

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of the
First Schedule to the Act

BETWEEN BRIAN KREFT

(ENV-2007-CHC-317)

Appellant

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson sitting alone under section 279 of the Act

In Chambers at Christchurch

CONSENT ORDER

Introduction

- [1] The Court has read and considered the appeal and the memorandum of the parties received on 20 July 2009.
- [2] John Russell, Helen Russell, John O'Shea, Mary-Louise Stiassny, Carlene Blumberg, Michael Blumberg, Pat Stuart and Keith Stuart have given notice of an intention to become a parties under s274 and have signed the memorandum setting out the relief sought.



[3] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

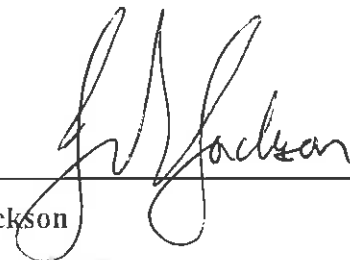
Order

[4] Therefore the Court orders, by consent, that the appeal is allowed to the extent that the Queenstown Lakes District Council is directed to modify the Queenstown Lakes Partially Operative District Plan, as varied by Plan Change 10, as set out in **Schedule A** attached to and forming part of this consent order.

[5] The appeal is otherwise dismissed.

[6] There is no order for costs.

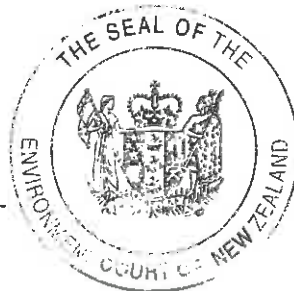
DATED at CHRISTCHURCH 28 July 2009.



J R Jackson

Environment Judge

Issued: 29 JUL 2009



Schedule A:

The following schedule shows the text as it is to be adopted into the Queenstown Lakes Partially Operative District Plan, as a result of the Kreft appeal (ENV-2007-CHC-317). Text included as a result of the appeal is shown as underlined.

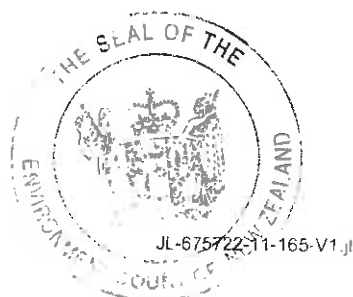
NB: As a result of resolution to all appeals, the paragraph numbering may be subject to change.

1. Rule 7.5.4 Non-notification of Applications will be amended so that reference to the Wanaka Basin Cardrona Gravel Aquifer is included in the non-notification rule applicable to earthworks. Rule 7.5.4 will also be amended so that development on the Appellant's Land zoned High Density Residential that breaches the Building Footprint and Internal Boundary Setback rules is to be non-notified except that the section 274 parties (land owners of Lot 1 DP 347224, Lot 3 DP 347224, Lot 1 DP 18304 and Lot 2 DP 18304) may be served.

7.5.4 Non-notification of Applications

Any application for a resource consent for the following matters may be considered without the need to obtain a written approval of affected persons and need not be notified in accordance with Section 93 of the Act, unless the Council considers special circumstances exist in relation to any such application:

- (iv) Earthworks – except for earthworks involving special circumstances such as blasting, presence of substantial groundwater (including but not limited to the Wanaka Basin Cardrona Gravel Aquifer as shown in Appendix A4 – Interpretive Diagrams [Diagram 11]) or earthworks located within any required building setback from an internal or road boundary.
- (v) Applications for land contained in Lot 3 DP 25998 and Part Section 2 Block XLII Town of Wanaka made pursuant to Rules 7.5.3.3(ii) Building Footprint and 7.5.6.2(iii)(h) Setback from internal boundaries except that owners of Lot 1 DP 347224, Lot 3 DP 347224, Lot 1 DP 18304 and Lot 2 DP 18304 may be



served with a copy of any such application pursuant to Section 94(1) of the Act.

2. Rules 7.5.5.2(iv)(e) relating to the setback from internal boundaries where they apply between buildings on the same lot shall be amended so that the Council's discretion shall be specifically restricted to matters relating to urban design. These rules will now read:

7.5.5.2(iv) Site Standards – Residential Activities and Visitor Accommodation – Setback from Internal Boundaries

(e) Where two or more buildings are located on a single lot within the High Density Residential Sub Zones A, B and C, the mutual setback requirements will apply as if an internal boundary exists to separate the buildings.

(f) ...

(g) ...

(h) The exercise of the Council's discretion shall be confined to those matters set out in assessment matter 7.7.2(xvi).

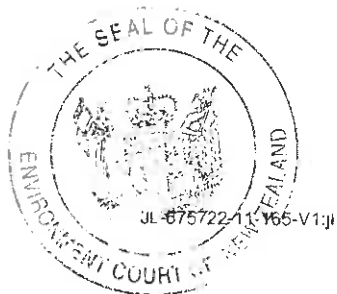
3. The building coverage rule for residential activities will be down graded from a zone standard to a site standard. The rule will now read:

7.5.5.1(i) Site Standards – Residential Activities and Visitor Accommodation in the High Density Residential Zone – Building Coverage

In the High Density Residential Sub-zones, the maximum building footprint coverage for buildings at ground level or above ground level on any site shall be in accordance with Table 7.2.

Table 7.2

Sub-zone	Building Coverage
High Density Residential Sub-Zone A	65%



High Density Residential 55%
Sub-Zone B

High Density Residential 45%
Sub-Zone C

Except for land contained in, or formerly contained in Lot 3 DP 25998 and Part Section 2 Block XLII Town of Wanaka, where the maximum building coverage shall be 50%.

4. Rule 7.5.5.3(iv) relating to Site Density in Sub-zone C will be amended to reflect what was notified and submitted on. The rule will now read:

7.5.5.3(iv) Zone Standards – Residential Activities and Visitor Accommodation – Site Density in the High Density Residential Sub-Zone C

In the High Density Residential Sub-Zone C, the maximum density of residential units to the site area shall not exceed one unit per 250m² of site area.

