

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 14 –
Wakatipu Basin

**REPLY SUBMISSIONS FOR QUEENSTOWN LAKES DISTRICT
COUNCIL RESPONDING TO SUBMITTER 2663 REGARDING STRIKE
OUT**

27 September 2018

 **Simpson Grierson**
Barristers & Solicitors

S J Scott / C J McCallum
Telephone: +64-3-968 4018
Facsimile: +64-3-379 5023
Email: sarah.scott@simpsongrierson.com
PO Box 874
SOLICITORS
CHRISTCHURCH 8140

MAY IT PLEASE THE PANEL:

1. This memorandum is filed on behalf of the Queenstown Lakes District Council (**Council**) to provide a response to the Aircraft Owners and Pilots Association of New Zealand (**Association**) (2663) Response dated 21 September 2018 (**Response**).¹ The Response, and these Reply Submissions relates to the Council's application to strike out part of the Association's submission (**Application**).²
2. Council sought to strike out part of the Association's submission under section 41D of the RMA.
3. The Panel (by **Minute**) provided an opportunity for the Association to file a response to the Application by 12 noon 21 September 2018, which it has done.
4. Council acknowledges the Association's Response, however respectfully considers it has raised no new information that affects the Council's position as expressed in its Application, nor the helpful analysis included in the Chair's minute of 15 September 2018, relating to:
 - (a) Table 24.2 as notified on 9 August 2018;
 - (b) legal principles regarding scope;
 - (c) Submission 2663 itself;
 - (d) Chapter 24 provisions relating to informal airports;
 - (e) the effect of the variation; and
 - (f) preliminary conclusions.
5. The Chair's analysis is accepted and adopted for the purposes of these Reply Submissions.
6. In addition, the Council wishes to make some further discrete submissions.

1 <https://www.qldc.govt.nz/assets/Uploads/S2663-AOPA-Response-to-strike-out-appn.pdf>

2 <https://www.qldc.govt.nz/assets/Uploads/QLDC-Scott-S-application-for-part-of-submission-to-be-struck-out.pdf>

Agreement with Chair on scope for Precinct

7. Council reiterates its acceptance that the Association has scope to seek a range of changes on Discretionary Activity, Informal Airports Rule 24.4.28, in the Lifestyle Precinct. That relief includes that the noise limits prescribed in Chapter 36 Table 3, may apply in place of notified Rule 24.4.28. That part of the submission is accepted as far as it applies to the Lifestyle Precinct.

Objectives and policies for Informal Airports, and the activity status and standards for informal airports in the Wakatipu Basin Rural Amenity Zone

8. At paragraph 3 of its Response the Association states it had no knowledge that different provisions were contemplated for the Wakatipu Basin, despite also acknowledging that they had received and read counsel's memorandum of 23 November 2017, relating to Stage 2 of the PDP.³ That memorandum clearly sets out that a new chapter would be notified for the Wakatipu Basin, and also set out a number of submissions that were deemed to be on the variation. The Association appears to rely on this memorandum as reason for not having an interest in Stage 2.
9. In fact, the purpose of the memorandum was to provide information to the Panel as to what will be notified as part of Stage 2 of the PDP, and advise on what PDP (Stage 1) provisions, and submissions and further submissions on those provisions, would be deemed to be on the variation.⁴ Otherwise the memorandum was advising the Panel (and submitters on Stage 1) of what was to be notified in Stage 2. This included, it is submitted, a clear explanation of the scope of the Wakatipu Basin Rural Amenity Zone as it applied to the Stage 2 plan maps.
10. In addition, at the end of Hearing Stream 2 the Panel issued a Minute regarding Wakatipu Basin Planning Study dated 1 July

3 <https://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Memorandums/General/S0001-QLDC-ScottS-Memorandum-of-counsel-relating-to-Stage-2-and-variation-to-Stage-1.pdf>

4 At paragraph 1.

2016,⁵ where it reached a preliminary view that a detailed study of the Wakatipu Basin floor was required.⁶ This was because the Panel considered that the zoning and rules notified for the Wakatipu Basin as part of Stage 1 was unlikely to achieve the Strategic Direction of the PDP in the Basin over the life of the PDP.⁷ By Memorandum dated 8 July 2016, the Council confirmed it would undertake such a study.⁸ The Association has consequently been on noticed since July 2016 that that different provisions were contemplated for the Wakatipu Basin.

11. These comments are simply to provide examples that respond to the suggestion that there was no communication or knowledge of the Wakatipu Basin chapter and variation.
12. The Wakatipu Basin chapter was then duly publicly notified in the same way that Stage 1 of the PDP was notified. The Chair's Minute at paragraphs 9 – 11 set out the relevant provisions within the chapter relating to informal airports in the Rural Amenity Zone. It is clear from a reading of Chapter 24, that the issue of informal airports in the Wakatipu Basin, was covered by the new chapter.
13. The Association places emphasis on the lack of a section 32 Report on informal airports in the Wakatipu Basin Zone, at the time Chapter 24 was notified in Stage 2. It submits that an absence of a section 32 analysis was part of the reason why they did not identify that a rule for informal airports in the Amenity Zone was included in the notified Chapter.
14. A section 32 report was prepared and made available at notification of Chapter 24.⁹ The submission by the Association that there is no section 32 report on informal airports is submitted to be incorrect.

5 <https://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Memorandums/General-Memorandum-Requesting-Wakatipu-Basin-Planning-Study-1-7-16.pdf>

6 At paragraph 12.

7 At paragraph 8.

8 <https://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/Hearings-Page/Memorandums/General-Second-Minute-Re-Wakatipu-Basin-Floor-Study-8-7-16.pdf>

9 <https://www.qldc.govt.nz/assets/Uploads/Planning/District-Plan/PDP-Stage-2/Section-32-Stage-2/Section-32-Chapter-24-Wakatipu-Basin.pdf>

15. At page 36 the report states that “the policy framework protects legally established informal airports from the establishment of incompatible activities and ensures reverse sensitivity effects likely to arise between residential lifestyle and non-residential activities are avoided or mitigated”.
16. The section 32 report takes an approach where activities are considered more generally, and consideration is given to, for example, non-residential activities as a group. Non-residential activities are evaluated within the report.
17. In addition, the introduction of the report is clear that Chapter 24 applies to **all land** identified as Wakatipu Basin Rural Amenity Zone or Lifestyle Precinct within the plan maps attached to the Stage 2 PDP notification bundle.¹⁰ It then goes on to say that all of the land covered by the Amenity Zone was notified in Stage 1 as Rural Zone, Rural Lifestyle Zone or Rural Residential Zone, and that the notification of Chapter 24 and the Amenity Zone is therefore a variation to the plan maps.
18. In relation to the comment by the Association on the *Motor Machinist* case, it is submitted that the criteria is of limited relevance in this instance, except to refer to the comments above that the section 32 report is not silent on informal airports, and it was very clear in the section 32 report that a new chapter was being notified to replace the Rural, Rural Residential and Rural Lifestyle chapters in the Wakatipu Basin, as was the plan maps and associated public notice. The submission by the Association that the Council seeks to strike out, is not on the specific provisions of the notified variation to Chapter 24, which relates only to the Lifestyle Precinct.

Prejudice to others

19. The Association also considers that there is *no prejudice to the proposal or submitters* as other submitters are on notice as to the Association's submission and have the ability to further submit. In

¹⁰ At page 3.

addition, the Association relies on the fact that Stream 14 has been adjourned and not closed, and that decisions have not been issued.

20. The Council has already held a 3 week hearing on the Wakatipu Basin Chapter, which included consideration of submission on the informal airport objectives and policies, rules and standards.
21. The Association is essentially asking the Council to hold a new hearing, which may mean that each of those interested submitters may need to take notice of the relief being sought by the Association. They may need to re-appear at any resumed hearing. Council submits that is unfair on those submitters (and indeed the Council) who have already given their time (and possibly cost) to engage in the issue of the Wakatipu Basin chapter, over the last 10 months.

Conclusion

22. Council submits that the Chair's preliminary conclusions in paragraphs 14 and 15 of his Minute are correct and respectfully request that a decision be issued. Specifically, that there is no scope for the Association to seek to amend the objectives and policies relating to informal airports, or the activity status of informal airports in the Amenity Zone, or the standards applying to informal airports in the Amenity Zone. Those provisions were notified with the rest of Stage 2 on 23 November 2017, and that was the Association's opportunity to submit on them.

DATED this 27th day of September 2018



S J Scott / C J McCallum
Counsel for Queenstown Lakes District
Council