

Before the Queenstown Lakes District Council

Under the Resource Management Act 1991

In the matter of a submission under clause 6, Schedule 1 of the Resource Management Act 1991 on Stage 3B of the Queenstown Lakes Proposed District Plan

**Wayfare Group Limited (#31024)**

Submitter

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**Statement of Evidence of Ben Farrell**

28 May 2021

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## INTRODUCTION

### Qualifications and experience

1. My full name is Ben Farrell. I am an Independent Planning Consultant based in Queenstown. I am owner and director of Cue Environmental Limited, a company I recently established to provide independent planning services across New Zealand.
2. Over the last 20 years I have been heavily involved in New Zealand's environmental and resource management sector. I studied planning, parks, recreation, tourism and resource management at Lincoln University from 1999 to 2003 graduating with a Bachelor of Resource Studies and a Master of Environmental Policy. During my studies I was employed by Auckland Regional Council, Greater Wellington Regional Council, and Connell Wagner Limited (in Christchurch). Since graduating, I have been employed as a planner by Upper Hutt City Council (2004), Boffa Miskell Limited (Wellington 2005-2010), Andrew Stewart Limited<sup>1</sup> (Wellington and Invercargill 2013-2015), Southland Regional Council (2014-2015), and John Edmonds and Associates (Queenstown 2015-2018). During 2010-2013 I was a self-employed planning consultant, working primarily for the New Zealand Wind Energy Association on a range of resource management policy and project developments across New Zealand.
3. Over the last 17 years I have provided strategic and statutory planning advice on a wide variety of resource management projects for a wide variety of clients or government employers, including the following to varying degrees:
  - a) Preparation and implementation of National Policy Statements, seven regional policy statements and over 20 resource management plans;
  - b) The preparation and assessment of numerous resource consent applications, notices of requirements, and Assessments of Effects on the Environment reports for a range of projects and applicants; and
  - c) Development of best practice guidelines and standards in relation to resource management issues, including in relation to natural character and landscape assessment methodologies.
4. Since moving from Wellington to the South Island in 2014 I have worked primarily on regional planning issues in Otago and Southland, and Queenstown District planning issues. In 2014-2015, on behalf of Environment Southland, I prepared s42A reports for six chapters of the Proposed Southland Regional Policy

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<sup>1</sup> Now 4Sight Limited

Statement; and led the preparation of the Draft Regional Water Plan for Southland 2015. I am familiar with and have been involved (as a planning expert for numerous parties) on the development of the Otago Regional Policy Statement (operative 2021). I provided expert planning evidence and an affidavit before the Environment Court on appeals on the Proposed Southland Water and & Land Plan (engaged by the Royal New Zealand Forest & Bird Protection Society and Southland Fish and Game); and for the Otago Fish & Game Councils on the Otago Regional Water Plan Change 7 (which has been “called in” and is currently being heard by the Environment Court as a matter of national significance).

5. In addition to my qualifications and experiences as a planner I am a full member of the New Zealand Planning Institute. I was on the Institute’s Wellington regional branch committee from 2004-2013, I was chairman of that branch in 2010-2011, and I sat on the Central Otago Branch committee between 2015-2018. I currently sit on the national board of New Zealand Planning Institute and sit on the Institutes editorial panel for its journal (Planning Quarterly). I also currently sit on the Central Otago and National committees of the Resource Management Law Association. Over the past two years or so, on behalf of the RMLA, I (along with numerous other experts and parties) have provided planning expertise to Central Government in its Comprehensive Review of the Resource Management System.
6. I am familiar with the Otago Regional and Queenstown District environments (and note I reside in a rural living zone within ONL located opposite the site – I see the Walter Peak site every day).

### **Code of conduct for expert witnesses**

7. I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2014 and that I have complied with it when preparing my evidence. Other than when I state I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

### **Conflict of interest**

8. I advise that I am married to Ms Ailsa Cain, who is also providing evidence on behalf of Wayfare, but I do not consider that any conflict of interest arises out of this.

### **Scope of evidence**

9. I have been asked to prepare planning evidence on this matter by Wayfare.
10. My evidence has been framed in acknowledgement of the findings and recommendations of the s42A Report, noting particularly paragraph 2.4 which sets out that:

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

11. My evidence has been prepared on the basis of the above, i.e. that QLDC is open to adoption of a bespoke Walter Peak Tourism Zone provided *“development and activities can be appropriately absorbed into the landscape, while still protecting the ONL landscape values within which it is set”*.
12. My evidence will address the following matters:
  - a) Context/Site Planning History
  - b) Statutory Policy Requirements & Directives
  - c) Recommended Amendments
13. In preparing this evidence I have applied my expertise as an independent planning witness, drawing on my:
  - a) Familiarity with the national, regional and local planning framework;
  - b) Familiarity with the site and local environment
  - c) Familiarity with resource consent application processes in the district.
14. In preparing this evidence I have reviewed or refer to among other things:
  - a) The s42A Report and documents referred to in that report (including evidence of Ms Mellsop and Mr Bond).
  - b) The evidence for Wayfare on this matter prepared by Ms Black, Mr Morris, Ms Cain, Mr Bridgman, Mr Meldrum and Mr Skelton.
  - c) The Commissioners' Report on QLDC PDP Chapter 46.
  - d) Various other evidence, reports, decisions and personal communication made in respect of the PDP process and land use at Walter peak. Where I refer to such other information, I have referenced the information source accordingly.

## CONTEXT / RECENT PLANNING HISTORY FOR WALTER PEAK

15. The Walter Peak High Country Farm (the site) is used and has been established and set aside for tourism for decades. The evidence of Mr Norris and Ms Black provide a background to the use of Walter Peak as a tourism destination over the last few decades (while the evidence of Ms Cain goes back further and provides some additional heritage context). Mr Norris, Ms Black, and Mr Bridgman discuss some relevant development options for the site.
16. Tourism development / activity has been engrained in the district's local planning framework for Walter Peak since it was zoned Rural T (Tourist Development) in the 1978 notified Lakes Queenstown Wakatipu Combined District Scheme and the later approval of a "Development Plan" for a comprehensive resort approved in 1991.
17. I understand the process undertaken to approve the development plan was comprehensive, involved the community, and cost the landowners millions of dollars. The development plan, albeit not fully implemented, effectively became redundant under the transitional and operative district plans which, as an alternative to the Development Plan, zoned the land Rural Visitor Zone. The operative RVZ (oRVZ) provisions recognise the historic/long tourism history of Walter Peak (amongst other sites in the District) and provides a reasonably permissive development framework, via the controlled activity status.
18. The pRVZ framework is considerably different to the oRVZ framework. In effect the proposed framework for Walter Peak removes the longstanding development framework
19. , primarily through:
  - a) An outcome that focuses on protecting landscape values rather than enabling development
  - b) Policies and methods which constrain development to a very small portion of the site and discouraging / seeking to avoid development on the majority of the site; and remove the permitted activity status for some activities previously enabled as permitted or controlled.
  - c) The pRVZ is more permissive in respect of permitting visitor accommodation activity (previously it was controlled) and increasing the number of people permitted to undertake commercial recreation on the site (although existing use rights make this rule somewhat redundant).

## **PROVISIONS SOUGHT BY WAYFARE AND MY RECOMMENDED AMENDMENTS**

20. I was involved in assisting Wayfare prepare the s32AA and provisions Wayfare is proposing. I have considered the matters raised in the s42A Report and have responded accordingly to each of the comments on each of the proposed provisions (refer **Appendix 1** to this evidence). Key amendments I recommend can be summarised as:

- a) Amend objective in respect of restoration and enhancement of nature conservation values, and enabling visitors to access and appreciate the Zone's values;
- b) Simplification of policy X.2.1.9;
- c) Introduction of standards for farm building height and size;
- d) Clarify matter of discretion when setback from waterbody triggered; and
- e) Bespoke rules relating to alluvial fan and liquefaction risks.

## **STATUTORY POLICY REQUIREMENTS & DIRECTIVES**

21. Having recently made recommendations on PDP Stage 3B, the panel will be very familiar with the broader statutory policy context applying to the PDP insofar as the pRVZ applies. For the purposes of preparing this evidence I adopt the statutory guidance provided in Section 6 of Council's strategic evidence. I would add:

- a) There is now a single RPS, made operative earlier this year<sup>2</sup>.
- b) The proposal is for a bespoke special zone provided for within the "exception zone" framework. Accordingly, the relevant strategic provisions to consider in this matter are those contained in Chapter 3 and Chapter 5. The provisions Chapter 4 do not apply because the proposal does not relate to urban development. The provisions in Chapter 6 do not (or should not) apply, as they apply primarily to the Rural Zone and not exception zones.
- c) The proposal, by Wayfare, is not intended, and is not required, to align with the pRVZ framework. Rather, the proposal is intended to provide a bespoke special zone. This is appropriate in respect of implementing the relevant provisions / directives set out in RMA Part 2, the RPS, and relevant Chapters within the PDP.

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<sup>2</sup> Although I anticipate ORC will notify a Proposed RPS 2021 at some point during the course of this hearing process.

- d) In respect of s.32, a 'cost/benefit' analysis is not required for objectives. In this evidence I will refer to whether the objectives achieve the purpose of the Act, as also articulated in relevant national policy statements. I consider determining what is the "most appropriate" provision is not a precise science that can be quantified. Where options are to be considered against each other a level of discretion is required, but the relevant statutory requirements (and national policy directions) must be the guide. In this case Wayfare's proposal includes a single objective, compared to the pRVZ which has two objectives. I consider the merits of both options below, and outline why I prefer the Objective proposed by Wayfare.
- e) In respect of the s.32AA requirements, my evidence adopts and elaborates on the s32AA evaluation provided by Wayfare (in its updated submission), where I do not agree with statements made or where I consider further emphasis or changes to the provisions sought by Wayfare would be more appropriate.

### **National Policy Statements**

22. There are no NPS of direct relevance to this matter. There is a requirement for the NPSFM to be given effect in respect of integrating land use and implications for freshwater. However, the proposal does not result in any material impact on freshwater, and as identified above the proposal does not derogate from the requirements of other PDP provisions relating to freshwater.

### **Regional Policy Statement**

23. The RPS provisions I consider to be most relevant to this matter are commented on below. These provisions, and the entire RPS, have been indirectly considered in the framing of my commentary on the options discussed and recommended in Appendix 1.

- a) Objective 1.1 directs that Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities. Supporting policies 1.1.1 (economic well-being) and Policy 1.1.2 Social and cultural wellbeing and health and safety are relevant and support the "enabling development and resource use" aspects of the proposal.
- b) Objective 1.2 recognises and provides for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago. Supporting policy 1.2.1 is relevant to the interface of land and water uses (the proposed Water Transport Infrastructure Overlay).
- c) The provisions in Chapter 2 (Kāi Tahu values and interests are recognised and kaitiakitaka is expressed) apply but are not materially relevant.



- d) Objective 3.1 and supporting policies 3.1.1 (freshwater), 3.1.2 (beds of lakes, rivers and their margins), 3.1.9 (ecosystems and indigenous biological diversity), 3.1.11 (Natural features, landscapes, and seascapes), and 3.1.13 (Environmental enhancement) are relevant to the issue of protecting and restoring natural environmental values. Objective 3.2 and supporting policies 3.2.3 and 3.2.4 in respect of managing ONL.
  - e) Objective 4.1 and its supporting policies in relation to natural hazard risk; Objective 4.3 and policies 4.3.1 in respect of managing infrastructure; and Objective 4.4 and policies 4.4.1 and 4.4.2 in relation to renewable electricity generation and policy 4.4.6 in relation to energy efficient transport.
  - f) Objective 5.1 and supporting policy 5.1.1 is relevant to the provision of public access to the natural environment.
  - g) Objective 5.3 and in particular Policy 5.3.1(f) is relevant to the provision for “other activities” that have a functional need to locate in rural areas coupled with Policy 5.3.5 in relation to recognising tourism and outdoor recreation needing to access and being located within ONL (so including tourism and supporting transport activities at Walter Peak).
24. I note, for clarity, my understanding that the site does not contain any “wetlands” (as defined in the RMA) or “natural wetlands” as defined in the NPSFM20. This is despite Real Journeys attempts to provide wetland areas (i.e. Ms Black refers to Real Journeys engaging Mr Neill Simpson to help outline how areas of the site could be fenced, planted and areas of remnant native shrubland that could be enhanced to create a mosaic of exotic and native parkland, wetlands, pockets of native shrublands and small forest areas providing habitat for native birds, lizards, and insects. The objective was to provide areas to show visitors a small representation of the original forest that clothed this area and allow interpretation of the human history and vegetation)<sup>3</sup>.
25. Upon assessment I consider the proposal does not offend or accords with the relevant RPS directives.
26. There are no particularly stringent or onerous policy directives preventing the proposal from occurring. The most stringent “bottom line” policy direction is probably in relation to significant natural hazard risk (policy 4.1.6(a)) in respect of avoiding activities that result in significant risk from natural hazard.
27. The proposal by Wayfare provides a “sustainable” framework because it seeks to grow and diversify a long-established diverse visitor attraction activity which enhances the connection with historical and cultural uses and development of

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<sup>3</sup> Black EIC, at para [28]

Walter Peak and provides significant benefits to the community (as recognised in the PDP Chapter 3 provisions discussed below), which also promotes restoration and enhancement of natural values (including landscape values) while maintaining the [broader] ONL values (i.e. those values that make the [entire] ONL outstanding).

### **PDP Strategic Provisions**

28. The Strategic Direction provisions I consider to be most relevant to this matter are commented on below and these provisions, along with the entire suite of Strategic Direction provisions (excluding Chapters 4 and 6), have been indirectly considered in the framing of my commentary on the options discussed and recommended in Appendix 1.
29. As discussed above, in my opinion the exception zone framework should apply to Walter Peak. This is based on my understanding of the intent of the Exception Zone framework (given my involvement in appeals on Topics 1 and 2). In short I consider established tourism zones / locations such as that at Walter Peak (along with others such as Ski Area Sub Zones) were the genesis of the Exception Zone framework.
30. I consider the most relevant provisions in Chapter 3 to be SO 3.2.1, 3.2.1.1, 3.2.1.2, 3.2.1.6, 3.2.6.2, 3.3.1, 3.3.1A.a, 3.3.1B, 3.3.19, 3.3.25, 3.2.5.xxx, 3.2.5.1A, 3.2.1.7, 3.2.1.8(a), 3.2.4.3, 3.2.5xxx, 3.3.24.a. In response to these provisions, broadly:
  - a) The proposed WPTZ will provide a bespoke self-sufficient zone that integrates with existing access and transport services based in the Queenstown Town Centre, thus reinforcing the Queenstown Town Centre as New Zealand's premier resort destination. While the proposal remains primarily tourism focused it reinforces the unique tourism model associated with Walter Peak (and the TSS Earnslaw visitor experience/service) and builds on the site's pastoral farming history and land use, while also allowing for growth and diversification into other potential types of tourism activity (for example visitor accommodation).
  - b) There is obviously a functional need for the Walter Peak tourism services to be provided at Walter Peak. Enabling expansion of development at Walter Peak means less development pressure on other undeveloped parts of the rural zone (including other ONL).
  - c) Further controlled development is anticipated to have a cumulative minor adverse effect on the landscape and will in my opinion (informed by the evidence of Ms Cain and Mr Skelton) maintain and enhance nature conservation values, including landscape. Further ongoing use and

controlled development of Walter Peak will, in my opinion, protect the ONL from inappropriate development.

- d) Agricultural land uses have not provided the same economic, cultural, and social contributions, or contributions to ecological restoration as tourism has in this site. However, the site is predominantly used for farming which protects and acknowledges the cultural history of farming through the visitor experience.
- e) Rural living at Walter Peak is necessary to support the quality, diversity, and resilience of the zone (at least in respect of the provision of staff accommodation). Provision for residential and industrial activities ancillary to tourism activities will have indiscernible adverse effects on the environment.

31. For completeness, I have also had regard to the Natural Hazard provisions in Chapter 28. Based on the evidence of Mr Meldrum the proposal, as amended to include bespoke rules relating to alluvial fan and liquefaction risks, accord with the provisions in Chapter 28.

### **Other Plans**

32. For the avoidance of doubt in note;

- a) There are two relevant Iwi Management Plans applying to the district. On the basis that manawhenua are not raising any concerns in relation to the proposal, I assume the proposal satisfactorily accords with or does not offend the provisions of the relevant Iwi Management Plans.
- b) The proposal does not engage directly with any provision in any regional plan.

### **Section 32**

33. While not always expressed or referenced directly in my analysis below I have considered the relevant s.32 matters identified in the Section 32 Analysis as the starting point for my assessment.

#### *Socioeconomic, cultural and environmental effects*

34. The socioeconomic costs and benefits<sup>4</sup> of the amendments I recommend will be materially different compared to that intended by the notified version. There will be significantly more benefit and less financial /opportunity costs through enabling the continuation and expansion of visitor industry services and facilities. The significant benefits of visitor industry activities is explicitly recognised and provided for as a strategic directive in the PDP.

35. There could be additional environmental costs (in some people's opinions) if development throughout the site occurs and detracts or degrades from the current

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<sup>4</sup> Section 32 (2) (a) (i) and (ii) of the RMA

landscape character within the site. However, I consider this “landscape” cost can be neutralised through controlling development (as is proposed) and undertaking of further natural restoration and enhancement initiatives (as is the proposal by Wayfare).

36. There is no opposition to the relief being sought by Wayfare and aside from QLDC’s evidence, there is no suggestion from any party that further development or (inclusive of restoring / enhancing ecological values) will be inappropriate. I am not aware of any credible/robust evidence raising concern that visitor experience will be degraded or compromised by further development at Walter Peak. On this basis, it is reasonable to assume that Wayfare is in a commanding position (compared to any other party or entity) to understand what nature and scale of activity and development at Walter Peak will appropriately provide for visitor satisfaction.
37. Wayfare is not competing with other parties for the resource, accordingly there is no need to manage the resource in fear of tragedy of the commons. There is no risk of a death by a thousand cuts or cumulative effects. Walter Peak is ringfenced (physically) and has been reserved as a location for further intensive tourism activity for more than three decades. Going back even further, Walter Peak has a long history of association with development (discussed by Ms Black and Ms Cain).
38. In my opinion the proposal should not give rise to any significant adverse environmental effects, assuming amendments are made the provisions as recommended in my evidence below.

#### Mana whenua

39. In respect of manawhenua cultural values, based on my experience working with Te Ao Marama Inc and Aukaha in the development of the PDP and numerous resource consent applications throughout the district, coupled with the absence of any submission from mana whenua on this matter, I anticipate the amendments I recommend will be more aligned with the cultural outcomes being sought by mana whenua across the district. I note the proposal engages with three matters of direct relevance / interest to mana whenua insofar as the PDP recognises (Lake Wakatipu / Whakatipu Wai Māori; Kā Kamu a Hakitekura (wahi tupuna); and waterbodies throughout the site).

#### Natural Hazard Risk

40. Natural hazard risk is low (refer evidence of Mr Meldrum).

#### Landscape

41. Landscape effects will maintain the surrounding ONL values. Within the site the landscape character will change to an extent that is appropriate within an ONL. While I appreciate this runs the risk of being a circular argument:

- a) The values which contribute to the ONL being outstanding can be maintained irrespective of further development at Walter Peak. QLDC (in its evidence to date) has not identified or considered the values of the ONL as broadly as Mr Skelton has. Rather, QLDC has narrowed its understanding of the values to the site and the immediate surrounds. In my experience it is more appropriate (and accurate) to work with the entire ONL, not reduce the scale and extent of an ONL into separate units (a “learning” from the *Save Wanaka v QLDC* court case Mr Skelton refers to, and which I was involved in).
- b) Irrespective of the scale of the landscape, the landscape is modified. I consider the naturalness of the landscape to be very degraded. One only needs to compare the site with the opposite (northern) side of Lake Wakatipu (e.g. Wilsons Bay to Rats Point) to understand how the naturalness of the Walter Peak landscape has been degraded.
- c) It should be recognised that it is appropriate for landscape values to change over-time, as has occurred in the recent history of Walter Peak. The pest removal initiatives of Real Journeys to remove pest plant species and restore natural ecological systems has enhanced the landscape character of the site (in my opinion).
- d) Perceptual and associated values, including amenity values, will be inextricably linked to the visitor destination use of the site. I am not aware of any evidence (other than from QLDC) suggesting that further development at Walter Peak will detract from visitor experiences and local amenity values.

#### Infrastructure supply and demand

42. The site is, and is anticipated to be self-sufficient, in respect of infrastructure demand. New development at Walter Peak is not anticipated to result in any unforeseen or inappropriate demand on public infrastructure.

43. In respect of transport demand, existing transport hubs/connections exist within the Queenstown Town Centre, in walking distance to QLDCs proposed new public transport hub.

#### Freshwater

44. The proposal does not derogate from the PDP provisions insofar as it relates to Lake Wakatipu.

45. There are numerous, insignificant, waterbodies within the site and the earthworks (and building controls) can ensure these will suitably avoid, remedy or mitigate adverse effects.

#### Ecosystems

46. The proposal will benefit ecosystems.

Amenity values and impacts on neighbouring property

47. No party opposes the proposal.

48. The existing airstrip (being an informal airport) is long established, has existing use and consented development rights. Moreover, standards relating to noise form part of the proposed framework.

**Efficiency and Effectiveness (s32(1)(b)(i))**

49. The proposal, as I support it, provides a framework that provides an easier, more efficient, consenting pathway for development at Walter Peak compared to the notified version, but not compared to the operative pathway.

50. Ms Black provides evidence of the costs of the controlled activity regime. I consider a discretionary regime imposes unnecessary costs. In my opinion intervention, via the controlled activity regime, can effectively influence design to reduce adverse environmental effects. A discretionary or non-complying regime introduces costs and uncertainties which I consider are not warranted.

51. In my experience it is very inefficient to utilise or to rely on discretionary resource consent application processes to determine the appropriateness of multiple activities within a confined location. In this regard the costs associated with resource consent application processes is very high, to the point where it can genuinely impact land use outcomes. Part of my role as a consultant planner is to advise applicants, and potential applicants, on the anticipated costs of resource consent application process. In this District, an applicant must pay QLDC tens of thousands of dollars if a Council hearing is required (although the actual costs on an applicant are likely to be closer to \$75-\$100K when factoring in the costs of preparing and reviewing all the application documentation). In recent years, my advice has been that resource consent applications for new buildings in the ONL could cost a minimum \$80K (if unopposed), or well over several hundred thousand dollars (if opposed and the Council decision appealed). I have been involved in one case recently for a house in an ONL where the resource consent application process cost the applicant around \$500K. Similarly, within an urban environment (Glenorchy) I have recently been involved in a case where an applicant spent more than \$500K to obtain resource consent for a hotel on a site zoned for a hotel.

52. Coupled with the high costs of resource consent applications an efficiency problem with the resource consent application process is that, in my experience, there is no certainty and obtaining certainty can take a long time (too long). In this District QLDC has the standard practice of, at a staff level, not providing professional advice or feedback about the likely merits of an application. This means that for any discretionary application (including NCA), a landowner will have no certainty about the appropriateness of a potential development outcome until the end of their resource consent application process.

53. The RVZ planning framework proposed by QLDC is more stringent and discouraging of development compared to the rural general zone. Considering the permissive nature of the operative framework for Walter Peak, I find it hard to comprehend how this outcome could be justifiable. It defies logic, goes beyond the statutory directives, and is unwarranted.

54. I observe that in this District resource management practice appears to be shifting away from an effects-based planning philosophy to a prescribed land use approach. Wayfare's proposal provides certainty and, while it is not as finely grained as other special zones (because no structure plan is proposed), the location, nature and scale of new development is ringfenced and bespoke.

## **RMA PART 2**

55. The Wayfare proposal, in my opinion, allows sufficient application of part 2 matters compared to the status quo and the notified RVZ:

- a) In respect of section 5, the proposal enables people's wellbeing through protecting of existing activities (recognising significant investment has been poured into Visitor Industry activities at Walter Peak, including in respect of transport infrastructure) and enabling continuation and potential expansion of these activities. There are no degraded natural environmental bottom lines which require protection or restoration in order to safeguard them (i.e. water, soil, air, ecosystems). In other words, the well-being of current and future generations of humans in Otago are in no threat if Walter Peak can potentially be developed as proposed Wayfare. Positively, the framework proposed by Wayfare will promote the restoration and enhancement of nature conservation values, including in relation to the naturalness of the existing landscape, which (while within an ONL) are in a degraded state.
- b) The proposals engage directly with matters of national importance under 6a, 6b, 6d, and 6e. In respect of 6a and 6d, the site adjoins Lake Wakatipu and its margins. The proposal also directly affects the surface of the lake and margins within Beach Bay. In respect of 6b the site is within an ONL. In respect of 6e the site and Lake Wakatipu are known to have matters of importance to Ngai Tahu.
- c) The proposal does not engage with s.6f regarding historic heritage<sup>5</sup>. While the site has cultural and heritage values that are relevant to the associative attributes of the landscape, and appropriateness of ongoing use for tourism (discussed by Ms Cain) there is no recognition/identification of any historic

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<sup>5</sup> historic heritage— means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities: (i) archaeological: (ii) architectural: (iii) cultural: (iv) historic: (v) scientific: (vi) technological; and (b) includes— (i) historic sites, structures, places, and areas; and (ii) archaeological sites; and (iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with the natural and physical resources

heritage value that is of district or regional significance associated with Walter Peak in the PDP.

- d) The proposal does not engage with s.6h. While alluvial fan and liquefaction risks are known to affect the site, numerous investigations into natural hazard risks at Walter Peak have occurred and I understand from those investigations and evidence of Mr Meldrum that the natural hazard risk is not significant.
- e) The proposals engage directly with s7. In respect of s7(aa) Wayfare has demonstrated the ethic of stewardship through their ownership and commitments in tourism and conservation initiatives. In respect of s7 (b), it is more efficient to promote consolidation of tourism activities and development at Walter Peak compared to other parts of the district, particularly given the relative ease of water-based transport to the Queenstown Town Centre. In respect of s7 (c) and (f), the proposal allows for the maintenance and enhancement of amenity values and the quality of the environment. In respect of s7 (d), the proposal promotes the intrinsic values of ecosystems. In respect of s7 (g) the proposal does not diminish any finite characteristics of natural and physical resources acknowledging that the land has been set aside for tourism development for many decades.
- f) I assume the proposal sufficiently takes into account Part 2 matters relating to mana whenua rights and interests (s6e, 6f, 6g, 7a, 7aa, and s8).

56. I consider the proposal generally accords with the purpose of the RMA. At a minimum it is more aligned with the purpose of the RMA and better implements the relevant matters set out in Part 2 in a more efficient and effective manner compared to the status quo or RVZ framework.

## CONCLUSION

57. I consider Wayfare's proposal for a bespoke special zone (the Walter Peak Tourism Zone) to be more appropriate compared to the operative or proposed RVZ framework. I have provided a series of amendments I recommend to the actual provisions (refer **Appendix 1**) but I am not at this point firmly wedded to the actual wording of the provisions. I anticipate being able to discuss my recommendations with QLDC planning experts prior to the hearing, and signal that I may suggest further refinements in response to QLDC feedback.

Ben Farrell

Dated this 28<sup>th</sup> day of May 2021



## Appendix 1

**Appendix 1**  
**Ben Farrell Evidence on the Proposed Walter Peak Tourism Zone**

<b>Table 1 Walter Peak Tourism Zone – Comments on Objective and Policies.....</b>	<b>1</b>
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**Table 1 Walter Peak Tourism Zone – Comments on Objective and Policies**

Walter Peak Tourism Zone – Comments on Objective and Policies				
Provision	Commentary			
x.1 Purpose	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>	<b>oRVZ</b>	<b>pRVZ</b>
	<p><i>The purpose of the Walter Peak Tourism Zone is to complement the existing range of Visitor Industry opportunities in the District and provide for increased opportunities for people to experience the rural character, heritage and amenity of the rural area. The Zone provides for a range of accommodation, entertainment, cultural and recreational activities.</i></p> <p><i>The Walter Peak Tourist Zone applies to an area of land which is recognised as having visitor interest, is isolated from town centres and can make a significant contribution to the range of accommodation and activities available within the District.</i></p> <p><i>The principal activities in the Zone support mixed tourism activities, including visitor accommodation, commercial activities, commercial recreation, recreation activities and associated infrastructure and indigenous vegetation restoration and enhancement.</i></p> <p><i>Onsite staff accommodation ancillary to visitor industry activities is anticipated to support employment opportunities.</i></p>	<p>The drafting of the purpose reflects the submitter's intentions for the zone. Given the comments in the s42A report, acknowledgement of the ONL over and surrounding the site, and an explanation that the zone will protect the values of the ONL is necessary.</p>	<p>The wording in the oRVZ does not acknowledge the [latest] policy directives in the RPS. While it is not necessary to amend the provisions to implement the RPS directives, it is more appropriate to express language in the chapter that aligns with/implements the RPS or PDP Chapter 3.</p>	<p>The pRVZ relates to a different planning regime than is being proposed – i.e. it seeks to limit the scale and extent of development and directing sensitive and sympathetic development to areas of lower landscape sensitivity identified within each Zone. That outcome unnecessarily constrains appropriate development opportunities throughout the site.</p>
	<b>Finding</b>			
	<p>The Wayfare does not employ language from the RPS or Chapter 3. It is not necessary to amend the provisions to implement the RPS or Chapter 3 directives, but it is more appropriate to express language in the chapter that aligns with/implements the RPS or PDP Chapter 3. It is not necessary to amend the purpose to include an explanation that the zone will protect values that contribute to the landscape being outstanding, consistent with the explanations in purpose statements of other exception zones or Court findings/decisions. I note that other exception zones such as Gibbston Character Zone and Jacks Point, and the relevant statement in respect of the Ski Area Sub Zone do not make an overt or explicit statement in respect of landscape, but rather the focus and weight is for the activities provided for in the Zones.</p>			
	<b>Recommendation</b>			
	<p>No amendment – retain as sought by Wayfare</p>			

Objective X.2.1	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>	<b>oRVZ</b>	<b>pRVZ</b>
	<i>The growth, development and consolidation of visitor industry activities and associated buildings, while adverse effects on the environment are avoided, remedied or mitigated and nature conservation values are restored and enhanced.</i>	The objective is very general and reflects the framing of s5 of the RMA – development subject to management of effects. It provides limited guidance on the outcomes sought for the zone – ‘avoided, remedied or mitigated’ is proposed. A more directive objective that specifies the scale of development envisioned and particular environmental bottom lines to be achieved (such as protection of the landscape values of the ONL) would be more effective.	The Objective in the oRVZ is:  <i>“Provision for the ongoing operation of the existing visitor areas recognising their operational needs and avoiding, remedying or mitigating adverse effects on landscape, water quality and natural values. Scope for extension of activities in the Rural Visitor Zones”.</i>  The wording in the oRVZ is generally sufficient but does not acknowledge the [latest] policy directives in the RPS nor promote restoration of natural values.	The pRVZ has two objectives. Individually or combined these objectives are more appropriately tailored to new RVZs (unlike Walter Peak most of these zones were previously ONL rural general) and are not specific to any appropriate outcome at Walter Peak.
<b>Finding</b>				
<p>The objective is about development and growth associated with the visitor industry which is appropriate given the district is 97% ONL, 1. In terms of scale, the site occupies approximately 5% of the Von Terraces Landscape and roughly 1% of the visible, northern aspects of the Eyre Mountains and Von Terraces ONL, recognising the historic use and setting aside of the site for tourism and farming, and proximity / accessibility to the Queenstown town centre. The objective already includes an environmental outcome: “nature conservation values are restored and enhanced”. Nature conservation values include natural landscape values, and the policies provide more direction to implement the objective. Accordingly, the amendments recommended by QLDC are not necessary. However, the objective could be improved by elaborating or articulating the environmental outcome being sought for the zone. Alternatively, or additionally, this could be achieved by amending the policies. The Objective could be amended to include a more specific outcome such as “development that promotes restoration or enhancement of nature conservation values”.</p>				
<b>Recommendation:</b>				
Amend objective as follows:				
<i>The growth, development and consolidation of visitor industry activities and associated buildings, while adverse effects on the environment are avoided, remedied or mitigated <u>including promoting restoration and enhancement of nature conservation values</u> <del>are restored and enhanced</del>.</i>				
Policy X.2.1.1	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>	<b>oRVZ</b>	<b>pRVZ</b>
	<i>Protect the existing transport and tourism facilities to and at Walter Peak and enable their diversification and expansion.</i>	<p>It is not clear how the provisions protect the existing transport and tourism facilities, or what they need protection from. Protect is a strong direction, and is not appropriate in the policies without a clear method to implement it in the rules.</p> <p>The policy direction to enable the diversification and expansion of transport and tourism facilities should be qualified, in a manner consistent with the direction in an updated objective (refer above comment),</p>	<p>Includes the following similar but less directive policy: <i>“1. To recognise the existing and proposed visitor and recreation facilities in the rural visitor areas and to provide for their continued operation and expansion”.</i></p> <p>The policy is appropriate except that term “recognise” does not have a practical application.</p>	Does not include any provisions specifically about the recognition or protection of existing assets and investment (part of the historical and physical environment) and does not sufficiently promote or provide for further development opportunities.

		<p>particularly considering the sensitive landscape setting.</p> <p>It is also not clear how the policy will cover existing transport facilities to Walter Peak, given Lake Wakatipu is zoned Rural Zone.</p>		
<p><b>Finding</b></p> <p>Agree with QLDC that there is no clear link between the policy directives and methods implementing the policy. However, there does not need to be. Diversification/expansion of existing facilities is provided through the methods which enabling development framework (on the land) and the water transport overlay to distinguish this part of the lake and signal its importance in respect of transport and boat accommodation – which may complement or conflict with the existing operations at Walter Peak. The reference to “protect” ensures any discretionary activity proposal within the transport overlay area in Beach Bay or on the numerous reserves within the WPTZ can be assessed and directed to not inappropriately adversely impact the existing transport and tourism facilities at Walter Peak. From a navigational safety perspective the TSS Earnslaw requires considerable space within the bay to manoeuvre and it is possible that parties other than Wayfare may propose development or activities within this location. Such development should complement / integrate with existing transport infrastructure and tourism activity within the Bay to avoid or minimise conflict and unnecessary cumulative adverse effects.</p> <p><b>Recommendation</b></p> <p>No amendment, retain as sought by Wayfare.</p>				
X.2.1.2	<p><b>Consideration</b></p>			
<p><b>Wayfare Proposal</b></p> <p><i>Enable visitor accommodation and commercial recreational activities within the zone, including ancillary onsite staff accommodation, where the landscape values of the Outstanding Natural Landscape surrounding the zone are protected.</i></p>	<p><b>QLDC Comment</b></p> <p>This policy appropriately acknowledges the ONL surrounding the site. However, as discussed in the s42A report, there is a need to also address the landscape values within the site.</p>	<p><b>oRVZ</b></p> <p>Includes two equivalent polices:</p> <p><i>2 To ensure development, existing and new, has regard to the landscape values which surround all the rural visitor areas.</i></p> <p><i>3 To ensure expansion of activities occur at a scale, or at a rate, consistent with maintaining the surrounding rural resources and amenities.</i></p>	<p><b>pRVZ</b></p> <p>The pRVZ includes policies implementing a landscape sensitivity landscape based approach for each RVZ, which is not intended (or considered necessary or appropriate) for Walter Peak.</p>	
<p><b>Finding</b></p> <p>Policy X.2.2.8 to 10 go more specifically to landscape values within the site. .</p> <p><b>Recommendation:</b></p> <p>No amendment, retain as sought by Wayfare</p>				

X.2.1.3	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>	<b>oRVZ</b>	<b>pRVZ</b>
	<p><i>Ensure the location, nature, scale and intensity of visitor accommodation, commercial recreation activities, and associated aspects such as traffic generation, access and parking, an informal airport, noise, and lighting, maintain amenity values beyond the Zone and do not compromise the operation of existing activities or those enabled by the surrounding Rural Zone.</i></p>	<p>This policy is aimed at managing amenity values beyond the Zone and reverse sensitivity effects. While this policy intent is appropriate, it is not implemented by the permissive rule framework. It would only be engaged for buildings within the building restriction areas, residential, industrial and mining activities. While it is a relevant policy for these activities, there is no ability to consider this issue for the activities proposed to be anticipated on the site. For example, the policy direction is intended to apply to informal airports, but informal airports are a permitted activity with no controls on the effects they may have on amenity.</p>	<p>Numerous building developments are enabled via a controlled activity status, including a 12m permitted height limit for visitor accommodation.</p> <p>Airports are discretionary activities, although the airport at Walter Peak has existing use rights.</p>	<p>The pRVZ generally restrict or discourage new development and do not take into account the unique particularities (context) of Walter Peak.</p>
<p><b>Finding</b></p> <p>QLDCs feedback seems to identify flaws with the methods implementing this policy, not the policy itself.</p> <p>In respect of airport operations and amenity values it is noted the airport is an established activity and while the proposal allows for an increase in intensity of its use (by not limiting its use) noise standards are proposed. Moreover, no party opposes Wayfare's proposal.</p> <p><b>Recommendation:</b></p> <p>Retain policy as sought by Wayfare.</p>				
X.2.1.4	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>		
	<p><i>Enable the ongoing development and use of trails throughout the Zone</i></p>	<p>This policy is not considered necessary as the Earthworks Chapter (Chapter 25) governs earthworks for the purposes of creating trails, and the use of trails is a recreational activity, which is separately provided for in the WPTZ.</p>		
<p><b>Finding</b></p> <p>Agree with QLDC.</p> <p><b>Recommendation:</b></p> <p>Delete policy</p>				

X.2.1.5	<p><b>Consideration</b></p> <table border="1" data-bbox="344 212 2831 474"> <thead> <tr> <th data-bbox="344 212 1584 281">Wayfare Proposal</th> <th data-bbox="1584 212 2831 281">QLDC Comment</th> </tr> </thead> <tbody> <tr> <td data-bbox="344 281 1584 474"><i>Enhance nature conservation values as part of the use and development of the Zone and enable development which is associated with restoration and enhancement of indigenous vegetation.</i></td> <td data-bbox="1584 281 2831 474">This policy intersects with Chapter 33 Indigenous Vegetation and Biodiversity. However, that chapter deals primarily with the protection of indigenous biodiversity and includes rules about clearance. The policy proposed by Wayfare is focused on restoration and enhancement, and so complements rather than conflicts with Chapter 33, and is supported.</td> </tr> </tbody> </table> <p><b>Finding</b></p> <p>Agree with QLDC.</p> <p><b>Recommendation</b></p> <p>Retain policy as sought by Wayfare.</p>		Wayfare Proposal	QLDC Comment	<i>Enhance nature conservation values as part of the use and development of the Zone and enable development which is associated with restoration and enhancement of indigenous vegetation.</i>	This policy intersects with Chapter 33 Indigenous Vegetation and Biodiversity. However, that chapter deals primarily with the protection of indigenous biodiversity and includes rules about clearance. The policy proposed by Wayfare is focused on restoration and enhancement, and so complements rather than conflicts with Chapter 33, and is supported.
Wayfare Proposal	QLDC Comment					
<i>Enhance nature conservation values as part of the use and development of the Zone and enable development which is associated with restoration and enhancement of indigenous vegetation.</i>	This policy intersects with Chapter 33 Indigenous Vegetation and Biodiversity. However, that chapter deals primarily with the protection of indigenous biodiversity and includes rules about clearance. The policy proposed by Wayfare is focused on restoration and enhancement, and so complements rather than conflicts with Chapter 33, and is supported.					
X.2.1.6	<p><b>Consideration</b></p> <table border="1" data-bbox="344 827 2831 1052"> <thead> <tr> <th data-bbox="344 827 1584 896">Wayfare Proposal</th> <th data-bbox="1584 827 2831 896">QLDC Comment</th> </tr> </thead> <tbody> <tr> <td data-bbox="344 896 1584 1052"><i>Recognise the remote location of the Walter Peak Tourism Zone and the need for visitor industry activities to be self-reliant by providing for infrastructure, services or facilities that are directly associated with, and ancillary to, visitor industry activities, including onsite staff accommodation.</i></td> <td data-bbox="1584 896 2831 1052">This policy closely reflects notified Policy 46.2.1.4 and is considered appropriate to include within the WPTZ.</td> </tr> </tbody> </table> <p><b>Finding</b></p> <p>Agree with QLDC.</p> <p><b>Recommendation</b></p> <p>Retain policy as sought by Wayfare.</p>		Wayfare Proposal	QLDC Comment	<i>Recognise the remote location of the Walter Peak Tourism Zone and the need for visitor industry activities to be self-reliant by providing for infrastructure, services or facilities that are directly associated with, and ancillary to, visitor industry activities, including onsite staff accommodation.</i>	This policy closely reflects notified Policy 46.2.1.4 and is considered appropriate to include within the WPTZ.
Wayfare Proposal	QLDC Comment					
<i>Recognise the remote location of the Walter Peak Tourism Zone and the need for visitor industry activities to be self-reliant by providing for infrastructure, services or facilities that are directly associated with, and ancillary to, visitor industry activities, including onsite staff accommodation.</i>	This policy closely reflects notified Policy 46.2.1.4 and is considered appropriate to include within the WPTZ.					
X.2.1.7	<table border="1" data-bbox="344 1400 2831 1583"> <thead> <tr> <th data-bbox="344 1400 1584 1470">Wayfare Proposal</th> <th data-bbox="1584 1400 2831 1470">QLDC Comment</th> </tr> </thead> <tbody> <tr> <td data-bbox="344 1470 1584 1583"><i>Enable visitors to access and appreciate the Zone's nature conservation values and the surrounding Outstanding Natural Landscape values.</i></td> <td data-bbox="1584 1470 2831 1583">This policy direction is supported, but the specific policy may not be needed, given the inclusion of the other enabling policies, which, if implemented, will achieve the Zone objective.</td> </tr> </tbody> </table> <p><b>Finding</b></p> <p>Agree with QLDC.</p> <p><b>Recommendation:</b></p> <p>Delete policy but recommend addition to the Objective:</p>		Wayfare Proposal	QLDC Comment	<i>Enable visitors to access and appreciate the Zone's nature conservation values and the surrounding Outstanding Natural Landscape values.</i>	This policy direction is supported, but the specific policy may not be needed, given the inclusion of the other enabling policies, which, if implemented, will achieve the Zone objective.
Wayfare Proposal	QLDC Comment					
<i>Enable visitors to access and appreciate the Zone's nature conservation values and the surrounding Outstanding Natural Landscape values.</i>	This policy direction is supported, but the specific policy may not be needed, given the inclusion of the other enabling policies, which, if implemented, will achieve the Zone objective.					

*The growth, development and consolidation of visitor industry activities and associated buildings, while adverse effects on the environment are avoided, remedied or mitigated including promoting restoration and enhancement of nature conservation values, and enabling visitors to access and appreciate the Zone's values*

X.2.1.8

**Consideration**

Wayfare Proposal	QLDC Comment	oRVZ	pRVZ
<p><i>Ensure that any land use or development not otherwise anticipated in the Zone, protects or enhances landscape values and nature conservation values.</i></p>	<p>This policy is the same as notified Policy 46.2.1.6. However, this policy is triggered by a discretionary activity status for activities not listed in the chapter, rather than a non-complying activity status as in the notified RVZ. As stated in the s42A report, this is not considered to be an appropriate default activity status in the ONL. If discretionary activity status was retained, a stronger policy would be required, such as Policy 46.2.2.3, as recommended to be amended by the Hearing Panel.</p> <p>The policy should also be updated to reflect the updated wording in Chapter 3 following the Court's interim decision, which is to 'protect landscape values'. This could be achieved by rewording the policy as follows:</p> <p><i>Ensure that any land use or development not otherwise anticipated in the Zone, protects or enhances landscape values and enhances nature conservation values.</i></p>	<p>Captures unspecified activities as non-complying activities.</p>	<p>Discussed in QLDC feedback.</p>

**Finding**

The QLDC comment appears to critique the method implanting this policy, not the policy itself. In theory a non-complying activity status will be more discouraging of activities (not provided for) compared a discretionary activity status. However, I do not agree that a non-complying activity status is warranted given the additional policy direction regarding landscape effects (as I am recommending).

As above I am supportive of more policy direction regarding landscape. However, it may not be required to address QLDC concerns. My preliminary view of the Court decision referred to by QLDC is that the applicability/appropriateness of the Court's wording may not be appropriate, insofar as Walter Peak is concerned. This is on the basis that the landscape character at Walter Peak is degraded and can be [further] enhanced, for example through removal of pest trees and revegetation.

**Recommendation**

Retain policy as sought by Wayfare.



X.2.1.9	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>	<b>oRVZ</b>	<b>pRVZ</b>
	<i>Control the visual impact of roads, buildings and infrastructure associated with visitor industry activities</i>	This policy lacks the purpose of the control – it would benefit from a statement such as “for the purposes of protecting landscape values” or something similar being added to the end of it. It also leaves the direction open to for the visual impact of roads, buildings and infrastructure that is not associated with visitor industry activities.		
	<b>Finding</b> I do not agree there is a need to expand the policy as the purpose of the control is to implement the objective and matters of control should be included to clarify and focus the purpose of the control. However, I agree adding explanatory/directive text in the policy will add clarity. The reference to “roads, buildings and infrastructure associated with visitor industry activities” could simply be replaced with “development” – as the framework does not permit any “development”, aside from farm buildings.  <b>Recommendation</b> Amend policy as follows or something with like effect:  <i>Control the visual impact of <del>roads, buildings and infrastructure</del> <u>development</u> associated with visitor industry activities.</i>			
X.2.2.10	<b>Wayfare Proposal</b>			
	<i>Manage the effects of buildings and development on landscape values, landscape character and visual amenity values by:</i>  <i>a. controlling the colour, scale, design and height of buildings and associated infrastructure, vegetation and landscape elements; and</i>  <i>b. in the immediate vicinity of the Homestead Area, provide for a range of external building colours that are not recessive as required generally for rural environments, but are sympathetic to existing development; and</i>  <i>c. providing for building and landscape controls which recognise the existing developed facilities and are reflective of the Zone's farming and visitor heritage.</i>  <i>d. Away from the vicinity of the Homestead Area (where exotic heritage gardens predominate), encourage indigenous vegetation restoration and enhancement in conjunction with new building and development.</i>	<b>QLDC Comment</b> This policy is similar to notified Policy 46.2.2.2, with two additional limbs specific to the characteristics of the Walter Peak site (limbs (c) and (d)). The two additional limbs are supported.		
	<b>Finding</b> Agree with QLDC.  <b>Recommendation:</b> Retain as sought by Wayfare.			

X.2.1.11	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>	<b>oRVZ</b>	<b>pRVZ</b>
	<p><i>Manage the location and direction of lights to ensure they do not cause glare or reduce the quality of views of the night sky beyond the boundaries of the Zone.</i></p>	<p>This policy is similar to Policy 46.2.2.6, as recommended to be amended by the Hearings Panel, except that the second part of the policy about remoteness has not been included by the submitter. If this policy is retained, it should reflect the wording recommended by the Hearings Panel, as remoteness is a key aspect of the Walter Peak site. The policy should read as follows:</p> <p><i>Manage the location and direction of lights to ensure they do not cause glare or reduce the quality of views of the night sky beyond the boundaries of the Zone, <u>or reduce the sense of remoteness.</u></i></p>		
<b>Finding</b>				
I appreciate QLDCs observation and recommendation but the phrase “reduce the sense of remoteness” is somewhat ambiguous and it is unclear what practical implications it might have for affecting development at Walter Peak.				
<b>Recommendation</b>				
Retain policy as sought by Wayfare.				
X.2.1.12	<b>Consideration</b>			
	<b>Wayfare Proposal</b>	<b>QLDC Comment</b>		
	<p><i>Ensure development can be adequately serviced through:</i></p> <ul style="list-style-type: none"> <li><i>a. the method, capacity and design of wastewater treatment and disposal;</i></li> <li><i>b. adequate and potable provision of water;</i></li> <li><i>c. adequate firefighting water and regard taken in the design of development to fire risk from vegetation, both existing and proposed vegetation; and</i></li> <li><i>d. provision of safe vehicle access, water-based transport, and associated infrastructure.</i></li> </ul>	<p>This policy is similar to notified Policy 46.2.2.6 and recommended to be retained as recommended by the Hearings Panel.</p>		
<b>Finding</b>				
Agree with QLDC				
<b>Recommendation</b>				
Retain policy as sought by Wayfare.				

X.2.1.13

**Consideration**

Wayfare Proposal	QLDC Comment	oRVZ	pRVZ
<p><i>Within the Walter Peak Water Transport Infrastructure overlay, provide for a jetty, wharf, pier or marina, mooring, weather protection features, ancillary infrastructure, signage, storage, water transport and water recreation activities at Beach Bay while:</i></p> <p><i>a. maintaining as far as practicable natural character and landscape values of Beach Bay while recognising the functional need for water transport infrastructure and water based recreation to locate on the margin of and on Lake Wakatipu;</i></p> <p><i>b. minimising the loss of public access to the lake margin; and</i></p> <p><i>c. encouraging enhancement of nature conservation and natural character values.</i></p>	<p>This policy is similar to notified Policy 46.2.2.5, except that the notified policy was to provide for a jetty or wharf, weather protection features and ancillary infrastructure. The policy proposed by the submitter adds pier, marina, mooring, signage, storage, water transport, and water recreation activities. As discussed in the s42A report and Ms Mellsop's evidence, no evidence has been provided that these activities can be appropriately provided for, given the s6 landscape and margins of lakes context.</p>	<p>No provisions relating to the lake or its interface.</p>	<p>Some recognition of, but with limited provision for, the need of a Walter Peak Water Transport Infrastructure overlay.</p>

**Finding**

The policy (and accompany overlay) appropriately signal that future development of transport and boat accommodation activities within Beach Bay could be appropriate. Ms Black outlines possible future development options which could practically be considered within the Bay, as a functional need in support of existing and future tourism activity at Walter Peak. Mr Skelton has addressed, at a high level, landscape effects of potential development on the surface water and marginal strip at Beach Bay. The methods implementing this method ensure notifiable discretionary resource consent application processes can be undertaken to determine the merits of any proposal on a case-by-case basis.

**Recommendation:**

Retain policy as sought by Wayfare.

**Table 2 Walter Peak Tourism Zone – Comments on Rules**

Walter Peak Tourism Zone – Comments on Rules				
Provision Number:	RULE	Activity status	QLDC Comments in s42A Report	Farrell Comments
Activities				
1	Farming	P	Same as notified RVZ, generally supported	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
2	Visitor Accommodation	P	Same as notified RVZ, generally supported	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
3	Construction and use of trails	P	Unnecessary rule (see comments on Policy X.2.1.4 above)	Agree with QLDC.  <b>Recommendation</b>  Delete rule and rely on earthworks chapter.
4	Recreational Activity (including commercial recreation)	P	Same as notified RVZ, generally supported	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
5	Commercial activity ancillary to Visitor Accommodation, Commercial Recreation, and Recreational Activities	P	New permitted activity compared to notified RVZ. Further assessment needed to be able to form an opinion on appropriateness.	Permitting commercial activities ancillary to Visitor Accommodation, Commercial Recreation, and Recreational Activities will not create or result in any adverse effects on the environment or any party.  <b>Recommendation:</b>  Retain rule as sought by Wayfare
6	Residential activity ancillary to Visitor Accommodation, Commercial Recreation, Recreation and Recreational Activities	P	New permitted activity compared to notified RVZ. The notified RVZ permitted on-site staff accommodation associated with visitor accommodation and commercial recreation. Not supported, given the lack of standards proposed in relation to this activity.	Permitting residential activities ancillary to Visitor Accommodation, Commercial Recreation, Recreation and Recreational Activities will not create or result in any adverse effects on the environment or any party.  Introducing standards would complicate the framework, adding costs, without providing any material benefit (that I'm aware of).  <b>Recommendation:</b>

Walter Peak Tourism Zone – Comments on Rules				
Provision Number:	RULE	Activity status	QLDC Comments in s42A Report	Farrell Comments
				Retain rule as sought by Wayfare
7	Informal Airports	P	This was permitted in the notified RVZ, but there was also a standard limiting the number of flights (Rule 46.5.7) which the submitter has not included in the WPTZ. Not supported in the absence of justification for the lack of standards.	Walter Peak contains an existing, long established, informal airport. The pRVZ rule (now 46.5.8) restricts flights to 15 flights per week. This number of flights is not commensurate with the intensity of flights that could be appropriately undertaken at Walter Peak. Restricting the number of flights imposes a cost on the usability of this airport. Acknowledging there are noise standards to be complied with, and not party is opposing the relief being sought by Wayfare, there is no material environmental reason for limiting the number of flights associated with the airport.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
8	Industrial Activity ancillary to, or that supports farming, visitor accommodation, construction of trails, recreation, commercial recreation and informal airports.	P	New permitted activity compared to the notified RVZ. There are no standards associated with this activity. This rule has wide application with no assessment of the appropriateness of it. Industrial activity is defined in the PDP as “the use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing, or associated storage of goods”. Not supported.	Industrial activities associated with of trails, recreation, commercial recreation and informal airports complements existing uses at Walter Peak. The rule permits “activities” not development and therefore will not result in any discernible adverse effect on any party or the environment.  <b>Recommendation</b>  Retain rule as sought by Wayfare
9	Structures, facilities, plant, equipment and associated works including earthworks for the protection of people, buildings and infrastructure from natural hazards.	P	As discussed in the s42A report, this rule is not considered necessary as these activities are governed by Chapter 30.	Agree with QLDC (although note the Chapter 30 provisions were amended in response to Wayfare concerns on this point).  <b>Recommendation</b>  Delete rule and rely on provisions in Chapter 30.
10	Restoration and enhancement of indigenous vegetation	P	New permitted activity. Has some merit and support its inclusion.	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
11	Planting and maintenance of exotic trees and plants excluding wilding exotic trees covered by rules 34.4.1 and 34.4.2.	P	New permitted activity. It is not clear if this rule would result in any impacts on landscape values that need to be protected. Further assessment	Planting and maintenance of exotic trees and plants excluding wilding exotic trees covered by rules 34.4.1 and 34.4.2 is permitted in the rural zone, including the surrounding ONL. It is unclear why this activity

Walter Peak Tourism Zone – Comments on Rules				
Provision Number:	RULE	Activity status	QLDC Comments in s42A Report	Farrell Comments
			needed to be able to form an opinion on appropriateness.	would have any discernible adverse effect. The rule sought by Wayfare is considered appropriate.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
12	Construction, relocation, addition or alteration of Buildings (other than identified in Rules X and X)  Control is reserved to: The compatibility of the building design, density, scale and location with landscape, cultural and heritage and visual amenity values; Landform modification, landscaping and planting; Lighting; Servicing including water supply, fire-fighting, stormwater and wastewater; Natural Hazards; and Design and layout of site access, on-site parking, manoeuvring and traffic generation.	C	This rule reflects Rule 46.4.7, as recommended to be amended by the Hearings Panel, and is supported.	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
13	Within the Water Transport Infrastructure Overlay as identified on the District Plan maps, a jetty, wharf, quay or pier, marina, mooring, weather protection features, signage and ancillary infrastructure: Discretion is restricted to: a. Effects on natural character b. Effects on landscape values and amenity values c. Lighting d. Effects on public access to and along the lake margin; and e. External appearance, colour and materials f. Functional need for location g. Benefits/positive effects h. Navigational safety	RD	This rule is similar to notified Rule 46.4.8, but includes additional activities, and additional matters of discretion (f, g and h). The additional activities are not supported by evidence (see comments on Policy X.2.1.13). Additional matters of discretion (f) and (h) appear practical. The addition of 'benefits/positive effects' is not supported. This is considered to be too broad a matter of discretion. The inclusion of this general matter of discretion is the subject of appeals by Wayfare on other chapters of the PDP.	Assessment matter f. implements RPS (e.g. Policies 4.5.2, 4.3.1, 5.3.1) and is a practical consideration. Assessment matter h. serves an important health and safety matter of particular concern to Wayfare (and this panel has addressed this matter in the Stage 3A hearing).  In respect to assessment matter g., it is appropriate to ensure that benefits/positive effects of an RDA activity can be taken into account. Preventing benefits of an RDA activity to be taken into account can tip the assessment of the application negatively and this could impose a restriction on land use that frustrates and is at odds with the purpose of sustainable management.  <b>Recommendation:</b>  Retain rule as sought by Wayfare.
14	Buildings within the Building Restriction Area that follows the Lake shore	D	Buildings within building restriction areas generally have non-complying activity status. There would be an internal consistency issue with other chapters of the PDP if a discretionary activity status was used here. There is no evidence or justification for why discretionary activity status is appropriate, and no policy support within the WPTZ for use of a building	The purpose of the BRA is to provide a method to identify locations where buildings would be discretionary, rather than controlled. There is no need to be consistent with other parts of the PDP in this respect. However, to address the "internal inconsistency" matter the label Building Restriction Area could be renamed to something like "discretionary development area".  <b>Recommendation:</b>  Retain rule as sought by Wayfare.

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			restriction area. Discretionary activity status is not supported.	
15	Buildings within any other Building Restriction Area	NC	Non-complying status matches the building restriction area tool. However, there is no clear policy support for the use of the building restriction area. Given it results in non-complying activity status, it should have policy support. The rule is supported, subject to the inclusion of a policy that supports it.	This rule relates to the BRA on the mountain slopes, and as such identified by Mr Skelton as a sensitive area. Policies X.2.1.2, X.2.1.8, X.2.1.9 are the relevant policies.  <b>Recommendation:</b>  Retain rule as sought by Wayfare
16	Farm Building  The construction, replacement or extension of a farm building is a permitted activity subject to the standards provided for in 21.8 of Chapter 21 (Rural Zone)	P	In the notified RVZ, farm buildings are specified as a restricted discretionary activity. If it is considered appropriate for farm buildings to be permitted in the WPTZ (noting no specific assessment of this has been provided by the submitter), then the cross-reference to the standards in 21.8 of Chapter 21 should be replicated in the WPTZ chapter, for ease of plan interpretation and application. This rule is not supported as proposed.	Agree the rule could introduce standards, namely around building height and size, and replicate Rule 21.8.  <b>Recommendation:</b>  Amend rule to include the permitted farm building standards (replicate Rule 21.8)
17	Industrial Activity	NC	Same as notified RVZ, supported.	Support, with clarification that this rule does not apply to ancillary industry activity permitted by rule [8] above.  <b>Recommendation:</b>  Amend rule to clarify industrial activity captured by rule [8] above is not captured by this rule.
18	Residential Activity  Residential activities not permitted by rule X above, or which do not comply with the standards listed in Table 1 of Chapter 21 (Rural Zone)	D	As discussed in the s42A report, this rule has not been justified in the submitter's s32AA assessment and is not supported.  There is a clarification required for the part of the rule that states "or which do not comply with the standards listed in Table 1 of Chapter 21". Table 1 of Chapter 21 is the activity rule table, not a list of standards, and covers many activities. If the submitter wants standards from the Rural Zone to	Do not agree with QLDCs position regarding residential activity (refer evidence). Agree clarification is required as to which standards this rule is relating to. However, there are no standards that need to be complied with, as residential activity can be permitted by rule 6 otherwise it is discretionary.  <b>Recommendation</b>  Amend proposed rule to specifically refer to Rule 6:

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			apply to residential activity in the WPTZ, then these should be specifically listed in the chapter.	<del>Residential activities not permitted by Rule 6 above, or which do not comply with the standards listed in Table 1 of Chapter 21 (Rural Zone)</del>
19	Mining	NC	Same as notified RVZ, supported.	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
20	Any other activity not listed in Table X.4	D	See discussion in s42A report.	The zone is intended to be a bespoke special zone so there is no need to ensure consistency with other parts of the PDP.  The policy direction “to ensure that activities not anticipated in the zone protects or enhances landscape values and nature conservation values” also needs to be read in conjunction with the Objective. A stronger policy directive could be introduced to avoid development of an urban character.  <b>Recommendation</b>  Retain Discretionary status as sought by Wayfare
Standards				
	<p>Building Height</p> <p>The maximum height of buildings shall be 8m, with the exception of wind turbines which shall be 15m.</p>	RD	Ms Mellsop does not support this standard. The notified height for the RVZ was 6m, and 4m within the Water Transport Infrastructure overlay.	<p>Agree with the comments around 4m building height standard within the Water Transport Infrastructure overlay, on the basis non-conformance is restricted discretionary. However, as no buildings are permitted within this overlay area the merits of a height standard are questionable – the standard is effectively redundant.</p> <p>The operative height standard has proved effective at the Walter Peak RVZ (i.e. no buildings or structures have been developed which could be said to be inappropriate based on their height). The operative standard is 12m for Visitor’s Accommodation, 8m for Commercial, Recreation and Residential Activities, and 7m for All Other Buildings and Structures. Note the PDP height rule (for farm buildings within ONL) is permitted up to 4m and RDA above that with discretion restricted to “the extent to which the scale and location of the Farm Building is appropriate in terms of: i. rural amenity values; ii. landscape character; iii. privacy, outlook and rural amenity from adjoining properties; iv. visibility, including lighting”.</p>



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				<p>On land, 6m is an arbitrary height compared with 8m as there will be no material adverse effect allowing buildings up to 8m compared to 6m, yet the consenting risks and costs will increase. A 6m height limit could be impractical for new development at Walter Peak and could incentivise/result in more earthworks being undertaken (to lower ground levels) which is otherwise unnecessary and increases practical and consenting costs.</p> <p><b>Recommendation:</b></p> <p>Retain rule as sought by Wayfare except amend rule to delete height standard from applying to the Water Transport Infrastructure Overlay area.</p>
	<p>Glare</p> <p>X: All exterior lighting shall be directed downward and away from adjacent sites and public places including roads and Lake Wakatipu.</p> <p>X: No activity shall result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, except this rule shall not apply to exterior lighting within the Walter Peak Water Transport Infrastructure Overlay.</p>	NC	Similar to notified standard 46.5.3, supported.	<p>Agree with QLDC.</p> <p><b>Recommendation</b></p> <p>Retain rule as sought by Wayfare.</p>
	<p>Setback of buildings from waterbodies</p> <p>The minimum setback of any building from the bed of a river, lake or wetland shall be 20m, except this rule shall not apply to structures or buildings identified in rule X located within the Walter Peak Water Transport Infrastructure Overlay.</p> <p>Discretion (for non-conformance) is restricted to: Indigenous biodiversity values; Visual amenity values; landscape; open space environmental protection measures (including landscaping and stormwater management); natural hazards; and Effects on cultural values of manawhenua.</p>	RD	This standard is similar to notified standard 46.5.4, except that matter of discretion (d) has been shortened. In the absence of any reasoning as to otherwise, the notified matter should be included: "open space and the interaction of the development with the water body".	<p>Agree with QLDC.</p> <p><b>Recommendation:</b></p> <p>Amend clause d to say ("<u>Open space and the interaction of the development with the water body</u>");</p>

**Table 3 Walter Peak Tourism Zone – Comments on Changes to other Chapters**

Walter Peak Tourism Zone – Comments on changes to other chapters			
Chapter	Proposed change to provision	QLDC Comments in s42A Report	Farrell Comments
Chapters 3 and 6	<p>Inclusion of WPTZ as an Exception Zone in Chapter 3, and new policy in Chapter 6 as follows:</p> <p><u>Provide a separate regulatory regime for the Walter Peak Tourism Zone and exclude the Walter Peak Tourism Zone from the Outstanding Natural Landscape classification and from the policies of this chapter related to that classification. (3.2.1.1, 3.2.1.7, 3.2.1.8, <del>3.2.5.2</del>, 3.2.5.1A, 3.2.5.2B, 3.3.20-24, 3.3.32)</u></p>	<p>As discussed in the s42A report, these changes are not supported.</p> <p>If the Tourism Zone can be justified as an Exception Zone – the way it is listed should follow the same structure and format as already adopted in Chapter 3. The ‘carve-out’ from the Chapter 6 ONL provisions should also follow the same format as the existing Special Zone, rather than the new approach suggested by Wayfare.</p>	<p>Unclear about QLDCs concern. An exception zone framework is appropriate for Walter Peak. It would be a “special zone” listed as an “exception zone” in Policy. Other special zones, for example Jacks Point, are exception zones.</p> <p><b>Recommendation:</b></p> <p>Amend Chapter 3 provisions (as required) to provide for and list the WPTZ as an exception zone.</p>
Chapter 25 Earthworks	<p>500m<sup>3</sup> maximum volume for earthworks, and non-notification statement for earthworks in the WPTZ.</p>	<p>The volume of 500m<sup>3</sup> is consistent with the volume notified as a variation with the notified RVZ. However, earthworks have the potential to have significant effects on the landscape values of the ONL, so it is not clear that non-notification is appropriate as proposed.</p>	<p>Earthworks are not anticipated to have “significant adverse effects on the landscape values of the ONL”, particularly in comparison with permitted earthworks allowed on the site (e.g. pest tree removal, cultivation/ploughing, fencing, tracks, trails, planting) and undertaken on adjoining land. Moreover, the RDA allows any potential adverse effect to be avoided, remedied or mitigated. There are many costs associated with notification which are not justified in this case.</p> <p>Notwithstanding the above, Mr Skelton recommends reducing the permitted height of cuts within the Von Hill area to 1.5m. This recommendation could be introduced into the earthworks chapter to help mitigate effects of earthworks within this part of the WPTZ.</p> <p><b>Recommendation:</b></p> <p>Retain permitted and RDA thresholds with non-notification status for development, except consider introducing bespoke &lt;1.5m cut standard for earthworks within the Von Hill area.</p>
Chapter 27 Subdivision and Development	<p>Inclusion of WPTZ within the Rule 27.5.5 for unit title and leasehold subdivisions.</p>	<p>Change in the approach to Subdivision was not a matter raised in the submission, and this change is considered out of scope.</p> <p>Notwithstanding this, it is not clear what the change would achieve, it is not clear what type of development, beyond multi-unit commercial or residential or visitor accommodation development that the submitter might want to be able to unit title or leasehold subdivide.</p>	<p>There is potential for unit title and leasehold subdivisions at Walter Peak, which would support the Zone purpose and would not directly generate or result in any adverse environmental effect. It is appropriate that these tenure circumstances be specifically provided for. It is noted that Wayfare is frequently involved in subdivisions and leases in respect of private and Crown land, with the boundary location at Beach Bay Reserve and around the Homestead providing an example of this.</p> <p><b>Recommendation:</b></p> <p>Retain rule as sought by Wayfare.</p>

	No minimum lot size for subdivision within the WPTZ.	This change is consistent with the notified variations that accompanied the notified RVZ.	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
Chapter 30 Energy and Utilities	Application of Rule 30.4.1.2 (small and community-scale distributed wind electricity generation) to the WPTZ.	The intent of this change has some merit, but there is no specific assessment provided and it is not clear if there are any effects on the ONL that would need to be specifically managed.	In my experience the controls in rule 30.4.2.3.4 are sufficient and if applied would result in a REG that would not give rise to any material adverse effect on the environment, including ONL. Note the controls in rule 30.4.2.3.4 restrict the number of turbines to two to a height which does not exceed the maximum height or intrude through any recession planes applicable in the zone in which they are located (in other words a maximum of two 15m high small turbines).  <b>Recommendation:</b>  Retain rule as sought by Wayfare.
Chapter 31 Signs	Inserting a new column for the WPTZ in Table 31.14, identifying activity status for various types of signs.	This change is consistent with the notified variations that accompanied the notified RVZ.	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
	Insertion of a new permitted activity within Table 31.14:  <i>Interpretive signs and signs for health and safety purposes</i>	No new activity related to signs was sought in the submission, and this change is considered to be out of scope.  Notwithstanding this, the additional rule is considered unnecessary – interpretive signs and signs for health and safety purposes are not signs associated with commercial activities, community activities or visitor accommodation, and so would be permitted anyway (Rule 31.14.4).	Agree with QLDC.  <b>Recommendation</b>  Retain rule as sought by Wayfare.
Chapter 36 Noise	New noise standard for the WPTZ	The noise standard is similar to that notified for the RVZ, but there is a difference for the ‘assessment location’, being “at any point within any site” in the notified RVZ and “at the notional boundary of any residential unit in the Rural Zone” for the proposed WPTZ. The unit of measurement for the noise limit in the WPTZ also needs clarifying – two units appear to be included. There is no explanation for the different assessment location and it is not supported.	There is no need to manage noise effects from “at any point of the site”. A more appropriate location is the notional boundary.  <b>Recommendation:</b>  Retain rule as sought by Wayfare.

