

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2022] NZEnvC 36

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under clause 14 of the
First Schedule of the Act

BETWEEN QUEENSTOWN AIRPORT
CORPORATION LIMITED

(ENV-2020-CHC-139)

Appellant

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Environment Judge J J M Hassan – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 21 March 2022

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that the Queenstown Lakes District Council is directed to amend the provisions of Chapter 30 and the associated planning maps of the Proposed Queenstown Lakes District Plan as set out in Appendix 1, attached to and forming part



of this order;

(2) the appeal is otherwise dismissed.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Queenstown Airport Corporation Limited against the decision of the Queenstown Lakes District Council on Stage 3 of the Proposed Queenstown Lakes District Plan, in particular the variation to Chapter 30 (Energy and Utilities).

[2] A consent memorandum of the parties dated 17 December 2021 set out their agreement to resolve the appeal. By Minute dated 3 February 2022, the court questioned the clarity in administration and enforceability of the provisions sought to be endorsed. Specifically, the issues concerned the application of proposed r 30.5.1.13 to channels and drains and a lack of clarity as to matter of discretion (a). Having now considered the joint memorandum in response, dated 18 February 2022, I am satisfied with the changes made to address the court's concerns and the related assurances that the revised proposal satisfies pt 2, RMA.¹

Other relevant matters

[3] No other person has given notice of an intention to become a party to the appeal under s274, RMA.

¹ Resource Management Act 1991.

[4] The parties agree that costs should lie where they fall and accordingly no order for costs is sought.

Outcome

[5] The court makes this order under s279(1), RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. 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 the relevant requirements and objectives of the RMA including, in particular, pt 2.



J J M Hassan
Environment Judge



APPENDIX 1

Amendments to Chapter 30 Energy and Utilities

Black text = Changes proposed in joint memorandum dated 17 December 2021 shown in underline and ~~strike out~~

Red text = Further changes proposed in this joint memorandum dated 18 February 2022 shown in underline and ~~strike out~~

30.3.3.5 Airports and approach control services are defined as utilities. Some Airport Related Activities are also defined as utilities. However the rules in this Chapter do not apply to Airport Activities or Airport Related Activities within the Airport Zone (Chapter 17). Airport Activities and Airport Related Activities within the Airport Zone are managed in Chapter 17.

...

30.5.1.13	Water and irrigation races, drains, channels , stormwater detention/retention ponds or stormwater wetlands within the <u>area around Airport Approach and Protection Measures at Queenstown and Wānaka Airports,</u> as identified in Figures 14 and Figures 35 in Section 30.7 below. Discretion is restricted to: a. <u>The risk to airport operations of increased bird strike at Queenstown or Wānaka Airports and measures to mitigate that risk</u> Bird-strike effects on aircraft operations at Queenstown or Wānaka Airports.	RD
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