

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-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 **Clark Fortune McDonald & Associates**
Appellant

And **Queenstown Lakes District Council**
Respondent

Notice of Appeal

19 June 2018

Appellant's solicitors:

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**anderson
lloyd.**

To The Registrar
Environment Court
Christchurch

- 1 Clark Fortune McDonald & Associates (**CFMA**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 CFMA made a submission (#414) on the PDP.
- 3 CFMA is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 CFMA received notice of the decision on 7 May 2018.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 3 Strategic Direction;
 - (b) Chapter 4 Urban Development;
 - (c) Chapter 27 Subdivision;
 - (d) All Planning Maps notified, including in particular planning Map 17 (Hawea).
- 7 Reasons for appeal

Overall PDP Issues

- 8 For clarification, all matters raised in this appeal are applicable specifically in respect of Hawea, the proposed Hawea Urban Growth Boundary (**UGB**), and Planning Map 17 (Hawea).
- 9 Submission point 1.0 of the CFMA submission opposed the PDP in its entirety for reasons that the PDP does not accord with, or assist, the Council to carry out its RMA functions, including the requirements of Part 2, section 32, and the reasonably foreseeable needs of future generations.
- 10 This general opposition to the PDP gives CFMA broad standing to seek relief in respect of a range of issues in the PDP on appeal. In this instance, CFMA is concerned with:

- (a) The Council's staging approach to the PDP which has resulted in duplication and potentially inconsistent decision making between different chapters of the PDP;
 - (b) The determination of residential and living zones, and the areas for which those are to be identified, in future stages of the PDP, where UGBs are identified in Stage 1. This will result in uncertainty to landowners seeking an up-zoning but which may be affected by a stage 1 UGB decision.
- 11 This specific relief relevant to the appeal against these issues are further set out in **Appendix A** to this Appeal.

Chapter 3 Strategic Direction

- 12 Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. The nature of Chapter 3 applying as higher order provisions to all other provisions of the PDP means that CFMA interests are affected by Chapter 3.
- 13 Significant changes to content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. CFMA therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 14 CFMA opposes those provisions of Chapter 3 which do not provide for efficient and effective urban development, and which do not provide sufficiently for the social, economic, and cultural wellbeing of people and communities.
- 15 The specific provisions of Chapter 3 and the relief sought by CFMA are set out in **Appendix A** to this Appeal.

Chapter 4 Urban Development

- 16 The submission sought that the entire chapter relating to the identification of urban growth boundaries (Chapter 4) be withdrawn from the Review and re-notified, given the flawed section 32 analysis supporting its promulgation. The consequence of this relief sought is to provide broad scope in respect of relief pertaining to urban growth and urban growth boundaries on planning maps, which stem from Chapter 4.
- 17 CFMA is in particular concerned that Chapter 4 as notified, and its approach to defining urban growth boundaries on planning maps, does not adequately address the reasonably foreseeable needs of future generations and social, cultural, and economic wellbeing of people and communities, as is required in Part 2 of the RMA. In particular, the growth needs of the Queenstown Lakes District are complex and unique as compared to other parts of the Otago Region

and around the country. The identification of Queenstown as a high growth area within the National Policy Statement Urban Development Capacity 2016 (**NPSUDC**) provides further policy support for a planning approach in the PDP to ensure that sufficient, feasible and realistic land is either zoned for future development, or is not otherwise precluded from such use. The Chapter 4 provisions and consequentially the placement of some UGBs on planning maps does not currently achieve this.

- 18 This approach in the PDP also does not provide for the proposed Otago Regional Policy Statement (**RPS**) which takes into account the requirements of the NPSUDC, and provides for urban growth and development, rather than constraining it.
- 19 Without derogating from the generality of the above, CFM considers particular provisions within Chapter 4 are those which seek to avoid urban development beyond an identified UGB and which otherwise unnecessarily constrain urban development from occurring within identified UGBs. There is a lack of section 32 analysis justifying the need for such a stringent regime in this District, where there is high growth pressures and demand for further residential development, as well as a lack of evidential basis pointing to inappropriate and ad hoc urban development.
- 20 Chapter 4 and the identification of UGBs will inappropriately constrain further residential subdivision and development, which will in turn result in increased affordability issues and housing shortages in the District. Chapter 4 is required to be amended to ensure that the unique aspects of the land development market are provided for.
- 21 The specific provisions of Chapter 4 and the relief sought by CFMA are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision

- 22 The submission sought that the entire chapter relating to subdivision and development (Chapter 27) be withdrawn from the Review and re-notified, given the flawed section 32 analysis supporting its promulgation. The consequence of this relief sought is to provide broad scope in respect of relief pertaining to subdivision and development generally.
- 23 Without derogating from this generality, CFMA is in particular concerned with the removal of a controlled activity subdivision status for residential zoned land. Controlled activity status is critical to the successful development and completion of subdivision within developable zones (including Mixed Business Use, Township, Special, and residential). These are zones which are anticipated for further subdivision and development, and therefore subdivision should be

enabled to achieve the purpose as land use change is expected. These are zones in which the anticipated level of effects for the Zone have been considered and accepted at a local and District Wide level.

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

PDP Planning Maps (including Planning Map 17 Hawea)

- 25 As discussed above in respect of Chapter 4, the identification of UGBs on planning maps is opposed. Identification of UGBs on planning maps will inappropriately constrain future necessary subdivision and development. UGBs on planning maps are a blunt instrument, where ad hoc development can otherwise be controlled through effective zoning.
- 26 Without derogating from the general opposition to the identification of UGBs on planning maps, CFMA considers that there are particular locations where UGBs are identified in inappropriate locations and where this will constrain future planned development. A particular example is the UGB identified adjacent to the existing Hawea Township. This UGB was identified as a response to a community association submission, rather than the product of any in depth s32 analysis and in the absence of a full understanding of the township where QLDC has signalled an intention to review matters relating to the Township Zone at a later stage. Therefore, highlighting the deficiencies in considering urban growth matters in the absence of reviewing the township zoning as a whole
- 27 This UGB is an example of constraining development in appropriate locations, given it does not provide any sufficient room for expansion of the Township, despite its recognition as a growth area within the District.

Further and consequential relief sought

- 28 CFMA opposes any further provisions and seeks alternative, consequential, or necessary additional relief to that set out in this appeal and to give effect to the matters raised generally in this appeal and CFMA's PDP submission.

Attachments

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

Appendix A – Relief sought

Appendix B - A copy of the Appellants' submission;

Appendix C - A copy of the relevant parts of the decision; and

Appendix D - A list of names and addresses of persons to be served with this notice.

Dated this 19th day of June 2018

A handwritten signature in black ink, appearing to read "Rosie Hill", is written over a light grey rectangular background.

Maree Baker-Galloway/Rosie Hill
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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).

Advice

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