

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2023] NZEnvC 143

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First
Schedule of the Act

BETWEEN LAKE MCKAY LIMITED
PARTNERSHIP

(ENV-2021-CHC-36)

Appellant

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Environment Judge J J M Hassan – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 5 July 2023

CONSENT ORDER

A: Under s279(1)(b),¹ the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Queenstown Lakes District Council is directed to amend the planning maps and provisions of Chapters 20 (Settlement Zone) and 27 (Subdivision and

Resource Management Act 1991.

LAKE MCKAY LIMITED PARTNERSHIP v QLDC – TOPIC 37 SETTLEMENT ZONES



Development) in the proposed Queenstown Lakes District Plan as set out in Appendices 1 and 2, attached to and forming part of this order;

(2) the appeal is otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Lake McKay Limited Partnership against parts of a decision of the Queenstown Lakes District Council regarding the provisions of the proposed Queenstown Lakes District Plan ('PDP'). The appeal was allocated to Stage 3 of the PDP review, Topic 37 – Settlement Zone.

[2] A consent order was issued 6 October 2022 resolving one of three appeal points raised by the appellant, in relation to the Building Restriction Area positioned over the northern escarpment of the appellant's land.² I have read and considered the consent memorandum of the parties dated 18 May 2023 which sets out the agreement reached to resolve the two outstanding appeal points. The agreement involves:

- (a) amendments to the PDP planning maps which will have the effect of rezoning the land at Lot 1 DP 543396 from Rural Residential Zone to Settlement Zone; and
- (b) site-specific amendments to the PDP provisions in Chapters 20 (Settlement Zone) and 27 (Subdivision and Development).

² *Lake McKay Limited Partnership v QLDC* [2022] NZEnvC 193.

Other relevant matters

[3] No person has given notice of an intention to become a party to this appeal under s274 RMA.

[4] The parties agree that costs should lie where they fall and accordingly no order for costs is sought.

Outcome

[5] The court understands for the present purposes that all parties to the proceeding:

- (a) have executed the memorandum requesting this order; and
- (b) are satisfied that all matters for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA including, in particular, pt 2.

[6] On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought. The orders under s279(1) RMA are by consent, rather than representing a decision or determination on the merits.



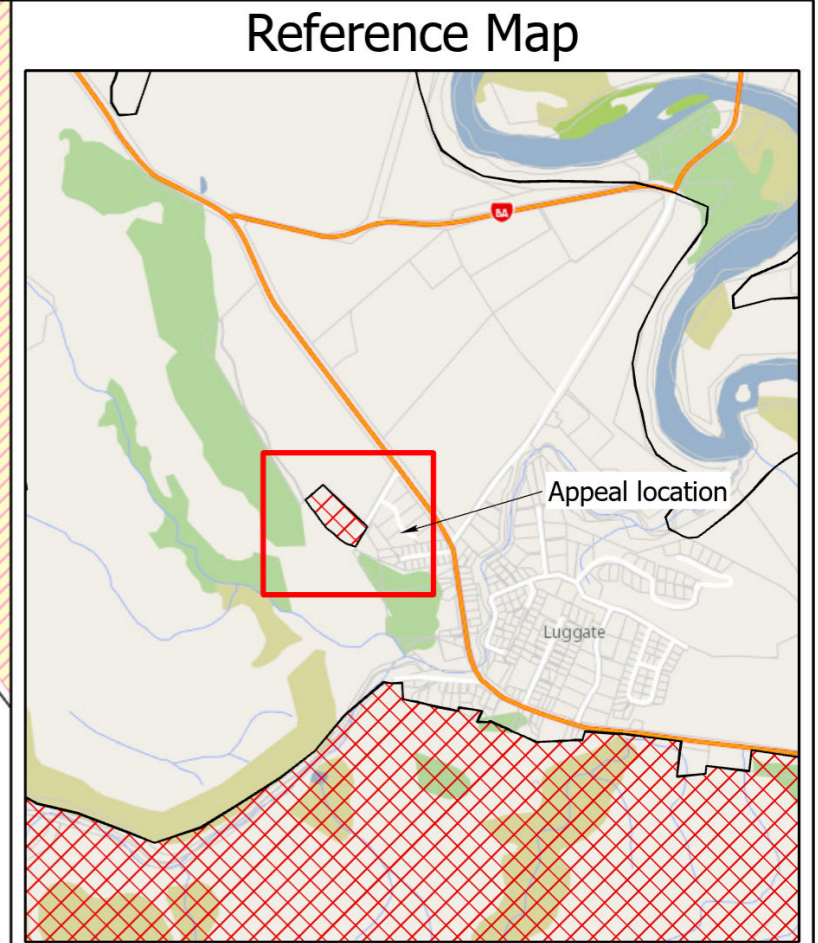
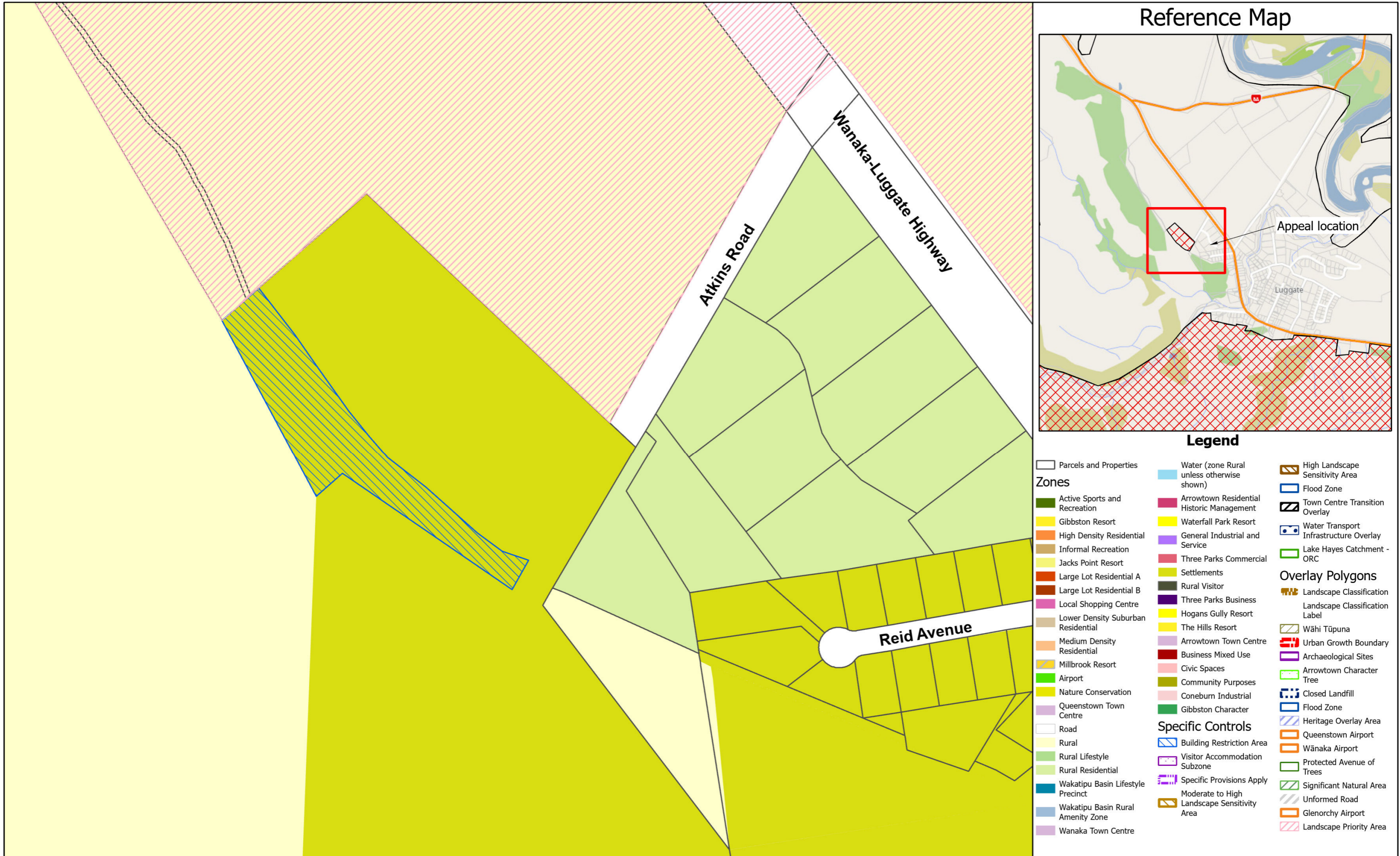
J J M Hassan
Environment Judge



Appendix 1

Proposed Zone Map

ENV-2021-CHC-036 - Lake Mckay Ltd Partnership - Agreed zoning



Legend

<ul style="list-style-type: none"> Parcels and Properties Zones Active Sports and Recreation Gibbston Resort High Density Residential Informal Recreation Jacks Point Resort Large Lot Residential A Large Lot Residential B Local Shopping Centre Lower Density Suburban Residential Medium Density Residential Millbrook Resort Airport Nature Conservation Queenstown Town Centre Road Rural Rural Lifestyle Rural Residential Wakatipu Basin Lifestyle Precinct Wakatipu Basin Rural Amenity Zone Wanaka Town Centre 	<ul style="list-style-type: none"> Water (zone Rural unless otherwise shown) Arrowtown Residential Historic Management Waterfall Park Resort General Industrial and Service Three Parks Commercial Settlements Rural Visitor Three Parks Business Hogans Gully Resort The Hills Resort Arrowtown Town Centre Business Mixed Use Civic Spaces Community Purposes Coneburn Industrial Gibbston Character Specific Controls Building Restriction Area Visitor Accommodation Subzone Specific Provisions Apply Moderate to High Landscape Sensitivity Area 	<ul style="list-style-type: none"> High Landscape Sensitivity Area Flood Zone Town Centre Transition Overlay Water Transport Infrastructure Overlay Lake Hayes Catchment - ORC Overlay Polygons Landscape Classification Landscape Classification Label Wāhi Tūpuna Urban Growth Boundary Archaeological Sites Arrowtown Character Tree Closed Landfill Flood Zone Heritage Overlay Area Queenstown Airport Wānaka Airport Protected Avenue of Trees Significant Natural Area Unformed Road Glenorchy Airport Landscape Priority Area
--	--	--

The information provided on this map is intended to be general information only. While considerable effort has been made to ensure that the information provided on this map is accurate, current and otherwise adequate in all respects, Queenstown Lakes District Council does not accept any responsibility for content and shall not be responsible for, and excludes all liability, with relation to any claims whatsoever arising from the use of this map and data held within.



Appendix 2

Proposed provisions

Amendments to the PDP text are shown as red underline and ~~strikethrough~~

20.2 Objectives and Policies

20.2.1 Objective – Well designed, low density residential development is enabled within settlements located amidst the wider Rural Zone.

Policies

...

20.2.1.4 On the northern side of the terrace Building Restriction Area at Atkins Road Luggate, ensure that subdivision and development is appropriately designed and located along the north-eastern edge and north-western edge of the zone boundary to:

- a. soften views of urban development from State Highway 6; and
- b. create a distinct landscaped urban edge to the wider Rural Zone.

Chapter 20 Settlement Zone

	Table 20.5 - Standards for activities in the Settlement Zone	Activity Status
20.5.8	<p>Minimum boundary setbacks</p> <p>20.5.8.1 Road boundary: 4.5m; except:</p> <ol style="list-style-type: none"> a. At Makarora, where the minimum setback of any building from the State Highway shall be 8m. b. At Cardrona, where the minimum setback of any building from roads shall be 3m, and within the Commercial Precinct buildings may be located up to a road boundary. <p><u>20.5.8.2 Atkins Road Luggate:</u></p> <p><u>On the northern side of the terrace Building Restriction Area at Atkins Road, the minimum setback of any building from the Rural Zone boundary shall be 6m.</u></p>	NC

	<p>20.5.8.23 All other boundaries: Buildings shall be setback a minimum of 2m.</p> <p>Exceptions to boundary setbacks:</p> <p>a. Accessory buildings for residential activities may be located within the boundary setback distances (other than from road boundaries <u>and as required by Rule 20.5.8.2</u>), where they do not exceed 7.5m in length, there are no windows or openings (other than for carports) along any walls within 1.5m of an internal boundary, and they comply with rules for Building Height and Recession Plane;</p> <p>b. Any building may locate within a boundary setback distance by up to 1m for an area no greater than 6m² provided the building within the boundary setback area has no windows or openings;</p> <p>c. Eaves may be located up to 600mm into any boundary setback distance along eastern, western and southern boundaries; and</p> <p>d. Eaves may be located up to 1m into any boundary setback distance along northern boundaries.</p>	
20.5.19	<p>Building Restriction Area</p> <p>20.5.19.1 No building shall be located within a building restriction area as identified on the Planning Maps, and</p> <p>20.5.19.2 No earthworks shall be undertaken within the Building Restriction Area at Luggate, located to the west of Atkins Road, <u>and</u></p>	NC

	<p><u>20.5.19.3 No building shall be located within the Building Restriction Area at Luggate, located to the west of Kingan Road.</u></p>	<p><u>RD</u></p> <p><u>Discretion is restricted to:</u></p> <p><u>a. natural hazards</u></p>
--	---	--

Chapter 27 Subdivision and Development

	Zone and Location Specific Rules	Activity Status
<p><u>27.7.X</u></p>	<p><u>Atkins Road Luggate Settlement Zone</u></p> <p><u>27.7.X.1 Subdivision of the Settlement Zone on the northern side of the terrace Building Restriction Area at Atkins Road Luggate.</u></p> <p><u>Discretion is restricted to:</u></p> <ul style="list-style-type: none"> a. <u>The matters contained in Rule 27.5.7;</u> b. <u>Provision for a minimum setback of 6m for future buildings from the Rural Zone boundary;</u> c. <u>Provision for visually permeable fencing (no higher than 1.6m) along the boundary with the Rural Zone; and</u> d. <u>Landscaping along the boundary with the Rural Zone to soften the interface of development with the Rural Zone boundary, to create a distinct, landscaped edge at the Settlement Zone boundary.</u> 	<p><u>RD</u></p>

