

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV-2021-CHCH-0000

UNDER THE Resource Management Act 1991 ("**Act**")
IN THE MATTER OF an appeal under Schedule 1, Clause 14(1), of the Act

BETWEEN **C & J PROPERTIES LIMITED**

Appellant

AND **QUEENSTOWN LAKES DISTRICT COUNCIL**

Respondent

**NOTICE OF APPEAL BY C & J PROPERTIES LIMITED:
VARIATIONS TO DISTRICT PLAN MAPS AS PART OF STAGE 3**

18 MAY 2021

TO: The Registrar
Environment Court
PO Box 2069
20 Lichfield Street
Christchurch
(christine.mckee@justice.govt.nz)

AND TO: The Respondent
Queenstown Lakes District Council
(dpappeals@qldc.govt.nz)

(**Note:** Service on submitters and further submitters is waived pursuant to the Environment Court's directions of 1 April 2020]

Notice of Appeal

1. C & J Properties Limited ("**appellant**") appeals the following decision ("**decision**") made by the Queenstown Lakes District Council ("**QLDC**"):

Decisions on variations amending the PDP Chapters and other General Matters of Stage 3 of the Queenstown Lakes District Proposed District Plan ("**PDP**")

2. The appellant received the notice of decision dated 1 April 2021.
3. The appellant made a submission on the PDP on or around 18 November 2019, referenced #3253.
4. The appellant is not a trade competitor for the purposes of Section 308D of the Act.

Decision / part of decision appealed against

5. The appeal relates to the decision to refuse the appellants request to treat their property the same as the other properties subject to the variation to the District Plan in applying the Visitor Accommodation Subzone over the appellants site.

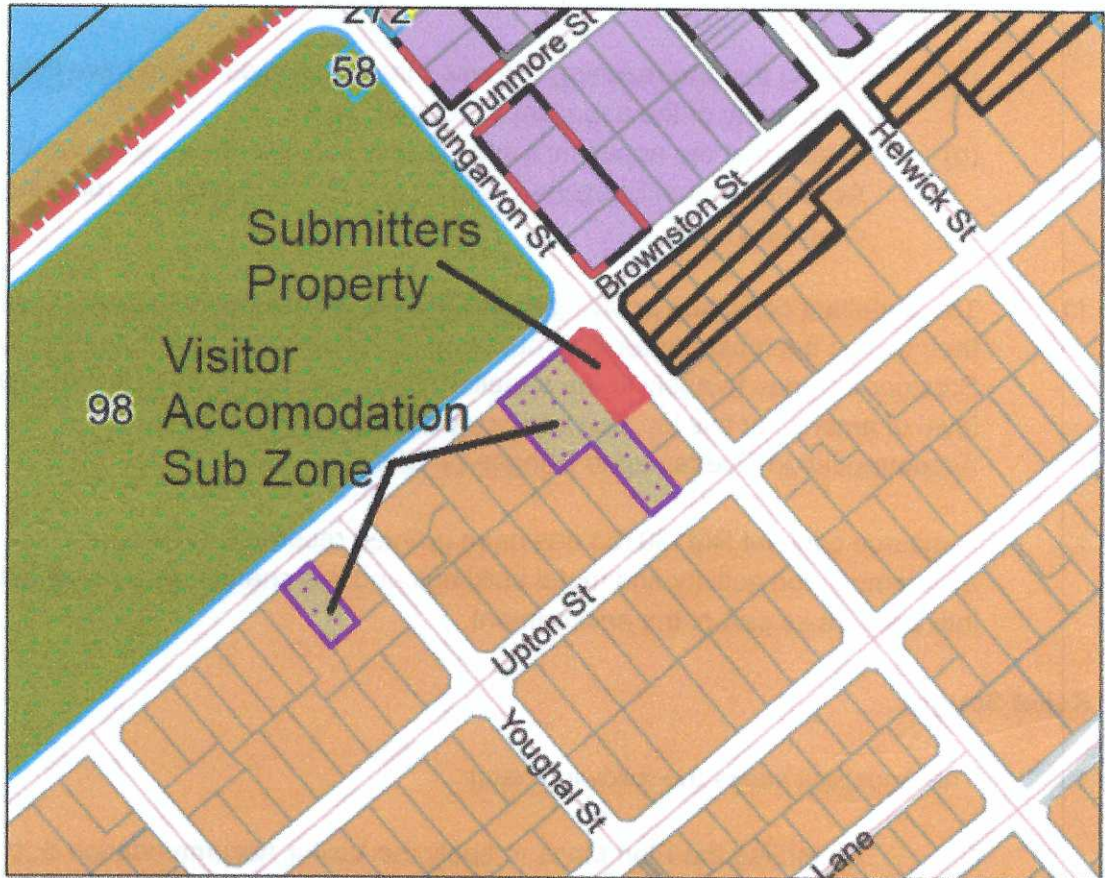
Reasons for the Appeal

Background

6. The appellant's site is located on the corner of Brownston Street and Dungarvon Street, identified as follows:
 - (a) Legal description: Section 1 Block XXIII Town of Wanaka.
 - (b) Record of title: OT332/41.

(c) Property Address: 86 Brownston Street and 33 Dungarvon Street Wanaka 9305.

7. The appellant's site is located adjacent to three properties that were rezoned from Lower Density Suburban Residential Zone with a Visitor Accommodation Subzone Overlay, to Medium Density Residential with a Visitor Accommodation Subzone Overlay, as shown in the image below.



8. The appellant opposed the rezoning of those three properties to Medium Density Residential Zone, primarily because the effects of the change had not been assessed on the residential use of the appellants property. The Appellant also sought that if the Medium Density Zoning were applied to those three properties, then their site has the Visitor Accommodation Subzone Overlay applied to it, given that – at the time – the property was subject to an ongoing resource consent process to change the use of the property to visitor accommodation. Applying the Visitor Accommodation Subzone Overlay to the appellant's site would alleviate the nature, scale and intensity of development and compatibility effects imposed on their site as a consequence of rezoning those three properties from Lower Density Suburban Residential to Medium Density Residential Zone.
9. The Hearings Panel stated the following in their recommending report (Report 20.11: Remaining Variations Amending the PDP Chapters and other general matters at [105]), adopted by Council as the decision on the submission:

In relation to extending the VASZ over the adjoining land, we received no evidence as to the potential costs and benefits to enable us to evaluate this alternative in terms of section 32 of the RMA. As Ms Russell [Council's reporting officer] stated, the change of zoning to MDRZ would have little impact on the amenity of the submitter's adjoining site and we do not consider this sufficient to justify a consequential relief through extending the VASZ.

Appeal

10. The Hearing Panel erred procedurally and/or substantively, in:
 - (a) finding that the rezoning of those three properties would have little impact on amenity of the appellant's property; and
 - (b) finding that the appellant's site was not suitable for applying the Visitor Accommodation Subzone Overlay, and for the reasons in reaching that conclusion.
11. The appellant considers applying the Visitor Accommodation Subzone Overlay to their site as the most appropriate outcome. Extending the Visitor Accommodation Subzone Overlay to apply to the appellant's property would maintain a cohesive level of amenity at this location and bookend the extent of the Visitor Accommodation Overlay up to Dungarvon Street.
12. Resource consent RM180133 has been granted recently for a visitor accommodation activity and motel buildings and this change of use should be taken into account as part of the environment.

Relief Sought

13. The Appellant seeks the following relief:
 - (a) Amending the Plan Maps to apply the Visitor Accommodation Subzone Overlay to the appellant's site;
 - (b) any other additional or consequential relief to the PDP, including but not limited to, the maps, issues, objectives, policies, rules, controls, discretions, assessment criteria and explanations to fully address the concerns raised by the appellant;
 - (c) costs.

Alternative Dispute Resolution

14. The appellant agrees to participate in mediation or other alternative dispute resolution of the proceeding.

Attachments

15. The Appellant attaches the following documents to this notice:

1. a copy of the appellant's original submission;
2. a copy of the Decision;
3. A copy of resource consent RM180133

[The Environment Court has waived the requirement to serve submitters and further submitters, and so no list of submitters to be served is required to be filed with this notice. It has also waived the "advice to recipients" requirement, and so that advice is omitted from the notice to the appeal.]

DATED 18 May 2021



Lee Exel
Appellant (Director C & J Properties Limited)

The appellant's address for service is C/- XXXXXXXXXXXX. **33 SYDNEY STREET
QUEENSTOWN
9300**

Documents for service on the appellant may be sent to that address for service or may be emailed to Lee@queenstown.com Service by email is preferred, with receipt confirmed by return email.