

Before the Queenstown Lakes District Council

In the Matter of the Resource Management Act 1991

And

In the Matter of the Queenstown Lakes Proposed District Plan

Chapter 21 (Rural)

**Summary of Legal Submissions for
Queenstown Airport Corporation Limited
(Submitter 433 and Further Submitter
1340)**

Dated: 23 May 2016

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Introduction

1. Queenstown Airport Corporation Limited (**QAC**) is a submitter on Chapter 21 (Rural) of the Proposed Queenstown Lakes District Plan (**Proposed Plan**).

QAC

2. QAC is the Airport Authority responsible for operating Queenstown Airport.
3. QAC also manages operations at, and the administration of, Wanaka Airport, on behalf of QLDC. Under the management agreement, QAC agrees to run Wanaka Airport in an efficient manner, to the standard expected of a reasonable and competent airport operator.
4. QAC's submission on Chapter 21 addresses both Queenstown and Wanaka airports.

QAC's Submission on Chapter 21

5. QAC made submissions on Chapter 21 of the Proposed Plan in respect of the following issues:
 - (a) The recognition of and provision for significant infrastructure in the Rural Zone, including its associated effects; and
 - (b) Acknowledgement that the functional, technical, operational and safety related requirements of infrastructure may necessitate its location in an ONL, ONF or RLC, and provision for that;
 - (c) The incorporation of the relevant PC35 provisions into the Chapter, without substantive amendment; and
 - (d) The incorporation of the relevant PC26 provisions into the Chapter, without substantive amendment; and
 - (e) The recognition of and provision for Wanaka Airport in the Rural Zone, including the inclusion of bespoke objectives, policies and rules;

- (f) The identification of Runway End Protection Areas (**REPA**) at Wanaka Airport to protect the public from the risk of aircraft undershooting or overshooting the runway; or
 - (g) Amendment of the Proposed Plan in a similar or such other way as may be appropriate to address these issues; and
 - (h) Any consequential changes, amendments or decisions that may be required to address these issues.
6. Legal submissions and expert planning evidence (including supplementary evidence) has been pre-lodged for QAC (refer Statement of Evidence of Kirsty O'Sullivan dated 20 April 2016, and Supplementary Statement of Evidence dated 18 May 2016) which addresses the issues raised in QAC's submission in detail.
7. Of the issues raised in QAC's submissions, the more complex relate to Wanaka Airport, specifically, the identification of a bespoke planning regime for the Airport, and REPA at either end of the runway (including an associated rule).

Wanaka Airport

8. Under both the Operative and Proposed District Plans, Wanaka Airport is located within the Rural Zone.
9. The Airport is the subject of two designations in the Operative and Proposed Plans: Designation 64 and 65 (discussed further shortly). QLDC is the requiring authority for these designations.
10. As the requiring authority, QLDC has the benefit of the fairly permissive designation regime for Wanaka Airport (specifically, the Aerodrome Purposes designation), but only *where it has financial responsibility for the works* to be pursued. This 'qualifier' also applies to the outline plan process under section 176A RMA. All other users of the Airport must comply with the underlying rural zoning.
11. Airport and airport related activities are not provided for in the Proposed Plan's rural zone, so fall to be considered as non-complying activities.

12. This will result in a consenting regime that is unnecessary and inefficient, and which does not recognise the physical environment of the Airport, or the general appropriateness of airport and airport related activities at Wanaka Airport.
13. The Council's section 42A reporting officer expressly accepts that *the underlying Rural zoning is not appropriate for Wanaka Airport* and that its *purpose is fundamentally different to the nature and scale of activities at Wanaka Airport*,, but recommends that QAC's submission for a bespoke planning framework for the Airport be rejected.
14. This recommendation requires the Panel to adopt the status quo. However, it would be inefficient to do so, and could not be justified under section 32, in light of the facts.
15. The additional provisions QAC seeks for inclusion in the Chapter are few, focussed, and clearly directed at addressing the unique circumstances of Wanaka Airport. Rather than complicate the Chapter, they will provide clarity in the planning regime that applies to the Airport. This will assist both Plan users, and council staff administering it.
16. Clarity in the planning regime is certainly necessary, as the council's administration of the current, operative regime (which is very similar to the Proposed Plan's regime) has been confused. Numerous approvals for airport or airport related activities have been granted to private applicants under the section 176A (outline plan) process, when the utilisation of his process is not legally available to these applicants, because they are not the requiring authority. This underscores why a bespoke planning regime for the Airport is necessary.
17. The reporting officer recommends that Wanaka Airport planning issues be investigated, and possibly addressed, during Stage 2 of the District Plan Review.
18. This recommendation is of little assistance to the Panel as it requires you to adopt, in your decision on Stage 1 of the District Plan Review, the status quo for Wanaka Airport, (i.e. maintain the underlying rural zoning), notwithstanding the reporting officer has acknowledged the status quo is not appropriate.

19. You would likely confront real difficulty in justifying this approach under section 32, given the status quo is not efficient or effective, and there are clearly other reasonably practicable options available for addressing resource management issues at Wanaka Airport.
20. Further, you have no jurisdiction over what will be addressed during Stage 2 of the Review.

Overlay, Subzone, or Wanaka Airport Zone

21. QAC's submission on Wanaka Airport seeks a bespoke set of provisions for Wanaka Airport, which is to be defined by either:
 - (a) The identification of an overlay on Planning Map 18a (within which the bespoke provisions will apply); or
 - (b) Defining the spatial extent of Wanaka Airport by reference to (i.e. its boundaries being the same as) the Aerodrome Purposes Designation; or
 - (c) In a similar or such other way as may be appropriate to address QAC's submission points; and
 - (d) Any consequential changes, amendments or decisions that may be required to give effect to the matters raised in QAC's submission.
22. QAC's submission suggests an overlay or written definition as method by which to define the spatial extent of Wanaka Airport, but these are not the only available or appropriate methods.
23. An alternative method is the creation of a new, Wanaka Airport zone, whether in its own right, or as a component of the Proposed Queenstown Airport Mixed Use Zone (which would be renamed the 'Airport Mixed Use Zone'). QAC's submission clearly provides the scope for an overlay or subzone approach' - provided the zone is no more enabling than the regime expressly addressed in QAC's submission.
24. Should the Panel prefer a Wanaka Airport zone, (as a standalone zone or a component of the Airport Mixed Use Zone), the detail of that can be addressed at the later (relevant) hearing.

Wanaka Airport REPA

Requirement to Consult

25. QLDC's legal counsel has submitted, with reference to QAC's proposed rule 21.4.X, that there is "*element of unfairness on affected landowners through imposing a prohibited activity status through a submission*".
26. There is no mandatory requirement to consult before making a submission on a Proposed Plan, including where that submission seeks certain activities be prohibited on certain land.
27. Rather, 'consultation' can be considered achieved via the First Schedule process.
28. The further submission process in particular plays a key role in ensuring persons potentially affected by a decision sought in a submission have the opportunity to respond to that submission. The further submission process gives affected persons the right to respond to matters raised in another party's submission that may affect their land, or have other implications for them.
29. The notice provisions in the First Schedule to the Act require a proactive approach on the part of those persons who might be affected by submissions to a plan change, and that those persons are required to make enquiry on their own account once a local authority has given public notice.
30. QAC's submission on Chapter 21 was notified to the wider public, which includes affected landowners, when the council's summary of submissions was published late year. The relief sought by QAC in respect of Wanaka Airport was included in the notified summary largely verbatim. Any affected party had an opportunity to further submit on QAC's submission at this time, in accordance with ordinary process.

Recognition of Infrastructures in the Rural Zone

31. QAC seeks that the Proposed Plan recognise and provide for the technical, operational, and safety related requirements of infrastructure the establish in ONLs, ONFs and/or RLCs. This was addressed in legal submissions

and evidence presented for QAC during the Stream 1 hearing (Chapters 3, 4 and 6 of the Proposed Plan).

32. Ms O'Sullivan addresses the issue further in her evidence for this hearing, dated 20 April 2016.
33. The reporting officer recommends in summary, that QAC's submission be rejected, because most infrastructure providers will be able to rely on designations, such that the express provisions in the rural zone, as sought by QAC, are unnecessary.
34. This recommendation fails to appreciate that infrastructure providers who are requiring authorities can only rely on the designation process for land in respect of which they are identified as a requiring authority.
35. By way of example, QAC is the requiring authority for airport related works on all the land that is to the south of the Airport, between the existing airport and the Kawarau River; all the land to the north between the existing airport and SH6, and all the land to the east between the existing airport and the Shotover River (i.e. all of Frankton Flats).¹
36. QAC is not a requiring authority for land beyond that, e.g. for elevated land around the airport, where navigational aids or weather stations associated with the airport may need to be established for example. In these locations QAC would need to seek a resource consent for such (or similar) infrastructure. This highlights why the amendments to Chapter 21 sought by QAC are necessary and appropriate.

R Wolt
Counsel for Queenstown Airport Corporation Limited

¹ Refer QAC's legal submissions dated 29 February, para 18.

