

BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH

I MUA 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 AURORA ENERGY LIMITED
(ENV-2018-CHC-108)
... (continued on separate page)
Appellants
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: 20 August 2020

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, and Queenstown Lakes District Council is directed to:
 - (a) amend the provisions of Chapters 2, 3 and 4 of the Proposed Queenstown Lakes District Plan, as set out in Appendix 1, attached to and forming part of this consent order;
 - (b) amend the provisions of Chapter 4 of the Proposed Queenstown Lakes District Plan, as set out in Appendix 2, attached to and forming part of this consent order;



(c) make any consequential changes to the numbering of plan provisions or to the relevant planning maps resulting from the above amendments.

(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 ten appeals filed by Aurora Energy Limited¹ and others² against parts of a decision of Queenstown Lakes District Council regarding provisions in Chapters 2 (Definitions), 3 (Strategic Directions) and 4 (Urban Development) of the Proposed Queenstown Lakes District Plan – Stage 1, allocated as Topic 3 Urban Development.

[2] The court received two memoranda that it has read and considered together. The first memorandum dated 14 March 2019 sought to resolve many of the appeals allocated to Topic 3. However the appeal points were recorded as only partially resolved and were placed on hold pending the court's Topic 2 decision.³ The second memorandum, dated 9 April 2019, addressed two of those partially resolved appeal points in addition to another.⁴ That memorandum records also that, once the court issues these orders only three appeal points allocated to Topic 3, which were placed on hold awaiting the close of the Stage 3 further submission period, will remain extant.⁵

[3] Responding to the identification of s274 parties that had not signed the relevant joint memorandum, the court issued a Minute dated 12 August 2020 providing the opportunity to those s274 parties to express their views on the relief sought by consent order. No response has been received.

¹ ENV-2018-CHC-108.

² Clark Fortune McDonald and Associates ENV-2018-CHC-65; FII Holdings Limited ENV-2018-CHC-84; Friends of Wakatipu Gardens and Reserves and Associated Residents ENV-2018-CHC-98; Queenstown Airport Corporation Limited ENV-2018-CHC-93; Remarkables Park Limited ENV-2018-CHC-126; Transpower New Zealand Limited ENV-2018-CHC-114; Waterfall Park Developments Limited ENV-2018-CHC-124; Darby Planning Limited ENV-2018-CHC-150; Queenstown Park Limited ENV-2018-CHC-127.

³ Appeal point filed by Queenstown Park Limited allocated reference ENV-2018-CHC-127-023; Appeal point filed by Darby Planning Limited ENV-2018-CHC-150-016; and Appeal points filed by Clark Fortune McDonald and Associates allocated reference ENV-2018-CHC-065-001.

⁴ Appeal point filed by Darby Planning Limited allocated reference ENV-2018-CHC-150-020.

⁵ Appeal points filed by Clark Fortune McDonald and Associates allocated reference ENV-2018-CHC-065-001, 004, and 005.



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;
- (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-065	Clark Fortune McDonald and Associates
ENV-2018-CHC-150	Darby Planning Limited Partnership
ENV-2018-CHC-084	FII Holdings Limited
ENV-2018-CHC-098	Friends of Wakatipu Gardens and Reserves and Associated Residents
ENV-2018-CHC-093	Queenstown Airport Corporation
ENV-2018-CHC-127	Queenstown Park Limited
ENV-2018-CHC-126	Remarkables Park Limited
ENV-2018-CHC-114	Transpower New Zealand Limited
ENV-2018-CHC-124	Waterfall Park Developments Limited



APPENDIX 1

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

Chapter 2 Definitions

Urban Development	Means development which is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban <u>development, nor does the provision of regionally significant infrastructure within rural areas.</u>
--------------------------	--

Chapter 3 Strategic Direction

3.2 Strategic Objectives

3.2.2 Urban growth is managed in a strategic and integrated manner. (addresses Issue 2)

- 3.2.2.1 Urban development occurs in a logical manner so as to:
- promote a compact, well designed and integrated urban form;
 - build on historical urban settlement patterns;
 - achieve a built environment that provides desirable, healthy and safe places to live, work and play;
 - minimise the natural hazard risk, taking into account the predicted effects of climate change;
 - protect the District's rural landscapes from sporadic and sprawling urban development;
 - ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;
 - contain a high quality network of open spaces and community facilities; and
 - be integrated with existing, and planned proposed future, infrastructure and appropriately manage effects on that infrastructure.

(also elaborates on S.O. 3.2.3, 3.2.5 and 3.2.6 following)

3.2.3 A quality built environment taking into account the character of individual communities. (addresses Issues 3 and 5)

- 3.2.3.2 Built form integrates well with its surrounding urban environment.



3.3 Strategic Policies

Urban Development

- 3.3.13 Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Queenstown, Frankton, Jack's Point and Arrowtown), Wanaka and where required around other townships, and Lake Hawea Township. (relevant to S.O. 3.2.2.1)

Chapter 4 Urban Development

4.1 Purpose

The purpose of this Chapter is to elaborate on the strategic direction in Chapter 3 and set out the objectives and policies for managing the spatial location and layout of urban development within the District. This chapter forms part of the strategic intentions of this District Plan and will guide planning and decision making for urban growth and development within the District's major urban settlements and smaller urban townships. This chapter does not address site or location specific physical aspects of urban development (such as built form) - reference to zone and District wide chapters is required for these matters.

This chapter gives effect to the National Policy Statement on Urban Development Capacity (NPS-UDC), which requires that local authorities provide sufficient development capacity to meet the current and future needs of the District's community. This chapter provides the strategic planning framework to achieve effective and efficient urban environments that can meet demand for the development of land for housing and businesses. Provision is made for a range of dwelling types and locations and business environments and for the district's urban areas to develop and change over time in response to the changing needs of the District's community.

The District experiences considerable growth pressures, and contains high-growth urban areas as defined in the NPS-UDC. Urban growth within the District occurs within an environment that is revered for its natural amenity values, and the District relies, in large part for its social and economic wellbeing on the quality of the landscape, open spaces and the natural and built environment. If not properly controlled, urban growth can result in adverse effects on the quality of the built environment, with flow on effects to the impression and enjoyment of the District by residents and visitors. Uncontrolled urban development can result in the fragmentation of rural land; and poses risks of urban sprawl, disconnected urban settlements and a poorly coordinated infrastructure network. The roading network of the District is under some pressure and more low density residential development located remote from employment and service centres has the potential to exacerbate such problems.

The objectives and policies for Urban Development provide a framework for a managed approach to urban development that utilises land and resources in an efficient manner, and preserves and enhances natural amenity values. The approach seeks to achieve integration between land use, transportation, infrastructure, services, open space networks, community facilities and education; and increases the viability and vibrancy of urban areas.



Urban Growth Boundaries are established for the key urban areas of the Wakatipu Basin (including Queenstown, Frankton, Jacks Point and Arrowtown) and Wanaka, Arrowtown and where required around other townships Lake Hawea Township, providing a tool to manage anticipated growth while protecting the individual roles, heritage and character of these areas. Specific policy direction is provided for these areas, including provision for increased density to contribute to more compact and connected urban forms that achieve the benefits of integration and efficiency and offer a quality environment in which to live, work and play.

4.2 Objectives and Policies

4.2.1 **Objective - Urban Growth Boundaries used as a tool to manage the growth of larger urban areas within distinct and defendable urban edges. (from Policies 3.3.123 and 3.3.134)**

Policies

4.2.1.1 Define Urban Growth Boundaries, where required, to identify the areas that are available for the growth of ~~the main~~ urban settlements.

4.2.1.2 Focus urban development primarily on land within and at selected locations adjacent to the existing larger urban areas settlements and, to a lesser extent, accommodate urban development within and adjacent to smaller urban areas, towns and rural settlements.

4.2.1.3 Ensure that urban development is contained within the defined Urban Growth Boundaries, and that aside from urban development within existing towns and rural settlements, urban development is avoided outside of those boundaries.

4.2.1.4 Ensure Urban Growth Boundaries encompass, at a minimum, an sufficient area that provides sufficient, feasible development capacity and urban development opportunities consistent with:

- a. the anticipated medium term demand for housing and business land urban development within the District Wakatipu and Upper Clutha Basins over the planning period assuming a mix of housing densities and form;
- b. ensuring the ongoing availability of a competitive land supply for urban purposes;
- c. the constraints on development of the land such as its topography, its ecological, heritage, cultural or landscape significance; or the risk of natural hazards limiting the ability of the land to accommodate growth;
- d. the need to make provision for the location and efficient operation of infrastructure, commercial and industrial uses, and a range of community activities and facilities;
- e. a compact and efficient urban form;
- f. avoiding sporadic urban development in rural areas;
- g. minimising the loss of the productive potential and soil resource of rural land; and
- h. a future development strategy for the District that is prepared in accordance with the National Policy Statement on Urban Development Capacity.



- 4.2.1.5.a When locating Urban Growth Boundaries or extending towns and rural settlements through plan changes to provide for urban development, have particular regard to minimising significant adverse effects on the values of open rural landscapes.
- 4.2.1.6 Review and amend Urban Growth Boundaries over time, as required, to address changing community needs, respond to monitoring evidence, or to enable appropriate urban development (having regard to Policy 4.2.1.4).
- 4.2.2 A **Objective - A compact, and integrated and well designed urban form within the Urban Growth Boundaries that:**
- (i) is coordinated with the efficient provision, use and operation of infrastructure and services; and.**
 - (ii) is managed to ensure that the Queenstown Airport is not significantly compromised by the adverse effects of incompatible activities.**

Policies

- 4.2.2.1 Integrate urban development with the capacity of existing or proposed planned infrastructure so that:
- a. urban development is serviced by infrastructure of sufficient the capacity; and
 - b. reverse sensitivity effects of activities on regionally significant infrastructure are minimised; and
 - c. in the case of the National Grid, reverse sensitivity effects are avoided to the extent reasonably possible and the operation, maintenance, upgrading and development of the National Grid is not compromised.
- 4.2.2.2 Allocate land within Urban Growth Boundaries into zones which are reflective of the appropriate land use having regard to:
- a. its topography;
 - b. its ecological, heritage, cultural or landscape significance if any;
 - c. any risk of natural hazards, taking into account the effects of climate change;
 - d. connectivity and integration with existing urban development;
 - e. convenient linkages with public transport;
 - f. the need to provide a mix of housing densities and forms within a compact and integrated urban environment;
 - fa. the level of existing and future amenity that is sought (including consideration of any identified special character areas);
 - g. the need to make provision for the location and efficient operation of infrastructure and utilities, including regionally significant infrastructure;
 - h. the need to provide open spaces and community facilities that are located and designed to be safe, desirable and accessible;
 - i. the function and role of the town centres and other commercial and industrial areas as provided for in Chapter 3 Strategic Objectives 3.2.1.2 - 3.2.1.5 and associated policies; and
 - j. the need to locate emergency services at strategic locations.



4.2.2.12 — Ensure that any transition to rural areas is contained within the relevant Urban Growth Boundary.

Wakatipu Basin Specific Policies

4.2.2.21 Rural land outside of the Urban Growth Boundaries is not used for urban development until further investigations indicate that more land is needed to meet demand for urban development in the Wakatipu Basin and a change to the Plan amends the Urban Growth Boundary and zones additional land for urban development purposes.

Upper Clutha Basin Specific Policies

4.2.2.23 Rural land outside of the Urban Growth Boundaries is not used for urban development until further investigations indicate that more land is needed to meet demand for urban development in the Upper Clutha Basin and a change to the Plan amends the Urban Growth Boundary and zones additional land for urban development purposes.



APPENDIX 2

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

Chapter 4 Urban Development

4.2 Objectives and Policies

Policies

4.2.1.5 When locating Urban Growth Boundaries or extending towns and rural urban settlements through plan changes, ~~avoid impinging on~~ protect the values of Outstanding Natural Features Landscapes and ~~or Outstanding Natural Landscapes Features.~~

...

4.2.2.14 Define the Urban Growth Boundaries for the balance of the Wakatipu Basin, as shown on the District Plan Maps that:

...

- d. ~~avoid~~protect the values of Outstanding Natural Features and Outstanding Natural Landscapes;

