DOUBLE SIDED

White Health

Decision No. C 134/2003

IN THE MATTER of the Resource Management Act 1991

<u>AND</u>

IN THE MATTER of Clause 17(2) of the First Schedule to the Act

AND

IN THE MATTER of an application by **THE QUEENSTOWN**

<u>LAKES DISTRICT COUNCIL</u> for consent to make parts of the proposed district plan operative

(MIS 0025/03)

BEFORE THE ENVIRONMENT COURT

Environment Judge Jackson (sitting alone under section 279 of the Act)

IN CHAMBERS at CHRISTCHURCH

DECISION ON GRANT OF COURT'S CONSENT

[1] The Court has received an application from the Queenstown Lakes District Council ("the Council") for the Court's consent under clause 17(2) of the first schedule to the Act. Clause 17(2) requires consent of the Court for the Council to approve and make operative parts of the proposed Queenstown Lakes District Plan ("the plan").

Background

[3]

[2] The Council notified the plan on 10 October 1995. Decisions on submissions were issued in three stages on 31 August 1998, 7 September 1998, and 14 September 1998. Subsequently 215 references¹ were lodged with the Environment Court. 197 of those references have since been resolved.

The Council has made its application on the grounds that:

appeals on proposed plan provisions have been known prior to 1 August 2003.

- (a) All submissions or appeals relating to those parts as identified have been disposed of;
- (b) Due administration under the Act in relation to the application of the transitional district plan and proposed district plan will be made more efficacious and transparent;
- (c) Any element of uncertainty or conflict between the plans which presently exists or necessitates a value judgment as to weighting by the Council or the Environment Court will be eliminated;
- (d) Eight years has elapsed since public notification of the plan on 10 October 1995;
- (e) Some time yet may elapse before the outstanding references are resolved; and
- (f) Such orders best serve the interests of justice.
- [4] The application is also supported by an affidavit dated 8 September 2003 sworn by Charlotte Olivia Hume who was the Principal: Policy at Civic Corporation Limited² from September 1998 to September 2003 and was involved in proceedings relating to the plan since decisions on submissions were made. Ms Hume's affidavit sets out the background to the application in some detail and enlarges upon the grounds set out above.
- [5] Importantly, as well as emphasizing the Council's priority and urgency in making at least part of the plan operative, Ms Hume's affidavit also explains how the printed version of the plan will represent the status of provisions as being either operative or not. This is to be achieved by highlighting the provisions that are <u>not</u> operative, providing an explanation of what the highlighting denotes, and including the appendices attached to the affidavit (and this decision) with the plan. Planning maps will also be annotated to show areas still subject to submission or appeal.
- [6] The Council's application includes three schedules. Those schedules detail:
 - (i) Provisions of the plan to be made operative (in their entirety or in part);

consultant company providing resource management and regulatory services to the Queenstown es District Council.

- (ii) Provisions of the plan not able to be made operative; and
- (iii) Outstanding references (including references on variations to the plan).
- [7] The schedules reveal, in detail, that there are still a number of outstanding references in relation to the plan itself and variations to it. In situations such as this the Court, before it will exercise its discretion to consent to Council approval of parts of its plan, needs to be satisfied that the relevant part(s) of the plan are readily identifiable and all submissions or appeals in reference to it have been disposed of. If the Court is satisfied, it will normally accommodate the local authority's request out of concern to assist it in its function as a planning authority.³
- [8] In this case, I did have concerns, which the application does not address, namely:
 - (i) Whether any of the remaining appeals provide for "consequential changes" to the plan; or
 - (ii) Whether there is any possibility of, as yet uninitiated, applications for further variation,
- that might effect provisions of the plan the Court is being asked to consent to being approved as operative.
- [9] These concerns were raised with Mr N S Marquet, counsel for the Council. Mr Marquet has since provided the Court with a letter in which he certifies that none of the outstanding references are likely to impinge on any parts of the plan included in the application to make those parts operative. Further, Mr Marquet certifies that no other variations relating to the proposed operative parts are contemplated. In fact, Mr Marquet advises, the Council has placed a halt on future variations to the proposed plan.
- [10] It is apparent that a considerable amount of effort has gone into identifying specifically those parts of the plan that can be made operative at this time. The reasons that have been given for making parts of the plan operative are accepted. The methods contained in Ms Hume's description of how matters still subject to reference are to be identified are appropriate. And, with Mr Marquet's statements in relation to my

concerns, I am satisfied that the correct course is for the Court to grant consent to the Council to make the parts of its plan that have been identified operative.

[11] Accordingly, I hereby grant <u>CONSENT</u> to the Queenstown Lakes District Council to make those parts of the proposed Queenstown Lakes District Plan, as identified in the attached **Appendix 1**, operative.

Further, I <u>DIRECT</u> that the provisions of the plan identified in the attached Appendix 2 be identified in the reprinted plan in the manner described at paragraphs 14 and 15 in the affidavit of Charlotte Olivia Hume dated 8 September 2003, namely:

- (a) all provisions listed in Appendix 2 will be highlighted in the reprinted plan;
- (b) the reprinted plan will include an explanation of what the highlighted provisions mean;
- (c) copies of Appendix 1 and 2 to this decision will be provided with the reprinted plan; and
- (d) the Planning Maps will be annotated to show the areas still subject to submission or appeal.
- [12] All remaining references and submissions on the plan will be dealt with in due course.

DATED at CHRISTCHURCH

22

September 2003.

J R Jackson

Environment Judge

Issued: 25 SEP 2003

APPENDIX 1 -

The following sections of the Proposed District Plan are to be made operative in their entirety:

APPENDIX 1A

•	Section 1 Introduction
•	Section 2 Information and Interpretation
•	Section 3 Sustainable Management
•	Section 6 Airport Mixed Use Zone
•	Section 13 Heritage
•	Section 14 Transport
•	Section 16 Hazardous Substances
•	Section 17 Utilities
•	Section 18 Signs
•	Section 19 Relocated Buildings, Temporary Buildings and Activities
•	Appendix 1 Designations
•	Appendix 2 Acoustic Measurement & Assessment
•	Appendix 5 Areas of Significant Indigenous Vegetation
•	Appendix 6 Road Hierarchy
•	Appendix 7 Traffic Design Standards

The following sections of the Proposed District Plan are to be made operative in part with the exception of those provisions listed in Appendix 2:

APPENDIX 1B

•	Section 4 District Wide Issues
•	Section 5 Rural Areas
•	Section 7 Residential Areas
•	Section 8 Rural Living Areas
•	Section 9 Townships
•	Section 10 Town Centres
	Section 11 Business and Industrial Areas
•	Section 12 Special Zones
•	Section 15 Subdivision, Development and Financial Contributions
	Definitions
•	Appendix 3 Inventory of Protected Features
•	Appendix 4 Interpretative Diagrams
•	Appendix 8 Landscape Guidelines



APPENDIX 2 -

4.10 Earthworks

SCHEDULE OF PROVISIONS OF THE PROPOSED DISTRICT PLAN NOT ABLE TO BE MADE OPERATIVE

The following sections are still subject to submission or appeal and are not able to be made operative at this time:

APPENDIX 2

Section	on 4 District Wide Issues
•	4.1.1 Introduction
•	4.1.2 Resources, Activities and Values
•	4.1.3 Issues
•	4.1.4 Insert new Objective 1, Policies and Implementation Methods
•	4.1.4 Objective 1 – proposed new policy 1.20
•	4.1.4 Implementation Methods – amend methods (i) and (vii)
•	4.1.4 Implementation Methods – proposed new implementation methods from 1995 Plan
•	4.2.4 Issue (3) Maintenance and enhancement of Visual Amenity Landscapes
•	4.2.5 Policy (2) Outstanding Natural Landscapes (District Wide/Greater
	Wakatipu) (d)
•	4.2.5 Policy (3) Outstanding Natural Landscapes (Wakatipu Basin) (a) (v)
•	4.2.5 Policy (4) Visual Amenity Landscapes (a)
•	4.2.5 Policy (5) Outstanding Natural Features (b) (v)
•	4.2.5 Policy (9) Structures (c)
•	4.2.5 Policy (11) Forestry and Amenity Planting (b)
•	4.2.5 Policy (15) Retention of Existing Vegetation
•	4.4.1 Resources, Activities and Values (ii) Functions of Open Space and
	Recreation Areas.
•	4.4.1 Resources, Activities and Values (iii) Significance of Open Space and Recreation Areas
•	4.4.2 Issues (all)
•	(10.01)
•	4.6.1 Resources, Activities and Values (v) The Shotover River (b) Shotover
	Canyon
•	4.6.2 Issues (Introduction)
•	4.6.2 Issues (iv) Navigational Safety
•	4.6.2 Issues (vii) Differentiation between Private and Commercial Users
•	4.6.3 Policies (insert additional policy – Policy 9 from 1995 Plan)
•	4.6.3 Implementation methods (insert additional methods (v) and (ix) from 1995
-	Plan)
-	4.6.3 Explanation and Principal Reasons for adoption
	4.6.4 Environmental Results Anticipated 4.9.3 proposed new Objective 7 and policies
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Section 5 Rural Areas

- 5.1 Issue (i) The Management of the Effects of Rural Activities on the Environment
- 5.1 Issue (ii) Sustaining the Life-Supporting Capacity of Soils and Vegetation
- 5.1 Issue (iii) Protecting the Rural Amenity Values
- 5.1 Issue (iv) Safeguarding Water Resources
- 5.1 Issue (v) Mineral Resources
- 5.3.3.2 Controlled Activity (ix) Tree Planting
- 5.3.3.2 Controlled Activity (x) Structures
- 5.3.3.2 Controlled Activity (xi) Earthworks
- 5.3.3.3 Discretionary Activity (vi) Forestry Activities
- 5.3.3.3 Discretionary Activity (iv) Surface of Lakes and Rivers
- 5.3.3.5 Prohibited Activities (i) Surface of Lakes and Rivers (a) (g)
- 5.3.4 Non-notification of applications
- 5.3.5.1 Site Standard (vii) Forestry and Shelterbelt Planting
- 5.3.5.1 Site Standard (viii) Earthworks
- 5.3.5.1 Site Standard proposed new standard (xi) Indigenous Vegetation
- 5.3.5.1 Site Standard proposed new standard (xii) Alpine Environments
- 5.3.5.2 Zone Standard (iv) Surface of Lakes and Rivers (a), (b) & (d)
- 5.3.5.2 Zone Standard proposed new zone standard (xi) Building Line Restriction
- 5.4.2.2 Assessment Matters (proposed new assessment matters for forestry and tree planting)
- 5.4.2.2 (1) Outstanding Natural Features and Landscapes (Wakatipu Basin and Inner Upper Clutha area) (a) Effects on openness of landscape (i)
- 5.4.2.2 (1) Outstanding Natural Features and Landscapes (Wakatipu Basin and Inner Upper Clutha area) (b) Visibility of development (i)
- 5.4.2.2 (2) Outstanding Natural Features and Landscapes (District Wide) (b) Effects on openness of landscape (i)
- 5.4.2.2 (3) Visual Amenity Landscapes (b) Visibility of development (i)
- 5.4.2.2 (3) Visual Amenity Landscapes (d) Note
- 5.4.2.2 (3) Visual Amenity Landscapes (e) Rural Amenities (i) (iii) (iv)
- 5.4.2.2 (4) Other Rural Landscapes (ii)
 - 5.4.3.4 Assessment matters (i) Nature Conservation Values add new assessment matter
 - 5.4.3.4 Assessment Matters (vii) Controlled Activity Jetboat Race Events (Clutha River)
- 5.4.3.4 Assessment Matters (xiii) Discretionary Activity Commercial Recreational Activities (other than on the Surface of Lakes and Rivers)
- 5.4.3.4 Assessment matters (xiv) Discretionary Activity Surface of Lakes and Rivers
- 5.4.3.4 Assessment matters proposed new assessment matter (xviii) Clearance of Indigenous Vegetation including clearance of Alpine Environments (renumber other assessment matters accordingly)
 - 5.4.3.4 Assessment Matters General (xxv) Earthworks

Proposed addition of section 5.7 Reasons For Rules from the 1995 Plan



Section 7 Residential Areas

- Low Density and High Density Residential Zones 7.5.5.1 Site Standards Residential Activities and Visitor Accommodation in the High Density Residential Zone (xiv) Earthworks
- Low Density and High Density Residential Zones 7.5.6.1 Site Standard Non-Residential Activities (other than Visitor Accommodation in the High Density Residential zone) (x) Earthworks
- Residential Arrowtown Historic Management Zone 7.6.5.1 Site Standard Residential Activities (vi) Earthworks
- 7.7.2 Assessment Matter (xxiv) Earthworks

Section 8 Rural Living Areas

- 8.1.1 Resource Management Issues add a new Issue (vi)
- 8.1.2 Objectives and Policies Rural Living Areas add new Objective
- 8.1.2 Implementation methods (i) District Plan
- 8.1.2 Implementation methods proposed addition of (ii) Other Methods
- 8.2.2.2 Controlled Activities (v) Structures
- 8.2.2.3 Discretionary Activities proposed new activity
- 8.2.2.4 Non-complying Activities (vi) Residential Units
- 8.2.2.5 Prohibited Activities proposed new activities
- 8.2.4.1 Site Standard (ii) Setback from internal boundaries add new zone
- 8.2.4.1 Site Standard (iv) Retail Sales
- 8.2.4.1 Site Standard (x) Earthworks
- 8.2.4.2 Zone Standard (i) Building Line Restriction add new (e)
- 8.2.4.2 Zone Standard (ii) Building Height
- 8.2.4.2 Zone Standard (viii) Residential Density
- 8.2.4.2 Zone Standard proposed new standard (xi) In the Ferry Hill Rural Residential sub-zone
- 8.3.2 Assessment Matter (i) General Nature Conservation Values
- 8.3.2 Assessment matter (iii) Controlled Activity All Buildings (e), (f), (g)
- 8.3.2 Assessment Matter (ix) Access
- 8.3.2 Assessment Matter (xiii) Earthworks

Section 9 Townships

- 9.2.5.1 Site Standard (xii) Earthworks
- 9.3.2 Assessment Matter (xvi) Earthworks

Section 10 Town Centres

- 10.2.2 Values
- 10.6.3.2 Controlled Activity (iii) Premises Licensed for the Sale of Liquor (b)
- 10.6.3.2 Controlled Activity (iv) Visitor Accommodation (g) (k)
- 10.6.5.1 Site Standard (i) Building Coverage (b) & (c)
- 10.6.5.1 Site Standard (iv) Street Scene (c) new rule
- 10.6.5.1 Site Standard (x) Earthworks
- 2 10.6.5.1 Site Standard (xi) Building Height
- 5 10.6.5.2 Zone Standard (i) Building and Façade Height (a)



- 10.6.5.2 Zone Standard (ii) Noise
- 10.7.5.1 Wanaka Town Centre Zone Site Standard (x) Earthworks
- 10.8.5.1 Arrowtown Town Centre Zone Site Standard (ix) Earthworks
- 10.9.5.1 Corner Shopping Centre Site Standard (vi) Earthworks
- 10.10.2 Assessment Matter (xxi) Earthworks

Section 11 Business and Industrial Areas

- 11.2.5.1 Business Zone Site Standard (vii) Earthworks
- 11.3.5.1 Industrial Zone Site Standard (vii) Earthworks
- 11.4.2 Assessment Matter (xi) Earthworks

Section 12 Special Zones

- 12.1.1 Resources and Activities
- 12.1.2 Values
- 12.1.3 Resource Management Issues
- 12.1.4 Objective 1 Millbrook Resort Zone, Policies, Explanation and Principal Reasons for Adoption
- 12.1.4 Objective 3 Jacks Point Resort Zone, Policies, Implementation Methods, Explanation and Principal Reasons for Adoption
- 12.1.5 Environmental Results Anticipated
- 12.2.1 Zone Purpose
- 12.2.3.2 Controlled Activity (vii) Buildings
 - 12.2.3.2 Controlled Activity (viii) Parking, Loading and Access
 - 12.2.3.2 Controlled Activity (ix) Landscaping and public access (Jacks Point zone)
 - 12.2.3.4 Discretionary Activity (i) Buildings (b)
- 12.2.3.4 Discretionary Activity (iii) Airports (b)
- 12.2.3.4 Discretionary Activity (v) Vegetation (Jacks Point Zone)
- 12.2.3.5 Non-Complying Activity (v) Industrial and Service Activities
- 12.2.3.5 Non-Complying Activity (vi) Airports (c)
- 12.2.3.5 Non-Complying Activity (viii) Residential Flat
- 12.2.4 Non-notification of Applications (a)
- 12.2.5.1 Site Standard (i) Structure Plan (b) & (f)
- 12.2.5.1 Site Standard (ii) Setback from Roads and Internal Boundaries (a)
- 12.2.5.2 Zone Standard (i) Residential Units (c)
- 12.2.5.2 Zone Standard (ii) Building Height (c)
- 12.2.5.2 Zone Standard (vi) Nature and Scale of Activities (b)
- 12.5.2 Assessment Matters (ii) Controlled and Discretionary Activities –
 Buildings Resort Zones (f)
- 12.5.2 Assessment Matters (xii) Vegetation (Jacks Point Zone)
- 12.5.2 Assessment Matters (xiii) Earthworks
- Remarkables Park zone 12.11.3.2 Controlled Activity (i) All Buildings
- 12.11.3.2 Controlled Activity (ii) Residential Activities, Commercial Recreational Activities, Commercial Activities, Educational Activities, Retirement Villages, Hospitals, Health and Day Care Facilities & Visitor Accommodation



- 12.11.3.3 Restricted Discretionary Activities (i) Earthworks proposed new rule
- 12.11.4 Non-notification of applications
- 12.11.5.1 Site Standard (iv) Earthworks
- 12.11.5.2 Zone Standard (ii) Building Height
- 12.11.6 Resource Consents Assessment Matters (o) Controlled and Restricted Discretionary Activity Earthworks
- Quail Rise Zone 12.14.3 Objective 2 new Policy 5
- Quail Rise Zone 12.15.3.2 Controlled Activity (v) Buildings
- 12.15.5.2 Zone Standard (ix) Landscaping (c)
- 12.15.6 Resource Consent Assessment Matters (vi) Commercial Activities
- 12.15.6 Resource Consent Assessment Matters (vii) Tree Removal and Topping
- 12.15.6 Resource Consent Assessment Matters (viii) Landscaping
- 12.15.6 Resource Consent Assessment Matters (ix) Building Height
- 12.16 and 12.17 Woodbury Park Estates
- 12.18 and 12.19 Peninsula Bay
- 12.21 & 12.22 Meadow Park may be affected by the WESI Manse Road reference.
- Terrace Towers Maybe a new Special Zone 12.23 Wakatipu District Shopping Centre
- Fordyce Farms Maybe a new Special Zone 12.24

Section 15 Subdivision, Development and Financial Contributions

- 15.1.2 Issues (v) Environmental Considerations
- 15.1.3 Objective 1, Policies 1.6 and 1.7
- 15.1.3 Objective 2
- 15.1.3 Objective 4
- 15.2 (all)
- 15.2.3.3 Discretionary Subdivision Activities
- 15.2.3.5 Assessment Matters for Resource Consents (vi) Visibility of Development, Visual Coherence and Integrity in the Quail Rise Zone (Activity Area R2)
- 15.2.5 Financial Contributions
- 15.2.6.2 (v) (Variation 15 Peninsula Bay)
- 15.2.6.3 Zone Subdivision Standards Lot Sizes and Dimensions (i) Lot Sizes
 (c) Access, Utilities, Roads and Reserves
- 15.2.6.3 Zone Standard (i) Lot Sizes (a) Peninsula Bay
- 15.2.6.3 Zone Standard (i) Lots Sizes (a) Woodbury Park
- 15.2.6.3 Zone Standard (i) Lots Sizes (a) Rural Residential proposed new Ferry Hill Rural Residential sub zone
- 15.2.6.3 Zone Standard (iii) Building Platforms Peninsula Bay (Activity Area 2)
- 15.2.6.3 Zone Standard (iv) proposed new Ferry Hill Rural Residential Sub-Zone
- 15.2.7.2 Assessment Matters for Resource Consents
- 15.2.8 Property Access 15.2.8.3 Assessment Matters for Resource Consents
 - 15.2.17.2 Assessment Mattes for Resource Consents



15.2.18.2 Control of Dust in Peninsula Bay Zone

Definitions

- Earthworks
- Ground Level

Appendix 3 – Inventory of Protected Features

3, 4, 6, 7, 8, 9, 11, 12, 13, 17, 18, 19, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 56, 57, 58, 59, 60, 61, 64, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 80, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 98, 99, 100, 101, 102, 103, 106, 107, 108, 110, 111, 112, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 141, 143, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 301, 302, 303, 304, 305, 308, 309, 310, 311, 312, 313, 315, 316, 317, 318, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 322, 333, 334, 335, 336, 337, 339, 340, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 358, 359, 360, 361, 362, 365, 366, 367, 368, 369, 370, 372, 373, 374, 375, 378, 379, 380, 381, 382, 384, 386, 387, 255, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 506, 508, 509, 510, 511, 512, 520, 524, 525, 526, 527, 528, 529, 530, 534, 535, 538, 539, 543, 544, 545, 550, 560, 562, 563, 564, 565, 566, 567, 569, 570, 572, 573, 575, 576, 577, 578, 579, 580, 581, 583, 584, 585, 586, 588, 589, 591, 592, 594, 596, 598, 599, 600, 601, 602, 605, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 620, 621, 622, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710.

Appendix 4 – Interpretative Diagrams

- Diagrams 5A, 5B, 5C, 6 Earthworks
- Diagrams 7A & 7B Measurement of Height
- Diagram 8 Building Height RPZ to be added

Appendix 8 - Landscape Guidelines

- Cardrona Valley
- Remarkables Station
- Coneburn Station

Maps

9,10,11,12,13,15,18,19,20,22,24,26,27,28,29,30,31,31a,33,34,35,36,38,39

