



**MCFADDEN MCMEEKEN PHILLIPS**

LAWYERS

10 August 2012

The Chief Executive  
Nelson City Council  
PO Box 645  
NELSON 7040

By Fax: 546 0239

**MARK ADDIE BERNARD LILE & KIM LISA KIRI LILE v NELSON CITY COUNCIL -  
PLAN CHANGE 14**

We act for Mark and Kim Lile.

We have received instructions to lodge a Notice of Appeal against decisions made by the Council in relation to Plan Change 14 to the Nelson Resource Management Plan.

Accordingly please find enclosed a copy of the Notice of Appeal which has now been filed with the Environment Court.

Yours faithfully  
**MCFADDEN MCMEEKEN PHILLIPS**

A handwritten signature in black ink, appearing to read 'V Hall', written over the typed name 'Victoria Hall'.

**Victoria Hall**  
Partner

Victoria@mmp.co.nz

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187 Bridge Street, P O Box 656, Nelson 7040, New Zealand, DX WC 70016, Phone: 03 548 2154, Fax: 03 548 2157, [www.mmp.co.nz](http://www.mmp.co.nz)  
RICHMOND OFFICE 6 Florence Street, PO Box 3846, Richmond 7050, Phone: 03 544 9845, Fax 03 544 8693  
TAKAKA OFFICE Commercial Street, Takaka, Phone: 03 525 0020 (visiting fortnightly)

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31142/238047:1MH PARTNERS Nigel McFadden, Graeme Downing, Victoria Hall  
SENIOR ASSOCIATES Anne Todd, Alexander Reith ASSOCIATE Jennifer Penny

IN THE ENVIRONMENT COURT

ENV-2012-WLG-

IN THE MATTER OF

an Appeal under Clause 14(1) of  
the First Schedule to the  
Resource Management Act 1991

BETWEEN

**MARK ADDIE BERNARD LILE  
and KIM LISA KIRI LILE**

Appellants

AND

**NELSON CITY COUNCIL**

Respondent

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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON  
PLAN CHANGE 14 TO NELSON RESOURCE MANAGEMENT PLAN**

*Clause 14(1) of Schedule 1, Resource Management Act 1991*

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SOLICITORS  
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NELSON

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Person Acting: N A McFadden

**To:** The Registrar  
Environment Court  
**WELLINGTON**

1 **MARK ADDIE BERNARD LILE and KIM LISA KIRI LILE** appeal against a decision of the Nelson City Council on Plan Change 14 (Residential Subdivision, Land Development Manual and Comprehensive Housing) to the Nelson Resource Management Plan.

2 **MARK ADDIE BERNARD LILE and KIM LISA KIRI LILE** made a submission on that Plan Change.

3 The decision was notified on the 30<sup>th</sup> June 2012 and was received by the Appellants' on or about the 1<sup>st</sup> July 2012.

4 The decisions were made by five Hearing Commissioners on behalf of the Nelson City Council.

5 The part of the decision appealed against is as follows:

5.1 **Topic 23 – Streetscape Policy**

1. Plan Change 14 introduced amendments to Policy RE3.5 and new Rules which addressed the management of the front yards of residential properties. Mark and Kim lodged a submission in opposition to the amendments on the basis that the amendments (and the new rules) introduce a high level of control over the management of front yards which were unnecessary, too restrictive and overly prescriptive.

2. The decision of the Hearing Commissioners was to “accept in part” the submissions made and make amendments to the Policy and explanation and reasons.

3. The Appellants do not accept that the amendments made to the Policy and its explanation and reasons adequately address the issues raised by submissions. The combined effect of the Policy and the Rules introduced by Plan Change 14 remain unnecessary, too restrictive and overly prescriptive and will lead to an inefficient use of residential land.

## 5.2 Relief Sought

Delete the amendments to Policy RE3.5 (Streetscape) and its explanation and reasons.

## 5.3 Topic 25 – Front Yard Rule

1. Plan Change 14 introduced significant amendments to Rule REr.25 in the Residential Zone of the Nelson Resource Management Plan – in terms of permitted and restricted discretionary activity standards, assessment criteria and the explanation for the Rule.

2. The Appellants lodged submissions in opposition to the proposed amendments on the basis that the proposed amendments were unnecessary, too restrictive and overly prescriptive.

3. The decision of the Hearing Commissioners was to “accept in part” the submissions made and make amendments to the assessment criteria and the explanation.

4. The Appellants do not accept that the amendments made to the assessment criteria and explanation adequately address the issues raised by submissions. The Rule remains unnecessary, too restrictive and overly prescriptive and will lead to an inefficient use of residential land.

## 5.4 Relief Sought

Delete the amendments to Rule REr.25.

## 5.5 Topic 27 – Fences Rule

1. Plan Change 14 amended Rule REr.31 prescribing the location and the manner in which fences can be constructed in the Residential Zone. The Rule introduces permitted and restricted discretionary standards, assessment criteria and an explanation for the Rule. Previously the Rule had been an “advisory” Rule which with no permitted, controlled or discretionary activity standards.

2. The Appellants opposed the new Rule on the basis that the proposed amendments were unnecessary, too restrictive and overly prescriptive.

3. The decision of the Hearing Commissioners was to "accept in part" the submissions made and make amendments to the permitted activity standards, restricted discretionary activity matters of discretion, the assessment criteria and the explanation.

4. The Appellants do not accept that the amendments made to the Rule adequately address the issues raised by submissions. The Rule remains unnecessary, too restrictive and overly prescriptive and will lead to an inefficient use of residential land.

5.6 **Relief Sought**

Delete the amendments to Rule RER.31.

6 The Appellants' seek the following relief:

(a) The relief set out herein and any consequential amendments to Plan Change 14 as may be required to provide for the relief herein.

(d) The costs of this appeal.

(e) Such further or other relief that the Environment Court deems just.

7 The following documents are attached to this notice:

(a) A copy of the Appellants' submissions;

(b) A copy of the relevant decision;

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

**MARK ADDIE BERNARD LILE and KIM LISA KIRI LILE**

By their solicitors and duly authorised agents McFadden McMeeken Phillips

Per: *AFH 2011*  
N A McFadden/V J Hall

Dated 10 day of August 2012

Address for service of appellant:-

At the offices of McFadden McMeeken Phillips, Solicitors, PO Box 656, Nelson

Telephone: 03 – 548 2154

Fax: 03 – 548 2157

Email: Victoria@mmp.co.nz

Contact person: Nigel McFadden/Victoria Hall

**Address for Service of Submitters**  
**Plan Change 14 (Residential Subdivision, Land Development Manual and**  
**comprehensive Housing)**

Submitter No.	Submitter Name	Submitter Address
1	Ewen Christie	121 Tasman Street, Nelson 7010
2	Marsden Park Ltd	c/- Adele Burbidge Viastrada Ltd PO Box 1583 Nelson 7010
3	Viastrada Ltd	c/- Tony Quickfall Viastrada Ltd PO Box 1583 Nelson 7010
4	Michael Smith	24 Bronke Street Nelson 7010
5	Department of Conservation	c/- Jo Gould Nelson/Marborough Conservancy Department of Conservation Private bag 5 Nelson 7042
6	Alice Graesser	129 Cleveland Terrace Nelson 7010
7	Ian Jack	Irving Smith Jack Architects Ltd PO Box 22 Nelson 7040
8	Nita Knight	PO Box 664 Nelson 7040
9	Charmian Koed	5 Maire Street Tahunanui Nelson 7011
10	Gibbons Holdings Ltd	c/- Mark Lile Landmark Lile Ltd PO Box 343 Nelson 7040

**Names and Addresses of Persons to be Served with a Copy of the Notice of Appeal:**

The Chief Executive Officer  
Nelson City Council  
PO Box 645  
NELSON 7040

**As per attached list of Submitters.**



Wellington

Its postal address is:

PO Box 5027

Lambton Quay

Wellington

And its telephone and fax numbers are:

Telephone: (04) 918 8300

Fax: (04) 918 8303

**The Christchurch address of the Environment Court is:**

83 Armagh Street (Corner Durham Street)

Christchurch

Its postal address is:

PO Box 2069

Christchurch

And its telephone and fax numbers are:

Telephone: (03) 962 4170

Fax: (03) 962 4171

**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 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 this notice was lodged with the Environment Court. You may apply to the Environment Court under s 281 of the Resource Management Act 1991 for a waiver of the above timing 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 (or the decision (or part of 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 Unit of the Department for Courts in Auckland, Wellington, or Christchurch.

**Contact details of Environment Court for lodging documents**

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

**The Auckland address of the Environment Court is:**

8th Floor, District Court Building  
3 Kingston Street  
Auckland

Its postal address is:

PO Box 7147  
Wellesley Street  
Auckland

And its telephone and fax numbers are:

Telephone: (09) 916 9091  
Fax: (09) 916 9090

**The Wellington address of the Environment Court is:**

The District Court Building  
43-49 Balance Street