

**BEFORE THE QUEENSTOWN LAKES
DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991 (the "Act")

AND

IN THE MATTER of the Queenstown Lakes District Proposed District Plan
Hearing Stream 02

AND

IN THE MATTER of Chapter 21 and Chapter 22 provisions relating to
provision for rural living opportunities in the Wakatipu
Basin

**PRESENTATION SUMMARY of LEGAL SUBMISSIONS
on behalf of the Submitters listed below
27 May 2016**

Submitters: Ayrburn Farm Estate Limited – 430;
Mt Cardrona Station Limited - 407

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MAY IT PLEASE THE PANEL:*Rural Living in the Wakatipu Basin*

- 1 Our detailed Legal Submissions dated 20 May 2016, and Presentation Summary dated 26 May 2016 and presented yesterday, are adopted in full in relation to the planning evidence to be presented by Jeff Brown today. As previously advised, Jeff Brown is presenting planning evidence on behalf of Ayrburn Farm Estate Limited (Submitter 430). Ayrburn is one of the group of submitters interested in rural living in the Wakatipu Basin. Jeff Brown will present proposed amendments which are similar in content, although different in detail, to equivalent amendments proposed by Mr Farrell yesterday. This will enable the Panel to consider different options to achieve similar outcomes.
- 2 Since preparing and lodging his evidence, Jeff Brown has given further consideration to his recommended amendments to the Chapter 21 objectives, policies and assessment matters with specific reference to the Wakatipu Basin. On reflection he does not consider that his proposed amendments quite captured what he intended. In his Summary to be presented today, Jeff Brown will propose a slightly amended wording of one policy plus one additional RLC assessment matter.

Ski Area Subzones

- 3 I have previously expressed concerns to the Panel about the current hearing process involving differently constituted Hearing Panels. The submission lodged on behalf of Mt Cardrona Station Limited ("**Mt Cardrona Submission**") is a good practical example of those concerns.
- 4 Mt Cardrona Station Limited owns all of the land contained within the Mount Cardrona Station Special Zone ("**MCSSZ**") located in the Cardrona Valley, at the foot of Mt Cardrona, beside the entrance off the state highway to the Mt Cardrona Skifield access road. The MCSSZ is not included in Stage 1 of the Proposed District Plan ("**PDP**"). The Mt Cardrona Submission relates entirely to future gondola access from the MCSSZ up to the Cardrona Skifield.

- 5 The Mt Cardrona Submission addresses the following issues:
- (a) Consenting a gondola within a Ski Area Subzone raises some debatable interpretation issues around whether a gondola falls within the definition of 'Ski Area Activity';
 - (b) The MCSSZ specifically contemplates gondola access from the MCSSZ up to the Cardrona Skifield, and consequently in the MCSSZ a gondola base station is a discretionary activity
 - (c) However there is a physical gap between the (lower) MCSSZ and the (higher) Cardrona Ski Area Subzone which is zoned Rural and where a gondola is a non-complying activity;
 - (d) As a result of the above combination of provisions, consenting a gondola intended to extend from the MCSSZ up to Cardrona Skifield raises complex and unnecessary consent hurdles.
- 6 Referring to **attached** Plan A, the Mt Cardrona Submission seeks to resolve these issues by clarifying definitions relating to a gondola and by extending the Cardrona Ski Area Subzone by a link down to the MCSSZ. By way of alternative relief (if that link is not approved) the Mt Cardrona Submission seeks amended provisions to apply to any part of a gondola located in the Rural zone between the MCSSZ and the Cardrona Ski Area Subzone.
- 7 In order to achieve the outcomes requested in the Mt Cardrona Submission:
- (a) Submissions and evidence were presented during Hearing Stream 01 seeking amendments to specific higher order objectives and policies;
 - (b) Submissions and evidence are being presented at this Hearing Stream 02 seeking amendments to the Chapter 21 objectives and policies and rules;
 - (c) Submissions and evidence will be presented during the relevant rezoning hearing early next year.
- 8 It follows from the above that the 'case' advanced by the Mt Cardrona Submission will be presented in three separate hearings. The bulk of the relevant factual evidence will be presented during the third rezoning hearing because, from Mt Cardrona Station Limited's point of view, this

is a site specific solution. Therefore most of the evidence relevant to those aspects of Hearing Stream 01 and Hearing Stream 02 which are relevant to the Mt Cardrona Submission will not be presented until next year.

9 Counsel notes that:

(a) In the Second Procedural Minute dated 5 February 2015 the Panel stated, at paragraph 15:

"15. Where submitters consider the Hearing Panel would be better served by hearing submissions related to geographically separate pieces of land that have a similar theme or topic, such as ski areas, by a Panel constituted of the same members, those submitters are requested to make their suggestions in writing to the Panel through Ms Chalmers."

(b) By letter to Council dated 17 February 2016, in response to that Minute, Mt Cardrona Station Limited noted that there were a number of submitters seeking changes in respect of the Ski Area Subzones and requested that a separate Hearing Notice be issued for Ski Area Subzones so that issues relating to Ski Area Subzones could be heard together and at one time;

(c) No response was received to that letter dated 17 February 2016.

10 The primary point of all of the above is to record that the majority of the evidentiary case for Mt Cardrona Station Limited, relevant to Hearings Stream 01, Hearing Stream 02 and the later rezoning hearing, will be presented next year. Counsel assumes that the relevant Chapter 3, Chapter 6 and Chapter 21 provisions will remain 'fluid' until such time as the full case has been presented, and that all Commissioners making relevant recommendations to the Council will be familiar with all submissions and evidence presented at the three hearings.

11 As recorded in Mr Brown's evidence, a number of issues raised in the Mt Cardrona Submission have been accepted by Council staff. The s42A Report proposes amendments to the notified provisions which adequately address those issues. The outstanding issues which Mr Brown will address in his Summary are limited, and relate to:

- (a) The new definition of 'Passenger Lift Systems' is intended to encompass and enable gondola developments. Any gondola development includes ancillary buildings, where passengers embark and disembark, to provide essential ancillary services such as ticketing, shelter from the elements, and toilets. To avoid any debate about whether the definition encompasses such essential ancillary buildings, such buildings should be specifically included in either the definition of 'Passenger Lift System' or in the definition of 'Ski Area Activity'.
- (b) The s42A Report proposes to exempt 'Passenger Lift Systems' from some standards in the Rural zone but not from others. The exemption from the Standards in Table 3 of Rule 21.5 needs to be complete, otherwise it is pointless, particularly in relation to height (because no gondola proposal will comply with the standard Rural zone 8m height limit). There is no downside to a complete exemption in Table 3 because the standards in Rule 21.5 Table 7 specifically address Passenger Lift Systems.
- (c) The s42A Report correctly proposes a separate activity category for Passenger Lift Systems located in a Rural zone outside a Ski Area Subzone, but does not provide a default consent status for that category activity. Mr Brown recommends that the appropriate consent status is 'restricted discretionary' on the basis that the consent path should be relatively easy (to enable Passenger Lift Systems) but the Council should have the power to refuse consent to a Passenger Lift System which, for example, is located in a particularly inappropriate location.

27 May 2016



W P Goldsmith/R E Hill

Counsel for the Submitters listed in paragraph 1.1

	<ul style="list-style-type: none"> • Whether the materials and colour to be used are consistent with the rural landscape of which the ski tow or lift or building structure will form a part. • Balancing environmental considerations with operational characteristics. 	
...	...	

(b) The reason for the submission is: The heading in the second column of Table 7 introduces “standards” for ski area activities within the Ski Area Sub Zone, but the clauses in that column are assessment matters, not standards against which activities can be measured or assessed. Actual standards need to be introduced. The wording of the standards inserted above is adapted from the equivalent rule for all buildings, in Table 3 (Rule 21.5.15).

2.8 Planning Maps

2.8.1 Planning maps 10 and 24

(a) MCS seeks the extension of the Ski Area Sub Zone as marked on Planning Maps 10 and 24, subject to as shown on **Figure 1** and **Figure 2** below.

