

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA ENV-2018-CHC-**

In the matter of the Resource Management Act 1991

and

In the matter of an appeal under clause 14 of the First Schedule of the Act

between

House Movers Section of the New Zealand Heavy Haulage Association Inc

Appellant

and

Queenstown Lakes District Council

Respondent

Notice of Appeal

Dated this 19th day of June 2018

Counsel:
Stuart Ryan
Barrister
Level 11, 59-67 High Street
PO Box 1296, Shortland Street,
AUCKLAND 1140
Tel (09) 357 0599

Counsel

Stuart Ryan

09 357 0599

stuart@stuartryan.co.nz

To The Registrar
Environment Court
Christchurch

Name of Appellant

1. House Movers Section of the New Zealand Heavy Haulage Association Inc ("**the Association**").

Decision under Appeal

2. The decision under appeal, dated 3 May 2018, was made by Queenstown Lakes District Council ("**QLDC**") in relation to the QLDC District Plan – Stage 1. QLDC adopted the recommendations contained in the Report and Recommendations of Independent Commissioners Regarding Chapter 30, Chapter 35 and Chapter 36.
3. The decision appealed is the entire decision of QLDC as it relates to relocated buildings and dwellings ("**the decision**"). For the purposes of this appeal the terms "building" and "dwelling" are used interchangeably, and include one another.
4. The parts of the decision that are the subject of this appeal are all provisions (issues, objectives, policies and rules) relating to relocated buildings. In particular (but without limiting the scope of the appeal):
 - a. Chapter 35 – Temporary Activities and Relocated Buildings, Purpose 35.1
 - b. Chapter 35 – Temporary Activities and Relocated Buildings, Policy 35.2.6.1
 - c. Chapter 35 – Temporary Activities and Relocated Buildings, Objective 35.2.6
 - d. Chapter 35 – Temporary Activities and Relocated Buildings, Rule 35.4.13
 - e. Chapter 35 – Temporary Activities and Relocated Buildings, Rule 35.4.14

Reasons for Appeal

5. The decision has rejected the submission of the Association to classify relocated buildings as permitted activities with performance standards. The decision classifies relocated buildings as controlled activities. The decision:
 - a. Will not promote sustainable management of the natural and physical resources of the district, or achieve the purpose of the Resource Management Act 1991 ("Act");
 - b. Is contrary to Part II and other provisions of the Act;
 - c. Will not meet the reasonably foreseeable needs of future generations;
 - d. Will not enable social, economic, and cultural well-being of both people and communities, and their health and safety;
 - e. Is otherwise contrary to the purposes and provisions of the Act, and other relevant planning documents;
 - f. Is inappropriate, unnecessary and inconsistent with the purpose and principles of the Act;
 - g. Fails to properly take into account the positive or beneficial effects of the reuse of buildings by their relocation within, and into the district and generally, and is not necessary to avoid, remedy, or mitigate any adverse effects of relocated buildings;
 - h. Is not consistent with the objectives, policies and rules of the Plan.
 - i. The objectives, policies and methods (including rules) of the decision are not the most appropriate for QLDC in exercising its functions under the Act
 - j. Does not represent the most appropriate means of exercising QLDC's functions, having regard to the efficiency and effectiveness of the decision, compared with other available methods, and is therefore not appropriate or justified in terms of section 32 and other provisions of the Act.

6. In particular, but without limiting the generality of the above, the decision:
 - a. Fails to apply the decision and reasoning of the Environment Court in *New Zealand Heavy Haulage Association Inc v Central Otago District Council*, C45/2004 and C61/2004). The reasoning and relief as determined by the Court is relied on by the appellant as if set out *in extenso* herein.
 - b. In regulating relocated buildings as a controlled activity, fails to recognise that permitted activity performance standards as sought by appellant are reasonable, practicable, enforceable, cost-effective and efficient.
 - c. In regulating the external appearance of relocated dwellings, (but not for new or existing dwellings) fails to recognise the environment as it exists in the district.
 - d. In regulating the external appearance of relocated dwellings, imposes controls and restrictions which are unreasonable and which lack proportionality when compared to the absence of regulation over the external appearance of new and *in situ* dwellings within the District.

Relief

7. Provide for the *demolition and removal, relocation and re-siting* of buildings (including dwellings) as a permitted activity in all zones (except in relation to any scheduled or listed heritage buildings, or any specific conservation, outstanding landscape or historic heritage zones).
8. Modify and/or amend, and/or rewrite the activity classification for relocated buildings (to permitted), with consequential changes to the issues, objectives, policies, rules, assessment criteria, and other methods, so as to reflect the decision and outcome in *New Zealand Heavy Haulage Association Inc v Central Otago District Council* (C45/2004 and C61/2004) as it relates to regulating relocated dwellings (or to same or similar effect).
9. Expressly provide for non-notification and non-service of any resource consent application for relocated buildings and dwellings (if not a permitted activity).

10. If the relief in above is not upheld, in the alternative, provide for relocation as a permitted activity subject to performance standards as follows (or to same or similar effect)

Permitted activity rules/standards

- a. *Any relocated building intended for use as a dwelling (excluding previously used garages and accessory buildings) must have previously been designed, built and used as a dwelling.*
 - b. *A building pre-inspection report shall accompany the application for a building consent for the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the building.*
 - c. *The building shall be located on permanent foundations approved by building consent, no later than [1] month of the building being moved to the site.*
 - e. *All other reinstatement work required by the building inspection report and the building consent to reinstate the exterior of any relocated dwelling shall be completed within [12] months of the building being delivered to the site. Without limiting (c) (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations.*
 - f. *The proposed owner of the relocated building must certify to the Council that the reinstatement work will be completed within the [12] month period.*
11. Such other relief including and consequential relief as necessary to the objectives and policies, rules, assessment criteria, and other methods, as will achieve the reasons for this appeal, and the appellant's submission.

12. Costs.

Attachments

13. The following documents are attached to this notice:
- a. A copy of the appellant's submission;
 - b. A copy of QLDC's decision.
 - c. A list of names and addresses of persons to be served with a copy of this notice.

House Movers Section of the New Zealand Heavy Haulage Association Inc

by its counsel:



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Stuart Ryan

Dated the 19th June 2018

Address for service of appellant:

House Movers Section of the New Zealand Heavy Haulage Association Inc
c/- Stuart Ryan, Barrister
PO Box 1296, Shortland Street
Auckland 1140

Attention: Stuart Ryan

Telephone: 09 357 0599

Email: stuart@stuartryan.co.nz

Advice Notes**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

The copy of this notice served on you does not attach a copy of the appellant's submission, or 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.