

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under clause 14 of the First Schedule of the Act

BETWEEN ARROWTOWN DOWNS LIMITED,  
CORONET ESTATES LIMITED,  
MALAGHANS PARK LIMITED,  
REMARKABLES PARK STUD FARM  
LIMITED AND WAKATIPU RETREAT  
LIMITED

(ENV-2015-CHC-75)

Appellants

AND QUEENSTOWN LAKES DISTRICT  
COUNCIL

Respondent

Environment Judge J R Jackson sitting alone pursuant to section 279 of the Act

In Chambers at Christchurch

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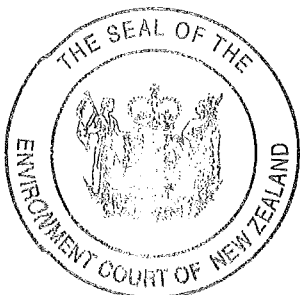
CONSENT ORDER

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[A] Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Queenstown Lakes District Council is directed to amend Plan Change 49 (Earthworks) as set out in Schedule 1, attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.

[B] Under section 285 of the Resource Management Act 1991, there is no order as to costs.



## REASONS

### **Introduction**

[1] Arrowtown Downs Limited, Coronet Estates Limited, Malaghans Park Limited, Remarkables Park Stud Farm Limited and Wakatipu Retreat Limited lodged an appeal against part of the Queenstown Lakes District Council's decision on Plan Change 49 (Earthworks).

[2] The court has now read and considered the consent memorandum of the parties dated 3 March 2016 which proposes to resolve the appeal.

[3] The court raised a possible ambiguity concerning the definition of earthworks<sup>1</sup> and the exception for farm fencing<sup>2</sup>. The parties do not consider there is any ambiguity and do not seek to amend the definition<sup>3</sup>. For the avoidance of doubt it is recorded that the reference to 1 metre in width means 1 metre in total width regardless of the placement of any fenceline on the cut.

### **Other relevant matters**

[4] No person has given notice of an intention to become a party under section 274 of the Resource Management Act 1991 ("the RMA" or "the Act").

### **Orders**

[5] The court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the

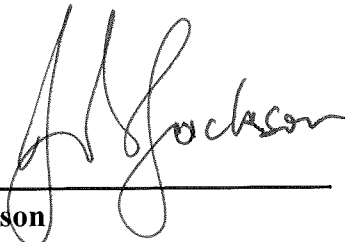


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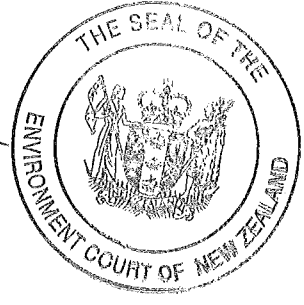
<sup>1</sup> Schedule 1 (b).  
<sup>2</sup> Minute dated 8 March 2016.  
<sup>3</sup> Joint memorandum dated 30 March 2016.

relevant requirements and objectives of the Act including, in particular,  
Part 2.

DATED at Christchurch 13 April 2016



**J R Jackson**  
**Environment Judge**



Issued: **13 APR 2016**  
2015-chc-75 arrowtown downs ltd et al v qldc consent order

## Schedule 1

The Queenstown Lakes District Council is directed to amend PC49 as follows:

- (a) Rule 22.3.2.1 Permitted Activities, and Table 22.1 Tier 5 are to be amended as follows by inclusion of the underlined words to include Activity Area E1 of the Frankton Flats Special Zone:

*Rule 22.3.2.1 Permitted Activities*

...

*(d) Earthworks in any of the Special Zones that are listed in Section 12 of the District Plan except for the Rural Visitor Zone and Frankton Flats B Activity Area E1 (for volume triggers only), are exempt from the rules in Section 22 of the District Plan.*

Table 22.1

...

Tier 5	Business and Industrial Zones	500m <sup>3</sup>
	Town Centre Zones (except Arrowtown and Special Character Areas)	
	Queenstown Airport Mixed Use Zone	
	<u>Frankton Flats Special Zone B Activity Area E1</u>	

- (b) The definition of "Earthworks" is to be amended by reformatting, and by the inclusion of the underlined words as follows:

- (i) Earthworks

Means the disturbance of land by the removal or depositing of material.

Earthworks includes excavation, fill, cuts, batters and formation of roads, access and tracks and the use of Cleanfill but

Earthworks does not include:

- the cultivation of land, planting of vegetation including trees,
- Mining Activities,
- Cleanfill Facilities.
- removal or deposition of material associated with new fence lines in the Rural General Zone, for farming uses only, where any cut or fill does not exceed 1 metre in height and 1 metre in width.

