

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Stage 3b of the
Proposed District Plan
submission related to
notified Walter Peak
Rural Visitor Zone

**SECTION 42A REPORT OF ELIAS JACOBUS MATTHEE
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

WALTER PEAK RE-ZONING

4 March 2021

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Appendix 1: High Level Comments on Tourism Zone Provisions

1. PROFESSIONAL DETAILS

- 1.1 My full name is Elias Jacobus (EJ) Matthee. I hold the position of Intermediate Policy Planner at Queenstown Lakes District Council (**Council** or **QLDC**). I have been in this position since September 2019. I hold the following qualifications: an undergraduate degree (Bachelors of Arts - Development and the Environment) and a postgraduate degree (Bachelors of Arts with honours - Geographical Information Systems) from the University of Stellenbosch, South Africa; as well as a postgraduate, Royal Town Planning Institute (RTPI) accredited degree (Masters of City and Regional Planning) from the University of Cape Town, South Africa. I am an associate member of the New Zealand Planning Institute.
- 1.2 I have been employed by QLDC for the last 7 years, including monitoring resource consent conditions for approximately 1.5 years, processing resource consents for approximately 4 years and in my current role for almost 1.5 years.
- 1.3 I have made myself familiar with the section 32 report (**S32**) for the Rural Visitor Zone (**RVZ**) and associated documents, the section 32 report (**S32**) submitted as part of the Wayfare Group Limited revised submission, and with the draft Independent Hearing Panel (**IHP**) report 20.7: RVZ Recommendation Report.
- 1.4 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. The Council, as my employer, has authorised that I give this evidence on its behalf.

2. EXECUTIVE SUMMARY

- 2.1 In this section 42A report, I provide recommendations to the Hearings Panel (**Panel**) on the revised submission by Wayfare Group Limited (**Wayfare**) and the further submissions received from Airbnb as far as they relate to the Rural Visitor Zone (Chapter 46) at Walter Peak (**Site**) notified as part of Stage 3b of the Proposed District Plan (**PDP**). The focus of the report is on the relief sought

by Wayfare which seeks rezoning from RVZ to a bespoke Walter Peak Tourism Zone (**Tourism Zone**).

2.2 In the Operative District Plan (**ODP**), the Site is zoned Section 12.3: Rural Visitor Zone (Walter Peak) and Section 5: Rural General Zone (on the Department of Conservation Land, Marginal strip and the surface of the Lake). The Site has been notified in Stage 3b as Rural Visitor Zone (**RVZ**) (Walter Peak) with High and Moderate Landscape Sensitivity Area overlays and a Water Transport overlay (over part of the bay area) over it.

2.3 Based on the lack of any evidential support from the submitter, my recommendations are that:

- (a) The proposed Tourism Zone be rejected;
- (b) RVZ (with amendments recommended by the IHP in its draft report 20.7) is the most appropriate zone for the Site;
- (c) the spatial extent of the zone should be as notified;
- (d) the extent of the water infrastructure transport overlay (and provisions) should apply as notified;
- (e) the proposed Building Restriction Area (**BRA**) over the steeper slopes of Walter Peak, in the south-eastern part of the Recreation Reserve, be overlaid over the RVZ (subject to further assessment and mapping); and
- (f) no amendments are made to the district wide PDP chapters.

2.4 Despite these conclusions, I do consider there is some merit for a more permissive regime such as a bespoke Walter Peak Tourism Zone (as a Special Zone for the purpose of Chapter 6 PDP), provided development and activities can be appropriately absorbed into the landscape, while still protecting the ONL landscape values within which it is set. However, evidence is required and to-date, the submitter has not presented any supporting evidence or made a persuasive case for a bespoke zone.

2.5 In this report, I summarise the key issue(s) and relief sought through the bespoke zone provisions, consider whether the relief sought better achieves the relevant objectives of the applicable policy documents, and evaluate the appropriateness, including costs and benefits, of the requested changes in terms of s32AA of the Resource Management Act 1991 (**RMA**).

2.6 When assessing Wayfare’s revised submission, I refer to and rely on the evidence of:

- (a) Mr Craig Barr’s Strategic Context - Strategic Evidence dated 18 March 2020 (**Strategic Evidence**);
- (b) Ms Emily Suzanne Grace (RVZ section 42A report) dated 18 March 2020;
- (c) Ms Helen Mellsop’s Evidence in Chief dated 4 March 2021 (Landscape); and
- (d) Mr Robert Bond’s Evidence in Chief dated 4 March 2021 (Natural Hazards).

2.7 The key documents I have used, or referred to, in forming my view while preparing this section 42A report are:

- (a) Stage 3b notified Chapter 46 Rural Visitor Zone and supporting Section 32 evaluation;
- (b) Queenstown Lakes Proposed District Plan Stage 1 & 2 Decision Version Chapters;
- (c) Mr Barr’s Stage 3 Strategic Evidence (**Strategic Evidence**);
- (d) The Environment Court’s Interim Decision on Chapters 3 and 6 of the PDP¹;
- (e) The Otago Regional Policy Statement as referred to and described in the Strategic Evidence;
- (f) The draft Independent Hearing Panel (**IHP**) report 20.7: Chapter 46, Rural Visitor Zone and Related Variations to Chapters 25, 27, 31 and 36 Temporary Filming Activities;

2.8 I am familiar with the site of the re-zoning request. When considering the submission, I have taken into consideration the rezoning principles in Part B of the Strategic Evidence.

2.9 Throughout my evidence I refer to:

- (a) **Notified RVZ Provision X.X.X:** to refer to the notified version of a provision; and

1 NZ EnvC 205 [2019].

- (b) **IHP RVZ Provision X.X.X:** to refer to the provisions within the draft Independent Hearing Panel (**IHP**) recommendation report 20.7.

3. WAYFARE GROUP LIMITED SUBMISSION

- 3.1** Wayfare lodged a submission on the notified RVZ (31024), seeking that the ODP RVZ provisions for the zone be rolled over into the PDP or that the provisions of Chapter 46 be amended to have the same effect as the ODP provisions. Alternatively, Wayfare sought a bespoke Walter Peak Tourism Zone (**Tourism Zone**). That original submission was assessed in Ms Grace's s42A report, dated 18 March 2020.

- 3.2** The submitter subsequently:
 - (a) sought and was granted an adjournment of the hearing of their submission due to the impacts of COVID-19; and
 - (b) lodged an amended submission which refined the relief sought, and more specifically refined the relief to only the Walter Peak site, with a focus on a bespoke Tourism Zone for Walter Peak.

- 3.3** As part of the recommencement of the hearing of the submission, Wayfare was directed by the Panel to lodge detailed relief, in the form of bespoke zone provisions, along with a supporting s32AA assessment. Council were then directed to respond to the bespoke zone provisions in a new s42A report.

- 3.4** The bespoke provisions include one objective, a number of policies, and a suite of rules and standards for the Tourism Zone. The land sought to be subject to this zone includes the notified RVZ area, plus legal road, marginal strip and the Beach Bay Reserves (DOC land). The provisions are accompanied by a plan of the zone extent, showing a building restriction area, homestead area, and a Walter Peak Water Transport Overlay that is larger than the area notified with this overlay.

- 3.5** The key features of the Tourism Zone can be summarised as follow:
 - (a) Inclusion of a structure plan that identifies a 'Homestead Area' in Beach Bay, Building Restriction Areas (**BRAs**) on the toe slopes of Walter Peak and on the Crown-owned marginal strip adjoining Lake

Wakatipu, and an extended Walter Peak Water Transport Overlay (**WPWTO**) in Beach Bay;

- (b) Extension of the zone to include the legal roads, the Crown-owned marginal strips on the edges of the notified RVZ zone, and the Department of Conservation (**DOC**) recreation reserve at Beach Bay;
- (c) Enabling visitor accommodation, commercial recreational activities and ancillary (commercial, residential and industrial) activities within the zone, through a permitted activity status, while at the same time providing policy direction to protect the landscape values of the surrounding ONL;
- (d) Providing for informal airports as a permitted activity without any standards restricting the number of flights;
- (e) Not identifying the notified RVZ sensitivity areas of High, Moderate-High and Lower Landscape Sensitivity; and providing for buildings as a controlled activity across most of the site;
- (f) Providing for residential activity that is not ancillary to visitor industry activities, for buildings within the marginal strip BRA, and any other activity not listed as discretionary activities;
- (g) Providing for additional activities to those in the notified RVZ for the WPWTO, as restricted discretionary activities. These include a jetty, wharf, quay, pier, marina, mooring, weather protection and signage and ancillary infrastructure;
- (h) Standards providing for higher buildings (8 metre limit) than the notified RVZ zone (6 metres, or 4 metres for the WPWTO), and no standards for building size, coverage, density, zone boundary setbacks or building materials and colours;
- (i) Inclusion of the Water Peak Tourism Zone as an 'Exception Zone' in Chapter 3 and the inclusion of policy direction in Chapter 6 to exclude the zone from the ONL classification and related policies;
- (j) Inclusion of an exclusion for public notification in the earthworks chapter 25;
- (k) Controlled activity status for unit title or leasehold subdivision of any development approved by land use consent; and
- (l) The inclusion of no minimum allotment sizes for subdivision.

3.6 The approach taken in the Tourism Zone is identification of a long list of permitted activities, with buildings requiring controlled activity consent. Three standards are proposed to manage the effects of buildings (height, glare,

setback from waterbodies). There are no standards proposed to manage the effects of permitted activities. Greater control over buildings is provided within the BRAs, with a mix of discretionary and non-complying activity status. A restricted discretionary framework is proposed for activities within the WPWTO. A discretionary activity status is proposed for residential activities. Overall, the proposed provisions are very permissive, representing the least amount of control over activities and buildings of all the zones in the PDP.

3.7 In addition to the re-zoning principles set out in Mr Barr's Strategic Evidence, there are four key resource management issues that I consider need to be given particular attention in the assessment of the Tourism Zone (and associated provisions). These are:

- (a) Does the Tourism Zone appropriately protect landscape values of Outstanding Natural Landscapes (**ONLs**) in accordance with the strategic direction in Chapters 3 and 6 of the PDP?
- (b) Does the zone appropriately manage risk from natural hazards in accordance with Chapter 28 of the PDP?
- (c) Has residential development in a rural area been appropriately considered?

3.8 After considering these issues, I provide high level comment on the Tourism Zone provisions proposed by the submitter.

Does the Tourism Zone appropriately protect landscape values of ONLs in accordance with the strategic direction in Chapters 3 and 6 of the PDP?

3.9 As discussed in Ms Grace's s42A report, while the objectives and policies in Chapters 3² enable visitor industry activities and provide for access to the District's landscapes, landscape objectives and policies must also be achieved by protecting the values of the ONL in question. The area proposed to be subject to the Tourism Zone is within an ONL and it is adjacent to Lake Wakatipu which is also an ONL.

3.10 The RVZ protects landscape values of ONLs by using a landscape sensitivity rating to manage land use and development. Development is focused into areas of lower landscape sensitivity via controlled activity status, with areas of

2 Policy 3.2.1.1, 3.2.1.8, 3.3.1A

moderate-high and high landscape sensitivity triggering a discretionary or non-complying activity status, respectively. This is the landscape management regime that was notified for the Walter Peak RVZ. The Tourism Zone does not adopt this same landscape management regime. The plan accompanying the provisions does not identify any areas of moderate-high and high landscape sensitivity.

- 3.11** The submitter has not proposed an alternative regime to protect landscape values of the ONL. This approach is explained in the s32AA assessment, which states on page 3 that “*the amended proposal does not protect or seek to maintain as-is existing landscape values*”. The approach is confirmed in the wording of Policy X.2.1.2, relating to protection of the landscape values of the ONL, which refers to the ‘Outstanding Natural Landscape **surrounding** the zone’ (emphasis added). The proposed relief does not appear to remove the ONL annotation from the site (noting this is live relief in the submission), but the provisions also make no attempt to protect the landscape values of the ONL over the site in question (as required through Chapter 3), as demonstrated by the allowance of controlled activity development within areas of high landscape sensitivity.
- 3.12** The submission seeks that the Tourism Zone be listed as an Exception Zone in Chapter 3 of the PDP. If included as an Exception Zone, a range of ONL related strategic objectives and policies will not apply to land use resource consent applications within the Tourism Zone. Instead, the activity will be considered against the relevant provisions of the Tourism Zone on the basis the Tourism Zone provisions provide a separate regulatory regime for Walter Peak that already accounts for s6(b) landscape matters. Strategic Objective 3.2.5.1A³ provides for development within the ONL to the extent anticipated by the Exception Zone (i.e. the Tourism Zone) and where development is not provided for, it will need to protect landscape values (SO 3.2.5.1A(b)).
- 3.13** I understand the rationale behind the Exception Zone framework is that the specified Chapter 3 provisions do not need to apply to certain zones that are located within an ONL, as they provide an alternative regulatory framework that has been tested to protect the values of the ONL in question, at least for development anticipated by the zone (and which has therefore been assessed as applying the strategic direction to protect landscape values).

- 3.14** Wayfare’s submission is not accompanied by any supporting landscape evidence. Ms Mellsop has undertaken a landscape assessment of the site in the context of re-zoning the site to a Tourism Zone, with its own regulatory framework. I refer to and rely on Ms Mellsop’s evidence in relation to this.
- 3.15** In summary, from a landscape perspective Ms Mellsop opposes the Tourism Zone and the extension of the zone to include the marginal strips and the Beach Bay Recreation Reserve. She also opposes increasing the extent of the WPWTO, but supports the inclusion of a BRA over the steeper slopes of the Recreation Reserve. Ms Mellsop does not oppose extension of the notified RVZ to the lower part of the reserve that is mapped (in her June 2019 report) as an area of lower landscape sensitivity.
- 3.16** Ms Mellsop also highlights that the extension of the WPWTO (in which all anticipated activity is restricted discretionary) and extension of the Tourism Zone over the marginal strip, even with the BRA and discretionary status, would not preserve the natural character of the margins of the lake (required under s6(a) of the RMA and contrary to Policy 3.2.4.3) or protect it from inappropriate subdivision use and development (s6(b) RMA).
- 3.17** Based on Ms Mellsop’s assessment that the proposed zone provisions would not protect the landscape values of the ONL from inappropriate subdivision, use and development or the Lake margins, I consider that the Tourism Zone is inconsistent with Strategic Objectives 3.2.1.7a, 3.2.1.8a and Strategic Policies 3.2.4.3, 3.2.5.xx or 3.2.5xxx, 3.3.1A.a, 3.3.24.a, 3.3.30 and 3.3.30x in Chapter 3 of the PDP⁴, as well as Objective 6.3.3 and associated policies in Chapter 6 for managing activities in ONLs, and Objective 6.3.5 and associated policies for managing activities on lakes and rivers.
- 3.18** In this case, the submitter has stated that the Tourism Zone does not seek to protect landscape values. Ms Mellsop has concluded that the Tourism Zone would not do that. As such, I consider that the Tourism Zone cannot be considered as an Exception Zone in Chapters 3 and cannot be ‘carved-out’ from the application of the ONL policies in Chapter 6. I also consider that the Tourism Zone does not appropriately manage land use and development to protect landscape values.

4 In Interim Decision NZ EnvC 205 [2019].

Does the zone appropriately manage risk from natural hazards in accordance with Chapter 28 of the PDP?

- 3.19** The management of significant risk from natural hazards is a matter of national importance under section 6h of the RMA. Natural hazard provisions are contained in PDP Chapter 28 which outlines that its objectives and policies, including the concepts of tolerable risk and significant risk, is to be considered in plan change processes. The objectives seek that risk to people and the built environment posed by natural hazards is managed to a level tolerable to the community, and that development on land subject to natural hazards only occurs where the risks to the community and the built environment are appropriately managed. It also sets out matters to consider when determining significant risk and risk tolerance; what to consider in the assessment of the natural hazard risk; and guidance on the management of natural hazard risks.
- 3.20** Council's Natural Hazards Database⁵ identifies areas known to be subject to natural hazards. I have reviewed this database and confirm that multiple hazards exist at the Site, including a concealed fault line that runs through the middle of the Site. The Wayfare submission was not accompanied by an assessment of the natural hazard risk or an outline of how Chapter 28 was considered. The submitted S32AA report records that the risk from natural hazards is tolerable due to the thorough understanding of them. It did not include any explanation or expert input in determining the tolerability.
- 3.21** The S32AA Report also noted that the revised relief includes a BRA on the toe slopes of Walter Peak with a non-complying activity status for buildings. I have assumed that this is due to the debris flow hazard risk as this is the general location of this hazard, which is well documented. The proposed provisions for the Tourism Zone do include a rule (Rule 9) in relation to hazard mitigation works, for the purpose of protecting people and buildings from hazards. Hazard mitigation works are a permitted activity.
- 3.22** From a planning perspective, there is no need to include site specific rules relating to natural hazards in the Tourism Zone, as the district wide Chapter 28 provisions apply. In particular, Objective 30.2.9 and associated policies and rules in Chapter 30. Under Rule 30.5.1.14, such works require a discretionary activity resource consent.

5 <http://qldc.maps.arcgis.com/apps/webappviewer/index.html?id=e007801d3f1c4384bedf1ed036dfc41b>

- 3.23** Mr Robert Bond has completed a qualitative risk assessment in terms of risks posed from identified hazards in the context of re-zoning the Site to a Tourism Zone. He considers the risk to be High and unacceptable without treatment to reduce the risks to Low. Mr Bond highlights that the Site has been previously subject to multiple assessments that have all concluded that the site was at Moderate to High risk from debris flow hazards and Low to Moderate risk of liquefaction. He considers that the alluvial fan hazards (debris flow) are considered to pose the highest risk to the Site.
- 3.24** Mr Bond accepts that considerable work has been undertaken by the submitter to understand the nature of the hazards on the site. However, he highlights that the extent of the hazard impacts has not been mapped sufficiently to determine the extent of a BRA. In the context of the Tourism Zone provisions providing for the construction of buildings as controlled activities and the inability of Council to decline a consent, Mr Bond opposes the Tourism Zone on the basis of natural hazard risk.
- 3.25** In Mr Bond's view, the identification of a high level of risk requires further investigation to understand the level and extent of risk posed to the Site and the tolerability thereof. He also considers that the BRA boundary should be aligned with mapped extents of natural hazard risk. Mr Bond recommends that a detailed geotechnical assessment be completed before any rezoning is granted. I adopt and rely on Mr Bond's assessment

Has residential development in a rural area been appropriately considered?

- 3.26** The proposed discretionary regime for residential activities, with limited site standards and policy direction to allow for private infrastructure and servicing, and no policy direction on the appropriate density of residential development that can be absorbed, could lead to rural residential, rural lifestyle and/or urban development with associated adverse effects. The submitter has not provided any supporting expert information on infrastructure and service delivery, or any landscape evidence on the landscape capacity to absorb residential (or other) development. There is a risk that residential subdivision and development could have adverse effects on the ONL landscape values, and that it would place an onus on the Council (ratepayer) to provide services.

- 3.27** In practice, under the proposed Tourism Zone provisions, buildings at urban densities could be established within the zone as a controlled activity and a discretionary activity consent to use these buildings for residential purposes could follow, the granting of which could result in a remote community that relies on private infrastructure and services. Likewise, rural residential/living could establish in the same way without consideration of the cumulative effects, which could compromise the protection of landscape values of ONLs.
- 3.28** While it may be possible for limited rural residential/lifestyle development to still protect the landscape values of the ONL and be consistent with the district wide policies, strong policy direction would be needed in the Tourism Zone provisions to guide assessment of discretionary consent applications. Such a policy could provide guidance on the scale and extent of residential development that can appropriately be accommodated within the landscape while managing the other effects associated with residential development. This policy would need to be developed based on evidence.

4. COMMENTS ON TOURISM ZONE PROVISIONS

- 4.1** Although I do not support the Tourism Zone, as currently proposed and with no evidential support, in the event the Panel comes to a different conclusion and in anticipation of the submitter advancing evidence in chief in support of its submission, I have considered the proposed provisions. I have provided high-level comments on the provisions in the table in **Appendix 1**. These comments are deliberately high-level as I consider there are some fundamental issues to be resolved before detailed drafting can be considered.
- 4.2** I make specific comment here on the proposed discretionary regime for any other activity not listed, which I do not support. The only policy direction for this rule is to ensure that activities not anticipated in the zone protects or enhances landscape values and nature conservation values. I consider that a non-complying activity status should apply. The approach through the PDP, especially within the rural environment chapters, is for non-listed activities to be non-complying. This was a deliberate policy shift from permitted under the ODP in an attempt to protect rural amenity and the rural landscapes from inappropriate development and reverse sensitivity effects. The exception is in some special zones, where detailed structured plans and comprehensive lists of activities are included in the provisions, and the potential adverse effects

appropriately considered at the time. NCA is also appropriate given the request that the Tourism Zone be listed as an Exception Zone. The submitter has not provided supporting technical assessments suggesting why discretionary activity status is appropriate, and in the absence of such evidence I am unable to support this approach.

5. CONCLUSION

- 5.1** Overall the Tourism Zone, in my opinion, is too permissive and unlikely to achieve the objectives and policies of Chapter 3, 6 and 28 of the PDP.
- 5.2** I recommend that the majority of the Wayfare submission points are rejected. The relief I recommend be accepted is the inclusion of a BRA and associated non-complying activity status for buildings in this overlay area.
- 5.3** I consider that the RVZ (as recommended to be amended by the Hearing Panel) provides an appropriate regulatory regime to provide for tourism and visitor industry activities on the Walter Peak site while protecting the landscape values of the ONL. In the absence of any evidence to the contrary, I consider the recommended RVZ provisions and notified extent of the zone including the landscape sensitivity areas to be the most appropriate way to achieve the objectives and policies of Chapters 3 and 6 with the inclusion of a BRA as outlined above.
- 5.4** I consider that this recommendation is more appropriate in terms of achieving the purpose of the Act and that the recommended zoning and provisions would achieve a better balance of the cost and benefits that needs to be considered in addressing Resource Management issues as than the requested changes in terms of S32AA of the Resource Management Act 1991 (**RMA**).



ELIAS JACOBUS MATTHEE

4 March 2021

APPENDIX 1

High level comments on Tourism Zone Provisions

Walter Peak Tourism Zone – s42A High-level Comments on Objective and Policies

Provision	Wayfare Proposal - WPTZ	Comments
x.1 Purpose	<p>The purpose of the Walter Peak Tourism Zone is to complement the existing range of Visitor Industry opportunities in the District and provide for increased opportunities for people to experience the rural character, heritage and amenity of the rural area. The Zone provides for a range of accommodation, entertainment, cultural and recreational activities.</p> <p>The Walter Peak Tourist Zone applies to an area of land which is recognised as having visitor interest, is isolated from town centres and can make a significant contribution to the range of accommodation and activities available within the District.</p> <p>The principal activities in the Zone support mixed tourism activities, including visitor accommodation, commercial activities, commercial recreation, recreation activities and associated infrastructure and indigenous vegetation restoration and enhancement. Onsite staff accommodation ancillary to visitor industry activities is anticipated to support employment opportunities.</p>	<p>The drafting of the purpose reflects the submitter’s intentions for the zone. Given the comments in the s42A report, acknowledgement of the ONL over and surrounding the site, and an explanation that the zone will protect the values of the ONL is necessary.</p>
X.2.1	<p>Objective - The growth, development and consolidation of visitor industry activities and associated buildings, while adverse effects on the environment are avoided, remedied or mitigated and nature conservation values are restored and enhanced.</p>	<p>The objective is very general and reflects the framing of s5 of the RMA – development subject to management of effects. It provides limited guidance on the outcomes sought for the zone – ‘avoided, remedied or mitigated’ is proposed. A more directive objective that specifies the scale of development envisioned and particular environmental bottom lines to be achieved (such as protection of the landscape values of the ONL) would be more effective.</p>
X.2.1.1	<p>Protect the existing transport and tourism facilities to and at Walter Peak and enable their diversification and expansion.</p>	<p>It is not clear how the provisions protect the existing transport and tourism facilities, or what they need protection from. Protect is a strong direction, and is not appropriate in the policies without a clear method to implement it in the rules.</p> <p>The policy direction to enable the diversification and expansion of transport and tourism facilities should be qualified, in a manner consistent with the direction in an updated objective (refer above comment), particularly considering the sensitive landscape setting.</p> <p>It is also not clear how the policy will cover existing transport facilities to Walter Peak, given Lake Wakatipu is zoned Rural Zone.</p>
X.2.1.2	<p>Enable visitor accommodation and commercial recreational activities within the zone, including ancillary onsite staff accommodation, where the landscape values of the Outstanding Natural Landscape surrounding the zone are protected.</p>	<p>This policy appropriately acknowledges the ONL surrounding the site. However, as discussed in the s42A report, there is a need to also address the landscape values within the site.</p>
X.2.1.3	<p>Ensure the location, nature, scale and intensity of visitor accommodation, commercial recreation activities, and associated aspects such as traffic generation, access and parking, an informal airport, noise, and lighting, maintain amenity values beyond the Zone and do not compromise the operation of existing activities or those enabled by the surrounding Rural Zone.</p>	<p>This policy is aimed at managing amenity values beyond the Zone and reverse sensitivity effects. While this policy intent is appropriate, it is not implemented by the permissive rule framework. It would only be engaged for buildings within the building restriction areas, residential, industrial and mining activities. While it is a relevant policy for these activities, there is no ability to consider this issue for the activities proposed to be anticipated on the site. For example, the policy direction is intended to apply to informal airports, but informal airports are a permitted activity with no controls on the effects they may have on amenity.</p>
X.2.1.4	<p>Enable the ongoing development and use of trails throughout the Zone</p>	<p>This policy is not considered necessary as the Earthworks Chapter (Chapter 25) governs earthworks for the purposes of creating trails, and the use of trails is a recreational activity, which is separately provided for in the WPTZ.</p>
X.2.1.5	<p>Enhance nature conservation values as part of the use and development of the Zone and enable development which is associated with restoration and enhancement of indigenous vegetation.</p>	<p>This policy intersects with Chapter 33 Indigenous Vegetation and Biodiversity. However, that chapter deals primarily with the protection of indigenous biodiversity and includes rules about clearance. The policy proposed by Wayfare is focused on restoration and enhancement, and so complements rather than conflicts with Chapter 33, and is supported.</p>

X.2.1.6	Recognise the remote location of the Walter Peak Tourism Zone and the need for visitor industry activities to be self-reliant by providing for infrastructure, services or facilities that are directly associated with, and ancillary to, visitor industry activities, including onsite staff accommodation.	This policy closely reflects notified Policy 46.2.1.4 and is considered appropriate to include within the WPTZ.
X.2.1.7	Enable visitors to access and appreciate the Zone's nature conservation values and the surrounding Outstanding Natural Landscape values.	This policy direction is supported, but the specific policy may not be needed, given the inclusion of the other enabling policies, which, if implemented, will achieve the Zone objective.
X.2.1.8	Ensure that any land use or development not otherwise anticipated in the Zone, protects or enhances landscape values and nature conservation values.	<p>This policy is the same as notified Policy 46.2.1.6. However, this policy is triggered by a discretionary activity status for activities not listed in the chapter, rather than a non-complying activity status as in the notified RVZ. As stated in the s42A report, this is not considered to be an appropriate default activity status in the ONL. If discretionary activity status was retained, a stronger policy would be required, such as Policy 46.2.2.3, as recommended to be amended by the Hearing Panel.</p> <p>The policy should also be updated to reflect the updated wording in Chapter 3 following the Court's interim decision, which is to 'protect landscape values'. This could be achieved by rewording the policy as follows: <i>Ensure that any land use or development not otherwise anticipated in the Zone, protects or enhances landscape values and <u>enhances</u> nature conservation values.</i></p>
X.2.1.9	Control the visual impact of roads, buildings and infrastructure associated with visitor industry activities	This policy lacks the purpose of the control – it would benefit from a statement such as “for the purposes of protecting landscape values” or something similar being added to the end of it. It also leaves the direction open to for the visual impact of roads, buildings and infrastructure that is not associated with visitor industry activities.
X.2.2.10	<p>Manage the effects of buildings and development on landscape values, landscape character and visual amenity values by:</p> <p>a. controlling the colour, scale, design and height of buildings and associated infrastructure, vegetation and landscape elements; and</p> <p>b. in the immediate vicinity of the Homestead Area, provide for a range of external building colours that are not recessive as required generally for rural environments, but are sympathetic to existing development; and</p> <p>c. providing for building and landscape controls which recognise the existing developed facilities and are reflective of the Zone's farming and visitor heritage.</p> <p>d. Away from the vicinity of the Homestead Area (where exotic heritage gardens predominate), encourage indigenous vegetation restoration and enhancement in conjunction with new building and development.</p>	This policy is similar to notified Policy 46.2.2.2, with two additional limbs specific to the characteristics of the Walter Peak site (limbs (c) and (d)). The two additional limbs are supported.
X.2.1.11	Manage the location and direction of lights to ensure they do not cause glare or reduce the quality of views of the night sky beyond the boundaries of the Zone.	This policy is similar to Policy 46.2.2.6, as recommended to be amended by the Hearings Panel, except that the second part of the policy about remoteness has not been included by the submitter. If this policy is retained, it should reflect the wording recommended by the Hearings Panel, as remoteness is a key aspect of the Walter Peak site. The policy should read as follows: <i>Manage the location and direction of lights to ensure they do not cause glare or reduce the quality of views of the night sky beyond the boundaries of the Zone, <u>or reduce the sense of remoteness.</u></i>
X.2.1.12	<p>Ensure development can be adequately serviced through:</p> <p>a. the method, capacity and design of wastewater treatment and disposal;</p> <p>b. adequate and potable provision of water;</p> <p>c. adequate firefighting water and regard taken in the design of development to fire risk from vegetation, both existing and proposed vegetation; and</p> <p>d. provision of safe vehicle access, water-based transport, and associated infrastructure.</p>	This policy is similar to notified Policy 46.2.2.6, and recommended to be retained as recommended by the Hearings Panel. The policy is supported.
X.2.1.13	Within the Walter Peak Water Transport Infrastructure overlay, provide for a jetty, wharf, pier or marina, mooring, weather protection features, ancillary infrastructure, signage, storage, water	This policy is similar to notified Policy 46.2.2.5, except that the notified policy was to provide for a jetty or wharf, weather protection features and ancillary infrastructure. The policy

	<p>transport and water recreation activities at Beach Bay while:</p> <ul style="list-style-type: none">a. maintaining as far as practicable natural character and landscape values of Beach Bay while recognising the functional need for water transport infrastructure and water based recreation to locate on the margin of and on Lake Wakatipu;b. minimising the loss of public access to the lake margin; andc. encouraging enhancement of nature conservation and natural character values.	<p>proposed by the submitter adds pier, marine, mooring, signage, storage, water transport, and water recreation activities. As discussed in the s42A report and Ms Mellsop's evidence, no evidence has been provided that these activities can be appropriately provided for, given the s6 landscape and margins of lakes context.</p>
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Walter Peak Tourism Zone – s42A High level comments on Rules

Provision Number:	RULE	Activity status	Comment
Activities			
	Farming	P	Same as notified RVZ, generally supported
	Visitor Accommodation	P	Same as notified RVZ, generally supported
	Construction and use of trails	P	Unnecessary rule (see comments on Policy X.2.1.4 above)
	Recreational Activity (including commercial recreation)	P	Same as notified RVZ, generally supported
	Commercial activity ancillary to Visitor Accommodation, Commercial Recreation, and Recreational Activities	P	New permitted activity compared to notified RVZ. Further assessment needed to be able to form an opinion on appropriateness.
	Residential activity ancillary to Visitor Accommodation, Commercial Recreation, Recreation and Recreational Activities	P	New permitted activity compared to notified RVZ. The notified RVZ permitted on-site staff accommodation associated with visitor accommodation and commercial recreation. Not supported, given the lack of standards proposed in relation to this activity.
	Informal Airports	P	This was permitted in the notified RVZ, but there was also a standard limiting the number of flights (Rule 46.5.7) which the submitter has not included in the WPTZ. Not supported in the absence of justification for the lack of standards.
	Industrial Activity ancillary to, or that supports farming, visitor accommodation, construction of trails, recreation, commercial recreation and informal airports.	P	New permitted activity compared to the notified RVZ. There are no standards associated with this activity. This rule has wide application with no assessment of the appropriateness of it. Industrial activity is defined in the PDP as “the use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing, or associated storage of goods”. Not supported.
	Structures, facilities, plant, equipment and associated works including earthworks for the protection of people, buildings and infrastructure from natural hazards.	P	As discussed in the s42A report, this rule is not considered necessary as these activities are governed by Chapter 30.
	Restoration and enhancement of indigenous vegetation	P	New permitted activity. Has some merit and support its inclusion.
	Planting and maintenance of exotic trees and plants excluding wilding exotic trees covered by rules 34.4.1 and 34.4.2.	P	New permitted activity. It is not clear if this rule would result in any impacts on landscape values that need to be protected. Further assessment needed to be able to form an opinion on appropriateness.
	Construction, relocation, addition or alteration of Buildings (other than identified in Rules X and X) Control is reserved to: <ul style="list-style-type: none"> a. The compatibility of the building design, density, scale and location with landscape, cultural and heritage and visual amenity values; b. Landform modification, landscaping and planting; c. Lighting; d. Servicing including water supply, fire-fighting, stormwater and wastewater; e. Natural Hazards; and f. Design and layout of site access, on-site parking, manoeuvring and traffic generation. 	C	This rule reflects Rule 46.4.7, as recommended to be amended by the Hearings Panel, and is supported.
	Within the Water Transport Infrastructure Overlay as identified on the District Plan maps, a jetty, wharf, quay or pier, marina, mooring, weather protection features, signage and ancillary infrastructure: Discretion is restricted to: <ul style="list-style-type: none"> a. Effects on natural character b. Effects on landscape values and amenity values 	RD	This rule is similar to notified Rule 46.4.8, but includes additional activities, and additional matters of discretion (f, g and h). The additional activities are not supported by evidence (see comments on Policy X.2.1.13). Additional matters of discretion (f) and (h) appear practical. The addition of ‘benefits/positive effects’ is not supported. This is considered to be too broad a matter of discretion. The inclusion of this

	<p>c. Lighting</p> <p>d. Effects on public access to and along the lake margin; and</p> <p>e. External appearance, colour and materials</p> <p>f. Functional need for location</p> <p>g. Benefits/positive effects</p> <p>h. Navigational safety</p>		<p>general matter of discretion is the subject of appeals by Wayfare on other chapters of the PDP.</p>
	<p>Buildings within the Building Restriction Area that follows the Lake shore</p>	D	<p>Buildings within building restriction areas generally have non-complying activity status. There would be an internal consistency issue with other chapters of the PDP if a discretionary activity status was used here. There is no evidence or justification for why discretionary activity status is appropriate, and no policy support within the WPTZ for use of a building restriction area. Discretionary activity status is not supported.</p>
	<p>Buildings within any other Building Restriction Area</p>	NC	<p>Non-complying status matches the building restriction area tool. However, there is no clear policy support for the use of the building restriction area. Given it results in non-complying activity status, it should have policy support. The rule is supported, subject to the inclusion of a policy that supports it.</p>
	<p>Farm Building</p> <p>The construction, replacement or extension of a farm building is a permitted activity subject to the standards provided for in 21.8 of Chapter 21 (Rural Zone)</p>	P	<p>In the notified RVZ, farm buildings are specified as a restricted discretionary activity. If it is considered appropriate for farm buildings to be permitted in the WPTZ (noting no specific assessment of this has been provided by the submitter), then the cross-reference to the standards in 21.8 of Chapter 21 should be replicated in the WPTZ chapter, for ease of plan interpretation and application. This rule is not supported as proposed.</p>
	<p>Industrial Activity</p>	NC	<p>Same as notified RVZ, supported.</p>
	<p>Residential Activity</p> <p>Residential activities not permitted by rule X above, or which do not comply with the standards listed in Table 1 of Chapter 21 (Rural Zone)</p>	D	<p>As discussed in the s42A report, this rule has not been justified in the submitter's s32AA assessment and is not supported.</p> <p>There is a clarification required for the part of the rule that states "or which do not comply with the standards listed in Table 1 of Chapter 21". Table 1 of Chapter 21 is the activity rule table, not a list of standards, and covers many activities. If the submitter wants standards from the Rural Zone to apply to residential activity in the WPTZ, then these should be specifically listed in the chapter.</p>
	<p>Mining</p>	NC	<p>Same as notified RVZ, supported.</p>
	<p>Any other activity not listed in Table X.4</p>	D	<p>See discussion in s42A report.</p>
Standards			
	<p>Building Height</p> <p>The maximum height of buildings shall be 8m, with the exception of wind turbines which shall be 15m.</p>	RD	<p>Ms Mellsop does not support this standard. The notified height for the RVZ was 6m, and 4m within the Water Transport Infrastructure overlay.</p>
	<p>Glare</p> <p>X: All exterior lighting shall be directed downward and away from adjacent sites and public places including roads and Lake Wakatipu.</p> <p>X: No activity shall result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, except this rule shall not apply to exterior lighting within the Walter Peak Water Transport Infrastructure Overlay.</p>	NC	<p>Similar to notified standard 46.5.3, supported.</p>

	<p>Setback of buildings from waterbodies</p> <p>The minimum setback of any building from the bed of a river, lake or wetland shall be 20m, except this rule shall not apply to structures or buildings identified in rule X located within the Walter Peak Water Transport Infrastructure Overlay.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Indigenous biodiversity values; b. Visual amenity values; c. landscape; d. open space e. environmental protection measures (including landscaping and stormwater management); f. natural hazards; and g. Effects on cultural values of manawhenua. 	<p>This standard is similar to notified standard 46.5.4, except that matter of discretion (d) has been shortened. In the absence of any reasoning as to otherwise, the notified matter should be included: “open space and the interaction of the development with the water body”.</p>
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Walter Peak Tourism Zone – s42A High level comments on changes to other chapters

Chapter	Proposed change to provision	Comment
Chapters 3 and 6	<p>Inclusion of WPTZ as an Exception Zone in Chapter 3, and new policy in Chapter 6 as follows:</p> <p><u>Provide a separate regulatory regime for the Walter Peak Tourism Zone and exclude the Walter Peak Tourism Zone from the Outstanding Natural Landscape classification and from the policies of this chapter related to that classification. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.2.5.1A, 3.2.5.2B, 3.3.20-24, 3.3.32)</u></p>	<p>As discussed in the s42A report, these changes are not supported.</p> <p>If the Tourism Zone can be justified as an Exception Zone – the way it is listed should follow the same structure and format as already adopted in Chapter 3. The ‘carve-out’ from the Chapter 6 ONL provisions should also follow the same format as the existing Special Zone, rather than the new approach suggested by Wayfare.</p>
Chapter 25 Earthworks	500m ³ maximum volume for earthworks, and non-notification statement for earthworks in the WPTZ.	The volume of 500m ³ is consistent with the volume notified as a variation with the notified RVZ. However, earthworks have the potential to have significant effects on the landscape values of the ONL, so it is not clear that non-notification is appropriate as proposed.
Chapter 27 Subdivision and Development	Inclusion of WPTZ within the Rule 27.5.5 for unit title and leasehold subdivisions.	Change in the approach to Subdivision was not a matter raised in the submission, and this change is considered out of scope. Notwithstanding this, it is not clear what the change would achieve, it is not clear what type of development, beyond multi-unit commercial or residential or visitor accommodation development that the submitter might want to be able to unit title or leasehold subdivide.
	Non minimum lot size for subdivision within the WPTZ.	This change is consistent with the notified variations that accompanied the notified RVZ.
Chapter 30 Energy and Utilities	Application of Rule 30.4.1.2 (small and community-scale distributed wind electricity generation) to the WPTZ.	The intent of this change has some merit, but there is no specific assessment provided and it is not clear if there are any effects on the ONL that would need to be specifically managed.
Chapter 31 Signs	Inserting a new column for the WPTZ in Table 31.14, identifying activity status for various types of signs.	This change is consistent with the notified variations that accompanied the notified RVZ.
	Insertion of a new permitted activity within Table 31.14: <i>Interpretive signs and signs for health and safety purposes</i>	No new activity related to signs was sought in the submission, and this change is considered to be out of scope. Notwithstanding this, the additional rule is considered unnecessary – interpretive signs and signs for health and safety purposes are not signs associated with commercial activities, community activities or visitor accommodation, and so would be permitted anyway (Rule 31.14.4).
Chapter 36 Noise	New noise standard for the WPTZ	The noise standard is similar to that notified for the RVZ, but there is a difference for the ‘assessment location’, being “at any point within any site” in the notified RVZ and “at the notional boundary of any residential unit in the Rural Zone” for the proposed WPTZ. The unit of measurement for the noise limit in the WPTZ also needs clarifying – two units appear to be included. There is no explanation for the different assessment location and it is not supported.