

**BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2021-CHC-

IN THE MATTER

of an appeal under the Resource Management Act (1991) to the Environment Court against decisions on the proposed Queenstown Lakes District Council District Plan (Stage 3)

BETWEEN

UPPER CLUTHA TRANSPORT LIMITED

Appellant

AND

QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

NOTICE OF APPEAL BY UPPER CLUTHA TRANSPORT LIMITED

Under clause 14(1) of the Resource Management Act 1991

NOTICE OF APPEAL BY BALLANTYNE PROPERTIES LIMITED

Under clause 14(1) of the Resource Management Act 1991

To: The Registrar
Environment Court
Christchurch

1. Upper Clutha Transport Limited (“Appellant”) appeals certain decisions of the Queenstown Lakes District Council (“Council”) on the Queenstown Lakes Proposed District Plan (PDP) (Stage 3).
2. The Appellant made a submission (#3256) on the PDP Stage 3.
3. The Appellant is not a trade competitor for the purpose of section 308D of the Resource Management Act 1991 (RMA)
4. The Appellant received notice of the decision on 1 April 2021.
5. The decision was made by the Council.
6. The decisions appealed relate to:
 - (a) Those contained in the Report 20.3 of the QLDC Independent Commissioners relating to Chapter 18A - General Industrial and Service Zone and Related Variations to Chapters 25, 27, 29 and 36.
 - (b) The parts of that decision that the Appellant is appealing are found at 5.5 (Paragraphs 371 to 413) being a discrete decision to apply the Rural Industrial Sub-Zone to the site rather than the General Industrial Zone as sought.
 - (c) The appeal relates specifically to the 20m wide Building Restriction Area that has been imposed along the Church Road frontage of the site.

Background

7. The Appellant has purchased land at Church Road, Luggate (Lot 1 DP 300025 and Lot 1 DP 4675297 on Record of Title 654501)(the "Site") with a view to relocating their long established transport yard from its current location within the Luggate Settlement Zone at Main Road, Luggate.
8. In order to facilitate the relocation of the existing operations the submission of the Appellant sought the application of the General Industrial Zone to part of the Church Road site. The decision of Council however found that the application of the Rural Industrial Sub-Zone was more appropriate and rezoned the site as such with an associated structure plan that includes specific activity areas for buildings and outdoor storage and Building Restriction Areas around the perimeter of the site.
9. The Building Restriction Area (BRA) that has been applied along the Church Road frontage of the site is 20m wide and the construction of buildings within the BRA are identified as a non-complying activity in Rule 21.13.7.

The reasons for this appeal are:

10. The Appellant's established activities, which it is intended will be relocated to the Church Road site, are generally provided for within the Rural Industrial Sub-Zone. The existing activities at Main Road, Luggate do however include a fuel stop that serves the transport activities as well as being available to the general public.
11. It is the Appellant's intention to relocate the fuel stop to the Church Road site in order that it can continue to serve the transport activities however in order that it can be accessible and visible it is necessary to position it adjacent to the Church Road frontage of the site. The 20m wide BRA that has been applied along the Church Road frontage makes the establishment of a fuel stop in this location a non-complying activity and the necessity for the fuel stop to be visible and accessible by the public and specific site constraints (including a closed land fill and identified wāhi tūpuna area) restrict or make impractical the location of a fuel stop outside of the BRA.

12. The Appellant therefore seeks that provision is made for the location of a fuel stop and associated canopy and signage within the BRA (noting that the 20m road boundary setback applicable to the Rural Zone generally would continue to apply and that effects on rural amenity, landscape character and open space could be assessed and managed through the restricted discretionary consent process that would apply).

The Appellant seeks the following relief:

13. That the appeal is allowed.
14. That Rule 21.13.6 is amended as follows (additions shown underlined):

	Table 10 - Activities in Rural Industrial Sub-Zone Additional to those activities listed in Table 1.	Activity Status
21.13.6	Any Building, Outdoor Storage or Outdoor Waste Storage within a Building Restriction Area that is identified on the District Plan web mapping application at Luggate <u>except for the establishment of a fuel stop with associated signage and canopy that is associated with and ancillary to a rural industrial activity located on the same site.</u>	NC

15. Any other additional or consequential relief to the Proposed Plan, including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations that will fully give effect to the matters raised in this appeal.
16. The Appellant agrees to participate in mediation or alternative dispute resolution.

DATED this 18th day of May 2021



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Scott Edgar (on behalf of Upper Clutha Transport Limited)
 Planner

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Attached to this Notice of Appeal are the following documents:

- (a) A copy of Upper Clutha Transport Limited's original submission (**Appendix 1**);
- (b) A copy of the Decision (**Appendix 2**).

Advice to Recipients of Copy of Notice of Appeal

1. How to become party to proceedings:

You may be a party to the appeal if you made a 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.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

2. 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 and/or the decision appealed. These documents may be obtained, on request, from the Appellant.

3. Advice:

If you have any questions about this notice, contact the Environment Court unit of the Department for courts in Christchurch.

Contact Details of Environment Court for Lodging Documents

Documents may be lodged with the Environment Court by lodging them with the Registrar:

The Christchurch address of the Environment Court is:

282 Durham Street
Christchurch 8013

Its Postal address is:

P O Box 2069
Christchurch 8140

And its telephone and fax numbers are:

Telephone: (03) 962 4170
Fax: (03) 962 4171