

Appendix C

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Stage 3 Proposed District Plan

Report and Recommendations of Independent Commissioners

**Report 20.10: Variation to Chapter 38 Open Space and Recreation Zones
Related Variations to Chapters 29 and 36**

Commissioners

Trevor Robinson (Chair)

Sarah Dawson

Greg Hill

Calum Macleod

Table of Contents

1.	PRELIMINARY	3
1.1	SUBJECT MATTER OF THIS REPORT	3
1.2	TERMINOLOGY IN THIS REPORT	3
1.3	RELEVANT BACKGROUND	4
1.4	THE NOTIFIED VARIATION	5
2.	STATUTORY CONSIDERATIONS	8
3.	GENERAL AND SUPPORTING SUBMISSIONS.....	9
4.	ZONING FOR RESERVE LAND ADJOINING QUEENSTOWN BAY.....	11
4.1	OVERVIEW	11
4.2	HISTORY OF THE ZONING	12
4.3	ISSUES IN CONTENTION.....	12
4.4	HEARING PANEL'S CONSIDERATION AND RECOMMENDATIONS.....	15
5.	POLICY SUPPORT IN CHAPTER 38 FOR WATER-BASED ACTIVITIES AND RELATED COMMERCIAL ACTIVITIES IN QUEENSTOWN BAY.....	19
6.	COMMERCIAL OUTDOOR DINING IN OSRZ ADJOINING THE ACTIVE FRONTAGE AREA OF QUEENSTOWN BAY	20
7.	NOISE STANDARDS.....	22
8.	OTHER AMENDMENTS SOUGHT TO PROVISIONS	23
9.	OVERALL RECOMMENDATION	25

1. PRELIMINARY

1.1 Subject Matter of this Report

1. This report deals with the submissions and further submissions lodged in respect of the Council's publicly notified Variation to Chapter 38 Open Space and Recreation Zones, including amendments to the Planning Maps, together with associated Variations to Chapters 29 and 36 to the PDP (the Notified Variation). These submissions were considered as part of Stream 18.

1.2 Terminology in this Report

2. The majority of the abbreviations used in this report are set out in Report 20.1. In addition, throughout this report, we use the following abbreviations:

CPZ	Community Purposes Zone
CSZ	Civic Spaces Zone
District	Queenstown Lakes District
EIC	Evidence-in-chief. Also referred to as Section 42A Report
FENZ	Fire and Emergency New Zealand
Hearing Panel	The Independent Commissioners appointed by the Council and convened to hear and recommend on Stream 18
IRZ	Informal Recreation Zone
KIL	Kopuwai Investments Limited
LINZ	Land Information New Zealand – Toitu Te Whenua
Notified Variation	The version of the Variation to Chapter 38, associated changes to the planning maps, and related Variations to other PDP Chapters, notified by the Council on 31 October 2019
OSRZ	Open Space and Recreation Zones – the five zones regulated by Chapter 38, being: <ul style="list-style-type: none">• Nature Conservation Zone• Informal Recreation Zone• Active Sport and Recreation Zone• Civic Spaces Zone• Community Purposes Zone
QTCZ	Queenstown Town Centre Zone
QTWSZ	Queenstown Bay Waterfront Sub-Zone, a sub-zone of the Queenstown Town Centre Zone

QWL	Queenstown Wharves (GP) Limited
Reply Version	The version of the Variation to Chapter 38, associated changes to the planning maps, and related Variations to other PDP Chapters, attached to the Reply of Christine Edgley as Appendix A
Section 32 Report	The Council's Section 32 Evaluation for the Variation to Chapter 38 Open Space and Recreation Zones, and consequential Variations to the PDP, made publicly available with the Notified Variation, dated June 2019.
Section 42A Report	Section 42A Report prepared by Christine Edgley for the Council in relation to the Notified Variation, dated 18 March 2020. Also referred to as Ms Edgley's evidence-in-chief.
Section 42A Version	The version of the Variation to Chapter 38, associated changes to the planning maps, and associated Variations to other PDP Chapters, attached to the Section 42A Report of Christine Edgley
TCZ	Town Centre Zone
Wayfare	Wayfare Limited

1.3 Relevant Background

3. Submissions on the Variation to Chapter 38 were heard by the Stream 18 Hearing Panel as part of the broader Stage 3 hearings that commenced on 29 June 2020.
4. Report 20.1 provides background detail on:
 - a) The appointment of commissioners to this Hearing Panel;
 - b) Procedural directions made as part of the hearing process;
 - c) Site visits;
 - d) The hearings;
 - e) The statutory considerations bearing on our recommendations;
 - f) General principles applied to requests to rezone;
 - g) Our approach to issues of scope.
5. We do not therefore repeat those matters.
6. More specifically as regards the evidence we heard on this topic, Ms Christine Edgley, a private consultant employed by Brown & Company Planning Group, was contracted by the Council to prepare a Section 42A Report¹, a statement of Rebuttal evidence² and a Reply statement³ relating to all aspects of the Notified Variation. Ms Edgley has relied upon the planning evidence of Mr Craig Barr (Strategic Overview for all of Stage 3), dated 18 March 2020.

¹ Dated 18 March 2020, also referred to as C Edgley, EIC

² Dated 19 June 2020

³ Dated 4 September 2020

7. In her previous role, as a Senior Policy Planner for the Council, Ms Edgley was the reporting officer for the Council in relation to the notified Chapter 38 as part of Stage 2 of the PDP.
8. We also had the benefit of evidence and legal submissions from two submitters – Queenstown Wharves (GP) Limited (QWL)⁴ and Wayfare Group Limited (Wayfare)⁵.
9. We note that our site visits undertaken in the week of 15 June included a visit to the Queenstown Bay waterfront.

1.4 The Notified Variation

10. As may have been apparent during the course of the hearing, the Hearing Panel did not find it easy to understand the complexities of the Notified Variation – its purpose, the issues it was addressing, the key changes proposed to the PDP, and particularly the mapping changes proposed in Queenstown Bay. We asked numerous questions of Ms Edgley and the planning witnesses for QWL and Wayfare, in order to ensure we had an adequate understanding. In order for these matters to be clear in this report, we have set out our understanding of the Notified Variation here.
11. The Section 32 Report⁶ stated the scope of the Variation is to vary the rules and standards of the PDP to better recognise the special characteristics of the areas of the Open Space and Recreation Zones (OSRZ) located within or immediately adjoining a Town Centre Zone. It also states that the scope of the Variation is geographically limited to those areas shown in red on the plans included in Section 2 of the Section 32 Report⁷, being:
 - areas in and around Queenstown Bay, being all Council-owned reserve land located within the Queenstown Bay Waterfront Sub-Zone (QTWSZ)
 - two other areas of Civic Space Zone (CSZ), that immediately adjoin the Queenstown Town Centre Zone (QTCZ);
 - one area of CSZ that immediately adjoins the Wānaka Town Centre Zone;
 - two areas of CSZ that immediately adjoin the Arrowtown Town Centre Zone.
12. Various maps and an aerial photograph were attached to the Notified Variation, which we found helpful to understand the mapping changes proposed in and around the Queenstown Bay waterfront.

⁴ Submitter #3319 - Legal submissions from Rowan Ashton, counsel for QWL, and planning / urban design evidence from Mr Tim Williams

⁵ Submission #3343 - Planning evidence and written answers to our questions from Mr Ben Farrell

⁶ Section 32 Report, para [1.1], [2.2]-[2.3] and Figures 1–3

⁷ In addition, the Section 32 Report (para [2.4] & aerial photograph on pg 6) states that a 37m stretch of Queenstown Gardens shoreline is affected by the proposed rules relating to jetties and buildings as this stretch of Community Purposes Zone adjoins the QTWSZ and is captured by those rules.



Figure 1 - Orange Sub-Zone boundary to be deleted and Sub-Zone boundary as shown in black to be added which excludes all OS zoned land from the waterfront Sub-Zone.



Figure 2 – Amended QTWSZ boundary, as proposed by this Variation

13. The Section 32 Report⁸ states the following matters are addressed by the Notified Variation:
- (a) some council-owned reserve land is included in the (QTCZ);
 - (b) the QTWSZ extends over OSRZ land as well as QTCZ land and it is unclear whether the QTWSZ applies to both zones;
 - (c) the rules of the OSRZ and QTWSZ variously duplicate or contradict each other;
 - (d) whether the OSRZ rules to manage jetties, and buildings on jetties, adequately manage the potential adverse effects, noting that the respective rules are generally less restrictive than the adjoining 'Queenstown Beach and Gardens Foreshore' and 'Active Frontage' areas of the QTWSZ and do not reflect the distinction that has been made between the two parts of the Queenstown Bay;
 - (e) outdoor dining (other than restaurants and cafes associated with permitted activities) are all non-complying, including on Earnslaw Park and on OSRZ land adjacent to Steamer Wharf;
 - (f) the standards for noise received in the CSZ adjoining Town Centre zoned land are inconsistent with the adjoining Town Centre zones and restrict noise that can be generated in the Town Centre zones and potentially also within the CSZ itself;
 - (g) there is limited control over the design of buildings on OSRZ land, including those areas that adjoin, and are a fundamental part of, the District's town centres;
 - (h) requiring carparking to be provided on OSRZ land adjoining the Town Centre zones will affect the ability to achieve high quality urban design and an efficient multi-modal transport system;
 - (i) there is limited control over the management of natural hazard risks associated with buildings on lakefront OSRZs adjoining the Town Centre zones.
14. The following changes were proposed to the PDP through the Notified Variation:
- (a) rezoning some recreation reserve land that is zoned QTCZ on the north-eastern edge of Earnslaw Park to CSZ;
 - (b) rezoning a strip of reserve land on the north-western shoreline of the Queenstown Gardens from Rural to Community Purposes Zone (CPZ);
 - (c) removing the QTWSZ overlay from land zoned Informal Recreation Zone (IFZ), CSZ, and CPZ;
 - (d) amending the rules relating to buildings that contain commercial recreation and accessory commercial, cafes, and restaurant activities so that, where such buildings are located on jetties on OSRZ land which adjoins the QTWSZ, they are subject to the same rules that apply in the QTWSZ;
 - (e) amending the rules so that jetties on OSRZ land which adjoins the QTWSZ are subject to the same rules that apply in the QTWSZ;
 - (f) adding new rules and standards to enable a limited amount of outdoor dining in the OSRZs adjoining the 'Active Frontage' area of the QTWSZ;
 - (g) adding a new noise standard to enable increased day time and night time noise to be received in the CSZ where it adjoins TCZs;
 - (h) adding a new rule and additional matters of control/discretion over building design in relation to various types of buildings on specific OSRZ land adjoining the TCZs;
 - (i) adding a rule to exempt activity on OSRZ land adjoining the TCZs from having to provide any on-site carparking; and
 - (j) adding additional matters of control/discretion to provide control/discretion over natural hazard risks in relation to various types of buildings on the OSRZs.

⁸ Section 32 Report, Executive Summary, para [1.2]

2. STATUTORY CONSIDERATIONS

15. Report 20.1 outlines the general statutory framework that is relevant to our consideration of submissions and further submissions. We have applied that approach in this report.
16. When applying the general statutory framework, we need to take account of the content of the higher order documents guiding (and in some cases directing) how we proceed. Report 20.1 has set out the relevant provisions of the national policy instruments for the Stage 3 hearings and notes the relevance of the RPS.
17. Ms Edgley provided evidence on the NPSUD as part of her Reply statement⁹. She had considered the objectives and policies of the NPSUD as they relate to the variation and the submissions received¹⁰. It was her opinion that the variation, as recommended, is consistent with achieving a well-functioning urban environment in accordance with Policy 1 of the NPSUD, as it provides accessibility to open spaces for residents of and visitors to the Queenstown Town Centre that is integrated with surrounding land uses. In addition, she considered the amendments to Chapter 29 to remove minimum carparking requirements are consistent with Policy 11.
18. No party pointed out to us any other National Policy Statement, National Environmental Standard or other regulation of relevance to the Notified Variation. The Section 32 Report noted the NPSFM is only peripherally relevant to the variation and that the proposal is consistent with that national policy direction. The Section 32 Report also stated that none of the National Environmental Standards are relevant.
19. No party indicated to us that any aspect of the RPS was relevant to the Notified Variation, although Ms Edgley stated that she had referred to the RPS when preparing her Section 42A Report. The Section 32 Report also stated that the RPS had been considered in the preparation of the Notified Variation and that it had appropriate regard to the RPS provisions at that time. However, no analysis of this was provided in the Section 32 Report.
20. Report 20.1 notes the relevant iwi management plans for the Stage 3 hearings. No party pointed out any matters from those iwi management plans of relevance to the Notified Variation.
21. Consideration of the Notified Variation occurs in the context of the broader PDP process which the Council is engaged on. A series of plan changes to the ODP has been initiated, including a new Chapter 38 – Open Space and Recreation Zones included as part of Stage 2 of the PDP.
22. The structure of the Plan Changes and Variations making up the PDP to date is that some chapters (Chapters 3-6) have been inserted into the ODP that provide strategic direction on the entire range of district planning issues. As described in Report 20.1, Chapter 3 provides strategic direction, and Chapters 4-6 elaborate on that strategic direction. Report 20.1 explains the role of Strategic Chapters 3-6, their interpretation and application, as well as their current status in terms of resolution through the Environment Court processes.
23. Although appeals on the Strategic Chapters have not all yet been finally resolved, various decisions, interim decisions and Court Orders of the Environment Court have been released.

⁹ C Edgley, Reply, Section 4

¹⁰ Report 20.1 (Section 2.2) sets out the relevant objectives and policies of the NPSUD for the Stream 18 hearings

In a Memorandum of Counsel, dated 28 October 2020, Ms Scott provided us with updated versions of Chapters 3 and 6 which, although working versions, provide clear direction on the likely shape those chapters will take following final resolution of the appeals on them.

24. The Council's Stage 2 decisions on Chapter 38 are the subject of a number of appeals to the Environment Court, including from Wayfare. We were not provided with any updates from the Court proceedings in relation to the Chapter 38 appeals.
25. As the Notified Variation proposes to apply the rules from the QTCZ (Chapter 12) to buildings on jetties, and the jetties themselves, where they extend into the QTWSZ (rather than the rules in Chapter 38), appeal proceedings relating to Chapter 12 are relevant to the Notified Variation. Ms Edgley advised us that the Environment Court was in the process of resolving relevant appeals on Chapter 12, with a draft consent order (for Topic 8, Subtopic 2) being with the Court at the time she prepared her Section 42A Report. By the time of our hearing, the Environment Court had issued an order on this matter and we were provided with a Consent Order¹¹ dated 17 June 2020. As relevant to this report, the Consent Order amends, and adds to, the policies for Objective 12.2.5 relating to integrated management of the Queenstown Bay land-water interface; and amends, and adds new, rules relating to wharves and jetties, buildings on wharves and jetties, moorings and commercial surface of water activities in Queenstown Bay.
26. Report 20.1 sets out our approach to our duties under Section 32AA of the RMA. As stated, we have adopted the approach of embedding our further evaluation in this report.

3. GENERAL AND SUPPORTING SUBMISSIONS

27. A total of 31 submission points from six submitters, and 3 further submission points were received on the Notified Variation¹².
28. As set out in Report 20.1, where a submission seeking a change to the notified Stage 3 provisions was only considered in evidence from the Council, without the benefit of evidence from the submitter or from a submitter on a related submission, we have no basis in evidence to depart from the recommendation of the Council's witness and recommend accordingly. In such cases, our reasons for accepting the recommendations from the Section 42A Report are those contained in the Report and/or any further evidence presented as part of the Council case.
29. Clause 10 of the First Schedule provides that it is not necessary for the Hearing Panel to address each submission individually, rather the Hearing Panel's report can address decisions by grouping submissions. This is the approach taken in this report. When discussing each section and/or provision, not every aspect of the submissions, as categorised by Council staff, is mentioned. That is so our report is not unnecessarily wordy. However, in each case the Hearing Panel has considered all the submissions and further submissions on the Variation.
30. In the main, the provisions of the Notified Variation were not challenged in the submissions. In addition to the submissions from QWL and Wayfare, who appeared at the hearing and

¹¹ *Queenstown Wharves GP Limited & Others v QLDC*, Environment Court Consent Order, 17 June 2020

¹² C Edgley, EIC, para [2.2]

whose requests for changes to the Notified Variation we address in detail below, submissions were received from five¹³ other parties.

31. QWL¹⁴ lodged a comprehensive submission on the Notified Variation seeking a range of changes to the zone mapping and provisions. The submission supported aspects of the Notified Variation - its intent and some of its provisions. QWL supported the intent of the Notified Variation to provide greater clarity in how the rules operate and to better recognise the special characteristics of the IRZ where it adjoins the QTCZ. QWL sought that the following proposed amended or new provisions be retained as notified:
 - proposed amendments to Rules 38.9.16, 38.9.17, 38.9.20, 38.9.21 and 38.9.36 (should the draft consent orders for Topic 2, Sub-topic 8 be approved), with activity status changed from restricted discretionary to controlled
 - proposed Rule 38.9.20 regarding commercial outdoor dining;
 - the intent of Standard 38.10.13 for commercial outdoor dining;
 - the intent of the variation to Chapter 36 providing for greater noise standards for the CSZ where it adjoins the QTCZ;
 - proposed amendments to Chapter 29 removing requirements for carparking.
32. As we are recommending changes to Rules 38.9.16, 38.9.17, 38.9.20, 38.9.21 and 38.9.36, we recommend Submission #3319.3 from QWL be rejected. However, we are recommending other provisions supported by QWL, or their intent, be retained, accordingly we recommend Submissions #3319.1, #3319.5, #3319.6, #3319.10 & #3319.18 from QWL be accepted and Submission #3319.9 be accepted in part.
33. One submission was received in full support of the Notified Variation from Southern District Health Board (SDHB)¹⁵ which asked that the provisions be retained as notified. As we are recommending some changes to the provisions, we recommend this submission be accepted in part.
34. Active Transport Wānaka¹⁶ supported the provisions of the Notified Variation that set the minimum vehicle parking requirement at zero for the CSZ (where it adjoins a TCZ) and the CPZ and IRZ (within 70m of the QTWSZ). There are no submissions seeking changes to these provisions and, accordingly, we do not recommend any change. We recommend this submission be accepted.
35. This submitter¹⁷ also sought that carparking be replaced by active transport infrastructure. It is beyond the role of a District Plan to commit the Council to funding and developing transport infrastructure instead of carparking. However, as Ms Edgley¹⁸ noted, the reduced requirement to provide carparking in areas adjoining town centres, along with public amenities (such as bicycle stands) and trails being a permitted activity in all OSRZ, is supportive of alternative means of transport. This has subsequently been reinforced by the NPSUD. As discussed in Report 20.1 (Section 2.2), provisions requiring minimum parking provision need to be removed from the District Plan (other than as regards accessible/mobility parking). We

¹³ We address the submissions from KIL (Submitter #31006), C Byrch (Submitter#3262) and FENZ (Submitter #31023) later in this report when we consider specific amendments sought to the rules.

¹⁴ Submitter #3319

¹⁵ Submission #31009.3

¹⁶ Submission #31007.2

¹⁷ Submission #31007.3

¹⁸ C Edgley, EiC, para [7.1]

agree with Ms Edgley's recommendation that this submission be rejected, despite it generally supporting the intent of the Notified Variation.

36. As discussed in more detail in Report 20.8 (section 3.8), Implementation Section 3.38 of the NPSUD provides jurisdiction to remove rules that have the effect of requiring a minimum number of carparks without using the First Schedule process. The Notified Variation already proposes this by requiring zero vehicle parks for the CSZ (where it adjoins a TCZ) and the CPZ and IRZ (within 70m of the QTWSZ). However, Implementation Method 3.38 specifically exempts provision for accessible parking (termed mobility parking in the PDP) from the instruction it provides. As a consequential amendment, to comply with the NPSUD Implementation Method 3.38, we recommend the matters of discretion (referring to parking) for restricted discretionary activities in Rules 38.14.1 and 38.14.2 be qualified to refer to the location of parking and provision for mobility parking.
37. In the following sections of this report, we use a thematic approach to consider the remaining submissions seeking changes to the Notified Variation.

4. ZONING FOR RESERVE LAND ADJOINING QUEENSTOWN BAY

4.1 Overview

38. QWL¹⁹ sought to retain the QTWSZ over the land from which the St Omer and O'Regans Wharves extend and delete the IRZ over the same land. As an alternative, QWL sought a more enabling OSRZ, such as CSZ or CPZ.
39. Ms Edgley included the following description of the land in her Section 42A report²⁰, which is consistent with our observations from our site visit. This is a relatively narrow strip of land (approximately 29m at its widest point) located between Beach Street and Queenstown Bay extending from the Steamer Wharf complex (to the north-east) to opposite the intersection between Beach and Brunswick Streets (to the south-west). Ms Edgley estimated the area of the land as approximately 0.39ha. The land is managed by the Council and is gazetted as a reserve for recreation purposes.
40. The current uses of this land include landscaped open space adjacent to Beach Street; outdoor dining associated with commercial activity in the Steamer Wharf; two wharves (one perpendicular to the shore (St Omer) and one parallel (O'Regans)); a boat ramp and fuelling facility; and a building on the St Omer Wharf housing the Southern Discoveries Visitor Centre and associated carparking. Commercial recreation activities operate from the two wharves.
41. Wayfare²¹ sought to retain the QTWSZ and its provisions over all land around Queenstown Bay as was proposed in the PDP Stage 1, and opposed the rezoning to OSRZ as proposed in the Notified Variation²². In his written answers to our questions²³, Mr Farrell stated that, notwithstanding the breadth of its submission, Wayfare was most interested in / affected by the land within and around the areas near Convelle Wharf (adjoining Earnslaw Park) and the Steamer Wharf.

¹⁹ Submission #3319.2

²⁰ C Edgley, EiC, Section 8

²¹ Submission #3343.14

²² QWL supported Wayfare's submission – Further Submission #3444.2

²³ B Farrell, Supplementary Planning Evidence, para [24]

4.2 History of the Zoning

42. In Stage 1 of the PDP, these areas of reserve land adjoining Queenstown Bay were notified QTCZ, with a QTWSZ. However, by the time the decisions on the PDP Stage 1 were released, the areas adjoining St Omer & O'Regans Wharves and at Earnslaw Park were not zoned QTCZ and were shown "white" (ie. not zoned in that decision) although the notation for the QTWSZ was not removed²⁴.
43. In Stage 2 of the PDP, the Council owned reserve land adjoining Queenstown Bay was notified as various OSRZ. However, the QTWSZ was not notified as being removed. The following zonings were confirmed in the Stage 2 PDP decisions:
- IRZ over the St Omer & O'Regans Wharves area (SW of Steamer Wharf). QWL lodged an appeal seeking retention of the QTCZ for this area;
 - CSZ for Earnslaw Park (NE of Steamer Wharf) and around the edge of the bay to the Town Pier;
 - CPZ for Marine Parade Park, Queenstown Bay Beach and Queenstown Gardens.
44. In Stage 3 of the PDP, the Notified Variation retains the OSRZ zonings over the above land and proposes to remove the QTWSZ from those zones.
45. For context, we also note here that the zoning of the following areas is not amended by the Notified Variation:
- most of the greenspace of Earnslaw Park, which has not been within the QTWSZ, and retains its Stage 2 PDP zoning of CSZ; and
 - the "water" parts of Queenstown Bay, which are not Council-owned reserve land²⁵, and remain zoned QTCZ with QTWSZ. Where this part of the QTWSZ adjoins Earnslaw Park and the St Omers / O'Regans Wharves area, it is notated as "Active Frontage".

4.3 Issues in Contention

QWL Position

46. QWL owns the St Omer and O'Regans Wharves, along with the boat ramp, fuelling facility and commercial building on the St Omer Wharf²⁶. QWL does not own the land on which these buildings and assets are located, but holds leases from the Council over the recreation reserve land and from LINZ for the bed of Lake Wakatipu.
47. Mr Williams²⁷ considered the QTCZ, with the QTWSZ, is the most appropriate zoning to ensure an integrated and co-ordinated approach to Queenstown Bay. In his opinion, the QTWSZ is a sub-zone of the QTCZ and sub-zones cannot exist in isolation from their main zones. Accordingly, the removal of the IPZ would not result in the land being unzoned (as stated by Ms Edgley²⁸) because the underlying zone would remain as QTCZ²⁹. This position was also supported in legal submissions for QWL from Mr Ashton³⁰ who submitted the existence of the sub-zone (QTWSZ) means that the underlying zone (QTCZ) must still be there, albeit not shown on the planning maps.

²⁴ C Edgley, Reply, Figure 1: Extract from PDP Stage 1 Decisions Planning Map 36

²⁵ Managed by LINZ or DoC

²⁶ Legal submission of R Ashton for QWL, para [2.1]

²⁷ T Williams, EiC, Section 6

²⁸ C Edgley, EiC, para [9.3]

²⁹ B Farrell, for Wayfare, also supported this position, Supplementary Planning Evidence, para [28]

³⁰ Legal submission from R Ashton, 23 July 2020

48. In Mr Williams' opinion, the QTCZ, with the QTWSZ, was specifically established to provide a co-ordinated and integrated approach to the management of water interface activities and the use of land within Queenstown Bay. He referred to Objective 12.2.5 as articulating this. That objective states:

Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment that benefits both residents and visitors

49. In his opinion, this objective recognises the reality that activities in this area occur across the boundary between land and water, and the planning framework should therefore provide for integrated management of such activities.

50. Mr Williams³¹ referred to the recently issued Environment Court Consent Order³² which, in his opinion, reinforces this approach through confirming Objective 12.2.5 and amending and adding policies specific to the management of the land / water interface. The following policies from the Consent Order relate to this land-water interface:

12.2.5.2 *Recognise the benefits of an integrated approach to the provision of facilities for water-based activities, including*

12.2.5.3 *Maintain or enhance, where appropriate, the natural qualities of the 'Queenstown beach and gardens foreshore area' and adjoining waters, and amenity values of the foreshore and adjoining waters,*

12.2.5.6 *Provide for structures (including moorings, jetties and wharves) within the Queenstown Bay waterfront area subject to complying with bulk, location and appearance controls (if specified) and maintaining or enhancing the existing predominantly open character, a continuous pedestrian waterfront connection, and navigational safety.*

12.2.5.XX *Recognise the contribution that wharves and jetties within the 'active frontage area' make to supporting recreation, tourism, transport, and general public uses of the surface of the lake activities.*

12.2.5.XX *Require that buildings on wharves and jetties be located and designed in a manner that minimises impacts on views from waterfront public spaces to the lake, gardens and mountains beyond, and maintains and encourages public access onto the wharves.*

12.2.5.9 *Enable the use of wharves and jetties within the 'active frontage area' to support commercial activities and public transport and recognise that the active frontage area is expected to continue to provide for this function.*

51. Mr Williams considered the zoning of these areas to OSRZ would not achieve integration across the land and water interface and would undermine the above policy direction, creating greater inconsistencies and confusion over activities in the area. He expressed his concern that the Notified Variation defers to the QTCZ (Chapter 12) to determine the activity status of certain activities (jetties, and buildings on jetties, that extend from the OSRZ into the QTWSZ). However, the assessment of those activities would be against the objectives and policies of the OSRZ (Chapter 38). In his opinion, this does not represent a logical or integrated plan framework, nor an efficient or effective regime to achieve integrated management of the Queenstown Bay land-water interface. In his opinion, the more efficient way to achieve this is through the specifically tailored provisions of the QTCZ and the QTWSZ.

³¹ T Williams, Summary Statement of Evidence, dated 28 July 2020

³² *Queenstown Wharves GP Limited & Others v QLDC*, Environment Court Consent Order, 17 June 2020

52. Mr Williams gave examples of ticketing kiosks that are often associated with wharves. Their location can vary, some located on the wharf, others on the adjoining reserve land, or in the case of the building on St Omer Wharf, straddling the boundary. He considered the approach of the Notified Variation would create confusion as to what zone and provisions would apply.
53. Mr Williams' observation was that, if the Notified Variation proceeds, there would only be one area of Queenstown Bay where the QTWSZ would continue to extend from the water on to the land, at Steamer Wharf³³. In Mr Williams' opinion, this would undermine the whole purpose of providing an integrated approach to Queenstown Bay and the utility of having a sub-zone spanning the land-water interface, as recently confirmed through the Court's Consent Order. Mr Ashton submitted the considerable effort the parties invested in enhancing the QTCZ provisions to manage the land water interface (including several days of mediation in relation to the appeals) would be partially obviated by the removal of the QTWSZ over the land component of Queenstown Bay.

Wayfare Position

54. Mr Farrell's evidence³⁴ was that retaining the QTWSZ is more appropriate and a better integrated approach to the management of this urban waterfront location, rather than removing the QTWSZ and zoning the land OSRZ. He considered this is particularly so, given the location of the land in the Queenstown town centre, sandwiched between the land based central business activities and the waterfront / lake-based surface water activities undertaken in Queenstown Bay. In relation to the management of reserve land for public use and enjoyment, he considered there is sufficient policy support and direction in the QTCZ provisions that promote use and enjoyment of public land.
55. As we were unfortunately not able to accommodate Mr Farrell on the day he was scheduled to appear at the hearing, he offered to provide a written response to our questions. In his written answers³⁵, Mr Farrell identified that most jetties, wharves and boardwalks start on land and then proceed out over water. In his opinion, the QTWSZ provides for an integrated approach to activities on such structures, rather than have a zone boundary run through them. He considered the QTWSZ clearly contemplates land-based activities, as well as activities on or over water. The QTWSZ rules not only apply to activities on the surface of water and to wharves, etc, that extend over the water, the rules also provide for land-based activities in the sub-zone, such as commercial activities (whether or not on a wharf or jetty). In his opinion, this provides for integrated assessment of such activities where they straddle the land/water boundary.
56. Mr Farrell also referred to the objectives and policies for the QTWSZ, which were recently confirmed in the Court's Consent Order. He stated that these apply to the land the Notified Variation seeks to rezone. In his opinion, zoning this land as OSRZ would result in ambiguity in terms of the applying the recently confirmed objective and policies relating to the land/water interface in Chapter 12.

³³ As we note later, this is not our observation, although we acknowledge the difficulty in determining the location of the notified QTWSZ boundary. From our observation, under the Notified Variation, there would still be areas around the immediate edge of Queenstown Bay where the QTWSZ would continue to extend from the water on to the land (although presumably not Council-owned reserve land)

³⁴ B Farrell, Stream 18 EIC, para [20]-[24]

³⁵ B Farrell, Supplementary Planning Evidence, para [25]-[27]

Ms Edgley's Position for the Council

57. In her Section 42A Report³⁶, Ms Edgley discussed the zoning implications for the land adjoining St Omer and O'Regans Wharves if the IRZ was to be removed and the QTWSZ retained. In her opinion, deletion of the IRZ over this land would result in the land remaining unzoned, with just the QTWSZ as a sub-zone over the land. She confirmed this as her position in her Reply, with reference to the planning map attached to the Decision on PDP Stage 1 which shows the land "white" (i.e. unzoned by that Decision)³⁷. Ms Edgley noted that the QWL³⁸ and Wayfare submissions did not explicitly state that they sought a rezoning to QTCZ. However, in her Reply³⁹, Ms Edgley accepted that a submission seeking QTCZ over the land (with a QTWSZ) is "on" the variation and able to be considered.
58. Ms Edgley's position remained that retention of an OSR zoning generally for reserve land adjoining Queenstown Bay is the most appropriate. She noted that these areas are Council-owned reserves, with a public use function. The Council chose to zone these areas as OSRZs of various types through Chapter 38 (in Stage 2 of the PDP), in order to better integrate the management of the land under the PDP with the purpose and management of each reserve under the Reserves Act. With the amendments proposed through the Variation and her recommendations, she considered an OSR zoning would ensure a balance between the competing interests in these highly visible and well-patronised parts of the Queenstown Bay foreshore⁴⁰.
59. Ms Edgley did not support a rezoning to QTCZ for this land. She considered⁴¹ this would result in poor alignment with the underlying requirement of the Reserves Act 1997 to manage reserve land for public use and enjoyment. In her opinion⁴², a QTCZ would undermine the purpose and intent of Chapter 38 in providing a targeted zoning framework for Council-administered reserves (across the District) that better complements the anticipated use of reserve land.
60. Ms Edgley⁴³ did support a change to the zoning of the land adjoining St Omer and O'Regans Wharves from IRZ to the more enabling OSRZ of CSZ (the same zoning as the land in and around Earnslaw Park, to the east of the Steamer Wharf). Given the similar use of these areas of land (including outdoor dining, wharves and jetties, and public open green space), she considered CSZ over both areas would enable consistent management, particularly in relation to outdoor dining and noise.

4.4 Hearing Panel's Consideration and Recommendations

61. We consider first the scope to amend the underlying zoning of the land from which the Notified Variation seeks to remove the QTWSZ – either to change the zoning to QTCZ or to an alternative OSRZ. The Council and Ms Edgley (in her Reply) agreed that a submission seeking a different zoning for this land is 'on' the variation. Ms Edgley referred to the resource management issue identified in the Section 32 Report, being the tension between the applicability of a sub-zone when applied to a different underlying zoning. We agree this incorporates the issue of the appropriate zoning and sub-zoning for this land, such that it

³⁶ C Edgley, EiC, Section 9

³⁷ C Edgley, Reply, Figure 1: Extract from PDP Stage 1 Decisions Planning Map 36

³⁸ C Edgley, Rebuttal, Footnote to para [3.9]

³⁹ C Edgley, Reply, para [3.6]

⁴⁰ C Edgley, Reply, para [3.7]

⁴¹ C Edgley, EiC, para [9.3]

⁴² C Edgley, Rebuttal, para [3.10]

⁴³ C Edgley, EiC, Section 8

would not be unexpected for a submission to seek a different underlying zoning than the OSRZ determined through the Stage 2 PDP. We have approached our consideration of the submissions from QWL and Wayfare on the basis that scope to consider alternative zonings is available. We do not intend to determine whether or not the land retains its underlying zoning of QTCZ (in addition to the Stage 2 OSR zoning). It is not our role to do this, and we do not consider it needs to be determined in order to address the submissions before us.

62. We note Wayfare sought QTCZ (& QTWSZ) over all the land from which the Variation seeks to remove the QTWSZ. This includes the land at Marine Parade Park, Queenstown Bay Beach and Queenstown Gardens. We have no evidence supporting the rezoning of this land from CPZ to QTCZ and doubt this was intended by Wayfare. We do not recommend any change to the zoning of this land and recommend removal of the QTWSZ in accordance with the Notified Variation.
63. We now turn to the question of the most appropriate zoning for the reserve land adjoining St Omer and O'Regans Wharves and the Earnslaw Park area, where the Notified Variation seeks to remove the QTWSZ. Our understanding from the various plans and aerial photographs⁴⁴ is that the land involved consists of:
- The reserve land in the vicinity of St Omer and O'Regans Wharves, between Beach Street and the immediate waterfront area; and
 - A very narrow strip of land running from the Steamer Wharf to the Town Pier, on the lakeside edge of Earnslaw Park and lakeside of the commercial buildings around to the Town Pier.
64. We acknowledge that the zoning for the areas of reserve land around Queenstown Bay has got into a muddle through the PDP Stage 1 and 2 processes. We note this is another consequence of the staged approach the Council decided to take to the review of the ODP. This was exacerbated by the retention of the sub-zone (QTWSZ) over areas shown "white" (i.e. not zoned in the PDP) in the Stage 1 PDP decision, which continued through the notification of OSR zonings in the PDP Stage 2. We accept this resulted in a lack of clarity for affected submitters as to whether or not the QTCZ was retained over these areas, as clearly the QTWSZ is a sub-zone of the QTCZ and is not able to exist without the provisions of that zone. We acknowledge that all parties are now faced with a complex zoning position, with associated overlapping direction, contradiction and uncertainty. Having said this, we agree with the general intent of the variation to sort this out in a logical manner.
65. We agree (as do all parties) that the area affected by the variation is at an interface, on several levels:
- Between the land and the water;
 - Where land-based facilities and activities interact closely with jetties and wharves that extend over the water;
 - As a prime locational focus for recreational and commercial activities for visitors to, and residents of, central Queenstown – on the land, in the water, or enjoying one from the other;
 - Between public and private use of reserve open space, especially for outdoor dining, cafes and bars, as the base for recreational and tourist-industry activities, etc.
66. We consider our role as Commissioners is to make the best of this situation and find the most appropriate planning solution in this complex space (based on the alternatives before us).

⁴⁴ Provided with the Notified Variation and Ms Edgley's evidence

Whatever we recommend, the alternatives before us require a mix and match approach between the public and private interests. Ms Edgley has recommended OSR zoning which would defer to Chapter 12 (QTCZ) for activity status for jetties, and buildings (for a range of activities) on jetties, that extend into the QTWSZ. On the other hand, QWL and Wayfare support the Consent Order approach which introduces public policy direction into the QTCZ for this interface area (QTWSZ) and the activities provided for there. Neither approach is fully integrated and some pragmatism is required to be applied.

67. We acknowledge the PDP Stage 2 approach to the OSRZ across the District. Mr Ashton referred us to the purpose of the OSR zoning at Stage 2. He quoted the Stage 3 Section 32 evaluation⁴⁵ as stating:

In order to simplify the management of effects of activities on reserve land, the Stage 2 OSR Chapter re-zoned all Council owned and/or administered reserve land as one of five open space zone and four sub-zones. The zone provisions are intended to better provide for public amenities, day-to-day park management activities, and existing and future anticipated activities, and therefore reduce unnecessary consenting requirements for those activities while ensuring that other activities (and the effects thereof) are appropriately managed.

68. We understand that the zoning approach to Council owned reserves was an alternative to the use of designations to manage reserve activities under the ODP, and to bring a consistent planning framework for the management (under the PDP) of the many areas of Council reserves throughout the District⁴⁶. We agree this is generally a sensible planning approach and one being adopted by many Councils throughout the country. However, we do not accept that it needs to be an absolute approach to the management of each and every area of Council reserve land. We consider there is potential to move away from this philosophy where there is good reason to do so.

69. We have considered the relevant objectives, policies and rules of Chapter 12 as they apply to the QTWSZ (including the provisions recently introduced by the Consent Order). Both Mr Williams and Mr Farrell impressed upon us that the objectives and policies of Chapter 12 for the QTWSZ are specifically designed to, and would achieve, the integrated management of this land / water interface. We note Objective 12.2.5 and its policies include direction to:⁴⁷

- Achieve integrated management of the Queenstown Bay land-water interface and the activities at this interface;
- Establish a dynamic and attractive environment, which maximises the opportunities and attractions inherent in its location, and benefits both residents and visitors;
- Retain and enhance all the public open space areas adjacent to the waterfront (Policy 12.2.5.4);
- Maximise pedestrian accessibility to and along the waterfront (Policy 12.2.5.5);
- Provide for structures (including moorings, jetties and wharves) within the waterfront area, while maintaining or enhancing the existing predominantly open character, a continuous pedestrian waterfront connection, and navigational safety;
- Recognise the contribution of wharves and jetties within the 'active frontage area' to supporting recreation and tourism;
- Manage the design and location of buildings on wharves and jetties (Policy 12.2.5.8);

⁴⁵ Section 32 Evaluation, Stage 3 Components, for Chapter 38 Open Space and Recreation Zone, June 2019, para [7.1]

⁴⁶ We discuss this approach in more detail in Section 19 of Report 20.7

⁴⁷ We have set out the Objective and the numbered Policies from the Consent Order above

- Enable the use of wharves and jetties within the 'active frontage area' to support commercial activities.
70. We agree with Mr Williams and Mr Farrell that Objective 12.2.5 and its comprehensive suite of policies address the range of matters that could be anticipated to require management at this waterfront interface within a dynamic town centre, valued by both residents and visitors. In particular, they expressly include direction relating to public realm considerations of maintaining and enhancing public open space, maximising pedestrian accessibility, and managing the design and location of buildings.
 71. While the relevant Chapter 38 Objective 38.2.4 and its policies also acknowledge the land / water interface role of areas of OSRZ, we observe that the emphasis in these provisions is on protecting or maintaining the natural character and conservation values of waterbodies and their margins, with limited provision for commercial recreation activities. For the CSZ, in particular, Objective 38.6.1 and its policies emphasise the role of this zone as focal points for civic and community functions and events and for informal recreation, with provision for commercial activities of a temporary nature, and limiting buildings and structures to those necessary to support civic activities.
 72. Having reviewed these provisions, we agree with Mr Williams and Mr Farrell that the relevant objectives and policies for the QTCZ more directly and appropriately address the resource management issues occurring at the land/ water interface within Queenstown Bay, compared with those for the CSZ. They are specifically intended and designed to do so (including through the recently confirmed Consent Order). These are the matters this variation seeks to address.
 73. In terms of the rules for buildings within the CSZ for restaurants, cafes, commercial recreational activities and associated commercial activities, that are located on jetties that extend into the QTWSZ, the Notified Variation proposed to apply the QTWSZ rules. Similarly, for boat ramps, jetties and marinas. Some other activities, such as commercial outdoor dining, may have a more lenient activity status within the QTWSZ compared with the CSZ. However, we consider this is appropriate for this town centre interface and that the effects can be effectively managed through a combination of the QTWSZ provisions in Chapter 12 and the Council's ability to manage such activities on public land.
 74. Although we accept this would be an exception to the Council's approach to providing a consistent planning framework for all Council-owned reserve land, we prefer the approach sought by QWL and Wayfare. We consider this provides a better integrated planning framework and there is sufficient support within Chapter 12 to maintain or enhance the public values of this land.
 75. Having regard to Ms Edgley's Reply evidence on the NPSUD, we consider that rezoning these areas of Council-owned reserve land around Queenstown Bay to QTCZ, with a QTWSZ, would remain consistent with achieving a well-functioning urban environment in accordance with Objective 1 and Policy 1 of the NPSUD. It will continue to provide for integrated management of the areas around the bay, as well as providing for good accessibility to open spaces for residents of and visitors to the Queenstown Town Centre.
 76. Having evaluated the alternative zonings put before us for these areas in terms of our duties pursuant to section 32AA of the Act, and having weighed the costs and benefits to the land users and to the wider public, we are satisfied retaining the QTWSZ with the QTCZ is the most appropriate way of achieving the objectives and policies of the PDP. We recommend the

submission from Queenstown Wharves (GP) Limited⁴⁸ be accepted and the submission from Wayfare Group Limited⁴⁹ be accepted in part, as they relate to the zoning of reserve land adjoining St Omer and O'Regans Wharves and the Earnslaw Park area, where the Notified Variation sought to remove the QTWSZ.

77. Our recommendation means that all of the wharves and jetties in the St Omer and O'Regans Wharves and Earnslaw Park areas would be contained within the QTCZ and QTWSZ. There would, therefore, be no need for the exceptions to the rules in Table 38.1, proposed by the Notified Variation, for jetties, and buildings located on jetties, that extend into the QTWSZ. Accordingly, we have deleted those exceptions in our recommended provisions for Chapter 38 in Appendix 1.
78. This recommendation means there would no longer be an area of IRZ adjoining the "Active Frontage Area" of the QTWSZ. There would, however, remain an area of CSZ adjoining the "Active Frontage Area" in the Earnslaw Park area. This requires consequential amendments to the notified provisions to delete references to the IRZ. These were shown in Ms Edgley's Reply Version, as she had recommended changing the zoning of the IRZ in the St Omer / O'Regans Wharves area from IRZ to CSZ. We have adopted her consequential amendments accordingly, in our recommended provisions for Chapter 38 in Appendix 1.
79. The Notified Variation (in Figure 3) proposed to amend the zoning of a narrow strip of Council-owned land along the north-eastern edge of Earnslaw Park from QTCZ to CSZ. This land is outside the PDP's QTWSZ. Accordingly, we do not consider the appropriate zoning for this land comes within the scope of submissions from QWL and Wayfare, which sought to amend the zoning of land from which the Notified Variation proposed to remove the QTWSZ. We have no evidence before us regarding the rezoning of this land from QTCZ to CSZ and do not recommend any change to the zoning notified in the Variation. We do, however, note that this will result in a narrow sliver of land being zoned CSZ between areas of QTCZ covering the waterfront land (within the QTWSZ) and the private properties on Rees and Beach Streets. We considered whether this could be addressed as a consequential change following from our recommendation to retain the PDP's QTWSZ with a zoning of QTCZ. However, we did not feel comfortable doing this when rezoning the land to CSZ was a specifically identified aspect of the Notified Variation on which we had received no opposing evidence from submitters. We suggest the Council may wish to have another look at the appropriate zoning for this sliver of CSZ in the future.

5. POLICY SUPPORT IN CHAPTER 38 FOR WATER-BASED ACTIVITIES AND RELATED COMMERCIAL ACTIVITIES IN QUEENSTOWN BAY

80. As alternative relief, if an OSRZ was to be retained over the St Omer / O'Regans Wharves area, QWL sought⁵⁰ addition of an objective and policy into Chapter 38 to assist in reconciling the policy tension created by the deference to the QTCZ rules for activities that straddle the land-water boundary. Mr Williams⁵¹ considered this would assist with providing integrated management of the waterfront area and provide specific recognition of the particular character of Queenstown Bay within Chapter 38. He noted this would support Policy 6.3.5.3 which recognises the urban character of Queenstown Bay, its structures and facilities

⁴⁸ Submission #3319.2

⁴⁹ Submission #3343.14

⁵⁰ Submission #3319.4

⁵¹ T Williams, EIC, Section 7

(provided that they protect, maintain or enhance the ability to appreciate the District's distinctive landscapes).

81. Ms Edgley⁵² recommended rejecting this submission, on the basis that it was not clear whether it was to apply district-wide or to a particular OSRZ; and that existing Objective 38.2.4 and its policies already address the management of the interface of the Open Spaces Zones and waterbodies and their margins.
82. As a result of our recommendation above for the zoning of this land, we do not need to make a determination between Mr Williams' and Ms Edgley's positions on this matter. We are recommending retaining the QTWSZ (with QTCZ) for the St Omer / O'Regans Wharves area, on the basis that the objective and policies of that zone will provide the required integrated management of the land-water interface in this part of Queenstown Bay. We, therefore, recommend Submission #3319.4 from Queenstown Wharves (GP) Limited is rejected, although we note this submission reinforces our recommendation that QTCZ (QTWSZ) is the most appropriate zoning for this area.

6. COMMERCIAL OUTDOOR DINING IN OSRZ ADJOINING THE ACTIVE FRONTAGE AREA OF QUEENSTOWN BAY

83. Notified Rule 38.9.20 provides for commercial outdoor dining on land that adjoins the Active Frontage Area of the QTWSZ (where this is not provided for elsewhere in the rules). The activity status varies depending on the OSRZ. Rule 38.10.13 establishes a standard for commercial outdoor dining located in the CSZ or IRZ. Where the land adjoins the "Active Frontage Area" of the QTWSZ, this standard requires the outdoor dining to immediately adjoin the restaurant or café that it is associated with and not extend into the CSZ or IRZ by more than 5m from the QTCZ boundary or from the boundary of the restaurant or café.
84. As an initial point, we note here that our recommendation to zone the area of IRZ adjoining St Omer and O'Regans Wharves as QTCZ (QTWSZ) means there would no longer be an area of IRZ adjoining the "Active Frontage Area" of the QTWSZ. There would, however, remain an area of CSZ adjoining the "Active Frontage Area" in the Earnslaw Park area. This requires consequential amendments to notified Rules 38.9.20 and 38.10.13 to delete reference to the IRZ.
85. KIL⁵³ and QWL both lodged submissions relating to commercial outdoor dining in the OSRZ adjoining Queenstown Bay.
86. KIL⁵⁴ sought that notified Rules 38.9.20 and 38.10.13 relating to commercial outdoor dining both be deleted, on the basis that they provide a barrier to outside dining associated with bars and restaurants operating from Steamer Wharf and are an unnecessary duplication of other Council, LINZ and DOC processes that control outdoor dining on land owned or managed by these authorities. In relation to the 5m extension standard, KIL submitted that the distance is arbitrary, a number of existing outdoor dining areas extend further than 5m, and the non-complying status associated with breaching the standard provides a strong signal that outdoor dining located further than 5m is not acceptable.

⁵² C Edgley, EiC, para [5.3]-[5.4]

⁵³ Kopuwai Investments Limited (KIL) is the owner of the commercial building complex known as Steamer Wharf

⁵⁴ Submissions# 31006.1 & #31006.2

87. As noted earlier, QWL⁵⁵ supported the retention of Rule 38.9.20. QWL⁵⁶ sought that the intent of Standard 38.10.13 providing for commercial outdoor dining in the IRZ that adjoins the Active Frontage Area of the QTWSZ be retained. A related submission⁵⁷ from QWL sought that Standard 38.10.13 be amended to provide for outdoor dining to extend into the CSZ or IRZ by up to 20m from the QTCZ boundary or boundary of the restaurant or café.
88. In response to the submission from KIL to delete Rules 38.9.20 providing for commercial outdoor dining, Ms Edgley⁵⁸ explained that this new rule is intended to fill a gap in the Stage 2 PDP Chapter 38 provisions, which do not include specific provision for outdoor dining associated with a restaurant located in a different, adjacent zone. We understand this situation will occur in the Queenstown Bay waterfront area, as outdoor dining may be in an OSRZ whereas the associated restaurant or café may be in the QTCZ. As Ms Edgley confirmed, the new rule results in a more enabling activity status than in the Stage 2 PDP. We did not hear any evidence from KIL in relation to its submissions. Accordingly, we accept the recommendation of Ms Edgley for the reasons she has given and recommend QWL's submission to retain Rule 38.9.20 be accepted and KIL's submission to delete it be rejected.
89. Ms Edgley⁵⁹ acknowledged that many existing outdoor dining operations extend more than 5m from the restaurant or café premises and agreed that 5m (or any other number for that matter) is an arbitrary distance. In relation to QWL's submission to extend the distance to 20m, Ms Edgley considered this would be a significant intrusion into the public space of the reserve. In the case of Earnslaw Park, she estimated this would extend as far as the golden elm tree in the centre of the park. Ms Edgley continued to support provision for only a small encroachment (the notified 5m) as more appropriate to give effect to the objectives and policies of the OSRZ, which recognise the importance of prioritising reserves for public recreation rather than commercial activities.
90. Ms Edgley recommended changing the activity status for non-compliance with the 5m encroachment to restricted discretionary rather than the notified non-complying, on the basis of KIL's submission. She agreed there may be instances where locating an outdoor dining area further away from the premises may have less adverse effects on the public use of the reserve, such as where it would maintain existing pedestrian accessways. She considered restricted discretionary activity status, with identified matters of discretion, would provide greater certainty for plan users, reduce consenting costs, and is more in line with the Council's policy for outdoor dining on Council-owned land⁶⁰ which leaves the depth of outdoor dining to the discretion of the Council.
91. QWL initially sought a 20m extension into a CSZ for outdoor dining. Mr Williams⁶¹ supported making outdoor dining a permitted activity, on the basis that this reduces unnecessary consenting and is more supportive of outdoor dining. However, as an alternative he supported the change of activity status to restricted discretionary activity for breaches of the encroachment distance. Mr Ashton⁶² submitted that the area could cater for a 10m encroachment without a significant intrusion into public space and that this would encourage

55 Submissions #3319.5 & #3319.6

56 Submission #3319.7

57 Submission #3319.8

58 C Edgley, EiC, para [3.5]-[3.6] & [3.13]

59 C Edgley, EiC, para [3.9]-[3.12] & [3.13]

60 Table and Chairs Policy 2009

61 T Williams, EiC, para [7.5]

62 Legal submissions from R Ashton, para [6.6]

outdoor dining as an integral part of the vibrancy of the waterfront. No evidence was provided to support the 10m extension.

92. We have considered the submissions and evidence regarding Rule 38.10.13. We agree that further flexibility than non-complying activity status is warranted, given the need to consider a range of localised factors when determining the appropriateness of any extension into the CSZ. We agree with Ms Edgley that restricted discretionary status is more appropriate for the reasons she has given. On the planning evidence before us, we have no basis to determine a different extension standard than the notified 5m, although we accept the arbitrary nature of any distance proposed for such a standard. In conjunction with the change of activity status for non-compliance, we recommend the 5m maximum extension for outdoor dining in the CSZ be retained for Rule 38.10.13. Accordingly, we accept the recommendation of Ms Edgley that QWL's submission be rejected and the submission from KIL be accepted in part as KIL also sought the change in activity status for non-compliance.

7. NOISE STANDARDS

93. The Notified Variation provided for greater noise standards for the CSZ where it adjoins the Queenstown, Wānaka or Arrowtown TCZ (Rules 36.5.2 and 36.5.3). QWL⁶³ supported retaining the intention of this part of the variation.
94. QWL's submission⁶⁴ also sought the notified noise standards applying to a CSZ adjoining a TCZ apply to the IRZ, which was notified as applying to the St Omer / O'Regans Wharves area. In addition, the submission⁶⁵ sought to increase by 20dB the daytime and night-time noise limits for all OSRZ, as well as for CSZ and IRZ where they adjoin a TCZ or the QTWSZ.
95. Ms Edgley⁶⁶ generally accepted it is appropriate to exclude the IRZ at the St Omer / O'Regans Wharves area from the lower noise limits of the OSRZ. Her recommendation to rezone this area as CSZ would achieve this.
96. Ms Edgley⁶⁷ did not recommend accepting the 20dB increases in noise limits sought by QWL. She considered first that the changes sought to Rule 36.5.2 would be outside the scope of the Notified Variation, as the submission was seeking to amend a noise limit that the PDP applies to multiple zones outside the geographic scope of the variation. Secondly, she considered such a significant increase in noise limits for zones such as residential and rural zone would not give effect to the provisions of those zones relating to residential or rural amenity. Even for CSZ where it adjoins the TCZ, she considered this would be a significant increase, exceeding the standards for the TCZ themselves, where noisier activities are anticipated.
97. QWL's evidence from Tim Williams⁶⁸ and its legal submissions stated that QWL is seeking the noise rules of the TCZ apply to the CSZ where it adjoins the TCZ. Mr Williams' evidence supported this. He noted that Queenstown Bay is a vibrant and active area where greater noise is anticipated and aligning the noise limits would be an integrated approach to the management of noise.

⁶³ Submission #3319.10

⁶⁴ Submissions #3319.11 & #3319.12

⁶⁵ Submissions# 3319.13 & #3319.14

⁶⁶ C Edgley, EiC, para [6.3]-[6.4]

⁶⁷ C Edgley, EiC, para [6.5]-[6.7]

⁶⁸ T Williams, EiC, para [7.6]-[7.7]

98. Mr Williams pointed out that Ms Edgley’s recommended changes⁶⁹ did not appear to exactly replicate the noise rules for TCZs in Chapter 12. The QWL legal submissions⁷⁰ pointed out the following differences:
- The daytime limits for the TCZs apply from 0800 to 0100 (rather than 0800 to 2200)
 - The TCZ noise limits are more permissive for sound from music, loudspeakers and voices respectively.
- The legal submissions sought more complete alignment between the noise limits in the CSZ (where it adjoins the QTCZ) and those for the QTCZ⁷¹.
99. Ms Edgley’s rebuttal evidence clarified that she had not recommended any changes to the noise limits themselves. She noted the more permissive the noise limits referred to by Mr Williams and Mr Ashton from Chapter 12 are only applicable to the QTCZ, whereas the variation covers CSZs that adjoin a TCZ in Queenstown, Wānaka and Arrowtown. She accepted adding a night-time L_{AF} maximum, as this is consistent across all the TCZs. She did not recommend including the additional limits for music and voice noise. Overall, she considered her recommendations provided the appropriate balance between supporting the vibrancy of the TCZs and protecting reserve land for use by the public.
100. We note that our recommendation to zone the St Omer / O’Regans Wharves area and a narrow strip of the Earnslaw Park area to QTCZ (with QTWSZ) would result in the QTCZ noise limits applying to those areas. Beyond those areas (in particular the CSZ area of Earnslaw Park which adjoins the QTCZ), we were not persuaded by Mr Williams’ limited evidence on this matter. We accept Ms Edgley’s more considered approach, including her recommendation to add the night-time L_{AF} maximum. We agree with Ms Edgley that the Notified Variation (with her amendment) appropriately supports the vibrancy of the TCZs and the adjoining areas of CSZ, whilst maintaining amenity values for the public use of this open space reserve land.
101. Accordingly, for the reasons given by Ms Edgley, we recommend that Submissions #3319.11, #3319.12 and #3319.14 from Queenstown Wharves (GP) Limited be accepted in part, and Submission #3319.13 be rejected. We note that our recommendation on the merits means that we do not need to consider Ms Edgley’s view that the submission is out of scope. We record our view that if we had favoured the amendment sought, it would need to have been limited to the geographical areas the subject of variation, or land in close proximity thereto, to remain within scope.

8. OTHER AMENDMENTS SOUGHT TO PROVISIONS

102. FENZ⁷² sought an exception for emergency services and emergency warning sirens from Rule 36.5.2 which sets the maximum noise limits for OSRZ. We did not receive any evidence from FENZ on this matter. Ms Edgley⁷³ pointed out that PDP Chapter 36 Noise already provides for warning devices for emergency or safety purposes and sound arising from fire stations and appliances as permitted activities. Accordingly, there is no need to provide an exemption specifically within the OSRZ. We recommend this submission be rejected.

⁶⁹ We observe that Mr William’s referred to Ms Edgley’s recommended changes in her Section 42A Report, when the changes to Rule 36.5.3 were part of the Notified Variation

⁷⁰ Legal submissions from R Ashton, para [6.9]-[6.10]

⁷¹ We note QWL Submissions #3319.13 & #3319.14 were specific in requesting an increase in the day-time and night-time maximum noise limits and did not request additional measures to provide greater alignment with the noise standards for the QTCZ

⁷² Submission #31023.2

⁷³ C Edgley, EiC, para [6.8]

103. Ms Christine Byrch⁷⁴ sought that the commercial activities in Table 38.1 be made less lenient, with particular regard to the Nature Conservation Zone, IRZ, Active Sports and Recreation Zone, and CPZ⁷⁵. The submission stated that Table 38.1 is too lenient in so far as allowing commercial activities in open space and these areas should be maintained for public enjoyment rather than commercial interests. Although Ms Byrch appeared at the RVZ hearing and provided us with written evidence, she did not address us in relation to this matter. Ms Edgley pointed out that the Notified Variation only affects the activity status of one commercial activity (the proposed outdoor dining rule) which relates only to the CSZ and IRZ. This proposed new rule has an activity status of restricted discretionary activity, allowing an application to be declined or conditions imposed if consent is granted. In Ms Edgley's opinion, this status implements the objectives and policies⁷⁶ relating the amenity values of reserves. She recommends this submission be rejected. We accept Ms Edgley's reasons and recommendation. We recommend this submission be rejected.
104. In addition to the submissions we examined earlier, QWL sought some amendments to other provisions, namely:
- The design and external appearance of buildings in the IRZ be managed under the Reserves Act rather than under the rules of the PDP;
 - Removal of the additional matters of control and matters of discretion included in the Notified Variation for the CSZ and IRZ adjoining TCZs;
 - The management of natural hazards through Chapter 28 of the PDP, rather than through Chapter 38.
105. We did not receive any evidence on behalf of QWL on these matters. Most of the matters are likely to have been addressed (and therefore become unnecessary) through our recommended zoning for the IRZ area that QWL is most interested in, adjoining the St Omer / O'Regans Wharves. Ms Edgley addressed these submissions briefly in her Section 42A Report⁷⁷ and recommended they be rejected. We accept Ms Edgley's recommendations and recommend that Submissions #3319.15, #3319.16, #3319.17, #3319.19 and #3319.20 from Queenstown Wharves (GP) Limited be rejected, for the reasons set out by Ms Edgley.
106. Wayfare⁷⁸ sought an additional matter of discretion be inserted into Table 38.5, to ensure "positive effects" of activities are considered⁷⁹. This would have the effect of including a new matter of discretion for all activities identified as restricted discretionary activities across all the OSRZ. We agree with Ms Edgley that this submission goes beyond the scope of the Notified Variation by seeking to add an additional matter of discretion to rules in Chapter 38 that are not part of the variation. In addition, we note the inclusion of "the benefits of the proposal" as a matter of discretion was specifically considered by the Hearing Panel at Stage 2 in Report 19.1⁸⁰. That Panel considered planning evidence from Mr Farrell for Real Journeys

⁷⁴ Submission #3262.1

⁷⁵ QWL opposed Ms Byrch's submission – Further Submission #3444.1

⁷⁶ In particular, Policies 38.2.1.5 (which refers to maintaining or enhancing the recreation and amenity values of the OSRZ) and 38.2.3.2 (which seeks to ensure that commercial activities maintain the quality, amenity values and landscape values of open spaces)

⁷⁷ C Edgley, EiC, Section 4 and Appendix 2 Summary of Submissions and Recommended Decision

⁷⁸ Submission #3343.15

⁷⁹ QWL supported Wayfare's submission – Further Submission #3444.3

⁸⁰ Report and Recommendations of Independent Commissioners regarding Chapters 25, 29, 31, 38 and Visitor Accommodation. Report 19.1 – Introductory Report: Procedural and Statutory Matters, Section 3.1

Group (the submitter) and Ms Edgley for the Council, and legal submissions from Ms Scott⁸¹. In that Panel's view, the positive effects of a particular activity would have been taken account of when the activity status was determined; matters of discretion often already allow for consideration of both positive and adverse effects on the environment; and the broad and indeterminable nature of "benefits of a proposal" means that any assessment falls to be determined as a full discretionary activity. On that basis, that Hearing Panel considered it would be very difficult for such an amendment to satisfy the assessment required under section 32AA, and they recommended the submission be rejected. We agree with the findings of that Hearing Panel⁸² and consider it applicable to this submission. For the reasons given here, we recommended Submission #3343.15 from Wayfare Limited be rejected .

9. OVERALL RECOMMENDATION

107. Having considered the evidence before us, with the amendments we have recommended we consider the notified Variation to Chapter 38, including amendments to the Planning Maps, and associated Variations to Chapters 29 and 36 are the most efficient and effective way to achieve the objectives of the PDP. Our reasons for the amendments we have recommended are set out above.
108. We recommend the Council:
- (a) adopt the Variation to Chapter 38 Open Space and Recreation Zones and related Variations to Chapters 29 and 36, with the wording as set out in Appendix 1; and
 - (b) amend the Planning Maps as captured in the revisions to the electronic maps supplied separately to Council.
109. We note that our recommended revision of Chapter 38 does not include the additional rule recommended by the Stream 17 Hearing Panel in Report 20.5.
110. We draw the Council's attention to the discussion in section 4.4 above of an apparent anomaly in the outcome of our recommendations that we did not consider we had jurisdiction (or evidence) to address. Council may wish to consider a further Plan Change to remove the small slither of CSZ land that resulted.
111. We also attach as Appendix 2, a summary table setting out our recommendation in relation to each submission on the Variations. We have not listed further submissions as the result in respect of any further submission necessarily follows the recommendation on the primary submission, whether that be supported or opposed.

⁸¹ Reply Representations/Legal Submissions for Queenstown Lakes District Council – Stream 15, dated 15 October 2018, at paragraph 2.2ff

⁸² We also note, as did the Hearings Panel in Report 19.1, that the submitter did not provide adequate analysis to undertake a section 32AA evaluation. In the case of Submission #3343.15, we did not receive any evidence from the submitter or further submitter on this aspect of the submission.



Trevor Robinson
Chair
Stream 18 Hearing Panel

Dated: 12 January 2021

Attachments

Appendix 1- Recommended Variation to Chapter 38 and related Variations

Appendix 2- Table of Submitter Recommendations

Appendix 1- Recommended Variation to Chapter 38 and related Variations

Open Space & Recreation Zone Variation

Key:

Underlined text for additions and ~~strike through~~ text for deletions

Variation to Chapter 38 - Open Space and Recreation Zones

38.9 Rules – Activities

Table 38.1: Activities Open Space and Recreation Zones

Rule	Activities	Nature Conservation Zone	Informal Recreation Zone	Active Sports/ Recreation Zone	Civic Spaces Zone	CPZ	CPZ (Golf)	CPZ (Camping Ground)	CPZ (Cemeteries)
38.9.16	Restaurants and cafes that are accessory to a permitted activity and are located further than 50m from a Residential Zone including buildings.	NC	C	C	C	C	C	C	NC
38.9.17	Restaurants and cafes that are accessory to a permitted activity and are located within 50m of a Residential Zone including buildings.	NC	RD	RD	RD	RD	RD	RD	NC
<u>38.9.20</u>	<u>Commercial outdoor dining on land that adjoins the Active Frontage Area of the Queenstown Bay Waterfront Sub-Zone and is not provided for elsewhere in this table.</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>RD</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>

Open Space & Recreation Zone Variation

Rule	Activities	Nature Conservation Zone	Informal Recreation Zone	Active Sports/ Recreation Zone	Civic Spaces Zone	CPZ	CPZ (Golf)	CPZ (Camping Ground)	CPZ (Cemeteries)
38.9.21	Commercial Recreation Activities and buildings associated with Commercial Recreation Activities.	D	D	D	RD	RD	RD	RD	NC
38.9.22	Commercial Activities and buildings associated with, and located on the same site as, recreation activities.	D	D	D	RD	RD	RD	RD	NC
38.9.37	Boat Ramps, Jetties and Marinas.	D	D	D	D	D	D	D	NC

And subsequent renumbering of existing rules in table 38.1 and cross referencing in other chapters.

Open Space & Recreation Zone Variation

38.10 Rules - Standards for Open Space and Recreation Zones

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.13	<p><u>Commercial outdoor dining located on the Civic Spaces Zone that adjoin Active Frontage Area of the Queenstown Bay Waterfront Subzone</u></p> <p><u>Outdoor dining shall immediately adjoin the restaurant or café that it is associated with and shall not extend into the Civic Spaces Zone by more than 5 m from the Queenstown Town Centre Zone boundary or beyond the side boundaries of the restaurant or café.</u></p>	<p>RD</p> <p><u>Discretion is restricted to:</u></p> <p>a. <u>Effects on the amenity of the reserve,</u></p> <p>b. <u>Public access to, and use of the open space; and</u></p> <p>c. <u>Cumulative effects.</u></p>

38.13 Matters of control for Controlled Activities identified in Table 38.1

The Council will reserve its control to the following matters when assessing a controlled activity resource consent application.

	Table 38.4: Matters of Control for Activities in the Open Space and Recreation Zones
38.13.1	<p>Rule 38.9.16: Restaurants and cafes that are accessory to a permitted activity and are located further than 50m from a Residential Zone in the Civic Spaces Zone, Informal Recreation Zone, Active Sports and Recreation Zone, CPZ, CPZ (Golf), CPZ (Camping Ground):</p> <p>a. Scale and intensity of the activity on recreation use and amenity values;</p> <p>b. Public access to, and use of the open space;</p> <p>c. Traffic generation, access and parking;</p> <p>d. Infrastructure and servicing, including the provision of storage and loading/service areas; and</p> <p>e. <u>In the Civic Spaces Zone that adjoins the Arrowtown, Wanaka, and Queenstown Town Centre Zones, and in that part of the Community Purposes Zone within 70 m of the Queenstown Bay Waterfront Sub-Zone:</u></p> <p>i. <u>external appearance of buildings, including materials and colours and associated landscaping;</u></p> <p>ii. <u>lighting;</u></p> <p>iii. <u>the contribution the building makes to the safety of the Town Centre through adherence to CPTED principles; and</u></p> <p>iv. <u>natural hazards.</u></p>

Open Space & Recreation Zone Variation

38.14 Matters of discretion for Restricted Discretionary Activities identified in Table 38.1

The Council will restrict its discretion over the following matters when assessing a restricted discretionary activity resource consent application.

Table 38.5: Matters of Discretion for Activities in the Open Space and Recreation Zones	
38.14.1	<p>Rule 38.9.17: Restaurants and cafes that are accessory to a permitted activity and are located within 50m of a Residential Zone in the Civic Spaces Zone, Informal Recreation Zone, Active Sports and Recreation Zone, CPZ, CPZ (Golf), CPZ (Camping Grounds):</p> <ul style="list-style-type: none"> a. Intensity and scale of the activity on recreation use and amenity values; b. Public access to, and use of, the open space; c. Location, in particular distance from adjoining properties; d. Traffic generation, access, <u>location of parking, provision for mobility parking;</u> e. Noise; f. Infrastructure and servicing, including the provision of storage and loading/service areas; <u>and</u> g. <u>In the Civic Spaces Zone that adjoins the Arrowtown Town Centre Zone:</u> <ul style="list-style-type: none"> i. <u>external appearance of buildings, including materials and colours and associated landscaping;</u> ii. <u>lighting;</u> iii. <u>the contribution the building makes to the safety of the Town Centre through adherence to CPTED principles; and</u> iv. <u>natural hazards</u>

Open Space & Recreation Zone Variation

	Table 38.5: Matters of Discretion for Activities in the Open Space and Recreation Zones
38.14.2	<p>Rules 38.9.21 and 38.9.22: Commercial recreation activity including commercial activities associated with and located on the same site as recreation activities, including buildings in the Civic Spaces Zone, CPZ, CPZ (Golf), CPZ (Camping Grounds):</p> <ul style="list-style-type: none"> a. Intensity and scale of the activity on recreation use and amenity values; b. Public access to, and use of the open space; c. Other occupiers or users of the site or adjoining sites; d. Traffic generation, access, <u>location of parking, provision for mobility parking;</u> and e. <u>In the Civic Spaces Zone that adjoins the Arrowtown, Wanaka, and Queenstown Town Centre Zones, and in those parts of the Informal Recreation and Community Purposes Zones that are within 70 m of the Queenstown Bay Waterfront Sub-Zone:</u> <ul style="list-style-type: none"> i. <u>external appearance of buildings, including materials and colours and associated landscaping;</u> ii. <u>lighting</u> iii. <u>the contribution the building makes to the safety of the Town Centre through adherence to CPTED principles; and</u> iv. <u>natural hazards</u>
38.14.5	<p><u>Rule 38.9.20: Commercial outdoor dining on the Civic Spaces Zone, where the Zone adjoins the Active Frontage Area of the Queenstown Bay Waterfront Sub-Zone:</u></p> <ul style="list-style-type: none"> a. <u>the scale of the activity;</u> b. <u>effects on the amenity of the reserve, including pedestrian access to and through it;</u> c. <u>lighting;</u> d. <u>effects on the safety of the reserve through designing the outdoor space in accordance with CPTED principles;</u> e. <u>noise issues;</u> f. <u>hours of operation; and</u> g. <u>cumulative effects.</u>

Open Space & Recreation Zone Variation

Variation to Chapter 36 – Noise

36.5.2	... Open space and Recreation Zone, <u>except the Civic Spaces Zone where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones</u>	Any point within any site	0800h to 2000h	50dBAeq (15 min)	NC
			2000h to 0800h	40dBAeq (15 min)	NC
36.5.3	<u>Civic Spaces Zone where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones</u>	Any point within any site	0800h to 2200h	60 dB LAeq (15 min)	NC
			2200h to 0800h	50 dB LAeq (15 min) 75 dB LAFmax	NC

And subsequent renumbering of existing rules in section 36.5 and cross referencing in other chapters.

Open Space & Recreation Zone Variation

Variation to Chapter 29 – Transport

29.8 Minimum Parking Requirements Minimum Parking Requirements

	Table 29.4	Resident/ Visitor	Staff/ Guest
29.8.1	<ul style="list-style-type: none"> • All activities in the: • Queenstown Town Centre Zone; • Wanaka Town Centre Zone; • Arrowtown Town Centre Zone; • Local Shopping Centre Zone; • Within the immediate environs of the Queenstown airport terminal facility located within the Airport Zone (Queenstown); • <u>Civic Spaces Zone, where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones</u> • <u>Parts of the Community Purposes and Informal Recreation Zones that are within 70 m of the Queenstown Bay Waterfront Sub-Zone.</u> 	0	0

Appendix 2- Table of Submitter Recommendations

No.	Submitter	Submission Point No.	Submission	Recommendation	Section where Addressed
3262	Christine Byrch	3262.1	That the commercial activities in 38.1 be made less lenient with particular regard to the Nature Conservation Zone and Informal Recreation Zone, Active Sports/Recreation Zone and Civic Spaces Zone.	Reject	8
3319	Queenstown Wharves (GP) Limited	3319.1	That the intent of the proposed variation to provide greater clarity in how the rules operate and to better recognise the special characteristics of the Informal Recreation Zone where it adjoins the Queenstown Town Centre be retained.	Accept	3
3319	Queenstown Wharves (GP) Limited	3319.2	That the Informal Recreation Zone over the land from which the St Omer and O'Regans wharves extend be rejected, and the Queenstown Bay Waterfront Sub-Zone be retained; Or alternatively, that the same land be rezoned to a more enabling zone such as the Civic Spaces Zone or the Community Purposes Zone; or alternatively, if the land is not rezoned then amendments are made to Chapters 38, 36 and 29 as outlined in other submission points.	Accept	4
3319	Queenstown Wharves (GP) Limited	3319.3	That the proposed amendments to Rules 38.9.16, 38.9.17, 38.9.20, 38.9.21 and 38.9.36 (should draft consent orders for Topic 2, Sub-topic 8 be approved) be retained as notified; or alternatively, should the consent order not be approved, delete amendments and amend activity status in these rules to Controlled Activity.	Reject	3
3319	Queenstown Wharves (GP) Limited	3319.4	That the following objectives and policies be added to Chapter 38 to provide for ferry services and associated commercial and commercial recreation (including retail food and beverage): Objective 38.xx Recognise the benefits of wharves, water-based activities and associated commercial activities in the Queenstown Town Centre as adding to the vibrancy and public enjoyment of the town centre. Policy 38.xx Enable use, maintenance and development of existing wharves for water-based activities including ferry services, commercial recreation, retail and food and beverage based activities.	Reject	5
3319	Queenstown Wharves (GP) Limited	3319.5	That proposed Rule 38.9.20 regarding commercial outdoor dining be retained as notified.	Accept	3 & 6
3319	Queenstown Wharves (GP) Limited	3319.6	That the proposed variation to Rule 38.9.20 be retained that provides for more enabling rules for commercial outdoor dining in areas zoned Informal Recreation that adjoin Town Centre Zones.	Accept	3 & 6

No.	Submitter	Submission Point No.	Submission	Recommendation	Section where Addressed
3319	Queenstown Wharves (GP) Limited	3319.7	That the intent of Standard 38.10.13 providing for commercial outdoor dining in the Informal Recreation Zone that adjoins the Active Frontage Area of the Queenstown Bay Waterfront Sub-Zone be retained.	Accept in Part	6
3319	Queenstown Wharves (GP) Limited	3319.8	That proposed rule - standard 38.10.13 be amended to read as follows: "... Outdoor dining shall immediately adjoin the restaurant or café that it is associated with and shall not extend into the Civic Spaces Zone or Informal Recreation Zone by more than 20m from the Queenstown Town Centre Zone boundary or beyond the side boundaries of the restaurant or café."	Reject	6
3319	Queenstown Wharves (GP) Limited	3319.9	That the following activities be added to Table 38.1 as Controlled activities in the Informal Recreation Zone adjoining the Queenstown Bay Waterfront Sub-Zone: a. Commercial, commercial recreation and food and beverage activities associated with existing wharves and jetties; b. Buildings associated with existing wharves and jetties; c. Wharves, boat ramps and jetties.	Accept in Part	3
3319	Queenstown Wharves (GP) Limited	3319.10	That the intent of the variation to Chapter 36 providing for greater noise standards for the Civic Spaces Zone where it adjoins the Queenstown Town Centre zones (Rules 36.5.2 and 36.5.3) be retained.	Accept	3
3319	Queenstown Wharves (GP) Limited	3319.11	That proposed Rule 36.5.2 be amended as follow: Open space and Recreation Zone, except the Civic Spaces Zone and the Informal Recreation Zone where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones or the Queenstown Bay Waterfront Sub-Zone.	Accept in Part	7
3319	Queenstown Wharves (GP) Limited	3319.12	That rule 36.5.3 be amended to read as follows: Civic Spaces Zone or Informal Recreation Zone where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones or the Queenstown Bay Waterfront Sub-Zone.	Accept in Part	7
3319	Queenstown Wharves (GP) Limited	3319.13	That the noise limit in rule 36.5.2 be amended to read as follows: Open space and Recreation Zone, except the Civic Spaces Zone and the Informal Recreation Zone where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones or the Queenstown Bay Waterfront Sub- Zone. 0800h to 2000h 70dB(A)eq (15min) 2000h to 0800h 60dB(A)eq (15min).	Reject	7

No.	Submitter	Submission Point No.	Submission	Recommendation	Section where Addressed
3319	Queenstown Wharves (GP) Limited	3319.14	That rule 36.5.3 be amended as follow: Civic Spaces Zone or the Informal Recreation Zone where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones or the Queenstown Bay Waterfront Sub-Zone. 0800h to 2200h 80dB LAeq (15 min) 2200h to 0800h 70dB LAeq (15 min).	Accept in Part	7
3319	Queenstown Wharves (GP) Limited	3319.15	That (proposed amendments to Tables 38.1, 38.4 and 38.5) the Council continues to rely on its powers and processes under the Reserves Act 1977 to manage the design and external appearance of buildings within the Informal Recreation Zone.	Reject	8
3319	Queenstown Wharves (GP) Limited	3319.16	That the proposed additional matters of control (38.13.1 (e)) in the Informal Recreation Zone be rejected.	Reject	8
3319	Queenstown Wharves (GP) Limited	3319.17	That the additional matters of discretion 38.14.1 (g) and 38.14.5 be rejected.	Reject	8
3319	Queenstown Wharves (GP) Limited	3319.18	That the proposed amendments to Rule 29.8.1 be accepted as notified.	Accept	3
3319	Queenstown Wharves (GP) Limited	3319.19	That Chapter 28 Natural Hazards adequately manage flood risks, but if this approach is not possible that natural hazards/flood risk management be included as a matter of control.	Reject	8
3319	Queenstown Wharves (GP) Limited	3319.20	That Chapter 28 Natural Hazards adequately manage flood risks, but if this approach is not possible that natural hazards/flood risk management be included as a matter of discretion.	Reject	8
3319	Queenstown Wharves (GP) Limited	3319.21	That any consequential relief or alternative amendments to the provisions required to give effect to the matters raised in this submission be granted.	Accept in Part, consequential on other recommendations	4-8
3343	Wayfare Group Limited	3343.14	That the Queenstown Town Centre Waterfront Sub Zone and provisions are retained, to the extent that it is consistent with the relief sought in the Stage 1 and 2 appeals by Real Journeys Ltd and Te Anau Developments Ltd.	Accept in Part	4
3343	Wayfare Group Limited	3343.15	That an additional matter of discretion for Restricted Discretionary Activities is inserted into Table 38.5, to ensure "positive effects" of the activity are considered.	Reject	8

No.	Submitter	Submission Point No.	Submission	Recommendation	Section where Addressed
31006	Kopuwai Investments Limited	31006.1	That Rule 38.9.20 be deleted from the variation to Chapter 38 (Open Space and Recreation Zone).	Reject	6
31006	Kopuwai Investments Limited	31006.2	That Rule 38.10.13 be deleted from the variation to Chapter 38 (Open Space and Recreation Zone).	Accept in Part	6
31006	Kopuwai Investments Limited	31006.3	That further or consequential or alternative amendments necessary to give effect to this submission be provided.	Reject, consequential on other recommendations	6
31007	Active Transport Wanaka	31007.2	That the Variation to Chapter 29 (Transport) which sets the minimum vehicle parking requirement at zero be retained as notified.	Accept	3
31007	Active Transport Wanaka	31007.3	That car parking be replaced by active transport infrastructure.	Reject	3
31009	Southern District Health Board Public Health South	31009.3	That the Variations to Chapters 38, 36 and 29 Open Space and Recreation be retained as notified.	Accept in Part	3
31023	Fire and Emergency New Zealand	31023.2	That the variation to 36.5.2 be amended as follows: [zone sound is received in]... Open space and Recreation Zone, except the Civic Spaces Zone where it adjoins the Queenstown, Wanaka, or Arrowtown Town Centre Zones At any point within the site, the noise limits during the times specified except for emergency services and emergency warning sirens. (...)	Reject	8