

**BEFORE THE HEARINGS PANEL  
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of Hearing Stream 2 –  
Rural, Rural Residential  
and Rural Lifestyle,  
Gibbston Character  
Zone, Indigenous  
Vegetation and  
Biodiversity, and  
Wilding Exotic Trees

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**REPLY OF CRAIG ALAN BARR  
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**CHAPTER 23 GIBBSTON CHARACTER ZONE**

**3 June 2016**

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## 1. INTRODUCTION

- 1.1 My name is Craig Barr. I prepared the s42A report for the Gibbston Character Zone Chapter of the Proposed District Plan (**PDP**). My qualifications and experience are listed in that s42A report dated 7 April 2016.
- 1.2 I have reviewed the evidence and submissions filed by other expert witnesses and submitters both in advance of and during the Rural hearing, and attended the hearing except on 25 May 2016 where I was provided with a report of the information from submitters and counsel presented on that day.
- 1.3 This reply evidence covers the following issues:
- (a) Objectives and policies;
  - (b) Colour and material standards for buildings;
  - (c) New Zealand Transport Agency (**NZTA**);
  - (d) Fire fighting provisions;
  - (e) Height exemptions for frost fighting fans; and
  - (f) Constructing buildings associated with Residential Flats' Rule 23.4.11.
- 1.4 Where I am recommending changes to the provisions as a consequence of submitter evidence and the hearing of evidence and submissions before the Panel, I have included these changes in **Appendix 1 (Revised Chapter)**. I have attached a s32AA evaluation in **Appendix 2**.

## 2. OBJECTIVES AND POLICIES

- 2.1 Mr Brown for Queenstown Park Limited (806) and others<sup>1</sup> seek modifications to Objective 23.2.1 to acknowledge 'other activities' that rely on the rural resource. I accept the majority of these suggestions as they provide added direction and certainty without being too liberal in terms of the range or unconditional acceptance of 'other activities'. I accept that a range of other

1 Trojan Helmet Limited (Submissions 443, 452, 437), Mount Cardrona Station Limited (407), Hogan Gully Farming Limited (456) Ayrburn Farm Estate Limited (430), Kawarau Jet Services Holdings Ltd (307), ZJV (NZ) Limited (343), Queenstown Wharves Limited (766), Mount Rosa Station Limited (377), Dalefield Trustees Limited (350), Skydive Queenstown Limited (122).

activities and rural living is contemplated in the Gibbston Character Zone. I have shown these changes in the Revised Chapter at **Appendix 1**.

- 2.2** In addition, I have recommended changes to policies 23.2.1.1 and 23.2.1.8 in line with Mr Brown's evidence because these will implement the recommended revised objective, and provide more effective direction associated with other appropriate activities that rely on the resources of the Gibbston Character Zone.
- 2.3** In my s42A report I recommended that Objective 23.2.1 be amended to replace the word 'inappropriate' with 'other'. Transpower (#805) through the hearing and in particular the summary of evidence presented by Ms Aileen Craw sought the reintroduction of the word 'inappropriate' as notified, because this would allow appropriate activities within the zone, such as regionally significant infrastructure, while discouraging land uses that are inappropriate in the zone.
- 2.4** While acknowledging this concern, I consider the recommended modifications outlined in paragraph 2.1 above, which include the introduction of the word 'appropriate' into the objective, goes some way to meeting Ms Craw's concerns. This is because the Objective, as amended, recognises that there will be situations where appropriate activities seek to locate within the Gibbston Character Zone, such as the National Grid and any necessary maintenance to this resource.
- 2.5** Related to this matter, the Panel enquired whether locational constraints of activities including utilities should be able to override the requirement to avoid, remedy or mitigate. In this instance, I do not consider Transpower are going this far, however, I note that at paragraph 172 of *Wakatipu Environmental Society Inc v Queenstown Lakes District Council*,<sup>2</sup> the Court stated that:

*'The fundamental point in considering the siting of utilities in the outstanding natural landscapes (at least in this district) is that it should not be as of right. A policy that states:*

*Siting, where practicable, utilities away from skylines etc ...*

<sup>2</sup> *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* C180/99.

*always leaves the door open for a utility operator to argue that it is not practicable to site a utility anywhere else. That is not a correct approach. The policy should be one that gives the Council the final say on location within outstanding natural landscapes.*

**2.6** While the Gibbston Character Zone is not an outstanding natural landscape, it nonetheless has substantial landscape values that require protection. Therefore, I do not consider location constraints faced by utilities or other development for that matter should be able to override the requirement to avoid, remedy or mitigate.

**2.7** I have also recommended a change to Policy 23.2.1.7 to replace 'and' with 'including' so that the matters specified are not just limited to structures and water tanks. This recommended change will broaden the policy and remove any misconception that it only applies to water tanks.

### **3. COLOUR AND MATERIAL STANDARDS FOR BUILDINGS**

**3.1** Rule 23.5.1 controls the colour and light reflectance value of permitted buildings. Submissions received on the equivalent rules in Chapter 21 and 22 have led to recommended modifications to clarify that cladding materials that cannot be measured by way of light reflectance value, but are suitably recessive, are deemed to comply with the rule. I prefer this phrasing over the identification of selected materials because it is likely that some materials that would be appropriate would not be specified in the rule. That may result in a situation where the use of an otherwise appropriate cladding would require a resource consent as the rule is silent on that material.

**3.2** Similar submissions were not made on Rule 23.5.1 in the Gibbston Character Zone. However, I consider that the recommended changes are as much to do with clarity as to providing for a range materials, such as schist, that were not contemplated. I have therefore amended Rule 23.5.1 in **Appendix 1**. I note that if the Panel take the view that this modification is not a simple clarification, then it is outside the scope of submissions and there is no ability to make this change to Chapter 23.

#### 4. NEW ZEALAND TRANSPORT AGENCY (NZTA)

4.1 At the hearing the NZ Transport Agency (#719) raised an outstanding matter regarding its request to include minimum noise attenuation for habitable buildings within 80 metres of the seal edge, where the posted speed limit is 70 km/hr or greater.<sup>3</sup> I continue to maintain, as set out the section 42A report, that the best way to manage this is through the resource consent process

4.2 I also consider that because of the emphasis of the Landscape Policy in Chapter 6<sup>4</sup> and the Landscape Assessment Matters in Chapter 23.7 that there is an emphasis on ensuring residential development is not located near roads. This is in order to encourage the maintenance of the landscape values within the Gibbston Character Zone. In addition the Assessment Matters in 23.7.2.1 and 23.7.3.4 consider the extent to whether a development would detract from views of State Highway 6.

#### 5. FIREFIGHTING PROVISIONS

5.1 I maintain my recommendation set out in my s42A report that the best method to manage firefighting in the Rural Zone is via the conditions of resource consents. I also reaffirm, as was my evidence when asked at the hearing on 3 May, that the proposed rules in the Rural Residential Zone (Rule 21.5.X on page 22-11) could be applied across the Rural Zone and Gibbston Character Zone if it is their desire to do so.

#### 6. HEIGHT EXEMPTIONS FOR FROST FIGHTING FANS

6.1 In my s42A report I recommended exempting the blades of frost fans from Rule 23.5.1, and to exempt frost fans from Rule 23.5.4 and the 10 metre height limit for farm or winery buildings. The Panel queried whether there should be a height limit placed on frost fans so as to not permit an unintended adverse effect.

6.2 Having reviewed a range of information including plan changes in other Districts and the *Approaches to manage identified issues associated with the*

3 Evidence of Anthony MacColl.

4 Policies 6.3.1.10, 6.3.2.1 and 6.3.2.4, as recommended through the Council's Right of Reply, dated 7 April 2016.

*Wine industry* information on the Quality Planning website<sup>5</sup> the typical height of the tower of a frost fan is approximately 10.5 metres, and a total height of 15 metres including blades. I note that statutory responses have been to limit the height of the tower only<sup>6</sup> at 12 metres, or to limit the entire structure including blades to 15 metres.<sup>7</sup>

- 6.3** It is my preference that the tower only is specified because this is where the bulk of the structure is attributed, and I consider that it is reasonable to recommend the height is limited to 12 metres. A recommended revision of Rule 23.5.4 is included in **Appendix 1**.

**7. CONSTRUCTING BUILDINGS ASSOCIATED WITH RESIDENTIAL FLATS' RULE 23.4.11**

- 7.1** The Chair identified a potential drafting error in Rule 22.4.6 (Rural Lifestyle Zone) which identifies a Residential Flat as a permitted activity. The corresponding rule in the Gibbston Character Zone is 23.4.11. The rule states:

*23.4.11 Residential Flat (activity only, the specific rules for the construction of any buildings apply).*

- 7.2** The Chair queried whether a resource consent would be required to build the Residential Flat, and whether this was intended through the drafting.
- 7.3** The relevant rules that identify the status of the construction or alteration of a building as a permitted activity are:
- (a) Rule 23.4.5 where the building is located within a building platform; and
  - (b) Rules 23.4.6 and 23.5.1.3 for alterations to existing buildings not located within a building platform, up to an area of 30% of the existing ground floor area within a ten year period.

5 Refer to <http://www.qualityplanning.org.nz/index.php/planning-tools/industry-guidance-notes/wine-industry/approaches-to-manage-identified-issues-associated-with-the-wine-industry>; <http://www.nzfrostfans.com/frostboss.html>;

6 Hurunui District Council District Plan. Plan Change 18 Frost Fan Control. Operative 13 July 2011.

7 Western Bay of Plenty District Council. Plan Change 56 Frost Protection Fans – Height and Cumulative Noise. Operative 27 June 2015.

**7.4** Therefore, the construction and alterations to buildings used as a Residential Flat are provided for under these two scenarios as a permitted activity.

**7.5** Alterations to a building, whether for a Residential Flat or the Residential Unit that would not comply with Rule 23.5.1 would be a restricted discretionary activity and the construction of buildings not within a building platform would be a discretionary activity pursuant to Rule 23.4.10.

**7.6** Also relevant is the relationship between a Residential Flat and a Residential Unit. A Residential Flat is part of a Residential Unit, as defined in the definition of Residential Unit in Chapter 2. The Definition of Residential Unit is:

*Means a residential activity (including a dwelling) which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.*

**7.7** Therefore, Rule 23.4.11 is not technically necessary because a Residential Flat is part of a Residential Unit. The reason why it was identified as a separate rule in the PDP is because under the Operative District Plan a Residential Flat requires resource consent as a controlled activity, and it was intended to make it clear that these are now permitted.

**7.8** In summary, the rules in this instance are considered to be drafted adequately and no modifications are suggested

## **8. RULE 23.5.1.3 EXTERIOR ALTERATIONS TO BUILDINGS**

**8.1** Rule 23.5.1.3 permits the exterior alteration of buildings located outside of a building platform not exceeding 30% of the ground floor area of the existing building in any ten year period. The Panel sought clarity that this applies to extensions of buildings only where there is no registered building platform and that this extension is not about allowing buildings going outside of a building platform. I confirm that this is the intent and upon reflection of the submissions I now appreciate the submission of the New Zealand Institute of Architects and

Southern Women in Architecture (238), who opposed this rule on the basis building should be discouraged to located outside of building platforms.

8.2 I recommend the revised wording with red underlined illustrating the changes. I consider that this matter is related to clarity however if the Panel consider that this is a substantive change I consider that there is scope with Submission 238 to do so.

8.3 The construction and exterior alteration of buildings are permitted:

*Rule 23.5.1.3*

*In the case of alterations to an existing building not located within a building platform, where there is not an approved building platform on the site, it does not increase the coverage by more than 30% in a ten year period.*

## 9. CONCLUSION

9.1 Overall, I consider that the revised chapter as set out in **Appendix 1** is the most appropriate way to meet the purpose of the RMA.

Craig Barr  
Acting Policy Planning Manager  
3 June 2016

**APPENDIX 1**  
**23 GIBBSTON CHARACTER ZONE REVISED CHAPTER**