

**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 The Trustees of the Boundary Trust

Appellant

And Queenstown Lakes District Council

Respondent

**Notice of Appeal by the Trustees of
the Boundary Trust (Submitter 2444)
against a decision on the Proposed
Queenstown Lakes District Plan –
Stage 2**

Dated: 7 May 2019

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To: The Registrar
Environment Court
Christchurch

Notice of Appeal

1. The Trustees of the Boundary Trust (**Appellant**) appeals against part of a decision of the Queenstown Lakes District Council (**Respondent**) on the Queenstown Lakes Proposed District Plan – Stage 2 (**Proposed Plan**).
2. The Appellant made a submission on the Proposed Plan.
3. The Appellant is not trade competitors for the purposes of section 308D of the Act.
4. The Appellant 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 Hearing Panel (**Panel**) on 7 March 2019.
6. The part of the decision that the Appellant is appealing is contained in Report 18.7, Stream 14, Wakatipu Basin, Area E - Eastern Basin (**Mapping Decisions**), as it relates to the Stage 2 rezoning of 459 Arrowtown – Lake Hayes Road legally described as Part Lot 2 Deposited Plan 19667 & Lot 3 Deposited Plan 19667, 9 Orchard Hill Road, Arrowtown and 461 Arrowtown – Lake Hayes Road (legally described as Lots 1-2 Deposited Plan 327817); 29 Butel Road and 9 Butel Road (Legally described as Lots 1-2 Deposited Plan 27846) (**Site**).

Background

7. Under Stage 1 - Notified Proposed District Plan (**Stage 1**) the Appellant's Site was zoned Rural.
8. The Appellant lodged a submission on Stage 1 (submission 541) seeking that the land be included in the Millbrook Resort Zone (**MRZ**).

9. The Appellant's submission was deferred from being heard under Chapter 43 – MRZ for consideration as part of the Mapping hearing.
10. Subsequently, the Council Memorandum dated 22 December 2017 confirmed that the Appellant's Stage 1 submission which was previously allocated to Stream 14, would now be considered under Stage 2 – Wakatipu Basin, as a submission against the variation to Stage 1.

Stage 2 of the Proposed District Plan

11. Under Stage 2 of the Notified Queenstown Lakes District Plan (**Proposed Plan**) the Site was re-zoned from Rural under Stage 1 to Wakatipu Basin Rural Amenity Zone (**WBRAZ**). While the Appellant's original submission at Stage 1 was not heard and were therefore to be considered live, the Appellant also submitted (submission 2512) on Stage 2 of the Proposed Plan opposing the re-zoning of the Site to WBRAZ.
12. Consistent with its Stage 1 submission, the Appellant in its submission sought that the Site be included in the MRZ. The Appellant's submission to re-zone the Site to MRZ was rejected by the Independent Hearing Commissioners in the Stage 2 Mapping Decision and this recommendation was ratified by the Respondent.

General reasons for the appeal

13. The general reasons for this appeal are that the decision fail to provide for the most appropriate zoning of the Site because the decision:
 - (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(b);
 - (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

14. Without limiting the general reasons for the appeal given above the following are further and/or more particular reasons for the appeal.
15. The Appellant specifically seeks:
 - (a) That their Site be rezoned from WBRAZ to MRZ;
 - (b) That the MRZ Structure Plan be extended to cover the Site in a manner that provides for integrated development which does not detract from the landscape and visual amenity values of the Wakatipu Basin; and
 - (c) A number of changes to Chapter 43 policies and rules as they apply to the Site which support the rezoning and relief contained in this appeal.

Appropriateness of the Rezoning

16. For the reasons outlined in this appeal, the Appellant considers it appropriate to rezone the Site MRZ rather than WBRAZ.
17. The re-zoning of the Site from WBRAZ to MRZ 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.
18. The inclusion of the Site in the MRZ is a logical extension of the zone upon considering that the land encompassing the Site to the North, South and West, is zoned MRZ under Stage 2.
19. The Appellant's request to re-zone the Site MRZ is supported by the Wakatipu Basin Land Use Planning Study (**WB LUPS**).
20. Accordingly, the WB LUPS sets out recommended zone boundaries of the LCU to limit and minimise the potential for development creep. The Appellant's Site fall within the Millbrook Landscape Character Unit (**LCU 23**). LCU 23 defines land falling within the Millbrook Landscape Character Unit as being dominated by commercial and rural residential use, displays a low level of naturalness as a consequence of the level of

existing and anticipated development and holds a moderate level of capacity to absorb additional development.

21. While the Site falls within LCU 23, the Site has been zoned WBRAZ, not in accordance with the boundaries set out in the Character Unit. Accordingly, it is considered that there is a disconnect between the identification of the site within LCU 23 and the WBRAZ zoning of the site, as the intention of the WBRAZ, as guided by the Objectives and Policies of the Chapter, is to restrict further development, whereas the WBLPS has identified the area as having a moderate capacity to absorb additional development.
22. The Site does have capacity to absorb additional development and for this to be integrated into the overall resort development of the MRZ without detracting from the landscape and visual amenity values of the Wakatipu Basin.

Relief Sought

1. The Appellant seeks the following relief:
 - (a) That the Site be re-zoned from WBRAZ to MRZ;
 - (b) That the MRZ Structure Plan in 43.7, is amended to cover the entire Site and is amended to incorporate new Residential Activity Areas R20 A, R20 B, R20 C, R 20 D and R 20 E (**R20**) (as attached in **Annexure A**).
 - (c) The land surrounding R20 and within the 25m setback distance is proposed to be included within the Golf Course and Open Space (G1) Activity Area;
 - (d) That the following amendments are made to Chapter 43 (note these are drafted as amendments to the decisions version of Chapter 43):
 - (i) R20 is included within Rule 43.4.11 relating to buildings being a controlled activity as follows:

R1 to R13 and R20 A-E of the Residential Activity Area.

- (ii) Add a new Discretionary Activity Rule 43.4.X to Chapter 43 as follows:

Buildings

- a. Within the G1 Golf Course and Open Space Activity Area

- (iii) Include R20 within Rule 43.5.2(c) requiring a 7m minimum setback for buildings from the residential activity area boundary as follows:

c. *On Residential Activity Sites 14, ~~and 19~~ and 20 A-E buildings shall be located at least 7m from the Residential Activity Area boundary.*

- (iv) Include R20 within Rule 43.5.3 as follows:

Building Colours and Materials in Residential Activity Areas R14, R15, R16 and R20 A-E.

- (v) Amend Rule 43.5.4 relating to Residential Density as follows:

The maximum number of residential units in the Millbrook Resort Zone (excluding the residential units within the R20 A-E activity area) shall be limited to 450. In the R20 A-E activity area the average density shall be no more than 1 residential unit per 500m².

- (vi) Exclude R20 from the overall site coverage for the MRZ in Rule 43.5.11 as follows:

Maximum Total Site Coverage The maximum site coverage shall not exceed 5% of the total area of the Zone. For the purposes of this Rule, site coverage includes all buildings, accessory, utility and service buildings but excludes weirs, filming towers, ridges and roads and parking areas. Activity area R20 A-E is excluded from this calculation.

- (vii) Add a new Rule 43.5.14 with a Restricted Discretionary activity status pertaining to the maximum site coverage for R20 as follows:

Maximum Site Coverage – R20 A-E Activity Area The maximum building coverage shall not exceed 50% of the site area.

- (e) Any consequential relief to give effect to that zoning and the relief sought in the Appellant's Stage 2 submission.

Attached Documents

- 2. 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**;
 - (c) A copy of the Arrowtown, Lake Hayes Road Structure Plan - R20 A-E as **Annexure C**; and
 - (d) A list of names and addresses of persons to be served with a copy of this notice as **Annexure D**.

Dated this 7th day of May 2019



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