (**Appendix C**); and
 - (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 3rd day of May 2019



John Kyle

On behalf of A Feeley, E Borrie & LP Trustees Limited

Address for service of Appellant:

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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 and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court 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 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, further submissions or parts 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.