



RUSSELL McVEAGH

9 February 2011

QLDC

14 FEB 2011

QUEENSTOWN

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Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN

Attn: Karen Page

**NOTICE OF APPEAL ON BEHALF OF AIR NEW ZEALAND LIMITED AGAINST
THE DECISION OF QUEENSTOWN AIRPORT CORPORATION CONCERNING AN
ALTERATION TO A DESIGNATION**

1. We act for Air New Zealand Limited ("ANZL").
2. Please find **enclosed** a copy of a notice of appeal on behalf of ANZL against the decision of Queenstown Airport Corporation concerning an alteration to the Aerodrome Designation (Designation 2) of the Queenstown Lakes District Plan, which was filed with the Court yesterday (8 February 2011).
3. Please note that we have not enclosed any of the documents attached to the notice as filed with the Court. Please let us know if you would like us to send you copies of any of these documents.
4. Please contact us if you have any questions.

Yours faithfully
RUSSELL McVEAGH

Liz Hardacre / James Marriner
Senior solicitor / Solicitor

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IN THE ENVIRONMENT COURT
WELLINGTON

ENV-2011-WLG-

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of sections 174, 181 and 192(c) and (f) of the Act

BETWEEN AIR NEW ZEALAND LIMITED

Appellant

AND QUEENSTOWN AIRPORT CORPORATION

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION
CONCERNING ALTERATION TO A DESIGNATION BY QUEENSTOWN
AIRPORT CORPORATION

8 FEBRUARY 2011

RUSSELL MEVEAGH

J D K Gardner-Hopkins / J A Marriner
Phone 64 4 499 9555
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PO Box 10-214
DX SX11189
Wellington

AIR NEW ZEALAND LIMITED appeals against a decision on a notice of requirement ("NOR") for the alteration to the Aerodrome Designation (Designation 2) of the Queenstown Lakes District Plan ("District Plan") to provide for the management of aircraft noise at Queenstown Airport ("Decision").

Nature of Appellant's interest

1. Air New Zealand Limited ("ANZL") made a submission on the NOR on 26 February 2010.

Date of receipt of the decision

2. Notice of the Decision being appealed was received on 20 January 2011.

Background

3. This was a Decision by Queenstown Airport Corporation ("QAC") as requiring authority in respect of a NOR for the alteration to the Aerodrome Designation (Designation 2) to provide for the management of aircraft noise at Queenstown Airport ("Airport").
4. The NOR was heard on 22 September 2010 in tandem with Plan Change 35 to the District Plan ("Plan Change 35"). The Commissioners' recommendations were issued on 1 November 2010. QAC accepted in part and rejected in part the recommendations of the Queenstown Lakes District Council ("QLDC") in respect of that NOR.

Reasons for the appeal

5. ANZL operates services to and from the Airport and has long been involved with Airport planning matters in an effort to ensure that the District Plan contains appropriate mechanisms to provide for both current and future Airport operations.
6. ANZL acknowledges and supports QAC's efforts to provide for future Airport development and projected increases in operational requirements, both through the current NOR and the concurrent Plan Change 35. However, ANZL considers that both the NOR and the Plan Change raise important local as well as wider policy level issues with the potential to impact positively (and in some cases negatively) on the efficient operation of the Airport, and other airports New Zealand wide.

Nature of appeal

7. ANZL has considered all aspects of the Decision and submits partially in support and partially in opposition to it.

Matters supported

8. Subject to the opposition recorded below, ANZL generally supports the Decision to the extent that it:
 - (a) will promote sustainable management of resources and will achieve the purpose of the Resource Management Act 1991 ("Act");
 - (b) is not contrary to Part 2 and other provisions of the Act;

- (c) will meet the reasonably foreseeable needs of future generations;
 - (d) will enable social, economic and cultural well being; and
 - (e) is otherwise not contrary to the purposes and provisions of the Act.
9. To the extent the Decision fails to achieve the above, it is opposed.
10. ANZL specifically supports the following aspects of the Decision:
- (a) *Independent Airport Liaison Committee Chair:* ANZL supports the provision in the NOR that the Airport Liaison Committee ("ALC") shall have an independent chair appointed by QAC in consultation with QLDC.
 - (b) *NZS 6805:1992 Airport Noise Management and Land Use Planning:* ANZL supports the incorporation by the Decision of a reference to NZS 6805: 1992 Airport Noise Management and Land Use Planning as the standard in accordance with which aircraft noise shall be measured, predicted and assessed.
 - (c) *Monitoring model:* ANZL supports the reference to airport noise prediction software INM v7a and the deletion of the discretion afforded to the ALC to determine the software type and version to be used each year for monitoring aircraft noise at the Airport.

Matters opposed

11. Further to the above, ANZL specifically opposes the following aspects of the Decision:
- (a) The quorum requirements for ALC meetings, including for the following reasons:
 - The NMP states that a quorum for ALC meetings is four representative members, including one of the community representatives and the QAC representative. Therefore, a quorum could be met (and business transacted at meetings) without any airline representatives present.
 - This is contrary to the primary function of the ALC, that is, to act as a forum and interface between all Airport stakeholders. The quorum requirement should be amended to provide that at least one airline representative must also be present.
 - Such an approach would be consistent with that taken in Wellington and Auckland. The quorum requirement for the Auckland Noise Community Consultative Group ("ANCCG") is at least three people comprising one community representative, one Board of Airline Representatives of New Zealand ("BARNZ") representative, and one Auckland International Airport Limited representative. Quorum at the Wellington Air

Noise Management Committee ("WANMC") requires representatives from residents, Wellington Airport, BARNZ and the Wellington City Council. Both the ANCCG and the WANMC have two BARNZ nominated members, one of which is a representative from BARNZ and the other being a nominated representative of one of the BARNZ member airlines.

- (b) The provision of mitigation to achieve an internal design sound level of 40 dBA Ldn or less:
- An internal design sound level of 45 dBA Ldn is sufficient to protect existing activities sensitive to aircraft noise ("ASANs") from the adverse effects of aircraft noise.
 - Further, it is unclear whether an internal design sound level of 40 dBA Ldn is even achievable for all existing ASANs within the 65 dBA Ldn contour.
 - The 45 dBA Ldn standard for existing ASANs is considered appropriate in Wellington.
- (c) The discretion afforded to QAC to offer funding of noise mitigation earlier than one year before ASANs are predicted to be within the 65 dBA Ldn contour:
- ANZL is concerned that affording full discretion to one entity (QAC) is inappropriate and considers that it would be more prudent for this discretion, if it is to be given, to be granted to the ALC. At both Auckland and Wellington the allocation of funding is determined in consultation with the "Noise" committees.
 - ANZL is also concerned that exercise of this discretion may result in full payments being made to ASANs too early when it is simply unnecessary to do so, and to ASANs that may not end up within the 65 dBA Ldn contour as the demand and noise profile may well shift relative to the INM modelling. (I.e. mitigation may ultimately prove to have been unnecessary for ASANs well outside the current boundary.
- (d) The lack of information in the NOR regarding how the funding offer system will work:
- There is insufficient information regarding the mitigation offer process.
 - For example, it is unclear whether funding for noise mitigation will be offered only once, or on a periodical basis if it is initially refused. It is also unclear, if funding is refused by the current owner of a property, whether a new offer would need to be made to any subsequent owners.

- (e) The offer of part payment (75%) for mechanical ventilation for ASANs that are predicted to be within the 60 dBA Ldn contour for the following year:
- Although QAC has provided an approximate indication of the number of dwellings that exist in the 60 dBA Ldn contour and approximate costings, ANZL considers that given the potential magnitude of costs, clear information regarding cost breakdowns and timing should be made available, including the extent to which this funding will come from airlines and other airport users. Ultimately this is a cost that the wider community will be required to bear, and needs to be justified against the purported benefits.
 - ANZL considers that a 50% contribution is an appropriate contribution for the installation of mechanical ventilation.
- (f) The lack of detail on the elements of the dispute resolution process to be provided for in the Noise Management Plan ("NMP"), which needs to be remedied:
- The draft NMP circulated before the reconvened Council hearing did not provide sufficient clarity in respect of the dispute resolution process. In particular, the NMP stated that an independent mediator will only be appointed where an issue is deemed to be "of significance". There is a lack of guidance in the draft NMP as to what constitutes an issue "of significance" and who is to make this determination.
 - ANZL is also concerned by the discretion afforded to QAC in that it is not bound to follow recommendations that the Mediator makes on an issue in dispute. Rather, QAC only has to consider any recommendation that the Mediator makes and inform the Mediator of its decision in respect of any recommendation within 10 working days. ANZL requires clarification of these issues before it can support the dispute resolution procedure as provided in the draft NMP contained in the Decision.

Relief sought

12. Accordingly, ANZL seeks:
- (a) that the NOR be confirmed in respect of the matters addressed in paragraphs 8 to 10;
 - (b) that the NOR be amended to address ANZL's concerns set out in paragraph 11;
 - (c) such further orders, relief or other consequential or other amendments as considered appropriate and necessary by the Court to address the concerns set out herein; and

(d) costs of and incidental to this appeal.

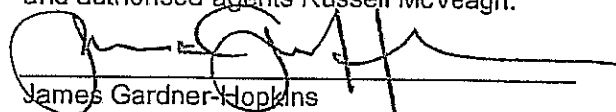
Attachments

13. The following documents are attached to this notice:

- (a) a copy of ANZL's submission;
- (b) a copy of the Decision; and
- (a) a list of names and addresses of persons to be served with a copy of this notice.

AIR NEW ZEALAND LIMITED by its solicitors
and authorised agents Russell McVeagh:

Signature:



James Gardner-Hopkins

Date:

8 February 2011

Address for Service:

C/- James Gardner-Hopkins / James Marriner
Russell McVeagh
Barristers and Solicitors
Level 24
Vodafone on the Quay
157 Lambton Quay
PO Box 10-214/DX SX11189
WELLINGTON

Telephone: (04) 499 9555

Facsimile: (04) 499 9556

TO: The Registrar of the Environment Court at Wellington

AND TO: The Applicant

AND TO: Queenstown Lakes District Council

AND TO: Other persons whose submissions relate to this appeal

Advice to recipients of copy of notice

How to become party to proceedings

1. You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends.
2. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.
3. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to obtain copies of documents relating to appeal

4. The copy of this notice served on you does not attach a copy of the relevant recommendation and/or the relevant decision. These documents may be obtained, on request, from the Appellant.

Advice

5. If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Christchurch.

APPENDIX 1 - ANZL'S SUBMISSION

APPENDIX 2 - QAC DECISION