

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2019] NZEnvC 142

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14 of the First
Schedule of the Act
BETWEEN DARBY PLANNING LIMITED
PARTNERSHIP
(ENV-2018-CHC-150)
and all other appellants concerning Topic 1
of Stage 1 of the Proposed Queenstown
Lakes District Plan
(as set out in the Schedule attached)
Appellants
AND QUEENSTOWN LAKES DISTRICT
COUNCIL
Respondent

Court: Environment Judge J J M Hassan
Hearing: In Chambers at Christchurch
Date of Decision: 26 August 2019
Date of Issue: 26 August 2019

ERRATUM
(Interim Decision: Topic 1, Stage 1 – ‘A Resilient Economy’)

A: Annexure 2 of Interim Decision [2019] NZEnvC 133 is amended so that Strategic
Policy 3.3.3 reads:

3.3.3 Avoid new commercial zoning of land that is likely to ~~could~~ undermine the role
of the Queenstown and Wanaka town centres as the primary focus for the
District’s economic activity. (relevant to S.O. 3.2.1.2).



- B: For the avoidance of doubt, attached to this Erratum is the complete Annexure 2, with the amended Strategic Policy 3.3.3 included.
- C: Interim Decision [2019] NZEnvC 133 is otherwise unchanged.

REASONS

Introduction

[1] On 5 August 2019 Interim Decision [2019] NZEnvC 133 ('the decision') was issued in relation to "Strategic Topic 1 – A Resilient Economy". Subject to the directions given at [195] and [196] and the leave reserved at [198] and [201] of that decision, the court confirmed the amended Decision Version provisions, attaching them to the decision as Annexure 2.

[2] Counsel for Remarkables Park Limited, Queenstown Park Limited, the Queenstown Lakes District Council and the Otago Regional Council ('the parties') have advised the court that there is an omission in Annexure 2 in relation to Strategic Policy 3.3.3.¹

[3] The court has been asked to correct the error pursuant to s278 Resource Management Act 1991 ('RMA') and rule 11.10 District Court Rules 2014.

The error

[4] Strategic Policy 3.3.3 in Annexure 2 to the decision reads:

3.3.3 Avoid commercial zoning of land that is likely to ~~could~~ undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity. (relevant to S.O. 3.2.1.2).

[5] The omission of the word "new" before "commercial zoning of land" was unintentional. The court's reasoning at paragraphs [133]-[179] of the decision shows it is the court's intention to include the word "new". In particular, at [178] of the decision

¹ Joint memorandum of counsel dated 15 August 2019.



the court makes the following finding:

We accept QLDC's submissions that "avoid new commercial zoning of land" in SP 3.3.3 is appropriate, in light of our findings on the evidence (noting that 'avoid' approach is not used here as an outright prohibition on future commercial rezonings).

Powers of correction

[6] In accordance with s278 RMA, the Environment Court has the powers of the District Court in its civil jurisdiction. This means that the court is able to utilise rule 11.10 District Court Rules 2014 to correct the unintended omission.

[7] Utilising these powers, Strategic Policy 3.3.3 in Annexure 2 to the decision is corrected, so that it reads:

3.3.3 Avoid new commercial zoning of land that is likely to ~~could~~ undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity. (relevant to S.O. 3.2.1.2).

Outcome

[8] Strategic Policy 3.3.3 of Annexure 2 to Interim Decision [2019] NZEnvC 133 is corrected as sought by the parties.

[9] Attached to this Erratum is the complete Annexure 2, with the amended Strategic Policy 3.3.3 included. Interim Decision [2019] NZEnvC 133 is otherwise unchanged.



J J M Hassan
Environment Judge



SCHEDULE**List of Appellants**

ENV-2018-CHC-056	Upper Clutha Environmental Society Incorporated
ENV-2018-CHC-082	Kawarau Jet Services Holdings Limited
ENV-2018-CHC-084	FII Holdings Limited
ENV-2018-CHC-092	Trojan Helmet Limited
ENV-2018-CHC-093	Queenstown Airport Corporation Ltd
ENV-2018-CHC-098	Friends of the Wakatipu Gardens and Reserves and Associated Residents
ENV-2018-CHC-101	Universal Developments Limited
ENV-2018-CHC-106	Te Anau Developments Limited
ENV-2018-CHC-119	Halfway Bay Lands Limited
ENV-2018-CHC-124	Waterfall Park Developments Limited
ENV-2018-CHC-126	Remarkables Park Limited
ENV-2018-CHC-127	Queenstown Park Limited
ENV-2018-CHC-131	Real Journeys Limited
ENV-2018-CHC-134	Ngai Tahu Tourism Limited
ENV-2018-CHC-137	Coneburn Preserve Holdings Limited & Others
ENV-2018-CHC-138	Real Journeys (trading as Go Orange Limited)
ENV-2018-CHC-146	Real Journeys Limited (trading as Canyon Food and Brew Company Limited)



**Text of relevant Decision Version provisions of Chapter 3 – Strategic Direction
(omitting provisions not part of Topic 1)**

3.1 Purpose ~~Explanation and Issues~~

This chapter sets out the over-arching strategic direction for the management of growth, land use and development in a manner that ensures sustainable management of the Queenstown Lakes District's special qualities:

...

- b. clean air and pristine water;
- c. vibrant and compact town centres;
- d. compact and connected settlements that encourage public transport, biking and walking;
- e. diverse, resilient, inclusive and connected communities;
- f. a district providing a variety of lifestyle choices;
- g. an innovative and diversifying economy based around a strong visitor industry;
- h. a unique and distinctive heritage;
- i. distinctive Ngāi Tahu values, rights and interests.

3.1A Strategic Issues

The following issues need to be addressed to enable the retention of these special qualities. The following Strategic Issues are overarching. While not intended to be an exhaustive list or description of issues to be addressed in the District's pursuit of sustainable management, these Strategic Issues are identified as warranting to be addressed at the present time and during the lifetime of the Plan (and beyond) to enable the retention of the special qualities listed at a. – i. of 3.1 Purpose:

- a. Strategic Issue 1: Economic prosperity and equity, including strong and robust town centres, requires economic diversification to enable and the social and economic wellbeing and resilience of the District's of people and communities may be challenged if the District's economic base lacks diversification.
- ...
- c. Strategic Issue 3: High growth rates can challenge the qualities that people value in their communities.
- ...
- e. Strategic Issue 5: The design of developments and environments can either promote or weaken safety, health and social, economic and cultural wellbeing.
- f. Strategic Issue 6: Tangata Whenua status and values require recognition in the District Plan.



3.1B Interpretation and Application of this Chapter

- 3.1B.1 For the purpose of plan development, including plan changes, the Strategic Objectives and Strategic Policies in this Chapter provide direction for the development of the more detailed provisions contained elsewhere in the District Plan in relation to the Strategic Issues.
- 3.1B.4 For the purpose of plan implementation (including in the determination of resource consent applications and notices of requirement):
- a. the Strategic Objectives and Strategic Policies in this Chapter may provide guidance on what the related objectives and policies in other chapters of the Plan are seeking to achieve in relation to the Strategic Issues;
 - b. the relevant objectives and policies of the plan (including Strategic Objectives and Strategic Policies in this Chapter) are to be considered together and no fixed hierarchy exists between them.
- 3.1B.3 In this plan, the notation 'SO' means 'Strategic Objective'. The notation 'SP' means 'Strategic Policy'.
- 3.1B.4 The following relationships apply as between Strategic Objectives and Strategic Policies of this Chapter:
- a. Where it is intended that a Strategic Objective elaborates on another Strategic Objective, that is specified in italicised text in brackets immediately following the Strategic Objective that is elaborated on. Unless otherwise specified, where a Strategic Objective enumerated to three digits (e.g. 3.2.1) ('Three Digit Strategic Objective') is followed by one or more Strategic Objectives enumerated to four digits (e.g. 3.2.1.1, 3.2.1.2) ('Four Digit Strategic Objective'), those Four Digit Strategic Objectives elaborate on that Three Digit Strategic Objective;
 - b. Many Strategic Policies in Chapter 3 implement more than one Strategic Objective. This is reflected in how Strategic Policies are grouped. The relationship(s) intended between individual Strategic Policies and the relevant Strategic Objective(s) is specified in the italicised text in brackets following each such Strategic Policy.

~~This chapter sets out the District Plan's strategic Objectives and Policies addressing these issues. High level objectives are elaborated on by more detailed objectives. Where these more detailed objectives relate to more than one higher level objective, this is noted in brackets after the objective. Because many of the policies in Chapter 3 implement more than one objective, they are grouped, and the relationship between individual policies and the relevant strategic objective(s) identified in brackets following each policy. The objectives and policies in this chapter are further elaborated on in Chapters 4–6. The principal role of Chapters 3–6 collectively is to provide direction for the more detailed provisions related to zones and specific topics contained elsewhere in the District Plan. In addition, they also provide guidance on what those more detailed provisions are seeking to achieve and are accordingly relevant to decisions made in the implementation of the Plan.~~



3.2 Strategic Objectives

- 3.2.1 The development of a prosperous, resilient and equitable economy in the District. (addresses Issue 1)
- 3.2.1.1 The significant socioeconomic benefits of well designed and appropriately located visitor industry places, facilities and services are realised across the District.
- 3.2.1.2 The Queenstown and Wanaka town centres² are the hubs of New Zealand's premier alpine visitor resorts and the District's economy.
- 3.2.1.3 The Frankton urban area (including the Remarkables Park mixed use centre) functions primarily as a major commercial and industrial service centre, and provides community facilities, for the people of the Wakatipu Basin.
- 3.2.1.4 The key function of the commercial core of Three Parks is focused on large format retail development.
- 3.2.1.5 Local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres³, Frankton and Three Parks, are sustained.
- 3.2.1.6 Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises.
- ...
- 3.2.6 The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety. (addresses Issues 1 and 6).

3.3 Strategic Policies

Visitor Industry

- 3.3.1 Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone. (relevant to S.O. 3.2.1.1 and 3.2.1.2).



²
³

Defined by the extent of the Town Centre Zone in each case.

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Town Centres and other Commercial and Industrial Areas

- 3.3.2 Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths. (relevant to S.O. 3.2.1.2).
- 3.3.3 Avoid new commercial zoning of land that is likely to ~~could~~ undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity. (relevant to S.O. 3.2.1.2).
- 3.3.4 Provide a planning framework for the Frankton urban area that facilitates the integration of the various development nodes. (relevant to S.O. 3.2.1.3).
- 3.3.5 Recognise that Queenstown Airport makes an important contribution to the prosperity and resilience of the District. (relevant to S.O. 3.2.1.3).
- 3.3.6 Avoid additional commercial zoning that ~~will~~ is likely to undermine the function and viability of the Frankton commercial areas as the key service centre for the Wakatipu Basin, or which will undermine increasing integration between those areas and the industrial and residential areas of Frankton. (relevant to S.O. 3.2.1.3).
- 3.3.7 Provide a planning framework for the commercial core of Three Parks that enables large format retail development. (relevant to S.O. 3.2.1.4).
- 3.3.8 Avoid non-industrial activities not ancillary to industrial activities occurring within areas zoned for industrial activities. (relevant to S.O. 3.2.1.3 and 3.2.1.5).
- 3.3.9 Support the role township commercial precincts and local shopping centres fulfil in serving local needs by enabling commercial development that is appropriately sized for that purpose. (relevant to S.O. 3.2.1.5).
- 3.3.10 Avoid commercial rezoning that ~~would~~ is likely to undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil. (relevant to S.O. 3.2.1.5).
- 3.3.11 Provide for a wide variety of activities and sufficient capacity within commercially zoned land to accommodate business growth and diversification. (relevant to S.O. 3.2.1.1, 3.2.1.2, 3.2.1.5, 3.2.1.6 and 3.2.1.9).

Climate Change

- 3.3.12 Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change.

