

**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 13 –
Queenstown Mapping Annotations
and Rezoning Requests

**SUPPLEMENTARY SECTION 42A REPORT / STATEMENT OF EVIDENCE OF KIMBERLEY
BANKS
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

STRATEGIC OVERVIEW AND COMMON THEMES – REVISED SECTION 26 ONLY

6 June 2017

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26. PC35 AND NOISE CONTOUR MAPPING

- 26.1** This evidence and recommendations replaces Section 26 of my Strategic Statement of Evidence, dated 25 May 2017.

QAC (433) has sought that the Air Noise Boundary and Outer Control Boundary is shown on the District Plan Maps as per the location shown in Annexure B of its submission, which reflects the 'With Lot 6' noise contours for the Queenstown Airport. This submission is opposed by QPL (FS1097).

Plan Change 35

- 26.2** The aircraft noise boundaries shown on the ODP planning maps are in the process of being amended through Plan Change 35 (Queenstown Airport Aircraft Noise Boundaries). A summary of Plan Change 35 was provided by Mr John Kyle (on behalf of QAC), who stated at 5.1 of his evidence:¹

In 2008 QAC initiated Plan Change 35 (PC35) and an associated Notice of Requirement (NOR) to alter Designation 2. The purpose of PC35 was to put in place an appropriate management regime for managing land use around Queenstown Airport while providing for the predicted ongoing growth of the aircraft operations to 2037. Accordingly, the Plan Change updated the Airport's noise boundaries¹² (Air Noise Boundary (ANB) and Outer Control Boundary (OCB)) to provide for predicted growth in aircraft operations to 2037, and amended various zone provisions relating to the use of land within those updated boundaries likely to be affected by increased aircraft noise.

- 26.3** PC35 was largely confirmed by QLDC but was the subject of a number of Environment Court appeals that were largely resolved by agreement in early 2012. The Court issued three interim decisions that together, confirmed the Plan Change, as agreed by the parties: *Air New Zealand Ltd v Queenstown Lakes District Council* [2012] NZEnvC, [2012] NZEnvC 195 and [2013] NZEnvC 93. I am advised by legal counsel that the Court's decisions were framed as 'interim' because they did not make a final decision on the planning

¹ Evidence of John Clifford Kyle, Chapter 3 (Strategic Direction), Chapter 4 (Urban Development) and Chapter 6 (Landscape) dated 29 February 2016.

map (District Plan Map 31a) which is to show the location of the updated ANB and OCB or, more particularly, a final decision on the location of these boundaries in the vicinity of Lot 6. I refer also to QAC's legal submissions summarising this background.²

Aerodrome Designation

26.4 In conjunction with the land use management regime proposed by PC35, QAC as requiring authority also sought to amend Designation 2 (Aerodrome Purposes) to extend the aerodrome at Queenstown Airport, and Designation 3 (Air Noise Boundary).

26.5 The purpose of Designation 3 was to define the location of the ANB for the Airport. This designation is outdated and QAC has given notice to QLDC that it is to be withdrawn.³

26.6 Designation 2, Aerodrome Purposes, has been the subject of ongoing legal proceedings regarding the basis for and extent of a proposed extension into Lot 6, with the most recent step being the final Environment Court decision, which has determined on the merits that 'Lot 6' was required for the purposes of the notice of requirement.⁴ QAC subsequently sought confirmation of the 'with Lot 6' noise boundaries plan from the Environment Court in the context of PC35,⁵ as it was the sole residual matter for the resolution of the PC35 proceedings. The Designation 2 decision has subsequently been appealed to the High Court by Remarkables Park Limited). As a result the Environment Court has directed that the final decision on PC35, and in particular the matter of the noise boundaries, be placed on hold until Designation 2 is beyond appeal.

Amended recommendations

26.7 The outcome of the PC35 proceeding is relevant to the submission point of QAC (433), seeking that the Air Noise Boundary and Outer Control Boundary is shown on the District Plan Maps as per the location shown in Annexure B of

² QAC Legal Submissions for Strategic Hearing 01B, Ms Rebecca Wolt, 29 February 2016, paragraphs 80-90.

³ QAC Legal Submissions for Strategic Hearing 01B, Ms Rebecca Wolt, 29 February 2016, paragraph 19.

⁴ *Queenstown Airport Corporation Limited* [2017] NZEnvC 46.

⁵ Memorandum by counsel for QAC in relation to Lot 6 NOR – Plan Change 35 Noise Boundaries, 3 April 2017

the submission. The Environment Court's recent decision to confirm the Lot 6 NoR is also relevant.

- 26.8** I note that PC35 is a change to the ODP, and not the PDP. In order for PC35 to be reflected in the PDP (for matters other than to give effect to a designation), a Schedule 1 process is necessary. I overlooked this matter in preparing my Strategic Evidence. Accordingly, the provisions of PC35 which have been determined by the Environment Court have been incorporated into the PDP text, and have been addressed through previous evidence and recommendations in district plan review hearings on provisions. The air noise boundaries of PC35 were also identified on the notified planning maps.
- 26.9** In terms of the submission of QAC, I note that the notified and current version of PDP planning maps 31 and 31a show the 'without lot 6' version of the noise contours (with the exception of an error which I have identified (discussed again below)). With regard to the reflection of the 'with Lot 6' noise boundaries sought by QAC in its submission, as I have noted above, the Lot 6' NOR has recently been determined by the Environment Court on its merits. As stated at para 2 of the interim decision of the Environment Court⁶ for PC35, the previous decisions relating to PC35 do not approve the proposed planning map 31a, which record the ANB and OCB location.
- 26.10** I understand that the location of the ANB and OCB on the planning maps, while related to Designation 2, is a separate planning matter. Therefore, it is not possible for the PDP to be updated to reflect the PC35 air noise boundaries (once confirmed) by using s175 of the RMA, and without a Schedule 1 process. As such the Panel is required to make a recommendation on this aspect of the planning maps in response to the submission of QAC.
- 26.11** Given that the most recent decision of the Environment Court has determined (after multiple Court hearings and hearing a significant amount of technical evidence) that Designation 2 NOR should include Lot 6, I therefore consider it to be appropriate that the PDP planning maps are consistent with this decision, and also reflect the 'with Lot 6' mapping of the ANB. I therefore recommend acceptance of the submission of QAC (and rejection of the further

6

Decision No. [2012] NZEnvC 195

submission of QPL) and recommend that the air noise boundaries shown on the planning maps are updated to reflect the 'with Lot 6' version.

26.12 In addition, I have identified an error on the PDP maps, whereby the 'legend and user information' incorrectly specifies that the ANB and OCB are 'operative plan' layers, and additionally, the location of the 'without lot 6' version of the contours as contained within QAC's submission differs from that shown on the planning maps in the location of the ANB at Robertson Street and also within the area of Designation 2 (as per the PDP maps). I recommend that the text of the legend and user information is updated to remove the text 'operative plan'. As I have recommended that the planning maps reflect 'with Lot 6', the error identified with the 'without Lot 6' mapping is also resolved as this is no longer mapped.

26.13 Remarkables Park Limited (807) also seek to update the planning maps to correctly identify the extent of the Airport Designation 2 and remove the airport designation from Lot 1 DP472825. This is supported by QAC. This issue was discussed in the s42A report of Ms Holden for Designations - Chapter 37 at para 6.12 to 6.15 where she states:

I confirm that the legal description of this piece of land formed part of Designation #2 within the ODP (although I note that legal descriptions were out of date) and was included within Schedule 37.2 of the PDP when notified. However, I do note that it was not listed within Section 2 of the NoR sent by QAC in relation to the rollover of the designation, which identifies the legal descriptions of all land contained within Designation #2...Further, Lot 1 DP 472825 appears to have been included within the PC35 proceedings and interim decision pertaining to Lot 6.

26.14 Ms Holden sought that the Panel obtain clarification from QAC on this matter. This was responded to in the legal submissions of Ms Wolt on behalf of QAC,⁷ where she stated at paragraph 123 that QAC confirms that this designation is no longer required and that Designation 2 can be uplifted from Lot 1 DP 472825.



Kim Banks
6 June 2017

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Legal Submissions for Queenstown Airport Corporation Limited (Requiring Authority for Designations 2 and 4, and Submitter 433 and Further Submitter 1340 for Designations 29, 64, 65, 230 and 576) dated 14 October 2016.