

Before the Panel of Hearing Commissioners

In the Matter of the Resource Management Act 1991

And

In the Matter of the Queenstown Lakes District Council Proposed Plan

**Application for a waiver of time to file a further
submission on behalf of Queenstown Airport
Corporation Limited**

Dated: 23 March 2016

lane neave.

141 Cambridge Terrace
PO Box 13149
Christchurch
Solicitor Acting: Rebecca Wolt/Joshua Leckie
Phone: 03 379 3720
Fax: 03 379 8370

MAY IT PLEASE THE PANEL:

1. Queenstown Airport Corporation Limited (**QAC**) applies for a waiver of time to lodge a further submission in respect of Chapters 17 and 30 of the Proposed Queenstown Lakes District Plan (**the Proposed Plan**). Attached as **Appendix A** to this application is a copy of the further submission that QAC seeks a waiver for.
2. QAC has previously lodged a submission (#433) and further submission (#1340) on the Proposed Plan.

Background

3. QAC requires a waiver of time to lodge a late further submission as it has only recently become apparent to QAC and their advisors that the applicability of the definition of “utilities” to the Queenstown Airport Mixed Use Zone in the Proposed Plan had been inadvertently overlooked, and consequently the effect of Chapter 30 on QAC’s activities within the proposed Mixed Use Zone.
4. Attached as **Appendix B** is an affidavit of Ms Kirsty O’Sullivan of Mitchell Partnerships explaining how this oversight occurred and the implications for QAC if the waiver application is not granted.

The Law

5. Section 37(1)(b) of the Resource Management Act 1991 (**the Act**) provides that a consent authority or local authority may, in any particular case, waive a failure to comply with a requirement of this act for the time or method of service of documents.
6. This is subject to the criteria set out in Section 37A which provides that any waiver of compliance with a time limit may only be granted if the decision-maker has taken into account –
 - (a) The interests of any person who, in its opinion, may be directly affected by the extension or waiver; and
 - (b) The interests of the community in achieving adequate assessment of the effects of a proposal, policy statement or plan; and

- (c) Its duty under section 21 to avoid unreasonable delay.
7. It is submitted that there is no restriction on the ability of a consent authority or local authority to waive compliance with a time limit under the Act. The restriction under section 37A(2) of the Act relates only to applications to extend a time limit specified in section 37(1)(a) of the Act, which is not relevant to this matter. This application seeks to waive a failure to comply with a requirement under section 37(1)(b) of the Act.

Application of the Law

The interests of any person, who in its opinion, may be directly affected by the extension or waiver

8. There are five submitters that may be directly affected by this waiver application, being:
- (a) PowerNet (#251);
 - (b) Vodafone NZ Limited (#179);
 - (c) Chorus New Zealand Limited (#781);
 - (d) Spark New Zealand Trading Limited (#191); and
 - (e) Queenstown Lakes District Council (#383).
9. QAC's further submission seeks to support the relief of the submitters listed above from (a) – (d) as it relates to Chapter 30 of the Proposed Plan, and does not raise any new issues. QAC's further submission does oppose the Queenstown Lakes District Council's submission on Chapter 17 to include a new 17.3.2, but it raises no new issues.
10. Whilst these submitters may be directly affected, the relevant chapters have not yet been set down for a hearing, and therefore evidence preparation is unlikely to have begun. Therefore, no submitter would be unduly prejudiced by the granting of this waiver application. In addition, the Council has not yet prepared Section 42A reports on these chapters and will have time to consider QAC's further submission in its reports.
11. QAC has also sought and obtained approval for the late lodgement of this further submission from all the affected submitters, being:

- (a) PowerNet;
 - (b) Vodafone NZ Limited;
 - (c) Chorus New Zealand Limited;
 - (d) Spark New Zealand Trading Limited; and
 - (e) Queenstown Lakes District Council.
12. Given that the views of any person, who may be directly affected by this waiver have been sought, and no objections have been raised to this application. We consider that there are no submitters, who will be directly affected, by the granting of QAC's late further submission.

The interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan

13. The Act is underpinned by public participation. Plan processes allow for community involvement upfront reducing delays in the long term, whilst allowing for better consideration of the effects and environmental outcomes, for more informed decision-making in the first instance.
14. QAC provides a gateway for people into the District, "accommodating in excess of 1.4 million passengers for the year ending June 2015"¹, and in turn supports the thriving Queenstown Lakes Tourism Industry. The interests of the community would not be best served by excluding QAC's further submission as it is the only submitter that has extensive knowledge of the airport activities and the practical implications of these provisions, as discussed by Ms Kirsty O'Sullivan:

"...an inherent conflict may arise in administering the Plan such that for a given activity within the Queenstown Airport Mixed Use Zone, (or for that matter the zone provisions relating to the Wanaka Airport in the Rural Zone (if accepted)), the provisions of the Energy and Utility chapter may also be deemed to apply. This could cause confusions and administrative inefficiency."²

¹ Affidavit of Kirsty Elizabeth O'Sullivan dated 22 March 2016 at [18]

² Affidavit of Kirsty Elizabeth O'Sullivan dated 22 March 2016 at [15]

15. It is therefore in the interests of the community as a whole to allow this late further submission to be considered at the first instance, to ensure a full assessment of the effects of the Proposed Plan can occur.

Its duty under section 21 to avoid unreasonable delay

16. We consider that there will not be an unreasonable delay (as referred to in section 21 of the Act) to any party in these circumstances, as there is no impact on the timeframes for evidence preparation, exchange, hearing or eventual decisions by the Panel. This is because the subject matter relates to chapters that are yet to be set down for hearing.
17. As soon as the error came to the attention of QAC's planner on 19 February 2015, when reading the Section 42A report on other chapters, she acted swiftly to understand the implications for QAC. Once these were understood, in consultation with Lane Neave, she worked promptly to prepare the further submission, and an affidavit to support this waiver application. This application is being lodged on 23 March 2016, being 23 working days³ since it became apparent that there had been an oversight in respect of QAC's interest in Chapter 30 and the implication of this on Chapter 17 – Queenstown Airport Mixed Use Zone.

Conclusion

18. QAC's further submission is late due to a genuine mistake by its advisors. Counsel therefore respectfully requests that the Panel waive the failure of QAC to comply with the relevant time limit, and allow its further submission to be considered in the Proposed Plan decision making process.
19. All potentially affected parties have consented to this application, consideration of the submission is in the public interests and the grant of a waiver will not cause unreasonable delay.



R Wolt / J M G Leckie

Counsel for Queenstown Airport Corporation Limited

³ It is recognised that further submissions closed earlier, on 18 December 2015.

SUBMISSION FORM 6

**CLAUSE 8 OF FIRST SCHEDULE, RESOURCE MANAGEMENT ACT 1991
FURTHER SUBMISSION IN SUPPORT OF OR IN OPPOSITION TO SUBMISSIONS ON
PUBLICLY NOTIFIED PROPOSED QUEENSTOWN LAKES DISTRICT PLAN (STAGE 1)**

To: Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN 9348

Submission on: Proposed Queenstown Lakes District Plan 2015

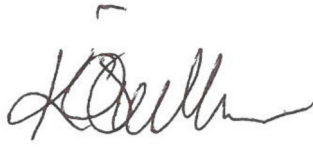
Name: **Queenstown Airport Corporation (“QAC”)**

Address: Queenstown Airport Corporation
c/- Mitchell Partnerships Limited
PO Box 489
Dunedin 9054

- 1. This further submission is in support of submissions on Stage 1 of the Proposed Queenstown Lakes District Plan (“Proposed Plan”)**
- 2. QAC has an interest in the Proposed Plan that is greater than the interest the general public has within the District.**
 - 2.1. As set out in QAC's original submission on the Proposed Plan, QAC owns and operates the regionally and nationally significant Queenstown Airport, and operates the regionally significant Wanaka Airport.
 - 2.2. Queenstown Airport is one of the busiest airports in the country, accommodating in excess of 1.4 million passengers for the year ending June 2015. This represents a 12% increase in passengers from the previous year. Queenstown Airport has experienced a sustained period of growth, with passenger numbers expected to increase over the coming years as the District receives an increasing number of domestic and international visitors.
 - 2.3. Wanaka Airport accommodates aircraft movements associated with general aviation and helicopter operations, and is a major facilitator of commercial helicopter operations within the District. Wanaka Airport is also a key lifeline asset.

- 2.4. Queenstown and Wanaka Airports comprise significant infrastructure and assets, and play a critical role in providing for the economic and social wellbeing of the Queenstown Lakes District.
- 2.5. In light of the above, QAC considers it has an interest in the Proposed Plan that is greater than the interest the greater public has, by virtue of existing operations within the District.
- 3. QAC will not gain an advantage in trade competition through this further submission.**
- 4. QAC's further submission is:**
- 4.1. In its original submission QAC emphasised the importance of ensuring that the Proposed Plan adequately addresses the following matters:
- Affording recognition to the role of regionally significant infrastructure (such as airports) in supporting the economic and social wellbeing of the community, including their role as lifeline utility operators.
 - Providing for the operational and locational constraints associated with the management and operation of airports.
 - Establishing an appropriate land use management regime at Queenstown and Wanaka Airports that recognises and provides for the ongoing use and development of these Airports.
 - A number of other ancillary amendments to ensure the ongoing effective and efficient operation of the Airports.
- 4.2. QAC seeks to ensure that the key principles identified in its original submission and summarised above are appropriately recognised and provided for in the Proposed Plan.
- 4.3. QAC's specific further submission is located at **Attachment 1**.
- 5. QAC does wish to be heard in relation to this further submission.**
- 6. If others make a similar submission QAC will consider presenting a joint case with them at any hearing.**
- 7. QAC seeks the following decision from the Queenstown Lakes District Council:**
- a) That the relief sought and/or amendments (or those with similar or like effect) described above and outlined in **Attachment 1** be accepted; or that the Proposed Plan be amended in a similar or such other way as may be appropriate to address QAC's submission points; and,

- b) Any consequential changes, amendments or decisions that may be required to give effect to the matters raised in QAC's further submission.



Signature:

By its authorised agent Kirsty O'Sullivan, on behalf of the
Queenstown Airport Corporation

Date: 21 March 2016

Address for service: Queenstown Airport Corporation
C/- Mitchell Partnerships
PO Box 489
DUNEDIN 9054

Attn: Kirsty O'Sullivan

Telephone: (03) 477 7884

Email: kirsty.osullivan@mitchellpartnerships.co.nz

ATTACHMENT 1

Further Submission

Submitter	Submitter ID	Provision	Relief sought by original submitter	QAC Position	QAC Reasoning
CHAPTER 30: ENERGY AND UTILITIES					
PowerNet	251.11	30.1 Purpose	<p>PowerNet seeks that the following changes be made to the Chapter purpose:</p> <p><i>Utilities are essential to the servicing and functioning of the District <u>and have national, regional and local benefits</u>. Utilities have the purpose to provide a service to the public and are typically provided by a network utility operator.</i></p> <p><i>Due to the importance of utilities in providing essential services to the community, their often high capital cost to establish, and their long life expectancy; the need for the <u>future</u> establishment and on-going functioning, maintenance and upgrading of utilities is recognised. In addition, some utilities have specific locational needs that need to be accommodated for their operation. The co-location of utilities may achieve efficiencies in design and operation, reduce capital investment costs and also minimise amenity and environmental effects. The ability to co-locate compatible uses should be considered for all utility proposals.</i></p> <p><i><u>While</u> it is recognised while-that utilities can have national, regional and local benefits, they can also have adverse effects on <u>the environment surrounding land uses, some of which have been established long before the network utility</u>. The sustainable management of natural and physical resources requires a balance between the effects of different land uses. However, it is also necessary that essential utilities are protected, where possible, from further encroachment by incompatible activities which may be subject to reverse sensitivity effects. This chapter therefore also addresses requirements for sensitive uses and habitable buildings located near to utilities.</i></p>	Support	QAC considers that the amendments proposed by the submitter are necessary to ensure that the benefits of utilities are recognised.

Objectives and Policies					
PowerNet	2.51.12	Objective 30.2.5 <i>Co-ordinate the provision of utilities as necessary to support the growth and development of the District.</i>	PowerNet seeks that the following changes be made to this objective: Co-ordinate <u>Enable</u> the provision of utilities as necessary to support the growth and development of the District.	Support	QAC considers that the term 'co-ordinate' is ambiguous and should be amended as per the relief sought by the submitter.
Vodafone NZ Limited Chorus New Zealand Limited Spark New Zealand Trading Limited	179.16 781.15 191.14	New Policy	Vodafone New Zealand Limited, Chorus New Zealand Limited and Spark New Zealand Trading Limited seek that the following new policy be added to the utilities chapter: <u>Recognise the positive social, economic, cultural and environmental benefits that utilities provide, including:</u> <ul style="list-style-type: none"> • <u>enabling enhancement of the quality of life and standard of living for people and communities.</u> • <u>providing for public health and safety.</u> • <u>enabling the functioning of businesses.</u> • <u>enabling economic growth.</u> • <u>enabling growth and development.</u> • <u>protecting the transportation of freight, goods, people.</u> • <u>enabling interaction and communication.</u> 	Support	QAC supports the proposed new policy as it recognises the positive social, economic, cultural and environmental benefits that utilities provide.
Vodafone New Zealand Limited Chorus New Zealand Limited Spark New Zealand Trading Limited	179.19 781.18 191.17	Objective 30.2.6 <i>The establishment, efficient use and maintenance of utilities necessary for the well-being of the community.</i>	Vodafone New Zealand Limited, Chorus New Zealand Limited and Spark New Zealand Trading Limited seek that the objective be amended as follows: The establishment, efficient use and maintenance of utilities necessary for the well-being of the community <u>is enabled by the establishment, efficient use and continued operation and maintenance of utilities.</u>	Support	QAC considers that it is appropriate to recognise the role of utilities in providing for the wellbeing of the community.
PowerNet	251.13 251.14 251.16	Policies: 30.2.6.1 <i>Recognise the need for maintenance or upgrading of a utility to ensure its on-going viability and efficiency.</i>	PowerNet seeks that the policies be retained as notified.	Support	QAC supports the retention of these policies as they provide for the long term viability and efficiency of utilities.

		<p>30.2.6.2 Consider long term options and economic costs and strategic needs when considering alternative locations, sites or methods for the establishment or alteration of a utility.</p> <p>30.2.6.5 Recognise the presence and function of established network utilities, and their locational and operational requirements, by managing land use, development and/or subdivision in locations which could compromise their safe and efficient operation.</p>			
Vodafone NZ Limited Spark New Zealand Trading Limited	179.23 191.21	<p>Objective 30.2.7 Avoid, remedy or mitigate the adverse effects of utilities on surrounding environments, particularly those in or on land of high landscape value and within special character areas.</p>	<p>Vodafone New Zealand Limited and Spark New Zealand Trading Limited seek that the following changes be made to the objective:</p> <p><i>Avoid <u>where practicable, and</u> remedy or mitigate the adverse effects of utilities on surrounding environments, particularly those in or on identified land of high <u>outstanding natural</u> landscapes value and within <u>identified</u> special character areas.</i></p>	Support	QAC supports the amendments to the objective as it is appropriate to recognise that the technical requirements of utilities may necessitate a specific design outcome.
PowerNet	251.17	<p>Policy 30.2.7.1 Reduce adverse effects associated with utilities by:</p> <ul style="list-style-type: none"> Avoiding or mitigating their location on sensitive sites, including heritage and special character areas, Outstanding Natural Landscapes and Outstanding Natural Features, and skylines and ridgelines Encouraging co-location or multiple use of network utilities where this is efficient and practicable in order to avoid, remedy or mitigate adverse effects on the environment Ensuring that redundant utilities are removed 	<p>PowerNet seeks that the policy is amended as follows: Reduce <u>Manage</u> adverse effects associated with utilities by:</p> <ul style="list-style-type: none"> <u>Avoiding, remedying</u> or mitigating their location on sensitive sites, including heritage and special character areas, Outstanding Natural Landscapes and Outstanding Natural Features, and skylines and ridgelines Encouraging co-location or multiple use of network utilities where this is efficient and practicable in order to avoid, remedy or mitigate adverse effects on the environment Ensuring that redundant utilities are removed <u>In Outstanding Natural Landscapes and Outstanding Natural Features using landscaping and or colours and finishes to reduce remedy or mitigate visual effects where necessary.</u> 	Support	QAC supports amendments to the policy that improve recognition of the technical and locational constraints of utilities.

		<ul style="list-style-type: none"> Using landscaping and or colours and finishes to reduce visual effects Integrating utilities with the surrounding environment; whether that is a rural environment or existing built form. 	Integrating utilities with the surrounding environment; whether that is a rural environment or existing built form.		
Vodafone NZ Limited	179.24	New Policy	Vodafone New Zealand Limited, Chorus New Zealand Limited and Spark New Zealand Trading Limited seek the inclusion of the following new policy:	Support	QAC supports the proposed new policy as it recognises the technical and locational constraints of utilities.
Chorus Zealand Limited	781.22		<u>Recognise that in some cases it might not be possible for utilities to avoid outstanding natural landscapes, outstanding natural features or identified special character areas and in those situations greater flexibility as to the way that adverse effects are managed may be appropriate.</u>		
Spark Zealand Trading Limited	191.22				
PowerNet	251.20	Policy 30.2.7.4 <i>Take account of economic and operational needs in assessing the location and external appearance of utilities.</i>	PowerNet seeks that the policy is retained as notified.	Support	QAC considers that it is appropriate to take account of the economic and operational needs of utilities when considering their external appearance.
Rules for Utilities; and Building, Structures and Earthworks which are within or near to the National Grid Corridor					
PowerNet	251.21	30.4.8 Rule Utilities, Building, Structures and Earthworks which are not otherwise listed in this table <i>Discretionary Activity</i>	PowerNet seeks that the following changes be made to the rule as follows: <i>Utilities, Building, Structures, Underground Lines and Earthworks which are not otherwise listed in this table – D-P (Permitted Activities)</i>	<u>Support</u>	QAC supports the Permitted activity status for utilities, buildings and earthworks that are not otherwise listed in this table.
PowerNet	251.22	30.4.9 Minor Upgrading <i>Permitted</i>	PowerNet seeks that the rule is retained as notified.	<u>Support</u>	QAC considers that a permitted activity status is appropriate for minor upgrading activities.
Vodafone New Zealand Limited	179.28	New rules	Vodafone New Zealand Limited, Spark New Zealand Trading Limited and Chorus New Zealand Limited seek that following rules replace Rules 30.4.18-30.4.21 of the Proposed Plan (note, only those rules that QAC specifically supports are set out below): <u>The rules of this chapter are complete code for utilities and prevail over all other chapters of this District Plan.</u>	<u>Support</u>	QAC supports the relief sought by this submitter, insofar as it relates to proposed Rule 30.4.10 and buildings, equipment cabinets and structures associated with utilities at Queenstown and Wanaka Airports.
Spark New Zealand Trading Limited	191.26				
Chorus New	781.26				

Zealand Limited			<p><i>The following activities shall be Permitted Activities throughout the District, except as provided for as a restricted discretionary or discretionary activity below:</i></p> <p><u>Rule 30.4.10 Buildings, equipment cabinets and structures ancillary to or associated with Utilities provided:</u></p> <p>a) <i>If the building or equipment cabinet is located in an identified Outstanding Natural Landscape or Feature, the building or cabinet is less 3.6m² in total footprint and 3m in height; and,</i></p> <p>b) <i>Meets the underlying zone standards, if the building or cabinet is not located in an identified Outstanding Natural Landscape or Feature, and the building or cabinets is more than 3.6m² in total footprint or more than 3m in height.</i></p>		
Standards for Utilities					
PowerNet	251.28	<p>30.5.6 Setback from internal boundaries and road boundaries</p> <p><i>Where the utility is a building, it shall be set back in accordance with the internal and road boundary setbacks for accessory buildings in the zone in which it is located.</i></p>	<p><u>PowerNet considers that where a utility structure cannot achieve the relevant setback distance for boundaries, the appropriate activity status is Restricted Discretionary, with discretion limited to those effects resulting from the boundary setback breach and the positive effects of the utility.</u></p>	Support	QAC considers that a restricted discretionary activity status is more appropriate for utilities that do not meet the internal boundary and road set back requirements.
PowerNet	251.29	<p>30.5.7 Building in Outstanding Natural Landscapes (ONL) and Outstanding Natural Features (ONF)</p> <p><i>Any building within an ONL or ONF shall be less than 10m² in area and less than 3m in height.</i></p>	PowerNet seeks that the rule be retained as notified.	<u>Support</u>	QAC considers that it is important for the Proposed Plan to provide for utilities within outstanding natural landscapes and outstanding natural features.
CHAPTER 17: QUEENSTOWN AIRPORT MIXED USE ZONE					
Queenstown Lakes District Council	383.37	New clarification	Amend to add point under 17.3.2 (Clarification) which states: "A permitted activity must comply with all the rules listed in the activity and standards tables, and any relevant district wide rules."	<u>Oppose</u>	QAC opposes this provision. As drafted the provisions of the Utilities chapter would inadvertently capture all utilities activities within the Queenstown Airport Mixed Use Zone, which would be inconsistent with the purpose and intent of the Queenstown Airport Mixed Use Zone and its objectives and policies.

Before the Panel of Hearing Commissioners

In the Matter of the Resource Management Act 1991

And

In the Matter of the Queenstown Lakes District Council Proposed
Plan

**Affidavit of Kirsty Elizabeth O’Sullivan in
support of Queenstown Airport Corporation
Limited’s waiver application**

22 March 2016

lane neave.

141 Cambridge Terrace
PO Box 13149
Christchurch
Solicitor Acting: Rebecca Wolt/Joshua Leckie
Phone: 03 379 3720
Fax: 03 379 8370

I, Kirsty Elizabeth O'Sullivan, Planning Consultant, of Dunedin affirm:

Qualifications and Experience

1. My name is Kirsty Elizabeth O'Sullivan. I hold Bachelor of Science (Geography) and Master of Planning degree from the University of Otago. I am a Senior Resource Management Consultant with the firm Mitchell Partnerships Limited, which practices as a planning and environmental consultancy throughout New Zealand, with offices in Auckland, Dunedin and Tauranga.

2. I have been engaged in the field of resource and environmental management for seven years. My experience includes a mix of central government, local authority and consultancy resource management work. Over the past 2.5 years, I have focused on providing consultancy advice with respect to regional and district plans, plan changes, resource consents, designations and environment effects assessments. This also includes experience with large scale projects involving inputs from multidisciplinary teams.

The Proposed District Plan

3. Stage 1 of the Proposed Queenstown Lakes District Plan was publicly notified on 26th August 2015. Submissions closed on 23rd October 2015.

4. On 1st December 2015, the Queenstown Lakes District Council notified a summary of decisions requested and called for further submissions. Further submissions closed on Friday 18th December 2015.

5. On the 19th February the Queenstown Lakes District Council released section 42A hearing report relating to Chapters 3 Strategic Directions, Chapter 4 Urban Development and Chapter 6 Landscape.

Preparation of submissions and further submissions

6. I prepared submissions on the Proposed Queenstown Lakes District Plan on behalf of the Queenstown Airport Corporation. The



submission was 58 pages in length and covered matters relating to 13 different chapters of the Proposed Plan.

7. The submission supported the Queenstown Airport Mixed Zone provisions and zoning extent in its entirety, as the Queenstown Airport Mixed Use Zone appropriately provides for the range of airport and airport related activities that are expected of modern airports.
8. In the Queenstown Airport Mixed Use Zone, Airport and Airport Related Activities are permitted. These activities are defined as follows:

Airport Activity: means land used wholly or partly for the landing, departure, and surface movement of aircraft, including but not limited to:

- (a) aircraft operations, private aircraft traffic, domestic and international aircraft traffic, rotary wing operations, aircraft servicing, general aviation, airport or aircraft training facilities and associated offices.
- (b) Runways, taxiways, aprons, and other aircraft movement areas.
- (c) Terminal buildings, hangars, control towers, rescue facilities, navigation and safety aids, lighting, car parking, maintenance and service facilities, catering facilities, freight facilities, quarantine and incineration facilities, border control and immigration facilities, medical facilities, fuel storage and fuelling facilities, facilities for the handling and storage of hazardous substances, and associated offices.

Airport Related Activity: means an ancillary activity or service that provides support to the airport. This includes, but is not limited to, land transport activities, buildings and structures, servicing and infrastructure, police stations, fire stations, medical facilities and education facilities provided they serve an aviation related purpose, retail and commercial services, industry and visitor accommodation associated with the needs of Airport passengers, visitors and employees and/or aircraft movements and Airport businesses.

9. These definitions provide for the full range of activities enabled by the Queenstown Airport designation and the supporting infrastructure and servicing. On the basis of these definitions, I therefore interpreted that the Queenstown Airport Mixed Use Zone was a “complete code” for the activities occurring at Queenstown Airport.



10. The submission also sought the inclusion of a new set of provisions relating specifically to Wanaka Airport. This included providing for Airport Activity and Airport Related Activity as controlled activities. Airport and Airport Related Activity for Wanaka Airport is defined as follows:

Airport Activity – Wanaka Airport

Means land used wholly or partly for the landing, departure, and surface movement of aircraft, including but not limited to:

- (a) aircraft operations, rotary wing aircraft operations, helicopter aprons, and associated touch down and lift off areas, aircraft servicing, general aviation, navigational and safety aids, lighting, aviation schools, space research and associated activities, facilities and activities associated with veteran, vintage and classic aircraft operations, aviation museums and aero recreation;
- (b) Runways, taxiways, aprons, and other aircraft movement or safety areas.
- (c) Terminal buildings, hangars, rescue facilities, navigation and safety aids, lighting, car parking, maintenance and service facilities, catering facilities, freight facilities, quarantine and incineration facilities, medical facilities, fuel storage and fuelling facilities, and associated offices.

Airport Related Activity – Wanaka Airport

Means any retail activity, restaurants and other food and beverage facilities, industrial and commercial activities, provided they are connected with and ancillary to the use of the Airport. Also includes Temporary Activities associated with Air Shows, Conferences and Meetings, and rental vehicles, valet activities and public transport facilities. Includes Military Training Operations.

11. Again, these provisions provide for the full range of activities occurring at Wanaka Airport. If accepted, I therefore considered that these provisions would again act as a “complete code” for activities occurring at Wanaka Airport.

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Section 42A Report

12. On review of the section 42A report, it became apparent that Queenstown and Wanaka Airport, as regionally significant infrastructure in the District, may also be subject to the provisions contained in Chapter 30 Energy and Utilities. On subsequent review of the definition of Utility, I discovered that the definition of Utility now includes *“anything described as a network utility operation in section 166 of the Resource Management Act 1991”*.
13. Due to the use of the term ‘infrastructure’ in the proceeding chapters, and the “complete code” of the Queenstown Airport Mixed Use Zone, it was not apparent to me (until reviewing the definition of “Utility” after reading the section 42A report) that the Energy and Utilities Chapter may have a bearing on the application and use of the Queenstown Airport Mixed Use Zone.

Interpretation

14. When reviewing the provisions of the Queenstown Airport Mixed Use Zone, and the provisions of the Energy and Utilities Chapter it is apparent that there is inconsistency in the language and terminology used.
15. Due to this inconsistency in terminology, an inherent conflict may arise in administering the Plan such that for a given activity within the Queenstown Airport Mixed Use Zone, (or for that matter the zone provisions relating to Wanaka Airport in the Rural Zone (if accepted)), the provisions of the Energy and Utility chapter may also be deemed to apply. This could cause confusion and administrative inefficiency.
16. As the application and use of the Energy and Utility provisions have a direct bearing on Queenstown and Wanaka Airports, both of which comprise regionally significant infrastructure, it is therefore imperative that the QAC be provided the opportunity to partake in proceedings that might ultimately have a bearing on the interpretation and application of these provisions.

The significance of Queenstown and Wanaka Airport

17. **Queenstown Airport** is the main airport in the Queenstown Lakes District and is the primary take-off and landing point for much of the aircraft activity in the District. The Airport accommodates aircraft movements associated with scheduled, general aviation and helicopter operations.
18. Queenstown Airport is one of the busiest airports in the country, accommodating in excess of 1.4 million passengers for the year ending June 2015. This represents a 12% increase in passengers from the previous year. Queenstown Airport has experienced a sustained period of growth, with passenger numbers expected to increase over the coming years as the District receives an increasing number of domestic and international visitors.
19. Queenstown Airport is also a provider of emergency services and is a lifeline utility under the Civil Defence Emergency Management Act 2002 (CDEM 2002).
20. **Wanaka Airport** accommodates aircraft movements associated with scheduled, general aviation and helicopter operations, and is a major facilitator of commercial helicopter operations within the District.
21. The Operative and Proposed Regional Policy Statements for Otago provide specific policy recognition of such infrastructure and acknowledge its importance in providing for the social, economic and cultural wellbeing of people and communities¹. The Proposed Plan is required to give effect to these Policy Statements.

Conclusion

22. Queenstown and Wanaka Airports comprise regionally significant infrastructure within the Queenstown Lakes District. It therefore imperative that they are appropriately recognised and provided for the Proposed Queenstown Lakes District Plan.

¹ Objective 9.4.2 and associated Policy 9.5.2 and 9.5.3 of the Operative Regional Policy Statement for Otago 1998 and Objectives 3.4 to 3.5 and associated Policies 3.4.1 and 3.5.1 to 3.5.3 of the Proposed Regional Policy Statement for Otago 2015.

fl. KQ

23. As the application and use of the Energy and Utility provisions have a direct bearing on Queenstown and Wanaka Airports, both of which comprise regionally significant infrastructure, it is important that the QAC be provided the opportunity to partake in proceedings that might ultimately have a bearing on the interpretation and application of provisions relating to Queenstown and Wanaka Airports.

AFFIRMED by **Kirsty Elizabeth O'Sullivan**

at Dunedin this 22nd day of March 2016

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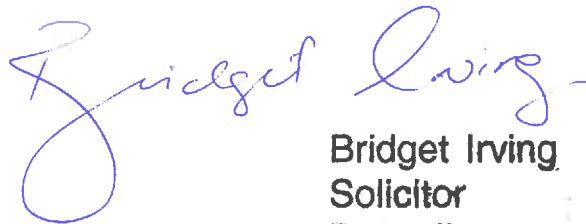
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Kirsty Elizabeth O'Sullivan

Before me:



**Bridget Irving
Solicitor
Dunedin**

A Solicitor of the High Court of New Zealand