

APPLICATION AS NOTIFIED

Watersports Holdings Limited
Partnership

(RM250657)

QUEENSTOWN LAKES DISTRICT COUNCIL

SERVICE OF NOTICE / LIMITED NOTIFICATION

Service of Notice for Limited Notification of a Resource Consent application under Section 95B of the Resource Management Act 1991.

The Queenstown Lakes District Council has received an application for a resource consent from:

Watersports Holdings Limited Partnership

What is proposed:

Consent is sought to change the conditions of an existing commercial boating activity consent to enable two additional 'Seabreacher' watercraft to form part of the activity, being one to form part of those used commercially, and another to serve as a dedicated staff training craft.

The location in respect of which this application relates is situated at:

The subject site is situated within Lake Wakatipu, Queenstown.

A full copy of this Limited Notified package is available for you to download on the following link:

<https://www.qldc.govt.nz/services/resource-consents/notified-resource-consents#limited-not-rc> or via our edocs website using RM250657 as the reference <https://edocs.qldc.govt.nz/Account/Login>

This file can also be viewed at our public computers at these Council offices:

- **Gorge Road, Queenstown;**
- **and 47 Ardmore Street, Wanaka during normal office hours (8.30am to 5.00pm).**

The Council planner processing this application on behalf of the Council is Jeff Fuller, who may be contacted by phone at +64 3 4413 750 or e-mail at jeff.fuller@qldc.govt.nz

Any person who is notified of this application, but a person who is a trade competitor of the applicant may do so only if that person is directly affected by an effect of the activity to which the application relates that –

- a) adversely affects the environment; and
- b) does not relate to trade competition or the effects of trade competition.

If you wish to make a submission on this application, you may do so by sending a written submission to the consent authority no later than:

Thursday 22 January 2026

The submission must be dated, signed by you and must include the following information:

- a) Your name and postal address and phone number/fax number.
- b) Details of the application in respect of which you are making the submission including location.
- c) Whether you support or oppose the application.
- d) Your submission, with reasons.
- e) The decision you wish the consent authority to make.
- f) Whether you wish to be heard in support of your submission.

You may make a submission by sending a written or electronic submission to Council (details below). The submission should be in the format of Form 13. Copies of this form are available Council website:

<https://www.qldc.govt.nz/services/resource-consents/notified-consents/current-notified-resource-consents/>

You must serve a copy of your submission to the applicant (Michaela Jewson, michaela@watersports.nz) as soon as reasonably practicable after serving your submission to Council:

C/- Roz Devlin
roz@vivianespie.co.nz
Vivian and Espie Ltd
PO Box 2514, Wakatipu,
Queenstown, 9349

QUEENSTOWN LAKES DISTRICT COUNCIL



(signed by Sarah Gathercole pursuant to a delegation given under
Section 34A of the Resource Management Act 1991)

Date of Notification: 4 December 2025

Address for Service for Consent Authority:

Queenstown Lakes District Council
Private Bag 50072, Queenstown 9348
Gorge Road, Queenstown 9300

Phone
Email
Website

03 441 0499
rcsubmission@qldc.govt.nz
www.qldc.govt.nz

TechnologyOne ECM Document Summary

Printed On 02-Dec-2025

Class	Description	Doc Set Id / Note Id	Version	Date
PUB_ACC	[A] - Form 10	8985184	1	26-Aug-2025
PUB_ACC	AEE	8985177	1	26-Aug-2025
PUB_ACC	[A1] - Record of Title OTB1/226	8985178	1	26-Aug-2025
PUB_ACC	[B] - RM130071 Decision	8985179	1	26-Aug-2025
PUB_ACC	[C] - RM150437 s127 Decision	8985180	1	26-Aug-2025
PUB_ACC	[D] - [2025] NZEnvC 264 Decision	8985181	1	26-Aug-2025
PUB_ACC	[D1] - [2025] NZEnvC 264 Agreed Conditions	8985182	1	26-Aug-2025
PUB_ACC	[E] - Acoustic Report	8985183	1	26-Aug-2025
PUB_ACC	[F] - Acoustic Comment	8985176	1	26-Aug-2025



FORM 10:

APPLICATION FOR CHANGE OR CANCELLATION OF A RESOURCE CONSENT CONDITION(S)



*Under section 127 of the Resource Management Act 1991 (Variation)

PLEASE COMPLETE ALL MANDATORY FIELDS* OF THIS FORM.

Please make sure that you are completing the correct form for your consent application type. This form provides mandatory contact information and details of your application and must be completed in full. If the incorrect form is used, or if information or supporting materials are missing (as per Appendix 5), your application will be rejected, and you will need to resubmit your application in full.

APPLICANT //

- Must be a person or legal entity (limited liability company or trust).
- Full names of all trustees required.
- The applicant name(s) will be the consent holder(s) responsible for the consent and any associated costs.

*Applicant's Full Name / Company / Trust: **Watersports Holdings Limited Partnership**
(Name Decision is to be issued in)

All trustee names (if applicable):

Contact Name if Company or Trust: **Michaela Jewson**

*Postal Address: **Shed 12, Queenstown Marina, 1 Sugar Lane, Queenstown**

Post code:
9300

*Contact details supplied must be for the applicant and not for an agent acting on their behalf and must include a valid postal address

*Email Address: **michaela@watersports.nz**

*Phone Numbers: Day **021 123 7772**

Mobile: **021 123 7772**

The Applicant is:

☐

Owner

☐

Prospective Purchaser (of the site to which the application relates)

☐

Occupier

☒

Lessee

Other - Please Specify



Our preferred methods of corresponding with you are by email and phone.
The decision will be sent to the Correspondence Details by email unless requested otherwise.



CORRESPONDENCE DETAILS //

If you are acting on behalf of the applicant e.g. agent, consultant or architect please fill in your details in this section.

Name & Company: **Roz Devlin - Vivian and Espie Ltd**

Phone Numbers: Day **03 441 4189**

Mobile:

Email Address: **roz@vivianespie.co.nz**

Postal Address: **1/211B Glenda Drive, Frankton**

Postcode:
9300



INVOICING DETAILS //

Invoices will be made out to the applicant but can be sent to another party if paying on the applicant's behalf.
For more information regarding payment please refer to the Fees Information section of this form.

Please select a preference for who should receive any invoices and how they would like to receive them.

Applicant:

☒

Agent:

☐

Other, please specify:

Email:

☒

Post:

☐

*Attention: **Michaela Jewson**

*Postal Address: **Shed 12, Queenstown Marina, 1 Sugar Lane, Queenstown**
Please provide an email AND full postal address.

*Post code:
9300

*Email: **michaela@watersports.nz**



OWNER DETAILS // Please supply owner details for the subject site/property if not already indicated above

Owner Name: QLDC for consented Te Arawai jetty location

Owner Address: Private Bag 50072. Queenstown 9348

Owner Email: services@qldc.govt.nz

If the property has recently changed ownership please indicate on what date (approximately) AND the names of the previous owners:

Date:

Names:



DEVELOPMENT CONTRIBUTIONS INVOICING DETAILS //

If it is assessed that your consent requires development contributions any invoices and correspondence relating to these will be sent via email. Invoices will be sent to the email address provided above unless an alternative address is provided below. Invoices will be made out to the applicant/owner but can be sent to another party if paying on the applicant's behalf. For more information please see appendix 2 at the end of this form.

Please select a preference for who should receive any invoices.

Details are the same as above

☐

Applicant:

☒

Landowner:

☐

Other, please specify:

*Attention:

*Email:

[Click here for further information and our estimate request form](#)



DETAILS OF SITE // Legal description field must list legal descriptions for all sites pertaining to the application. Any fields stating 'refer AEE' will result in return of the form to be fully completed.

Address / Location to which this application relates: Surface of Lake Wakatipu, St Omer Park

Legal Description: Can be found on the Computer Freehold Register or Rates Notice – e.g Lot x DPxxx (or valuation number)

N/A for surface of Lake Wakatipu

Section 2 Block XVII Town of Queenstown (St Omer Park)

District Plan Zone(s): Rural (Water), Queenstown Bay Waterfront Subzone, Informal Recreation

SITE VISIT REQUIREMENTS // Should a Council officer need to undertake a site visit please answer the questions below

Is there a gate or security system restricting access by council?

YES

☐

NO

☒

Is there a dog on the property?

YES

☐

NO

☒

Are there any other hazards or entry restrictions that council staff need to be aware of ? If yes please provide further details below

YES

☐

NO

☒

PRE-APPLICATION MEETING OR URBAN DESIGN PANEL

Have you had a pre-application meeting with QLDC or attended the urban design panel regarding this proposal?

☐

Yes

☒

No

☐

Copy of minutes attached

If 'yes', provide the reference number and/or name of staff member involved:



RESOURCE CONSENT TO BE VARIED

My application relates to the following resource consent(s): RM RM130071

To: briefly describe the resource consent and subject site

To establish and operate a commercial boating activity on Lake Wakatipu



CONDITION(S) TO BE CHANGED OR CANCELLED

My application relates to the following specific condition(s) of the resource consent:

Detail the proposed change / cancellation including reasons for change and proposed replacement condition wording:

It is proposed to change Condition 7 of RM130071 (as previously varied by RM150437 and [2025] NZEnvC 264) to enable one additional water craft to be on the lake to undertake the commercial recreational activity at the same time as the four consented seabreachers. It is also sought to enable one additional water craft to be on the lake at the same time as the other five, for the purposes of staff training, safety and maintenance.



OTHER CONSENTS

Is consent required under a National Environmental Standard (NES)?

- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2012

An applicant is required to address the NES in regard to past use of the land which could contaminate soil to a level that poses a risk to human health. Information regarding the NES is available on the website

<https://environment.govt.nz/publications/national-environmental-standard-for-assessing-and-managing-contaminants-in-soil-to-protect-human-health-information-for-landowners-and-developers/>

You can address the NES in your application AEE OR by selecting ONE of the following:



This application does not involve subdivision (excluding production land), change of use or removal of (part of) a fuel storage system. Any earthworks will meet section 8(3) of the NES (including volume not exceeding 25m³ per 500m²). Therefore the NES does not apply.



I have undertaken a comprehensive review of District and Regional Council records and I have found no record suggesting an activity on the HAIL has taken place on the piece of land which is subject to this application.

NOTE: depending on the scale and nature of your proposal you may be required to provide details of the records reviewed and the details found.



I have included a Preliminary Site Investigation undertaken by a Suitably Qualified Person.



An activity listed on the HAIL has more likely than not taken place on the piece of land which is subject to this application. I have addressed the NES requirements in the Assessment of Environmental Effects.

- Any other National Environmental Standard



Yes



N/A

Are any additional consent(s) required that have been applied for separately?

- Otago Regional Council

Consents required from the Regional Council (note if have/have not been applied for):



Yes



N/A



INFORMATION REQUIRED TO BE SUBMITTED //

Attach to this form any information required (see below & appendices 1 - 3).

To be accepted for processing, your application should include the following:

- ☒ Computer Freehold Register for the property (no more than 3 months old) and copies of any consent notices and covenants
(Can be obtained from Land Information NZ at <https://www.linz.govt.nz/>).
- ☒ A plan or map showing the locality of the site, topographical features, buildings etc.
- ☒ A site plan at a convenient scale.
- ☐ Written approval of every person who may be adversely affected by the change/cancellation.
- ☒ An AEE (Assessment of the Effects)
An AEE is a written document outlining how the potential effects of the activity have been considered along with any other relevant matters, for example if a consent notice is proposed to be changed. Address the relevant provisions of the District Plan and affected parties including who has or has not provided written approval. See Appendix 1 for more detail.



Your application must be submitted via our online Community Portal. Please see **Appendix 3 - Requirements for Naming of Documents** for how documents should be named.



PRIVACY INFORMATION

The information that you have provided on this form is public information and is gathered for a lawful purpose to ensure the efficient functioning of Council's duties, powers and functions under the Resource Management Act 1991 and the Building Act 2004. The information will enable Council to adequately assess your application for Resource Consent in accordance with the statutory processes under the Resource Management Act 1991. The information may also be collected for and disclosed to, the Ministry for the Environment and Queenstown Lakes District Council, for the purpose of statistical analysis, so that the Agencies can efficiently undertake their statutory duties. The information will be stored on a public register (Council's eDocs website) and is available to the public in accordance with the terms and conditions set out on the eDocs website.

While available to the public through the eDocs portal, any disclosure of the information on the website must be in accordance with the Local Government Official Information and Meetings Act 1987 and must not be used for a purpose other than for the reason it was collected. Members of the public should not share or distribute this information for any purpose that is not a lawful purpose set out under relevant legislation.

Any unauthorised use, disclosure, or distribution of this information by third parties may constitute a breach of the Privacy Principles set out under the Privacy Act 2020 and may be reported to the Privacy Commissioner which could result in legal sanctions.



FEES INFORMATION

Section 36 of the Resource Management Act 1991 deals with administrative charges and allows a local authority to levy charges that relate to, but are not limited to, carrying out its functions in relation to receiving, processing of applications under this Act.

An invoice for an initial fee will be sent out typically within 1-2 business days of receipt of correctly completed application.

Your application will not be processed until this invoice is paid. **When making payment please use the application reference.**

Incorrectly referenced payments will be refunded directly to your bank account and you will be required to resubmit payment using the correct application reference.

If the initial fee charged is insufficient to cover the actual and reasonable costs of work undertaken on the application you will be required to pay any additional amounts. These will be invoiced monthly and are payable by the 20th of the month.

If your application is notified or requires a hearing you will be required to pay a notification deposit and/or a hearing deposit. An applicant may not offset any previous invoices issued against such deposits.

If unpaid, the processing of an application, provision of a service, or performance of a function will be suspended until the sum is paid in full.

Section 357B of the Resource Management Act provides a right of objection in respect of additional charges. An objection must be submitted using the correct application form and required documents. This must be lodged within 15 working days of the receipt of the final invoice.

LIABILITY FOR PAYMENT – Please note that by signing and lodging this application form you are acknowledging that the details in the invoicing section are responsible for payment of invoices and in addition will be liable to pay all costs and expenses of debt recovery and/or legal costs incurred by QLDC related to the enforcement of any debt.

FEES INFORMATION CONTINUED

MONITORING FEES – Please also note that the initial fee paid at lodgement includes an initial monitoring fee as per our Charges and Fees for Land Use Consent applications as once Resource Consent is approved you will be required to meet the costs of monitoring any conditions applying to the consent, pursuant to Section 35 of the Resource Management Act 1991. This initial monitoring fee also applies to designation related applications. For all application types the monitoring team may still charge an hourly rate if monitoring is deemed required.

DEVELOPMENT CONTRIBUTIONS – Your development may also incur development contributions under the Local Government Act 2002. You will be liable for payment of any such contributions.

A list of Charges and Fees is available on our website.



PAYMENT// An initial fee is payable upon receiving the initial fee invoice following the lodgment of this application.

Please wait for the initial fee invoice to be issued and **use the application reference on the invoice for your payment.**

This fee **MUST** be paid with the correct application reference in order for the processing to begin.

Incorrectly referenced payments will be refunded directly to your bank account and you will be required to resubmit payment using the correct application reference.

Amount to Pay

\$2,668 - Variation to resource consent conditions

APPLICATION & DECLARATION

The Council relies on the information contained in this application being complete and accurate. The Applicant must take all reasonable steps to ensure that it is complete and accurate and accepts responsibility for information in this application being so.

☐

If lodging this application as **the Applicant:**

I/we hereby represent and warrant that I am/we are aware of all of my/our obligations arising under this application including, in particular but without limitation, my/our obligation to pay all fees and administrative charges (including debt recovery and legal expenses) payable under this application as referred to within the Fees Information section.

OR:

☒

If lodging this application as **agent of the Applicant:**

I/we hereby represent and warrant that I am/we are authorised to act as agent of the Applicant in respect of the completion and lodging of this application and that the Applicant/ Agent whose details are in the invoicing section is aware of all of his/her/its obligations arising under this application including, in particular but without limitation, his/her/its obligation to pay all fees and administrative charges (including debt recovery and legal expenses) payable under this application as referred to within the Fees Information section.

☒

PLEASE TICK

I hereby apply for the resource consent(s) for the Proposal described above and I certify that, to the best of my knowledge and belief, the information given in this application is complete and accurate.

Signed (by or as authorised agent of the Applicant) **

Full name of person lodging this form **Roz Devlin**

Firm/Company **Vivian and Espie Ltd**

Dated **8/26/25**

**If this form is being completed on-line you will not be able, or required, to sign this form and the on-line lodgement will be treated as confirmation of your acknowledgement and acceptance of the above responsibilities and liabilities and that you have made the above representations, warranties and certification.

Section 2 of the District Plan provides additional information on the information that should be submitted with a land use or subdivision consent.

The RMA (Fourth Schedule to the Act) requires the following:

1 INFORMATION MUST BE SPECIFIED IN SUFFICIENT DETAIL

- Any information required by this schedule, including an assessment under clause 2(1)(f) or (g), must be specified in sufficient detail to satisfy the purpose for which it is required.

2 INFORMATION REQUIRED IN ALL APPLICATIONS

- (1) An application for a resource consent for an activity (the activity) must include the following:

- (a) a description of the activity;
- (b) a description of the site at which the activity is to occur;
- (c) the full name and address of each owner or occupier of the site;
- (d) a description of any other activities that are part of the proposal to which the application relates;
- (e) a description of any other resource consents required for the proposal to which the application relates;

Information provided within the Form above

- (f) an assessment of the activity against the matters set out in Part 2;
- (g) an assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b).

- (2) The assessment under subclause (1)(g) must include an assessment of the activity against—

- (a) any relevant objectives, policies, or rules in a document; and
- (b) any relevant requirements, conditions, or permissions in any rules in a document; and
- (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).

Include in an attached Assessment of Effects (see Clauses 6 & 7 below)

- (3) An application must also include an assessment of the activity's effects on the environment that—

- (a) includes the information required by clause 6; and
- (b) addresses the matters specified in clause 7; and
- (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

ADDITIONAL INFORMATION REQUIRED IN SOME APPLICATIONS

- An application must also include any of the following that apply:
 - (a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1));
 - (b) if the application is affected by section 124 or 165ZH(1)(c) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of section 104(2A));

Clause 6: Information required in assessment of environmental effects

- (1) An assessment of the activity's effects on the environment must include the following information:
 - (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity;
 - (b) an assessment of the actual or potential effect on the environment of the activity;
 - (c) if the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use;
 - (d) if the activity includes the discharge of any contaminant, a description of—
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment;
 - (e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect;
 - (f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted;
 - (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved;
 - (h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).

(2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan.

(3) To avoid doubt, subclause (1)(f) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—

- (a) oblige the applicant to consult any person; or
- (b) create any ground for expecting that the applicant will consult any person.

CLAUSE 7: MATTERS THAT MUST BE ADDRESSED BY ASSESSMENT OF ENVIRONMENTAL EFFECTS

- (1) An assessment of the activity's effects on the environment must address the following matters:
 - (a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects;
 - (b) any physical effect on the locality, including any landscape and visual effects;
 - (c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity;
 - (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations;
 - (e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants;
 - (f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.

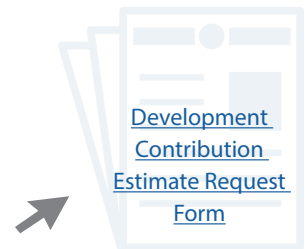
(2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of any policy statement or plan.

Will your resource consent result in a Development Contribution and what is it?

- A Development Contribution can be triggered by the granting of a resource consent and is a financial charge levied on new developments. It is assessed and collected under the Local Government Act 2002. It is intended to ensure that any party, who creates additional demand on Council infrastructure, contributes to the extra cost that they impose on the community. These contributions are related to the provision of the following council services:
 - Water supply
 - Wastewater supply
 - Stormwater supply
 - Reserves, Reserve Improvements and Community Facilities
 - Transportation (also known as Roding)

[Click here](#) for more information on development contributions and their charges

OR Submit an Estimate request *please note administration charges will apply



It's important that all your documents are named correctly - it helps us to process your application quickly and efficiently.

If you do not follow the required naming convention, your application will be rejected.

You may have documents that do not fit these names; therefore below is a guide of some of the documents we receive for resource consents. Please use a generic name indicating the type of document.

Application Form

AEE (Assessment of Environmental Effects)

Record of Title including the title identifier at the end and to be separate documents if multiple titles

i.e. Record of Title 12345, Record of Title 678910

Covenants, Consent Notices, Easement Instruments etc including the title identifier at end and to be separate documents

i.e. Consent Notice 123456, Easement Instrument 123456, Covenant 123456

Engineering Report

Geotechnical Report

Traffic Report

Urban Design Report

Affected Person's Approval/s

Landscape Report

PREPARED FOR
WATERSPORTS HOLDINGS LIMITED PARTNERSHIP
AUGUST 2025
J2397

ASSESSMENT OF ENVIRONMENTAL EFFECTS

TO CHANGE CONDITION 7 OF
RM130071 (AS VARIED BY RM150437
AND [2025] NZENVC 264) TO ENABLE
ADDITIONAL WATER CRAFT TO
OPERATE ON LAKE WAKATIPU

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Quality assurance

Prepared by		Roz Devlin	Senior Planner	26 August 2025
Reviewed by		Blair Devlin	Senior Planner / Director	26 August 2025

1. Key Information

Address	Surface of Lake Wakatipu, Queenstown
Legal Description	<p>N/A for surface of Lake Wakatipu</p> <p>The consented Te Arawai jetty is located on:</p> <ul style="list-style-type: none"> St Omer Park (Section 2 Block XVII TN of Queenstown, Record of title OTB1/226) and Lakes District Foreshore (Part Section 74 Block XX Shotover SD) Lakes District Foreshore etc Control Order 1983 New Zealand Gazette 1983 p 2010.
Site Area	N/A
Owners	<p>N/A for surface of Lake Wakatipu</p> <p>QLDC for consented Te Arawai jetty location</p>
Occupiers	N/A
Applicant	Watersports Holdings Limited Partnership
Operative District Plan Zoning	Rural General / Water, Queenstown Town Centre Waterfront Zone
Designations & Special Provisions	Appendix 8A records ONL line from Environment Court decisions.
Proposed District Plan Zoning	<p>Rural (Water), Queenstown Bay Waterfront Subzone</p> <p>The consented Te Arawai jetty is partly within the Informal Recreation Zone.</p>
Designations & Special Provisions	<p>Wāhi Tūpuna - Whakātipu-Wai-Māori (Lake Wakātipu)</p> <p>Outstanding Natural Landscape</p>
Proposed Activity	To change Condition 7 of resource consent RM130071 (as previously varied by RM150437 and [2025] NZEnvC 264) to enable two additional water craft associated with an established commercial boating activity that operates on Lake Wakatipu, including Frankton Arm.
Consents Required	<p><u>Resource Management Act 1991</u></p> <ul style="list-style-type: none"> A discretionary activity pursuant to section 127(3)(a) of the RMA, which deems any application to change or cancel consent conditions to be a discretionary activity. It is proposed to change Condition 7 of resource consent RM130071 (as previously varied by RM150437 and [2025] NZEnvC 264) to enable one additional craft (an increase to five) to be on the lake to undertake the commercial recreational activity at the same time, but no increase in the total number of consented trips (40 within Frankton Arm and 100 in other parts of the lake). It is also sought to enable one additional water craft to be on the lake at the same time as the other five, but only for the purposes of staff training, safety and maintenance, and not for taking paying customers. <p>Overall, the application is a discretionary activity.</p>
Written Approvals and Consultation	To be confirmed
Other consents/permits	N/A

2. Introduction

This report is submitted as part of the application by Watersports Holdings Limited Partnership (“the Applicant”) for resource consent from Queenstown Lakes District Council (QLDC or “Council”) to change Condition 7 of resource consent RM130071 (as previously varied by RM150437 and [2025] NZEnvC 264) to enable additional water craft associated with the established commercial boating activity that operates on Lake Wakatipu.

RM130071 allows four (4) water craft to be used for the activity. It is proposed to add two additional water craft to the fleet for a total of five (5) for paid trips. An additional water craft will be used for staff training, safety and maintenance purposes. Significantly the applicant does not propose to increase the approved number of trips per day on the lake (40 within Frankton Arm and 100 in other parts of Lake Wakatipu).

The completed Form 10 is appended as Attachment **[A]**. A copy of Record of Title OTB1/226 (St Omer Park) is appended as Attachment **[A1]**. A copy of RM130071 is appended as Attachment **[B]** and a copy of RM150437 is appended as Attachment **[C]**. A copy of interim decision of the Environment Court, which determined an appeal on RM200053 (ENV-2023-CHC-3), is appended as Attachment **[D]** and the agreed set of conditions is appended as Attachment **[D1]**. Copies of Acoustic Reports are appended as Attachments **[E]** and **[F]**. The purpose of this report is to provide sufficient information to enable a full understanding of the proposal and any effects that the proposal may have on the environment.

3. Established Activity

3.1 Hydro Attack Seabreachers

The established Hydro Attack commercial boating activity takes place from Queenstown Bay; the waterfront area centrally located within Queenstown. The location is characterised by visitor accommodation, commercial and retail activity. The activity currently operates from Lapsley Butson Wharf which is located within the Queenstown Town Centre Waterfront Zone. The interim decision of the Environment Court [2025] NZEnvC 264 approved a new wharf immediately to the west of St Omer Wharf. Once the new wharf constructed, the activity will operate from there.

The activity operates on Lake Wakatipu, including the Frankton Arm. The activity uses water craft known as a Seabreachers, in the shape of dolphins, sharks, and whales (refer Photo 1 below). The craft contain seating for two people; one being the driver and the other being the passenger.



Photo 1: Image of Seabreacher shark (source: <https://www.hydroattack.co.nz/>)

3.2 Site history

The following resource consents are of relevance:

RM130071 - Watersports Holdings Limited Partnership (transferred from Lodelo Limited) - To establish and operate a commercial boating activity on Lake Wakatipu. Granted 18 July 2013. This consent allowed 25 trips per day per craft by four Seabreacher Craft on Lake Wakatipu, excluding the Frankton Arm (100 trips in total).

RM150437 - Watersports Holdings Limited Partnership (transferred from Lodelo Limited) - To change Conditions 1, 5, 6, 8, 10 and 11 of resource consent RM130071 to allow restricted operation of the commercial boating activity within Frankton Arm and to allow the craft to undertake dives within Queenstown Bay. This consent enabled the activity to take place in the Frankton Arm and increased the total number of trips to include 40 trips per day over 80 calendar days in Frankton Arm and 100 trips in other parts of the lake.

RM170947 - Watersports Holdings Limited Partnership (transferred from Jet Ski Tours Queenstown Limited) - establish and operate a commercial boating activity on Lake Wakatipu at St Omar's Wharf or Lapsley Butson Wharf. This consent approved a commercial jet ski activity, and is not affected by this application.

[2025] NZEnvC 264 - Environment Court Interim Decision on appeal ENV-2023-CHC-3 on resource consent decision RM200053 - Hydro Attack Limited. Decision issued on 8 August 2025. The appeal is allowed in part on the basis that consent is granted on the agreed conditions of the Modified Proposal. Directions were made for QLDC to provide a copy of the updated resource consent incorporating the agreed conditions of consent and any relevant plans for the court's approval. The agreed conditions have been sent back to the court and a final decision is expected.

As confirmed above, the applicant has transferred the earlier consents to Watersports Holdings Limited Partnership, and will similarly transfer the Environment Court Decision once a final decision is issued.

4. The Proposal

4.1 Additional water craft for paid trips

The applicant seeks resource consent to change Condition 7 of resource consent RM130071 (as varied by RM150437 and [2025] NZEnvC 264) to allow for five (5) Seabreacher water craft to be operated at any one time, rather than four as currently approved, while maintaining that the total number of trips would remain unchanged at 40 within Frankton Arm and 100 in other parts of the lake as approved by Condition 6.

4.2 Staff training, safety and maintenance

In addition, it is sought that a sixth craft may be used on the lake for infrequent staff training, safety and maintenance purposes, at the same time as the proposed five operational craft are taking paying customers on trips.

Currently the resource consents held do not acknowledge staff training, which is part of the rationale for the additional water craft. No additional trips are sought for paying customers. This remains unchanged at 40 within Frankton Arm and 100 in other parts of the lake as approved by Condition 6. Staff training is proposed to be separate to the existing cap, as it is infrequent and will be located on a different part of the lake. Depending on staff turnover, the staff training water craft may be used infrequently. Training, safety and maintenance typically involves practicing filling up at a fuel pump, practicing out on lake doing barrel rolls and dives. Usually there would be one person or boat training at a time in Queenstown Bay and out on the lake.

4.3 Description of Conditions 6 and 7 of RM130071

Conditions 6 and 7 of RM130071 are copied below:

6. A total of 40 trips per day over 80 calendar days per year are not to be exceeded within Frankton Arm. A total of 100 trips per day is not to be exceeded within the other parts of Lake Wakatipu.
7. A maximum number of four Seabreacher Craft are authorised to operate under this consent

For clarity, the agreed conditions submitted to the Environment Court only change Condition 1 of RM130071 and only applies once the wharf approved by the Environment Court is constructed and available for use.

The change sought would result in one more water craft on the lake at any one time for paying customers, but the total number of trips would not increase. Depending on demand, the activity could be completed and cease earlier in the day e.g. the boats might be parked up at 4pm instead of 6pm because the total number of permitted trips has been completed faster with five boats on the water rather than four. As described above, a sixth water craft would be used infrequently for staff training, safety and maintenance purposes.

The proposal does not trigger any additional resource consents under the Proposed District Plan than that already assessed under resource consent RM130071 and later variations. The proposal can be assessed under section 127 of the RMA as it is a change to conditions to add one additional water craft to an established activity for paid

trips, and the occasional use of a water craft for staff training purposes while the other five water craft are engaged in paid trips. Any adverse effects are unlikely to be materially different.

4.4 Change to Condition 7 of RM130071

Wording Sought

To enable one additional water craft for paid trips and one additional water craft for staff training, a change to Condition 7 of resource consent RM130071 (as varied by RM150437 and [2025] NZEnvC 264) is sought (deletions in ~~strikethrough~~ and additions in **bold underline**):

7. A maximum number of ~~four~~ **five** Seabreacher Craft are authorised to operate **paid trips** under this consent. **One additional Seabreacher Craft may also be used for staff training, safety and maintenance purposes.**

5. Matters Requiring Consent

5.1 Resource Management Act 1991

- A **discretionary** activity pursuant to section 127(3)(a) of the RMA, which deems any application to change or cancel consent conditions to be a discretionary activity. It is proposed to change Condition 7 of resource consent RM130071 (as previously varied by RM150437 and [2025] NZEnvC 264) to enable an additional water craft associated with an established commercial boating activity, and an additional water craft for staff training, safety and maintenance purposes.

Overall, the application is a **discretionary** activity.

5.2 Scope of Application

This application is for all matters requiring resource consent rather than for the specific list of consent matters / non-compliances identified by the author. If the Council is of the view that resource consent is required for alternative or additional matters to those identified in this AEE, it has the discretion to grant consent to those matters as well as or in lieu of those identified in this AEE. If the Council is of the view that the activity status of any of the matters requiring consent is different to that described in this AEE, or that some or all of the matters requiring consent should be bundled or unbundled in a way that results in a different outcome to that expressed in this AEE, the Council has the ability under Section 104(5) of the Resource Management Act 1991 ("Act") to process the application regardless of the type of activity that the application was expressed to be for.

6. Assessment of Environmental Effects

6.1 Permitted Baseline/Receiving Environment

Section 104(2) of the Act states that, in considering the effects of allowing an activity, a consent authority may disregard an adverse effect if the plan permits an activity with that effect. In this case, all commercial boating

activities (except for emergency or other listed purposes) require a resource consent; therefore, there is no relevant permitted baseline.

The site has a consented baseline that forms part of the receiving environment of four Seabreacher water craft operating on the lake for up to 100 trips per day. This forms a consented baseline that is considered of relevance to this assessment.

6.2 Nuisance & Noise effects

The assessment for RM150437 included an acoustic assessment by Malcolm Hunt and Associates dated 1 May 2015, which was reviewed by Consultant Acoustics Engineer, Dr Stephen Chiles, specifically about the trips sought in the Frankton Arm. Subsequent updates to the acoustic assessments have been provided. These are appended as Attachment [E] and [F].

The two additional water craft will have the same specifications as the existing craft that are operating on the lake. Therefore, the additional craft will be able to comply with District Plan noise levels and the noise limits that are specified in condition 13 of RM130071 (as varied by RM150437):

13. The consent holder shall at all times ensure that no craft used on any trip breach the maximum permissible daytime (0800 to 2000 hours) noise level of 77dBA.

This condition applies regardless of the number of boats operating at any one time, as each boat must comply.

A further condition requires that the applicant engage an acoustic expert to ensure that the noise levels are not breached:

14. Within 4 weeks of the commencement of operations, the applicant shall engage a suitable qualified and experienced acoustic consultant to provide evidence that the operation does not breach the noise levels within the Rural General zone or Queenstown Town Centre zone.

This condition would continue to apply, such that the applicant must provide evidence that the “operation” including the additional water craft do not breach noise levels in the Rural General or Queenstown Town Centre zone.

It is considered that that the existing controls will adequately manage the operation of the activity so to ensure that the potential nuisance effects associated with extra water craft are intermittent, of limited duration, and compliant with the specified noise level of 77dBA.

Overall, it is considered that the potential nuisance and noise effects of the proposed extra water craft are anticipated to be no more than minor.

6.3 Navigational Safety effects

Detailed safety requirements are included as conditions of RM130071 (as varied by RM150437). The additional water craft will operate in strict accordance with relevant QLDC Navigational Bylaws and Maritime New Zealand

rules at all times, including protocols in terms of operating safely and sensitively when in the vicinity of other recreational users.

As the activity is existing, the one additional water craft operating paid trips but under the same total number of trips would not introduce any new conflicts with other commercial or recreational operators on the lake, and would operate in accordance with existing conditions. In addition, it is considered important one additional water craft to be operated for for staff training separate to the paid trips, to maintain safety for the activity and other lake users.

Condition 3 of RM130071 requires:

3. A safety case that has been approved by Maritime New Zealand shall be submitted to the Consenting Authority prior to the commencement of the activity

This condition would continue to apply, such that the applicant must have an approved safety case from Maritime NZ that covers the amended proposal.

It is expected that the processing planner will send requests for comment to Maritime NZ and the QLDC Harbourmaster, in accordance with standard practice.

Overall, the safety effects of the proposed additional water craft are anticipated to be no more than minor.

6.4 Cumulative Effects

Cumulative effects are effects that arise over time or in combination with other effects, regardless of their scale, intensity and duration. There are currently a number of commercial boating activities operating on Lake Wakatipu and these operations need to be considered in conjunction with the proposed activity, along with recreational users.

It is considered that one additional water craft operating within the same total number of paid trips and within the existing safety requirements would be unlikely to be noticeable or adversely affect any other boating activities. The one additional water craft to be used infrequently for staff training, safety and maintenance purposes would be located in Queenstown Bay or out in the lake away from other users. As discussed above, the activity will continue to operate within the existing conditions of consent, which include specific requirements for Queenstown Bay where there are likely to be other operators (e.g. no barrel rolls in the access lane), complying with all directions by the Harbourmaster, and giving way to the TSS Earnslaw at all times. The existing conditions and cap on overall paid trips will ensure that two additional water craft would not result in adverse cumulative effects on other commercial or recreational lake users.

The proposal could result in adverse cumulative visual effects on the landscape and its viewers. In this instance, there will be an additional water craft operating paid trips, which will be visible from various viewpoints on the lake and lakeshore, at various times of the day. In addition, there will be infrequent staff training, safety and maintenance trips. The total number of trips overall will remain the same. Overall, in the context of the consented baseline, and given that the activity is transient and the water craft are not large, it is considered that the additional water craft would not adversely affect landscape character or visual amenity values to a more than minor degree. As such, adverse cumulative visual and landscape effects are considered to be no more than minor.

Overall, the adverse cumulative effects of the proposed additional water craft are not anticipated to be more than minor.

6.5 Cultural Effects

Lake Wakatipu is subject to a Statutory Acknowledgement and Wāhi Tūpuna - Whakātipu-Wai-Māori (Lake Wakātipu). Condition 16 of RM150437, originally condition 17 of RM130071, provides that:

16. The consent holder and its staff shall not provide information to its passengers about any historical, spiritual or cultural matters relating to the Takata Whenua of the area without first consulting with the local Papatipu Runanga and obtaining their agreement that the information provided is both accurate and appropriate.

This condition will continue to apply, and it is considered that the proposal to add two extra boats and allow for staff training would not introduce any new potential threats that might be incompatible with Manawhenua values.

Overall, the proposed additional water craft is not anticipated to result in any adverse cultural effects that would be more than minor.

7. Public and Limited Notification

7.1 Public Notification

Step 1 – Mandatory notification in certain circumstances (s95A(1)(3)):

- The applicant has not requested that the application be publicly notified.
- The applicant has not refused to provide information or agree to the Commissioning of a report.
- The application does not involve exchange of recreation reserve land.

Step 2 – Public notification precluded in certain circumstances (s95(5))

- The proposal is subject to a rule that precludes public notification (12.20.5i).
- The proposal is not for a controlled activity.

Notification is therefore not precluded under Step 2.

Step 4 – Special circumstances (s95(9))

- No special circumstances exist in relation to this application.

The application is therefore not precluded from public notification.

7.2 Limited Notification

Step 1 – Certain affected groups and affected persons must be notified (s95B(3))

- The site is within a Statutory Acknowledgement Area under the Ngai Tahu Claims Settlement Act. Iwi were consulted as part of the original consent RM130071 and RM170947. It is noted that the proposal is not a new

consent, but a variation to the existing consent, to amend the number of water craft but not the total number of paid trips, and to allow for staff training, safety and maintenance. No further consultation with iwi is considered to be required, as the proposed changes are not located on or affecting the bed or water in the lake. Given the minor scale of the proposed additional water craft with no increase in overall trips per day and no changes to safety or other operational conditions, no persons or groups are considered to be affected by the proposal.

Step 2 – Limited notification precluded in certain circumstances (s95B(6))

- The proposal is subject to a rule that precludes public notification (12.20.5i).
- The application is not a controlled activity.

Limited notification is therefore not precluded under Step 2.

Step 4 – Special circumstances (s95B(10))

- No special circumstances exist in relation to this proposal.

The application is therefore not precluded from limited notification.

8. Policy Framework

8.1 Operative Regional Policy Statement (2019) – ORPS

The Otago Regional Policy Statement 2019 became fully operative on 4 March 2024. The following objective is of relevance:

Objective 1.1 Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities	The proposal contributes to the social and economic wellbeing of Otago's communities, while avoiding any loss or degradation of resources or constraining opportunities for use and development now and into the future.
Objective 3.1 The values (including intrinsic values) of ecosystems and natural resources are recognised and maintained, or enhanced where degraded.	The proposed additional water craft will not degrade natural values and natural systems, the intrinsic values of ecosystems and the ecosystem services they provide, and will not result in adverse cumulative effects of human activities on the natural environment.

Overall, the proposal is consistent with the higher level objectives and policies of the ORPS.

8.2 Proposed Regional Policy Statement (2021) – PORPS

The PORPS was separated into two parts: a freshwater and a non-freshwater planning instrument, following a determination by the High Court in 2021. The Otago Regional Council notified its decisions on submissions on the Proposed Otago Regional Policy Statement (2021) PORPS on 30 March 2024. The following objective is of relevance:

<p>LF-WAI-01 – Te Mana o te Wai 225 Otago's water bodies and their health and well-being are protected, and restored where they are degraded, so that the mauri of those water bodies is protected, and the management of land and water recognises and reflects that: (1) water is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa, (2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future, (3) each water body has a unique whakapapa and characteristics, (4) fresh water, land, and coastal water have a connectedness that supports and perpetuates life, (4A) protecting the health and well-being of water protects the wider environment, (5) Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports, and (6) all people and communities have a responsibility to exercise stewardship, care, and respect in the management of fresh water.</p>	<p>The proposed additional water craft will maintain the health and well-being of water bodies and freshwater ecosystems (te hauora o te wai) and the exercise of mana whenua to uphold this has been established through compliance with Condition 16 of RM130071.</p>
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Overall, the proposal is consistent with the higher level objectives and policies of the PORPS.

8.3 Operative District Plan

The objectives and policies of the ODP are no longer considered relevant as there are no rules triggered by which to implement the objectives and policies; however, an assessment is provided below if required by the consenting authority.

<p>4.6.3 Objectives and Policies Objectives Recreational activities undertaken in a manner which avoids, remedies or mitigates, their potential adverse effects on:</p> <ul style="list-style-type: none"> • natural conservation values and wildlife habitats, • other recreational values, • public health and safety, • takata whenua values, and • general amenity values. 	<p>The proposed additional water craft will be operated in a manner that allows for the safe operation of vessels on Lake Wakatipu, and avoids adverse effects on habitats surrounding the waterway. An acceptable level of amenity around the periphery of the lake will continue to be maintained through the existing hours of operation, number of trips and passengers and conditions imposed to ensure the activity is carried out in accordance with these restrictions.</p> <p>Ongoing compliance with Condition 16 of RM130071 will ensure that cultural values of the lake continue to be preserved.</p>
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Overall, the proposal is consistent with the relevant objectives and policies within the ODP.

8.4 Proposed District Plan

8.4.1 Landscapes – Rural Character

<p>Policy 6.3.5 Managing Activities on Lakes and Rivers</p> <p>6.3.5.2 Recognise the character of the Frankton Arm including the established jetties and wharves, and provide for their maintenance, upgrade or expansion.</p> <p>6.3.5.3 Recognise the urban character of Queenstown Bay and provide for structures and facilities on the surface and margins of Queenstown Bay within the</p>	<p>The additional water craft are a small expansion of an established commercial activity on the surface of water bodies, and does not involve construction of new structures. As the proposal does not increase the total trips per day on the lake, overall effects on water bodies, including landscape values, are suitably managed through the existing conditions of consent.</p>
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<p>Queenstown Town Centre Waterfront Subzone providing they protect the ability to appreciate the District's distinctive landscapes.</p> <p>6.3.5.4 Provide for appropriate commercial and recreational activities on the surface of water bodies that do not involve construction of new structures.</p>	
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Overall, the proposal is consistent with the relevant policy within Chapter 6.

8.4.2 Rural

<p>21.2.12 Objective - The natural character of lakes and rivers and their margins is protected, or enhanced, while also providing for appropriate activities, including recreation, commercial recreation and public transport.</p> <p>21.2.12.1 Have regard to statutory obligations, Wāhi Tūpuna and the spiritual beliefs, and cultural traditions of tangata whenua where activities are undertaken on the surface of lakes and rivers and their margins.</p> <p>21.2.12.3 Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft, in areas of high passive recreational use, significant nature conservation values and wildlife habitat.</p> <p>21.2.12.9 Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.</p> <p>21.2.12.10 Manage the nature, scale and number of commercial boating activities on waterbodies to ensure the safety of passengers and other users of the water body, having particular regard to compatibility with existing activities.</p>	<p>It is considered that the original consent has had sufficient regard to statutory obligations, the spiritual beliefs, cultural traditions and practices of Tangata Whenua where activities are undertaken on the surface of lakes and rivers and their margins.</p> <p>Potential adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft in areas of high passive recreational use, significant nature conservation values and wildlife habitat have been addressed and are considered to be less than minor.</p> <p>The potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion, were considered in the original consent and no additional adverse effects are anticipated.</p> <p>The additional water craft within the existing limit of trips per day will ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies will not exceed levels where the safety of passengers and other users of the water body cannot be assured.</p>
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Overall, the proposal is consistent with the relevant objectives and policies within Chapter 21.

8.4.3 Wāhi Tūpuna

<p>39.2.1 Manawhenua values, within identified wāhi tūpuna areas, are recognised and provided for.</p>	<p>It is considered that the original consent has had sufficient regard to statutory obligations, the spiritual beliefs, cultural traditions and practices of Tangata Whenua where activities are undertaken on the surface of lakes and rivers and their margins. The existing conditions of consent will continue to apply, and it is considered that the proposal does not introduce any new potential threats that might be incompatible with Manawhenua values.</p>
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Overall, it is anticipated that the proposal will be consistent with the objective and policies within Chapter 39.

9. Conclusion

In considering whether to approve the application, the Council is required to have regard to any relevant provisions of any national policy statements, national environmental standards, regional policy statements, regional plans and district plans, “subject to Part 2”. The Council is also required to have regard to the effects of the proposal on the environment. The proposed additional water craft and staff training associated with an established commercial boating activity on Lake Wakatipu will achieve the purpose of sustainable management under s 5 of the Act, including by reference to the other principles in Part 2 of the Act by enabling the applicant and community to provide for their economic and social well-being, while at the same time avoiding, mitigating or remedying any adverse environmental effects.

Attachments

[A] – Form 9 10

[A1] – Record of Title OTB1/226

[B] – Copy of Decision RM130071

[C] – Copy of Decision RM150437

[D] – Copy of [2025] NZEnvC 264

[D1] – Copy of Agreed Conditions

[E] – Acoustic Report

[F] – Acoustic Report



RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy



R.W. Muir
 Registrar-General
 of Land

Identifier **OTB1/226**

Land Registration District **Otago**

Date Issued 29 March 1962

Prior References

GN 243206

Estate Fee Simple
Area 1.4670 hectares more or less
Legal Description Section 2 Block XVII Town of
 Queenstown
Purpose Reserve for recreation

Registered Owners

Queenstown Lakes District Council

Interests

Subject to Section 59 Land Act 1948

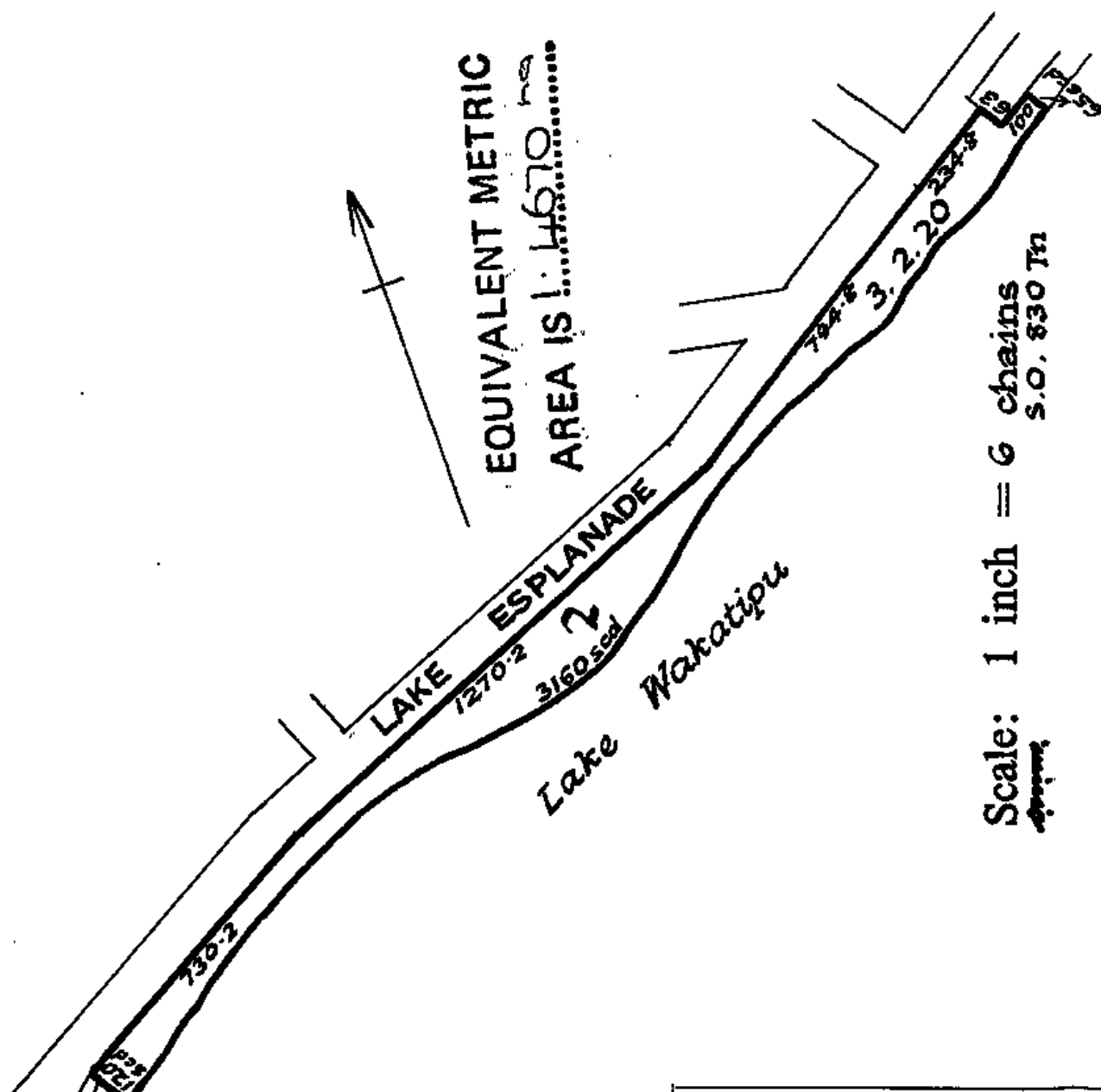
900103 Transfer creating the following easements in gross - 29.1.1996 at 10.13 am

Type	Servient Tenement	Easement Area	Grantee	Statutory Restriction
Convey stormwater	Section 2 Block XVII Town of Queenstown - herein	A DP 24958	Carlin Enterprises International Limited	

5614282.1 SUBJECT TO PART 9 OF THE NGAI TAHU CLAIMS SETTLEMENT ACT 1998 (WHICH PROVIDES FOR CERTAIN DISPOSALS RELATING TO THE LAND TO WHICH THIS CERTIFICATE OF TITLE RELATES TO BE OFFERED FOR PURCHASE OR LEASE TO TE RUNANGA O NGAI TAHU IN CERTAIN CIRCUMSTANCES) - 9.6.2003 at 9:00 am

Subject to a right to drain stormwater over part marked A on DP 372838 created by Easement Instrument 7066783.1 - 12.10.2006 at 9:00 am

Subject to a right (in gross) to convey electricity over part marked A on DP 455488 in favour of (now) Queenstown Wharves LP created by Easement Instrument 9162473.2 - 17.9.2012 at 8:49 am





DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	Lodelo Ltd
RM reference:	RM130071
Location:	Lake Wakatipu, Queenstown
Proposal:	To establish and operate a commercial boating activity on Lake Wakatipu
Type of Consent:	Land Use
Legal Description:	N/A
Valuation Number:	N/A
Zoning:	Rural General and Queenstown Town Centre Waterfront Zone
Activity Status:	Discretionary
Notification:	Non notified
Commissioner:	Commissioner Clarke
Date Issued:	18 July 2013
Decision:	Granted with conditions

This is an application for resource consent under Section 88 of the Resource Management Act 1991 to establish and operate a commercial boating activity on Lake Wakatipu. The application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 18 July 2013. This decision was made and its issue authorised by David Clarke, Independent Commissioner, as delegate for the Council.

Under the District Plan the site is zoned Rural General and Queenstown Town Centre Waterfront Zone and the proposed activity requires resource consent for the following reason(s):

- A **discretionary** activity resource consent pursuant to Rule 10.6.3.3(l)(b) Surface of Water and Interface Activities, whereby commercial surface of water activities within the Queenstown Town Centre Waterfront Zone require a discretionary activity resource consent. The applicant intends to berth the vessel at Lapsley Butson Wharf which is located within the Queenstown Town Centre Waterfront Zone.
- A **discretionary** activity resource consent pursuant to Rule 5.3.3.3 (iv)(b) Surface of Lakes and Rivers whereby commercial boating activities require a discretionary activity resource consent. The applicant proposes to operate a commercial boating activity on Lake Wakatipu.

Overall, the proposal was considered as a **discretionary** activity.

Notification Determination

The Independent Commissioner has reviewed the Section 95 recommendation prepared for this application and has decided that it can proceed on a non-notified basis. The application was considered on a non-notified basis in terms of Section 95A and 95B whereby the consent authority was satisfied that the adverse effects of the activity on the environment are not likely to be more than minor and whereby all persons who, in the opinion of the consent authority, may be adversely affected by the activity, have given their written approval to the activity.

Decision

Consent is GRANTED pursuant to Section 104 of the Act, subject to the following conditions imposed pursuant to Section 108 of the Act:

General Conditions

1. That the development must be undertaken/carried out in accordance with the application as submitted and all additional documentation, with the exception of the amendments required by the following conditions of consent.
- 2a. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
- 2b. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991 and shall pay to Council an initial fee of \$100. This initial fee has been set under section 36(1) of the Act.
3. A safety case that has been approved by Maritime New Zealand shall be submitted to the Consenting Authority prior to the commencement of the activity
4. The vessel shall carry a maximum of two passengers (including staff)
5. The hours of operation for the commercial boating activity shall be restricted to the hours of 8am to 8pm seven days a week and shall not operate after dark.
6. A maximum of 25 trips per day per craft may be undertaken

7. A maximum number of four Seabreacher Craft are authorised to operate under this consent
8. The activities shall be confined to Lake Wakatipu. The operator shall at all times maintain an operating distance of
 - 200 metres from any Lake inlet or outlet; and
 - 50 metres of the Lake shore
9. The operation of the craft shall give way at all times to the TSS Earnslaw.
10. When operating craft within the main access lane in Queenstown Bay, all craft will navigate the same as normal vessels and not undertake dives or barrel rolls, or all craft will navigate as directed by the Harbourmaster in the interests of public safety.
11. No operations are permitted within Frankton Arm of Lake Wakatipu.
12. All guides shall be experienced in the safe operation of the craft, support vessels and rescue procedures required in the event of any emergency.
13. The consent holder shall at all times operate strictly in accordance with:
 - All QLDC Navigation Bylaws of relevance to the operation; and
 - All Maritime New Zealand Rules of relevance to the operation.
14. The consent holder shall at all times ensure that no craft used on any trip breach the maximum permissible daytime (0800 to 2000 hours) noise level of 77dBA.
15. Within 4 weeks of the commencement of operations, the applicant shall engage a suitable qualified and experienced acoustic consultant to provide evidence that the operation does not breach the noise levels within the Rural General zone or Queenstown Town Centre zone.
16. The consent holder shall at all times ensure that adequate provision is made for:
 - The proper collection, safe storage and appropriate disposal to the QLDC refuse system of all recyclables, litter and other refuse;
 - The proper collection, safe storage and appropriate disposal to the QLDC sewage system of all liquid waste products (including human effluent, greywater, bilge water, etc);
 - The proper collection, safe storage and appropriate disposal to the QLDC refuse system of all surplus and/or unwanted boat oils, fuels and other fluids;
 - The immediate reporting of any spillage incidents to the Harbourmaster, QLDC, as soon as practically possible and no later than one hour of the incident occurring; and
 - The imposition of and adherence to standard practices for boat cleaning; this to include, but not be limited to, the undertaking of all possible measures to prevent the spread of both Lagarosiphon and Didymo.
17. The consent holder and its staff shall not provide information to its passengers about any historical, spiritual or cultural matters relating to the Takata Whenua of the area without first consulting with the local Papatipu Runanga and obtaining their agreement that the information provided is both accurate and appropriate.
18. The consent shall lapse 25 years from the date consent is granted.

Review

19. Within ten working days of each annual anniversary of the date of this decision or upon the receipt of information identifying non-compliance with the conditions of this consent, the Council may, in accordance with Sections 128 & 129 of the Resource Management Act 1991, serve

notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:

- (a) there is or is likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted.
- (b) monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse effect on the environment.
- (c) there has been a change in circumstances such that the conditions of the consent are no longer appropriate in terms of the purpose of the above Act.

Reasons for the Decision

Proposal

Land use consent is sought to establish and operate a commercial boating activity on Lake Wakatipu. The type of craft to be used is described as a "Seabreacher" which are a water craft in the shape of dolphins, sharks and whales. Figure 1 below depicts an image of a typical craft



Figure 1 Typical Seabreacher model operating on the surface of the Lake

The craft contain seating for two people; one being the driver and the other being the passenger.

The applicant intends to operate from the Lapsley Butson Wharf which is located within Queenstown Bay. From this wharf, the tours will proceed out of Queenstown Bay, and commence tours on Lake Wakatipu. The applicant had originally proposed to undertake tours within Frankton Arm however have now amended their proposal to now exclude Frankton Arm in order to lessen adverse effects associated with the activity.

The applicant intends at a later date to expand the operation to use a number of craft with a support vessel. This would allow clients to control the craft independently with the supervision of a guide. The applicant has advised that this part of the activity would involve a rigorous training session and will involve a full day activity.

The operation will entail up to 25 trips per craft daily and operate throughout the year between the hours of 8am to 8pm. The applicant has advised that at this point, one craft will be used however if the activity proves commercially viable the number of craft may increase to a maximum of four. The applicant had initially proposed a maximum of six craft however, has downscaled the operation following concerns regarding the number of craft. Consent is therefore sought to have the flexibility of operating four craft on Lake Wakatipu.

Any refuelling associated with the activity will take place at a license refuelling station either at Frankton Marina or the St Omer Wharf refuelling facility.

Site and Locality Description

The applicant has provided a comprehensive site description within the application for resource consent. This description is considered accurate and is therefore adopted for the purpose of this assessment. This description reads as follows;

“Queenstown Bay is the waterfront area centrally located within Queenstown Township. The location is one dominated by visitor accommodation, commercial and retail activity. It is therefore a site receiving considerable foot traffic.

Queenstown Bay is approximately 300 metres west to east by 700 metres north to south, and defined on its eastern side by the Queenstown Peninsula on which the Queenstown Gardens are situated. The northern end of the Bay is bound by the Queenstown waterfront, which is a predominantly commercial area, also popular with visitors. On rounding the Queenstown Peninsula, one enters the Frankton Arm which extends for approximately five kilometres in a north-easterly direction towards Kawarau Falls. The width of the Arm is approximately 700 metres, being bound by the predominantly residential settlements associated with the north-eastward expansion of Queenstown towards Frankton along the western shore. Other features include the Queenstown Golf Course at the south-western end of the Kelvin Peninsula and a series of parks and associated recreational facilities, catering principally for lakeside walking and boating around the immediate lakeshore.”



Figure 2 Location of start and finish point of activity



Figure 3 Operation Areas

Effects on the Environment and Persons

Cumulative Effects

Cumulative effects are effects that arise over time or in combination with other effects, regardless of their scale, intensity and duration. There are currently a number of companies working from various jetties around Queenstown Bay and these operations need to be considered in conjunction with the proposed activity.

In terms of potential safety effects Queenstown Lakes District Council's Harbourmaster has assessed the proposed activity and recommended that to ensure safe functioning of the entrance to Queenstown Bay all craft shall navigate the same as normal vessels and not undertake dives or barrel rolls. The applicant has accepted this limitation and a condition of consent will be placed on the decision.

Water, Aquatic Flora and Fauna

The proposed boating activity will be undertaken on the main body of the lake. The applicant acknowledges that the South Island remains a controlled area against the spread of *Didymo*. Conditions of consent have therefore been volunteered relating to boat cleaning and other measures to avoid the spread of both *Lagarosiphon* and *Didymo*.

The proposed refuelling of the craft will take place at a licensed refuelling station to avoid any contamination of the Lake Wakatipu water body. Conditions of consent in turn shall be imposed to ensure no refuelling is undertaken other than on land or at a licensed refuelling facility. Through the imposition of this condition of consent, adverse effects in terms of water quality can be avoided.

Overall it is considered that adverse effects in terms of land, flora and fauna will be less than minor.

Infrastructure

It is not anticipated that the proposed activity will generate a significant volume of rubbish, and any material will be removed from the vessel for disposal into an appropriate Council facility on shore. A condition of consent is recommended to ensure that this is undertaken.

The addition of a boat to the Lapsley Butson Wharf area will have very little effect to the surface water or the lake.

Overall, through the imposing of conditions of consent, adverse effects can be appropriately avoided. As such, no adverse effects are expected to arise in terms infrastructure.

People and built form

Character

Commercial boating activities are characteristic of Lake Wakatipu, the waterway is extensive, and there are many areas within the lake suitable for water-based activities. The application states that given the noise levels emitted and minimum distance from the shoreline that has been self-imposed; the activity is unlikely to contribute to any significant loss of privacy or remoteness. It is considered however that the perception of remoteness is largely subjective and for some lake users the activity may affect this experience.

Lake users consist of commercial jet boats; wakeboarding; parasailing and boat tourism activities while as a permitted activity, a range of jetski, kayaking, fishing and wakeboarding activities are undertaken. Given this hive of activity, it is considered that the remoteness with Frankton Arm and other parts of Lake Wakatipu has already been compromised. The proposed activity when compared to other activities on the lake is considered to be in keeping as it could be seen as similar to a jetski operation or jet boating activity. Through the imposition of a limit on the number of trips per day, and moving the activity away from a high level of recreational users, it is considered that the activity will remain in keeping with the underlying character of adventure tourism activities on the lake and will not result in more than minor effects over and above that which currently exists.

Amenity

Given the nature of the activity (barrel rolls, appearance of vessel etc), there may be a view that this is something out of the ordinary, which it is. From a distance, the craft will appear only slightly discernible from a jetski operation and as demonstrated by the applicant's noise report, will comply with District Plan noise standards. The applicant must at all times comply with Maritime Safety Authority (MSA) regulations therefore ensuring that no dangerous or reckless use of water craft result. Furthermore, the craft are to be operated by trained operators. The craft has the ability to submerge 1m below the surface which may appear strange to the naked eye however the duration of submersion is very short ensuring a sight similar to a jetski/jetboat operation remains.

In order to ensure that the amenity appreciated by other boat users is not compromised, the applicant has excluded Frankton Arm from the proposed areas of operation given the high level of use by recreational users. The applicant therefore proposes to operate in those areas that are better able to absorb the activity while ensuring that other user's amenity is not compromised. As the activity must abide by MSA regulations, it is not anticipated that adverse effects associated with the manoeuvring capability will result in terms of amenity on lake users.

The Lake is currently used for non-commercial jet boating, jet skiing and boating as well as commercial activities (including paraflights). There will be little distinction between the proposed activity and other water based activities other than the appearance of the craft. Other commercial boating craft are characterised by their corporate colours such as Kjet - yellow, Thunderjet - orange or Paraflights – red. The appearance of the craft proposed here instead has been designed to resemble a water mammal which in turn a different and arguable less prominent effect than the bright corporate colours used on many other commercial operations on the lake. Overall it is considered that the activity will add some vibrancy and variation to the type of crafts on the lake and ensure that through the imposition of conditions of consent that limit the location, adverse effects on amenity/views and outlook are less than minor.

Effects on the amenity values and character of the town centre

As discussed above, the appearance of these craft will be unique and eye-catching however when compared to the existing environment of commercial boating activities and corporate colours utilised, the activity will not appear dominant in the landscape/waterscape. The activity will comply with all navigational regulations therefore will appear as a jetski/jetboat transferring into the bay to its docking station at a low speed as required by Maritime New Zealand.

The Queenstown Town Centre Development Plan encourages and supports the continued promotion of Queenstown Bay as an exciting and vibrant waterfront. Queenstown Bay is centred with commercial activities and the proposal is seen to add further interest and vibrancy to this area whilst ensuring adverse effects on the town centre such as signage and corporate colours from the activity

is avoided. All ticketing will be undertaken with the existing kiosk therefore no signage is proposed at this time.

Overall the proposed boating activity will provide a unique boating experience on the lake and other users of the lake will still be able to continue with their own boating activities. The level of activity associated with the proposed vessel will not detract from natural landscape values. As the activity can be appropriately absorbed into the landscape, it is not anticipated that it will result in visual congestion or clutter or exceed the threshold for this within the vicinity. As such adverse effects in terms of people and built form will be no more than minor

Culture

Lake Wakatipu is a Statutory Acknowledgement Area as outlined in the Ngai Tahu Iwi Management Plan "The Cry of the People". The applicant has sent the application to and obtained written approval from Te Runanga Ngai Tahu, Te Ao Marama Incorporated and Kai Tahu ki Otago Limited, subject to the conditions regarding boat cleaning and rubbish and effluent disposal.

A condition of consent has been recommended and accepted by the applicant such that the consent holder and its staff shall not provide information to its passengers about the historical, spiritual or cultural matters relating to Takata Whenua of the area without first consulting with the local Papatipu Runanga and obtaining their agreement.

Through the imposition of conditions of consent, the proposal will result in nil effects in terms of culture.

Traffic generation and vessel movement

Lake Wakatipu is a large expansive waterway that is currently considered as relatively underutilised. Parts of the lake such as the Frankton Arm however can become crowded during summer months.

The Queenstown Lakes District Council Harbourmaster Marty Black has assessed public safety on the water and conflict between operators and has raised in his report that during peak holiday periods the Frankton Arm is often very busy with a high volume of vessels. Mr Black therefore considers that the applicant should reassess the proposed operation area of Frankton Arm during summer months. The applicant in turn has reviewed Mr Blacks request and has altered their proposal to exclude Frankton Arm from those areas to be utilised. As such, a condition of consent is proposed to prohibit this area of being used for commercial tours.

The applicant has offered a condition of consent such that a Safe Ship Management Certificate shall be obtained and provided to the Council prior to operating the activity. This condition is considered to be acceptable.

The applicant has correctly recognised the importance of the TSS Earnslaw within their report and that all new and existing activities must operate around her schedule. As such, the applicant has proposed conditions of consent that the craft must give way at all times to the TSS Earnslaw on its passage in and out of Queenstown Bay. Through the imposition of this condition of consent, the operating path of the TSS Earnslaw will not be disrupted.

Lapsley Butson Wharf is centrally located in Queenstown where visitor traffic will mostly be by foot. The Queenstown Town Centre currently has an abundance of car parking consisting of roadside car parks and car parking buildings. Given the type of activity, it is not anticipated that the level of demand will result in an adverse effect on the current stock of car parking available.

Overall the proposal will result in less than minor adverse effects in terms of traffic generation and vessel movements.

Nuisance

The craft will carry a maximum of 2 passengers (including staff), it has been designed with Jetski motors and propulsion units and can reach speeds on the surface of the Lake of 50mph. While under water the craft can travel at speeds over 20mph. The craft can only travel at five knots within 200 metres of the shore in accordance with the Council's Navigation Safety Bylaw. The small scale

nature of the operation in conjunction with the speed restriction on the lake will in itself regulate noise from the activity.

The applicant has provided a noise report within the application for consent which details that the craft will comply with District Plan noise limits of 77dB, while operating during the hours of 8.00am to 8.00pm. As the report is based on predicted noise levels, confirmation on these levels will be needed once the operation has commenced. As such, a condition of consent is recommended that within 4 weeks of commencing the activity, a report is provided from a suitable qualified person that confirms that District Plan noise standards have not been breached. Through the imposition of this condition of consent, adverse effects in terms of noise over and above District Plan noise standards can be avoided.

The application does not specify where most of the trips will be undertaken on the lake as it is assumed this is due to variable weather conditions and preferences from clients. Whilst a condition of consent is to be imposed prohibiting the use of Frankton Arm, there is a possibility that at times unforeseen effects may arise due to an increase in recreational users in certain locations that may require the proposed activity to be restricted further. As such a review condition of consent is proposed such that if the Council should receive complaints regarding congestion, then the frequency of trips to a particular area can be reviewed. It is considered that through the imposition of this condition of consent, any unforeseen effects can be appropriately addressed should they arise in the future.

Hours of Operation

The proposed activity will operate between the hours of 8am and 8pm seven days a week, throughout the year. These hours are considered to be characteristic of other commercial boating activities on the lake and sympathetic to land use activities in the vicinity of the wharf.

Overall the proposed commercial boating activity is considered compatible with the lake environment.

Affected Persons

Affected Party Approval has been obtained from Te Ao Marama Inc, Kai Tahu ki Otago Ltd, Te Runanga o Ngai Tahu and J & N Lapsley therefore adverse effects on these parties must be disregarded.

Operators within Queenstown Bay

The proposed activity will be based at Lapsley Butson Wharf which is located at the eastern end of the bay and in close proximity to a number of operators using jetties and wharfs. Mr Black has not raised any significant safety issues with the location and operation of the proposed commercial boating activity in conjunction with any other commercial boating activity. Mr Black considers that as these are new craft that have never been used in New Zealand, there may be issues with the way they are operated. He is however confident that if the applicant closely liaises with Maritime New Zealand and the Harbourmaster regarding the amendment of the safety plan than the navigational safety issues can be alleviated. As such a condition of consent is recommended that a Safety Case be approved by Maritime New Zealand prior to operation. This will detail how manoeuvring or access of the other operators will not be disrupted. Through the imposition of such conditions of consent, any navigational issues can be appropriately mitigated.

TSS Earnslaw

The applicant has identified the importance of ensuring the proposed activity does not disrupt the operation of the TSS Earnslaw. Conditions of consent have been volunteered that the craft shall give way at all times to the TSS Earnslaw to enable safe passage. Through the imposition of conditions of consent, adverse effects on this party will be avoided.

Lake shore residents

A noise report has been supplied with the application that details that noise standards will be complied with at all times ensuring adverse effects in terms of noise do not result on the lake shore residents.

As the proposal has been amended to exclude Frankton Arm, a large part of adverse effects on Lakeshore residents have been avoided. Given the distance that the craft has to be from the lake edge; from a distance the craft will appear similar to jetski/jetboat craft that in turn will blend into the existing high traffic environment on Lake Wakatipu. Due to the level of existing activity, the proposed craft will not appear too dissimilar to other activities.

The Harbourmaster has assessed the proposal and considers that during summer months, a high level of congestion may be experienced due to an increase in recreational users. As such, a condition of consent is to be imposed that has been accepted by the applicant, prohibiting any operation within Frankton Arm. Through the imposition of this condition of consent it is considered that the activity will not result in adverse effects over and above that currently experienced by lakeshore residents.

Overall, through the imposition of conditions of consent, adverse effects on people can be mitigated to a level that they will be less than minor.

Objectives and Policies

The relevant objectives and policies are contained in Section 4 District Wide Issues, Section 5 Rural Areas and Section 10 Town Centres of the District Plan.

Part 4.3 Takata Whenua

Objective 1 and its relevant policies seek to achieve recognition and provision for the role of Kai Tahu as customary Kaitiaki in the District by ensuring on-going consultation between parties. The applicant has undergone consultation with relevant authorities and sought the written approval from Kai Tahu for the operation of the proposed activity.

Objective 2 and its relevant policies encourage the use and interpretation of Tribal history. The applicant has given this appropriate consideration.

Objective 5 and its relevant policies recognise the importance of management of the land and associated waste discharges so as to protect the quality and quantity of water in the District. Conditions of consent have been imposed to ensure that the activity is managed to avoid waste discharges.

Part 4.6 Surface of Lakes and Rivers

Objective 1 and its relevant policies seek to ensure recreational activities are undertaken in a manner which avoids remedies and mitigates potential adverse effects on natural conservation habitats and wildlife habitats, other recreation values, public health and safety, Takata Whenua values and general amenity values. The proposed activity will be undertaken in a manner that allows for the safe operation of vessels on Lake Wakatipu, and avoids adverse effects on habitats surrounding the waterway.

An acceptable level of amenity around the periphery of the lake will be maintained through the regulation of hours of operation, the number of trips and passengers and conditions imposed to ensure the activity is carried out in accordance with these restrictions. The applicant has engaged with Te Runanga o Ngai Tahu, Kai Tahu ki Otago Limited and Te O Marama Incorporated, in respect of the proposed operations and suitable conditions of consent will ensure that the cultural values of the lake are preserved.

Part 5.2 Rural General

Objective 1 and its relevant policies seek to protect the character and landscape value of the rural area by promoting sustainable management of natural and physical resources and the control of adverse effects caused through inappropriate activities. The proposed activity and vessel will be well absorbed into the surrounding landscape as it will blend in with other commercial recreational activities without having significant adverse effects.

Objective 3 and its relevant policies require that adverse effects of activities within rural areas are avoided, remedied or mitigated on rural amenity. This includes the recognition that permitted activities may result in noise and additional activity on Lake Wakatipu. As previously discussed, the activity will be operated in accordance with specific timeframes and areas within Lake Wakatipu and this will ensure the safe operation of other users of the Lake ensuring significant adverse effects on rural amenity do not result.

Objective 4 seeks to safeguard the life supporting capacity of water through the integrated management of the effects of activities. Conditions of consent are recommended in respect of the management of the proposed activity and this will ensure that the activity will not adversely affect the life supporting capacity of the water body.

Part 10 Town Centres

Objective 3 and its relevant policies seek to integrate the management of the land-water interface, the activities about this interface and the establishment of a dynamic and aesthetically pleasing environment for the benefit of the community and visitors. This involves the development of an exciting and vibrant waterfront and maximising opportunities and attractions within the town centre and conserving and enhancing the amenity values of the foreshore and adjoining waters. The addition of the proposed activity at Lapsley Butson Wharf will contribute to the vibrancy of the waterfront; encourage further use of the wharf and public interaction with the Lake.

Overall, it is the proposal is consistent with the objectives and policies set out above.

Part 2 of the Resource Management Act 1991

Part 2 of the Resource Management Act outlines the purpose of the act is to promote the sustainable management of natural and physical resources. As discussed above the proposed development will have minor effects on the environment and therefore it is considered to be in keeping with Part 2 of the RMA.

Other Matters

Local Government Act 2002: Development Contributions

In granting this resource consent reference was made to Part 8 Subpart 5 Schedule 13 of the Local Government Act 2002 and the Council's Policy on Development Contributions contained in Long Term Council Community Plan (adopted by the Council on 25 June 2004).

This proposal is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves and community facilities.

For the forgoing reasons a Development Contribution is not required.

Administrative Matters

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

Should you not be satisfied with the decision of the Council, or certain conditions, an objection may be lodged in writing to the Council setting out the reasons for the objection under Section 357 of the Resource Management Act 1991 no later than 15 working days from the date this decision is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

This resource consent is not a consent to build under the Building Act 2004. A consent under this Act must be obtained before construction can begin.

Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of Section 125 of the Resource Management Act 1991.

If you have any enquiries please contact Nathan Keenan on phone (03) 4500362 or email nathan.keenan@qldc.co.nz.

Prepared by

Reviewed by



Nathan Keenan
PLANNER



Paula Costello
SENIOR PLANNER

**DECISIONS OF THE QUEENSTOWN LAKES DISTRICT COUNCIL****CHANGE/CANCELLATION OF CONDITIONS – SECTION 127****NOTIFICATION UNDER s95 AND DETERMINATION UNDER s104****RESOURCE MANAGEMENT ACT 1991**

Applicant:	Lodelo Limited
RM reference:	RM150437
Application:	Application under section 127 of the Resource Management Act 1991 (RMA) to change Conditions 1, 5, 6, 8, 10 and 11 of resource consent RM130071 to allow restricted operation of the commercial boating activity within Frankton Arm and to allow the craft to undertake dives within Queenstown Bay.
Location:	Lake Wakatipu, Queenstown
Legal Description:	N/A
Zoning:	Rural General
Activity Status:	Discretionary
Decision Date:	21 December 2015

SUMMARY OF DECISIONS

1. Pursuant to sections 95A-95F of the RMA the application will be processed on a **non-notified** basis given the findings of Section 6.0 of this report. This decision is made by Paula Costello, Senior Planner, on 21 December 2015 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 of the RMA, consent is **GRANTED** subject to the change to conditions outlined in Section 7.4 of this decision. An updated set of conditions of RM130071 is provided in Appendix 1 of this decision. The consent only applies if the conditions outlined are met. The consent only applies if the conditions outlined are met. To reach the decision to grant consent the application was considered (including the full and complete records available in Council's electronic file and responses to any queries) by Paula Costello, Senior Planner, as delegate for the Council.

1. PROPOSAL AND SITE DESCRIPTION

Consent is sought under section 127 of the RMA to change Conditions 1, 5, 6, 8, 10 and 11 of resource consent RM130071 which was granted on 18 July 2013 to establish and operate a commercial boating activity on Lake Wakatipu.

These conditions of RM130071 state:

1. *That the development must be undertaken/carried out in accordance with the application as submitted and all additional documentation, with the exception of the amendments required by the following conditions of consent.*
5. *The hours of operation for the commercial boating activity shall be restricted to the hours of 8am to 8pm seven days a week and shall not operate after dark.*
6. *A maximum of 25 trips per day per craft may be undertaken*
8. *The activities shall be confined to Lake Wakatipu. The operator shall at all times maintain an operating distance of*
 - *200 metres from any Lake inlet or outlet; and*
 - *50 metres of the Lake shore*
10. *When operating craft within the main access lane in Queenstown Bay, all craft will navigate the same as normal vessels and not undertake dives or barrel rolls, or all craft will navigate as directed by the Harbourmaster in the interests of public safety.*
11. *No operations are permitted within Frankton Arm of Lake Wakatipu.*

It is proposed to vary the abovementioned conditions 1, 5, 6, 8, and 11 of resource consent RM130071 to extend the existing operation into Frankton Arm.

The Applicant has volunteered the following additional restrictions on the operation of the activity within Frankton Arm:

- A maximum of 40 trips within Frankton Arm per day;
- A limit on the number of days the activity will operate within Frankton Arm to 80 days per calendar year;
- Hours of operation to be limited to 10am to 6pm; and
- Exclusion area of 250m around the shoreline of Frankton Arm where the activity will not be undertaken aside for pick up and drop off at the Frankton Marina, Hilton Hotel or the Rees Hotel jetties.

A variation to Condition 10 of resource consent RM130071 is also sought to allow the craft to undertake dives within Queenstown Bay.

The proposal can be assessed under section 127 as it is a change to conditions to expand the area that the activity is undertaken within Lake Wakatipu only.

Site and Locality Description

The Applicant has provided an accurate description of the site and locality in Section 2.1: Site Details of the report submitted with the application prepared by Town Planning Group (hereafter referred to as the Applicant's AEE and attached as Appendix 2 to this report).

Resource Consent History

Resource consent RM130071 was granted on 18 July 2013 to establish a commercial boating activity on Lake Wakatipu. The type of craft to be used is a 'Seabreacher' which are water craft in the shape of dolphins, sharks and whales.

This consent limited operations via conditions of consent as follows:

- Restricted to 8am to 8pm, 7 days a week and not to operate after dark;
- A maximum of 25 trips per day per craft may be undertaken (maximum 100 trips across all four vessels);
- Confinement of activities to Lake Wakatipu excluding Frankton Arm;
- Restriction of activity to be no closer than 50m to the lake shore;
- Prohibition on undertaking dives or barrel rolls within Queenstown Bay; and
- Limitation of noise emissions to no greater than 77dBA.

This consent has been exercised and the Applicant now has four craft in operation in Lake Wakatipu.

2. ACTIVITY STATUS

2.1 RESOURCE MANAGEMENT ACT 1991

The proposed activity requires resource consent for the following reasons:

- 1 A **discretionary** activity consent pursuant to section 127(3)(a) of the RMA, which deems any application to change or cancel consent conditions to be a discretionary activity. It is proposed to change Conditions 1, 5, 6, 8, 10 and 11 of resource consent RM130071 to allow operation of the commercial boating activity within Frankton Arm which is restricted to 80 days per calendar year and no more than 40 trips per day within 10am and 6pm and to allow the craft to undertake dives within Queenstown Bay.

Proposed District Plan

The proposal does not trigger any additional resource consents under the Proposed District Plan than that already assessed under resource consent RM130071.

3. SECTION 95A NOTIFICATION

The applicant has not requested public notification of the application (s95A(2)(b)). No rule or national environmental standard requires or precludes public notification of the application (s95A(2)(c)). The consent authority is not deciding to publicly notify the application using its discretion under s95A(1) and there are no special circumstances that exist in relation to the application that would require public notification (s95A(4)).

A consent authority must publicly notify an application if it decides under s95D that the activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(2)(a)). An assessment in this respect follows.

4. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT (s95D)

4.1 MANDATORY EXCLUSIONS FROM ASSESSMENT (s95D)

- A: *Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).*
- B: *Trade competition and the effects of trade competition (s95D(d)).*
- C: *The following parties have provided their **written approval** and as such adverse effects on these parties have been disregarded (s95D(e)).*
- Te Ao Marama Incorporated

- Kai Tahu ki Otago
- Ngai Tahu
- Thunder Jet & Queenstown Water Taxis
- Kawareau Jet Services Holdings Limited
- Million Dollar Cruise

4.2 ASSESSMENT: EFFECTS ON THE ENVIRONMENT

Taking into account Section 4.1 above, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on the environment more than minor:

The Assessment of Effects provided at section 5.2 of the applicant's AEE is comprehensive and is considered accurate. It is therefore adopted for the purposes of this report. The following additional comments are made:

Nuisance

The Applicant submitted an acoustic assessment by Malcolm Hunt and Associates dated 1 May 2015. This assessment has been reviewed by Consultant Acoustics Engineer, Dr Stephen Chiles who concludes:

"It is agreed that four modified Seabreacher Model X boats operating in the Frankton Arm at least 250m from the shore should comply with existing conditions 14 and 15 of RM130071."

Accordingly, the proposed operation within Frankton Arm will comply with District Plan noise levels and the noise limits specified in conditions 14 and 15 of resource consent RM130071.

Notwithstanding compliance with the specified noise limits, it is acknowledged that the activity will be audible from many of the dwellings, visitor accommodation premises and recreational areas that are adjacent to Frankton Arm given the natural amphitheatre of the landform around the Arm. For this reason, a number of measures have been volunteered by the Applicant to mitigate the nuisance effects of the operation. These include:

- Limitation on the number of trips per day to 40 and a limit on the number of days operating in the Arm per calendar year to 80;
- Restriction on the hours of operation to 10am to 6pm; and
- Identification of an exclusion area of 250m from the shoreline of Frankton Arm within which the activity cannot occur apart for slow speed pick up and drop offs at the jetties.

These proposed controls will adequately restrict the operation of the activity so to ensure that the potential nuisance effects are intermittent and of limited duration.

Overall, in the context of the existing environment of Frankton Arm, which is already subject to significant air, road and water craft noise, the potential nuisance effects of the proposed activity are anticipated to be no more than minor.

Furthermore, the proposed amendment to condition 10 of resource consent RM130071 relating to the proposal to allow dives within Queenstown Bay is not anticipated to result in any adverse nuisance effects which are more than minor as it will add to the varied activities within the Bay and will be an intermittent effect relating only to the dive at the end of most trips.

Safety

The safety aspects of the application have been considered by both Mr Marty Black, QLDC Harbourmaster and Maritime New Zealand. Mr Black provided his support to the application as QLDC Harbourmaster and Maritime New Zealand have stated that they do not have any comment on the proposal.

Overall, the safety effects of the proposal are anticipated to be no more than minor.

Cumulative Effects

Cumulative effects are effects that arise over time or in combination with other effects, regardless of their scale, intensity and duration. There are currently a number of companies operating within Frankton Arm and these operations need to be considered in conjunction with the proposed activity. The Applicant has provided affected party approval from all of the other commercial operators within Frankton Arm, therefore the effect on these parties can be disregarded.

The cumulative effects upon recreational users of Frankton Arm also require consideration. The volunteered restriction on the activity not occurring within 250m of the Frankton Arm shoreline is considered to mitigate the potential effects upon passive recreational users of the water such as swimmers and people powered vessels, the majority of who stay close to the shoreline.

Overall, the cumulative effects of the proposed activity within Frankton Arm are not anticipated to be more than minor.

Furthermore, the proposed amendment to condition 10 to allow dives to be undertaken within Queenstown Bay is not anticipated to result in any cumulative adverse effects which are more than minor as the dives are considered to add to the vibrancy of the Bay area and act as an attraction to those on the shore.

4.3 **DECISION: EFFECTS ON THE ENVIRONMENT (s95A(2))**

Overall the proposed activity is not likely to have adverse effects on the environment that are more than minor.

5. EFFECTS ON PERSONS

Section 95B(1) requires a decision whether there are any affected persons (under s95E) in relation to the activity. Section 95E requires that a person is an affected person if the adverse effects of the activity on the person are minor or more than minor (but not less than minor).

5.1 **MANDATORY EXCLUSIONS FROM ASSESSMENT (s95E)**

A: *The persons outlined in section 4.1 above have provided their **written approval** and as such these persons are not affected parties (s95E(3)(a)).*

5.2 **ASSESSMENT: EFFECTS ON PERSONS**

Taking into account Section 5.1 above, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor:

127 *Change or cancellation of consent condition on application by consent holder*

- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who –*
- (a) *made a submission on the original application; and*
 - (b) *may be affected by the change or cancellation.*

Resource consent RM130071 was processed on a non-notified basis; however, the following parties gave their written approval:

- Te Ao Marama Incorporated;
- Kai Tahu ki Otago Limited;
- Te Runanga o Ngai Tahu; and
- J & N Lapsley (for use of the Lapsley Butson Wharf in Queenstown Bay).

The three Iwi groups outlined above have reviewed the proposed variation and have provided their affected party approval.

J & N Lapsley are not considered to be affected by the proposed variation as their approval was previously obtained in relation to the operation of the business from the wharf in Queenstown Bay. This is remaining the same and the proposed variation does not impact this part of the operation.

The Applicant has supplied affected party approval from all of the other commercial boating operators who operate within Frankton Arm; therefore the effects upon these parties can be disregarded.

In addition to the above, no other people or parties are considered to be affected by the proposal to a more than minor degree for the reasons set out in 4.2 above.

5.3 DECISION: EFFECTS ON PERSONS (s95B(1))

In terms of Section 95E and Section 127 (4) of the RMA, no person is considered to be adversely affected.

6. OVERALL NOTIFICATION DETERMINATION

Given the decisions made above in Sections 4.3 and 5.3 the application is to be processed on a non-notified basis.

7. S104 ASSESSMENT

7.1 EFFECTS (s104(1)(a))

Actual and potential effects on the environment have been outlined in Section 4 of this report.

7.2 RELEVANT DISTRICT PLAN PROVISIONS (s104(1)(b)(vi))

Operative District Plan

The Applicant has provided an accurate assessment of the application against the relevant objectives and policies of the Operative District Plan in 6.2 of the AEE. This assessment is adopted for the purposes of this report.

Overall, the proposed variation is considered to be consistent with the objectives and policies of the Operative District Plan.

Proposed District Plan

Objective 21.2.12 of the Proposed District Plan is of relevance to the assessment of the proposed activity and the most relevant associated policies include:

- 21.2.12.1** *Have regard to statutory obligations, the spiritual beliefs, cultural traditions and practices of Tangata Whenua where activities are undertaken on the surface of lakes and rivers and their margins.*
- 21.2.12.3** *Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft in areas of high passive recreational use, significant nature conservation values and wildlife habitat.*
- 21.2.12.9** *Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.*
- 21.2.12.10** *Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.*

As outlined above, affected party approval has been provided by the three Iwi. In addition, an existing condition of consent ensuring that passengers are not provided information in relation to the Takata Whenua of the area will remain unchanged.

The safety of the proposed activity has been assessed by the QLDC Harbourmaster and is considered acceptable.

As a result of the volunteered controls on the operation of the activity, the proposed operation within Frankton Arm is not anticipated to be intrusive in terms of ongoing noise and will not result in significant levels of wash given it will operate at least 250m from shore. Although Frankton Arm is a highly utilised passive recreational area during peak seasons, the proposed limitations on operating hours and numbers of trips will mitigate the potential nuisance impacts.

7.3 PART 2 OF THE RMA

Part 2 of the Resource Management Act outlines that the purpose of the act is to promote the sustainable management of natural and physical resources. As discussed above the proposed change to conditions will result in an activity with minor effects on the environment and therefore it is considered to be in keeping with Part 2 of the RMA.

7.4 DECISION ON VARIATION PURSUANT TO SECTION 127 OF THE RMA

Consent is **granted** for the application by Lodelo Limited to change Conditions 1, 5, 6, 8, 10 and 11 of resource consent RM130071, such that:

- 1 Conditions 1, 5, 6, 8, 10 and 11 of resource consent RM130071 are amended to read as follows (deleted text struck-through, added text underlined):
 1. That the development must be undertaken/carried out in accordance with the application including the variation application RM150437, as submitted and all additional documentation, with the exception of the amendments required by the following conditions of consent.
 5. The hours of operation for the commercial boating activity shall be restricted to the following: ~~hours of~~
 - (a) Frankton Arm – 10am to 6pm, seven days per week and shall not operate after dark;
and
 - (b) All other parts of Lake Wakatipu - 8am to 8pm seven days a week and shall not operate after dark.
 6. A total of 40 trips per day over 80 calendar days per year are not to be exceeded within Frankton Arm. A total of 100 trips per day is not to be exceeded within the other parts of Lake Wakatipu.
~~A maximum of 25 trips per day per craft may be undertaken~~
 8. The activities shall be confined to Lake Wakatipu. The operator shall at all times maintain an operating distance of:
 - 200 metres from any Lake inlet or outlet; and
 - 250 metres of the Frankton Arm lake shore (with the exception of pick up and drop off from the Frankton Marina, Hilton Hotel or Rees Hotel jetties); and
 - 50 metres of the Lake shore of the remainder of Lake Wakatipu
 - 10 When operating craft within the main access lane in Queenstown Bay, all craft will navigate the same as normal vessels and not undertake ~~dive or~~ barrel rolls, or all craft will navigate as directed by the Harbourmaster in the interests of public safety.
- 2 Condition 11 of resource consent RM130071 is cancelled.

Advice note

- All other conditions of RM130071 shall continue to apply.

8. OTHER MATTERS

Local Government Act 2002: Development Contributions

This proposal is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves and community facilities.

Administrative Matters

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

This resource consent is not a consent to build under the Building Act 2004. A consent under this Act must be obtained before construction can begin.

The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

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

Report prepared by



Amanda Leith
SENIOR PLANNER

Decision made by



Paula Costello
SENIOR PLANNER

APPENDIX 1 – Updated conditions of resource consent RM130071

APPENDIX 2 - Applicant's AEE

APPENDIX 1 – UPDATED CONDITIONS OF RESOURCE CONSENT RM130071

General Conditions

1. That the development must be undertaken/carried out in accordance with the application including the variation application, as submitted and all additional documentation, with the exception of the amendments required by the following conditions of consent.
- 2a. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
- 2b. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991 and shall pay to Council an initial fee of \$100. This initial fee has been set under section 36(1) of the Act.
3. A safety case that has been approved by Maritime New Zealand shall be submitted to the Consenting Authority prior to the commencement of the activity
4. The vessel shall carry a maximum of two passengers (including staff)
5. The hours of operation for the commercial boating activity shall be restricted to the following:
 - (a) Frankton Arm – 10am to 6pm, seven days per week and shall not operate after dark; and
 - (b) All other parts of Lake Wakatipu - 8am to 8pm seven days a week and shall not operate after dark.
6. A total of 40 trips per day over 80 calendar days per year are not to be exceeded within Frankton Arm. A total of 100 trips per day is not to be exceeded within the other parts of Lake Wakatipu.
7. A maximum number of four Seabreacher Craft are authorised to operate under this consent
8. The activities shall be confined to Lake Wakatipu. The operator shall at all times maintain an operating distance of:
 - 200 metres from any Lake inlet or outlet; and
 - 250 metres of the Frankton Arm lake shore (with the exception of pick up and drop off from the Frankton Marina, Hilton Hotel or Rees Hotel jetties); and
 - 50 metres of the Lake shore of the remainder of Lake Wakatipu
9. The operation of the craft shall give way at all times to the TSS Earnslaw.
10. When operating craft within the main access lane in Queenstown Bay, all craft will navigate the same as normal vessels and not undertake barrel rolls, or all craft will navigate as directed by the Harbourmaster in the interests of public safety.
11. All guides shall be experienced in the safe operation of the craft, support vessels and rescue procedures required in the event of any emergency.
12. The consent holder shall at all times operate strictly in accordance with:
 - All QLDC Navigation Bylaws of relevance to the operation; and
 - All Maritime New Zealand Rules of relevance to the operation.
13. The consent holder shall at all times ensure that no craft used on any trip breach the maximum permissible daytime (0800 to 2000 hours) noise level of 77dBA.
14. Within 4 weeks of the commencement of operations, the applicant shall engage a suitable qualified and experienced acoustic consultant to provide evidence that the operation does not breach the noise levels within the Rural General zone or Queenstown Town Centre zone.
15. The consent holder shall at all times ensure that adequate provision is made for:

- The proper collection, safe storage and appropriate disposal to the QLDC refuse system of all recyclables, litter and other refuse;
 - The proper collection, safe storage and appropriate disposal to the QLDC sewage system of all liquid waste products (including human effluent, greywater, bilge water, etc);
 - The proper collection, safe storage and appropriate disposal to the QLDC refuse system of all surplus and/or unwanted boat oils, fuels and other fluids;
 - The immediate reporting of any spillage incidents to the Harbourmaster, QLDC, as soon as practically possible and no later than one hour of the incident occurring; and
 - The imposition of and adherence to standard practices for boat cleaning; this to include, but not be limited to, the undertaking of all possible measures to prevent the spread of both Lagarosiphon and Didymo.
16. The consent holder and its staff shall not provide information to its passengers about any historical, spiritual or cultural matters relating to the Takata Whenua of the area without first consulting with the local Papatipu Runanga and obtaining their agreement that the information provided is both accurate and appropriate.
17. The consent shall lapse 25 years from the date consent is granted.

Review

18. Within ten working days of each annual anniversary of the date of this decision or upon the receipt of information identifying non-compliance with the conditions of this consent, the Council may, in accordance with Sections 128 & 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
- (a) there is or is likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted.
 - (b) monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse effect on the environment.
 - (c) there has been a change in circumstances such that the conditions of the consent are no longer appropriate in terms of the purpose of the above Act.

APPENDIX 2 - APPLICANT'S AEE

Application for Resource Consent to the Queenstown Lakes District Council:

LODELO Ltd

*To vary resource consent RM130071 to extend
the operation of the seabreachers boating activity
into Frankton Arm, Queenstown*

9 June 2015

Document prepared by:

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Offices in Queenstown, Wanaka, Christchurch & Auckland

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Supporting Information

- [A] Computer Freehold Register
- [B] Plan of the Proposal
- [C] Acoustic Compliance Assessment
- [D] Audit Reports from Maritime NZ

1. Executive Summary

1.1 Introduction

This is an application for resource consent that has been made in accordance with the prescribed form and manner, and includes in accordance with Schedule 4 of the Resource Management Act 1991, an assessment of environmental effects in such detail as corresponds with the *scale and significance of the effects* that the activity may have on the environment [Section 88 (2) of the RMA].

LODELO Ltd (“the Applicant”) applies for a variation consent to extend the operation of his approved commercial boating activity into the Frankton Arm of Lake Wakatipu. The Applicant was granted consent RM130071 to operate ‘Seabreachers’ craft on Lake Wakatipu for commercial recreational trips in the locality around Lake Esplanade to One Mile Reserve in 2013. No changes are sought to the operation of the activity as consented, with the exception of the extension of the activity into the Frankton Arm.

The initial application made to the Council proposed the activity within the Frankton Arm. This was withdrawn from the application by the Applicant after it was agreed that the operation would be viewed as an initial trial prior to having the operation extended into the Frankton Arm. This application is made on the basis that the activity is proven in terms of effects and the Applicant as a safe and responsible operator. The allowance to use the Frankton Arm is also a necessity for adverse weather conditions which has to date hampered operations centrally in Lake Wakatipu.

“Seabreachers” are a USA-designed and manufactured water craft formed in the shape of dolphins, sharks and whales. The activity has operated successfully since the RM130071 consent was issued, and hence consent is now sought to extend the operation into the Frankton Arm. Conditions in regard to distances to the shoreline are promoted by the Applicant.

The activity will operate throughout the year between the hours of 8am and 8pm (but not in darkness). The maximum number of customers in each craft is one, with one driver. It is

proposed that up to four of the craft that the Applicant has consent for, will operate within the Frankton Arm albeit this is only expected at times of adverse weather preventing use of the greater Lake Wakatipu.

The application is supported by an Acoustic Compliance Assessment prepared by Malcolm Hunt Associates which confirms that the new Seabreacher Craft can operate within the noise limits imposed by the Queenstown Lakes District Plan. The application is also supported by an audit from Maritime NZ that concludes that the activity is a well run operation with safe operating systems in place.

The Seabreacher craft falls within the District Plan's definition of "*boat*" and the proposed activity within the Plan's definition of "*commercial recreational activities*". The extension of the approved activity will take place within the Frankton Arm portion of Lake Wakatipu. The entire Lake is within the **Rural General** zone. The proposal to extend the activity, as approved by RM130071 requires a **Discretionary Activity** resource consent pursuant to section 127 of the Resource Management Act 1991.

The Applicant has consulted with the Harbormaster and with Council officers. The meetings have previously confirmed that:

- No concession from DOC will be required because the Applicant does not intend to construct new berthing facilities on or intentionally include visits to the conservation estate as part of the activity;
- No consent from the Otago Regional Council (ORC) or authorisation from Land Information New Zealand (LINZ) is required because there is no intention to place facilities within, or otherwise disturb, the bed of the Lake. The activity is entirely a surface water related activity for which the QLDC is the regulatory authority; and
- Te Runanga o Ngai Tahu and the QLDC Harbourmaster are considered by Council to be potentially affected parties with respect to the proposal. The Applicant has consulted with both of these parties as part of this proposal.

The Applicant also intends to consult with other users of the Frankton Arm as part of their operator duties.

When assessed against the relevant Assessment Matters in the District Plan, the proposed variation is considered to have less than minor effects on the receiving environment. Lake Wakatipu is a large water body that is under utilized by water craft. The Frankton Arm is a largely domesticated environment. The addition of craft within the Frankton Arm will have insignificant effects whilst providing the positive benefit of a new tourism activity.

The activity is consistent with the relevant Objectives and Policies in the Plan, and promotes the principle of sustainable management of natural and physical resources in accordance with Part 2 of the Resource Management Act 1991.

2. Site Information

2.1 Site Details

The application site is the Frankton Arm portion of Lake Wakatipu. The Frankton Arm extends for approximately five kilometres in a north-easterly direction towards Kawarau Falls. The width of the Arm is approximately 700 metres, being bound by the predominantly residential settlements associated with the north-eastward expansion of Queenstown towards Frankton along the western shore. Other features include the Queenstown Golf Course at the south-western end of the Kelvin Peninsula and a series of parks and associated recreational facilities, catering principally for lakeside walking and boating around the immediate lakeshore, including the Queenstown Trail which is within the area managed by Council and subject to Reserve Management Plans. The Lake in general, including the Frankton Arm is not well utilised by boating activities.

A copy of the Computer Freehold Register for the area from which the activity established is contained in **Attachment [A]**. There is no legal title applicable to Lake Wakatipu.

3. Proposal Details

A plan detailing the area within the Frankton Arm in which it is proposed to extend the operation is detailed in **Attachment [B]** and on the plan in Figure 1 below.

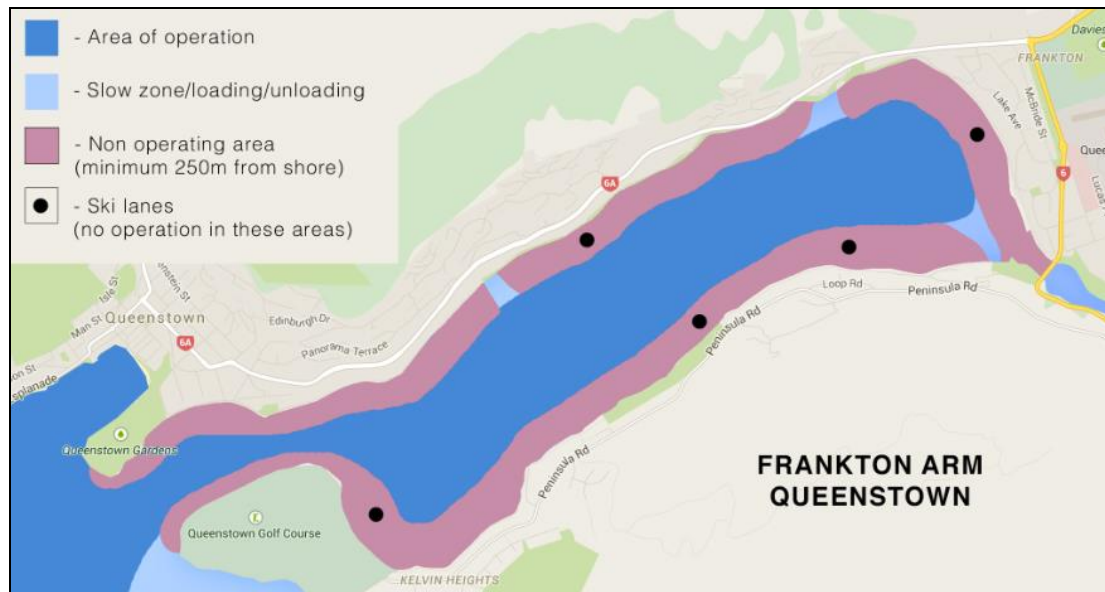


Figure 1: Location Plan for Expansion of Seabreachers Activity (Source: Clients Plan)

The intention is that the craft will only operate in the area coloured blue in [Figure 1](#). Specifically, the craft will operate at least 250 metres distant from the shoreline to avoid any potential adverse effects with ski lanes, recreational users such as swimmers and paddle boarders, and jetties and other features and activities located close to the shoreline. There will only be three areas within the Frankton Arm where the craft can berth at jetties for people to enter and exit the craft. These are the jetties at the Frankton Marina, the Hilton Hotel and the Rees Hotel.

There are presently three models of Seabreacher craft available on the market. These include the original dolphin-shaped “Seabreacher J”, the shark-shaped “Seabreacher X” and the killer whale-shaped “Seabreacher Y”. The Seabreacher J model is powered by a 155 standard or 215 supercharged horsepower engine, enabling surface speeds of 65 kilometres per hour and submerged speeds of 32 kilometres per hour to be reached. The Seabreacher X and Y models are powered by 260 horsepower engines, enabling speeds of 80 kilometres per hour on and 40 kilometres per hour below the surface to be reached; the Seabreacher Y model custom-designed to add back-flipping turns as an option.

The craft contain seating for two people: one being the driver and the other being a passenger.

3.1 Details of Operation

The current consent permits four craft to operate and the number of trips is limited to 25 per craft. A maximum of four craft could operate within the Frankton Arm, however it is expected that this will generally be during poor weather conditions on the wider Lake.

As per this proposal, a total of 40 trips per day over 80 calendar days per year are proposed within Frankton Arm. A total of 100 trips per day will apply within the other parts of Lake Wakatipu.

For Lake Wakatipu in general, the hours of operation will remain as per the approved resource consent RM130071, these being 8am to 8pm daily. For the Frankton Arm, this will be limited from 10am to 6pm (the craft will not operate during darkness). These hours will ensure that opportunities can be maximised as provided by longer summer daylight hours and the realistically higher number of potential clients likely to be present at weekends.

3.2 Acoustic Assessment

In terms of noise, the Applicant has commissioned a new Acoustic Report from Malcolm Hunt & Associates that assesses the alteration in noise from the craft with the inclusion of a secondary muffler system added to the existing muffler on the craft. A copy of the Acoustic Report is included as **Attachment [C]**. The report concludes that the addition of the second muffler is likely to result in a loss of no more than 5 dB. This is considered to be a positive noise control measure for these craft.

The original application included an Acoustic Report that confirmed that the Seabreacher craft can comply with Zone Standard 5.3.5.2(iv) (a) of the District Plan. This rule states that:

Motorised craft on the surface of lakes and rivers shall be operated and conducted such that a maximum sound level of 77dB L_{AFMAX} is not exceeded when measured and assessed in accordance with Appendix 2.

Appendix 2 of the District Plan applies specific acoustic measurement and assessment criteria to such activities. This states that:

The measured sound pressure level shall not exceed a maximum weighted level:

- 77 dB L_{ASMAX} for vessels to be operated between the hours of 0800 to 2000; and

- 67dB L_{ASMAX} for vessels to be operated between the hours of 2000 to 0800.

The addition of the secondary muffler to the craft, as volunteered by the Applicant, will further ensure that the craft complies with the noise limit of 75 dB. Seabreachers are in fact 5 to 6 dB quieter than typical jet skis. The Applicant does not intend to operate outside of the hours of 8am to 8pm and therefore complies with the District Plan noise limits.

3.3 Operational Safety

A copy of the audits of the operation recently undertaken by Maritime NZ is included in **Attachment [D]**. These audits confirm that the operation is being well run and undertaken in a safe manner.

3.4 Variation to RM130071 Consent

The conditions that will need to be varied to give effect to the proposed extension of the activity into the Frankton Arm are Conditions 1, 8 and 11 of RM130071. These conditions currently read as follows:

1. That the development must be undertaken / carried out in accordance with the application as submitted and all additional documentation, with the exception of the amendments required by the following conditions of consent.

8. The activities shall be confined to Lake Wakatipu. The operator shall at all times maintain an operating distance of:

- 200 metres from any Lake inlet or outlet; and
- 50 metres of the Lake shore.

11. No operations are permitted within Frankton Arm of Lake Wakatipu.

It is requested that these conditions be varied to read as follows (new text is underlined and deleted text is struck through):

1. That the development must be undertaken / carried out in accordance with the application as submitted and all additional documentation, with the exception of the

amendments required by the following conditions of consent, and approved resource consent RM150XXX.

8. The activities shall be confined to Lake Wakatipu, including the Frankton Arm. For Lake Wakatipu excluding Frankton Arm tThe operator shall at all times maintain an operating distance of:

- 200 metres from any Lake inlet or outlet; and
- 50 metres of the Lake shore.

For Frankton Arm the operator shall at all times maintain an operating distance of 250 metres of the Lake shore.

~~11. No operations are permitted within Frankton Arm of Lake Wakatipu.~~

4. Statutory Provisions

4.1 Queenstown-Lakes District Plan

4.1.1 Zone Provisions

The activity which is the subject of this application takes place almost entirely within the **Rural General Zone**, as identified in the Queenstown-Lakes District Plan (Operative, 2009 – “the District Plan”). The purpose of the Rural General Zone is to manage activities so that they can be carried out in a way which:

- *Protects and enhances nature conservation values;*
- *Sustains the life-supporting capacity of the soil and vegetation;*
- *Maintains acceptable living and working conditions and amenity for residents of and visitors to the Zone;*
and
- *Ensures a wide range of outdoor recreation opportunities remain viable within the Zone.*

4.2 Proposed Variation

Section 127 of the Resource Management Act 1991 enables a consent holder to apply for a resource consent to be varied as follows:

- 127 Change or cancellation of consent condition on application by consent holder**
- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:*
 - (a) *the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*
 - (b) *no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
 - (2) *[Repealed]*
 - (3) *Sections 88 to 121 apply, with all necessary modifications, as if—*
 - (a) *the application were an application for a resource consent for a discretionary activity; and*
 - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
 - (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who—*
 - (a) *made a submission on the original application; and*
 - (b) *may be affected by the change or cancellation.*

In accordance with section 127(3) (a), a **Discretionary Activity** consent is required for this application to vary and/or cancel Conditions 1, 8 and 11 of resource consent RM130071.

5. Assessment of Effects on the Environment

5.1 Introduction

This Assessment of Effects on the Environment (“AEE”) has been prepared in accordance with the Fourth Schedule of the RMA.

5.2 Potential Effects of Operating within the Frankton Arm

The assessment matters of relevance to this application are found in Section 5.4.2.3(xvi): Assessment Matters General – Discretionary Activity (Surface of Lakes and Rivers). These essentially apply to the Rural General zoned areas of water surfaces.

5.2.1 Rural General Zone

The assessment matters contained within Section 5.4.2.3(xvi) of the District Plan are as follows:

The extent to which the water-based activity will adversely affect the range of recreational opportunities available in the District or the quality of experience of the people partaking of those opportunities

A commercial boating operation involving the use of Seabreacher Craft is expected to add a unique recreational experience whilst not compromising the existing commercial boating operations within the Frankton Arm. The activity will be undertaken in accordance with the Maritime NZ safety requirements at all times. This will include protocols in terms of operating safely and sensitively when in the vicinity of other recreational users.

Noise is probably the most common concern people have in terms of the presence of water craft. The Acoustic Report attached to this application confirms that the Seabreacher craft will comply with the District Plan noise standards. The noise from the craft is considered to be less than the noise from other approved commercial boating activities within the Frankton Arm, such as jet boats and broadcasted tourist commentaries from other boats.

The conclusion is that the quality of the recreational experiences of other users of the Frankton Arm, both on and off the water, is not adversely compromised by this activity.

The extent to which the water-based activity is suited to and benefits from the identified natural characteristics of the particular lake or river

The Frankton Arm offers spectacular scenery within a largely domesticated landscape that is appreciated by patrons of services such as other commercial and recreational boat users and other recreational users of the Lake. The Applicant believes that the Frankton Arm is an ideal place in which to run the Seabreacher craft. It provides adequate space to avoid conflict with other recreational craft, whether used commercially or otherwise. The Frankton Arm in particular is relatively close to Queenstown and surrounded by mostly developed land; it is not therefore a pristine area in terms of wildlife values or wilderness experiences. It is a part of the Lake where ecological values are less likely to be compromised and conflicts with those seeking more passive recreational experiences are less likely to occur.

The extent to which the water-based opportunity will reduce opportunities for passive recreation, enjoyment of peace and tranquillity and, particularly opportunities for remote experience recreation

The activity will not affect enjoyment of and recreation opportunities on users of the Frankton Arm portion of Lake Wakatipu. The use of the craft will accord with the District Plan noise limits and a condition of consent is volunteered that no craft are permitted within 250 metres of the shoreline. This will ensure that potential conflict with other recreational users of the shoreline is avoided.

The extent to which the water-based activity will compromise levels of public safety, particularly where conflict between operators may make a reasonable level of public safety impossible or difficult to achieve

The Applicant does not expect there to be any conflict with other commercial operators offering watercraft activities. A relatively unique type of activity is being offered and will occur within an area where sufficient space is available to avoid compromising safety or recreational experiences generally. The Harbourmaster has been consulted about the proposed extension of the activity and has advised that he has no concerns in this regard. An affected person's approval request has been made.

Any adverse effects of the proposed activity in terms of:

- *Noise, vibration and lighting which is incompatible with the levels accepted in the particular lake or river environment;*
- *Loss of privacy or a sense of remoteness or isolation;*
- *Levels of congestion or reduction in levels of lake or river safety, which are unacceptable for the nature of the lake or river;*
- *Accumulation of litter and waste and access to toilet facilities; and*
- *Any cumulative effect from the activity in conjunction with other activities in the vicinity*

The shoreline of the Frankton Arm is not a remote area. The entire shoreline directly adjoins the Queenstown Trail which is intensively used by the public, including walkers and cyclists. The area also contains a large number of jetties and commercial developments which generate activity both on the water and on the adjoining shoreline. The Acoustic Reports prepared for this, and the previous application, demonstrate conclusively that the Seabreacher craft will be compliant with the District Plan noise limits.

The Applicant will continue to abide by conditions of consent which require that neither human waste nor litter are disposed of in the Lake.

“Cumulative effects” arise over time or in combination with other effects, regardless of their scale, intensity and duration. The activity is not expected to give rise to significant cumulative effects. The type of activity is not considered to be out of character with the environment of the Frankton Arm, which already has several other commercial boat activities operating that are noisier than the Seabreachers craft.

The extent to which the water-based activity is compatible with, and will not adversely affect, nature conservation values or wildlife habitat

By virtue of the requirements for the craft to be setback from the shoreline, no adverse effects on conservation values or wildlife habitat are expected.

All craft and equipment will be regularly cleaned in accordance with standard biosecurity guidelines to prevent the spread of aquatic weeds (e.g. Lagarosiphon, Didymo) to or within the Lake. This will include such cleaning if any of the craft are used recreationally by the operators on other water bodies; in this instance the craft being cleaned before entering the other water body and again before being returned to Lake Wakatipu.

Particular care will also be taken to avoid any fuel spillage to the Lake. All engines will be regularly checked for potential fuel leakage, with the craft immediately withdrawn from service and repaired if such faults are detected.

In the case of structures or moorings which pass across or through the surface of any lake or river or are attached to the bank of any lake or river, the extent to which the structures or moorings:

- *Are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place;*
- *Cause an impediment to craft manoeuvring and using shore waters;*
- *Diminish the recreational experience of people using public areas around the shoreline;*
- *Result in congestion and clutter around the shoreline;*
- *Are likely to result in demand for craft to be permanently moored outside of marina sites;*
- *Can be used by a number and range of people and craft, including the general public; and*
- *Are compatible with scenic and amenity values, particularly in Queenstown bay, Frankton Arm and Roys Bay*

The Applicant will not be placing any further structures or moorings within the Lake as part of the proposal.



Any effect from the activity on the operation, navigation and safety of the TSS Earnslaw

The TSS Earnslaw does not generally operate within the Frankton Arm. The approved consent requires the consent holder to ensure that this vessel has right of way at all times and no alteration to the consent conditions in this regard is proposed.

Levels of traffic congestion or reduction in levels of traffic safety, which are inconsistent with the classification of the adjoining road

The proposed activity is not expected to create any traffic hazard relative to roads due to the small scale of the operation.

5.2.2 Affected Parties

The RM130071 consent was processed on a non-notified basis, as the affected party approval from the following parties had been obtained.

- Te Ao Marama Inc
- Kai Tahu ki Otago Ltd
- Te Runanga o Ngai Tahu
- Maritime NZ
- J & N Lapsely (For use of Lapsely Butson Wharf)

In determining affected parties, case law highlights that it is important to note that it is the effects of the change, not the activity itself, which are relevant. The appropriate comparison is between any adverse effects which there may have been from the activity in its original form, and any adverse effects that would arise from the proposal in its varied form.

Due to the expansion of the activity within the Frankton Arm, the following parties have been consulted as part of this variation application:

- Te Ao Marama Inc
- Kai Tahu ki Otago Ltd
- Te Runanga o Ngai Tahu
- Harbourmaster (and Maritime NZ)

In addition, the main commercial users of the Frankton Arm will be consulted as mentioned previously, including K-Jet, Million Dollar Cruises and Queenstown Water Taxis.

Any feedback received from these parties will be forwarded to Council.

5.3 Positive Effects

Besides having a less than minor impact on the receiving environment, the proposed commercial boating activity using Seabreacher craft is expected to have significant positive effects in terms of providing a new tourist attraction and activity for the public to enjoy viewing from within the Frankton Arm.

5.4 Conclusion

The proposed extension of the existing activity into the Frankton Arm is expected to have little if any impact on the receiving environment. The initiative is also considered to be positive in terms of offering a further attraction for visitors, under the supervision of experienced guides. It is expected to add significant value to the local economy, and respect the receiving environment.

6. Statutory Assessment

6.1 Objectives & Policies

Objectives and Policies of relevance to this application are contained principally in the Queenstown Lakes District Plan and the Regional Policy Statement for Otago (Operative, 1998 – “the RPS”). The RPS is relatively broad in its approach and is now somewhat dated, meaning its Objectives and Policies have less direct relevance to this specific application, particularly given that it is not one requiring consent under any Regional Plan.

6.2 Queenstown-Lakes District Plan

Those Objectives and Policies in the District Plan that are of relevance to this Application include the following:

6.2.1 Takata Whenua

- *Objective 4.3.4.1: Kaitiakitanga (Guardianship) – Recognition and provision for the role of Kai Tahu as customary Kaitiaki in the District.*
- *Policy 4.3.4.1.1 – To ensure the kaitiaki role of Iwi via the appropriate Runanga is achieved through ongoing consultation on policy development relating to the natural and physical resources of the District.*

Lake Wakatipu is subject to a Statutory Acknowledgement under the Ngai Tahu Claims Settlement Act 1998. Statutory acknowledgements are expressions made by the Crown in respect of a statutory area (i.e. as described in the respective Schedule), and acknowledge statements made by Te Runanga o Ngai Tahu with respect to the particular cultural, spiritual, historic and traditional association which the Iwi may have with the area.

This application has been forwarded to iwi for their comment and any feedback will be passed on to Council as soon as it is received. No effects are anticipated on the Iwi that cannot be dealt with by conditions of consent.

6.2.2 Surface of Lakes and Rivers

- *Objective 4.6.3: Recreational activities undertaken in a manner which avoids, remedies or mitigates their potential adverse effects on:*
 - *Natural conservation and wildlife habitats;*
 - *Other recreational values;*
 - *Public health and safety;*
 - *Takata Whenua values; and*
 - *General amenity values.*
- *Policy 4.6.3.2 – To enable people to have access to a wide range of recreation experiences on lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.*
- *Policy 4.6.3.3 – On each lake and river to provide for the range of recreational experiences and activities which are most suited to and benefit from the particular natural characteristics.*
- *Policy 4.6.3.4 – To avoid or mitigate the adverse effects of frequent, large scale or intrusive activities, such as those with high levels of noise, vibration, speed and wash.*
- *Policy 4.6.3.5 – To avoid the adverse effects of motorised craft in areas of high passive recreational use, significant nature conservation values and wildlife habitat.*

- *Policy 4.6.3.7 – To avoid and protect the environment from the adverse noise effects of motorised watercraft.*
- *Policy 4.6.3.12 – To avoid adverse effects on the public availability and enjoyment of the margins of lakes and rivers.*
- *Policy 4.6.3.17 – To ensure that the number of commercial boating operators and/or boats on water bodies does not exceed levels where the safety of passengers cannot be assured.*

The Applicant is conscious of the need to operate the proposed venture in a manner which respects natural, cultural, and recreational and amenity values, and in a manner that is safe. The proposal is one which offers a unique recreational experience through use of Seabreacher craft. The Acoustic Reports have confirmed that the craft will comply with District Plan noise standards. The proposal will at all times operate in accordance with Maritime NZ requirements. The Applicant believes that the proposal is a somewhat unique one in terms of the craft used, hence recreational experience offered, and that there is sufficient space within the chosen area for it to operate safely in cooperation with other on-water users.

6.2.3 Rural General

- *Objective 5.2.1: Character and Landscape Value – To protect the character and landscape value of the rural area by promoting sustainable management of natural and physical resources and the control of adverse effects caused through inappropriate activities.*
- *Policy 5.2.1.6 – Avoid remedy or mitigate adverse effects of development on the landscape values of the District.*
- *Objective 5.2.3: Rural Amenity – Avoiding, remedying or mitigating adverse effects of activities on rural amenity.*
- *Policy 5.2.3.3 – To avoid, remedy or mitigate adverse effects of activities located in rural areas.*
- *Objective 5.2.4: Life Supporting Capacity of Water – To safeguard the life supporting capacity of water through the integrated management of the effects of activities.*
- *Policy 5.2.4.1(b) – In conjunction with the Otago Regional Council, to discourage activities which adversely affect the life supporting capacity of water and associated ecosystems.*

The proposed activity will have a very minor impact on the landscape, given the relatively small size of the Seabreacher craft and the fact that no permanent facilities are to be constructed. The craft are compliant with District Plan noise standards, while the operation will be run in a manner which respects the natural environment, including protection of the Lake from fuel spillage, indiscriminate discarding of rubbish, and inappropriate dumping of human waste. Only a small number of trips are permitted each day. Overall it is considered

that the proposal will not have any cumulative effect to the Frankton Arm and is consistent with the applicable District Plan objectives and policies.

6.3 Regional Policy Statement for Otago

The RPS sets the framework for resource management in Otago, providing an overview of significant resource management issues facing the Region. Its objectives and policies are therefore set with a view towards broadly integrating management of the Region's natural and physical resources. The Objectives and Policies of relevance to this application are found in Chapter 6: *Water*.

- *Objective 6.4.2: To maintain and enhance the quality of Otago's water resources, in order to meet the present and reasonably foreseeable needs of Otago's communities;*
- *Objective 6.4.3: To safeguard the life-supporting capacity of Otago's water resources through protecting the quantity and quality of those water resources;*
- *Objective 6.4.4: To maintain and enhance the ecological, intrinsic, amenity and cultural values of Otago's water resources;*
- *Objective 6.4.8: to protect areas of natural character, outstanding natural features and landscapes and the associated values of Otago's wetlands, lakes, rivers and their margins;*

For the reasons already outlined above the proposed extension of the activity is not anticipated to have any adverse ecological, intrinsic, amenity or cultural effects. The proposal is therefore consistent with the objectives and policies of the Regional Policy Statement.

6.4 Conclusion

In conclusion, the proposed variation will not give rise to adverse environmental effects. No parties are considered to be adversely affected by the variation proposal. The proposal is consistent with the applicable objectives and policies of the District Plan and Regional Policy Statement.

7. Resource Management Act 1991

7.1 Notification Requirements

The notification provisions of the RMA are contained in Sections 95 to 95G of the Act. There is no longer the *presumption* that resource consent applications must be notified, with Section 95A providing an effective “test” in terms of whether or not any specific application should be notified.

The parties considered to be affected are listed above. The Council will be forwarded any approvals and other correspondence received. No further notification of the proposal is considered to be necessary.

7.2 Section 127 of the RMA

The actual and potential effects on the environment of allowing the activity the subject of this variation application will be less than minor as demonstrated throughout this AEE. The statutory documents of relevance to this application include the District Plan (principally) and the RPS for Otago (to an extent). It has also been demonstrated that the proposal is not inconsistent with relevant provisions of these documents. The extension of the activity into the Frankton Arm is not deemed to have an adverse effect to any party.

A matter which is of particular relevance to this application is that the activity the subject of it will be undertaken in accordance with Maritime New Zealand requirements. This will ensure that the proposed activity can and will be operated in a safe manner at all times.

7.3 Part 2 of the RMA

The purpose of the RMA, as set out under Section 5(2) is to promote the sustainable management of natural and physical resources. Sustainable management is defined in Section 5(2) of the Act as meaning:

The use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety, while:

- *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- *Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

The proposal is consistent with sustainable management as defined in the RMA. It is a surface water recreational activity to be operated on a commercial basis, subject to specified consent conditions which limit the scale of the use. Careful attention will be given to protecting the water resource on which it depends, while noise limits imposed by the District Plan can and will be complied with. The Activity will also be undertaken to a high standard of safety, in accordance with Maritime New Zealand requirements.

Section 6 of the RMA sets out those matters of national importance which all persons exercising powers and functions under the Act need to recognise and provide for. In terms of this specific proposal, the following Section 6 matters are of relevance:

- *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins from inappropriate subdivision, use and development (Section 6(a)); and*
- *The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development (i.e. Section 6(b)).*

The Applicant will undertake appropriate procedures in terms of craft fleet maintenance and client control in order to ensure that Lake Wakatipu is not adversely affected by fuel spillage or inappropriate disposal of effluent or waste. While the Lake is part of an outstanding natural landscape, and it is noted that the Frankton Arm portion of the Lake is a domesticated environment, the relatively small nature of the craft and fact that no permanent facilities need to be installed will ensure that any impact on the landscape is minimal. No other Section 6 matters are considered specifically relevant to this particular application.

Section 7 of the RMA sets out those “other” matters which all persons exercising powers and functions under the Act need to have particular regard to. Of relevance to this application are:

- *Kaitiakitanga* (Section 7(a);
- *The efficient use and development of natural and physical resources* (Section 7(b));
- *The maintenance and enhancement of amenity values* (Section 7(c));
- *Maintenance and enhancement of the quality of the environment* (Section 7(f)); and
- *The protection of the habitat of trout and salmon* (Section 7(h)).

The relevant iwi groups have been served a copy of the application, and requested to either convey any concerns with the proposal or provide affected party approval. The Applicant has demonstrated through an Acoustic Consultant that the Seabreacher craft can be operated in a manner compliant with District Plan noise standards, and measures will be taken to protect the aquatic environment from littering or pollution.

All persons exercising functions and powers under the RMA in relation to managing the use, development and protection of natural resources must, in accordance with Section 8 of the Act, also take into account the Principles of the Treaty of Waitangi (*Te Tiriti o Waitangi*). Lake Wakatipu is a statutory acknowledgement area. As mentioned above the relevant groups have been served with a copy of this application.

In summary, this variation application to RM130071 is considered to be consistent with Part 2 of the RMA.

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHU**

Decision No. [2025] NZEnvC 264

IN THE MATTER of the Resource Management Act 1991

AND an appeal under s120 of the Act

BETWEEN HYDRO ATTACK LIMITED

(ENV-2023-CHC-3)

Appellant

AND QUEENSTOWN LAKES DISTRICT
COUNCIL

Respondent

Court: Environment Judge J J M Hassan
Environment Commissioner J T Baines

Hearing: at Queenstown on 22 May 2025

Appearances: B B Gresson for the appellant
L de Latour and A Milne for the respondent
L McLaughlan for Queenstown Wharves Limited Partnership,
Real Journeys Limited, Southern Discoveries Limited

Date of Decision: 8 August 2025

Date of Issue: 8 August 2025

**DETERMINATION OF THE ENVIRONMENT COURT
BY CONSENT**

A: The appeal is allowed in part on the basis that consent is granted on the agreed conditions of the Modified Proposal. Directions are made for QLDC to provide a copy of the updated resource consent incorporating the agreed conditions of consent and any relevant plans for the court's



HYDRO ATTACK LIMITED v QLDC – DETERMINATION

approval.

B: As agreed, there will be no order as to costs.

REASONS

Introduction

[1] Hydro Attack Limited (Hydro Attack)¹ applied for resource consent to establish and use a wharf on Queenstown Bay, Lake Wakatipu. Following a hearing, its application was declined by Independent Commissioners appointed by the Queenstown Lakes District Council (QLDC). It has appealed that decision.

[2] Hydro Attack's application for a lease over the land on which the proposed wharf would be located is presently on hold, pending the outcome of its application for resource consent.²

[3] This application seeks consent to construct a wharf facility that would provide for its existing commercial recreation activities and also address what it sees as a need to meet demand for berthages (both public and private) within Queenstown Bay, and free up the use of wharf space for future public transport options.³

[4] The Commissioners declined resource consent to the original proposal on a number of grounds⁴ including adverse effects on landscape character and values and related visual amenity and cumulative effects, adverse effects on passive recreational users of St Omer Park, the potential to degrade the public's experience of the recreation reserve when walking along the foreshore, adverse effects on

¹ Hydro Attack has operated commercial recreation activities on the lake via its seabreacher and jet-ski vessels since 2013. It currently operates from the Lapsley-Butson wharf pursuant to a lease from QLDC. It does not have a long-term security of tenure with respect to this lease.

² Appellant's opening submissions, at [5].

³ Appellant's opening submissions, at [6].

⁴ Joint memorandum of counsel (JMOC), dated 12 June 2025, at [6].

navigational safety and the consequent derogation of the rights of existing consent holders reliant on safe navigation, insufficient information on construction effects, and adverse cultural effects (signified by the withdrawal of Kā Rūnaka support for the original proposal).

[5] The Commissioners also found the original proposal to be contrary to, and inconsistent with a number of key policies in the proposed Queenstown Lake District plan (PDP) and the Queenstown Lakes Operative District plan (ODP), particularly relating to the protection, maintenance and enhancement of landscape and visual amenity values.

[6] Following its appeal against the Commissioners' decision, Hydro Attack took expert advice on how to address the issues raised and the concerns of s274 parties about the proposal. That led to development of modifications to aspects of the proposal (Modified Proposal) described below.

[7] On the basis of the Modified Proposal, the s274 parties submitted memoranda to inform the court that they would abide our decision.⁵

[8] Following the conclusion of the hearing, all parties filed a joint memorandum recording their agreement to the effect that consent can be granted to the Modified Proposal on specified agreed conditions. On the evidence, we find that it would accord with the relevant RMA requirements to grant consent to the Modified Proposal subject to the conditions in Annexure 1.

The site and environs and related PDP zoning and landscape treatment

[9] The 'site' for the proposal is the bed of the lake and the adjoining land, which is St Omer Park, a Reserve for Recreation.⁶ As such, the site occupies a

⁵ Memorandum of counsel for s274 party – Body Corporate 24788, dated 14 March 2025, at [3]-[4], JMOC, dated 12 June 2025, at [13].

⁶ Devlin EIC, at [25].

narrow strip of Recreation Reserve forming part of the St Omer Park, as well as occupying part of the lakeshore, lakebed and surface of the lake.

[10] The location is west of St Omer Wharf at the western end of the central business area within Queenstown Bay⁷ and the new wharf would be accessed from the existing footpath along Lake Esplanade. This access arrangement is well illustrated in Fig 3 of Mr Devlin's evidence-in-chief (attached as Annexure 2). The general location is well illustrated in Fig 1 of the QLDC's s42A Report at the first instance hearing (see also Annexure 2).

[11] The related zoning and landscape mapping was explained by QLDC's planning expert, Ms Enright, as follows:⁸

Within the PDP, the site is split zoned, with the following zoning applicable:

- (a) The surface of Lake Wakatipu is zoned Rural.
- (b) The surface of Lake Wakatipu towards the north-east is zoned Queenstown Waterfront Subzone, within the 'active frontage area'. There is a small protrusion of one of the docking arms into this area.
- (c) The landward side of the site is zoned Informal Recreation and Queenstown Town Centre. This Informal Recreation zoned area is also subject to Designation 217 (Recreation Reserve).
- (d) The whole site is subject to the Wāhi Tūpuna overlay (33 – Whakātipu-Wai-Māori (Lake Wakātipu)).
- (e) The Rural zoned part of the site is subject to an ONL overlay (Queenstown Bay and Environs Priority Area). It is important to note that the ONL status applies predominantly to the water, and a small area of the lake foreshore, but excludes the area of land that contains a gabion

⁷ Devlin EIC, at [15].

⁸ Enright EIC, at [29].

wall and outfall structure. See Figures 2 and 3 below.

[12] As Ms Enright explained, part of the site is within an ONL (outstanding natural landscape). This ONL is extensive, covering much of the lake and framing mountain ranges. A further landscape overlay relevant to the site is that it is within a proposed “Queenstown Bay and Environs Priority Area” (PA) to be included in the PDP as Sch 21.22.13. Although having proposed status, we were informed that this PA is materially beyond contention. It was, therefore, relied on by the landscape and planning experts. We explain the significance of these matters for considering the merits of the Modified Proposal shortly.

[13] For convenience, we have appended Ms Enright’s Figs 1 – 3 on these overlays as Annexures 3 and 4.

The Modified Proposal

[14] The Modified Proposal still involves the construction of a wharf and kiosk in Queenstown Bay to provide for commercial recreation activities and a public berth. It also includes variation of some existing consents. That includes condition 1 of resource consent RM130071 and conditions 1 and 7 of RM170947 relating to the appellant’s existing operations to allow the appellant to operate from the new wharf location. It also includes variation to Regional Council consents for disturbance of the lakebed, erection of a structure, and potential discharge of sediment.

[15] However, as Mr Devlin (the planning expert engaged by Hydro Attack) explained, the following changes have been made in response to issues raised by the appealed decision and s274 party concerns:⁹

- (a) The design and location of the jetty has been altered as follows:
 - (i) The physical location has been altered to allow greater separation

⁹ Devlin EIC, at [26].

between the proposal and the adjoining St Omer wharf, which has been increased to 25m (19m to the dolphin). The proposed wharf has moved to the west to align with the westernmost extent of the ‘discretionary activity’ line for jetties and moorings (refer Sheet 23 of plans in common bundle).

- (ii) The wharf has been redesigned to incorporate a cultural narrative with input from Tāke Tuia built into the wharf design.
 - (iii) The connection to the footpath has been altered to be more welcoming and open with more a ‘Y’ connection to the footpath rather than a ‘T’ intersection.
 - (iv) The location of the steps down to the beach has been altered, with the steps proposed adjacent to the gabion wall heading west.
 - (v) Ecological restoration / native planting has been added along the base of the gabion basket retaining wall, with native species selected by Mr Neil Simpson (ecologist / botanist) to grow in this area.
- (b) A Construction Management Plan (CMP) has been prepared by Fulton Hogan to address many of the matters raised by the s 274 parties and in the QLDC decision.
- (c) A number of additions have been made to the draft conditions in Attachment [C] to address issues / respond to feedback from the s 274 parties and QLDC officers. These primarily relate to construction management and navigational safety matters.

[16] Mr Devlin explained that the design of the wharf is landscape-led, featuring materials consistent with St Omer, O’Regan’s and Steamer Wharf to provide continuity in design around Queenstown Bay.¹⁰ His evidence further explained:¹¹

[17] The new wharf is accessed from the existing footpath along Lake Esplanade. A 9.1m wide landing is flush with the footpath, and leads to a 4m wide jetty with two ramps at the appropriate gradients to be mobility

¹⁰ Devlin EIC, at [16].

¹¹ Devlin EIC, at [17]-[24].

accessible. This 4m wide part of the jetty then straightens at a viewing area where a small kiosk is located. The wharf then extends a further 20m into the Lake to reach deep water.

- [18] The western side of the wharf is to be available as a public berth. Providing a public berth available for any person with a boat to tie up at and load / unload passengers aligns with a 2007 Council policy. Electric boat charging infrastructure is also provided. It could also be available for public transport in the future, if a public transport ferry service becomes available for Queenstown.

- [19] The wharf has two arms, an inner (northern) and outer (southern) arm. The inner arm measures 22.1m in length from the kiosk and is 3m in width. It is located in shallower water but deep enough for the Hydro Attack sea breachers (sharks).

- [20] The outer arm measures 26.5m in length. On the landward (northern) side, the jet skis would be placed. On the outer southern side, space for two 10m boat berths exists, as well as electric charging infrastructure. These berths would be available for commercial lease or occupied by the Hydro Attack support craft that is approved under RM130071 (as varied) to transport customers to calmer waters if conditions in Queenstown Bay are unsuitable.

- [21] The wharf sits on timber poles that are to be driven into the lake bed. The design shows 83 poles with a 300mm diameter. This total does not include posts under the stairs on the beach (4 or 6 subject to engineering design) or the posts on which the timber decking on land will be constructed.

- [22] The kiosk is 3m x 3m in area (9m²) and a maximum of 2.6m in height. The kiosk will provide for customer sales and provide shelter for Hydro Attack staff. The kiosk is clad in Resene Ironsand corrugated coloursteel, a recessive dark gray colour with a light reflectance value of 9%. The kiosk includes three small signs, all 1.2m x 0.5m (each is 0.6m² in area) giving a total area of signage of 1.8m².

- [23] Steps to provide direct pedestrian access to the beach have also been

provided under the protected Tilia tree. Due to the height of the gabion retaining wall in this location, directly accessing the beach from this part of St Omer Park is currently difficult. Steps to the beach are located 65m further to the west.

- [24] Input for the proposed wharf name ‘Te Arawai’ and the cultural narrative included in the design was sought from local cultural consultancy Take Tuia, (Darren Rewi and Steve Solomon). Unlike all other wharfs in Queenstown Bay, the proposed design incorporates a cultural narrative designed by Darren Rewi and informed by manaaki, kaitiakitanga, and rangatiratanga. I refer to sheets 06 and 07 of the proposed plans for further information on how the design has incorporated the cultural narrative.

Remaining issues

[17] Following conferencing, the planning experts produced a joint witness statement recording their agreement on a range of matters concerning the Modified Proposal.¹² Those agreements effectively resolved any issues as to navigational safety, interference with adjacent activities, traffic, construction management, ecology and related planning considerations. Counsel for Queenstown Wharves, Real Journeys and Southern Discoveries confirmed those s274 parties do not oppose the Modified Proposal. That position is confirmed by the evidence of those parties.¹³ In essence, that narrowed the focus for the hearing significantly. Having pre-read all the evidence, and following opening submissions and cross-examination of Hydro Attack’s landscape and planning experts, we summarised that as “very much related to landscape, landscape policy and its planning construct ... not forgetting the recreational amenity dimensions of that.”¹⁴

¹² Planning JWS, dated 3 April 2025, at [17]-[29].

¹³ Hodges EIC dated 10 February 2025, at [5]-[10] and Fitzpatrick EIC, dated 10 February 2025, at [7].

¹⁴ Hearing transcript at p 54/lines 15-19.

Statutory framework and principles

General powers, duties and discretion

[18] We have the same powers, duties and discretions as QLDC’s independent hearing commissioners had concerning the appealed decision.¹⁵ We are to consider the Modified Proposal subject to pt 2 RMA, according to the various matters set out in s104. Of particular significance are:

- (a) any actual and potential effects on the environment of allowing the activity;¹⁶ and
- (b) any relevant provisions of the PDP.¹⁷

Consent to be assessed as a discretionary activity

[19] The Modified Proposal is a discretionary activity (under the PDP, Otago Regional Water Plan: Water and, on aspects involving variation of consents, under RMA s127). For the PDP, discretionary status is a consequence of the wharf’s location (with non-complying status applying for jetties and moorings to the west in the vicinity of St Omer Park).¹⁸

[20] In relevant terms, that means we consider the Modified Proposal in terms of the evidence as to its potential effects and relevant provisions of applicable planning and policy instruments, “subject to” pt 2, RMA.¹⁹

[21] We accept the consensus opinion of the planning experts in finding that the PDP gives proper effect to relevant higher order policy instruments, and pt 2 RMA. As its relevant provisions are beyond challenge in appeals in the ongoing

¹⁵ RMA, s290.

¹⁶ RMA, ss290, 104(1)(a).

¹⁷ RMA, ss290, 104(1)(b)(vi).

¹⁸ Devlin EIC, Fig 6.

¹⁹ RMA, ss104, 104B.

plan review, we give it predominant weight. Those findings mean we do not need to report findings on how other planning instruments and pt 2, RMA bear on consideration of the Modified Proposal. It is sufficient to record that granting consent on the conditions proposed does not offend pt 2 or any of those higher order instruments.²⁰

[22] We may grant or decline consent and, in any grant, impose consent conditions. We are satisfied that the conditions jointly proposed by all parties (appended at Annexure 1 to this Determination) satisfy relevant RMA requirements and are appropriate.²¹

Relevant PDP policy direction and related provisions

[23] As is directed by s104, we have had regard to relevant provisions of the various RMA planning and policy instruments.

[24] We also accept the consensus of the planning experts as to relevant PDP objectives and policies and their material directions on the matters in issue.²² Of most relevance are the directions concerning the protection of ONL landscape values and the maintenance and enhancement of amenity values. Pols 3.3.43 – 3.3.45 provide associated directions as to relevant landscape attributes and the appropriate methodology for landscape assessment. The Queenstown Bay and Environs PA, in Sch 21.22.13, inter alia, identifies:

- (a) the “critical role” of the lake, lake edge trails and water-based activities on the lake for “shaping the identity of Queenstown” as some of the

²⁰ The partially operative Otago Regional Policy Statement 2019, its predecessor the Regional Policy Statement for Otago 1998 and the proposed Otago Regional Policy Statement 2021. Nor do relevant national policy statements have significant bearing on the matters in issue.

²¹ RMA, ss 104B, 108, 108AA.

²² We refer in particular to Devlin EIC, Attachment B; Enright EIC, App 2. The most relevant directions are in PDP Ch 3 (Strategic Direction) and Ch 6 (Landscapes). There are also objectives and policies of some relevance in PDP Chs. 12 (Queenstown Town Centre), 21 (Rural) and 38 (Open Space and Recreation).

- relevant “shared and recognised attributes and values”;
- (b) walking, running, cycling and picnicking along the lake-edge, and various water-based activities (including boating and jet-skiing) as some of the “recreational attributes and values”;
 - (c) the “striking juxtaposition of urban development alongside the grandeur of the natural landscape” as adding to the spectacle of important views to and from the PA;
 - (d) the “very close proximity of urban development and level of human activity within the area” as inevitably colouring “the impression of naturalness within the ONL” (but, nevertheless on the basis that the PA displays “at least a moderate-high level of naturalness”);
 - (e) human activity on the lake (including vessels) and its margins as being amongst the PA’s transient attributes and values; and
 - (f) similarly, human activity on and around the bay, along with some of the surrounding buildings and marine craft within the bay, as part of the PA’s aesthetic attributes and values.

[25] Schedule 21.22.13 comments relevantly as follows about landscape capacity:

xiii. Jetties, and boatsheds, lake structures and moorings – very limited

landscape capacity for additional jetties and boatsheds that are co-located with existing features, designed to be of a sympathetic scale, appearance, and character; integrate appreciable landscape restoration and enhancement (where possible); and enhance public access.

[26] For completeness, we have considered the supplementary evidence of Mr Devlin and the related updated planning assessment of Ms Enright on some updated PDP provisions.²³ None of these matters alters our overall opinion that granting consent to the Modified Proposal is appropriate subject to the agreed

²³ Devlin supplementary evidence, Enright supplementary evidence, JMOC, dated 12 June 2025, at [18].

conditions.

Evaluation

[27] Following Hydro Attack’s case, including the testing of its expert evidence, the court undertook viewings of the site from the parties’ recommended 13 viewpoints.²⁴ As we reported on resumption of the hearing, that gave us a good sense, contextually, of how the landscape attributes and values in Sch 21 are derived, at both broad and localised scales within the PA.²⁵ At that stage of the hearing, notwithstanding that QLDC’s evidence had not been called, we made the observation that we did not have “cause to be concerned about the opinion on these matters we have already received.”²⁶

[28] That observation was made in light of the impression we took, in light of cross-examination, of thoroughness and reliability of the landscape opinion of Mr Espie, and the associated planning opinion of Mr Devlin. It was also in view of the clear relevant intentions of the PDP and the narrowness of remaining issues in contention.

[29] Furthermore, in response to those preliminary observations, counsel made clear that QLDC was in essence satisfied that this was a case in which the outcome was very much a matter of evaluative judgement as to the appropriateness of the Proposal in the intended location. Counsel explained that QLDC had called evidence on that understanding.²⁷ We observe with respect that QLDC has exhibited a responsible approach as a respondent. That is given the circumstances of the decline of consent at first instance and the choice of the appellant, on expert advice, to modify their proposal so as to address those findings and satisfy the legitimate concerns of s274 parties.

²⁴ JMOC, dated 15 May 2025, at [6].

²⁵ Hearing transcript at p 54, lines 30-34.

²⁶ Hearing transcript at p 55, lines 20-22.

²⁷ JMOC, dated 12 June 2025, at [9].

[30] We now further elaborate on why we find the opinions of Mr Espie and Mr Devlin on the Modified Proposal reliable.

[31] Mr Espie carried out his assessment in accordance with best practice. He took proper guidance from the landscape profession's *Te Tangi A Te Mann, Aotearoa New Zealand Landscape Assessment Guidelines* (TTatM)²⁸ and relevant PDP policy directions and other provisions (including relevant provisions in Sch 21.22.13). His logic was ordered and transparent such that we have confidence in his conclusions as sound and reliable. Relevantly, he concluded:

[5.8] To summarise all of the above, my understanding of guidance regarding landscape matters that can be taken from the PDP is:

- The small parts of the wharf that are within the Queenstown Town Centre Zone (including the Queenstown Bay Waterfront Sub-Zone) are in an area where vibrant urban activity is anticipated, provided that amenity is maintained.
- The part of the wharf that is within the Informal Recreation Zone is in an area where open space and recreation is anticipated.
- The part of the wharf that is within the Rural Zone, within the ONL and within the Queenstown Bay and Environs Priority Area is in an area where the landscape values (as set out in Schedule 21.22.13) are to be protected.

[5.9] In relation to the last bullet-point above, I note that Section 6.3 of the PDP includes a specific series of Policies regarding activities on lakes and rivers which come after the more general policies regarding activities in ONLs. The specific policy regarding structures on waterbodies and their margins directs that the scale and location of these structures protects the landscape values of the ONL "*as far as practicable*".

²⁸

Tuia Pito Ora New Zealand Institute of Landscape Architecture, July 2022.

...

[6.3] Appropriately, the consideration of landscape attributes and values set out in the Schedule sometimes refers to finer-grained specific elements and areas within the Priority Area and sometimes refers to the Priority Area as a whole and also its broader landscape setting.

[6.4] Regarding the description of landscape attributes and values set out in this Schedule, as noted above, it is important to bear in mind that the particularly busy area of Queenstown Bay (i.e. the Waterfront Sub-Zone) is not included in the area being described. The area being described is only the Rural Zone area highlighted in blue in Figure 1 [Annexure 4]. Accordingly, despite the Queenstown Bay area being excluded, it is clear from the above description that human use of the lake and its margins for boating, jet-skiing and commercial recreation, along with the movement of vessels and the nearby urban area are all attributes that are important to the character and values of this area of ONL.

[32] The reliability of that foundation for Mr Gavin's planning opinion is one reason why we accept his recommendation. Cross-examination was helpful in exploring and clarifying matters to do with the "reasonably difficult to see" test in Policy 6.3.3.1, and also to do with the "as far as practicable" test in Policy 6.3.5.1 concerned with managing the "location, intensity and scale of structures" and consideration of costs and functionality and both commercial and public use of the proposed structure.

[33] We have duly considered the appealed decision. Its reasons for declining consent are essentially overtaken by the Modified Proposal and our findings on the evidence.

[34] We are satisfied that the Modified proposal is properly consistent with relevant objectives and policies, gives rise to acceptable effects (including effects on the appreciation of an ONL, visual amenity and recreational amenity for visitors and residents) and meets all other requirements to be consented. We are also satisfied all conditions are appropriate, being supported by our findings on the

evidence.

Conclusions

[35] For those reasons, we allow the appeal in part by granting consent to the Modified Proposal on the agreed conditions. QLDC is directed to provide a copy of the updated resource consent incorporating the agreed conditions and any relevant plans for the court's approval.

[36] As agreed in the joint memorandum, there is no order as to costs.

[37] I record my thanks to Commissioner Baines for his role in authoring this decision.

For the court



J J M Hassan
Environment Judge



Annexure 1: Agreed consent conditions

ATTACHMENT [C] – DRAFT CONSENT CONDITIONS

Evidence of Blair Devlin

Decision One: QLDC Land Use Consent

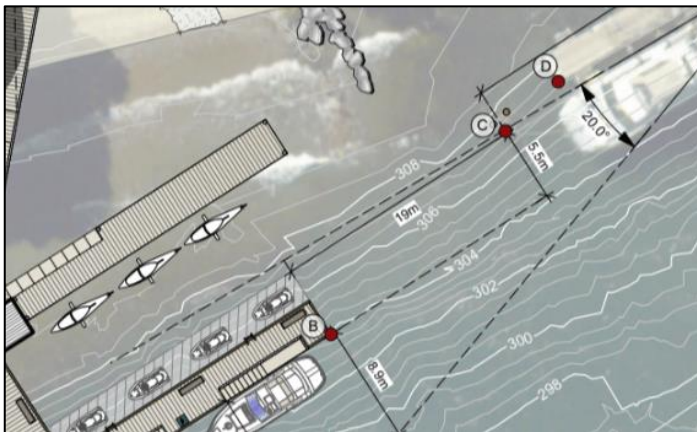
General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - Plans prepared by Rough Milne Mitchell Landscape Architects (RMM), all dated **31 January 2025** entitled:
 - Te Arawai – Wharf Location plan Sheet 03
 - Te Arawai – Cultural Narrative Sheet 06 and 07
 - Te Arawai – Material Palette and Sculpture Sheet 08
 - Te Arawai – Wharf Design Overview – 1:400 Plan Sheet 11
 - Te Arawai – Wharf Design – 1:200 Plan Sheet 12
 - Te Arawai – Design integration of Cultural Features Sheet 13
 - Te Arawai – Wharf Elevations Sheet 14
 - Te Arawai – Wharf Elevations Sheet 15
 - Te Arawai– Kiosk Elevations (North and West) Sheet 16
 - Te Arawai– Kiosk Elevations (South and East) Sheet 17
 - Te Arawai – Planting Plan Sheet 18
 - Te Arawai – Grass Berm Setout Plan Sheet 19
 - Te Arawai – Outward extent of the Te Arawai Wharf Sheet 20
 - Te Arawai – QLDC PDP overlay plan Sheet 21
 - Te Arawai – Design Constraints Plan Sheet 22
 - Te Arawai – Design Comparison Plan Sheet 23

stamped as approved on **date 2025**

and the application as submitted, with the exception of the amendments required by the following conditions of consent.

- 1A. For the avoidance of doubt, the coordinates for the eastern extent of the new wharf (labelled Point B in the image below) taken from the RMM Te Arawai Design Constraints Plan Sheet 22 listed in condition 1 above shall be:



Point B coordinates:

810884.40mN 420280.97mE

2. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance

with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.

3. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.
4. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 8 October 2020 and subsequent amendments to that document up to the date of issue of any resource consent.

Advice Note: The current standards are available on Council's website via the following link: <https://www.qldc.govt.nz>.

Works within the Reserve

5. The final design of the boardwalk within the reserve is to be submitted to QLDC Parks for consideration and certification prior to construction. The design shall:
 - Be flush with the ground as far as practicable/ not present a tripping hazard for users of the reserve;
 - Not contain any balustrading that could impede pedestrian connectivity.
 - Not contain structures or ground cover within the dripline of existing trees except for the steps down to the beach located adjacent to the gabion wall.
 - Detail the ground cover proposed within the reserve and its construction methodology (noting that it should be removable and constructed in a material that reflects the surrounding reserve and street development).
6. Excavation for the steps down to the beach adjacent to the gabion wall (that are within the drip line of the tree) shall be undertaken under the supervision and direction of a suitably qualified and experienced arborist. In the event that any other excavation needs to be undertaken within the root zone of the protected Tilia tree, all works shall cease, and the consent holder shall immediately engage the services of a suitably qualified and experienced arborist, who is experienced in site development activities in close proximity to mature trees, to provide a written assessment of the proposed work. The consent holder's arborist shall provide a copy of this assessment to the Team Leader Monitoring for consideration and comment. No further excavation work may proceed within the area in question until approval has been provided by the Team Leader Monitoring. A further consent may be required for the work.
7. Prior to construction of the wharf commencing, a tree protection fence of sturdy construction shall be erected from the outside edge of the canopy spread of the Tilia Tree in the recreation reserve adjacent to the application site. The fence shall accord with the minimum requirements in the industry best practice publication titled A Guideline for Tree Protection Fencing on Development Sites published by the New Zealand Arboricultural Association dated April 2011. The fence shall be erected prior to the commencement of any work on the site, including site earth works and shall remain in place until the completion of all works on the site.

The purpose of the fence is to protect the trees from the effects of construction works on the site. No work shall be carried out within the protected area (other than the excavations for the steps down to the beach under condition (6)) and no building or fill materials shall be stored or placed within the protected area, either on a temporary or permanent basis.

Advice notes:

A high visibility mesh fence which is not resistant to impact and is easily breached will not generally be an appropriate means of complying with this condition.

No machinery is to be driven, or construction and equipment material stored on the open ground around the trees.

- 7A. All planting within St Omer Reserve as shown on the approved landscape plan in condition (1) shall be in locally eco-sourced native species.
- 7B. All planting shown on the approved landscape plan in condition (1) shall be in place prior to the use of the wharf commencing and shall thereafter be maintained by the consent holder. Should any plant die or become diseased, it shall be replaced with the same or similar native species within the next growing season (Autumn or Spring).
- 7C. The consent holder shall act as kaitiaki / guardian and custodian of the planting and foreshore area around the wharf, and ensure the area is kept clear of litter on a regular basis (at least weekly). The area of guardianship shall be between the St Omer Wharf to the east and the stone steps to the west.

Construction Activities

8. Prior to commencement of construction activities, the final Construction Management Plan (CMP) shall be submitted to and certified by the Team Leader Monitoring. The CMP must specify the following:
- a) A construction timetable (that includes limiting construction of the wharf piers to May, June and July);
 - b) A construction methodology;
 - c) In combination with the Environmental Management Plan required under condition (17), and the Traffic Management Plan required under condition (28), the CMP shall include or incorporate general site management matters, including details of:
 - i. Site access, including methods to clearly delineate all entry and exit points to the site.
 - ii. the extent of the construction lay down area, which shall be limited to the area of reserve between the Protected Tilia tree and the group of trees located to the east located near the rock groyne.
 - iii. how pedestrian access will be maintained along the southern side of Beach Street, or if restricted, how a temporary pedestrian crossing will be utilised
 - iv. how any 'hot works' on site will be managed to cease when the refuelling wharf is in use.
 - v. the bunding or containment of fuels and lubricants to prevent the discharge of contaminants
 - vi. maintenance of machinery and plant to minimise the potential for leakage of fuels and lubricants
 - vii. methods to minimise siltation and discolouration of the lake during works
 - viii. methods to maintain public access along the reserve as far as practicable while the activities are being carried out
 - ix. methods to ensure compliance with noise standards
 - x. a spill contingency plan in the event that there is any discharge of contaminants to the lake
 - xi. site reinstatement upon completion of the activities
 - xii. Measures to control and/or mitigate the effects of any dust, silt runoff and sedimentation that may occur during construction and in particular to ensure that no such material enters the waters of the lake, either directly or indirectly.
 - xiii. Measures to ensure that any disturbance of the lake bed is limited to the extent required to undertake the works. Measures to ensure the protected Tilia tree is not adversely affected (see conditions 6 and 7) above.
 - xiv. A requirement to set up or join a VHF communication channel between the barge construction team and Queenstown Bay commercial boat operators
14. Aukaha shall be provided with opportunity to review and provide feedback on the Construction Management Plan prior to construction commencing. This feedback shall be provided to council with the final Construction Management Plan.

15. No construction activity shall commence until the Construction Management Plan is certified by the council and all measures identified in that plan as needing to be in place prior to the start of works are in place.
16. All works shall comply with the certified construction management plan at all times. All personnel working on the site shall be made aware of the requirements contained in the construction management plan. A copy of the approved construction management plan shall be held on site at all times while any activity associated with construction is occurring.

Environmental Management Plan (Medium Risk Site)

To be completed prior to the commencement of any works on-site:

17. At least 15 working days prior to any works commencing on site the Consent Holder shall submit **the finalised** Environmental Management Plan (EMP) to Council's Monitoring and Enforcement Team for review and acceptance **HOLD POINT 1**. This document must be prepared by a Suitably Qualified and Experienced Person. The EMP shall be in accordance with the principles and requirements of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans* and specifically shall address the following environmental elements as specified in the guidelines:

a) Administrative Requirements

- (i) Weekly site inspections
- (ii) Notification and management of environmental incidents
- (iii) Records and registers
- (iv) Environmental roles and responsibilities of personnel (including nomination of Principal Contractor)
- (v) Site induction

b) Operational Requirements

- (i) Erosion and sedimentation (including Erosion and Sediment Control Plan) to be prepared by a Suitably Qualified and Experienced Person)
- (ii) Water quality
- (iii) Cultural heritage
- (iv) Chemical and fuel management
- (v) Waste management

The EMP (and any sub-plans e.g. ESCP described below) shall also be consistent with any recommendations outlined in the Arborist report (see conditions **6 and 7**).

18. Prior to ground-disturbing activities on the initial stage of works or any subsequent new stage of works, the Consent Holder shall engage an Appropriately Qualified Person to prepare and submit an Erosion and Sediment Control Plan (ESCP) to Council's Monitoring and Enforcement Team for review and acceptance. This plan shall be a sub-plan of the overarching EMP and must be prepared in accordance with the requirements outlined on pages 13 – 18 in *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*. These plans must be updated when:

- a) The construction program moves from one Stage to another; or
- b) Any significant changes have been made to the construction methodology since the original plan was accepted for that Stage; or
- c) There has been an Environmental Incident and investigations have found that the management measures are inadequate.

19. Prior to commencing ground-disturbing activities, the Consent Holder shall nominate an Environmental Representative for the works program in accordance with the requirements detailed on pages 9 and 10 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.
20. Prior to commencing ground disturbing activities, the Consent Holder shall ensure that all staff (including all sub-contractors) involved in, or supervising, works onsite have attended an Environmental Site Induction in accordance with the requirements detailed on page 8 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.

During construction:

21. All works shall be undertaken in accordance with the most current version of the EMP as accepted as suitable by Council.
22. The EMP shall be accessible on site at all times during work under this consent.
23. The Consent Holder shall establish and implement document version control. Council shall be provided with an electronic copy of the most current and complete version of the EMP at all times.
24. The Consent Holder shall develop and document a process of periodically reviewing the EMP as outlined on page 6 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*. No ground disturbing activities shall commence in any subsequent stage of development until an EMP has been submitted and deemed suitable by Council's Monitoring and Enforcement Team.
25. In accordance with page 9 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*, where any Environmental Incident where the EMP has failed leading to any adverse environmental effects offsite occurs the Consent Holder shall:
 - a) Report to QLDC details of any Environmental Incident within 12 hours of becoming aware of the incident.
 - b) Provide an Environmental Incident Report to QLDC within 10 working days of the incident occurring as per the requirements outlined on page 9 of *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.
26. Environmental records are to be collated onsite and shall be made available to QLDC upon request; immediately if the request is made by a QLDC official onsite and within 24 hours if requested by a QLDC officer offsite. Records and registers to be managed onsite shall be in accordance with the requirements outlined on page 14 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.

Accidental Discovery Protocol

27. If the consent holder:
 - a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder shall without delay:
 - (i) notify Council, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
 - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate rūnanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation. Site work shall recommence following consultation with Council, Heritage New Zealand Pouhere Taonga, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) does not have an archaeological authority from Heritage New Zealand Pouhere Taonga and discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
 - (i) stop work within the immediate vicinity of the discovery or disturbance and;
 - (ii) advise Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014 and;
 - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may only recommence following consultation with Council.

Construction Traffic Management Plan

- 28. The consent holder shall obtain and implement a traffic management plan, approved by Council prior to undertaking any works within or adjacent to Council's road reserve that may affect the normal operating conditions of the road reserve through disruption, inconvenience or delay. The Traffic Management Plan shall be prepared by a certified Temporary Traffic Management Planner (TTMP) as validated on their CoPTTM ID certification. All contractors obligated to implement temporary traffic management plans shall employ a qualified Site Traffic Management Supervisor (STMS) to manage the site in accordance with the requirements of the NZTA's "*Traffic Control Devices Manual Part 8: Code of practice for temporary traffic management*". The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Manager of Resource Management Engineering at Council prior to works commencing.

Engineering Review and Acceptance

- 29. Prior to commencing works on the site, the consent holder shall obtain 'Engineering Review and Acceptance' from the Queenstown Lakes District Council for development works to be undertaken and information requirements specified below. The application shall include all development items listed below unless a 'partial' review has been approved in writing by the Manager of Resource Management Engineering at Council for review prior to acceptance being issued. At Council's Discretion, specific designs may be subject to a Peer Review, organised by the Council at the applicant's cost. The 'Engineering Review and Acceptance' application(s) shall include copies of all specifications, calculations, design plans and Schedule 1A design certificates as is considered by Council to be both necessary and adequate, in accordance with Condition (1) to detail the following requirements:
 - a) The provision of lighting in accordance with Council's road lighting policies standards, including the *Southern Light* lighting strategy. Any lighting installed shall be privately maintained and all operating costs shall be the responsibility of the Consent Holder and shall be isolated from the Council's lighting network circuits.
- 30. Prior to commercial use of the wharf, the consent holder shall complete the following:
 - The completion and implementation of all reviewed and accepted works detailed in Condition (29) above.
 - The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

Lighting and Street Furniture

31. In addition to condition (29), above, any fixed exterior lighting shall be low level and directed away from adjacent sites and shall be in compliance with District Plan Standards. No above head 'street lights' shall be used.
32. Proposed lighting and street furniture shall be in accordance with the Queenstown Centre Public Realm Design Guidelines, and shall be submitted to, and approved by QLDC Parks and Urban Design teams prior to implementation.

Final Design, Colours and Materials

33. The colours and materials of the wharf and kiosk building shall as far as practicable, be visually recessive. The exterior materials shall be coloured in the range of browns, greens and greys (except soffits). Pre-painted steel and all roofs shall have a light reflectance value (LRV) not greater than 20% and other surface finishes with the exception of schist shall have a LRV not greater than 30%. The final colours and materials shall be submitted to the Team Leader Monitoring for review and certification prior to construction commencing.
34. The balustrade style for the wharf shall replicate that of the balustrade on O'Regan's Wharf.

Notice of work commencing

35. The Team Leader Monitoring and Harbourmaster shall be notified in writing at least ten (10) working days prior to construction activity commencing on the site.

Hours of Operation – Construction

36. Hours of operation for construction activities shall be:

- Monday to Saturday (inclusive): 8.00am to 5.00pm.
- Sundays and Public Holidays: No Activity

In addition, no heavy vehicles are to enter or exit the site, and no machinery shall start up or operate earlier than 8.00am. All activity on the site is to cease by 6.00pm. Security / safety lighting may be utilised at any time.

Signs

37. No signs shall be erected on any of the structures on the lake or beach portions of the site, including balustrades (with the exception of any necessary safety notices and 'Signs 1, 2 and 3 shown on the plan 'Te Arawai– Kiosk Elevations' referenced in condition 1).
38. The consent holder shall put in place measures, including but not limited to signage on the east end of the outer wharf, to ensure any vessel berthed at the eastern end of the outer wharf leaves at least 2m between the end of the vessel, and the east end of the wharf.
- 38A. Details of colours and layout of the signage to go within the signage platforms on the kiosk shall be submitted to QLDC for certification.

Safety Operations Plan

39. The following measures shall be added to the safety operations plans for activities operating from the wharf:
 - Vessels must transit from the 5-knot zone into the access lane at 90 degrees to the access lane boundary, to allow the vessel Skipper clear visibility of any exiting vessels already exiting the bay.

- Vessels exiting the 5 knot Zone must not impede the passage of any vessel using the access lane for the purpose for which it has been declared.
- The skipper must not increase speed above 5 knots until well clear of the 5 knot boundary and have completed their turn to exit the bay.
- For the jet ski tours approved under RM170947, a radio check-in call shall be made with other vessels prior to the departure of a jet ski tour group.

Evidence that these measures have been added to the safety operations plans shall be provided to the Team Leader Monitoring prior to activities commencing operations from the wharf.

Public Access

40. Permanent public access at all times shall be maintained in respect of the wharf structure.

Operation of the Wharf

- 41 Any vessel tying up at the outer most berth shall ensure it is moored to the wharf to allow a 2m clearance from the eastern most extent of the wharf.

Review

42. Within six months of the date of this decision; and/or upon the receipt of information identifying non-compliance with the conditions of this consent, and/or within ten working days of each anniversary of the date of this decision, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
- To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
 - To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
 - To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.

Advice Notes

- This site may contain archaeological material. Under the Heritage New Zealand Pouhere Taonga Act 2014, the permission of the Heritage New Zealand Pouhere Taonga must be sought prior to the modification, damage or destruction of any archaeological site, whether the site is unrecorded or has been previously recorded. An archaeological site is described in the Act as a place associated with pre-1900 human activity, which may provide evidence relating to the history of New Zealand. These provisions apply regardless of whether a resource consent or building consent has been granted by Council. Should archaeological material be discovered during site works, any work affecting the material must cease and the Heritage New Zealand Pouhere Taonga must be contacted (Dunedin office phone 03 477 9871).

QLDC Decision Two on Resource Consent Pursuant to Section 127 and 104 of the RMA

Consent is granted for changes to Condition 1 and 7 of RM170947, and Condition 1 of RM130071, such that these conditions are changed to read as follows (deletion in strike through, additions in bold underline).

RM170947:

Condition 1

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

- ~~‘Jet Ski Tours Queenstown Operating Area Map’~~ **‘Qtn Bay Entry & Exit’**

stamped as approved on ~~12 December 2017~~ **[insert date]** and the application as submitted, with the exception of the amendments required by the following conditions of consent. **and the revised entry and exit points approved via Resource Consent RM200053.**

Condition 7

7. The activities subject to this consent shall be confined to Lake Wakatipu. The operator shall at all times maintain a distance of at least 100m from the Lake shore, except when transiting in and out of Queenstown Bay or when moving through the transit only/no play zone as shown on the plan titled ~~“Jet Ski Tours Queenstown Operative Area Map”~~ **‘Qtn Bay Entry & Exit’**.

RM130071

Condition 1

1. That the development must be undertaken/carried out in accordance with the application as submitted and all additional documentation, with the exception of the amendments required by the following conditions of consent: **and the revised entry and exit points, as per map, reference ‘Qtn Bay Entry & Exit’ approved via Resource Consent RM200053, stamped as approved on [insert date].**

Advice Notes:

- All other conditions of RM170947 and RM130071 shall continue to apply.

ORC CONSENTS

Consent No. RM200053

LAND USE CONSENT

Pursuant to Section 104B of the Resource Management Act 1991, the Queenstown Lakes District Council (under delegated authority of the Otago Regional Council) grants consent to:

Name: Hydro Attack Limited

Address: Queenstown Bay, Lake Wakatipu and St Omer Park

To disturb, and place structures on, over or under the bed of Lake Wakatipu/Whakatipu-wai-māori for the purpose of constructing a wharf

For a term expiring (5 years from grant)

Location of consent activity: Lake Wakatipu/Whakātipu-wai-māori, approximately 40 metres south the intersection of Lake Esplanade and Brunswick Street, Queenstown

Legal description of consent location: Section 2 Block XVII Town of Queenstown contained in Record of Title OTB1/226

Mid-Point Map
Reference: NZTM 2000 Exxxxxxx Nxxxxxxx

Conditions

Specific

1. The works shall be:
 - (a) Undertaken as described in the application for consent lodged with the consent authority under reference RM200053 and in the evidence presented at the Environment Court hearing; and
 - (b) In general accordance with the plans attached to this consent as amended with respect to buildings by the Queenstown Lakes District Council Land Use Consent RM200053.

If there are any inconsistencies between the application and this consent, the conditions of this consent shall prevail.

2. Earthworks shall, as far as practicable, be undertaken when lake levels in Lake Wakatipu/Whakātipu-wai-māori are low.
3. The consent holder shall ensure that no fish become stranded, and fish passage is not impeded as a result of the works authorised by this consent.
4. Prior to commencement of construction activities, a Freshwater Ecological Impact Assessment (FEIA) shall be undertaken by a suitably qualified freshwater ecologist within the wharf footprint. The FEIA shall identify the presence/absence of Threatened or At-Risk species and any

potential impacts on the ecology of the area. If Threatened or At-Risk species such as kākahi, *Echyridella menziesii*, *Isoetes kirkii* macrophyte, and/or fish are identified within the areas to be disturbed via piling and construction, then avoidance and mitigation strategies should be identified and implemented.

Advice Note:

Potential mitigation required could include (but not be limited to):

- *relocation of any observed freshwater mussels to an appropriate habitat nearby,*
- *construction avoidance of fish spawning times,*
- *limiting benthic disturbance to pile diameter only to reduce impact on macroinvertebrate and macrophyte communities.*

5. Works authorised by this consent, shall not cause any flooding, erosion, scouring, land instability or property damage, or adversely affect water levels of Lake Wakatipu/Whakātipu-wai-māori. Should such effects occur the consent holder shall remedy any such damage.
6. (a) Works resulting authorised by this consent shall only occur during the hours of 8:00 am to 6.00 pm, Monday to Saturday. Works shall not be undertaken on Sundays or Public Holidays.
- (b) None of the following construction works shall be implemented during any summer season between 20 December and the following 20 February:
 - (i) Any retaining along the lake edge;
 - (ii) Any dredging or excavation of the lakebed;
 - (iv) On site fabrication of any concrete components of the wharf.
 - (v) Any earthworks and/or vehicle movements in respect of (i)-(iv) above.
8. The consent holder shall ensure that fuel storage tanks and machinery working and stored in the construction area shall be maintained at all times to prevent leakage of oil and other contaminants into Lake Wakatipu/Whakātipu-wai-māori. No refuelling of machinery shall occur within any water body. In the event of contamination, the consent holder shall undertake remedial action and notify the consent authority within 5 working days.

Performance Monitoring

9. The consent holder shall notify the consent authority in writing at least five working days prior to the commencement of work authorised by this consent, and at the completion of work authorised by this consent.
10. The consent holder shall supply "As built" plans and photographs of the wharf and appurtenant structures to the consent authority within three months of completion of the works.
11. Prior to works commencing, the consent holder shall submit a Freshwater Pest Management Plan to the consent authority for its approval. The objective of the plan is to ensure the best practice measures are adopted to monitor for and eradicate any aquatic pest plant outbreak within the entire footprint of the wharf works within Lake Wakatipu/Whakātipu-wai-māori during construction. The plan shall include a pre-construction site survey and at least the following elements:
 - (a) The procedures (including timing and methods) for regular monitoring of the lake area within the footprint of the wharf works, to be carried out by an appropriately qualified person/s.
 - (b) The freshwater plant pests to be monitored for and what action is to be taken if they are detected.

- (c) Procedures for notification of, and liaison with, agencies with biosecurity responsibilities in the event of any outbreak being detected, including Otago Regional Council and Land Information NZ.
 - (d) Methods to remove pest plants and procedures for ongoing monitoring to ensure eradication has occurred.
 - (e) Reporting procedures to both the QLDC and ORC.
12. Prior to works commencing the consent holder shall submit a Lakeshore Erosion Management Plan to the consent authority. The plan shall include, but not be limited to:
- (a) Provision for regular inspections and surveys of the lake shore at, and adjoining the wharf site by suitably qualified person/s;
 - (b) Methods to record any lake shore erosion as a result of the exercise of this consent, including surveys, photographs and aerial photography;
 - (c) Methods to remedy any erosion or scour as a result of the exercise of this consent.
 - (d) Reporting procedures to both the QLDC and ORC.
13. All machinery and equipment to be used within any water body or its margins shall be water blasted, treated and dried with suitable decontamination chemicals or agents prior to being brought on site and following completion of the works, to reduce the potential for aquatic pest plant species being introduced to or taken from the watercourses, such as lagarosiphon and didymo. At no time during the exercise of this consent shall machinery be washed within the bed of a watercourse or where runoff could enter a water body. Following the measures contained in the national pest control agencies machine hygiene standard, dated June 2013 is a suitable means of compliance.
14. (a) Work shall be undertaken with the minimum time required in the bed of Lake Wakatipu/Whakātipu-wai-māori and with the minimum necessary disturbance;
- (c) The consent holder shall ensure that sediment control measures as required by land use consent RM200053 are in place prior to and during construction and that all practical steps are taken to prevent contamination or natural runoff by sediments during construction.
- (d) During construction the consent holder shall minimise discolouration and siltation of Lake Wakatipu/Whakātipu-wai-māori and shall ensure that no contaminants, including fuel, oil, cement or cement products, enter water. In the event of contamination, the consent holder shall instigate remedial action and shall notify the consent authority as soon as practical and within 24 hours of the event.
- (e) Machinery shall be maintained at all times to prevent leakage of fuel or oil into water.
- (f) Vehicles and machinery shall, as far as practicable, operate outside of water. If machinery needs to enter or operate within water, it is to be for the minimum amount of time required to complete the works. No refuelling or storage of plant or materials shall occur within the lake;
- (g) The pouring of concrete shall not be undertaken in water, nor within 20m of the water;
- (h) Any disturbed areas of lake or river bank or sections of bank that have been cut to allow access for machinery, shall be reinstated
- (i) Any equipment used for wet concrete shall not be washed out within Lake Wakatipu or any adjacent area where runoff could enter a water body.

- (j) At the completion of the works authorised by this consent, the consent holder shall ensure that all plant, equipment, chemicals, fencing, signage, debris, rubbish and any other material brought on site is removed from the site. The site shall be tidied to a standard at least equivalent to that prior to the works commencing.

15. If the consent holder:

- (a) Discovers koiwi tangata (human skeletal remains), or Maori artefact material, the consent holder shall without delay:
 - (i) Notify the consent authority, Tangata whenua and Heritage New Zealand Pouhere Taonga, and in the case of skeletal remains, the New Zealand Police.
 - (ii) Stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate rūnanga and their advisors, who shall determine whether the discovery is likely to be extensive; if a thorough site investigation is required and whether an Archaeological Authority is required.
 - (iii) Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation.

Site work shall recommence only following consultation with the consent authority, Tangata whenua, and Heritage New Zealand Pouhere Taonga, and in the case of skeletal remains, the NZ Police, provided that any relevant statutory permissions have been obtained.

- (b) Discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
 - (i) Stop work within the immediate vicinity of the discovery or disturbance; and
 - (ii) Advise Heritage New Zealand Pouhere Taonga, and in the case of Maori features or materials, the Tangata whenua, and if required, shall make an application for an Archaeological Authority pursuant to the Heritage New Zealand Pouhere Taonga Act 2014; and
 - (iii) Arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work shall only recommence following consultation with the consent authority.

Review

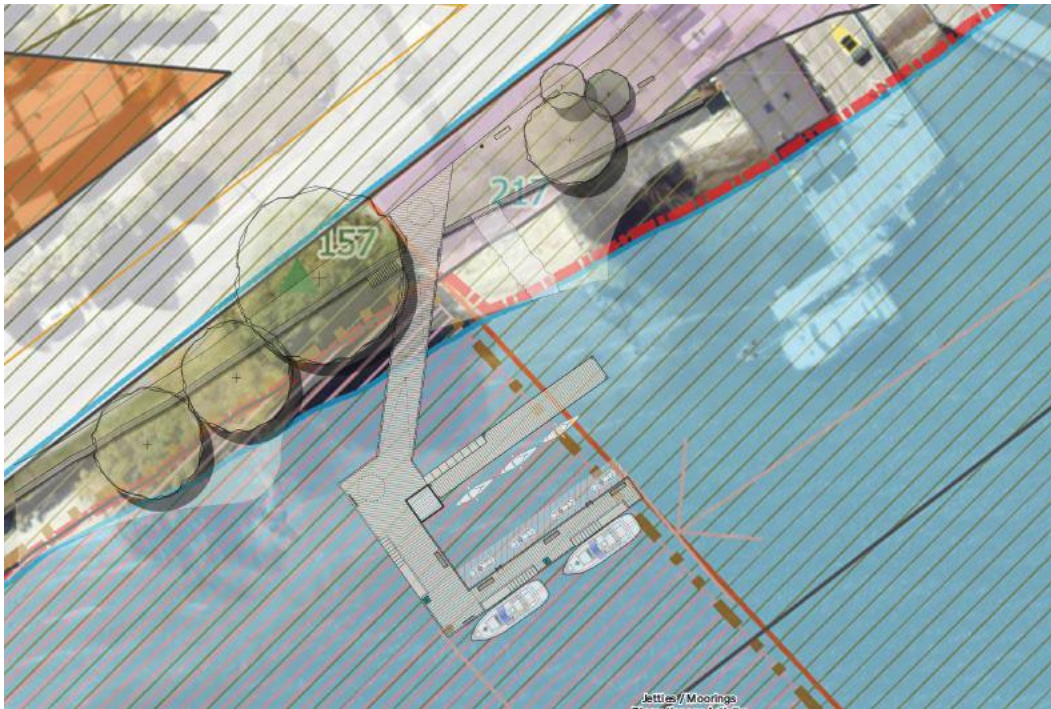
16. The consent authority may in accordance with sections 128 and 129 of the Resource Management Act 1991 serve notice on the consent holder of its intention to review the conditions of this consent within three months of each anniversary of the date of this consent for the following purposes:

- (a) To deal with any adverse effects on the environment which may arise from the exercise of this consent and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the consent, or
- (b) To adopt the best practicable option to remove or reduce any adverse effect on the environment, or
- (c) To ensure the conditions of this consent are consistent with any National Environmental Standards.

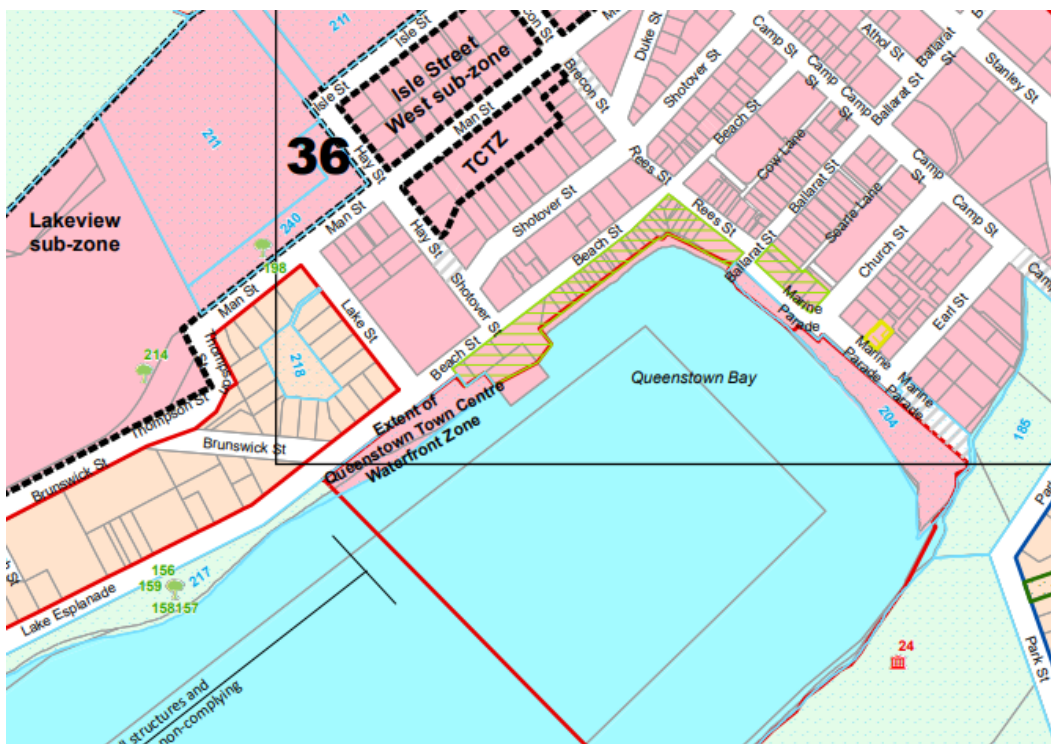
Notes to Consent Holder

1. *The consent holder shall also comply with all notices and guidelines issued by Biosecurity New Zealand, in relation to avoiding spreading the pest organism *Didymosphenia geminata* known as “Didymo” (refer to www.biosecurity.govt.nz/didymo).*
2. *The consent holder shall ensure that any contractors engaged to undertake work authorised by this consent abide by the conditions of this consent. A copy of this consent should be present on site at all times while the work is being undertaken.*
3. *The removal of pest plants is permitted providing the requirements of Rules 13.5.1.5 and 13.7.1.1 of the Regional Plan: Water for Otago can be met.*

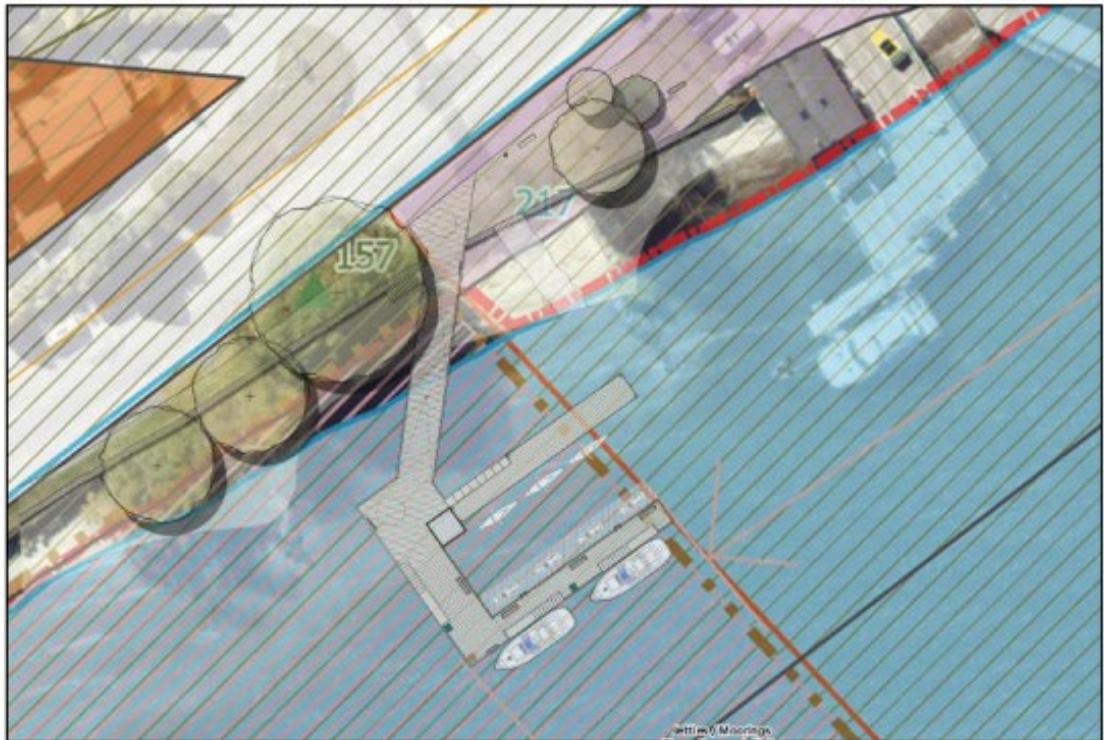
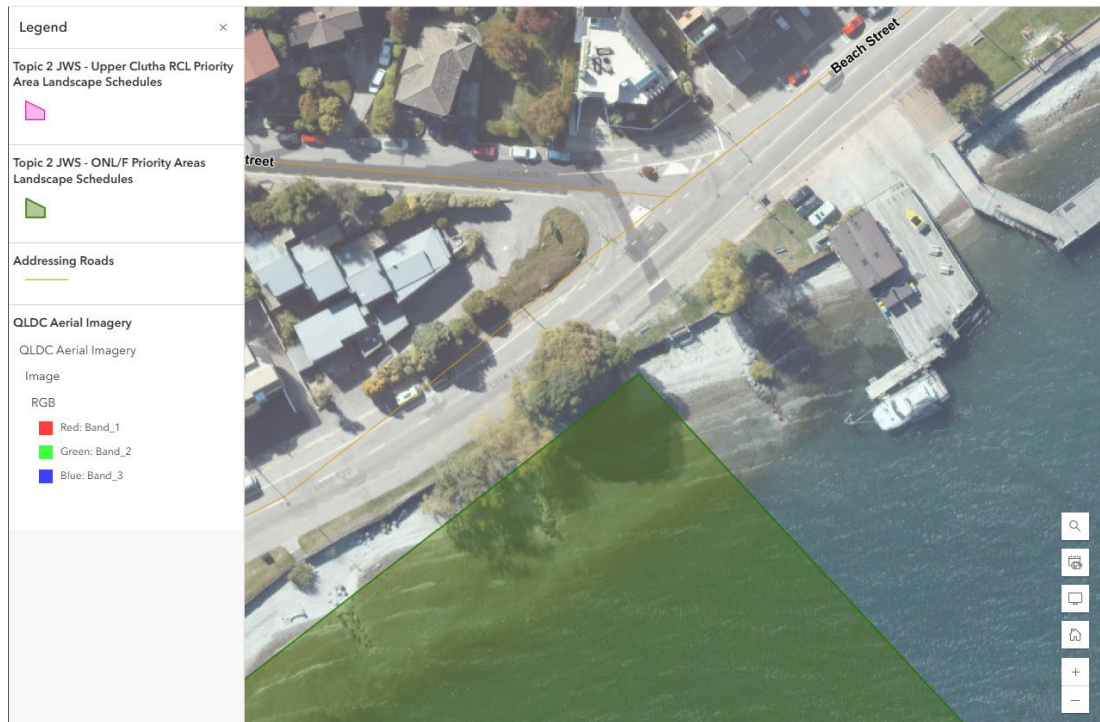
Annexure 2: Location and site of the proposed wharf (Mr Devlin's Figure 3)



Location of site and related zoning (from QLDC's s42A Report on the original proposal)



Annexure 3: Figures 2 and 3 from Ms Enright's planning evidence-in-chief



**Annexure 4: Spatial extent of Queenstown Bay and Environs Priority Area
(Mr Espie's Figure 1)**



Annexure 5: Zones of activity status relevant to this decision (Mr Devlin's Figure 6)



ATTACHMENT [C] – DRAFT CONSENT CONDITIONS

Evidence of Blair Devlin

Decision One: QLDC Land Use Consent

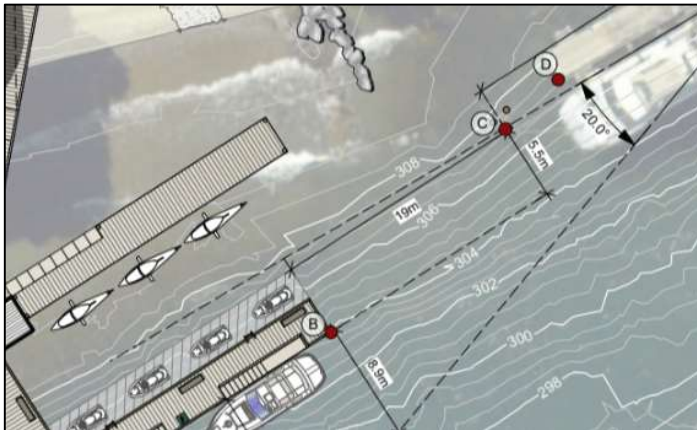
General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - Plans prepared by Rough Milne Mitchell Landscape Architects (RMM), all dated **31 January 2025** entitled:
 - Te Arawai – Wharf Location plan Sheet 03
 - Te Arawai – Cultural Narrative Sheet 06 and 07
 - Te Arawai – Material Palette and Sculpture Sheet 08
 - Te Arawai – Wharf Design Overview – 1:400 Plan Sheet 11
 - Te Arawai – Wharf Design – 1:200 Plan Sheet 12
 - Te Arawai – Design integration of Cultural Features Sheet 13
 - Te Arawai – Wharf Elevations Sheet 14
 - Te Arawai – Wharf Elevations Sheet 15
 - Te Arawai– Kiosk Elevations (North and West) Sheet 16
 - Te Arawai– Kiosk Elevations (South and East) Sheet 17
 - Te Arawai – Planting Plan Sheet 18
 - Te Arawai – Grass Berm Setout Plan Sheet 19
 - Te Arawai – Design Constraints Plan Sheet 22

stamped as approved on date 2025

and the application as submitted, with the exception of the amendments required by the following conditions of consent.

- 1A. For the avoidance of doubt, the coordinates for the eastern extent of the new wharf (labelled Point B in the image below) taken from the RMM Te Arawai Design Constraints Plan Sheet 22 listed in Condition 1 above shall be:



Point B coordinates:

810884.40mN 420280.97mE

2. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.

3. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991.
4. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 8 October 2020 and subsequent amendments to that document up to the date of issue of any resource consent.

Advice Note: The current standards are available on Council's website via the following link: <https://www.qldc.govt.nz>.

Works within the Reserve

5. The final design of the boardwalk within the reserve is to be submitted to QLDC Parks for consideration and certification prior to construction. The design shall:
 - Be flush with the ground as far as practicable/ not present a tripping hazard for users of the reserve;
 - Not contain any balustrading that could impede pedestrian connectivity.
 - Not contain structures or ground cover within the dripline of existing trees except for the steps down to the beach located adjacent to the gabion wall.
 - Detail the ground cover proposed within the reserve and its construction methodology (noting that it should be removable and constructed in a material that reflects the surrounding reserve and street development).
6. Excavation for the steps down to the beach adjacent to the gabion wall (that are within the drip line of the tree) shall be undertaken under the supervision and direction of a suitably qualified and experienced arborist. In the event that any other excavation needs to be undertaken within the root zone of the protected Tilia tree, all works shall cease, and the consent holder shall immediately engage the services of a suitably qualified and experienced arborist, who is experienced in site development activities in close proximity to mature trees, to provide a written assessment of the proposed work. The consent holder's arborist shall provide a copy of this assessment to the Team Leader Monitoring for consideration and comment. No further excavation work may proceed within the area in question until approval has been provided by the Team Leader Monitoring. A further consent may be required for the work.
7. Prior to construction of the wharf commencing, a tree protection fence of sturdy construction shall be erected from the outside edge of the canopy spread of the Tilia Tree in the recreation reserve adjacent to the application site. The fence shall accord with the minimum requirements in the industry best practice publication titled A Guideline for Tree Protection Fencing on Development Sites published by the New Zealand Arboricultural Association dated April 2011. The fence shall be erected prior to the commencement of any work on the site, including site earth works and shall remain in place until the completion of all works on the site.

The purpose of the fence is to protect the trees from the effects of construction works on the site. No work shall be carried out within the protected area (other than the excavations for the steps down to the beach under Condition 6) and no building or fill materials shall be stored or placed within the protected area, either on a temporary or permanent basis.

Advice notes:

A high visibility mesh fence which is not resistant to impact and is easily breached will not generally be an appropriate means of complying with this condition.

No machinery is to be driven, or construction and equipment material stored on the open ground around the trees.

- 7A. All planting within St Omer Reserve as shown on the approved landscape plan in Condition 1 shall be in locally eco-sourced native species.

- 7B. All planting shown on the approved landscape plan in Condition 1 shall be in place prior to the use of the wharf commencing and shall thereafter be maintained by the consent holder. Should any plant die or become diseased, it shall be replaced with the same or similar native species within the next growing season (Autumn or Spring).
- 7C The consent holder shall act as kaitiaki / guardian and custodian of the planting and foreshore area around the wharf, and ensure the area is kept clear of litter on a regular basis (at least weekly). The area of guardianship shall be between the St Omer Wharf to the east and the stone steps to the west.

Construction Activities

8. Prior to commencement of construction activities, the final Construction Management Plan (CMP) shall be submitted to and certified by the Team Leader Monitoring. The CMP must specify the following:
- a) A construction timetable. This shall incorporate the following limitations:
 - o limiting construction of the wharf piers to May, June and July; and
 - o ensuring that none of the following works are implemented during any summer season between 20 December and the following 20 February:
 - Any retaining along the lake edge;
 - any dredging or excavation of the lakebed;
 - on site fabrication of any concrete components of the wharf
 - any earthworks and/or vehicle movements in respect of the above);
 - b) A construction methodology;
 - c) In combination with the Environmental Management Plan required under Condition 17, and the Traffic Management Plan required under Condition 28, the CMP shall include or incorporate general site management matters, including details of:
 - i. Site access, including methods to clearly delineate all entry and exit points to the site.
 - ii. the extent of the construction lay down area, which shall be limited to the area of reserve between the Protected Tilia tree and the group of trees located to the east located near the rock groyne.
 - iii. how pedestrian access will be maintained along the southern side of Beach Street, or if restricted, how a temporary pedestrian crossing will be utilised
 - iv. how any 'hot works' on site will be managed to cease when the refuelling wharf is in use.
 - v. the bunding or containment of fuels and lubricants to prevent the discharge of contaminants
 - vi. maintenance of machinery and plant to minimise the potential for leakage of fuels and lubricants
 - vii. methods to minimise siltation and discolouration of the lake during works
 - viii. methods to maintain public access along the reserve as far as practicable while the activities are being carried out
 - ix. methods to ensure compliance with noise standards
 - x. a spill contingency plan in the event that there is any discharge of contaminants to the lake
 - xi. site reinstatement upon completion of the activities
 - xii. Measures to control and/or mitigate the effects of any dust, silt runoff and sedimentation that may occur during construction and in particular to ensure that no such material enters the waters of the lake, either directly or indirectly.
 - xiii. Measures to ensure that any disturbance of the lake bed is limited to the extent required to undertake the works.
 - xiv. Measures to ensure the protected Tilia tree is not adversely affected (see Conditions 6 and 7) above.
 - xv. A requirement to set up or join a VHF communication channel between the barge construction team and Queenstown Bay commercial boat operators

14. Aukaha shall be provided with opportunity to review and provide feedback on CMP prior to construction commencing. This feedback shall be provided by the consent holder to Council with the final CMP.
15. No construction activity shall commence until the CMP is certified by the Council and all measures identified in that plan as needing to be in place prior to the start of works are in place.
16. All works shall comply with the certified CMP at all times. All personnel working on the site shall be made aware of the requirements contained in the CMP. A copy of the certified CMP shall be held on site at all times while any activity associated with construction is occurring.

Environmental Management Plan (Medium Risk Site)

To be completed prior to the commencement of any works on-site:

17. At least 15 working days prior to any works commencing on site the Consent Holder shall submit **the finalised** Environmental Management Plan (EMP) to Council's Team Leader – Monitoring for review and acceptance **HOLD POINT 1**. This document must be prepared by a Suitably Qualified and Experienced Person. The EMP shall be in accordance with the principles and requirements of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans* and specifically shall address the following environmental elements as specified in the guidelines:

a) Administrative Requirements

- (i) Weekly site inspections
- (ii) Notification and management of environmental incidents
- (iii) Records and registers
- (iv) Environmental roles and responsibilities of personnel (including nomination of Principal Contractor)
- (v) Site induction

b) Operational Requirements

- (i) Erosion and sedimentation (including Erosion and Sediment Control Plan) to be prepared by a Suitably Qualified and Experienced Person)
- (ii) Water quality
- (iii) Cultural heritage
- (iv) Chemical and fuel management
- (v) Waste management

The EMP (and any sub-plans e.g. ESCP described below) shall also be consistent with any recommendations outlined in the Arborist report and associated conditions (see Conditions **6 and 7**).

18. Prior to ground-disturbing activities on the initial stage of works or any subsequent new stage of works, the Consent Holder shall engage an Appropriately Qualified Person to prepare and submit an Erosion and Sediment Control Plan (ESCP) to Council's Team Leader – Monitoring for review and acceptance. This plan shall be a sub-plan of the overarching EMP and must be prepared in accordance with the requirements outlined on pages 13 – 18 in *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*. These plans must be updated when:
 - a) The construction program moves from one Stage to another; or
 - b) Any significant changes have been made to the construction methodology since the original plan was accepted for that Stage; or
 - c) There has been an Environmental Incident and investigations have found that the management measures are inadequate.

19. Prior to commencing ground-disturbing activities, the Consent Holder shall nominate an Environmental Representative for the works program in accordance with the requirements detailed on pages 9 and 10 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.
20. Prior to commencing ground disturbing activities, the Consent Holder shall ensure that all staff (including all sub-contractors) involved in, or supervising, works onsite have attended an Environmental Site Induction in accordance with the requirements detailed on page 8 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.

During construction:

21. All works shall be undertaken in accordance with the most current version of the EMP as accepted as suitable by Council.
22. The EMP shall be accessible on site at all times during work under this consent.
23. The Consent Holder shall establish and implement document version control. Council shall be provided with an electronic copy of the most current and complete version of the EMP at all times.
24. The Consent Holder shall develop and document a process of periodically reviewing the EMP as outlined on page 6 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*. No ground disturbing activities shall commence in any subsequent stage of development until an EMP has been submitted and deemed suitable by Council's Team Leader – Monitoring.
25. In accordance with page 9 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*, where any Environmental Incident where the EMP has failed leading to any adverse environmental effects offsite occurs the Consent Holder shall:
 - a) Report to QLDC details of any Environmental Incident within 12 hours of becoming aware of the incident.
 - b) Provide an Environmental Incident Report to QLDC within 10 working days of the incident occurring as per the requirements outlined on page 9 of *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.
26. Environmental records are to be collated onsite and shall be made available to QLDC upon request; immediately if the request is made by a QLDC official onsite and within 24 hours if requested by a QLDC officer offsite. Records and registers to be managed onsite shall be in accordance with the requirements outlined on page 14 of the *Queenstown Lakes District Council's Guidelines for Environmental Management Plans*.

Accidental Discovery Protocol

27. If the consent holder:
 - a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder shall without delay:
 - (i) notify Council, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
 - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate rūnanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a

thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation. Site work shall recommence following consultation with Council, Heritage New Zealand Pouhere Taonga, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) does not have an archaeological authority from Heritage New Zealand Pouhere Taonga *and* discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
 - (i) stop work within the immediate vicinity of the discovery or disturbance and;
 - (ii) advise Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014 and;
 - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may only recommence following consultation with Council.

Construction Traffic Management Plan

- 28. The consent holder shall obtain and implement a construction traffic management plan, approved by Council prior to undertaking any works within or adjacent to Council's road reserve that may affect the normal operating conditions of the road reserve through disruption, inconvenience or delay. The Traffic Management Plan shall be prepared by a certified Temporary Traffic Management Planner (TTMP) as validated on their CoPTTM ID certification. All contractors obligated to implement temporary traffic management plans shall employ a qualified Site Traffic Management Supervisor (STMS) to manage the site in accordance with the requirements of the NZTA's "*Traffic Control Devices Manual Part 8: Code of practice for temporary traffic management*". The STMS shall implement the Traffic Management Plan. A copy of the approved plan shall be submitted to the Manager of Resource Management Engineering at Council prior to works commencing.

Engineering Review and Acceptance

- 29. Prior to commencing works on the site, the consent holder shall obtain 'Engineering Review and Acceptance' from the Queenstown Lakes District Council for development works to be undertaken and information requirements specified below. The application shall include all development items listed below unless a 'partial' review has been approved in writing by the Manager of Resource Management Engineering at Council for review prior to acceptance being issued. At Council's Discretion, specific designs may be subject to a Peer Review, organised by the Council at the applicant's cost. The 'Engineering Review and Acceptance' application(s) shall include copies of all specifications, calculations, design plans and Schedule 1A design certificates as is considered by Council to be both necessary and adequate, in accordance with Condition 1 to detail the following requirements:
 - a) The provision of lighting in accordance with Council's road lighting policies standards, including the *Southern Light* lighting strategy. Any lighting installed shall be privately maintained and all operating costs shall be the responsibility of the Consent Holder and shall be isolated from the Council's lighting network circuits.
- 30. Prior to commercial use of the wharf, the consent holder shall complete the following:
 - The completion and implementation of all reviewed and accepted works detailed in Condition 29 above.

- The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

Lighting and Street Furniture

31. In addition to Condition 29, above, any fixed exterior lighting shall be low level and directed away from adjacent sites and shall be in compliance with District Plan Standards. No above head 'street lights' shall be used.
32. Proposed lighting and street furniture shall be in accordance with the Queenstown Centre Public Realm Design Guidelines, and shall be submitted to, and approved by QLDC Parks and Urban Design teams prior to implementation.

Final Design, Colours and Materials

33. The colours and materials of the wharf and kiosk building shall as far as practicable, be visually recessive. The exterior materials shall be coloured in the range of browns, greens and greys (except soffits). Pre-painted steel and all roofs shall have a light reflectance value (LRV) not greater than 20% and other surface finishes with the exception of schist shall have a LRV not greater than 30%. The final colours and materials shall be submitted to the Team Leader Monitoring for review and certification prior to construction commencing.
34. The balustrade style for the wharf shall replicate that of the balustrade on O'Regan's Wharf.

Notice of work commencing

35. The Team Leader Monitoring and Harbourmaster shall be notified in writing at least ten (10) working days prior to construction activity commencing on the site.

Hours of Operation – Construction

36. Hours of operation for construction activities shall be:

- Monday to Saturday (inclusive): 8.00am to 5.00pm.
- Sundays and Public Holidays: No Activity

In addition, no heavy vehicles are to enter or exit the site, and no machinery shall start up or operate earlier than 8.00am. All activity on the site is to cease by 6.00pm. Security / safety lighting may be utilised at any time.

Signs

37. No signs shall be erected on any of the structures on the lake or beach portions of the site, including balustrades (with the exception of any necessary safety notices and 'Signs 1, 2 and 3 shown on the plan 'Te Arawai– Kiosk Elevations' referenced in Condition (1)).
38. The consent holder shall put in place measures, including but not limited to signage on the east end of the outer wharf, to ensure any vessel berthed at the eastern end of the outer wharf leaves at least 2m between the end of the vessel, and the east end of the wharf.
- 38A. Details of colours and layout of the signage to go within the signage platforms on the kiosk shall be submitted to QLDC for certification.

Safety Operations Plan

39. The following measures shall be added to the safety operations plans for activities operating from the wharf:

- Vessels must transit from the 5-knot zone into the access lane at 90 degrees to the access lane boundary, to allow the vessel Skipper clear visibility of any exiting vessels already exiting the bay.
- Vessels exiting the 5 knot Zone must not impede the passage of any vessel using the access lane for the purposed for which it has been declared.
- The skipper must not increase speed above 5 knots until well clear of the 5 knot boundary and have completed their turn to exit the bay.
- For the jet ski tours approved under RM170947, a radio check-in call shall be made with other vessels prior to the departure of a jet ski tour group.

Evidence that these measures have been added to the safety operations plans shall be provided to the Team Leader Monitoring prior to activities commencing operations from the wharf.

Public Access

40. Permanent public access at all times shall be maintained in respect of the wharf structure.

Operation of the Wharf

- 41 Any vessel tying up at the outer most berth shall ensure it is moored to the wharf to allow a 2m clearance from the eastern most extent of the wharf.

Review

42. Within six months of the date of this decision; and/or upon the receipt of information identifying non-compliance with the conditions of this consent, and/or within ten working days of each anniversary of the date of this decision, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
- a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
 - b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
 - c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.

Advice Notes

- a) This site may contain archaeological material. Under the Heritage New Zealand Pouhere Taonga Act 2014, the permission of the Heritage New Zealand Pouhere Taonga must be sought prior to the modification, damage or destruction of any archaeological site, whether the site is unrecorded or has been previously recorded. An archaeological site is described in the Act as a place associated with pre-1900 human activity, which may provide evidence relating to the history of New Zealand. These provisions apply regardless of whether a resource consent or building consent has been granted by Council. Should archaeological material be discovered during site works, any work affecting the material must cease and the Heritage New Zealand Pouhere Taonga must be contacted (Dunedin office phone 03 477 9871).

QLDC Decision Two on Resource Consent Pursuant to Section 127 and 104 of the RMA

Consent is granted for changes to Condition 1 and 7 of RM170947, and Condition 1 of RM130071, such that these conditions are changed to read as follows (deletion in strike through, additions in bold underline).

RM170947:

Condition 1

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

- ~~‘Jet Ski Tours Queenstown Operating Area Map’~~ **‘Qtn Bay Entry & Exit’**

stamped as approved on ~~12 December 2017~~ **[insert date]** and the application as submitted, with the exception of the amendments required by the following conditions of consent. **and the revised entry and exit points approved via Resource Consent RM200053.**

Condition 7

7. The activities subject to this consent shall be confined to Lake Wakatipu. The operator shall at all times maintain a distance of at least 100m from the Lake shore, except when transiting in and out of Queenstown Bay or when moving through the transit only/no play zone as shown on the plan titled ~~“Jet Ski Tours Queenstown Operative Area Map”~~ **‘Qtn Bay Entry & Exit’**.

RM130071

Condition 1

1. That the development must be undertaken/carried out in accordance with the application as submitted and all additional documentation, with the exception of the amendments required by the following conditions of consent: **and the revised entry and exit points, as per map, reference ‘Qtn Bay Entry & Exit’ approved via Resource Consent RM200053, stamped as approved on [insert date].**

Advice Notes:

- All other conditions of RM170947 and RM130071 shall continue to apply.

ORC CONSENT

Consent No. RM200053

LAND USE CONSENT

Pursuant to Section 104B of the Resource Management Act 1991, the Queenstown Lakes District Council (under delegated authority of the Otago Regional Council) grants consent to:

Name: Hydro Attack Limited

Address: Queenstown Bay, Lake Wakatipu and St Omer Park

To disturb, and place structures on, over or under the bed of Lake Wakatipu/Whakatipu-wai-māori for the purpose of constructing a wharf

For a term expiring (5 years from grant)

Location of consent activity: Lake Wakatipu/Whakātipu-wai-māori, approximately 40 metres south the intersection of Lake Esplanade and Brunswick Street, Queenstown

Legal description of consent location: Section 2 Block XVII Town of Queenstown contained in Record of Title OTB1/226

Mid-Point Map
Reference: NZTM 2000 Exxxxxxx Nxxxxxxx

Conditions

Specific

1. The works shall be:
 - (a) Undertaken as described in the application for consent lodged with the consent authority under reference RM200053 and in the evidence presented at the Environment Court hearing; and
 - (b) In general accordance with the plans attached to this consent as amended with respect to buildings by the Queenstown Lakes District Council Land Use Consent RM200053.

If there are any inconsistencies between the application and this consent, the conditions of this consent shall prevail.

2. Earthworks shall, as far as practicable, be undertaken when lake levels in Lake Wakatipu/Whakātipu-wai-māori are low.
3. The consent holder shall ensure that no fish become stranded, and fish passage is not impeded as a result of the works authorised by this consent.
4. Prior to commencement of construction activities, a Freshwater Ecological Impact Assessment (FEIA) shall be undertaken by a suitably qualified freshwater ecologist within the wharf footprint. The FEIA shall identify the presence/absence of Threatened or At-Risk species and any

potential impacts on the ecology of the area. If Threatened or At-Risk species such as kākahi, *Echyridella menziesii*, *Isoete kirkii* macrophyte, and/or fish are identified within the areas to be disturbed via piling and construction, then avoidance and mitigation strategies should be identified and implemented.

Advice Note:

Potential mitigation required could include (but not be limited to):

- *relocation of any observed freshwater mussels to an appropriate habitat nearby,*
- *construction avoidance of fish spawning times,*
- *limiting benthic disturbance to pile diameter only to reduce impact on macroinvertebrate and macrophyte communities.*

5. Works authorised by this consent, shall not cause any flooding, erosion, scouring, land instability or property damage, or adversely affect water levels of Lake Wakatipu/Whakātipu-wai-māori. Should such effects occur the consent holder shall remedy any such damage.
6. (a) Works resulting authorised by this consent shall only occur during the hours of 8:00 am to 5.00 pm, Monday to Saturday. Works shall not be undertaken on Sundays or Public Holidays.
- (b) None of the following construction works shall be implemented during any summer season between 20 December and the following 20 February:
 - (i) Any retaining along the lake edge;
 - (ii) Any dredging or excavation of the lakebed;
 - (iv) On site fabrication of any concrete components of the wharf.
 - (v) Any earthworks and/or vehicle movements in respect of (i)-(iv) above.
8. The consent holder shall ensure that fuel storage tanks and machinery working and stored in the construction area shall be maintained at all times to prevent leakage of oil and other contaminants into Lake Wakatipu/Whakātipu-wai-māori. No refuelling of machinery shall occur within any water body. In the event of contamination, the consent holder shall undertake remedial action and notify the consent authority within 5 working days.

Performance Monitoring

9. The consent holder shall notify the consent authority in writing at least five working days prior to the commencement of work authorised by this consent, and at the completion of work authorised by this consent.
10. The consent holder shall supply "As built" plans and photographs of the wharf and appurtenant structures to the consent authority within three months of completion of the works.
11. Prior to works commencing, the consent holder shall submit a Freshwater Pest Management Plan to the consent authority for its approval. The objective of the plan is to ensure the best practice measures are adopted to monitor for and eradicate any aquatic pest plant outbreak within the entire footprint of the wharf works within Lake Wakatipu/Whakātipu-wai-māori during construction. The plan shall include a pre-construction site survey and at least the following elements:
 - (a) The procedures (including timing and methods) for regular monitoring of the lake area within the footprint of the wharf works, to be carried out by an appropriately qualified person/s.
 - (b) The freshwater plant pests to be monitored for and what action is to be taken if they are detected.

- (c) Procedures for notification of, and liaison with, agencies with biosecurity responsibilities in the event of any outbreak being detected, including Otago Regional Council and Land Information NZ.
 - (d) Methods to remove pest plants and procedures for ongoing monitoring to ensure eradication has occurred.
 - (e) Reporting procedures to both the QLDC and ORC.
12. Prior to works commencing the consent holder shall submit a Lakeshore Erosion Management Plan to the consent authority. The plan shall include, but not be limited to:
- (a) Provision for regular inspections and surveys of the lake shore at, and adjoining the wharf site by suitably qualified person/s;
 - (b) Methods to record any lake shore erosion as a result of the exercise of this consent, including surveys, photographs and aerial photography;
 - (c) Methods to remedy any erosion or scour as a result of the exercise of this consent.
 - (d) Reporting procedures to both the QLDC and ORC.
13. All machinery and equipment to be used within any water body or its margins shall be water blasted, treated and dried with suitable decontamination chemicals or agents prior to being brought on site and following completion of the works, to reduce the potential for aquatic pest plant species being introduced to or taken from the watercourses, such as lagarosiphon and didymo. At no time during the exercise of this consent shall machinery be washed within the bed of a watercourse or where runoff could enter a water body. Following the measures contained in the national pest control agencies machine hygiene standard, dated June 2013 is a suitable means of compliance.
14. (a) Work shall be undertaken with the minimum time required in the bed of Lake Wakatipu/Whakātipu-wai-māori and with the minimum necessary disturbance;
- (c) The consent holder shall ensure that sediment control measures as required by land use consent RM200053 are in place prior to and during construction and that all practical steps are taken to prevent contamination or natural runoff by sediments during construction.
- (d) During construction the consent holder shall minimise discolouration and siltation of Lake Wakatipu/Whakātipu-wai-māori and shall ensure that no contaminants, including fuel, oil, cement or cement products, enter water. In the event of contamination, the consent holder shall instigate remedial action and shall notify the consent authority as soon as practical and within 24 hours of the event.
- (e) Machinery shall be maintained at all times to prevent leakage of fuel or oil into water.
- (f) Vehicles and machinery shall, as far as practicable, operate outside of water. If machinery needs to enter or operate within water, it is to be for the minimum amount of time required to complete the works. No refuelling or storage of plant or materials shall occur within the lake;
- (g) The pouring of concrete shall not be undertaken in water, nor within 20m of the water;
- (h) Any disturbed areas of lake or river bank or sections of bank that have been cut to allow access for machinery, shall be reinstated
- (i) Any equipment used for wet concrete shall not be washed out within Lake Wakatipu or any adjacent area where runoff could enter a water body.

- (j) At the completion of the works authorised by this consent, the consent holder shall ensure that all plant, equipment, chemicals, fencing, signage, debris, rubbish and any other material brought on site is removed from the site. The site shall be tidied to a standard at least equivalent to that prior to the works commencing.

15. If the consent holder:

- (a) Discovers koiwi tangata (human skeletal remains), or Maori artefact material, the consent holder shall without delay:
 - (i) Notify the consent authority, Tangata whenua and Heritage New Zealand Pouhere Taonga, and in the case of skeletal remains, the New Zealand Police.
 - (ii) Stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate rūnanga and their advisors, who shall determine whether the discovery is likely to be extensive; if a thorough site investigation is required and whether an Archaeological Authority is required.
 - (iii) Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation.

Site work shall recommence only following consultation with the consent authority, Tangata whenua, and Heritage New Zealand Pouhere Taonga, and in the case of skeletal remains, the NZ Police, provided that any relevant statutory permissions have been obtained.

- (b) Discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
 - (i) Stop work within the immediate vicinity of the discovery or disturbance; and
 - (ii) Advise Heritage New Zealand Pouhere Taonga, and in the case of Maori features or materials, the Tangata whenua, and if required, shall make an application for an Archaeological Authority pursuant to the Heritage New Zealand Pouhere Taonga Act 2014; and
 - (iii) Arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work shall only recommence following consultation with the consent authority.

Review

16. The consent authority may in accordance with sections 128 and 129 of the Resource Management Act 1991 serve notice on the consent holder of its intention to review the conditions of this consent within three months of each anniversary of the date of this consent for the following purposes:

- (a) To deal with any adverse effects on the environment which may arise from the exercise of this consent and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the consent, or
- (b) To adopt the best practicable option to remove or reduce any adverse effect on the environment, or
- (c) To ensure the conditions of this consent are consistent with any National Environmental Standards.

Notes to Consent Holder

1. *The consent holder shall also comply with all notices and guidelines issued by Biosecurity New Zealand, in relation to avoiding spreading the pest organism *Didymosphenia geminata* known as “Didymo” (refer to www.biosecurity.govt.nz/didymo).*
2. *The consent holder shall ensure that any contractors engaged to undertake work authorised by this consent abide by the conditions of this consent. A copy of this consent should be present on site at all times while the work is being undertaken.*
3. *The removal of pest plants is permitted providing the requirements of Rules 13.5.1.5 and 13.7.1.1 of the Regional Plan: Water for Otago can be met.*

MalcolmHuntAssociates



First floor, Arco House, 47 Cuba Street, PO Box 11-294, Wellington
Telephone 04 472 5689 Fax 04 473 0456

mha@noise.co.nz www.noise.co.nz

Date of Issue:	1 May 2015
Client Name:	Lodelo Limited Trading As 
Project Reference:	V2
Name of File:	Y:\Q to Z\WATERCRAFT\Sea Breachers Hydro Attack Queenstown\Variation to Consent 2015\MHA Muffler Design - Opinion - Hydro Attack - Final.docx
Document version:	Final
MHA Reference:	074-11254540/02/15-F
Document Issue to:	Hydro Attack Queenstown
Client Contact:	Hydro Attack Directors

Re: Opinion: Seabreacher® Model X Muffler Modification

1 Background

Lodelo Ltd has been granted Resource Consent by Queenstown Lakes District Council [QLDC] to establish and operate a commercial boating activity on Lake Wakatipu. The granted Resource Consent [RM130071] allows the Consent Holder to operate a vessel to carry a maximum of two passengers [including staff] between the hours of 8.00am to 8.00pm seven days a week. Historic testing conducted by MHA showed that measured sound levels from the tested two person Seabreacher® Model X recorded an average sound level of L_{ASmax} **74 dB** when tested in accordance with the requirements of QLDC District Plan Appendix A2. Thus field testing indicated full compliance with the QLDC District Plan permitted maximum sound limit for watercraft of L_{ASmax} 77 dB when operating between the hours of 8.00am to 8.00pm /0800hrs to 2000hrs [day time].

2 Purpose

Lodelo Limited has advised **Malcolm Hunt Associates** that they are applying for a variation to the existing Resource Consent [RM130071]. As part of the variation Malcolm Hunt Associates have been commissioned by Lodelo Limited to provide an opinion of the acoustic performance of the tested Seabreacher® Model X with a variation to the existing muffler system i.e the client has asked we provide a desk top study to estimate the potential change in sound emission levels from the tested Seabreacher® Model X with an 'auxiliary muffler system' attached. Such a system could commonly be referenced to as a secondary silencer or muffler.



3 Qualifications and Limitations

The assessment here is based only a desk top study of the acoustic screening of exhaust outlets we are therefore limited to providing an estimated noise reduction level, as opposed to actual measured field performance in-situ which are always ideal. The assessment is based on information provided by the client including sketch plans and dimensions.

The starting point for the assessment is that the extension would definitely cause a reduction in sound from the Seabreacher® Model X with the auxiliary [secondary] muffler system attached.

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4 Existing 'Primary' Exhaust System

We are advised by the Client that the current system of the Seabreacher is a Rotax engine with standard exhaust system which differs significantly from the motorcycle derivative systems employed within jet skis. The following specifications are provided regarding the existing engine and drive system;

- ✚ ROTAX 1500cc, 4 stroke engine with 260 hp supercharged, Intercooled
- ✚ Axial Flow jet pump with fully vectored thrust (up/down, left/right)
- ✚ Forward, Neutral, Reverse and closed cooling system, reliable in fresh or salt water



Photo A: Photo of Model X in situ. Reference / property of Hydro Attack©



5 Modifications to Exhaust System - The 'Secondary' Muffler

We are advised that the Client has altered the current exhaust system so far as to have added a secondary or an auxiliary tail piece. The auxiliary muffler is attached directly to the end of the existing muffler in the form of a 4mm piece of aluminium which extends 120mm to the 45 degree angle then continues down 130mm to the end with the opening pointing emission straight down. The opening, which is a curved triangular shape is 80mm across [transverse], 140mm front to back [longitudinal] and has a height of 80mm. The following photos show the side view of the extended muffler and view looking from underneath. We are advised that the muffler does not have any internal baffles within the chambers.



Photo B: Photo of secondary muffler attached to existing primary muffler. Reference / property of Hydro Attack©

The following photo indicates the Seabreacher® Model X with an 'auxiliary [secondary] muffler system' [yellow box] attached to the existing [primary] muffler [red box].



Photo C: Enlarged photo of secondary muffler attached to existing primary muffler. Reference / property of Hydro Attack©

6 Opinion

The sole purpose of any engine muffler is to reduce engine noise emissions from the vessel. Sound is a pressure wave formed from pulses of alternative high and low pressure in air and in an engine of this type sound waves are generated when exhaust valves open with high pressure gas pulsing into the exhaust system which results in the exhaust sound we hear. From testing we have conducted on the Seabreacher® Model X, exhaust noise is the dominate noise source at the District Plan assessment location of 25 metres. We also note that there is however also contribution of sound from the vessel breaking the surface or splash noise within close proximity. We estimate an 'insertion loss' of between 3 to 5 dBA [A-weighted Decibels] at a distance of 25m. The character of the sound emission must also be considered. Because mufflers may generate strong tonal components, the insertion loss of any one muffler will not be the same with different engines, different loads, or different configurations. We note good muffler design will avoid amplification of tones by using short tail pipes. We do not expect the modification has increased the tonality of the sound.

Our opinion is that with the auxiliary muffler system attached to the primary muffler an insertion loss of no more than **5 dB** could be expected. In terms a *subjective* change in the sound level, this change in level is not expected to give rise to any additional significant tonality or annoying characteristics discernible by the human ear.

We consider the additional muffler to represent a positive noise control measure.

7 Recommendations

We note there are further various minor cost effective changes that could be experimented with in order to reduce the noise from the primary muffler even further these include changing the length of the pipe through to including basic internal noise baffles within the muffler [such as solid aluminium plates with drilled holes].

Please advise if you require any further assistance.

Lindsay Hannah MASNZ. MNZEIH
Consultant

Bachelor of Building Science [BBS.]
Post Graduate Diploma Sci [Acoustics [dist]]
Master of Phil [Sc] [Acoustics] [Hons]]

Malcolm Hunt MASNZ. MNZEIH
Principal Acoustic Consultant.

Bachelor of Science [B.Sc.]
Master of Engineering[mech]
Diploma in Public Health
RSH Diploma Noise Control Engineering



From: Lee Exel
Sent: 13 Jan 2016 15:34:49 +1200
To: Melissa Jager
Subject: Fwd: Fwd: FW: RM130071 and RM150437 - operation of the seabreacher watercrafts on Lake Wakatipu
Attachments: Acoustic_Assessment_Rpt_Seabreachers_final.pdf

Hi Melissa,

I have attached what Malcom has just sent me.

Kind regards

Lee

----- Forwarded message -----

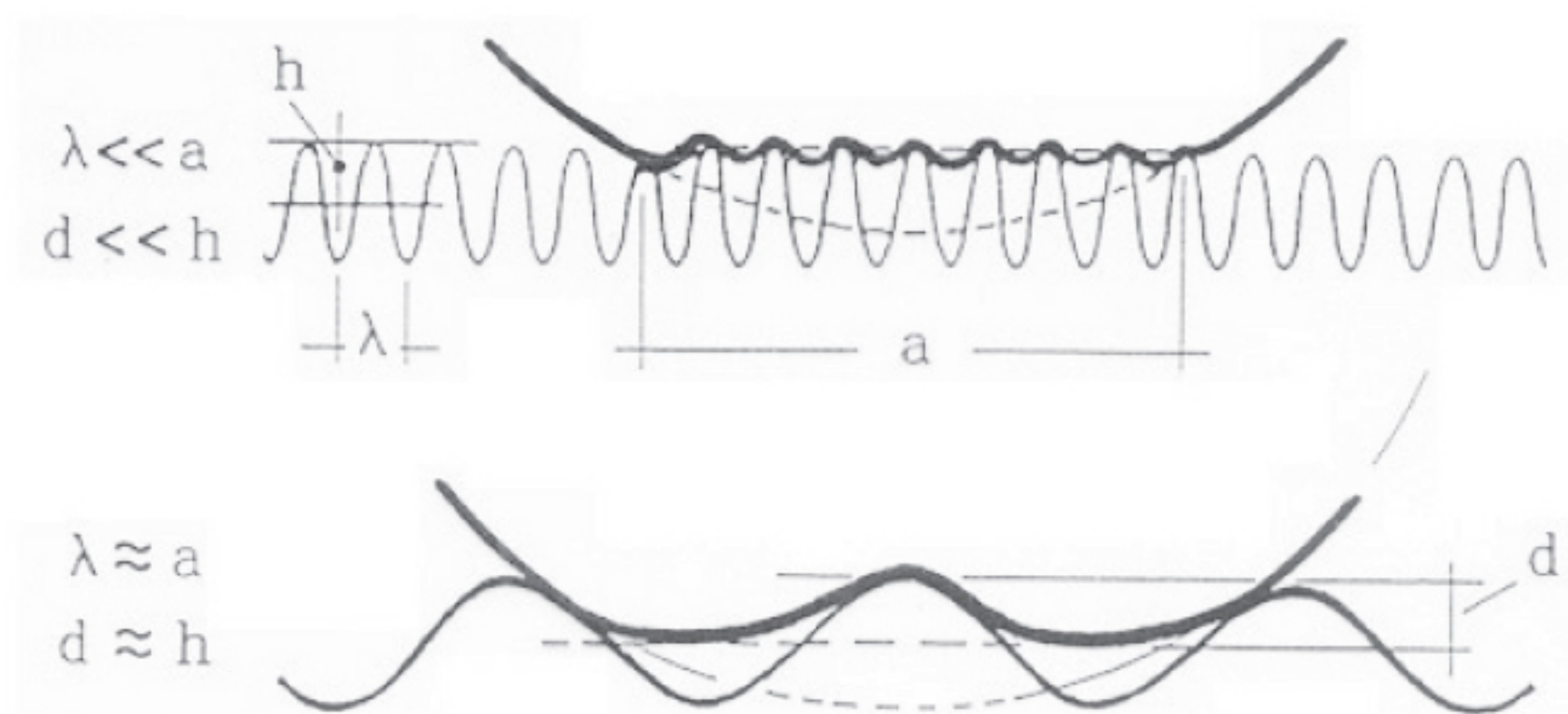
From: **Malcolm Hunt** <mha@noise.co.nz>
Date: Wed, Jan 13, 2016 at 4:24 PM
Subject: Re: Fwd: FW: RM130071 and RM150437 - operation of the seabreacher watercrafts on Lake Wakatipu
To: Lee Exel <lee@queenstown.com>

Lee,

Here is the noise monitoring report for the whole of the lake under RM130071.

As the newer consent requires all craft to operate at least 250m from shore, the levels of noise received on land from activities in the Fankton Arm would be at least 3 to 5 dB below those levels set out in the attached report.

Regards,
 Malcolm Hunt



sound weight
levels structure
band time
noise reduction

reverberation
efficient Dntw
frequency band
octave airborne
level immission
random incidence

pressure level
class ambient
assessment structure
reduction index
flow kinetic
processing

transmission
over
level
frequency

ambient active
coverage angle
abatement technique
reflections coefficient

Malcolm Hunt Associates

Noise and Environmental Consultants

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Acoustic Assessment Report

Seabreacher® Model X



Prepared BY:

MalcolmHuntAssociates

noise and environmental consultants

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Telephone 04 472 5689 Fax 04 473 0456

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Prepared FOR:


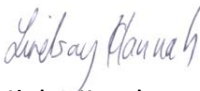



Acoustic Assessment Report Seabreacher® Model X

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Quality Control Statement

Date of Issue:	16 December 2013
Prepared For:	Lodelo Ltd Trading As 
Project	FB-dr10116-fin
Name of File:	\\Servermha\working documents\Q to Z\WATERCRAFT\Sea Breachers Queenstown\Reports\AEE Compliance Rpt\Acoustic_Assessment_Rpt_Seabreachers_final.doc
Document	3
Document	FINAL
Document	Lindsay Hannah and Malcolm Hunt
Document Prepared by:	<div>  Lindsay Hannah. MNZAS. MNZEIH Consultant <u>Professional Qualifications:</u> Bachelor of Building Science [BBSc.] Post Graduate Diploma Sc [Acoustics /Environmental Health [dist]]. Master of Phil [Sc] [Acoustics] [dist]]. </div> <div>  Malcolm Hunt. MNZAS. MNZEIH Principal Acoustic Consultant <u>Professional Qualifications:</u> Bachelor of Science [B.Sc.] Master of Engineering[mechanical] Diploma in Public Health RSH Diploma Noise Control Engineering. </div>

Important Notice

The information contained in this report has been produced for our client, solely purpose for which it has been prepared. Results are specific to the watercraft model and hull number tested and should not be applied to any other models of watercraft with a different hull number unless the craft is precisely the same in noise output. No party may reproduce, store or use the concepts and information contained within this report without the written permission of Malcolm Hunt Associates. Any unauthorised use of this document in whole or part constitutes an infringement of copyright. Any reproduction for which written permission has been obtained shall be in full. This report shall not be used for any other activity or sites. Copyright 2013. All rights reserved.



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Acoustic Assessment Report

Seabreacher® Model X

Glossary of Noise Terms

dB[A]

A weighted Decibel. A measurement of sound which has its frequency characteristics modified by a filter [A-weighted] so as to more closely approximate the frequency bias of the human ear.

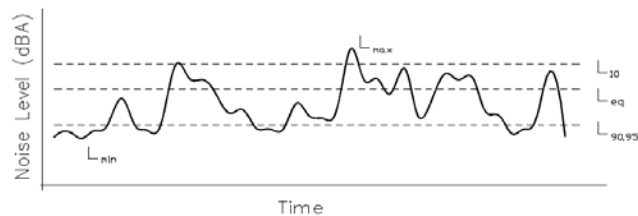
L_{max} or L_{max}

The single highest sampled level of sound. Used in night time emission limits as a means of ensuring sleep protection.

L_{eq} or L_{eq}

The time-averaged sound level [or equivalent sound level] that has the same mean square sound pressure level as the time-varying sound level under consideration. Commonly referred to as an “energy average” measure of sound exposure.

L_x as function of Time



NZS 6801:1991

NZ Standard ‘Measurement of Environmental Noise’

NZS 6802:1991

NZ Standard ‘Assessment of Environmental Noise’

Sound Power

Sound Power Level. The ‘energy’ created by a sound is defined as its sound power. The ear cannot hear sound power nor can it be measured directly. Sound power is not dependent upon its surrounding environment. Sound power is the rate per unit time at which airborne sound energy is radiated by a source. It is expressed in watts [W]. Sound power level or acoustic power level is a logarithmic measure of the sound power in comparison to the reference level of 1 pW [picowatt]. The sound power level is given the letter L_w or SWL, it is not the same thing as sound pressure [L_p]. Any L_p value is dependent of the distance from the noise source and the environment in which it was measured. L_w values are preferred for noise prediction purposed as their value is independent of distance or environment. There are recognised formulas for converting L_w to L_p. A-weighted sound power levels are usually denoted L_{WA} [dB] or sometimes L_w [dBA] or SWL [dBA].

Sound Pressure

Sound Pressure Level is defined as varying pressure fluctuations caused by sound waves. The ear converts these fluctuations into what we call audible sound, which is the sensation [as detected by the ear] of very small rapid changes in the air pressure above and below a static value. This “static” value is atmospheric pressure.



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Acoustic Assessment Report

Seabreacher® Model X

Report Versions

Name	Versions	Comment	Report Status/Reference
Hannah	1	Initial Draft	DRAFT
Hannah	2	Initial Draft – Minor changes spelling, grammar, layout etc.	DRAFT
Hunt	3	FINAL Draft – Principal Review. Comment and draft signoff.	DRAFT
Hannah	4	FINAL Draft – Draft for Client. No changes from Client.	FINAL DRAFT
Hannah	5	FINAL	FINAL

Report Distribution

DRAFT REPORT

Name	Title/Company	Date of Issue	Report Status/Reference
Lodelo Ltd	Director David Lynott	10 December 2013	DRAFT ONLY NOT FOR CONCIL SUBMISSION OR ACCEPTANCE NOT FOR THIRD PARTY USE.

FINAL REPORT

Name	Title/Company	Date of Issue	Report Status/Reference
Lodelo Ltd	Director David Lynott	16 December 2013	Final



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Acoustic Assessment Report Seabreacher® Model X

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Acoustic Assessment Report

Seabreacher® Model X

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1 Introduction

Lodelo Ltd has been granted Resource Consent [RM130071] by Queenstown Lakes District Council to establish and operate a commercial boating operation involving a type of watercraft capable operating on and under the water surface, and that can carry two passengers operating 8.00am to 8.00pm, seven days a week for a maximum of 25 trips per day.

Condition 1 of RM130071 requires the activity to be undertaken in accordance with the application which refers to the operation of up to four Model X Seabreacher® watercraft.

Condition 14 requires that the Consent Holder to only operate using a watercraft meeting a noise limit of 77 dBA.

Condition 15 requires the Consent Holder to provide evidence that the operation does not breach the noise levels within the Rural General zone or Queenstown Town Centre zone.

This report addresses **Conditions 14** and **15** as follows;

Section A - Watercraft Noise Levels

Test results and information pertaining to field testing conducted on 4th December 2013 to address single event noise limit referred to within **Condition 14**.

Section B – District Plan Compliance Assessment

This section sets out expected noise emissions and compares these against the noise standards set out within the Rural General zone or Queenstown Town Centre zone requirements. Noise setbacks (or buffer distances) are recommended, beyond which Compliance with District Plan noise limits can be assured, in accordance with **Condition 15**

2 Scope

This assessment is based on the watercraft described in Section 3.0. **Condition 7** allows for a maximum of four Seabreacher craft to operate under this consent.

As future examples of this craft will have the same noise output when operated as per recent testing, the test results set out with this report can be used to assess cumulative noise from multiple Seabreacher craft operating together. **Section B** of this report sets out various setback distances according to the number of Seabreacher craft operating together to ensure District Plan noise limits are always complied with. This report therefore can be used to assess noise from additional Seabreacher models operating together in the future. This report should not be applied where the watercraft in question does not fit within the watercraft described in Section 3.0 below.



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SECTION A

Watercraft Noise Levels

Section A presents noise test results and information pertaining to field testing of the Seabreacher® watercraft conducted on 4th December 2013 relating to maximum permissible noise level of 77 dBA as required by **Condition 14**.

1 Method of Assessment

Condition 14 requires the Consent Holder to ensure a maximum permissible noise level of 77 dBA consistent with District Plan requirements set out in Appendix A2 'ACOUSTIC MEASUREMENT AND ASSESSMENT' for motorised craft operating on the surface of lakes and rivers within the district. The following information is provided regarding the acoustic testing.

2 Operator and Engineer Details

Operator Name	Lodelo Ltd trading as HydroAttack
Operator Test Pilot	David Lynott
Acoustic Consultant	Malcolm Hunt Associates
Acoustic Test Engineer	Malcolm Hunt, Principal Engineer.

The craft was driven by a competent and experienced operator.

3 Testing Details

3.1 Test Date

Test Date	December 4 th 2013
Test Time/Period	14.00hrs to 15.30hrs

3.2 Test Craft Details - Seabreacher® Model X

Craft Design	Seabreacher Model X.
Craft Maker	Innerspace Productions Incorporated USA
Craft Model Year	2013
Test Craft Hull Number	USINPSB049C313
Craft engine type	3 cylinder engine 255 hp supercharged – ROTAX 4-tec 1500cc Engine with Single
Craft Modifications	No modifications made to craft
Craft Loading	Two Person Craft – Operator [Consent Holder] and Tourist [Client]



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3.3 Tested Craft - Seabreacher® Model X



3.4 Test Site Description

Test Location Description City/Town	Queenstown South Islands New Zealand
Test Location	Lake Wakatipu =Adjacent Lake Wakatipu Ride/ Arm eastern end of lake adjacent Lake Avenue. 45° 1'15.10"S and 168°43'44.45"E – Section 4.4 for approx map



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3.5 Test Site Map



Figure 1 Test location map

4 Test Method

The testing was undertaken in accordance with the general method set out in Appendix A2 of the QLDC District Plan, that is, measurements were taken of the watercraft sound in the free field, free from obstacles and without any nearby vertical reflecting surfaces. A course depicted using three buoys as markers were used as a guide for acoustic testing purposes, shown as follows:

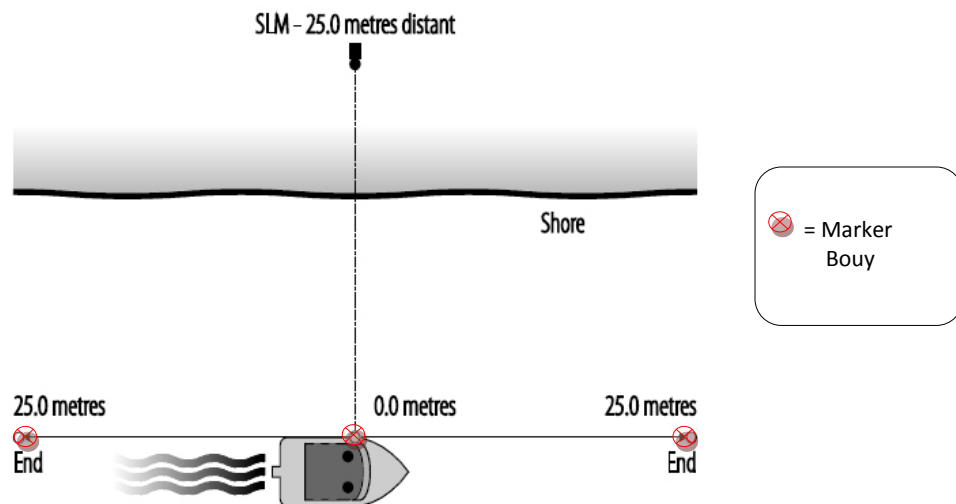


Figure 2 Test method schematic

The test runs were conducted in both directions along a path parallel to the shore, with the trajectory being of sufficient length to ensure the engine operation stabilised as the craft passed the microphone location. The boat passed within 0.5m to 1.0m on the far side of all three markers. The results for the “starboard” and “port” side noise tests are set out in Section 6.0 below.

The first two tests were as required by Appendix A2 with full throttle drive by tests. Further testing was conducted when driving the watercraft clockwise and anti clockwise circular activity at 75% throttle [as would operate in real life tours]. Hence a total of four measurements were conducted.

The measurements were conducted of the sounds associated with the operation of the watercraft. Other sounds were excluded as far as possible. The maximum A-weighted sound pressure level at 25 metres was recorded for each run. As the craft can operate in a various motions the results from the highest $L_{A_{Smax}}$ has been averaged to derive a single value result, with this result rounded to the nearest integral decibel in accordance with the test method.

4.1 Meteorological Test Details

Wind Direction	Sound Level Meter downwind of test craft [worst case]
Wind Speed Range [m/s]	Avg wind velocity 1-2m/s measured at microphone
Wind Speed Max [m/s]	Max wind gust 2.5m/s measured at microphone
Cloud Cover	Cloud Cover. ~5 to 10% Cloud Cover.

4.2 Water Conditions

As wind conditions were light, the water surface was generally calm during the testing. The depth of water was sufficient for the normal safe operation of the craft.

4.3 Test Equipment – Acoustic Equipment

Equipment	Manufacture and Type
Brüel and Kjaer Investigator Sound Level Meter [Type/Class 1]	Brüel and Kjaer Denmark. SLM No. 1933856
Inner and Outer Wind Screens	Brüel and Kjaer 90mm inner Foam Wind Screen Type UA237 and Brüel and Kjaer 200mm outer Foam Wind Screen
Brüel and Kjaer Calibrator Type 4230	Brüel and Kjaer Calibrator Type 4230. 94 dB @1000Hz.

4.4 Test Equipment – Weather Equipment

Equipment	Manufacture and Type
Hand Held Digital Thermometer	Holy Oak Air Management Sh-102
Hand Held Digital Anemometer	Skywatch Xplorer 2 JD Instrument

4.5 Test Equipment – Global Positioning Equipment

Equipment	Manufacture and Type
Garmin GPS Unit	Garmin GPS 60 Navigator
Garmin GPS Software	Garmin
Google Earth GPS coordinator transfer and LINZ data	Garmin / Google Earth Pro / LINZ data



5 Test Results

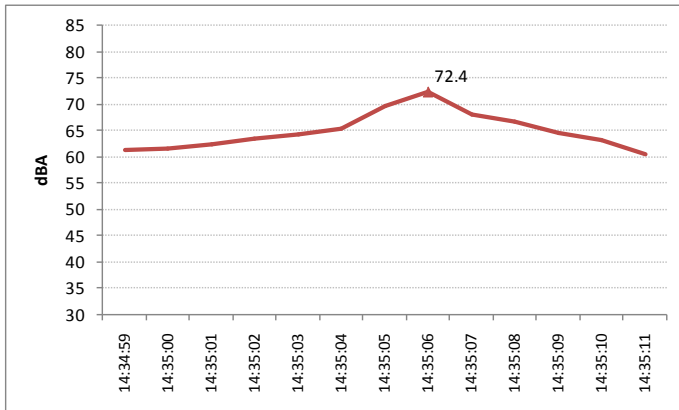
5.1 Background Noise Level

Background sound levels were measured in the range of 50 to 55 dBA and remained at least 10 dBA lower than measured craft noise level at all times.

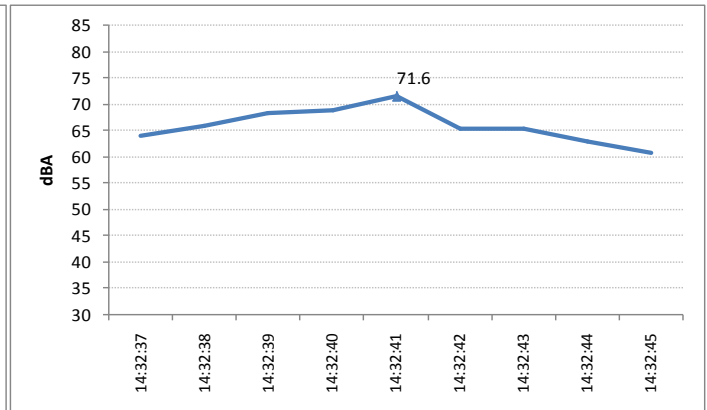
5.2 Measured Seabreacher® Noise Level

L_{ASmax} measured for two runs at 25 metres measured as follows:

Starboard



Port



Based on highest measured level (Starboard):

L _{ASmax} dB Average value =	L _{ASmax} 72 dBA
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The sound measured did not possess any noticeable pure tones or sounds of an impulsive character.

6 Compliance Assessment

Measured sound levels from the Seabreacher® two person Model X recorded an average sound level of L_{ASmax} 72 dB when tested in accordance with the requirements of QLDC District Plan Appendix A2.

Under **Condition 14** the craft shall comply with a maximum A-weighted level of 77 dB L_{ASmax} for vessels to be operated between the hours of 0800 to 2000hrs.

Therefore field testing indicates full compliance with **Condition 14** of RM130071 regarding compliance with QLDC District Plan permitted maximum sound limit for watercraft of L_{ASmax} 77 dB when operating between the hours of 0800hrs to 2000hrs [day time].



SECTION B

District Plan Compliance Assessment

Section B utilises measured sound level data to derive setback distances that, when adhered to during all Seabreacher training and commercial operations, will ensure the operation complies at all times with the $L_{Aeq(15 \text{ min})}$ noise limit for daytime applying at receiver sites within the Rural General zone or Queenstown Town Centre zone, as required by **Condition 15**.

The finding is that as the current operations take place at locations on the surface of the lake at distances far in excess of the minimum setbacks recommended below. Even considering the minor portion of activity taking place when the craft operates to and from the jetty, noise effects within adjacent sites have been found to be minimal. Thus, the Seabreacher operation faces no real risk of breaching the daytime District Plan noise limits providing the bulk of the noise is generated at distances exceeding.

The following assessment is provided:

1 Operating Site

The Consent Holder intends to operate from the Lapsley Butson Wharf which is located within Queenstown Bay. From Lapsley Butson Wharf, the tours will proceed slowly and carefully out of Queenstown Bay, and commence tours on Lake Wakatipu.

Figure 1 indicates the location of start and finish point of activity.



Figure 1 location of start and finish point of activity

As required by **Condition 18**, the activities are therefore confined to Lake Wakatipu in specific the area defined above.

The Consent Holder operates from the Lapsley Butson Wharf located within Queenstown Bay. From this wharf, the craft proceeds out of Queenstown Bay at a quiet idle speed until clear of the markers and located in the bay where the watercraft ride takes place.

The craft may only travel at five knots in close proximity of the shore in accordance with the Council's Navigation Safety Bylaw. A range of minimum setback distances to shoreline for cumulative noise where multiple Seabreacher



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operate together. The setback distances set out below are designed to ensure compliance with the applicable noise limits. .

2 Assessment Method

Seabreacher noise levels measured at various distances, whilst undertaking typical “ride” experiences including periods of wide open throttle, periods of slower running and circular motions across the water surface.

Noise readings were taken at 25 metres to assess typical noise levels. The results show a level of were found to equate to $L_{Aeq(15\text{ min})}$ 63 dB for continuous 15 minute operation. For other distances, the following has been derived on the “6 db per doubling of distance” rule of thumb for calculating sound reduction with distance;

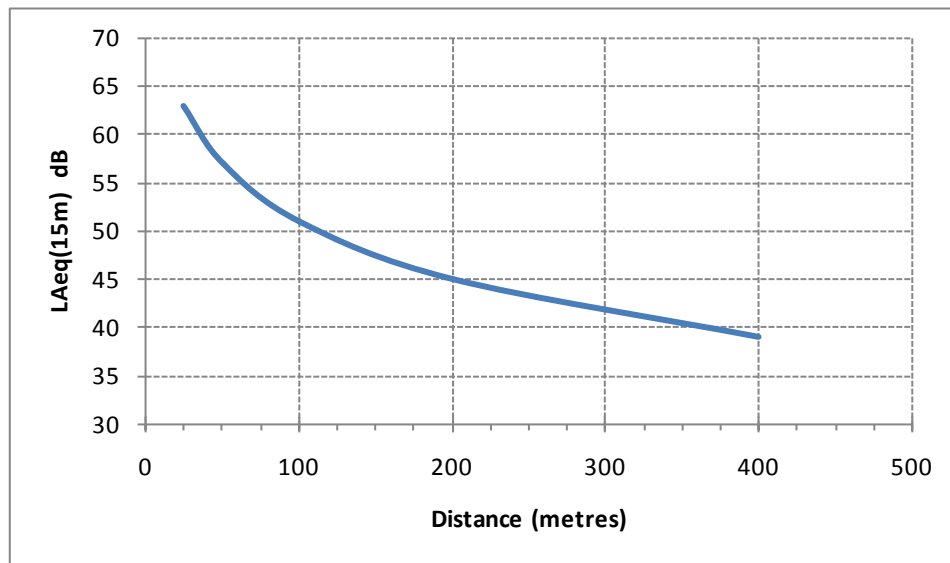


Figure 1 Calculated Seabreacher sound levels ($L_{Aeq(15\text{ min})}$ dB) reducing with distance.

3 Noise Criteria

Condition 15 of RM130071 requires the Consent Holder does not breach the noise levels within the Rural General Zone or Queenstown Town Centre Zone. The District Plan sets rules for sound from non-residential activities during daytime [8.00am to 8.00pm] in units L_{eq} in **Rule 5.3.5.2** [Rural areas] and **10.6.5.1** [Town Centre zone]. These are summarised as follows;

- Rural - daytime [0800 to 2000 hrs] 50 dB $L_{Aeq [15\text{ min}]}$
- Town Centre- daytime [0800 to 2200 hrs] 60 dB $L_{Aeq [15\text{ min}]}$

Compliance can be assured were these daytime limits can be complied with within the Rural General zone or Queenstown Town Centre zone as required by **Condition 15** of RM130071. The required setback distances have been calculated as follows;

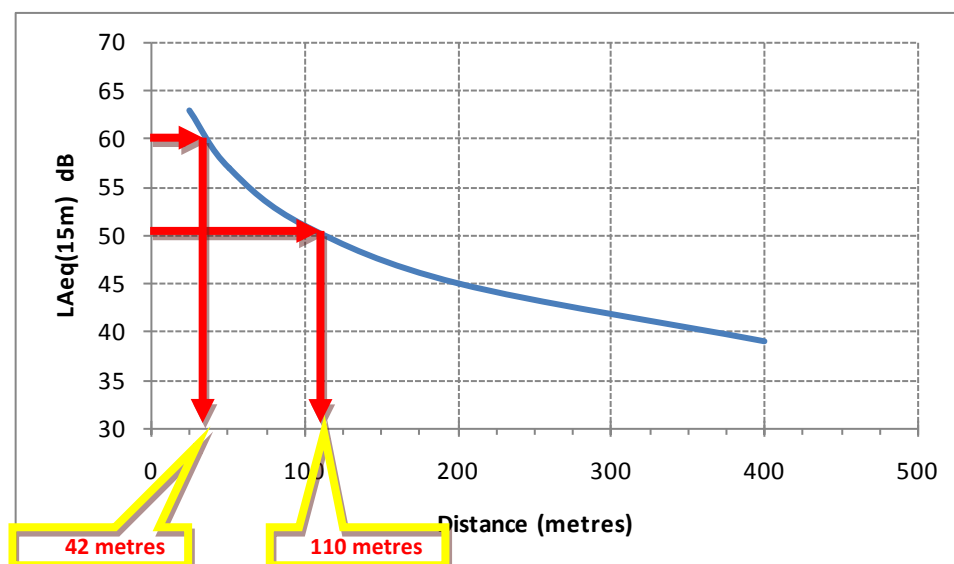


Figure 2 Calculated Seabreacher sound levels ($L_{Aeq(15\text{ min})}$ dB) reducing with distance, also showing the required setback distance to achieve compliance with (a) $L_{Aeq(15\text{ min})}$ 50 dB and (b) $L_{Aeq(15\text{ min})}$ 60 dB .

Figure 2 indicates the relevant district plan noise limits for the rural Zone would be complied with for Seabreacher operating at distances of at least 110 metres from any dwelling located in that zone. For the Town Centre zone, this limit can be complied with at distances of 42 metres or greater.

Overall, our assessment is that providing these setback distances can be complied with, the activity can fully comply at all times during daytime with the permitted Queenstown Lakes District Plan noise rules within the Rural General Zone and the applicable Queenstown Town Centre Zone noise limits.

4 Managing Cumulative Noise Effects

The Consent Holder has consent to operate up to FOUR craft operating at any one time. Cumulative noise effects are only relevant where the Seabreacher craft are operating closer than about 200 metres of each other. At these distances (or greater) the cumulative effects would not be significant.

Our calculations reveal the following recommendations for setback distances to deal with cumulative noise;

- Where **TWO** or more Seabreacher craft are operating within 200 metres of each other a minimum buffer distance of **165m** from the shore line shall be observed at all times.
- For **three** craft operating within a radius of 200 metres or less, a minimum buffer distance of **215m** from the shore line shall be observed at all times.
- In the case that **four** craft within a 200 metre radius, a minimum buffer distance of **230m** from the shore line shall be observed at all times.

Note: The above separation distances apply only to craft operating within a distance of 200m of each other. At greater separation distances the minimum buffer distance reverts back to **110m** from the shore line is to be observed at all other times.

5 Overall Compliance Assessment

Malcolm Hunt Associates have undertaken an assessment of potential noise effects for the Consent Holder to operate up to four two person Seabreacher Model X craft in compliance with the relevant District Plan noise limits for the Rural General Zone and Town Centre Zone.

This assessment, based on field testing of noise levels, indicates cumulative sounds emitted from typical maximum operations can fully comply with the requirements of Resource Consent Conditions 14 and 15 when operated in accordance with the minimum setback distances set out above, and in compliance with the remaining consent conditions.

Malcolm Hunt Associates

16 December 2013



Malcolm Hunt Associates

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