

**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 WELL SMART INVESTMENT HOLDING
 (NZQN) LIMITED
 (ENV-2018-CHC-128)
 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: 29 August 2019

CONSENT ORDER

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

- (1) the appeal is allowed to the extent that the Queenstown Lakes District Council is directed to amend Chapter 12 of the Proposed Queenstown Lakes District Plan, as set out in Appendix 1 (shown in red underline and strikethrough text), attached to and forming part of this Consent Order;
- (2) the appeal is otherwise dismissed.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction

[1] This proceeding concerns an appeal by Well Smart Investment Holding (NZQN) Limited against part of a decision of the Queenstown Lakes District Council on Chapter 12 of the proposed Queenstown Lakes District Plan – Stage 1. In particular, the appeal concerns Topic 8 (Queenstown and Wanaka Town Centres) Subtopic 5 (Building Design, height and bulk).

[2] The court has now read and considered the consent memorandum of the parties dated 23 August 2019, which proposes to resolve this appeal.

Other relevant matters

[3] Macfarlane Investments Limited and Man Street Properties Limited gave notice of an intention to become a party under s274 of the Resource Management Act ('the RMA') but withdrew their notices on 10 December 2018.

[4] Other consent orders which have been filed in relation to the proposed district plan are being held in abeyance. The parties have advised¹ and the court is satisfied that these orders are able to be made at this time since the orders made will not impact on other proposed plan appeals before the court.

Orders

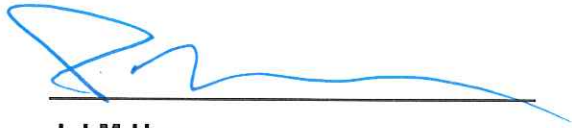
[5] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that:

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



¹ Joint memorandum of counsel in support of early issue, dated 23 August 2019.

- (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.



J J M Hassan
Environment Judge



APPENDIX 1

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

Amendments agreed in mediation on Well Smart appeal ENV-2018-CHC-128 (subtopic 5)	Red <u>underline</u> and strikethrough text
Amendments agreed in mediation on the appeals contained in Subtopic 2	Green <u>underline</u> and strikethrough text

Policies

12.2.2.2 Require development to:

- a. maintain the ~~existing~~ human scale of the Town Centre as experienced from street level through building articulation and detailing of the façade, which incorporates elements which break down building mass into smaller units which are recognisably connected to the viewer; and
- b. contribute to the quality of streets and other public spaces and people's enjoyment of those places; and
- c. positively respond to the Town Centre's character and contribute to the town's 'sense of place'.

12.2.2.4 Allow buildings to exceed the discretionary height standards ~~in situations~~ where:

- a. the outcome is of a high-quality design, ~~which is superior to that which would be achievable under the permitted height;~~ and
- b. the cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a ~~small~~ minor extent provided this is offset or compensated for by the provision of additional or enhanced public space or a pedestrian link within the development site; and
- c. the increase in height will facilitate the provision of new residential or visitor accommodation activity.

12.2.2.5 In respect of buildings that exceed the non-complying height standards:

- (i) ~~Allow~~Prevent—buildings other than those on jetties and wharves ~~to exceeding~~ the maximum height standards ~~except that it may be appropriate to allow additional height in situations where~~ in the following instances:



- a. where the proposed design is an example of design excellence; and
- b. where there is an adverse effect on the public environment from the increase in height, the proposed development provides an urban design outcome that has a net benefit to the public environment; and
- c. where relevant, where building height and bulk have been reduced elsewhere on the site in order to: reduce the impact of the proposed building on a listed heritage item.
 - i. ~~reduce the impact of the proposed building on a listed heritage item; or~~
 - ii. ~~provide an urban design outcome that has a net benefit to the public environment.~~

For the purpose of this policy, urban design outcomes that are beneficial to the public environment include, as appropriate:

- a. provision of sunlight to any public space of prominence or space where people regularly congregate;
- b. provision of a new or retention of an existing uncovered pedestrian link or lane;
- c. where applicable, the restoration and opening up of Horne Creek as part of the public open space network;
- d. provision of high quality, safe public open space;
- e. retention of a view shaft to an identified landscape feature;
- f. minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.
- g. the creation of landmark buildings on key block corners and key view terminations.

(ii) Recognise that the efficient utilisation of land that would otherwise be underdeveloped or developed to a lesser design quality may enable excellent design outcomes.

12.2.2.6 In respect of buildings that exceed the non-complying height standards:

(i) ~~Allow~~ Prevent buildings to exceed ~~ing~~ the maximum height standards ~~except that it may be appropriate to allow additional height in situations wherein the following instances:~~

- d. where the proposed design is an example of design excellence; and
- e. where there is an adverse effect on the public environment from the increase in height, the proposed development provides an urban design outcome that has a net benefit to the public environment; and



- f. where relevant, where building height and bulk have been reduced elsewhere on the site in order to: reduce the impact of the proposed building on a listed heritage item.
- ~~i. reduce the impact of the proposed building on a listed heritage item; or~~
- ~~ii. provide an urban design outcome that has a net benefit to the public environment.~~

For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:

- h. provision of sunlight to any public space of prominence or space where people regularly congregate;
- i. provision of a new or retention of an existing uncovered pedestrian link or lane;
- j. where applicable, the restoration and opening up of Horne Creek as part of the public open space network;
- k. provision of high quality, safe public open space;
- l. retention of a view shaft to an identified landscape feature;
- m. minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.
- n. the creation of landmark buildings on key block corners and key view terminations.

(ii) Recognise that the efficient utilisation of land that would otherwise be underdeveloped or developed to a lesser design quality may enable excellent design outcomes.

12.5 Rules - Standards

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.9	<p>Maximum building and façade height</p> <p>For the purpose of this rule, refer to the Height Precinct Map (Figure 2 at the end of this Chapter).</p> <p>12.5.9.1 In Height Precinct 1 Precinct 1 (A) and Precinct 2, subject to sub-clauses a – d below, the maximum absolute height limits shall be as follows:</p> <ul style="list-style-type: none"> i. 15m on Secs 4-5 Blk Xv Queenstown Tn (48-50 Beach St); 	NC



	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
	ii. 15.5m in Precinct 1(A) <u>and in P1 (iv)</u> ; iii. 14m elsewhere.	

CONSEQUENTIAL CHANGES TO FIGURE 2 OF CHAPTER 12

Amend Figure 2: Queenstown Town Centre Height precinct map, to show the westernmost area of P1 within the Hay/ Man/ Shotover/ Brecon block as P1 (iv).

