

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

ENV-2018-331-000019

IN THE MATTER of the Resource Management Act
1991

AND

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

BETWEEN **AURORA ENERGY LIMITED**

and all other appellants
concerning Topic 2 Subtopic 11 of
Stage 1 of the Proposed
Queenstown Lakes District Plan

AND **AURORA ENERGY LTD
BOARD OF AIRLINE
REPRESENTATIVES NEW
ZEALAND INC
DARBY PLANNING LIMITED
FEDERATED FARMERS
FII HOLDINGS LTD
HANSEN FAMILY
PARTNERSHIP
QUEENSTOWN AIRPORT
CORPORATION LIMITED
QUEENSTOWN PARK LIMITED
REAL JOURNEYS LIMITED
REAL JOURNEYS TRADING AS
GO ORANGE LIMITED
REMARKABLES PARK LTD
ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF
NEW ZEALAND
INCORPORATED
SOHO SKI AREA LIMITED AND
BLACKMANS CREEK
SOUTHERN DISTRICT HEALTH
BOARD
TE ANAU DEVELOPMENTS
LIMITED**

[cont]

TRANSPower NEW ZEALAND
LIMITED
TREBLE CONE INVESTMENTS
LTD
UNIVERSAL DEVELOPMENTS
LIMITED
VODAFONE NEW ZEALAND
LIMITED, SPARK NEW
ZEALAND TRADING LIMITED,
CHORUS NEW ZEALAND
LIMITED

Section 274 Parties

AND

QUEENSTOWN LAKES
DISTRICT COUNCIL
Respondent

UPDATED JOINT MEMORANDUM OF PARTIES IN SUPPORT OF CONSENT
ORDER

TOPIC 2 SUBTOPIC 11 (LANDSCAPES AND REGIONALLY SIGNIFICANT
INFRASTRUCTURE)

23 September 2019

 **Simpson Grierson**
Barristers & Solicitors

S J Scott / H L Baillie
Telephone: +64-3-968 4018
Facsimile: +64-3-379 5023
Email: sarah.scott@simpsongrierson.com
PO Box 874
SOLICITORS
CHRISTCHURCH 8140

MAY IT PLEASE THE COURT

1. This Updated Joint Memorandum replaces the Joint Memorandum filed by parties in support of consent order, dated 9 November 2018.
2. The parties respectfully request that the Court consider this Updated Joint Memorandum and the associated draft consent order, alongside the Memoranda and draft consent orders filed with the Court in relation to Topic 1, Subtopic 4, and Topic 17, Energy and Utilities. For the reasons set out in this memorandum in relation to ‘other amenity landscapes’, the parties consider the Court is best placed to issue any consent order, either at the same time as, or after the Court issues its Topic 2 decision on Rural Landscapes.
3. The Queenstown Lakes District Council (**Council**) notified its decisions on Stage 1 of the Proposed Queenstown Lakes District Plan (**PDP**) on 7 May 2018. Aurora Energy Ltd (**Aurora**)¹, Queenstown Airport Corporation (**QAC**)², Real Journeys (trading as Canyon Food & Brew Company) (**Canyon**)³, Real Journeys Limited (trading as Go Orange Limited) (**Go Orange**)⁴, Real Journeys Limited (**Real Journeys**)⁵ and Transpower New Zealand Limited (**Transpower**)⁶ appealed to the Environment Court. Parts of the appeals were allocated into Strategic Topic 2 Subtopic 11 “Landscapes and regionally significant infrastructure”.
4. Nineteen parties gave notice of their intention to be a party to the parts of the appeals in Topic 2 Subtopic 11⁷ and participated in Environment Court assisted mediation on 17 – 19 October 2018 (**October 2018 mediation**):
 - 4.1 Aurora Energy Ltd;
 - 4.2 Board of Airline Representatives New Zealand Inc;
 - 4.3 Darby Planning Limited;
 - 4.4 Federated Farmers;
 - 4.5 FII Holdings Ltd;

¹ ENV-2018-CHC-108.

² ENV-2018-CHC-093.

³ ENV-2018-CHC-146.

⁴ ENV-2018-CHC-138.

⁵ ENV-2018-CHC-131.

⁶ ENV-2018-CHC-114.

⁷ In accordance with section 274 of the Resource Management Act 1991.

- 4.6 Hansen Family Partnership.
- 4.7 Queenstown Airport Corporation Limited;
- 4.8 Queenstown Park Limited;
- 4.9 Real Journeys Limited;
- 4.10 Real Journeys (trading as Go Orange Limited);
- 4.11 Remarkables Park Ltd;
- 4.12 Royal Forest and Bird Protection Society of New Zealand Incorporated;
- 4.13 Soho Ski Area Limited and Blackmans Creek;
- 4.14 Southern District Health Board;
- 4.15 Te Anau Developments Limited;
- 4.16 Transpower New Zealand Limited;
- 4.17 Treble Cone Investments Ltd;
- 4.18 Universal Developments Limited; and
- 4.19 Vodafone New Zealand Limited, Spark New Zealand Trading Limited, Chorus New Zealand Limited.

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

- 5.1 Definitions of “Electricity Sub-transmission Infrastructure”, “Regionally Significant Infrastructure” and “Significant Electricity Distribution Infrastructure”
- 5.2 Strategic Policy 3.3.25; and
- 5.3 Policies 6.3.4, 6.3.17, 6.3.18, 6.3.24, 6.3.25.

6. Following the October 2018 mediation the Council filed consent documentation (**2018 draft consent order**).

7. On 28 March 2019 the Court issued a Minute (**Minute**) expressing some preliminary views on a draft consent order filed by parties interested in Topic 1, Subtopic 4 – Regionally Significant Infrastructure. That Minute did not comment on the Topic 2, Subtopic 11 2018 draft consent order. However, the mediation on Topic 2, Subtopic 11 was resumed on 8 August 2019. The parties were also informed by the Court’s Topic 1 decision that was received just prior to the mediation.

8. During the October 2018 mediation the parties in attendance reached agreement on appropriate amendments to the above provisions and on new provisions sought to be added. The 8 August 2019 mediation did not result in any changes to those agreed provisions set out in the 2018 draft consent order. The section 274 parties have agreed as far as they have an interest in the appeal points subject to this agreement. The provisions that the parties have agreed to are set out in the draft consent order attached to this memorandum.

Other amenity landscapes in Policy 6.3.37

9. The parties note that they have agreed to the language “Rural Character Landscapes and other amenity landscapes” in both Policy 6.3.37 and Policy 30.2.8.1(b)(i)C. Policy 6.3.37 is allocated to Topic 2, Subtopic 11, whereas Policy 30.2.8.1 is allocated to Topic 17.
10. Parts of the Rural Zone are identified on the Plan Maps by way of an overlay, as ‘Rural Character Landscapes’. This reflects that they are section 7(c) landscapes. There are however other section 7(c) amenity landscapes within the District, that are not ‘identified’ on the plan maps by way of the Rural Character Landscape overlay. The intention is to capture those areas – for example, the Rural Residential Zone, the Wakatipu Basin Zone, parts of the Jacks Point Zone that are not ONL.
11. The parties respectfully note that the appropriateness of this language should be subject to consistency with the language, if any, adopted by the Court, in its Topic 2 decision. In issuing the attached draft consent order, the parties respectfully request that the Court consider whether the language “other amenity landscapes” remains appropriate, or some other terminology that appropriately captures all section 7(c) landscapes in the District.

Consequential changes

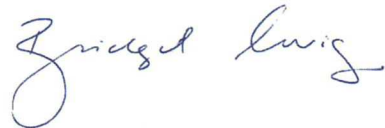
12. The parties note that some of the provisions included in the draft consent order refer through (in brackets) to other provisions in Chapter 3, for example new 6.3.3A. These will need to be checked against the Court’s

final version of the Topic 2 provisions, when the Court issues its Topic 2 decision.

Summary

13. All of the parties to this memorandum are satisfied that agreed provisions, proposed for the Court's endorsement, are within the scope of relief sought in the appellants' notices of appeal, fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Resource Management Act 1991, in particular Part 2. The parties also confirm that they have considered the points set out in the Court's Minute issued in relation to Topic 1, Subtopic 4, and consider it does not raise any issues that would require further amendment to the agreed provisions.
14. The parties therefore respectfully request that the Court dispose of the appeal points allocated to Topic 2, Subtopic 11 by approving the provisions as set out in the attached draft consent order.
15. No party has any issue as to costs.

DATED this 23 day of September 2019



Counsel for Aurora Energy Limited
(Appellant)

Counsel for Queenstown Airport
Corporation (Appellant)

Counsel for Real Journeys (trading
as Canyon Food & Brew
Company) (Appellant)


final version of the Topic 2 provisions, when the Court issues its Topic 2 decision.

Summary

13. All of the parties to this memorandum are satisfied that agreed provisions, proposed for the Court's endorsement, are within the scope of relief sought in the appellants' notices of appeal, fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Resource Management Act 1991, in particular Part 2. The parties also confirm that they have considered the points set out in the Court's Minute issued in relation to Topic 1, Subtopic 4, and consider it does not raise any issues that would require further amendment to the agreed provisions.
14. The parties therefore respectfully request that the Court dispose of the appeal points allocated to Topic 2, Subtopic 11 by approving the provisions as set out in the attached draft consent order.
15. No party has any issue as to costs.

DATED this 23 day of September 2019

Counsel for Aurora Energy Limited
(Appellant)



Counsel for Queenstown Airport
Corporation (Appellant)

Counsel for Real Journeys (trading
as Canyon Food & Brew
Company) (Appellant)

final version of the Topic 2 provisions, when the Court issues its Topic 2 decision.

Summary

13. All of the parties to this memorandum are satisfied that agreed provisions, proposed for the Court's endorsement, are within the scope of relief sought in the appellants' notices of appeal, fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Resource Management Act 1991, in particular Part 2. The parties also confirm that they have considered the points set out in the Court's Minute issued in relation to Topic 1, Subtopic 4, and consider it does not raise any issues that would require further amendment to the agreed provisions.
14. The parties therefore respectfully request that the Court dispose of the appeal points allocated to Topic 2, Subtopic 11 by approving the provisions as set out in the attached draft consent order.
15. No party has any issue as to costs.

DATED this 23 day of September 2019

Counsel for Aurora Energy Limited
(Appellant)

Counsel for Queenstown Airport
Corporation (Appellant)



Counsel for Real Journeys (trading
as Canyon Food & Brew
Company) (Appellant)

H. Thorne

Counsel for Real Journeys (trading
as Go Orange Limited)
(Appellant)

H. Thorne

Counsel for Real Journeys Limited
(Appellant)

Counsel for Transpower NZ
Limited (Appellant)

S J Scott
Counsel for Queenstown Lakes
District Council
(Respondent)

Counsel/representative for Board
of Airline Representatives New
Zealand Inc

H. Thorne

Counsel/representative for Darby
Planning

Counsel/representative for
Federated Farmers



Counsel/representative for FII
Holdings Ltd



Counsel/representative for Hansen
Family Partnership

Counsel/representative for
Queenstown Park Limited

Counsel/representative for
Remarkables Park Ltd

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



Counsel/representative for Soho
Ski Area Limited and Blackmans
Creek

H. Marnie

Counsel/representative for
Southern District Health Board

Cliff Bey

Counsel/representative for Treble
Cone Investments Ltd

H. Marnie

Counsel/representative for
Universal Developments Limited

Counsel/representative for
Vodafone New Zealand Limited,
Spark New Zealand Trading
Limited, Chorus New Zealand
Limited

Attachment: Draft consent order

Counsel/representative for FII
Holdings Ltd

Counsel/representative for Hansen
Family Partnership

Counsel/representative for
Queenstown Park Limited

Counsel/representative for
Remarkables Park Ltd

A handwritten signature in black ink, appearing to read "A. Anderson".

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

Counsel/representative for Soho
Ski Area Limited and Blackmans
Creek

Counsel for Real Journeys (trading
as Go Orange Limited)
(Appellant)

Counsel for Real Journeys Limited
(Appellant)

Counsel for Transpower NZ
Limited (Appellant)

S J Scott
Counsel for Queenstown Lakes
District Council
(Respondent)



Counsel/representative for Board
of Airline Representatives New
Zealand Inc

Counsel/representative for Darby
Planning

Counsel/representative for
Federated Farmers

Counsel for Real Journeys (trading
as Go Orange Limited)
(Appellant)

Counsel for Real Journeys Limited
(Appellant)

Counsel for Transpower NZ
Limited (Appellant)

S J Scott
Counsel for Queenstown Lakes
District Council
(Respondent)

Counsel/representative for Board
of Airline Representatives New
Zealand Inc

Counsel/representative for Darby
Planning




Counsel/representative for
Federated Farmers

Counsel/representative for FII
Holdings Ltd

Counsel/representative for Hansen
Family Partnership



Counsel/representative for
Queenstown Park Limited



Counsel/representative for
Remarkables Park Ltd

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

Counsel/representative for Soho
Ski Area Limited and Blackmans
Creek

Counsel for Real Journeys (trading
as Go Orange Limited)
(Appellant)

Counsel for Real Journeys Limited
(Appellant)



Counsel for Transpower NZ
Limited (Appellant)

S J Scott
Counsel for Queenstown Lakes
District Council
(Respondent)

Counsel/representative for Board
of Airline Representatives New
Zealand Inc

Counsel/representative for Darby
Planning

Counsel/representative for
Federated Farmers

Counsel for Real Journeys (trading
as Go Orange Limited)
(Appellant)

Counsel for Real Journeys Limited
(Appellant)

Counsel for Transpower NZ
Limited (Appellant)



S J Scott
Counsel for Queenstown Lakes
District Council
(Respondent)

Counsel/representative for Board
of Airline Representatives New
Zealand Inc

Counsel/representative for Darby
Planning

Counsel/representative for
Federated Farmers

A handwritten signature in black ink, appearing to be 'C. A. [unclear]', written over a horizontal line.

Counsel/representative for
Vodafone New Zealand Limited,
Spark New Zealand Trading
Limited, Chorus New Zealand
Limited

Attachment: Draft consent order

IN THE MATTER of the Resource Management Act 1991

AND

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

BETWEEN **AURORA ENERGY LIMITED**
and all other appellants concerning Topic 2 Subtopic 11 of Stage 1 of the Proposed Queenstown Lakes District Plan

AND **AURORA ENERGY LTD**
BOARD OF AIRLINE REPRESENTATIVES NEW ZEALAND INC
DARBY PLANNING LIMITED
FEDERATED FARMERS
FII HOLDINGS LTD
HANSEN FAMILY PARTNERSHIP
QUEENSTOWN AIRPORT CORPORATION LIMITED
QUEENSTOWN PARK LIMITED
REAL JOURNEYS LIMITED
REAL JOURNEYS TRADING AS GO ORANGE LIMITED
REMARKABLES PARK LTD
ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INCORPORATED
SOHO SKI AREA LIMITED AND BLACKMANS CREEK SOUTHERN DISTRICT HEALTH BOARD
TE ANAU DEVELOPMENTS LIMITED

[cont]

**TRANSPower NEW
ZEALAND LIMITED
TREBLE CONE
INVESTMENTS LTD
UNIVERSAL
DEVELOPMENTS LIMITED
VODAFONE NEW ZEALAND
LIMITED, SPARK NEW
ZEALAND TRADING LIMITED,
CHORUS NEW ZEALAND
LIMITED**

Section 274 Parties

AND

**QUEENSTOWN LAKES
DISTRICT COUNCIL**
Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge

sitting alone under section 279

of the Act **IN CHAMBERS** at

CONSENT ORDER

Introduction

1. The Court has read and considered the notices of appeal from Aurora Energy Ltd (**Aurora**)⁸, Queenstown Airport Corporation (**QAC**),⁹ Real Journeys (trading as Canyon Food & Brew Company) (**Canyon**),¹⁰ Real Journeys Limited (trading as Go Orange Limited) (**Go Orange**),¹¹ Real Journeys Limited (**Real Journeys**),¹² and Transpower New Zealand Limited (**Transpower**)¹³ against decisions by the Queenstown Lakes District Council (**Council**) on Stage 1 of the Proposed Queenstown Lakes District Plan (**PDP**), in particular the parts of those appeals allocated into Strategic Topic 2 Subtopic 11 “Landscapes and regionally significant infrastructure”.

⁸ ENV-2018-CHC-108.

⁹ ENV-2018-CHC-093.

¹⁰ ENV-2018-CHC-146.

¹¹ ENV-2018-CHC-138.

¹² ENV-2018-CHC-131.

¹³ ENV-2018-CHC-114.

APPENDIX 1

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

CHAPTER 2 - DEFINITIONS

Electricity Sub-transmission Infrastructure

Means electricity infrastructure which conveys electricity between:

- i. the National Grid and zone substations;
- ii. renewable energy generation sources and zone substations; or
- iii. zone substations.

Regionally Significant Infrastructure

Means:

- a. renewable electricity generation activities undertaken by an electricity operator; and
- b. the national grid; and
- c. electricity sub-transmission infrastructure; and
- d. significant electricity distribution infrastructure as shown on the District Plan Maps
- e. telecommunication and radio communication facilities; and
- f. state highways; and
- g. Queenstown and Wanaka airports and associated navigation infrastructure.

CHAPTER 3 - STRATEGIC DIRECTION

3.3 Strategic Policies

- 3.3.25 Provide for non-residential development with a functional need to locate in the rural environment, ~~including regionally significant infrastructure where applicable~~, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the rural environment. (relevant to S.O. 3.2.1.8, 3.2.1.9, 3.2.5.1 and 3.2.5.2).

CHAPTER 6 – LANDSCAPES AND RURAL CHARACTER

6.3.3A: In relation to Regionally Significant Infrastructure, the policies in 6.3.35 to 6.3.38 take precedence in the event of any conflict with other policies in this Chapter. (3.2.1.9, 3.2.5.1, 3.2.5.2, 3.3.30, 3.3.32, 3.3.36)

Managing Regionally Significant Infrastructure

6.3.35 Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, while acknowledging that functional needs location constraints and/or the nature of the infrastructure may mean that this is not practicable possible in all cases. (3.2.1.9, 3.2.5.1, 3.2.6, 3.3.25, 3.3.30, 3.3.36).

[moved from 6.3.17, and amended]

6.3.36 In cases where it is demonstrated that regionally significant infrastructure cannot avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, avoid significant adverse effects so as to maintain the values that contribute to the outstanding nature, and remedy or mitigate ~~minimise~~ other adverse effects on those landscapes and features. (3.2.1.9, 3.2.5.1, 3.2.6, 3.3.25, 3.3.30, 3.3.36).

[moved from 6.3.18, and amended]

6.3.37 In relation to Rural Character Landscapes and other amenity landscapes, locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid significant adverse effects on the character of the landscape, while acknowledging that functional needs location constraints and/or the nature of the infrastructure may mean that this is not practicable possible in all cases. (3.2.1.9, 3.2.5.2, 3.2.6, 3.3.25, 3.3.32, 3.3.36).

[moved from 6.3.24, and amended]

6.3.38 In cases where it is demonstrated that regionally significant infrastructure cannot avoid significant adverse effects on the character of the landscape, such adverse effects shall be remedied or mitigated ~~minimised~~. (3.2.1.9, 3.2.5.2, 3.2.6, 3.3.25, 3.3.32, 3.3.36).

[moved from 6.3.25, and amended]

CONSEQUENTIAL CHANGES TO PLAN MAPS

1. Delete “Aurora Distribution Lines – For information only” from the District Plan Maps Legend
2. Add the following to the District Plan Maps Legend:
 - a. *“Electricity Sub-transmission Infrastructure”*
 - b. *“Significant Electricity Distribution Infrastructure”*
3. Amend the plan maps so that they show the Aurora infrastructure consistent with the attached maps):
 - 3.1 “Significant electricity distribution infrastructure” are the three following lines shown in **red** on the attached maps:
 - Wanaka to Treble Cone
 - Maungawera (near Camp Hill) to Makarora
 - Cardrona substation to the Cardrona Transformer at skifield base
4. ‘Electricity Sub-transmission Infrastructure’ are the balance of the lines shown in **green** on the attached maps.