

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

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of Hearing Stream 08  
– Business Zones

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**REPLY OF VICTORIA SIAN JONES  
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**12 QUEENSTOWN TOWN CENTRE CHAPTER**

**13 December 2016**

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Appendix 1 – Updated revised chapter

Appendix 2 – Additional S32AA evaluation of the additional recommended changes

Appendix 3 – Man Street Carpark Viewshaft Plans

## 1. INTRODUCTION

- 1.1 My name is Victoria (Vicki) Sian Jones. I prepared the section 42A report for the Queenstown Town Centre chapter of the Proposed District Plan (**PDP**). My qualifications and experience are listed in that s42A report dated 2 November 2016.
- 1.2 I have reviewed the evidence filed by other expert witnesses on behalf of submitters, attended part of the hearing on the 28 November - 6 December 2016 and have been provided with information from submitters and counsel at the hearing, including reports of what has taken place at the hearing each day when I was not in attendance.
- 1.3 This reply evidence covers the following issues:
- (a) general drafting improvements to the objectives, policies, and rules and correcting formatting errors;
  - (b) permitted activity rule;
  - (c) comprehensive developments;
  - (d) the Queenstown Town Centre Waterfront Subzone (**QTTCSZ**);
  - (e) Man Street block heights and viewshafts;
  - (f) licensed premises;
  - (g) flood mitigation;
  - (h) urban design and character issues;
  - (i) non notification rules;
  - (j) noise issues;
  - (k) formatting errors in the revised provisions attached as Appendix 1 to the s 42A report; and
  - (l) minor errors in s 42A report.
- 1.4 Where I am recommending changes to the provisions as a consequence of the hearing, I have included these in the recommended chapter in **Appendix 1 (Revised Chapter)**. The changes recommended in my summary of evidence dated 25 November 2016 are also included in **Appendix 1**, and I refer to my summary for an explanation for those changes. I have attached a section 32AA (**S 32AA**) evaluation in **Appendix 2** for any significant changes that are being recommended.

**1.5** In this Reply:

- (a) if I refer to a provision number without any qualification, it is to the notified provision number and has not changed through my recommendations;
- (b) if I refer to a 'redraft' provision number, I am referring to the s 42A recommended provision number; and
- (c) if I refer to a 'reply' provision number, I am referring to the recommended provision number in **Appendix 1** to this Reply.

**2. GENERAL DRAFTING IMPROVEMENTS TO THE OBJECTIVES, POLICIES, AND RULES AND CORRECTING FORMATTING ERRORS**

**2.1** The following general amendments are recommended in response to comments made by the Hearing Panel (**Panel**):

- (a) remove semi colons between some of the policies and rules, where they are unnecessary;
- (b) amend the wording of controlled activity Rules 12.4.2 and 12.4.3 by replacing the introduction of the matters of control from 'in respect of...' to 'control is reserved to the following';
- (c) deleting the words 'all of' from the phrase 'discretion is restricted to consideration of all of the following' throughout the chapter, as the words are superfluous and do not assist with the legibility of the rules;
- (d) amend Policy 12.2.1.1 to replace the reference to 'greater site coverage' with 'enabling sites to be entirely covered with built form...' as the fact the site coverage is greater than in the Operative District Plan (**ODP**) is irrelevant;
- (e) amend Rule 12.4.6.1 (bullet point 1) to clarify that this matter of discretion relates to consistency with the QTTC 'Special Character Area' Design Guidelines (2015) and that these guidelines only relate to the QTTC Special Character Area;
- (f) amend Rule 12.4.6.1 (assessment matters relating to natural hazards) to read 'reduced' rather than 'remedied' in order to be consistent with other provisions in the PDP;
- (g) amend Rule 12.5.8 relating to pedestrian links and lanes in order to improve the legibility of the rule;

- (h) amend Rule 12.5.9 to remove the explanation that Figure 2 (height precincts) takes precedence over the general geographic descriptions in the rule and remove those general descriptions and rely fully on Figure 2 instead. I consider this is clearer and will avoid any potential conflicts or confusion;
- (i) amend Rule 12.5.9.1 in order to clarify which height precincts it relates to, which is clearer and consistent with the wording of Rules 12.5.9.2 - 12.5.9.5; and
- (j) delete the phrase "and so as to limit the effects on the night sky" in Rule 12.5.14.1 (Glare), as I understand it is *ultra vires* as covered in legal submissions.

**2.2** In response to particular questions raised by the Panel in relation to the above and other particular objectives or policies:

- (a) in response to the Panel's question, Policy 12.2.1.2 (which refers to the relatively affordable opportunities provided by the Town Centre Transition Subzone) is achieved through:
  - (i) rezoning land that is zoned residential in the ODP (i.e. upper Brecon St and the Gorge Rd/ Memorial Ave corner) to QTC, thereby increasing the supply of Town Centre land at the periphery, which will be relatively affordable due to its location; and
  - (ii) Rules 12.4.5, 12.5.1, and 12.5.11, which impose additional restrictions/ requirements in relation to licensed premises, building coverage, comprehensive development plans, and noise limits;
- (b) while I do not see any inherent issue with the use of the word 'buildings' in Policy 12.2.4.2(h) if the Panel prefers the policy could refer to 'building envelope' or 'building mass'.

**2.3** The following general amendments are recommended in response to comments made in Mr Goldsmith's amended legal submissions dated 1 December 2016 made on behalf of John Thompson and MacFarlane Investments Limited (FS1274):

- (a) amend Rule 12.5.10.4 so that the term "RL" is used consistently throughout; and
- (b) amend Rule 12.5.10.4 to remove all references to the Otago datum level in brackets as is the convention in the ODP.

**2.4** The remainder of this evidence considers the more specific issues raised by the Panel and submitters during the course of the hearing.

### **3. PERMITTED ACTIVITY RULE**

**3.1** The Panel discussed with counsel for the Queenstown Lakes District Council (**Council**) whether Rule 12.4.1 (and the equivalent rule, which appears in other chapters) is necessary.

**3.2** I refer you to the Council's closing legal submissions for an understanding of the relationship between the provisions of the RMA and Rule 12.4.1 (and other similar ones throughout the PDP).

**3.3** In my opinion the inclusion of such a rule at the start of the activity table in each chapter, confirming the default status of activities not otherwise listed, is necessary for the reasons outlined by Counsel and is the most legible approach. This is particularly important due to the fact that the default status varies between zones. For example, activities not listed in the rural and residential chapters default to non-complying whereas they default to permitted in the business chapters.

**3.4** I acknowledge that the Advice Note in 12.3.2.1 also, in effect, requires compliance with the Standards table, by stating "Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the 'Non-Compliance Status' column shall apply". However, the purpose of this 'Advice Note' is focused more on identifying the Non-Compliance status. I therefore consider the inclusion in 12.4.1 of the reference to compliance with all standards, is clearer and will ensure there is no room for debate as to the correct interpretation.

**3.5** While it is inconsistent to have listed activities default to non-complying in some instances and permitted in others, in my opinion it is appropriate given the vastly different purposes of the various zones with the likes of rural and

residential having a relatively narrow purpose (with a narrow range of uses being anticipated) and the business zones being of a highly mixed use nature which can be regulated in a far more effects-based manner.

3.6 I have therefore not recommended any change to this rule.

#### 4. COMPREHENSIVE DEVELOPMENTS

4.1 The matter of scope raised by Mr Todd regarding the recommended change in my s42A from 1800 m<sup>2</sup> to 1400m<sup>2</sup> is addressed in the legal right of reply. If the Panel is minded to consider the changes are beyond scope, then I consider it would be appropriate to amend the building coverage limit to 80% as sought by the submitter or, alternatively, to apply the 75% coverage as recommended in the S42A report but limit its application only to sites over 1800m<sup>2</sup>. Both options have pros and cons and I do not have a firm view as to which is most appropriate. As such I have not added either into the revised chapter in **Appendix 1**.

4.2 In relation to the concerns raised by Mr Todd regarding the reduction in development potential resulting from the maximum building coverage Rule 12.5.1, it may be useful to highlight the following to the Panel:

- (a) in the ODP, part of the O'Connells site is subject to a 95% coverage rule and the remainder is subject to an 80% coverage rule. As such, the proposed coverage rule in my s42A does not represent a change from a permitted 100% coverage but, rather from a base allowance of around 85-90% coverage;
- (b) the ODP coverage rules are similarly split for the Stratton house site. I also note that the pedestrian link was offered and accepted as part of the Stratton House development through RM990598 (apparently (from the decision) in lieu of the height breaches), with the application stating:
  - "The pedestrian link between Beach Street and Cow Lane will be available at times when the businesses inside the building are trading."
- (c) the reasons of the decision noted "it was important to note this positive addition...".

**4.3** In response to questioning from the Panel with regard to Rules 12.5.1.1 and 12.5.1.2, I recommend (and these recommendations are based on my s42A recommended rule, and would need to be updated to reflect either of the drafting options suggested above in paragraph 4.1):

- (a) amending Rule 12.5.1.1 to add the words '(as defined in provision 12.3.2.3)' after the reference to comprehensive development and removing the explanation commencing with 'primarily for the purpose of...' from the rule. Instead, the detailed explanatory part of the rule is recommended to be included as a matter of discretion (where they are not already) and in a more detailed reply Policy 12.2.2.9. I consider this is more appropriate as the notified version of 12.5.1.1 contains considerable duplication;
- (b) amending Rule 12.5.1.2 to remove the words "for an area of at least 1400m<sup>2</sup>" as they are duplication and to provide greater clarity as to the purpose of a Comprehensive Development Plan and level of detail that it should include. In my opinion, the removal of the reference to size heightens the need to clarify the purpose of the Comprehensive Development Plan and to ensure that the Comprehensive Development Plan shall cover the entire development area. I note that the reference to 1400m<sup>2</sup> has also been removed from Rule 12.6.2.2 regarding non-notification as that was also duplication;
- (c) retaining the reference to 1400m<sup>2</sup> within the definition of 'Comprehensive development' as that is, in fact, the whole purpose of the definition;
- (d) retaining the definition in Chapter 12 but relocating it into Reply 12.3.2.3 and beginning with the words 'for the purpose of this chapter'. This is more appropriate than moving it into Chapter 2 because the definition includes a site size that is appropriate for the Town Centre zones based on an analysis of that particular zone and would not necessarily be the appropriate trigger size in other zones. As such, I recommend moving this definition to Section 12.3.2 (clarification) under a heading "General Rules". I note that I have conferred with Ms Amy Bowbyes and with Ms Leith (in relation to the residential zones) on this matter and they concur with not including it in Chapter 2; and



- (e) that it is not necessary to include assessment matters within Rule 12.5.1 but, rather, that the matters of discretion, while detailed, are appropriate and do not "cross the line" into assessment matters.

## 5. THE QUEENSTOWN TOWN CENTRE WATERFRONT SUBZONE (QTTWCWSZ)

- 5.1** I recommend amending Rule 12.4.7 by replacing the assessment matter commencing 'the extent to which any proposed structures or buildings...' to 'the extent to which any proposed wharfs and jetties...' This makes it consistent with the fact that the rule only relates to wharfs and jetties and that any other buildings in the QTTWCWSZ are not subject to this rule but are, in fact, non-complying (Rule 12.4.8.2) or restricted discretionary (Rule 12.4.6). While not substantive, this minor amendment will improve efficiency by removing the existing conflict within the rule and thereby avoiding potential confusion.
- 5.2** I recommend amending the headings of Rules 12.4.7 and 12.4.8 from simply 'Surface of Water and Interface Activities' so that they more clearly reflect the content of each rule. While not substantive, this minor amendment will improve efficiency through increased legibility.
- 5.3** I do not recommend separating the surface of water and interface activities into a separate table as this would be less legible in my view in that:
- (a) there are only two rules that specifically relate to the QTTWCWSZ and in all other respects the zone-wide rules apply;
  - (b) it would be confusing as to why the QTTWCWSZ rules are separated out whereas the Town Centre Transition Subzone rules are not; and
  - (c) unlike in the Rural zone this is a subzone of the QTTWC and includes land based activities, as well as surface of water activities.
- 5.4** Ms Jennifer Carter proposes<sup>1</sup> that the commercial surface of water activities rule (12.4.7) includes a separate rule that provides for public passenger ferry services as a restricted discretionary activity, rather than full discretionary. While it is my opinion that providing for and encouraging the establishment of water-based public transport is likely to be appropriate, I remain of the view that this is best considered as part of stage 2 of the District Plan review. Regardless, in response to the Panel's query, I can advise that all 'Motorised

<sup>1</sup> In her primary evidence dated 18 November 2016 and summary statement dated 30 November 2016.

Commercial Boating Activities' are recommended to be a full discretionary activity in the Rural zone, pursuant to Rule 21.5.43 of the Rural Reply version of the Rural Chapter 21. As such, any such attempt to provide more enabling provisions for passenger transport in the QTTCWSZ in the manner proposed by Ms Carter is likely to be relatively ineffective in isolation at this stage.

**5.5** In response to the evidence of Ms Fiona Black and Ms Carter, I have recommended:

- (a) adding further detail to Policies 12.2.5.3 and 12.2.5.6;
- (b) amending planning maps 35 and 36 to more clearly show the two separate areas of the QTTCWSZ; and
- (c) changing the activity status of moorings in part of the QTTCWSZ from permitted to discretionary.

**5.6** These changes and the reasons for them are outlined in more detail in my summary of evidence dated 25 November 2016. A section 32AA evaluation is attached in **Appendix 2** in relation to the change in activity status of moorings within the Queenstown Beach and Queenstown gardens area of the QTTCWSZ. I reiterate also that I consider that specific policy or provisions on transport and facilitating public transport are for the transport chapter in Stage 2. This is consistent with the Council's position presented in other hearings such as Rural.

## **6. MAN STREET BLOCK HEIGHTS AND VIEWSHAFTS (HEIGHT PRECINCT 7)**

**6.1** First, in my opinion, height in this block cannot be considered only (or even primarily) in relation to the effects on private views from the various submitters' sites but must also be considered in relation to the effect on the surrounding streets, the likely built form that will eventuate, and on public views of this highly prominent block of land from elsewhere in and around the Queenstown Town Centre.

**6.2** Second, in my opinion, the difficulties with applying the rolling height plane have been over-stated by Mr Edmonds (paragraph 11 of his evidence dated 18 November 2016) and Mr Williams (paragraph 16 of his evidence dated 18 November 2016), noting that the sites surrounding the carpark site are not unique, and that to set specific height planes for every sloping site in the

district would prove logistically problematic. I was heavily involved in the mediation which resulted in the ODP rules for the Man Street and Sofitel blocks and wish to highlight that the Hamilton (Forsyth Barr) building is not the result of the ODP rules but, rather, was consented prior to the ODP rules coming into effect. The ODP rules then prevented such an outcome from reoccurring through the addition of a horizontal height plane at Rule 10.6.5.1(xi) which is, in fact, similar to that which is now being proposed in reply Rule 12.5.10.1(d).

**6.3** The specific issues I address below relate to:

- (a) the appropriate height of buildings maximum level allowed in front of the carpark site, including the horizontal plane level, the use of the district-wide rolling plane height and whether there should be a discretionary height allowance between 12 and 14m as per Height Precinct P1;
- (b) the viewshafts within the block; and
- (c) the appropriate heights for 10 Man St, and 10 and 14 Brecon Street (the **language school site**).

### **Building height of sites in recommended areas E and F**

#### *The horizontal plane height in recommended area E*

**6.4** In response to concerns raised by Mr Graeme Todd (legal) and Mr Timothy Williams (planning) regarding the fact that Rule 12.5.10.4(e) enables buildings in Area E, in front of the carpark site, to extend some 3 m above the carpark podium, I wish to confirm that this was deliberate. The reasons for this recommendation are provided in brief in paragraph 10.87 of my S42A report and pages 14 and 15 of my S32AA evaluation, which is **Appendix 4** to my s42A report. In making my recommendation I have also relied on paragraphs 12.11(a), 12.11(d), and 12.12 of Mr Timothy Church's evidence dated 2 November 2016.

**6.5** In my S42A report I recommended increasing the maximum height in recommended Area B of the carpark site (even though not sought by the landowner). One important reason was that this would enable the sites in front to also extend higher, thereby avoiding a stark midblock transition with a

relatively high façade on the carpark site, while also enabling the entire carpark site to be developed with 3 full storeys with unimpeded views. This enables the block, as a whole, to be developed more efficiently and for built form to be layered and better integrated. I disagree with Mr Williams' evidence that it is appropriate to increase height on the carpark site by 3m as recommended in my S42A report but to then say that the recommended 330.1 masl height on the land in front is inappropriate. In saying this I note that the recommended horizontal height planes for recommended Areas E and F are significantly more restrictive than the notified PDP and that MSP's submission (398) sought that those sites be allowed to extend 1 m above the podium, yet are now seeking that they are restricted to the podium level.

- 6.6** To ensure the Panel is basing its decision on accurate information, I also wish to point out that the building height that would occur in recommended Area E would not be the highest in the QTTC. At the boundary shared between those sites and the Man St carpark site, the buildings on top of the podium will be at least 19 m above ground level<sup>2</sup> under the reply version of PDP and well in excess of 20 m above ground level along the other cross sections (albeit that is not the way the rule is described, that is the actual effect of the rule at the boundary). As outlined in my S42A report, I am supportive of this in the context of all the other provisions relating to the wider block, which collectively make it appropriate. I only raise this matter to ensure that Areas E and F are being considered with an accurate understanding of the context of the surrounding heights I am recommending.

*The use of the 12 m rolling plane rule in recommended Areas E and F*

- 6.7** I agree with Mr Williams' evidence summary and his Appendix A that there is little difference in the buildable area and built outcome between a rule that enables a maximum horizontal height of 327 masl with a recession plane off Shotover Street (as supported by Mr Williams) and a rule imposing a maximum 12 m above ground level with the same recession plane.
- 6.8** However, the built outcome is markedly different under the rolling plane versus the horizontal plane option, when one applies the maximum height of 330.1 masl, as recommended. Based on the information provided in cross section C-C of Mr Williams' Appendix A to his summary of evidence, if one assumes

2 Refer to cross section C-C provided in Appendix A to Mr William's summary of evidence (Draft Man-10-1 SK-005.03)

the 330.1 masl dotted line is accepted as I have recommended, then one can easily see that the rolling height plane results in a stepped built form whereas the horizontal plane does not. I consider that on these large and relatively steeply sloping sites the stepped building form is more appropriate. It is likely to result in a more articulated built form when viewed from public places such as Queenstown Bay and the gardens and, in turn, a more articulated roof, noting that the 5<sup>th</sup> dimension is of significant importance given the elevated vantage points from which it will be viewed such as the gondola.

- 6.9** For this reason I continue to support the use of the rolling plane and refer the Panel to paragraph 10.87 of my s42A report and pages 14 and 15 of the S32AA report attached to that for discussion on the costs and benefits of the approach and the fact it is consistent with most other sites in the District.
- 6.10** In response to the evidence dated 18 November 2016 and questioning of Mr Farrell, I now recommend that Areas E and F (as shown in recommended Figure 2) be removed from Precinct 7 and replaced with Precinct 1, and consequential changes be made to Rules 12.5.10.4 and 12.5.10.1. These consequential changes include adding a rule to 12.5.10.1 that no building exceed a horizontal plane at 271.1/ 330.1 masl. The recommended rules in **Appendix 1** will have the effect of providing the restricted discretionary activity status to buildings between 12 and 14m above ground level as in the rest of precinct P1, while ensuring that anything above either 14m above ground level or 227/ 330 masl respectively will be non-complying. This is considered more efficient and effective than redraft Rules 12.5.10.4(e) and 12.5.10.4(f) that apply to this area in the version attached to the S42A report.
- 6.11** The following cross sections are an illustration showing the various height planes that would apply respectively in the two parts of this block:

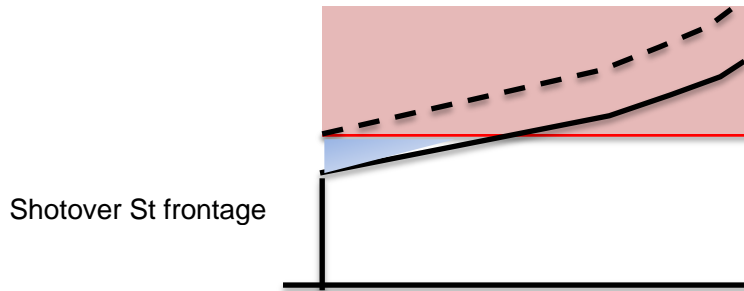


Figure 1 - Area x, with the 327.1masl maximum horizontal height plane

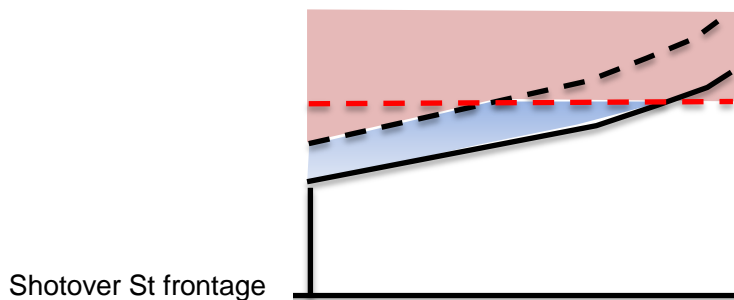


Figure 2 - Area x, with the 330.1masl maximum horizontal height plane

<b>Key:</b>	
	12 m above ground (permitted)
	14 m above ground (restricted discretionary and above this non complying)
	271.1 masl (permitted if also below 12 m above ground level or restricted discretionary if also below)
	330.1 masl
White area	Permitted height
Blue area	Restricted discretionary height
Pink area	Non complying height

**6.12** In recommending this I note that:

- (a) this rule, including the 330masl building height that MSP (398) is opposed to, is very similar to that which exists in the ODP, which was determined through a mediated agreement of all affected parties during the resolution of appeals on submissions to the now ODP. I remain of the view that enabling the MSP unimpeded views from all levels of development on their site (as sought by them) at the

expense of less efficient and potentially poorer quality development of the sites in front of the midblock point, is not the most appropriate option;

- (b) as you have heard from Mr Farrell and as outlined in paragraph 10.87 of my S42A report and pages 14 and 15 of my S32AA evaluation attached to that report, it is not unreasonably difficult to determine ground level and, from that, the permitted height; and
- (c) this makes the rule relatively consistent with the approach taken for the Ballarat Street carpark site (Rule 12.5.10.1(b)) and also for Height Precinct 6 (the Sofitel site).

### **The Viewshafts**

- 6.13** MSP's submission (398) supported the notified height rules; sought that the position of the viewshafts in Figure 2 be confirmed to ensure the western view shaft (one further up Man Street) is located to align with Section 26 Block IX Town of Queenstown; sought that if this view shaft is not aligned with Section 26 Block IX Town of Queenstown, it should be moved to align with this property; and opposed the need to prepare a Structure Plan (now termed Comprehensive Development Plan). However, to the contrary, the legal submissions and evidence presented at the hearing promoted a different approach, seeking to remove the viewshafts and in support of the Comprehensive Development Plan rule. The scope of relief provided by the MSP submission is covered in legal submissions as part of the Council's Right of Reply.
- 6.14** For the reasons outlined in paragraph 10.86 and 10.87(f) of my S42A report, page 14 of my S32AA evaluation, and paragraph 12.12 of Mr Church's evidence and paragraph 8 of his evidence summary, my view remains unchanged that, in this instance, it is appropriate to show the viewshafts on the height precinct map, as well as apply the zone-wide coverage and comprehensive development rule to the site.
- 6.15** In addition to the reasons I have already expressed, I share the concerns raised by the Chair of the Panel that there are various ways an applicant could circumvent the provision of the key western viewshaft through mounting a case that the site is already entirely covered by built form and/ or that a viewshaft is already provided. I also note that a landowner could also

subdivide the site into parcels smaller than the trigger (be it 1400m<sup>2</sup> or 1800m<sup>2</sup>) and develop these quite independently such that a Comprehensive Development Plan is not required. In my opinion, these scenarios are not fanciful and serve to highlight that the identification of the viewshafts are necessary to complement Rule 12.5.1 (coverage and comprehensive developments) and provide greater certainty. The point here is that on this relatively large site, the viewshafts serve numerous purposes and are a very important determinant of the eventual built form; breaking up this site into discrete component parts.

- 6.16** In relation to the need to show the viewshafts, Mr Todd submitted that the Ballarat Street carpark site is similar in character to the Man Street block. I consider that it shares some, but not all, of the same characteristics as the Man Street block and note that, unlike the Man Street block, it does not have the added complication of an artificial flat ground level having been created over part of the site. I note that, apart from the viewshafts, the rules that apply to each of these blocks (i.e. 12.5.10.1 and 12.5.10.4) are based on a similar principle of a rolling plane coupled with a horizontal height plane to protect views behind.
- 6.17** While I do not have any issue with the principle of adding viewshafts into the Ballarat St site, no evidence or analysis has been undertaken as to where these should be located or how wide they should be and it is not clear where the scope for adding them would come from. To the contrary, the Man Street carpark owners identified the viewshafts that they considered to be appropriate for their site during pre-notification consultation of the PDP and, as I understand it, the Council included these in the PDP in conjunction with increasing the height from the ODP height of 8m. I understand that these viewshafts, along with the increased height, were a direct result of an attempt to accommodate the landowners' plans for development of the site. These plans are attached as **Appendix 3** to assist the Panel in understanding what drove the rules that were notified in the PDP.
- 6.18** In response to questioning from the Panel as to whether the viewshafts should be movable or their shape able to be altered, I do not consider this necessary as the eastern viewshaft is set and there are limited alternative locations for the western viewshaft. The fact that the western viewshaft demarcates the respective 11m/ 14 m building height limits means that there will be no



incentive for a developer to wish to move it further to the west. As the viewshafts are relatively narrow (the western one is 12.5 m wide) they should be seen as a minimum requirement and any re-orientation of them should be over and above that. I therefore prefer fixing their position in the height precinct map in the manner as per the reply version of Figure 2.

- 6.19** I have reconsidered the recommended location of the western viewshaft (recommended Area D), which I had relocated to the location specifically sought in paragraph 4.14 of MSP's submission (398). In response to the evidence of Mr Williams I now recommend that it be repositioned approximately 13m to the west to avoid the lean-to roof form that he refers to in paragraph 11 of his evidence summary. As a consequence of this, recommended Area B is reduced in size and, due to the rising level of Man Street, the height enabled in the viewshaft can be raised 0.5m (i.e. to 330.6m) without impeding on views from the street. This has the added benefit of enabling more design flexibility for the first floor beneath.

### **The Language School building heights**

- 6.20** Specifically in response to the proposed height provisions agreed by Mr Williams and Mr Edmonds, and in addition to the more detailed discussion below, I refer the Panel to paragraph 10.88 of the S 42A and page 14 of the S32AA, and paragraphs 12.11 and 12.12 of Mr Timothy Church's evidence and paragraph 7 of his evidence summary. For clarification, while the submitters have referred to it as the 'Language School site', they propose the alternative 7 m height plane rule to apply to the three upper-most sites on Brecon Street (i.e. 10 Man Street and 10 and 14 Brecon Street), which extend down Brecon Street to the mid-block point in line with the edge of the carpark podium.
- 6.21** I note that the rules that the two planners have proposed appear to have two primary purposes; to satisfy the concerns of submitter John Thompson (FS1274) in terms of any loss of views; and to avoid measuring height from ground level.
- 6.22** From Council rates data, the three sites which comprise the Language School site appear to be in 2 separate ownerships; neither of whom has submitted on the height rules in the PDP. The only other submission that refers specifically

to any of the Language School site is Maximum Mojo Holdings Limited (548), which owns 19 Man St and has sought that height on 10 Man Street be amended to be the same as on the carpark site.

**6.23** Due to the significantly different configuration of the allowable building mass over the three sites, which would result from Mr Williams' and Mr Edmonds' rules and given that 10 Man St is in different ownership to the other two sites, it is useful to consider how that particular site would be affected by those rules.

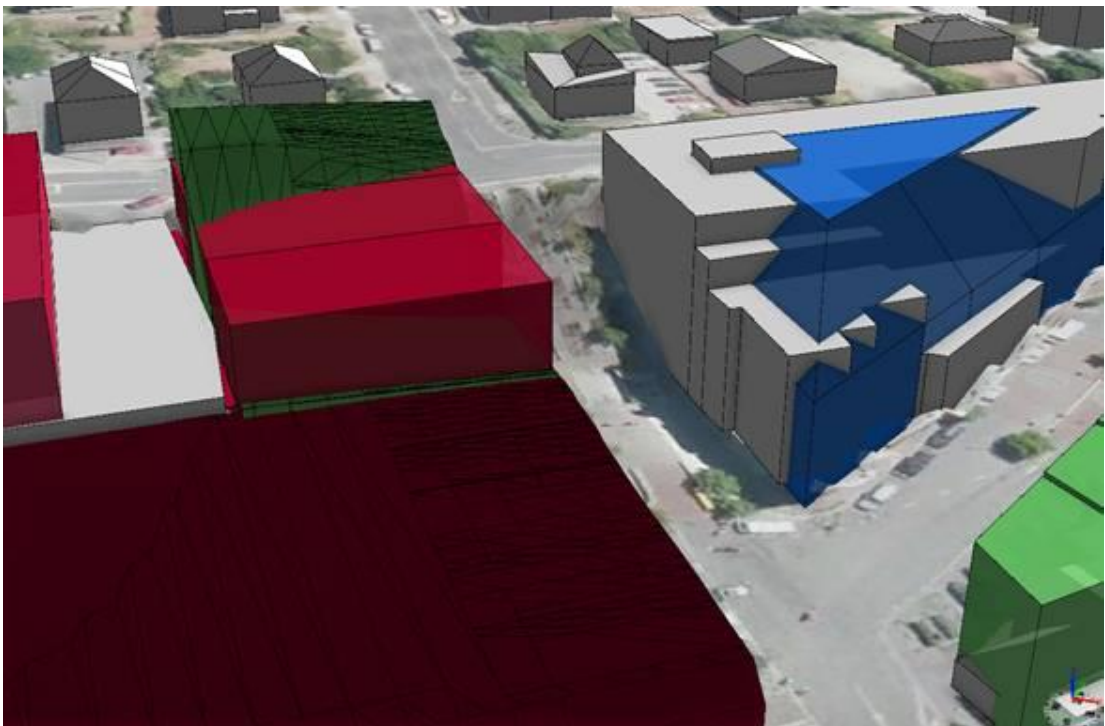
**6.24** In summary, in my view it is likely that less development will be enabled on this site under the 7m rule sought than under the PDP; the site may obtain significantly lesser views to the lake (due to the level plane allowed over the 3 lots (10 Man, 10 Brecon, and 14 Brecon Streets); and the site is likely to need to be excavated below the level of Man Street to achieve well designed 2 storey development along Man Street, which in itself is not a good outcome.

**6.25** With regard to which rules will best achieve an appropriate high quality streetscape on Man Street and the Brecon Street steps, I make the following observations:

- (a) I disagree with the assumption that the PDP provisions will result in a 14 m high building on the street frontage of the language school site. Rule 12.5.9 (discretionary building height) includes discretion over urban form and specifically in relation to whether the building responds sensitively to different heights, etc. on adjacent sites and the effect on amenity of the street;
- (b) in terms of the Man Street streetscape, given this site is standalone with viewshafts either side I do not consider consistency in height with the adjacent buildings as viewed from Man Street to be the most critical issue but, rather, that the rules should enable quality building design and a quality relationship between the language school site and Man Street;
- (c) in my view, the 7 m height limit is too low on Man Street in the context of the development enabled on the Man Street carpark block and on the opposite side of the road that have been enabled via Plan Change 50. While it would likely feel similar to the Sofitel Hotel, I am of the view that the western end of that hotel is something of an anomaly and should not lead future built form along this increasingly

important street edge. This opinion is consistent with one of the key reasons I have given for recommending increasing the allowable height at the western end of the Man Street carpark site;

- (d) the Sofitel hotel façade adjacent to the Brecon Street steps down three times from Man Street toward the narrow corner with Duke Street, with these steps occurring at 332.35masl (for a length of 25.9m), 329.33masl (for a length of 3.4m), and 326.45masl (for a length of 14.3m). This is an example of the sort of built form that can be achieved through a rule that applies a rolling height plane coupled with a horizontal height plane. In my opinion it is important that the two sides of the Brecon Street steps bear some relationship to one another and stepping the built form down the 'Brecon Street steps' results in an appropriate outcome; and
- (e) although the angle of the below snapshot from the Council's City Engine model does not make it particularly clear, the Sofitel, in fact, steps down twice over that part of the street which the submitters propose be subject to a level building height of 7 m (334.1 masl) height on the opposite side of the Brecon Street steps.,



Key: Green 12m rolling height plane; Pink 7 m above 327.1; White Sofitel existing built form; Blue 10 m recession plane. New modelling showing the submitters' proposed 7m horizontal plane.

- 6.26** My greatest concern with the rules proposed by the submitters is that the height above Brecon Street at the mid-block is 21.55m above the street level, which I consider is too high and will potentially create adverse visual dominance effects over Brecon Street. Furthermore, it does not correspond with the step in the Sofitel built form, which occurs directly opposite the boundary of the middle site within the 'language school (i.e. 14 Brecon St), at which point the 7 m height rule would equate to a building that is 19.18m above Brecon Street.
- 6.27** The below snapshot shows the 7 m horizontal height plane in pink and the allowable 12 m height in green. Unlike for the rest of the Man Street block where spot levels were provided enabling an interpolated ground level to be created for the rest of the model, no such levels have been surveyed for these properties and, as such, the (green) notified PDP height is likely to be higher than shown below for 10 and 14 Brecon Street but, nevertheless, there will certainly be a steep drop off in level, as shown.



- 6.28** In conclusion, in my opinion a consistent height plane across all three properties fronting Brecon Street, as requested by John Edmonds and Mr Williams will, on the one hand, result in a building that is too low on Man Street to contribute positively to the streetscape and will be an inefficient use of 10 Man Street and, on the other hand, will potentially be visually dominating on Brecon Street. As such, I do not support such an approach.

**6.29** However, having conferred with Mr Church on this matter, while I continue to prefer the application of P1 and a sloping height plane rule for the site, in the interests of resolving the issue I would support a lower height plane over the two upper-most sites (i.e. 10 Man St and 14 Brecon Streets) to 335.1masl (8m). This provides a consistent 3m step between each building height limit along Man St (i.e. 332, 335, 338, 341 masl for the Sofitel, the language school, and the Man Street carpark site respectively). Practically, 8m would restrict the building height to a low two storeys, which in my view is not the most appropriate outcome. However, this would be far preferable compared to a highly constrained 7 m height limit. This approach is particularly useful if the Panel is seeking:

- (a) a more consistent stepping with the Sofitel Hotel;
- (b) to manage the spatial definition of the Brecon Street stairs;
- (c) avoiding overly disadvantaging the owner of 10 Man Street; and
- (d) enabling the street to have a quality frontage to Man Street.

**6.30** I have not amended **Appendix 1** to reflect this compromise position at this stage.

**6.31** I also note for completeness that neither I nor Mr Church can see any particular merit in introducing the 8 m height cap over the wedge of recommended Area A, as shown in Mr Williams' Appendix A to his evidence summary.

## **7. LICENSED PREMISES**

**7.1** As a consequential amendment to recommending changing the activity status of licenced premises (Rule 12.4.4.2) to controlled (as recommended in my S42A report), I recommend that the rule be amended to read "control is reserved...", rather than "discretion is restricted...".

## **8. FLOOD MITIGATION**

**8.1** The Panel queried whether Rule 12.5.7, which requires minimum floor levels in order to mitigate flood risk, should be extended to also require resource consent for the basement levels of buildings.

## 8.2 In response:

- (a) I note that while the Joint QLDC/ ORC Flood Risk Management Strategy (2006)<sup>3</sup> is silent on the issue of basement levels, it provides a useful summary of other statutory and non-statutory tools that Council has at its disposal to manage the effects of flooding, including section 106 of the RMA, section 71 of the Building Act, and Council's guideline entitled 'A Guide to flood proofing your building and contents'<sup>4</sup>. I was involved in the drafting of that Strategy and the guideline;
- (b) I was involved in the consenting of the Mountaineer Building on the corner of Shotover and Rees streets (RM051210). In that instance the application was for a discretionary activity and the applicant volunteered construction techniques and the preparation of a flood management plan to mitigate the effects of flooding and this was accepted as being appropriate; and
- (c) all buildings are a restricted discretionary activity in the QTTC and natural hazards are a matter of discretion.

**8.3** In summary, I am of the opinion that, together, the notified PDP Rule 12.5.7 (which imposes minimum ground floor levels but exempts basements from this rule as to do so would be non-sensical in most instances), redraft Rule 12.4.6.1 (buildings), the Council's series of non-statutory guidelines, section 71 of the Building Act, and section 106 of the RMA together provide an appropriate suite of tools to achieve the objectives of Chapters 3, 12, 26, and 28 of the PDP. As such, I do not recommend any amendment.

## 9. URBAN DESIGN AND CHARACTER ISSUES

**9.1** This section considers queries raised in relation to landmark buildings and parapet height issues on Beach Street, and confirms the recommended change in the activity status of recession plane rules outlined in my Summary of Evidence dated 25 November 2016.

<sup>3</sup>

[http://www.qldc.govt.nz/assets/OldImages/Files/Strategies/Flood\\_Management\\_Strategy/Joint\\_Flood\\_Mitigation\\_Strategy.pdf](http://www.qldc.govt.nz/assets/OldImages/Files/Strategies/Flood_Management_Strategy/Joint_Flood_Mitigation_Strategy.pdf)

<sup>4</sup>

[http://www.qldc.govt.nz/assets/OldImages/Files/A\\_Guide\\_To\\_Brochure\\_Series/Guide\\_to\\_flood\\_proofing\\_your\\_building\\_and\\_contents.pdf](http://www.qldc.govt.nz/assets/OldImages/Files/A_Guide_To_Brochure_Series/Guide_to_flood_proofing_your_building_and_contents.pdf)



- 9.2** The Panel queried whether "landmark" buildings should be defined in the PDP. Having conferred with Mr Timothy Church on this matter, I am of the opinion that this would be useful although is not essential as the wording of Policy 12.2.2.5 and Rule 12.5.9.5(d) already provide some clarification of what is meant by the term. I propose adding a section under clarification (12.3.2) which defines various terms used in this chapter under the subheading "General Rules". This is consistent with the approach recommended in the reply version of Chapter 26 (Heritage).
- 9.3** A definition of landmark buildings is therefore recommended and this is included in new provision 12.3.2.3 (clarification). In my opinion, the submission by NZIA (238) provides scope for this new definition.
- 9.4** The Panel queried whether there was any merit in retaining that part of notified Rule 12.5.10.1(d) (reply Rule 12.5.9.3), which requires that any street front parapet of buildings on the north side of Beach Street in Precinct 2 be between 6.5m and 7m in height, noting that no exemption is enabled for such parapets to protrude through the recession plane.
- 9.5** Having conferred with Ms Jackie Gillies and Mr Church on this matter, I am of the opinion that the inclusion of the part of the rule specifying the height of the parapet is now redundant and retaining it would not be effective at helping to achieve the objectives for the following reasons:
- (a) unlike ODP Rule 10.6.5.2(i)(d), parapets are not allowed to encroach through the recession plane in reply Rule 12.5.9.3 due to the shading effects that would result from this and, as such, the rule does not incentivise the provision of parapets through allowing bonus height;
  - (b) the cost (i.e. of increased shading) that would result from allowing parapets to extend to 7 m above the street boundary is considered to outweigh the benefit (i.e. increased variety in built form) that would accrue from enabling parapets beyond the recession plane;
  - (c) the alternative of allowing the building itself to extend only to 6.0 m and enabling a parapet 0.5 m beyond this (as per the ODP) has the same shading effects as the PDP. While it would encourage the creation of parapets, it would result in generous single storey or 2 storey development with very low inter-floor/ ceiling levels and

relatively poor internal spaces. The PDP rule, as recommended to be amended in **Appendix 1**, has the benefit of enabling more generous inter-floor heights and/ or roof articulation and leaves it to the developer to determine how to best utilise the allowable building envelope provided it is generally consistent with the design guidelines;

- (d) consistent parapets at 6.5 - 7.0 m in height are not an important character element of the north side of upper Beach Street and therefore there is no issue with enabling them higher (or lower) than this provided they are within the recession plane or, alternatively, not providing them at all if the design is otherwise generally consistent with the design guidelines; and
- (e) the appropriateness of including a parapet in the building design can be considered as a discretionary matter in terms of consistency with the design guidelines.

**9.6** I have therefore recommended removing this part of reply Rule 12.5.9.3. This amendment is, in fact, relatively insignificant in terms of the actual effect of the rule. Nevertheless, a section 32AA evaluation is attached to this evidence in relation to this matter.

**9.7** As identified in my summary of evidence, in response to Mr William's and Mr Farrell's evidence, I recommend replacing notified Rules 12.5.10.1(d) (reply version 12.5.10.1(e)), 12.5.10.2(a), and 12.5.10.2(b) with new Rules 12.5.9.3 and 12.5.9.4, thereby making it restricted discretionary rather than non-complying, to breach recession plane rules in Height Precincts 2, 4, and 5. A section 32AA evaluation is attached to this evidence in relation to this matter.

## **10. NON NOTIFICATION CLAUSE**

**10.1** I have recommended that the reference to the "road controlling authority" (i.e, NZTA) in Rule 12.6.1.1, which had been added in response to a submission by NZTA, be deleted on the basis that it is considered ultra vires. Instead, I recommend adding the words "*except where visitor accommodation includes a proposal for vehicle access directly onto a state highway*". This will enable the roading authority to potentially be deemed affected on a case by case basis without raising vires issues. This approach is consistent with the



recommendation made in the reply version of chapter 23, except that it includes the word "vehicle" as I consider that to be clearer.

- 10.2** I understand this matter has been covered in legal submissions as part of Council's Right of Reply.

## **11. NOISE ISSUES**

- 11.1** The submissions and evidence by Imperium Group (151) raise concerns about the potential for increased adverse noise effects on the existing Eichardt's and The Spire hotels as a result of more permissive noise limits for the QTCZ in the PDP. The evidence of Mr Cavanagh sets out various issues that have previously caused noise disturbance at both hotels. For some of these noise sources, such as taking kegs out and moving outside furniture, the noise limits in the PDP are the same as the ODP so there is no change. For other sources mentioned, the PDP does set more permissive noise limits but, as set out in paragraph 4.2 of the evidence of Dr Chiles, these would still not permit people shouting or loud music with open doors and windows. I also note that the sound from patrons on public streets having left venues is not directly controlled by either the ODP or PDP.

- 11.2** The submissions for Imperium Group (151) assert that Dr Chiles does not adequately address effects of more permissive noise limits on existing visitor accommodation. In response, I note that in paragraph 10.2 of his evidence in chief Dr Chiles explicitly addressed effects on Eichardt's and in response to questions from the Panel he elaborated that the practical effect of increasing the noise limits would not be markedly different to the existing situation due to existing noise from people on public streets.

- 11.3** I have not recommended any change to the noise provisions as a result of these legal submissions or evidence.

## **12. FORMATTING ERRORS IN THE REVISED CHAPTER ATTACHED AS APPENDIX 1 TO THE S 42A REPORT**

- 12.1** The following provisions were amended in the revised version of the provisions attached to my S 42A report but the underlining (which denoting any new

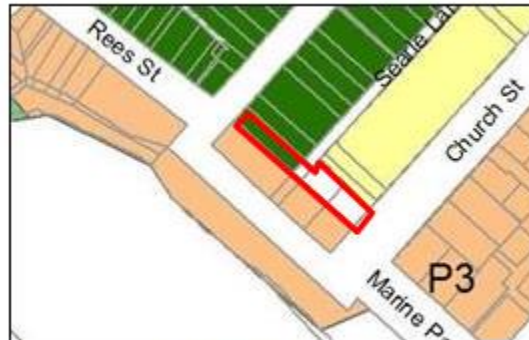
additional text) was missing and so has since been added in the attached revised chapter:

- (a) Policies 12.2.2.3(a) and 12.2.2.3(d) are now both underlined;
- (b) Policy 12.2.2.8(b) "and character values" is now underlined; and
- (c) Rule 12.4.5 (matters of discretion) is now all underlined.

### 13. MINOR ERRORS IN S42A

13.1 For completeness, I note the following minor errors in my S 42A report:

- (a) Figure 2 on Page 39 should be replaced by the following Figure, which correctly shows the sites being discussed in paragraphs 10.59 to 10.65; and



Source: Figure 2 - Notified PDP

- (b) The summary of changes in paragraph 14.1(a) on page 80 should state that it is recommended to remove Rule 12.4.6.2 rather than amend it.

### 14. CONCLUSION

14.1 Overall, I consider that the revised chapter as set out in **Appendix 1** is the most appropriate way to meet the purpose of the RMA for the reasons variously set out above; the S 42A report; my evidence summary, and in the attached section 32AA evaluation.

**Vicki Jones**  
**Consultant Planner**  
**13 December 2016**

**APPENDIX 1**  
**12 QUEENSTOWN TOWN CENTRE REVISED CHAPTER**