

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

IN THE MATTER      of the Resource Management Act 1991  
AND                      of an appeal under clause 14 of the First  
                                 Schedule of the Act  
BETWEEN              KENNETH MUIR  
                                 (ENV-2018-CHC-195)  
                                 Appellant  
AND                      QUEENSTOWN LAKES DISTRICT  
                                 COUNCIL  
                                 Respondent

Environment Judge J J M Hassan – sitting alone pursuant to s279 of the Act

In Chambers at Christchurch

Date of Consent Order:      18 May 2020

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**CONSENT ORDER**

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A:      Under s279(1)(b) of the Resource Management Act 1991, the Environment Court,  
by consent, orders that:

- (1)    the appeal is allowed, and Queenstown Lakes District Council is directed to:
  - (a)    amend the provisions of Chapter 16 (Business Mixed Use) as set out in Appendix 1, attached to and forming part of this consent order;
  - (b)    amend the planning maps to include 819, 823, 825, 827, 829, 831, 833 and 835 Sugar Lane within the Business Mixed Use zone;
  - (c)    make any consequential changes to the numbering of plan provisions or to the relevant planning maps resulting from the above amendments.
- (2)    the appeal is otherwise dismissed.



B: Under s285 of the Resource Management Act 1991, there is no order as to costs (unless stated otherwise).

## **REASONS**

### **Introduction**

[1] This is an appeal by Kenneth Muir against parts of a decision of the Queenstown Lakes District Council on Chapter 16 (Business Mixed Use) of the Proposed Queenstown Lakes District Plan – Stage 1. It relates to Topic 16 Queenstown Rezoning, Group 1 – Queenstown Urban Rezoning. This consent order relates to the rezoning of the Sugar Lane area from Low Density Suburban Residential zone (LDSR) to the Business Mixed Use (BMU) zone, subject to new or amended provisions in Chapter 16. The rezoned area is to be identified as Frankton Marina.

[2] The court has now read and considered the consent memorandum of the parties dated 16 April 2020 which proposes to resolve the appeal.

### **Other relevant matters**

[3] Five parties<sup>1</sup> gave notice of an intention to become parties under s274 of the Resource Management Act 1991 (the 'RMA'), all of whom have signed the memorandum setting out the relief sought.

### **Orders**

[4] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;



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<sup>1</sup> Lakes Marina Projects Limited; Queenstown Airport Corporation Limited; Real Journeys Limited; Real Journeys Limited (trading as Go Orange Limited); and A J Warrington, D M Warrington, J R Warrington and A F Warrington-Blair;

- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA including, in particular, pt 2.



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**J J M Hassan**  
**Environment Judge**



## APPENDIX 1

### PDP Plan Maps

The sites at 819, 823, 825, 827, 829, 831, 833 and 835 Sugar Lane are to be rezoned from Lower Density Suburban Residential Zone to Business Mixed Use Zone (and identified as Frankton Marina (Sugar Lane)), with the following provisions to apply to those sites in addition to the balance of the Chapter 16 Business Mixed Use Zone provisions.

#### Amended and new provisions

(Amendments shown in underline and ~~strike-through~~)

## 16 Business Mixed Use

### 16.2 Objectives and Policies

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16.2.4 **Objective – The development of land at Frankton Marina (Sugar Lane) provides for a range of activities, while restricting the scale of office and retail activities, to achieve a high quality environment that is compatible with its location adjacent to Frankton Marina, Lake Wakatipu and Frankton Road.**

16.2.4.1 Restrict the scale of office and retail activities so that the function and viability of the Queenstown Town Centre and Frankton commercial area are not undermined.

16.2.4.2 Allow buildings between 12 m and 15m heights when the additional height:

- a. does not result in significant adverse shading effects on adjoining residential zoned land; and
- b. does not dominate the Frankton Road streetscape.

16.2.4.3 Ensure all new and altered buildings intended for Activities Sensitive to Road Noise are designed to provide protection from sleep disturbance and to otherwise maintain reasonable amenity values for occupants.

### 16.4 Rules - Activities

	Activities located in the Business Mixed Use Zone	Activity status
...		
16.4.x	<u>Community Activities at Sugar Lane</u>	<u>D</u>



## 16.5 Rules - Standards

	Standards for activities located in the Business Mixed Use Zone	Non-compliance status
...		
16.5.7	<p>Discretionary building Height (Queenstown and Frankton Marina (Sugar Lane) Only)</p> <p>In Queenstown and at Frankton Marina (Sugar Lane) the discretionary maximum building height shall be 12m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> <li>a. the design and quality of the building, including the use of articulated facades, active street frontages and the treatment of corner sites;</li> <li>b. modulated roof forms, including screening of plant and services;</li> <li>c. material use and quality;</li> <li>d. the avoidance of large monolithic buildings;</li> <li>e. the impact on the street scene;</li> <li>f. privacy and outlook for residential uses;</li> <li>g. sunlight access to adjoining Residential zoned land and/or public space;</li> <li>h. Crime Prevention Through Environmental Design (CPTED) considerations;</li> <li>i. where appropriate, the integration of Horne Creek into the development and landscaping;</li> <li>j. facilitation of the provision of residential activities;</li> <li>k. facilitation of the provision of residential activities.</li> </ol>
16.5.8	Maximum building height	NC



	<p>16.5.8.1 The absolute maximum building height shall be:</p> <p>a. Queenstown - 20m</p> <p>b. Wanaka - 12m</p> <p>c. <u>Frankton Marina – 15m</u></p> <p>16.5.8.2 Any fourth storey (excluding basements) and above shall be set back a minimum of 3m from the building frontage.</p>	
...		
16.5.14	<p><u>At Frankton Marina (Sugar Lane) the following limits on office and retail activities apply:</u></p> <p>16.5.14.1 <u>1000m<sup>2</sup> GFA for retail activities; and</u></p> <p>16.5.14.2 <u>1000m<sup>2</sup> GFA for office activities; and</u></p> <p>16.5.14.3 <u>300m<sup>2</sup> GFA for individual tenancies for retail activities.</u></p> <p>16.5.14.4 <u>200m<sup>2</sup> GFA for individual tenancies for office activities.</u></p> <p><u>Exemption:</u></p> <p>a <u>The retail limits in 16.5.14.1 and 16.5.14.3 do not apply to marine retail activities.</u></p>	<u>D</u>

## 16.6 Rules – Non-Notification of Applications

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- 16.6.2.2 Building Heights between 12m and 20m in the Business Mixed Use Zone in Queenstown, except for the Frankton Marina (Sugar Lane) Business Mixed Use Zone.



## Chapter 2 Definitions

New definition:

<u>Marine retail activities</u>	<u>Means the sale or hire of marine craft and accessories, and retail accessory to marinas and water related sport and recreation activities.</u>
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