

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2022] NZEnvC 210

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN AURORA ENERGY LIMITED

(ENV-2021-CHC-26)

BALLANTYNE PROPERTIES
LIMITED

(ENV-2021-CHC-46)

Appellants

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

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

In Chambers at Christchurch

Date of Consent Order: 17 October 2022

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ by consent, it is ordered that:

¹ Resource Management Act 1991.



- (1) the appeals are allowed subject to the extent that Queenstown Lakes District Council is directed to amend the provisions and planning maps of the Proposed Queenstown Lakes District Plan as set out in Appendix 1, attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns appeals by Ballantyne Properties Limited ('Ballantyne') and Aurora Energy Limited ('Aurora') against parts of a decision of the Queenstown Lakes District Council ('QLDC') regarding the provisions of the proposed Queenstown Lakes District Plan ('PDP'). The Ballantyne appeal sought that the northern extent of its site also be zoned Three Parks Business zone for consistency with the remainder of the site. The Aurora appeal sought to delete the expiry date for the building restriction area ('BRA') under rule 7.5.20 and as shown on the Three Parks Structure Plan. The appeals were allocated to Stage 3, Topic 36 – Three Parks.

[2] I have read and considered the consent memorandum of the parties dated 23 August 2022 and the accompanying affidavit of Mr Elias Matthee dated 23 August 2022 which when read in conjunction sets out and explains the rationale of the agreement reached between the parties to resolve the appeals. The agreement reached includes:

- (a) rezoning the northern extent of the Ballantyne site as Three Parks Business zone;
- (b) inserting a new policy 27.3.18 into Chapter 27 (Subdivision and Development) to address QLDC's concern that multiple vehicle accesses onto Ballantyne Road from the Ballantyne site might reduce

- the efficiency of heavy-vehicle movements along Ballantyne Road;
- (c) deleting the expiry date for the BRA under rule 7.5.20 and amending the advice note to align with the designation of the substation as identified in the PDP to permanently mitigate reverse sensitivity effects;
 - (d) consequentially amending Chapter 19B (Three Parks Business) of the PDP to include a new rule 19B.5.7 to reflect the location of the BRA on the planning maps.

Other relevant matters

[3] Ballantyne is a s274 party to Aurora's appeal. Aurora is a s274 party to Ballantyne's appeal. Queenstown Lakes Community Housing Trust and Three Parks Properties Limited also joined the Ballantyne appeal under s274 RMA but subsequently withdrew their respective interests by memoranda dated 5 May 2022 and 29 July 2022. I am satisfied that all relevant s274 parties whose interest extends to this topic have signed the consent memorandum setting out the relief sought.

[4] No party seeks costs, all parties agreeing that costs should lie where they fall.

Outcome

[5] The court understands for present purposes that all parties to the proceeding:

- (a) have executed the memorandum requesting this order; and
- (b) are satisfied that all matters 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.

[6] I make the orders sought, being satisfied on the information provided to the court that doing so will promote the RMA's purpose. The orders are made

under s279(1) RMA by consent, rather than representing a decision or determination on the merits.



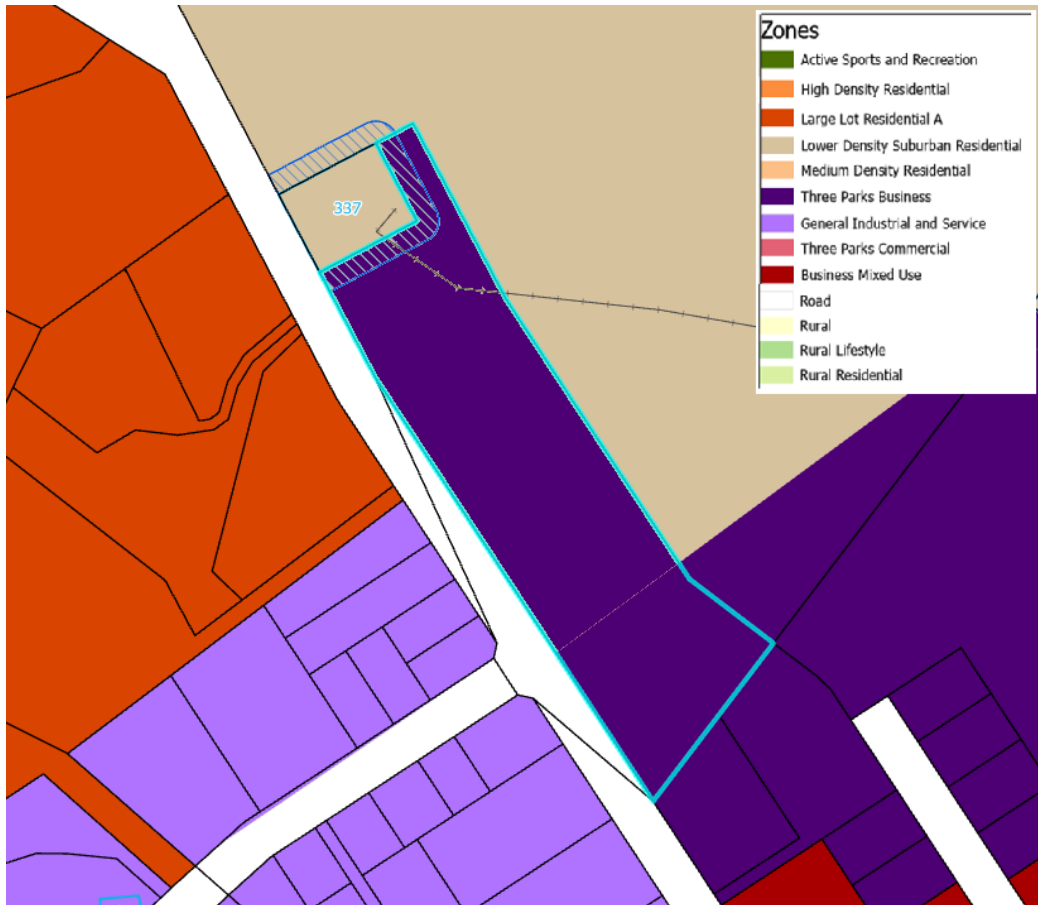
J J M Hassan
Environment Judge



APPENDIX 1

Amendments shown in underline and ~~strikethrough~~ text.

1. Amend planning maps as follows.



2. Insert Policy 27.3.18.8 into Chapter 27 (Subdivision and Development) of the PDP as follows:

Three Parks Wānaka (defined by the extent of the Three Parks Structure Plan – 27.13.12)

27.3.18 Objective –Subdivision of Three Parks Wānaka is consistent with the Three Parks Structure Plan and achieves integrated development.

Policies

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27.3.18.8 Limit the impact of vehicle traffic entering and exiting Ballantyne Road by encouraging consolidation and sharing of vehicle crossings into the Three Parks Business Zone land to the northwest of Sir Tim Wallis Drive.

3. Amend Rule 7.5 in Chapter 7 (Lower Density Suburban Residential) as follows:

7.5 Rules – Standards

	Standards for activities in the Lower Density Suburban Residential Zone	Non-compliance status
7.5.20	<p>A building or structure located within the Wānaka Substation Building Restriction Area as shown on the District Plan web mapping application and Three Parks Structure Plan (27.13.12).</p> <p>The Building Restriction Area and this standard do not apply if Designation 337 is removed from the District Plan only apply until 20 September 2024.</p> <p>Advice note: Council will give specific consideration to Aurora Energy Limited as an affected person for the purposes of section 95E of the Act.</p>	NC

4. Insert Rule 19B.5.7 into Table 19B.5 as follows.

19B.5 - Standards

	Table 19A.5 - Standards for activities located in the Three Parks Business Zone	Non-compliance status
19B.5.7	<p><u>A building or structure located within the Wānaka Substation Building Restriction Area as shown on the District Plan web mapping application and Three Parks Structure Plan (27.13.12).</u></p> <p><u>The Building Restriction Area and this standard do not apply if Designation 337 is removed from the District Plan</u></p> <p><u>Advice note: Council will give specific consideration to Aurora Energy Limited as an affected person for the purposes of section 95E of the Act.</u></p>	NC

5. Amend the Three Parks Structure Plan (27.13.12) as follows.

