

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14(1) of the First
Schedule of the Act
BETWEEN CLIVE MANNERS WOOD
(ENV-2018-CHC-57)
... (continued on separate page)
Appellants
AND QUEENSTOWN LAKES DISTRICT
COUNCIL
Respondent

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

In Chambers at Christchurch

Date of Consent Order: 5 October 2020

CONSENT ORDER

- A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that the provisions of Chapters 21 and 36 of the Queenstown Lakes District Council District Plan, as set out in **Appendix 1**, are approved.
- B: Under s285 of the Resource Management Act 1991, there is no order as to costs.



REASONS**Introduction**

[1] These proceedings concern six appeals filed by Clive Manners Wood,¹ Arthurs Point Protection Society Inc,² Andrew Fairfax and Ian & Philippa Macauley,³ Te Anau Developments Ltd,⁴ Cardrona Alpine Resort Ltd,⁵ and Aircraft Owners and Pilots Association (NZ) Inc ('AOPA').⁶ The appeals were filed against parts of a decision of the Queenstown Lakes District Council regarding provisions in Chapters 21 (Rural Zone) and 36 (Noise) of the Proposed Queenstown Lakes District Plan – Stage 1, allocated as Topic 11 Informal Airports.

[2] The following parties gave notice of an intention to become parties under s274 of the Resource Management Act 1991 ('the RMA') and have signed the memorandum setting out the relief sought:

- Allister Saville;
- Aviation New Zealand Limited;
- Darby Planning LP;
- Jules Tapper;
- Peter Charles Faul;
- Queenstown Park Ltd;
- Remarkables Park Ltd;
- Real Journeys Ltd;
- Totally Tourism Ltd;
- Soho Ski Area Ltd and Blackmans Creek No. 1; and
- Treble Cone Investments Ltd.

[3] The court has considered the joint memorandum filed by counsel for the parties dated 16 April 2020 seeking determination of the Topic 11 appeal points by consent order. It has also considered the memorandum filed by counsel for the Council dated 24 June 2020.

1 ENV-2018-CHC-57.
 2 ENV-2018-CHC-67.
 3 ENV-2018-CHC-96.
 4 ENV-2018-CHC-106.
 5 ENV-2018-CHC-117.
 6 ENV-2018-CHC-132.



[4] The court issued a Minute, dated 9 September 2020, seeking clarification on some matters of substance, recording that the Buckhams would no longer be treated as having an interest in the proceedings and affording Royal Forest and Bird Protection Society of New Zealand Inc the opportunity to express a position on the orders sought. A memorandum of counsel for the Queenstown Lakes District Council dated 24 September 2020 addressed these matters to my satisfaction.

[5] Specifically, I am satisfied that:

- (a) AOPA's appeal affords sufficient scope for changes sought to rules 21.10.2.2, 21.10.2.3 and 21.10.2.4 and the proposed exemption from rule 36.5.10;
- (b) the oversight in having no default activity classification for non-compliance with proposed standard 21.10.3 can be overcome by specification or discretionary activity status as proposed;
- (c) non-complying activity status rather than discretionary is appropriate for non-compliance with rule 36.5.10.

Orders

[6] I make 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 all parties:

- (a) have executed the memorandum requesting this order; and
- (b) 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



List of appellants

ENV-2018-CHC-000067	Arthurs Point Protection Society Inc
ENV-2018-CHC-000096	Andrew Fairfax and Ian & Phillipa Macauley
ENV-2018-CHC-000106	Te Anau Developments Ltd
ENV-2018-CHC-000117	Cardona Alpine Resort Ltd
ENV-2018-CHC-0000132	Aircraft Owners and Pilots Association (NZ) Inc



RURAL ZONE 21

21 Rural Zone

Please note: Variations to parts of this chapter have been decided by Council on 7 March 2019 as part of Stage 2 of the PDP. Please view the Stage 2 Decisions on our website if you are contemplating appealing the Stage 2 decisions. The appeal period for the Stage 1 Decisions has closed.

21.2 Objectives and Policies

21.2.11 Objective - The location, scale and intensity of informal airports is managed to maintain amenity values while protecting informal airports from incompatible land uses.

Policies

21.2.11.X Provide for informal airports as an appropriate activity within the Rural Zone, provided the informal airport is located, operated and managed to maintain the surrounding rural amenity.

21.2.11.1 Ensure informal airports are located, operated and managed so as to maintain the surrounding rural amenity including through managing frequency of flights, separation distance, flight paths, reverse sensitivity and cumulative effects.

21.2.11.2 Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.

21.2.11.3 Protect lawfully established and anticipated permitted informal airports from the establishment of incompatible activities in the immediate vicinity.

21.10 Rules – Standards for Informal Airports

	Table 7 - Standards for Informal Airports	Non-compliance Status
21.10.1	<p>Informal Airports Located on Public Conservation and Crown Pastoral Land</p> <p><u>21.10.1.1 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents are permitted activities and rules 21.10.1.2 to 21.10.1.4 do not apply.</u></p> <p>Informal airports that comply with the following standards shall be permitted activities:</p> <p>21.10.1.2 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987.</p>	D



RURAL ZONE 21

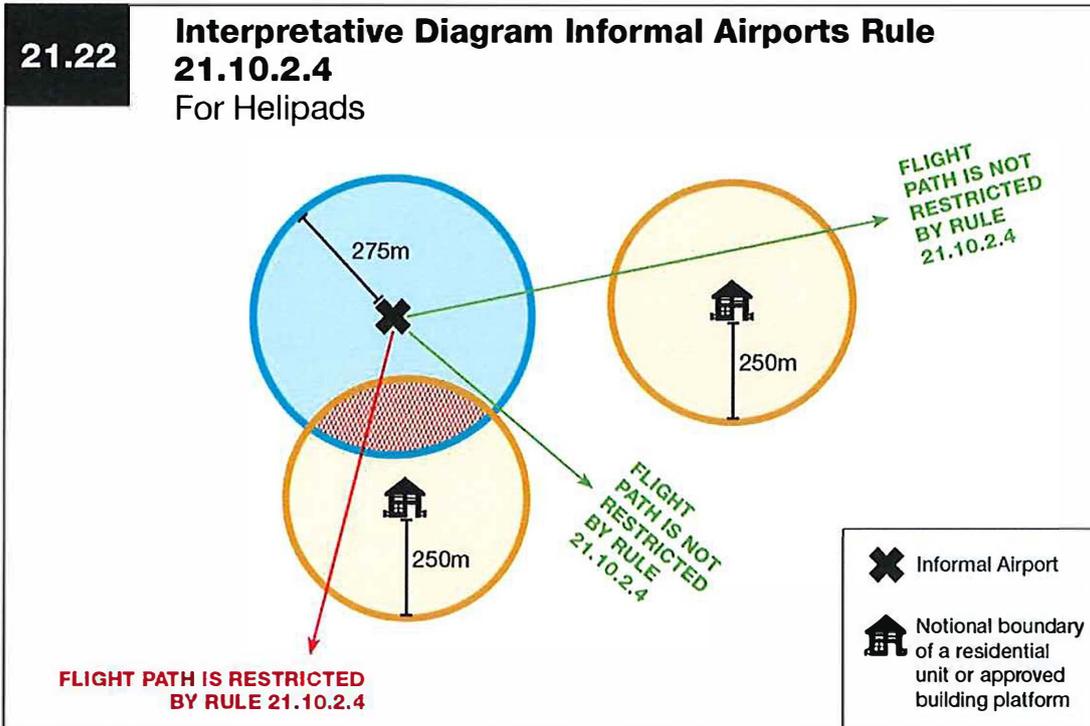
	Table 7 - Standards for Informal Airports	Non-compliance Status
	<p>21.10.1.3 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948.</p> <p>21.10.1.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents.</p> <p>21.10.1.4 In relation to Rules 21.10.1.12 and 21.10.1.23, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.</p>	
21.10.2	<p>Informal Airports Located on other Rural Zoned Land</p> <p>21.10.2.1 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities are permitted activities and Rules 21.10.2.2 to 21.10.2.4 do not apply.</p> <p>Informal airports that comply with the following standards shall be permitted activities and Rule 36.5.10 shall not apply:</p> <p><u>21.10.2.2 Use of the informal airport must not exceed any of the following:¹</u></p> <p style="padding-left: 40px;"><u>(a) 2 flights per day;</u></p> <p style="padding-left: 40px;"><u>(b) 5 flights per week; or</u></p> <p style="padding-left: 40px;"><u>(c) 12 flights per month.</u></p> <p><u>21.10.2.3 The informal airport must be located a minimum distance of 275 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.</u></p> <p><u>21.10.2.4 Within 275 metres of the informal airport, flight paths must be a minimum of 250 metres from the notional boundary of any residential unit or approved building platform not located on the same site.²</u></p> <p>Notes:</p> <p><u>1 For the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</u></p> <p><u>2 Refer to the interpretative diagram in Schedule 21.22.</u></p>	D



RURAL ZONE 21

	Table 7 - Standards for Informal Airports	Non-compliance Status
	<p>21.10.2.1 Informal airports on any site that do not exceed a — frequency of use of 2 flights* per day;</p> <p>21.10.2.2 Informal airports for emergency landings, rescues, fire- fighting and activities ancillary to farming activities;</p> <p>21.10.2.3 In relation to point Rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	
<p>21.10.3</p>	<p><u>Informal Airports associated with 'Fly-in' Events</u></p> <p><u>Informal airports that comply with the following standard are permitted activities and are not subject to Rules 21.10.1, 21.10.2 and 36.5.10:</u></p> <p>21.10.3.1 <u>Informal airports associated with "fly-in" events¹ administered by the Aircraft Owners and Pilots Association of New Zealand (AOPA) provided the following standards are met:</u></p> <ul style="list-style-type: none"> <u>(a) there are not more than 6 events per calendar year;</u> <u>(b) there is not more than 1 event at any Informal Airport per month;</u> <u>(c) the AOPA has notified the Council's Planning Department of the event;² and</u> <u>(d) Informal airports are located within the Outstanding Natural Landscape as identified on the Plan Maps.</u> <p><u>Notes:</u></p> <p><u>1 An event can include informal airports at more than one location.</u></p> <p><u>2 AOPA must notify the Council at least 10 working days before each fly-in event.</u></p>	<p><u>D</u></p>





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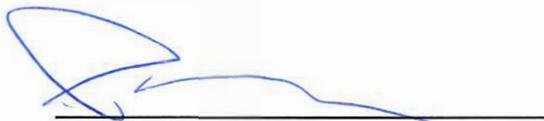
CORRECTION TO CONSENT ORDER

- A: Under s278 of the Resource Management Act 1991 and Rule 11.10 of the District Court Rules 2014, the Environment Court orders that Appendix 1 to the consent order issued on 5 October 2020 is to be corrected by inserting the Chapter 36 provisions as set out in Appendix 1A, attached to and forming part of this order.
- B: I direct the Registrar to attach this Correction to Consent Order to the consent order issued on 5 October 2020.



REASONS

- [1] On 5 October 2020 a consent order was issued for this proceeding.
- [2] It has been drawn to my attention that the attached Appendix 1 contained only the Chapter 21 provisions and did not include the Chapter 36 provisions also endorsed by the order. This omission was not intentional.
- [3] Section 278 of the Resource Management Act 1991 provides that Environment Judges have the same powers that the District Court has in the exercise of its jurisdiction.
- [4] Rule 11.10 District Court Rules 2014 specifies (relevantly) that a judgment may be corrected by the court if it contains a clerical mistake or an error arising from an accidental slip or omission.
- [5] Accordingly, I will utilise the court's power under Rule 11.10 of the District Court Rules 2014 to correct the order.



J J M Hassan
Environment Judge



Issued: **07 OCT 2020**

List of appellants

ENV-2018-CHC-000067	Arthurs Point Protection Society Inc
ENV-2018-CHC-000096	Andrew Fairfax and Ian & Phillippa Macauley
ENV-2018-CHC-000106	Te Anau Developments Ltd
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21 Rural Zone

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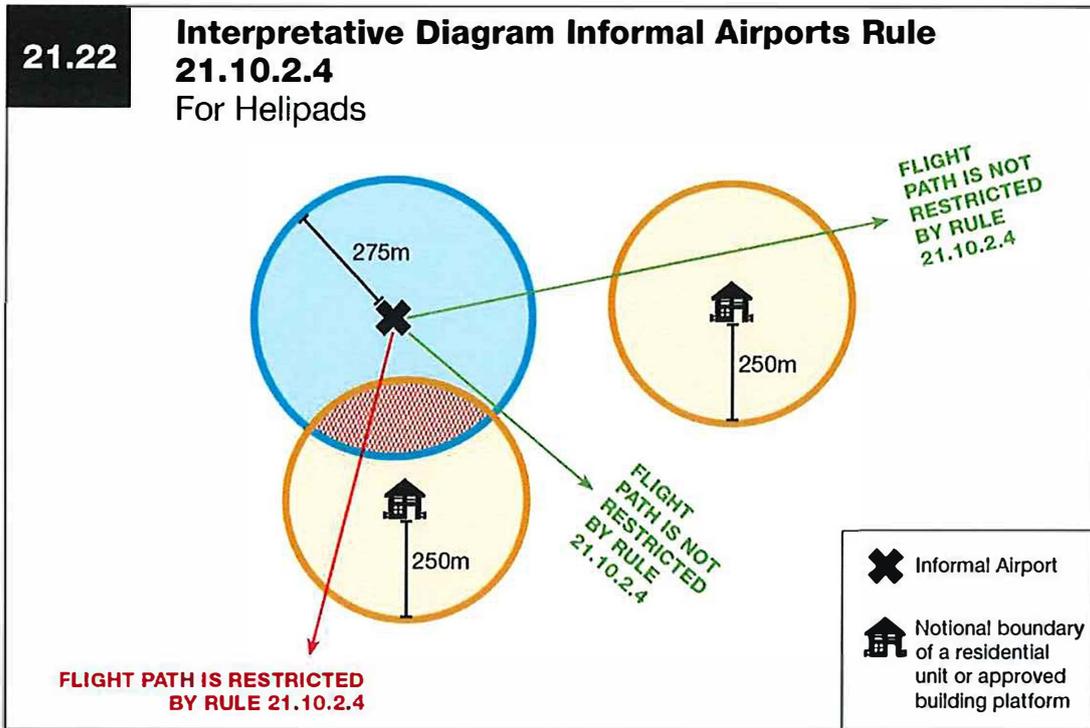
	Table 7 - Standards for Informal Airports	Non-compliance Status
	<p>21.10.1.3 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948.</p> <p>21.10.1.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents.</p> <p>21.10.1.4 In relation to Rules 21.10.1.12 and 21.10.1.23, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.</p>	
21.10.2	<p>Informal Airports Located on other Rural Zoned Land</p> <p>21.10.2.1 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities are permitted activities and Rules 21.10.2.2 to 21.10.2.4 do not apply.</p> <p>Informal airports that comply with the following standards shall be permitted activities and Rule 36.5.10 shall not apply:</p> <p><u>21.10.2.2 Use of the informal airport must not exceed any of the following:¹</u></p> <p><u>(a) 2 flights per day;</u></p> <p><u>(b) 5 flights per week; or</u></p> <p><u>(c) 12 flights per month.</u></p> <p><u>21.10.2.3 The informal airport must be located a minimum distance of 275 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.</u></p> <p><u>21.10.2.4 Within 275 metres of the informal airport, flight paths must be a minimum of 250 metres from the notional boundary of any residential unit or approved building platform not located on the same site.²</u></p> <p>Notes:</p> <p><u>1 For the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</u></p> <p><u>2 Refer to the interpretative diagram in Schedule 21.22.</u></p>	D



RURAL ZONE 21

	Table 7 - Standards for Informal Airports	Non-compliance Status
	<p>21.10.2.1 Informal airports on any site that do not exceed a frequency of use of 2 flights* per day;</p> <p>21.10.2.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.10.2.3 In relation to point Rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	
<p><u>21.10.3</u></p>	<p><u>Informal Airports associated with ‘Fly-in’ Events</u></p> <p><u>Informal airports that comply with the following standard are permitted activities and are not subject to Rules 21.10.1, 21.10.2 and 36.5.10:</u></p> <p><u>21.10.3.1 Informal airports associated with “fly-in” events¹ administered by the Aircraft Owners and Pilots Association of New Zealand (AOPA) provided the following standards are met:</u></p> <ul style="list-style-type: none"> <u>(a) there are not more than 6 events per calendar year;</u> <u>(b) there is not more than 1 event at any Informal Airport per month;</u> <u>(c) the AOPA has notified the Council’s Planning Department of the event;² and</u> <u>(d) Informal airports are located within the Outstanding Natural Landscape as identified on the Plan Maps.</u> <p><u>Notes:</u></p> <p><u>1 An event can include informal airports at more than one location.</u></p> <p><u>2 AOPA must notify the Council at least 10 working days before each fly-in event.</u></p>	<p><u>D</u></p>





36 Noise

Please note: Variations to parts of this chapter have been decided by Council on 7 March 2019 as part of Stage 2 of the PDP. Please view the Stage 2 Decisions on our website if you are contemplating appealing the Stage 2 decisions. The appeal period for the Stage 1 Decisions has closed.





Table 3: Specific Standards

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.10	<p>Helicopters</p> <p>Sound from any helicopter landing area must be measured and assessed in accordance with NZ 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.</p> <p>Sound from helicopter landing areas must comply with the limits of acceptability set out in Table 1 of NZS 6807.</p> <p>In assessing noise from helicopters using NZS 6807: 1994 any individual helicopter flight movement, including continuous idling occurring between an arrival and departure, shall be measured and assessed so that the sound energy that is actually received from that movement is conveyed in the Sound Exposure Level (SEL) for the movement when calculated in accordance with NZS 6801: 2008.</p> <p>For the avoidance of doubt this rule does not apply to Queenstown Airport and Wanaka Airport.</p>	<p>At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity.</p> <p>*Note: The applicable noise limit in this rule and in rule 36.5.11 below for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.</p>			



NOISE 36

Rule Number AND	Specific Standards	Assessment location	Time	Noise Limits	Non-compliance Status
	<p>Advice Note: See additional rules in Rural Zone Chapter at 21.10.1, and 21.10.2 and 21.10.3.</p> <p>36.5.10.1 All locations except identified in 36.5.10.2</p> <p>36.5.10.2 Lower Density Suburban Residential Zone, Medium Density Residential Zone, High Density Residential Zone, Arrowtown Residential Historic Management Zone, Large Lot Residential Zone, Rural Zone, Rural Residential Zone and Rural Lifestyle Zone.</p> <p>Advice Note: Rule 36.5.10.2 shall not apply to helicopter noise associated with use of an informal airport permitted under Rules 21.10.2 and 21.10.3.</p>				
			At all times	50 dB L _{dn}	NC
			At all times	40 dB L _{dn}	NC
36.5.11	<p>Fixed Wing Aircraft</p> <p>Sound from airports/landing strips for fixed wing aircraft must be measured and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning.</p> <p>For the avoidance of doubt this rule does not apply to Queenstown and Wanaka Airports.</p>	<p>At any point within the notional boundary of any residential unit and at any point within a residential site other than residential units on the same site as the activity.</p> <p>*Note: The applicable noise limit in this rule and in rule 36.5.10 above for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be</p>	At all times	55 dB L _{dn}	NC



NOISE 36

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
	Advice Note: See additional rules in Rural Zone Chapter at 21.10.1, and 21.10.2 and <u>21.10.3.</u>	determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.			