# IN THE ENVIRONMENT COURT CHRISTCHURCH REGISTRY

## ENV-2024-CHC-

# I TE KŌTI TAIAO O AOTEAROA ŌTAUTAHI ROHE

**UNDER** the Resource Management Act 1991 (the

RMA)

**IN THE MATTER** of an appeal pursuant to Schedule 1,

clause 14 of the RMA

BETWEEN THE CARDRONA CATTLE COMPANY

**LIMITED** 

**Appellant** 

AND QUEENSTOWN LAKES DISTRICT

**COUNCIL** 

Respondent

\_\_\_\_\_

## NOTICE OF APPEAL ON BEHALF OF THE CARDRONA CATTLE COMPANY LIMITED

**DATED 5 AUGUST 2024** 

LARA BURKHARDT

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TO: The Registrar
Environment Court
CHRISTCHURCH

- The Cardrona Cattle Company Limited (Appellant) appeals against parts of the decision of the Queenstown Lakes District Council (QLDC or Council) in respect of the Priority Area Landscape Schedules Variation to the Proposed Queenstown Lakes District Plan (PDP), more particularly the inclusion of Schedules 21.22 (Outstanding Natural Features and Landscapes) and 21.23 (Rural Character Landscapes) into Chapter 21 Rural Zone of the PDP and Priority Area maps that are incorporated by reference into the PDP (Variation).
- 2. The Appellant made a submission on the Variation (**Submission**).
- 3. The Appellant is not a trade competitor for the purposes of section 308D of the RMA.
- 4. The Decision was received on 21 June 2024.
- 5. The Decision was made by QLDC. This followed the recommendations made by a Hearing Panel appointed by QLDC to hear and make recommendations on submissions.
- 6. The Appellant appeals all parts of the Decision that:
  - (a) relate to, or affect, the property it has an interest in, legally described as Lot 8 DP 402448 and Section 32 Block II Kawarau Survey District (Property). The majority of the property is located within the Gibbston Character Zone (GCZ), with a small portion in the Rural Zone (RZ);
  - (b) relate to all aspects of Victoria Flats PA Schedule 21.22.17;
  - (c) fail to address the matters or issues raised in its Submission; and
  - (d) fail to address the relief sought and/ or outcomes sought in its Submission.

(Provisions)

#### **GENERAL REASONS FOR APPEAL**

#### **General reasons**

- 7. General reasons for the appeal are that the Provisions:
  - (a) do not promote the sustainable management of resources in accordance with section 5 of the RMA in that they:
    - do not manage the use, development, and protection of natural and physical resources which enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety, as required by section 5 of the RMA;
    - (ii) do not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, as required by section 5 of the RMA;
  - (b) include and protect landscapes that are not in fact sufficiently outstanding, or sufficiently natural, to qualify as outstanding natural landscapes (ONLs);
  - (c) need to return, in identifying and providing for values and attributes of ONFs and ONLs, to common sense and a sensible and obvious threshold, such as recognised by the Environment court in Wakatipu Environmental Society Incorporated and Ors v Queenstown-Lakes District Council [2000] NZRMA 59 at [99]:
    - ... ascertaining an area of outstanding natural landscape should not (normally) require experts. Usually an outstanding natural landscape should be so obvious (in general terms) that there is no need for expert analysis
  - (d) to the extent that any landscapes are sufficiently outstanding, or sufficiently natural, to qualify as ONLs, go beyond what is necessary to protect such ONLs from inappropriate subdivision, use, and development under section 6(b) of the RMA;

- (e) do not promote the efficient use and development of natural and physical resources as required by section 7(b) of the RMA;
- (f) do not recognise and provide for, or otherwise acknowledge, and/or prioritise, the property rights of landowners;
- (g) fail, in respect of the Property, to recognise the activities for which consent has been obtained for, which form the existing environment and which the Provisions need to reflect;
- (h) render the land incapable of reasonable use under section 85(2) of the RMA, and place an unfair and unreasonable burden on landowners subject to the provisions;
- (i) do not represent the most appropriate way to achieve the purpose of the RMA, as required by section 32 of the RMA; and
- (j) were developed in a fundamentally flawed way, that has proved incapable of resolution through the subsequent hearing, and most likely will also prove incapable of resolution through this appeal process.

## **Specific reasons**

8. Without limiting the generality of paragraph 2.1, the more specific reasons for appealing include:

## Mapping – general principles

(a) It is an anathema to a process identifying values and attributes of supposed ONF and ONL priority areas, to exclude from consideration whether those areas are in fact an ONF (or ONL). This must necessarily and logically follow from the finer grained analysis being undertaken, compared to the coarser assessment and consideration when originally identifying the boundaries of the PA schedules. (b) At the very least, if the Environment Court on appeal were to find – on the basis of evidence to be brought before it – that some land was not in fact ONF (or ONL) then it would be open (if not necessary) for the Court to then correct that mapping, by way of a s293 process.

## Particular mapping – Victoria Flats

- (c) The "Flats" of Victoria Flats is simply not as a matter of fact –an ONL. This position was not contradicted through the hearing process; particularly since expert conferencing proceeded on the basis that that question was not up for debate (another procedural flaw in the process to date).
- (d) In addition, as the Property is almost entirely GCZ, to that extent:
  - (i) it cannot be subject to the Variation, given that the Variation was notified as being a change to Chapter 21 -Rural Zone; and
  - (ii) the Variation cannot describe the attributes, values, and capacity of the Property when the GCZ is not identified in the PDP as an ONL (and never has been).
- (e) Furthermore, the Property is now subject to granted resource consents that allow urban development across the vast majority of the Property, that render it an urban development, and, as such, no longer an ONL if it ever was one. A summary of the consents in graphical form is as follows:



## **RELIEF SOUGHT**

## 9. The Appellant seeks:

- the amendments sought to the Provisions (or their any equivalent, updated, reordered or replacement provisions) as sought in its Submission (or any necessarily equivalent);
- (b) any other amendments to the Provisions to address the matters or issues raised in its Submission and in this Appeal;
- (c) without limiting the above, any other amendments to amend the boundaries of the Victoria Flats ONL to include only features (and landscapes) that are both truly "outstanding" and are sufficiently "natural" to such an obvious extent that an objectively reasonable member of the community would consider them so (which would remove the Property from the boundaries of the Victoria Flats ONL):
- (d) any alternative or other amendments to address the matters raised in this appeal, and to achieve the intent of this appeal (including as raised in the general and specific reasons given in this appeal);

(e) any similar, alternative, consequential and/or other relief as necessary to address the issues raised in this appeal; and

(f) that the Variation be withdrawn or rejected in its entirety, or, at least all appeals suspended, pending the outcome of this Government's signalled changes to national direction, including a replacement to the RMA.

#### **Attachments**

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

(a) A copy of Cardrona Cattle Company Limited's Submission (Attachment A);

(b) A copy of the relevant decision (Attachment B); and

(c) A list of names and addresses of persons to be served with a copy of this notice (Attachment C).

**Signature:** THE CARDRONA CATTLE COMPANY LIMITED by its duly authorised agent

Lara Burkhardt

Counsel for the Appellant

Date: 5 August 2024

## Address for service of Appellant:

Lara Burkhardt Barrister & Solicitor PO Box 4432

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## 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 and 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.

## **Attachment A**

## Submission

# Attachment B

# **Decision of the respondent**

Attachment C

Names and addresses of persons to be served with copy of appeal

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171 Rowar  172 Emma  173 Emma  174 Carey  175 Scott E  176 Rosie  177 Rosie  178 Rosie  179 Craig E  180 Craig E  181 Hayley  182 Maree  183 Rosie  184 Bridge  185 Scott E  186 Richar  187 Joshua  188 Elisha  189 Maree  190 Maddi  191 Maddi  192 Tim W	n Ashton a Ryder a Ryder vivian Edgar Hill Hill Barr Barr y Mahon e Baker-Galloway Hill	Organisation or On Behalf Of Queenstown Park Limited  Arthurs Point Trustees Limited  Motuihe Trustees Limited Redemption Song LLC Silverlight Studios Limited Glendhu Bay Trustees Limited Glencoe Station Limited and Glencoe Land Development Company Limited  Soho Ski Area Limited and Blackmans Creek Holdings No.1 LP Graeme and Leah Causer Graeme and Leah Causer (Ballantyne Rd)  RCL Henley Downs Limited Jeremy Burdon, Jo Batchelor and Andrea Donaldson Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited  SIO No 12 Limited Cardrona Distillery Limited	ashton@brookfields.co.nz  Emma.Ryder@jea.co.nz  Emma.Ryder@jea.co.nz  carey@vivianespie.co.nz  scott@edgarplanning.co.nz  rosie.hill@al.nz  rosie.hill@al.nz  craig@townplanning.co.nz  craig@townplanning.co.nz  traig@townplanning.co.nz  maree.baker-galloway@al.nz  rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz  scott@edgarplanning.co.nz  richard@pragmaticplanning.co.nz  josh.sarahjones@gmail.com
172 Emma 173 Emma 174 Carey 175 Scott II 176 Rosie 177 Rosie 178 Rosie 179 Craig II 180 Craig II 181 Hayley 182 Maree 183 Rosie 184 Bridge 185 Scott II 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Maddi 191 Maddi 192 Tim W	a Ryder Vivian Edgar Hill Hill Barr Barr Barr Y Mahon e Baker-Galloway Hill et Irving Edgar rd Kemp a Nicholas Jones	Arthurs Point Trustees Limited  Motuihe Trustees Limited  Redemption Song LLC  Silverlight Studios Limited  Glendhu Bay Trustees Limited  Glencoe Station Limited and Glencoe Land  Development Company Limited  Soho Ski Area Limited and Blackmans Creek  Holdings No.1 LP  Graeme and Leah Causer  Graeme and Leah Causer (Ballantyne Rd)  RCL Henley Downs Limited  Jeremy Burdon, Jo Batchelor and Andrea  Donaldson  Coneburn Preserve Holdings Limited and  Henley Downs Farm Holdings Limited	Emma.Ryder@jea.co.nz Emma.Ryder@jea.co.nz carey@vivianespie.co.nz scott@edgarplanning.co.nz rosie.hill@al.nz rosie.hill@al.nz  rosie.hill@al.nz  craig@townplanning.co.nz  craig@townplanning.co.nz  Hayley.Mahon@jea.co.nz  maree.baker-galloway@al.nz  rosie.hill@al.nz
174 Carey 175 Scott II 176 Rosie 177 Rosie 178 Rosie 179 Craig II 180 Craig II 181 Hayley 182 Maree 183 Rosie 184 Bridge 185 Scott II 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Maddi 191 Maddi 192 Tim W	Edgar Hill Hill Barr Barr Barr Y Mahon e Baker-Galloway Hill et Irving Edgar rd Kemp a Nicholas Jones	Redemption Song LLC Silverlight Studios Limited Glendhu Bay Trustees Limited Glencoe Station Limited and Glencoe Land Development Company Limited Soho Ski Area Limited and Blackmans Creek Holdings No.1 LP Graeme and Leah Causer Graeme and Leah Causer (Ballantyne Rd) RCL Henley Downs Limited Jeremy Burdon, Jo Batchelor and Andrea Donaldson Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited SIO No 12 Limited	carey@vivianespie.co.nz scott@edgarplanning.co.nz rosie.hill@al.nz rosie.hill@al.nz rosie.hill@al.nz  craig@townplanning.co.nz craig@townplanning.co.nz Hayley.Mahon@jea.co.nz maree.baker-galloway@al.nz rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
175 Scott II 176 Rosie 177 Rosie 178 Rosie 179 Craig II 180 Craig II 181 Hayley 182 Maree 183 Rosie 184 Bridge 185 Scott II 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Maddi 191 Maddi 192 Tim W	Edgar Hill Hill Hill Barr Barr By Mahon e Baker-Galloway Hill et Irving Edgar rd Kemp a Nicholas Jones	Silverlight Studios Limited Glendhu Bay Trustees Limited Glencoe Station Limited and Glencoe Land Development Company Limited Soho Ski Area Limited and Blackmans Creek Holdings No.1 LP Graeme and Leah Causer Graeme and Leah Causer (Ballantyne Rd) RCL Henley Downs Limited Jeremy Burdon, Jo Batchelor and Andrea Donaldson Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited	scott@edgarplanning.co.nz rosie.hill@al.nz rosie.hill@al.nz rosie.hill@al.nz  rosie.hill@al.nz  craig@townplanning.co.nz  craig@townplanning.co.nz  Hayley.Mahon@jea.co.nz  maree.baker-galloway@al.nz rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
176 Rosie 177 Rosie 178 Rosie 178 Rosie 179 Craig II 180 Craig II 181 Hayley 182 Maree 183 Rosie 184 Bridge 185 Scott II 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Maddi 191 Maddi 192 Tim W	Hill Hill Hill Barr Barr Barr y Mahon e Baker-Galloway Hill et Irving Edgar rd Kemp a Nicholas Jones	Glendhu Bay Trustees Limited Glencoe Station Limited and Glencoe Land Development Company Limited Soho Ski Area Limited and Blackmans Creek Holdings No.1 LP Graeme and Leah Causer Graeme and Leah Causer (Ballantyne Rd) RCL Henley Downs Limited Jeremy Burdon, Jo Batchelor and Andrea Donaldson Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited SIO No 12 Limited	rosie.hill@al.nz rosie.hill@al.nz rosie.hill@al.nz  craig@townplanning.co.nz craig@townplanning.co.nz Hayley.Mahon@jea.co.nz maree.baker-galloway@al.nz rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
177 Rosie  178 Rosie  179 Craig I  180 Craig I  181 Hayley  182 Maree  183 Rosie  184 Bridge  185 Scott I  186 Richar  187 Joshua  188 Elisha  189 Maree  190 Madde  191 Madde  192 Tim W	Hill  Hill  Barr  Barr  Barr  Y Mahon  E Baker-Galloway  Hill  et Irving  Edgar  rd Kemp  a Nicholas Jones	Glencoe Station Limited and Glencoe Land Development Company Limited  Soho Ski Area Limited and Blackmans Creek Holdings No.1 LP Graeme and Leah Causer  Graeme and Leah Causer (Ballantyne Rd)  RCL Henley Downs Limited Jeremy Burdon, Jo Batchelor and Andrea Donaldson  Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited  SIO No 12 Limited	rosie.hill@al.nz  rosie.hill@al.nz  craig@townplanning.co.nz  craig@townplanning.co.nz  Hayley.Mahon@jea.co.nz  maree.baker-galloway@al.nz  rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz  scott@edgarplanning.co.nz  richard@pragmaticplanning.co.nz  josh.sarahjones@gmail.com
178 Rosie  179 Craig I  180 Craig I  181 Hayley  182 Maree  183 Rosie  184 Bridge  185 Scott I  186 Richar  187 Joshua  188 Elisha  189 Maree  190 Madde  191 Madde  192 Tim W	Hill  Barr  Barr  y Mahon  e Baker-Galloway  Hill  et Irving  Edgar  rd Kemp  a Nicholas Jones	Development Company Limited  Soho Ski Area Limited and Blackmans Creek Holdings No.1 LP  Graeme and Leah Causer  Graeme and Leah Causer (Ballantyne Rd)  RCL Henley Downs Limited  Jeremy Burdon, Jo Batchelor and Andrea Donaldson  Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited  SIO No 12 Limited	rosie.hill@al.nz  craig@townplanning.co.nz  craig@townplanning.co.nz  Hayley.Mahon@jea.co.nz  maree.baker-galloway@al.nz  rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
179 Craig I  180 Craig I  181 Hayley  182 Maree  183 Rosie  184 Bridge  185 Scott I  186 Richar  187 Joshua  188 Elisha  189 Maree  190 Madde  191 Madde  192 Tim W	Barr Barr  y Mahon e Baker-Galloway Hill et Irving Edgar rd Kemp a Nicholas Jones	Holdings No.1 LP Graeme and Leah Causer Graeme and Leah Causer (Ballantyne Rd) RCL Henley Downs Limited Jeremy Burdon, Jo Batchelor and Andrea Donaldson Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited SIO No 12 Limited	craig@townplanning.co.nz craig@townplanning.co.nz Hayley.Mahon@jea.co.nz maree.baker-galloway@al.nz rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
180 Craig I  181 Hayley  182 Maree  183 Rosie  184 Bridge  185 Scott I  186 Richar  187 Joshua  188 Elisha  189 Maree  190 Madde  191 Madde  192 Tim W	Barr  y Mahon e Baker-Galloway  Hill et Irving Edgar rd Kemp a Nicholas Jones	Graeme and Leah Causer (Ballantyne Rd)  RCL Henley Downs Limited  Jeremy Burdon, Jo Batchelor and Andrea Donaldson  Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited  SIO No 12 Limited	craig@townplanning.co.nz Hayley.Mahon@jea.co.nz maree.baker-galloway@al.nz rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
181 Hayley  182 Maree  183 Rosie  184 Bridge  185 Scott B  186 Richar  187 Joshua  188 Elisha  189 Maree  190 Maddi  191 Maddi  192 Tim W	ey Mahon e Baker-Galloway Hill et Irving Edgar rd Kemp a Nicholas Jones	RCL Henley Downs Limited  Jeremy Burdon, Jo Batchelor and Andrea Donaldson  Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited  SIO No 12 Limited	Hayley.Mahon@jea.co.nz maree.baker-galloway@al.nz rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
182 Maree  183 Rosie  184 Bridge  185 Scott B  186 Richar  187 Joshua  188 Elisha  189 Maree  190 Maddi  191 Maddi  192 Tim W	e Baker-Galloway  Hill  et Irving  Edgar  rd Kemp  a Nicholas Jones	Jeremy Burdon, Jo Batchelor and Andrea Donaldson Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited SIO No 12 Limited	maree.baker-galloway@al.nz rosie.hill@al.nz Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
183 Rosie  184 Bridge 185 Scott B 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Madde 191 Madde 192 Tim W	e Baker-Galloway  Hill  et Irving  Edgar  rd Kemp  a Nicholas Jones	Donaldson Coneburn Preserve Holdings Limited and Henley Downs Farm Holdings Limited SIO No 12 Limited	rosie.hill@al.nz  Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
184 Bridge 185 Scott B 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Madd 191 Madd 192 Tim W	et Irving Edgar rd Kemp a Nicholas Jones	Henley Downs Farm Holdings Limited SIO No 12 Limited	Bridget.Irving@gallawaycookallan.co.nz scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
185 Scott I 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Madd 191 Madd 192 Tim W	Edgar rd Kemp a Nicholas Jones		scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
185 Scott I 186 Richar 187 Joshua 188 Elisha 189 Maree 190 Madd 191 Madd 192 Tim W	Edgar rd Kemp a Nicholas Jones	Cardrona Distillery Limited	scott@edgarplanning.co.nz richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
186 Richar 187 Joshua 188 Elisha 189 Maree 190 Maddi 191 Maddi 192 Tim W	rd Kemp a Nicholas Jones		richard@pragmaticplanning.co.nz josh.sarahjones@gmail.com
188 Elisha  189 Maree  190 Maddi 191 Maddi 192 Tim W			
189 Maree 190 Madd 191 Madd 192 Tim W	Young-Ebert		
190 Madd <sup>1</sup> 191 Madd <sup>1</sup> 192 Tim W			Elisha.Young-Ebert@ngaitahu.iwi.nz
191 Madd	e Baker-Galloway	Queenstown Adventure Park (1993) Limited	maree.baker-galloway@al.nz
191 Madd	ly Familton	Bell Group Limited (Lake McKay)	office@brownandcompany.co.nz
+		Bell Group Limited	office@brownandcompany.co.nz
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200 Rosie	Hill	Gertrude's Saddlery Limited	rosie.hill@al.nz
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208 Madd	fer Fraser	Queenstown Lakes District Council	perimier.maser@qidc.govt.mz