



QUEENSTOWN LAKES DISTRICT COUNCIL

WRITTEN NOTICE OF DEEMED PERMITTED TEMPORARY ACTIVITY

RESOURCE MANAGEMENT ACT 1991

TO:	Ayrburn Wines Online Limited
RM reference:	RM221025
Proposed Activity:	To allow for a commercial activity (online alcohol sales) to operate from temporary construction related buildings.
Location:	Ayr Avenue, Arrowtown, 9371
Legal Description:	Lot 4 Deposited Plan 540788 Held in Record of Title 929491
Operative Zoning:	Rural General
Proposed Zoning:	Wakatipu Basin Rural Amenity
Date	24 November 2022

SUMMARY OF NOTICE

1. The Queenstown Lakes District Council has deemed that the activity described above is a permitted activity under section 87BB(1)(d) of the Resource Management Act 1991 (the **Act**).
2. The activity was considered (including the full and complete records available in Council's electronic file and responses to any queries) and the notice issued by David Dwight, Senior Planner as delegate for the Council.

1.0 SUMMARY - MARGINAL OR TEMPORARY NON-COMPLIANCE - SECTION 87BB(1)(A)

It is proposed to allow for a commercial activity to operate from temporary construction related buildings. This will consist of the administration of online wine sales but does not include the physical storage, or sales on the site. At the time of this application the temporary buildings were already located on the subject site and being used by Winton for the oversight of the construction activities occurring across the larger combined landholding associated with granted resource consents for Ayrburn Farm/ Waterfall Park. The use of these buildings by construction staff is a permitted activity under rule 35.4.9 Temporary Construction Related Activities.

RM210591 (a variation to RM180584) has consented to commercial activities as part of the Manure Room/Cart Shed within Ayrburn Farm, which will allow this activity to take place once constructed. It is noted that the activity of online alcohol sales is not ancillary to the construction activities for the Manure Room/Cart Shed and outside the scope of rule 35.4.9, hence why s.87BB(1) is being applied at Council's discretion.

Therefore, given the online alcohol sales from the site is not covered under Chapter 35, the proposal requires a resource consent for a commercial activity to operate from temporary construction related buildings in the interim period of the construction of the Manure Room.

The activity, as shown on plans:

- Winton – Ayrburn – Temporary site office – 29.08.2022
- Winton – Ayrburn – Site Master Plan – 29.08.2022
- Winton – Ayrburn – Licensed Premises Plan – 29.08.2022

2.0 ACTIVITY STATUS

QLDC currently has an Operative District Plan (ODP) and a Proposed District Plan (PDP).

Council notified its decisions on Stage 1 of the PDP on 7 May 2018, notified its decisions on Stage 2 of the PDP on 21 March 2019 and notified its decisions on Stages 3 and 3B of the PDP on 1 April 2021. There are a number of appeals on these decisions.

Where there are rules in the PDP that are treated operative under s.86F of the RMA, corresponding rules in the ODP are treated as inoperative. Consent is required under Section 9(3) of the RMA, pursuant to the ODP and PDP rules which are listed below.

2.1 OPERATIVE DISTRICT PLAN

The subject site is zoned Rural General in the ODP and the proposed activity requires resource consent for the following reason:

Rules that are treated as operative under s86F:

- A **non-complying** activity resource consent pursuant to Rule 5.3.3.4 for any commercial activity not listed in 5.3.3.3, 5.3.3.2 (ii) & 5.3.3.4 (i)

2.2 PROPOSED DISTRICT PLAN

The subject site is zoned Wakatipu Basin Rural Amenity Zone by the PDP and the proposed activity requires resource consent under the PDP for the following reason:

Rules with legal effect, that are not yet treated as operative under s.86F are:

- A **non-complying** activity resource consent pursuant to Rule 24.4.20 for a commercial activity not listed as a permitted activity in table 24.1

2.3 ACTIVITY STATUS SUMMARY

Overall, the application is considered to be:

- a **non-compliant** activity under the ODP & PDP, however at Councils discretion, the proposed activities have been deemed to qualify assessment under s.87BB(1)(a) as the scale of the breach is considered marginal and temporary in duration. An assessment of the activity has been included below.

3.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS - SECTION 87BB(1)(B)

Overall, any adverse effects of the activity are considered no different in character, intensity or scale than they would be in the absence of the non-compliance outlined in Section 1.0 above.

At the time of this application, there are multiple temporary construction related buildings already located on the subject site which are tied to the construction and restoration of buildings across the larger combined landholding associated with granted resource consents for Ayrburn Farm/ Waterfall Park. It is accepted that the buildings themselves are predominantly being used for permitted temporary activities associated with construction activities.

The proposed commercial activity is predominantly a desk-based activity, conducted by a single operator, and is in essence an administrative office related activity. Only online sales are proposed, and orders are largely fulfilled from an external warehousing company located off-site. Limited additional people and vehicle movements beyond those that would occur with the permitted construction related activities are required.

The commercial activity (which may include the online wine sales) has been approved and can occur under resource consent RM210591 (a variation to RM180584) to be undertaken from the Manure Room/ Cart Shed. Construction of the Manure Room/ Cart Shed is expected to be completed between June and October 2023. Building consent BC210792 consented these works and several building inspections had taken place at the time of this application.

As noted in section 1 of this report, the proposed commercial activity is not ancillary to the construction activities for the Manure Room/ Cart Shed permitted by rule 35.4.9 Temporary Construction Related Activities. However, the activity has been consented by RM210591 and will take place in the temporary construction related buildings in accordance with the approved resource consent conditions. Overall, the potential adverse effects of the commercial activity on the environment will not be noticeable above the character, intensity or scale of the construction related activities already taking place in the temporary buildings.

3.0 EFFECTS ON PERSONS - SECTION 87BB(1)(C)

Overall, any potential adverse effects of the activity on persons are considered less than minor. At the time of this application, the temporary buildings are already located on site and being used by Winton for the oversight of the construction activities occurring across the larger combined landholding associated with granted resource consents for Ayrburn Farm/ Waterfall Park. These buildings are located the southern section of Lot 4 DP 540788, next to a large belt of existing trees. It is these buildings the Offline Sales of Alcohol Licence (OF400) has considered to location of the activity. These large trees obscure the building from view of the owners and occupiers of Lots 3 and 4 DP 336908 to the south. The proposed online alcohol sales from the temporary construction related buildings will not be discernibly different from people movements to and from the site than those occurring associated with the construction activities on site. The proposed commercial activity will take place in accordance with the approved resource consent for the activity in the building currently under construction.

Any adverse effects of the activity on persons are considered to be less than minor.

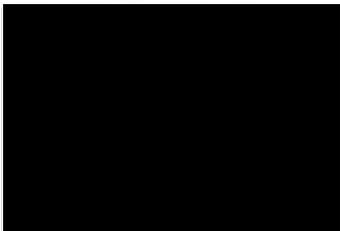


Figure 1: Aerial view of subject site and location of existing construction related temporary buildings.

4.0 DECISION UNDER S. 87BB(1)(d)

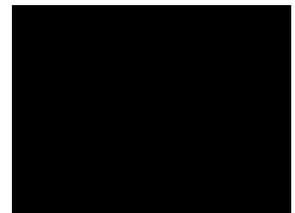
In accordance with Section 87BB(3), notice is hereby **granted** to allow for a *commercial activity (online alcohol sales) to operate from temporary construction related buildings*, subject to the conditions outlined in *Appendix 1* of this decision report imposed pursuant to Section 87BB(1)(d) the RMA.

Prepared by



Courtney Briggs
PLANNER

Decision made by



David Dwight
SENIOR PLANNER

5.0 OTHER MATTERS

A certificate of compliance (under section 139 of the Act) cannot be applied for in respect of this activity. This notice is valid only for the activity described above and shown on signed plans referenced. If the activity changes, a resource consent may be required.

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

If you have any enquiries please contact NAME on phone (03) 441 0499 or email xxx@qldc.govt.nz.

6.0 APPENDICES LIST

APPENDIX 1 – NOTICE CONDITIONS

For Your Information

Monitoring

The conditions in your decision will advise if monitoring is required. To assist with compliance of your resource consent, and to avoid your monitoring deposit being used before your development starts, please complete the “[Notice of Works Starting Form](#)” and email to the Monitoring Planner at RCMonitoring@qldc.govt.nz

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:

- Winton – Ayrburn – Temporary site office – 29.08.2022
- Winton – Ayrburn – Site Master Plan – 29.08.2022
- Winton – Ayrburn – Licensed Premises Plan – 29.08.2022

stamped as approved on 23/11/2022

Duration

2. The notice shall expire on;

- a. 5 years from the date of this notice (23 November 2027) ; or
- b. at the conclusion the construction of the Manure Room/Cart Shed (referenced under RM180584); or
- c. there is a fundamental change to the activity granted under this notice.

Advice Notes

- Please notify the QLDC Consent Planning Team for any changes to the Licence Offline Sales of Alcohol referenced OF400.

APPENDIX 2 – APPLICANT’S LETTER

WINTON

02 November 2022

By email

Queenstown Lakes District Council
C/- Courtney Briggs and Alana Standish
Private Bag 50072
QUEENSTOWN 9348

Email: [REDACTED]

APPLICATION FOR REMOTE SALES OF OFF-LICENCE - AYRBURN WINES ONLINE LIMITED

We write in relation to Ayrburn Wines Online Limited's (**Ayrburn Wines**) application for a remote sales off-licence (**Application**). The purpose of this letter is to clarify the nature of the buildings which Ayrburn Wines seeks to licence in order to assist the Council with processing the building and planning certificate for the Application.

For context, the Ayrburn Precinct (the hospitality precinct located at 1 William Paterson Close, Arrowtown shown on the site masterplan provided with the Application) is currently under construction. While the Precinct is being constructed, temporary site construction offices have been erected on the site for the purpose of construction related activities and management associated with the development of the site.

While Ayrburn Wines is seeking to licence the temporary site construction offices for the purpose of the remote sale of alcohol, the primary purpose of the buildings remains for construction purposes. Ayrburn Wines intends to use these temporary construction offices until such time as the Manure Room / Cart Shed (being permanent premises within the Ayrburn Precinct) is completed and operational. At this stage, construction of the Manure Room is anticipated to be completed in June 2023 and open to the public in October 2023. Once construction of the Manure Room is complete, Ayrburn Wines intends to relocate to the permanent premises and apply for any relevant necessary changes to the off-licence for Ayrburn Wines in order to operate its remote sales business from these premises.

Ayrburn Wines previously provided the Council with a memorandum prepared by Brown and Company (enclosed with this letter for ease of reference) which demonstrates the temporary site offices are for construction related purposes and therefore are a permitted activity under the relevant planning provisions.

Yours sincerely,

[REDACTED]
Lauren Christie

General Manager - Queenstown

D: [REDACTED]

E: [REDACTED]

Level 4, 10 Viaduct Harbour Avenue, Auckland 1010
PO Box 105526, Auckland 1143

3463-3757-1358

MEMO

Date	13 October 2022
To	Lauren Christie
From	Christine Edgley
Subject	Temporary buildings

The purpose of this memo is to set out the relevant rules relating to temporary buildings associated with construction activities in the Queenstown Lakes District in the context of the construction of the Ayrburn Precinct and Waterfall Park.¹

The relevant rule/s from the Proposed District Plan² are set out in **Table 1** below, together with any applicable standard/s.

Table 1: Rules relating to temporary buildings associated with construction activities

Activity		Activity status
Chapter 35 Temporary Activities & Relocated Buildings		
35.4.9	Temporary Construction-Related Activities Any temporary building (including a Relocated Building), scaffolding, crane, safety fences, and other similar structures and activities that are: <ol style="list-style-type: none"> ancillary to a building, construction or maintenance project and located on the same site; are limited to the duration of an active construction project; are removed from the site upon completion of the active construction project. 	Permitted
35.5.1 (standard)	Glare All fixed exterior lighting must be directed away from adjacent sites, waterways and roads. This rule shall not apply to glare from lighting used for health, safety and navigation purposes.	Restricted Discretionary (if breached)

Note that Rule 35.3.2.3 states:

"The Rules of this Chapter relating to Temporary Activities take precedence over any other provision of the District Plan, with the exception of:

- 26 Historic Heritage;***
- 31 Signs."***

The effect of Rule 35.3.2.3 is that rules in other chapters of the Plan, such as those that apply in relation to a zone (including, in this instance, the Wakatipu Basin Rural Amenity Zone), do not apply, with the exception of the two chapters listed.

¹ See Ayrburn Site Masterplan for the location of the temporary site office in relation to the Ayrburn Precinct, which is under construction).

² The relevant Proposed District Plan rules in Chapter 35 are beyond challenge and can therefore be treated as operative, with no additional assessment of the Operative District Plan provisions required.

Therefore, a temporary building associated with construction activity is a permitted activity, subject to meeting the limbs in Rule 35.4.9 and compliance with the glare standard in Rule 35.5.1.

We have reviewed the plan Ayrburn Licensed Premises Plan, dated 29 August 2022, received 4 October 2022.

The proposed buildings are shown in that plan as being located on Lot 4 DP 540788. We understand that the buildings are ancillary to the consented construction activities currently being undertaken across the wider site (which includes Lot 1, 2 and Lot 4 DP 540788). Provided the buildings are removed upon completion of this construction activity (which we understand is the intent), the buildings would be permitted under Rule 35.4.9³.

I trust this information is helpful. Please don't hesitate to get in touch if you require anything further.

Yours sincerely,
Brown & Company Planning Group



Christine Edgley
Resource Management Planner

³ We understand that any exterior lighting being proposed will be internally facing to the site, and therefore will be compliant with Rule 35.5.1. Rule 35.4.14 specifically excludes buildings for Temporary Construction-Related Activities, and as such neither Rule 35.3.2.5 nor the standards in Rule 35.5.4 apply.



- Licensed areas
- No houses within 50m of premises.
- No sensitive sites within 500m of the premises.

Ayrburn - Temporary site office
Site Plan

Document Set ID: 7429268
Version: 1.0
Date: 29/08/2022
Waterfall Park - Documents\004 - Ayrburn Domain\Z - Design\CAD\Domain-WPC-069478.dwg Plotted: 29.08.2022

	Scale 1:1000@A3	Date 29-Aug-22
	DRAFT	Drawing No. ####





12

Ayrburn Precinct
(under construction)

Temporary site office



Key

 Licensed areas

