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3 December 2014

Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN 9348

Our Ref: 8986

Attention: District Plan Administrator

Dear Julia,

RE: PLAN CHANGE 49 - EARTHWORKS

The Queenstown Airport Corporation (QAC) made submissions on Proposed Plan Change 49 – Earthworks to the Queenstown Lakes District Plan. QAC has received notice from the Queenstown Lakes District Council (QLDC) that the hearing to consider this plan change will be held on Wednesday 3 December 2014. QAC does not intend to attend the hearing to present evidence in support of its submission relating to this plan change, but would appreciate that this letter prepared by its planning consultants, Mitchell Partnerships Limited be tabled at the hearing in order to be considered by the Hearings Panel.

QAC recognises that earthworks are a necessary part of subdivision and development throughout the District. QAC is concerned however, that uncontrolled or poorly managed earthworks have the potential to cause significant adverse safety effects for aircraft using Wanaka or Queenstown Airport. QAC therefore has a significant interest in the promulgation of District Plan provisions which relate to earthworks, and lodged a number of submissions in this regard. Except where discussed in further detail in the following sections, QAC is generally supportive of the Section 42A Report author's (herein referred to as the Council Officer) recommendations with regards to the provisions proposed in Plan Change 49¹.

¹ Specifically the "Purpose" summary and Objective 1.

Earthworks Management – Dust and Construction Plant and Machinery

QAC made a number of submissions and further submissions on proposed Plan Change 49 with respect to the policies and methods that relate to dust suppression and environmental protection measures².

As notified, Policy 1.2, Site Standard 22.3.3(iv) and Assessment Matters (ii) and (iv) sought the use of environmental protection measures to manage the adverse effects of earthworks, including nuisance dust effects beyond the boundary of the site. QAC supported the retention of these provisions, however sought further amendments to ensure that dust plumes occurring above a construction site are appropriately managed to avoid any safety risks to overheard aircraft.

In response to a number of submissions on the aforementioned provisions, the Council Officer has recommended the following series of amendments (~~strikeouts~~ denote deletions, underlines denote additions):

Policy 1.2

~~To~~Use environmental protection measures to avoid and mitigate adverse effects of earthworks,
~~including:~~

- ~~• Sediment run-off erosion control techniques~~
- ~~• Dust control measures to avoid nuisance effects of dust beyond the boundary of the site~~
- ~~• Management of storm water and overland flows~~
- ~~• Management of construction noise and vibration effects~~
- ~~• Limits on the duration of construction taking into account the receiving environment~~
- ~~• Traffic management and implementation of techniques to avoid the depositing of sediment onto roads, particularly where access is gained through residential areas.~~

22.3.3 Site Standards

iv Environmental Protection Measures

- ~~(a) Any person carrying out earthworks shall implement sediment and erosion control measures to avoid sediment effects beyond the boundary of the site.~~
- ~~(b) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site.~~
- ~~(c) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be re-vegetated as soon as practicable taking into account planting seasons provided this shall be no longer than 12 months from the completion of the works.~~
- (a) Effective sediment and erosion control measures are to be implemented.
- (b) Effective dust control measures are to be implemented.
- (c) Areas of exposed soil are to be vegetated / re-vegetated within 12 months from the completion of works (except in the Ski Area Subzones).

² Specifically Policy 1.2, Site Standard 22.3.3(iv), Assessment Matters 22.4(ii) and (iv).

22.4 Resource Consents Assessment Matters

ii Environmental Protection Measures

- (a) *Whether and to what extent proposed sediment and erosion control techniques are adequate to ensure sediment remains on-site.*
- (b) *Whether appropriate measures to control dust emissions are proposed.*

QAC is concerned that the aforementioned amendments to Policy 1.2, Site Standard 22.3.3(iv) and Assessment Matter 22.4(ii) provide no explicit recognition of the effects of dust plumes on sensitive receivers such as overhead aircraft. The amendments therefore do not address the relief sought by QAC. Furthermore the reference to 'effective' measures is subjective and inappropriate when describing a 'site standard' that is used to determine the activity status of an earthworks proposal.

QAC maintains that the original drafting of these provisions (subject to the amendments sought by QAC in its submission) is preferable and more definitive than that recommended by the Council Officer. The drafting of the remainder of the chapter also fails to provide any guidance on what constitutes "effective" measures, nor does it provide any guidance on the types of effects it is trying to manage and where. In my opinion, the notified drafting provides greater certainty and more appropriately manages any adverse effects arising on overhead aircraft, as sought by QAC, and should therefore be retained.

Notification

As notified, Plan Change 49 set out the notification parameters for earthworks consents. QAC opposed the parameters in part, noting that there may be circumstances where notification of QAC is required to ensure that appropriate earthwork management regimes are in place to avoid significant safety effects arising from uncontrolled or poorly managed earthwork activities.

The Council Officer has recommended rejecting QAC's submission, reasoning that:

"It is acknowledged that the submitter is raising genuine concerns over the possible effects of earthworks, and especially larger scale earthworks or bulk earthworks. However, the Obstacle Limitation Surface (OLS) cover a substantial two dimensional area, and that the phrase "in the vicinity of" is vague.

The Council Officer has therefore not recommended any amendments to the notification provisions of the proposed new chapter.

QAC have further considered the recommendations of the Council Officer with respect to notification. QAC confirms that it does not require nor seek notification of all earthwork activities within its designated obstacle limitation surfaces (OLS). QAC considers however, that the earthworks chapter of the District Plan needs to be abundantly clear that earthworks (and the associated plant and equipment) need to be appropriately managed to avoid the adverse effects of such activities on overhead aircraft.

QAC notes that there have been a number of situations previously where the effects of earthworks on aircraft (and the associated construction plant and equipment used to undertake the earthworks) have not been given due consideration by the applicant or by the Consent Authority. This has resulted in situations where defensive action has been required by aircraft pilots to avoid the significant risk posed by dust plumes and/or construction plant and equipment. These situations have arisen despite designations being in place which limit the construction of any structure or facility (temporary or permanent) which may inhibit the safe and efficient operation of Queenstown and Wanaka Airports³.

The potential effects of earthworks on overhead aircraft (and more importantly, the associated plant and equipment which is used to undertake such earthworks) needs to be drawn to the attention of any party undertaking earthworks within the designated OLS for both Queenstown and Wanaka Airports (refer to the *Airport Protection and Inner Horizontal and Conical Surfaces* displayed in Figures 1 to 4 of the Queenstown Lakes District Plan). Taking into consideration the recommendations of the Council Officer and the relief sought by QAC, I recommend that following addition to Section 22.3.1(i) of the “General Provision / Cross Referencing” section of the earthworks chapter as an alternative and more definitive solution to the notification issue:

- (c) Figures 1 to 4 of the District Plan identify the Airport Protection Inner Horizontal and Conical Surfaces for Queenstown and Wanaka Airports. Any plant or machinery used to undertake earthworks shall not penetrate the surfaces outlined in these figures, and further described in Designations D.3 and E.2 without the prior approval of the respective requiring authority and the Civil Aviation Authority.

New Policy and Assessment Matters

QAC considers that it is important for the plan to recognise that a balance is sometimes necessary between achieving environmental outcomes and enabling people and the community to provide for their ongoing social and economic wellbeing. QAC therefore sought the inclusion of a new policy and an associated assessment matter which recognises circumstances where the regional or national benefits of enabling earthworks associated with regionally significant infrastructure (on balance) far outweigh the adverse effects. Specially, QAC sought the inclusion of the following policy:

To recognise that earthworks associated with infrastructure can positively contribute to the social and economic wellbeing, and the health and safety of people and communities within the District.

From my review of the Section 42A report, it does not appear that submission point has been directly addressed.

³ Queenstown Airport - Designations D.3, and Wanaka Airport – Designation E.2.

As currently drafted, the earthworks chapter places emphasis on managing the adverse effects of earthworks on the surrounding environment. When decision makers are called upon to assess the merits of a particular earthworks consent (particularly bulk earthworks), they are immediately directed to undertaking an assessment as to whether the adverse effects of that activity are more than minor and can be avoided, remedied or mitigated. Often limited regard is had to providing for those situations where it is not feasible to avoid, remedy or mitigate all such effects where the regionally and/or nationally significant benefits of enabling an activity (on balance) far outweigh any adverse effects. It is therefore important for the proposed provisions to recognise that a balance is sometimes necessary between achieving environmental outcomes and at the same time properly enabling people and communities to provide for their social and economic wellbeing. Without enabling provisions within this chapter which recognise and provide for such activities, these provisions could be deemed to outweigh the one or two positive, enabling provisions of other chapters relating to regionally significant infrastructure. The overarching requirement to avoid adverse effects may compromise the ability to establish and/or upgrade certain infrastructure which may be essential to the community's economic and/or social wellbeing.

It is therefore important for the plan to recognise that a balance is sometimes necessary between achieving environmental outcomes and enabling people and the community to provide for their social and economic wellbeing. This is consistent with Part 2 of the RMA and would also support the inclusion of resource consent assessment matters, as per QAC's submission with respect to Section 22.4(i).

Volumes of Earthworks

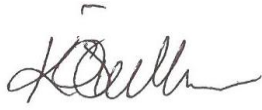
Plan Change 49 seeks to introduce a new permitted earthworks threshold table, which specifies the permitted volume of earthworks within each zone of the Queenstown Lakes District. QAC opposed this rule, to the extent that it related to the Queenstown Airport Mixed Use zone. QAC submitted that the Mixed Use Airport Zone provides for land use activities more akin to industrial and business activities, therefore permitted earthworks volumes for this zone should reflect those of the industrial and business zones (Tier 5 Earthworks).

The Council Officer appears to have accepted this submission, however this has not carried through to the final amendments made to the provisions. QAC further reiterates that the permitted volume of earthworks within the zone should be 500m³, in accordance with similar industrial and business zones. QAC seeks that this amendment be carried through to the final earthworks chapter.

We trust that QAC's position with respect to this matter is clear and that QAC's submissions on Plan Change 49 will be given due consideration by the Hearings Panel in its deliberation of these matters. Please do not hesitate to get in touch should you require any clarification on the above matters

Yours sincerely,

MITCHELL PARTNERSHIPS LIMITED

A handwritten signature in black ink, appearing to read 'K O'Sullivan', with a stylized flourish at the end.

K O'SULLIVAN

Cc Sean Thompson

Queenstown Airport Corporation