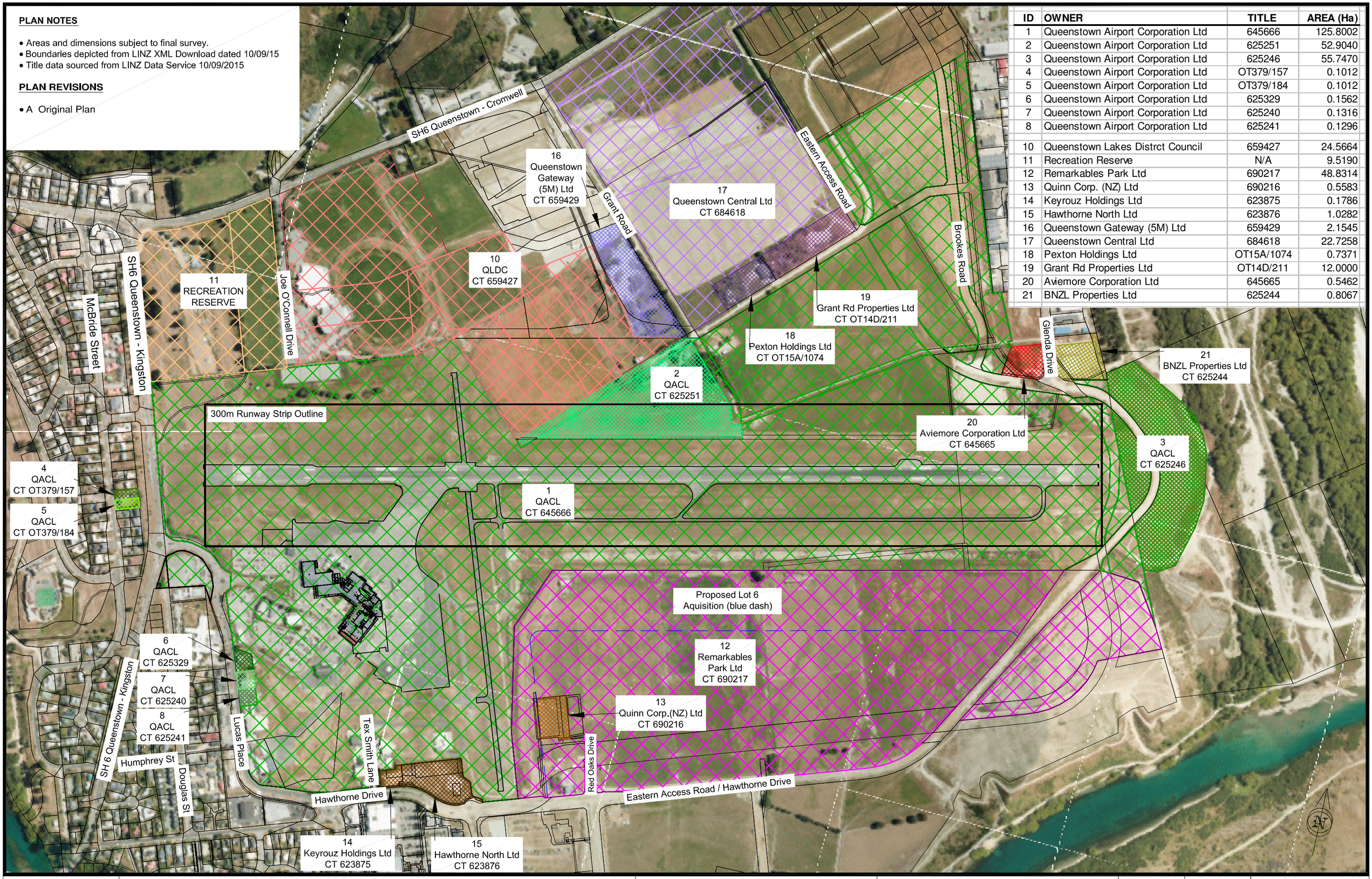
PLAN NOTES

- Areas and dimensions subject to final survey.
- Boundaries depicted from LINZ XML Download dated 10/09/15
- Title data sourced from LINZ Data Service 10/09/2015

PLAN REVISIONS

- A Original Plan

ID	OWNER	TITLE	AREA (Ha)
1	Queenstown Airport Corporation Ltd	645666	125.8002
2	Queenstown Airport Corporation Ltd	625251	52.9040
3	Queenstown Airport Corporation Ltd	625246	55.7470
4	Queenstown Airport Corporation Ltd	OT379/157	0.1012
5	Queenstown Airport Corporation Ltd	OT379/184	0.1012
6	Queenstown Airport Corporation Ltd	625329	0.1562
7	Queenstown Airport Corporation Ltd	625240	0.1316
8	Queenstown Airport Corporation Ltd	625241	0.1296
10	Queenstown Lakes Distrct Council	659427	24.5664
11	Recreation Reserve	N/A	9.5190
12	Remarkables Park Ltd	690217	48.8314
13	Quinn Corp. (NZ) Ltd	690216	0.5583
14	Keyrouz Holdings Ltd	623875	0.1786
15	Hawthorne North Ltd	623876	1.0282
16	Queenstown Gateway (5M) Ltd	659429	2.1545
17	Queenstown Central Ltd	684618	22.7258
18	Pexton Holdings Ltd	OT15A/1074	0.7371
19	Grant Rd Properties Ltd	OT14D/211	12.0000
20	Aviemore Corporation Ltd	645665	0.5462
21	BNZL Properties Ltd	625244	0.8067



150910 4020 LAND OWNERSHIP REVA.DWG

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P.O. Box 1425, Queenstown
Phone: 03 4423889

QUEENSTOWN AIRPORT CORPORATION

LAND OWNERSHIP PLAN

SURVEYED	G.H. LESTER	DATE: 10-Sep-15
DESIGNED	---	SCALE 1: 7000 ORIGINAL PLAN A3
DRAWN	G.H. LESTER	
CHECKED	---	DRAWING & ISSUE NO. 4020.SHEET01.REV A
APPROVED	---	

BEFORE THE ENVIRONMENT COURT

Decision: [2016] NZEnvC 137

ENV-2016-WLG-000018

IN THE MATTER	of an application under section 311 of the Resource Management Act 1991
BETWEEN	KAPITI COAST AIRPORT HOLDINGS LIMITED Applicant
AND	ALPHA CORPORATION LIMITED
AND	COASTLANDS SHOPPINGTOWN LIMITED
AND	RICHARD PAUL MANSELL
AND	NGAHINA DEVELOPMENTS LIMITED
AND	NGAHINA TRUST
AND	SHEFFIELD PROPERTIES LIMITED Respondents

Court: Environment Judge B P Dwyer
Environment Commissioner K A Edmonds

Heard: at Wellington on 19 July 2016

Counsel: Ms B Carruthers and Mr A Cameron for Applicant
Mr M McClelland QC and Ms P Tancock for Respondents (except Ngahina Trust)
Mr J Tizard for Ngahina Trust

ORAL DECISION

Decision issued: Oral decision - 20 July 2016, written record – 22 July 2016

A: Declarations made (but not to the extent sought by the Applicant)

B: Costs reserved

THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND

[1] This is our decision in these proceedings. As with any oral decision we reserve the right to amend the written record to correct any minor errors or misquotations which do not affect the rationale for or outcome of the decision.

[2] The background facts giving rise to this application for declaration are set out in some detail in an agreed statement of facts of 4 July 2016, which will be appended to the written record. We summarise those facts in these terms:

- Kapiti Coast Airport Holdings Limited (the Applicant) owns land in and around Kapiti Coast Airport where a range of activities are undertaken. Among other things, the Applicant undertakes the activity of commercial land owner, developer and lessor. It leases approximately 18,000 square metres of land or buildings to various retailers;
- The Applicant's land is in the Airport Zone of the Kapiti Coast District Plan. There are four prohibited activities in that zone - certain noise sensitive activities, department stores, supermarkets and more than one store between 151 and 1500 square metres floor space retailing groceries or non-specified food lines;
- The Applicant has made a private plan change request (PC84) to the Council seeking to change the prohibited status of these activities;
- The Respondents have filed submissions in opposition to PC84;
- The Applicant contends that the Respondents are trade competitors to it and seeks declarations from the Court in the following terms:

A. That Coastlands Shoppingtown Limited, Alpha Corporation Limited, Sheffield Properties Limited, Ngahina Developments Limited, the Ngahina Trust, and Mr Richard Paul Mansell (together, the "Submitters") have breached clause 6(4) of Schedule 1 to the RMA and section 308B of the RMA by submitting ("Submissions") in opposition to KCAHL's private plan change request ("PC 84") when they are:

a. trade competitors; or

b. surrogates (in the manner described by section 308E of the RMA in respect of appeals to the Environment Court) of those submitters who are trade competitors;

in circumstances where none of the Submitters are affected (whether directly or indirectly) by effects of the plan change requested which do not relate to trade competition.

B. That the Kapiti District Council ("Council") is required under section 41C(7) of the RMA to strike out the Submissions as:

a. the Submissions disclose no reasonable or relevant case that the Council could lawfully have regard to under section 74(3) of the RMA; and

b. it would otherwise be an abuse of the hearing process to allow the Submissions to be taken further.

[3] Notwithstanding the wide scope of the declarations, it was agreed by all parties that the Court should first determine as a preliminary point whether or not the Respondents are trade competitors of the Applicant. This decision is limited to that question.

[4] The interests of the Respondents giving rise to the contention of trade competition can be summarised in these terms:

- Three of the Respondents, Coastlands Shopping Town Limited (Coastlands), Sheffield Properties Limited (Sheffield) and Ngahina Developments Limited (Ngahina), carry on business as commercial land owners, developers and lessors of land currently used for retailing at the Paraparaumu Town Centre about two and a half kilometres away from the Airport;
- Alpha Corporation Limited (Alpha) owns all the shares in Coastlands and Sheffield as well as 50 percent of the shares in Ngahina;
- The Ngahina Trust (the Trust) owns 50 percent of the shares in Ngahina and six percent of the shares in Alpha;
- Richard Paul Mansell (Mr Mansell) is a director of Alpha, Coastlands, Sheffield and Ngahina. He is also the Chief Executive Officer of Coastlands.

[5] The significance of the Respondents allegedly being trade competitors of the Applicant arises out of the provisions of Part 2 of Schedule 1 RMA, which contains the process for privately requested plan changes. In particular, sub-cls 29(1A) and (1B) relevantly provide:

29 Procedure under this Part

(1A) Any person may make a submission but, if the person is a trade competitor of the person who made the request, the person's right to make a submission is limited by subclause (1B).

(1B) A trade competitor of the person who made the request may make a submission only if directly affected by an effect of the plan or change that-

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(We note that the application for declaration refers to cl 6(4) of Schedule 1 rather than cl 29(1B). We do not think anything turns on that and to the extent necessary we allow amendment of the application.)

[6] Subsection 308B(3) relevantly provides that:

> Failure to comply with the limits on submissions set out in ... clause 6(4) or 29(1B) of Schedule 1 is a contravention of this Part.

It is the combination of these provisions which form the basis of the application for declaration as originally sought by the Applicant although, as we have noted previously, any declaration is now to be limited to the preliminary issue of whether the Respondents are trade competitors.

[7] Before considering that issue we firstly address a jurisdictional question raised by Mr Tizard on behalf of the Trust. It was his contention that there was no jurisdiction for the Court to make the declaration sought due to the operation of s 308G RMA, which provides as follows:

308G Declaration that Part contravened

(1) Proceedings may be brought in the Environment Court for a declaration that person A or person C-

(a) contravened any of the provisions in this Part:

(b) aided, abetted, counselled, induced, or procured the contravention of any of the provisions in this Part:

(c) conspired with any other person in the contravention of any of the provisions in this Part:

(d) was in any other way knowingly concerned in the contravention of any of the provisions in this Part.

(2) The proceedings may be brought by any person (other than person A or person C) who was-

(a) a party to an appeal against a decision under this Act in favour of person B; or

(b) a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K.

(3) The proceedings must not be commenced until the appeal or proceedings referred to in subsection (2) are determined.

(4) The proceedings must be commenced within 6 years after the contravention.

(5) The Environment Court may make the declaration.

[8] It was Mr Tizard's submission that s 308G provides the remedy for a declaration of the nature sought in this case, that such a remedy was only available once appeal proceedings had been before the Court and that prior to that the issue of trade competition was for the Council. Mr Tizard acknowledged that this submission was contrary to the finding of the Environment Court in *General Distributors Limited v Foodstuffs Properties (Wellington) Limited*[1] where Judge Thompson's division held that the Court was entitled to make a declaration of similar effect pursuant to the provisions of subss 310(c) and (h) notwithstanding the provisions of s 308G. Mr Tizard submitted that the amendment to RMA which came into force on 4 September 2013 was passed for the purpose of negating the decision in *General Distributors.* We have a number of observations to make on those propositions.

[9] Firstly, that the issue of the effect of s 308G on these proceedings has been rendered moot by limitation of the declaration to the question of whether or not the Respondents are trade competitors of the Applicant. Section 308G applies to declarations as to whether persons A or C contravene the Act which is a wider issue and the Court is now not being asked to make that declaration in this preliminary decision. We acknowledge that the full declaration remains alive but that is not the declaration under present consideration.

[10] Secondly, we are not bound by *General Distributors* and we are entitled to disagree with it should we have reason to do so. That said, we do not disagree with it and concur with the observations in paragraphs [9] to [13] of that decision.

[11] Thirdly, we do not agree with Mr Tizard's submission as to the effect of the 2013 amendment. Nothing in that amendment suggests that Parliament was seeking to negate the outcome of *General Distributors.* The primary amendment made was the addition of s 308G(2)(b) which had the effect of bringing direct

[1] *General Distributors Ltd v Foodstuffs Properties (Wellington) Ltd* [2011] NZEnvC 212, [2012] NZRMA 215.

referrals and applications under Parts 6AA, 7A and 8 within the scope of s 308G. Mr Tizard pointed to the fact that the amendment provided that declaration proceedings could not be commenced until all proceedings in the Environment Court had concluded, but that provision was already in s 308G in a nearly identical form. The limited ambit of the amendment suggests that Parliament did not seek to negate *General Distributors* at all.

[12] Those observations bring us to the central question now before the Court, namely, whether or not the Respondents are trade competitors of the Applicant. There is no statutory definition of what constitutes trade competition. Whether or not a particular activity is trade competition is something which must be determined on the facts at any given instance. Sometimes, such as in the case of rival supermarket operators that determination will be easy, at other times it will be less easy.

[13] Ms Carruthers referred to definitions of trade competition given in a number of cases. We respectfully consider that at a general level the conclusion arrived at by Baragwanath J in *Montessori Pre-school Charitable Trust v Waikato District Council*[2] provides a useful test:

> In characterising the respective activities as of "trade competition" or not, I have concluded that what matters is that there be a competitive activity having a commercial element.[3]

[14] We consider that there is unquestionably a competitive activity having a commercial element in this case, at least insofar as some of the Respondents are concerned. The Applicant, Coastlands, Sheffield and Ngahina are all in the business of commercial landowners, developers and lessors. They compete for lessees to rent their premises in Paraparaumu. At first blush that makes them trade competitors. Such a finding would be consistent with findings of this Court in *Queenstown Property Holdings Limited v Queenstown Lakes District Council*[4] and *Baker Boys Limited v Christchurch City Council*[5]. Both of those cases held specifically that owners of commercial properties could be trade competitors.

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[2] *Montessori Pre-school Charitable Trust v Waikato District Council* [2007] NZRMA 55 (HC).
[3] [2007] NZRMA 55 at [19].
[4] *Queenstown Property Holdings Ltd v Queenstown Lakes District Council* [1998] NZRMA 145 (NZEnvC).
[5] *Baker Boys Ltd v Christchurch City Council* [1998] NZRMA 433 (NZEnvC).

[15] Ms Carruthers contended that these decisions were cited with approval by the High Court in the *Montessori* case but that is going too far. In *Montessori,* Baragwanath J simply observed that his finding that the operators of two Montessori schools were in trade competition was not inconsistent with the Environment Court decisions. In any event, this Court's findings as to there being trade competition between commercial property owners in both *Queenstown Property Holdings* and *Baker Boys* are very clear and entirely logical.

[16] Those observations bring us to consider the more recent decision of the High Court in *Queenstown Central Limited v Queenstown Lakes District Council*[6] which was advanced by the Respondents in support of their contention that they are not trade competitors.

[17] *Queenstown Central* involved consideration of the status of two property developers who own land in the Frankton Flats area of Queenstown. Both of them sought to have approvals granted enabling the construction of commercial premises for lease on land they owned which was suitable for industrial use (a scarce resource in Queenstown). In the Environment Court, Judge Jackson classified one of those developers as a trade competitor of the other, although that issue was not central to the ultimate findings in the proceedings in anyway. Fogarty J, in the High Court, disagreed with that classification.

[18] Mr McClelland and Ms Tancock submitted that:

> In finding the Environment Court had erred Fogarty J noted at [160] that land owners competing to get their land zoned for the highest value use is not "trade competition" ...

Counsel went to some pains to remind the Court that it was bound by the High Court decision. We are grateful for the reminder, but it was unnecessary.

[19] We are well aware that *Queenstown Central* is binding on this Court, however the real issue is, what is the decision which was made in that case which is binding? We do not perceive the finding to be that commercial lessors cannot ever be trade competitors with other commercial lessors. It seems to us that the findings of the

[6] *Queenstown Central Ltd v Queenstown Lakes District Council* [2013] NZRMA 239 (HC).

High Court in *Queenstown Central* were not directed at that point. We refer to a number of comments in the High Court decision in that regard:

- Para [154] (the last two sentences):

  > As a matter of fact there is no doubt that QCL and SPL are in competition for the best uses of appropriately zoned land in the Frankton area. QCL is the owner of around about 23 ha of land.

- Para [155]:

  > QCL and SPL are disagreeing on the appropriate zoning of their respective parcels of land. Let us allow that to be described as a form of competition or competing with each other. It does not follow that they are in trade competition.

- Para [160]:

  > Where the total amount of land is a limited resource, choices have to be made. The situation in Queenstown is a classic example of that. There is a very limited amount of flat land available in the Queenstown urban environment. There is a contest for the use of that land.

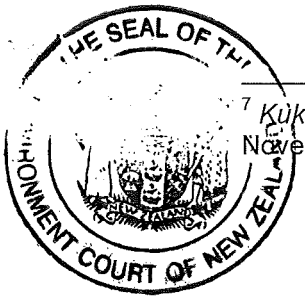
- And then further, also in para [160]:

  > It is in this context that owners of land located in Frankton Flats compete to get their land zoned for the highest value use. That is not trade competition, as that word is used in the RMA. If it were numerous planning disputes would be wrongly categorised as trade competition.

[20] We consider that it is clear from those comments that the competition under consideration in the *Queenstown Central* case was competition for use of a resource (the limited resource of flat land in the Queenstown urban environment). His Honour found that such competition is not trade competition. The distinction which he made is one which had previously been recognised in this Court.

[21] In *Kuku Mara Partnership v Marlborough District Council*[7], Judge Kenderdine found:

> Competition for resources is not 'trade competition'. I accept the purpose of s.104(8) is to prevent trade competitors frustrating legitimate activities purely for the purpose of avoiding commercial competition. The purpose of s.104(8) is to prevent the RMA being used for anti competitive purposes, not to prevent competition for the use and



[7] *Kuku Mara Partnership v Marlborough District Council* NZEnvC Wellington W 50/2002, 14 November 2002.

enjoyment of resources between resource use competitors, or the avoidance or mitigation of adverse effects on the environment.[8]

[22] In the words of Judge Kenderdine, the competition being considered in *Queenstown Central* was competition for the use and enjoyment of the limited resource of flat land at Frankton Flats, that is, the parties were resource use competitors. It seems to us that is precisely what Fogarty J found, in similar words. That is not the situation in Paraparaumu. The Respondents (who are unquestionably in competition with the Applicants as commercial lessors) seek to restrict the commercial activities which the Applicant may apply to undertake on its land. That is not competition for a resource but trade competition related directly to the competing uses which they undertake on their respective areas of land at the Airport and Town Centre.

[23] For these reasons, we determine that the Respondents, Coastlands, Sheffield and Ngahina are trade competitors of the Applicant in the sense intended to be captured by Part 11A RMA and **we declare that accordingly**.

[24] We are unable to reach similar conclusions about Alpha, the Trust or Mr Mansell.

[25] Alpha is the most difficult to determine. Although it does not compete in the commercial lease market, two of its wholly owned subsidiaries (Coastlands and Sheffield) do and we have declared them to be trade competitors of the Applicant. We are fully conscious of the incongruity of the situation where wholly owned subsidiaries might be deemed to be competitors but the primary entity is not. However it appears to us that the trade which Alpha is engaged in is that of investor, not commercial lessor. The extent to which any submission or evidence which Alpha might advance in support of a submission is motivated by commercial concerns may well be something for the Council or Court to take into account when considering that submission, but that goes to weight rather than making Alpha a trade competitor in its own right. To the extent that our determination in that regard is contestable, we record that we have taken a restrictive and literal approach to interpreting a statutory provision which seeks to limit the right of participation in the RMA process.

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[8] *Kuku Mara Partnership v Marlborough District Council* NZEnvC Wellington W 50/2002, 14 November 2002, at [33].

We decline to make a declaration that Alpha is a trade competitor of the Applicant.

[26] We reach a similar conclusion in the case of the Trust which is an investor in Ngahina as a 50 percent shareholder. **We decline to make a declaration that the Trust is a trade competitor of the Applicant.**

[27] Mr Mansell's position is different again. The interest which he was identified as having in these matters is as a director of the four corporate entities and CEO of Coastlands. We expressed the view to Ms Carruthers during the course of our hearing that those interests could not make Mr Mansell personally a trade competitor of the Applicant and we understood her to concede that as being so. **We decline to declare that Mr Mansell is a trade competitor of the Applicant.**

[28] The Applicant has raised the issue that even if some of the Respondents were not trade competitors of the Applicant they were acting as surrogates for those Respondents which were trade competitors. Although the matter of surrogacy was not a subject of the limited declaration proceedings at this stage, we consider it is appropriate to make the following observations on this topic:

- Firstly, that there is no evidence at all before the Court to establish the proposition that any of the non-trade competitor entities are surrogates of the trade competitor entities. The fact that there are connections between them and that they might advance a joint case at hearing does not of itself raise an implication of surrogacy which the alleged surrogates might be called upon to refute;
- Secondly, it should be noted (as the Application does) that the provisions of ss 308E and 308F which relate to surrogacy apply only to proceedings in the Environment Court, not to the submission process at Council level. Even if some of the non-trade competitor Respondents were acting as surrogates for trade competitors (and we repeat that there is no evidence that is the case) they are not precluded from lodging submissions on PC84 and participating in the hearing process. They would be precluded from receiving direct or indirect help from trade competitors should they wish to bring an appeal or file a s 274 Notice.

[29] We observe that the consequence of our declaring Coastlands, Sheffield and Ngahina to be trade competitors does not *ipso facto* exclude them from the Council

hearing process. They are entitled to participate in that process, except to the extent that their submissions are in contravention of s 308B(2). That is a matter to be determined by the Council, either under s 41C or when hearing the parties' cases. We concur with Mr Tizard's submission that it is not appropriate for the Court to attempt to usurp that function through the declaration process and we would not do so.

[30] Finally, we formally reserve costs in favour of the Respondents. Any costs application to be made and responded to in accordance with the Courts Practice Note 2014.

DATED at WELLINGTON this 22nd day of July 2016.

For the Court:

B P Dwyer
Environment Judge

IN THE ENVIRONMENT COURT
AT WELLINGTON

ENV-2016-WLG-18

UNDER	the Resource Management Act 1991
IN THE MATTER	of an application for declarations under sections 310 and 311 of the Resource Management Act 1991
BETWEEN	**KAPITI COAST AIRPORT HOLDINGS LIMITED**
	Applicant
AND	**COASTLANDS SHOPPINGTOWN LIMITED**
	First Respondent
	ALPHA CORPORATION LIMITED
	Second Respondent
	SHEFFIELD PROPERTIES LIMITED
	Third Respondent
	NGAHINA DEVELOPMENTS LIMITED
	Fourth Respondent
	(continued overleaf)

AGREED STATEMENT OF FACTS

4 JULY 2016

RUSSELL McVEAGH

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PO Box 10-214
DX SX11189
Wellington

AND	**NGAHINA TRUST**
	Fifth Respondent
	RICHARD PAUL MANSELL
	Sixth Respondent

MAY IT PLEASE THE COURT:

Introduction

1. Further to His Honour Judge Dwyer's Minute dated 22 June 2016, the parties have prepared an agreed statement of facts on the first issue of whether the respondents are trade competitors of the applicant.

2. The parties have agreed this statement on the status of the respondents set out in **Appendix 1** below under the following sub-headings:

   (a) The applicant.

   (b) Plan Change 84.

   (c) The status of the respondents.

   (d) The respondents' relationship to retail traders.

DATED 4 July 2016

Bronwyn Carruthers / Aidan Cameron
Counsel for the Applicant

Matthew McClelland QC / Pheriane Tancock
Counsel for the First to Fourth and Sixth Respondents

John Tizard
Counsel for the Fifth Respondent

MAY IT PLEASE THE COURT:

Introduction

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DATED 4 July 2016

Bronwyn Carruthers / Aidan Cameron
Counsel for the Applicant

Matthew McClelland QC / Phernne Tancock
Counsel for the First to Fourth and Sixth Respondents

John Tizard
Counsel for the Fifth Respondent

APPENDIX 1

The applicant

1. The applicant is the owner and operator of Kapiti Landing, a mixed use development in Paraparaumu. This is a master planned development comprising a mix of activities including the Kapiti Coast Airport, office and warehousing space. The applicant currently leases approximately 18,000m^2 to various retailers. There is currently a New World supermarket (Foodstuffs) operating from the site.

2. The applicant's landholdings are shown in the map attached at **Appendix 1.** The land is zoned Airport Zone under the relevant District Plan.

Plan Change 84

3. The applicant requested a site-specific private plan change (Plan Change 84) from the Kapiti Coast District Council.

4. At present, there are four prohibited activities within the Airport Zone. These are:

   (a) noise sensitive activities not specifically provided for as a permitted activity (whether or not within the Air Noise Boundary, Outer Control Boundary, or outside any of the noise contours);

   (b) department stores;

   (c) supermarkets; and

   (d) more than one store of between 151m^2 and 1,500m^2 gross floor area that retails groceries or non-specified food lines.

5. Plan Change 84 proposes to change the activity statuses for those prohibited activities so that:

   (a) the activities described in paragraph 4(a) above are discretionary activities;

   (b) one (only) department store is a non-complying activity;

   (c) one (only) supermarket is a discretionary activity; and

   (d) the activities described in paragraph 4(d) above are discretionary activities.

The respondents

6. The respondents to the application lodged submissions on Plan Change 84.

7. The six respondents are:

   (a) Coastlands Shoppingtown Ltd ("**Coastlands**");

   (b) Alpha Corporation Ltd;

   (c) Sheffield Properties Ltd;

(d) Ngahina Developments Ltd;

(e) the Ngahina Trust; and

(f) Richard Mansell.

8. The landholdings of the third, fourth respondents are shown in the map at **Appendix 2.**

9. The first to fifth respondents have the following shareholding or governance arrangements:

Entity	Directors / Trustees	Shareholders / Beneficiaries
Alpha Corporation Ltd	Richard Mansell Richard Cathie (Chairman) Barry Clevely Takiri Cotterill Alastair Mansell	97 shareholders, with approximately 80% held either personally or in Trusts benefiting the extended Mansell family. 6% held by the Ngahina Trust.
Coastlands Shoppingtown Ltd	Richard Mansell (Chief Executive Officer) Richard Cathie (Chairman) Barry Clevely Takiri Cotterill Alastair Mansell	Wholly owned subsidiary of Alpha Corporation Ltd
Sheffield Properties Ltd	Richard Mansell Richard Cathie (Chairman) Barry Clevely Takiri Cotterill Alastair Mansell	Wholly owned subsidiary of Alpha Corporation Ltd
Ngahina Developments Ltd	Richard Mansell Barry Clevely (Chairman) Alastair Mansell Basil Tapuke (Ngahina Trust representative) Adrian Taylor (Ngahina Trust Representative) Kura Taylor (Ngahina Trust Representative)	50% Alpha Corporation Ltd 50% Kura Taylor, Maikara Taipuke, Adrian Taylor, Basil Tapuke (As trustees of Ngahina Trust).
Ngahina Trust	Basil Tapuke Adrian Taylor Kura Taylor Maikara Taipuke	The beneficiaries of the Trust are descendants of Ihakara te Ngarara who was the original (ancestral) owner or part owner of land at Paraparaumu including land now owned by the Applicant and the Third and Fourth Respondents. The Trust has protocols (approved by the Maori land Court) whereby beneficial interests devolve by whakapapa from Ihakara te Ngarara to the living descendants in equal shares of the parent who had the preceding beneficial interest and cannot be alienated or disposed of by sale, will or gift.

Coastlands

10. Coastlands was established in 1969. Coastlands leases land and buildings from Sheffield Properties and on-leases to approximately 100 individual tenants within the existing Coastlands Shopping Mall complex.

Coastlands does not undertake any retailing itself. Coastlands is a wholly owned subsidiary of Alpha Corporation Ltd.

11. Coastlands has long term leases with both main supermarket chains – Progressive Enterprises Ltd (Countdown) and Foodstuffs North Island (Pak n' Save), as well as two department stores - Farmers Trading Company and the Warehouse. It leases the buildings and the sites to Countdown, Farmers and the Warehouse and leases the land to Pak n' Save and KFC who own their buildings.

Alpha Corporation

12. Alpha Corporation Ltd was established in 1985. Its assets are its ownership of Coastlands and Sheffield Properties Ltd and a 50% shareholding in Ngahina Developments Ltd.

Sheffield Properties Ltd

13. Sheffield Properties Ltd was established in 1974. It is now a wholly owned subsidiary of Alpha Corporation Ltd. Sheffield Properties Ltd has interests within the Paraparaumu Town Centre. It owns the land and buildings to the Northern side of the Wharemauku Stream and leases land to the Southern side of the Wharemauku Stream from Ngahina Developments Ltd.

Ngahina Developments Ltd

14. Ngahina Developments Ltd was formed in 1984 and is a joint venture between the Ngahina Trust and Alpha Corporation Ltd. It has three directors from each organisation. It owns land originally owned by the Ngahina Trust or acquired by Ngahina Trust from the Kapiti Coast District Council pursuant to s. 40 of the Public Works Act 1981, including a large portion of the Wharemauku Precinct and land south of the Wharemauku Stream. It also owns land in Ihakara Street and Trieste Way. It has rules prohibiting the sale of its Māori-owned land. Most of the land is leased to Sheffield Properties Ltd, but it does have one piece of land in Ihakara Street which is leased directly to 6 different tenants.

Ngahina Trust

15. The Ngahina Trust is an ahu whenua trust under s 244 of the Te Ture Whenua Māori Act 1993, originally established in 1981 under s 438(1) of the Māori Affairs Act 1953). The Trust has a historic and continuing interest in much of the land within the Paraparaumu Town Centre, including its 50% shareholding in Ngahina Developments Ltd.

16. Some of the beneficiaries of Ngahina Trust are amongst the original owners of the Airport land, and as claimants against the Crown under the Public Works Act 1981 in respect of that land, assigned such rights to a predecessor in title to the applicant. The Ngahina Trust remains a party to a Waitangi Tribunal claim (yet to be determined) in respect of that land.

Mr Richard Mansell

17. Mr Mansell's family, including his late father Bruce Mansell, have been actively involved in the Paraparaumu Town Centre and the wider Kapiti community for four decades.

The respondents' commercial activities

18. None of the respondents sell retail goods directly to the public. Nor does the applicant.

19. The first, third and fourth respondents are all either commercial landowners, developers, and/or landlords of land zoned and currently used for retailing within the Paraparaumu Town Centre Zone.

20. The second respondent is the parent company of the first and third respondents. It does not undertake the activities set out at paragraph 19 above, other than by virtue of its ownership in the first and third Respondents.

21. The fifth respondent has no interest in any commercial activities within the Kapiti Coast district other than its shareholding in the Second and Fourth Respondents.

22. Mr Richard Mansell holds offices in the first-fourth respondents (and undertakes activities in those roles) and has shareholdings in the second respondent. His submission asserts that he is lodging it in his personal capacity.

Modifications to Designation 2 – Queenstown Airport Aerodrome Purposes Designation

Red text shows modifications as proposed in the Notice of Requirement dated 31 March 2015.

Blue text shows further modifications recommended by John Kyle on 2 November 2016.

Proposed changes are shown as underlined or ~~strikethrough~~ text

D Queenstown Airport

The area of land covered by the Aerodrome Designation shall include the sites described below:

- ~~Part Sections 59, 60, 61, 62, 63, 65 Block 1 Shotover Survey District~~
- ~~Lots 1-3 DP 12475~~
- ~~Lot 9, DP 22121~~
- ~~Part Glenda Drive, and all legal roads within the above described land.~~
- ~~Lots 2, 8, 11, 22 and 32, DP 304345~~
- ~~Part of Lots 1 and 2, DP 394343~~
- ~~Lots 1 and 2 DP 300177~~
- ~~SO 14262~~
- ~~Parts of Lot 1, DP 306621~~
- ~~Part Sections 141, 142 and 145, Block I, Shotover Survey District~~
- ~~The portion of an unformed legal road bounded by Lot 1, DP 306621, Parts Sections 141, 142 and 145, Block I, Shotover Survey District and Lots 8 and 32, DP 304345 to the east and Lot 2, DP 304345 to the west.~~
- Lots 1 and 2, DP 420663
- Parts of Part Sections 59, 60, 61, 62, 63 Block 1 Shotover Survey District
- Lot 9, DP 22121
- Part of Lot 2 DP 394343
- Part of Lots 1 and 2, DP 472825
- Lot 22 DP 304345
- Section 48, 51-52, 68, 114 -115, 117, 119-128 Survey Office Plan 459748
- Part of Section 111, 112, SO Plan 459748
- The portion of an unformed legal road bounded by Sections 51, 111, 114, 119, 121-122 and 124, Survey Office Plan 459748 to the south and west, and Sections 52, 112, 115, 117, 120, 123, 125, Survey Office Plan 459748 and Lots 1 and 2 DP 472825 to the north and east.
- Part Glenda Drive, and all legal roads within the above described land.

D.1 Aerodrome Purposes

The following conditions and provisions be included in the Plan as D.1 - Aerodrome Purposes.

This designation is defined to protect the operational capability of the airport, while at the same time minimising adverse environmental effects from aircraft noise on the community at least to the year 2037.

Permitted Activities

1. The nature of the activities ~~covered~~ authorised by this designation are described as follows:

(a) aircraft operations, private aircraft traffic, domestic and international aircraft traffic, rotary wing operations, aircraft servicing, ~~fuel storage and~~ general aviation, airport or aircraft training facilities, and associated offices.

(b) Runways, taxiways, aprons, and other aircraft movement areas.

(~~b~~)(c) ~~associated activities, buildings and infrastructure, navigational aids and lighting, car parking, offices and cafeteria provided there is a functional need for the activity to be located within the designation~~; Terminal buildings, hangars, control towers, rescue facilities, navigation and safety aids, lighting, car parking, maintenance and service facilities, catering facilities, freight facilities, quarantine and incineration facilities, border control and immigration facilities, medical facilities, fuel storage and fuelling facilities, facilities for the handling and storage of hazardous substances, and associated offices.

(d) Roads, accessways, stormwater facilities, monitoring activities, site investigation activities, infrastructure and utility activities, landscaping, and all related construction and earthwork activities.

(e) Vehicle parking and storage, rental vehicle facilities, vehicle valet activities, public transport facilities.

(f) Retail activities, restaurants and other food and beverage facilities including takeaway food facilities, signage, and industrial and commercial activities, provided they are connected with and ancillary to the use of the Airport.

~~(c) the main runway has a maximum usable length of 1,931 metres oriented 05-23 and a width of 45 metres. The main runway will have a runway seal dimension of 1,891 metres, 60 metre sealed starter extension/strip west, 118 metre runway extension west, 1,341 metre original runway, a 320 metre runway extension east and a 52 metre starter extension strip allowance east, with 20 metre strip lengths beyond both starter extension thresholds and a 90 metre runway end safety area at both the eastern and western ends of the runway end strip~~;

~~(d) a crosswind runway orientated 14-32 with a grass runway strip length of 944 metres including a 90 metre starter extension to the south and a 60 metre width.~~

~~(e) the following roading alterations:~~

- ~~stopping the southern part of Glenda Drive~~
- ~~stopping three roads off Glenda Drive~~
- ~~provision of a road link to provide access to Hawthorne Drive from Glenda Drive~~

~~The fixed wing operations are concentrated on runways 05-23 and 14-32. Helicopters currently operate to the south west of the terminal.~~

2. The activities authorised in Condition 1 must be connected with and ancillary to the use of the airport.

Restrictions on Aerodrome Purposes Activities

Building Height

~~2.~~3. Maximum height of any building shall be ~~9.0~~ 15m metres except that:

- This restriction does not apply to the control tower, hangars, lighting towers or navigation and communication masts and aerials.

Building Setback

~~3~~4. Minimum setback from all aerodrome designation boundaries shall be: ~~10.0m~~

(a) 5m from any adjoining land zoned for residential activity

(b) 3m from any adjoining land not zoned for residential activity

(c) 5m from any public road.

with the exception of the following:

(i) Security fencing around the perimeter of the Airport which comprises a mesh fence being a maximum height of 2.5 metres and includes an 45° outrigger post with 3 strands of barbed wire, or such security fencing that is required by the Civil Aviation Authority to ensure compliance with Civil Aviation regulations

(ii) A 3 metre high blast fence at the western end of the runway

Operations ~~During~~ Hours ~~of Darkness~~

~~The airport shall not be used for scheduled passenger services during the hours of darkness. "Hours of darkness" shall mean the hours between 10pm and 6am.~~

~~4~~5. No aircraft operations other than emergency aircraft operations shall occur between 10pm and 6am.

~~**Prohibited Activities**~~

~~Non-airport related activities are prohibited within the Aerodrome designation.~~

~~**Airport Master Plan**~~

~~Queenstown Airport Corporation is to provide an Airport Master Plan within 12 months of the airport designation being finalised.~~

~~**Hawthorne Drive**~~

~~Hawthorne Drive shall be maintained in its present position for a distance of 75 metres each side of the centre line of the cross-wind runway.~~

~~Note: The extent of the changes recommended are shown on the plan attached to the Council recommendation~~

Outline Plan

6. An outline plan of any work in the designated area must be submitted to the Council pursuant to section 176A of the RMA, unless, in the case of minor works, the Council waives the requirement for an outline plan.

7. The outline plan shall include, in addition to the matters required under section 176A of the RMA, an assessment of the following matters as relevant to the scale and location of the works proposed:

   (a) whether building form, colour and texture are used to reduce the apparent height and bulk of large buildings when viewed from adjoining sites;

   (b) whether there will be a consistency of building materials and colours between buildings;

   (c) when located near the boundary of the designation, whether the building aligns with other buildings on the site (existing or potential) or on the relevant adjoining site;

   (d) whether the landscape treatment is in scale with the proposed development, providing for the visual softening of large buildings and the screening of parking, loading and storage areas, while recognising operational requirements of airside facilities;

   (e) whether the proposed plantings are to be placed to that they do not obstruct views of outstanding natural landscapes and/or features.

   (f) Whether any earthworks will alter the existing topography of the site and the impacts on the area's amenity values and cultural values.

   (g) The extent to which earthworks affect the stability and erosion potential of the site and surrounding site.

   (h) Details of traffic management proposals for the period of construction of the proposed works and for the operation of the proposed activities once established.

   (i) The timetable for the completion of works.

Aircraft Noise

~~5~~8.

(i) Aircraft noise shall be measured, predicted and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning and NZS 6801:2008 Acoustics – Measurement of Environmental Sound, by a person suitably qualified in acoustics. The terms ANB, OCB, ASAN, 2037 Noise Contours and Indoor Design Sound Level shall be as defined in the District Plan.

(ii) The term Annual Aircraft Noise Contours (AANC) shall be defined as the annual Ldn contours 55 dB, 60 dB, and 65dB that have been derived using airport noise prediction software to be determined by the Queenstown Airport Liaison Committee (QALC) in accordance with the Noise Management Plan (NMP) and records of actual aircraft movements for the busiest three consecutive months of the preceding year.

(iii) The term Compliance AANC shall be defined as the AANC adjusted for any differences between calculated noise levels and measured noise levels described in Conditions ~~7~~10 and ~~8~~11 of this designation.

(iv) The term Projected AANC shall be defined as the Compliance AANC adjusted for annual growth estimated for the following year based on trends derived from historical aircraft movement data.

(v) If NZS 6805:1992 is superseded by a revised or new standard, the adoption of this revised/new standard in place of NZS 6805:1992 shall be at the discretion of the QALC under the NMP. Note the detail and the content of the NMP are set out in Condition ~~21~~24, Condition ~~22~~25 and Condition ~~23~~26.

~~6~~9. The Airport shall be managed so that the noise from aircraft operations does not exceed 65 dB Ldn outside the Air Noise Boundary (ANB) or 55 dB Ldn outside the Outer Control Boundary (OCB). The ANB and OCB are as shown on the District Plan Maps. Compliance with the ANB and OCB shall be determined on the basis of the Compliance AANC required to be prepared by Condition ~~7~~10 and ~~8~~11.

~~7~~10. Each year, QAC, shall produce 55 dB, 60 dB and 65 dB AANC, using airport noise prediction software to be determined by the QALC in accordance with the NMP and records of actual aircraft movements for the busiest three consecutive months of the preceding year.

~~8~~11. At least every three years, QAC shall undertake a monitoring programme to compare the measured aircraft noise levels with the AANC. The AANC shall be corrected for any differences arising from the measured levels to produce the Compliance AANC. The monitoring programme shall include the following measurements within a three year period: a minimum of one month summer and one month winter undertaken at a minimum of three points located west, north-east and south of the airport with the exact positions to be determined by the QALC under the NMP.

~~9~~12. Each year the Compliance and Projected AANC (required under conditions ~~7~~10 and ~~8~~11 respectively) shall be reported to the QALC. Compliance AANC produced for years when noise measurements have not been undertaken shall be prepared using the same corrections determined from the most recently measured aircraft noise levels undertaken for Condition ~~8~~11.

Other Noise

~~10~~13. Sound from activities which are outside the scope of NZS 6805:1992, shall comply with the District Plan noise limits set in the zone standards for each zone in which the sound is received. This requirement includes engine testing other than for essential unplanned engine testing of aircraft for scheduled passenger services.

~~11~~14. No noise limits shall apply to essential unplanned engine testing of aircraft for scheduled passenger services. The NMP shall detail noise management practices for unplanned engine testing including preferred locations and times. Following each unplanned engine test the QAC shall report to the next meeting of the QALC why the testing was required and what noise management practices were followed.

Airport Noise Mitigation

~~12~~15. Queenstown Airport Corporation Limited (QAC), shall provide the Queenstown Lakes District Council (QLDC) with the 2037 Noise Contours in 1 dB increments from 70 dB Ldn to 55 dB Ldn inclusive. The methodology used to calculate these 2037 Noise Contours shall be the same as that used to calculate the ANB and the OCB. These contours shall be provided in an electronic format and shall also be appended to the NMP.

~~13~~16. Each year QAC shall produce 55 dB, 60 dB and 65 dB Projected AANC~~s~~ for the purpose of determining when mitigation shall be offered under Conditions ~~14~~17 and ~~15~~118 using the same aircraft noise prediction software as used for the Compliance AANC required under Condition ~~8~~11, adjusted for annual growth estimated for the following year based on trends derived from historical aircraft movement data.

~~14~~17. Each year the QAC shall offer to provide 100% funding of noise mitigation for Critical Listening Environments of buildings that existed on *[insert date designation confirmed]* containing an ASAN that are within the 65 dB Projected AANC. This offer may be earlier at QAC's discretion. The mitigation shall be designed to achieve an Indoor Design Sound Level of 40 dB Ldn or less, based on the 2037 Noise Contours contained in the NMP.

~~15~~18. QAC shall offer to part fund retrofitting, over time, of mechanical ventilation of any Critical Listening Environment within existing buildings containing an ASAN located between the Air Noise Boundary and the 2037 60 dB Noise Contour. In particular, each year the QAC shall offer to provide 75% funding of mechanical ventilation for Critical Listening Environments of buildings that existed on *[insert date designation confirmed]* containing an ASAN that are within the 60 dB Projected AANC. This offer may be earlier at QAC's discretion. Where a building owner accepts this offer they shall not be eligible for further funding of mechanical ventilation if the building later becomes within the 65 dB Projected AANC, but they shall become eligible for 100% funding of any sound insulation required.

~~16~~19. Mechanical ventilation shall be in accordance with Table 2 of Appendix 13 to the District Plan.

~~17~~20. Noise mitigation funding offered by the QAC shall only be required where the benefitting building owner agrees to the methods offered and agrees to enter into a binding property agreement or covenant to the effect that the owners or occupiers of the property:

(a) are aware that the property may be subject to increased levels of aircraft noise, and

(b) agree that any complaint arising from noise related activities shall be dealt with in accordance with the complaints procedures set out in the NMP, and

(c) will not remove or lessen the effectiveness of the acoustic insulation and/or mechanical ventilation that is installed by QAC without its prior approval.

~~18~~21. Alternative mitigation strategies may be adopted by agreement of QAC and the building owner. A procedure for dispute resolution shall be provided in the NMP.

~~19~~22. A Noise Mitigation Plan detailing the processes required to give effect to the funding of sound insulation and mechanical ventilation shall be included as part of the NMP.

~~20~~23. Any offer made under Conditions ~~14~~17 or ~~15~~18 remains open for acceptance by the landowner for a period of 12 months. If the landowner declines the offer, this shall be recorded by QAC. If, at a later date that landowner wishes to take up the offer, the landowner shall notify the QAC of its desire to do so. The QAC shall determine whether it will make the offer available again and shall communicate the reasons for its decision to the landowner. Acceptance of the request by the QAC shall not be unreasonably withheld. QAC shall monitor change of ownership records and if ~~If~~ ownership of the property subsequently changes and the offer made above was not taken up by the landowner at that time, the QAC shall offer the new landowner funding in accordance with Conditions ~~14~~17 or ~~15~~18. In these circumstances the offer will remain open for acceptance for a further 12 month period.

Noise Management Plan

~~21~~24. Within 6 months *[insert date designation confirmed]* and without in any way limiting its obligations to fully comply with the conditions attaching to this designation, QAC shall complete and provide to the QALC a NMP which describes how QAC proposes to manage the Airport in order to comply with the conditions of this designation. The NMP shall describe, in detail, the following matters:

a) procedures for the convening, ongoing maintenance and operation of the QALC;

b) the QALC's discretion to adopt any revised/new standard which may replace NZS6805:1992 and to choose the noise modelling software to be used for the ongoing AANC compliance monitoring through the Compliance AANC.

c) the mechanisms for giving effect to a noise monitoring programme to assess compliance with Conditions ~~6, 7, 8,~~9, 10, 11 and in ~~21~~25 (h)

d) the ongoing investigations, methods, processes and resources that QAC proposes to put in place to provide for:

i. the reduction of noise levels from all aspects of Aircraft Operations and engine testing; and

ii. alternative methods of noise management to achieve the reduction of these noise levels;

e) noise minimisation procedures which include:

i. procedures and measures adopted to ensure compliance with noise limits for: -

- aircraft operations in Condition ~~6~~9; and
- engine testing in Condition ~~11~~14;

ii. Civil Aviation Authority (CAA) noise rules applicable to the Airport from time to time;

iii. voluntary or self imposed procedures or measures for the reduction of aircraft noise;

f) the procedures for modifying and enhancing the noise minimisation procedures to take into account:

i. any findings made pursuant to any investigation undertaken in accord with ~~21~~24(d) above;

ii. the need to ensure compliance with all of the requirements of this designation;

g) the procedures for reporting to the QALC any Aircraft Operations and engine testing activities which contravene a condition of this designation and the details of noise mitigation procedures for unplanned engine testing including preferred locations and times;

h) the procedure for the annual preparation and publication of the Compliance AANC by QAC, as required by Conditions ~~8~~11 and ~~9~~12 above;

i) a procedure for dealing with complaints including: the recording of complaints; acknowledgement to the complainant of receipt of their complaint and the outcome once resolved; any corrective action(s) to be taken including if non compliance with the conditions is identified, and reporting to the QALC;

j) the dispute resolution procedures, to resolve disputes between QAC and QALC about the contents and implementation of the NMP;

k) the detailed procedures and processes for implementing a Noise Mitigation Plan above except that those procedures and processes shall not in any way limit the obligations set out in Conditions ~~12~~15 to ~~20~~23 above.

l) the procedures for amending the NMP.

~~22~~25. The NMP shall include provisions for a Queenstown Airport Liaison Committee including:

a) the membership of the QALC, which shall comprise of: a chair, QAC (up to 2 members), QLDC (1 member), community (3 members), Airways Corporation (1 member), a representative of the airlines operating flights at Queenstown Airport (1 member), a representative of the Queenstown Airport general aviation/helicopter operators (1 member);

b) a quorum of the QALC shall be four members including at least one representative of each of QAC, QLDC and the community;

c) the QALC shall have an independent chair appointed by QAC in consultation with the QLDC;

d) the QAC will provide a venue and secretarial and support services for the QALC which will be provided at QAC's own expense, and

e) the meeting times of the QALC which shall be up to 4 times per annum or as agreed by the QALC.

~~23~~26. The NMP shall provide guidance for noise mitigation by owners of new and altered buildings containing ASANs within the OCB. This shall include details of the likely mitigation required within each 2037 Noise Contour, including identification of the point at which no mitigation is required.

~~24~~27. The current version of the NMP shall be made available to the public on QAC's web site.

Eastern Runway End Safety Area (RESA)

~~**Construction Management Plan**~~

~~1. (i) Prior to the commencement of construction of the RESA, and in conjunction with the outline plan required by Section 176A, a Construction Management Plan shall be submitted to the Council for review and approval. The purpose of the Construction Management Plan shall be to:~~

~~(a) Describe the methods proposed for the construction of the RESA and the programme for construction of each element;~~
~~(b) Describe what actions will be taken to manage the actual or potential effects of construction activities associated with the RESA and to satisfy conditions on the designation;~~
~~(c) Provide a list of key personnel and points of contact during RESA construction;~~
~~(d) Describe how stakeholders will be kept informed during construction of the RESA and how complaints will be managed; and~~
~~(e) Ensure compliance with the conditions of the designation as they relate to RESA construction work.~~

~~(ii) The Construction Management Plan shall include the following details:~~

~~(a) A staging plan, identifying the RESA works and proposed duration of each stage;~~
~~(b) Description of all RESA construction works including (as required) identification of fill sources and additional construction material required, access roads and tracks, identification of areas for storing plant and machinery, locations and colours of any temporary buildings, design details of the blast fence at the west of the runway, mitigation measures, rehabilitation, monitoring and reporting to be undertaken;~~
~~(c) Design responsibilities and method of RESA construction, including methods of conducting vegetation clearance and earthworks, disposal (if required) of excavation material, in river works management, sediment management, surface water and erosion management, methods for management of hazardous substances, dust management, noise (including vibration) management and fire fighting;~~
~~(d) The name and contact details of personnel holding key positions during RESA construction, including an appropriately qualified person on site to have responsibility for managing environmental issues, responding to community complaints, and ensuring that conditions in the designation and management plans and are adhered to throughout the RESA construction; and~~
~~(e) Details of the minimum requirements for investigations, inspections and monitoring throughout RESA construction to ensure that construction is being undertaken in accordance with the requirements of this designation.~~

(iii) The Requiring Authority shall adhere to the requirements of the Construction Management Plan at all times during the construction of the RESA.

2. The earth-fill embankment shall be constructed such that it generally incorporates the ability to provide for the horizontal and vertical alignment of the future arterial road, as outlined on Airey Consultants Ltd, plan number 5814/155, SK02-1. The construction shall allow for this road corridor to have a width of between 16 and 22 metres, a design speed of 60km/hr and a posted speed limit of 50km/hr.

3. The use of Old School Road and Spence Road, Hawthorne Drive and Glenda Drive shall not be permitted as haulage routes for truck movements during the construction period for the RESA.

4. Prior to commencing works on site, and after consultation with potentially affected occupiers, the Requiring Authority shall submit a RESA Construction Traffic Management Plan, endorsed by the New Zealand Transport Agency, to Council for approval. The RESA Construction Traffic Management Plan shall include a Traffic Impact Assessment that provides an assessment of the actual and potential effects of construction traffic on the surrounding State highways and other roads (including the Shotover Delta Access Track outside the construction area) by an appropriately qualified traffic engineer. The Traffic Impact Assessment shall incorporate:
   (i) Proposed construction haulage routes, excluding Glenda Drive, Hawthorne Drive and Old School Road/Spence Road and excluding use of the public road network for night time deliveries of any materials;
   (ii) Construction traffic volumes over haulage routes; and
   (iii) Recommendations for the RESA Construction Traffic Management plan, including any physical works including ongoing maintenance work required on the State highways, other roads and/or other access routes (including the Shotover delta access track) to provide for safe and efficient access, and mitigate against all adverse effects including those of dust and noise (including vibration).

5. The RESA Construction Traffic Management Plan shall be prepared by a Site Traffic Management Supervisor (certification gained by attending the STMS course and getting registration) and incorporate the recommendations of the Traffic Impact Assessment. All contractors obligated to implement temporary traffic management plans shall employ a qualified STMS on site. The STMS shall implement the Construction Traffic Management Plan.

6. Prior to the commencement of works on site, all recommendations for physical improvement works on the State highways and/or other roads or access routes, as outlined in the RESA Construction Traffic Management Plan, and as approved or required the New Zealand Transport Agency and/or Council, shall be implemented.

7. During RESA construction the Requiring Authority shall monitor all access roads used as part of the construction to ensure that they are maintained in a suitable condition (including being kept free from potholes) in order to assist in achieving condition 8 and to mitigate the effects of dust.

Noise Management Plan

8. Prior to the commencement of RESA construction works on site the Requiring Authority shall prepare and submit to Council for review and approval a noise and vibration management plan. The purpose of that Plan is:

(i) To identify the measures the Requiring Authority will take to comply with the requirements of Section 16 RMA, including in relation to vibrations;.

(ii) To ensure that at all times during the RESA construction, construction noise complies with NZS 6803:1999 – Acoustic Construction Noise. For the avoidance of doubt compliance with the Acoustic Construction Noise Standard is not required for residential occupiers located in the Glenda Drive Industrial zone;

(iii) To identify the measures for reducing the noise generated by vehicles associated with the RESA construction work including alternative methods for dealing with reversing vehicle warning systems;

(iv) The Noise and Vibration Management Plan may make different provisions for daytime and night time noise; and

(v) To provide details of a leaflet drop to all neighbouring residents situated on Glenda Drive recommending they keep windows shut during the short term night construction phase.

9 The Requiring Authority will ensure that all work and operations are carried out in accordance with the Noise and Vibration Management Plan.

Lighting (Night Time) Management Plan

10. Prior to the commencement of construction works at night on the site, a Lighting (night time) Management Plan shall be submitted to Council for review and approval. This shall detail the best practicable options to reduce off site light spill if RESA construction work is undertaken during night time hours. The Requiring Authority shall adhere to the provisions of this plan during night time construction.

General

11. No RESA construction machinery shall be parked within the active Shotover riverbed at any time.

12. Prior to the commencement of the RESA construction work a detailed planting and ongoing planting maintenance plan for the RESA shall be submitted to Council for review and approval. The planting plan shall have the following objectives:

(i) To visually integrate the RESA and the future arterial road bench into the surrounding landscape;

(ii) To improve the ecological integrity and functioning of the site; and

(iii) To assist in the management of surface erosion.

The planting plan shall be progressively implemented as the RESA is constructed and shall be completed within the first planting season following the construction of the RESA.

13. If the Requiring Authority:

~~(i) Discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the requiring authority shall without delay;~~

~~(ii) Notify the Consent Authority, Tangata Whenua and New Zealand Historic Places Trust and in the case of skeletal remains, the New Zealand Police;~~

~~(iii) Stop work within the immediate vicinity of the discovery to allow a site inspection by the New Zealand Historic Places Trust and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required;~~

~~(iv) Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation;~~

~~(v) Site work shall recommence following consultation with the requiring authority, the New Zealand Historic Places Trust, Tangata Whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained; and~~

~~(vi) Te Ao Marama shall be advised about construction activity prior to construction commencing.~~

~~25~~28. The eastern RESA fill shall at all times, ~~including after completion of the RESA construction work,~~ be protected in an appropriate manner from the risk of erosion by the river in accordance with accepted engineering practice.

~~25a~~29. Maintenance and emergency works necessary to meet the requirements of condition ~~25~~28, including engineering works, are permitted under this designation.

Modifications to Designation 4 – Airport Approach and Land Use Controls Designation

Modifications as proposed in the Notice of Requirement dated 31 March 2015.

Changes shown as underline or ~~strikethrough~~.

D.3 Airport Approach and Land Use Controls

~~**Objective**~~

~~The objective of these restrictions is to limit the construction of any structure or facility which may inhibit the safe and efficient operation of Queenstown Airport. These restrictions directly relate to the runways specified in Designation 2 – Aerodrome Purposes.~~

Overview

~~The following height restrictions are based on combinations of various Civil Aviation (CAR 139-6 and 139-7) and ICAO Annex 14 obstacle limitation surfaces. The main runway take-off climb surfaces are for Code 3 or 4 aerodromes. These are set out below.~~

Civil Aviation Rules require an airport operator to provide obstacle limitation surfaces around the airport to ensure the safe operation of aircraft approaching and departing the airport. This is done by means of height controls based on a series of geometric surfaces projecting up from the edges of the strips which surround the runways, the intention being to prevent objects such as structures and trees from penetrating these surfaces in areas critical to operational safety and efficiency.

The obstacle limitation surfaces contained in this designation protect Queenstown Airport from possible intrusion of over-height obstacles into the necessary approach and take-off areas required for the safe operation of the airport by all types of aircraft in use, or expected to be in use, at the airport.

The obstacle limitation surfaces in this designation are based on combinations of various Civil Aviation (CAR 139-6 and 139-7) and ICAO Annex 14 obstacle limitation surfaces. The main runway take off climb surfaces are for Code 3 or 4 aerodromes. These are set out below.

Note: All measurements are in metres above airport datum level of 355 metres for the main runway and airport datum level of 354 metres for the cross wind runway. ~~average mean sea level unless otherwise stated~~.

Note: Objects (as referred to throughout this designation) include but are not limited to vegetation (including trees), structures (including buildings masts and poles), cranes and construction machinery or other equipment that might penetrate the surfaces.

~~**Airport Protection**~~

~~Written consent of Queenstown Airport Corporation is to be obtained prior to a resource consent or building consent application being made to the Queenstown Lakes District Council or prior to the carrying out of any works involving the construction of any temporary or permanent structure including any building, aerial, antennae, or other object which in any way penetrates any of the surfaces described in D3 and indicated on the Planning Maps.~~

~~These surfaces are as follows:~~

Take-off Climb and Approach Surfaces

There is a take off climb and approach protection surface at each end of the main runway and cross wind runway strips. The takeoff and approach surfaces differ in detail, but both are protected by a slope extending upward and outward from each end of the strip.

The take off climb/approach surface at the western and eastern end of the main strip rises at a gradient of 1.6% (1 in 62.5) over a horizontal distance of 18,750m and continues along the extended runway centreline. The inner edge of the main strip is ~~75~~150 metres either side of the main runway centreline and the rate of lateral divergence from the inner edge is 12.5% (1 in 8) on each side of the fan.

The take off climb/approach surfaces at each end of the crosswind runway strip rises at a gradient of 5.0% (1 in 20) over a horizontal distance of 1600 metres. The inner edge of the crosswind strip is 30 metres either side of the runway centreline and the rate of divergence from the inner edge is 10.0% (1 in 10) on each side of the fan.

There is also a curved take-off climb and approach surface at the northern end of the crosswind runway, which turns to the north at the end of the runway strip with a radius of 900 metres and rises at a gradient of 5.0% (1 in 20) over a horizontal distance of 1600 metres. The inner edge of the crosswind strip is 30 metres either side of the runway centreline and the rate of divergence from the inner edge is 10.0% (1 in 10) on each side of the fan.

~~Note: (A and B in the note below apply).~~

New objects or extensions of objects that penetrate the take off and approach surfaces shall be prohibited except where the new object or extension is shielded by an existing immovable object or the penetration is a temporary short term penetration (e.g. construction machinery or equipment) of these surfaces that has been authorised by the Queenstown Airport Corporation Limited.

Transitional Surfaces

The transitional surface provides for a situation where an approaching aircraft is either off centreline or where it has executed a missed approach and allows for an area free of obstacles to protect aircraft in the final phase of the approach to land manoeuvre.

These extend upwards and outwards from the sides of each runway strip starting at the inner edge of 150m from the main runway centreline and 30m from the crosswind runway centreline. For the main strip the gradient is 14.3% (1 in 7). For the crosswind strip the gradient is 20% (1 in 5) to a height of 45 metres above the aerodrome.

Transition slopes extend at the same heights beyond each end of the runway strip to intercept the approach protection surfaces.

New objects or extensions of objects that penetrate the transitional surfaces shall be prohibited except where the new object or extension is shielded by an existing immovable object or the penetration is a temporary short term penetration (e.g. construction machinery or equipment) of these surfaces that has been authorised by the Queenstown Airport Corporation Limited.

Inner Horizontal Surface

The inner horizontal surface is a plane surface at a height of 45 metres above the airport datum level of 355 metres enclosed within a 4000 metres radius drawn from the periphery of the main runway strip, and a 4000 metres distance either side of the main runway strip.

New objects or extensions of objects that penetrate the inner horizontal surface shall be prohibited except where the object is shielded by an existing immovable object, or the party on whose land the object is located or who is otherwise responsible for the object has provided to the Queenstown Airport Corporation Limited an aeronautical study prepared by a suitably qualified and independent person which has determined the object will not adversely affect the safety or regularity of airport or

aircraft operations, and that study has been accepted by the Queenstown Airport Corporation Limited, and the Queenstown Airport Corporation Limited has provided its written approval to the penetration.

~~Note: (A and B in the note below apply).~~

Conical Surface

The conical surface extends from the periphery of the inner horizontal surface upwards and outward at a slope of 5.0% (1 in 20) to a height of 150m above the aerodrome datum level.

New objects or extensions of existing objects that penetrate the conical surface shall be prohibited except where the object is shielded by an existing immovable object, or the party on whose land the object is located or who is otherwise responsible for the object has provided to the Queenstown Airport Corporation Limited an aeronautical study prepared by a suitably qualified and independent person which has determined the object will not adversely affect the safety or regularity of airport or aircraft operations, and that study has been accepted by the Queenstown Airport Corporation Limited, and the Queenstown Airport Corporation Limited has provided its written approval to the penetration.

~~Note: (A and B in the note below apply).~~

Lake Hayes Flight Path

The centreline of the engine failed take-off surface for light and medium weight aircraft at the eastern end of the proposed extended strip follows the heavy aircraft take off climb/approach surface for a distance of 78 metres from the end of the strip. At this point the engine failed take off surface turns left through an angle of 32 degrees, at a radius of 1442 metres before continuing straight ahead for 3550 metres when it makes a further left turn through 50 degrees around Slope Hill at a radius of 3250 metres.

Immediately on completing this turn a right turn through 195 degrees at a radius of 1475 metres is initiated. When this third turn is completed, Northeast of Morven Hill the path continues straight ahead for 2625 metres before turning right through 67 degrees at a radius of 1475 metres between Morven Hill and The Remarkables. After completing this last turn it passes straight back over the Airfield.

The sides of the engine failed surface follow a 12.5% lateral divergence from each end of a 75 metre long strip inner edge either side of the extended runway centreline for a horizontal distance of 4200 metres and thereafter continues at a constant width of 600 metres either side of the centreline. The upward slope of the engine failed protection surface is 1.6% (1 in 62.5) for a distance of 78 metres at which point the surface drops 4.6 metres. The surface then continues to rise at 1.6% (1 in 62.5) terminating overhead of the runway.

~~**Note:**~~

~~**A.** New objects or extensions to objects shall be prohibited activities above the approach or transitional surfaces except when the new object or extension is shielded by an existing immovable object, provided that temporary short tern penetrations of these surfaces may be authorised by the Queenstown Airport Corporation.~~

~~**B.** New objects or extensions of existing objects shall not be permitted above the conical surface or inner horizontal surface except when the object is shielded by an existing immovable object, or the Council has consented to a penetration as a discretionary activity following an aeronautical study which has determined that the object will not adversely affect the safety or significantly affect the regularity of operations or aeroplanes.~~

Note:

Pursuant to Part 77 of the Civil Aviation Rules, a person proposing to construct or alter a structure must notify the Director of Civil Aviation of the proposal if the proposed structure or alteration to a structure is located below the approach or take-off surfaces described in this designation and shown on the Planning Maps and extends to a height greater than a surface extending outwards and upwards at one of the following:

(i) A slope of 1:83 from the fan origin if the take-off surface of a runway where the runway is used or intended to be used by aircraft with a Maximum Certified Take-Off Weight above 5700kg.

(ii) A slope of 1:50 from the fan origin of the take-off surface of a runway where the runway is intended to be used by ~~by~~ aircraft with a Maximum Certified Take-Off Weight at or below 5700kg.

Notification must be in the form specified in Rule 77-13 and be submitted at least 90 days before the proposed date of commencement of construction or alteration.