IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

Decision No. [2026] NZEnvC 322

IN THE MATTER	of the Resource Management Act 1991
AND	an appeal under clause 14 of the First Schedule of the Act
BETWEEN	FORTUNE FOUNTAIN GROUP LIMITED
	(ENV-2026-CHC-29)
	Appellant
AND	QUEENSTOWN LAKES DISTRICT COUNCIL
	Respondent

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

In Chambers at Christchurch

Date of Consent Order: 18 November 2026

CONSENT ORDER

A: Under s279(1)(b) of the RMA,[1] the Environment Court, by consent, orders that:

[1] Resource Management Act 1991.

(a) the appeal is allowed, to the extent that the Queenstown Lakes District Council are directed to amend the provisions of Ch 9 of the Queenstown Lakes Proposed District Plan as set out in Appendix 1, attached to and forming part of this order.

(b) the appeal is otherwise dismissed.

B: Under s285 of the RMA, there is no order as to costs.

REASONS

Introduction

[1] Fortune Fountain Group Limited (FFGL) appealed the decision of the Queenstown Lakes District Council (QLDC) on the Urban Intensification Variation to the Queenstown Lakes District Proposed District Plan (PDP or Variation). As notified, the Variation amended several PDP chapters and rezoned specific urban land to implement Pol 5 of the National Policy Statement on Urban Development 2020 (NPS-UD). Pol 5 generally supports greater building heights and residential densities in urban areas that have good access to jobs, shops, schools, community facilities, and public transport or where demand for housing or business activity is greatest.

[2] FFGL's appeal concerns the application of High Density Residential Zone (HDRZ) provisions to land on Frankton Road, Queenstown. It sought amendments to Pols 9.5.1.3 and 9.5.3, and retention of the increased height limit proposed for the HDRZ, on the basis that a more permissive approach to recession planes and height would better give effect to the NPS-UD and the purpose of the Variation.

[3] In its further submission FFGL supported relief that proposed removing recession plane controls on the south side of Frankton Road due to the constraints they impose on south-facing slopes.

[4] The Hearing Panel recommended that r 9.5.5[2] be updated to remove reference to flat sites and delete the notation excluding sloping sites from recession plane requirements. In its decision on the Variation, notified on 20 February 2026, QLDC accepted the Panel's recommendations.

[5] FFGL's notice of appeal sought that this decision be overturned and the reference to flat sites in r 9.5.5.1 be reinstated. Further, it sought reinsertion of the notation that no recession plane applies to sloping sites.

Agreement reached

[6] I have read and considered the consent memorandum of the parties dated 1 September 2026. It explains that, through their informal discussions, the parties have identified means of resolving the appeal in its entirety.

[7] The parties explain they agree that recession planes applying to sloping sites in the HDRZ could be an impediment to intensification and removing that impediment is more appropriate to implement the direction in the PDP and to give effect to Pol 5 of the NPS-UD.

[8] The agreement seeks to change the decision version Variation to:

(a) amend r 9.5.5.1 to clarify that the recession plane provisions apply only to flat sites;[3]
(b) insert a new rule 9.5.5.1A expressly confirming that no recession plane applies to sloping sites; and[4]
(c) consequentially renumber the Frankton North exclusion in r 9.5.5.2 to refer to that amended and new rule.

---

2 Rule 9.5.3 in the recommendation report.
3 The words 'For Flat Sites' are reinserted where the Decision deleted it in r 9.5.5.1.
4 Rule 9.5.5.lA.

Other relevant matters

[9] Gem Lake Limited and Ickworth Trust have given notice of an intention to become a party to the appeal under s274 of the RMA and have signed the memorandum setting out the relief sought.

[10] No party has sought costs, instead agreeing that costs should lie where they fall.

[11] The consent memorandum records the parties' assurances that there are no issues of scope and 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.

Outcome

[12] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the RMA purpose. Therefore, I make the orders sought.

Orders

[13] The court makes the orders under s279(1) RMA, by consent, rather than as a decision or determination on the merits under s297.

[14] This orders are made based on the joint memorandum recording the parties' full agreement.

[15] Based on the information provided and the assurances received, the court is satisfied that the orders will promote the purpose of the RMA. Accordingly, the appeal is allowed to the extent that QLDC is directed to amend the Ch 9 provisions of the PDP as set out in Appendix 1, attached to and forming part of this order.

[16] The appeal is otherwise dismissed and there is no order as to costs.



J J M Hassan
Environment Judge | Kaiwhakawā o te Kōti Taiao



Appendix 1

Agreed Amendments to Chapter 9 – High Density Residential Zone

Key for changes:
Text shown in ~~red strikethrough~~ indicates deletions.

Text shown in blue underline indicates insertions.

Chapter 9 – High Density Residential Zone

9.5.5	Recession plane (applicable to all buildings, including accessory buildings) 9.5.5.1 For Flat Sites from 2.5 metres above ground level a 45 degree recession plane applies to all boundaries, other than the northern boundary of the site where a 55 degree recession plane applies. Exclusions: a. gable end roofs may penetrate the building recession plane by no more than one third of the gable height; b. recession planes do not apply to site boundaries adjoining a Town Centre Zone, Business Mixed Use Zone fronting a road, or adjoining a park or reserve. 9.5.5.1A No recession plane for sloping sites. 9.5.5.2 Rules 9.5.5.1 and 9.5.5.1A do~~es~~ not apply at Frankton North. 9.5.5.3 At Frankton North all buildings, including accessory buildings, along the northern boundary of the zone where it adjoins the Rural Zone, Open Space Zone and Quail Rise Special Zone: For flat and sloping sites from 3 metres above ground a 45 degree recession plane applies.	RD – for boundaries where the High Density Residential zone applies on each side of the boundary. Discretion is restricted to: a. any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants; b. effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan); c. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties. d. Where Electricity Sub-transmission Infrastructure or Significant Electricity Distribution Infrastructure as shown on the District Plan web mapping application is located within the adjacent road and any proposed building is located within 9.5 meters of that road boundary, any adverse effects on that infrastructure. NC – for boundaries where there is a change of zone other than as specified in the exclusions.

THE SEAL OF THE ENVIRONMENT COURT NEW ZEALAND