

## **Queenstown Lakes District Proposed District Plan – Stage 1**

### **Section 42A Hearing Report For Hearing commencing: 2 May 2016**

**Report dated: 6 April 2016**

Report on submissions and further submissions  
**Chapter 23 Gibbston Character Zone**

File Reference: Chp. 23 S42A

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I also have referred to, and relied on the following evidence filed alongside this section 42A report:

Dr Marion Read Landscape Architect – statement dated 6 April 2016.

## 1. EXECUTIVE SUMMARY

- 1.1. The framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) Gibbston Character Zone Chapter 23 should be retained as outlined and supported in the section 32 (s32) report. I consider that the provisions are more effective and efficient than the changes requested by submitters, except where recommended to be accepted, and are more appropriate than the Operative District Plan (**ODP**) and better meet the purpose of the Resource Management Act 1991 (**RMA**). Key reasons include:
- a. The objectives and policies are the most appropriate way to enable viticulture, provide for complementary commercial activities, and manage activities that could be appropriate such as residential or other commercial activities, but that also have the potential to have adverse effects on Gibbston Valley's economic vitality and amenity values.
  - b. The permitted activity rules, for buildings within an approved building platform and for additions to established buildings outside of a building platform, alongside standards controlling colour, the size of any one building and height, are the best way to efficiently manage anticipated development.
  - c. The retention of a discretionary activity rule for residential activity and other buildings that are not otherwise provided for as a controlled activity is considered the most appropriate way to manage development in the Gibbston Character Zone.
  - d. Making frost fighting towers and blades exempt from the farm building height rules is an appropriate way to provide for viticulture infrastructure.
- 1.2. A number of changes are more enabling than the equivalent provision in the ODP. Several changes to the notified version are considered appropriate, and these are shown in the Revised Chapter attached as **Appendix 1 (Revised Chapter)**.

## 2. INTRODUCTION

- 2.1. My name is Craig Alan Barr. I am employed by the Queenstown Lakes District Council (**QLDC**) as a senior planner and I am a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Science and Master of Planning from the University of Otago. I have been employed in planning and development roles in local authorities and private practice since 2006. I have been employed by the QLDC (including former regulatory

provider Lakes Environmental Limited) since 2012, in both district plan administration and policy roles.

- 2.2. I am the principal author of the notified Gibbston Character Zone chapter.

### 3. CODE OF CONDUCT

- 3.1. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. I am authorised to give this evidence on the Council's behalf.

### 4. SCOPE

- 4.1. My evidence addresses the submissions and further submissions received on the Gibbston Character Zone chapter of the PDP, for the benefit of the hearings panel to make recommendations on the Gibbston Character Zone Chapter. I discuss issues raised under broad topics, and where I recommend substantive changes to provisions I assess those changes in terms of s32AA of the RMA. The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, out of scope or deferred to another hearing stream.
- 4.2. Although this evidence is intended to be a stand-alone document and also meet the requirements of s42A of the RMA, a more in-depth understanding can be obtained from reading the s32 report on the Landscape, Rural Zone and Gibbston Character Zone (more particularly on the latter section), and supporting documents referenced within the s32.
- 4.3. Due to the breadth of the PDP and submissions the hearing of submissions is separated into the respective chapters or grouped into themes as much as practical. Submissions associated with rezoning are out of scope of this hearing report and hearing stream. **Appendix 2** indicates whether a submission or further submission has been recommended to be deferred to another hearing stream.
- 4.4. I have read and considered the evidence of Dr Marion Read, Landscape Architect, dated 6 April 2016.

## 5. BACKGROUND - STATUTORY

5.1. The s32 report is attached as **Appendix 3** and provides a detailed overview of the higher order planning documents applicable to the Gibbston Character Zone. In summary, the following documents have been considered in the preparation of this chapter.

- a. **The RMA**, in particular the purpose and principles in Part 2, specifically those that emphasise the requirement to sustainably manage the use, development and protection of the natural and physical resources for current and future generations, taking into account the 'four well beings' (social, economic, cultural and environmental).
- b. **The Local Government Act 2002**, in particular s14, Principles relating to local authorities. The provisions 14(c), (g) and (h) emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a future focussed policy approach, balanced with considering current needs and interests. Like the RMA, the provisions also emphasise the need to take into account social, economic and cultural matters in addition to environmental ones.
- c. **Iwi Management Plans**: When preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Council's must "*take into account*" any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. Two iwi management plans are relevant:
  - *The Cry of the People, Te Tangi a Taurira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008)
  - *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005)
- d. **Operative Otago Regional Policy Statement 1998 (RPS)**: Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "*give effect to*" any operative Regional Policy Statement. The operative RPS is the relevant regional policy statement that the PDP must give effect to. The operative RPS contains a number of objectives and policies of relevance to the Gibbston Character Zone Chapter, specifically Objectives 5.4.1 to 5.4.4 (Land) and related policies which, in broad terms promote the sustainable management of Otago's land resource by:
  - Objective 5.4.1 To promote the sustainable management of Otago's land resources in order:

- (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and
  - (b) To meet the present and reasonably foreseeable needs of Otago's people and communities.
- Objective 5.4.2 To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.
  - Objective 5.4.3 To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.

These objectives and policies highlight the importance of the rural resource both in terms of the productive resources of the rural and Gibbston Character area and the protection of the District's landscapes.

- e. **Proposed Otago Regional Policy Statement 2015 (PRPS):** Section 74(2) of the RMA requires that a district plan prepared by a territorial authority must "have regard to" any proposed Regional Policy Statement. The Proposed RPS was notified for public submissions on 23 May 2015, and contains the following objectives:

- 1.2 *Kāi Tahu values, rights and customary resources are sustained*
- 2.1 *The values of Otago's natural and physical resources are recognised, maintained and enhanced*
- 2.2 *Otago's significant and highly-valued natural resources are identified, and protected or enhanced*
- 3.1 *Protection, use and development of natural and physical resources recognises environmental constraints*
- 3.4 *Good quality infrastructure and services meet community needs*
- 3.5 *Infrastructure of national and regional significance is managed in a sustainable way.*
- 3.6 *Energy Supplies to Otago's communities are secure and sustainable*
- 4.4 *Otago's communities can make the most of the natural and built resources available for use*

- f. **Council's Economic Development Strategy 2015:** The Council's Economic Development Strategy 2015 states:

*'The outstanding scenery makes the District a highly sought after location as a place to live and visit.'*<sup>1</sup> And, *'The environment is revered nationally and*

<sup>1</sup> QLDC Economic Development Strategy, 2015, Page 10 paragraph 5

*internationally and is considered by residents as the area's single biggest asset.*<sup>2</sup>

- 5.2. The Queenstown Lakes District is one of the fastest growing areas in New Zealand<sup>3</sup> and a strategic policy approach is considered essential to manage future growth pressures in a logical and coordinated manner to promote the sustainable management of the valued landscape resource.

## **6. BACKGROUND – OVERVIEW OF THE ISSUES**

- 6.1. The purpose of the Gibbston Character Zone is to provide primarily for viticulture and commercial activities with an affiliation to viticulture within the confined space of the Gibbston Valley.
- 6.2. The zone is recognised as having a distinctive character and sense of place. The soils and microclimate within this area and the availability of water have enabled development for viticulture to the extent that this is an acclaimed wine producing area.
- 6.3. The zone has also experienced residential subdivision and development. This creates the potential to degrade the distinctive character of the zone and create conflict with established and anticipated intensive viticulture activities.
- 6.4. The ODP provisions provide concessions for activities with an affiliation to viticulture and the landscape categories do not apply, notwithstanding the location of the zone in what is otherwise part of an Outstanding Natural Landscape. Recent residential subdivision and development in the eastern part of the zone has diminished the soil resource for viticulture activities.
- 6.5. The on-going vitality of viticulture activities in the zone is an important resource management issue. The s32 report confirms that no significant issues were identified with this zone, however it did identify that effectiveness and efficiency of the ODP provisions can be improved in some areas, such as where the construction of buildings within an approved platform could be introduced as a permitted activity (similar to the Rural Zone).
- 6.6. The fundamental components of the ODP framework and management regime has been retained, although changes have been made to the structure, objectives and provisions:

<sup>2</sup> QLDC Economic Development Strategy, 2015, Page 10 paragraph 4.

<sup>3</sup> Bird, C (2016). Statement of Evidence of Clinton Arthur Bird on Behalf of Queenstown Lakes District Council, Urban Design. Page 6 paragraph 4.2

- a. The structure has been modified like the majority of the PDP chapters so that the respective activities are set out in Table 1 (ie, Rules 23.4.1 – 23.4.20) followed by Tables 2 and 3 that set out performance standards for buildings and commercial activities.
- b. The existing suite of objectives and policies were considered for the most part appropriate, and have been retained in a similar structure to provide for viticulture and related commercial and tourism activities.
- c. Similar to the proposed Rural Zone (Chapter 21), a building would be permitted within an approved building platform (currently controlled activity status in the ODP), and there is the ability for alterations to existing buildings not located within a building platform (currently discretionary activity status in the ODP).
- d. Retaining the overall structure of the ODP landscape assessment criteria for the Gibbston Character Zone (Part 23.7) but refining these to reduce repetition. The assessment criteria have been refined to assist with investigation and whether a proposal is acceptable in terms of landscape character, visual amenity, the design, and density of the proposal.
- e. Providing for the construction and use of winery buildings by making them a controlled activity up to 500m<sup>2</sup> (Rule 23.4.16 makes winery buildings a controlled activity and Rule 23.5.2 makes building over 500m<sup>2</sup> a restricted discretionary activity). Under the ODP it is a restricted discretionary activity for the construction of any winery building.
- f. Industrial activities associated with wineries and underground cellars will be a permitted activity up to 300m<sup>2</sup> (Rule 23.4.13). Under the ODP a controlled activity resource consent is required for this activity.

## 7. ANALYSIS OF SUBMISSIONS

- 7.1. 35 points of submission and 35 further submissions were categorised on the Gibbston Character Zone Chapter (noting that some of the submission points are on rezoning and not on a specific part of the Gibbston Character Zone chapter). In total, 70 submission points are categorised including the further submissions. A number of the further submissions either generally oppose or support a submission, and do not actually appear to be on the Gibbston Character Zone. However, for the avoidance of doubt I have considered the further submissions and recommended in the Table in **Appendix 2** whether they should be accepted, accepted in part, or rejected.

- 7.2. The RMA, as amended in December 2013 no longer requires a report prepared under s42A or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions. Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.
- 7.3. Because of the relatively low number of submissions on the Gibbston Character Zone chapter, the analysis of submissions is set out by the specific part of the Chapter submitted on. Where efficient, a particular submission is singled out.

#### **The Station at Waitiri (330)**

- 7.4. The Station at Waitiri support the entire chapter as notified and in particular supports the following provisions:
- a. Rule 23.4.8 that makes it a permitted activity to construct buildings within an approved building platform;
  - b. Rule 23.4.15 that makes commercial recreation activities permitted;
  - c. Rule 23.4.16 that provides for the construction of winery and farm buildings as a controlled activity; and
  - d. Rule 23.4.20 that makes non-commercial recreation and recreational activity a permitted activity.
- 7.5. I have accepted this relief in part, as the abovementioned rules remain as notified, with the exception of Rule 23.4.16 as discussed in more detail below.

#### **New Zealand Transport Agency (NZTA) (719)**

- 7.6. NZTA have submitted in support of a number of provisions that require resource consent for activities that could affect the operation of State Highway 6. NZTA seek two changes discussed below.
- 7.7. Rule 23.5.6 requires a minimum setback of buildings from roads of 20m, except that the minimum setback of any building from State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.
- 7.8. The 40m setback from State Highways where the speed limit was 70km/hr or greater was included in the PDP following consultation feedback from the NZTA in January 2015.
- 7.9. In their submission NZTA have requested that an additional standard is included to require that dwellings within 80 metres of the seal edge also comply with minimum noise levels.



- 7.10. The permitted development rights in the Gibbston Character Zone are limited to farming. Industrial activities ancillary to viticulture, wineries and farm buildings are all controlled. I do not consider any of these land uses to be sensitive to noise or vibration, in terms of the land uses set out in the NZTA's guidance on reverse sensitivity<sup>4</sup>.
- 7.11. The majority of resource consents for residential activity in the Gibbston Character Zone are notified, or at the minimum where the site adjoins or has access to a State Highway, NZTA would be able to make a submission, particularly if the road is declared a Limited Access Road (**LAR**) under the Government Roading Powers Act 1989.
- 7.12. I consider specific activity standards such as those identified by the NZTA would be better implemented through the resource consent process, by way of condition. In addition, the specific parameters associated with achieving noise attenuation within the requested standard could change, and if included in the rule would not be able to be updated without a variation or plan change. For these reasons, I recommend that NZTA's submission is rejected and the rule is retained as notified.
- 7.13. Provision 23.6.2 specifies that controlled activity winery and farm buildings shall be processed without public or limited notification. NZTA oppose this on the basis that they should have involvement with applications that can affect the operation of State Highway 6. I accept this and also refer to Provision 21.6.1 (Rural Zone) and the above provision 23.6.1 that sets out these activities are non-notified, except where the access is onto a State highway. I recommend Provision 23.6.2 amended to exclude non-notification where the access is onto a State Highway.

#### **New Zealand Fire Service (NZFS) (438)**

- 7.14. NZFS requests that standards are inserted that require compliance with the NZFS Code of Practice SNZ PAS 4509:2003<sup>5</sup> (**COP**) in relation to water supply and access in non-reticulated areas.
- 7.15. In principle, I support the management of this issue because it is important, particularly because of the seasonal fire hazard in Queenstown Lakes and Central Otago areas. However, for the following reasons I am reluctant to accept the request to include this standard in the PDP. The reasons are:

<sup>4</sup> Guide to the management of reverse sensitivity effects on the State Highway network. Document Number SP/M/023 September 2015. The Table at Page 20 identifies the land uses within buildings that are noise sensitive.

<sup>5</sup> Note that the Standards referenced in the submission, and those used by the QLDC for assessing subdivision and development is: SNZ PAS 4509: 2008.

- a. The rule would have to rely on the relevant Standards New Zealand COP and this would mean directing people to provisions outside the plan for permitted activity status;
  - b. The rule/permitted activity status would be entirely reliant on the whole COP. There are components of the COP that provide the ability to apply more discretion than I consider is sufficiently certain to be a permitted activity standard;
  - c. Referencing the standard would mean the council need to undertake a plan change if/when the standard is updated. If not, council are obliged to administer the old standard and this matter has caused problems with the administration of the ODP (e.g. having to rely on a superseded noise standard in terms of administering the rule but in terms of assessment the more recent standard is preferred. The administration of resource consents for helicopter landings and departures being one example);
  - d. The QLDC and NZFS have a memorandum of understanding (**MOU**) that sets out the requirements for firefighting provisions in non-reticulated areas. The MOU requires 20,000 litres of water for a firefighting reserve, whilst the COP requires 45,000 litres. The MOU conflicts with the COP and this further reinforces why it is not appropriate to broadly apply the COP as a rule. A copy of the MOU is attached at **Appendix 6**.
- 7.16. The Council has a longstanding practice of assessing and imposing conditions on this matter when subdivision and development is approved in the Gibbston Character Zone. There are unlikely to be any consented but unbuilt developments that do not have conditions, usually registered on a property's computer freehold register that do not require suitable access for fire appliances, a fire fighting reserve, and connection (if applicable), and the suitable distance to and from the buildings.
- 7.17. Because there are not any permitted development rights for habitable buildings in the Gibbston Character Zone I do not consider this standard is necessary because the QLDC will have discretion via the resource consent process to assess this matter and not be constrained by any provisions that are unwieldy to administer or be compelled to adhere to a COP that is not current. For these reasons I recommend that the submission by the NZFS is rejected.

### **Zone Purpose 23.1**

- 7.18. Two submissions were received on the Zone Purpose. Submitter 238 (NZIA and Architecture + Women Southern (**NZIA**)) supports the zone purpose. There are 8 further submissions<sup>6</sup>

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<sup>6</sup> Refer to Appendix 2 for these submitters.

opposing NZIA's submission generally, however as stated in paragraph 7.1 above I do not consider these to be specifically on the Gibbston Character Zone.

- 7.19. Submitter 805 (Transpower) seeks that reference is made to the presence of infrastructure within the Gibbston Character Zone and that it is important that infrastructure is enabled to be operated, maintained, upgraded or development safely, effectively and efficiently. I acknowledge this point, but do not support its inclusion for the reason that the purpose statement does not need to identify every resource or issue that could occur within the zone or could seek to locate within the zone. The Purpose of the Gibbston Character Zone is not to supply infrastructure. The infrastructure is instead located within and passes through it. Infrastructure is acknowledged and managed by District Wide Chapter 30, and if the operator is a requiring authority, through the designation process. I recommend Transpower's submission is rejected.
- 7.20. Overall, I recommend the purpose statement is retained as notified.

#### **Objective 23.2.1 and policies**

- 7.21. Objective 23.2.1 is:

*Protect the economic viability, character and landscape values of the Gibbston Character Zone by enabling viticulture activities and controlling adverse effects resulting from inappropriate activities locating in the Zone.*

- 7.22. Transpower seek that 'regionally significant infrastructure' is added to the objective. The objective sets out that viticulture is a key land use of the Zone. I consider that elevating regionally significant infrastructure is out of context with the intent of the objective. For the same reasons set out in the recommendation on Transpower's submission on the Purpose Statement above, the purpose of the zone is not to enable infrastructure, infrastructure passes through it and there are other PDP provisions that manage this resource.
- 7.23. Submitter 377 (Mt Rosa Wines) seeks that in addition to enabling viticulture, other activities that rely on the rural resource should be added into the objective. I acknowledge that other activities that benefit from viticulture and the location of the Gibbston Character Zone is an important part of the attraction and viability of the zone. However, enabling 'other activities' in the objective is not appropriate because other activities could undermine viticulture and ancillary activities.
- 7.24. I accept Mt Rosa's submission to the extent that the objective should acknowledge other activities, however I do not support the submission as framed. Instead I recommend the

following modifications to the objective, and I also recommend objective 23.2.1 is modified so that it is framed to be more of an outcome based statement:

~~Protect~~ *The economic viability, character and landscape values of the Gibbston Character Zone are protected by enabling viticulture activities and controlling the adverse effects resulting from ~~inappropriate~~ other activities locating in the Zone.*

- 7.25. The word inappropriate is deleted and replaced with other, therefore directly acknowledging in the objective that other activities are contemplated in this zone, on the basis their adverse effects are controlled.
- 7.26. Mt Rosa also request that Policy 23.2.1.1 is amended so that 'other activities that rely on rural resources' are included. Again I do not support a wide sweeping statement such as 'other activities that rely on the rural resource' being 'enabled' in the policy. This could also conflict with the other objectives and policies that focus on productive activities, and Mt Rosa have not reconciled this matter. I consider that this matter is provided for in Policies 23.2.1.2, 23.2.1.3, 23.2.1.4, 23.2.1.5 and 23.2.1.8 by ensuring the effects of activities are appropriately managed.
- 7.27. On this basis I recommend that Mt Rosa's submission is rejected and Policy 23.2.1.1 is retained as notified.
- 7.28. Transpower (submitter 805) seek that Policy 23.2.1.7 is amended as follows (underline requested text):

*Avoid the location of structures and water tanks on skylines, ridges, hills and prominent slopes, to the extent practicable recognising their locational, technical and functional constraints.*

- 7.29. I do not support the requested addition because I consider that a very important part of managing the landscape within the Gibbston Character Zone, and the wider Rural Zoned area is through a strong policy direction associated with the avoidance of structures in prominent locations. Furthermore, I do not support the entire submission because Transpower have provided no certainty as to the meaning and breadth of the component of the policy that seems to exempt structures 'where it is not practicable'.
- 7.30. I do accept that the policy is phrased so that it is absolute in that structures are avoided, and that this would be likely to render development with locational constraints to not accord with the policy. I consider that the policy should be more accommodating of infrastructure that is

important to the District and passes through Gibbston Valley (as well as serving it) such as the National Grid. I therefore recommend policy 23.2.1.7 is amended as follows:

*Avoid, remedy or mitigate ~~the location of~~ locating structures and water tanks on skylines, ridges, hills and prominent slopes, while having regard to the location constraints, technical or operational requirements of regionally significant infrastructure.*

- 7.31. The first part of the policy is rephrased for clarity, and to ensure that the option is available for development to remedy or mitigate, and the second part of the policy accommodates activities with legitimate location constraints. I consider the recommended revised policy better accords with the facilitation of infrastructure and higher order planning documents that district plans must give effect to, in this case the National Policy Statement on Electricity Transmission 2008.
- 7.32. I recommend that Transpower's submission is accepted in part, and the policy is modified as recommended above.
- 7.33. Related to the requested amendments by Mt Rosa, I also consider that other activities that rely on the rural resource are provided for in Policy 23.2.1.8, which is:

*Recognise that the establishment of complementary activities such as commercial recreation or visitor accommodation may be complementary to the character and viability of the Gibbston Character Zone, providing they do not impinge on rural productive activities.*

- 7.34. Mt Rosa also seek that the words '*and rural residential development*' are added to the list of activities in Policy 23.2.1.8. The policy is targeted at the benefits that complementary commercial activities can bring and I do not support the addition of a land use that is not commercial in nature. Adding this request into the policy could also result in the policy conflicting with Policies 21.2.1.2 and 23.2.1.3, which emphasise the importance of the use of land for rural productive activities ancillary industrial and complementary commercial activities. I recommend the submission point of Mt Rosa is rejected and Policy 23.2.1.8 is retained as notified.

## 8. ANALYSIS OF SUBMISSIONS - RULES

### Rule 23.4.6

- 8.1. Rule 23.4.6 permits the exterior alteration of any lawfully established building located outside of a building, subject to compliance with the standards in Table 2. The critical rule is Rule 23.5.1.3 that permits the extension of buildings by not more than 30% in a ten year period.
- 8.2. Rule 23.4.6 allows the opportunity for extensions to existing buildings, up to a relatively conservative size relative to the area of the building. NZIA submit that this activity should be discretionary to incentivise working within approved building platforms, and that the effects of building platforms have been thoroughly addressed at the time of assessment as a discretionary activity and any work outside a building platform should be assessed with the same rigour. Mt Rosa opposes this in their further submission (FS 1155.2).
- 8.3. The rule is intended to apply to buildings lawfully established before the consenting regime introduced by the ODP circa 2002, or for buildings that have obtained resource consent but did not identify a building platform.<sup>7</sup> The rule is applicable to existing buildings. In the event a building is proposed where there is no building platform, or where it is sought to locate part of or an entire building outside of a platform, a discretionary resource consent would be required pursuant to Rule 23.4.10.
- 8.4. I also note that where a building platform has been registered on the computer freehold register of a site, a discretionary resource consent pursuant to s221 of the RMA would be required if any conditions on the consent notice are contravened and it is necessary to vary the consent notice.
- 8.5. I consider that the intent of NZIA's submission is already met through Rule 23.4.10. In the event NZIA oppose the ability for permitted building extensions in the circumstances that qualify under Rule 23.4.6, I consider that the ability to extend up to 30% in a ten year period is reasonable and would reduce the requirement for resource consents for relatively small scale additions to existing buildings. I consider the rule is appropriate and recommend that the submission is rejected.

### Rule 23.4.14

- 8.6. Rule 23.4.14 provides for retail sales of garden and farm produce, handicrafts and wine that is grown or reared on site, that comply with standards in Table 3 as a controlled activity. NZIA

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<sup>7</sup> Identifying a building platform is the convention, but is not mandatory.

request that these activities are permitted so as to encourage locally grown and made goods for a sustainable future.

- 8.7. I consider that the controlled activity status achieves an appropriate balance between providing certainty that the activity can occur, and to ensure that the activity is undertaken in a manner that mitigates or remedies adverse effects. The matters of control in Rule 23.4.14 include access, vehicle crossing location and car parking and lighting. These activities need to be managed to ensure road safety is not compromised, particularly as many properties in the Gibbston Character Zone have their primary access onto State Highway 6, and I note that the NZTA have submitted in support of this rule.
- 8.8. On the basis of the above I recommend the rule is retained as notified, that the submission of NZIA is rejected and the submission of the NZTA is accepted.

#### **Rule 23.4.17**

- 8.9. Submitter 490 (Gibbston Valley Wines Ltd) seek that there is the ability to apply for and obtain resource consent as a controlled activity for car parking, independent of the other rules or standards for commercial or winery activities. The submission is supported by Mt Rosa Wines Ltd (FS 1155.3).
- 8.10. I support the relief sought, however I consider that the relief sought can be included in Rule 23.4.16 for winery and farm buildings. A recommended revised rule is suggested below:

*Winery and farm Buildings.*

*The construction, addition or alteration of a farm or winery building, including extensions to activities, with control reserved to:*

- *Location, scale, height and external appearance, as it effects the Gibbston Valley's landscape and amenity values.*
- *Landscaping.*
- *Parking and access, in respect of earthworks and the impact on the safety and efficiency of State Highway 6.*
- *The location, scale and functional need of car parking.*
- *Associated earthworks.*
- *Provision of water supply, sewage treatment and disposal.*

- Lighting, including car parking areas.
- Screening and location of storage areas for waste materials, outdoor display and signage areas ~~and parking.~~

### Rule 23.5.1

8.11. Rule 23.5.1 sets out the permitted range of colours for buildings, NZIA support the rule but seek that the area identified for buildings that qualify is changed from 5m<sup>2</sup> (being the area that qualifies as a building under the PDP definition), to 10m<sup>2</sup> in order to be consistent with the Building Act. I consider that a building of 2m height and 10m<sup>2</sup> could have the potential for adverse effects if it was not subject to the standard, and would therefore be able to be located anywhere and finished in any colour. This could have an impact on landscape values, as recognised by Dr Read's evidence at section 5. I maintain that 5m<sup>2</sup> is an appropriate size and is consistent with the definition of Building in the PDP. I recommend this submission is rejected.

### Rule 23.5.3

8.12. Rule 23.5.4 restricts the height of any farming building to 10 metres. Submitter 12 (Werner Murray) has made the following submission with respect to frost fighting fans.

*Most effective wind machines are between 10.3 and 10.6 metres in height (excluding blades) and around 13 metres in height (including the blades). This means that all wind machines will be subject to a non-complying resource consent application. This puts a unnecessary burden on viticultural activities in a zone with a primary purpose where viticultural activities are encouraged.*

8.13. It also appears that Mr Murray does not consider the standards relating to the colour of buildings to be reasonable to be applied to the blades of the fans because advances in design mean that carbon fibre is used, which Mr Murray states cannot be painted. He also states that for safety reasons the tips of the blades are painted so they can be seen when in operation.

8.14. Frost fighting fans would be considered a building because they are a structure (and therefore are considered a building in terms of the PDP definition of Building) and are taller than 2 metres in height<sup>8</sup>. I agree with Mr Murray that towers and blades should not be subjected to the height rules, but not because they are an anticipated feature of farming/viticulture, as suggested by Mr Murray. I consider that all types of farm buildings are anticipated in that they are a controlled activity and a height standard is appropriate to manage effects on landscape

<sup>8</sup> Refer to the PDP definition of Building.



and rural amenity. Frost fighting fans are relatively small cylindrical structures and have a minimal impact on landscape and rural amenity. I also rely on Dr Read's evidence where her view is that these structures do not need to comply with the 10 metres height limit for farm buildings.

- 8.15. In terms of translating the relief sought into drafting of the PDP, I have considered two options that I consider are within scope. The first is to exclude frost fighting fans from the definition of Building, but this could be problematic because frost fighting fans are then not subject to the rules for colour, and I do not consider it onerous to finish the fans in a recessive colour. I am not concerned with the finish of the blades themselves because they are small.
- 8.16. The other option, which I prefer and appears suggested by Mr Murray is to exclude frost fighting fans, namely the towers and blades from the height rule. This way, the tower is still a building and is subject to the colour requirements. Consequentially, exemptions are also required with respect to Rule 23.4.16 that requires a controlled activity resource consent for the construction and alteration of winery and farm buildings. I suggest the words "*The construction, addition or alteration of a farm or winery building, including extensions to activities, with control reserved to.*".
- 8.17. Mr Murray suggests that because of the relaxation of the height rule for the benefit of frost fighting fans, the road boundary setbacks, in particular that from Gibbston Valley Highway (SH6) could be appropriate (this is another reason why I prefer not to exclude Frost Fighting Fans from the definition of Building as the setback would not apply). I consider that Rule 23.5.6 that requires a setback of 40 meters from roads with a posted speed limit greater than 70 km/hr is appropriate and achieves the relief sought by Mr Murray. SH6 has an open road speed limit (100 km/hr) through the Gibbston Valley.
- 8.18. Therefore, I recommend the following amendments to Rule 23.5.4 (Height) and a consequential amendment to Rule 23.5.1 to exempt the blades of frost fighting devices.

### ***Building Height***

*The maximum height of any farming or winery building shall be 10m, except this standard shall not apply to frost fighting towers and blades.*

## **9. CONCLUSION**

- 9.1. On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in **Appendix 1** are accepted.

- 9.2. The changes will improve the clarity and administration of the Plan; contribute towards achieving the objectives of the Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.



Craig Barr  
Senior Planner  
6 April 2015

## Appendix 1. Recommended Revised Chapter

## Appendix 2. List of Submitters and Recommended Decisions

## Appendix 3. Section 32 Report

**Appendix 4. Section 32AA evaluation of the recommended changes.**

## **Appendix 5. QLDC and New Zealand Fire Service Memorandum of Understanding.**