

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

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14 of the First
schedule of the Act
BETWEEN QUEENSTOWN LAKES DISTRICT
COUNCIL
(ENV-2018-CHC-182)
Appellant
AND QUEENSTOWN AIRPORT
CORPORATION LIMITED
Respondent
AND REMARKABLES PARK LIMITED
(ENV-2018-CHC-183)
Appellant
AND QUEENSTOWN AIRPORT
CORPORATION LIMITED and
QUEENSTOWN LAKES DISTRICT
COUNCIL
Respondents

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

In Chambers at Christchurch

Date of Consent Order: 11 June 2020

CONSENT ORDER

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



- (1) the appeals are allowed, and Queenstown Lakes District Council is directed to:
 - (a) amend Designation 2 (Aerodrome Purposes) in Chapter 37 of the proposed district plan as set out in Appendices 1 and 2, attached to and forming part of this consent order (and to make the typographical corrections noted herein);
 - (b) make any consequential changes to the numbering of provisions or to the planning maps resulting from the above amendments.
- (2) the appeals are otherwise dismissed.

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

REASONS

Introduction

[1] These proceedings concern appeals by Queenstown Lakes District Council¹ and Remarkables Park Limited² against parts of a decision of Queenstown Airport Corporation Limited, as requiring authority, on Designation 2 in Chapter 37 of the proposed Queenstown Lakes District Plan – Stage 1. It relates to subtopic 4 (Designation 2 Aerodrome Purposes) of Topic 21 (Commercial Airports).

[2] The court has now read and considered the consent memorandum of the parties dated 21 February 2020 which proposes to resolve these appeals.

Other relevant matters

[3] Board of Airline Representatives New Zealand Inc has given notice of an intention to become a party to the appeal by Remarkables Park Limited under s274 of the Resource Management Act ('the RMA'). The s274 party has signed the memorandum setting out the relief sought.

[4] I have picked up some minor typographical errors in App 1 and, hence, make these orders on the basis that this decision now corrects them. At condition 3.b., a semi-



¹ ENV-2018-CHC-182.

² ENV-2018-CHC-183. Queenstown Lakes District Council, as territorial authority is also a respondent to this appeal.

colon is to be added after 'Condition D.1.3(a)'. At condition 6.a., the full-stop is replaced with a semi-colon and at 6.c, a semi-colon is added. At condition 23, the full-stop is replaced with a semi-colon.

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;
- (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

Agreed changes shown in underline and ~~strike through~~

37 Designations

Please note: Variations to parts of this chapter have been decided by Council on 7 March 2019 as part of Stage 2 of the PDP. You can view the Stage 2 Decisions, appeals and section 274 notices on our website. The appeal and section 274 periods for the Stage 1 and 2 Decisions have closed.

A Queenstown Airport

The area of land covered by the Aerodrome Designation shall include the sites described below:

- a. Lots 1 and 2, DP 420663;
- b. Parts of Part Sections 59, 60, 61, 62, 63 Block 1 Shotover Survey District;
- c. Lot 9, DP 22121;
- d. Part of Lot 2 DP 394343;
- e. Part of Lots 1 and 2, DP 472825;
- f. Lot 22 DP 304345;
- g. Section 48, 51-52, 68, 114 -115, 117, 119-128 Survey Office Plan 459748;
- h. Part of Section 111, 112, SO Plan 459748;
- i. The portion of an unformed legal road bounded by Sections 51, 111, 114, 119, 121-122 and 124, Survey Office Plan 459748 to the south and west, and Sections 52, 112, 115, 117, 120, 123, 125, Survey Office Plan 459748 and Lots 1 and 2 DP 472825 to the north and east;
- j. Part Glenda Drive, and all legal roads within the above described land.

D.1 Aerodrome Purposes

The following conditions and provisions be included in the Plan as D.1 - Aerodrome Purposes.

The purpose of this designation is to protect the operational capability of the airport, while at the same time ~~managing~~ minimising adverse environmental effects from aircraft noise on the community at least until the year 2037.

Permitted Activities

1. The nature of the activities authorised by this designation are described as follows:



- 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 fueling facilities, facilities for the handling and storage of hazardous substances, and associated offices;
- d. Roads, accessways, stormwater facilities, monitoring activities, site investigation activities, infrastructure and utility activities, landscaping, and all related construction and earthwork activities;
- e. Vehicle parking and storage, rental vehicle facilities, vehicle valet activities, public transport facilities;
- f. Retail activities, ~~restaurants and other food and beverage facilities including takeaway food facilities, signage, and industrial and commercial activities~~ commercial activities and industrial activities, provided they are connected with and ancillary to the use of the airport associated with and principally serve, the function and operation of Queenstown Airport, and passengers.

Restrictions on Aerodrome Purposes Activities

Building Height

2. Maximum height of any building shall be:
 - a. 15 metres in Area A; and
 - b. 10 metres in Area B

except that: ~~a~~ this restriction does not apply to the control tower, hangars, lighting towers or navigation and communication masts and aerials.

Building Setback

3. Minimum setback from all Aerodrome Purposes designation boundaries shall be:
 - a. 5m from any public road, Open Space and Recreation Zones or any adjoining land zoned for residential activity;
 - b. 3m from any other zone not listed in Condition D.1.3(a) adjoining land not zoned for residential activity.

with the exception of the following:

- a. security fencing around the perimeter of the Airport which comprises a mesh fence being a maximum height of 2.5 metres and includes a 45° outrigger post with 3 strands of barbed wire, or such security fencing that is required by the Civil Aviation Authority to ensure compliance with Civil Aviation regulations; and
- b. a 3 metre high blast fence at the western end of the runway.



Recession Plane

4. On any designation boundary that directly adjoins a residential zone a recession plane commencing at ground level on the boundary and angled at 45° shall be applied. No building shall exceed the height of the recession plane at any point.

Operational Hours

5. No aircraft operations other than emergency aircraft operations shall occur between 10pm and 6am.

Outline Plan

~~6. An outline plan of any work in the designated area must be submitted to the Queenstown Lakes District Council (QLDC) pursuant to section 176A of the RMA, unless, in the case of minor works, QLDC waives the requirement for an outline plan.~~

67. The outline plan shall include, in addition to the matters required under section 176A of the RMA, an assessment of the following matters as relevant to the scale and location of the works proposed:
 - a. whether building form, colour and texture are used to reduce the apparent height and bulk of large buildings when viewed from adjoining sites located outside the Aerodrome Purposes designation boundary;
 - b. whether there will be a consistency of building materials and colours between buildings;
 - c. building setbacks
 - d. whether any proposed landscape treatment is in scale with the proposed development, providing for the visual softening of large buildings and the screening of parking, loading and storage areas, while recognising operations requirements of airside facilities;
 - e. whether any proposed plantings are to be placed so that they do not obstruct views of outstanding natural landscapes and/or features;
 - f. whether any earthworks will alter the existing topography of the designated site and whether any impacts of amenity and cultural values are appropriately managed;
 - g. the extent to which earthworks affect the stability and erosion potential of the designated site and any adjoining sites located outside the designation boundary;
 - h. details of traffic management for the period of construction of the proposed works and for the operation of the proposed activities once established; and
 - i. the timetable for the completion of works.

Aircraft Noise

78. a. Aircraft noise shall be measured, predicted and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning and NZS 6801:2008 Acoustics – Measurement of Environmental Sound, by a



person suitably qualified in acoustics. The terms ANB, OCB, ASAN, 2037 Noise Contours and Indoor Design Sound Level shall be as defined in the District Plan.

- b. The term Annual Aircraft Noise Contours (AANC) shall be defined as the annual Ldn contours 55 dB, 60 dB, and 65dB that have been derived using aircraft noise prediction software to be determined by the Queenstown Airport Liaison Committee (QALC) in accordance with the Noise Management Plan (NMP) and records of actual aircraft movements for the busiest three consecutive months of the preceding year.
 - c. The term Compliance AANC shall be defined as the AANC adjusted for any differences between calculated noise levels and measured noise levels described in Conditions ~~910~~ and ~~1011~~ of this designation.
 - d. The term Projected AANC shall be defined as the Compliance AANC adjusted for annual growth estimated for the following year based on trends derived from historical aircraft movement data.
 - e. If NZS 6805:1992 is superseded by a revised or new standard, the adoption of this revised/new standard in place of NZS 6805:1992 shall be at the discretion of the QALC under the NMP. Note the detail and the content of the NMP are set out in Condition ~~2324~~, Condition ~~2425~~ and Condition ~~2526~~.
- ~~89~~. The Airport shall be managed so that the noise from aircraft operations does not exceed 65 dB Ldn outside the Air Noise Boundary (ANB) and 55 dB Ldn outside the Outer Control Boundary (OCB). The ANB and OCB are as shown on the District Plan Maps. Compliance with the ANB and OCB shall be determined on the basis of the Compliance AANC required to be prepared by Condition ~~910~~ and ~~1011~~.
- ~~910~~. Each year, Queenstown Airport Corporation (QAC), shall produce 55 dB, 60 dB and 65 dB AANC, using aircraft noise prediction software to be determined by the QALC in accordance with the NMP and records of actual aircraft movements for the busiest three consecutive months of the preceding year.
- ~~1011~~. At least every three years, QAC shall undertake a monitoring programme to compare the measured aircraft noise levels with the AANC. The AANC shall be corrected for any differences arising from the measured levels to produce the Compliance AANC. The monitoring programme shall include the following measurements within a three year period: a minimum of one month summer and one month winter undertaken at a minimum of three points located west, north-east and south of the airport with the exact positions to be determined by the QALC under the NMP.
- ~~1112~~. Each year the Compliance and Projected AANC (required under Conditions ~~1011~~ and ~~1516~~ respectively) shall be reported to the QALC. Compliance AANC produced for years when noise measurements have not been undertaken shall be prepared using the same corrections determined from the most recently measured aircraft noise levels undertaken for Condition ~~1011~~.

Other Noise

- ~~1213~~. Sound from activities which are outside the scope of NZS 6805:1992, shall comply with the District Plan noise limits set in the zone standards for each zone in which the sound is received. This requirement includes engine testing other than for essential unplanned engine testing of aircraft for scheduled passenger services.



1314. No noise limits shall apply to essential unplanned engine testing of aircraft for scheduled passenger services. The NMP shall detail noise management practices for unplanned engine testing including preferred locations and times. Following each unplanned engine test the QAC shall report to the next meeting of the QALC why the testing was required and what noise management practices were followed.

Airport Noise Mitigation

1415. QAC shall provide the Queenstown Lakes District Council (QLDC) with the 2037 Noise Contours in 1 dB increments from 70 dB Ldn to 55 dB Ldn inclusive. The methodology used to calculate these 2037 Noise Contours shall be the same as that used to calculate the ANB and the OCB. These contours shall be provided in an electronic format and shall also be appended to the NMP.

1516. Each year QAC shall produce 55 dB, 60 dB and 65 dB Projected AANC for the purpose of determining when mitigation shall be offered under Conditions ~~1617~~ and ~~1718~~ using the same aircraft noise prediction software as used for the Compliance AANC required under Condition ~~910~~, adjusted for annual growth estimated for the following year based on trends derived from historical aircraft movement data.

1617. Each year the QAC shall offer to provide 100% funding of noise mitigation for Critical Listening Environments of buildings that existed on 8 May 2013 containing an ASAN that are within the 65 dB Projected AANC. This offer may be earlier at QAC's discretion. The mitigation shall be designed to achieve an Indoor Design Sound Level of 40 dB Ldn or less, based on the 2037 Noise Contours contained in the NMP.

1718. QAC shall offer to part fund retrofitting, over time, of mechanical ventilation of any Critical Listening Environment within existing buildings containing an ASAN located between the Air Noise Boundary and the 2037 60 dB Noise Contour. In particular, each year the QAC shall offer to provide 75% funding of mechanical ventilation for Critical Listening Environments of buildings that existed on 8 May 2013 containing an ASAN that are within the 60 dB Projected AANC. This offer may be earlier at QAC's discretion. Where a building owner accepts this offer they shall not be eligible for further funding of mechanical ventilation if the building later becomes within the 65 dB Projected AANC, but they shall become eligible for 100% funding of any sound insulation required.

1819. Mechanical ventilation shall be in accordance with the provisions contained within Chapter 36.6.2 of the District Plan.

1920. Noise mitigation funding offered by the QAC shall only be required where the benefitting building owner agrees to the methods offered and agrees to enter into a binding property agreement or covenant to the effect that the owners or occupiers of the property:

- a. are aware that the property may be subject to increased levels of aircraft noise, and
- b. agree that any complaint arising from noise related activities shall be dealt with in accordance with the complaints procedures set out in the NMP; and
- c. will not remove or lessen the effectiveness of the acoustic insulation and/or mechanical ventilation that is installed by QAC without its prior approval.



2021. Alternative mitigation strategies may be adopted by agreement of QAC and the building owner. A procedure for dispute resolution shall be provided in the NMP.

2122. A Noise Mitigation Plan detailing the processes required to give effect to the funding of sound insulation and mechanical ventilation shall be included as part of the NMP.

2223. Any offer made under Conditions 1617 or 1718 remains open for acceptance by the landowner for a period of 12 months. If the landowner declines the offer, this shall be recorded by QAC. If, at a later date that landowner wishes to take up the offer, the landowner shall notify QAC of its desire to do so. QAC shall determine whether it will make the offer available again and shall communicate the reasons for its decision to the landowner. Acceptance of the request by QAC shall not be unreasonably withheld. QAC shall monitor change of ownership records and if ownership of the property subsequently changes and the offer made above was not taken up by the landowner at that time, QAC shall offer the new landowner funding in accordance with Conditions 1617 or 1718. In these circumstances the offer will remain open for acceptance for a further 12 month period.

Noise Management Plan

2324. Within 6 months from when the designation is confirmed and without in any way limiting its obligations to fully comply with the conditions attaching to this designation, QAC shall complete and provide to the QALC a NMP which describes how QAC proposes to manage the Airport in order to comply with the conditions of this designation. The NMP shall describe, in detail, the following matters:

- a. procedures for the convening, ongoing maintenance and operation of the QALC;
- b. the QALC's discretion to adopt any revised/new standard which may replace NZS6805:1992 and to choose the noise modelling software to be used for the ongoing AANC compliance monitoring through the Compliance AANC.
- c. the mechanisms for giving effect to a noise monitoring programme to assess compliance with Conditions 89, 910, 1011, 1112 and 2423(h);
- d. the ongoing investigations, methods, processes and resources that QAC proposes to put in place to provide for:
 - i. the reduction of noise levels from all aspects of Aircraft Operations and engine testing; and
 - ii. alternative methods of noise management to achieve the reduction of these noise levels;
- e. noise minimisation procedures which include:
 - i. procedures and measures adopted to ensure compliance with noise limits for: -
 - aircraft operations in Condition 89; and
 - engine testing in Condition 1314;
 - ii. Civil Aviation Authority (CAA) noise rules applicable to the Airport from time to time;



- iii. voluntary or self imposed procedures or measures for the reduction of aircraft noise;
- f. the procedures for modifying and enhancing the noise minimisation procedures to take into account:
 - i. any findings made pursuant to any investigation undertaken in accordance with ~~2423~~(d) above; and
 - ii. the need to ensure compliance with all of the requirements of this designation.
- g. the procedures for reporting to the QALC any Aircraft Operations and engine testing activities which contravene a condition of this designation and the details of noise mitigation procedures for unplanned engine testing including preferred locations and times;
- h. the procedure for the annual preparation and publication of the Compliance AANC by QAC, as required by Conditions ~~1011~~ and ~~1112~~ above;
- i. a procedure for dealing with complaints including: the recording of complaints; acknowledgement to the complainant of receipt of their complaint and the outcome once resolved; any corrective action(s) to be taken including if non-compliance with the conditions is identified, and reporting to the QALC;
- j. the dispute resolution procedures, to resolve disputes between QAC and QALC about the contents and implementation of the NMP;
- k. the detailed procedures and processes for implementing a Noise Mitigation Plan above except that those procedures and processes shall not in any way limit the obligations set out in Conditions ~~1617~~ to ~~2223~~ above; and
- l. the procedures for amending the NMP.

2425. The NMP shall include provisions for a Queenstown Airport Liaison Committee including:

- a. the membership of the QALC, which shall comprise of: a chair, QAC (up to 2 members), QLDC (1 member), community (3 members), Airways Corporation (1 member), a representative of the airlines operating flights at Queenstown Airport (1 member), a representative of the Queenstown Airport general aviation/helicopter operators (1 member);
- b. a quorum of the QALC shall be four members including at least one representative of each of QAC, QLDC and the community;
- c. the QALC shall have an independent chair appointed by QAC in consultation with the QLDC;
- d. QAC will provide a venue and secretarial and support services for the QALC which will be provided at QAC's own expense, and
- e. the meeting times of the QALC which shall be up to 4 times per annum or as agreed by the QALC.

2526. The NMP shall provide guidance for noise mitigation by owners of new and altered buildings containing ASANs within the OCB. This shall include details of the



likely mitigation required within each 2037 Noise Contour, including identification of the point at which no mitigation is required.

2627. The current version of the NMP shall be made available to the public on QAC's web site.

Eastern Runway End Safety Area (RESA)

2728. The eastern RESA fill shall at all times, be protected in an appropriate manner from the risk of erosion by the river in accordance with accepted engineering practice.

2829. Maintenance and emergency works necessary to meet the requirements of Condition 2728, including engineering works, are permitted under this designation.



Appendix 2

