

**ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA
ŌTAUTAHU**

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| Under the | RESOURCE MANAGEMENT ACT 1991 |
| In the matter of | the direct referral of applications for resource consents under sections 87D and 87G of the Act for the Shotover Wastewater Treatment Plant |
| By | QUEENSTOWN LAKES DISTRICT COUNCIL |
| | Applicant |

**MEMORANDUM OF COUNSEL FOR QUEENSTOWN LAKES DISTRICT
COUNCIL**

Dated: 18 December 2025

BUDDLE FINDLAY

Barristers and Solicitors
Wellington

Solicitor Acting: **David Allen | Matthew Dicken**
Email: david.allen@buddlefindlay.com | matthew.dicken@buddlefindlay.com
Tel 64 4 462 0423 Fax 64 4 499 4141 PO Box 2694 DX SP20201 Wellington 6011

MAY IT PLEASE THE COURT

1. This memorandum of counsel is filed on behalf of Queenstown Lakes District Council (**QLDC**) in relation to a notice of motion filed under sections 87D and 87G of the RMA seeking that applications for resource consents¹ (the **Applications**) relating to the Shotover Wastewater Treatment Plant (**SWWTP**) be determined by the Environment Court instead of by Otago Regional Council (**ORC**).
2. As outlined in the notice of motion, the Applications are for resource consents² to discharge treated effluent to the Kimi-ākau/Shotover River from the SWWTP via an eSxisting discharge channel and necessary mitigation works.
3. This memorandum accompanies the notice of motion and an affidavit of Simon [REDACTED] Mason in support of the notice of motion, both dated 18 December 2025.
4. The purpose of this memorandum is to inform the Court formally of the direct referral of the Applications and:
 - (a) provide a brief procedural background;
 - (b) make initial comments on indicative timetabling in respect of the direct referral process and ask the Court to make directions regarding a judicial teleconference; and
 - (c) address administrative matters for the Court's consideration.

Background

5. On 22 January 2025 ORC filed and served an application for enforcement orders under section 316 of the RMA. The enforcement orders sought required QLDC to avoid, remedy or mitigate adverse effects on the environment at the SWWTP. By joint memorandum dated 21 January 2025, ORC and QLDC sought to have the matter referred to Environment Court-facilitated mediation to explore resolution of the matter without hearing. Following mediation, and further discussions between the parties,

¹ Application no. RM25.206 (bundled together with application no. RM25.177).

² The consents sought include riverbed disturbance, discharges (of contaminants to air and of sediment) and river diversion, in addition to discharge of treated effluent.

amended enforcement orders were filed with the Court by consent and were subsequently granted by Judge Hassan on 9 June 2025.³

6. One of the orders⁴ required QLDC to, on or before 13 June 2025, do everything reasonably necessary to obtain short-term (for a period expiring on or before 31 December 2030) resource consents for an interim solution for treated wastewater discharges from the WWTP until a long-term solution is implemented and operational under Order 1.19.
7. The discharge of treated effluent to the Shotover River via an existing discharge channel commenced on 31 March 2025 through QLDCs use of emergency powers under section 330 of the RMA. The Applications are therefore sought pursuant to section 330A of the RMA which imposes an obligation to seek resource consent retrospectively for any activity with continuing adverse effects on the environment.
8. On 31 March 2025, the Aotearoa Water Action Group (**AWA**) applied for *ex parte* interim enforcement orders against QLDC in relation to the discharge of treated effluent to the Shotover River via an existing discharge channel. On the same day, Judge Hassan declined the application for enforcement orders.⁵
9. On 10 April 2025, QLDC lodged the resource consent application RM25.177.
10. On 1 May 2025, QLDC lodged the resource consent application RM25.206 and requested that it be publicly notified under section 95A of the RMA.⁶ On 19 May 2025, ORC confirmed the completeness of the application.
11. On 27 June 2025, QLDC sent a letter to ORC requesting that it allow the Applications (RM25.206 and RM25.177 bundled together) to be determined by the Environment Court by way of direct referral. On 11 July 2025, QLDC received a letter from ORC confirming that the request for direct referral was granted.
12. On 19 September 2025, the Applications were publicly notified. Submissions closed on 3 November 2025. A total of 10 submissions were lodged. Of those, eight submitters indicated that they wished to be heard in

³ *Otago Regional Council v Queenstown Lakes District Council* [2025] NZEnvC 178.

⁴ Order 1.13.2.

⁵ *Aotearoa Water Action Incorporated v Queenstown Lakes District Council* [2025] NZEnvC 97.

⁶ At that time two applications (RM25.206 and RM25.177) were being processed. ORC considered that both RM25.177 and RM25.206 should proceed through the resource consent process together. See *ORC Notification Recommendation Report*, dated 16 September 2025, at page 3.

respect of their submissions. One submission was entirely supportive and raised no potential adverse effects. Two submissions were neutral and the remaining seven opposed the Applications. All submissions will be provided to the Court in due course, however if it would assist the Court in its timetabling considerations to have them now, counsel can promptly arrange that.

13. On 2 December 2025, ORC served a section 87F report on QLDC. QLDC subsequently decided to follow the RMA's direct referral process and ask that the Environment Court decide the Applications instead of ORC.
14. At paragraph [9] of the notice of motion, counsel set out the grounds on which QLDC seeks to follow the direct referral process. These grounds include the significant public interest in this matter (which has carried through an enforcement order process and the subsequent use of emergency works powers), the considerable cultural and community values involved and the fact the WWTP is regionally significant infrastructure and a lifeline utility.

Judicial teleconference

15. As the Court is aware, filing the notice of motion commences the proceeding and therefore starts the 15-working day period for any submitters (or others) who wish to formally join the proceedings, to do so pursuant to section 274.⁷
16. QLDC intends to serve those who submitted on the Applications as soon as possible, but at the latest by the close of the working day following the filing of the notice of motion and accompanying documents. The section 274 period will therefore be interrupted by the Court's shutdown period between 20 December 2025 and 10 January 2026.
17. At this stage, to assist the Court and future parties, counsel have prepared an indicative draft timetable (**Appendix A**) that captures:
 - (a) past procedural steps and dates (shown in grey fill); and
 - (b) future (indicative) steps and, where possible, dates and timeframes:

⁷ Sections 87G(4) and 274(2)(c), RMA.

- (i) from filing the notice of motion and accompanying documents up to the close of the section 274 period (and a judicial teleconference immediately following that time); and
 - (ii) from the close of the section 274 period up to a hearing (including mediation, expert witness conferencing and evidence exchange).
- 18. This indicative timetable has not yet been canvassed with ORC (or any submitters) and counsel acknowledge it is too early, at this stage, to predict specific dates for a number of the future steps identified. The purpose of providing an indicative timetable now is so that it can be discussed in more detail at the proposed judicial teleconference and to assist the Court in making its timetabling directions.
- 19. As an initial step, however, QLDC considers it would be appropriate for a judicial teleconference to be set down as soon as possible following the close of the section 274 period.

Administrative matters

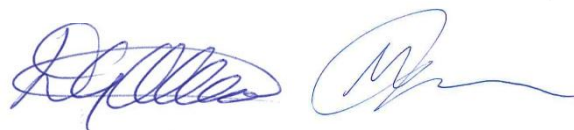
- 20. As identified above, the Application is a requirement of enforcement orders which were the subject of an Environment Court proceeding and ultimately a decision.⁸
- 21. Given the recent Court proceedings relating to the SWWTP, it would be administratively beneficial for the same Court that determined the enforcement proceeding to be appointed for this direct referral proceeding. Subject to the Court's availability, QLDC respectfully request that the Court consider these benefits when selecting the Court for this matter.

⁸ [2025] NZEnvC 178.

Direction sought

22. Counsel respectfully request that the Court make directions for a judicial teleconference to be held at the Court's earliest convenience from one week following the close of the section 274 period.

DATED 18 December 2025

Two handwritten signatures in blue ink, one on the left and one on the right, both appearing to be cursive and stylized.

D G Allen / M J Dicken

Counsel for Queenstown Lakes

District Council

Appendix A: Proposed Indicative Timetable

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|---|---|
| Queenstown Lakes District Council (QLDC) lodge application for resource consent (RM25.177) | 10 April 2025 |
| QLDC lodge application for resource consents (RM25.206) | 1 May 2025 |
| QLDC request for direct referral under section 87D) | 27 June 2025 |
| Formal acceptance by Otago Regional Council (ORC) of application | 19 May 2025 |
| Request for further information | 19 June 2025 |
| Decisions on request for direct referral to the Environment Court | 11 July 2025 |
| Response to further information | 11 August 2025 |
| Public notification of applications | 19 September 2025 |
| Submissions close | 3 November 2025 (35 working days (WD) agreed after public notification. Note: Labour Day 27 October) |
| Preparation section 87F report | 2 December 2025 (21 WD after submissions close) |
| Notice of motion seeking direct referral filed with the Environment Court | 18 December 2025 (12 WD after service of s 87F and 198D reports) |
| Close of interested party (section 274) period | 29 January 2026 (15 WD from service of notice of motion) |
| Judicial teleconference | The Court's earliest convenience from 5 WD following the close of the section 274 period |
| Mediation | Subject to Court directions and availability but request as soon as possible from mid-February 2026 |
| Applicants to file and serve evidence-in-chief | TBC |
| Pre-hearing conference | TBC |
| Expert conferencing <i>Joint witness statements to be produced on day of conferencing / by the end of the conferencing period at latest.</i> | TBC |
| Section 274 parties' to file and serve evidence | 10 WD after end of expert conferencing |
| Councils to file and serve evidence | 10 WD after s274 evidence is filed |

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| Applicants to file and serve reply, if any | 5 WD after Council evidence |
| Hearing | TBC |