

**BEFORE THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY**

ENV-2014-CHC-

**UNDER**

the Resource Management Act  
1991

**IN THE MATTER**

Of Proposed Plan Change 45  
(Northlake)

**BETWEEN**

**APPEALING WANAKA, K AND L  
WARBURTON, N AND L  
WEBSTER, M HILL, J AND M  
REVELEY, P JONES, A CUTLER,  
E MUIR, K VOLLEBREGT, A  
COOTE, M GILCHRIST, G AND F  
TATE, T AND S POPPERWELL, P  
AND I SHORE, R RAINSFORD, M  
FRASER, B PAULSON, ML  
SCHRODER, T O'DONNELL, T  
AND N DAVIDSON**

**Appellants**

**AND**

**QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**Respondent**

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**NOTICE OF APPEAL AGAINST DECISION ON PROPOSED PLAN  
CHANGE 45 (NORTHLAKE)**

**DATED 5 SEPTEMBER 2014**

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**GALLAWAY COOK ALLAN  
LAWYERS  
WANAKA**

Solicitor on record/ to contact: Jan Caunter  
Solicitor to contact: Jan Caunter  
P O Box 450, Wanaka 9343  
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Email:jan.caunter@gallawaycookallan.co.nz

TO: The Registrar  
Environment Court  
Christchurch

1. The individual Appellants made submissions on Proposed Plan Change 45 (Northlake). One of the Appellants, Appealing Wanaka, was not a submitter, but has been formed to represent the interests of the submitters forming that group.
2. The Appellants are not trade competitors for the purposes of section 308D of the Resource Management Act 1991.
3. The decision maker is Queenstown Lakes District Council.
4. Date of decision appealed against:  
  
24 July 2014 (Council adopted recommendation of Hearing Commissioners Whitney and Cocks)
5. Date on which notice of the decision was received by the Appellants:  
  
Date emailed to some submitters: 25 July 2014  
  
Date decision publicly notified: 30 July 2014
6. Nature of the application on which the decision was made:  
  
Private plan change by Michaela Ward Meehan to rezone an area of approximately 219.26 hectares on the north side of Aubrey Rd, Wanaka to create a special Northlake zone. The urbanisation will follow an Outline Development process, promoting a mix of residential densities to occur on the land. The application also seeks commercial and other non-residential activities.  
  
The application seeks that 1600-1740 dwellings be enabled on the land in question, depending on the density of development.
7. The Appellants appeal the whole decision.
8. The grounds on which the appeal is based are:
  - (a) There is no need for additional residential land to be provided in Wanaka at the levels proposed by the plan change to meet forecast market demand for several decades.

- (b) The decision is inconsistent with the planned urban growth for Wanaka identified through the Respondent's Operative District Plan, the Wanaka Structure Plan 2004 and 2007, the Growth Management Strategy 2007 and other related transport and planning strategies. The decision will not contribute to Wanaka developing in a consolidated and sustainable manner over the foreseeable future.
- (c) The decision fails to take proper account of the potential development of the land through a mix of Rural General, Rural Residential and Low Density Residential (implementing an Urban Landscape Protection subzone), consistent with the Operative District Plan and the Wanaka Structure Plan. The decision does not properly assess whether it is necessary to apply a special zone to the Northlake land to achieve development potential.
- (d) The decision incorrectly assesses section 7(b) matters with reference only to the development land.
- (e) The decision incorrectly determines that the density is the same or similar as the Wanaka Structure Plan. The proposed development seeks at least approximately twice the level of development density recommended in the Wanaka Structure Plan.
- (f) The decision does not adequately consider whether the development site is the most appropriate location for medium density housing in Wanaka from an urban design and efficient settlement/ infrastructure perspective.
- (g) The decision fails to consider whether the development site is a logical area of land to zone for residential growth in Wanaka. The development provides no new connections to existing urban areas, with all traffic connecting onto Aubrey Rd.
- (h) The decision fails to consider the merits of the development of this site against other sites in the district as required by the recent Supreme Court decision in *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited and others* [2014] NZSC 38,, resulting in ad hoc development that does not achieve urban expansion objectives.
- (i) The decision inappropriately rejects staging and deferment techniques as a means of controlling the rate of development and the associated level of environmental effects.
- (j) The decision fails to properly consider the potential significant costs to the Respondent and its ratepayers arising from water and wastewater infrastructure to service the development.
- (k) The decision incorrectly determines that alternatives are not relevant.

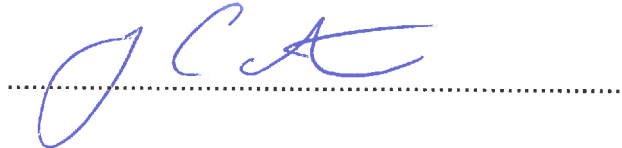
- (l) The decision incorrectly records and overstates the level of agreement between experts on roading, transportation, cycling and walking effects, such that the differences in opinion on these topics is not adequately assessed in the decision.
- (m) The decision fails to adequately consider the plan change in terms of section 32 of the Act and the plan change provides an inadequate policy basis to ensure the alleged benefits of the plan change are implemented through the rules.
- (n) The rules in the decision version of the plan change contain errors, inconsistencies and in part, are ultra vires the Act, including, but not limited to:
  - (i) The controlled activities are not subject to any standards;
  - (ii) The provision for outline development plans does not clearly relate to an activity and is outside the provisions of the Act;
  - (iii) The provisions for non-residential activities and retail activities are in conflict;
  - (iv) While minimum residential densities are proposed, no maximum density is proposed.
- (o) The plan change is unclear as to the future use and ownership of the Building Restriction Area (Activity Area E) and the Tree Protection Area.
- (p) The decision is inconsistent with Part 2 of the Act, in particular (and without limitation):
  - (i) Section 5, including the requirement that development be managed at a rate which enables people and communities to provide for their social, economic and cultural wellbeing.
  - (ii) Sections 7(b), (c) and (f) addressing the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values and the maintenance and enhancement of the quality of the environment .

9. The relief the Appellants seek is as follows:

- (a) That the proposed plan change be cancelled in its entirety; or
- (b) In the alternative, that the decision be substituted with the following:
  - (i) That the maximum development authorised by proposed Plan Change 45 be capped at between 442-710 dwellings, including staging or deferment.

- (ii) That the zone be deferred in its entirety until December 2019.
- (iii) That commercial activity be prohibited within the zone.
- (iv) That the area of medium density development in Area D (AAD) be deleted from the zone.
- (v) That the Gilchrist land be deleted from the zone.
- (vi) That the Court initiate a section 293 procedure to remedy the lack of consideration of the development site against other sites in the district and introduce methods into the District Plan to allow the Respondent to strategically manage the sequence and rate of the development of residential land in order to avoid or mitigate the adverse effects of ad hoc development.
- (vii) That minimum lot sizes be specified for all activity areas, including, without limitation, minimum lot sizes of 800m<sup>2</sup> for Area B (AAB) and 4000m<sup>2</sup> for Area C (ACC), to achieve better consistency with the Operative District Plan Low Density Residential and Rural Residential zoning.
- (viii) That maximum densities be specified for each activity area.
- (ix) That the objectives and policies be amended to repair the deficiencies identified in the grounds of appeal above.
- (x) That the Structure Plan and Outline Development Plan provisions be amended to reflect the grounds of appeal above and:
  - Provide more detail on fixed vehicle and non-vehicular connections, road networks improvements and their timing;
  - Merge Areas AAB and AAD as Low Density Residential;
  - Remove areas AAC1 and AAC2 and retain as Rural General zone;
  - Identify the infrastructure costs to be met by the developer, including water and wastewater, such that the potential cost to ratepayers of this infrastructure is avoided.
  - Identify trigger points for roading infrastructure to be provided to service the development.

- (c) Any other alternative relief that the Court deems fit.
- (d) Costs.



J T Caunter, Solicitor and authorised agent for the  
Appellants

**DATED** this 5th day of September 2014.

The address for service of the above named appellants is at the offices of  
Gallaway Cook Allan, Lawyers, 24 Dungarvon St, Wanaka 9343, Tel: 03 443  
0044, Attention: Jan Caunter

Documents for service on the abovenamed appellants may be left at that  
address for service or may be:

- (e) Posted to the solicitor at PO Box 450, Wanaka 9343; or
- (f) Emailed to the solicitor at  
jan.caunter@gallawaycookallan.co.nz
- (g) Transmitted to the solicitor by facsimile to (03) 443 6651.

**Annexures:**

1. Copy of Appellants' submissions on application.
2. Copy of decision of Respondent.
3. Names and addresses of person to be served with a copy of this  
notice.

## **Advice to recipients of copy of notice of appeal**

### **How to become a 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 and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

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 (refer form 38).

### **How to obtain copies of documents relating to the appeal**

The copy of this notice served on you does not attach copy of the appellants' submissions 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 Christchurch.

**Attachment A – Copy of Appellants’ Submissions**



**Attachment B Copy of Respondent's Decision**

**Attachment C – Names and addresses of persons to be served with a  
copy of this notice**

**Applicant for Plan Change, M W Meehan, C/- Warwick Goldsmith,  
Anderson Lloyd, by email; [warwick.goldsmith@andersonlloyd.co.nz](mailto:warwick.goldsmith@andersonlloyd.co.nz)**

**Respondent, c/- Adam Feeley, Chief Executive, Queenstown Lakes  
District Council, by email; [adam.feeley@qldc.govt.nz](mailto:adam.feeley@qldc.govt.nz)**

**Submitters, as per list attached**