

In the Environment Court  
at Christchurch

In the Matter  
And

of the Resource Management Act 1991

In the Matter

of an appeal under clause 14(1) of the  
First Schedule to the Act

Between

QUEENSTOWN AIRPORT CORPORATION  
LIMITED

Appellant

And

QUEENSTOWN LAKES DISTRICT  
COUNCIL

Respondent

Notice of Appeal by Queenstown Airport  
Corporation Limited against a decision on the  
Proposed Queenstown Lakes District Plan –  
Stages 3 and 3B

Dated: 18 May 2021

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**To:** The Registrar  
Environment Court  
Christchurch

### Notice of Appeal

1. Queenstown Airport Corporation Limited (**QAC**) appeals against parts of decisions of the Queenstown Lakes District Council (**Respondent**) on the Proposed Queenstown Lakes District Plan – Stages 3 and 3B (**Proposed Plan**).
2. QAC made submissions and further submissions on the Proposed Plan.
3. QAC is not a trade competitor for the purposes of section 308D of the Act.
4. QAC received notice of the decisions on 1 April 2021.
5. The decisions were made by the Respondent by ratifying the recommendations of the Independent Hearings Panel (**Panel**).
6. The parts of the decisions that QAC is appealing (collectively referred to as the **Decisions**) are:
  - (a) Chapter 18A - General Industrial and Service Zone, including:
    - (i) Objective 18A.2.4;
    - (ii) New Policy 18A.2.4.X (omission), in respect of lighting and glare;
    - (iii) Rule 18A.4.7;
    - (iv) New Standard 18A.5.X (omission) in respect of acoustic treatment of existing buildings within the OCB;
    - (v) Rule 18A.5.9;
    - (vi) New interpretative Clause 18A.3.2.X (omission);
  - (b) Variations to Chapters 7 – Low Density Residential Zone, 8 – Medium Density Residential Zone, 9 – High Density Residential Zone, and 15 – Local Shopping Centre Zone, specifically:

- (i) Rule 7.5.13
  - (ii) Rule 8.5.11
  - (iii) Rule 9.5.10
  - (iv) Rule 15.5.9
- (c) Residential Design Guide;
- (d) Zoning of approximately 23 hectares of land at 827 Wanaka-Luggate Highway, legally described as Lot 1, DP 368240 (Windermere); and
- (e) The related decision reports of the Panel.

### Reasons for the Appeal

7. The reasons for QAC's appeal include, but are not limited to, the following:

#### QAC

8. Queenstown Airport is owned and operated by QAC, which is a network utility operator and requiring authority under the Resource Management Act. QAC is also a lifeline utility under the Civil Defence Emergency Management Act 2002 and an 'Airport Authority' under the Airport Authorities Act 1966 (**AAA**). It is required under the AAA to operate and manage its airports as commercial undertakings, including carrying out improvements where necessary.
9. QAC also has an obligation as a Council Controlled Trading Organisation (**CCTO**) to support the Queenstown Lakes District Council in providing good quality local infrastructure that is appropriate to meet current and anticipated future needs and circumstances.
10. QAC was incorporated in 1988 and since then has been responsible for the management and development of Queenstown Airport, striving to deliver an operationally safe and efficient airport with world-class facilities and an outstanding customer experience that reflects the best of the region.
11. In 2009, QAC was engaged by QLDC to manage Wanaka Airport's day to day operations, pursuant to a Management Services Agreement (**MSA**). The MSA was terminated upon QLDC entering into a 100-year lease with QAC in 2018, however

this lease was voided by the High Court in April 2021. Following this decision, QLDC has re-entered into a MSA with QAC. This MSA includes QAC's responsibility for undertaking Regulatory Planning services, including District Plan Reviews and resource consent monitoring).

12. QAC also provides property maintenance and management services at Glenorchy Airstrip on QLDC's behalf.
13. Providing for the safe and efficient operation of the airports is one of QAC's key responsibilities. With this responsibility comes an obligation to actively monitor proposed and existing land use activities within the area to ensure that the operational requirements of the airports remain suitably protected and provided for.

#### *Queenstown Airport*

14. Queenstown Airport is part of a national network of critical infrastructure assets which connect residents and visitors to the Southern Lakes region. QAC is responsible for managing this strategic asset on behalf of its two shareholders to ensure it is financially viable and sustainable, generates appropriate return, and contributes to the region's economic development and the wellbeing of its communities.
15. QAC owns a total of 152.5 hectares of land in and around Queenstown Airport.
16. More than 60 businesses and approximately 700 people work across the airport precinct providing a broad range of services.
17. Queenstown Airport is the subject to two designations in the Proposed Queenstown Lakes District Plan, for which QAC is the requiring authority, namely:
  - (a) Designation 2 – Aerodrome Purposes, the purpose of which is to protect the operational capability of the Airport, while at the same time minimising adverse environmental effects from aircraft noise on the community at least to year 2037; and,
  - (b) Designation 4 – The Approach and Land Use Control (transitional slopes and surfaces), the purpose of which is to provide obstacle limitation surfaces

around the Airport to ensure the safe operation of aircraft approaching and departing the Airport.

*NZ Standard and Plan Change 35*

18. In or around 2010, QAC promulgated Plan Change 35 (**PC35**) to the Operative District Plan. The purpose of PC35 was to put in place an appropriate management regime for land use around Queenstown Airport while providing for the predicted ongoing growth of the Airport. The plan change updated the Airport's noise boundaries (Air Noise Boundary (**ANB**) and Outer Control Boundary (**OCB**)) to provide for predicted growth in airport operations to 2037 and amended various zone provisions relating to land within those updated boundaries likely to be affected by increased airport noise.
19. The foundation of the approach adopted in PC35 was the New Zealand Standard for airport noise management and land use planning, NZS 6805, which is recognised as the key guiding document for managing aircraft noise at New Zealand airports.
20. The approach adopted under PC35 has largely been carried through into the Proposed Plan, including via Stages 1 and 2. QAC considers it imperative that Stage 3 continues this approach, for reasons of consistency, and to ensure that there is adequate protection of the Airport, as Regionally Significant Infrastructure, from potential reverse sensitivity effects, while also maintaining internal noise amenity for neighbouring land uses.
21. The General Industrial and Service Zone is the only Stage 3 land use zone located within aircraft noise boundaries at Queenstown Airport. The Decision largely upholds the NZS 6805 and PC35 approach, however some of the Chapter 18A rules require amendment to ensure that the regime can be properly and effectively implemented in this Zone.

*Obstacle Limitation Surface – New Advice Note*

22. Designation 4 for Queenstown Airport provides obstacle limitation surfaces around the Airport to ensure the safe operation of aircraft approaching and departing the Airport. This is achieved by means of height controls based on a series of geometric surfaces projecting up from the edges of the strips which surround the runways. The

designation seeks to prevent objects such as structures and trees from penetrating these surfaces in areas critical to operational safety and efficiency.

23. While the designation should be sufficient to control the extension of buildings and structures into these surfaces, QAC's experience is that the statutory obligation to obtain QAC's approval under section 176 of the Act is often overlooked when considering applications for resource consent.
24. QAC considers that a new advice note should be included in the General Industrial Zone chapter to draw plan users' attention to the requirements and obligations of the designation, noting that Chapter 38 - Open Space and Recreation Zones, includes similar note.

#### *Lighting and Glare*

25. Inappropriately managed lighting around Queenstown Airport has the potential to give rise to adverse lighting and glare effects on airport operations, particularly for pilots on approach or departure from Queenstown Airport.
26. QAC generally supports the inclusion of lighting and glare standards in Chapter 18A – General Industrial and Service Zone that seek to manage these effects, however additional provisions are required in this and other chapters of the Proposed Plan to ensure that these matters are properly addressed.

#### *Residential Design Guide*

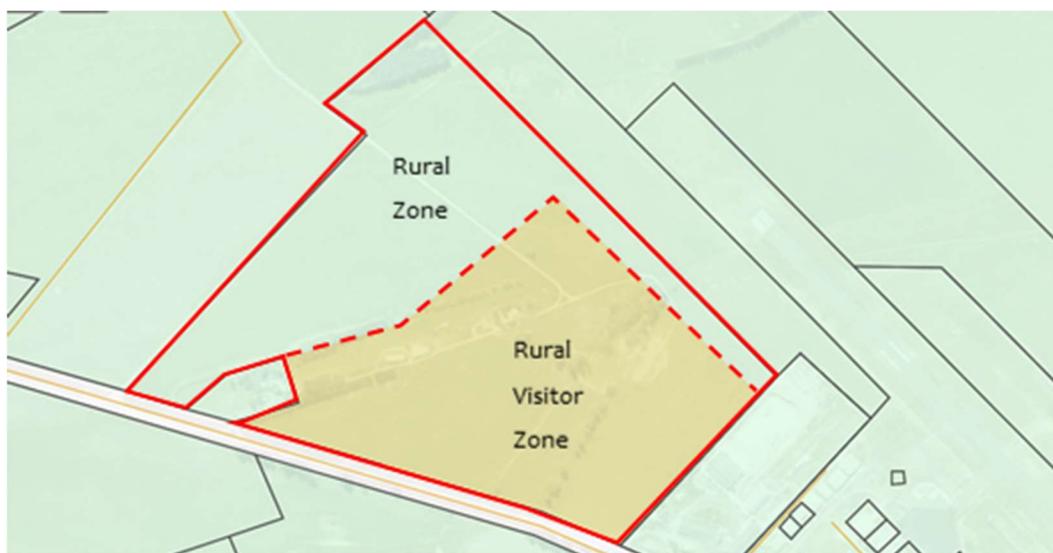
27. Some of the plant species listed in the residential design guidelines are bird attractants and therefore pose a potential safety risk to aircraft operations if planted within close proximity to the Queenstown Airport environs, including flight paths. The design guidelines acknowledge this and note that certain species are not appropriate 'in close proximity to' the airport, however this wording is vague. While the design guidelines are non-statutory, they will be used to inform and guide future development with the residential zones surrounding the airport. It is therefore appropriate to clarify the areal extent within which the listed species are not appropriate.

#### *Wanaka Airport*

28. Wanaka Airport is a general aviation airport with approximately 300 people working across approximately 20 businesses. These include flightseeing, flight training, helicopter maintenance, skydiving, private recreational aviation and attractions.
29. Wanaka Airport hosts the biennial Warbirds over Wanaka air show. In 2015, the airport joined a select group of NASA global test sites for its scientific space balloon programme.
30. Wanaka Airport is the subject of two designations in the Proposed Plan, as follows:
- (a) Designation 64 – Aerodrome Purposes, the purpose of which is to protect the operational capability of the Airport, while at the same time minimising adverse effects from aircraft noise; and
  - (b) Designation 65 – Approach and Land Use Controls, the purpose of which is to define essential airport protection measures, transitional slopes and surfaces, aircraft take off climb and approach slopes and airport height and obstacle clearances.

*Rural Visitor Zone (Windermere)*

31. QAC owns approximately 282 hectares of land in and around Wanaka Airport, including a 43-hectare parcel located at 827 Wanaka-Luggate Highway, legally described as Lot 1 DP 368240 (Windermere). This parcel has split zoning under the Operative District Plan, as shown in the figure below:



32. QAC acquired the Windermere land on the basis of the existing Rural Visitor Zoning and its associated development rights. The Decision on Stage 3B of the Proposed Plan downzones the Rural Visitor Zone portion of the land to Rural Zone. QAC opposes this and considers that the Decision does not adequately evaluate the costs of the downsizing under section 32 of the RMA, particularly in terms of evaluation of the costs of implementing the Rural Zone provisions or the potential benefits of an alternative zoning, and fails to recognise that there is an existing shortfall of available land on the southern side of the runway for general aviation purposes and all associated and ancillary activities.

#### *Further Reasons*

33. QAC considers that without the amendments sought in this appeal, the Decisions:
- (a) are not the most appropriate way to achieve the purpose of the Act, particularly when having regard to the efficiency and effectiveness of the provisions relative to other means;
  - (b) fail to adequately recognise or provide for Queenstown and Wanaka Airports as Regionally Significant Infrastructure;
  - (c) are not the most appropriate way to achieve the strategic and higher order objectives and policies of the Proposed Plan;
  - (d) fail to achieve the functions of the Respondent under section 31 of the Act in respect of the integrated management of the effects of the use and development of land and physical resources;
  - (e) fail to meet the requirements of section 32;
  - (f) do not represent an efficient use of land under section 7(a);
  - (g) fail to promote sustainable management of resources and will not achieve the purpose of the Act.

#### **Relief Sought**

34. QAC seeks the following relief:
- (a) Amend Objective 18A.2.4 as follows:

*“Activities and development within the Zone are undertaken in a way that does not adversely affect the amenity of other zones, or the functioning of Queenstown Airport.”*

- (b) Insert new policy 18A.2.4.X in Chapter 18A – General Industrial and Service Zone, as follows:

*“Policy 18A.2.4.X*

*Manage glare effects within the Zone to avoid adverse effects on aircraft operations at Queenstown Airport.”*

- (c) Delete Rule 18A.4.7.

- (d) Insert new Standard 18A.5.X, as follows:

*“Alterations and Additions to Buildings within the Outer Control Boundary*

*Alterations and additions to existing buildings located within the Outer Control Boundary that contain an Activity Sensitive to Aircraft Noise (ASAN) shall be designed to achieve an Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the 2037 Noise Contours.*

*Compliance shall be demonstrated by either installation of mechanical ventilation to achieve the requirements in Rule 36.6.2 or by submitting a certificate to the Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open. “*

- (e) Amend Standard 18A.5.9 as follows:

*“a. all exterior lighting, other than footpaths or pedestrian link amenity lighting, installed on sites or buildings within the zone, shall be directed away from adjacent sites, roads, flight paths and public places, and so as to limit the effects on the night sky.*

Amend the matter of discretion as follows:

*“a. Effects of lighting and glare on amenity values, the transportation network, aircraft operations and the night sky.”*

- (f) Insert new clause 18A.3.2.X in interpretative note 18A.3.2 – Interpreting and Applying the Rules as follows:

“18A.3.2.X

Activities, buildings and structures proposed to be established within the vicinity of Queenstown Airport are referred to Figures 1 and 2 of the District Plan web mapping application which identify the Airport Approach and Protection Measures, and Airport Protection Inner Horizontal and Conical Surfaces for Queenstown Airport. Land use restrictions associated within these areas are further described in Chapter 37: Designations, Part D.3. Persons who wish to undertake activities or develop buildings or structures which enter into these surfaces are advised to consult with the relevant requiring authority and the Civil Aviation Authority.

- (g) Insert new matter of discretion in Rules 7.5.13, 8.5.11, 9.5.10, 15.5.9 as follows:

*“Discretion is restricted to the effects of lighting and glare on: ...*

*e. aircraft operations”.*

- (a) Amend the Residential Design Guide, specifically the note on page 29, Part 11 – Landscape Materials and Planting, which states *“Species not appropriate for residential areas in close proximity to the airport but can be used elsewhere”* to clarify the areal extent within which the listed species are not appropriate.
- (b) Rezone the approximately 23-hectare parcel of land located at 827 Wanaka-Luggate Highway, legally described as Lot 1 DP 368240, identified in Figure 1, above (Windermere) from Rural Zone to:
- (i) Airport Zone, as first preferred relief; or
  - (ii) Rural Visitor Zone.

- (c) That the Proposed Plan be amended in a similar or such other way as may be appropriate to address the matters raised in this appeal; and
- (d) Any similar, consequential, or other relief as is necessary to address the issues raised in this appeal or otherwise raised in QAC's submissions.

**Attached Documents**

35. The following documents are **attached** to this notice:

- (a) A list of the names and addresses of persons to be served with a copy of this appeal;
- (b) A copy of QAC's submissions (**Appendix [1]**);
- (c) A copy of the Respondent's Decisions (**Appendix [2]**);

Dated this 18th day of May 2021



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Rebecca Wolt

Counsel for Queenstown Airport Corporation Limited

**Address for Service for the Appellant:**

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## Advice to Recipients of Copy of Notice of Appeal

### How to become a Party to Proceedings

You may be a party to the appeal if:

Within 20 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court electronically by email to [Christine.McKee@justive.govt.nz](mailto:Christine.McKee@justive.govt.nz). The requirement to lodge a signed original and one hard copy is waived.

Within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on the Queenstown Lakes District Council electronically by email to [dppappeals@qldc.govt.nz](mailto:dppappeals@qldc.govt.nz) and on the appellant by any email address provided in the notice of appeal.

Service on all other parties will be deemed to be effected by the Council uploading copies of section 274 notices received onto its website.

Your right to be a party to the proceedings in the Environment Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

### List of Parties to be Served with Appeal

**Respondent:** Queenstown Lakes District Council  
[dpappeals@qldc.govt.nz](mailto:dpappeals@qldc.govt.nz)

**Further Submitters:** Public Health South  
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