

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV-2019-CHCH-0000

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

An appeal under Schedule 1, Clause 14(1), of the
Act

BETWEEN

CLIVE MANNERS WOOD

Appellant

AND

QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

**NOTICE OF APPEAL BY CLIVE MANNERS WOOD
AGAINST A DECISION ON A VARIATION TO A PROPOSED PLAN**

7 MAY 2019

Counsel instructed:

JGH BARRISTER

J D K Gardner-Hopkins

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james@jghbarrister.com

PO Box 25-160

WELLINGTON

- TO:** The Registrar
Environment Court
PO Box 2069
20 Lichfield Street
CHRISTCHURCH
(Christine.McKee@justice.govt.nz)
- AND TO:** The Respondent
(dpappeals@glde.govt.nz)
- AND TO:** The person who made the original submission which is the subject of the appeal (if not the appellant), and every person who made a further submission on the same original submission (by email).
- AND TO:** All others by way of the Respondent posting on its website.

Background / jurisdiction

1. Mr Wood (“**appellant**”) made a submission on Stage 1 of the Queenstown Lakes District Proposed District Plan (“**PDP**”) on or around 22 October 2015, and a further submission on 18 December 2015 (“**original submissions**”).
2. The original submissions opposed the rules and standards and other provisions proposed in the PDP relating to noise, in particular those relating to “informal airports”. The appellant was concerned about the effect of the proposed PDP provisions on the potential for inappropriately located and controlled informal airports to establish in the Rural General Zone.
3. At the time the appellant made his original submission, the proposed Rural General Zoning under the PDP included land in the Wakatipu Basin.
4. “Stage 2” of the PDP was notified on 23 November 2017.
5. While Stage 2 included a number of “new” provisions, it also amended Stage 1 of the PDP by way of a variation. As relevant to the appeal, Stage 2 included a variation to change the zoning that had applied under Stage 1 of the PDP to land at Wakatipu from Rural General to “Wakatipu Basin Rural Amenity Zone”. The noise provisions relating to informal airports in the Wakatipu Basin Rural Amenity Zone were essentially the same as those proposed in Stage 1 of the PDP.
6. In the meantime, the appellant had appealed those parts of the Stage 1 decision relating to informal airports, on 13 June 2018 (ENV-2018-CHC-057-001). That appeal has been the subject of mediation, although consent orders have not yet issued.
7. Recommendations from the Independent Hearing Panel on Stage 2 were ratified by the Council as Council Decisions on 7 March 2019. Public notice of decisions on Stage 2 was given on 21 March 2019. A minute of the Environment Court dated 21 March 2019 confirmed the closing date for appeals as 7 May 2019.

8. The appellant did not lodge any submissions on Stage 2. He did not appreciate the complexities of the process and *potential* need to re-make its original submissions on Stage 2.

9. Clause 16B(1) of Schedule 1 of the Act governs the situation arising, stating:

16B Merger with proposed policy statement or plan

(1) Every variation initiated under clause 16A shall be merged in and become part of the proposed policy statement or plan as soon as the variation and the proposed policy statement or plan are both at the same procedural stage; **but where the variation includes a provision to be substituted for a provision in the proposed policy statement or plan against which a submission or an appeal has been lodged, that submission or appeal shall be deemed to be a submission or appeal against the variation.**

10. On this basis:

- (a) the appellant's original submissions on Stage 1 are deemed to be submissions against the provisions of the Wakatipu Basin Rural Amenity Zone in Stage 2 (which substituted the provisions of Stage 1 relating to the Wakatipu Basin area);
- (b) this gives rise to a right of appeal in respect of the informal airport provisions of the Wakatipu Basin Rural Amenity Zone; and
- (c) furthermore, the appellant's existing appeal (ENV-2018-CHC-057-001) is in any event deemed an appeal against the informal airport provisions of the Wakatipu Basin Rural Amenity Zone.

11. Given the position at law identified at paragraph [10](c) above, strictly speaking, the appellant does not need to file a notice of appeal in respect of Stage 2. However, the appellant has done so through this notice, for completeness and to assist in the administration of the appeals.

12. A copy of ENV-2018-CHC-057-001 and its attachments is included as **Schedule 1** to this notice of appeal.

The Stage 2 decision

13. The Stage 2 decision ("**Decision**") includes the following provisions relating to informal airports:

Policy 24.2.2.4	Ensure informal airports are located, operated and managed to maintain the surrounding rural amenity.
Policy 24.2.3.1	Ensure informal airports are not compromised by the establishment of incompatible activities.
Rule 24.4.12	Informal airports – Activity status: Permitted.
Rule 24.4.27	Informal airports – Wakatipu Basin Lifestyle Precinct – Activity status: Discretionary.
Standard 24.5.18:	Informal airports

Other than in the case of informal airports for emergency landings, rescues, firefighting and activities ancillary to farming activities:

- a. Informal airports shall not exceed a frequency of use of 2 flights per day;
- b. Informal airports shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential dwelling not located on the same site;

Advice note: For the purpose of this rule a flight includes two aircraft movements i.e. an arrival and a departure.

14. Compliance with the District Wide noise rules (ie Chapter 35) applying to informal airports is also required; but these provisions were subject of the Stage 1 decision (and appeals, including an appeal by the appellant).

Scope of appeal

15. The appellant appeals all the parts of the Decision that relate to informal airports (including, but not limited to, those identified above at paragraph [13]); including the rural amenity, character, and cumulative effects considerations arising from informal airports .

No prohibited trade competition purposes

16. The appellant is not a trade competitor for the purposes of Section 308D of the Act, and in particular does not bring this appeal for the purposes of:
 - (a) protecting the appellant from trade competition; and/or
 - (b) preventing any trade competitor from engaging in trade competition; and/or
 - (c) deterring any trade competitor from engaging in trade competition.

Reasons for the appeal

17. The Decision as it relates to informal airports, and in particular its enablement of helipads:
 - (a) fails to promote sustainable management of resources, including the enabling of people and communities to provide for their social well-being, and will not avoid, remedy or mitigate the adverse effects of helipads on the environment, and so will not achieve the section 5 purpose of the Act;
 - (b) fails to maintain and enhance amenity values, a matter to have particular regard to under section 7(c) of the Act (and noting the wide definition of amenity under the Act);
 - (c) fails to achieve the functions of the Council under section 31, including the integrated management of the effects of the use and development of land and physical resources;

- (d) fails to meet the requirements of section 32;
- (e) fails to recognise the need for resource consent to be required for all helicopter landings, so that effects on neighbours and wider amenity and character can be considered;
- (f) fails to consider the cumulative effects the development of multiple helipads under the permitted standards proposed;
- (g) fails to consider the “permitted baseline” or “existing environment” implications of the permitted standards proposed;
- (h) fails to consider the “existing environment” comprising the already consented helipads in the rural and areas (noting that the Council had “literally hundreds” of applications for those activities), and the cumulative effects of allowing further helipads against that environment under the proposed PDP regime;
- (i) in terms of the rules, fail to achieve or implement the relevant proposed policies of the PDP, including Policy 24.2.2.4 and Policy 24.2.3.1;
- (j) In terms of Policy 24.2.3.1, the Policy risks imposing inappropriate restrictions on the use of neighbouring land, should an informal airport or helipad be established, including as a permitted activity under the proposed rule framework;
- (k) is being used inappropriately to justify the application of the same rules and standards in the Wakatipu Basin (Chapter 24) (before this and other appeals will be resolved); and
- (l) otherwise fails to address the concerns stated in the appellant’s original submissions and appeal ENV-2018-CHC-057-001.

Relief sought

18. The appellant seeks:
- (a) Retention of all the provisions in the Operative Plan relating to the establishment and assessment of informal airports or “helipads”.
 - (b) In particular, to require all but infrequent landings of helicopters to obtain consent.
 - (c) Any other similar, consequential, or other relief as is necessary to address the issues raised in the appellant’s original submissions and/or this appeal.
 - (d) Costs.

Alternative dispute resolution

19. The appellant agrees to participate in mediation or other alternative dispute resolution of the proceeding.

Schedules

20. The following documents are attached to this notice:
- (a) Schedule 1: a copy of the appellant's appeal ENV-2018-CHC-057-001 and its attachments.
 - (b) Schedule 2: a copy of the relevant parts of the Decision.
 - (c) Schedule 3: A list of names and addresses of persons to be served with a copy of this notice.

DATED 8 May 2019



J D K Gardner-Hopkins

Counsel for the appellant

The appellant's address for service is C/- James Gardner-Hopkins, Barrister, PO Box 25-160, Wellington 6011.

Documents for service on the applicant may be sent to that address for service or may be emailed to james@jghbarrister.com. Service by email is preferred, with receipt confirmed by return email.

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission on the matter of this appeal.

To become a party to the appeal, you must,—

Meet the directions of the Court on 21 March 2019, and clarified on 2 May 2019, as follows:

section 274 notices must be lodged and served within 20 working days after the period for lodging a notice of appeal ends. The requirement for s 274 parties to lodge and serve their notice within 15 working days after the period for lodging a notice of appeal ends is waived.

For the avoidance of doubt, the period for filing s274 notices ends on **Wednesday 5 June 2019**.

If you are a trade competitor of a party to the proceedings, your right to be a party to the proceedings in the court may be limited (see [section 274\(1\)](#) and [Part 11A](#) of the Resource Management Act 1991).

You may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing requirements (see [form 38](#)).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Schedule 1 - a copy of the appellant's submission

Schedule 2 - a copy of the relevant parts of the Decision

Schedule 3 - a list of names and addresses of persons to be served

Original submissions

Every person who made a further submission on my submission: I am not aware of any further submissions on my submission.

However the following submitters appear to have made submissions on the same issues:

	Name	Email	Sub #
1.	Skydive Queenstown Limited	jmacdonald@mactodd.co.nz	122
2.	Richard Bowman	bowmanz@actrix.co.nz	143
3.	Christine Byrch	chrisbyrch@hotmail.com	243
4.	Debbie MacColl	deb.maccoll@gmail.com	285
5.	Barn Hill Limited	firgrovefarm@gmail.com	288
6.	Frank Wright	wright@wave.co.nz	385
7.	Queenstown Airport Corporation	kirsty.osullivan@mitchellpartnerships.co.nz	433
8.	Arthurs Point Protection Society	streatcg@xtra.co.nz	475
9.	Totally Tourism Limited	sean@southernplanning.co.nz	571
10.	Skyline Enterprises Limited	sean@southernplanning.co.nz	574
11.	Te Anau Developments Limited	ben@jea.co.nz	607
12.	Real Journeys Limited	ben@jea.co.nz	621
13.	Barnhill Corporate Trustee Limited & DE, ME Bunn & LA Green	scott@southernplanning.co.nz	626
14.	Andrew Fairfax	ben@jea.co.nz	660
15.	I and P Macauley	ben@jea.co.nz	662
16.	Jackie (Plus others) Redai (Plus others)	jackie@aaa.net.nz	713
17.	Wakatipu Aero Club	brett@townplanning.co.nz	723
18.	Adrian Snow	brett@townplanning.co.nz	730
19.	Revell William Buckham	brett@townplanning.co.nz	732
20.	Kerry Connor	brett@townplanning.co.nz	734
21.	Southern Lakes Learn to Fly Limited	brett@townplanning.co.nz	736
22.	Hank Sproull	brett@townplanning.co.nz	738

23.	Southern Lakes Learn to Fly Limited	brett@townplanning.co.nz	739
24.	Southern Lakes Aviation Limited	brett@townplanning.co.nz	760
25.	Shai Lanuel on behalf of Skytrek Tandems Ltd	brett@townplanning.co.nz	843
26.	Queenstown Park Limited	t.williams@remarkablespark.com	FS1097
27.	Remarkables Park Limited	t.williams@remarkablespark.com	FS1117
28.	Totally Tourism Limited	sean@southernplanning.co.nz	FS1245
29.	Skydive Queenstown Limited	jmacdonald@mactodd.co.nz	FS1345
30.	Peter Fleming and Others	f888@icard.co.nz	FS1063

Accordingly, the following have been served:

ben@jea.co.nz; bowmanz@actrix.co.nz; brett@townplanning.co.nz; chrisbyrch@hotmail.com; deb.maccoll@gmail.com; f888@icard.co.nz; firgrovefarm@gmail.com; jackie@aaa.net.nz; jmacdonald@mactodd.co.nz; kirsty.osullivan@mitchellpartnerships.co.nz; scott@southernplanning.co.nz; sean@southernplanning.co.nz; streatcg@xtra.co.nz; t.williams@remarkablespark.com; wright@wave.co.nz;

Stage 2

The Decision Report only identifies the following submitters in its discussion of informal airport provisions:

- Aircraft Owners and Pilots Association of New Zealand Inc
- Bruce McLeod
- D Bromfield
- Dalefield Trustee
- Hunter Leece and Anne Kobienia
- Rene Kampman
- Slopehill Properties Limited
- Woodlot Properties Limited

Accordingly, service is made on the following additional persons:

	Name	Email
31.	Aircraft Owners and Pilots Association of New Zealand Inc	rvcnb@xtra.co.nz ; julestapper@xtra.co.nz
32.	Bruce McLeod	bmcleod@ascl.co.nz
33.	D Bromfield and Woodlot Properties Limited	carey@vivianespie.co.nz
34.	Dalefield Trustee	nicky@nsplanning.co.nz

35.	Hunter Leece and Anne Kobienia	hunterleece@hotmail.com
36.	Rene Kampman	kampman@queenstown.co.nz
37.	Slopehill Properties Limited	ben.farrell@jea.co.nz

Accordingly, the following have been served: rvnb@xtra.co.nz; julestapper@xtra.co.nz; bmcleod@ascl.co.nz; carey@vivianespie.co.nz; nicky@nsplanning.co.nz; hunterleece@hotmail.com; kampman@queenstown.co.nz; ben.farrell@jea.co.nz.