

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

**Decision No. [2023] NZEnvC 238**

IN THE MATTER of the Resource Management Act 1991

AND appeals under s120 of the Act

BETWEEN WATERFALL PARK  
DEVELOPMENTS LIMITED

(ENV-2023-CHC-9)

Appellant

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: 2 November 2023

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**CONSENT ORDER**

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

- (1) the appeal is allowed to the extent that resource consent is granted to the ‘Existing Planting Requiring Consent’ identified on Plan AA in Annexure A subject to the conditions set out in Annexure B, attached



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

- to and forming part of this order; and
- (2) the appeal is otherwise dismissed.

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

## **REASONS**

### **Introduction**

[1] This proceeding involves an appeal by Waterfall Park Developments Limited ('WPDL') against a decision of Queenstown Lakes District Council ('QLDC') refusing the application for resource consent in part for plantings on a property located in the Wakatipu Basin, Queenstown, known as Ayrburn Farm.

[2] On 7 March 2023 WPDL withdrew a part of the appeal concerning plantings along and adjacent to the western boundary of the subject site ('Western Boundary Plantings'). This order concerns the remaining parts of the appeal in relation to plantings adjoining and adjacent to Ayr Avenue ('Ayr Avenue Plantings') and plantings along and adjacent to the southern boundary of the subject site ('Southern Boundary Plantings').

[3] I have read and considered the consent memorandum of the parties dated 13 September 2023 which explains that the parties have engaged in discussions regarding the various categories of planting and have agreed to a set of amended conditions relating to the Ayrburn Avenue Plantings and the Southern Boundary Plantings. The agreement reached resolves the appeal.

### **Other relevant matters**

[4] No other parties gave notice of an intention to become a party to the appeal under s274 of the Act.

[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 parties to the proceeding have executed the memorandum requesting this order;
- (b) all 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**

## **Annexure A**

### **Plan AA**

(The 'Existing Planting Requiring Consent' identified on Plan AA as highlighted in colour and described in the 'KEY')

# AA

**KEY: Areas of existing planting requiring consent**

- Pin Oak (*Quercus palustris*)
- Upright Oak (*Quercus robur fastigata*) and Western Red Cedar (*Thuja plicata*)
- American Sweetgum (*Liquidambar styraciflua*)
- Harvey Maple (*Acer platanoides*)
- Leyland Cypress (*Cupressus leylandii*)
- Portuguese Laurel (*Prunus laurifolia*)
- Red Tustock (*Chionochloa rubra*)

Hotel planting  
RM180584 (underlaid)

Lot 3 planting  
RM200791  
(underlaid)

Frost ponds  
RM230163  
Underlaid

Pond and planting  
RM171280 variation  
& RM210609

Portuguese Laurel hedge maintained below  
3 meters high

Planted Mounds  
RM190857 (underlaid)

Tree Protection Area  
RM171280 (underlaid)

Road planting  
RM171280 (underlaid)

Portuguese Laurel hedge maintained below  
3 meters high  
Portuguese Laurel hedge maintained below  
2.5 meters high

Ayr Avenue

Grass verge (not part of the consent)

## Ayrburn - Existing Planting Requiring Consent with Consented Planting Underlaid

31 July 2023

Ayrburn - Trees to be Retained 010 020

## **Annexure B**

### **Proposed Consent Conditions**

#### **RM220403 CONDITIONS OF CONSENT**

##### General Conditions

4. That the development must be undertaken/carried out in accordance with the plans:

**Ayrburn – Existing Planting Requiring Consent with Consented Planting  
underlaid – Plan AA dated 31 July 2023.**

and the application as submitted.

5. This consent must not be exercised, and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.

6. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.

