

IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First  
Schedule of the Act

BETWEEN DARBY PLANNING LIMITED

(ENV-2018-CHC-150)

... (continued on separate page)

Appellants

AND QUEENSTOWN LAKES DISTRICT  
COUNCIL

Respondent

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

In Chambers at Christchurch

Date of Consent Order: 29 November 2021

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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 Chs 22 (Rural Residential and Lifestyle)  
and 27 (Subdivision and Development) as set out in Appendix



1, attached to and forming part of this order;

(b) make any consequential amendments to the numbering of provisions and relevant planning maps resulting from (a) above.

(2) the appeals otherwise remain extant.

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

## REASONS

### Introduction

[1] These proceedings concern appeals by Darby Planning Limited,<sup>1</sup> Mount Christina Limited,<sup>2</sup> Waterfall Park Developments Limited,<sup>3</sup> Clark Fortune McDonald & Associates,<sup>4</sup> Universal Developments Limited,<sup>5</sup> Otago Regional Council,<sup>6</sup> and FII Holdings Limited.<sup>7</sup> These appeals were filed against part of a decision of the Queenstown Lakes District Council regarding provisions in Chs 22 (Rural Residential and Lifestyle) and 27 (Subdivision and Development) of the Proposed Queenstown Lakes District Plan – Stage 1, allocated as Topic 20 – Rural Residential and Rural Lifestyle.

[2] Nine other appellants<sup>8</sup> were involved in the proceedings but withdrew their interest in, and appeal points relating to, Topic 20 prior to court-facilitated

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<sup>1</sup> ENV-2018-CHC-150.

<sup>2</sup> ENV-2018-CHC-103.

<sup>3</sup> ENV-2018-CHC-124.

<sup>4</sup> ENV-2018-CHC-65.

<sup>5</sup> ENV-2018-CHC-101.

<sup>6</sup> ENV-2018-CHC-79.

<sup>7</sup> ENV-2018-CHC-84.

<sup>8</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated; Willowridge Developments Limited; Fred van Brandenburg; Streat Developments Limited; Barbara Kipke; Bill and Jan Walker Family Trust and Others; Lesley and Jerry Burdon; M & C Burgess; SYZ Investments Limited.

mediation.

## Background

[3] Following court-facilitated mediation, the parties filed memoranda dated 24 December 2019 and 8 May 2020. Each memorandum detailed the resolution reached to determine the appeals, with the parties filing one set of agreed amendments to provisions of Chs 22 and 27.

[4] Responding to the identification of s274 parties that had not signed the relevant joint memorandum, the court issued a Minute dated 6 October 2020 providing the opportunity to those s274 parties to express their views on the relief sought by consent order. No response has been received.

[5] As this topic is closely related to Topic 2 – Landscape and Rural Character – the court placed the consent documentation on hold pending the issue of all relevant Topic 2 decisions. Following those decisions being released, the court issued a Minute dated 18 October 2021 identifying the Topic 20 provisions it considers suitable to be progressed by consent order, with the remaining provisions to be resolved at a later date.

[6] A further consent memorandum dated 18 November 2021 was then filed addressing the provisions identified in the court’s Minute. I have read and considered the consent memorandum which sets out the agreement reached by the parties to finally determine the following outstanding appeal points:

Appeal point allocated reference	Appealed provision
ENV-2018-CHC-150-045	Policy 22.2.1.4
ENV-2018-CHC-150-046	Policy 22.2.2.2
ENV-2018-CHC-150-051	Rule 27.5.8 and Assessment Matter 27.9.3
ENV-2018-CHC-103-007	Policy 22.2.1.4
ENV-2018-CHC-103-010	Rule 27.5.8 and Assessment Matter 27.9.3

ENV-2018-CHC-124-023	Policy 22.2.1.4
ENV-2018-CHC-124-028	Rule 27.5.8 and Assessment Matter 27.9.3

### **Appeal point resolved without amendment to plan provisions**

[7] The following appeal point was resolved, through court-facilitated mediation by way of an agreement to withdraw the relevant relief:

<b>Appeal point allocated reference</b>	<b>Appealed provision</b>
ENV-2018-CHC-103-008	Rule 22.4.10

### **Other relevant matters**

[8] All relevant s274 parties have signed the 5 November 2021 memorandum setting out the relief sought by this order.

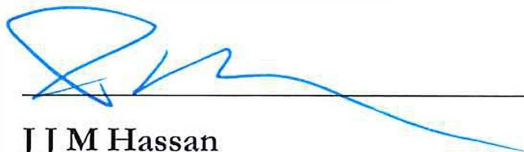
[9] Appendix 1 provided for endorsement contains a formatting/typographic error in r 27.5.8. The matters listed in (a) differ from that recorded at paragraph [20.1] of the 18 November 2021 memorandum. QLDC is to attend to this when updating the provisions of the PDP.

### **Orders**

[10] The court makes this order under s279(1) Resource Management Act 1991 ('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;

- (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



**List of appellants**

ENV-2018-CHC-103	Mount Christina Limited
ENV-2018-CHC-124	Waterfall Park Developments Limited
ENV-2018-CHC-65	Clark Fortune McDonald & Associates
ENV-2018-CHC-101	Universal Developments Limited
ENV-2018-CHC-79	Otago Regional Council
ENV-2018-CHC-84	FII Holdings Limited

## Appendix 1

(amendments shown in underline and ~~strikethrough~~ text, numbering to be confirmed when updating the PDP provisions)

**CHAPTER 22 – RURAL RESIDENTIAL AND RURAL LIFESTYLE**

**22.2.1** Objective – ~~The District’s landscape quality, character and amenity values are maintained and enhanced while enabling rural living opportunities in areas that can absorb development.~~

Rural living opportunities are enabled in areas that can absorb development, on the basis that the density, scale and form of development:

- a. Protects the landscape values of the District’s Outstanding Natural Features and Outstanding Natural Landscapes;
- b. Maintains the landscape character and maintains or enhances the visual amenity values of the District’s Rural Character Landscapes.

22.2.1.4 Manage anticipated activities that are located near in proximity to Outstanding Natural Features and or Outstanding Natural Landscapes so that they do not compromise diminish the landscape values of that Feature or Landscape qualities of these landscapes and their importance as part of the District’s landscapes.

22.2.2.2 Any development, ~~including subdivision~~ located on the periphery of residential and township areas, shall avoid undermining the integrity of the urban rural edge and where applicable, the urban growth boundaries by complying with relevant density requirements.

**CHAPTER 27 – SUBDIVISION AND DEVELOPMENT**

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<b>27.5.8</b>	<p>All subdivision activities, unless otherwise provided for, in the District’s Rural Residential and Rural Lifestyle Zones</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> <li>a. in the Rural Lifestyle Zone, the location and size of building platforms <del>and in respect of any buildings within these building platforms:</del></li> </ul>	RD



	<ul style="list-style-type: none"> <li><del>i. visibility from public places; and landscape values;</del></li> <li>ii. landscape character <u>and visual amenity, as anticipated by the zone; and</u></li> <li><del>iii. visual amenity</del></li> </ul> <ul style="list-style-type: none"> <li>b. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions;</li> <li>c. internal roading design and provision, relating to access and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots and on lot sizes and dimensions;</li> <li>d. property access and roading;</li> <li>e. esplanade provision;</li> <li>f. the adequacy of <del>on-site</del> measures to address the risk of natural <del>and other</del> hazards <del>on land within the subdivision</del>;</li> <li>g. fire fighting water supply;</li> <li>h. water supply;</li> <li>i. stormwater disposal;</li> <li>j. sewage treatment and disposal;</li> <li>k. energy supply and telecommunications including adverse effects on energy supply and telecommunication networks;</li> <li>l. open space and recreation;</li> <li>m. ecological and natural values;</li> <li>n. historic heritage;</li> <li>o. easements.</li> </ul>	
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### 27.9.3 Restricted Discretionary Activity Subdivision Activities

#### 27.9.3.2 Assessment Matters in relation to Rule 27.5.8 (Rural Residential and Rural Lifestyle Subdivision Activities)

- a. ~~the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;~~ The extent to which subdivision design (including the location of building platforms) manages effects on landscape values, landscape character and visual amenity values.

- ....
- i. ~~the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;~~

- ....
- o. the extent to which natural hazard risk is appropriately managed in accordance with the relevant provisions of Chapter 28.

~~the extent to which Policies 27.2.1.2, 27.2.4.4, 27.2.5.4, 27.2.5.5, 27.2.5.10, 27.2.5.11, 27.2.5.14, 27.2.5.16 and 27.2.6.1 are achieved.~~

