

BEFORE THE CENTRAL OTAGO DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act 1991 ("Act")

And

IN THE MATTER

of RC210352 – Application for consent to construct & operate a café/restaurant & to construct a residential building, including accessory building, in the Rural Resource Area at 26 Pukerangi Drive, Queensberry, by T Lynch and B Jessup.

Evidence of Nicola Anne Scott, Resource Management Consultant

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Introduction

1. My name is Nicola Scott and I am a Resource Management Consultant, based in Wanaka.
2. I have been engaged by the applicants, Mr Tony Lynch and Ms Brenda Jessup, in relation to their proposed café/restaurant and residential unit consent application at Pukerangi Drive, Queensberry.

Qualifications and Experience

3. I have 24 years of experience in the resource management field. I obtained a Bachelor of Science Degree from Massey University in 1996.
4. I am an independent consultant, trading as Wanaka Resource Management Limited. My work in a Planning role in the Queenstown Lakes/Central Otago area covers the previous 21 years. I spent 12 of those years working part-time for a local surveying and resource management firm, while also engaged in private consultancy. My experience in planning matters has involved work with the Councils of Central Otago, Queenstown Lakes, Mackenzie, Southland and Westland, plus the Otago and Auckland Regional Councils.
5. I have previously been employed as a Planner for Civic Corporation Limited (regulatory agent for the Queenstown Lakes District Council) and as a Resource Quality Technician with the Auckland Regional Council.
6. I am an Associate member of the New Zealand Planning Institute.
7. I have read the Code of Conduct for Expert Witnesses set out in the Environment Court Consolidated Practice Note 2014 and agree to comply with it. This evidence is within my area of expertise and I confirm I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed herein.

Overview of the Proposal

8. The applicants propose to construct a café/restaurant, a separate two-bedroom dwelling and a detached shed. The site buildings are to be located in the south western corner of the lot. The buildings have been designed to resemble rural sheds, with cladding comprising rammed earth, macrocarpa, corten steel and dark grey/brown metal roofing. The applicants seek a lapse period of 10 years for this proposal.
9. Please note that the architects have advised a few small, subtle changes to the buildings have been made as they have worked through the Building Consent documentation. Many of these changes have been driven by consultant input, and are for functional purposes. They include a change to the orientation of the small utilities structure on the end of the restaurant building for waste bins, changes to flue extracts, increased width of service driveway, and the like. The revised plans are not ready to submit to Council with this evidence, but will be submitted prior to the hearing. These small additions to the plans do not alter the overall development in any material way.
10. The subject site is 7.1970 hectares in area, and is legally described as Lot 2 DP 487254, comprised in Record of Title 696782.
11. The site is generally flat in topography with slight undulations and a lower lying area to the south east corner. The site generally comprises grass cover and is separated into two paddocks with a fenceline bisecting the lot west to east. Cattle are grazed in the northern paddock. There are existing areas of trees including mixed natives and exotics, and an orchard.

12. The applicants submitted, as additional information post-notification, a report summarising the existing and intended land use, production and environmental management of the block ("the AgFirst Report"). The applicants intend to add value to the products produced on the property and provide a farm and garden-to-table experience. The property will be used to produce saffron, culinary herbs, heritage apple cider and vegetables. The northern paddock will be retained in pastoral production.
13. It is proposed the Café will seat up to 60 people, with estimated visitor numbers between 65 - 135 persons per day. A staff of five is required, with two of these being the applicants, who will reside on the site. Consent is sought for operating hours of 8.00am – 11.00pm, 7 days per week.
14. Access is proposed via Pukerangi Drive at two locations. The main access for the café, and a second right of way access in the south west corner for the shed and service vehicles. 18 carparks in total are proposed within the site. Irrigation water is obtained from an existing bore supply, and potable water via the Queensberry Irrigation Scheme.
15. The proposed fire-fighting water supply is to be provided via an on-site pond. An on-site stormwater disposal system via soak pits is proposed and wastewater disposal is to ground, utilising secondary treatment. Further specific engineering design work has been advanced for these systems and will form part of the building consent application.
16. A landscape plan is provided, proposing further planting of natives, amenity planting, and a pond/wetland area in the south eastern corner. The site plan also indicates the areas intended for orchard expansion, vegetable and herb gardens, and saffron beds.

Consultation/Affected Party Approvals

17. Written approvals have been obtained from five surrounding landowners.

The District Plan & RMA Provisions

18. The land is zoned Rural Resource Area in the District Plan.
19. The proposal requires consent for a non-complying activity pursuant to Rule 4.7.5(iv) for retail activity; a discretionary (restricted) activity pursuant to Rule 4.7.3(vii) for residential activity; and a discretionary activity pursuant to Rule 4.7.4(i) for a breach of Standard 4.7.6B(b)(i) Traffic Generation and Characteristics of Activities, where more than 3 persons will be engaged in the commercial activity.
20. A change to the consent notice is required for the location of the shed, in relation to the dwelling. This is a discretionary activity pursuant to Section 221(3A) of the RMA 1991 for the variation of condition 33 of consent notice 10238315.6. The proposed shed is to be located 57m from the dwelling rather than the specified 30 metres.
21. Overall, the application has the status of a non-complying activity.

Council's Report of Consultant Planner

22. I agree predominantly with the statements made in Council's Report of Planning Consultant ("the Report") and the conclusion of the Consultant Planner which recommends granting consent to the proposed activity.
23. I will address the following aspects, either to summarise main points, or to clarify information on comments raised in the Report:

Rural character, rural amenity and visual effects

24. The Consultant Planner considers, that as a consequence of landscaping, design, siting, and use of materials that any adverse visual effects of the proposal will be less than minor. I agree with this statement and further clarify in respect of the uncertainty around lighting that the applicants offer to include the following consent condition, or similar wording:
“A proposed lighting plan for the site shall be submitted to Council prior to occupation of any site buildings. Exterior lighting shall be down lighting to ensure that light spill beyond property boundaries does not occur.”
25. I acknowledge that retail activities are not generally provided for in the Rural Resource Area, unless ancillary to the growing of produce (including wineries) or making of art and craft products on the site. I agree with the Report that it is unlikely the scale of the restaurant proposal can be considered to be an ancillary activity to the growing of produce on the site. However, I do not wholly agree with the Consultant Planner’s comment that the proposal could be undertaken in another zone which better aligns with and supports the proposed retail activity.
26. The main resource area in the District which provides for retail activity is the Business Resource area (BRA). It would be very difficult to undertake the concept of a farm and garden-to-table experience in the BRA due to a lack of available and/or suitable land area. The general surroundings of the BRA would not provide the appropriate environment to achieve the vision of the applicants’ business model. It is correct that the proposed restaurant/café is not wholly reliant on the resources of the rural area, or subject site, to operate however it is central to the concept of the immersive dining experience. In particular, the saffron (already being successfully grown by the applicants) will feature as a hero ingredient in the menu items and preserves that are produced at the restaurant, as well as being sold on-site. Visitors will learn about the property’s organic and regenerative growing practices, which would not have the same relevance if the restaurant and production areas were geographically separated.
27. I refer to Section 2.3 of the applicants AgFirst Report (Agenda Page 230) where it is noted that the proposed garden-to-table business model aligns very well with the trend domestically and internationally for increasing interest and demand for experiences that connect consumers with the way in which food is produced and the sustainability of food production systems. The AgFirst report notes that locating the restaurant on the property is integral to the business model.
28. The Consultant Planner does however consider that in this instance the retail activity would be at a scale which, if managed appropriately, could coexist, complement and enhance the existing and proposed rural productive use and the proposed residential activity. I agree with this statement.
29. I concur with the Consultant Planner that the effects on landscape, rural character, and rural amenity, after taking into account the potential for mitigation will be no more than minor and would be appropriate in this context.

Water Supply

30. Confirmation of the potable water supply from the Queensberry Irrigation Scheme (QIS) has been raised in the Report. The applicant is currently obtaining the legal documents/instruments confirming their shares in QIS and we expect to provide these to Council prior to the hearing.

Submissions

31. Six submissions were received on the notified application, with five being in support and one opposed. Points in the opposing submission from the Otago Regional Council have been discussed in the Report under various headings. I consider that the majority of the ORC’s

potential concerns have been considered and addressed by the subsequent AgFirst Land use, Production & Environmental Management Plan that the applicants commissioned.

32. Concern for loss of soils and soil fertility, and rural productive use – I agree with the Consultant Planner that the clustering of buildings, overall scale of built form proposed, and retention of open pastoral areas will not result in significant adverse effects on the soil quality or the productive potential of the site, except for a very small proportion of it (1%).
33. Reverse sensitivity is not considered an issue, given that all of the immediately surrounding landowners (five) have provided written approval and there were no other opposing submissions on the application at all. Consent notice conditions address reverse sensitivity effects on the State Highway and existing rural activities.
34. I refer to the ORC's concern that no documentation supports the application statement that the underlying subdivision anticipated future development of the lot. I do not agree with this statement, and instead concur with the Consultant Planner's Report that the underlying subdivision did reasonably consider that the likely future land uses could include residential activity and consent notices to manage this land use were established. Therefore, the environment could include some level of built form and domestication. I agree that the effects of the proposal on the openness and rural character will be appropriate.
35. The Report discusses 'precedent' and notes that the ORC were concerned regarding this matter. ORC consider that the proposal would fragment a rural, productive site and risk further fragmentation due to a reduction in primary productive area. However, I note that the applicant's agribusiness expert considers the economic value of production on this property will be significantly enhanced by the conversion of the southern block to horticultural production.
36. I concur with the Consultant Planner that the proposal can be considered to nullify concerns regarding precedent, given it will both complement and enhance the productive potential of an existing site whilst ensuring the rural character and amenity values are maintained.

Conditions of Consent

37. I comment only on proposed condition 1 of Section 221 of the consent, as below. All other proposed conditions are considered appropriate.
38. Condition 1 of Section 221 – Consent Notice Cancellation. It is my experience in dealing with the further legal process of a consent notice variation that the resource consent needs to specify the change to the wording. Therefore, it is my suggestion that the condition is reworded as follows (my changes or additions underlined):

It is resolved that pursuant to Section 221(3) of the Resource Management Act 1991 that Consent Notice 10238315.6 be amended in respect of Condition 33, attached to Record of Title 696782 (Lot 2 DP 487254), specifically:

33. *The building footprint associated with any dwelling on Lots 2 – 6 and 26 shall not exceed 500m², and the maximum footprint of any building accessory to a dwelling shall not exceed 100m². All buildings accessory to a dwelling shall be located within 30 metres of a dwelling, with the exception of the accessory building approved under RC210352.*

Objectives and Policies, Section 104 & Part 2 of the Act

39. The Report identifies the objectives and policies of the District Plan which are relevant to this proposal, and an assessment of the same was undertaken in the application. Assessment against the provisions of the Partially Operative Regional Policy Statement for Otago (PORPS) are also included in the Report. I agree with the Consultant Planner that the proposed

development is consistent with the Objectives and Policies of the District Plan and is not inconsistent with the PORPS.

40. ORC's concerns in relation to assessment against these relevant provisions have been addressed in sections above, and in the Report. I consider that the application is not inconsistent with those provisions relating to soil values, rural activities that support production, reverse sensitivity, land use change, amenity and character of rural areas. This is largely based on expert advice from an agribusiness consultant that the applicants have obtained.
41. Provisions relating to sustainability and efficiency of water use, climate change and biological diversity are addressed by the applicants' environmental management plan.
42. The proposed activity overall achieves the purposes and principles of Part 2 of the Act.

Summary

43. Overall, I agree with the Consultant Planner that adverse effects on the environment of the proposed activity will be acceptable, and can be mitigated by appropriate conditions of consent.
44. The well-considered design and landscaping ensure the character and amenity of the rural environment is maintained, and adverse effects are avoided or mitigated. The productive potential of the land is enhanced. The proposed development will provide for the economic and social wellbeing of the applicants, and the wider community.
45. In summary, it is my opinion that granting consent to the proposed activity is appropriate. Any potential adverse effects on the environment of the proposal will be no more than minor.

Nicola Scott
17 February 2022