

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER OF of the Resource Management Act 1991

AND

IN THE MATTER OF The Queenstown Lakes Proposed District Plan

Chapter 30 (Energy and Utilities)

Chapter 35 (Temporary Activities)

Chapter 36 (Noise)

SUMMARY EVIDENCE BY KIRSTY O'SULLIVAN

(Submitter 433 and Further Submitter 1340)

13 SEPTEMBER 2016

1 INTRODUCTION

- 1.1 My name is Kirsty O'Sullivan. I am a Senior Resource Management Consultant with the firm Mitchell Partnerships Limited.
- 1.2 I have read and agree to comply with the Environment Court's Code of Conduct for Expert Witnesses contained in the Practice Note 2014. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2 SUMMARY OF EVIDENCE CHAPTER 30 UTILITIES AND ENERGY

- 2.1 Chapter 30 of the PDP relates to energy and utilities.
- 2.2 While I generally consider the provisions in Chapter 30 to be appropriate (particularly insofar as they relate to 'traditional' utilities), I consider that some further amendment is required in order to ensure:
- 2.2.1 the operational constraints of utilities is appropriately recognised and provided for; and,
- 2.2.2 Queenstown and Wanaka Airports are not inadvertently captured by the rules contained in Chapter 30.
- 2.3 The definition of utility in the PDP includes "Anything described as a network utility operation in s166 of the Resource Management Act 1991".¹ The provisions contained in Chapter 30 therefore apply to Queenstown and Wanaka Airports, as "network utility operations" under the Resource Management Act 1991 ("RMA").
- 2.4 Clarification Note 30.3.3.3 sets out that the rules contained in Chapter 30 take precedence over any other rules that may apply to energy and utilities in the District Plan, unless specifically stated to the contrary. While I agree that this approach is appropriate in the context of traditional utilities,

¹ For the definition in full, refer to page 30-22 of the Chapter 30 section 42A report dated 19 August 2016.

Chapter 30 does not contemplate the range of activities provided for at modern airports. Such activities are instead provided for by Chapter 17 (Queenstown Airport Mixed Use Zone) of the PDP.

- 2.5 Given that there is an entire chapter within the PDP dedicated to Queenstown Airport, I suspect it was not the intent of the Council to inadvertently capture land use activities associated with airports within Chapter 30. By doing so, parts of Chapter 17 are negated. I attach as Appendix A, a table which shows the different consenting approach for “utilities” under Chapter 30 and “infrastructure²” under Chapter 17³.
- 2.6 Accordingly, assuming the Panel has scope to do so, I consider that it would be appropriate to include a new clause (d) to Clarification Note 30.3.3.3 to clearly set out the Chapter 30 does not take precedence over Chapter 17 of the PDP.

3 CHAPTER 35 TEMPORARY ACTIVITIES AND RELOCATED BUILDINGS

- 3.1 The recommendations of the Council Officer with respect to this chapter are generally acceptable in my view, and should be adopted by the Panel.
- 3.2 With respect to the provisions relating to the obstacle limitation surfaces, the Council Officer agrees that a clarification note is appropriate to draw attention towards the relevant QAC and QLDC obstacle limitation designations.⁴ In my view, it is unclear how the Council Officer intends to incorporate this method into Table 35.4 as no corresponding activity status would apply. In the absence of such detail, I maintain that a clarification note in section 35.3.2 is more appropriate.

² Note that the infrastructure is not defined in the PDP but is defined in the Resource Management Act 1991.

³ Infrastructure is included in the definition of an “Airport Related Activity” in the PDP. More specific airport related infrastructure is also contained in the definition of “Airport Activity”.

⁴ Paragraph 5 of the Summary Evidence of Kimberley Banks, dated 9 September 2016.

4 CHAPTER 36 NOISE

- 4.1 QAC made a number of submissions with respect to Chapter 36. While the recommendations of the Council Officer appear to address, for the most part, QAC's submissions, I consider that there are wider issues with the interpretation and application of this chapter that will give rise to potential consenting and administrative inefficiencies.
- 4.2 With respect to the proposed amendments to the mechanical ventilation and sound insulation requirements, there appears to be agreement between the experts that further amendments are required to these provisions to reflect modern building practices and advances in technology. I therefore consider it is appropriate for these provisions to be updated. Mr Day and Mr Roberts have provided detailed evidence with respect to these matters.
- 4.3 With respect to Rule 36.6.3, for reasons set out in paragraph 5.33 of my evidence, I maintain that it is appropriate for Rule 36.6.3 and Rule 36.7 (Table 6) to remain separate.

K O'Sullivan

13 September 2016

Appendix A

Table 1: Comparison of Activities within Chapter 30¹ and Chapter 17² of the Proposed District Plan. ³ Green shading represents more enabling provision.

ACTIVITY	PARAMETERS	CHAPTER 30 ACTIVITY STATUS	CHAPTER 17 ACTIVITY STATUS	MATTERS OF CONTROL / DISCRETION
Energy Activities which are not listed in the table		Non-complying (Rule 30.4.1)	Airport related activity ⁴ : Permitted (Rule 17.4.1)	
Small and Community-Scale Distributed Electricity Generation and Solar Water Heating	≤5kW	Permitted (Rule 30.4.2)	Airport related activity: Permitted (Rule 17.4.1) (insofar as it meets the definition of infrastructure ⁵)	
Renewable Electricity Generation Activities	Limited to masts, drilling and water monitoring for the purpose research and exploratory scale investigations that are temporary.	Restricted Discretionary (Rule 30.4.4)	Airport related activity Permitted (Rule 17.4.1)	Chapter 30: Discretion restricted to duration of works, location and effects, including visual and environment and natural hazard considerations.
Utilities, Buildings, Structures and Earthworks which are not otherwise listed in this table.		Discretionary (Rule 30.4.8)	Airport related activity: Permitted (Rule 17.4.1)	

¹ As per the section 42A report for Chapter 30, dated 17 August 2016.

² As notified.

³ Note that for the purposes of this table, the specific activity and standards have been summarised. Please refer to the relevant rule in the Proposed District Plan for the rule in full.

⁴ Note that an "airport related activity" must be "an ancillary activity or service that provides support to the Airport". A utility establishing independent of the airport would be a "non-airport related activity" for which resource consent would be required as a restricted discretionary activity.

⁵ Note the notified definition of "airport related activity" includes "infrastructure". The term "infrastructure" is not defined in the Proposed District Plan, but is defined in the RMA. The RMA definition of "infrastructure" includes "anything described as a network utility operation in regulations made from the purposes of the definition of network utility operator in section 166".

ACTIVITY	PARAMETERS	CHAPTER 30 ACTIVITY STATUS	CHAPTER 17 ACTIVITY STATUS	MATTERS OF CONTROL / DISCRETION
Minor upgrading		Permitted (Rule 30.4.9)	Airport related activity: Permitted (Rule 17.4.1)	
Buildings and structures and earthworks within National Grid Corridors and Electricity Sub Transmissions Lines		Permitted (Rule 30.4.10)	N/A None of these activities occur within the QAMUZ	
Lines and Supporting Structures	New lines and above ground support structures to convey electricity ($\leq 100\text{kV}$) or overhead lines for any other purpose including telecommunications. Erecting lines, lattice towers or support structures for new overhead lines to convey electricity ($\geq 100\text{kV}$)	Controlled (30.4.11)	Airport related activity: Permitted (Rule 17.4.1)	Chapter 30: Control reserved to location, route, height, appearance, scale and visual effects and natural hazard considerations.
Telecommunications or radio communication, navigation or meteorological communication facilities	Maximum height no greater than: 15m in QAMUZ 8m in any other zone	Discretionary (30.4.12) Permitted (Rules 30.4.13)	Airport related activity: Permitted (Rule 17.4.1) Airport and Airport related activity: Permitted (Rule 17.4.1)	

ACTIVITY	PARAMETERS	CHAPTER 30 ACTIVITY STATUS	CHAPTER 17 ACTIVITY STATUS	MATTERS OF CONTROL/ DISCRETION
	Maximum height no greater than: 18m in QAMUZ 15m in Rural Zone	Controlled (Rule 30.4.14)	Restricted discretionary activity (Rule 17.5.3)	Chapter 30: Control reserved to location, route, height, appearance, scale and visual effects. Chapter 17: Discretion restricted to effects on urban design outcomes, visual effects and the positive economic, social and/or cultural effects.
New Buildings and structures ancillary to or associated with Utilities	Less than 10m ² in footprint or 3m in height.	Permitted (Rule 30.4.16)	Airport and Airport related activity: Permitted (Rule 17.4.1)	
Buildings (associated with a Utility)	Greater than 10m ² in footprint or 3m in height.	Controlled (Rule 30.4.17)	Airport and Airport related activity: Permitted (Rule 17.4.1)	Chapter 30: Control reserved to location, external appearance and visual effects, earthworks, parking and access, landscaping and natural hazard considerations.
Antennas	If circular in shape and less than 1.2m in diameter. If another shape, less than 1.2m in length or breadth. For whip antennas, less than 4m in length.	Permitted (Rule 30.4.19)	Airport related activity: Permitted (Rule 17.4.1)	

ACTIVITY	PARAMETERS	CHAPTER 30 ACTIVITY STATUS	CHAPTER 17 ACTIVITY STATUS	MATTERS OF CONTROL / DISCRETION
	<p>If circular in shape and greater than 1.2m in diameter but less than 2.4m.</p> <p>If another shape, greater than 1.2m in length or breadth by less than 2.4m in length and breadth.</p> <p>For whip antennas, more than 4m in length.</p>	Controlled (Rule 30.4.20)	Airport related activity: Permitted (Rule 17.4.1)	Chapter 30: Control reserved to location, route, height, appearance, scale and visual effects.
	More than 2.4m in diameter, length or breadth and/or 4m in length for whip antennas in the rural zone.	Discretionary (Rule 30.4.21)	Airport related activity: Permitted (Rule 17.4.1)	
Construction, alternation or addition to underground lines for electricity or telecommunication purposes	The ground surface is reinstated to the state it was prior to works commencing.	Permitted (Rule 30.4.22)	Airport related activity: Permitted (Rule 17.4.1)	
Flood Protection Works	For the maintenance, reinstatement, repair or replacement of existing flood protection works.	Permitted (Rule 30.4.23)	N/A None of these activities occur in the QAMUZ	
	Not otherwise listed	Discretionary (Rule 30.4.24)	N/A None of these activities occur in the QAMUZ	
Waste Management Facilities		Discretionary (Rule 30.4.25)	Airport related activity: Permitted (Rule 17.4.1)	

ACTIVITY	PARAMETERS	CHAPTER 30 ACTIVITY STATUS	CHAPTER 17 ACTIVITY STATUS	MATTERS OF CONTROL / DISCRETION
Water and Wastewater Treatment Facilities		Discretionary (Rule 30.4.26)	Airport related activity: Permitted (Rule 17.4.1)	

Table 2: Comparison of standards contained in Chapter 30⁶ and Chapter 17⁷ of the Proposed District Plan.⁸ Green shading represents more enabling provision if the development standard is not met.

CHAPTER 30 STANDARD	CHAPTER 30 NON-COMPLIANCE STATUS	CHAPTER 17 'EQUIVALENT' STANDARD	MATTERS OF CONTROL / DISCRETION
Small and Community Scale Distributed Electricity Generation and Solar Water Heating	Discretionary (Rule 30.5.1)	Equivalent standards for same activity in Chapter 17: Building coverage (Rule 17.5.1) Building setback (Rule 17.5.2) Building height (Rule 17.5.3) Building Design and Glare (Rule 17.5.5)	Chapter 17: Discretion restricted to the effects on urban design outcomes and the positive economic, social and/or cultural effects.
Standards relate to: Overhang Colours Setback Recession Planes Height Area Site Coverage			

⁶ As per the section 42A report for Chapter 30, dated 17 August 2016.

⁷ As notified.

⁸ Note that for the purposes of this table, the specific activity and standards have been summarised. Please refer to the relevant rule in the Proposed District Plan for the rule in full.

CHAPTER 30 STANDARD	CHAPTER 30 NON-COMPLIANCE STATUS	CHAPTER 17 'EQUIVALENT' STANDARD	MATTERS OF CONTROL / DISCRETION
Mini and Micro Hydro Electricity Generation Standards relate to: Setbacks Height Colour	Discretionary (Rule 30.5.2)	Equivalent standards for same activity in Chapter 17: Building setback (Rule 17.5.2) Building height (Rule 17.5.3) Building Design and Glare (Rule 17.5.5)	Chapter 17: Discretion restricted to the effects on urban design outcomes and the positive economic, social and/or cultural effects.
Wind Electricity Generation Standards relate to: Number of turbines Lattice towers Setback Height Colour	Discretionary (Rule 30.5.3)	Equivalent standards for same activity in Chapter 17: Building setback (Rule 17.5.2) Building height (Rule 17.5.3) Building Design and Glare (Rule 17.5.5)	Chapter 17: Discretion restricted to the effects on urban design outcomes and the positive economic, social and/or cultural effects.
Biomass Electricity Generation Standards relate to: Location Outdoor storage	Discretionary (Rule 30.5.4)	Equivalent standards for same activity in Chapter 17: Building setback (Rule 17.5.2) Building height (Rule 17.5.3) Building Design and Glare (Rule 17.5.5)	Chapter 17: Discretion restricted to the effects on urban design outcomes and the positive economic, social and/or cultural effects.
Associated Buildings Standards relate to: Coverage and height Setback Colour	Discretionary (Rule 30.5.5)	Equivalent standards for same activity in Chapter 17: Building setback (Rule 17.5.2) Building height (Rule 17.5.3) Building Design and Glare (Rule 17.5.5)	Chapter 17: Discretion restricted to the effects on urban design outcomes and the positive economic, social and/or cultural effects.

CHAPTER 30 STANDARD	CHAPTER 30 NON-COMPLIANCE STATUS	CHAPTER 17 'EQUIVALENT' STANDARD	MATTERS OF CONTROL / DISCRETION
Setback (in accordance with the zone in which it is located).	Discretionary (Rule 30.5.6)	Restricted Discretionary (Rule 17.5.2)	Chapter 17: Discretion restricted to the effects on urban design outcomes and the positive economic, social and/or cultural effects.
Height (in accordance with the zone in which it is located).	Discretionary (Rule 30.5.8)	Restricted Discretionary (Rule 17.5.3)	Chapter 17: Discretion restricted to the effects on urban design outcomes and the positive economic, social and/or cultural effects.
Buildings and Structures within the National Grid Yard	Non-complying (Rule 30.5.9)	N/A	None of these activities occur in the QAMUZ
Buildings and Structures and Earthworks Permitted within Electricity Sub Transmission Corridor	Non-complying (Rule 30.5.10)	N/A	None of these activities occur in the QAMUZ
Earthworks permitted within the National Grid Yard	Discretionary (Rule 30.5.11)	N/A	None of these activities occur in the QAMUZ