

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

IN THE MATTER of the Resource Management Act 1991

AND of appeals pursuant to clause 14(1) of the
First Schedule of the Act

BETWEEN FEDERATED FARMERS OF NEW
ZEALAND INC

 (ENV-2018-CHC-53)

 ... (continued on page 7)

 Appellants

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

 Respondent

MINUTE (26 July 2018)

Introduction

[1] The Registrar has referred to us:

- the memorandum dated 23 July 2018 of counsel (Ms Hockly) for the Council filed in response to the court's Minute dated 17 July 2018 relating to the appeals on Stage 1 of the PDP of the Queenstown Lakes District Council ("QLDC");
- a memorandum on the Topics 1 to 3 for the Royal Forest and Bird Protection Society of NZ Inc ("Forest and Bird") dated 20 July 2018;
- an email from the Upper Clutha Environmental Society Inc ("UCESI") dated 21 July 2018.

[2] This Minute responds to issues raised in those memoranda in an effort – by giving amended directions now – to avoid parties having to later retrace too many steps.



Topic allocation

[3] The court's Minute dated 17 July 2018 suggested a general approach whereby appeals on related topics should be mediated and/or heard together, and appeals related to higher order issues should be dealt with first. The Minute identified a set of six higher order topics – the Strategic Topics – which correspond broadly to the strategic objectives in Chapter 3 Strategic Direction.

[4] As a preliminary point the Council advises that there are no appeals on Strategic Topic 5. Accordingly, Topic 5 will be removed from the topic list and another Topic 5 identified in due course.

[5] Ms Hockly states for the Council that it will be important to ensure that all parties and the court are aligned as to which of the Strategic Topics each of the Strategic Policies fall into. In many instances the Strategic Policies explicitly cross-reference to more than one Strategic Objective and as a result cross-reference more than one of the Strategic Topics listed in the Minute¹.

[6] The Council has built on the breakdown provided by the court and provided a suggested approach for the assignment of each of the Strategic Policies to what it considers to be the most appropriate Strategic Topic.

[7] Ms Hockly adds:

Given the large number of appeal points, the Council has further built on the breakdown provided by the court by allocating the Strategic Topics into subtopics. The Council considers that these subtopics will assist the parties to prepare their cases in a coherent manner. The Council has provided its suggestions on these subtopics at this stage in order to give the parties opportunity to provide comment.

[8] The Council's suggested allocation of the Strategic Policies and proposed subtopics are listed in Annexure X to this Minute. Column A shows the court's suggested six higher order topics in black text with the Council's proposed additions/amendments



¹ Ms Hockly gives as examples Strategic Policies 3.3.14, 3.3.15, 3.3.17, 3.3.18, 3.3.19, 3.3.21, 3.3.25 and 3.3.26. The information in brackets at the end of each of these Strategic Policies shows that they relate to more than one Strategic Objective, and that these Strategic Objectives are from different suites of objectives.

in red text. Column B usefully sets out the Council's proposed subtopic breakdowns especially in relation to the strategic policies in Chapter 3.

[9] The Council has noted that many appeals seek that new provisions be added into Chapters 3, 4 and 6 by way of relief without specifically referring to a particular PDP provision. The Council considers it is appropriate to group those appeal points into the relevant Strategic Topics and subtopics according to the subject matter of the relief and it has identified those in Appendix A to its memorandum.

[10] Subject to the matters raised below, we consider the Council's analysis (as now shown in Appendix X to this Minute) usefully expands on the court's analysis of suggested topics. Accordingly, we will direct that Appendix X replace the earlier analysis of topics.

[11] The various appellants who may be affected should ensure that their notices of appeal are listed in the court's Appendix 1, 2 or 3 as attached to the Minute of 17 July 2018.

Topic 1 – Resilient Economy

[12] The Council refers to the fact that a number of appeal points seek the insertion of a new "waterways" chapter. Noting that the relief generally relates to tourism issues, the Council has suggested that these appeal points are relevant to the topic of a resilient economy and should form a subtopic within Strategic Topic 1.

[13] The court has no strong view on the matter but queries whether this might not be better heard with the Council's Topic 2 subtopic 9? It seeks the views of parties other than the respondent.

[14] Topic 1 looks like a very broad topic – if all the important subtopics cannot be dealt with in the first two weeks of hearing time, further time can be allotted at the initial judicial conference in the week of 3 September 2018.

Topic 2 – Landscape

[15] The Council considers that Topic 2 should include all the appeal points seeking amendments to the location of any Outstanding Natural Landscape ("ONL") and/or any Outstanding Natural Feature ("ONF") and notes that the majority of these appeals seek



a different zoning for the appellants' land. Ms Hockly submits that the principles in *Man o' War Station Limited v Auckland Council*² ("*Man o' War*"), dictate that these appeal points should be dealt with before any appeals on the text provisions in Chapter 6, and before any consideration of the appropriate zone (and related text provisions) for the land. Consequently, the Council proposes a separate subtopic within Strategic Topic 2 for these appeal points.

[16] *Man o' War* makes it quite clear that identification of ONLs and ONFs is a question of fact³ which should logically precede hearing of any appeals about the "conceptually separate"⁴ policy framework. In our view the logical sequence for Topic 2 is:

- (a) identification of most⁵ ONLs and ONFs and their limits or boundaries;
- (b) resolution of appeals on strategic objectives and policies;
- (c) resolution of appeals on methods (including zonings) and rules including assessment matter.

We consider the first stage of hearings on Topic 2 should begin to resolve (a), and may begin to resolve (b). But all issues under (c) should neither be mediated nor timetabled for evidence at this stage because that would be premature given the uncertainty over (a) and (b).

[17] In terms of the Council's analysis of Strategic Topic 2 in subtopics, we provisionally consider the initial hearing should include subtopics 1 to 4 in Appendix X (in addition to the strategic topics in the left-hand column).

Topic 3 – Urban Growth

[18] The Council has suggested⁶ allocation to Topic 3 of all appeal points requesting that the Urban Growth Boundary be relocated or deleted, in order that Urban Growth Boundary may be considered in its entirety as a strategic matter. That appears logical to

² *Man o' War Station Limited v Auckland Council* [2017] NZCA 24; [2017] NZRMA 12.

³ E.g. *Man o' War* above n 2 at [61].

⁴ *Man o' War* above n 2 at [75].

⁵ Areas specifically raised in notices of appeal should probably be resolved first so far as that is possible when a district-wide perspective is being taken.

⁶ QLDC memorandum dated 23 July 2018 para 8.5.



us provided it includes appeal points seeking relief in relation to population growth and the National Policy Statement on Urban Development Capacity.

Topic 2 or Topic 4?

[19] With respect to the Forest and Bird memorandum and the UCESI email both dated 20 July 2018. Forest and Bird suggests that its appeal on Strategic Policy 3.3.17 (referenced as appeal ENV-2018-CHC-133-002 by the QLDC in its Appendix A) might appropriately be dealt with as part of Topic 2. The UCESI agrees.

[20] The Council, on the other hand, says that Strategic Policy 3.3.17 relates directly to indigenous ecosystems and biodiversity, so it has allocated appeals on Strategic Policy 3.3.17 to Topic 4. Obviously, as Ms Hockly concedes, there is a link between the subject matters of Topics 2 and 4: Topic 2 deals with landscapes and rural environment and Topic 4 deals with indigenous ecosystems and biodiversity. However, we provisionally accept the Council's view that the content of Topic 4 is more directly related to the matters raised in Forest and Bird's appeal and that appeal point ENV-2018-CHC-133-002 is most appropriately allocated to Topic 4.

[21] Forest and Bird also enquires whether Chapters 21 and 22 will be heard in Strategic Topic 2. UCESI considers that it would be appropriate for Chapter 21 to be heard in Topic 2. The court's Minute at para [2] set out the 'directly related subsequent chapters' that the court considers should be heard with the Strategic Topics are listed in para 13 of the Minute. Paragraph 13 does not include Chapters 21 or 22. The reason for that is that the PDP contains a clear distinction between the strategic chapters (such as Chapters 3 and 6) and the zone specific chapters (such as Chapters 21 and 22). We provisionally accept Ms Hockly's submission that it would be most appropriate to manage Chapters 21 and 22 separately from Topic 2. This approach reflects the hierarchy of the PDP and gives the parties (and the court) the opportunity to address the higher order matters contained in Chapters 3 and 6 prior to addressing any detailed relief on the zone provisions contained in Chapters 21 and 22.

Schedules A to C

[22] As a consequence of the reallocation of appeal points between Topics 1 to 3, the court's Schedules A to C to its 17 July Minute are incorrect.



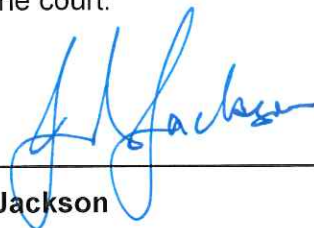
[23] We agree that it is appropriate to utilise Appendices B, C and D to the QLDC memorandum as a starting point for the other parties to provide comment as to which of Strategic Topics 1 to 3 they consider their appeals relate to (rather than Appendices A to C to the 17 July Minute).

Directions

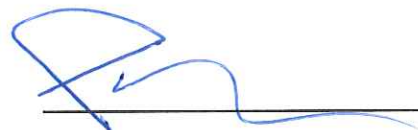
[24] We direct:

- (1) the directions in the Minute dated 17 July 2018 are confirmed subject to the following changes or additions;
- (2) that the Council's list of the Strategic Topics shown in the table annexed to this Minute as "X" is adopted in full (including the list of subtopics in Column B) but subject to any further order of the court after hearing from the parties;
- (3) accordingly, the direction in para [34] of the Minute dated 17 July 2018 applies to the list of topics (1) to (3) as described in Appendix X to this Minute (and the parties should note the Council's efforts to identify the relevant notices of appeal in the Schedules attached to its 23 July 2018 memorandum;
- (4) the time for complying with direction 34(1) of the Minute dated 17 July 2018 is extended to **10 August 2018**. In other words, all appellants who have not been included in Appendix B, C or D to the Council's memorandum dated 23 July 2018 and think that they should be, must advise the Registrar, the parties and the Council, on or before **10 August 2018**; and
- (5) that any party that has comments on the proposed subtopics recorded in the second column B of the table annexed as "X" provide those comments to the Council by 10 August 2018 in order that the Council may report on those comments and any amendments to the subtopics as part of its memorandum to be filed with the court on **24 August 2018** (or such reasonable further period as may be allowed).

For the court:



J R Jackson
Environment Judge
 Issued: 26 July 2018



J J M Hassan
Environment Judge



List of Appellants

ENV-2018-CHC-053	Federated Farmers of NZ
ENV-2018-CHC-054	Gibbston Valley Station Limited
ENV-2018-CHC-055	Hawthenden Limited
ENV-2018-CHC-056	Upper Clutha Environmental Society Incorporated
ENV-2018-CHC-057	Clive Wood
ENV-2018-CHC-058	Ritchie Kerr Trust
ENV-2018-CHC-060	Brett Giddens
ENV-2018-CHC-061	Schranz
ENV-2018-CHC-062	Jeremy Bell Investments Limited
ENV-2018-CHC-063	Jeremy Bell Investments Limited
ENV-2018-CHC-064	Varina Pty Limited
ENV-2018-CHC-065	Clark Fortune McDonald and Associates
ENV-2018-CHC-066	Matakauri Lodge Limited
ENV-2018-CHC-067	Arthurs Point Protection Society
ENV-2018-CHC-068	Loch Linnhe Station
ENV-2018-CHC-069	Beresford
ENV-2018-CHC-070	Heritage New Zealand Pouhere Taonga
ENV-2018-CHC-071	van Brandenburg
ENV-2018-CHC-072	Kipke
ENV-2018-CHC-073	Southern District Health Board
ENV-2018-CHC-074	Wild Grass Investments No 1. Limited & others
ENV-2018-CHC-075	Jade Lake Queenstown Limited
ENV-2018-CHC-076	Arthurs Point Trustee Limited as trustee of the Arthurs Point Land Trust
ENV-2018-CHC-077	P D Gordon Family Trust
ENV-2018-CHC-078	Department of Conservation
ENV-2018-CHC-079	Otago Regional Council
ENV-2018-CHC-080	Grant
ENV-2018-CHC-081	Grant
ENV-2018-CHC-082	Kawarau Jet Services Holdings Limited
ENV-2018-CHC-083	Mt Cardrona Station Limited
ENV-2018-CHC-084	FII Holdings Limited
ENV-2018-CHC-085	Ngai Tahu Justice Holdings Limited & others
ENV-2018-CHC-086	Streat Developments Limited
ENV-2018-CHC-087	House Movers Section of the New Zealand
ENV-2018-CHC-088	Orchard Road Holdings Limited
ENV-2018-CHC-089	Macfarlane Investments Limited
ENV-2018-CHC-090	Remarkables Station Limited & others
ENV-2018-CHC-091	Burdon
ENV-2018-CHC-092	Trojan Helmet
ENV-2018-CHC-093	Queenstown Airport
ENV-2018-CHC-094	The Middleton Family Trust & others
ENV-2018-CHC-095	Seven Albert Town Property Owners
ENV-2018-CHC-096	Fairfax & others
ENV-2018-CHC-097	Mount Crystal Limited
ENV-2018-CHC-098	Friends of Wakitipu Gardens
ENV-2018-CHC-099	Bill and Jan Walker Family Trust & others
ENV-2018-CHC-100	Peter Manthey
ENV-2018-CHC-101	Universal Developments Limited
ENV-2018-CHC-102	RCL Henley Downs & Others
ENV-2018-CHC-103	Mt Christina Limited
ENV-2018-CHC-104	Soho Ski Area / Blackmans Creek
ENV-2018-CHC-105	Wright
ENV-2018-CHC-106	Te Anau Developments
ENV-2018-CHC-107	Treble Cone Investments
ENV-2018-CHC-108	Aurora Energy Ltd
ENV-2018-CHC-109	Homestead Bay Trustees Limited



ENV-2018-CHC-110	Richter
ENV-2018-CHC-111	Aspiring Lifestyle Retirement Investments Limited
ENV-2018-CHC-112	Queenstown Views Limited
ENV-2018-CHC-113	CSF Trustees Limited
ENV-2018-CHC-114	Transpower NZ Ltd
ENV-2018-CHC-115	Willowridge Developments Ltd
ENV-2018-CHC-116	Wei Heng Fong
ENV-2018-CHC-117	Cardrona Alpine Resort Limited
ENV-2018-CHC-118	Wakatipu Holdings Limited
ENV-2018-CHC-119	Halfway Bay Lands Limited
ENV-2018-CHC-120	Anderson Branch Creek Limited
ENV-2018-CHC-121	Tussock Rise Limited
ENV-2018-CHC-122	Trojan Holdings Limited
ENV-2018-CHC-123	Skyline Enterprises Limited
ENV-2018-CHC-124	Waterfall Park Developments Limited
ENV-2018-CHC-125	Kopuwai Investments Limited
ENV-2018-CHC-126	Remarkables Park Limited
ENV-2018-CHC-127	Queenstown Park Limited
ENV-2018-CHC-128	Well Smart Investment Holding (NZQN)
ENV-2018-CHC-129	Slopehill Properties Limited
ENV-2018-CHC-130	Private Property Limited
ENV-2018-CHC-131	Real Journeys Limited
ENV-2018-CHC-132	Aircraft Owners and Pilots Association
ENV-2018-CHC-133	Royal Forest and Bird
ENV-2018-CHC-134	Ngai Tahu Tourism Limited
ENV-2018-CHC-135	Republic Hospitality Group
ENV-2018-CHC-136	Burgess
ENV-2018-CHC-137	Coneburn Preserve Holdings & Others
ENV-2018-CHC-138	Real Journeys (go Journeys)
ENV-2018-CHC-139	Westwood Group Holdings Limited
ENV-2018-CHC-140	The Otago Foundation Trust Board and Wakatipu Community Presbyterian Church
ENV-2018-CHC-141	Glendhu Bay Trustees Limited
ENV-2018-CHC-142	Queenstown Wharves GP Limited
ENV-2018-CHC-143	Wyuna Preserve Residents Association
ENV-2018-CHC-144	James Wilson Cooper
ENV-2018-CHC-145	Glen Dene Limited
ENV-2018-CHC-146	Real Journeys Limited (trading as Canyon Food & Brew Company Ltd)
ENV-2018-CHC-147	Glen Dene Holdings Limited & Others
ENV-2018-CHC-148	Allenby Farms Limited
ENV-2018-CHC-149	Alps Investment Limited
ENV-2018-CHC-150	Darby Planning LP
ENV-2018-CHC-151	NZ Tungsten Mining
ENV-2018-CHC-152	Queenstown Airport Corporation Limited (designation)
ENV-2018-CHC-160	Lake McKay Station Limited
ENV-2018-CHC-163	Boyd, Redai & others



ANNEXURE "X"

COLUMN A	COLUMN B
Strategic Topics	Subtopics
Strategic Topic 1: A resilient economy 3.1 Purpose Strategic Objectives 3.2.1 and 3.2.1.1 – 3.2.1.9 (excluding Strategic Objectives 3.2.1.7 and 3.2.1.8) and 3.2.6 Strategic Policies 3.3.1 – 3.3.12	<i>Strategic Topic 1: Subtopic 1</i> New definition of "Visitor Industry"
	<i>Strategic Topic 1: Subtopic 2</i> Definitions: "Resort"
	<i>Strategic Topic 1: Subtopic 3</i> 3.1 Purpose Strategic Objectives 3.2.1, 3.2.1.1 – 3.2.1.9 (excluding Strategic Objectives 3.2.1.7 and 3.2.1.8) and 3.2.6
	<i>Strategic Topic 1: Subtopic 4</i> Strategic Policies 3.3.1 – 3.3.12
	<i>Strategic Topic 1: Subtopic 5</i> Tourism (Chapter 3)
	<i>Strategic Topic 1: Subtopic 6</i> New waterways chapter
Strategic Topic 2: Rural landscape Strategic Objectives 3.2.1.7 – 3.2.1.8, 3.2.5, and 3.2.5.1 – 3.2.5.2 Strategic Policies 3.3.20 – 3.3.32 (excluding Strategic Policies 3.3.27 – 3.3.28) Chapter 6	<i>Strategic Topic 2: Subtopic 1</i> Amendments to Outstanding Natural Landscape Line and Outstanding Natural Features
	<i>Strategic Topic 2: Subtopic 2</i> Strategic Objectives 3.2.1.7 – 3.2.1.8, 3.2.5, and 3.2.5.1 – 3.2.5.2
	<i>Strategic Topic 2: Subtopic 3</i> Strategic Policies 3.3.20 – 3.3.32 (excluding Strategic Policies 3.3.27 – 3.3.28)
	<i>Strategic Topic 2: Subtopic 4</i> Title, Purpose and Values (6.1 and 6.2)
	<i>Strategic Topic 2: Subtopic 5</i> Rural Landscape Categorisation (Policies 6.3.1 to 6.3.3)
	<i>Strategic Topic 2: Subtopic 6</i> Managing Activities in the Rural Zone, the Gibbston Character Zone, the Rural Residential Zone and the Rural Lifestyle Zone (Policies 6.3.4 to 6.3.11)
	<i>Strategic Topic 2: Subtopic 7</i> Managing Activities in Outstanding Natural Landscapes and on Outstanding Natural Features (Policies 6.3.12 to 6.3.18)
	<i>Strategic Topic 2: Subtopic 8</i> Managing Activities in Rural Character Landscapes (Policies 6.3.19 to 6.3.29)
	<i>Strategic Topic 2: Subtopic 9</i> Managing Activities on Lakes and Rivers (Policies 6.3.30 to 6.3.33)
	<i>Strategic Topic 2: Subtopic 10</i> Tourism (Chapter 6)
<i>Strategic Topic 2: Subtopic 11</i> Upper Clutha Basin Land Use Planning Study	



<p>Strategic Topic 3: Urban development</p> <p>Strategic Objectives 3.2.2 and 3.2.2.1 Strategic Policies 3.3.13 – 3.3.15 Chapter 4</p>	<p><i>Strategic Topic 3: Subtopic 1</i> Definitions: "Urban Development"</p>
	<p><i>Strategic Topic 3: Subtopic 2</i> Amendments to Location of UGB Line</p>
	<p><i>Strategic Topic 3: Subtopic 3</i> Strategic Objectives 3.2.2 and 3.2.2.1 Strategic Policies 3.3.13 – 3.3.15</p>
	<p><i>Strategic Topic 3: Subtopic 4</i> National Policy Statement on Urban Development Capacity</p>
	<p><i>Strategic Topic 3: Subtopic 5</i> Population Growth</p>
	<p><i>Strategic Topic 3: Subtopic 6</i> 4.1 Purpose</p>
	<p><i>Strategic Topic 3: Subtopic 7</i> UGB General: Objective 4.2.1 Policies 4.2.1.1 – 4.2.1.7</p>
	<p><i>Strategic Topic 3: Subtopic 8</i> UGB General: Objectives 4.2.2A – 4.2.2B Policies 4.2.2.1 – 4.2.2.12</p>
	<p><i>Strategic Topic 3: Subtopic 9</i> Wakatipu Basin Specific Policies: 4.2.2.13 – 4.2.2.21 Upper Clutha Basin Specific Policies: 4.2.2.22 – 4.2.2.23</p>
<p>Strategic Topic 4: Indigenous ecosystems and biodiversity</p> <p>Strategic Objectives 3.2.4 and 3.2.4.1 – 3.2.4.5 Strategic Policies 3.3.17 – 3.3.19 and 3.3.27 – 3.3.28 Chapter 33</p>	<p><i>Strategic Topic 4: Subtopic 1</i> Strategic Objectives 3.2.4 and 3.2.4.1 – 3.2.4.5 Strategic Policies 3.3.17 – 3.3.19 and 3.3.27 – 3.3.28</p>
	<p><i>Strategic Topic 4: Subtopic 2</i> Objectives, Policies, Rules and Methods (33.1 – 33.6)</p>
	<p><i>Strategic Topic 4: Subtopic 3</i> Schedule of Significant Natural Areas and Threatened Environment Classification Maps (33.7 and 33.9)</p>
<p>Strategic Topic 5: Ngai Tahu S.O. 3.2.7 Chapter 5</p>	
<p>Strategic Topic 56: Heritage</p> <p>Strategic Objectives 3.2.3 and 3.2.3.1 Strategic Policy 3.3.16 Chapter 26</p>	<p><i>Strategic Topic 5: Subtopic 1</i> Strategic Objectives 3.2.3 and 3.2.3.1 Strategic Policy 3.3.16</p>
	<p><i>Strategic Topic 5: Subtopic 2</i> Historic Heritage: Objectives, Policies, Rules and Methods (26.1 – 26.6)</p>
	<p><i>Strategic Topic 5: Subtopic 3</i> Inventory of listed Heritage Features (26.8)</p>
	<p><i>Strategic Topic 5: Subtopic 4</i> Heritage Overlay Areas (26.10)</p>

