

ORIGINAL

Decision No. C ~~141~~ /2004

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Clause 17(2) of the First Schedule to the Act

IN THE MATTER of an application by the QUEENSTOWN LAKES DISTRICT COUNCIL for consent to make part (Jacks Point Zone) of the Proposed District Plan operative

(ENV C 0202/04)

Applicant

BEFORE THE ENVIRONMENT COURT

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

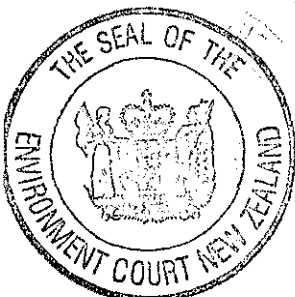
IN CHAMBERS at CHRISTCHURCH

DECISION

Background

[1] This application for the Environment Court's consent to make part of the Proposed Queenstown Lakes District Plan ("the plan") operative relates to land contained in the Jacks Point zone that is owned by Jacks Point Limited and by Henley Downs Limited.

[2] The Jacks Point zone has been created by virtue of Variation 16 to the plan. When Variation 16 was released by the Queenstown Lakes District Council ("the Council") nineteen appeals were lodged with the Environment Court. Of those appeals, three remain to be resolved, however, none relate to the land owned by Jacks Point Limited on Henley Downs Limited. Furthermore the existing appellants



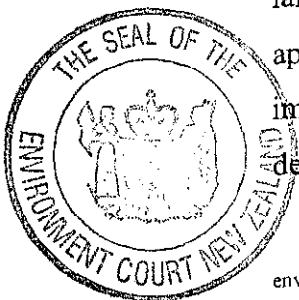
and other parties to the remaining appeals have indicated that they have no objection to the Jacks Point zone being made operative in relation to those lands.

Grounds for granting consent

[3] Counsel for the Council makes the application for the Court's consent on the following grounds:

- (1) That all submissions and appeals relating to the identified parts of the Jacks Point zone have been disposed of;
- (2) That substantial parts of the plan have already been approved by the Council pursuant to the Court's consent contained in decision C134/2003;
- (3) That Jacks Point Limited and Henley Downs Limited each support the making of an order by the Court;
- (4) That there is significant capital invested in the natural and physical resources of the zone and it is in the interest of justice that consent be given to enable these resources to be sustainably managed;
- (5) That the Council has, by resolution, provided for the mechanics of the approval of the identified parts of the zone, subject to the Court's consent; and
- (6) That there are no matters known to the applicant why consent should not be granted.

[4] The Court has also previously received a memorandum from counsel for Jacks Point Limited setting out further grounds why, in relation to the identified land, the zone should be made operative. Apart from highlighting the fact that appeals relating to that land have all been resolved and that there will be significant implications for the landowner in terms of obtaining relevant consent for development on the land if the zone is made operative, counsel also makes the point



that due to the advanced stage of the proceedings the Council is now unable to withdraw Variation 16.

[5] On Monday 30 August 2004 I also heard from counsel for the parties involved in the remaining appeals relating to the Jacks Point zone. Those parties either supported the application or did not object to it, save counsel for the Council who advised that the decision (to support or not) could only be made by the Council itself. This application by the Council and the resolution referred to above clearly indicate the Council's support.

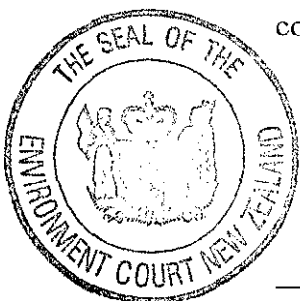
Consideration

[6] Clause 17(2) of the First Schedule to the Act states simply that:

- (2) A local authority may, with the consent of the Environment Court, approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of.

[7] This clearly allows consent for specific and identified parts of a plan to be allowed to commence with the Court's consent. Where applications are made for its consent, the Court, before it will exercise its discretion to consent to Council approval of parts of its plan, needs to be satisfied that the relevant part(s) of the plan are readily identifiable and all submissions or appeals in reference to it have been disposed of. If the Court is satisfied, it will normally accommodate the local authority's request out of concern to assist it in its function as a planning authority.¹

[8] Therefore, of the grounds outlined above, of most interest are those that relate to the fact that the lands that the zone includes, and for which consent is sought, are clearly identifiable and that all appeals in relation to those lands have been disposed of. That there is no opposition to the granting of consent is another important consideration.



¹ An application by the Rotorua District Council A155/99 at paragraph 5.

[9] In these circumstances and provided that care is taken to signal in copies of the plan which parts are and are not operative, I see no reason why consent should not be granted in this instance.

Directions

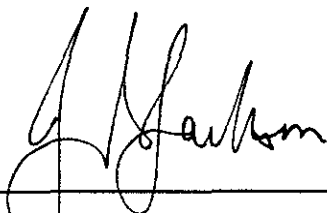
[10] Having read the application of the Queenstown Lakes District Council to make part of the Jacks Point zone of the Proposed District Plan operative the Court **GRANTS CONSENT** under Clause 17(2) of the First Schedule to the Act to the Queenstown Lakes District Council to approve the following parts of the Proposed District Plan as operative:

All of the provisions of Part 12 Special Zones relating to those parts of the Jacks Point Zone being the land owned by:

- (a) Jacks Point Limited shown on Figure 1 page 12-25 of the Proposed Plan; and
- (b) Henley Downs Limited shown at page 12-26 of the Proposed Plan (relating to Henley Downs).

Save that no such provisions shall be made operative with respect to the Homestead Bay land shown in Figure 3 at page 12-27 of the Proposed Plan and the Plan shall be read accordingly.

DATED at CHRISTCHURCH 30 September 2004



J R Jackson

Environment Judge

Issued:

- 1 OCT 2004

