

QLDC  
31 JAN 2011  
QUEENSTOWN

27 January 2011

Queenstown Lakes District Council  
Private Bag 50072  
QUEENSTOWN

Dear Sir/Madam

**WAKATIPU RESIDENTS AGAINST AIRPORT NOISE INCORPORATED V QUEENTOWN LAKES DISTRICT  
COUNCIL – NOTICE OF APPEAL**

Please find enclosed by way of service a copy of the notice of appeal filed by Wakatipu Residents Against Airport Noise Incorporated in respect of Plan Change 35 to the Queenstown Lakes District Council's District Plan.

Please note we have not enclosed Appendix B, a copy of the relevant decision of Council. If you would like a copy please contact us.

Yours faithfully



On behalf of Wakatipu Residents Against Airport Noise Incorporated

BEFORE THE ENVIRONMENT COURT

ENV

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of an appeal pursuant to clause 14 of the first  
schedule to the Act

BY

WAKATIPU RESIDENTS AGAINST AIRCRAFT  
NOISE INCORPORATED

Appellant

TO

QUEENSTOWN LAKES DISTRICT COUNCIL

Respondent

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NOTICE OF APPEAL

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**NORTH SOUTH ENVIRONMENTAL LAW**

Barristers & Solicitors

PO Box 109045

Newmarket

AUCKLAND

Phone: 09 304 0043


Fax: 09 303 2427

Counsel: R A Makgill

To: The Registrar  
Environment Court  
PO Box 2069  
Christchurch

1. Wakatipu Residents Against Aircraft Noise Incorporated ("WRAAN") appeal against the decision of the Queenstown Lakes District Council ("Council") on Proposed Plan Change 35 ("PC35"): the privately proposed plan change to the Queenstown Lakes District Plan by Queenstown Airport Corporation Limited.
2. WRAAN made a submission on PC35.
3. WRAAN received a copy of the decision on 11 November 2010.
4. The decision was made by the Council.
5. WRAAN is appealing the whole of the decision.
6. The reasons for the appeal are as follows:
  - (a) Insufficient information has been provided to ensure that surrounding landowners/residents will not be significantly adversely affected as a result of operations at Queenstown Airport.
  - (b) The mitigation package proposed is inadequate and lacks detail, such that the Council had insufficient information to determine whether adverse noise effects on surrounding residents will be adequately avoided, remedied or mitigated.
  - (c) The provisions inserted into the District Plan are heavily weighted towards the continued expansion of Queenstown Airport with little regard to the protection of existing lawful activities and anticipated activities in surrounding zones.
  - (d) The decision does not address or take into account the matters raised by WRAAN in its submissions and evidence presented at the hearing.
  - (e) The decision is not reasonable and necessary, and does not adequately recognise the issues, objectives and policies of the District Plan.
  - (a) The decision is not in accordance with sound resource management and land use planning practices.
  - (b) The decision is not appropriate in terms of section 32 of the Resource Management Act 1991 ("Act") having regard to the costs and benefits, and efficiency and effectiveness of other available means.
  - (c) The decision is contrary to Part II of the Act. In particular it does not promote the sustainable management of natural and physical resources and is not in accordance with the purposes and principles of the Act.

7. The relief sought is as follows:
- (a) That the decision is withdrawn/refused, or
  - (b) The adverse effects of the operation of Queenstown Airport are adequately avoided, remedied or mitigated, and
  - (c) Such other relief considered necessary to give effect to the concerns of the appellant.
8. The following documents are attached to this Notice:
- (a) A copy of the submission (**Appendix A**);
  - (b) A copy of the relevant decision of the Council (**Appendix B**);
  - (c) A copy of WRAAN's Certificate of Incorporation (**Appendix C**); and
  - (d) A list of submitters to be served with a copy of this notice (**Appendix D**).



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Robert A Makgill  
Counsel for Wakatipu Residents Against  
Aircraft Noise Incorporated

Dated this 17th day of January 2011

Address for service:  
North South Environmental Law  
PO Box 37893  
Parnell  
AUCKLAND 1151  
Telephone: 09 304 0043  
Fax: 09 303 2427  
Contact person: Robert A Makgill  
Email: rmakgill@nsenvironmentallaw.com

## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

### *How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission, the decision appealed, WRAAN's Certificate of Incorporation and the list of submitters to be served with a copy of this notice. These documents may be obtained, on request, from the appellant.

### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

## Appendix A

Copy of the submission

SUBMISSION ON QUEENSTOWN AIRPORT CORPORATION'S PRIVATE  
PLAN CHANGE 35

&

SUBMISSION ON THE NOTICE OF REQUIREMENT TO ALTER THE  
AERODROME DESIGNATION (D2) AS PROPOSED BY THE  
QUEENSTOWN AIRPORT COMPANY

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To Policy Department  
Queenstown Lakes District Council  
Private Bag 50072  
QUEENSTOWN

Name of Submitter

.....Wakatipu Residents Against Airport Noise Incorporated  
.....  
.....

Address:

.....P.O. Box 1081  
.....Queenstown  
.....  
.....

Telephone/Mobile:

.....03 409 0140 / 021 335 998  
.....

Email

.....scott@southernplanning.co.nz  
.....

The purpose of this submission is to oppose the proposals by the Queenstown Airport Corporation (QAC) and the Queenstown Airport Company in relation to Plan Change 35 and the Notice of Requirement to alter the Aerodrome Designation (D2).

This submission relates to the whole of the Plan Change and Notice of Requirement.

Based on the current proposals before the Queenstown Lakes District Council, it is requested that both proposals be declined in their entirety.

The submission in opposition to the QAC's proposals is based on the following grounds (for the avoidance of doubt the following submissions pertain to the Plan Change and the Notice of Requirement):

#### General Comments

1. The submitter acknowledges the importance of the Queenstown Airport to the local economy. However, the substantial increase of proposed flights will create significant adverse noise effects on a large number of existing and future residents that surround the Queenstown Airport.
2. The QAC is seeking permission to significantly expand the airport operations over an extended time period, with the main argument that economic benefits to the wider area outweigh the actual and potential adverse noise effects on a large number of landowners and residents.
3. The basis on which the QAC contends that adverse noise effects will be mitigated relies on sound insulation and ventilation of sensitive receiving environments within residential dwellings. The introduction of the proposed Noise Management Plan and in particular the amended and new noise boundaries will not effectively mitigate the adverse noise effects from aircraft noise as purported by the QAC and its experts.
4. The proposed mitigation measures are theoretically based and are not practical in the context of the surrounding residential living environment. Of greater concern, the vague and uncertain nature of the compensation package offered by the QAC in terms of sound insulation means that it cannot be relied on to avoid, remedy or the mitigate adverse effects of the proposed airport extension. Existing and future residents need to rely on the goodwill of the QAC and this is not considered satisfactory.

#### Night Flights

5. The existing airport allows flights to land and take off between the hours of 6.00am and 10.00pm. The proposal to allow 'night flights' confined to landings only between 10.00am and 12.00am will create significant adverse noise effects including sleep disturbance for existing and future residents that surround Queenstown Airport.
6. There is a lack of information as to what the QAC is proposing in terms of night flight restrictions. The proposal provides that there will be 'limited' night flights and 11 night flights per week. The use of the word limited is ambiguous and uncertain.
7. While the QAC states that it is requiring permission for only 11 landings per week (assuming this is in fact the case), there is no real information provided that quantifies how many landings will occur each night, i.e. six landings on a Friday night and five on a Saturday night in a single week.



8. The QAC proposal notes that sleep disturbance is likely to vary depending on the number of 'night time events' and the timing of such events. Irrespective of the number of landings per day between 10.00am and 12.00am, there will still be significant adverse noise effects on the surrounding residents in the future even taking into consideration potential sound insulation and ventilation systems.
9. Overall, any night flights are strongly opposed and this aspect should be deleted from the proposals.

#### Proposed Insulation and Ventilation Systems

10. The direct financial costs of implementing the sound insulation and ventilation systems will be borne by the majority of the surrounding residents, not the QAC. The proposal will therefore create a financial burden on the landowners that has not been mitigated or remedied. No meaningful justification has been provided to warrant this approach.
11. The QAC as part of the altered Aerodrome Designation proposes to develop and implement a mitigation package for existing properties within the Air Noise Boundary and Night Noise Boundary. The mitigation package thus far presented by the QAC for properties within these noise boundaries is ambiguous and uncertain as to who would meet the cost of works, how works would be undertaken, and importantly, a timeframe as to when the mitigation package would be implemented. Further, the mitigation package should not be hidden within the Aerodrome Designation but rather placed within the zones that surround Queenstown Airport.
12. Until the QAC provides concrete information and the Council imposes specific rules to ensure that the QAC undertake responsibility for the cost of sound insulation and ventilation, the present proposal by the QAC cannot be relied upon in any assessment of the merits of the proposal.
13. The QAC acknowledges that the land located outside of the Air Noise Boundary and Night Noise Boundary but within the Sound Insulation Boundary will be affected by the proposal. However, the costs of ventilation systems will be borne by the affected landowner. This cost should fall to the QAC whose proposed expansion of airport operations requires the installation of ventilation systems.
14. It is speculation on the part of the QAC to state that 'compliance with the construction requirements are unlikely to impose a significantly greater costs than the costs currently required to obtain a building consent that complies with the Building Code'. Further, while the QAC states that it would be prudent for home owners to place a ventilation system in their dwellings due to the local environment, a ventilation system is not a requirement of the Building Code and therefore represents a cost imposed on home owners at the expense of increased operations at the Queenstown Airport.

15. The QAC seems to consider that surrounding landowners only use the area of their properties that are occupied by dwellings. This ignores that many residential landowners enjoy indoor / outdoor living amenity. Furthermore, the vast number of properties in the Frankton area are traditional sections with large areas of outside space. The sound insulation and ventilation mitigation measures proposed will not mitigate the adverse effects of noise on the external environment of surrounding residential areas.
16. The QAC considers that the potential for sleep disturbance will be mitigated by insulation. The QAC proposal assumes that the insulation of houses within the affected area will be able to offset the adverse effects from aircraft noise at all times. The practical reality is that residents (esp. in the summer months) will want to be able to open external windows and doors to enable fresh air to enter and circulate throughout their dwellings.

#### Uncertainty

17. There is a high level of ambiguity and uncertainty inherent in the information provided by the QAC, particularly regarding the extent of the effects and the information it has relied upon. This creates doubt as to the reliability of the proposed noise contours, the noise management plan and the actual and potential level of effect that landowners will experience.
18. The uncertainty is recognised, but not addressed, in the proposed addition to the District Wide Issues where it states that one of the implementation methods to compliment the rules is to undertake "regular monitoring of aircraft noise to determine the actual extent of the Air Noise Boundary (65dBA Ldn contour)".

#### Statutory Requirements

19. The proposed objectives and policies are heavily slanted towards the QAC with very little protection offered to residents affected by the airport's proposed operation.
20. Unless a guaranteed form of mitigation can be provided by the QAC, many of the objectives and policies will be unable to be fulfilled, i.e. Policy 7.2 (District Wide Issues) seeks to manage the adverse effects of noise from aircraft on any activity sensitive to aircraft noise within the Airport Noise Boundaries whilst at the same time providing for the efficient operation of Queenstown Airport. Given the paucity of mitigation measures to be offered to affected landowners, the operation of the airport cannot be achieved with compromising the amenity of sensitive activities. This is not efficient because the externalities of the airport operation are not internalised.
21. The proposal will have significant adverse effects on the social and economic well being, and also the health and safety of surrounding residents. The resultant effects are not avoided, remedied or mitigated. On balance, the economic benefits of the proposal do not outweigh the significant adverse effects that will be incurred by surrounding residents and therefore the

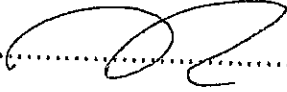
proposal is inconsistent with Part II of the Resource Management Act 1991 (RMA)

22. The proposal is inconsistent with the sustainable management purpose of the RMA to introduce objectives and policies into the District Plan to provide for growth of Queenstown Airport without providing for objectives and policies which make the QAC responsible for avoiding, remedying or mitigating adverse noise effects on surrounding landowners. The QAC should meet the cost should of avoiding remedying or mitigating the adverse effects of noise including the costs of the installation of insulation and ventilation systems.
23. The proposal is inconsistent principles of the RMA, including (but not limited to):
  - Section 7 (c) – *the maintenance and enhancement of amenity values*
  - Section 7 (c) – *maintenance of enhancement of the quality of the environment*
24. The proposed objective and policies are inappropriately skewed towards the economic growth of the airport and insufficient provision has been made to protect the health and well being of residents.
25. Overall it is considered that the proposal is inconsistent with Part 2 of the RMA and cannot be considered as sustainable management.
26. The proposal does not represent the most appropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of other available means and is therefore inappropriate in terms of section 32 and the other provisions of the RMA.
27. The section 32 report does not properly assess the alternatives, including the alternatives of making no changes to such things as extending the noise boundaries and number of flights.
28. Section 32 requires the Council to properly assess the benefits and costs of the Plan Change. However, the section 32 Report does not identify, quantify, or assess these costs and benefits to an appropriate level, including the economic cost to landowners of extending the airport noise boundaries and number of flights.
29. The Requiring Authority has not demonstrated that adequate consideration has been given to alternative sites or that the work and designation are reasonably necessary pursuant to section 168A of the RMA.
30. Lastly, it is noted that the Council sent a further information request to the QAC on the 4<sup>th</sup> of August 2009. The response by the QAC to this request was inadequate. Therefore, the majority of the concerns expressed by the Council in its letter have not been satisfactorily addressed by the QAC at the time of writing this submission.

I/We wish to be heard in support of my submission.

I will consider presenting a joint case with other presently similar submissions.

Signed by the Submitter:

.....

Date:

.....25/2/10.....

## **Appendix B**

Copy of the relevant decision of the Council

## Appendix C

### COPY OF WRAAN'S CERTIFICATE OF INCORPORATION



# CERTIFICATE OF INCORPORATION

## WAKATIPU RESIDENTS AGAINST AIRPORT NOISE INCORPORATED 2451714

This is to certify that WAKATIPU RESIDENTS AGAINST AIRPORT NOISE INCORPORATED was incorporated under the Incorporated Societies Act 1908 on the 7th day of April 2010.

Ministry of Economic  
Development

Manatū Ōhanga

Companies Office

*Neville Harris*

Registrar of Incorporated Societies  
14th day of January 2011



For further details visit [www.societies.govt.nz](http://www.societies.govt.nz)

Certificate printed 14 Jan 2011 14:43:42 NZT

## Appendix D

A list of submitters  
to be served with a copy of this notice



# Submitters And Addresses

Plan Change 35

Name	C/O	Address1	Address2	Address3	Address4
5M No.2 Limited	Anderson Lloyd Lawyers (Warwick Goldsmith)	Level 2	13 Camp Street	Queenstown 9300	
Adamson, Irene		1 Loop Road	Kelvin Peninsula	Queenstown 9300	
Air New Zealand Limited	Russell McVeagh (James Gardner-Hopkins)	Level 24, Vodafone on the Quay	157 Lambton Quay	PO Box 10-214	Wellington
Airways Corporation of NZ Ltd		P O Box 294	Wellington		
Alfield, Lou		33 Aspen Grove	Ferrihill	Queenstown	
Aurora Energy Limited		P O Box 1404	Dunedin 9054		
Aviemore Corporation Ltd	Brown & Pemberton Planning Group Ltd (Blair Devlin)	PO Box 1467	Queenstown		
Bain, Garry		29 Copper Beach Avenue	Frankton	Queenstown	
Ballantyne, G F		50 Stewart Street	Frankton	Queenstown	
Barrel, Gail		49 B Remarkables Crescent	Frankton	Queenstown	
Brinsley, Andrew		Rapid 52	Hogans Gully Road	RD 1	Queenstown
Brooks Family Trust		16 McBride Street	Frankton	Queenstown	
Buckham, Revell William and Victoria May		c/o Berry & Co	Corner Camp and Shotover Streets	Queenstown	
Charlene Kowalski, Denis Mander		2 Remarkables Park Crescent	Frankton	Queenstown	
Cocks, Nicki		11 Northfield Avenue	Opoho	Dunedin 9010	
Cocks, Nicki		11 Northfield Avenue	Dunedin		
Coddington, James		P O Box 359	Queenstown		
Coincascade Ltd		34 Birmingham Drive	Middleton	Christchurch 8024	
Culler, Eryn		108 Birse Street	Frankton	Queenstown	
Dickson, Phillip G		13 Stewart Street	Frankton	Queenstown	
Eaton, Judith Ann		226 Speargrass Flat Road	RD1	Queenstown	
Eaton, Roy W		226 Speargrass Flat Road	RD1	Queenstown	

Tuesday, 23 March 2010

Familion Estate, V J	Hawthorne Street	Strowan	Christchurch 8052
Familion, H R	68 Hawthorne Street	Strowan	Christchurch 8052
Familion, Hamish and Alexander	68 Hawthorne Street	Strowan	Christchurch 8052
Familion, Herb and Donna	68 Hawthorne Street	Strowan	Christchurch 8052
Familion, J D and Son Trust	68 Hawthorne Street	Strowan	Christchurch 8052
FM Custodians Limited	Level 2	13 Camp Street	Queenstown 9300
Anderson Lloyd Lawyers (Warwick Goldsmith)			
Forbes, Alexa	8 Robertson Street	Queenstown	
Freeman, Scott	62 McBride Street	Frankton	Queenstown
Giddens, Brett	18 McBride Street	Frankton	Queenstown
Gillick, Mervyn Desmond	46 Lake Avenue	Frankton	Queenstown
Good Group Limited	P O Box 1085	Queenstown	
Grant, Bruce	2A Marina Drive	Queenstown	
GW Trusts Partnership	PO Box 302	Nelson	
Hamilton, Roz	PO Box 6022	Queenstown	
Hawkey, Dave	P O Box 1	Te Anau	
Henderson, Steven	42 Quarry Place	Queenstown	
Hesse, Annika	2A Marina Drive	Queenstown	
Hodgson, Bill	71 McBride Street	Frankton	Queenstown
Housing New Zealand Corporation	PO Box 2083	Wellington	
Hunt, Anna	10 Chandler Lane	Fernhill	Queenstown
Imagine Property Group Limited	Level 2	13 Camp Street	Queenstown 9300
Anderson Lloyd Lawyers (Warwick Goldsmith)			
Inglis, Maxine	59 Loop Road	Kelvin Heights	Queenstown
Jacks Point Limited	Level 2	13 Camp Street	Queenstown 9300
Anderson Lloyd Lawyers (Warwick Goldsmith)			
Jackson, G Peter	PO Box 966	Invercargill	
Joel, David	96a McBride Street	Frankton	Queenstown
Jucy Rentals	x		
Kay, J	25 Brown Street	Ponsonby	Auckland

Kelly, Shaun	Marina Drive	Frankton	Queenstown
Kirk, Steven and Jane	18 Boyes Crescent	Frankton	
Lake Hayes Estate Limited	PO Box 553	Queenstown	
Lewis, Mark	17 Alla Place	Frankton	Queenstown
Loehr-Haenig, Elisabeth	61 Robertson Street	Frankton	Queenstown
Lowe, Tracey	P O Box 2398	Queenstown	
Manapouri Beech Limited	Level 2	13 Camp Street	Queenstown 9300
McDonald, William and Elaine	6 Lake Avenue	Frankton	Queenstown
McKellar for McKellar Stevenson Family Trust, Malcolm John	19 Rimu Street	Riccarton	Christchurch
Mitford Sound Flights Ltd	P O Box 920	Queenstown	
Ministry of Education	Private Bag 1913	Dunedin	
Moers, Bill and Karl	4428938		
Nieveen, Johannes Diederich	61 Robertson Street	Frankton	Queenstown
Over the Top Ltd	Tex Smith Lane	Queenstown Airport	Queenstown
Public Health South	PO Box 2180	Frankton	Central Otago
Queenstown Airport Corporation	PO Box 489	Dunedin 9054	
Queenstown Lakes District Council	Private Bag 50072	Queenstown	
Queenstown Resort College Ltd	P O Box 662	Queenstown	
Remarkables Park Limited and Shotover Park Limited	Brookfields	P O Box 240	Auckland
Rottenbury, Andy	4 Anun Crescent	Island Bay	Wellington
Rowe, Natasha and Jonathan	36 Remarkables Crescent	Frankton	Queenstown
Rutherford, Robert and Janet	91 McBride Street	Frankton	Queenstown
S E Read, C C Hansen	PO Box 378	Queenstown	
Schilling, Debra	33 Aspen Grove	Ferrisill	Queenstown
Skydive Lake Wanaka Ltd	P O Box 322	Wanaka	

Smith, Jo	McBride Street	Frankton	Queenstown
Sophie Mander, Bruce Hasler	24 Herries Lane	Lake Hayes Estate	Queenstown
Sounds, Peter	774 Malaghans Road	RD 1	Queenstown
Southern Lakes Helicopter Ltd	P O Box 41	Te Anau	Queenstown
Stone, Mike	10 Chandler Lane	Fernhill	Queenstown
Stromer, Joycelyn	36 Greenstone Place	Fernhill	Queenstown
Syme, Keith	15 Stewart Street	Frankton	Queenstown
Syme, Keith and Barbara	15 Stewart Street	Frankton	Queenstown
Tapper, Kleryn	68 McBride Street	Frankton	Queenstown
The Brett Giddens Trust	20 McBride Street	Frankton	Queenstown
Thelma Olive Buckham Family Trust	59 McBride Street	Queenstown	Queenstown
Todd, W and M	103 A McBride Street	Frankton	Queenstown
Totally Tourism	P O Box 684	Queenstown	Queenstown
Twist for Twist Family Trust, Peter	19 Dee Street	Oamaru	Queenstown
Wakapū Residents Against Airport Noise Incorporated	P O Box 1081	Queenstown	Queenstown
Wallace, Don and Heather	23 McBride Street	Frankton	Queenstown
Welsh, Angus	No. 8	495 Frankton Road	Queenstown
WHK Group Ltd	P O Box 123	Queenstown	Queenstown
Williams, Barbara	P O Box 240	Queenstown	Queenstown