

Amanda Leith for QLDC – Summary of Evidence, 13 March 2017

Chapter 2 Definitions – Hearing Stream 10

1. Many of the definitions within Chapter 2 have already been addressed in the preceding PDP hearings where the definition has related to a topic or chapter within a particular hearing stream. My report has collated those recommendations and has also addressed the remainder of the definition related submissions.
2. For purposes of clarification, I have recommended inclusion of a number of 'Notes' at the beginning of the chapter that will aid the consistent interpretation of the defined terms in the PDP. I have also recommended a list of acronyms at the end of the chapter for ease of reference to plan users.
3. Included within the 'Notes' recommended within my s42A report was a note clarifying that further definitions are provided within Chapter 26: Historic Heritage and that those definitions apply to that chapter only. For consistency reasons, I now recommend that these defined terms be relocated into Chapter 2 with a preface under each that makes it clear that the definition is applicable to Chapter 26 only. All of these definitions were recommended to be inserted into Chapter 26 by Ms Jones and I note that with the exception of the 'relocation', definition, none of these defined terms overlap with the definitions provided in Chapter 2. These recommended amendments are included in **Appendix 1**.
4. I do not intend to summarise all of the recommended amendments to the definitions. However some of the recommendations in my s42A report have implications for the PDP outside of Chapter 2 and I cover these below.
5. Mr Craig Barr, in his evidence relating to Chapter 30 – Energy and Utilities, rejected the relief sought by Transpower New Zealand Ltd (805) to introduce a definition of 'reverse sensitivity' on the basis that the term is still being defined through case law. In response to another submission (by Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd (768) seeking this same relief, I have recommended that the same definition as included in the decisions version of the Otago Proposed Regional Policy Statement (**PRPS**) be included in Chapter 2.¹ Of relevance to my recommendation is also the breadth of the issues that the PDP covers in the assessment of 'reverse sensitivity' effects. For consistent assessment of the objectives and policies relating to 'reverse sensitivity', I consider that a definition in the PDP would be of benefit.

1 The PRPS decisions version had not been released, at the time of Mr Barr's evidence on Chapter 30.

6. Submissions were received requesting changes to the definition of 'visitor accommodation', relating to the specific number of nights permitted and the like. I have recommended rejection of these submissions as I have not been provided with any detailed evidence showing why an alternative timeframe to 90 days is more appropriate. However, I note that the definition is likely to be reviewed again in Stage 2 and that these submitters will be able to lodge new submissions at this time. I also note that I consider that standards such as the specific number of visitor accommodation nights permitted, is more appropriately located within a zone chapter, rather than within a definition.
7. Plan Change 49 (**PC49**) to the ODP relating to earthworks was made operative after the PDP was notified. Consequently there are differences between the definitions introduced by PC49 in the ODP, and Chapter 2 in the PDP. Where submissions have provided scope I have recommended changing the definitions in the PDP to be consistent with those introduced by PC49. Council will need to consider the other earthworks related definitions when it notifies the Earthworks chapter in Stage 2.
8. The definitions of 'domestic livestock', 'residential flat' and 'visitor accommodation' are tantamount to rules. My recommendation is for the portion of these definitions that equates to a rule be inserted into each of the relevant zone chapters. I have not updated each of the relevant chapters to this effect as they relate to chapters that have already been heard by the Hearings Panel, however I am prepared to do so if the Panel requests.
9. The definition of 'domestic livestock' addresses the keeping of poultry and animals in all zones. However, upon review of the Stage 1 PDP chapters I have identified that the "domestic livestock" activity has only been included within Chapters 21 – Rural zone and 23 – Gibbston Character zone. Limitations on the keeping of poultry in the residential zones, in particular, is important as the keeping of large numbers of poultry on smaller sites could result in adverse noise, odour or potential human health effects. Accordingly, I consider that a rule relating to the 'domestic livestock' activity needs to be added to all of the Stage 1 zone chapters; however there is no scope through submissions to do this. Consequently, Council will need to address this within Stage 2.
10. For plan interpretation purposes, I consider that definitions of 'adjacent' and 'adjoining' would be beneficial as they are often misinterpreted in the application of the ODP. However there is no scope provided through submissions to include these terms within Chapter 2. The Council will consider addressing this via Stage 2 of the District Plan review.

11. Numerous notified definitions include 'advice notes' or 'notes'. As these have no legal standing in a definition, I have recommended a number of changes. For those notes that include statements that are fundamental to the definition, I have recommended incorporating the notes into the definition. For those that are for guidance purposes only, I have recommended their retention.
12. In relation to Ms O'Sullivan's evidence on behalf of the Queenstown Airport Corporation, I do not agree that a definition of 'airport operator' is necessary as the term is only used within a designation, which Chapter 2 does not apply to. In order to clarify that the Chapter 2 definitions do not apply to designations, unless specifically stated within the designation, I recommend an amendment to the 'Notes' at the start of the chapter as shown in **Appendix 1** below. This point is further addressed in Council's legal submissions.
13. I also disagree with Ms O'Sullivan that a definition of 'navigation activity' is necessary within the PDP, as I consider that the ordinary dictionary meaning would suffice. I do however agree with Ms O'Sullivan's other points in relation to the changes to the definitions of 'activity sensitive to aircraft noise (ASAN)', 'outer control boundary' and 'critical listening environment' (see **Appendix 1**).
14. I also agree with Ms O'Sullivan in relation to the merits of changing the definitions of 'antenna' and 'mast' to extend their application to ensure radio communication, navigation or meteorological communication activities are included so that relevant rules in the Utilities and Energy chapter cover the appropriate activities, however there is no scope through submissions to make this recommendation. Accordingly, Council will have to address this via Stage 2 of the District Plan review.
15. With regard to Ms McMinn's evidence on behalf of the Ministry of Education and the Southern District Health Board, I recommended the deletion of 'Community Facility' in the right of reply for Chapter 7 – Low Density Residential zone following consideration of Ms McMinn's previous evidence. The recommendation in my Chapter 2 s42A report is entirely consistent with this. If the defined term is needed in Stage 2 because it is used in a related provision, it can be notified and submitted on, in the context of Stage 2. For the reasons also set out within the Chapter 7 s42A report, I do not support Ms McMinn's evidence for the Ministry of Education, in relation to 'day care facility'.
16. The relief sought by Ms Black on behalf of Real Journeys Ltd and Te Anau Developments Ltd goes beyond just a change to the 'minor alterations' definition – the rules that would need to be inserted into relevant chapters, to create the need for the change to the definition suggested by Ms Black, have been rejected in earlier hearing streams. I also

note that the relief sought was previously addressed by Ms Jones as part of her s42A for Chapter 12 – Queenstown Town Centre.²

17. Mr McCallum-Clark on behalf of Chorus New Zealand Ltd, Spark New Zealand Ltd and Vodafone New Zealand Limited seeks that the definition of 'support structures' be broadened to include telecommunication lines as the term is used within the definition of 'minor upgrading', which is an activity provided for in Chapter 30 – Energy & Utilities. With the recommended deletion of the definition of 'telecommunication facility' by Mr Barr in his evidence relating to Chapter 30 for other reasons, I consider that the relief sought by Mr McCallum-Clark is necessary and the recommended change is detailed in **Appendix 1** below.
18. I also agree with Mr McCallum-Clark in relation to the updates to the definitions of 'regionally significant infrastructure' and 'small cells' to reflect the new *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016*. Mr Barr recommended the inclusion of a definition of 'small cells' in his s42A report for Chapter 30 as a consequential amendment due to changes made in response to submissions, and the National Standards have subsequently been updated. My recommendations in this regard are shown in **Appendix 1** to this summary.
19. I note that Ms Bowbyes in her s42A report for Chapter 16: Business Mixed Use Zone³ addressed the relief sought by Bunnings Limited. However, I wish to hear the submitter's presentation in relation to the need to amend the definition of 'retail' before I make a recommendation in this regard.
20. It has recently been brought to my attention that a submission point from the New Zealand Police (57) was deferred in paragraph 6.70 of the s42A report for Chapter 37 – Designations that has not been addressed in my report. This submission requests that the definition of 'community activity' be amended to include 'police purposes' rather than 'police stations' as this broader term would cover all police activities. Without further details as to what the additional police activities are intended, I do not have sufficient evidence to support the proposed amendment.
21. Finally, I have noted an error in the Appendix 1 attached to my s42A report in that 'removal of a building' is listed twice on page 2-29 (and that they differ). The first definition on the page represents my recommendation. Please strikethrough where the definition appears the second time.

2 Section 42A Report of Vicki Jones for Chapter 12 Queenstown Town Centre dated 28 November 2016, at paragraph 16.15-16.33.

3 Paragraphs 12.17-12.19

Appendix 1

Key:

Recommended changes to the notified chapters are shown blue underline text for additions and ~~blue strikethrough~~ text for deletions. Summary of Evidence dated 13 March 2017.

Recommended changes to the notified chapter are shown in underlined text for additions and ~~strikethrough~~ text for deletions. Appendix 1 to section 42A dated 15 February 2017.

The changes recommend by other planners in their right of replies on the chapters which have already been before the Hearings Panel are shown in green underlined text for additions and ~~green strikethrough~~ for deletions.

Notes

- The definitions in this chapter apply throughout the Plan whenever the defined term is used [with the exception of Chapter 37 – Designations unless the designation specifically states that a Chapter 2 definition applies](#).
- In this Plan where a word or phrase has been expressly defined, it has primacy over other definitions elsewhere. However, where a term is not defined within the Plan, reliance will be placed upon the Resource Management Act 1991 definition where there is such a definition, otherwise, the ordinary dictionary meaning shall apply.
- Where a definition includes reference to another defined term in this chapter, this definition should be relied upon in the interpretation of the first definition.
- Where a word or phrase is defined in this chapter, its definition includes any variations of the word or phrase that are plural or singular.
- Any notes included within the definitions listed below are purely for information or guidance purposes only and do not form part of the definition.
- Definitions are also provided within Chapter 5: Tangata Whenua (glossary). These defined terms are to be applied across the entire Plan and supplement the definitions within this Chapter.
- ~~Further definitions are provided within Chapter 26: Historic Heritage (terms used in this chapter). These definitions apply only to Chapter 26.~~
- Where a definition title is followed by a zone or specific notation, the application of the definition shall only be limited to the specific zone or scenario described.

Activity Sensitive To Aircraft Noise (ASAN) / <u>Activities sensitive to road noise</u>	Means any residential activity, visitor accommodation activity, community activity and day care facility activity as defined in this District Plan including all outdoor spaces associated with any educational <u>facility activity</u> , but excludes activity in police stations, fire stations, courthouses, probation and detention centres, government and local government offices.
<u>Archaeological Site</u>	<u>Means, subject to section 42(3) of the Heritage New Zealand</u>

<p><u>(For the purpose of Chapter 26 only)</u></p>	<p><u>Pouhere Taonga Act 2014:</u></p> <ul style="list-style-type: none"> • <u>Any place in New Zealand, including any building or structure (or part of a building or structure), that –</u> <ul style="list-style-type: none"> ○ <u>Was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and</u> ○ <u>Provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and</u> • <u>Includes a site for which a declaration is made under section 43(1) of the Heritage New Zealand Pouhere Taonga Act 2014.</u>
<p><u>Contributory Buildings</u> <u>(For the purpose of Chapter 26 only)</u></p>	<p><u>Means buildings that contribute to the significance of a heritage precinct but may not be worthy of individual protection. They may contain significant heritage fabric, architecture or positioning that adds value to the precinct.</u></p>
<p>Critical Listening Environment</p>	<p>Means any space that is regularly used for high quality listening or communication for example principle living areas, bedrooms and classrooms but excludes non-critical <u>living listening</u> environments.</p>
<p><u>Heritage Fabric or Characteristics</u> <u>(For the purpose of Chapter 26 only)</u></p>	<p><u>Means any physical aspect of a heritage feature, which contributes to its heritage values as assessed in accordance with the criteria provided in section 26.6.28. Where a heritage assessment exists for a feature on Council's records this will most likely provide a good indication of what constitutes the heritage fabric of that feature. Where such an assessment does not exist, heritage fabric may include but is not limited to:</u></p> <ul style="list-style-type: none"> • <u>Original and later material and detailing which forms part of, or is attached to, the interior or exterior of a protected feature;</u> • <u>The patina of age resulting from the weathering and wear of construction material over time;</u> • <u>Fixtures and fittings that form part of the design or significance of a heritage feature, but excludes inbuilt museum and artwork exhibitions and displays.</u>
<p><u>Heritage Significance</u> <u>(For the purpose of</u></p>	<p><u>Means the significance of a feature (be it Category 1, 2, or 3) as evaluated in accordance with the criteria listed in section 26.2. A reduction in heritage significance refers to whether a proposed activity would have adverse effects which would degrade the</u></p>

Chapter 26 only	Category that has been attributed to the feature.
Non-Contributory Buildings (For the purpose of Chapter 26 only)	Means buildings that have no identifiable historic heritage significance or fabric. Their current impact will either be adverse or neutral. They are identified within a precinct because any future development of the site may impact on the contributory elements.
Outer Control Boundary (OCB) Wanaka	Means a boundary, as shown on the District Plan Maps, the location of which is based on the future predicted day/night sound levels of 55 dBA Ldn from airport operations in 2036 .
Protected Feature (For the purpose of Chapter 26 only)	Means the collective terms used to explain all buildings, features, and structures listed in the Inventory of Protected Features (26.9).
Regionally Significant Infrastructure	<p>Regionally significant infrastructure m Means:</p> <ul style="list-style-type: none"> • Renewable electricity generation facilities, where they supply the National Grid and local distribution network and are operated by an electricity operator; and • Electricity transmission infrastructure forming the National Grid • Electricity Distribution Lines identified on the Planning Maps; and • Telecommunication and radio communication facilities*; and • Key centralised Council infrastructure, including water reservoirs, and wastewater treatment plants; and • Roads classified as being of national or regional importance; and • Queenstown and Wanaka airports. <p>* As defined by the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008-2016</p>
Relocation (For the purpose of Chapter 26 only)	Means the relocation of protected features, including protected buildings, both within and beyond the site.
Setting (For the purpose of	Means the area around and/or adjacent to a heritage feature listed in 26.9, which is integral to its function, meaning, and relationships and which is contained within the same legal title as the feature listed in

<u>Chapter 26 only)</u>	<u>the Inventory.</u>
<u>Small Cells</u>	<p><u>Means a low-powered radio access node that provides improved cellular coverage or capacity and is operated by a telecommunications operator.</u></p> <p><u>Means a device –</u></p> <ul style="list-style-type: none"> • <u>That receives or transmits radiocommunication or telecommunication signals; and</u> • <u>The volume of which (including any ancillary equipment, but not including any cabling) is not more than 0.11m³.</u>
<u>Support Structure</u>	<p><u>Means a utility pole or tower that forms part of the electricity distribution, or transmission network or telecommunication lines that supports conductors as part of a line. This includes any ancillary equipment, such as communication equipment or transformers.</u></p>