

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Stage 3 Proposed District Plan

Report and Recommendations of Independent Commissioners

**Report 20.11: Remaining Variations Amending the PDP Chapters and other
General Matters**

Commissioners

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1. PRELIMINARY

1.1 Subject Matter of this Report

1. As part of Stage 3, the Council notified a series of Variations to chapters of the PDP. These related to:
 - (a) Chapters 2 & 30 Energy and Utilities
 - (b) Chapter 38 Open Space and Recreation Zones, Chapters 29 & 36 and Planning Maps
 - (c) Chapters 21 - 24, & 38 - Firefighting Water Supply and Access
 - (d) Chapters 7 – 9, 12 – 16 - Glare
 - (e) Planning Maps - Frankton Road Height Control
 - (f) Planning Maps – Wānaka – Medium Density Residential Rezoning
 - (g) Chapter 27 – Location Specific Subdivision Provisions
 - (h) Chapter 26 and Planning Maps - Chalmers Cottage
 - (i) Chapter 2 Definitions – Residential Flat
 - (j) Chapter 7 - 9 – Waste and Recycling
 - (k) Chapter 43 Millbrook – Rule 43.5.2
 - (l) Planning Maps – Atley Road Rezoning
2. The Variations to Chapters 2 & 30 Energy and Utilities were addressed by our report dated 12 September 2020. The Variations to Chapter 38 Open Space and Recreation Zones have been addressed in Report 20.10.
3. This report addresses the submissions and further submissions lodged in respect of each of the other Variations listed above (the Notified Variations). These submissions were considered as part of Stream 18. In addition, this report addresses submissions received on general matters which do not relate specifically to the Stage 3 or 3B Notified Plan Changes or Variations.

1.2 Terminology in this Report

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

AUP	Auckland Unitary Plan
District	Queenstown Lakes District
EIC	Evidence-in-chief. Also referred to as Section 42A Report
FENZ	Fire and Emergency New Zealand
GCZ	Gibbston Character Zone
Hearing Panel	The Independent Commissioners appointed by the Council and convened to hear and recommend on Stream 18
HDRZ	High Density Residential Zone
LDRZ	Low Density Residential Zone, as notified in Stage 1 of the PDP
LDSRZ	Low Density Suburban Residential Zone

MDRZ	Medium Density Residential Zone
Notified Variation	The version of each Variation notified by the Council on 19 September 2019
NZTA	New Zealand Transport Agency / Waka Kotahi
QAC	Queenstown Airport Corporation
Reply Version	The version of each Variation attached to the Reply of the relevant Council planner
RLZ	Rural Lifestyle Zone
RRZ	Rural Residential Zone
Section 32 Report	The Council's Section 32 Evaluation for each Variation, made publicly available with the relevant Notified Variation.
Section 42A Report	Section 42A Report prepared by the relevant Council's planner in relation to each Notified Variation, dated 18 March 2020. Also referred to as evidence-in-chief.
Section 42A Version	The version of each Variation, attached to the Section 42A Report of the relevant Council's planner
Sky City	Sky City Entertainment Group
Transpower	Transpower New Zealand Limited
Wayfare	Wayfare Group Limited
WBRAZ	Wakātipu Basin Rural Amenity Zone

1.3 Relevant Background

5. Submissions on these variations were heard by the Stream 18 Hearing Panel as part of the broader Stage 3 hearings that commenced on 29 June 2020.
6. Report 20.1 provides background detail on:
 - a) The appointment of commissioners to this Hearing Panel;
 - b) Procedural directions made as part of the hearing process;
 - c) Site visits;
 - d) The hearings;
 - e) The statutory considerations bearing on our recommendations;
 - f) Our approach to issues of scope.
7. We do not therefore repeat those matters.

2. VARIATION TO CHAPTERS 21 - 24 & 38 - FIREFIGHTING WATER SUPPLY AND ACCESS

2.1 Background

8. The Section 32 Report¹ stated that the purpose of the variation is to manage the risk from fire to habitable buildings in areas with no or insufficient reticulated water supply, through provision of adequate on-site water supply and access for firefighting. It proposed changes to permitted activity standards for the four rural Chapters 21 – 24 of the PDP and the Open Space and Recreation Chapter 38.
9. Chapters 21, 22 and 23 were considered in Stage 1 of the PDP review, while Chapters 24 and 38 were considered in Stage 2. There were no appeals on the provisions that are the subject of this proposal. The requirements for firefighting water supply and access vary across these five chapters. There are differences in the volume of water storage required², the requirements for access, and in the application of the requirements (to buildings or to dwellings). The Notified Variation proposed to standardise these requirements to improve consistency across the rural zones.
10. The notified amendments required that all new buildings for residential activities either install a sprinkler system or have 45,000 litres of water available for firefighting purposes with associated connection, hardstand area, and access requirements. The standards were based on the New Zealand Fire Service Firefighting Water Supplies Code of Practice, SNZ PAS 2409:2008 ('the Code of Practice'). Because there are no permitted habitable buildings in the Open Space and Recreation Zones, the proposed standard in Chapter 38 applied to new buildings over 20m² in area. A new policy to support the proposed standard was notified for Chapter 23 GCZ.
11. Ms Elizabeth Simpson, Senior Policy Planner, Urban Development, employed by the Council, prepared a Section 42A Report³ and a Reply statement⁴ relating to the submissions received on the Notified Variation.
12. No expert evidence was provided by the submitters on the Notified Variation. However, we received submissions at the hearing from Mr Warwick Goldsmith, Counsel for Waterfall Park Developments Limited⁵.
13. At the hearing, we asked Ms Simpson for clarification regarding the wording of the proposed amendments to the standard. The proposed water storage standard requires "*a maintained water supply of 45,000 litres*". We asked Ms Simpson what was intended by "*maintained*". She stated that it is intended to mean that the water storage volume is available all the time. She agreed the wording could be clearer. Ms Simpson returned to this in her Reply⁶ where she stated that "*maintained*" is intended to represent a "protected, preserved and static water supply" such that, in the event of a fire, there would be 45,000 litres readily and immediately available to be utilised. She recommended an amendment to clarify the wording to read: "*A water supply of 45,000 litres shall be maintained at all times ...*". Ms Simpson noted there is no submission seeking this change but, in her opinion, it can be made via Clause 16(2) of RMA Schedule 1 on the basis that the alteration is purely grammatical in nature and of minor effect.

¹ Section 32 Evaluation, Variation to Proposed District Plan, For Firefighting Water Supply and Access

² In answer to our questions, Ms Simpson stated that the water storage requirements in the PDP Rural Zones vary from 20,000 to 45,000 litres, with no requirement in the Gibbston Character Zone.

³ Dated 18 March 2020, also referred to as E Simpson, EIC

⁴ Dated 4 September 2020

⁵ Submitter #3063

⁶ E Simpson, Reply, Section 2

2.2 Submissions

14. Submissions were received from three submitters – Waterfall Park Developments Limited (WPD)⁷, Fire and Emergency New Zealand (FENZ)⁸ and Wayfare Group Limited (Wayfare)⁹.
15. FENZ generally supported the Notified Variation, although sought several changes to the detail of the standards. WPD sought to enable potable water storage to be part of the firefighting water supply. Wayfare requested the Notified Variation be deleted or withdrawn and that additional information is provided to clarify how the proposed rules are to be interpreted and applied.
16. Ms Simpson addressed each of the submissions and provided recommendations in her Section 42A Report.
17. We note that, although Mr Ben Farrell presented planning evidence for Wayfare on other Notified Variations, no evidence was presented by Wayfare on this variation. Wayfare's submission¹⁰ expresses interest in the amendments to the Rural Zone and Open Space and Recreation Zone provisions. The submission stated it is unclear why the amendments to Rules 21.7.5 and 38.10.11 are the most appropriate. It sought:
 - (a) deletion or withdrawal of the Notified Variation;
 - (b) additional information to clarify how the proposed rules are to be interpreted and applied; and
 - (c) an additional assessment matter to allow for consideration of "*whether the location and functional need of the activity may justify non-conformance with SPZ PAS 4509:2008 being complied with*".
18. Ms Simpson addressed these submissions from Wayfare in her Section 42A Report¹¹. In her opinion, the notified provisions are clear in their intent and application, and provide clarity and consistency across all rural chapters. Where the proposed standards are not complied with, the Notified Variation requires a restricted discretionary activity consent, with matters of discretion specified. Ms Simpson considered the proposed matters of discretion already provide the discretion sought. She recommended the provisions be generally retained as notified and the submission from Wayfare be rejected.
19. As discussed in Report 20.1, where a submission seeking a change to the notified provisions was only considered in evidence from the Council, without the benefit of evidence from the submitter or from a submitter on a related submission, we have no basis in evidence to depart from the recommendation of the Council's witness. As the changes sought by Wayfare were not supported by any evidence, we adopt the recommendation from Ms Simpson for the reasons she has given and recommend rejecting Submissions #3343.22 and #3343.23 from Wayfare Group Limited.
20. FENZ supported¹² the new policy for the Gibbston Character Zone. As no specific changes were sought or recommended to this policy, Ms Simpson recommended this submission point be accepted.

⁷ Submitter #3063

⁸ Submitter #3288

⁹ Submitter #3343

¹⁰ Submissions #3343.22 & #3343.23

¹¹ E Simpson, EIC, Section 7

¹² Submission #3288.16

21. In addition, FENZ sought to add the words “*and any necessary couplings*” to the proposed standards for the Rural Zones, and to include a new standard requiring that all non-residential habitable buildings in the Rural Zones comply with New Zealand Fire Service Firefighting Water Supplies Code of Practice, SNZ PAS 2409:2008¹³. Ms Simpson addressed these submissions from FENZ in her Section 42A Report¹⁴.
22. With respect to adding reference to “*couplings*”. Ms Simpson understood this hardware is important in enabling fire trucks to connect to the water supply. She recommended these submission points be accepted on the basis that it is an appropriate clarification for the standard.
23. With respect to “*non-residential habitable buildings*”, Ms Simpson noted there is no definition of this term in the PDP. She assumed it could refer to all possible non-residential use of buildings in the Rural Zones. She advised these all required resource consent under rules that provide discretion to the Council to consider firefighting water supply. In Ms Simpson’s opinion, this provides sufficient certainty that the Council can consider imposing firefighting water supply conditions that are appropriate to the particular non-residential activity. She considered this was more appropriate than adding a standard referring to the Code of Practice, which itself is not sufficiently certain, unambiguous or free from the exercise of discretion to act as a standard. For these reasons, she recommended these submission points from FENZ be rejected.
24. We received no evidence from FENZ supporting its submission points. As the changes sought by FENZ to the notified provisions are not supported by any evidence, other than from the Council, we adopt the recommendations from Ms Simpson for the reasons she has given. We recommend accepting Submissions #3288.12, #3288.14, #3288.16, #3288.17, #3288.19 and #3288.21, with the amendments to the Notified Variation recommended by Ms Simpson in her Section 42A Report. We recommend rejecting Submissions #3288.13, #3288.15, #3288.18 and #3288.20 from Fire and Emergency New Zealand.

2.3 Matters Remaining in Contention

25. The remaining matter of contention related to the submission points¹⁵ from WPD which sought to enable potable water storage to be part of the firefighting water supply for each of the Rural Zones and the Open Space and Recreation Zones.
26. Ms Simpson addressed this submission in her Section 42A Report¹⁶. She summarised the reasons provided in the submission:
 - (a) Storage of water for firefighting and storage of water for potable supply are generally contained within the same tanks and therefore it is sensible to combine the water storage requirements in the same tank(s).
 - (b) The use of the words ‘potable storage’ is ambiguous as the PDP does not include any standard requirements for potable water storage, referring to Rule 27.7.16.3¹⁷ of the Subdivision and Development Chapter which has a supply, but not a storage requirement.

¹³ Where no, or insufficient, reticulated water supply is available

¹⁴ E Simpson, EIC, Sections 5 & 6

¹⁵ Submissions #3063.1 – #3063.5

¹⁶ E Simpson, EIC, Section 4

¹⁷ No Rule 27.7.19.3 in the Consolidated Decisions Version of the PDP

- (c) There is little evidence to suggest the previous 20,000 litre storage requirement (in the RRZ, RLZ and WBRAZ) is inadequate.
 - (d) The requirement to separate the potable water storage from the firefighting water storage quantum is questioned, given it would be unlikely the potable water supply would be in use at the same time that the firefighting supply was required.
27. At the hearing, Mr Goldsmith reinforced the reasons provided in the WPD submission. He emphasised there is no “storage” or “volume” requirement in the PDP for private water supplies, rather the requirement in Chapter 27 Subdivision and Development is for a water supply “flow” of 1000 litres per day per lot. He considered the proposed standard would be incorrect if it referred to either a storage or volume requirement in the PDP for potable water, but without knowing how much storage is required for potable water, the firefighting storage standard is unclear. Mr Goldsmith also challenged the need for additional water storage for firefighting over and above any that is stored for potable water supply. He expressed concern that people would be forced to have more water storage than is needed.
28. Ms Simpson clarified her understanding that the proposed standards are intended to require a water storage of at least 45,000 litres be maintained for firefighting, over and above any domestic potable water storage. She acknowledged that both firefighting water and potable water may be stored in the same tank(s). This would require two outlet connections – one for firefighting and one for potable water, and that any water stored for potable use would need to be in excess of the firefighting water reserve which is to be not less than 45,000 litres at any time. In her opinion, the wording of the standard expressed this sufficiently clearly and did not require amendment.
29. Ms Simpson also acknowledged the point made by WPD and Mr Goldsmith that there is no requirement in the PDP for potable water storage and that Rule 27.7.19.3 is a daily flow requirement for each lot. She recommended removing the word “*storage*” from the proposed standards, where referring to potable water supply, order to remove any inconsistency with the subdivision rule. Accordingly, the exclusion for potable water supply would read – “(*excluding potable volume requirements for domestic use*)”. However, as noted by Mr Goldsmith, this does not remove the inconsistency, as it still includes reference to a “volume” requirement, when the Chapter 27 requirement is for a “flow”.
30. In relation to the storage requirement of 45,000 litres, Ms Simpson referred us to the Code of Practice. She attached advice previously received by the Council from FENZ regarding the source of this requirement. In the absence of any submitter evidence demonstrating why the Council should depart from this national standard, Ms Simpson recommended this aspect of the proposed standards be retained. She maintained this position in her Reply Version.

2.4 Hearing Panel’s Consideration and Recommendations

31. We accept Ms Simpson’s evidence as to the basis for the 45,000 litre requirement for firefighting water supply. We have received no evidence to persuade us to depart from that national standard and recommend it be retained¹⁸.
32. We do not accept Mr Goldsmith’s argument that there will never be a need for both potable water and firefighting water at the same time. We can foresee a situation where a fire may occur following a time of high potable water use, when the potable water storage has been

¹⁸ We note that 45,000 litres is already the requirement in the PDP for the Rural Zone and it is proposed to be changed to this requirement for the RRZ, RLZ and WBRAZ (which were previously 20,000 litres) and included in the new standard for GCZ

used and there has been no time for volume to be reinstated. We accept Ms Simpson's evidence that the firefighting water storage is to be maintained, over and above any domestic potable water storage. However, we are not persuaded that her recommended wording makes this completely clear. We agree with Mr Goldsmith there is no volume requirement for potable water supply in the PDP, so it is inaccurate to use that wording in the standards. We consider the wording needs amending to make it clear the standards refer to "water storage" but remove the references to "requirements".

33. Finally, we do not consider it to be sensible to require the firefighting water storage to be "maintained at all times". We consider this would require the water storage tank to be continuously topped up at the same rate as the water was being used for firefighting. We do not consider this is practical or what was intended. We recommend deleting the words "at all times" and that the intended meaning is sufficiently clear with a minor rewording from the notified version, as follows:

Water-storage of at least 45,000 litres shall be maintained (excluding any potable water storage-for domestic use) with an outlet connection point that can provide 1500L/min (25 L/s) and any necessary couplings.

34. Accordingly, for the above reasons, we recommend that Submissions #3063.1 – #3063.5 be accepted in part. We have included our recommended amendments to the Notified Variation in Appendix 1.

3. VARIATION TO CHAPTERS 7 – 9, 12 – 16 - GLARE

3.1 Background

35. The Section 32 Report¹⁹ stated that the purpose of the variation is to improve clarity in plan implementation and to vary the rules to ensure better management of the effects of glare and protect amenity values and the night sky. The Notified Variation sought to:
- (a) vary the activity status for non-compliance with the glare standards from non-complying to restricted discretionary across Chapters 7 – 9 and 12 - 16;
 - (b) include matters of discretion for consideration of restricted discretionary applications that address the effects of lighting and glare on amenity values, transport network and the night sky;
 - (c) vary the glare standards in Chapters 12-16 to remove the parts of the standards related to external building materials and roofs;
 - (d) vary Policy 15.2.3.3 Local Shopping Centre Zone to include principles of CPTED, in order to ensure consistency across the chapters.
36. Ms Gabriela Glory, Graduate Policy Planner employed by the Council, prepared a Section 42A Report²⁰, Rebuttal evidence²¹ and a Reply statement²² relating to the submissions received on the Notified Variation.

¹⁹ Section 32 Evaluation, Variation to Proposed District Plan, For Glare Provisions

²⁰ Dated 18 March 2020, also referred to as G Glory, EiC.

²¹ Dated 12 June 2020

²² Dated 4 September 2020

37. Written evidence was provided by Ms Melissa Brook²³ and Mr Ben Farrell²⁴. As set out in Report 20.1, Ms Brook did not make arrangements to appear before us and accordingly, we have treated her evidence as ‘tabled’.

3.2 Submissions

38. Submissions were received from three submitters – Queenstown Airport Corporation²⁵, Wayfare Group Limited²⁶ and New Zealand Transport Agency²⁷.

39. A Further Submission from Scope Resources Limited²⁸ was summarized by the Council as opposing part of the submission from Wayfare. However, in viewing this Further Submission it does not appear to us to relate to the Wayfare submission. Rather, it refers only to a submission from Cardrona Cattle Company Limited.

40. As noted by Ms Glory in the Section 42A Report, none of the submissions sought reinstatement of the non-complying status, the removal of the parts of the standards relating to building materials and roofs, or the addition to the policy for Chapter 15 to include principles of CPTED. Each of the submissions sought additions to the matters of discretion for consideration of restricted discretionary activities.

41. NZTA supported the intent of the rules to require all exterior lighting to be directed away from adjacent roads. In addition, NZTA requested:

- (a) amendments to the wording of standard for the commercial zones to clarify that the effects of exterior lighting can adversely affect the safety of the transportation network, as well as the amenity values of the night sky ; and
- (b) amendments to the wording of the matters of discretion for all zones to clarify precisely what effects are to be avoided, remedied or mitigated, and to specifically refer to the safety of the transportation network.

42. We did not receive evidence from NZTA, nor did the submitter attend the hearing. Ms Glory addressed the submissions in her Section 42A Report²⁹. In her opinion, further improvements could be made to the wording of the provisions as suggested by NZTA. NZTA did not include Chapter 14 (Arrowtown Town Centre) in its submission, but Ms Glory considered these rules should also be amended for consistency. She considered the minor grammatical amendments sought by NZTA would provide greater clarity in rule interpretation and would be more effective than the notified version. She recommended they be accepted³⁰.

43. As the changes sought by NZTA to the notified provisions are not the subject of any evidence, other than Ms Glory’s evidence in support, we adopt the recommendations from Ms Glory for the reasons she has given. We recommend accepting Submissions #3229.26 – #3229.32 from NZTA, with the amendments to the Notified Variation recommended by Ms Glory in her Section 42A Report. Our recommended amendments to the Notified Variation are included in Appendix 1.

²³ Senior Planner at Queenstown Airport Corporation

²⁴ Consultant planner for Wayfare Group Limited

²⁵ Submitter #3316

²⁶ Submitter #3343

²⁷ Submitter #3229

²⁸ Further Submission 3470.13 to Submission 3343.13

²⁹ G Glory, EIC, Section 6

³⁰ With the amendments to Chapter 14 being included pursuant to Clause 16(2) of Schedule 1 of the RMA

44. In her Section 42A Report³¹, Ms Glory brought to our attention an inconsistency between this variation and the definitions in Chapter 2. The Notified Variation uses the term “transportation network” within each proposed matter of discretion, whereas the defined term is “transport network”. She recommended a minor amendment to use the defined term pursuant to clause 16 of RMA Schedule 1. We agree with Ms Glory and recommend accordingly. We consider this minor amendment would retain the same meaning as the notified wording and provide greater certainty. These amendments are included in our recommended wording in Appendix 1.

3.3 Matters Remaining in Contention

45. There are two remaining matters in contention between Ms Glory and the evidence provided for the submitters – from QAC and Wayfare.
46. QAC’s submission³² referred to the potential for adverse lighting and glare effects for pilots on approach to, or departure from, Queenstown Airport from inappropriately managed lighting in close proximity to the airport. The submission supported the inclusion of lighting and glare standards that seek to manage these effects, including the standards that encourage the downward focus of lighting. The submission sought an additional matter of discretion for restricted discretionary activities in the residential zones (Chapters 7-9) and Local Shopping Chapter Zone (Chapter 15)³³. QAC requested inclusion of effects of lighting and glare on “aircraft operation”, on the basis that the existing reference to “the transportation network” does not capture aircraft operations.
47. Ms Glory addressed this submission in her Section 42A Report³⁴. She agreed that the notified reference to “transportation network” in the matters of discretion does not include “aircraft operations”. She also agreed that lighting and glare may affect the safety of aircraft operations, which is defined to include aircraft landing at, and taking off from, airports. However, Ms Glory recommended the submission be rejected as she considered it inefficient to include a rule that would apply in all locations in the zones, rather than being targeted to land in proximity to airports. Ms Glory suggested the submitter may wish to suggest a more efficient and targeted method (within the scope of the variation).
48. In her written evidence, Ms Brook³⁵ emphasized QAC’s concerns regarding the potential for adverse effects from lighting on the safety of aircraft operations. She provided examples of problems that have occurred in recent years from development in proximity to the Queenstown Airport. Ms Brook supported QAC’s request to include a new matter of discretion that would allow this effect to be considered. In response to Ms Glory’s request to better define the areas where this matter of discretion would be applied, Ms Brook suggested the appropriate area would be the “Inner Horizontal Surface” as defined in Figure 2 attached to the QAC designation in the PDP. As she did not attend the hearing, we were not able to question Ms Brook about her suggestion.
49. Ms Glory addressed Ms Brook’s evidence in her Rebuttal³⁶. Ms Glory properly acknowledged that she did not have expertise in civil aviation, but helpfully advised us regarding the approach taken for Auckland International Airport in the Auckland Unitary Plan (AUP). Ms

³¹ G Glory, EIC, Section 4

³² Submissions #3316.22, #3316.31 – #3316.33

³³ This matter is also address in relation to the GIZ in Section 4 of Report 20.3

³⁴ G Glory, EIC, Section 3

³⁵ Senior Planner at QAC

³⁶ G Glory, Rebuttal, Sections 2 & 3

Glory advised that the Auckland International Airport Designation in the AUP contains requirements that prohibit light from non-aeronautical ground lights and which specifically reference the relevant requirements in the Civil Aviation Authority standards³⁷. This requirement is supported by a figure contained in the AUP designation³⁸ which identifies specific areas within which the lighting requirement applies. This is a separate and very different figure from the one that identifies “Obstacle Limitation Surfaces” within the AUP designation. Ms Glory attached both these figures to her Rebuttal evidence (as well as Figure 2 from the Queenstown Airport designation in the PDP).

50. Responding to Ms Brook’s suggestion regarding the “Inner Horizontal Surface”, Ms Glory pointed out that the purpose of the “Inner Horizontal Surface” in the PDP designation is to prohibit new objects or extension of objects (i.e. physical obstacles) that penetrate the surface. Ms Glory noted the “Inner Horizontal Surface” covers a large part of Frankton. She did not agree that this would be the appropriate area of land to apply a matter of discretion addressing glare and lighting effects on the airport. She also expressed concern regarding applying a designation plan into a PDP rule, as the designation can be changed by QAC at any time. Ms Glory did not consider there was any evidence to identify the appropriate area to apply such a matter of discretion. In her opinion, applying lighting controls through the designation would be the more appropriate route and a change to the designation could be initiated by QAC outside the PDP review process. Ms Glory continued to oppose the relief sought by QAC.
51. The Wayfare submission³⁹ identified that glare has the potential to create navigational safety risks and it is important for glare to be managed to avoid inappropriate navigational safety risks. The submission sought an additional matter of discretion referring to effects on “navigational safety” for all the chapters included in the Notified Variation.
52. Ms Glory addressed this submission in her Section 42A Report⁴⁰. She interpreted the submission as being concerned about effects of lighting and glare on the navigational safety of vessels operating on waterbodies. In Ms Glory’s view this submission had some similarities to the one from QAC. She considered the relief sought would cast a disproportionately wide net (across numerous zones) to address an issue that is very location - specific. She noted that land adjoining waterbodies (including the main lakes and rivers) is predominantly within Rural or Open Space and Recreation Zones, which are not included within this variation. Ms Glory set out the relevant rules that apply in those zones. The lighting and glare standards include restrictions on lux spill on to other sites and (in the case of the Rural Zone) a requirement that all fixed lighting be directed away from adjoining sites. Activities that do not comply with the standards are non-complying activities in the Rural Zone and full discretionary activities in the Open Space and Recreation Zones. Ms Glory considered these provisions in the Rural and Open Space and Recreation Zones are sufficient to manage effects of lighting and glare on waterbodies, and that including an additional matter of discretion would be inefficient and, in practice, unlikely to be relevant. She recommended the relief sought by Wayfare be rejected.
53. In her Reply⁴¹ Ms Glory responded to a question from the Hearing Panel as to whether she considered the rules in the Open Space and Recreation Zones were sufficient to manage effects of lighting and glare on waterbodies, given they do not include a standard requiring

³⁷ CAA AC 139-6 Standard 5.3.1

³⁸ AUP Chapter K Designations Figure 4: Requirements for Non-Aeronautical Ground Lights

³⁹ Submission #3343.13

⁴⁰ G Glory, EIC, Section 5

⁴¹ G Glory, EIC, Section 2

fixed lighting be directed downward or away from adjoining sites and that “other sites” would not include waterbodies for the purpose of managing lux spill. She accepted they were not sufficient, but advised that there was no scope within the submissions on this variation to address provisions in Chapter 38. She noted, however, that the relevant provisions in Chapter 38 are still subject to a Stage 2 appeal.

54. Mr Farrell addressed this aspect of Wayfare’s submission in his written evidence⁴² and in his answers to our questions. He disputed Ms Glory’s dismissal of Wayfare’s submission on the basis that the majority of land adjoining Lake Wakatipu is zoned Rural or Open Space. Mr Farrell pointed out that there are numerous urban zones adjoining, or in close proximity to, lakes where navigational safety for vessels could be a problem, including Queenstown and Frankton. Frankton Arm is surrounded by various residential zones and Queenstown Bay includes the Queenstown Town Centre Zone and High Density Residential Zone. He stated that the approach for vessels into Queenstown Bay is visually dominated by lights from urban activities on the surrounding hills at night. He referenced his personal communication with Wayfare staff, including Launch Masters, regarding navigational safety issues on calm winter nights. The lake reflects lights from surrounding land uses, making it difficult for Launch Masters to figure out what is a light on the land or a reflection on the water, compromising navigational safety.
55. Mr Farrell did not consider the relief sought by Wayfare would impose any significant costs or burdens on resource consent applicants and that it would address an important issue of health and safety for people (which, in his opinion, is more important than the notified provision referring to effects on amenity values).
56. As we were unfortunately not able to accommodate Mr Farrell on the day he was scheduled to appear at the hearing, he offered to provide a written response to our questions. In his written answers⁴³, Mr Farrell confirmed that the three residential zones (Chapters 7-9) were those of most concern to Wayfare in the Notified Variation. He agreed the amendments sought by Wayfare could be narrowed to those zones and he suggested revised wording to narrow the matter of discretion – *“the navigational safety of passenger carrying vessels operating at night”*.

3.4 Hearing Panel’s Consideration and Recommendations

57. We accept the evidence from Ms Brook and Ms Glory that lighting and glare may affect the safety of aircraft operations, including aircraft landing and taking off from airports. We agree with Ms Glory that it would be inefficient to include a rule that would apply in all locations in the zones, rather than being targeted to land in proximity to airports. However, we also agree with Ms Glory that we do not have any evidence to identify the appropriate area to which such a rule might be applied.
58. The investigation undertaken by Ms Glory was helpful. It showed how this issue is addressed in a targeted manner in the AUP (albeit through a designation), with specific areas identified for management of lighting to protect the safety of aircraft landing and taking off. By comparing the mapped areas for management of lighting in the AUP designation, with the “Obstacle Limitation Surfaces”, it is clear the respective controls apply to separate and very different locations. Regarding Ms Brook’s suggestion to use the “Inner Horizontal Surface” as the basis for a lighting and glare rule for Queenstown Airport, we note Ms Glory’s evidence that its purpose in the PDP designation is to prohibit physical obstacles from penetrating the

⁴² B Farrell, Stream 18 EiC, para [15]-[19]

⁴³ B Farrell, Supplementary Planning Evidence, para [18]-[23]

surface. As with the AUP designation, the PDP’s “Inner Horizontal Surface” for Queenstown Airport is very unlikely to be the same as the area where lighting and glare may cause safety issues. We were not able to question Ms Brook about this, and we received no alternative. We accept the evidence of Ms Glory that the “Inner Horizontal Surface”, which covers a large part of Frankton, is not an appropriate area of land over which to apply a matter of discretion addressing glare and lighting effects on the airport. For these reasons, and those given by Ms Glory, we recommend that Submissions #3316.22 and #3316.31 – #3316.33 from Queenstown Airport Corporation be rejected.

59. With respect to Wayfare’s submission, we accept the evidence from Mr Farrell (acknowledged by Ms Glory) that lighting and glare can result in adverse effects on the navigational safety of vessels operating on waterbodies. We acknowledge Ms Glory’s evidence that much of the land immediately adjoining waterbodies is zoned Rural or Open Space and Recreation (and therefore not included in this variation). However, we accept the evidence from Mr Farrell (supported by his anecdotal evidence from Wayfare’s operational staff) that there numerous urban zones adjoining, or in close proximity to, lakes where navigational safety for vessels can be a problem, including around Queenstown Bay and Frankton Arm. Our own observations support the potential for lights from surrounding land uses in residential and commercial areas to reflect on the lake on calm winter nights. We agree this potential issue is not restricted to lighting on the land zoned Rural or Open Space and Recreation immediately adjoining the lake edge.
60. We note Mr Farrell confirmed Wayfare’s submission could be narrowed to the three residential zones (Chapters 7-9), with the matter of discretion narrowed to “*the navigational safety of passenger carrying vessels operating at night*”. Although, there is some potential for this rule to be invoked over a wider area than necessary, we consider the relevant locations will be readily distinguishable in practice. We agree with Mr Farrell this would not impose significant unnecessary costs or burdens on resource consent applicants and that, in the environment of this District, it would be an effective and efficient means to address an important issue of health and safety. We have evaluated the alternatives put to us by Ms Glory and Mr Farrell in terms of our duties pursuant to section 32AA of the Act, and have weighed the costs and benefits to the land owners and to the wider public. We are satisfied that including the additional matter of discretion sought by Wayfare (in Chapters 7-9) is the most appropriate means of implementing the PDP’s objectives and policies⁴⁴ relating to the health and safety of people and communities. We recommend that Submission #3343.13 from Wayfare Group Limited be accepted in part. Our recommended amendments to the Notified Variation are included in Appendix 1.
61. Lastly we note that the numbering of some rules has been changed in our recommended revisions, in some cases to correct errors and in others, to accommodate rules that have been inserted in the relevant chapters in the interim.

4. VARIATION TO PLANNING MAPS 31A, 32 & 37: REMOVAL OF MAPPING ANNOTATION “SUBJECT TO RULES 9.5.3.1 & 9.5.3.3”

4.1 Background

62. The Section 32 Report⁴⁵ stated that the purpose of the variation is to remove the mapping control that imposes Rules 9.5.1.3 and 9.5.3.3 from the HDRZ properties below Frankton Road

⁴⁴ For example, SO 3.2.6

⁴⁵ Section 32 Evaluation, Variation to Proposed District Plan, for Variation to Maps 31A, 32 and 37

from (and including) Lot 3 DP 343088 and Lot 6 DP 369635, extending east (and including) to Lot 12 DP 10787 (723 Frankton Rd).

63. The ODP included a rule which applied specific restrictions on buildings on the south side of Frankton Road. The rule restricted the height (one storey in height above the centreline of Frankton Road), length (16 metres parallel to Frankton Road) and use (access, reception and lobby) of buildings and required a restricted discretionary activity consent. This rule applied to properties from Cecil Road (Paper Road) up to, and including, Lot 1 DP 12665.
64. The notified PDP Stage 1 provisions did not include the above rule from the ODP, but it was sought to be included through a submission. As a result, new Rules 9.5.1.3 and 9.5.3.3 were introduced to the PDP through the Stage 1 decisions. Within an area identified on the Planning Maps, PDP Rules 9.5.1.3 (for flat sites) and 9.5.3.3 (for sloping sites) require the highest point of any building not to exceed the height above sea level of the nearest point of the road carriageway centreline, with discretionary activity consent required for non-compliance.
65. The Section 32A report identified that Rules 9.5.1.3 and 9.5.3.3 were erroneously applied to additional HDRZ properties below Frankton Road (shown within the yellow outline in the figure below)⁴⁶.

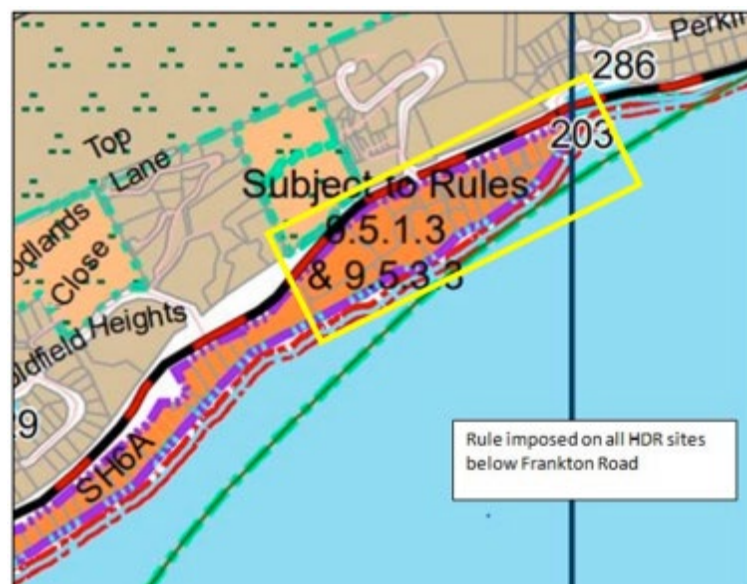


Figure 1 - PDP Zoning and Rule Extent (Area from which the Variation proposes to remove the Rule is shown within the yellow outline)

66. The Section 32 Report stated these rules were applied to a greater extent than intended, incorporating 26 sites below Frankton Road where the underlying topography effectively means any development is unable to comply with either of the rules. Any redevelopment of the area to heights above the road level would effectively not be permitted, which is stated as not being the intention of the rule or the underlying zone. The notified variation sought to remove these sites from the PDP mapped area which is subject to Rule 9.5.1.3 and Rule 9.5.3.3 (demarcated as “specific rules apply/subject to Rules 9.5.1.3 and 9.5.3.3”).

⁴⁶ From (and including) Lot 3 DP 343088 and Lot 6 DP 369635, extending east (and including) to Lot 12 DP 10787 (723 Frankton Rd)

67. On 19 June 2020, the Hearing Panel undertook a visit to the sites affected by the variation and the submitters' sites on Frankton Road.
68. Mr Elias Matthee, Intermediate Policy Planner, employed by the Council, prepared a Section 42A Report⁴⁷ relating to the submissions received on the notified Variation.
69. We received a statement of evidence from Mr Gerard Thompson⁴⁸ on behalf of Sky City Entertainment Group (Sky City)⁴⁹. Mr Thompson did not attend the hearing to present his evidence. He explained in his evidence that the significant impact of the Covid-19 pandemic on Sky City's business meant that Sky City was unable to attend the hearing. He offered to respond to written questions from the Panel should we wish any addition information or clarification.
70. We also received a written statement and verbal evidence⁵⁰ at the hearing from Mr Fred van Brandenburg⁵¹. He is the owner of two properties⁵² immediately to the west of the area from which the variation proposed to remove the additional height controls and that would continue to be subject to the height rules the subject of the variation, if the variation is confirmed.

4.2 Submissions

71. Submissions were received from Sky City⁵³ and Mr van Brandenburg⁵⁴. Sky City supported the variation and asked that it be retained as notified. Mr van Brandenburg opposed the variation and lodged a further submission opposing the submission from Sky City. He asked that the variation be rejected and that Rules 9.5.1.3 and 9.5.3.3 be amended to more closely reflect the relevant height provisions of the ODP. In the alternative, if the variation is retained, the submitter seeks that it be extended to also apply to his adjoining properties.

4.3 Matters in Contention

72. The only submission challenging this variation is that from Mr van Brandenburg.
73. Ms Matthee addressed the submission points in his Section 42A Report⁵⁵. He grouped his analysis into four topics, as follows:
- (a) Reject the mapping variation;
 - (b) Amend the wording of the rules that apply;
 - (c) Extend the removal of the mapping annotation to Mr van Brandenburg's land;
 - (d) Retain the variation as notified.
74. It was Mr Matthee's evidence that the environmental outcome sought to be achieved through these rules is to limit the impact of building heights on views of Lake Wakatipu as viewed from Frankton Road (SH6). If the restrictions contained in these rules are not applied, buildings could be constructed to a maximum of 12m (on flat sites) and 7 meters (on sloping sites).

⁴⁷ Dated 18 March 2020, also referred to as E Matthee, EiC

⁴⁸ Consultant planner, Barker & Associates Limited

⁴⁹ Submitter #3060

⁵⁰ Mr van Brandenburg acknowledged in his written statement that he was not giving expert evidence

⁵¹ Submitter #3294 & Further Submitter #3428

⁵² 595 & 567 Frankton Road

⁵³ Submitter #3060

⁵⁴ Submitter #3294 & Further Submitter #3428

⁵⁵ E Matthee, EiC, Sections 4 - 7

75. Mr Matthee observed that most of the original ground levels of the 26 sites are slightly below, at or above the level of the road carriageway centreline. A large part of this area between Frankton Road and Lake Wakatipu is relatively flat and contains existing houses. The area has a gradual fall towards the lake, becoming steeper closer to the lake, and in one section the land rises to be higher than Frankton Road followed by a steep fall back towards the lake. In Mr Matthee's opinion, if this area remained subject to Rules 9.5.1.3 and 9.5.3.3, in many cases development would not be permitted and would require discretionary activity consent to develop the land in accordance with its HDRZ purpose. In his view, this was not the purpose of these rules, it would unduly restrict development, and it would not allow for the efficient use of land within close proximity to the Town Centre, contrary to the purpose of the HDRZ. It was Mr Matthee's conclusion that application to these sites of the general HDRZ height standards (through the removal of the mapping annotation) would better achieve the PDP Strategic and Urban Development Objectives⁵⁶ and HDRZ Objectives⁵⁷, and more efficiently implement the Strategic and Urban Development Policies⁵⁸.
76. Having visited the site, the Hearing Panel questioned Mr Matthee about the point at which the land along Frankton Road changes topography so that a 7m high building can be constructed without breaching the height control at the centerline of the road. The Panel had estimated this could be somewhere within the final variation site (the Sky City site), rather than right on the boundary between this site and Mr van Brandenburg's site. Mr Matthee agreed this point could be somewhere back into the final variation site, but in his view, it was not far enough back into that site to make it sensible to have two different height rules applied within the one site. He considered applying different height controls on one site would be impracticable for development of that site.
77. Mr Matthee also considered Mr van Brandenburg's request to amend Rules 9.5.1.3 and 9.5.3.3 to reflect the ODP height rules. In addition to rejecting the variation, his submission requested that, within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed more than one storey in height above the Frankton Road carriageway centreline, limited to a length of 16m parallel to the road.
78. Mr Matthee considered the scope for amending the height rules, as requested in the submission. In his opinion, the scope of the variation is limited to the 26 sites below Frankton Road from which the mapping annotation is to be removed. It was his firm opinion, that there is no scope through this variation to amend the application of Rules 9.5.1.3 and 9.5.3.3 outside the area of the variation, nor to amend the HDRZ rules generally. Mr Matthee considered the effect of amending the Frankton Road height control on the 26 sites (as sought by this submitter), rather than completely removing the control (as proposed in the variation). It was his opinion that the amended rules would still unduly restrict development on these 26 sites. It would only allow one storey in height for many sites and none for others. He considered this would be contrary to the purpose of the HDRZ. In addition, Mr Matthee considered it would add unnecessary complexity and administrative challenges, with different height rules applying along this stretch of Frankton Road. In Mr Matthee's opinion, as stated above, retaining the variation would better (and more efficiently) achieve the provisions of the PDP.
79. In terms of extending the variation to Mr van Brandenburg's two properties immediately to the west, Mr Matthee noted that beyond the area of the variation, the ground level of the

⁵⁶ Objectives 3.2.2 and 4.2.2B

⁵⁷ Objectives 9.2.1 and 9.2.6

⁵⁸ Policies 3.2.2.1, 4.2.2.1 and 4.2.2.2

HDRZ land (including the submitter's land) is generally below the road level with a steeper fall towards Lake Wakatipu. He considered the difference to be clear, such that there are clear planning reasons why the different height rules apply. To the west of the variation area, where sites have been developed, views of the lake from Frankton Road have largely been preserved. For redevelopment, or the development of greenfield sites, in most cases, he considered that buildings could be constructed in accordance with the 12m and 7m maximum height requirements, without exceeding the height of the road carriageway centreline. This enables protection of views of the lake from Frankton Road without unduly restricting development.

80. Mr Matthee did not consider Mr van Brandenburg's sites have any distinguishing features that set them apart from the rest of the land over which the PDP mapping annotation is proposed to be retained. It was his evidence that the sites are sloping. Frankton Road is elevated above the sites by 2-4 metres with retaining walls. Earthworks have been undertaken to obtain access to building platforms below the level of the road. In his opinion, the site topography and road boundary setback mean that, in most cases, buildings could be developed in accordance with the HDRZ provisions without breaching the height rules in relation to Frankton Road. Mr Matthee did not consider that the submitter's land warranted special treatment compared with other sites for which the mapping annotation is to be retained.
81. Mr van Brandenburg⁵⁹ addressed us on the history of his involvement with this matter. As his properties were subject to height restrictions relating to Frankton Road under the ODP, he has negotiated a number of consenting processes to obtain approval for the development of his properties. In his opinion, the ODP rule allowed, at the discretion of the Council, consent to a proportion of a building extending above the centreline of Frankton Road, as an entrance feature, enabling more innovative and interesting design. Mr van Brandenburg demonstrated this through plans, a model and a fly-through of the innovative building he has designed (Mr van Brandenburg is an architect) and consented for his properties. He is concerned that if the consent lapses for his site, it will be difficult to get a new consent to similarly breach the Frankton Road height rule, as the height requirements are now stricter.
82. When the ODP rule was not carried through to Stage 1 of the PDP (and more restrictive provisions were introduced), he lodged a submission seeking the ODP provisions be reinstated over the same properties as in the ODP. He later lodged an appeal and attended mediation. Following mediation, we understand Mr van Brandenburg withdrew his appeal, satisfied that Rules 9.5.1.3 and 9.5.3.3 applied both to his properties and the neighbouring properties to the east. Mr van Brandenburg told us he would not have agreed to withdraw his appeal had he known the variation was going to remove the application of those rules to the properties to the east of his.
83. As we understood Mr van Brandenburg's concerns, he considered the combined effect of the PDP Stage 1 provisions, and now the variation, is to accentuate the difference between the height provisions that apply on his properties, compared with those that apply on the properties immediately to the east. He stated that he was not aware that the Council was contemplating varying the Frankton Road height rule during the mediation on his Stage 1 appeal, and he has been unduly affected as a result.
84. Mr van Brandenburg could see no reason why his land should be treated any differently from the land to the east. He noted that the Council had not provided any landscape evidence to support the variation, and that Mr Matthee is not an expert in landscape effects. In his opinion, removing the Frankton Road height rules from the 26 sites will have a significant

⁵⁹ F van Brandenburg, written statement and verbal presentation at the hearing

adverse effect on views of Lake Wakatipu from Frankton Road, however, Mr Matthee has supported this on the basis it would unduly restrict development in accordance with the HDRZ provisions. In Mr van Brandenburg's opinion, the same situation applies with his properties, and the same rules should apply. He also emphasized the adverse amenity affects that would apply to his property if the neighbouring sites are allowed to develop to the full HDRZ heights as a result of the variation. In his opinion, these effects would be significant.

85. When we questioned Mr van Brandenburg about his site and the adjoining one subject to the variation, he accepted that the properties further towards Frankton are smaller, already built on with gaps between the buildings for views, and removal of the Frankton Road height control is appropriate. Also, for the properties further towards Queenstown than his site, the sites are narrower, steeper, and the buildings can be constructed below the road, so the Frankton Road height control is appropriate for them. However, his site and the adjoining site to the east are at the margin. They are wider sites, vacant, and with similar contours. In his opinion, they should be treated in the same manner. We asked Mr van Brandenburg if he could identify a point across the adjoining (Sky City) site, where the topography changes such that to the west the Frankton road height control is appropriate and to the east it is not. He was not able to identify such a topographical change and re-emphasised his position that his site and the adjoining Sky City site are not very different in this regard.
86. Mr Thompson, on behalf of Sky City⁶⁰, also provided planning evidence on the history of height controls over the variation sites. He noted that the ODP height controls did not apply to the Sky City site, but applied to the immediate west of its site (i.e. from Mr van Brandenburg's site and then to the west). Mr Thompson also referred us to the Hearing Panel's Stage 1 Recommendations Report⁶¹. This recommended the application of Rules 9.5.1.3 and 9.5.3.3, but did not discuss what properties they should apply to, or whether they should apply to properties further to the east than the ODP height rule. This explanation is consistent with that contained in the Section 32 Report referred to above. It was Mr Thompson's evidence that the application of Rules 9.5.1.3 and 9.5.3.3 to the Sky City sites and properties to the east would significantly constrain the establishment of buildings as the topography of the land, particularly for those sites closer to Frankton, flattens out to be at a similar level to the road. In these cases, no buildings could be developed in accordance with the height control. In his view, this was not what was intended by the Stage 1 Hearings Panel recommendation. He agreed with the Section 32 report and Mr Matthee that the rule was erroneously applied to the variation sites. He supported the removal of the height control, as proposed through the variation, in order to provide more flexibility for development of these sites, consistent with the HDRZ.

4.4 Hearing Panel's Consideration and Recommendations

87. While we had some sympathy for Mr van Brandenburg's concern regarding the arbitrariness of changing the height rules at the boundary between his property and the one to the east owned by Sky City, we had difficulty identifying an appropriate amendment to the notified variation that was based on a more precise topographical rationale.
88. With regard to his request to reject the whole variation and retain the Frankton Road height control across all 26 variation sites, Mr van Brandenburg accepted (in response to our questions) that the properties further towards Frankton are smaller, already built on, with

⁶⁰ Sky City owns 633 Frankton Road, which is one of the 26 sites affected by the variation (adjoining the properties of Mr van Brandenburg).

⁶¹ Report 9A: Report and Recommendations of Independent Commissioners Regarding Chapter 7, Chapter 8, Chapter 9, Chapter 10 and Chapter 11

existing gaps between the buildings for views, and a Frankton Road height control is not appropriate. We agree with this, and with Mr Matthee's evidence regarding the topography of these sites and their existing development. This corresponds with our own observations from our site visit. Accordingly, we accept the evidence of Mr Matthee that retaining Rules 9.5.1.3 and 9.5.3.3 over the whole of this area would unduly restrict development, would not allow for the efficient use of this land within close proximity to the Town Centre, and would be contrary to the purpose of the HDRZ.

89. We accept the evidence of Mr Matthee that applying the ODP height control to the sites within the area of the variation would also unduly restrict development on the majority of the 26 sites in this area, allowing only one storey development for many sites and none for others. We agree with Mr Matthee that it would be contrary to the purpose of the HDRZ to apply the ODP Frankton Road height control in the area. It would add unnecessarily to the complexity of the PDP without corresponding benefits for protection of views to Lake Wakatipu from Frankton Road.
90. With regard to removing the mapping annotation over Mr van Brandenburg's land or continuing to apply it over the Sky City site to the east, we have carefully considered the evidence from Mr Matthee, Mr van Brandenburg and Mr Thompson. We visited the sites and spent time considering the topography, the application of the various rules and whether there was a clear differentiation between the sites. We agree with Mr van Brandenburg and Mr Matthee that these sites are at the margin between the areas along Frankton Road where the additional height rule relating to the centreline of the road is, and is not, applicable. However, we agree with Mr Matthee that the ground level of Mr van Brandenburg's properties and those to the west are generally well below the road level with a steeper fall towards Lake Wakatipu. By the eastern side of the Sky City property, the ground level is closer to the level of the road with a more gradual fall towards the lake. Mr Matthee accepted that the transition point between these different forms of topography could be somewhere within the Sky City site, but he was not able to precisely identify the location, and neither was Mr van Brandenburg. Having no evidence before us on which to define more precisely an alternative boundary, we accept Mr Matthee's evidence that it is more practical and efficient to use the site boundary as the point at which the Frankton Road height control starts to apply.
91. Accordingly, we accept the evidence of Mr Matthee that retaining the variation as notified better achieves the PDP Strategic and Urban Development Objectives⁶² and HDRZ Objectives⁶³, and more efficiently implements the Strategic and Urban Development Policies⁶⁴. For the reasons set out above, and contained with the evidence of Mr Matthee and Mr Thompson, we recommend retaining the notified variation without amendment, and that Submissions #3294.1 – #3294.3 from Mr van Brandenburg be rejected and Submission 3061.1 from Sky City Entertainment Group be accepted.

⁶² Objectives 3.2.2 and 4.2.2B

⁶³ Objectives 9.2.1 and 9.2.6

⁶⁴ Policies 3.2.2.1, 4.2.2.1 and 4.2.2.2

5. VARIATION TO PLANNING MAP 21 – REZONING TO MEDIUM DENSITY RESIDENTIAL ZONE

5.1 Background

92. The Section 32 Report ⁶⁵identified that Stage 1 of the PDP zoned two sites in Brownston Street, Wānaka, as Low Density Residential Zone (LDRZ)⁶⁶. These sites are surrounded by a Medium Density Residential Zone (MDRZ) generally bounded by Brownston Street, Russell Street, McDougall Street and Tenby Street. The Section 32 Report stated it is understood the zoning of these two sites as LDRZ was not intended by the Council, and that the two sites were intended to be zoned MDRZ. The Report suggested that these two sites may have been zoned LDRZ owing to the notified 26 August 2015 plan maps showing an operative (for information purposes only) Visitor Accommodation Sub-Zone (VASZ) over them, which may have obscured the underlying zoning annotation. No submissions were made on these properties in Stage 1 to rezone the land from the notified LDRZ. Subsequently, the decisions on submissions version of Planning Map 21 identified these sites as LDSRZ.
93. This variation proposed to rezone each of these sites from LDSRZ to MDRZ. The MDRZ covers most of the flat area of Wānaka that sits to the south-west of Wānaka town centre, towards McDougall Street. This zone enables higher density development within areas able to support increased density close to the Wānaka Town Centre and local amenities such as Pembroke Park and Roys Bay.
94. The locations are shown in the following figure. Both sites contain long-established existing commercial scale visitor accommodation (YHA and Wānaka View Motel)⁶⁷ and have a VASZ overlay that provides for visitor accommodation. The VASZ was considered appropriate for these sites under Stage 2 of the PDP. No change to the VASZ was proposed under this variation.



Address	Legal Description	
88-94 Brownston Street and 83 Upton Street (operated as the YHA)	Section 2-3 and 13 Block XXIII Wanaka Township contained in Computer Freehold Register OT5B/617	
122 Brownston Street, Wānaka (operated as Wanaka Wanaka View Motel)	Section 2 Block XXII Wanaka Township contained in Computer Freehold Register OT2D/1400	

Figure 2 - Parcels proposed to be rezoned from LDSRZ to MDRZ

⁶⁵ Section 32 Evaluation, Stage 3 Components, September 2019, for Brownston Street, Wānaka, MDR Variation

⁶⁶ Renamed Lower Density Suburban Residential Zone (LDSRZ) through decisions on submissions

⁶⁷ 88-94 Brownston Street and 83 Upton Street (operated as the YHA) and 122 Brownston Street (operated as Wānaka View Motel)

95. The Section 32 Report concluded that MDRZ over these sites will:
- (a) provide for higher yield within the sites, in close proximity to the Wānaka town centre where a higher density can be well supported; and
 - (b) provide for built form consistent with the surrounding area as determined under the PDP.
96. On 18 June 2020, the Hearing Panel undertook a visit to the sites proposed to be rezoned by this variation.
97. Ms Kathryn Russell, Policy Planner, employed by the Council, prepared a Section 42A Report⁶⁸ on the submissions received on this variation. No other evidence was received.

5.2 Submission and Council Evidence

98. One submission was received on this variation from C & J Properties Limited⁶⁹. The submitter is the owner of 86 Brownston Street, on the corner of Dungarvon and Brownston Streets, which immediately adjoins (to the north east) the YHA site. The submission requested the notified MDRZ be rejected over the variation sites (i.e. that they remain zoned LDSRZ). In addition, if the MDRZ is retained, the submission sought the application of a VASZ over the submitter's property at 86 Brownston Street and over the adjoining sites at 33 and 37 Dungarvon Street. No evidence was received in support of this submission and the submitter did not attend the hearing.
99. The submission stated the Section 32 report had no regard to the effect of the variation on the submitter and the submitter's property. The submission noted that the current zoning of the variation site is LDSRZ with a VASZ, and this zoning dictates the anticipated level of development that can occur on the site. The submission indicated the submitter was aware of this at the time it purchased the property.
100. In the submitter's opinion, the Council should not be increasing yields on an adjoining site without considering the effects on the submitter's land and whether the issues could be overcome by other methods, namely extending the VASZ over the submitter's property. Changing the zoning from LDSRZ to MDRZ is stated as substantially increasing the permissible visitor accommodation activity on the site, with resulting adverse effects on the submitter's property. The submission identified an inherent conflict between increasing residential development on the submitter's property and rezoning the adjoining land MDRZ with a VASZ (such as smaller building setbacks, higher yields, significantly greater continuous building length). The submission suggested this issue could be overcome through the alternative relief sought, by extending the VASZ over the submitter's property, effectively removing the reverse sensitivity and amenity issues that would otherwise arise.
101. Ms Russell addressed this submission in her Section 42A report⁷⁰. She did not support the submission points from C & J Properties Limited.
102. Ms Russell supported the MDRZ over the two variation sites. In her opinion, this achieve the strategic intentions identified through Stage 1 of the PDP to up-zone residential land located in proximity to Town Centres through provision for higher site yields. Any development of the YHA site will be controlled through the provisions of the MDRZ, which is a residential zone with a narrow range of activities enabled. In Ms Russell's opinion, the change of zoning would have little impact on the amenity of the submitter's site.

⁶⁸ Dated 18 March 2020, also referred to as K Russell, EiC.

⁶⁹ Submitter #3253

⁷⁰ K Russell, EiC. Section 4

103. Ms Russell also considered retaining LDSRZ over the two sites would not support the Strategic Direction and urban form priorities of the PDP (Chapters 3 and 4), in particular SP 3.2.1.1 and urban development Policy 4.2.2.22(b). She did not consider retaining the LDSRZ would be an efficient or effective way to achieve the objectives of Chapters 3 and 4. Ms Russell recommended the submission from C & J Properties Limited, to retain the LDSRZ over the two variation sites, be rejected.
104. With regard to extending the VASZ over the submitter's land, Ms Russell considered this would be outside the scope of this variation. The VASZs in Wānaka were addressed through Stage 2 of the PDP process and she did not consider they are open to being reconsidered as part of Stage 3.

5.3 Hearing Panel's Consideration and Recommendations

105. As discussed in Report 20.1, given that rejection of the notified zoning of MDRZ in this case is not supported by any evidence in support, we have no basis to recommend it. In relation to extending the VASZ over the adjoining land, we received no evidence as to the potential costs and benefits to enable us to evaluate this alternative in terms of section 32 of the RMA. As Ms Russell stated, the change of zoning to MDRZ would have little impact on the amenity of the submitter's adjoining site and we do not consider this sufficient to justify a consequential relief through extending the VASZ. Accordingly, for these reasons and those given by Ms Russell, we recommend Submissions #3253.1, #3253.2 and #3253.3 from C & J Properties Limited be rejected.

6. VARIATION TO CHAPTER 27 - LOCATION SPECIFIC SUBDIVISION

6.1 Background

106. The Section 32 Report⁷¹ stated that the purpose of this variation is to amend/update the objectives and policies relating to subdivision in specific locations to have regard to the development that may have already occurred within the respective zones/locations, or to reflect servicing requirements.
107. The Section 32 Report refers to a recommendation from the Planning and Strategy Committee which suggested the location-specific subdivision provisions in the plan (Chapter 27.3) be reviewed, to ensure that they are up-to-date with, and reflect the level of development that has already occurred in the corresponding locations. The recommendation singled out Policy 27.3.1.1 (Peninsula Bay) and Policy 27.3.5.1 (Wyuna Station) as requiring particular attention, which this variation seeks to address.
108. The notified variation:
- (a) deletes Policy 27.3.1.1 relating to easements for public access at Peninsula Bay; and
 - (b) amends Policy 27.3.5.1 (b) and (c) relating to wastewater disposal for the Wyuna Station Lifestyle Zone.
109. No Section 42A report was prepared for this variation.

6.2 Submission and Council Response

110. No submission was received on the first part of the variation – the deletion of Policy 27.3.1.1 relating to Peninsula Bay.

⁷¹ Section 32 Evaluation, Variation to Proposed District Plan, Variation to Chapter 27 Subdivision 27.3. Location-Specific Subdivision Provisions

111. One submission was received from Cabo Limited⁷² on the second part of the variation relating to the Wyuna Station Lifestyle Zone. Cabo Limited is the owner of Wyuna Station. The submission points out that:
- (a) The submitter is the only party directly affected the changes to Policy 27.3.5.1 and was not consulted by the Council;
 - (b) The Section 32 Report is not clear about what problem the variation is seeking to address in relation to Wyuna Station;
 - (c) No update is required to this policy, as Policy 27.3.5.1 is a new policy adopted as part of Stage 1 of the PDP review;
 - (d) There is no ambiguity or confusion with Policy 27.5.3.1.
112. The submission sought the following:
- (a) Decline/withdraw the variation with respect to Policy 27.3.5.1;
 - (b) Undertake a meaningful section 32 evaluation; and
 - (c) Consult with the submitter.
113. In her Opening Legal Submissions for the Council⁷³, Ms Scott addressed this submission from Cabo Limited⁷⁴. She accepted the submitter had correctly pointed out that there is no ambiguity or confusion in Policy 27.3.5.1. She submitted that the variation should be deleted in respect of that policy (i.e. Policy 27.3.5.1 should remain in its Stage 1 decisions version). Although the submission point was not addressed in any Section 42A Report, Ms Scott confirmed the Council's position that the submission from Cabo Limited should be accepted.

6.3 Hearing Panel's Consideration and Recommendations

114. On the basis of the Council's legal submissions, and with no evidence or submissions seeking retention of this part of the variation, we recommend that Submission 3174.1 from Cabo Limited, which sought the variation be declined or withdraw with respect to Policy 27.3.5.1, be accepted. Accordingly, we recommend that the amendments proposed by the variation to Policy 27.3.5.1 be rejected.
115. As a result of our recommendation to delete the amendments to Policy 27.3.5.1, it is no longer necessary to implement the other two submissions points from Cabo Limited relating to a meaningful Section 32 evaluation and further consultation with the submitter. We recommend that Submissions 3174.2 and 3174.3 from Cabo Limited be rejected.
116. As there were no submissions on the deletion of Policy 27.3.1.1, we recommend this part of the variation be accepted.
117. Our recommended amendments to the Notified Variation are included in Appendix 1

⁷² Submitter #3174

⁷³ Dated 29 June 2020

⁷⁴ Opening legal submissions for the Council from Ms Scott, para [8.31]-[8.33]

7. VARIATIONS WITH NO SUBMISSIONS OR SUBMISSIONS ONLY IN SUPPORT

7.1 Background

118. In her Section 42A Report⁷⁵, Ms Gabriela Glory, Graduate Policy Planner employed by the Council, addressed the notified variations that had received no submissions or submissions only in support⁷⁶. She listed the following:
- (a) Variation to Chapter 43 Millbrook – Rule 43.5.2 – No submissions received;
 - (b) Variation to Planning Maps - Atley Road zoning – No submissions received;
 - (c) Variation Chapter 26 and Planning Map 21– Chalmers Cottage – One submission received in support⁷⁷;
 - (d) Variation to Chapter 2 Definitions – Residential Flat – Two submissions received in support⁷⁸;
 - (e) Variation to Chapters 7 – 9 – Waste and Recycling Storage Space Provisions – One submission received in support⁷⁹.
119. Ms Glory recommended that the submissions in support be accepted and that each of the above notified variations be accepted.

7.2 Hearing Panel’s Consideration and Recommendations

120. On the basis of Ms Glory’s recommendations, and with no evidence or submissions opposing these notified variations, we recommend that Submission 3191.1 from Heritage New Zealand / Pouhere Taonga; Submissions #3013.4 and #3013.5 from Pia Condren; and Submission #3338.1 from Roger Lindsay Donaldson be accepted. We also recommend the following notified variations be accepted without amendment:
- (a) Variation to Chapter 43 Millbrook – Rule 43.5.2;
 - (b) Variation to Planning Maps - Atley Road zoning;
 - (c) Variation Chapter 26 and Planning Map 21– Chalmers Cottage;
 - (d) Variation to Chapter 2 Definitions – Residential Flat;
 - (e) Variation to Chapters 7 – 9 – Waste and Recycling Storage Space Provisions.

8. GENERAL SUBMISSIONS – UNRELATED TO STAGE 3 AND 3B CHAPTERS OR VARIATIONS

8.1 Background

121. Several general submissions were received during the notification of Stages 3 and 3B of the PDP that did not relate specifically to the Stage 3 and 3B Chapters or variations. Ms Gabriela Glory⁸⁰ addressed these in her Section 42A Report on General Submissions⁸¹. She identified seven submission points from four submitters and associated further submission points on general matters. She grouped them as follows in her Section 42A Report and we have considered them in the same groups:
- (a) Submission #3005 – Sports Otago;
 - (b) Submission #3138 – Brendon Cutt;

⁷⁵ Section 42A Report of Gabriela Glory, Stage 3 and 3b General Submissions, dated 18 March 2020, also referred to as G Glory, EIC (General).

⁷⁶ G Glory, EIC (General), Section 7

⁷⁷ Submission #3191.1 from Heritage New Zealand / Pouhere Taonga

⁷⁸ Submission #3013.4 from Pia Condren, and Submission #3338.1 from Roger Lindsay Donaldson

⁷⁹ Submission #3013.5 from Pia Condren

⁸⁰ Ms Gabriela Glory, Graduate Policy Planner employed by the Council

⁸¹ Section 42A Report of Gabriela Glory, Stage 3 and 3b General Submissions, dated 18 March 2020, also referred to as G Glory, EIC (General).

- (c) Submission #31025 and #3052 – Ministry of Education (Incorporation of the National Planning Standards);
- (d) Submission #3080 –Transpower New Zealand Limited.

8.2 Sports Otago

122. Sports Otago⁸² requested a rezoning in the Ladies Mile area. It sought that the Ladies Mile land recently purchased by the Council at 516 Frankton- Ladies Mile Highway (14.6 hectares located on the corner of Howards Drive and Frankton-Ladies Mile Highway/State Highway 6) be zoned Active Sports and Recreation Zone as well as providing for educational use. Further submissions in support were received from Glenpanel Developments Limited⁸³ and Sport Otago⁸⁴.
123. Ms Glory⁸⁵ informed us that the land was confirmed as Rural Residential Zone (RRZ) as part of Stage 2 of the PDP. She recommended that the submission be struck out under section 41D of the RMA.
124. The land sought to be rezoned through this submission has not been included in any aspect of the Stage 3 and 3B notified plan changes or variations. Its zoning has already been confirmed through the Stage 2 PDP process with any submissions relating to the zoning of this area of land being considered at that time. We agree with Ms Glory that it is not within the scope of Stage 3 and 3B of the PDP to reconsider the zoning of this land. It would not be appropriate for this hearing process to be used to consider this submission any further. Accordingly, Submission #3005.2 from Sport Otago is struck out by the Chair, exercising the power to do pursuant to section 41D of the Act delegated to him by the Council.

8.3 Brendon Cutt

125. Brendon Cutt⁸⁶ opposed a hotel in Fernhill. His submission stated that a multi-level hotel on the current Q Resort site in Fernhill is opposed.
126. Ms Glory⁸⁷ informed us that the land on which this hotel is situated was not notified as part of the Stage 3 and 3B notified plan changes or variations and that the zoning of this land was considered during Stage 1 of the PDP. She noted that the submitter does not seek an amended zoning for the land, but opposes a particular hotel development. Ms Glory did not consider the submission is within the scope of Stages 3 or 3B of the PDP and recommended the submission be struck out under section 41D of the RMA.
127. The land referred to in this submission has not been included in any aspect of the Stage 3 and 3B notified plan changes or variations. Its zoning has already been confirmed through the Stage 1 PDP process with any submissions relating to the zoning of this area of land (or the activities provided for through that zoning) being considered at that time. We agree with Ms Glory that it is not within the scope of Stage 3 and 3B of the PDP to reconsider the zoning of this land. In addition, the submission appeared to be opposed to a particular hotel development. It is not within the scope of Stage 3 and 3B of the PDP to consider the appropriateness of any particular resource consent proposal. It would not be appropriate for

⁸² Submitter #3005

⁸³ FS#3438.1

⁸⁴ FS#3472.2

⁸⁵ G Glory, EiC (General), Section 3

⁸⁶ Submitter #3138

⁸⁷ G Glory, EiC (General), Section 4

this hearing process to be used to consider this submission any further. Accordingly, Submission #3138.3 from Brendon Cutt is struck out under section 41D of the RMA.

8.4 Ministry of Education (Incorporation of National Planning Standards)

128. The Ministry of Education⁸⁸ lodged submission points on Stages 3 and 3B of the PDP seeking that the definitions for 'educational facilities' and 'community facility' from the National Planning Standards (NPS) be adopted during the Stage 3 review process. The submissions were opposed by QAC⁸⁹ and supported by Public Health South⁹⁰.
129. Ms Glory⁹¹ pointed us to Mr Barr's strategic evidence⁹² in which he addressed the requirements on the Council to implement the NPS. It was Mr Barr's evidence⁹³ that:

The first set of National Planning Standards (planning standards) came into effect on 3 May 2019. This raises the matter of whether to promptly update and/or rehouse the District Plan to reflect the planning standards, or implement them as part of the next full plan review process.

Although the majority of standards are mandatory directions that do not go through a normal RMA Schedule 1 process it is anticipated that a large number of amendments may be required to rehouse the District Plan as a result of implementing the standards (via a RMA Schedule 1 process) and that this is likely to be disruptive to recently reviewed provisions

Many aspects of the PDP are either compliant or largely consistent with the planning standards such as structure and format standards and Council are working towards implementing electronic accessibility and functionality standards, well ahead of the specified time requirements.

However, many of the definitions in the planning standards would require a cascade of changes to be made through the plan to integrate them into the both volumes of the District Plan. Although this has not been put to a Council resolution, to my knowledge Council staff intend to implement the planning standards in accordance with the required timelines for implementation, which lists QLDC as having to implement the first planning standards within seven years and definitions within nine years – well beyond the timeframe proposed for the review of the RMA and a number of NPSs and the ORPS.

I therefore understand the planning standards are not relevant to the Queenstown plan review and decision making on Stage 3.

Ms Glory supported Mr Barr's approach and recommended these submission points from the Ministry of Education be rejected. She recognised there is a requirement to reconfigure the district plan to implement the NPS, but that it is not efficient or effective to introduce the NPS definitions in the PDP in a piecemeal fashion, as sought by Ministry of Education. In her view,

⁸⁸ Submitter #3152 and #31025

⁸⁹ FS#3436.20

⁹⁰ FS#31049.3 & #31049.4

⁹¹ G Glory, EiC (General), Section 5

⁹² Craig Barr, EiC, Strategic overview for all of Stage 3, 18 March 2020

⁹³ C Barr, EiC (Strategic Overview), para [4.2]-[4.6]

it would be more efficient and effective to look at the plan in its entirety and implement the NPS direction in one go.

130. Ms Glory also noted that changes to the definitions may have flow on effects to other parts of the PDP that are not subject to Stage 3 and 3B. In answer to our questions on this matter, she stated that there is no scope through the Stage 3 and 3B PDP process to amend definitions that apply to provisions that have previously been decided upon.
131. Mr Keith Frentz⁹⁴, consultant planner, presented evidence on this matter on behalf of the Ministry. In his opinion, the current plan change process presents an opportunity for the Council to implement changes (in response to submissions) that would align the reviewed Plan with the NPS at an early stage effectively and efficiently without having to resort to full further plan change processes in the future. He acknowledged that other plan changes may be needed in the future, but where changes to such matters as definitions can be made, he believed the opportunity should be taken now.
132. Having considered the evidence of Mr Barr, Ms Glory and Mr Frentz, we consider Mr Frentz has significantly under-estimated the complications and inefficiencies that would arise from implementing two NPS definitions for the zones in Stages 3 and 3B of the PDP process, whilst retaining the current PDP definitions for the balance of the district plan. We agree with Ms Glory there is no scope to amend definitions beyond Stages 3 and 3B. Neither is there scope to review all the Stages 3 and 3B provisions (beyond those referred to in the Ministry's submission) in order to fully implement these NPS definitions throughout the cascade of provisions. We also agree that piecemeal changes would be disruptive to the plan review process. We consider it would be considerably more efficient to review the whole of the PDP, at an appropriate stage, to implement all the required NPS definitions, along with the flow-on changes that will inevitably be required across the district plan. The NPS has given the Council nine years to achieve this, which we consider is due recognition of the work and time that will be required and, as Mr Barr pointed out, allows integration with other substantial changes planned for the RMA framework.
133. For these reasons, and those given by Mr Barr and Ms Glory, we recommend that Submissions #3152.1, #31025.4 and #31025.5 from the Ministry of Education be rejected.

8.5 Transpower New Zealand Limited

134. Transpower New Zealand Limited⁹⁵ sought an amendment to the Stage 3 and 3B Planning Maps to include the Cromwell-Frankton A 110kV National Grid Transmission Line (the transmission line)⁹⁶. The submission stated it is understood the Stage 1 and 2 Planning Maps identify the National Grid, however, for the avoidance of doubt Transpower also sought that the National Grid is shown over the land zoned as part of Stage 3 (being the General Industrial Zone – recommended to be renamed General Industrial and Service Zone in Report 20.3).
135. Transpower's submission⁹⁷ also sought that the terminology used to refer to the National Grid on the Planning Maps Legend (as is shown in respect of Stages 1 and 2) is amended to reflect the terminology used in the associated provisions of the PDP, being:
 - "Transpower AC-Frankton Substation"

⁹⁴ K Frentz, EiC, Section 6

⁹⁵ Submitter #3080

⁹⁶ Submission #3080.9

⁹⁷ Submission #3080.10

- “Transpower ~~Pylons~~ Transmission Line Support Structure (approximate location)”
- “National Grid Transmission ~~Line~~Corridor”

136. Transpower’s submissions were opposed by Lake Hāwea Holdings Limited⁹⁸.
137. Ms Glory addressed these submissions in her Section 42A Report⁹⁹. She noted that the transmission line is currently shown on the Stage 1 and 2 “Decisions and Appeals” Planning Maps. In her view it would be a duplication to show the transmission line on the Stage 3 and 3B Planning Maps, as when Stages 3 and 3B are finalized, the Planning Maps will be combined with those from Stages 1 and 2 which already show this line. Ms Glory stated – *“In essence, this part of the National Grid is already on the PDP plan maps”*. On this basis, she recommended the submission from Transpower New Zealand Limited be rejected.
138. With respect to the terms used in the Planning Maps Legend, Ms Glory agreed with the submission that changing the terms would be consistent with the terminology used in Chapter 30 Energy and Utilities, Chapter 2 Definitions and the higher order documents. She agreed that these amendments are appropriate and would improve consistency in the PDP. Ms Glory noted that these amendments are not relevant to the Stage 3 and 3B proposals, as this aspect of the Planning Map legend was not notified on the Stage 3 and 3B Planning Maps. However, in her view, the amendments would have no change in effect or policy direction and are neutral changes that can be made pursuant to Clause 16(2) Schedule 1 of the RMA. She recommended accordingly.
139. Ms Ainsley McLeod¹⁰⁰ gave evidence on behalf of Transpower at the Stream 16 hearing. We also received a letter from Daniel Hamilton¹⁰¹ on behalf of Transpower in relation to Stream 17 and 18 issues. Neither of these addressed these aspects of Transpower’s submission.
140. As discussed in Report 20.1, where a change sought to the Stage 3 and 3B Planning Maps is not supported by any evidence we have no basis to make the change sought. Accordingly, we adopt the recommendation from Ms Glory for the reasons she has given. We recommend rejecting Submission #3080.9 from Transpower New Zealand Limited.
141. However, we agree with Ms Glory that changing the terms used in the Planning Maps Legend would be appropriate and improve consistency with the terminology used throughout the PDP and the higher order planning documents. We agree that these amendments would have no change in effect or policy direction and are neutral changes that can be made pursuant to Clause 16 Schedule 1 of the RMA. Accordingly, we recommended accepting Submission 3080.10 and recommend the Planning Maps Legend be amended as follows, pursuant to Clause 16(2) Schedule 1 of the RMA:

“Transpower AC-Frankton Substation”
“Transpower ~~Pylons~~ Transmission Line Support Structure (approximate location)”
“National Grid Transmission ~~Line~~Corridor”

9. RECOMMENDED AMENDMENTS PURSUANT TO CLAUSE 16(2)

142. Clause 16(2) of the First Schedule to the Act provides that:

⁹⁸ FS#3447.9 & FS#3447.10

⁹⁹ G Glory, EiC (General), Section 6

¹⁰⁰ A McLeod, EiC, 19 June 2020

¹⁰¹ Environmental Regulatory Team Leader, Transpower

(2) a local authority may make an amendment, without using the process in the schedule, to its proposed policy statement or plan to alter any information, where such alteration is of minor effect or may correct any minor errors.

143. We set out below our recommendations for amendments to the PDP provisions pursuant to Clause 16(2). We have not included circumstances where consequential changes are required as a result of changes to policy/rule numbers or deletion of provisions; or for consistency with zone names, drafting conventions or numbering in the PDP (Decisions Version). Where applicable, the amendments made to the text under Clause 16(2) below have already been included in the text changes attached in Appendix 1.

- (a) Minor amendments to clarify the wording to read: *“Water storage of 45,000 litres shall be maintained ...”* in Rules 21.7.5.1, 22.5.13.1, 23.5.9.1, 24.5.9.a. and 38.10.11.1.
- (b) Replace the term *“transportation network”* with the defined term of *“transport network”* in the matters of discretion in Rules 7.5.13, 8.5.11, 9.5.10, 12.5.13, 13.5.11, 14.5.9, 15.5.9 and 16.5.10.
- (c) Minor amendments to clarify the wording of the matters of discretion relating to lighting and glare in Rule 14.5.9, and to provide consistency between all zones included in the variation.
- (d) The Legend to the Planning Maps be amended as follows:
 - “Transpower AC ~~Frankton~~ Substation”*
 - “Transpower ~~Pylons~~ Transmission Line Support Structure (approximate location)”*
 - “National Grid Transmission Line ~~Corridor~~”*

10. OVERALL RECOMMENDATION

144. Having considered the evidence before us, we have formed the view that, save as identified in our report above, the notified provisions of the Variations are the most appropriate way to give effect to the relevant objectives of the PDP. To the extent that we have recommended amendments to the notified provisions, our reasons are as set out above.

145. Accordingly, we recommend the Council:

- (a) adopt the following Variations, with the amendments to the notified wording as set out in Appendix 1:
 - Chapters 21 - 24, & 38 - Firefighting Water Supply and Access
 - Chapters 7 – 9, 12 – 16 - Glare
 - Planning Maps - Frankton Road Height Control
 - Planning Maps – Wānaka – Medium Density Residential Rezoning
 - Chapter 27 – Location Specific Subdivision Provisions
 - Chapter 26 and Planning Maps - Chalmers Cottage
 - Chapter 2 Definitions – Residential Flat
 - Chapter 7 - 9 – Waste and Recycling
 - Chapter 43 Millbrook – Rule 43.5.2
 - Planning Maps – Atley Road Rezoning
- (b) make the amendments to the PDP provisions pursuant to Clause 16(2), as set out in Section 9 of this Report 20.11.

146. We also attach as Appendix 2, a summary table setting out our recommendation in relation to each submission on the Variations (and the general submissions from Ministry of Education and Transpower New Zealand Limited). We have not listed further submissions as the result in respect of any further submission necessarily follows the recommendation on the primary submission, whether that be supported or opposed.
147. Submission #3005.2 from Sport Otago and Submission #3138.3 from Brendon Cutt are struck out by the Chair, exercising the power to do pursuant to section 41D of the Act delegated to him by the Council.



Trevor Robinson
Chair
Stream 18 Hearing Panel

Dated: 12 January 2021

Attachments

Appendix 1- Recommended Revised Variation Provisions

Appendix 2- Table of Submitter Recommendations

Appendix 1 – Recommended Revised Variation Provisions

Appendix 2 – Table of Submitter Recommendations

Variation to Chapters 21-24 & 38 – Firefighting Water Supply and Access

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3063	Waterfall Park Developments Limited	3063.1	That the variations to rule 21.7.5.1 be amended to remove the words 'excluding potable water storage volume requirements for domestic use.'	Accept in part	2
3063	Waterfall Park Developments Limited	3063.2	That the variations to rule 22.5.13.1 be amended to remove the words 'excluding potable water storage volume requirements for domestic use.'	Accept in part	2
3063	Waterfall Park Developments Limited	3063.3	That the variations to rule 23.5.9.1 be amended to remove the words 'excluding potable water storage volume requirements for domestic use.'	Accept in part	2
3063	Waterfall Park Developments Limited	3063.4	That the variations to rule 24.5.19.a be amended to remove the words 'excluding potable water storage volume requirements for domestic use.'	Accept in part	2
3063	Waterfall Park Developments Limited	3063.5	That the variations to rule 38.10.11.1 be amended to remove the words 'excluding potable water storage volume requirements for domestic use.'	Accept in part	2
3288	Fire and Emergency New Zealand	3288.12	That variation to 21.7.5.1 be amended as follows: A maintained water supply of at least 45,000 litres and any necessary couplings (excluding potable storage volume requirements for domestic use) with an outlet connection point that can provide 1500L/min (25 L/s).	Accept	2
3288	Fire and Emergency New Zealand	3288.13	That a new rule be added to 21.7 as follows: All non-residential habitable buildings where there is no reticulated water supply, or any reticulated water supply is not sufficient for firefighting, must comply with the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509;2008.	Reject	2
3288	Fire and Emergency New Zealand	3288.14	That rule 22.5.13.1 be amended as follows: A maintained water supply of at least 45,000 litres (excluding potable storage volume requirements for domestic use) with an outlet connection point that can provide 1500L/min (25L/s) and any necessary couplings.	Accept	2

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3288	Fire and Emergency New Zealand	3288.15	That a new rule be added to 22.5.13 as follows: All non-residential habitable buildings where there is no reticulated water supply, or any reticulated water supply is not sufficient for firefighting, must comply with the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.	Reject	2
3288	Fire and Emergency New Zealand	3288.16	That Rule 23.2.1.14 be retained as notified.	Accept	2
3288	Fire and Emergency New Zealand	3288.17	That Rule 23.5.9.1 be amended as follows: A maintained water supply of at least 45,000 litres (excluding potable storage volume requirements for domestic use) with an outlet connection point that can provide 1500L/min (25L/s), and any necessary couplings.	Accept	2
3288	Fire and Emergency New Zealand	3288.18	That a new rule be added to 23.5.9 as follows: 23.5.9.X All non-residential habitable buildings where there is no reticulated water supply, or any reticulated water supply is not sufficient for firefighting, must comply with the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.	Reject	2
3288	Fire and Emergency New Zealand	3288.19	That rule 24.5.19 be amended as follows: A maintained water supply of at least 45,000 litres (excluding potable storage volume requirements for domestic use) with an outlet connection point that can provide 1500L/min (25 L/s) and any necessary couplings.	Accept	2
3288	Fire and Emergency New Zealand	3288.20	That a new rule be added to 24.5.19 as follows: 24.5.19(e) All non-residential habitable buildings where there is no reticulated water supply, or any reticulated water supply is not sufficient for firefighting, must comply with the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.	Reject	2
3288	Fire and Emergency New	3288.21	That Rule 38.10.11 be retained as notified.	Accept	2

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
	Zealand				
3343	Wayfare Group Limited	3343.22	That the proposed amendments for Rule 38.10.11 be deleted/withdrawn, additional information is provided to clarify how the proposed rules are to be interpreted and applied, and an additional assessment matter to allow for consideration of "whether the location and functional need of the activity may justify non-conformance with SPZ PAS 4509:2008 being complied with".	Reject	2
3343	Wayfare Group Limited	3343.23	That the proposed amendments for Rule 21.7.5 be deleted/withdrawn, additional information be provided to clarify how the proposed rules are to be interpreted and applied, and an additional assessment matter to allow for consideration of "whether the location and functional need of the activity may justify non-conformance with SPZ PAS 4509:2008 being complied with".	Reject	2

Variation to Chapters 7-9, 12-16 – Glare

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3229	NZ Transport Agency	3229.26	That under Rule 7.5.13 matter of discretion a. be amended to read ' effects of lighting and glare on the amenity values of adjoining sites, the safety of the transportation network and the night sky'.	Accept	3
3229	NZ Transport Agency	3229.27	That under Rule 8.5.11 matter of discretion a. be amended to read ' effects of lighting and glare on the amenity values of adjoining sites, the safety of the transportation network and the night sky'.	Accept	3
3229	NZ Transport Agency	3229.28	That under Rule 9.5.10 matter of discretion a. be amended to read ' effects of lighting and glare on the amenity values of adjoining sites, the safety of the transportation network and the night sky'.	Accept	3
3229	NZ Transport Agency	3229.29	That Rule 12.5.13.1 be amended to include the words ' the effects on the amenity of adjoining sites, the safety of the transportation network, and' after the word 'limit' and before the words 'the effects on the night sky', with matter of discretion a. amended to read ' effects of lighting and glare on the amenity values of adjoining sites, the safety of the transportation network and the night sky'.	Accept	3
3229	NZ Transport Agency	3229.30	That Rule 13.5.11.1 be amended to include the words ' the effects on the amenity of adjoining sites, the safety of the transportation network, and' after the word 'limit' and before the words 'the effects on the night sky', with matter of discretion a. amended to read ' effects of lighting and glare on the amenity values of adjoining sites, the safety of the transportation network and the night sky'.	Accept	3
3229	NZ Transport Agency	3229.31	That Rule 15.5.9.1 be amended to include the words ' the effects on the amenity of adjoining sites, the safety of the transportation network, and' after the word 'limit' and before the words 'the effects on the night sky', with matter of discretion a. amended to read ' effects of lighting and glare on the amenity values of adjoining sites, the safety of the transportation network and the night sky'.	Accept	3
3229	NZ Transport Agency	3229.32	That Rule 16.5.10.1 be amended to include the words ' the effects on the amenity of adjoining sites, the safety of the transportation network, and' after the word 'limit' and before the words 'the effects on the night sky', with matter of discretion a. amended to read ' effects of lighting and glare on the amenity values of adjoining sites, the safety of the transportation network and the night sky'.	Accept	3

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3316	Queenstown Airport Corporation	3316.22	That the activity status for Rule 15.5.19 is amended from Non-Complying to Restricted Discretionary and the matter of discretion labelled 'a.' is amended to include aircraft operations.	Reject	3
3316	Queenstown Airport Corporation	3316.31	That the activity status for Rule 7.5.13 is amended from Non-Complying to Restricted Discretionary and the matter of discretion labelled 'a.' is amended to include aircraft operations.	Reject	3
3316	Queenstown Airport Corporation	3316.32	That the activity status for Rule 8.5.11 is amended from Non-Complying to Restricted Discretionary and the matter of discretion labelled 'a.' is amended to include aircraft operations.	Reject	3
3316	Queenstown Airport Corporation	3316.33	That the activity status for Rule 9.5.10 is amended from Non-Complying to Restricted Discretionary and the matter of discretion labelled 'a.' is amended to include aircraft operations.	Reject	3
3343	Wayfare Group Limited	3343.13	That an additional matter of discretion is inserted to the rule concerning glare to include 'navigational safety' where these provisions apply to land use that may affect navigational safety.	Accept in Part	3

Variation to Planning Maps 31a, 32 & 37: Removal of Mapping Annotation "Subject to Rules 9.5.3.1 & 9.5.3.3"

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3060	SkyCity Entertainment Group	3060.1	That the variation to Maps 31a, 32 and 37 in order to remove Rules 9.5.1.3 and 9.5.3.3 be retained as notified.	Accept	4
3060	Fred van Brandenburg	FS3428.1	That the relief sought in submission 3060.1 is opposed. The further submission seeks alternative amendment so that rules 9.5.1.3 and 9.5.3.3 do not apply to the Further Submitter's land if rules 9.5.1.3 and 9.5.3.3 do not apply to the original submitter's land	Reject	4
3294	Fred van Brandenburg	3294.1	That the variation to the planning maps in relation to Frankton Road Height Control be rejected.	Reject	4
3294	Fred van Brandenburg	3294.2	That Rule 9.5.1.3 be amended as follows: Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed more than one storey in height above the Frankton Road carriageway centreline, limited to a length of 16m parallel to the Road, or, that the variation be amended so that Rules 9.5.1.3 and 9.5.3.3 do not apply to 567 Frankton Road (Lot 1 DP 12665 and Lot 28 DP 11099); or any alternative consequential or necessary additional relief be made to give effect to the submission.	Reject	4
3294	Fred va Brandenburg	3294.3	That Rule 9.5.3.3 be amended as follows: Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed more than one storey in height above the Frankton Road carriageway centreline, limited to a length of 16m parallel to the Road, or, that the variation be amended so that Rules 9.5.1.3 and 9.5.3.3 do not apply to 567 Frankton Road (Lot 1 DP 12665 and Lot 28 DP 11099); or any alternative consequential or necessary additional relief be made to give effect to the submission.	Reject	4

Variation to Planning Map 21 – Rezoning to Medium Density Residential Zone, Wānaka

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3253	C & J Properties Limited	3253.1	That the Wānaka Medium Density Residential Mapping variation as proposed be rejected	Reject	5
3253	C & J Properties Limited	3253.2	That if submission point 3253.1 is rejected, a Visitor Accommodation Subzone be applied to 86 Brownston St, Wānaka, with any consequential changes.	Reject	5
3253	C & J Properties Limited	3253.3	That if submission point 3253.2 is accepted, a Visitor Accommodation subzone be applied to 33 and 37 Dungarvon Street, Wānaka, with any consequential changes.	Reject	5

Variation to Chapter 27 – Location Specific Subdivision

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3174	Cabo Limited	3174.1	That the variation to Policy 27.3.5.1 be rejected.	Accept	6
3174	Cabo Limited	3174.2	That a meaningful section 32 evaluation be undertaken for the proposed variation to Policy 27.3.5.1.	Reject	6
3174	Cabo Limited	3174.3	That consultation be undertaken with the submitter on the proposed variation to Policy 27.3.5.1.	Reject	6

Variations with No Submissions or Submissions Only in Support

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
Chalmers Cottage Variation					
3191	Heritage New Zealand Pouhere Taonga	3191.1	That the inclusion of Chalmers Cottage in the Inventory of Listed Heritage Features and identification on Map 21, or provision to like effect, be retained.	Accept	7
Definition Residential Flat					
3013	Pia Condren	3013.4	That the definition of residential flat be retained as notified.	Accept	7
3338	Roger Lindsay Donaldson	3338.1	That the definition of Residential Flat be retained as notified.	Accept	7
Waste Variation					
3013	Pia Condren	3013.5	That the Variation to Chapter 7 Lower Density Suburban Residential for the Waste and Recycling Variation be retained as notified.	Accept	7

General Submissions – Unrelated to Stage 3 and 3B Chapters or Variations

Submission No.	Submitter Name	Submission Point No.	Submission Summary	Commissioner Recommendation	Section of Commissioner Recommendation Report where Submission is Addressed
3005	Sport Otago	3005.2	That the Ladies Mile land recently purchased by Queenstown Lakes District Council at 516 Frankton- Ladies Mile Highway (legally described as Lot 4 DP 22156 with an area of 14.6 hectares located on the corner of Howards Drive and Frankton Ladies Mile Highway/State Highway 6) be zoned Active Sports and Recreation Zone as well as providing for educational use.	Struck Out by the Chair pursuant to section 41D of the RMA	8
3152	Ministry of Education	3152.1	That the definitions for 'educational facilities' and 'community facility' from the National Planning Standards be adopted during the Stage 3 review process.	Reject	8
Stage 3 Maps					
3080	Transpower New Zealand Limited	3080.9	That the planning maps be amended to show the Cromwell-Frankton A 110kV National Grid Transmission Line.	Reject	8
3080	Transpower New Zealand Limited	3080.10	That the terminology used to refer to the National Grid on the Planning Map Legend (as is shown in respect of Stages 1 and 2) is amended to reflect the terminology used in the associated provisions of the PQLD	Accept - Clause 16 Schedule 1 RMA	8
3138	Brendon Cutt	3138.3	That a multi-level hotel on the current Q Resort site in Fernhill is opposed.	Struck Out by the Chair pursuant to section 41D of the RMA	8
Stage 3B General					
31025	Ministry of Education	31025.4	That the following definition from the National Planning Standards be included within the Proposed District Plan: Community Facility: means land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility.	Reject	8
31025	Ministry of Education	31025.5	That the following definition from the National Planning Standards be included in the Proposed District Plan: Educational Facility: means land or buildings used for teaching or training by child care services,	Reject	8

			schools, and tertiary education services, including any ancillary activities.		
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