

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-132

Under	the Resource Management Act 1991 (RMA)
In the matter of	An appeal under clause 14(1) of Schedule 1 of the RMA in relation to the proposed Queenstown Lakes District Plan
Between	Aircraft Owners and Pilots Association (NZ) Inc Appellant
And	Queenstown Lakes District Council Respondent

AMENDED Notice of Appeal

2 November ~~19 June~~ 2018

Appellant's solicitors:
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To The Registrar
Environment Court
Christchurch

1 The Aircraft Owners and Pilots Association (NZ) Inc (**Society**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).

2 The Society made submissions (#211) and (#1066) on the PDP.

3 The Society is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).

4 The Society received notice of the decision on 7 May 2018.

5 The decision was made by Queenstown Lakes District Council (**QLDC**).

6 The parts of the decisions appealed relate to:

(a) Chapter 21 Rural Zone;

(b) Chapter 36 Noise;

(c) Consequential relief Definition Chapter 2 / (Wakatipu Basin Chapter 24).

7 Reasons for appeal

Background

8 The Society represents the interests of over 900 recreational and private aviators in New Zealand. The Society provides a unified voice for pilots in New Zealand by building relationships with Government and regulatory bodies to ensure members' views are represented, with the aim of preventing increasing costs and restrictions being placed on private and recreational flying. Many members reside or fly both helicopters and fixed wing aircraft in the Wakatipu / Wanaka area.

9 The Society was actively involved in the preparation and hearings of the PDP. As outlined in the attached submission, its principle concerns related to a proposed reduction of rights of informal and recreational aircraft users through the PDP regime.

10 The Council's Decision on informal airport standards within Rural Zoned land remains of concern to the Society, given the standards will be difficult to comply with in most instances and will result in an unworkable and unnecessarily litigious planning framework for small scale recreational use which has limited environmental impacts.

- 11 The Society considers this Decision:
- (a) fails to give sufficient weight and recognition to the acoustic evidence presented by Dr Chiles;
 - (b) fails to adequately provide for non-commercial recreational uses of aircraft in the district;
 - (c) fails to recognise the effects on the environment from informal airports; and
 - (d) fails to recognise the positive effects arising from enabling flights associated with informal airports;
 - (e) fails to achieve the relevant district-wide objectives and policies of the PDP; and
 - (f) fails to uphold the principles of the Resource Management Act 1991.
- 12 Alternative and consequential relief is sought in this Appeal with respect to the Wakatipu Basin Variation (Chapter 24, Stage 2). The Appellant acknowledges that Stage 2 decisions are yet to be completed, however given the timing of the Council's staged review, the outcomes of the Rural Zone rules applicable in respect of the Basin are at present uncertain, and therefore being appealed. In the instance that the Wakatipu Basin Zone is confirmed in Stage 2, similar relief to that set out in this Appeal is sought to be applicable to that Stage 2 Zoning.
- 13 The Appellants also consider that it may be prudent for all appeals on these provisions relevant to informal airports in rural zones to be put on hold, pending the outcome of Stage 2 Wakatipu Basin to 'catch up' through the Court process to these appeals. The reason being, that there is no justification for a separate rule regime applicable to Rural Zone informal airports as compared to the Wakatipu Basin Zone, particularly given in some instances the Basin Zone and Rural Zone abut each other. Hearing the appeals in a combined fashion will ensure a consistent PDP outcome, as well as ensuring the requirements of section 18A are met:

18A Procedural Principles

Every person exercising powers and performing functions under this Act must take all practicable steps to—

- (a) use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised; and
- (b) ensure that policy statements and plans—

(i) include only those matters relevant to the purpose of this Act; and

(ii) are worded in a way that is clear and concise; and

...

Further and consequential relief sought

14 The Society opposes any further provisions inconsistent with this appeal and seeks alternative, consequential, or necessary additional relief to that set out in this appeal and to give effect to the matters raised generally in this appeal and the Society's submissions.

Attachments

15 The following documents are **attached** to this notice:

- (a) **Appendix A** – relief sought
- (b) **Appendix B** - A copy of the Appellant's submissions;
- (c) **Appendix C** - A copy of the relevant parts of the decision; and
- (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 19th day of ~~June~~ ~~November~~ 2018

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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.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

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).

Advice

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

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 21 Rural Zone		
General objectives and policies	The Society seeks the inclusion of the proposed objectives and policies outlined in the section 32 evaluation report which reduce consenting requirements for informal airports in rural locations where such activities are not a nuisance to people	Amend Chapter 21 objectives and policies relevant to informal airports (objective 21.2.11 and associated policies) to provide for permitted informal airport activity use
<p>Policy 21.2.11.2</p> <p>Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.</p>	There is no expectation in the Rural Zone that amenity values will always be retained to the same level as that which currently exists. Management of amenity values should be in accordance with an effects- based assessment in each application case and in accordance with applicable noise standards.	<p>Amend Policy 21.2.11.2 as follows:</p> <p>Protect <u>Provide for</u> rural amenity values, and amenity of other zones from the adverse effects that can arise from <u>new</u> informal airports.</p>
<p>Table 7 – 21.10.2 Informal Airports (Rural Zone)</p> <p>21.10.2.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.10.2.3 In relation to point Rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit</p>	<p>Rule 21.10.2.2 should be expressed as an exception to the activity standards table 7 rather than its own rule, as it could presently be construed that use of informal airports which are not those as listed in 21.10.2.2 default to a discretionary activity status.</p> <p>A 500m separation from any road or house would severely limit the prospect of any site being used for appropriate informal airport activities, and could affect existing established uses</p>	<p>Delete Rule 21.10.2.2 and replace as an exception to Table 7 so that emergency landings, rescues, fire-fighting and activities ancillary to farming activities are permitted activities.</p> <p>Delete 21.10.2.3</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
of building platform not located on the same site.	which require amendment or expansion. The proposed separation rule nullifies the overall enabling intent of the informal airport provisions.	
Chapter 36 Noise		
<p>36.5.10</p> <p>Sound from any helicopter landing area must be measured and assessed in accordance with NZ 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas. Sound from helicopter landing areas must comply with the limits of acceptability set out in Table 1 of NZS 6807. In assessing noise from helicopters using NZS 6807: 1994 any individual helicopter flight movement, including continuous idling occurring between an arrival and departure, shall be measured and assessed so that the sound energy that is actually received from that movement is conveyed in the Sound Exposure Level (SEL) for the movement when calculated in accordance with NZS 6801: 2008.</p>	<p>Evidence presented in Stage 1 hearings noted that recent Environment Court decisions found a helicopter noise limit of 60dB in conjunction with a limit of four helicopter flights a day to be appropriate. This should therefore be reflected for informal airport activity use which is low scale (two flights per day).</p> <p>Also amend rule so that noncompliance is a discretionary activity, not a non-complying activity. The noise standards applicable are relatively low, and default to non-compliance for what could be a technical or minor breach is not justified / does not give effect to the informal airport activity rules.</p>	<p>Amend Rule 36.5.10 as follows:</p> <ul style="list-style-type: none"> - Apply a 60dB noise limit (for the Rural Zone / Wakatipu Basin informal airports); - Amend non-compliance status of R36.5.10 Discretionary (for the Rural Zone / Wakatipu Basin informal airports).

Provision (PDP decision version)	Reason for appeal	Relief sought
Planning Maps / Definitions Chapter 2 / Wakatipu Basin	Given the uncertainties of the Council's approach to staging the District Plan, these matters are included in this Appeal. There is no justification for a different activity status or rule regime for informal airports in the Wakatipu Basin, as compared to the Rural Zone and therefore	Consequentially amend planning maps / stage 2 / Wakatipu Basin Chapter 24 to give effect to the relief set out in this appeal

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Appendix B - A copy of the Appellant's submission;

Appendix C - A copy of the relevant parts of the decision; and

Appendix D - A list of names and addresses of persons to be served with this notice.