

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

Decision No. [2018] NZEnvC 75

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under section 120 of the Act
BETWEEN JOHN COSSENS
(ENV-2017-CHC-79)
Appellant
AND QUEENSTOWN LAKES DISTRICT
COUNCIL
Respondent

Court: Environment Judge J R Jackson
Hearing: In Chambers at Christchurch
Date of Decision: 18 May 2018
Date of Issue: 18 May 2018

ADDENDUM TO FIRST PROCEDURAL DECISION

[1] In a measured and tactful response to the court's First and Second Procedural Decisions¹ issued on 15 May 2018 Dr Cossens has, by memorandum of the same date, drawn two errors to my attention.

First Procedural Decision

[2] The error in the First Decision is obvious. At paragraph 12(b) of the strike-out decision the court referred to:

¹ [2018] NZEnvC 70 and [2018] NZEnvC 71 respectively.



(b) refusing the appeal and confirming the appeal;

[3] That is obvious nonsense. Paragraph 12(b) should be deleted and the following inserted:

(b) refusing the appeal and confirming the decision of the hearing Commissioners;

Re section 116 Determination

[4] Dr Cossens writes² of the Second Procedural Decision:

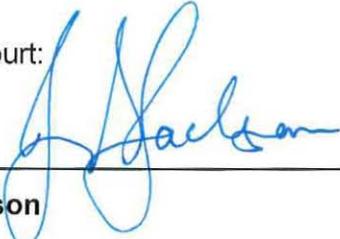
The appellant would like to clarify a comment made in respect of the decision to decline the early commencement order. The court stated at [13]: "One obvious answer is for the applicant to volunteer a restrictive covenant against further subdivision and/or development of lot 3 in favour of neighbours but he has advised the court [he] does not want to do that". In fact, the appellant did volunteer a restrictive covenant against further subdivision if a residential building platform were approved on lot 3 and offered it over all lots. This was in response to a suggestion by the court to the Council to approve a dwelling on lot 3 subject to restrictive covenant³. This suggestion was rejected by the Council.

The other matters in Dr Cossens' paragraph 1.3 go to the merits of his substantive application.

[5] I accept the assertion in the passage quoted above although my statement was in respect of a restrictive covenant over Lot 3 without a residential building platform. I remain unclear over whether Dr Cossens is prepared to accept the latter. If he is, then he should advise the Registrar because his difficulties may be resolved.

[6] I see no need to amend the Second Procedural Decision in light of the 'error'.

For the court:



J R Jackson
Environment Judge



² J Cossens memorandum 15 May 2018 para 1.3.

³ Minute of the Environment Court, ENV-2017-CHC-079, 15 March 2018.