



RMLA (QUEENSTOWN/CENTRAL OTAGO BRANCH) NEWSLETTER – MAY 2012

Welcome to the latest newsletter from the Queenstown-Lakes/Central Otago Branch of the Resource Management Law Association.

The local RMLA committee is full swing into the planning of the 2012 annual conference in Queenstown. This is the Association's 20th anniversary. A diverse and stimulating conference programme is on offer the details of which are to be released very soon. The social committee is narrowing down and fine tuning the main events for the Thursday, Friday and Saturday evenings. The venues will be matched to showcase the region's best wine and food. This year we are pleased to offer a new format of workshops including one specifically designed for "Young" RMLA members. The Conference is an event not to be missed, so mark your calendars for 27th – 29th September 2012.

In this quarter's edition, we have a summary of the Environment Court's costs decision in *Kawarau Jet Holdings Limited v QLDC*. We also have an update on recent and upcoming changes to the Queenstown Lakes District Plan.

With thanks. Brett

UPCOMING COURSES & EVENTS

The branch is hosting the Expert Conferencing Roadshow which is to be held at the Copthorne on 18 June 2012. This 3 hour workshop is not to be missed and is being chaired by Dave Serjeant supported by a highly skilled panel of experts namely Acting Principal Environment Judge Newhook, Environment Court Commissioner Ross Dunlop and local panel members Denis Nugent, Jan Caunter, Chris Ferguson and Rebecca Lucas. Following the workshop, time has been set aside for a 1 hour discussion with Judge Newhook in relation to process and case management and the general way the Environment Court is operating.

The National Committee has confirmed that the Ocean's Governance Roadshow is to be offered to all regions and we are currently canvassing local members to see if there is sufficient interest to bring this Roadshow to Queenstown.

KAWARAU JET SERVICES AND ANOTHER V QUEENSTOWN LAKES DISTRICT COUNCIL

Kawarau Jet Services ("Kjet") and a related company Clearwater Pursuits Limited ("Clearwater") had lodged appeals against Queenstown Lakes District Council's (QLDC) decision to grant consent to Queenstown Water Taxis Limited (QWT) to operate commercial jet boats on Lake Wakatipu and the Kawarau River. For practical purposes Kjet was the sole existing jet boat operator on this part of the Kawarau. After a relatively lengthy hearing the Court upheld the QLDC decision. Costs were reserved.

QWT applied for indemnity costs (approximately \$269,000.00) and QLDC sought 75% of its costs (approximately \$178,000.00). Both QWT and QLDC submitted that a significant award of costs was justified due to the manner in which the appellants had conducted their case.

QWT and QLDC asserted that some of the appellants' witnesses lacked impartiality, gave evidence that was sometimes inaccurate, exaggerated and outside their particular areas of expertise. They also maintained that the hearing had been prolonged unnecessarily by the appellants "taking every point".

The Court in its decision concluded that QLDC's approach "was pitched appropriately at the 75% level" and with some minor adjustments awarded costs at that level for both QWT and QLDC. In doing so the Court noted that:

- Many of the "Bielby" factors were strongly present.
- Hearing time was extended in dealing with a host of matters many of which were irrelevant.
- Many of the appellants' witnesses engaged in advocacy and in some cases gave evidence written by others.
- The appellants' case was characterised by evidence that lacked accuracy and credibility.
- Safety concerns were overstated and did not need to be litigated to the extent that they were.

The Court observed that all witnesses should have been adequately briefed about their duties to the Court as experts and should have prepared their evidence accordingly.

Plan Change #	Name	Details
Plan Change 4	North Three Parks (Wanaka)	The proposed plan change and summary of submissions have been notified, further submissions close on 1 June. It is hoped to hold a hearing in June/July 2012.
Plan Change 19	Frankton Flats B	The Environment Court has conducted hearings over a period of 4 weeks from February to May. Closing Submissions are due in the next 2 weeks. The Court has indicated it expects to be in a position to release a decision on Higher Order matters (objectives and policies, and the Structure Plan) by the end of August
Plan Change 26	Wanaka Airport	Under Appeal. Mediation was held on 8 March 2012.
Plan Change 29	Arrowtown Boundary	Environment Court hearing was held in the week of 14 May. Decision reserved.
Plan Change 30	Urban Boundary Framework	Resolved and Court has issued a Consent Order. Council has passed a resolution to notify operative status.
Private Plan Change 34	Remarkables Park Private Plan Change	One appeal has been lodged, by the applicant Remarkables Park Limited. Queenstown Airport Corporation has lodged a section 274 notice.

Plan Change #	Name	Details
Plan Change 36	Wanaka Industrial Zoning Extension	A hearing was held on 31 March 2011. The hearings panel was comprised of Councilors Battson and Cocks. Decision Pending.
Private Plan Change 39	Arrowtown South	The Council rejected the private plan change. Plan Change appeal on hold pending a decision on Plan Change 29.
Private Plan Change 41	Shotover Country	The commissioners recommended that the plan change be approved subject to amendments. Four appeals have been received. QAC and Arith Holdings have withdrawn their appeals.
Plan Change 42	Queenstown Town Centre Noise Management	Still at scoping Stage.

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