

BEFORE THE ENVIRONMENT COURT

Decision No. [2012] NZEnvC 195

IN THE MATTER of the Resource Management Act 1991 (**the Act**) and appeals pursuant to clause 14 of the First Schedule and a designation under section 174 of the Act

BETWEEN AIR NEW ZEALAND LTD
(ENV-2011-WLG-001)

QUEENSTOWN AIRPORT
CORPORATION LTD

(ENV-2011-WLG-003)

REMARKABLES PARK LTD AND
SHOTOVER PARK LTD

(ENV-2011-WLG-004)

WAKATIPU RESIDENTS AGAINST
AIRPORT NOISE INC

(ENV-2011-WLG-005)

Appellants

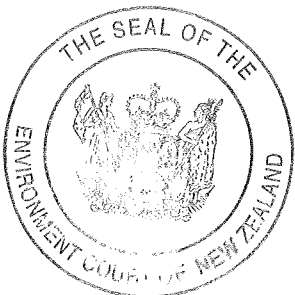
AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

BETWEEN AIR NEW ZEALAND LTD
(ENV-2011-WLG-014)

REMARKABLES PARK LTD AND
SHOTOVER PARK LTD

(ENV-2011-WLG-016)



WAKATIPU RESIDENTS AGAINST
AIRPORT NOISE INC

(ENV-2011-WLG-019)

Appellants

AND

QUEENSTOWN AIRPORT
CORPORATION LTD

Respondent

Hearing: at Queenstown on 23, 25, 26, 27 and 31 January 2012

Court: Environment Judge J E Borthwick
Environment Commissioner R M Dunlop
Environment Commissioner D J Bunting

Appearances: J Gardner-Hopkins and J Marriner for Air New Zealand Limited
A Dewar and R Wolt for Queenstown Airport Corporation Ltd
J Young for Remarkables Park Ltd and Shotover Park Ltd
I M Gordon for Queenstown Gateway Limited and Queenstown
Central Limited – a section 274 party
M Ray for Queenstown Lakes District Council
R Buckham (on 23 and 25 January 2012) and M Maxwell (on 26
January 2012) for Wakatipu Residents Against Airport Noise Inc
R Makgill for the Minister of Education – a section 274 party

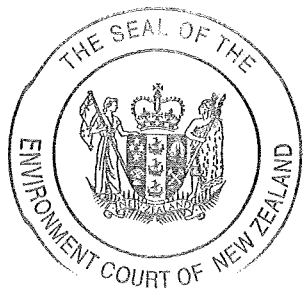
Date of Decision: 7 September 2012

Date of Issue: 10 September 2012

INTERIM DECISION OF THE ENVIRONMENT COURT

A: Subject to C and D by **28 September 2012** QAC, having conferred with the other parties, is to file and serve revised versions of PC 35 and Designation 2 amended to give effect to the changes directed in Table 1 of this Interim Decision.

B: The parties are to discuss, and if possible agree, the recommendations made by the court on the draft NMP. If the recommendations are agreed, then the draft



NMP is to be updated and filed in court by **28 September 2012**. If they cannot be agreed then the recommendations are to be determined by QAC in consultation with the QALC when the latter is convened.

- C: Where any party considers that the court has in Table 1 misapprehended any provision, leave is reserved to call further evidence with directions to be sought by **21 September 2012**.
- D: (i) By **21 September 2012** QAC is to file and serve a memorandum on the following topics:
- noise modeling software; and
 - the offer period for noise mitigation.
- (ii) In its memorandum QAC shall advise whether the court has jurisdiction to make the amendments shown in Table 1 on these two topics and, if there is no jurisdiction, then whether and how the concerns raised by the court can be addressed.
- (iii) QLDC is file and serve a memorandum responding to QAC by **28 September 2012**.
- (iv) If any party takes a different position to QAC or QLDC then they are to file and serve a memorandum by **5 October 2012**. Further directions will then likely follow.
- E: A final decision will issue when the matters referred to in [2] are determined and, should it be necessary, any matters arising from C and D are determined.

REASONS

Introduction

[1] These proceedings concern a proposed plan change initiated by Queenstown Airport Corporation Ltd (QAC) to amend the Queenstown Lakes District Plan by revising the existing air noise boundaries and introducing related land use controls and funding mechanisms for new noise mitigation measures. Associated with this are the



appeals on a notice of requirement issued by Queenstown Airport Corporation contemporaneously to amend the existing Aerodrome Designation.

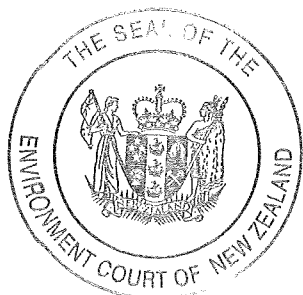
[2] This decision does not approve the proposed planning map 31a (recording the new air noise and outer control boundaries in the District Plan). A decision on the planning map will be made in conjunction with the QAC notice of requirement directly referred to the Environment Court (same division), to extend Designation 2 (the Aerodrome Designation). It is the court's intention to release contemporaneously final decisions on these proceedings, together with the direct referral. Similarly, this decision does not approve of the amendments proposed in relation to Remarkables Park Zone Structure Plan, although we find that we have jurisdiction under section 293 of the Act to amend the Structure Plan and that this is an appropriate case for our discretion to be exercised. A final decision and directions on the Structure Plan will be given when we release our decision on the QAC notice of requirement.

[3] While we are not tasked with approving the draft Noise Management Plan (NMP), we have considered its provisions carefully as it is a useful means to test the robustness of the proposed conditions of the designation. We comment on the draft NMP suggesting changes, but record here that it is a matter for the QAC to give formal approval of the NMP and the directions on the NMP we make are in the nature of recommendations.

The proceedings

[4] We comment briefly on the conduct of the hearing as this has had some bearing on our deliberations. The proceedings were set down for a two week hearing commencing 23 January 2012. On the first day of the hearing the parties advised that they were engaged in settlement discussions and that they hoped either to resolve or narrow the scope of the appeals.

[5] The court, which was sitting in Queenstown, granted the parties' application for a two day adjournment and directed that evidence be called in support of any agreed amendments to the plan change. In the event, the hearing reconvened on 26 January 2012 and concluded on 31 January 2012. While further evidence was adduced, the witnesses did not respond fully to the court's directions addressing the agreed changes in the context of the decisions under appeal and the evidence filed in support of the various



parties (which the court had pre-read). Following the commencement of the hearing we received several iterations of the plan change, designation and draft noise management plan.

[6] In this Interim Decision we have incorporated our findings as outcomes in Table 1. As will be apparent from this table, a number of outcomes proposed by the parties do not find favour with the court. This is because some of the changes agreed to by the parties were either not supported by their expert witnesses or are editorial changes required to correct spelling, tense, inconsistent use of terms and the ambiguous use of language. We consider these later changes obvious and have not commented further on them in the decision.

[7] It is possible given the manner that the case was conducted, that the court has misapprehended the purpose and effect of some of the provisions. If it has then the parties will be provided a further opportunity to respond, this time addressing, in particular, the technical evidence underpinning the provisions. We have released this Interim Decision so that these matters may be addressed ahead of the substantive decisions on plan change 19 and QAC's notice of requirement.

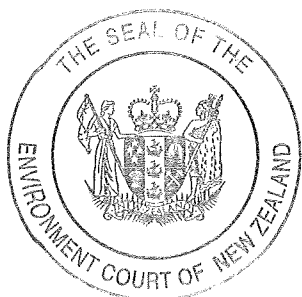
[8] Finally, we record that the Wakatipu Residents Against Airport Noise Inc formally withdrew from the proceedings on 26 January 2012.

The Law

[9] On appeal of a plan change the court must be satisfied that approving the plan change will achieve the statutory directions. These are summarised in the well known decision of *Long-Bay-Okura Great Park Society Incorporated v North Shore City Council*¹ which was recently updated in the decision of *High Country Rosehip Orchards Ltd and Ors v Mackenzie District Council*.² As we are also considering appeals against a notice of requirement we, subject to Part 2, must consider the effects on the environment of allowing the requirement, having particular regard to the matters set out in section 171(1) before deciding whether under section 174 to cancel or confirm the designation (with or without modifications to or new conditions). Finally, we are also to

¹ A078/2008.

² [2011] NZEnvC 387.



have regard to the District Council's decision following its hearing into the plan change and the notice of requirement.³

The documents under consideration

[10] To provide context we give a brief outline of the amendments proposed or new provisions sought in relation to the three documents that are the subject of this Interim Decision.

[11] The first of these documents is the Queenstown Lakes District Plan. The proposed plan change to extend the airport noise boundaries requires amendments to the existing objectives, policies and rules in a number of sections of the plan. These sections include the District Wide Issues; the Rural, Residential and Business and Industrial Areas; the Queenstown Airport Mixed-Use Zone; the Remarkables Park Zone; the Frankton Flats Zone; Transport; Definitions; and Appendix 1 (Queenstown Airport Sound Insulation and Ventilation Requirements). Planning map 31a is also to be amended recording the new air noise and outer control boundaries.

[12] The second document is Designation 2 – Queenstown Airport Corporation Limited Aerodrome Purposes. The notice of requirement proposes to amend the Aerodrome Designation to include new or amended conditions for the airport noise boundaries, noise predictions, noise monitoring, noise mitigation measures and provision for a noise management plan. We record that a second notice of requirement directly referred to the court by QAC (**Lot 6 NOR**), proposes additional amendments to the Aerodrome Designation.

[13] The final document is the Noise Management Plan which gives effect to a number of the conditions in the amended designations and sits outside of the District Plan.

[14] Finally, we note that QAC intends to uplift Designation 3⁴ (Air Noise Boundary Controls) following the release the of the court's final decision and assuming that the plan change is approved and the notice of requirement is confirmed.

³ Section 290A.

⁴ QAC submits the numbering of designations in the District Plan is confusing. We understood the relevant designation to concern air noise boundaries – see Transcript at [27].



The issues

[15] While the parties had reached substantive agreement on the provisions to be included in these three documents, at the commencement of the hearing it soon became apparent that as between their experts there were unresolved issues concerning the preparation of the annual airport noise contours (**AANCs**) and some details of the ongoing noise compliance monitoring. In particular:

- (a) the version of the noise modelling software to be used for establishing the AANCs, its relationship with the version used to establish the air noise boundary (**ANB**) and the outer control boundary (**OCB**) under plan change 35 (**PC35**), and whether a particular model and version should be specified in the Designation and/or the NMP;
- (b) the number of measurement points to be used for the noise compliance monitoring; and
- (c) the tolerance limit between the predicted and measured noise levels including the consequences of different limits.

[16] In addition to these matters, in its review of the parties' proposed amendments to the District Plan, Designation and Noise Management Plan, the court has identified a number of common provisions in these documents which require correction or clarification. The key ones being:

- (a) the method to be used for predicting the 60 dB Ldn and 65 dB Ldn AANCs which trigger QAC funding for the noise mitigation of existing buildings containing activities sensitive to aircraft noise (**ASANs**);
- (b) the AANCs which trigger QAC funded mechanical ventilation or acoustic insulation or both;
- (c) the distinction between the ANB and the 65 dB Ldn AANC for triggering QAC funded noise mitigation;
- (d) the offer period for noise mitigation; and
- (e) the location of the air noise boundary and outer control boundary.



[17] Finally, the parties have proposed amendments to the Structure Plan for the Remarkables Park Special Zone. An issue arose as to the court's jurisdiction to make the amendments proposed.

Airport Noise Issues

Introduction

[18] In relation to airport noise we heard from Christopher Day (for QAC); Malcolm Hunt (for RPL); Nevil Hegley (for QLDC) and Nigel Lloyd (for the Minister of Education). These witnesses are well known to the court from previous hearings and all are recognised as experts in their profession.

[19] Drawing substantially on Mr Day's primary evidence, we commence this section on airport noise issues by providing some background on the current New Zealand Standard used for airport noise management and land use planning, the noise modelling software, the genesis of the existing airport noise boundaries in 1995, the growth of the AANCs since that time and the need under PC35 to extend these existing noise boundaries to accommodate the predicted future growth of the airport.

[20] At paragraph 3.5 of his evidence-in-chief in a section headed **New Zealand Standard 6805** (this being New Zealand Standard NZS 6805:1992 *Airport Noise Management and Land Use Planning* (NZS6805)), Mr Day advised that airport noise contours "must" be calculated using the Integrated Noise Model (INM) software developed by the Federal Aviation Authority of America (FAAA) for predicting airport noise boundaries and contours.

[21] Indicative inputs to the INM include aircraft types, time of operation (day/night) runway usage, departure/arrival tracks and length of take-off. The FAAA is continually updating the model to take account of new aircraft models and improved algorithms so as to more accurately predict noise contours.⁵



⁵ Day EiC at [7.4].

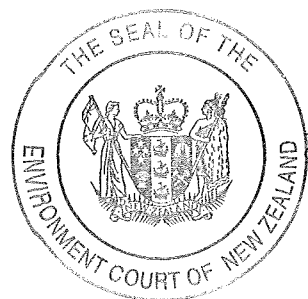
[22] The current noise boundaries and a related set of land use planning rules were incorporated in the District Plan in 1995 based on the then projected growth of the airport to 2015.

[23] During the QLDC hearing on submissions to the then proposed District Plan and a subsequent Environment Court appeal to consider the 1995 noise boundaries, Remarkables Park Limited's (**RPL**) noise experts disputed the Queenstown Airport Corporation's proposed boundaries as being too conservative and therefore too extensive. Eventually a compromise was reached between QAC and RPL, endorsed by the Environment Court, under which the boundaries were agreed to be located midway between the projections proposed by QAC and those proposed by RPL.

[24] Since that time, Mr Day's firm (Marshall Day and Associates) has been responsible for undertaking the Annual Airport Noise Contours (**AANC**) compliance monitoring, most recently in 2010.

[25] All of the noise experts have accepted that the INM software should be used for the PC35 noise modelling, that the Air Noise Boundary (**ANB**) contour should be set at 65 dB Ldn and that the Outer Control Boundary (**OCB**) contour should be set at 55 dB Ldn. This is consistent with the New Zealand Standard 6805.

[26] Mr Day notes that while INM version 5.1 was used to develop the 1995 airport noise boundaries, a later version 7.1a has been used by QAC for preparing the noise contours and boundaries proposed under PC35. This later version includes improved algorithms for predicting the lateral attenuation for propeller-driven aircraft and helicopters and a procedure for including terrain effects, described as the effects of screening and the distance between aircraft noise sources and receivers on the ground.⁶



⁶ Day EiC at [7.15].

The version of the noise modelling software

[27] The issue of the version of the INM to be used for producing the future AANCs was traversed by the court with the noise experts, Messrs Day, Hunt, Hegley and Lloyd having heard from them concurrently during the course of the hearing. We note that in its notice of appeal Air New Zealand Ltd supports QAC's decision to specify the noise prediction software, INM v7a, and delete the discretion afforded to the Queenstown Airport Liaison Committee (QALC) to determine the software type and version.⁷ No appeal opposes the decision of QAC on this matter.

[28] The QLDC first instance decision for PC35 did not rule on which version of the INM should be used for the AANC compliance monitoring. Instead, the decision on this was left to the QALC under the NMP.

The evidence

[29] At Appendix B of his evidence-in-chief Mr Day has included a plan titled *Figure 1 - 2010 Compliance Noise Contours – Summer* which shows that the 2010 65 dB Ldn contour is within the existing District Plan ANB. Conversely the 55 dB Ldn contour exceeds the existing OCB contour in some locations by a small margin (one decibel) and therefore exposes more land to 55 dB Ldn than the District Plan authorises. Mr Day advises that the version of the draft INM used to produce the 2010 AANCs did not take account of noise attenuation from the effects of screening from nearby buildings.

[30] By comparing this Figure 1 with the figure in Appendix L of Mr Day's evidence-in-chief titled *Figure 14 – 2010 Compliance Contours (INM 6.1 vs 7a)* we have concluded that the 2010 AANCs referred to in Figure 1 in the previous paragraph have been modelled using v6.1 as the relevant contours on the two figures appear to be identical. We make this observation because Mr Day told us that the 1995 District Plan noise boundaries were modelled using v5.1.

[31] Mr Day is of the strong view that in the future, for consistency, INM version 7a should be used for determining the AANCs and the related compliance monitoring (until 2037). He argues that if a later INM version was to be adopted and this predicted a



⁷ Air New Zealand notice of appeal at [10(c)].

noise level say 2 dB greater than that predicted under version 7a at the OCB, this increase would require the airport to cut back its activity to 60% of the anticipated operations.⁸

[32] Conversely, under this same scenario, he argues that for residents living at the OCB, a 2 dB increase in noise level from 55 dB Ldn to 57 dB Ldn would be barely discernible. Therefore he concludes that the degree of impact of a 2 dB increase in noise level on the airline industry would considerably outweigh the negative effect this would have on local residents.

[33] Referring again to the plan at Appendix L of Mr Day's evidence-in chief, this plan shows the difference in the 2010 compliance contours modelled using two versions of the INM, v6.1 and v7a. The 55 dB compliance contour from v6.1 is contained substantially within the current OCB (which was established using the earlier v5.1). Conversely the v7a 55 dB contour extends outside the OCB in two locations, at the northern end of the cross runway in an elongated strip some 800m long and over 150m wide (as scaled from the plan) and over the existing residential area south of the western end of the main runway. Mr Day uses this example to reinforce his opinion that if a different version of the software was to be used for compliance monitoring in the future (from the v7a used to produce the PC35 air noise boundaries), this could have the potential to trigger the imposition of severe restrictions on airport operations.

[34] Mr Hunt said he would favour using v7a for the compliance monitoring to avoid the potential for a later version to introduce unforeseen differences, but he would not "die in a ditch over it" (i.e. which version to use).⁹

[35] Mr Hegley confirmed that periodic monitoring is to be undertaken to correlate the AANCs (which are to be *predicted* from the model) with *measured* noise levels. The predicted levels are then adjusted by QAC to take account of any differences between the two. This is provided for in Condition 9 of the Designation which, as drafted by the parties, requires field measurements to be made at three yearly intervals to confirm that the measured levels are no more than 2 dB greater than the AANCs. If the

⁸ Day EiC at [11.4-11.12].

⁹ Transcript at [73].



difference is greater than 2 dB then the AANCs must be corrected for the amount in excess of 2 dB.

[36] Mr Hegley's evidence was that since v7a was used to predict the noise boundaries for PC35, this version has already been superseded by v7b and then v7c. If a correction to the AANCs is required, then an advantage of using the model current at the time the noise monitoring is undertaken should be that this will lead directly to a more accurate answer. He concluded by saying that in his view, there should be flexibility in specifying which model is to be used. This would forestall the possibility of the need for QAC to have to seek a change in the Designation condition if a particular model was specified now and this needed to be changed sometime in the future because its application was proving to be problematic.¹⁰

[37] Mr Lloyd said that he did not wish to comment on this issue as it was outside of his brief.

[38] All of this may be summarised as follows:

- all of the experts accept that the PC35 noise boundaries for Queenstown Airport should be predicted using v7a of the INM modelling software;
- the INM software is updated at regular intervals to refine the accuracy of its predictions with v7a having already been superseded by v7b and then v7c;
- Mr Day's example of the predictions of the 2010 noise contours using v6.1 and v7a highlights the differences which can occur in the locations of the noise contours predicted under different versions of the software;
- on this basis, he argues that if INM versions later than v7a were to be used for predicting future AANCs, there is the potential for these AANCs to be outside those predicted by v7a and in the extreme, beyond the PC35 noise boundaries;
- if this was to eventuate, airport operations would need to be curtailed at substantial disbenefit to the airport and the airlines;



¹⁰ Transcript at [233].

- Mr Day therefore argues strongly that INM v7a should be specified both in the Designation and the NMP with this model and version to be used for all future AANC predictions;
- the QLDC first instance decision for PC35 was for the choice of noise modelling software for ongoing noise compliance monitoring to be made by the QALC under the NMP.

Discussion and findings on the noise prediction model

[39] Despite Mr Day’s statement that the INM software “must” be used for the prediction of the noise contours, we note that this is not mandatory. NZS 6805 at Clause 1.4.3.1 states:

It is recommended that a minimum of a 10 year period be used as the basis of the projected contours, and their location may be estimated for planning purposes using the FAA Integrated Noise Model or other appropriate models. [our emphasis]

[40] The noise boundaries to be incorporated in the District Plan under PC35 have been predicted to 2037, or some 25 years from now. It seems inevitable that at times within this 25 year period improved and more accurate airport noise modelling techniques will be developed to replace the INM. In addition, as evidenced by the progressive release of new versions, the INM itself is constantly being upgraded to improve its accuracy for predicting airport noise contours.

[41] If new and improved models and techniques show that v7a is under-predicting the AANCs, then the community who live around the airport must be entitled to the benefits and protection that these more accurate predictions would provide. If the use of a more accurate prediction model identifies that the 55 dB Ldn and/or 65 dB Ldn AANCs are falling outside the PC35 OCB and/or ANB, then this should trigger the need for QAC to either modify its operations to achieve compliance or alternatively to seek a further plan change to modify the noise boundaries.

[42] We therefore agree with the decision of the first instance commissioners that the noise modelling software for ongoing AANC compliance monitoring should not be specified in the Designation – or at least there is potential to upgrade as Mr Day



suggests. We recommend that the QALC should have the flexibility in the NMP to require that future predictions be modeled using new or improved software which might supersede INMv7a.

[43] We do not have the parties' views on whether the court has jurisdiction to either delete or amend Condition 8 of the Designation in this regard. There would be little point providing for this in the draft NMP if it is inconsistent with the Designation. We therefore seek the parties' views on whether the court has jurisdiction to amend the Designation. In the meantime, these findings are recorded in Table 1.

Noise compliance monitoring, the number of measurement points and tolerance limits

[44] The parties' proposed Condition 9 of the Designation is as follows:

Every three years, QAC shall undertake a monitoring programme and shall check that measured levels are no more than 2 dB greater than the AANCs. The monitoring programme shall include the following measurements within a three year period including: a minimum of one month summer and one month winter at each of two measurement locations determined by the QALC. The AANCs shall be corrected for any differences from the measurements greater than 2 dB.

[45] In his evidence, Mr Hunt is of the opinion that the proposed 2 dB tolerance limit is too great.¹¹ To support this, he notes if there was a 2 dB tolerance limit at the ANB, this could accommodate 60% more air traffic and that if the tolerance limit was 3 dB at the ANB, this would be equivalent to a doubling of the air traffic. He therefore proposed that the tolerance limit between the predicted noise levels and the measured noise levels should be restricted to 1 dB.

[46] Each of the noise experts was therefore asked for their opinion on the proposed compliance monitoring (except for Mr Lloyd who responded that, as his brief was specific to Ministry of Education issues, that he reserved his position on questions relating to compliance monitoring).

[47] In response to a question from the court, Mr Hunt reiterated the opinion given in his evidence that the proposed 2 dB tolerance "might be a bit coarse", although he did not have a fixed view on "what are the right numbers".¹² He went on to say that in his

¹¹ Hunt EiC at [62].

¹² Transcript at [222].



opinion, the tolerance limit should be a matter for decision by the QALC as part of the NMP, (with the QALC representing the QAC, QLDC, the airlines and the community), rather than this being included as a condition in the Designation. He would accept a tolerance limit of 2 dB in the NMP on the basis that there was a provision to modify this limit in the future if the QALC found this to be necessary.

[48] Mr Hunt therefore proposed that the wording of Designation Condition 9 be limited to requiring QAC to undertake a noise monitoring programme every three years in accordance with the draft NMP, with the more detailed provisions of this programme being included in the draft NMP.

[49] Mr Hegley also considered that 2 dB might be “a bit broad” as a tolerance limit between the predicted and measured noise levels and that, as the predicted noise contours are in 1 dB steps, a 1 dB step would seem logical. He agreed that the choice of 1 dB or 2 dB could impact on the timing of when QAC provided insulation for a particular property although he noted that this would only be what he described as being a temporary issue.¹³ As to whether the detail of the noise monitoring should be in Condition 9 of the Designation or the draft NMP, Mr Hegley considered that the “bones” should be specified in the Designation with a full description to be included in the draft NMP.

[50] Mr Day advised that while he agreed with the currently proposed drafting of Condition 9, he would also accept Mr Hunt’s proposal for a modification to the condition which placed more reliance on the NMP.¹⁴ On the issue of the number of measuring points to be used for the compliance monitoring, Messrs Hunt, Hegley and Day all agreed that as opposed to specifying only two measurement points, there would be greater flexibility for future monitoring if the provision was for two points “as a minimum”.

[51] Mr Lloyd did not wish to comment on these particular noise issues as his brief of evidence had been restricted to other matters.



¹³ Transcript at [224].

¹⁴ Transcript at [226].

Discussion and findings on noise compliance monitoring and measurement points

[52] There was general agreement among the noise experts that the wording of Condition 9 of the Designation should be limited to requiring QAC to undertake a noise monitoring programme every three years in accordance with the NMP, with the more detailed provisions being included in the NMP.

[53] The experts also agreed that the proposed requirement for two compliance monitoring noise measurement points be replaced with a requirement that there be a *minimum* of two points with the QALC to have the discretion under the noise monitoring plan to require measurements to be made at more than two points.

[54] We acknowledge that the cost for QAC of undertaking each set of noise measurements could well be significant. On the other hand, QAC also has a very real responsibility to protect the amenity of those who live and work around the entire perimeter of the airport. We take cognisance of the direct referral proceedings, also amending Designation 2 and dealing with the effects of airport noise. In this regard Mr Hunt cautioned against approving now the Noise Management Plan ahead of a decision on the direct referral.¹⁵ While we did not hear evidence on the Noise Management Plan in those other proceedings, we did hear extensive evidence as to the effects of noise at three different localities; namely plan change 19, Remarkables Park Zone and Frankton (at the head of the Lake).

[55] We have therefore decided that rather than limiting the noise measurements to a minimum of two locations, there should be a minimum of three locations to include at least the Frankton residential area at the western end of the airport, the Remarkables Park Zone on the southern side and the Frankton Flats area on the north-eastern side in the vicinity of plan change 19.

[56] We accept that the exact measurement positions in each of these locations should be determined by the QALC under the NMP. Our Table 1 includes an amended Condition 9 of the Designation to reflect this decision.

¹⁵ Transcript at [260].



Discussion and findings on tolerance limits

[57] We now consider the issue of the tolerance limit to be set for the difference between the predicted and measured noise levels including the potential consequences of different limits.

[58] In his evidence, Mr Day argues very strongly for a limit of 2 dB whereas Mr Hunt argues for 1 dB.

[59] There did not seem to be any disagreement among the experts that a noise level 2 dB greater than that predicted at the ANB could accommodate 60% more air traffic and that a level 3 dB greater could accommodate a doubling of the traffic. On the other hand, if it became necessary to reduce the predicted noise level by 2 dB, this would require QAC to reduce the volume of air traffic by around 60%.

[60] As noted, Mr Day argues that a 2 dB increase in noise level at the OCB would be barely discernible to residents whereas there would be very severe consequences for QAC if it had to reduce air traffic volumes by 60% to accommodate a 2 dB reduction in the noise level.

[61] Mr Hunt indicated that he was prepared to accept the compromise for the Designation to specify a 2 dB limit with a qualification allowing the QALC to vary this limit in the future. Mr Hegley agreed that a 2 dB limit might be “a bit broad”. He noted that as the noise prediction contours are in 1 dB steps, a 1 dB tolerance would seem more logical although he would be prepared to accept the compromise proposed by Mr Hunt. Likewise, while arguing strongly for a 2 dB limit, Mr Day said he would be also prepared to accept the “Hunt” compromise.

[62] We do not agree with the compromise reached between the noise experts. While an increase in the noise level of 2 dB might be barely discernible to residents as an acoustic effect, a 60% increase in air traffic would involve a large number of additional aircraft movements which would have a very significant effect on the amenity of their daily lives. This includes, but is not limited to, the Remarkables Park Zone.

[63] Giving QALC the right to vary the limit in the future is also unacceptable, as this would transfer responsibility for a very significant decision under the plan change from the court to the QALC.



[64] We see considerable merit in Mr Hegley's suggestion that as QAC's 2037 noise prediction contours are at 1 dB steps, it would be consistent if the tolerance limit between the predicted sound levels and the measured levels is also set at 1 dB.

[65] For these reasons we have decided that the 2 dB tolerance limit proposed in Condition 9 of the Designation should be replaced with 1 dB with no qualification allowing this limit to be varied by the QALC.

[66] To provide for flexibility should unforeseen problems arise, the court has also decided that the wording of the proposed Designation condition which provides for noise monitoring to be undertaken every three years should be amended to state that this monitoring is to be undertaken at *least* every three years.

Retrofitting of existing buildings for noise mitigation

[67] QAC has agreed to fund noise mitigation retrofitting of existing buildings which contain Activities Sensitive to Aircraft Noise (ASANs) at the time that these buildings fall within prescribed AANCs.

[68] In our review of the proposed retrofitting provisions to be included in the plan, Designation and draft NMP, we have identified a range of provisions in these documents requiring correction or clarification. These are set out in detail in our Table 1.

[69] In addition, we provide here a brief overview of a number of the key provisions requiring correction which we have identified as being common to all of these documents.

Trigger for QAC funding

[70] There are two triggers for QAC funded retrofitting, the first when a building falls within an AANC of 60 dB Ldn and the second when the building falls within an AANC of 65 dB Ldn.

[71] The retrofitting to be undertaken when each of these noise levels is reached is described in proposed Conditions 14 and 15 at page A1–49 of the Queenstown Airport Designation as follows:



Condition 14: Each year the QAC shall offer to provide 100% funding of noise mitigation for buildings that existed (insert date designation confirmed) containing Activity Sensitive to Aircraft Noise (ASAN) and are predicted to be within the 65 dB Ldn AANC for the following year. This offer may be earlier at QAC's discretion. The mitigation shall achieve an internal design sound level of 40 dB Ldn or less based on the 2037 1 dB Noise Contours contained in the NMP.

and

Condition 15: Each year the QAC shall offer to provide 75% funding of mechanical ventilation for buildings that existed on (insert date designation confirmed) containing ASAN, and are predicted to be within the 60 dB Ldn AANC for the following year. This offer may be earlier at QAC's discretion. Where a building owner accepts this offer they shall not be eligible for further funding of mechanical ventilation if the building later becomes within the 65 dB Ldn AANC but they shall become eligible for 100% funding of any sound insulation required.

[72] The last sentence of proposed Condition 14 refers to the achievement of the 40 dB Ldn internal design sound level on the basis of the 2037 1 dB noise contours contained in the NMP. Our understanding, however, is that the AANCs are to be predicted on the basis of either the modelled or measured level of airport operations occurring in any particular year. These AANCs will not necessarily end up being in the same locations as the noise contours predicted to occur in 2037 from the PC35 noise modeling.

[73] In the last sentence of this condition, the words "... based on the 2037 1 dB Noise Contours contained in the NMP." should be deleted with equivalent references in the other plan change documents being amended accordingly.

Relationship between the 65 Ldn AANC and the ANC

[74] The next issue common to a number of the documents is the relationship between the 65 dB Ldn AANC and the ANB for triggering QAC funded acoustic insulation retrofitting. For example, paragraph 4 of District Wide Issues, Objective 7, Implementation Methods (i) District Plan, stipulates that QAC funded retrofitting is to be provided for existing buildings containing ASANs "in the ANB". While this is strictly correct, it could be that the 65 dB Ldn AANC, which is the trigger for the QAC



funded acoustic insulation retrofitting, is reached inside of the ANB. To cover this eventuality, references to the “ANB” in the retrofitting of existing building provisions of the plan should be replaced with “65 dB Ldn AANC”.

Mechanical ventilation and/or sound insulation

[75] In addition to those provisions in the plan change documents which cover QAC funded retrofitting of existing buildings, there are policies requiring mechanical ventilation *and* sound insulation for alterations or additions to existing buildings when these fall within the OCB or the ANB. These policies are in many cases inconsistent with the related rules which, with certain conditions, provide for mechanical ventilation *or* acoustic insulation but not necessarily both.

[76] We understand that the parties intend either mechanical ventilation or acoustic insulation, but not both – in which case the policies may need correction.

Offer period for noise mitigation

[77] The objective of the NOR includes managing the effects of aircraft noise on the community and to provide the community with certainty as to the noise limits and effects on all surrounding land uses.¹⁶ Neither the NOR or the NMP address the offer period for take-up of noise mitigation by existing residential homeowners. Given the objectives of the NOR, and the fact that the offer is not time bound in the NOR conditions, we infer that the offer is not conditional upon take-up within a certain period of time. However, in the interest of certainty this should be addressed, preferably in the Designation conditions or alternatively the NMP, by including a new condition that makes clear the offer remains open to be accepted at the discretion of the home owner.

[78] Our impression having heard from QAC’s planner Mr Kyle and counsel for QAC is that the failure to address this is an oversight in the NOR– it being the first time that QAC has had to deal with this type of condition. Mr Kyle thought it helpful if the matter were addressed in the NOR.¹⁷ That is our view also, but in saying that we are conscious of the limitations of our jurisdiction. If, as counsel for QAC submits, the risk of a home owner not taking up the offer is small – she said it was difficult to imagine

¹⁶ Report and Recommendations of Hearing Panel, dated 1 November 2010 at [4.2].

¹⁷ Transcript at [167-8].



why someone might refuse mitigation, then we can see no compelling reason for QAC not to include such a condition in the NOR, or as counsel for QAC suggested leave the matter for QALC to address – in which case the NMP needs amending.¹⁸

[79] QAC is directed to file a memorandum responding to this issue and advising whether QAC offers a condition in the NOR (preferably) or NMP. At the same time counsel may address jurisdiction.

Location of ANB and OCB

[80] The parties have agreed on two alternative locations for the 2037 ANB and OCB noise contours.

[81] The first of these is based on an envelope approach which encompasses three alternative sites for the general aviation and helicopter precinct, being the current general aviation precinct location to the south-west of the main passenger terminal, the Lot 6 land to the south of the main runway and the airport land to the north of the main runway. The northern alternative has slightly reduced noise boundaries in the vicinity of Lot 6 and would apply if the Lot 6 NOR application is cancelled by the court.

[82] The final decision on the air noise boundaries and planning map 31a will be determined once the court has issued its decision on the Lot 6 NOR.

Remarkables Park Structure Plan

[83] An issue has arisen in respect of the proposed resolution of the appeal by Remarkables Park Ltd and Shotover Park Ltd. The parties to this appeal agree that changes made to the Remarkables Park Structure Plan by the District Council following its hearing are beyond the scope of the notified plan change.¹⁹ Secondly, the decision by the District Council to reject the Sound Insulation Boundary and to manage the effects of airport noise through the noise boundaries identified in the Planning Maps has had the effect that the rules, standards and methods to control noise in the Remarkables Park Special Zone (**Special Zone**) are now more restrictive than what was proposed in the

¹⁸ Transcript at [445].

¹⁹ QAC Closing Submissions at [68], Air NZ Closing Submissions at [2].



notified plan change. This is most clearly shown in Exhibit E, which superimposes three noise contours relative to the activity areas in the Remarkables Park Special Zone.

[84] Some parties seek the retention of these more restrictive provisions in parts of the Special Zone and this is agreed to by RPL. In particular, QAC and Air New Zealand seek that the controls apply to new buildings within parts of the zone. QAC submits that the plan change as notified was not well drafted and while the application of controls to new buildings was intended, the rules did not give effect to this within the Special Zone.²⁰ An additional, but minor, complication is that the new restrictions may apply to land in the Special Zone which is largely developed.²¹

[85] We record that while QAC was directed to provide evidence on the detail of these changes, it did not do so in a comprehensive manner, and instead we have had to rely on counsel's submissions for context. In that regard we are particularly grateful to Mr Gardner-Hopkins, counsel for Air New Zealand.

[86] Air New Zealand submits that the amendments proposed by the parties to the Special Zone, which it supports, fall within the scope of RPL's notice of appeal.²² QAC says the point is arguable, but urges the court to exercise its discretion under section 293 of the Act and direct the District Council to forthwith amend the Special Zone provisions. RPL submits that there is no jurisdiction under its appeal to make the changes agreed on by the parties but, if the changes find approval then the court could direct the District Council under section 293 to amend the District Plan. In relation to the Special Zone, RPL is concerned to avoid the court making a finding that the plan change included land use controls based on the 55 dBA outer control boundary contour.²³ The District Council adopts the submissions of Air New Zealand.²⁴

Discussion and findings on RPL Structure Plan

[87] We accept Air New Zealand's submission that it is clear from the plan change read as a whole that the Special Zone is a subject matter of the plan change. Policy 8.2

²⁰ Transcript at [434].

²¹ Transcript at [376].

²² Air New Zealand also supports an application made under section 293 if the court were to find that it did not have jurisdiction. Closing Submissions at [5].

²³ RPL Closing Submissions at [17], Transcript at [404].

²⁴ QLDC Closing Submissions at [26].



of the District Wide Issues Chapter provides new activities sensitive to aircraft noise, including those located in the Remarkables Park Special Zone within the Queenstown Airport Sound Insulation Boundary, are to be designed and built to achieve an appropriate internal noise environment and are to be appropriately ventilated. However, the notified plan change was not well drafted and did not include controls to apply to new buildings within this zone.

[88] Air New Zealand submits that it would have been clear to a person reading the plan change as a whole, that the rules and standards within the Special Zone could be amended including out to the 55 dBA outer control boundary contour or that it would have been apparent that consequential changes might be made. We observe that this possibility exists on any notice of requirement or plan change. To succeed in this submission we would need to be satisfied RPL submitted on the basis of amendments that may be made to the plan change (presumably following the District Council's hearing). Any link made with RPL's submission (or even the notice of appeal) concerning its Structure Plan and its eventual agreement to include more restrictive controls than notified in the plan change is too tenuous for us to find jurisdiction.²⁵ In conclusion, we do not find jurisdiction under the RPL notice of appeal to approve the Structure Plan amendments to Remarkables Park Zone.

[89] While the court is cautious when exercising its jurisdiction under section 293 to amend a plan change, in this case we find that the court both has jurisdiction to exercise its powers under section 293 and that this is an appropriate case for its discretion to be exercised.

[90] Before we can consider whether to exercise our discretion we must first be satisfied that there is a nexus between the RPL appeal and the relief sought pursuant to section 293. In this regard we refer to the helpful dicta of Harrison J in *Hamilton City Council v New Zealand Historic Places Trust* at [25].²⁶



²⁵ Air New Zealand Closing Submissions (Jurisdiction) at [4.10].

²⁶ [2005] NZRMA 145.

The primary purpose of s 293 must be to provide the Court during the hearing of an appeal with a mechanism for expanding the nature and extent of the relief sought beyond the scope of the reference where appropriate (*Apple Fields*, para 36) but always, of course, related back to and arising out of the reference itself. The reference defines the scope of the appeal or inquiry and the appropriate relief. Consequently there must be a nexus between the reference itself and the changed relief sought. Chisholm J noted the rationale in *Apple Fields* as being that (para 37):

“Despite the best efforts of everyone involved in the process of preparing or changing a plan, the reality is that *unforeseen issues or proposals beyond the scope of the reference* can arise and that in some cases it will be more appropriate for the matter to be resolved at the Environment Court level than by referring it back so that the territorial authority can initiate a variation.”

[91] By way of relief in its notice of appeal RPL seeks to retain its existing Structure Plan (Figure 2). We accept this had been wrongly amended by the District Council in its decision.²⁷ RPL also pleads that the Structure Plan as amended by the QLDC in its decision appears to impose restrictions based on a 58 dBA noise contour and states, correctly in our view, that it has become extremely confusing and is unable to be reconciled “with confidence” back to the relevant Activity Table.²⁸ It is a ground of appeal that the acoustic mitigation proposals do not strike an appropriate balance between costs and benefits²⁹ and would place a cost burden on adjoining landowners.³⁰ And that the plan change would not achieve integrated management of the effects of the land use, development or protection of land and associated natural and physical resources of the district.³¹ By way of relief RPL seeks *inter alia* that in relation to its land the air noise boundary follow the existing 65 dBA noise contour and that the outer control boundary follow the existing 55 dBA noise contour. This relief is in the alternative to rejecting PC35 outright (or at least rejecting its application to the Remarkables Park Special Zone).³²

[92] The modifications to the Remarkables Park Zone Structure Plan now reflect QACs original intention to manage the effects of airport noise based on the Sound

²⁷ Notice of appeal at [7.4(j)].

²⁸ Notice of appeal at [7.4(l)].

²⁹ Notice of appeal at [6(d)].

³⁰ Notice of appeal at [7.9(x)].

³¹ Notice of appeal at [6(c)].

³² Notice of appeal at [8].



Insulation Boundary (58 dBA contour). To the extent that the Structure Plan is a method to control land use between the 55-58 dBA contours, these controls are now ones that RPL is prepared to accept as it will not incur any additional cost burden as practical compliance with this standard is achieved through the Building Code. The amended Figure 2 is a method that is integral to other proposed amendments to the Special Zone rules and standards which in turn give effect to the objectives and policies for the Zone and the District Wide Issues Chapter and the District Plan as a whole. Without it, and the controls which it gives effect to, the plan change would not achieve for RPL the integrated management of the effects of the land use, development or protection of land. On this basis we find that there is a nexus between the amendments proposed and the notice of appeal.

Outcome on RPL Structure Plan

[93] The court is prepared to exercise its discretion under section 293 and amend the Remarkables Park Special Zone Structure Plan (Figure 2) for inclusion in the Planning Maps. A final decision and directions will be made on this matter in conjunction with the decision on the notice of requirement (direct referral).



Table 1

District Plan		
District Wide Issues		
Objective 7 -Queenstown Airport-Noise Management		
Policies		
Section	Subject	Amendment Directed by Court
New policy (page 4-57)	<p>In giving effect to Objective 7, there is no reference to the functions of the Designation and the draft NMP.</p> <p>It is insufficient that the reference to these documents be contained in Objective 8, Section 14 which does not deal with airport noise.</p>	<p>Add new policy 7.3 that reads:</p> <p>“To manage the adverse effects of noise from Queenstown Aerodrome by conditions in Designation 2 including a requirement for a Noise Management Plan and a Queenstown Airport Liaison Committee.”</p>
Implementation Methods		
Section	Subject	Amendment Directed by Court
Paras 4 and 5 (page 4-57)	<p>As explained at para 74 of this decision, it appears from para 4 of the implementation methods that the ANB is the trigger for airport funded mitigation, whereas this trigger is the 65 dB Ldn.</p> <p>Secondly, para 4 of the implementation methods states that the calculations shall be based on 2037 Noise Contours. It is our understanding that these</p>	<p>If the court is correct, these errors are repeated in a number of provisions and the parties are to review all of the plan change documents and comment on each of these.</p> <p>The Court considers that if expressed accurately paragraphs 4 and 5 should read as follows:</p> <p>“Queenstown Airport Corporation funded retrofitting over time of sound insulation and mechanical ventilation of Critical Listening</p>



	<p>calculations shall be based on the AANC predicted to fall within the 65 dB Ldn in the following year?</p> <p>We are also unsure why in both of paras 4 and 5 the parties have used “should occur” when they intend that QAC “will” offer these measures ahead of the property reaching the OCB. See evidence of Kyle EiC at [21] and Designation conditions 14 or 15 where the imperative “shall” is used.</p>	<p>Environments within existing buildings containing an Activity Sensitive to Aircraft Noise located within the 65 dB Ldn AANC to achieve an indoor design sound level of 40 dB Ldn.</p> <p>Queenstown Airport Corporation part funded retrofitting of mechanical ventilation of Critical Listening Environments within existing buildings containing an Activity Sensitive to Aircraft noise located within the 60 dB Ldn AANC. This ventilation is to enable windows and doors to remain closed to achieve a reduction in internal design sound level if required.</p> <p>All retrofitting shall be conducted in accordance with the conditions attached to Designation 2.”</p>
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Explanation and Principal Reasons for Adoption

Para 5 (p4-58)	Reference to Noise Mitigation Plan is incorrect.	Replace Noise Mitigation Plan with “Designation 2”.
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Objective 8 -Queenstown Airport-Urban Growth Management

Policies

Section	Subject	Amendment Directed by Court
Policy 8.1 (page 4-58)	Editorial PC35 needs to differentiate between FF(A) and FF(B). The court’s understanding is that the Frankton Flats’ limitation applies only to the Frankton Flats (A) zone.	If the court’s understanding is correct, reword “Frankton Flats Zone” to read “Frankton Flats (A) Zone”.
Policy 8.3 (existing) (page 4-58)	Editorial For consistency juxtapose 8.3 and	Juxtapose 8.3 and 8.4 In existing 8.3, add “A” after “Frankton Flats”.



	<p>8.4 so that 8.2 and 8.3 refer to RPZ and 8.4 to Frankton Flats (A)</p> <p>Zone rules (for example RPZ rule 12.11.5.2(iv)(a) page 12-85) refer to “additions” as well as “alterations” to existing buildings.</p> <p>For consistency, should this policy be amended to do the same?</p> <p>Zone policies refer to either “internal design sound level” or “indoor design sound level”. The plan has a definition for the “design sound level”. If the subject matter of these terms is the same, the parties are to standardize language and use capitals in the text to indicate that a defined term is being employed.</p>	<p>The parties are directed to use consistent nomenclature throughout the District Plan.</p> <p>For consistency we have used the term “Indoor Sound Design Level” in this Decision when referring to these two terms.</p>
Policy 8.4 (existing) (page 4-58)	<p>PC35 needs to include educational facilities in activity list.</p> <p>In existing 8.4 identify location of Figure 2- District Planning Maps.</p>	<p>In existing 8.4, delete “and” after “Residential”, insert a comma and insert “Educational Facilities”.</p> <p>Add after “..Figure 2..” “.. in the District Planning Maps”.</p>
Implementation Methods		
Section	Subject	Amendment Directed by Court
i District Plan (page 4-58)	In Para 2, line 2, identify where sound insulation and ventilation construction tables can be found.	Add after “tables” “..in Appendix 13,”



Section 5 Rural Areas		
Objective 3 Rural Amenity		
Policies		
Policy 3.8 (page 5-5)	<p>This policy requires both sound insulation and mechanical ventilation within the OCB</p> <p>This is inconsistent with Section 5, Rural Area Rules, zone standard 5.3.5.1(vii)(b) which sets out that compliance may be demonstrated by providing either sound insulation or mechanical ventilation (subject to certain conditions).</p>	<p>In first line replace “... sound insulation and mechanical ventilation ...” with “... either sound insulation or mechanical ventilation”.</p> <p>As we have noted at paragraph 75-76 of this decision, this inconsistency is repeated in a number of places in the plan change documents. It is the parties’ responsibility to critically proof read and make the corrections directed above wherever this occurs.</p>
Implementation Methods		
Section	Subject	Amendment Directed by Court
ii (page 5-5)	<p>Line 2, the use of the term “land” here and in Policy 3.7 is inconsistent with Rule 5.3.3.5 (iii) which refers to “Site”.</p> <p>While the Council says that it would interpret “land” to mean “Site” when applying this policy, it is our view that the policy should say what it means.</p> <p>If the Council wish to consider the use of language generally in its</p>	<p>To align rule 5.3.3.5 with policy 3.7 and the implementation method delete “Site” and replace with “land”.</p> <p>This inconsistency appears here and elsewhere. The parties are to review all provisions where these terms are inconsistently used and suggest amendments consistent with the direction above.</p>



	<p>forthcoming District Plan review, as it says that it does, that is a matter for it.</p>	
<p>(iv) (page 5-5)</p>	<p>Implementation method (iv) concerns reverse sensitivity of land use activities on airport operations. This implementation method does not appear in other Areas or Zones.</p> <p>While many of the provisions in PC35 concern the management of reverse sensitivity effects, there is no District Wide policy to this effect.</p> <p>Implementation method (iv) also refers to NZS 6805:1992. This should be deleted as it better placed is in Designation 2.</p>	<p>The parties are to comment on whether jurisdiction exists to include a new policy under Objective 8 of the District Wide Issues that reads:</p> <p>“To protect the airport from reverse sensitivity effects of Activities Sensitive to Aircraft Noise.”</p> <p>Delete Implementation Method (iv)</p>



<p>New</p>	<p>In Section 5 Rural Areas, there is a policy (policy 3.8) concerning alterations/additions to existing buildings within the OCB and a corresponding rule, rule 5.3.5.2(b).</p> <p>There is a second rule, rule 5.3.5.2(a) requiring alterations/additions to existing dwellings within ANB. However, there is no corresponding policy to which this rule gives effect.</p> <p>That we can find, there is no provision for QAC funding for noise mitigation of existing residential buildings in the rural areas containing ASANs when these fall within the 60 and 65 dBA Ldn.</p> <p>This is in contrast with the provision made for funding for noise mitigation of existing residential buildings containing ASANs within the 60dB Ldn AANC in the Residential Areas.</p> <p>See:</p> <ul style="list-style-type: none"> • Objective 3, Implementation method (i)(b)a i at page7-6; • Residential Areas Part 7.2.3 objective and policies – 	<p>The QLDC is to confirm whether there are any existing buildings containing ASANs within the 60 dB Ldn contour and the ANB in the rural area.</p> <p>If there are (and the other parties agree that this is the case) then the parties are to propose policy, rules, standards and other implementation methods to provide for QAC funding of noise mitigation consistent with that provided for in the Residential Area.</p> <p>Secondly, the parties are to propose wording for a policy which gives effect to rule 5.3.5.2(a).</p> <p>If there are no existing buildings containing ASANs then policy 3.8 & 7.3, rule 5.3.5.2(a) and (b) are to be deleted.</p>
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	<p>Queenstown Residential and visitor accommodation areas, and</p> <ul style="list-style-type: none"> • implementation method (i)(c) at page 7-13. <p>To complicate matters further Rural Areas policy 7.3 (page 5-7), which concerns the OCB requires both insulation <i>and</i> ventilation to additions/alternations to existing buildings whereas the corresponding zone standard is expressed as either insulation <i>or</i> ventilation (zone standard 5.3.5.2 (vii)(6) at p5-21).</p>	
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Objective 7-Buffer Land for Airports

Policies

Section	Subject	Amendment Directed by Court
7.3 (page 5-7)	Both sound insulation and mechanical ventilation are not be required within the OCB to achieve an indoor design sound level of 40 dB Ldn. It is the court's understanding that either/or is acceptable subject to conditions.	In first line replace “..sound insulation and mechanical ventilation..” with “...either sound insulation or mechanical ventilation”.

Section 5 Rural Area Rules

Prohibited Activities

Section	Subject	Amendment Directed by Court
5.3.5.2 vii	Line 7 of (a) records that	To be consistent with 5.3.5.2 (vii)(a), rule



(page 5-21)	compliance “shall” be demonstrated whereas line 9 of (b) records that compliance “can” be demonstrated, with “can” replacing the struck out “shall”.	5.3.5.2(vii)(b) is to be amended by deleting “can” and replacing with “shall”. This direction applies wherever this wording in equivalent rules appears.
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Section 7 Residential Areas

Residential Policies

Section	Subject	Amendment Directed by Court
Policy 3.11 (page 7-5) and Policy 11 (page 7-12)	<p>Policy 3.11 (and Policy 11 on page 7-12) both refer to the requirement for both sound insulation and mechanical ventilation. It is the court’s understanding that either/or is acceptable subject to conditions.</p> <p>Likewise in Other Methods (ii)(c) at p7-6 and Implementation method (i)(b) at 7-12 there is reference to both sound insulation “and” mechanical ventilation within OCB.</p> <p>However, Section 7, Residential Area Rules, site standard 7.5.5.3(vi)(b) compliance may be demonstrated by providing either sound insulation or mechanical ventilation. This is inconsistent with policies 3.11 and 11 and the implementation methods.</p>	<p>If the policy wording (policies 3.11 & 11 on page 7.12) is incorrect, amend to address what is required for noise mitigation within the OCB and in the ANB respectively.</p> <p>A similar amendment may be required to the implementation methods.</p>



	<p>In addition policy 11 refers to “any buildings” but the Implementation Method (i)(b) refers to “new and altered buildings”. Policy 11 and the Implementation Method are inconsistent.</p> <p>As a general comment following on from Policy 11, there appears to be no “parent objective” for Policy 11 insofar as we understand that Policy 11 provides for the health, social wellbeing and amenity of ASANs and persons occupying Critical Listening Environments.</p> <p>Further, there appears to be no policy for existing buildings within the ANB containing ASANs. However, zone standard 7.5.5.3(vi)(a) & 7.5.6.2(viii)(a) provides for new buildings and additions and alterations to existing buildings within the ANB.</p>	<p>The parties are to identify the parent objective for policy 11. If there is none, then the parties are to propose wording.</p> <p>If zone standard 7.5.5.3(vi)(a) is relevant (and there are buildings within the ANB containing ASANs) then there needs to be a policy. If not, delete this zone standard.</p>
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Implementation Methods

Section	Subject	Amendment Directed by Court
i District Plan (i) (page 7-6)	Editorial	In line 1 replace “overtime” with “over time”



Section 7 Residential Areas-Rules		
Zone Standards - Residential Activities and Visitor Accommodation		
Section	Subject	Amendment Directed by Court
7.5.5.3 vi (a) (page 7-32)	Editorial In the last line replacing the word “constructions” with “construction materials” would assist readability. The same change should be made in Table 1 of Appendix 13.	In last line replace “...constructions.” with “..construction materials..” Make the same amendment in Table 1 of Appendix 13.
Section 11 Business and Industrial Areas-Rules		
Section	Subject	Amendment Directed by Court
New Section 11 page 11-6 to 11-16	The proposed Plan provisions do not include any objectives or policies for the Business and Industrial Areas. In lieu thereof, we assume that the following amendments may be necessary, in line with other Sections of the proposed plan. Equivalent Implementation Methods have not been provided for in the Business and Industrial Areas. This is inconsistent with District Wide Objective 7, Implementation Methods i, paras 3 and 4 (page 4-57) which are not zone restricted.	The QLDC is to confirm whether there are any existing buildings containing ASANs within the ANB which would be eligible now or in the future for QAC funded noise mitigation retrofitting. Secondly, the parties are to advise, what policies and objectives these rules implement. If there are none, wording is to be proposed. If there are no existing buildings containing ASANs then rule 11.3.5.2(iii)(a) & (b) on pp11-13 are to be deleted.



Remarkable Parks Zone		
Objectives and Policies		
Objective 1: Implementation Methods		
Section	Subject	Amendment Directed by Court
12.10.3 i (c) (page 12-2)	Editorial	Add "RPZ" before "..Table 1.." Add at end after measures "in the District Planning Maps".
12.10.3 ii(a) (page 12-3)	Editorial	Add at end after measures "in the District Planning Maps".
Explanation and Principal Reasons for Adoption		
Section	Subject	Amendment Directed by Court
para 4 (page 12-3)	Editorial	Delete in last paragraph, left hand column, "It is noted that..." and at the end add "..in the District Planning Maps".
Remarkable Parks Zone-Rules		
Controlled Activities		
Section	Subject	Amendment Directed by Court
12.11.3.2 i (bullet point 12) <i>and</i>	Editorial	After Airport Measures insert "..District Planning Maps..."
12.11.3.2 ii (bullet point 9) (page 12-78)	It is not clear why these two provisions do not also refer to education buildings in the area coloured green on Figure 2 given that "education facilities" are a controlled activity by virtue of Table 1 at page 12-80 and that Rule 12.11.5.1(v)(c) at page 12-83 sets an internal design sound level.	Add "..and education.." after "..residential.." and replace "..yellow areas .." with "..yellow and green areas respectively..". Correct spelling in 12.11.3.2 ii bullet point 9 ("Measures" [sic])
Table 1	Editorial	In 3 locations which refer to Figure 2 add "..Airport



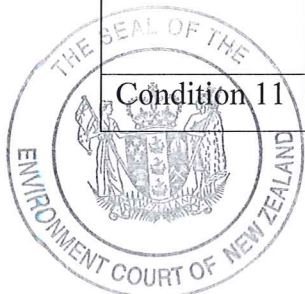
(page 12-80)		Measures, District Planning Maps”.
Standards		
Section	Subject	Amendment Directed by Court
12.11.5.1v Educational Facilities (page 12-83)	Editorial	Replace “area” with “areas”
12.11.5.1 v (b) (page 12-83)	No expert witness referred to “high quality teaching” and the meaning of this term is quite unclear, and is probably inconsistent with the definition of Critical Listening Environment. The expert witnesses agreed to the wording of this provision based on the definition of a Critical Listening Environment and agreed that the wording was certain and enforceable (Transcript pp270)	Amend to read: “Outdoor areas are not to be regularly used for high quality listening or communication, such as occurs in academic teaching. This standard shall not preclude recreation and recreation-related activities, e.g sports coaching.”
12.11.5.2(iv) (b)(ii) (page 12-85)	Editorial	In second line, delete “..above..”
12.11.6(d) final bullet point (page 12-88)	Editorial	After Airport Measures insert “..District Planning Maps..”
Frankton Flats Special Zone Rules		
Section	Subject	Amendment Directed by Court
12.18.1 (4th para)	Editorial	In line 2 delete “...appropriately..”



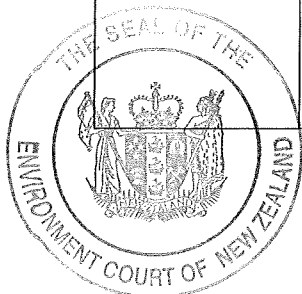
(page 12-128)	The inclusion of “appropriately” is otiose; it neither adds to nor qualifies any provision.	
Transport		
Implementation Methods		
Section	Subject	Amendment Directed by Court
(ii) (c) (page 14-11)	Editorial	Replace “..Transit New Zealand..” with “..the New Zealand Transport Agency..” This amendment is to be made wherever the reference to Transit New Zealand occurs in the plan change.
(ii) (d) (page 14-11)	Editorial	Align draft NMP Condition numbers with the modified numbers in Designation D2.
Appendix 13: Queenstown Airport Sound Insulation and Ventilation Requirements		
Section	Subject	Amendment Directed by Court
Explanation to Table 1 (page A1-1)	Editorial	Replace “constructions required” with “construction requirements”.
Note (page A1-1)	If the reference to “acoustic standards” means Indoor Design Sound Level, the note needs be amended to say so.	If so, replace “acoustic standards” with “Indoor Design Sound Level”.
Definitions		
Section	Subject	Amendment Directed by Court
Design Sound Level	If the “Design Sound Level” means the “Indoor Design Sound Level” then it should say so.	If the Court is correct, the definition is to be amended.



Designations		
D Queenstown Airport		
D.1 Aerodrome Purposes		
Section	Subject	Amendment Directed by Court
(page A1-47)	Editorial Does not the current horizon of 2015 needs to be changed to the PC35 horizon of 2037.	If so, amend “2015” to “2037”
D.1 Permitted Activities		
Section	Subject	Amendment Directed by Court
1 (page A1-47)	Subject to jurisdiction, an editorial change is required.	Suggest amending “covered” to “authorised”
Aircraft Noise		
Section	Subject	Amendment Directed by Court
6 (page A1-48)	NZS 6805:1992 has now been in place for about 20 years. Provision needs to be made to incorporate any replacement standard.	Add the following new sentence after “...District Plan”: “If NZS 6805:1992 is superseded by a revised or new standard, the adoption of this revised/new standard in place of NZS 6805:1992 shall be at the discretion of Queenstown Airport Liaison Committee (QALC) under the Noise Management Plan (NMP). Note: The detail and content of the NMP are set out in Condition 20.” Amend “Design Sound Level” to read “Indoor Design Sound Level”
Condition 11	This next part is out-of-order as it	Renumber Condition 11 as Condition 7



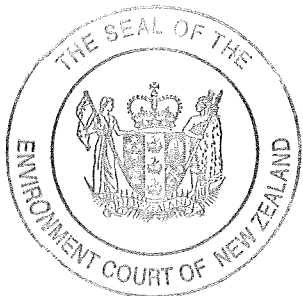
	<p>addresses the sequencing of provisions in the Designation conditions.</p> <p>Condition 11 should be renumbered as Condition 7 as this provides a logical sequence from the establishment of the ANB and the OCB in the District Plan to the development of the 1 dB incremental contours to the prediction of the AANCs.</p>	<p>with Conditions 7 to 10 being renumbered as Conditions 8 to 11.</p>
7 (page A1-48)	<p>The methodology used to predict the 1 dB incremental aircraft noise contours should be specified as being the same as that used to establish the ANB and the OCB.</p> <p>The NMP is now defined in Condition 7.</p>	<p>In renumbered Condition 8, insert after “..inclusive.”:</p> <p>“The methodology used to predict the 1 dB incremental noise contours shall be the same as that used to predict the ANB and the OCB.”</p> <p>In last line replace “..Noise Management Plan (NMP).” With “...NMP.”</p>
8 (page A1-48)	<p>The following comments are subject to directions given in this decision.</p> <p>In para 42 of our decision we found that QALC should have a discretion to require future noise predictions to be modeled using new or improved software which might supersede INM v7a, with this discretion to be provided for</p>	<p>In the fourth line of renumbered Condition 9 replace “INM v7a” with “...to be determined by the QALC in accordance with the NMP.”</p>



	in the NMP and not in the Designation.	
9 (page A1-48)	<p>In paras 55, 56 and 65 we decided that the following amendments were to be made to Condition 9:</p> <ul style="list-style-type: none"> • Instead of two measurement points, there should be a minimum of three measurement points located west, north-east and south of the airport with the exact positions to be determined by the QALC under the NMP; • each reference to 2 dB should be replaced by 1 dB. <p>As QAC gets closer to the ANB QAC may also consider it prudent to be monitoring at more frequent intervals than every three years.</p>	<p>Condition 9 renumbered as Condition 10 shall be amended to read as follows:</p> <p>“At least every three years, QAC shall undertake a monitoring programme and shall check that measured levels are no more than 1 dB greater than the AANCs. The monitoring programme shall include the following measurements within a three year period including: a minimum of one month summer and one month winter undertaken at a minimum of three points located west, east and south of the airport with the exact positions to be determined by the QALC under the NMP. The AANCs shall be corrected for any differences from the measurements greater than 1 dB.”</p>
10 (page A1-48)	The corrections to the AANCs need to be cross referenced to renumbered Condition 9.	Replace “any corrections” with “the corrections to the AANCs determined under Condition 9”
Airport Noise Mitigation		
Section	Subject	Amendment Directed by Court
14 (page A1-50)	The last sentence of this condition reads “The mitigation shall achieve an internal design sound	Replace the last sentence of Condition 14 with “The mitigation shall achieve an Indoor Design Sound Level of 40 dB



	<p>level of 40 dB Ldn or less based on the 2037 1 dB Noise Contours contained in the NMP.”</p> <p>The words “based on 2037 1 dB Noise Contours in the NMP” are superfluous. What must be achieved is an Indoor Design Sound Level of 40 dB Ldn.</p>	Ldn or less.”
<p>New Condition (With renumbering of all subsequent conditions and any affected cross references) (page A1-49)</p>	<p>The following comments are subject to directions given in this decision.</p> <p>Designation 2 does not limit the offer period. The conditions are silent as to what is to occur if the offer is made but not taken up by the home owner or the offer is made and title to the property subsequently transfers to another person.</p> <p>In the interest of certainty there should be a new condition in the Designation and in the NMP that makes clear the offer remains open to be accepted at the discretion of the home owner.</p>	<p>Insert a new condition:</p> <p>“Any offer made under [current reference given] conditions 14 or 15 remains open for acceptance at the discretion of the home owner or any future purchaser.”</p>
<p>17 (page A1-49)</p>	<p>A full stop needs to be deleted in the last line of (b).</p>	<p>Delete full stop in last line of 17 (b).</p>



Noise Management Plan (Section in Designation)		
Section	Subject	Amendment Directed by Court
20 (page A1-50)	<p>Editorial</p> <p>It is not clear why QAC requires 12 months to complete the NMP from the date of confirmation of the designation. With most of the detail already largely resolved, unless there is a very good reason, we suggest that this time be reduced to 6 months.</p> <p>Condition 20 provides that “the draft NMP submitted to the court on February 2012 shall form the basis of the required NMP.” As the court is not required to approve the draft NMP – but has commented on its provisions suggesting changes, this statement is not approved.</p>	<p>In line 1, substitute 6 months for 12 months.</p> <p>An editorial matter - delete “also” from the sentence “The NMP shall also describe, in detail, the following matters:”</p> <p>In Condition 20, delete the sentence “The draft NMP submitted to the Court on February 2012 shall form the basis of the required NMP.”</p>
20 (a) (page A1-50)	The procedures should also provide for the convening of the QALC.	Replace with “procedures for the convening, ongoing maintenance and operation of the QALC.”
20 (b) and (g) (page A1-50)	With the renumbering of Conditions 7 to 11, in 20 (b) Conditions 9-11 need to be renumbered as 7, 10 and 11 and in 20 (g), Condition 8 renumbered as Condition 9.	In 20(b) renumber Conditions 9-11 as Conditions 7, 10 and 11 and in 20 (g), Condition 8 as Condition 9.



20 (h) (page A1-50)	It is not clear whether this condition provides for action(s) to be taken should non-compliance with the conditions be identified in the investigation of the complaint. What is meant by “responding” is uncertain and open to interpretation.	Amend “the procedure for the recording, responding and reporting of complaints.” to “provide a procedure for dealing with complaints including their recording, an acknowledgement to the complainant of their receipt and the outcome once resolved, any corrective action(s) to be taken including those if non compliance with the conditions is identified and reporting to the QALC.”
New Condition 20(b) (page A1-50)	<p>Condition 6 provides for the QALC to have the discretion to adopt any revised/new standard which may replace NZS 6805:1992. As well, renumbered Condition 9 provides for the choice of the noise modelling software for ongoing AANC compliance monitoring to be made by the QALC.</p> <p>These provisions need to be added to Condition 20 as matters to be described in detail in the NMP.</p>	<p>Renumber items (b) to (k) of Condition 20 as items (c) to (l).</p> <p>Insert a new (b) “provision for QALC to have the discretion to adopt any revised/new standard which may replace NZS 6805:1992 and to choose the noise modelling software to be used for the ongoing AANC compliance monitoring.”</p>
21 (a) (page A1-50)	This plan change is forecast to 2037, during which time the Milford Users’s Group might well cease to exist. Specific reference to this group in the Designation should be replaced with “a representative of the Queenstown Airport general	<p>Replace “Milford Users Group” with “a representative of the Queenstown Airport general aviation/helicopter operators”</p> <p>Replace “airline representative” with “a representative of the airlines operating flights at Queenstown Airport.”</p>



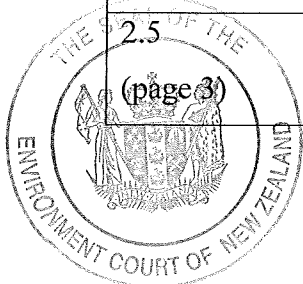
	<p>aviation/helicopter operators.”</p> <p>Reference to the Milford Users Group can be provided for in 2.3 of the NMP.</p> <p>The airline representative should be from airlines operating flights at Queenstown Airport.</p>	
22 (page A1-51)	<p>Condition 22 requires information to be given for new and altered buildings.</p> <p>The Court draws the parties’ attention to the fact that the draft NMP does not yet provide this.</p> <p>Condition 22 refers to new and altered buildings. The District Plan includes provision for “additions” to existing buildings.</p>	Condition 22 is to be amended by adding “additions” to buildings.
23 (page A1-51)	<p>The Note appended to condition 23 should be deleted as it is no longer relevant.</p> <p>The second condition “23” and all subsequent condition should be renumbered starting with condition 24.</p>	Delete note under condition 23 and renumber conditions as directed.



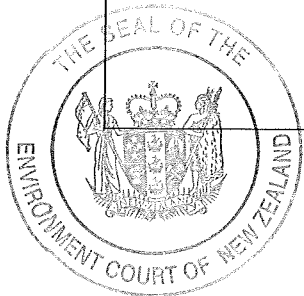
Noise Management Plan		
Table of Contents		
Section	Subject	Amendments suggested by Court
Annexure 2 (page i)	Annexure 2 is headed “Ventilation Table” and not “Construction Tables”.	Amend Table of Contents Annexure 2 title to “Ventilation Table”
1. Introduction		
1.2-3 (page 1)	This should be consistent with the Court’s revised wording for Designation Condition 20 (h).	Amend as follows: “To provide a procedure for dealing with complaints including their recording, an acknowledgement to the complainant of their receipt and the outcome once resolved, any corrective action(s) to be taken including those if non compliance with the conditions is identified and reporting to the QALC.”
1.3 (page 1)	The list of matters should be consistent with the list in Condition 20 of the Designation.	In line 2 replace the words after “..Plan” with “..this NMP addresses the matters listed in Condition 20 of the Designation and may include additional matters such as considerate flying practices for aircraft operators.
1.4 (page 2)	Confirmation is required in this paragraph that QAC is responsible for both preparing the NMP and for its approval; that QALC may request QAC to make amendments to the NMP but that the final approval of any amendments rests with QAC.	Delete final sentence and replace with new para 1.5: “Amendments to the NMP may be initiated by QAC in consultation with QALC or vice versa. QAC will be responsible for the approval of the NMP and for any amended versions prepared in accordance with Designation 2.”



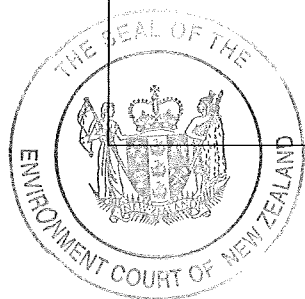
	We have a concern that the NMP will take on a life of its own and that Designation 2, to which it gives effect, will be lost sight of. It is important that the NMP cross reference the Designation which it gives effect.	
1.5 (Renumbered as 1.6) (page 2)	Suggest rewording to include reference to the current version of the NMP being available on QAC website to enhance accessibility.	Reword “The current version of the NMP will be available from QAC, QLDC and representatives of the QALC as well as being posted on the QAC website.”
2. Queenstown Airport Liaison Committee (QALC)		
2.3 (page 3)	In the table of QALC members, the description of the airlines representative and the Milford Users Group should be consistent with that used in the Designation.	In the table, replace “Airlines Representative” with “A representative of the airlines operating flights at Queenstown airport.” Replace all of the wording starting with “AS/Helicopter Operators.” with “A representative of the Queenstown Airport general aviation/helicopter operators.” Note: At the time this NMP came into force, these operators were referred to as the Milford Users Group.”
2.4 (page 3)	There is no 2.4	Renumber paragraphs and any associated cross references.
2.5 (page 3)	It needs to be made clear that the independent chair is in	Add before “QAC” “In addition to the membership set out in the table at 2.3,



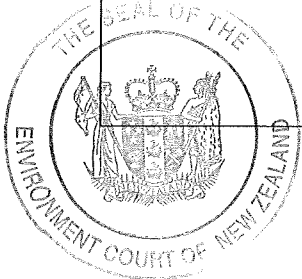
	<p>addition to the membership set out in the table at 2.3, if that is what is intended. The QALC members in clause 2.5 & 2.20(i) are not independent in that they are representing various interest groups.</p>	<p>QAC....”</p>
<p>2.6 (page 3)</p>	<p>A number of changes are suggested for the wording of this clause for consistency with paras 1.5 (renumbered) and 1.6 and to include timings for QAC to provide the original NMP and any amended versions to the QLDC and the QAC.</p> <p>We have omitted the reference to “noise mitigation requirements” in clause 2.6 as QAC obligations under Designation 2 are wider than this.</p> <p>“Operators” is undefined.</p> <p>It is not clear on what basis QAC says that it has “delegated responsibility for managing noise at Queenstown Airport”. We understood that it was responsible for managing</p>	<p>Replace the sentence commencing “In particular...” with “In particular, QAC is responsible for the development and implementation of the NMP and for all subsequent amendments.</p> <p>At the end of this same sentence replace “operators” with “general aviation/helicopter operators”.</p> <p>In the sentence starting “While QAC..” delete the words “a delegated”.</p> <p>Add a new sentence “QAC will provide copies of the original approved version of the NMP to QLDC and QALC within 6 months of the NOR being included in the District Plan as a Designation and copies of any amended versions within one month of their finalisation and approval.”</p>



	<p>noise.</p> <p>For consistency with (amended) Designation Condition 20, the time for lodging copies of the NMP with QLDC and QAC should be 6 months and not 12 months.</p>	
2.7 (page 4)	Editorial	Replace “nose” with “noise” in line 3.
2.9 (page 4)	<p>The timetable for QAC to lodge copies of the NMP with QLDC (and QALC) is covered under 2.6. The last sentence of 2.9 needs to be amended to suit.</p> <p>To be consistent with 2.6 the reference to lodge should be replaced with provide.</p>	<p>Amend final sentence to delete “12 months” and replace with “6 months”.</p> <p>Amend last sentence to replace “lodge” with “provide the NMP to the QLDC...”</p>
2.11 (page 4)	The number of zones for the land surrounding the airport will change once the zoning of the PC19 land has been resolved. Suggest amended wording to reflect this.	Replace 2.11 with “Queenstown Airport is located within close proximity to both existing and planned residential developments with the operation and growth of the airport having the potential to affect the amenity of the community who live in these developments.”
2.13 (page 4)	As well as presenting the views of those whom they represent, the community representatives should also be responsible for providing feedback.	<p>In line 1 amend “view” to “views”.</p> <p>Add at the end of the first bullet point “and with providing regular feedback on the deliberations of the QALC.”</p>



	Should not the NMP record the process by which the community representatives are to be selected and replaced (such as advertising for expressions of interest in local newspapers)? And once appointed how are the community representatives to be contacted by members of the public?	<p>Add into the NMP the process by which the community representatives are to be selected and replaced.</p> <p>Add into the NMP the process governing the contact of the community representatives by members of the public.</p>
2.14 (page 5)	Amend this para for consistency with 2.3	Delete the first sentence and add a new sentence at the end: "For the time being these operators will be represented by the Milford User Group.
2.17 (page 5)	Editorial	In line 1 replace "expected" with "intended".
2.19 (page 5)	Editorial	Insert after "register" "..as set out in Section 5 of this NMP..."
3. Noise Monitoring		
3.1 (page 7)		For consistency with Designation Condition 6 add at end "If NZS 6805:1992 is superseded by a revised or new standard, the adoption of this revised/new standard in place of NZS 6805:1992 shall be at the discretion of the QALC."
3.2 (page 7)	This provision needs to be consistent with the renumbered condition 8 of the Designation as amended by the Court.	Add at the end "The methodology used to predict the 1 dB incremental noise contours shall be the same as that used to predict the ANB and the OCB."



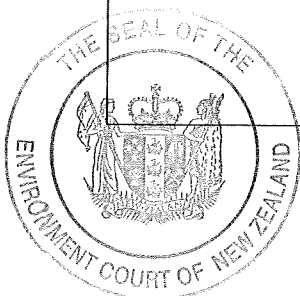
3.3 (page 7)	This provision needs to be consistent with the Designation reworded and renumbered Condition 9.	Add at the end “QALC shall have the discretion to require future predictions to be modeled using new or improved software which supersedes INMv7a.”
3.4 (page 7)	If the NMP is restating conditions that appear in the Designation 2, it is strongly recommended that the actual wording of the designation condition be used to avoid inconsistency and difficulty in application or interpretation in the future.	For consistency replace 3.4 with the reworded and renumbered Condition 10 in Designation 2.

4. Engine Testing Rules

4.3 (page 9)	Once the preferred locations for engine testing are identified they should form part of the NMP.	Suggest add “for inclusion in this NMP” at end after “testing” .
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5. Complaints Procedures

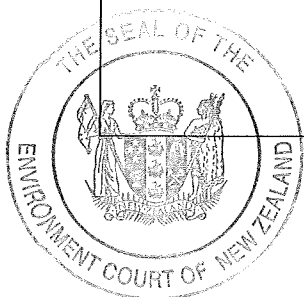
5.4 (page 10)	The wording of the fourth bullet is ambiguous. First bullet point wrongly identifies the “complainant” as opposed to the “complaint”.	Amend the fourth bullet point to read “Date and time of the incident given rise to the complaint”. Amend fifth bullet point to replace “complainant” and with “complaint”.
New paragraph to follow 5.11	Need to add a new paragraph detailing action to be taken if there has been non-compliance with the noise	Add new para 5.12: “If the investigation identifies that there has been non-compliance with the noise contours, the procedures to be followed are set out under



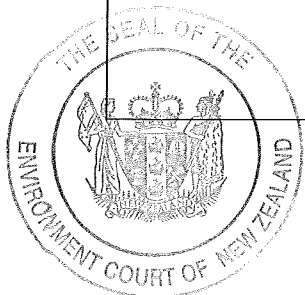
	contours. In particular the procedures to be followed are those set out in 3.7	clause 3.7.”
6. Considerate Flying Practices		
6.5-5 (page 13)	Presumably Appendix 1 should read Annexure 3 Flight Tracks?	Replace “Appendix 1” with “Annexure 3 Flight Tracks”
7. Noise Mitigation Plan		
7.1 (page 14)	<p>There are two triggers for QAC funded noise mitigation for existing ASANs, when the ASAN falls within the 60 dB Ldn AANC and then within the 65 dB Ldn AANC. An ASAN may fall within the 65 dB Ldn AANC before this AANC reaches the ANB. The wording of 7.1 needs to be amended to reflect this.</p> <p>Despite advice to the contrary, in 7.2 we do not consider that the NMC is defined. Also, our understanding is that NMC and AANC have the same meaning. If this is so, all references to NMC should be replaced with AANC.</p> <p>Alternatively, if we are</p>	<p>Replace the remainder of the sentence beginning “...within the ANB...” with “...within two AANCs, the 60 dB Ldn AANC and the 65 dB Ldn AANC..”</p> <p>If the terms NMC and AANC have the same meaning, replace all references to NMC with AANC.</p> <p>Alternatively, if there is a clear difference between the meanings of an NMC and an AANC, in the Introduction define and explain the function of NMC and secondly, clarify the differences between AANC and NMC.</p> <p>If the NMC is defined, then amend 7.2(2) & (3) to identify the clause which defines the NMC.</p>



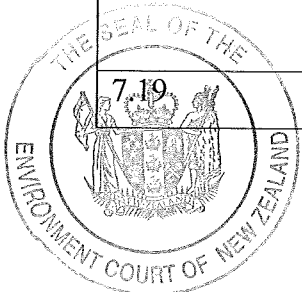
	<p>wrong, Clause 7.10 states how NMCs are to be prepared but does not define what an NMC is and its function in this NMP. Given that the NMCs trigger the obligation on QAC to fund noise mitigation, NMCs should be defined and their function explained in the Introduction. The difference between the AANCs and NMCs should also be made clear.</p>	
7.2 (page 14)	<p>The objectives of the NMP are those set out in clause 1.2</p> <p>In 7.2(i) the reference to ANB is incorrect. The adverse effects are to be managed within the 60 and 65 dBA Ldn AANCs.</p>	<p>Amend 7.2(i) to delete “ANB” and replace with 65 dBA Ldn AANC.</p>
7.3 -heading (page 14)	<p>The reference to the ANB in the heading is potentially confusing. Is it not clearer to talk about AANCs– which are the subject matter of the section?</p> <p>In 7.3 should not the reference to “as required by the rules” read “as required by Designation 2”?</p>	<p>Replace wording of heading with “60 dB Ldn AANC and 65 db Ldn AANC_Noise Mitigation</p> <p>Amend 7.3 to delete “as required by the rules” and replace with “as required by Designation 2”?</p>



	A qualification should be added to the last sentence in this same section to the effect that the 65 dB Ldn contour will only meet the ANB if the master planning growth predictions are realized in practice.	Add at the end of the last sentence “ provided that the actual growth in airport operations over the master planning period is the same as that predicted in the master planning growth predictions.”
7.4 (page 14)	The word “shown” begs the question, where this is “shown”. But in any event the phrase “shown” adds nothing to this provision.	Delete “shown” in line 3
7.5 (page 14)	Consistent with Designation 2 QAC is to provide acoustic insulation. The word “proposing” creates uncertainty.	Delete “proposing” in line 1.
7.9 (page 15)	Wording clarification	Replace “as follows:” with “below”.
7.10 (page 15)	As referred to in our comments under 7.1, should NMC be replaced with AANCs? The NMCs (AANCs?) should be calculated using the noise prediction software described in 3.3.	Refer to 7.1 for amendments over the use of the term NMC. Replace “...the latest version of the INM.” with “the noise prediction software described in 3.3”
7.11 (page 16)	For reasons that we have given elsewhere the reference to ANB in the heading requires amendment.	The heading to this section should read “ Within the 65 db Ldn AANC ”



	<p>With respect to the last sentence of this paragraph, in our comments on Designation Condition 14 we noted that the 2037 1 dB noise contours are based on the level of airport operations predicted to occur in 2037 and apply to noise mitigation for <i>new or altered</i> buildings. Conversely the noise levels predicted for “the following year” should apply to noise mitigation for <i>existing</i> ASANs based on the level of airport operations predicted for the “following year” ...and not those applying in 2037.</p> <p>It would be more consistent to replace the wording of this para with that from Designation Condition 14 as modified by the Court.</p>	<p>Replace existing wording with that from Designation Condition 14 as modified by the Court.</p>
7.13 (page 16)	<p>Standardise headings within this part of the NMP.</p> <p>Same comment applies to 7.13 as with 7.11 but for 60 dB Ldn contour and Condition 15.</p>	<p>The heading to this section should read “Within the 60 db Ldn AANC”</p> <p>Replace existing wording with that from Designation Condition 15 as modified by the Court.</p>
	<p>The first sentence needs to be</p>	<p>Replace the words in the first sentence from</p>

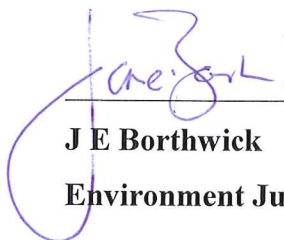


(page 17)	<p>reworded for clarity.</p> <p>As at page 15, the reference to the ANB is potentially confusing. This clause introduces a new concept of "boundary". Is it not clearer to talk about AANCs– which are the subject matter of the section 7?</p>	<p>"...existing ASAN .." with "...existing ASANs which will fall within the 65 dB Ldn or 60 dB Ldn AANC the following year."</p> <p>Replace "ANB or 60 dB Ldn Boundaries" with "65 dB Ldn AANC and 60 dB Ldn AANC"</p>
New Paragraphs after 7.19 (page 17)	The NMP should be amended to include the new condition directed by the Court in Designation 2, that there should be no limitation on the offer period. See related Designation conditions.	
7.23-1 (page 17)	An ASAN could fall within the 65 dB Ldn AANCs before it falls within the ANB.	Replace "ANB" in line 3 with "65 dB Ldn AANC"
7.23-4 (page 17)	The calculations of the noise levels should be based on the 60 dB Ldn or 65 dB Ldn AANCs predicted for the following year.	Replace balance of sentence from "...shown in .." with "..based on the 60 dB Ldn or 65 dB Ldn AANCs predicted for the following year."
7.25 (page 17)	We are unsure why the parties single out changes to the Noise Mitigation Plan when any changes, including changes to this section, are governed by clause 1.4. This provision is superfluous and	Delete clause 7.25.



	should be deleted.	
7.26	Editorial	Replace the two references to “ANB” with “65 dB Ldn AANC.”.
7.26-1	Editorial	In the last line replace “clause” with “7.26-2, 3 and 4 below.”
7.26-3	Editorial	Delete “for the time being” in line 4
Plans/Maps		
	As noted in paras 2, 80-82 of this decision, the parties have agreed two alternative locations for the ANB and OCB. Two plans should be provided to the court showing the locations of the ANB and OCB for each of these alternatives. The plan to be included in the maps’ section of district plan will be decided following the court’s resolution of the Lot 6 NOR designation application.	

For the Court:


J E Borthwick
Environment Judge

