

Annexure A

Copy of submission of the appellant.

Submission on Proposed Queenstown Lakes District Plan

Queenstown Lakes District Council
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Attention: Team Leader – Governance and Support

Email: services@qldc.govt.nz

Submission on: Proposed Queenstown Lakes District Plan

Name: House Movers Section of New Zealand Heavy Haulage Association (Inc), Jones Contracting Queenstown Ltd, King House Removals Ltd, Fulton Hogan Heavy Haulage Ltd, Transit Homes Ltd, Patterson Contracting Otago Ltd and Scobies Transport Ltd (together referred to as “House Movers”)

Address: House Movers Section of New Zealand Heavy Haulage Association (Inc)
C/- Stuart Ryan
P.O. Box 1296
Shortland Street
Auckland 1140

Introduction

1. The House Movers Section of the New Zealand Heavy Haulage Association (Inc) represents firms and individuals engaged in building removal and relocation throughout New Zealand. Jones Contracting Queenstown Ltd, King House Removals Ltd, Fulton Hogan Heavy Haulage Ltd, Transit Homes Ltd, Patterson Contracting Otago Ltd and Scobies Transport Ltd are members of the Association operating in the District. The members and the Association are together referred to as “House Movers”
2. The House Movers wish to ensure that regulatory controls through District Plans properly reflect the purpose and intentions of resource management legislation as expressed in the decision of the Environment Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* (Environment Court, C45/2004, Thompson EJ presiding). In this decision the Environment Court held that there was no real difference in effect and amenity value terms between the in situ construction of a new dwelling and relocation of a second-hand dwelling, subject to appropriate permitted activity performance standards. Where new buildings are a permitted activity, so too should relocated buildings.
3. There are several aspects to the shifting of buildings, including removal (off a site), relocation (onto a site), and re-siting (within a site).

The provisions which this submission relates to are:

4. All provisions (including objectives, policies, rules, assessment criteria, methods and reasons) regulating the removal, re-siting, and relocation of buildings in the plan including (without limitation) Chapter 35 “Temporary Activities & Relocated Buildings”.

Reasons for submissions - removal, re-siting, and relocation of dwellings and buildings:

5. Rules 35.4.2 classifies relocated buildings as permitted activities in the Residential Zone. The activities are subject to performance standards that limit permitted relocation to:

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- a. a new build relocated residential unit that has been purpose built for relocation
 - b. a shipping container
 - c. an accessory building under 30m² in gross floor area that is not a shipping container
 - d. the repositioning of an existing lawfully established residential unit, residential flat or accessory building within its own site.
6. Relocation of other buildings in the residential and rural zones is a controlled activity with control reserved over:
- a. The reinstatement works that are to be completed to the exterior of the building
 - b. The timeframe for placing the building on permanent foundations and the closing in of those foundations
 - c. The nature of other works to be undertaken to ensure the building is compatible with the amenity values of the area
 - d. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.
7. Relocated buildings are also subject to the rules of the Zones they are relocated to.
8. The House Movers oppose the proposed treatment of relocated buildings as a controlled activity. The proposed activity classification does not reflect the *Central Otago* decision.
9. The proposed plan does not expressly provide for removal (from a site). Removal should be expressly provided for as a permitted activity.
10. It is submitted that the proposed regulation of relocation, removal and re-siting of buildings, does not meet the aims of the Resource Management Act, in particular:
- a. The classification of removal, re-siting, and relocation of buildings is inconsistent and contrary to sustaining the potential of natural and physical resources of the district in accordance with Section 5 RMA, and Part 2 of the Act generally.
 - b. It is inconsistent with sustainable management to require resource consent for removal, re-siting, and relocation of buildings, but to provide for construction of new buildings as a permitted activity.
 - c. Relocation of buildings is an affordable housing/construction option, and consistent with sustainable management by providing for the recycling and reuse of materials which would otherwise go to landfill. Activity classification should take into account the positive effects from activities.
 - d. Controls on removal, re-siting, and relocation of buildings in the proposed plan are not necessary to assist Council to carry out its functions.
 - e. Controls on removal, re-siting, and relocation of buildings in the proposed plan do not meet section 32 criteria of the RMA. It is denied that Council has carried out a

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proper section 32 assessment on removal, re-siting, and relocation of dwellings and buildings, or if any section 32 assessment has been carried out, it is not sufficient in that Council has failed to have regard to the extent to which the objectives, rules and policies and other methods are necessary; to consider other means that may be used to achieved the same objectives and policies (including the "do nothing" option); to carry out a proper evaluation of the benefits and costs (both monetary and non-monetary) of regulation of removal, re-siting, and relocation of buildings; or be satisfied that the regulation in the proposed plan is the most appropriate, efficient and effective means of exercising Council's functions.

- f. Controls in the plan on removal and relocation of buildings are inconsistent with the criteria in Sections 75 and 76 of the RMA.
- g. Controls in the plan on removal, re-siting, and relocation of buildings are not proportionate to controls on new dwellings and buildings in the plan.
- h. In practical terms, any potential adverse effect on amenity values from building relocation is remedied after an initial establishment period. The same establishment period is present whenever a new dwelling is constructed, and whereas the Council has not generally promoted similar controls for new dwellings.
- i. The proposed plan fails to apply the decision of the Environment Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* (Environment Court, C45/2004, Thompson EJ presiding). Central Otago District treated relocated dwellings a discretionary activity in its proposed plan. The position of Central Otago District was not upheld by the Environment Court. Following a defended hearing the Court allowed for relocation of dwellings as a permitted activity subject to a number of performance standards. As a default rule, i.e. where unable to meet permitted activity standards, relocation was provided for as a restricted discretionary (non-notifiable) activity.
- j. The proposed plan does not recognise the transaction costs of not expressly exempting relocation and removal of buildings from any requirement to obtain neighbour approval.
- k. The submitter pleads the reasons given by the Court in *New Zealand Heavy Haulage Association Inc v The Central Otago District Council* as if set out herein.

Relief - the following decisions are sought on removal, re-siting, and relocation of dwellings and buildings

- 11. Delete all provisions (including objectives, policies, rules, assessment criteria and other methods and reasons) on removal, re-siting, and relocation of buildings in the Proposed Plan, the definitions section, and elsewhere.
- 12. Rewrite the proposed plan, and its policies and objectives, rules, methods and reasons to reflect the reasons for this submission.
- 13. Amend the definitions section of the plan to accord with trade practice and usage so as to distinguish between the activities of removal, re-siting, and relocation of dwellings and buildings.
- 14. Recognise in the objectives, policies and rules and methods of the plan the need to provide for the coordination between Building Act and Resource Management Act, to avoid

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regulatory duplication.

15. Expressly provide in the proposed plan (whether in the definitions or in the activity rules) for the *demolition* and *removal* and *re-siting* of buildings as a permitted activity in all areas and zones, except in relation to any scheduled identified heritage buildings, or any properly established conservation heritage precinct.
16. In the event that *demolition* and *or removal* and *re-siting* of buildings is not a permitted activity due to non-compliance with performance standards, then as a default rule, provide for relocation of dwellings and buildings no more restrictively than a restricted controlled activity, provided that such application be expressly provided for on a non-notified, non-service basis.
17. Replace the policy provisions relating to relocated dwellings and buildings (either by rewriting the plan, or alternatively, by deleting the relevant sections and replacing the provisions in each section or zone of the plan, as is appropriate) with objectives, policies, rules, assessment criteria, methods, reasons and other provisions which expressly provide for *relocation* of buildings as "permitted activities" in all zones/areas, so as to achieve performance standards no more restrictive than provided for in paragraph 18 below.
18. Provide for the relocation of dwellings and buildings subject to the following performance standards/conditions (or to same or similar effect):

Relocation of buildings

Relocated buildings are permitted where the following matters can be satisfied:

- a) Any relocated building can comply with the relevant standards for Permitted Activities in the District Plan;
 - b) Any relocated dwelling must have been previously designed built and used as a dwelling;
 - c) A building inspection report shall accompany the building consent for the building/dwelling. The report is to identify all reinstatement work required to the exterior of the building/dwelling; and
 - d) The building shall be located on permanent foundations approved by building consent, no later than [2] months of the building being moved to the site.
 - e) All work required to reinstate the exterior of any relocated building/dwelling, including the siting of the building/dwelling on permanent foundations, shall be completed within 12 months of the building being delivered to the site.
19. As a default rule, in the event that *relocation* of a buildings/dwelling is not a permitted activity (as provided for in paragraph 17 and 18 above) due to non-compliance with performance standards, provide for relocation of dwellings and buildings no more restrictively than a restricted discretionary activity (provided that such application be expressly provided for on a non-notified, non-service basis) subject to the following assessment criteria (or to the same or similar effect):

Restricted Discretionary Activity

(on a non-notified, non-service basis)

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Where an activity is not permitted by this Rule, Council will have regard to the following matters when considering an application for resource consent:

- i) Proposed landscaping;
 - ii) the proposed timetable for completion of the work required to reinstate the exterior of the building and connections to services;
 - iii) the appearance of the building following reinstatement
20. Delete any provision for a performance bond or any restrictive covenants for the removal, re-siting, and relocation of dwellings and buildings.
21. Restrict (as a discretionary activity rule) the use of restrictive covenants for the removal, re-siting, and relocation of dwellings and buildings.
22. Make any further or consequential amendments to give effect to this submission, including such amendments as required to the provisions, definitions, other matters, rules, objectives, policies and reasons of the proposed plan to give appropriate recognition to the positive effects of removal, re-siting, and relocation of dwellings and buildings and dwellings, in accordance with the reasons for this submission, and the relief sought as a whole.
23. Suggested drafting to give effect to this submission is attached as **Schedule 1**, (or the same or similar effect but without limiting the relief sought).
24. A suggested pre-inspection report (as a non-statutory form) is attached as **Schedule 2**.

Conclusion

25. The House Movers **do** wish to be heard in support of these submissions.
26. If others are making a similar submission, the House Movers would be prepared to consider presenting a joint case with them at any hearing.

Dated: 23 October 2015

House Movers Section of New Zealand Heavy Haulage Association (Inc)

by its counsel:



..... R H Ashton

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Schedule 1 – Suggested Rules

Permitted Activity Standards for Relocated Buildings

- i. Any relocated building intended for use as a dwelling (excluding previously used garages and accessory buildings) must have previously been designed, built and used as a dwelling.
- ii. A building pre-inspection report shall accompany the application for a building consent for the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the building.
- iii. The building shall be located on permanent foundations approved by building consent, no later than 2 months of the building being moved to the site.
- iv. All other reinstatement work required by the building inspection report and the building consent to reinstate the exterior of any relocated dwelling shall be completed within 12 months of the building being delivered to the site. Without limiting (iii) (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations.
- v. The proposed owner of the relocated building must certify to the Council that the reinstatement work will be completed within the 12 month period.

Definitions

“Relocated Building means any previously used building which is transported in whole or in parts and re-located from its original site to its destination site; but excludes any pre-fabricated building which is delivered dismantled to a site for erection on that site.

“Removal of a Building means the shifting of a building off a site”

“Relocation of a Building means the placement of a relocated building on its destination site”

“Re-siting of a Building” means shifting a building within a site.

Schedule 2 – Suggested Pre-inspection Report



Building Pre-Inspection Report for Relocation

*New Location Address
Region*

For: *Council Name*

Date of report

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APPENDICES

APPENDIX A – PHOTOGRAPHS

1.0 GENERAL INFORMATION

1.1 Introduction

This Building Pre-Inspection report accurately records the external condition of the *dwelling house/garage/ancillary building* to be relocated and to establish all reinstatement works required to the exterior of the building after relocation to a workmanlike standard and to achieve a tidy appearance to meet requirements of the District Plan .

Limited inspection of the interior has been undertaken for the purpose of the Report.

The Report confirms whether the building is considered Safe and Sanitary.

The Report also identifies site-specific requirements including but not limited to the requirement for; the construction of the new foundations, new retaining walls, service connections, water and sewerage treatment (if applicable).

The Report must be read in conjunction with the condition table and photographs provided, which assist in providing a representation of the condition of the premises prior to the commencement of the relocation.

The Report has been prepared by *Name of Company Name* as per our instruction/agreement dated _____ on behalf of our clients *Name*

1.2 Applicants Contact Details

Applicant:	<i>Applicant (clients) name</i>
Contact address:	<i>Contact address</i>
Telephone:	
Email:	
Any Additional information:	

Agent:	<i>Authorised agent</i>
Contact address:	<i>Contact address</i>
Telephone:	
Email:	
Any Additional information:	

1.3 Building details

Type of building	<i>Dwelling house, garage, ancillary building</i>
Approximate age of building:	<i>Provide date range i.e. 1940-1950</i>
Brief Description:	<i>Number of storeys, approximate size, roof, walls, floor construction, additional features</i>
Proposed site address:	<i>Address of the intended site of the relocated building</i>
Site address where the building was inspected:	<i>Address...</i>
Proposed Use of Building	<i>Dwelling house, residential garage, ancillary</i>
Previous Use of the Building	<i>Relocated building must have been previously designed, built and used as a dwelling (Except previously used garage and ancillary buildings)</i>
Inspection Dates & Weather:	<i>Date and weather at the time of inspection</i>
Inspection by:	<i>Name of inspector</i>
Other persons present:	<i>Name of other parties present</i>
Building Consent Status	<i>Has Building Consent documentation been prepared for the relocation works.</i>

1.4 Reporting Conditions

This Report has been prepared under the following conditions of engagement:

- The survey is based on a visual inspection only; therefore it is not possible to guarantee that all concealed areas containing defects will be accessible (floor voids, roof voids, etc). No intrusive investigation will therefore be undertaken.
- Signs of water ingress will be searched for during the completion of the survey, however the Report cannot warrant that the building is free from water penetration, from defective roofing, cladding, rainwater goods, rising damp or the like unless evident at the time of our visual survey.
- Only areas where safe access is possible have been inspected.
- The Report is provided for the use of the client identified in section 1.1 and the council and may not be used by others without written permission. The writer of this report accepts no liability to third parties who may act on the report.
- This Report must be read in conjunction with photograph and condition tables provided.
- This Report is for the purposes of the District Plan. The Report also requires a safe and sanitary declaration for the purposes of the Building Act 2004.

1.5 Exclusions

This report **does not** include comment about the following:

- a) The structure of the building unless otherwise commented upon;
- b) The surrounding neighbourhood;
- c) The value of the property;
- d) Illegal Works; and
- e) Internal condition of the building unless otherwise commented upon.

Additionally, no search has been made of:

- f) Local Authority rates;
- g) Government Valuation; or
- h) LIM or PIM reports.

1.6 Definitions

The following defines the condition comments of the elements surveyed:

- Good: Items that have suffered minimal weathering, wear or decay and are free from any visual defects.
- Reasonable: Items that have worn through 'normal' use and weathering, and is in commensurate condition to the building age and use.
- Poor: Items that are worn, decayed or weathered either due to the age, abnormal use or lack of maintenance.

1.7 Areas Accessed



Example:

The external envelope of the subject building viewed from ground floor level and where safely accessed by ladder from ground level.



Internally, our inspection was limited to those parts of the buildings that could be safely accessed and a head and shoulders inspection of the roof space.

Access was gained into the subfloor space....

2.0 MANDATORY CONDITION TABLE

RMA 1991 – Mandatory External Reinstatement					
Item	Construction Element	Description	Condition	Required Upgrades & Comments	Photograph
1	Roof	<i>Corrugated iron/fibre cement sheet, concrete tile, metal tile, butynol membrane, other</i>	<i>Good/Reasonable/ Poor</i>	<i>None/ Repaint/ Re-roof etc</i>	 <p><i>Insert multiple photographs if/as required under any of the below sub-headings.</i></p>
2	Spouting and Downpipes	<i>PVC, metal, butynol membrane, other</i>	<i>Good/Reasonable/ Poor</i>	<i>None/ Repaint/ Replace etc</i> <i>Example: Repair all timber fascias, barges as well as rainwater goods to ensure surface moisture discharges into new Council approved outlet at new site location.</i>	

2.0 MANDATORY CONDITION TABLE

RMA 1991 – Mandatory External Reinstatement					
Item	Construction Element	Description	Condition	Required Upgrades & Comments	Photograph
3	Wall Cladding	<i>Fibre cement weatherboard/sheet, timber weatherboard, Board and batten, metal sidings, other</i>	<i>Good/Reasonable/Poor</i>	<i>None/ Repaint/ Replace etc</i>	
4	Foundation cladding	<i>NA</i>	<i>NA</i>	<i>Foundation cladding is to be installed as specified in the Building Consent</i>	
5	Window and Door Joinery	<i>Powder coated aluminium, timber, steel, single glazed, double glazed</i>	<i>Good/Reasonable/Poor</i>	<i>None/ Install new joinery/Repair and redecorate existing joinery</i> <i>Example: Repair and repaint window and door joinery. Replace all broken glass immediately after relocation.</i>	

3.0 BUILDING ACT REQUIREMENTS

This Report is for purposes required by the District Plan. It is not a report to address matters required by the Building Act.

A building consent is required for the relocation of this building and all subsequent works as a consequence. The building work must be designed and undertaken by Licensed Building Practitioners with the appropriate category of licence (certain homeowner exemptions may apply). This Pre-inspection Report must be submitted to council with an application for building consent.

The building consent documents must be provided to council along with the appropriate fees and proof of ownership (Certificate of Title less than 3 months old or sale and purchase agreement for the proposed site).

The site specifics must be appropriately designed to include foundations, considering, layout, sizing, position, bracing, ventilation, access etc.

4.1 SAFE AND SANITARY

Comment is required.

Building Surveyor MUST give a declaration regarding whether the building is/isn't Safe and Sanitary.

Note:

If the building is not considered safe and sanitary then give reasons. (example: evidence of leaky building)

4.2 HEALTH & SAFETY

Set out below is a description of the health and safety concerns identified.

Example:

Building materials identified are suspected to contain asbestos. This includes, but not limited to fibre cement claddings, vinyl flooring and soffit linings. Asbestos is relatively safe when encapsulated, but is dangerous to health when fibres become air borne. This can occur when the building materials are damaged or become degraded.

No specialist laboratory testing has been carried out to confirm the presence or absence of asbestos or any other material hazardous to health. All comments are based upon a visual inspection only.

It is recommended that a specialist asbestos surveyor be instructed to identify the risks present.

5.0 ESTIMATE OF COSTS OF EXTERNAL REINSTATEMENT WORKS

The estimate of costs of external reinstatement works is the sum of [*to insert*]

Note:

Allow a contingency sum for any damage in transit

“Reinstatement Works” means the extent of the work required to the exterior of the Relocated Building as specified in the Building Pre-Inspection Report for the purposes of the District Plan. The exterior reinstatement works will not include matters regulated by the building legislation or connection to foundations; but may include matters required by the District Plan for work to be undertaken and completed to the exterior of the building to a workmanlike standard and to achieve a tidy appearance, including, without limitation:

- (a) Repair of broken windows and window frames;*
- (b) Repair of rotten weatherboards or other damaged wall cladding;*
- (c) Necessary replacement or repair of roof materials;*
- (d) Cleaning and/or painting of the exterior where necessary e.g. roof, walls, window frames etc;*
- (e) Repair of transit damage; and/or*
- (f) Replacement and painting of baseboards or other foundation cladding.*

6.0 BUILDING SURVEYORS SIGNATURE

I, certify that the information provided is true and correct and that the building described above appears to have applied with the relevant Building Regulations at the time of its construction, and (if a dwelling) the building has been previously designed, built and used as a dwelling (Except previously used garage and ancillary buildings).

Author

Peer Reviewer

Signed:

If undertaken/available

Qualifications *LBP Category, BOINZ, RICS, NZIBS, ANZIA etc*

For and On Behalf of *Company Name*

Address

Inspectors business address

Telephone

Telephone business number

Email

Email business address

7.0 OWNER CERTIFICATE AND DECLARATION

As a requirement of the [insert council name] District Plan/Resource Consent, I/we _____ CERTIFY that I/we will ensure that within 12 months from the building being delivered to site the buildings external reinstatement, insulation, heating, infrastructure, closing in, ventilation of foundations, and connections to services (mains or private) will be completed.

I acknowledge that failure to complete any mandatory work identified in 2.0 'Mandatory Condition Table' relating to the reinstatement of the building may lead to council taking action under the terms of the Relocated Buildings Bond and/or enforcement action under the Building Act 2004, or Resource Management Act 1991, including by way of a notice to fix, infringement notice, abatement notice, enforcement order, or prosecution.

Signed:..... (PRINT).....

Owner

Signed:..... (PRINT).....

Owner

Signed:..... (PRINT).....

Owner



Elevation description i.e. Front Elevation

Elevation description i.e. Rear Elevation

Elevation description

Elevation description

Elevation description

Elevation description

<i>Elevation description</i>	<i>Elevation description</i>	<i>Elevation description</i>
<i>Elevation description</i>	<i>Elevation description</i>	<i>Elevation description</i>

Additional Comments and Notes