

**IN THE MATTER** of the Resource Management Act  
1991 (the Act)

**AND**

**IN THE MATTER** of appeals under clause 14 of  
Schedule 1 of the Act against  
decisions of the Queenstown  
Lakes District Council

**BETWEEN** **DARBY PLANNING LIMITED**  
**MOUNT CHRISTINA LIMITED**  
**WATERFALL PARK**  
**DEVELOPMENTS LIMITED**  
**CLARK FORTUNE MCDONALD**  
**& ASSOCIATES**  
**UNIVERSAL DEVELOPMENTS**  
**LIMITED**  
**FII HOLDINGS LIMITED**  
*Appellants (continued over)*

**AND** **QUEENSTOWN LAKES**  
**DISTRICT COUNCIL**  
*Respondent*

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**JOINT MEMORANDUM OF PARTIES IN SUPPORT OF DRAFT CONSENT  
ORDER  
TOPIC 20: RURAL RESIDENTIAL / RURAL LIFESTYLE**

**8 May 2020**

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**OTAGO REGIONAL COUNCIL**  
Appellants

**BETWEEN**

**REAL JOURNEYS LIMITED  
MOUNT CHRISTINA LIMITED  
LAKE HAYES LIMITED  
OTAGO REGIONAL COUNCIL  
MARC SCAIFE  
MATAKAURI LODGE  
CHRISTINE BYRCH  
CLARK FORTUNE MCDONALD  
& ASSOCIATES  
UNIVERSAL DEVELOPMENTS  
LIMITED  
FII HOLDINGS LIMITED  
HANSEN FAMILY  
PARTNERSHIP  
REAL JOURNEYS LIMITED  
(TRADING AS GO ORANGE)  
TE ANAU DEVELOPMENTS  
LIMITED**

Section 274 parties

## MAY IT PLEASE THE COURT

### Introduction

1. The Queenstown Lakes District Council (**Council**) notified its decisions on Stage 1 of the Proposed Queenstown Lakes District Plan (**PDP**) on 7 May 2018.
2. The following sixteen (16) parties lodged appeals with the Environment Court, parts of which were allocated, or transferred, to Topic 20 – Rural Residential / Rural Lifestyle:
  - (a) Darby Planning Limited;<sup>1</sup>
  - (b) Mount Christina Limited;<sup>2</sup>
  - (c) Waterfall Park Developments Limited;<sup>3</sup>
  - (d) Otago Regional Council;<sup>4</sup>
  - (e) Clark Fortune McDonald & Associates;<sup>5</sup>
  - (f) Universal Developments Limited;<sup>6</sup>
  - (g) FII Holdings Limited;<sup>7</sup>
  - (h) Fred Van Brandenburg;<sup>8</sup>
  - (i) Royal Forest and Bird Protection Society of New Zealand;<sup>9</sup>
  - (j) Willowridge Developments;<sup>10</sup>
  - (k) Streat Developments Limited;<sup>11</sup>
  - (l) Barbara Kipke;<sup>12</sup> and
  - (m) Bill and Jan Walker Family Trust and Others;<sup>13</sup>
  - (n) Lesley and Jerry Burdon;<sup>14</sup>
  - (o) M& C Burgess; and<sup>15</sup>

1 ENV-2018-CHC-150-045, 046, 051  
2 ENV-2018-CHC-103-007, 008, 010  
3 ENV-2018-CHC-124-023, 028  
4 ENV-2018-CHC-079-006  
5 ENV-2018-CHC-065-006  
6 ENV-2018-CHC-101-011  
7 ENV-2018-CHC-084-007  
8 ENV-2018-CHC-071-005  
9 ENV-2018-CHC-133-014, 015  
10 ENV-2018-CHC-115-004  
11 ENV-2018-CHC-086-005, 004, 003  
12 ENV-2018-CHC-072-003  
13 ENV-2018-CHC-099-012, 013, 014, 016, 017, 020  
14 ENV-2018-CHC-091-010  
15 ENV-2018-CHC-136-011

(p) SYZ Investments Limited.<sup>16</sup>

3. A total of thirty-eight (38) parties gave notice of their intention under s 274 of the Resource Management Act 1991 to join the parts of the above appeals allocated to Topic 20.
4. The Environment Court directed that Court-assisted mediation for Topic 20 take place across 10 December to 13 December 2019.<sup>17</sup> The provisions directed to be mediated were certain provisions in Chapters 22 and 27, and a proposed new provision.
5. The following nine (9) appellants withdrew their interest in, and appeal points relating to, Topic 20 before mediation commenced:
  - (a) Royal Forest and Bird Protection Society of New Zealand (via memorandum of counsel dated 26 November 2019);
  - (b) Willowridge Developments (via email dated 28 November 2019);
  - (c) Fred Van Brandenburg (via memorandum of counsel dated 6 December 2019);
  - (d) Streat Developments Limited (via memorandum of counsel dated 29 December 2019);
  - (e) Barbara Kipke (via memorandum of counsel dated 23 October 2018);
  - (f) Bill and Jan Walker Family Trust and Others (via memoranda of counsel dated 2 November 2018 and 22 May 2019);
  - (g) Lesley and Jerry Burdon (via memorandum of counsel dated 15 November 2018);
  - (h) M&C Burgess (via memorandum of counsel dated 31 October 2018); and
  - (i) SYZ Investments Limited (via memorandum of counsel dated 31 October 2018).

<sup>16</sup> ENV-2018-CHC-130-020

<sup>17</sup> Amended Notice of Mediation dated 20 November 2019.

6. During mediation, Clark Fortune McDonald & Associates, Universal Developments Limited and FII Holdings Limited advised that they were not interested in the activity status of subdivision relating to the Rural Residential and Rural Lifestyle Zones. Those appeals can therefore be resolved in their entirety as part of Topic 7 (Subdivision).<sup>18</sup>
7. A number of section 274 parties withdrew their interest in Topic 20, or advised that they were no longer interested in the Topic 20 appeals prior to mediation commencing.<sup>19</sup>
8. In total, sixteen (16) parties participated in the mediation for Topic 20. In addition to those appellants who had not withdrawn their interest in Topic 20<sup>20</sup>, the respondent, and the following section 274 parties participated:
- (a) Matakauri Lodge Limited;
  - (b) Christine Byrch;
  - (c) Marc Scaife;
  - (d) Real Journeys Limited;
  - (e) Real Journeys Limited (Trading as Go Orange);
  - (f) Lake Hayes Limited;
  - (g) Hansen Family Partnership; and
  - (h) Te Anau Developments Limited.
9. Nine (9) section 274 parties, who had not withdrawn their interest in Topic 20, did not participate in the mediation. The parties to this joint memorandum have treated those parties as no longer having an interest in Topic 20. Those parties are:
- (a) Queenstown Park Limited;
  - (b) Remarkables Park Limited;
  - (c) Halfway Bay Lands Limited;
  - (d) Anderson Branch Creek Limited;

<sup>18</sup> ENV-2018-CHC-065-006; ENV-2018-CHC-101-011 and ENV-2018-CHC-084-007.

<sup>19</sup> Alexander and Jayne Schrantz, Cardrona Alpine Resort Limited, Dr John Cossens, Federated Farmers of New Zealand, The Otago Foundation Trust Board, Transpower New Zealand Limited, Joanna and Simon Taverner, Ladies Mile Consortium, Clive and Sally Geddes, Joan Williams and Eleanor and Richard Brabant, Tim and Paula Williams, Royal Forest and Bird Protection Society of New Zealand, Glen Dene Limited, Longview Environmental Trust, and Dennis and Ros Hughes.

<sup>20</sup> Otago Regional Council, Universal Developments Limited, Clark Fortune McDonald & Associates, FII Holdings limited, Mount Christina Limited, Waterfall Park Developments Limited and Darby Planning Limited.

- (e) Queenstown Country Club;
- (f) Anthony Hall;
- (g) Jandel Trust;
- (h) Terri Anderson; and
- (i) Queenstown Airport Corporation Limited.

10. This memorandum records the resolution of all of the appeal points allocated to Topic 20 (i.e. those referenced in footnotes 1-4 of this memorandum), and respectfully requests that the Court confirm those amendments and dispose of the relevant appeal points.

#### **Agreements reached ahead, or at the outset of, mediation**

11. Prior to mediation, an agreement was reached between relevant parties that would resolve the single Otago Regional Council (**ORC**) appeal point that was transferred to Topic 20 (reference ENV-2018-CHC-079-006). The Parties respectfully request that the Court consider the memorandum resolving the ORC appeal, dated 24 December 2019, alongside this memorandum. For ease of reference, the parties have attached (a copy of the ORC memorandum as **Appendix A**).
12. In reviewing the ORC memorandum the Court will notice that it has not been signed by all of the parties listed. This is because the ORC memorandum includes the names of all parties to the Topic 20 appeals, rather than only the parties that joined the ORC appeal. All parties who joined the ORC appeal and had a specific interest in the relevant appeal point (ENV-2018-CHC-079-006) (and have not subsequently withdrawn their interest) have signed the ORC memorandum.
13. The parties note that previous agreements had been reached in respect of the same ORC appeal point, which were recorded in the memoranda filed with the Court following the Topic 7 mediation (dated 24 June 2019), and Topic 22 mediation (dated 4 November 2019). Subject to the Court agreeing with the amendments set out in the three relevant memoranda, the parties request that the Court dispose of this appeal point by consent.

## **Consolidated amendments**

14. In order to streamline the Court's consideration of the agreements recorded in this joint memorandum and the ORC memorandum, the parties have agreed to consolidate all amendments into one iteration of the Chapter 22 and (relevant) Chapter 27 provisions. These amendments are shown in Appendix 1 to the draft consent order attached to this memorandum.
15. In considering the attached draft consent order, the parties request that the Court consider the reasons expressed in this memorandum and the ORC memorandum.

## **Agreements reached at mediation recorded in this joint memorandum**

16. During Court-assisted mediation, the parties in attendance identified a means by which the appeal points lodged by the following parties, and allocated to Topic 20 could be resolved by consent. This included agreement on appropriate amendments to a number of the provisions allocated to Topic 20.<sup>21</sup>
17. The appeal points resolved by way of this joint memorandum, and the amendments agreed by the parties, are as follows:

### *Subtopic 1 – General Provisions:*

- (a) Darby Planning Limited (ENV-2018-CHC-150-45), Mt Christina Limited (ENV-2018-CHC-103-007) and Waterfall Park Developments Limited (ENV-2018-CHC-124-023) by way of an amendment to Policy 22.2.1.4; and
- (b) Darby Planning Limited (ENV-2018-CHC-150-46), by way of an amendment to Policy 22.2.2.2.

21 All section 274 parties who participated in the mediation have agreed with the proposed amendments insofar as they have an interest in the appeal points subject to this agreement.

*Subtopic 4: Default activity status of subdivision*

- (a) Darby Planning Limited (ENV-2018-CHC-150-051), Mt Christina Limited (ENV-2018-CHC-103-010), Waterfall Park Developments Limited (ENV-2018-CHC-124-028), by way of amendments to Rule 27.5.8(a) and Assessment Matters 27.9.3.2(a), and (i).

- 18. The amended Chapter 22 and 27 provisions agreed by the parties are set out in Appendix 1 to the attached draft consent order.

**Appeal points resolved without any associated amendments**

- 19. During mediation, the following appeal points were resolved by way of an agreement to not pursue the relevant relief. Mt Christina Limited respectfully seeks that the Environment Court record the formal withdrawal of the following appeal points, without the need for a separate memorandum to that effect:

*Subtopic 3: Visitor Accommodation Rule 22.4.10*

- (a) Appeal point allocated reference ENV-2018-CHC-103-008, in relation to Rule 22.4.10.

**Consideration of the Topic 2: Rural Landscapes decisions**

- 20. Mediation for Topic 20 was held prior to the Environment Court issuing its interim decisions on Topic 2<sup>22</sup>. In order to ensure consistency in policy approach to the matters of Outstanding Natural Features and Outstanding Natural Landscapes (**ONF/L**), the parties have reflected on the appropriateness of certain provisions in Chapter 22 in light of the Topic 2 decisions.

<sup>22</sup> *Upper Clutha Environmental Society Incorporated v Queenstown Lakes District Council* [2019] NZEnvC 205.



21. There are four provisions allocated to Topic 20 that engage with the matter of ONF/L or landscapes more broadly, being Objective 22.2.1, Policy 22.2.1.4, rule 27.9.3.2(a) and assessment matter 27.9.2. The parties have agreed on the following outcomes for those provisions:

*Objective 22.2.1*

22. Following the Topic 2 decisions, the Parties consider that the following amendment should be made to Objective 22.2.1 (shown in underline and strike-through):

*22.2.1 Objective - The District's landscape quality, character and amenity values are maintained ~~and~~ or enhanced while enabling rural living opportunities in areas that can absorb development.*

23. The Parties consider this amendment is appropriate in order to recognise that the concepts of 'maintenance' and 'enhancement' should properly be expressed as alternatives. This amendment is considered to better align with the Topic 2 decisions, specifically:

- (a) Strategic Objective 3.2.1.8, which enables diversification (of which rural living may be an example) subject to certain landscape related qualifiers that are expressed using this formulation; and
- (b) Strategic Objective 3.2.5.2, which (for Rural Character Landscapes (**RCL**)) requires that visual amenity values are "maintained or enhance".

24. Although no Topic 20 appellant specifically sought changes to Objective 22.2.1, the Parties consider that jurisdiction for this amendment arises due to its direct relationship to other relief allocated to other appeal topics. For example, the appeal by Darby Planning Limited (**the Darby appeal**) (which was allocated across a number of appeal topics) sought amendments as part of Topic 2 to the Decisions Version of Strategic Objective 3.2.5.2, but did not seek to alter the 'maintained or enhanced' qualifier used in that provision.<sup>23</sup> The reasoning provided in the Darby appeal was as follows, supporting, albeit indirectly, the use of a 'maintain or enhance' qualifier:

<sup>23</sup> ENV-2018-CHC-150-007.

*Objective 3.2.5.2 establishes the overall direction in relation to the management of s7 landscapes within the rural zone, **Maintaining or enhances** the values of this landscape by directing subdivision, use or development into areas with greatest capacity to absorb change is appropriate, but not if that outcome is further qualified by also having to occur “without materially detracting from those values”. This qualification is in conflict with the policies relating to the management of special amenity landscape and highly valued natural features under the proposed Otago Regional Policy Statement and is vague and uncertain as to its meaning. If the values are to be **maintained or enhanced** through directing development into areas with greater capacity to absorb change, this sentence is not of assistance.*

25. The Darby appeal sought any alternative or consequential relief that would give effect to the matters raised in its appeal, which the Parties respectfully submit give rise to the potential for consequential changes to Chapter 22 to ensure alignment with the Topic 2 decisions. For completeness, the Parties to these consent documents note that the parties involved in other appeal topics have agreed similar amendments. See, for example, Topic 18, where a draft consent order will shortly be filed with the Court which seeks endorsement of the same amendment for a similarly worded objective in Chapter 21.<sup>24</sup>
26. Alternatively, the Parties respectfully submit that the amendment is warranted as a consequence of the approach taken by the Topic 2 decisions.

*Policy 22.2.1.4*

27. Policy 22.2.1.4 relates to the management of anticipated activities so that the visual amenity values of ONF/L are not diminished. The agreed amendments to Policy 22.2.1.4 are as follows (shown in underline and strike-through):

*Manage anticipated activities that are located ~~near~~ in proximity to Outstanding Natural Features and Outstanding Natural Landscapes so that they do not diminish their visual amenity*

<sup>24</sup> With the jurisdiction for that amendment arising from the appeal by Mt Cardrona Station Limited, ENV-2018-CHC-083-006, which also sought consequential or additional relief.

~~values qualities of these landscapes and their importance as part of the District's landscapes.~~

**28.** The Parties are agreed that the above amendments properly align with the Topic 2 decisions, in particular:

- (a) The replacement of 'near' with 'in proximity to' is considered to be consistent with Strategic Objective 3.2.5(iv) and Policy 6.3.2.7;
- (b) While Strategic Objective 3.2.5(iv) and Policy 6.3.2.7 require consideration of the extent to which subdivision, use or development 'compromises' the landscape values of ONF/L (rather than 'diminishes'), those provisions apply to all locations within the Rural Zone (RCL, 3.2.5iv, and within ONL and RCL, 6.3.2.7), rather than only within the Rural Residential and Rural Lifestyle Zones. Policy 22.2.1.4 is to be applied in this more specific context, in light of a zoning framework that provides for rural living activities.
- (c) Although rural living within the Chapter 22 zones is contemplated, the Parties agree that development should not be unfettered. Policy 22.2.1.4 recognises this, by requiring that development is located, designed or mitigated to be as sympathetic as practicable. At mediation, the Parties agreed that the appropriate test to achieve this outcome was for activities to not diminish the 'visual amenity values' of ONF/L.

*Rule 27.5.8 (a) and assessment matter 27.9.3*

**29.** The Parties consider that a reframing of rule 27.5.8(a) and assessment matter 27.9.3.2(a) is appropriate, in order to make it clear that the impact of subdivision within the Rural Residential and Rural Lifestyle Zones on the District's landscapes is to be considered. The agreed amendment to Rule 27.5.8(a) reads:

*All subdivision activities, unless otherwise provided for, in the District's Rural Residential and Rural Lifestyle Zones*

*Discretion is restricted to:*

- a. ~~in the Rural Lifestyle Zone, the location and size of building platforms and in respect of any buildings within those building platforms:~~
  - ~~i. external appearance;~~
  - i. visibility from public places; and
  - ii. landscape character as anticipated by the zone; ~~and~~
  - ~~iii. visual amenity.~~

30. The agreed amendment to assessment matter 27.9.3.2(a) reads:

~~the extent to which the design maintains and enhances rural living character, landscape values and visual amenity; The extent to which subdivision design (including the location of building platforms) manages effects on visibility from public places and effects on landscape character, as anticipated by the Zone.~~

31. As a degree of rural living development is contemplated within Rural Residential or Rural Lifestyle Zones, the assessment matter should be focused on the effects resulting from subdivision on the surrounding landscapes. The Parties agree that these effects should be considered from public places, and in light of the development anticipated by the relevant Zones.

32. The Parties agree that with this reframed matter of discretion and assessment matter, are consistent with the Topic 2 decisions, in particular the definition of rural living at 3.1B.7, and Strategic Objectives 3.2.5.1A (Exception Zones) and 3.2.5.2 (Rural Character Landscapes).

### **Amendments meet the relevant RMA requirements**

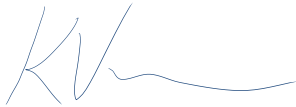
33. The Parties to this joint memorandum agree that the draft consent order and agreed amendments, set out in **Appendix 1** to the draft consent order, settle the parts of the Darby Planning, Mt Christina Limited and Waterfall Park Developments Limited appeals allocated to Topic 20.

34. The Parties are satisfied that the agreed amendments, 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 Act, including in particular Part 2.

35. The parties therefore respectfully request that the Court dispose of the relevant appeal points outlined in paragraph 17 by approving the agreed amended provisions appended to the draft consent order, and dispose of the appeal points recorded in paragraph 19 by confirming their withdrawal.
36. For completeness, the parties record that these consent documents resolve all of the outstanding appeal points allocated to Topic 20.
37. No party has any issue as to costs.

**DATED** this 8th day of May 2020



\_\_\_\_\_  
Counsel for Queenstown Lakes  
District Council  
(Respondent)

\_\_\_\_\_  
Counsel for Otago Regional  
Council  
(Appellant and section 274 party)



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Counsel for FII Holdings Limited  
(Appellant and section 274 party)



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Counsel for Clark Fortune  
McDonald and Associates  
(Appellant and section 274 party)



\_\_\_\_\_  
Counsel for Universal  
Developments Limited  
(Appellant and section 274 party)




\_\_\_\_\_  
Counsel for Darby Planning  
Limited  
(Appellant)

relevant requirements and objectives of the Act, including in particular Part 2.

35. The parties therefore respectfully request that the Court dispose of the relevant appeal points outlined in paragraph 17 by approving the agreed amended provisions appended to the draft consent order, and dispose of the appeal points recorded in paragraph 19 by confirming their withdrawal.
36. For completeness, the parties record that these consent documents resolve all of the outstanding appeal points allocated to Topic 20.
37. No party has any issue as to costs.

**DATED** this            day of            2020

\_\_\_\_\_  
Counsel for Queenstown Lakes  
District Council  
(Respondent)

  
\_\_\_\_\_  
Counsel for Otago Regional  
Council  
(Appellant and section 274 party)

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Counsel for FII Holdings Limited  
(Appellant and section 274 party)

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Counsel for Clark Fortune  
McDonald and Associates  
(Appellant and section 274 party)

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Counsel for Universal  
Developments Limited  
(Appellant and section 274 party)

\_\_\_\_\_  
Counsel for Darby Planning  
Limited  
(Appellant)



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Counsel for Mt Christina Limited  
(Appellant and section 274 party)



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Counsel for Hansen Family  
Partnership  
(Section 274 party)



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Matakauri Lodge Ltd  
(Section 274 party)

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Counsel for Real Journeys Limited  
(Section 274 party)



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Counsel for Real Journeys Limited  
(t/a Go Orange)  
(Section 274 party)



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Counsel for Lake Hayes Limited  
(Section 274 party)



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Counsel for Te Anau  
Developments Limited  
(Section 274 party)

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Marc Scaife  
(Section 274 party)

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Christine Byrch  
(Section 274 party)

**Attachment:** Draft consent order

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Counsel for Mt Christina Limited  
(Appellant and section 274 party)

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Counsel for Hansen Family  
Partnership  
(Section 274 party)



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Matakauri Lodge Ltd  
(Section 274 party)

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Counsel for Real Journeys  
Limited  
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Counsel for Real Journeys Limited  
(t/a Go Orange)  
(Section 274 party)

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Counsel for Lake Hayes Limited  
(Section 274 party)

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(Section 274 party)



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Counsel for Mt Christina Limited  
(Appellant and section 274 party)

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Counsel for Hansen Family  
Partnership  
(Section 274 party)

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Matakauri Lodge Ltd  
(Section 274 party)

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Counsel for Real Journeys Limited  
(Section 274 party)

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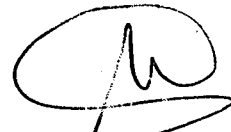
Counsel for Real Journeys Limited  
(t/a Go Orange)  
(Section 274 party)

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Counsel for Lake Hayes Limited  
(Section 274 party)


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Counsel for Te Anau  
Developments Limited  
(Section 274 party)



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Marc Scaife  
(Section 274 party)



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Christine Byrch  
(Section 274 party)

**Attachment: Draft consent order**

**IN THE MATTER** of the Resource Management Act 1991  
(the Act)

**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** **DARBY PLANNING LIMITED**  
**MOUNT CHRISTINA LIMITED**  
**WATERFALL PARK DEVELOPMENTS**  
**LIMITED**  
**CLARK FORTUNE MCDONALD &**  
**ASSOCIATES**  
**UNIVERSAL DEVELOPMENTS LIMITED**  
**OTAGO REGIONAL COUNCIL**  
Appellants

**BETWEEN** **REAL JOURNEYS LIMITED**  
**MOUNT CHRISTINA LIMITED**  
**LAKE HAYES LIMITED**  
**OTAGO REGIONAL COUNCIL**  
**MARC SCAIFE**  
**MATAKAURI LODGE**  
**CHRISTINE BYRCH**  
**CLARK FORTUNE MCDONALD &**  
**ASSOCIATES**  
**UNIVERSAL DEVELOPMENTS LIMITED**  
**FII HOLDINGS LIMITED**  
**HANSEN FAMILY PARTNERSHIP**  
**REAL JOURNEYS LIMITED (TRADING**  
**AS GO ORANGE)**  
**TE ANAU DEVELOPMENTS LIMITED**  
Section 274 parties

**AND** **QUEENSTOWN LAKES DISTRICT**  
**COUNCIL**  
Respondent

Environment Judge [redacted] sitting alone under section 279 of the Act **IN CHAMBERS**  
at CHRISTCHURCH

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**DRAFT CONSENT ORDER**

**TOPIC 20 - RURAL RESIDENTIAL / RURAL LIFESTYLE**

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- (b) all parties are satisfied that all matters 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 relevant requirements and objectives of the Act, including in particular Part 2.

**Order**

4. Therefore, the Court orders, by consent, that the provisions of Chapters 22 and 27 of the Proposed Queenstown Lakes District Plan, as set out in **Appendix 1** are approved.
5. There is no order for costs.

**DATED** at                                this            day of                                2019

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Environment Judge

## Introduction

1. The Court has read and considered the notices of appeal filed by the following parties against the 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 allocated into Topic 20 - Rural Residential / Rural Lifestyle:
  - (a) Darby Planning Limited;<sup>25</sup>
  - (b) Mount Christina Limited;<sup>26</sup>
  - (c) Waterfall Park Developments Limited;<sup>27</sup>
  - (d) Otago Regional Council;<sup>28</sup>
  - (e) Clark Fortune McDonald & Associates;<sup>29</sup>
  - (f) Universal Developments Limited; and<sup>30</sup>
  - (g) FII Holdings Limited;<sup>31</sup>
  
2. The Court has considered the joint memorandum filed respectfully requesting the resolution of the appeal point raised by the Otago Regional Council, dated 24 December 2019. The Court has also considered the memorandum filed in respect of the other appeals identified in paragraph 1 dated, 8 May 2020, in which the parties respectfully request that the Court approve the resolution of the appeal points and agreed amended provisions outlined in the respective memoranda, and collectively shown in the amended provisions attached to the joint memorandum dated 8 May 2020.
  
3. The Court is making this order under section 279(1)(b) of the Act, such 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:
  - (a) all parties to the proceeding have executed the memorandum requesting this order; and

25 ENV-2018-CHC-150-045, 046, 051, 047, 049, 050, 048,

26 ENV-2018-CHC-103-007, 008, 010, 009

27 ENV-2018-CHC-124-023, 028, 024, 025, 026

28 ENV-2018-CHC-079-006

29 ENV-2018-CHC-065-006

30 ENV-2018-CHC-101-011

31 ENV-2018-CHC-084-007

**APPENDIX 1**

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

**CHAPTER 22 – RURAL RESIDENTIAL AND RURAL LIFESTYLE**

**22.2.1 Objective - The District’s landscape quality, character and amenity values are maintained ~~and~~ or enhanced while enabling rural living opportunities in areas that can absorb development.**

22.2.1.4 Manage anticipated activities that are located ~~near~~ in proximity to Outstanding Natural Features and Outstanding Natural Landscapes so that they do not diminish their visual amenity values ~~qualities of these landscapes and their importance as part of the District’s landscapes.~~

**22.2.2 Objective - The predominant land uses within the Rural Residential and Rural Lifestyle Zones are rural and residential activities.**

22.2.2.2 Any development, ~~including subdivision~~ located on the periphery of residential and township areas, shall avoid undermining the integrity of the urban rural edge and where applicable, the urban growth boundaries by complying with relevant density requirements.

**CHAPTER 27 – SUBDIVISION AND DEVELOPMENT**

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<b>27.5.8</b>	<p>All subdivision activities, unless otherwise provided for, in the District’s Rural Residential and Rural Lifestyle Zones</p> <p>Discretion is restricted to:</p> <p>b. in the Rural Lifestyle Zone, the location and size of building platforms <del>and in respect of any buildings within those building platforms:</del></p> <ul style="list-style-type: none"> <li><del>ii. external appearance;</del></li> <li>iv. visibility from public places; <u>and</u></li> <li>v. landscape character <u>as anticipated by the zone;</u> <del>and</del></li> <li><del>vi. visual amenity.</del></li> </ul> <p>c. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions;</p>	RD

	<ul style="list-style-type: none"> <li>d. internal roading design and provision, relating to access and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots and on lot sizes and dimensions;</li> <li>e. property access and roading;</li> <li>f. esplanade provision;</li> <li>g. the adequacy of on-site measures to address the risk of natural and other hazards on land within the subdivision;</li> <li>h. fire fighting water supply;</li> <li>i. water supply;</li> <li>j. stormwater disposal;</li> <li>k. sewage treatment and disposal;</li> <li>l. energy supply and telecommunications including adverse effects on energy supply and telecommunication networks;</li> <li>m. open space and recreation;</li> <li>n. ecological and natural values;</li> <li>o. historic heritage;</li> <li>p. easements.</li> </ul>	
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**27.9.3 Restricted Discretionary Activity Subdivision Activities**

27.9.3.2 Assessment Matters in relation to Rule 27.5.8 (Rural Residential and Rural Lifestyle Subdivision Activities)

- a. ~~the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;~~ *The extent to which subdivision design (including the location of building platforms) manages effects on visibility from public places and effects on landscape character, as anticipated by the Zone.*  
....
- i. ~~the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;~~  
....
- o. the extent to which natural hazard risk is appropriately managed in accordance with the relevant provisions of Chapter 28.

~~the extent to which Policies 27.2.1.2, 27.2.4.4, 27.2.5.4, 27.2.5.5, 27.2.5.10, 27.2.5.11, 27.2.5.14, 27.2.5.16 and 27.2.6.1 are achieved.~~

## Appendix A



**BEFORE THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
ŌTAUTAHI ROHE**

**ENV-2018-CHC-079-006**

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**UNDER** the Resource Management Act 1991 (**Act**)

**IN THE MATTER** of appeals under Clause 14(1) of Schedule 1 of the RMA  
in relation to the proposed Queenstown Lakes District  
Plan

**BETWEEN** **OTAGO REGIONAL COUNCIL**  
Appellant

**AND** **QUEENSTOWN LAKES DISTRICT COUNCIL**  
Respondent

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**JOINT MEMORANDUM OF PARTIES IN SUPPORT OF DRAFT CONSENT  
ORDERS FOR TOPIC 20**

Dated *24 December* 2019

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**ROSS DOWLING MARQUET GRIFFIN  
SOLICITORS  
DUNEDIN**

Telephone: (03) 477 8046  
Facsimile: (03) 477 6998  
PO Box 1144, DX YP80015

Solicitor: N M Laws

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**JOINT MEMORANDUM OF PARTIES IN SUPPORT OF DRAFT CONSENT  
ORDERS FOR TOPIC 20**

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**May it please the Court:**

**Introduction**

- 1 This Joint Consent Memorandum concerns the appeal by the Otago Regional Council (ENV-2018-CHC-079-006), and in particular the isolated appeal point transferred to Topic 20.
- 2 This Memorandum is filed jointly on behalf of the Parties to Topic 20 mediation.
- 3 This Memorandum addresses the Chapter 27 appeal relief transferred to Topic 20 by the Court's memorandum of 23 August 2019.

**Background**

- 4 Queenstown Lakes District Council notified its decisions on Stage 1 of the PDP on 7 May 2018. Otago Regional Council lodged an appeal with the Environment Court, and a part of that appeal was allocated to Topic 20.
- 5 The Environment Court directed that mediation in relation to Topic 20 take place on 11-13 December 2019.
- 6 The parties considered the Chapter 27 amendments which were transferred to this topic.
- 7 Separate resolution of this matter is sought to promptly resolve this relatively non-contentious relief.
- 8 As such, the Parties agree that the amendments to the PDP as set out in **Appendix A** are appropriate, and resolve the appeal point transferred by the Court's 23 August memorandum. The amendments are consistent with those sought by the participants at Topic 7 and Topic 22 mediation.
- 9 The Parties consider that the resolution of the transferred appeal point is for the benefit of all parties and the Court, as they are not considered to be contentious nor matters of substance, and further time to resolve them during the Topic 20 mediation is unnecessary.
- 10 The Parties have satisfied themselves that the amendments sought to the decisions version of Chapter 27 as set out in **Appendix A** are:
  - 10.1 Within the scope of relief sought;

- 10.2 Fall within the Court's jurisdiction; and
- 10.3 Conform to the relevant requirements and objectives of the Act, including in particular Part 2.
- 11 To assist, an explanation in support of each amendment sought to the PDP pursuant to this agreement is contained in the column at **Appendix A**. Further detail is contained within the Topic 7 consent documentation filed on 24 June 2019.

**Consent Order Sought**

- 12 On the basis of this Memorandum, the appeal points in **Appendix A** will no longer form part of mediation for Topic 20.
- 13 The Parties agree there is no issue as to costs in relation to this matter.

Dated  20 December 2019

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N M Laws  
Counsel for the Otago Regional Council (Appellant)

Dated \_\_\_\_\_ 2019

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Katherine Viskovic/Heidi Baillie  
Counsel for Queenstown Lakes District Council (Respondent)

Dated \_\_\_\_\_ 2019

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Gavin Palmer  
General Manager of Operations for Otago Regional Council

- 10.2 Fall within the Court's jurisdiction; and
- 10.3 Conform to the relevant requirements and objectives of the Act, including in particular Part 2.
- 11 To assist, an explanation in support of each amendment sought to the PDP pursuant to this agreement is contained in the column at **Appendix A**. Further detail is contained within the Topic 7 consent documentation filed on 24 June 2019.

**Consent Order Sought**

- 12 On the basis of this Memorandum, the appeal points in **Appendix A** will no longer form part of mediation for Topic 20.
- 13 The Parties agree there is no issue as to costs in relation to this matter.

Dated 2019

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N M Laws  
Counsel for the Otago Regional Council (Appellant)

Dated 9 December 2019

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Katherine Viskovic/Heidi Baillie  
Counsel for Queenstown Lakes District Council (Respondent)

Dated 2019

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Gavin Palmer  
General Manager of Operations for Otago Regional Council

- 10.2 Fall within the Court's jurisdiction; and
- 10.3 Conform to the relevant requirements and objectives of the Act, including in particular Part 2.
- 11 To assist, an explanation in support of each amendment sought to the PDP pursuant to this agreement is contained in the column at **Appendix A**. Further detail is contained within the Topic 7 consent documentation filed on 24 June 2019.

**Consent Order Sought**


- 12 On the basis of this Memorandum, the appeal points in **Appendix A** will no longer form part of mediation for Topic 20.
- 13 The Parties agree there is no issue as to costs in relation to this matter.

Dated 2019

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N M Laws  
Counsel for the Otago Regional Council (Appellant)


Dated 9 December 2019

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Katherine Viskovic/Heidi Baillie  
Counsel for Queenstown Lakes District Council (Respondent)

Dated 24 Dec. 2019

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Gavin Palmer  
General Manager of Operations for Otago Regional Council

Dated 9 Dec 2019



Counsel for Clark Fortune McDonald and Associates (Appellant)

Dated 9 Dec 2019



Counsel for Fred Van Bradenburg (Appellant)

Dated 9 Dec 2019



Counsel for FII Holdings Limited (Appellant)

Dated 9 Dec 2019



Counsel for Streat Developments Ltd (Appellant)

Dated 9 Dec 2019



Counsel for Universal Developments Limited (Appellant)

Dated 9 Dec 2019



Counsel for Mt Christina Limited (Appellant)

Dated 2019



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Counsel for Willowridge Developments (Appellant)

Dated 9 Dec 2019



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Counsel for Waterfall Park Developments Limited (Appellant)

Dated 2019

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Counsel for Royal Forest and Bird Protection Society of New Zealand Inc  
(Appellant)

Dated 9 Dec 2019



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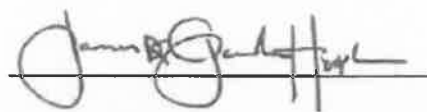
Counsel for Darby Planning Limited (Appellant)

Dated 2019

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Counsel for Federated Farmers of New Zealand (section 274 party)

Dated 6 December 2019



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Counsel for Alexander and Jayne Schrantz (section 274 party)

Dated 6 December 2019



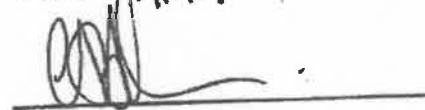
Mike Holm / Vicki Morrison-Shaw  
Counsel for Matakauri Lodge Ltd (section 274 party)

Dated 9 Dec 2019



Counsel for Cardrona Alpine Resort Limited (section 274 party)

Dated 10/12/19 2019



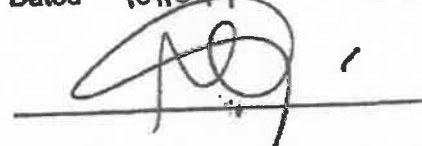
Counsel for Christine Byrch (section 274 party)

Dated 2019



Counsel for Halfway Bay Lands Limited (section 274 party)

Dated 10/12/19 2019



Counsel for Mark Scaife (section 274 party)

Dated 2019



Counsel for Queenstown Country Club (section 274 party)



Dated 2019

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Counsel for Matakauri Lodge Ltd (section 274 party)

Dated 2019

---

Counsel for Cardrona Alpine Resort Limited (section 274 party)

Dated 2019

---

Counsel for Christine Byrch (section 274 party)

Dated 10/12/19 2019



---

Counsel for Halfway Bay Lands Limited (section 274 party)

Dated 2019

---

Counsel for Mark Scaife (section 274 party)

Dated 10/12/19 2019



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Counsel for Queenstown Country Club (section 274 party)

Dated 9 Dec 2019



Counsel for Real Journeys Limited (section 274 party)

Dated 9 Dec 2019



Counsel for Real Journeys Limited (Trading as Go Orange) (section 274 party)

Dated 10 December 2019



Counsel for Remarkables Park Limited (section 274 party)

Dated 9 Dec 2019



Counsel for Anderson Branch Creek Limited (section 274 party)

Dated 9 Dec 2019



Counsel for Lake Hayes Limited (section 274 party)

Dated 2019



Counsel for Dr John Cossens (section 274 party)

Dated 2019

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Counsel for Transpower New Zealand Limited (section 274 party)

Dated 9 Dec 2019



Counsel for Hansen Family Partnership (section 274 party)

Dated 2019

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Counsel for Joan Williams, Eleanor Brabant and Richard Brabant  
(section 274 party)

Dated 2019

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Counsel for Anthony Hall (section 274 party)

Dated 2019

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Counsel for The Otago Foundation Trust Board (section 274 party)

Dated 2019

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Counsel for Terri Anderson (section 274 party)

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Dated 2019

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Counsel for Clive Geddes and Sally Geddes (section 274 party)

Dated 2019

---

Counsel for Tim Williams and Paula Williams (section 274 party)

Dated 9 Dec 2019



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Counsel for Te Anau Developments Limited (section 274 party)

Dated 10 December 2019



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Counsel for Queenstown Park Limited (section 274 party)

Dated 2019

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Counsel for Queenstown Airport Corporation Ltd (section 274 party)

**Appendix A – Relief to be incorporated into the Proposed District Plan**

Provision (PDP decision version)	Reason for relief	Relief sought
27.5.8	The inclusion of consideration of natural hazards is necessary for compliance with PORPS, and for QLDC PDP integrity (this amendment being consistent with Topic 7 agreed relief for 27.5.7, 27.7.1 and 27.7.5.2).	Amend Rule 27.5.8 to read: (f) the adequacy of on-site measures to address the risk of natural and other hazards on land within the subdivision;
27.9.3.2	The inclusion of consideration of natural hazards is necessary for compliance with PORPS, and for QLDC PDP integrity (this amendment being consistent with Topic 7 agreed relief for 27.9.3.1, 27.9.6.1 and to give effect to the inclusion of amendment to 27.5.8).	Amend Assessment Matters 27.9.3.2 to add: (p) the extent to which natural hazard risk is appropriately managed in accordance with the relevant provisions of chapter 28.