

BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH
I MUA I TE KOOTI TAIAO O AOTEAROA

ENV-2018-331-000018
ENV-2019-CHC-027

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of appeals under clause 14 of
Schedule 1 of the Act against
decisions of the Queenstown
Lakes District Council on Stage 1
of the Proposed Queenstown
Lakes District Plan

BETWEEN **QUEENSTOWN AIRPORT
CORPORATION**

AND **TRANSPower NEW ZEALAND
LIMITED**

Appellants

concerning Topic 1 Subtopic 4 of
Stage 1 of the Proposed
Queenstown Lakes District Plan

AND **AURORA ENERGY LTD
BOARD OF AIRLINE
REPRESENTATIVES NEW
ZEALAND INC
DARBY PLANNING
FEDERATED FARMERS
FII HOLDINGS LTD
HANSEN FAMILY
PARTNERSHIP
JACKS POINT AND OTHERS
REMARKABLES PARK LTD
ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF
NEW ZEALAND INC
SOHO SKI AREA LTD AND
BLACKMANS CREEK
SOUTHERN DISTRICT HEALTH
BOARD
TREBLE CONE INVESTMENTS
LTD
[cont]**

**UNIVERSAL DEVELOPMENTS
LTD
VODAFONE NEW ZEALAND
LTD, SPARK NEW ZEALAND
TRADING LTD, CHORUS NEW
ZEALAND LTD**

Section 274 Parties

AND

**TRANSPower NEW ZEALAND
LIMITED**

Appellant

AND

AURORA ENERGY LTD

Section 274 party

concerning Stage 2 of the
Proposed Queenstown Lakes
District Plan

AND

**QUEENSTOWN LAKES
DISTRICT COUNCIL**
Respondent

**UPDATED JOINT MEMORANDUM OF PARTIES IN SUPPORT OF CONSENT
ORDER**

TOPIC 1 SUBTOPIC 4 (REGIONALLY SIGNIFICANT INFRASTRUCTURE)

23 September 2019

 **Simpson Grierson**
Barristers & Solicitors

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MAY IT PLEASE THE COURT

1. This Updated Joint Memorandum replaces the Joint Memorandum filed by parties in support of consent order, dated 9 November 2018.
2. It also covers an additional appeal, being Transpower's appeal on Stage 2 of the PDP.
3. The parties respectfully request that the Court consider this Updated Joint Memorandum and the associated draft consent order, alongside the Memoranda and draft consent orders filed with the Court in relation to Topic 2, Subtopic 11, and Topic 17, Energy and Utilities. For the reasons set out in this memorandum in relation to 'other amenity landscapes', the parties consider the Court is best placed to issue any consent order, either at the same time as, or after the Court issues its Topic 2 decision on Rural Landscapes.

Stage 1 Appeal allocated to Topic 1, Subtopic 4

4. The Queenstown Lakes District Council (**Council**) notified its decisions on Stage 1 of the Proposed Queenstown Lakes District Plan (**PDP**) on 7 May 2018. Queenstown Airport Corporation (**QAC**)¹ and Transpower New Zealand Limited (**Transpower**)² appealed to the Environment Court. Parts of the appeals were allocated into Strategic Topic 1 Subtopic 4 "Regionally significant infrastructure".
5. Fourteen parties gave notice of their intention to be a party to the parts of the appeals in Topic 1 Subtopic 4³ and participated in Environment Court assisted mediation on 17 – 19 October 2018 (October 2018 mediation):
 - 5.1 Aurora Energy Ltd;
 - 5.2 Board of Airline Representatives New Zealand Inc;
 - 5.3 Darby Planning;
 - 5.4 Federated Farmers;
 - 5.5 FII Holdings Ltd;

¹ ENV-2018-CHC-093.

² ENV-2018-CHC-114.

³ In accordance with section 274 of the Resource Management Act 1991.

- 5.6 Hansen Family Partnership;
- 5.7 Jacks Point and Others;
- 5.8 Remarkables Park Ltd;
- 5.9 Royal Forest and Bird Protection Society of New Zealand Inc;
- 5.10 Soho Ski Area Limited and Blackmans Creek;
- 5.11 Southern District Health Board;
- 5.12 Treble Cone Investments Ltd;
- 5.13 Universal Developments Limited; and
- 5.14 Vodafone New Zealand Limited, Spark New Zealand Trading Limited, Chorus New Zealand Limited.

6. The PDP provisions directed to be mediated were as follows (new provisions sought to be added by QAC are in red text):

- 6.1 3.1 Purpose, Issue 1;
- 6.2 Strategic Objectives 3.2.1.9, 3.2.1.10 and Strategic Policies 3.3.36, 3.3.37;
- 6.3 Definition of "National Grid"; and
- 6.4 Objective 30.2.8 and Policy 30.2.8.1.

7. Following the October 2018 mediation the Council filed consent documentation (**2018 draft consent order**). On 28 March 2019 the Court issued a Minute (**Minute**) expressing some preliminary views on the 2018 draft consent order. The parties therefore resumed mediation on 8 and 9 August 2019.

8. During mediation in August 2019, the parties evaluated the 2018 draft consent order against the matters raised in the Minute. The parties were also informed by the Court's Topic 1 decision that was received just prior to the mediation. The parties have agreed to further amendments to address the matters raised by the Court in its Minute. The agreement includes:

- 8.1 Amendments to the matters listed in paragraph 6 above;
- 8.2 New provisions to be added to Chapters 3 and 30; and

8.3 Amendments and new provisions to be added to Chapter 30 provisions that are allocated to Topic 17, being the Energy and Utilities Chapter 30.

9. The 274 parties have agreed as far as they have an interest in the appeal points subject to this agreement. The provisions that the parties have agreed to are set out in the draft consent order attached to this memorandum. All parties agree that, together with changes to provisions allocated to Topic 17, as explained further below, the additional changes agreed to in the August 2019 mediation address the matters raised by the Court in its Minute.

Explanation of changes made compared to the 2018 draft consent order

Issue 1

10. In relation to 3.1. Purpose, Issue 1, the Court confirmed in its Topic 1 decision, the following:

Strategic Issue 1: Economic prosperity and equity, including strong and robust town centres, and the social and economic wellbeing and resilience of the District's communities may be challenged if the District's economic base lacks diversification.

11. The parties have considered the Court decision version of Issue 1. Consistent with the 2018 draft consent order, the parties agree that the words "and supporting infrastructure" should be added to the Court's decision version of Issue 1. Economic diversification and supporting infrastructure are both relevant to economic prosperity and equity.

SO 3.2.1.9

12. The Court in its Minute at [14] raised concerns that the phrase "managing adverse effects" in SO 3.2.1.9 would be ineffectual. The parties consider that the direction given as to how effects are to be managed, can in some situations appropriately be set out in the zone and district-wide chapters. This is returned to below in relation to SP 3.3.36 and SP 3.3.37.

13. The parties have agreed to amend SO 3.2.1.9 as follows (underlying text is decisions version):

Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs in a sustainable way and to maintain the quality of the environment. (also elaborates on SO 3.2.2 following).

14. The words “manage adverse effects”, a concern in the Court’s Minute, are removed from the objective. The parties note that SO 3.2.1.9 serves a broad purpose in so far as operating, maintaining and developing infrastructure. This approach is articulated by attendant strategic and other policies that both ‘provide for’ their functional needs (e.g. SP 3.3.36) while also seeking to manage their effects on the environment (refer in particular to suggested new Policy 30.2.7.A and existing Policy 30.2.7.1). The parties agreed amended wording is consistent with Objective 4.3 of the operative RPS 2019 which is “Infrastructure is managed and developed in a sustainable way” and the broad purpose of the PDP provisions.
15. The parties consider that utilising the words ‘in a sustainable way’ provides greater direction about the matters that need to be addressed in relation to infrastructure. How this is achieved with respect to RSI is then particularised through the other provisions in Chapter 3, 6 and in greater detail in Chapter 30. The provisions operate together as a package.

SP 3.3.36

16. SP 3.3.36 was agreed by the parties during the October 2018 mediation as an alternative to the new SO 3.2.1.10 sought in the QAC appeal.
17. In para [15] of the Minute the Court indicates that the drafting style used in the policy sits in contrast to the relatively clear focus in Policy 30.2.8.
18. To respond to the Court’s concerns, the parties have agreed to a new, more detailed policy for RSI to be located in Chapter 30 (**30.2.7.X, new RSI Policy**). This new RSI Policy will sit alongside the National Grid specific policies (**30.2.8.1, 30.2.8.2 and 30.2.8.3**), and a more general

Utilities policy (30.2.7.1) which is already in the decisions version of Chapter 30.

19. Together, these policies give effect to the Otago Regional Policy Statement (RPS), in particular Policy 4.3.3 (which recognises the functional needs of nationally and regionally significant infrastructure), Policy 4.3.4, (which seeks to manage effects of nationally and regionally significant infrastructure) and the National Policy Statement for Electricity Transmission (NPSET) (where relevant), and set out in some detail how the adverse effects of the National Grid, RSI, and utilities more generally, are to be managed. The proposed Policy 30.2.7.X creates a cascade for managing effects of RSI. This cascade acknowledges that the functional needs of RSI may mean that adverse effects may be unable to be avoided in all cases due to the nature of the RSI. Where avoidance is not possible the policy directs operators to take other steps to remedy and mitigate the effects.
20. In light of the new RSI Policy in Chapter 30, the parties have carefully considered the words “managing its adverse effects on the environment” in SP 3.3.36.
21. In relation to section 6(b) and 7(c) landscapes, how adverse effects of RSI are to be managed is provided for in Policy 6.3.3A and Policies 6.3.35 to 6.3.38 (which are provisions allocated to Topic 2, Subtopic 11). The parties carefully considered whether landscapes should be covered in Chapter 6, or the new RSI policy in Chapter 30. The parties agreed that landscape should continue to be covered by the RSI specific policies in Chapter 6, to ensure consistency, and remove any risk that contradictions would be created within the policy direction for RSI and landscapes.
22. In relation to other section 6 and 7 matters, how adverse effects are to be managed is provided for in new Policy 30.2.7.X, and decisions version Policy 30.2.7.1(a) to (e). A ‘hierarchy’ approach to management of effects has been agreed in the new RSI Policy, similar to the National Grid policy. However, it is important that the ‘take precedence’ policy that the parties have agreed to for the National Grid Policy 30.2.8.1, which was necessary in order to give effect to the NPSET, has not been applied to the new RSI Policy in Chapter 30.

23. Whilst the RPS provisions relevant to RSI do include a 'prevail in the event of conflict' (see Policy 4.3.4) clause the parties consider that this has been given effect to through Policy 30.2.7.X via the cascade for managing effects.
24. In addition, decisions version Policy 30.2.7.1(b) to (e), will continue to apply to the management of effects of RSI. It is only Policy 30.2.7.1(a), that is replaced by the new RSI Policy.
25. Although the new RSI Policy was considered and raised by the Court in its Minute on Topic 1, Subtopic 4, there is relief in Topic 17, Energy and Utilities, through a Queenstown Airport Corporation appeal point that asked for amendments to the utilities policy in chapter 30, which would in effect carve-out RSI. The effect of the Topic 17 QAC relief is very similar to the issues raised by the Court in relation to managing effects of RSI. Because the QAC relief is allocated to Topic 17, the agreed new RSI Policy is included in the consent order for Topic 17. Relevant objectives and policies in one place, for the Court's convenience, are as follows (red text = allocated to Topic 17, black text = allocated to Topic 1, Subtopic 4, green text = Stage 2 relief):

30.2.7 Objective - The adverse effects of utilities are managed having regard to functional needs and environmental values on the surrounding environments are avoided or minimised.

Policies

30.2.7.X Manage the adverse effects of regionally significant infrastructure by:

- a. seeking to avoid adverse effects on the values and attributes of the following:
 - i. Scheduled Significant Natural Areas, and those other areas that meet the criteria in Policy 33.2.1.8;
 - ii. Heritage features identified as Category 1 in the Schedule in Chapter 26;
 - iii. Wahi tupuna identified in the District Plan maps;
- b. seeking to avoid significant adverse effects on the values and attributes of the following:
 - i. Special Character Areas identified on the District Plan maps including the Arrowtown Residential Historic Management Zone;

- ii. Other Heritage features, settings, overlay areas or precincts that are not identified in (a.ii) above;
- c. where avoiding adverse effects on the values and attributes of (a), or avoiding significant adverse effects on the values and attributes of (b), is not practicable because of the functional needs of the infrastructure:
 - i. in relation to (a.i), ensure that the adverse effects on the values and attributes are avoided, remedied or mitigated so that the significant nature of the area is maintained;
 - ii. in relation to (b.ii), ensure that adverse effects on the values and attributes are remedied or mitigated, or where this is not practicable, consider the extent to which the activity implements the policies of Chapter 26.
 - ii. remedy or mitigate the adverse effects on the values and attributes;
- d. avoiding, remedying or mitigating other adverse effects.

Advice note: In relation to landscapes, Policies 6.3.3A and Policies 6.3.35 to 6.3.38 are relevant and apply to regionally significant infrastructure.

30.2.7.1 Manage the adverse effects of utilities on the environment by:

- a. for utilities other than regionally significant infrastructure, avoiding their location on sensitive sites, including heritage and special character areas, Outstanding Natural Landscapes and Outstanding Natural Features, and skylines and ridgelines and where avoidance is not practicable, avoid significant adverse effects and minimise other adverse effects on those sites, areas, landscapes or features;
- b. encouraging co-location or multiple use of network utilities where this is efficient and practicable in order to avoid, remedy or mitigate adverse effects on the environment;
- c. ensuring that redundant utilities are removed;
- d. using landscaping and or colours and finishes to reduce visual effects;
- e. integrating utilities with the surrounding environment; whether that is a rural environment or existing built form.

30.2.7.2 Require the undergrounding of new utilities servicing services ~~new areas of development,~~ other than the National Grid, where technically feasible.

30.2.7.3 Encourage the replacement of existing overhead services other than the National Grid, with underground reticulation or the

upgrading of the existing overhead services, where technically feasible.

30.2.7.4 Take account of economic and operational needs in assessing the location and external appearance of utilities.

30.2.8 Objective - The national significance of the National Grid is recognised by the facilitation of the ongoing operation, maintenance, development and upgrading of the National Grid, while subject to the adverse environmental effects on the environment of the National Grid, and on the National Grid, are network being managed.

Policies

30.2.8.1 ~~Enabling the use and development of the National Grid by managing its adverse effects by:~~

- ~~a. only allowing buildings, structures and earthworks in the National Grid Yard where they will not compromise the operation, maintenance, upgrade and development of the National Grid;~~
- ~~b. avoiding Sensitive Activities within the National Grid Yard;~~
- ~~c. managing potential electrical hazards, and the adverse effects of buildings, structures and Sensitive Activities on the operation, maintenance, upgrade and development of the Frankton Substation;~~
- ~~d. managing subdivision within the National Grid corridor so as to facilitate good amenity and urban design outcomes.~~

Recognise the benefits of the National Grid by:

- a. enabling the operation and maintenance of the National Grid;
- b. providing for the upgrade and development of the National Grid, while managing its adverse effects by:
 - i. seeking to avoid adverse effects on the values and attributes of the following:
 - A. Scheduled Significant Natural Areas, and those other areas that meet the criteria in Policy 33.2.1.8;
 - B. Outstanding Natural Landscapes and Features;
 - C. Rural Character Landscapes and other amenity landscapes;
 - D. Wahi Tupuna identified in the District Plan maps.
 - ii. where avoiding adverse effects on the values and attributes of the areas listed in (b)(i) above is not practicable, remedying or mitigating the adverse effects on those values and attributes;

- iii. Avoiding, remedying or mitigating other adverse effects;
- c. when considering the adverse effects on the upgrade and development of the National Grid, having regard to:
 - i. the extent to which measures to avoid, remedy or mitigate adverse effects may be constrained by functional needs;
 - ii. the extent to which adverse effects have been addressed through site, route or method selection;
 - iii. opportunities to reduce existing adverse effects;
 - iv. offsetting for residual adverse effects on indigenous biological diversity.

30.2.8.2 In the event of any conflict with:

- a. the objectives and policies in chapters 3, 6, 23, 24 and 33;
- b. Objectives 7.2.6, 8.2.5 and 9.2.6; or
- c. Policies 30.2.6.1 and 30.2.7.1;

Policy 30.2.8.1 takes precedence. The Assessment Matters (Landscape) in chapters 21 and 23 in this plan are relevant when implementing the policy.

30.2.8.3 Managing adverse effects on the National Grid by:

- a. only allowing new or extended buildings, structures and earthworks in the National Grid Yard where they will not compromise the operation, maintenance, upgrade and development of the National Grid;
- b. avoiding National Grid Sensitive Activities within the National Grid Yard and, to the extent reasonably possible, managing activities to avoid reverse sensitivity effects on the National Grid;
- c. managing potential electrical hazards, and the adverse effects of buildings, structures and National Grid Sensitive Activities on the operation, maintenance, upgrade and development of the Frankton Substation;
- d. managing subdivision within the National Grid Subdivision Corridor to avoid reverse sensitivity effects and to ensure that the National Grid is not compromised.

SP 3.3.37

26. In relation to SP 3.3.37, Policy 4.3.5 of the operative RPS 2019 is relevant. It says:

Policy 4.3.5 – Protect infrastructure with national or regional significance, by all of the following:

- a) *Restricting the establishment of activities that may result in reverse sensitivity effects;*
- b) *Avoiding significant adverse effects on the functional needs of such infrastructure;*
- c) *Avoiding, remedying or mitigating other adverse effects on the functional needs of such infrastructure;*
- d) *Protecting infrastructure corridors from activities that are incompatible with the anticipated effects of that infrastructure, now and for the future.*

27. The PDP has the following definition of “reverse sensitivity”:

Means the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the established activity.

28. The PDP also has definitions for “Activity Sensitive to Aircraft Noise (ASAN)”, “Activity Sensitive to Road Noise” (same definition as ASAN), and for “National Grid Sensitive Activities”.

29. The Court in its Minute at [18] asks whether the policy is intended to apply just to new incompatible activities, or as a restriction on existing activities. The Court also asks whether the management of effects is to apply to just their development, or to their continuance.

30. The parties agree that the policy is intended to apply to new incompatible activities, including the intensification of existing incompatible activities, not to existing incompatible activities. Incompatible activities can have *direct* effects (ie. traffic or pedestrian generation; glare from glasshouses; bird hazards from certain habitats/uses) as well as *reverse sensitivity* effects. The policy refers to “adverse effects of incompatible activities” so as to encompass all these potential effects (not just reverse sensitivity effects) and all incompatible activities (not just “sensitive activities”).

31. The parties consider that the drafting of the policy is appropriate, as it is further articulated in other PDP Chapters. For example, Objective 21.2.7 and Policies 21.2.7.1 to 20.2.7.4 (Rural Zone) address airports and activities sensitive to aircraft noise. Objective 7.2.2 and Policies 7.2.2.1 to 7.2.2.3 (Low Density Suburban Zone) also addressing this matter.
32. For new activities, the management spectrum for adverse effects could extend from avoidance to mitigation by design or location. It could extend beyond development to ongoing mitigation measures (ie. double glazing; mechanical ventilation; covenants etc).

Objective 30.2.8 and Policies 30.2.8.1, 30.2.8.2 and 30.2.8.3

33. The Minute does not express any concerns about these provisions. However, in assessing matters raised in the Minute on other provisions, the parties have agreed that the National Grid specific provisions could be better amended through the following:

33.1 Inclusion of “Wahi Tupuna identified in the District Plan maps” as a matter that Transpower must seek to avoid adverse effects on, in SP 30.2.8.1(b)(i)D. Wahi Tupuna are being notified on the Plan Maps, through Stage 3 of the PDP, in September 2019;

33.2 Addition of the words “values and attributes of the areas” and “values and attributes” in SP 30.2.8.1(b)(ii). This is considered to more clearly express that some of the resources listed in (b)(i) such as SNAs and wahi tapuna, are important because of their ‘attributes’, rather than ‘values’ which sits with ONL/Fs and section 7(c) landscapes;

33.3 Addition to SP 30.2.8.2, the National Grid ‘precedence policy’ of additional PDP provisions, which is necessary to give effect to the NPSET. The ‘precedence policy’ does not mean that the listed provisions do not apply, instead it means that Policy 30.2.8.1 takes precedence in the event of any conflict. The changes agreed at the August mediation are to include reference to:

- (a) Chapter 24, which is the Chapter 24 Wakatipu Basin Zone. Chapter 24 includes policies for section 7(c)

landscapes that may conflict with the National Grid Policy 30.2.8.1;

- (b) Objectives 7.2.6, 8.2.5 and 9.2.6. Transpower appealed these three policies, seeking changes to ensure that they gave effect to NPSET. This relief is allocated to Topic 17. Those three objectives (for example 7.2.6: Development efficiently utilises existing infrastructure and minimises impacts on infrastructure networks), apply to infrastructure beyond the National Grid. Therefore to avoid drafting a carve-out in each of the three residential zones, the parties agreed to include the three objectives into the 'precedence policy'.

Other amenity landscapes in Policy 30.2.8.1(b)(i)C

34. The parties note that they have agreed to the language "Rural Character Landscapes and other amenity landscapes" in both Policy 30.2.8.1(b)(i)C and Policy 6.3.37. Policy 6.3.37 is allocated to Topic 2, Subtopic 11.
35. Parts of the Rural Zone are identified on the Plan Maps by way of an overlay, as 'Rural Character Landscapes'. This reflects that they are section 7(c) landscapes. There are however other section 7(c) amenity landscapes within the District, that are not 'identified' on the plan maps by way of the Rural Character Landscape overlay. The intention is to capture those areas – for example, the Rural Residential Zone, the Wakatipu Basin Zone, parts of the Jacks Point Zone that are not ONL.
36. The parties respectfully note that the appropriateness of this language should be subject to consistency with the language, if any, adopted by the Court, in its Topic 2 decision. In issuing the attached draft consent order, the parties respectfully request that the Court consider whether the language "other amenity landscapes" remains appropriate, or some other terminology that appropriately captures all section 7(c) landscapes in the District.

Definition of “National Grid”

37. In the October 2018 mediation the parties agreed amendments to the definition of “National Grid”. These amendments were not queried by the Court in its Minute, and so no further changes are suggested.

Other matters

38. QAC have agreed to withdraw relief from its notice of appeal, and Transpower have agreed to withdraw relief from its notice of appeal and a number of section 274 interests. That relief is not required given the agreements reached as set out in the draft consent order.
39. All of the parties to this memorandum are satisfied that agreed provisions, proposed for the Court's endorsement, are within the scope of relief sought in the appellants' notices of appeal, fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Resource Management Act 1991, in particular Part 2.
40. The parties therefore respectfully request that the Court dispose of the appeal points allocated to Topic 1, Subtopic 4 by approving the provisions as set out in the attached draft consent order.

Stage 2 Appeal by Transpower

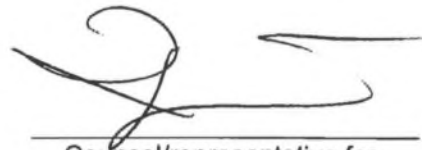
41. Transpower has filed an appeal on Stage 2 of the PDP. Aurora is the only section 274 party to this appeal.
42. The one appeal point in the Transpower Stage 2 appeal was agreed by way of an addition of “Chapter 24” into Policy 30.2.8.2, in the Energy and Utilities Chapter. This resolves all of Transpower's Stage 2 appeal.
43. Transpower, Aurora and the Council therefore respectfully request that the Court dispose of Transpower's Stage 2 appeal by approving the addition of Chapter 24, into Policy 30.2.8.2, as set out in the attached draft consent order. These three parties are satisfied that the agreed change to 30.2.8.2, proposed for the Court's endorsement, is within the scope of relief sought in the appellants' notices of appeal, fall within the Court's

jurisdiction, and conform to the relevant requirements and objectives of the Resource Management Act 1991, in particular Part 2.

Costs

44. No party has any issue as to costs.

DATED this 23 day of September 2019



Counsel/representative for
Queenstown Airport Corporation
(Appellant)

Counsel/representative for
Transpower NZ Limited
(Appellant)

S J Scott/ H L Baillie
Counsel for Queenstown Lakes
District Council
(Respondent)

Counsel/representative for Aurora
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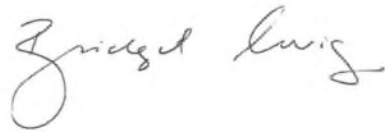
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ttName

Counsel/representative for Darby
Planning

Counsel/representative for
Federated Farmers

ttName

Counsel/representative for FII
Holdings Ltd

ttName

Counsel/representative for Hansen
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ttName

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Counsel/representative for
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Attachment: Draft consent order

Counsel/representative for Darby
Planning

Counsel/representative for
Federated Farmers

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Counsel/representative for
Remarkables Park Ltd

Counsel/representative for Royal
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Point and Others

Counsel/representative for
Remarkables Park Ltd

Counsel/representative for Royal
Forest and Bird Protection Society
of New Zealand Inc

BEFORE THE ENVIRONMENT COURT

ENV-2018-331-000018
ENV-2019-CHC-027

IN THE MATTER of the Resource Management
Act 1991

AND

IN THE MATTER of appeals under clause 14 of
Schedule 1 of the Act against
decisions of the Queenstown
Lakes District Council on Stage
1 of the Proposed Queenstown
Lakes District Plan

BETWEEN **QUEENSTOWN AIRPORT
CORPORATION**

AND **TRANSPower NEW
ZEALAND LIMITED**

Appellants

concerning Topic 1 Subtopic 4
of Stage 1 of the Proposed
Queenstown Lakes District Plan

AND **AURORA ENERGY LTD
BOARD OF AIRLINE
REPRESENTATIVES NEW
ZEALAND INC
DARBY PLANNING
FEDERATED FARMERS
FII HOLDINGS LTD
HANSEN FAMILY
PARTNERSHIP
JACKS POINT AND OTHERS
REMARKABLES PARK LTD
ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF
NEW ZEALAND INC
SOHO SKI AREA LTD AND
BLACKMANS CREEK
SOUTHERN DISTRICT
HEALTH BOARD
TREBLE CONE
INVESTMENTS LTD
[cont]**

**UNIVERSAL
DEVELOPMENTS LTD
VODAFONE NEW ZEALAND
LTD, SPARK NEW ZEALAND
TRADING LTD, CHORUS
NEW ZEALAND LTD**

Section 274 Parties

AND

**TRANSPower NEW
ZEALAND LIMITED**

Appellant

AND

AURORA ENERGY LTD

Section 274 party

concerning Stage 2 of the
Proposed Queenstown Lakes
District Plan

AND

**QUEENSTOWN LAKES
DISTRICT COUNCIL**

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge
of the Act **IN CHAMBERS** at

sitting alone under section 279

CONSENT ORDER

Introduction

1. The Court has read and considered the notices of appeal from Queenstown Airport Corporation (**QAC**)⁴ and Transpower New Zealand Limited (**Transpower**)⁵ against decisions by the Queenstown Lakes District Council (**Council**) on Stage 1 of the Proposed Queenstown Lakes District Plan (**PDP**), in particular the parts of those appeals

⁴ ENV-2018-CHC-093.
⁵ ENV-2018-CHC-114.

allocated into Strategic Topic 1 Subtopic 4 “Regionally significant infrastructure”.

2. Fourteen parties gave notice of their intention to become parties to the appeals under section 274 and participated in Environment Court assisted mediation on 17 – 19 October 2018 and 8 August 2019:

- 2.1** Aurora Energy Ltd;
- 2.2** Board of Airline Representatives New Zealand Inc;
- 2.3** Darby Planning;
- 2.4** Federated Farmers;
- 2.5** FII Holdings Ltd;
- 2.6** Hansen Family Partnership;
- 2.7** Jacks Point and Others;
- 2.8** Remarkables Park Ltd;
- 2.9** Royal Forest and Bird Protection Society of New Zealand Inc;
- 2.10** Soho Ski Area Limited and Blackmans Creek;
- 2.11** Southern District Health Board;
- 2.12** Treble Cone Investments Ltd;
- 2.13** Universal Developments Limited; and
- 2.14** Vodafone New Zealand Limited, Spark New Zealand Trading Limited, Chorus New Zealand Limited.

3. The Court has considered the memorandum of the parties dated [] September 2019 in which the parties respectfully requested that the Court approve the draft provisions attached to that memorandum.

4. The Court is making this order under section 279(1)(b) of the Act, such an order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- 4.1** all parties to the proceeding have executed the memorandum requesting this order; and
- 4.2** all parties are satisfied that all matters proposed for the Court’s endorsement fall within the Court’s jurisdiction, and

conform to relevant requirements and objectives of the Resource Management Act 1991, including in particular Part 2.

Order

5. Therefore, the Court orders, by consent, that the provisions of Chapters 2, 3 and 30 of the Queenstown Lakes District Plan, as set out in **Appendix 1** are approved.

6. There is no order for costs.

DATED at this day of 2019

Environment Judge

APPENDIX 1

(amendments shown in underline and ~~strikethrough~~ text)

CHAPTER 2 - DEFINITIONS

Functional needs

Means the locational, operational, practical or technical needs of an activity, including development and upgrades.

National Grid

Means the network that transmits high-voltage electricity in New Zealand and that is, ~~at the notification of this Plan, was owned and~~ operated by Transpower New Zealand Limited, including:

- a. transmission lines; and
- b. electricity substations.

CHAPTER 3 – STRATEGIC DIRECTIONS

Strategic Issue 1: Economic prosperity and equity, including strong and robust town centres, and the social and economic wellbeing and resilience of the District's communities may be challenged if the District's economic base lacks diversification and supporting infrastructure.

SO 3.2.1.9 Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs in a sustainable way ~~and to maintain the quality of the environment.~~ (also elaborates on S.O. 3.2.2 following)

SP 3.3.36 Provide for the functional needs of regionally significant infrastructure while managing its adverse effects on the environment. (relevant to S.O. 3.2.1.9)

SP 3.3.37 Protect regionally significant infrastructure by managing the adverse effects of incompatible activities. (relevant to S.O. 3.2.1.9)

CHAPTER 30 – ENERGY AND UTILITIES

30.2.8 Objective - The national significance of the National Grid is recognised by the facilitation of the ongoing operation, maintenance, development and upgrading of the National Grid, while subject to the adverse environmental effects on the environment of the National Grid, and on the National Grid, are network being managed.

Policies

30.2.8.1 ~~Enabling the use and development of the National Grid by managing its adverse effects by:~~

- ~~a. only allowing buildings, structures and earthworks in the National Grid Yard where they will not compromise the operation, maintenance, upgrade and development of the National Grid;~~
- ~~b. avoiding Sensitive Activities within the National Grid Yard;~~
- ~~c. managing potential electrical hazards, and the adverse effects of buildings, structures and Sensitive Activities on the operation, maintenance, upgrade and development of the Frankton Substation;~~
- ~~d. managing subdivision within the National Grid corridor so as to facilitate good amenity and urban design outcomes.~~

Recognise the benefits of the National Grid by:

- a. enabling the operation and maintenance of the National Grid;
- b. providing for the upgrade and development of the National Grid, while managing its adverse effects by:
 - i. seeking to avoid adverse effects on the values and attributes of the following:
 - A. Scheduled Significant Natural Areas, and those other areas that meet the criteria in Policy 33.2.1.8;
 - B. Outstanding Natural Landscapes and Features;

C. Rural Character Landscapes and other amenity landscapes;

D. Wahi Tupuna identified in the District Plan maps.

ii. where avoiding adverse effects on the values and attributes of the areas listed in (b)(i) above is not practicable, remedying or mitigating the adverse effects on those values and attributes;

iii. Avoiding, remedying or mitigating other adverse effects;

c. when considering the adverse effects on the upgrade and development of the National Grid, having regard to:

i. the extent to which measures to avoid, remedy or mitigate adverse effects may be constrained by functional needs;

ii. the extent to which adverse effects have been addressed through site, route or method selection;

iii. opportunities to reduce existing adverse effects;

iv. offsetting for residual adverse effects on indigenous biological diversity.

30.2.8.2

In the event of any conflict with:

a. the objectives and policies in Chapters 3, 6, 23, 24 and 33;

b. Objectives 7.2.6, 8.2.5 and 9.2.6; or

c. Policies 30.2.6.1 and 30.2.7.1;

Policy 30.2.8.1 takes precedence. The Assessment Matters (Landscape) in chapters 21 and 23 in this plan are relevant when implementing the policy.

30.2.8.3

Managing adverse effects on the National Grid by:

a. only allowing new or extended buildings, structures and earthworks in the National Grid Yard where they will not compromise the operation, maintenance, upgrade and development of the National Grid;

b. avoiding National Grid Sensitive Activities within the National Grid Yard and, to the extent reasonably possible, managing activities to avoid reverse sensitivity effects on the National Grid;

c. managing potential electrical hazards, and the adverse effects of buildings, structures and National

Grid Sensitive Activities on the operation, maintenance, upgrade and development of the Frankton Substation;

- d. managing subdivision within the National Grid Subdivision Corridor to avoid reverse sensitivity effects and to ensure that the National Grid is not compromised.