

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao O Aotearoa
Ōtautahi Rohe

ENV-2026-CHC-

Under the Resource Management Act 1991 (**Act**)

In the matter of An appeal under clause 14(1) of the First Schedule of the Act
on a decision on the Urban Intensification Variation

Between **Carter Queenstown 2015 Limited (Carter Group)**
Appellant

And **Queenstown Lakes District Council**
Respondent

Notice of Appeal by Carter Queenstown 2015 Limited (Carter Group)

7 April 2026

Appellant's solicitors:

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To: the Registrar
Environment Court
Christchurch

Introduction

1 Carter Queenstown 2015 Limited (**Carter Group**) appeals the Decision by the by the Queenstown Lakes District Council (the **Council** or **QLDC**) to adopt the Recommendation of the Independent Hearings Panel (**IHP**) on the Urban Intensification Variation (**UIV**) to the Proposed Queenstown Lakes District Plan (**PDP**) (**Decision**).

Carter Group's interest in these proceedings

- 2 Carter Group made a submission¹ and further submission² on the UIV.
- 3 Carter Group is not a trade competitor for the purpose of section 308D of the Resource Management Act 1991 (**RMA** or **Act**).
- 4 Carter Group received notice of the Decision on or about 20 February 2026.
- 5 The Decision was made by the Queenstown Lakes District Council (the **Council** or **QLDC**).
- 6 Carter Group is appealing the whole of the Decision, with particular concern about aspects related to scope.

Reasons for the Appeal

- 7 Carter Group's interests relate to the block of land bounded by Man Street, Lake Street, Hay Street and Beach Street (**Carter Group Land**), which is currently subject to the Operative District Plan (**ODP**).
- 8 Carter Group sought that the UIV be amended to include land which had previously been subject to Plan Change 50 (**PC50 Land**), or at least the Carter Group Land, within the Queenstown Town Centre (**QTC**) Zone under the PDP, together with appropriate height precinct classification, as set out in its primary and further submissions.
- 9 Carter Group's principal concern with the Decision is that the IHP Recommendation wrongly excluded the Carter Group Land from the scope of the UIV.

¹ Original Submission 776.

² Further Submission 1337.

- 10 Carter Group seeks amendment to the PDP as detailed in **Appendix A**. For the avoidance of doubt, the amendments set out in **Appendix A** are provided as suggestions for relief that may be appropriate to address some of Carter Group's concerns. Carter Group does not intend that **Appendix A** should be read narrowly or literally or that it should limit or confine the scope of the relief available to resolve the Carter Group appeal.
- 11 Carter Group considers that changes are necessary because parts of the Decision on the UIV referred to above do not accord with the relevant requirements of the RMA and are contrary to Part 2 of the RMA.
- 12 In particular, those parts of the Decision which:
- (a) Incorrectly concluded that inclusion of the Carter Group Land is "out of scope" of the UIV:
 - (i) despite the IHP's own findings that:
 - (A) inclusion of the PC50 Land (including the Carter Group Land) falls within the ambit of the UIV and that it is "incidental to and consequential upon the UIV (it is within the urban environment immediately adjacent to the QTCZ, and has high accessibility and relative demand)";³
 - (B) excluding the PC 50 Land from a "Policy 5 NPS-UD driven plan change makes no strategic planning sense, nor does it deliver integrated management";⁴ and
 - (C) its inclusion is a logical, foreseeable extension of the UIV and the IHP "do not consider there would be a real risk that a directly affected person, or the public generally, would have been denied an opportunity to participate in the UIV process if the PC50 land was included".⁵
 - (ii) By misapplying the legal tests in *Clearwater Resort Ltd v Christchurch City Council (Clearwater)*⁶ and *Palmerston North City Council v Motor Machinists Ltd (Motor Machinists)*⁷, resulting in an error of law.

³ Recommendation of the Independent Hearing Panel at [4.35].

⁴ Recommendation of the Independent Hearing Panel at [4.35].

⁵ Recommendation of the Independent Hearing Panel at [4.35].

⁶ *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003. Confirmed by the High Court in *Option 5 Inc v Marlborough District Council* (2009) 16 ELRNZ 1 (HC).

⁷ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290, [2014] NZRMA 519.

- (b) Incorrectly concluded that the IHP lacked sufficient information to be properly informed of, and to assess, the implications of including the Carter Group Land within the UIV, including for the purposes of ss 32 and 32AA⁸;
 - (c) Failed to give effect to the purpose of the UIV and Policy 5 of the National Policy Statement on Urban Development (**NPS-UD**); and
 - (d) Incorrectly applied height precinct controls in a manner that is inconsistent with, and undermines, the enabling intent of the UIV within the Queenstown Town Centre Zone (**QTCZ**).
- 13 Without limiting the generality of the above, Carter Group's further reasons for appeal are set out below.

Submissions "out of scope" of the Urban Intensification Variation

- 14 Carter Group's position is that its submissions are within scope of the UIV for the reasons set out in its legal submissions⁹ and subsequent memoranda¹⁰ given at the hearing.
- 15 The IHP accepted that the inclusion of the PC 50 Land (including the Carter Group Land), which is within the relevant urban environment, was a logical and foreseeable extension of the UIV and that its inclusion would not have resulted in any procedural unfairness. Notwithstanding those findings, the IHP concluded that incorporation of the PC50 land was ultimately "a step too far".¹¹
- 16 Carter Group submits that the IHP erred in law by treating the absence of sufficient information, including for the purposes of ss 32 and 32AA, an omission arising solely because QLDC chose not to include the PC 50 land in the notified UIV, as grounds to find the submission "out of scope".
- 17 The Environment Court in *Bluehaven Management Ltd v Western Bay of Plenty District Council* (**Bluehaven**) determined that the absence of consideration in the s 32 Report is not determinative of scope. The Court stated:¹²

⁸ Recommendation of the Independent Hearing Panel at [4.36].

⁹ Legal Submission on behalf of Carter Queenstown 2015 Limited (Carter Group), dated 31 July 2025.

¹⁰ Cover letter to the memorandum of Charlotte Clouston, dated 18 September 2025; Memorandum of Charlotte Clouston dated 22 August 2025.

¹¹ Recommendation of the Independent Hearing Panel at [4.37].

¹² *Bluehaven Management Ltd v Western Bay of Plenty District Council* [2016] NZEnvC 191 at [39]; see also *Albany North Landowners v Auckland Council* [2017] NZHC 138 at [132].

Our understanding of the assessment to be made under the first limb of the [Clearwater] test is that it is an inquiry as to what matters should have been included in the s 32 evaluation report and whether the issue raised in the submission addresses one of those matters. The inquiry cannot simply be whether the s 32 evaluation report did or did not address the issue raised in the submission. Such an approach would enable a planning authority to ignore a relevant matter and thus avoid the fundamentals of an appropriately thorough analysis of the effects of a proposal with robust, notified and informed public participation.

- 18 The correct question was whether the submission could reasonably be said to fall within the ambit of the plan change, or alternatively, whether a person reading the notified documents would have contemplated that the submission and hearing process might lead to the inclusion of the PC 50 Land. The IHP found these requirements were met, and the Decision is therefore internally inconsistent.

Alleged lack of sufficient information

- 19 The IHP's conclusion that it required further information, including for ss 32 and 32AA, was misplaced.
- 20 The rezoning of the Carter Group Land is an incidental or consequential extension of the zoning changes proposed in the UIV and is permissible, with no further s 32 analysis required to inform affected persons of the comparative merits of that change.
- 21 Bespoke rules were not required to incorporate the Carter Group Land into the PDP framework, and a block-by-block analysis demonstrated that applying the existing PDP QTCZ provisions would not result in unintended consequences.
- 22 Carter Group further confirmed through the UIV hearing process that:
- (a) no bespoke rules were required, and any more complex Lakeview block-specific issues could be considered separately, without affecting the Carter Group Land; and
 - (b) the PDP objectives and policies already contain an adequate framework for managing the Carter Group Land without the need for a bespoke sub-zone.
- 23 The IHP erred in concluding that insufficient information was a jurisdictional barrier to considering and recommending the rezoning on its merits.

Failure to Give Effect to the Purpose of the UIV and Policy 5 of the NPS-UD

- 24 The IHP incorrectly concluded that the UIV could proceed while excluding strategically located, highly accessible, town-centre-zoned urban land. Carter Group submits that this fails to give effect to Policy 5 of the NPS-UD and undermines the very purpose of the UIV.
- 25 The purpose of the UIV, as stated in the s 32 Report, is to meet QLDC's obligations under Policy 5. Policy 5 requires enabling heights and densities commensurate with accessibility or relative demand across the urban environment, not only those parts already within the PDP. It is therefore contrary to the NPS-UD to continue delaying the implementation of Policy 5 for land that is central to achieving a well-functioning, intensified Queenstown town centre. As stated by the IHP, the PC 50 land (including the Carter Group Land) is "part of the urban environment within the District" and a "fundamentally important part of the intensification and development story for the District".¹³
- 26 Carter Group's position is that:
- (a) the NPS-UD obligations apply to the whole district, irrespective of whether the land sits in an ODP or PDP framework;
 - (b) QLDC was required to implement Policy 5 by 20 August 2022; and
 - (c) excluding the Carter Group Land, which is among the most accessible and strategically important urban land in the district, is inconsistent with the directive nature of Policy 5 and results in fragmented planning outcomes.
- 27 Carter Group further notes the inconsistency that arises from the IHP's own finding that more supply is beneficial, especially in a market such as Queenstown and that the PC 50 land is immediately adjacent to the QTCZ, and has high accessibility and relative demand such that excluding it from a Policy 5 NPS-UD driven plan change makes no strategic planning sense, nor does it deliver integrated management.¹⁴

Height Precinct and Enabling Intent of the QTCZ

- 28 Further to the issues outlined above, Carter Group notes that the Decision failed to adequately recognise the enabling intent of the UIV within the QTCZ and to provide for the development outcomes anticipated for such

¹³ Recommendation of the Independent Hearing Panel at [4.34].

¹⁴ Recommendation of the Independent Hearing Panel at [4.35].

land appropriately. In doing so, the Decision applies unduly restrictive height and built form controls that unnecessarily constrain the efficient use and development of the QTCZ.

Relief Sought

- 29 Carter Group is seeking the following relief:
- (a) suggested amendments to the PDP as set out in **Appendix A**; and
 - (b) any further consequential change necessary to address the matter set out in this notice of appeal.
- 30 Carter Group agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Documents

- 31 Carter Group attach the following documents to this notice:
- (a) suggested amendments to the PDP sought by Carter Group (**Appendix A**);
 - (b) a copy of its submission and further submission (with a copy of the submission opposed or supported by its further submission) (**Appendix B**);
 - (c) a copy of the relevant Decision (*or part of the Decision*) (**Appendix C**); and
 - (d) a list of names and addresses of persons to be served with a copy of this notice (**Appendix D**).

Signed for and on behalf of Carter Queenstown 2015 Limited by its solicitors and authorised agents, Anderson Lloyd



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7 April 2026

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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.

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

If the copy of this notice served on you does not attach a copy of the Appellant's submission (or 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 Auckland, Wellington, or Christchurch.

Appendix A: Suggested amendments to the PDP sought by Carter Group

Appendix B: Copies of Carter Group's submission, further submission and submissions opposed or supported by its further submission

Appendix C: A copy of the relevant Decision (or part of the Decision)

Appendix D: A list of names and addresses of persons to be served with a copy of this notice