

**In the Environment Court
at Christchurch**

In the Matter of the Resource Management Act 1991 (**Act**)
And
In the Matter of the Queenstown Lakes Proposed District Plan – Stage 2
And
In the Matter of an appeal under Clause 14(1), Schedule 1 of the Act

Between Dean Hamilton, Lisa Hayden and Mark Hornabrook as trustees of the Hamilton Hayden Family Trust

Appellant

And Queenstown Lakes District Council

Respondent

**Notice of Appeal by Dean Hamilton,
Lisa Hayden and Mark Hornabrook
as Trustees of the Hamilton Hayden
Family Trust (Submitter 2422) against
a decision on the Proposed
Queenstown Lakes District Plan –
Stage 2**

Dated: 7 May 2019

Lane Neave
Level 1, 2 Memorial Street
PO Box 701
Queenstown
Solicitor Acting: Joshua Leckie
Email: Joshua.Leckie@laneneave.co.nz
Phone: 03 372 6307

lane neave.

To: The Registrar
Environment Court
Christchurch

Notice of Appeal

1. Dean Hamilton, Lisa Hayden and Mark Hornabrook as trustees of the Hamilton Hayden Family Trust (**the Appellants**) appeal against part of a decision of the Queenstown Lakes District Council (**Respondent**) on the Queenstown Lakes Proposed District Plan – Stage 2 (**Proposed Plan**).
2. Dean Hamilton and Lisa Hayden made a submission (submission 2422) on the Proposed Plan. The Appellants are their successor.
3. The Appellants are not trade competitors for the purposes of section 308D of the Act.
4. The Appellants received notice of the Respondent's decision on 21 March 2019.
5. The decisions were made by the Respondent by ratifying the recommendations of the Independent Hearings Panel (**Panel**) on 7 March 2019.
6. The part of the decision that the Appellants are appealing is contained in Report 18.5 - Area C, Stream 14, Wakatipu Basin Planning Maps (**Mapping Decisions**), as it relates to the rezoning of 76 Hunter Road, Wakatipu Basin, Queenstown, legally described as Lot 2 DP 27832 (**Site**) which is owned by the Appellants.
7. The Appellants specifically seek:
 - (a) The rezoning of their entire Site so that the Wakatipu Basin Lifestyle Precinct (**WBLP**) is extended to cover the Site.

General reasons for the appeal

8. The general reasons for this appeal are that the decisions fail to provide for the most appropriate zoning of Appellant's Site and therefore:
 - (a) does not give effect to the higher order strategic directions, objective and policies in the Proposed Plan;

- (b) does not give effect to the Otago Regional Policy Statement;
- (c) does not represent an efficient use of land under section 7(a);
- (d) fails to meet the requirements of section 32; and
- (e) fails to promote sustainable management of resources and will not achieve the purpose of the Act.

Particular reasons for the appeal

9. Without limiting the general reasons for the appeal given above, the following are further and/or more particular reasons for the appeal.

Appropriateness of the Rezoning

10. For the reasons outlined in this appeal, the Appellant's consider it is appropriate to rezone the entirety of the Site WBLP rather than that shown in Figure (7) of the Mapping Decision.
11. There is a lack of evidential basis as to why the Site is re-zoned Wakatipu Basin Rural Amenity Zone (**WBRAZ**) under Stage 2. The rezoning of the Site from WBRAZ to WBLP is most appropriate when achieving Part 2 of the RMA and in particular, will represent the most efficient land use of under s7(b) of the RMA.
12. The inclusion of the Site in the WBLP is a logical extension of the Zone as there is no evidential landscape or topographical basis as to why the entire Site should not be included within the WBLP.
13. All four landscape and planning witnesses who assessed the Site support the inclusion of the entirety of the flat area of the Site within the WBLP. It has been agreed by the Landscape Architects and Planners, for both the Appellants and Respondent that it would be appropriate for the WBLP boundary to be realigned along the Site's northern boundary for the flat portion of the site. All experts agreed that realigning the boundary along the northern boundary would be the most appropriate for achieving the objectives and policies contained in Chapter 24.
14. The capacity of the Site to absorb further change was supported by the Respondent's notified version of the Proposed Plan, where the majority of the Site was zoned WBLP.

15. The Mapping Decision places inappropriate weight on a view that the Site should be re-zoned WBRAZ because the Site falls within the Lake Hayes water catchment and is not within proximity to a reticulated sewerage system. This is not supported by robust expert evidence.

Territorial Authority Functions

16. The Respondent's decision to reject the Appellant's submission relies solely on the potential effects that further subdivision and development may have on the Lake Hayes Catchment's water quality.
17. By making this decision, the Respondent has overstepped its functions as a Territorial Authority under section 31 of the RMA.
18. In accordance with section 30(c)(ii) and (iii) RMA, Regional Council's are given power to control the use of land for the purpose of maintenance and enhancement of the quality of water and ecosystems in water bodies. The Respondent has erred in attempting to manage water quality through the WBRAZ.

Hydrology Evidence

19. There is insufficient evidence to directly suggest that WBLP zoning on the Site would result in significant adverse affects on the water quality of the Lake Hayes Catchment. There has not been a thorough assessment of the hydrological characteristics of the Lake Hayes catchment and the activities other than residential that generate effects on water quality within the catchment. This is particularly the case when compared to the permitted baseline of land use around the catchment, consisting of beef and sheep grazing on the pastures.

On Site Sewerage System

20. Under the Otago Regional Plan, discretionary resource consents for the installation of all on-site wastewater treatment systems are required within the Catchment of Lake Hayes. Therefore, to obtain consent for future dwellings on the Site, the Appellants will need to consent and install on-site wastewater treatment systems. This will ensure that the systems are of suitable design so to avoid or mitigate the potential effects upon the water quality of the Lake Hayes Catchment.

21. Accordingly, the lack of an available reticulated sewerage system is not a valid basis for the Respondent to decline the re-zoning request. The Otago Regional Plan provides adequate mechanisms to protect the Lake Hayes Catchment from further pollution.

Relief Sought

22. The Appellant's seek that their entire Site be rezoned WBLP; and
23. Any consequential relief to give effect to that zoning and the relief sought in the Appellant's Stage 2 submission.

Attached Documents

24. The following documents are **attached** to this notice:
- (a) A copy of the Appellant's Stage 2 submission as **Annexure A**;
 - (b) A copy of the relevant part of the Mapping Decision as **Annexure B**; and
 - (c) A list of names and addresses of persons to be served with a copy of this notice as **Annexure C**.

Dated this 7th day of May 2019



Joshua Leckie / Sam Chidgey
Counsel for the Appellant

Address for Service for the Appellant:

Lane Neave
Level 1, 2 Memorial Street
PO Box 701
Queenstown 9300
Phone: 03 409 0321
Email: joshua.leckie@laneneave.co.nz / sam.chidgey@laneneave.co.nz

Contact person: Joshua Leckie / Sam Chidgey