

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

**Decision No. [2023] NZEnvC 228**

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First  
Schedule of the Act

BETWEEN J C BREEN FAMILY TRUST

(ENV-2021-CHC-41)

... (continued on separate page)

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: 31 October 2023

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**CONSENT ORDER**

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A: Under s279(1)(b) of the RMA,<sup>1</sup> the Environment Court, by consent, orders  
that:

(1) the appeals are allowed to the extent that Queenstown Lakes District

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<sup>1</sup> Resource Management Act 1991.



Council is directed to amend the provisions of Chapter 18A of the proposed Queenstown Lakes District Plan as set out in Appendix 1, attached to and forming part of this consent order; and

(2) the appeals as they relate to Topic 35, Subtopic 1 are dismissed.

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

## **REASONS**

### **Introduction**

[1] This proceeding concerns five appeals that were allocated to Topic 35 – General Industrial and Service Zone, Subtopic 1 (Relief on text). The appeals concern the text of Chapter 18A (General Industrial and Service Zone) of the proposed Queenstown Lakes District Plan.

[2] I have read and considered the consent memorandum of the parties dated 12 July 2023 which proposes to resolve these appeals as they relate to Topic 35, subtopic 1.

### **Other relevant matters**

[3] The following s274 parties whose notices appeared to indicate “overall interest” in the relevant appeals did not sign the memorandum nor participate in mediation nor seek leave not to do so:

- (a) Arrow Irrigation Company Limited;
- (b) Cardrona Cattle Company Limited;
- (c) Clinton-Baker Family Trust;
- (d) Paul Kelly Properties Limited;
- (e) Reavers NZ Limited; and
- (f) Two Big Bears Limited.

[4] By Minute dated 19 September 2023, directions were made for those parties to seek leave to oppose or raise issues with the consent order sought. No party has done so.

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

### **Outcome**

[6] 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 the present purposes that:

- (a) all relevant parties to the proceeding have executed the memorandum requesting this order; and
- (b) those parties 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.

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**J J M Hassan**  
**Environment Judge**



**List of Appellants**

ENV-2021-CHC-42	NPR Trading Limited
ENV-2021-CHC-43	Integrity Group Holdings NZ Limited & 86 Ballantyne Road Partnership
ENV-2021-CHC-44	Bush Creek Investments Limited
ENV-2021-CHC-45	Alpine Nominees Limited

**Appendix 1 – Amendments to Chapter 18 of the PDP**

<p>18A.2.1.3 Enable <del>existing</del> Office, Retail, and Commercial activities that have been lawfully established <u>or consented</u> under previous zoning provisions to continue provided they remain the same or similar character, intensity and scale.</p>
<p>18A.2.2.1 Avoid activities that are not compatible with the primary function of the zone and that have the ability to displace or constrain the establishment, operation and long term viability of Industrial and Service activities including:</p> <p>a. Office, Retail and Commercial activities unless:</p> <ul style="list-style-type: none"> <li>i. they are ancillary to Industrial or Service activities,</li> <li>ii. the activity is an <del>existing</del> Office, Retail or Commercial activity lawfully established prior to [xx date Chapter 18A becomes operative] and has remained the same or similar character, intensity and scale;</li> <li>iii. <u>it involves a change from an Office, Retail or Commercial activity lawfully established prior to [date Chapter 18A is treated as operative] to either an Office or Commercial activity (excluding Retail) that is of the same or similar intensity and scale as the existing activity but of a different character;</u></li> </ul>

<p>18A.4.5</p>	<ul style="list-style-type: none"> <li><u>i.</u> <del>Existing</del> Office, Retail or Commercial activities lawfully established prior to [date <del>rules</del> Chapter 18A is treated as <del>become</del> operative], including the relocation of the <del>existing</del> Office, Retail or Commercial activity within the same building or tenancy on the same site as the lawfully established activity.</li> <li><u>ii.</u> the relocation of <u>a</u> <del>existing</del> Office, Retail or Commercial activity <u>lawfully established prior to</u></li> </ul>	<p>P</p>
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	<p><u>[date Chapter 18A is treated as operative]</u> within the same building or tenancy on the same site as the lawfully established activity</p> <p>iii. <u>Office, Retail or Commercial activities that replace an Office, Retail or Commercial activity that is of the same nature, character and scale as the activity that was lawfully established prior to [date Chapter 18A is treated as operative]</u></p> <p><u>For the purposes of 18A.4.5(iii), this rule does not enable switches between activity types. It provides for an activity to replace an activity of the same type. Rule 18A.4.17B should be applied in cases were switches between Office, Commercial and Retail activity types are being sought.</u></p> <p><u>For the purposes of this rule, “lawfully established prior to [date Chapter 18A is treated as operative],” includes Office, Retail or Commercial activities within buildings where that building was granted resource consent and the activity would have been permitted within the building at the time of the grant of consent under the previous zoning provisions, despite whether the subject Office, Retail or Commercial activity had commenced prior to [date Chapter 18A is treated as operative].</u></p>	
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18A.4.17	<del>Existing</del> –Office, Retail and Commercial activities <u>lawfully established prior to [date Chapter 18A is treated as rules become operative]</u> that do not comply with rule 18A.4.5	NC
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<u>18A.4.17B</u>	<u>Changes from an Office, Retail or Commercial activity lawfully established prior to [date Chapter 18A is treated as</u>	NC
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	<p><u>operative] to either an Office or Commercial activity (excluding Retail).</u></p> <p><u>For the purposes of this rule, “lawfully established prior to [date Chapter 18A is treated as operative],” includes Office, Retail or Commercial activities within buildings where that building was granted resource consent and the activity would have been permitted within the building at the time of the grant of consent under the previous zoning provisions, despite whether the subject Office, Retail or Commercial activity had commenced prior to [date Chapter 18A is treated as operative].</u></p>	
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18A.5.2	<p>Existing Office, Commercial or Retail activities provided for under 18A.4.5:</p> <ul style="list-style-type: none"> <li>a. Must occur within the same building or tenancy on the same site as the lawfully established activity; and</li> <li>b. Must not result in <del>an increase to</del>: <ul style="list-style-type: none"> <li>i. <u>an increase to</u> the gross floor area occupied by the <del>existing</del> lawfully established activity of more than 10%;</li> <li>ii. <u>an increase to</u> any outdoor area occupied by the <del>existing</del> lawfully established activity-;</li> <li>iii. <u>an increase to the total gross floor area occupied by lawfully established Office, Commercial or Retail activities on the site, apart from as provided under b(i) above.</u></li> <li>iv. <u>must not result in a greater number of Office, Commercial or Retail activities on the site.</u></li> </ul> </li> </ul>	NC
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