

Councillors' powers to direct QAC through the SOI - now acknowledged by both QLDC and QAC lawyers - and your workshop tomorrow

Inbox



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4 Oct
2020,
13:06

to Jim, Calum, John, Craig, Niki, Penny, Quentin, Niamh, Glyn, Heath, Val, Mike
Dear Councillors,

I understand from QAC that you will be meeting with them for a workshop on Monday, during which the statement of intent will be discussed.

Your Queenstown Lakes community looks forward to substantial changes in this from previous iterations, thanks to the changed stance in council's and QAC's legal advice on the "ultimate control" they now acknowledge councillors have over QAC and its statement of intent.

This united understanding was made clear in legal evidence presented by counsels of both bodies to Justice Gerard Van Bohemen in Queenstown District Court during the week-long judicial review hearing in late September, brought by Wanaka Stakeholders Group re the 100-year lease for Wanaka Airport granted by Council to QAC:

Page 24, 3.9 of QLDC evidence from Nick Whittington:

"Here, as between the Council and QAC, the Council plainly is in control of the Airport. The Council owns 75.01% of QAC's shares. As a shareholder with a super-majority, QLDC has ultimate control over QAC. It has ultimate control over the content of the statement of intent, to which QAC's directors must give effect. If Board members do not appropriately give effect to the statement of intent the Council can have the relevant members removed."

Page two, QAC evidence from Chris Curran:

"As a CCTO, QAC is required to comply with its SOI (s60 of the LGA). QLDC retains the power to modify QAC's SOI – and therefore control QAC's actions – as it sees fit....QLDC holds 75.01% of QAC's shares. That super-majority shareholding itself gives QLDC the power to pass special resolutions, unilaterally amend QAC's SOI, control major transactions, and amend QAC's constitution as it sees fit."

These two paragraphs make clear your power to promote the district's four community well-beings (your mandate under the Local Government Act) rather than the pre-Covid demands of international airlines, through your legal right to determine the strategic objectives to be met by the statement of intent that QAC must operate within.

In all community feedback to date - including the MartinJenkins report - our Queenstown Lakes community has made abundantly clear that it does not want Queenstown Airport's air noise boundaries to be expanded, or the multiple ramifications that go with more airport noise. We saw that you had listened to this two years of feedback when you instructed, through your 2020 statement of expectations, that QAC must operate within the existing ANB. The 9 to 2 vote was surely a strong instruction of Councillor intent.

However QAC chose to ignore this in the SOI you adopted earlier this year, instead just delaying expansion plans. This should not happen. It does not meet either the letter or the spirit of the law that rules QAC as your council-controlled trading organisation.

Now that your governance power has been publicly and clearly acknowledged by both council and QAC legal advisers (and therefore, we assume, accepted by both senior management teams), we very much look forward to this clear direction from councillors being included in the October SOI. In the attached Facebook post (and in Crux on Saturday), we have also suggested some other potential strategic objectives you might like to consider, all of which have also been supported by strong community feedback (to the QAC submission process, MartinJenkins economic and social impact assessment and all other public feedback channels in the past two years) and meet the legal requirements of the LGA.

https://protectqueenstown.nz/2020/10/03/council-controls-qac-judge-told-by-qldc-and-qac-so-what-can-we-expect-from-this-months-statement-of-intent/?fbclid=IwAR1gwq0fH0_b8J8YiftrcERgjA2FGGkhKHQqfhlvs0Hf-3_NPRpIYeaoZDM

As always, many thanks for your hard work on our community's behalf. All strength to your now empowered governance arms!

Kind regards

Cath Gilmour, We Love Wakatipu Inc chair



Niki Gladding <niki.gladding@qldc.govt.nz>

4 Oct
2020,
13:29

to Jim, Calum, John, Craig, Penny, Quentin, Niamh, Glyn, Heath, Valerie, Mike, me

Thanks Cath

That was also what I took from the Hearing and at least until the Judgement comes out we need to stick with that position.

It was interesting to hear counsel for QAC Passionately arguing that QLDC also has the power to require QAC not to require us to move Project Pure. If that makes sense - I'm not sure it does ;)

Anyway, I read your facebook post yesterday - thanks for providing some useful objectives to consider at tomorrow's workshop.

I agree that after 2 unacceptable SOI's and the arrival of the MJ Report it's time to make OUR objectives clear and approve a document that's clear and consistent and meets the communities' expectations.

Best

Niki