

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

IN THE MATTER of the Resource Management Act 1991
AND of an application for a declaration under s311
of the Act
BETWEEN WILLIAM JOHN GRANT AND MATILDA
MARGARET GRANT
(ENV-2018-CHC-81)
Applicants
AND QUEENSTOWN LAKES DISTRICT
COUNCIL
Respondent
AND of an application for enforcement orders
under s316 of the Act
BETWEEN WILLIAM JOHN GRANT AND MATILDA
MARGARET GRANT
(ENV-2018-CHC-80)
Applicants
AND QUEENSTOWN LAKES DISTRICT
COUNCIL
Respondent

Environment Judge J J M Hassan – sitting alone pursuant to s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 31 August 2018

**DECLARATION AND ENFORCEMENT ORDERS
(BY CONSENT)**



- A: Under ss279(1)(b) and 313 of the Resource Management Act 1991, the Environment Court, by consent, declares that the following decisions made by the Queenstown Lakes District Council are invalid because they are not within the scope of any submission made under clause 6 of the First Schedule to the Act:
- (i) the zoning of part of the land in Section 30, Block XXI Shotover Survey District from Low Density Residential (as shown on Planning Map 33 in the notified plan) to Rural;
 - (ii) the relocation of the urban growth boundary and outstanding natural landscape line to coincide with the boundary between the Low Density Residential and Rural zone consequent upon the decision made in (i).
- B: Under ss279(1)(b) and 314(1)(f)(ii) of the Resource Management Act 1991, the Environment Court, by consent, orders the Queenstown Lakes District Council to comply with clause 10 of the First Schedule to the Act by:
- (i) reinstating the Low Density Residential zoning over part of the land in Section 30, Block XXI, Shotover Survey District, as shown on notified planning map 33; and
 - (ii) reinstating the location of the urban growth boundary and outstanding natural landscape line around the outer extent of that part of Section 30, Block XXI, zoned Low Density Residential on notified planning map 33.
- C: Notified planning map 33 is marked Annexure 1, attaches to and forms part of these orders.
- D: These applications are otherwise dismissed.
- E: Under s285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction

[1] These proceedings concern applications for enforcement orders and a declaration regarding a decision of the Council to:

- (a) rezone the applicants' land¹ Rural; and
- (b) move the locations of the Urban Growth Boundary ('UGB') and Outstanding Natural Landscape ('ONL') line so as to coincide with the legal boundary between the applicant's land and the neighbouring land.

Background

[2] The Council notified the Proposed Queenstown Lakes District Plan in October 2015. This proposed that part of the applicants' land be zoned Low Density Residential ('LDR').

[3] Remarkables Heights Limited ('RHL') made a submission (#347) on the Proposed Plan. RHL's submission was in respect of Lot 102 DP 411971, which is adjacent to the applicants' land. It is clear that the submission only relates to Lot 102 and seeks nothing for the applicants' land. The submission is silent on the ONL and requests that the UGB be extended to the Lot 102 property boundaries to match the extent of the LDR sought.

[4] The Council's decision rezoned the applicants' land Rural, ostensibly by way of a consequential alteration. The parties agree that no submission was made seeking that the applicants' land be rezoned, nor that the UGB and ONL line be relocated with respect to the applicants' land. The change made by the decision went beyond what was reasonably and fairly raised in Submission 347 and hence was made without jurisdiction under the Resource Management Act 1991 ('RMA').

Settlement reached

[5] The court has now read and considered the consent memorandum of the parties dated 10 August 2018, which proposes to resolve these proceedings.



¹ Section 30 Block XXI Shotover Survey District, being part of the land contained in Computer Freehold Register 227983.

[6] The parties agree that a declaration may be made that the Council lacked jurisdiction, since there was no submission to rezone the applicant's land Rural and the change went beyond consequential relief. Enforcement orders are to be made requiring the Council to comply with its obligations under cl 10 Sch 1 RMA , by reinstating the LDRZ over the applicants' land as per the notified version of the Proposed Plan.

[7] The notified version of the Proposed Plan's relevant planning map is marked Annexure 1 and forms part of this Order. The cross-hatched section at the north-western part of the planning map is the part of the applicants' land that requires the LDR zoning to be reinstated.

Other relevant matters

[8] No person has given notice of an intention to become a party under s274 RMA.

Orders

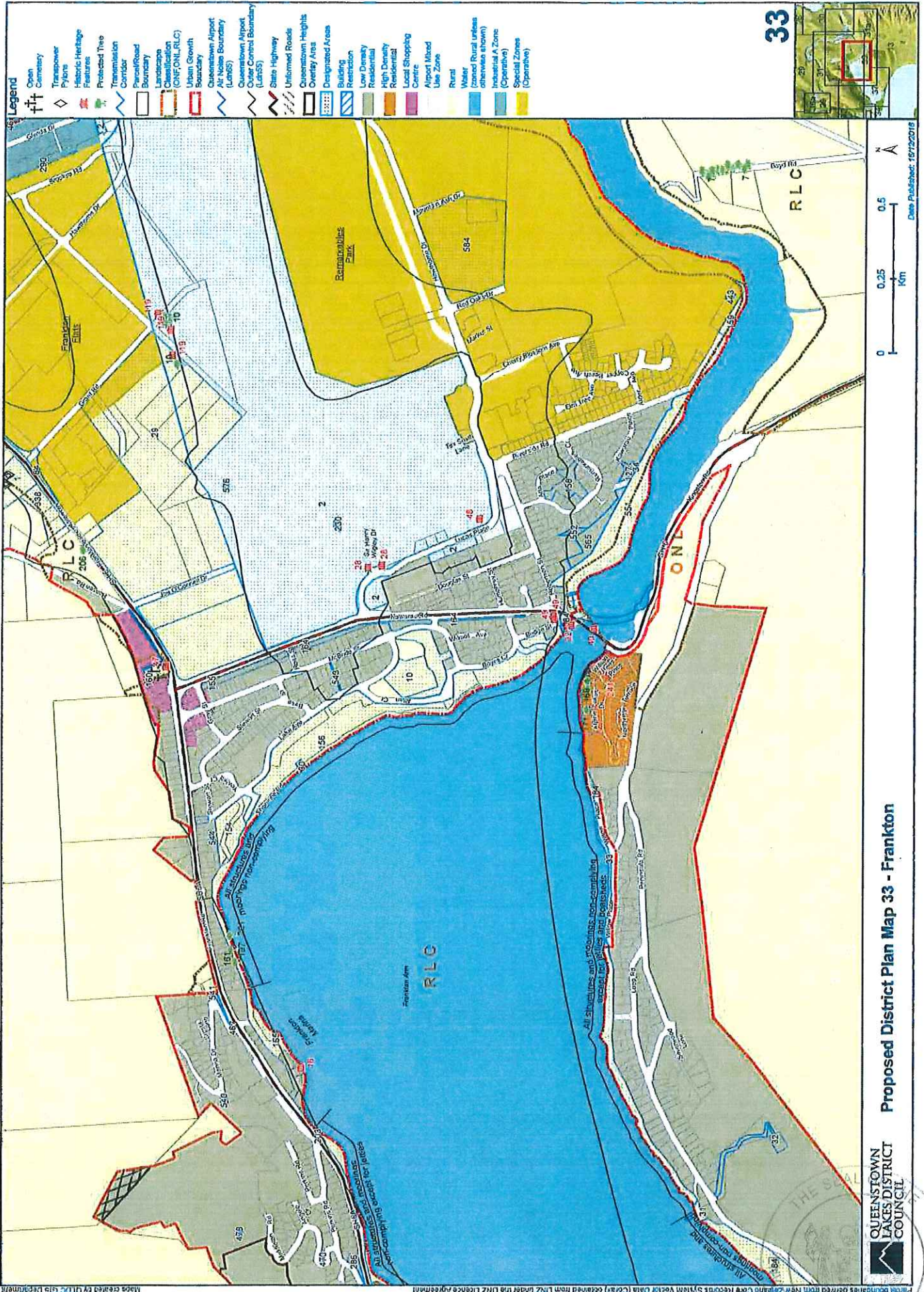
[9] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that:

- (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 relevant requirements and objectives of the RMA including, in particular, pt 2.



J J M Hassan
Environment Judge





Map created by OI DC GIS Department

Parcel boundaries derived from New Zealand Core Records System Vector Data (Cora) obtained from LINZ under the LINZ Licence Agreement



Proposed District Plan Map 33 - Frankton

QUEENSTOWN LAKES DISTRICT COUNCIL



Date Published: 16/12/2018

33

