

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Stream 15 Report

**Report and Recommendations of Independent Commissioners
Regarding Chapters 25, 29, 31, 38 and Visitor Accommodation**

**Report 19.6 – Chapter 38
Open Space and Recreation Zones**

**Commissioners
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**Appendix 1: Recommended Revised Chapter 38 Open Space and Recreation and
Associated Variations**

Appendix 2: Recommendations on Submissions and Further Submissions

PART A – CHAPTER 38 AND VARIATIONS – TEXT

1. PRELIMINARY

1.1 Introduction

1. This report needs to be read in conjunction with Report 19.1. That report sets out the appearances and procedural matters for Stream 15. It also contains our recommendations on matters applicable generally to all the provisions covered by Stream 15.
2. Throughout this report, we use the abbreviations set out in Section 1.1 of Report 19.1 plus following abbreviation which is specific to submissions dealing with Chapter 38:

IRZ Informal Recreation Zone

1.2 Background

3. Chapter 38 has introduced an entirely new method of managing over 200¹ reserves within the District. Currently under the ODP, reserves are subject to bespoke designations for each reserve, which are in turn placed over the underlying zoning – for example, a reserve within the Rural Zone will have an underlying Rural Zoning.
4. The Council proposes to replace the current approach in the ODP, with the following categories of reserve ‘zonings’ under the PDP:
 - Nature Conservation Zone
 - Informal Recreation Zone (including a Ben Lomond Sub-Zone)
 - Active Sport and Recreation Zone
 - Civic Spaces Zone
 - Commercial Purposes Zone (includes Cemetery, Golf, and Camping Ground Sub-Zones)
5. It was explained to the Hearings Panel that the Council had decided to adopt this approach as part of the Parks and Open Space Strategy adopted by the Council in May 2017², also noting that it was an approach previously adopted in other district plans, including the Auckland Unitary Plan, and the Christchurch City District Plan.
6. It is the Council’s intention that the current reserve designations be subject to a staged withdrawal process³.
7. This new approach to managing Council Reserves had a significant influence on the 575 submission points that had been received (301 original and 274 further submission points)⁴, particularly those related to requests for changes to and between the particular zonings.

¹ C. Edgley, Section 42A Report, paragraph 4.3

² Ibid, paragraph 5.19

³ J. Galavazi, EiC, paragraph 3.4

⁴ C. Edgley, Section 42A Report, paragraph 6.1

8. Zonings imposed on Council reserves under Chapter 38 as notified have been applied exclusively to land held by the Council for reserve purposes, and not to any private land. This was a significant issue in a small number of submissions, as discussed later in this report.
9. Evidence was presented for the Council by Ms Galavazi who explained the philosophy behind the adoption of the specific zoning of Council reserves and its application to a number of rezonings sought by submitters; the evidence of Ms Edgley dealt with the detailed matters within submissions including those on objectives, policies, rules and the various rezonings sought.
10. Some submissions have been lodged as a group or seek similar relief. These include submissions from Real Journeys Limited, Go Orange Limited, Cardrona Alpine Resort Limited and Te Anau Developments Limited⁵ which will be summarised as 'Real Journeys Group', including in circumstances where the submission is in the name of only one of these parties. We note that submissions for this group of submitters were prepared and presented by Mr Farrell, a planning consultant.

2. GENERAL SUBMISSIONS

11. A number of submissions offered full or partial support to the provisions contained within Chapter 38.
12. Kawarau Jet Services Holdings Ltd⁶ supported the zoning shown on Council foreshore reserves on planning maps 35, 37 and 31A, and Heritage New Zealand⁷ supported the historic heritage related provisions in Chapter 38. We recommend that these submissions be accepted.
13. Ngai Tahu Property Ltd and Ngai Tahu Justice Holdings Ltd⁸ supported the content of Chapter 38 with the exception of the zoning of a small parcel of land in Stanley Street which is addressed later in this report with respect to rezoning matters. We recommend that this submission be accepted.
14. Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, Hokonui Runanga, Te Runanga o Waihopai, Te Runanga o Awarua and Te Runanga o Oraka- Aparima (Kai Tahu)⁹ generally supported Chapter 38 to the extent that it recognised and protected the ancestral relationship of Kai Tahu and their culture and traditions with their lands, water, culturally significant sites, wahi tapu and other taonga, but sought a range of amendments. The following amendments were sought:
 - a) That the provisions recognise and address the effects of landfills, cemeteries and crematoriums on tangata whenua values;
 - b) That areas of wāhi tūpuna are mapped;

⁵ Submissions 2466, 2581, 2492 and 2494 respectively

⁶ Submission 2290

⁷ Submission 2446

⁸ Submission 2335

⁹ Submission 2329

- c) Kāi Tahu values need to be visible throughout the document including cross referencing with the Tangata Whenua Chapter; and
 - d) Tangata Whenua values should be recognised throughout the PDP, similar to references to landscape and ecological values.
15. Ms Edgley’s response to the submission was that the adverse effects of concern were in large part already addressed under various policies and rules in the PDP, citing for example that a cemetery would require a resource consent in all zones except for the Cemetery Sub-Zone, and that no new areas were identified for this purpose. She noted that mapping of wahi tupuna had been considered and the decisions on Stage 1 and that the Council were undertaking a further review to address this through a later stage of the review of the PDP. We concur with Ms Edgley’s conclusion that the submission be accepted in part.
16. Young Changemakers - Wakatipu Youth Trust Advisory Group¹⁰ supported the chapter and requested that different uses of parks, reserves and open spaces should be undertaken, which would benefit locals and create community, including the planting of fruit trees and natives, installation of sunscreen dispensers and water fountains, and increased recreational activities. This support of the contents of the chapter are acknowledged, although the specific matters raised would best be addressed through a Reserves Management Plan rather than through the provisions of the PDP, and on this basis we recommended that the submission be accepted in part.
17. Active Transport Wanaka¹¹ supported the PDP in general (and particularly Policy 38.2.1.1 (c) with respect to walking and cycling networks) but also sought to work with the Council to plan and implement an Active Transport Wanaka Masterplan with the aim of ensuring the PDP provisions accord with the Masterplan and other objectives, policies, and rules relevant to cycling or walking access.
18. Ms Edgley advised that the provision of cycle ways and walkways has been recognised in Policy 38.2.1.1 (c) as well as Policies 38.4.1.6, 38.9.27 and associated rules. It is also supported through subdivision policies 27.2.2.3, 27.2.2.4, 27.2.5.5 and 27.2.5.3. She added that the Open Spaces Strategy provides additional guidance on the matters covered by Policy 38.2.1.1 (c). We concur with Ms Edgley’s conclusions that while support for the plan provisions is acknowledged, a number of the specific matters raised in the submission would not be addressed through the PDP and its consent processes, but rather other through Council functions outside the regulatory framework of the District Plan. For these reasons, this part of the Active Transport Wanaka submission is recommended to be rejected.
19. There were a number of submissions generally in opposition to all or parts of Chapter 38.
20. Real Journeys Group, sought similar or identical changes to Chapter 38 submitting that the chapter should be deleted or significantly amended, including the deletion of objectives and policies other than those having district wide application. The submissions sought a simplified framework which would provide for the benefits of commercial recreation and transport activities and for the maintenance of upgrading of infrastructure within open space zones. We

¹⁰ Submission 2495

¹¹ Submission 2078

did not hear any evidence justifying the entire removal of these provisions, or any alternative provisions to take their place. Our understanding from the submissions presented by Real Journeys Group was that the primary focus was on the specific content of provisions within Chapter 38 and how these could be amended. This part of their submissions are recommended to be rejected.

21. During the course of the hearing, witnesses for these parties primarily focused their attention on their more detailed submissions on aspects of Chapter 38, rather than its wholesale deletion or redrafting. In general, we agree with Ms Edgley that the proposed zoning framework provides greater certainty and overall consistency than the current designation and underlying zone framework for reserves under the ODP. With respect to assertions that the policy and rule framework was too onerous, we observe that the zoning framework provides for open space zones that reflect high levels of public use and others where conservation and protection values predominate, which we considered is appropriate with respect to Council-owned reserves. It appeared in some cases that the concern of the submitters appeared directed towards managing development in the district as a whole, rather than falling within the limited scope of Chapter 38.
22. We do not consider that the use of Council reserve land should necessarily be subservient to commercial and tourist activities. We recommend that these submission points be rejected.
23. Another issue which arose during the course of the hearings was whether it was appropriate to zone private land one of the Open Space and Recreation zones, a matter arising in submissions by Kingston Holiday Park Ltd¹², Bridesdale Farm Developments¹³, Kirimoko No.2 Ltd Partnership¹⁴, and Glen Dene Limited and Sarah Burdon¹⁵.
24. We go on to discuss the merits of zoning private land for open space purposes later in this report, and additional reasons why we consider this is not appropriate, or at least within the zoning framework currently contained in Chapter 38. At a general level however, an important part of managing Council-owned land is the ability to provide for complementary management through the provisions of the PDP and under the Reserves Act and Reserve Management Plans. It is not possible to provide such complementary management under the Reserves Act for privately owned land, a situation which could be further complicated where land is in combined Council/private ownership.
25. In her reply evidence, Ms Edgley noted that the formulation of plan provisions for open space areas, and the accompanying section 32 assessment, had not been undertaken on the basis that it might apply to private land, and she cited examples of provisions that would be inappropriate if applied to private land (such as building height within an ONL), the management of temporary events, site coverage, minimum floor levels for buildings in flood risk areas, minimum site areas for more intensive activities, building colour requirements and limits on hours of operation¹⁶. She went on to suggest that if such a zoning were applied to private land (using the Bridesdale scenario), then activities would need to be fully discretionary.

¹² Submission 2103

¹³ Submission 2391

¹⁴ Submission 2405

¹⁵ Submission 2407

¹⁶ C. Edgley Reply Evidence, paragraph 3.5

26. In that respect, we have concerns about creating a zoning in which an activity anticipated within a zone was confined to being fully discretionary in status, providing insufficient certainty for the affected landowner. Conversely, we have concerns about the potential scale and nature of development on privately-owned land in the District where this is part of the suite of land which includes Council controlled reserves. We go on to discuss this issue further with respect to the assessment of specific rezoning submissions later in this report. We recommend that these submission points be rejected.
27. Remarkables Park Ltd¹⁷ and Queenstown Park Ltd¹⁸ submitted on the basis that they oppose protection of established activities that might be contrary to the proposed zoning framework, notwithstanding that these may be historic uses. Even setting aside potential issues relating to existing use rights, we consider that long-standing activities on reserves need to be recognised, and any changes or intensification to these can be managed through the policy and rules framework applicable to the open space zone within which they are located. We recommend that the submissions be rejected.
28. Loris King attended the hearing and expanded on her contention that it was neither necessary nor appropriate to implement the proposed Open Space and Recreation zoning framework, and associated policies and rules over reserve land, on the basis that the Reserves Act already provided such a framework.
29. Ms Galavazi's evidence set out in some detail¹⁹ the reasons why the Council wished to adopt a zoning framework over Council reserves in the District. We make the following observations in this respect:
- a) The management of Council open space through specialised open space zonings in the District Plan has increasingly been adopted by other local authorities, including other major local authorities with large numbers of parks and reserves, such as Auckland and Christchurch;
 - b) Regardless of the application of the Reserves Act, reserve land in the District Plan has to have some form of identification – specialised zoning, designation, or a zoning related to adjoining land. A specialised zoning depending on the character of each reserve is the most efficient approach, and can be targeted to directly relate to the purpose of the reserve and the level of public use.
 - c) The current District Plan (ODP) either relies on designation with individual conditions for each reserve, and in some cases has no conditions at all, providing little guidance;
 - d) The underlying zoning for reserves is often completely inappropriate as it is based on the adjoining land use and rules (e.g. residential, commercial, rural etc). These may be either much too liberal, or in the case of community facilities where the zoning is rural, too restrictive.
30. Specialised zoning under the RMA and the PDP better complements Reserve Management Plans, through policies and rules which set out the nature and scale of buildings, building

¹⁷ Submission 2468

¹⁸ Submission 2462

¹⁹ J. Galavazi, EiC, paragraphs 3.1 – 3.17

coverage, and the nature of uses expected within a reserve. If the threshold for these activities exceeded, a resource consent is required.

31. It appears that Ms King’s primary concern was to restrict any building on reserve land unless it is a park dedicated to organised sports. We disagree – the proposed open space classifications specify maximum thresholds for building activity which are much more restrictive for those reserves which have a primary purpose of conservation – such as the Nature Conservation Zone, and are more liberal for those where a high level of public use is expected, such as the Active Sport and Recreation Zone. We consider this is an appropriate planning approach, and recommend that the submission be rejected.
32. Three submissions raised general issues about the approach to be taken to reserve management. Georgina Ralston²⁰ requested that the chapter be strategic in its approach to open space and landscape planning, to future proof areas of land in the way that the Queenstown Gardens were set aside in the nineteenth century for that purpose. Lake Hayes and Shotover Country Community Association²¹ sought that the provisions that apply to the reserves in and around Lake Hayes Estate and Shotover Country are either deleted or amended to ensure that the reserves are managed strategically to meet the present and future needs of the community. Remarkables Park Limited²² submitted that it is unclear how Chapter 38 is providing open spaces and recreation zones within new or expanding urban areas.
33. The provision of areas of open space are achieved through the development and subdivision process, and are addressed through the Parks and Open Space Strategy 2017, and within the PDP itself through objectives and policies in Chapter 4 Urban Development (Objectives 4.2.2.2 and 4.2.2.4) and under Chapter 27 Subdivision and Development (Objective 27.2.2 and Policy 27.2.2.3). The PDP has classified Council open space under five zones in the PDP depending on the existing and anticipated use of these open spaces, and any changes to these have been addressed through submissions specific to objectives, policies and rules applying to these spaces and through the recommendations in this report. Given this context, it is recommended that these submissions be rejected.

3. SECTIONS 38.1 & 38.2 – DISTRICT WIDE PURPOSE, OBJECTIVES AND POLICIES

3.1 Chapter 38 Purpose

34. As noted earlier, there are a group of submitters who have challenged the restriction of the open space zonings to only Council administered reserves, and have sought that it be applied to private land owned by those parties. These include Kingston Holiday Park, Bridesdale Farm Developments, Kirimoko No.2 Partnership, Glen Dene and Sarah Burdon, Patterson Pitts, and JVZ New Zealand Limited²³.
35. These submitters have sought that the wording contained in Section 38.1, being the ‘Purpose’ statement for Chapter 38 be removed where it makes reference to Council administered reserves. This matter was addressed earlier in paragraphs 23-25 of this report, and is addressed

²⁰ Submission 2546

²¹ Submission 2401

²² Submission 2468

²³ Submissions 2103, 2391, 2405, 2407, 2457, and 2485 respectively

later with respect to particular requested rezonings. For the reasons set out earlier, we recommend that these submissions be rejected.

36. Tonnie and Erna Spijkerbosch²⁴ have submitted that open spaces should not be occupied by freedom campers, and Sarah Roy²⁵ submitted that camping activity should not be allowed in Council reserves, and be treated as a Visitor Accommodation Activity. Ms Edgley noted that freedom camping (in contrast to a managed campground) is controlled separately through the Freedom Camping Bylaw. Because this issue does not need to be addressed under the District Plan, as it is dealt with elsewhere, it is recommended that the two submissions be rejected.
37. Skyline Enterprises Ltd²⁶ noted that the purpose statement requires amendment to identify four subzones, rather than the incorrect reference to three subzones stated under Section 38.1 as notified. We recommend that this submission be accepted, and the text of Section 38.1 amended accordingly.
38. Real Journeys Group sought that the last sentence in the second paragraph of Section 38.1 Purpose be deleted. This states as follows:

“The Council has a responsibility to provide open space and recreation opportunities and to manage the effects of activities within the zone and on the surrounding environment”.

39. Ms Edgley responded that although this matter related to the Council’s functions under section 31 of the RMA and section 11A of the Local Government Act 2002, the text was essentially superfluous as these requirements (in this case the provision and management of reserves) apply anyway. She recommended that the words be deleted, and we concur with this and that the submission point be accepted.

3.2 Objective 38.2.1 and Policies

40. Section 38.2 contains the ‘District Wide’ Objectives and Policies. Objective 38.2.1 and its associated policies as notified read as follows:

38.2.1 The open space and recreation needs of the District’s residents and visitors are met through the provision of a wide range of quality Open Space and Recreation Zones that provide for passive and active recreation activities.

Policies

38.2.1.1 The design, development, management and maintenance of Open Space and Recreation Zones shall provide for:

- a) *the needs of the community in the area in which the zones are located and the needs of the wider community and visitors to the District;*
- b) *the effective and efficient use of resources so as to ensure that Open Space and Recreation Zones are multifunctional and fit for purpose;*

²⁴ Submission 2133

²⁵ Submission 2212

²⁶ Submission 2493

- c) *the maintenance and enhancement of integrated public access connections to walking and cycling networks throughout the District, including along lake and river margins;*
- d) *the functional use of Open Space and Recreation Zones while ensuring they are safe and attractive to users;*
- e) *the location within which Open Space and Recreation Zones are situated, responding to recognised natural character, landscape and heritage values; and*
- f) *The provision of infrastructure necessary to service Open Spaces and Recreation Zones, including recreation facilities and amenities.*

38.2.1.2 *Encourage multiple use of Open Space and Recreation Zones wherever possible and practicable.*

38.2.1.3 *Protect and enhance ecological values, including habitats for indigenous fauna.*

38.2.1.4 *Protect open space, recreation and amenity values by managing the adverse effects of, and conflicts between, different types of recreation activities.*

38.2.1.5 *Avoid activities that do not have a practical or functional need to be located within Open Space and Recreation Zones, unless a particular activity:*

- a) *is compatible with and does not affect the continued operation of established activities;*
- b) *does not preclude the development of new open space and recreation activities; and*
- c) *maintains and/or enhances the recreation and amenity values.*

38.2.1.6 *Provide a District Plan framework that establishes the roles, functions and activities for each Open Space and Recreation Zones, within which the outcome of public participation into the design, development, management and enhancement of reserves can be implemented through processes other than through the Act, such as reserve management plans.*

- 41. Real Journeys Group²⁷ sought widespread changes to the district wide objectives and policies, including Objective 38.2.1 and some associated policies.
- 42. Both Ms Black and Mr Farrell for the submitter took exception to the word “met” in Objective 38.2.1 on the basis that this implied that it was only the Council (and not parties such as the Department of Conservation and private landowners such as ski field operators) that was meeting the needs of residents and visitors. Ms Edgley was concerned that the amendments sought by the submitters could result in the objective no longer specifying a defined ‘outcome’.
- 43. We agree that the Council is a major contributor to the provision of quality open space and recreation, but we also agree that it is not the only contributor, which could be an issue under the current policy wording where for example, resource consent may be sought for a ‘non-Council’ recreational facility. At the same time, we remind ourselves that Chapter 38 relates to

²⁷ Submissions 2466, 2581 and 2494

land administered by the Council. Accordingly, we recommend that this part of the submission be accepted in part and that the Objective 38.2.1 be amended to read as follows:

“That open space land and facilities administered by the Council make a major contribution towards meeting the needs of the District’s residents and visitors for passive and active recreation”.

44. ZJV²⁸ requested that Policy 38.2.1.1 be amended by streamlining the wording. They also sought that subclause (b) of the policy be amended by removing reference to multifunctional use and adding the words “safe for users”, and the deletion of subclause (d) of the policy. The removal of subclause (d) was also sought by the Kawarau Jet Services Holdings²⁹. The issue of safety was also raised by Real Journeys Group who also, however, sought that Policy 38.2.1.1 be deleted in its entirety.
45. Public Health South³⁰ sought the amendment of subclause (d) to recognise and provide for users of all ages and different physical capacities, and the addition of a new subclause (g) in relation to providing functional and secure cycle and walking linkages.
46. Some open spaces, particularly in this District, serve a range of different functions and provide for ‘adventure’ activities. We consider that recognition of the safety of users as raised by the ZJV and Real Journeys Group is a valid concern, and is also recognised under section 5(1) of the Act. We consider that the matter raised by Public Health South is valid with respect to walking and cycling linkages, but is already addressed through subclause (c) of Policy 38.2.1.1. Similarly meeting the needs of people of all ages and different physical capacities is a valid issue in the District.
47. To address these matters, we recommend that the words “multifunctional” can be deleted from subclause (b) of policy 38.2.1.1 as it is already addressed under Policy 38.2.1.2. Subclause (d) of the policy is largely superfluous, and safety can be addressed through an addition to subclause (b) of the policy.
48. We recommend that subclause (b) be amended to read:

“the effective and efficient use of resources so as to ensure that Open Space and Recreation Zones are fit for purpose and safe for all users;”
49. We recommend that existing subclause (d) be deleted and replaced by the following:

“recognise and provide for users of all ages and different physical capacities;”
50. Accordingly, we recommend that the submission points by ZJV and Public Health South be accepted in part.
51. Real Journeys Group also sought that Policy 38.2.1.3 be amended to only make reference to “significant” ecological values. In response to a question, Ms Black elaborated her concern

²⁸ Submission 2485

²⁹ Submission 2290

³⁰ Submission 2040

about the wording of this and similar policies on the basis that in her experience reporting officers had a tendency to take somewhat 'literal' (rather than pragmatic) interpretations of unqualified plan provisions.

52. While we acknowledge this concern, we are dealing here with publicly owned Council reserves. We were concerned that there was a theme in the submissions by Ms Black and Mr Farrell on Chapter 38 as a whole, that policy wording should be watered down in order to facilitate 'efficient' consent processes, and the commercial benefits of tourist development.
53. We note that section 6(c) of the RMA states as follows:

"The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna".

(our emphasis)

54. We also note that the proposed classification of Open Space and Recreation Zones under the PDP specifically recognises the different function and character of areas administered by the Council – for example it would be expected that within the Nature Conservation Zone a considerably higher emphasis would be placed on the protection of indigenous vegetation and fauna than perhaps in other zones contained in Chapter 38. It is also likely to be a zone where ecological values are likely to be "significant". We consider also that the standard of protection given to indigenous vegetation and habitats on Council owned land could hardly be less than that expected on private land.
55. In her reply evidence³¹, Ms Edgley addressed the matter of 'aspirational' policies following a query from the Hearings Panel in light of the Supreme Court decision on *King Salmon*³². Her response was that qualifiers to policies were acceptable provided they were clear and defined. She noted that some Open Space and Recreation Zones will have existing ecological values to protect while others were unlikely to have such features (e.g. the Active Sport and Recreation or Community Purposes Zones).
56. Having regard to all of these factors, we consider Ms Edgley's proposed amendment to Policy 28.2.1.3 provides a useful starting point for reviewing the policy. To this end, we consider it would be useful to avoid simply paraphrasing the Act, while at the same time recognising the classification of Open Space and Recreation Zones. We recommend that the submission point by Real Journeys Group be accepted in part and the policy be reworded as follows:
- "Promote the protection of existing ecological values having regard to the purpose, objectives and policies specific to each Open Space and Recreation Zone, and opportunities for enhancing natural values".*
57. Real Journeys Group also sought that a minor grammatical change be made to Policy 38.2.1.4. We agree with Ms Edgley that no change to this policy is required and that this submission point be rejected.

³¹ C. Edgley, Reply Evidence, paragraphs 6.1-6.6.

³² *Environmental Defence Society Inc v New Zealand King Salmon Co Ltd and Ors* [2014] NZSC 38

58. Turning to Policy 38.2.1.5, Mr Farrell’s evidence for Real Journeys Group stated that:

“Consider that Policy 38.2.1.5 is very stringent and I support the amendments requested by RJG (Real Journeys) so the focus of the policy is focused on the compatibility of new activities with existing activities”³³.

59. We were somewhat perplexed at this concern, given that subclause (a) of the policy states:

“is compatible with and does not affect the continued operation of established activities”.

60. Similarly, we are at a loss as to why this submitter seeks the deletion of subclauses (b) and (c) which simply require that activities that do not have a practical or functional need to be located with an open space and recreation zone do not preclude the development of new open space and recreation activities and maintain or enhance recreation and amenity values. These seem to us to be outcomes that would typically be expected as part of the management of the Council’s open space and recreation network.

61. At this point we also acknowledge Ms Edgley’s comment³⁴ that care needs to be taken to ensure that the policy framework does not have the effect of attempting to regulate the entry of competitors into the existing tourism market, to the extent that such activities are dependent on the use of Council open space and reserves. We recommend that the submission point be rejected.

62. Fire and Emergency New Zealand (FENZ) have sought that Policy 38.2.1.5 be amended as follows:

“Avoid activities that do not have a practical, operational or functional need (including enabling and protecting the health and safety and well-being of the community) to be located within Open Space and Recreation Zones”.

63. The submission point is part of a wider submission which is also addressed below in section 3.11. We understand that this amendment was to provide policy support for amendments sought to rules in order to enable fire stations to be located within Open Space Zones. While we could readily appreciate the importance of fire and rescue activities, we did not hear any evidence specific to the need to establish such facilities within these zones, which would have provided us with the context required to better understand this submission. Otherwise, it would not be our expectation that these kind of facilities (at least of a permanent nature) would normally be located in Open Space and Recreation Zones. For this reason, the submission point is recommended to be rejected.

64. There were a number of other submissions supporting all or part of the above objective and policies, and these are recommended to be accepted in part in recognition of the amendments made in response to submissions. There were no submissions on Policy 38.2.1.6.

³³ B Farrell, EiC, paragraph 26(d).

³⁴ C. Edgley Section 42A Report, paragraph 14.11

3.3 Objective 38.2.2 and Policies

65. Objective 38.2.2 and Policies 38.2.2.1 – 38.2.2.3 read as follows:

38.2.2 Objective – Recreation activities are undertaken and facilities constructed in a way that maintains or enhances the values of open space areas and the recreation opportunities available within the District.

Policies

38.2.2.1 Ensure activities undertaken and buildings and infrastructure are located and constructed in a manner that maintains or enhances the amenity values of the relevant reserve and surrounding environment, including natural, scenic and heritage values.

38.2.2.2 Limit activities, buildings and structures to those compatible with the role and function of the zone, and are necessary to maintain or enhance the anticipated use or values of the zone.

38.2.2.3 Require areas surrounding buildings, structures, outdoor storage and parking areas to be screened and landscaped to mitigate the visual impacts and maintain or enhance amenity values.

66. Policies 38.2.2.4 and 38.2.2.5 are lengthy policies which deal with the scale and location of buildings and structures, and with buildings and structures adjacent to outstanding natural features or landscapes respectively.

67. Real Journeys Group sought the deletion of Policies 38.2.2.1 and 38.2.2.2. The submitter was concerned that Policy 38.2.2.1 overlaps with Policy 38.2.2.4 in that both purport to deal with the potential effects of buildings and structures. Ms Black expressed the view that Policy 38.2.2 was too onerous and did not take account of activities such as temporary events and filming which do not fit the mould of 'typical' recreation activities.

68. We do not agree with the submitter's relief to the extent that it seeks the deletion of these policies, which are consistent with the outcomes sought under Objective 38.2.2 and which properly recognise that activities, buildings and structures can potentially have an adverse effect on the quality and amenity of reserves. We concur with Ms Edgley's recommendation that it is not necessary to delete the policies in terms of managing the effects of buildings and structures, but that rather it would be appropriate to remove reference to buildings and infrastructure from Policy 38.2.2.1, so that the policy focused on 'activities' instead, and Policy 38.2.2.4 focuses on the 'effects' of buildings and structures.

69. We recommend that the submission be accepted in part by amending Policy 38.2.2.1 to read as follows:

Ensure activities are undertaken in a manner that maintains or enhances the amenity values of the relevant reserve and surrounding environment including natural, scenic and heritage values.

70. We consider the submission by Real Journeys Group raises a potential issue with the wording of Policy 38.2.2.2 given that the range and nature of activities on the District's reserves can be very diverse, and some are temporary in nature. Such activities may subject a reserve to intensive activities over a short period of time, but do not necessarily detract from its values. In particular the notified wording of the policy which stipulates that activities, buildings, and structures be "necessary" to maintain or enhance anticipated land use values within a recreation and open space zone, can be interpreted as unreasonably constraining. Instead, it is the classification and sensitivity of the particular reserve which is the important issue.

71. Accordingly we recommend the submission point be accepted in part and that Policy 38.2.2.2 be reworded as follows:

Limit activities, buildings and structures to those compatible with the role and function of the zone, and the sensitivity of the surrounding environment, and which maintain or enhance the anticipated use or values of the zone.

72. Real Journeys Group sought that Policy 3.8.2.2.3 be amended by removing reference to the screening of structures, outdoor storage and parking. We accept that it would not be practicable in all cases for such facilities to be 'screened', but again bearing in mind that we are referring to Council reserves, typically at least landscaping would be required to 'soften' rather than 'hide' structures and car parking. There may be circumstances where screening is appropriate, and the wording of the policy could be improved by replacing the word 'and' with the word 'or'. However, Ms Edgley advised that the definition of 'landscaping' in Chapter 2 already includes screening. Given the definition, we recommend that this submission be accepted and the word 'screened and' be deleted from the Policy.

73. Policy 38.2.2.5 and subclause (e) of that policy read as follows:

Ensure that any buildings or structures located within, adjoining or nearby to an Outstanding Natural Feature or Landscape, protect maintain or enhance those values by:

e) Ensuring trails, access and car parking areas (including associated earthworks) do not degrade visual amenity values or disrupt natural character or landforms.

74. The basis of the relief sought by Real Journeys Group was that it is very difficult or impossible in practical terms, to undertake development that does not degrade visual amenity values. We suspect this again comes down to the concern expressed by Ms Black with respect to the manner in which policy wording can be interpreted by reporting officers. For her part, Ms Edgley argued that the policy should not be ambiguous with respect to land that is within an ONF or ONL.

75. We consider that a further factor here is that the policy applies within Council reserves where the Council's consent would be required in any event for the nature of works that are undertaken. It is not unreasonable in our view that development within open space and recreation zones, particularly those parts within an ONL or ONF, be subject to stringent control. As we indicated before, we think the Council is entitled to manage its reserves in a manner that does not provide precedence to commercial development. We also think it is going too far to assume that trails and access arrangements would inevitably detract from open space; and car

parking is an activity which justifies stringent control in the circumstances to which this subclause applies. We recommend that this submission point be rejected.

76. Policy 38.2.2.6 as notified reads as follows:

Ensure the development and use of Open Space and Recreation Zones does not detract from a safe and efficient network for the movement of people and goods, or the amenity values of adjoining roads that are enjoyed by residents and visitors (such as walking, communal meeting, view shafts).

77. Real Journeys Group sought amendments to Policy 38.2.2.6, again on the issue of the safe and efficient movement of people on water bodies adjoining reserve areas. Ms Edgley considered the issue of safety was already addressed in Policy 38.2.2.5 (a) and in Policy 38.2.2.6, although this does not appear to be the case, at least with the former. To a limited extent, safety is partly addressed under Policy 38.2.1.1 as proposed to be amended by our recommendations. However we consider that the potential safety of activities both on reserves (and where applicable, adjoining water bodies) is a relevant matter to be addressed. While we acknowledge that safety is also addressed under other legislation, we note that a district council can regulate activities on the surface of water bodies.

78. We recommend the Policy 38.2.2.6 be amended to focus on amenity values, while a new Policy 38.2.2.7 be introduced to address safety issues. On this basis it is recommended that the submission be accepted in part and that Policy 38.2.2.6, and new policy 38.2.2.7 read as follows:

38.2.2.6 Ensure the development and use of Open Space and Recreation Zones maintains the amenity values enjoyed by residents and visitors, such as walking, social activities, and the protection of view shafts as seen from adjoining land and roads.

38.2.2.7 Ensure that the development and use of Open Space and Recreation Zones, and the interface with the surface of water bodies adjoining these zones, is managed to protect amenity values and to ensure the safe movement of people and goods.

3.4 Objective 38.2.3 and Policies

79. Objective 38.2.3 as notified reads as follows:

Commercial activities are limited to those that have a functional requirement to locate within Open Space and Recreation Zones and do not degrade open space and recreation values.

80. Real Journeys Group sought that the words “do not degrade” be deleted from the objective. Ms Edgley recommended that the wording of the objective be changed to:

Commercial activities are limited to those that have a functional requirement to locate within Open Space and Recreation Zones and maintain open space and recreation values.

81. ‘Degrade’ is a rather strong word. Given that it is accepted that some commercial activities need to have a functional requirement to locate within open space and recreation zones (i.e., that is reserves administered by the Council), we consider a more appropriate wording is that such development maintain the values of these spaces. This wording is more enabling and positive than that contained in the objective as notified. We do not consider that the use of the

word “maintain” implies that nothing can change. Change can occur provided it maintains open space and recreation “values”.

82. This part of the submission is recommended to be accepted in part, and the wording amended to that proposed by Ms Edgley.

83. Policy 38.2.3.2 as notified reads as follows:

Ensure that commercial activities do not degrade the quality, amenity values and landscape values of open spaces.

84. Policy 38.2.3.3 as notified reads as follows:

Provide for commercial recreation activities that do not detract from the quality of the experience of people partaking in other commercial recreation activities and other passive and active informal recreation activities, having particular regard to the scale, intensity and cumulative effects of commercial recreation activities.

85. Real Journeys Group again took exception to the use of the word “degrade” in Policy 38.2.3.2 and requested that it be replaced by the words “significantly degrade”. We consider that consistent with our recommendation on the wording of Objective 38.2.3, that the words “...do not degrade...” be replaced by the word “maintain”.

86. Submissions were also lodged by Queenstown Park Ltd³⁵ and Remarkables Park Ltd³⁶ with respect to Objective 38.2.3 and Policy 38.2.3.2 seeking broadly similar relief to Real Journeys Group. To the extent that these submission points have been addressed by the above amendments, it is recommended those submissions be accepted in part.

87. With respect to Policy 38.2.3.3, it was the words “detract from” which were of concern to Real Journeys Group in their submission, which the submitter sought to have qualified by the word “significantly”. Again, we consider the use of the word “maintain” would be more appropriate in this case, as it is with the overall objective and suite of policies associated with Objective 38.2.3. This is because the objective and policies are primarily concerned with two factors – firstly, the need to establish a link between the commercial activities and the need to use the open space and recreation resource itself, and secondly the effects of such use on the values of the resource and other users. Policy 38.2.3.3 is somewhat more nuanced in that it is specifically linked to effects on other commercial recreation activities and to the scale and intensity and cumulative effects of those activities. We recommend that the wording of Policy 38.2.3.3 be amended to read:

Provide for commercial recreation activities that maintain the quality and experience of people partaking in other commercial recreation activities and other passive and active informal recreation activities, having particular regard to the scale, intensity and cumulative effects of commercial recreation activities.

3.5 Objective 38.2.4 and Policies

88. Policy 38.2.4.1 as notified reads as follows:

³⁵ Submission 2462

³⁶ Submission 2468

Provide recreation, commercial and public transport opportunities within Open Space and Recreation Zones in a manner that preserves the natural character and nature conservation values of lakes, rivers and their margins from inappropriate activities.

89. Real Journeys Group sought that the word “...preserves...” be replaced by “....supports the preservation...”. Ms Edgley has supported this request on the basis that it realigns this provision as a policy rather than an objective. We recommend that the submission point be accepted and the policy amended as sought.
90. Real Journeys Group requested, as in other submissions, that this objective be amended with respect to health and safety, by ensuring that commercial and recreation water surface activities are not impacted by new activities. We consider that this matter is been addressed earlier by way of our proposed addition of a new Policy 38.2.2.7 as discussed in paragraphs 76-78 above, and for this reason this submission is recommended to be accepted.

4. SECTION 38.3 – NATURE CONSERVATION ZONE

4.1 Purpose

91. No submissions were lodged in respect of this section. We recommend it be adopted as notified.

4.2 Objective 38.3.1 and Policies

92. The only submitter on the objectives and policies of the Nature Conservation Zone was the Otago Fish and Game Council³⁷. Its submission related to Policy 38.3.1.1, specifically subclause (d). This policy and subclause as notified reads as follows:

“Provide for appropriate use and development by:

...

- d. identifying opportunities to enhance indigenous biodiversity in providing for these opportunities to be realised as part of the mitigation of the adverse effects of subdivision of adjoining land use and development within the zone”.*

93. The submitter sought that the word “... indigenous...” be deleted. We note that the protection of the habitat of trout and salmon (non - indigenous species) is provided for under section 7(h) of the Act. We support the relief sought in the submission on the basis that the protection of such habitats is appropriate, and recommend that the subclause be amended accordingly by deleting the word “indigenous”.

5. SECTION 38.4 – INFORMAL RECREATION ZONE

5.1 38.4. Purpose

94. The Informal Recreation Zone contains the Ben Lomond Sub-Zone, which includes an area of land on Bob’s Peak associated with the top and bottom stations of the Queenstown Skyline

³⁷ Submission 2455

Gondola and associated facilities, the gondola corridor, the ZJV zipline operation, a parapenting operation, and adjacent to the base station, the Kiwi Birdlife Park.

95. Kiwi Birdlife Park sought that the Purpose of the IRZ be accepted, and apart from a very minor wording change we discuss presently, we recommend that this submission be accepted. ZJV³⁸ sought a minor wording change so that the final paragraph of the Purpose Statement is changed from "...Zipline..." to "...Zipline operations...". We recommend that this part of the submission be accepted and the paragraph amended accordingly.

5.2 Objective 38.4.1 and Policies

96. Active Transport Wanaka³⁹ supported the objective to the extent that it provides for active transport networks, but sought that an active transport strategy and network masterplan be established.

Objective – Use and development for informal recreation maintains and enhances the environment.

97. Although rather general in its wording, the objective is seeking to ensure that development within the IRZ enhances the environment, which would be taken into account in circumstances where resource consents would be sought for subdivision and development within the zone. We agree with Ms Edgley that the relief sought by the submitter would typically be addressed through Transport Strategies or the Parks and Open Space strategy.
98. Further guidance is contained in the Land Development and Subdivision Code of Practice 2018. These strategies are more appropriate for addressing non-regulatory initiatives of the kind being promoted by the submitter, and for that reason this submission is recommended to be rejected.
99. Skyline Enterprises Ltd⁴⁰ sought a new objective and six new policies specific to the Ben Lomond Sub-Zone and in particular to the Skyline operations.
100. We note that the land within the Ben Lomond Sub-Zone is intensively used for recreation and tourist based activities, and is an iconic part of the Queenstown visitor experience. The IRZ Purpose Statement has a description which includes that the zone.

".... provides a basic informal recreation experience, including play opportunities (such as flat kick around space) and offers areas for respite and relaxation. In addition the Informal Recreation Zone is intended to provide physical links to other areas (such as cycle ways and pedestrian access ways)". It goes on to state that it "..... encompasses small reserves that provide visual relief from the built environment..." and that "buildings and structures located on the Informal Recreation Zone are generally limited to those that support informal recreation and are typically small scale community buildings and structures".

³⁸ Submission 2485

³⁹ Submission 2078

⁴⁰ Submission 2493

101. It then goes on to state that the IRZ includes the Ben Lomond Sub-Zone which exhibits a visual character and scale of building activity which offers a dramatic contrast in the intensity of activity and scale of buildings compared to that described above. We were left with the impression that the IRZ encompasses such a wildly diverse range of reserves and intensity of public use, such that it is difficult to discern what the focus of the zone actually is. Certainly, the intensity and scale of activities in the Ben Lomond Sub-Zone sits very uncomfortably with the outcome expected for other reserves within the same zone.
102. It is apparent that the Council has concentrated its efforts on differentiating between active and informal recreation, rather than between the intensity and scale of recreation undertaken on reserves within the Active and Informal Recreation Zones. The latter has at least as much significance for the scale of buildings and the kind of rules that might apply, as would be the case with active versus informal recreation. The limitations of the Council's approach were also demonstrated by the submission relating to the land occupied by the Wanaka Yacht Club. However any changes to the approach taken by the Council would require substantial redrafting and are beyond the scope of submissions.
103. It is not surprising to us that, given the somewhat incoherent zone 'Purpose', objective and policies applicable to the Informal Recreation Zone, Skyline Enterprises has sought to further differentiate the Ben Lomond Sub-Zone. The Skyline facilities on Bob's Peak are currently subject to a resource consent process which will substantially expand the already large scale of activities undertaken thereon. This in turn has potential implications for other activities within the zone, particularly those of Kiwi Birdlife Park and the zipline activities undertaken by ZJV. In addition to the objectives and policies, the submissions extend to rules and to a potential extension to the Sub-Zone, as discussed later in this report.
104. The further submission from ZJV⁴¹ also supported (with wording amendments) a bespoke objective and set of policies to apply to the Sub-Zone, with qualified support from Queenstown parapenters⁴².
105. The objective and policies as sought by Skyline Enterprises and outlined in the evidence of Mr Dent for the submitter, were as follows:

38.4.2 Objective – the future growth, development and use of the Ben Lomond Sub-Zone as an Icon destination for residents as well as domestic and international tourists is enabled subject to maintaining the landscape and amenity values of the surrounding ONL.

Policies

38.4.2.1 Control the visual impact of buildings, passenger lift systems, earthworks and infrastructure associated with commercial and commercial recreation activities.

38.4.2.2 Ensure that buildings, passenger lift systems and infrastructure associated with commercial and commercial recreation activities are not highly prominent on the

⁴¹ Further Submission 2778

⁴² Further Submission 2767

skyline and remain subservient to the view of Walter Peak when viewed from the north-east (Malaghans Road/Gorge Road).

38.4.2.3 Provide for and maintain Gondola access between Brecon Street and Bob's Peak including necessary removal of exotic conifers subject to landscape rehabilitation in the event of conifer removal.

38.4.2.4 Ensure the removal of exotic conifer trees in areas other than the Gondola corridor mitigates the post-harvest adverse effects on landscape and visual amenity through landscape rehabilitation.

38.4.2.5 Provide for the continued operation of an informal airport within the Ben Lomond Sub-Zone where the adverse effects on health, safety and amenity are mitigated through the management of the frequency and intensity of daily and weekly flight operations and separation distances from incompatible activities.

38.4.2.6 Control the effects of commercial and commercial recreation activities on amenity values to the management of their scale, nature and intensity.

106. Given our earlier discussion with respect to the somewhat unfocused character of the Purpose, Objective and Policies applying to the IRZ, we agree with the submitter that differentiation is clearly justified with respect to the Ben Lomond Sub-Zone. We note that, in principle, this was accepted in part in Ms Edgley's evidence⁴³. She opposed the addition of a further objective, but supported the incorporation of the proposed policies 38.4.2.1 and 38.4.2.2 drafted by Mr Dent, and an amalgam of policies 38.4.2.3 and 48.4.2.4. She did not consider that proposed Policies 38.4.2.5 and 38.4.2.6 were necessary. One observation we would make about Mr Dent's proposed wording was that it offered scant regard to other activities within the Sub-Zone, although ZJV did not appear to explicitly seek the recognition of its activities at a policy level.

107. Overall, we prefer the evidence of Mr Dent. The very generic wording of objective 38.4.1 would be of little assistance to a decision-maker considering an application in the Ben Lomond Sub-Zone. We recommend that the new Objective 38.4.2 proposed by Skyline Enterprises be accepted and incorporated into Part 38.4 of Chapter 38, subject to wording changes to make it outcome focussed. We recommend it read:

Objective – Use and development of the Ben Lomond Sub-Zone provides a high-quality destination for residents, and domestic and international tourists, while maintaining the landscape values and amenity values of the surrounding Outstanding Natural Landscape.

108. We agree with and accept Skyline Enterprises' submission and Ms Edgley's recommendation with respect to proposed Policies 38.4.2.1 and 38.4.2.2. We prefer the wording of Mr Dent with respect to maintaining separation between proposed Policy 38.4.2.3 and 38.4.2.4 as the former specifically relates to the gondola corridor (which must be clear of trees), and other land within the Sub-Zone where consideration must be given to the effects of removing the exotic conifer trees.

⁴³ C Edgley Section 42A Report paragraph 11.19

109. Proposed Policy 38.4.2.5 addresses a completely different issue, this being the proposed extension of the sub-zone to provide for an informal airport for helicopter landings on a new site to the north of the Skyline lease area adjacent to the 'fire pond' (effectively the highest portion of the Skyline lease). We go on to address this matter later in Section 23.1 of this report.
110. However in the interim, and based on our later reasoning and recommendation, we agree with Mr Dent that the new policy 38.4.2.5 outlined above be incorporated into Part 38.4 of Chapter 38, with one additional amendment. We consider that mention should also be made of the flight paths for helicopters approaching and departing the site, noting this was a concern raised in submissions. Accordingly we recommend it be amended to state:

Provide for the continued operation of an informal airport within the Ben Lomond Sub – Zone where the adverse effects on health, safety, and amenity are mitigated through the management of the frequency and intensity of daily and weekly flight operations, flight paths, and separation distances from incompatible activities.

111. Both the submitter and Ms Edgley agreed that proposed Policy 38.4.2.6 was unnecessary and duplicated existing provisions in the plan, notably Policies 38.4.1.2 and 38.4.1.5.
112. Kiwi Birdlife Park⁴⁴ sought that Objective 38.4.1, Policy 38.4.1.2, and related policies, and any district wide objectives and policies, be amended to provide direct support for commercial activities that enhance wildlife and nature conservation values. The submitter also sought that Policy 38.4.1.2 be amended to encourage commercial activity, through amended objectives or policies provided in the submission. In the course of the hearing, Mr Kavanagh presented evidence which acknowledged that up to 100m² of retail space was permitted in the IRZ⁴⁵ which he conceded would be satisfactory, and we did not hear any evidence as to the likelihood for increases in the scale and nature of retailing on the site.
113. We note that Policy 38.4.1.2 states as follows:

Encourage commercial recreation activities and related commercial activities to complement and enhance other uses and experiences in the Informal Recreation Zone while at the same time maintaining or enhancing the landscape and amenity values of the zone.
(our emphasis)

114. We appreciate and understand the need for complementary retail activities at the Kiwi Birdlife Park, but given the above, we did not consider it was necessary to make further policy changes. Accordingly, we recommend the submission be rejected.
115. Kiwi Birdlife Park also sought that a new Policy 38.4.1.10 be included within the Ben Lomond Sub-Zone to address its concerns that any new proposals do not have adverse effects on the Park's established operations, noting in particular the sensitivity of conservation activities on the site. We agree these are important considerations, but note that they are already addressed under Policies 38.2.1.4, 38.2.1.5(a) and 38.2.3.3 as amended by our recommendations. While these apply to all Open Space and Conservation zones, we think this is appropriate as the effects of activities on other users within a reserve can occur across a range of locations as well as the

⁴⁴ Submission 2569

⁴⁵ P Kavanagh, EiC, paragraph 30

Ben Lomond Sub-Zone. We recommend that this aspect of the submission be rejected on the basis that the matter of concern is already addressed.

116. QAC⁴⁶ sought that Objective 38.4.1 and Policies 38.4.1.2 – 38.4.1.6 be retained as notified and this submission is recommended to be accepted. Christine Byrch⁴⁷ supports Policy 38.4.1.3 and this submission is also recommended to be accepted.

6. SECTION 38.5 – ACTIVE SPORT AND RECREATION ZONE

6.1 Purpose

117. No submissions were lodged in respect of this section. We recommend it be adopted as notified.

6.2 Objective 38.5.1 and Policies

118. Active Transport Wanaka⁴⁸ has sought implementation of a policy for the Active Sport and Recreation Zone (ASRZ) to increase awareness of active transport and to enhance recreational trail networks, cycling and walking linkages within the zone and other zones, to create a contiguous network to assist residents and visitors to move through and around neighbourhoods, and to other destinations, thereby providing an alternative and sustainable mode of transport.

119. The reporting officer noted that land zoned ASRZ is identified as being primarily used for organised sports, is relatively small and tends to be scattered throughout the District. The District-Wide Policy 38.1.1.1(c) addresses the matter of provision of walkways and cycleways which gives effect to Strategic Policies 3.2.2.1 and 4.2.2.2. We concur with her recommendation that further specific inclusion within the ASRZ would duplicate these provisions and recommend that the submission be rejected.

7. SECTION 38.6 – CIVIC SPACES ZONE

120. No submissions were lodged in respect of the purpose or objective or policies for this zone. We recommend they be adopted as notified.

8. SECTION 38.7 – COMMUNITY PURPOSES ZONE

8.1 Purpose

121. No submissions were lodged in respect of this section. We recommend it be adopted as notified.

⁴⁶ Submission 2618

⁴⁷ Submission 2357

⁴⁸ Submission 2078

8.2 Objective 38.7 and Policies

122. Loris King⁴⁹ submitted that the purposes of the Community Purposes Zone be made clearer and aligned with the 2016 Parks and Open Space Strategy particularly with respect to the construction of buildings.

123. The CPZ Purpose Statement describes the zone as:

“... open space areas that play a significant community function, including libraries, halls and recreation centres. It also provides specifically for cemeteries, golf courses, campgrounds and areas that have a significant passive recreation function that are not otherwise encapsulated in other zones, such as the Queenstown Gardens. Community buildings and associated activities are generally provided within the Community Purposes Zone”.

124. Activities permitted within the CPZ⁵⁰ include informal recreation, public amenities, gardens including botanic and community gardens, parks maintenance, recreation facilities, education and research facilities directly related to the open space area and organised sport and recreation with other activities as discretionary activities requiring resource consent. Buildings are permitted up to a maximum floor area of 100m². We consider it is apparent that the CPZ specifically anticipates activities having high levels of public use, and that the scale and range of buildings permitted within it are appropriate. It is recommended that the submission point be rejected.

9. ADDITIONAL OBJECTIVES AND POLICIES SOUGHT

9.1 Queenstown Airport Corporation Submission

125. QAC⁵¹ sought a new zone wide Objective (to be numbered 38.2.5) and Policy (to be numbered 38.2.5.1). It is also sought an additional rule which will be addressed later in this report.

126. The proposed objective and policy would read as follows;

Objective 38.2.5

Queenstown airport is protected from the reverse sensitivity effects of Activities Sensitive to Aircraft Noise

Policy 38.2.5.1

To prohibit the location of any new Activity Sensitive to Aircraft Noise on Open Space and Recreation zone land within the Air Noise Boundary or Outer Control Boundary for Queenstown Airport.

127. The protection of airport operations is specifically recognised under the Strategic Policies in Stage 1 of the PDP, notably Policies 3.3.5, 4.2.2.16, 4.2.2.17 and 4.2.2.18. We note that there is a different or ‘layered’ management approach across different zone provisions relating to noise sensitive activities (ASAN) within the noise contours surrounding Queenstown Airport. These activities are prohibited in the Rural Zone, but are subject to mitigation measures in the

⁴⁹ Submission 2076

⁵⁰ Rule 38.9

⁵¹ Submission 2618

Residential Zones. For the Shotover Delta area, it is proposed that it be zoned for Informal Recreation, where ASAN would be a non-complying activity, rather than a prohibited activity as it was under the Rural Zoning. This was a matter of concern, expressed by Mr Kyle for Queenstown Airport⁵². He sought that prohibited activity status be continued under the Informal Recreation zoning.

128. Ms Edgley noted that, under the Proposed Otago Regional Policy Statement⁵³, in relation to activities resulting in reverse sensitivity effects on nationally or regionally important infrastructure (which includes Queenstown Airport), the establishment of activities that may result in reverse sensitivity effects are to be “restricted” while “significant” adverse effects on the functional needs of such infrastructure should be avoided. In practical terms, she also noted that a blanket prohibition on ASAN within the Informal Recreation Zone would capture the development of travellers accommodation at the Frankton Motor Camp, which she considered would be nonsensical given it was surrounded by a residential zone in which residential development was subject to mitigation measures.
129. We accept that it is appropriate that Council reserve land should be incorporated in the Open Space and Recreation Zones. We readily appreciate the importance of protecting the airport from incompatible activities, but we are satisfied that the range of activities provided for under the Informal Recreation Zone are very limiting and similar to those in the Rural Zone, and in the case of commercial recreation are more restrictive. We consider that non-complying status for new activities and the application of noise mitigation measures is appropriate.
130. For these reasons, we consider that the submission of QAC should be accepted in part, by the inclusion of a new Objective 38.2.5 and accompanying Policy 38.2.5.1 respectively, reading as follows:

Objective – Activities sensitive to aircraft noise within the Queenstown Airport Air Noise Boundary or Outer Control Boundary are avoided or managed to mitigate noise and reverse sensitivity effects.

Policy – Require buildings that contain an Activity Sensitive to Aircraft Noise and located within the Queenstown Airport Air Noise Boundary or Outer Control Boundary to be designed and built to achieve an internal design Sound level of 40 dB L_{dn}.

9.2 Fire and Emergency New Zealand Submission

131. FENZ⁵⁴ sought that additional provisions be added to the PDP to recognise the importance of firefighting and emergency services, and provision for firefighting facilities, and access to water for firefighting. These included requested amendments to policies and rules in Open Space and Recreation Zones.
132. Ms Edgley’s report dealt with both the background and content of the FENZ submission in considerable detail⁵⁵. FENZ did not attend the hearing to respond or present evidence.

⁵² J Kyle, EiC, paragraph 4.8

⁵³ Proposed RPS, Policy 4.3.4

⁵⁴ Submission 2660

⁵⁵ C. Edgley Section 42A Report, paragraphs 12.1 – 12.28

133. Ms Edgley explained that the Hearing Panel’s Report 9A recommended rejection of a submission by FENZ seeking a definition of “Emergency Service Facilities”. Accordingly fire stations and related facilities would fall under the definition of a “Community Activity”. She considered there was a potential for such facilities to have adverse effects, citing the example of a 15m high hose drying tower. She opined that such facilities would be more likely to be located in an urban zone. However she did consider there was a need to provide through the rules, provision for firefighting water supply and vehicular access for emergency and firefighting purposes. This would include rules sought by FENZ respect to requiring activities to provide an adequate water supply, firefighting water connections, and access arrangements.
134. In our assessment of the rules in Part 38.10 (Table 38.2), we agree that it would be appropriate to provide a standard requiring for water supply for firefighting, and access for firefighting vehicles. These matters are addressed later in this report in paragraphs 177 – 178.
135. As a consequential amendment, we consider it will be both appropriate, and within scope, to provide a policy supporting the proposed rules. Accordingly we recommend accepting in part the submission of FENZ, and as part of giving effect to their wider submission, we also recommend the following new policy 38.2.1.7 be added to the chapter:
- 38.2.1.7. Provide adequate firefighting, water, and fire service vehicle access to ensure an efficient and effective emergency response.
136. FENZ also supported objective 38.7.1 and Policies 38.7.1.1 and 38.7.1.3 and we recommend that these submission points be accepted.

10. SECTION 38.8 - OTHER PROVISIONS AND RULES

10.1 General Amendments

137. Clause 38.8.1 draws attention to ‘District Wide’ rules in other Chapters, and Clause 38.8.2 contains Advice Notes. Consistent with the approach taken by the Hearing Panel with respect to the Stage 1 chapters, we recommend the heading of 38.8.2 be renamed under Clause 16(2) to “Interpreting and Applying the Rules”. We also recommend under Clause 16(2) that those matters which are clearly advice notes in 38.8.2 be moved into a new Section 38.8.3 Advice Notes.

10.2 Advice Notes

138. Transpower New Zealand⁵⁶ requested that Advice Note 38.8.2.8 be amended to make it clear that proposals for building structures and sensitive activities, as well as earthworks, needed to be cross referenced to Chapter 30 ‘Energy and Utilities’. While we were uncertain whether any parts of the Open Space and Recreation Zones were affected by lines forming part of the National Grid, we agree with Ms Edgley that this was likely⁵⁷. We also agree that other activities besides earthworks could be potentially affected, and accordingly we recommend that the submission point be accepted.
139. We recommend that 38.8.2.8 be moved to be under 38.8.3 and amended to read:

⁵⁶ Submitter 2442

⁵⁷ C. Edgley, Section 42A Report, paragraph 20.3

Land use activities within the National Grid Yard or Electricity Distribution Corridor are managed in Chapter 30 Energy and Utilities.

140. As part of their submissions, QAC⁵⁸ requested that a further advice note be added to the end of the Advice Notes under Clause 38.8.2 – or alternatively a site-specific rule. This note would refer to the potential for developing buildings or structures which might intrude into the airport approach and protection surfaces adjacent to Queenstown Airport. The only land which we are aware could be potentially affected by such activity would be development within the Queenstown Event Centre site, which is part of the Community Purpose Zone.
141. The land use restrictions associated with these provisions are contained in Chapter 37, Designations, Part D 3. Given this context, rather than a further site-specific rule, we recommend the addition of the following new 38.8.2.4 as sought by the submitter:

Activities, buildings and structures proposed to be established within the vicinity of Queenstown Airport, are referred to Chapter 37: Designations, Part D3 which explains the Airport Approach and Protection Measures, and Airport Protection and Horizontal and Conical Surfaces for Queenstown Airport. Land use restrictions associated within these areas are described in in that section. Persons who wish to undertake activities or develop buildings or structures which enter into these surfaces are advised to consult with the relevant requiring authority and the Civil Aviation Authority.

142. Real Journeys Group requested that the Advice Notes be relocated to the end of Chapter 38. This matter was not raised further by the submitter in evidence to the hearing, and Ms Edgley advised that the amendment proposed would result in the chapter format being inconsistent with other Stage 1 decision chapters. Accordingly we recommend that this submission point be rejected.

11. RULE 38.9 – ACTIVITIES

11.1 Table 38.1 – Activities Open Space and Recreation Zones

143. Part 38.9 ‘Rules – Activities’ as notified comprises Table 38.1 listing 37 activities and their activity status within each of the Open Space and Recreation Zones and their internal subzones.
144. Real Journeys Group sought that all activities listed in Table 38.1 as non-complying activities be reclassified as fully discretionary activities. Remarkables Park Ltd⁵⁹ opposed a non-complying status for activities not listed in Table 38.1 as per Rule 38.9.1.
145. Under the ODP, activities not specifically listed are deemed to be permitted activities. This presumption has been reversed under the PDP, which has also moved from an ‘effects based’ to an ‘activity-based’ method of regulating activities. This is the approach which is been taken in all other chapters. With respect to individual activities, we have taken the approach of assessing the status of each activity individually on its merits where this is been raised through submissions, rather than a wholesale reclassification of activities from non-complying to discretionary. We recommend that these submission points be rejected.

⁵⁸ Submission 2618

⁵⁹ Submission 2462

146. TJ Investments Pte. Limited⁶⁰ opposed Rules 38.9.9 (education and research facilities), 38.9.16, 38.9.17 (restaurants and cafes), 38.9.27 (recreation trails), 38.9.28, and 38.9.29 (vehicle access and car parking areas). The basis of this opposition is that such uses would be inappropriate in Coronet Forest, which, as notified, is zoned as Informal Recreation Zone. A separate submission by the Millbrook Country Club (and other submitters) sought that Coronet Forest be rezoned as Nature Conservation Zone. This matter of the zoning is addressed later in this report in Section 24.2, where we recommend the forest be rezoned Nature Conservation.
147. Under the zoning of Nature Conservation, the permitted activity status of an education and research facility would remain the same. Restaurants and cafes accessory to a permitted activity further than 50m from a residential zone would be a non-complying rather than a controlled activity; restaurants and cafes accessory to a permitted activity within 50m of a residential zone would be non-complying rather than discretionary; recreation trails would remain a permitted activity; vehicle access and car parking areas accessory to permitted activities would remain a controlled activity up to 200m²; and construction of vehicle access and car parking areas accessory to permitted activities exceeding 200m² would be discretionary rather than restricted discretionary.
148. The change in the zoning of Coronet Forest in response to another submission means that some, but not all, of the activities of concern will have a more restrictive activity status, as sought by the submitter. It is considered that accessory education and research facilities would not be inappropriate on this site, and recreation trails are considered appropriate in view of the long-term intention to harvest the existing forest and supplement existing horse trails with biking and walking trails. It is recommended that this submission point be accepted in part, essentially as a consequence of rezoning.
149. Kirimoko No.2 sought that Rules 38.9.16 and 38.9.17 (restaurants and cafes) within the IRZ be changed from discretionary to non-complying in status, and that Rule 38.9.18 (retail activities) in the IRZ be changed from permitted to discretionary in status. Ms Edgley drew attention to the content of Policy 38.4.1.2, which states:
- Encourage commercial recreation activities and related commercial activities to complement and enhance other uses and experiences in the Informal Recreation Zone while at the same time maintaining or enhancing the landscape and amenity values of the zone.*
150. We also note that all of these activities must be accessory to a permitted activity, and are subject to activity standards such as height (6m)⁶¹ and site coverage (100m²)⁶². We consider the rules proposed for these activities are appropriate respect to their status and having regard to the standards applicable. We recommend that the submission point be rejected.
151. Bridesdale Farm Developments Ltd⁶³ sought that Rule 38.9.20 be amended so that commercial recreation activities in the Active Sports and Recreation Zone be either restricted discretionary

⁶⁰ Submission 2564

⁶¹ Rule 38.10.1.2

⁶² Rule 38.10.2.2

⁶³ Submission 2391

or controlled in status. Under this rule as notified this activity would be fully discretionary in status and is only restricted discretionary in status in the Civic Spaces and Community Purposes Zones which anticipate much more intensive development than either the Informal Recreation or Active Sport and Recreation Zones.

152. This is part of a much broader submission relating to the zoning of Bridesdale land north of the Kawarau River. This matter is addressed later in this report in Section 26.1. Meanwhile, we note that commercial recreation activities are not anticipated under Policy 38.5.1.1 which is specific to the Active Sport and Recreation Zone, and we do not consider it is appropriate through restricted discretionary activity status to signal that the activity is broadly appropriate throughout the zone in the District. We recommend that the submission point be rejected.
153. Wanaka Golf Club Inc⁶⁴ requested that Rule 38.9.21 be amended so that commercial activities and buildings associated with, and on the same site as, recreation activities, be a permitted activity. Ms Edgley noted⁶⁵ that it was apparent there had been a typographical error, and that the submitter's reference should have been to Rule 38.9.20 (commercial recreation activities) rather than commercial activities. We did not hear from the Golf Club during the course of the hearing.
154. A specific concern raised by the Golf Club was that the hire of a golf professional for instruction purposes would amount to a commercial recreation activity, requiring resource consent. Ms Edgley confirmed that it was not the intention that this be the case, but was of the opinion that such a person would fall under the ambit of Rule 38.9.14 (Organised sport and recreation) which is a permitted activity in the Community Purposes Zone (Golf Sub-Zone).
155. We agree with Ms Edgley that the activities undertaken by the Golf Club would fall under the definition of Organised Sport and Recreation⁶⁶. As such, we are satisfied that the activity of concern to the Golf Club would be a permitted activity. We recommend that the submission point seeking that commercial recreation activities be permitted be rejected, although we consider that the intent behind the submission has been largely satisfied as explained above.
156. Active Transport Wanaka⁶⁷ supported the permitted activity status of recreation trails in all Open Space and Recreation Zones, and the Queenstown Trails Trust supported the permitted activity status of recreation trails under Rule 38.9.27. We recommend that these submission points be accepted. Kawarau Jet Services⁶⁸ supported the provisions in Activity Table 38.1, and we recommend that this submission point also be accepted.
157. The Wanaka Yacht Club⁶⁹ sought that "the parking or placing of any motor vehicle, boat, caravan, trailer, material or equipment associated with a permitted activity is permitted in the Active Sport and Recreation Zone". Ms Edgley noted that under Rule 29.4.3 in notified Chapter 29 Transport, parking for activities listed in table 29.5 is a permitted activity. However Ms Edgley stated that under notified Rule 29.3.3.6, activities on zoned land outside of roads are also

⁶⁴ Submission 2277

⁶⁵ C. Edgley, Section 42A Report paragraph 21.12

⁶⁶ Ibid, paragraphs 21.14 – 21.15

⁶⁷ Submission 2078

⁶⁸ Submission 2290

⁶⁹ Submission 2232

subject to the zone specific provisions; and provisions relating to activities outside of roads in that chapter do not override zone specific provisions⁷⁰. Rules 38.9.28 and 38.9.29 in this chapter provide for the construction of access and parking for permitted activities up to 200m² as a permitted activity in the Active Sport/Recreation Zone. Vehicle access and car parking areas beyond 200m² in size are a restricted discretionary activity. She added that storage facilities are addressed through controls on buildings.

158. We consider that larger areas of parking or vehicle/equipment storage can create significant adverse visual effects, and displace other activities, bearing in mind that this chapter is concerned with Council reserves, and not commercial land. On that basis, we consider the level of regulation in the zone as notified is appropriate, and that the submission point be rejected. We note however that this is part of a wider submission concerning the zoning of the land on the foreshore of Lake Wanaka adjacent to the Yacht Club. This is addressed later in Section 29.1 of this report.
159. Ngai Tahu Property Ltd⁷¹ sought that two additional rules be included in Table 38.1 specifying that bus shelters and bicycle parking be a permitted activity in the Informal Recreation Zone and the Active Sports and Recreation Zones. Ms Edgley submitted that in her opinion, bus shelters and bicycle parking falls within the scope of a “public amenity” under Rule 38.9.3, which is a permitted activity in both zones. Although not defined as an activity under Chapter 2, she considers that public amenities are facilities made available to the public without charge and that accordingly these activities did not need to be specified in a rule. We agree, and recommend that the submission points be rejected for this reason.
160. Kiwi Birdlife Park Ltd⁷² sought that the activity table be amended to provide for commercial, retail and restaurant/cafe activity, ancillary to the Kiwi Birdlife Park operations, as a permitted activity. (This rule is discussed later from paragraph 189 of this report).
161. Kiwi Birdlife Park Ltd also sought an amendment to Rule 38.9.26 to provide for the keeping, breeding and management of wildlife, to which Ms Edgley’s response was that the rule specifically provided for “species protection and conservation management works”. While we appreciate the submitter’s wish to avoid unnecessary consenting requirements, we agree with Ms Edgley that the wording of the rule clearly encompasses the protection and conservation work undertaken by the submitter. For this reason, we recommend that the submission point be rejected.
162. QAC⁷³ requested a rule be added to Part 38.9 in addition to the Objective and Policy discussed earlier in paragraphs 121-126. The rule that they have specifically sought would read as follows:

*Rule 38.9.38 Activities Sensitive to Aircraft Noise within the Air Noise Boundary or Outer Control Boundary at Queenstown Airport.
(Prohibited in all zones)*

⁷⁰ C. Edgley, Section 42A Report, paragraph 21.2

⁷¹ Submission 2336

⁷² Submission 2569

⁷³ Submission 2618

163. Ms Edgley was opposed to the relief sought on the basis that the rule would seek to prohibit Activities Sensitive to Aircraft Noise (ASAN) in circumstances where such activities can be managed through a requirement for noise insulation. Instead, she proposed that a new activity standard be added instead under Part 38.10.⁷⁴

164. The recommended rule would read as follows:

Table 38.2

Standards for Activities in the Open Space and Recreation zones

Rule 38.10 12

Activities Sensitive to Aircraft Noise

New buildings or additions to existing buildings containing Activities Sensitive to Aircraft Noise located within the Queenstown Airport Air Noise Boundary or Outer Control Boundary shall be designed to achieve an indoor Design Sound Level of 40dB within any Critical Listening Environment (based on the 2037 Noise Contours) and ventilated in accordance with Rule 36.6.2.

(Non –Complying Activity)

165. We agree that this would be an appropriate approach to apply within the Open Space and Recreation Zones subject to airport noise, and is consistent with urban zones. We recommend that the submission point be accepted in part and that the above provisions be added as a new Rule 38.10.

12. RULE 38.10 – STANDARDS

12.1 General Issues Raised

166. Real Journeys Group sought that matters of discretion include consideration of the ‘benefits’ of a proposal, with respect to Rules 38.10.1, 38.10.2, 38.10.4, 38.10.5, 38.10.6, 38.10.7, and 38.10.10. Similar amendments have been sought with respect to provisions in Chapter 29 Transport.

167. This issue has arisen across other chapters and is specifically addressed in some detail in section 3.1 of Report 19.1. For the reasons given therein, we recommend that these submission points be rejected.

168. Real Journeys Group sought that non-compliance with the Rules 38.10.1 (buildings), 38.10.2 (buildings), 38.10.3 (recession planes) and 38.10.8 (recession planes) be changed from discretionary to restricted discretionary, with the addition of matters of discretion.

169. We are mindful that Chapter 38 concerns the regulation of activities within Council parks and reserves. Bearing this in mind, we agree with Ms Edgley⁷⁵ that full discretionary status enables consideration of other relevant documents, and in particular open space strategy documents, community plans and in particular Reserve Management Plans. For this reason, we consider it is appropriate for these rules to continue to apply discretionary activity status where buildings

⁷⁴ C. Edgley, Section 42A Report, paragraph 13.10

⁷⁵ C. Edgley, Section 42A Report, paragraph 14.42

and structures breach the thresholds in part 38.10. We recommend that the submission points be rejected.

170. Fire and Emergency New Zealand⁷⁶ sought that Rules 38.10.1, 38.10.2, and 38.10.4 be amended to include an exemption for emergency service facilities. As described earlier in our discussion of the relief sought by FENZ in paragraphs 127-132, we were satisfied that it would be appropriate to add standards to the rules in Table 38.2 for water supply and access for firefighting facilities. We recommend the adoption of the following standard as proposed by Ms Edgley with the non-compliance status of Restricted Discretionary⁷⁷:

Standards for Activities in the Open Space and Recreation Zones

Water supply and access for firefighting.

All new buildings over 20m² in area that are not connected to the reticulated water supply must make the following provision for firefighting:

- 38.10.11.1 A water supply of 45,000 litres; and
- 38.10.11.2 A hardstand area adjacent to the firefighting water supply connection of a minimum width of 4.5 m and a minimum length of 11 m; and
- 38.10.11.3 A firefighting water connection located more than 6 metres but not less than 90 metres away from the building; and
- 38.10.11.4 Access from the property boundary to the firefighting water connection of a minimum width of 4.5 metres

Discretion is restricted to:

- a) the extent of compliance with any national standards for firefighting water supply;
- b) the accessibility of the firefighting water connection
- c) point for fire service vehicles;
- d) Whether and the extent to which the building is assessed as a low fire risk;
- e) Any advice that may have been received from Fire and Emergency New Zealand.

171. Providing this relief also satisfies two submission points by FENZ seeking that new standards be added for water supply for firefighting and access for firefighting. On the basis of the above amendments to Part 38.10, we recommend that the submission of FENZ be accepted in part. However given the relief proposed, we do not accept that it is then necessary to provide exemptions from Rules 38.10.1, 38.10.2, and 38.10.4, and this part of their submissions are recommended to be rejected.

12.2 Rule 38.10.1 – Building Height

172. Rule 38.10.1.2 specifies a maximum height of 6m for buildings in the Informal Recreation Zone. This has been opposed by Kiwi Birdlife Park⁷⁸, who has sought a 10m height limit. The submitter's position is somewhat unusual, because the 'building' is in the form of a bird aviary. The aviary consists of a netting structure supported by poles, but which still falls within the definition of 'building'.

⁷⁶ Submission 2660

⁷⁷ C Edgley, Section 42A Report, paragraph 12.24

⁷⁸ Submission 2569

173. We disagree with the officer's recommendation to decline this submission point. No submissions were received in opposition to the relief sought. Secondly, the structure concerned is of a highly specialised nature and we are satisfied that a 10m height is necessary for the management and conservation of protected birds. Given its location and character, it would not have the same effect as a solid structure of that height. In any event, it would be difficult to see how consent could be declined should an application be made. In addition, we consider there is some force in Mr Kavanagh's complaint that the Council's position seems inconsistent with that relating to the proposed height of the adjoining Skyline terminal buildings⁷⁹.
174. In normal circumstances, we would agree with the officers that creating a multitude of exceptions is generally undesirable as it can undermine the coherence of a plan. However we also consider that account has to be taken of the particular circumstances that may apply in particular cases, and we consider this is a good example of such a circumstance. Accordingly, we recommend that the submission point be accepted, and the following exception be added to Rule 38.10.1.2:

Except for any aviary at Kiwi Birdlife Park, where the maximum height shall be 10m.

175. Bridesdale Farm Developments Limited⁸⁰ sought that Rule 38.10.1.3 be amended to increase building height limit from 10m to 12m in the Active Sport and Recreation Zone. This is a zoning sought by the submitter for land adjacent to Bridesdale and the Kawarau River, and is effectively a bespoke provision aimed at accommodating possible building development as part of the rezoning their site, a wider issue which is addressed later in this report. We recommend that this submission point be rejected, having regard to the discussion in Section 26.1.

12.3 Rule 38.10.2 – Ground Floor Area of Buildings

176. Rule 38.10.2 regulates the ground floor area of buildings. Rule 38.10.2.6 applies to the Community Purposes Golf Sub-Zone and provides for a maximum floor area of 600 m². The Wanaka Golf Club⁸¹ sought that Rule 38.10.2.6 be amended to allow for a total floor area greater than 600m². In its submission, the Club pointed out that in addition to its clubhouse, the buildings on the golf course (both approved and consented) amount to 1130m². The Club argues that the 600m² threshold is unrealistically low for golf club facilities generally, and that buildings typically expected in association with this activity would not have a significant impact given the land area occupied by golf courses (56 ha in the case of the Wanaka Golf Course).
177. While we see some merit in the Club's argument, it is not simply the floorspace of buildings relative to the size of the whole site, but the size, location, and visual impact of buildings as seen from within the Sub-Zone and from beyond it. 600m² is still a substantial building, and restricted discretionary activity status is not particularly onerous in this context, and bearing in mind that the golf course is located on a public reserve. We recommend that the submission point be rejected.

⁷⁹ P Kavanagh, EiC, paragraph 5.

⁸⁰ Submission 2391

⁸¹ Submission 2277

12.4 Rule 38.10.4 – Setback from Internal and Road Boundary

178. Rule 38.10.4 stipulates setbacks required from internal and road boundaries. QAC⁸² sought that Rule 38.10.4 be amended to require that the setback from internal and road boundaries be amended to require buildings and structures to be set back 1.5 m where it adjoins the Airport Zone. Ms Edgley noted that the rule specifies that where a site adjoins another zone, buildings shall be setback from the boundary the same distance as required by the setback from internal boundaries of the adjoining zone. She went on to explain that where an Open Space Zone adjoins the Airport Zone, Rule 17.5.2.2 requires a setback for buildings adjoining a zone (other than the Residential Zone or a public road) to be 3 metres. This actually provides greater protection than the relief sought in the submission. Given this clarification, we recommend that the submission point be rejected.

12.5 Rule 38.10.5 – Setback of Buildings from Water Bodies

179. The Otago Game and Fish Council⁸³ supported Rule 38.10.5 but sought that the word “indigenous” be removed where reference is made to biodiversity values in the matters of discretion. This is consistent with the relief sought by the submitter earlier on Policy 38.3.1.1. We recommend that the submission point be accepted and that the matter of discretion refer to “Biodiversity values”.

12.6 Rule 38.10.6 – Outdoor Storage

180. Rule 38.10.6 relates to Outdoor Storage. Rule 38.10.6.1 as notified reads as follows:

Outdoor storage and the storage of waste and recycling shall be screened from public places and adjoining zones by planting, solid walls, solid fences or any combination of these to 2m in height along the length of the outdoor storage area. Where such screening is by way of planting it shall be for a minimum depth of 3m as well as 2m high.

181. Wanaka Golf Club⁸⁴ pointed out that the rule as currently drafted would require screening from every potential frontage point noting that public places are defined in Chapter 2 of the PDP as including all reserve land to which the public has access. This has the potential to make the rule nonsensical in some circumstances.

182. In addition, Ms Edgley notes that outdoor storage is defined in Chapter 2 as including the storage of waste, making the inclusion of that wording superfluous. In addition, as noted earlier in section 3.3 of this report, landscaping is defined by Chapter 2 as including ‘screening’. We consider that the necessary amendments to ‘tidy up’ this rule are within the scope of the submission, under Clause 16 (2). We recommend that the submission be accepted in part, and the wording of Rule 38.10.6.1 be changed to read as follows:

Outdoor storage that is visible from roads or adjoining zones shall be landscaped with planting, solid walls, solid fences or any combination of these to 2 m in height along the length of the outdoor storage area. Where such landscaping is by way of planting it shall be for a minimum depth of 3m and a height of 2m.

⁸² Submission 2618

⁸³ Submission 2455

⁸⁴ Submission 2277

12.7 Rule 38.10.7 – Fencing

183. Rule 38.10.7 contains rules relating to fencing. Kiwi Birdlife Park⁸⁵ submitted on Rule 38.10.7.2 which stipulates that:

The maximum height of any fences erected on the boundary of any Open Space and Recreation Zones shall be 1.2 m. (they must also be visually permeable)

184. As was the case with the height of the aviary at this facility, we consider that Ms Edgley's report failed to consider the unique and specific requirements that the submitter requires. Kiwi Birdlife Park explained that fences for wildlife protection are typically have a height of at least 2.2m⁸⁶, examples being those at Orokonui in Dunedin, and Zealandia in Wellington. While it would be more helpful for the submitter to have actually specified a height limit on its submission, we do not consider that predator proof fences on the submitter's site have the potential to adversely affect neighbouring properties, noting that the submission was not opposed. The alternative suggestion of the reporting officer of setting back the predator proof fence from the boundary on what is a clearly constrained site is neither realistic nor helpful. For similar reasons relating to the issue of building height addressed earlier in this report, we recommend that the submission point be accepted and an exception added as new Rule 38.10.7.3 stating that:

At Kiwi Birdlife Park, the maximum height of any fence installed for wildlife protection shall be 2.2m, and in such a case Rules 38.10.7.1 and 38.10.7.2 do not apply.

12.8 Rule 38.10.8 – Lighting and Glare

185. Rule 38.10.8 concerns lighting and glare. QAC⁸⁷ sought the retention of Rules 38.10.8.1 and 38.10.8.2. We recommend that these submission points be accepted.

12.9 Rule 38.10.9 – Maximum Gross Retail Floorspace

186. Rule 38.10.9 relates to the Maximum gross retail floorspace allowed in association with activities in specified Open Space and Recreation Zones. It provides for a maximum gross retail floorspace of 100m² or no more than 10% of the gross floor area (whichever is the lesser)
187. The Wanaka Golf Club⁸⁸ sought that this threshold be increased to 200m² in the Community Purposes Golf Sub-Zone. Although critical of the Council's adoption of what the club sees as an arbitrary number, apart from suggesting a doubling of the permitted retail floorspace, there is no justification offered as to why the standard might be inappropriate. We agree with Ms Edgley that it aligns with the relevant Objective 38.2.3 and Policies 38.2.3.1 and 38.2.3.2 and is consistent with the threshold in the Rural General Zone. We recommend that the submission point be rejected.
188. Kiwi Birdlife Park also sought that Rule 38.10.9 be amended, in this case to increase the maximum gross retail floor space where it is ancillary to permitted activities. This submission did not specify what would be an alternative appropriate threshold. In his evidence⁸⁹ Mr

⁸⁵ Submission 2569

⁸⁶ P Kavanagh, EiC, paragraph 23

⁸⁷ Submission 2618

⁸⁸ Submission 2277

⁸⁹ P Kavanagh, EiC, paragraph 31

Kavanagh stated that he did not necessarily oppose the 100m² threshold, provided that the Park's existing operations were protected (presumably by existing use rights).

13. RULE 38.11 - INFORMAL RECREATION ZONE: BEN LOMOND SUB-ZONE

13.1 Overview of Table 38.3

189. The PDP has effectively 'separated out' the rules applicable to the Ben Lomond Sub-Zone, presumably on the basis of the specific characteristics and relative complexity of the Sub-Zone.

13.2 Rule 38.11.1 – Buildings

190. Rule 38.11.1 provides that the construction, relocation, addition or alteration of any building in the Sub-Zone be a Restricted Discretionary Activity. Two separate submissions were received on this rule, one from ZJV⁹⁰ and the second from Skyline Enterprises⁹¹. It was apparent that ZJV entertained some concerns about the implications of activities by Skyline Enterprises on its zipline operation, including (what appeared to be competitive) access to the reserve. It also entertains concerns about the effects of forestry activities, and the potential effects of helicopter operations to and from the Skyline site.

191. Beginning with the Skyline submissions, the submitter sought that the matters of discretion be amended by adding stormwater disposal as a matter of discretion, and removing effects on the transportation network from the matters of discretion under Rules 38.11.1 and 38.11.3. A similar submission was made in respect to Rule 38.11.5 which also made reference to the traffic generation and traffic assessments.

192. Having regard to the effects on the transportation network, Ms Edgley submitted that given the nature of activities that occur within the reserve, ongoing increases in visitor numbers and cumulative effects, and acknowledging that transport related considerations are included as matters of discretion under similar rules in other zones (and within this chapter), effects on the transportation networks should still remain as a matter of discretion. This was accepted by Mr Dent in his evidence⁹².

193. However we agree with the submitter, as did Ms Edgley, that a number of these provisions duplicated those addressed under Chapter 29 Transport. This includes assessment of high traffic generators where 50 or more car parking spaces are proposed, or which required assessment beyond specified levels of traffic generation. Similarly, matters relating to access, parking layout and design, pedestrian and vehicle access are also addressed under Chapter 29. Thus, while we accept that effects on transportation networks should remain as a matter of discretion, we consider that the requirement to assess transport network effects and the provision of an integrated transport assessment is not required as part of the rules in Chapter 38 for this Sub-Zone. We recommend that the submission be accepted in part. We agree it is appropriate to include stormwater disposal as a matter of discretion.

⁹⁰ Submission 2485

⁹¹ Submission 2493

⁹² S Dent, EiC, paragraph 163

194. ZJV sought some more complex wording amendments through adding additional matters of discretion. In summary, these included the location and external appearance of buildings; the spatial layout of buildings in public reserves and their relationship with open space and methods of access to activities and to the reserve; discretion to include the manner in which access is gained to ensure fair and reasonable access to the reserve is maintained for current and future operators, including effects on building and related activities on nearby reserve users; and that biological and ecological values be enhanced as part of the development of the reserve.
195. Ms Edgley was not persuaded that the amendments sought by ZJV to Rule 38.11.1 were necessary, primarily on the basis that they were already addressed in the existing matters of discretion.
196. The concerns of the submitter with respect to Rule 38.11.1 were more focused in the evidence presented by Mr Brown⁹³ to the hearing, who considered that one additional matter of discretion that was justified was a requirement to consider public access to and use of open space in the reserve, which he argued was not captured by any of the other matters of discretion. We consider this is a valid consideration and recommend that the submission point be accepted in part by the addition of the following matter of discretion to Rule 38.11.1:

Public access to, and the use of, open space.

13.3 Rule 38.11.3 – Commercial Recreation Activity

197. Rule 38.11.3 regulates commercial recreation activity in the Ben Lomond Sub-Zone. ZJV sought an amendment to this rule to add additional matters of discretion having regard to the more rural than urban nature of the reserve. Skyline sought that the rule be amended by making it applicable to commercial and commercial recreation activity, (effectively by differentiating between the two) and providing for commercial recreation undertaken on land outdoors and involving not more than 10 persons to be a restricted discretionary activity.
198. With respect to the Skyline submission, we agree that the rule should reflect the distinction between the two activities – for example, retail sales of souvenirs, the operation of a restaurant or conference facilities, are distinct from people undertaking active recreation activities at the site. Ms Edgley explained that, as drafted⁹⁴, the rule was intended to ensure that commercial activities or retail activities are associated with and ancillary to the commercial recreation activity. With respect to the number of people, she noted that the Stage 1 definition of commercial recreation did not limit the number of people, and that such a change as sought was unnecessary.
199. Turning secondly to the ZJV submission, we agree with Ms Edgley that a number of the matters raised in the submission point are already covered by the Council’s reserve management and reserve planning functions outside the Act and the District Plan. However, at the hearing Mr Brown⁹⁵ for the applicant focused on the more detailed wording of Rule 38.11.3.2 and submitted that the words “related”, “associated with” and “ancillary to” may have different interpretations and were potentially confusing, noting that the words “ancillary to” was

⁹³ J Brown, EiC, paragraph 13

⁹⁴ C. Edgley, Section 42A Report, paragraph 11.26

⁹⁵ J Brown, EiC, paragraph 14

preferable because it is used in other instances within the PDP. We note that the rule as notified reads as follows:

38.11.3.2 Commercial activity only where:

- a) *The commercial activity is associated with and located on the same site as, the commercial recreation activity; or*
- b) *Commercial activity is retail ancillary to the commercial recreation activity.*

13.4 Rule 38.11.4 – Harvesting and Management of Existing Forestry

200. ZJV sought that Rule 38.11.4 have an additional matter of discretion added to ensure that any harvesting or forestry will not impact its operations and that harvesting trees should not impact other leisure activities that rely on the naturalness that forestry planting brings to the reserve. This is linked to the submitter's concerns that their zipline operation is entirely dependent on the presence of the existing large exotic trees in the reserve.

201. In his evidence to the hearing, Mr Brown stated that forest harvesting should be changed from controlled to a restricted discretionary activity. Leaving aside issues of scope, we subsequently understood that the submitter accepted the existing controlled activity status applicable to this rule. Mr Brown sought that an additional matter of control be added reading as follows:

Effects on the amenity values of the forest and other uses of the reserve.

202. Although Ms Edgley felt such an amendment was unnecessary, we consider that the inclusion of this as an additional matter of control was justified given the potential effects of harvesting operations on the submitter's business. We recommend that this matter be added as a matter of control and that the submission point be accepted in part.

203. In addition, Mr Brown raised another matter with respect to the wording of the rule which refers to "harvesting and management of existing Forestry"⁹⁶. We understand that harvesting does not simply imply that trees are removed and disposed of, but that they are removed and used for other purposes. Mr Brown points out that the inclusion of the word 'management' could mean that everyday forestry activities including pruning for example, would require a resource consent. It could also raise issues with respect to the removal of exotic species within Open Space and Recreation zones generally, having regard to Rule 38.9.30 in Table 38.1. This matter is of sufficient significance, that we recommend that the Council consider amending this provision by way of a variation to the PDP.

204. Skyline also sought an additional matter of control for Rule 38.11.4 reading as follows:

Debris flow and rock fall hazards and long-term slope stability

205. Given the nature of the terrain and the scale of works potentially undertaken within the reserve in association with the development of tourist infrastructure, we recommend that this submission point be accepted and the proposed wording be added as a matter of control.

⁹⁶ J Brown, EiC, paragraphs 18 – 19

13.5 Rule 38.11.5 – Parking: Lower Terminal Area

206. Skyline sought that Rule 38.11.5 be amended such that parking within the Lower Terminal Area of the Ben Lomond Sub zone be made a permitted rather than a controlled activity. Mr Dent⁹⁷ explained that the basis of this submission is that Skyline has obtained a lease from the Council which allows for the development of a commercial car parking building for Skyline patrons and other users of the Ben Lomond Recreation Reserve. He argued that while no landscaping exists within the existing 'at grade' car park, the site is entirely screened from Brecon Street by the Lower Terminal Building, and that the Kiwi Birdlife Park is being extensively planted along its western boundary in combination with plants provided by Skyline. He added that topography and vegetation currently screen the western and northern areas of this car park area.
207. In her rebuttal evidence, Ms Edgley⁹⁸ responded that reliance cannot be placed on the retention of trees on the Kiwi Birdlife Park site (and perhaps more realistically) forested areas to the north and west. While we accept the development of a large car parking structure is now almost inevitable, and that the matter is finely balanced, we consider that in this case it would be prudent to maintain provision for on-site landscaping as a matter of control. We do not consider that this level of regulation would be onerous, and recommend that this submission point be rejected.

13.6 Rule 38.11.7 – Building Height

208. Notified Rule 38.11.7 concerns building height within the Ben Lomond Sub-Zone. Skyline sought that Rule 38.11.7c be amended to provide a building height of 20m instead of 17m as notified. Skyline is in the process of obtaining consents through the Environment Court for further major redevelopment of their facilities within the Reserve, and under an interim decision from the Court would have the ability to erect the car parking building to the height of 18.5m⁹⁹. Ms Edgley was amenable to supporting a building of this height. However, the proposed car park building is subject to a further application lodged with the Council in October 2017 and awaiting a final decision from the Environment Court¹⁰⁰. This building would have a maximum height of 19.918m.
209. In order to address the potential visual impacts of a building of this height, the submitter sought landscape evidence from Ms Michelle Snodgrass. She undertook an assessment of the visual effects of development of the gondola top and bottom stations, car park building and gondola corridor from a range of vantage points, which was presented to the Hearings Panel. This concluded that the effects of the height of the car parking building, and bearing in mind its location at the bottom site, would range in visual terms from negligible to moderate (e.g. from the car parking area for climbing Queenstown Hill).
210. The Council did not bring evidence challenging that of Ms Snodgrass. Our strong inclination would be to recommend that this part of the submission be granted, but we are aware that the height of the building is going to be subject to the Environment Court's findings on RM 171172, and we consider it would be inappropriate to pre-empt the findings of the Court on this matter. Ms Edgley made the valid point that if RM 171172 is consented, Skyline would be able to rely

⁹⁷ S. Dent, EiC, paragraphs 168 – 172

⁹⁸ C. Edgley, Rebuttal Evidence, paragraph 5.13

⁹⁹ RM 160647

¹⁰⁰ RM 171172

on that consent to build to their preferred height. For this reason we recommend that the submission point be accepted in part, to the extent that the permitted height be increased to 18.5 m.

211. ZJV sought an amendment to height Rule 38.11.7 to add a new standard providing for a building height limit of up to 20m for treehouse structures and other buildings associated with zipline operations. The submitter uses platforms and structures (typically up to 10m² floor area) attached to the tall Douglas Fir trees within the reserve to anchor and provide access to this ziplines. The effect of the relief sought by the submitter would be to provide for structures lower than 20m in height as a restricted discretionary activity, rather than a fully discretionary activity as for other buildings.
212. We assume the purpose of the amendment to the rule would be to keep options open for further development of ziplines, as we heard no specific proposals as to future intentions or where the ziplines might be within the reserve. The effect of the relief sought would be to provide a slight differentiation in consent status between the height of buildings generally, and those associated with ziplines. We recommend that the submission be rejected.

13.7 Additional Rules Sought

213. Skyline Enterprises sought that an additional rule be added to make buildings within the Gondola Corridor a non-complying activity. ZJV¹⁰¹ sought that the width of the Gondola Corridor Area be reduced. Ms Edgley advised that the 75m wide corridor both east and west of the gondola cableway centreline is sought to provide for the future upgrading of the gondola, and was based on Skyline Enterprises submission on Stage 1¹⁰² and the interim resource consent granted by the Environment Court in 2017¹⁰³. We recommend that the submission by ZJV be rejected. Given that buildings would logically not be anticipated within the gondola corridor, we recommend that the submission of Skyline Enterprises be accepted and a new rule 38.11.7 be added reading as follows:

Building within the Gondola Corridor Area
Any building within the Gondola Corridor Area excluding passenger lift systems
(non-complying activity)

214. Skyline Enterprises¹⁰⁴ also sought that a new rule be added providing for Informal Airports as a restricted discretionary activity with matters of discretion.
215. Under the 'Rezoning' part of this report (in Section 23.1) we discuss a request by the submitter to establish a helipad adjacent to the northern edge of the Ben Lomond Sub-Zone. As part of our assessment of that submission point, we agreed that the relief sought was appropriate, and as a consequence it is necessary to have an accompanying rule, providing for what the PDP has defined as an 'Informal Airport' within the zone.
216. Mr Dent's evidence for the submitter included a draft rule, which also included a provision only allowing for one such facility within the zone given concerns raised by the reporting officers

¹⁰¹ Submission 2485

¹⁰² Submission 574

¹⁰³ RM 160647

¹⁰⁴ Submission 2493

(although we agree with Mr Dent that the likelihood of a second helipad within the zone was unlikely). We recommend adopting the wording proposed by Mr Dent with some minor alterations to better address potential effects on other activities within the Sub-Zone such as ZJV and Kiwi Birdlife Park. Furthermore, we note that the proposal put forward by Mr Dent for Skyline was preferred by Mr Brown in his evidence for ZJV¹⁰⁵. We recommend that the submission point be accepted, and the proposed wording of the rule for a restricted discretionary activity be as set out below:

38.11.8 Informal Airport Located within the Future Helipad Area
Discretion is restricted to the following:

- a. Aviation safety including helicopter landing area design and proximity to on ground structures and track networks;
- b. the frequency and intensity of daily and weekly flight numbers;
- c. separation distance and potential effects on the operations of other existing or incompatible occupiers within the Ben Lomond Sub-Zone.
- d. Helicopter flight paths

The information requirements for aviation safety shall include provision of either a PT157 Determination issued by the Director of Civil Aviation New Zealand or an independent aviation safety assessment prepared by a suitably qualified professional.
(Restricted Discretionary Activity)

38.10.9 Two or More Informal Airports within the Bob's Peak Area of the Ben Lomond Sub-Zone
(Non-complying Activity)

217. As a consequence, existing Rules 38.11.7 and 38.11.8 are renumbered 38.11.10 and 38.11.11 respectively.

14. RULE 38.12 - NON—NOTIFICATION OF APPLICATIONS

218. Skyline Enterprises¹⁰⁶ sought that Rule 38.12.2 be deleted. This rule states:

Controlled activities within the Informal Recreation Ben Lomond Sub-Zone shall not be publicly notified but may require the written approval of affected persons or give limited notification to affected persons.

219. We understand that controlled activities in the Sub-Zone include passenger lift systems in parts of the Sub-Zone, harvesting and management of existing forestry, and parking in the Lower Terminal Area. An expectation with controlled activity status is that the activity is appropriate and consent will be granted, possibly subject to conditions, we do not consider that a limited notification requirement for these activities is appropriate.

220. Counsel for ZJV¹⁰⁷ was of the view that limited notification¹⁰⁷ for controlled activities may be appropriate, and suggested that the rule be amended to specify (by way of an advice note)

¹⁰⁵ J Brown, EiC, paragraph 9

¹⁰⁶ Submission 2493

¹⁰⁷ Submission 2485

where 'special circumstances' may exist. However, we are of the view that in terms of requiring written approval of affected persons, or providing limited notification, the Council is obligated to work through the steps under section 95B of the Act. We doubt whether the Council's discretion can be fettered by a provision of the nature sought by the submitter. Accordingly we recommend that the submission point be accepted and Rule 38.12.2 be deleted.

15. RULE 38.13 - MATTERS OF CONTROL FOR CONTROLLED ACTIVITIES

221. Ms Edgley advised that there was a typographical error in Rule 38.13.3¹⁰⁸ where Rule 38.9.16 is duplicated ahead of Rule 38.9.28 (to which Rule 38.13.3 relates). This requires the removal of the first paragraph which reads:

Rule 38.9.16: Restaurants and cafes that are accessory to a permitted activity and are located further than 50m from a Residential Zone in the Civic Spaces Zone, Informal Recreation Zone, Active Sports and Recreation Zone, CP Z CPZ (Golf), CPZ (Camping Ground)

222. We recommend that an amendment deleting the above clause be made pursuant to Clause 16(2).

16. RULE 38.14 - MATTERS OF DISCRETION FOR RESTRICTED DISCRETIONARY ACTIVITIES

223. Ms Edgley advised¹⁰⁹ that while there were no submissions on this clause of the plan, she noted that a rule (which we assume to be rule 38.9.14) listed as restricted discretionary in Table 38.1 was left out of the provisions listed under Part 38.14 in error, which means there are no matters of discretion for that rule relating to organised sport and recreation. She noted that there were no submissions providing scope to make amendments, and that Council's legal advice was that because the notified rule did not meet the description of a restricted discretionary activity under Section 77A (3) of the Act, the appropriate status for the activity is fully discretionary.

224. We recommend amending Rule 38.9.14 (organised sport and recreation activities in the Informal Recreation Zone) to show the activity as fully discretionary.

17. SECTION 38.15 - LANDSCAPE ASSESSMENT MATTERS FOR DISCRETIONARY AND NON-COMPLYING ACTIVITIES

225. These provisions set out the landscape matters that the Council must be satisfied are applied when considering applications for discretionary and non-complying activities in the Open Space and Recreation Zone. The landscape assessment matters are structured as those that apply to Outstanding Natural Landscapes, Outstanding Natural Features, Rural Character Landscapes, and those that are applicable to all landscape categories.

¹⁰⁸ C. Edgley, Section 42A Report, paragraph 23.1

¹⁰⁹ Ibid, paragraphs 24.1 – 24.2

226. Real Journeys Group¹¹⁰ sought the deletion of the landscape assessment matters on the basis that much of the Council’s reserve land is not afforded protection under Section 6 of the Act, and is not recognised as being ONL/ONF.
227. Under the section “Variation to Stage 1 Chapter 6 Landscapes” below (Section 19), we address the wider issue of the application of landscape matters to land zoned Open Space and Recreation. Under that section we recommend the addition of a new policy under Chapter 6 relating to landscapes within Open Space and Recreation Zones.
228. We note that there is a substantial policy framework in Chapter 38 in support of restrictions on activities, which in turn reflect the classification of the open space and question¹¹¹. These were extensively covered in the Section 42A Report¹¹². There was little evidence presented at the hearing in support of the submission. However a significant issue does arise within the scope of this submission. We do not believe that it is appropriate in law to have assessment matters for a non-complying activity, particularly noting the application of section 104D of the Act. Such activities must be assessed in terms of their effects, and the application of the objectives and policies of the district plan. Accordingly we recommend that the submission be accepted in part, and that reference to the assessment matters under this rule having application to non-complying activities, be deleted.

18. RECOMMENDED AMENDMENTS UNDER CLAUSE 16(2)

229. Clause 16(2) provides that:

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

230. Throughout the report we have recommended a number of Clause 16(2) amendments to correct errors. In addition, we recommend a further three such amendments be made pursuant to this clause.

231. Policy 38.2.1.5 (c) as notified reads:

maintains and/or enhances the recreation and amenity values.

232. We recommend that subclause be amended to read:

maintains or enhances the recreation and amenity values.

233. Rule 38.13.3 concerns “Matters of control for Controlled Activities identified in Table 38.1”. Rule 38.13.3 incorrectly makes reference to restaurants and cafes and duplicates the identical wording under Rule 38.13.1. We recommend that the first four lines of the text under Rule 38.13.3 be deleted.

¹¹⁰ Submissions 2466, 2581, 2494

¹¹¹ Policies 38.2.1.1, 38.2.1.4, 38.2.1.5, 38.2.2.4, 38.2.2.5 and all policies under Objectives 38.3 and 38.4

¹¹² at paragraphs 25.4 and 25.5

234. Rule 38.15 concerns “Landscape Assessment Matters for Discretionary and Non-Complying Activities”.
235. Under Rules 38.15.2 and 38.15.3, the text makes reference to “Rural Landscape Classification (RLC)” and “Rural Landscape”. In accordance with the terminology used as a result of Stage 1 decisions, it is necessary to change the wording to read “Rural Character Landscapes (RCL)”. We recommend that these clauses be changed to reflect the correct terminology.

PART B – AMENDMENTS TO STAGE 1 CHAPTERS

19. VARIATION TO STAGE 1 CHAPTER 6 LANDSCAPES

236. As part of Chapter 38 Open Space and Recreation, the PDP Stage 1 Chapter 6 Landscapes was varied to address issues arising with the application of the landscape provisions in Chapter 6 to zones other than Rural. With respect to Open Space and Recreation Zones introduced through Chapter 38, a difficulty arose as land outside the Urban Growth Boundary and within reserves was zoned Rural under Stage 1 of the PDP. Landscape provisions with respect to any land which was classified as Outstanding Natural Landscape (ONL) or Outstanding Natural Feature (ONF) only applied to land which was zoned Rural, and did not apply to former Rural zoned land now incorporated within the new Open Space and Recreation Zones introduced through Chapter 38 as part of Stage 2 of the PDP¹¹³.
237. Matters relating to this variation have however been addressed separately under the Stream 14 report relating to the Chapter 6 variation¹¹⁴. This reflects the fact that nearly all of the submissions relating to the variation to Chapter 6 lodged in Stage 2 were made with reference to Chapter 24 and other rural zones.
238. Ms Edgley addressed the background to this matter in some detail in her Section 42A Report on Chapter 38. She explained that there was a difficulty in making any amendments to policies in Chapter 6, as many of these were already subject to appeal. She recommended that the matter be resolved by the addition of the following new policy to Chapter 6:

6.3XX

Classify the Open Space and Recreation zones land located outside the Urban Growth Boundary as ONL, ONF or RCL, and provide a separate regulatory framework for the Open Space and Recreation Zones within which the remaining policies of this chapter do not apply.

239. We concur with this recommendation, and her recommendations with respect to the submissions on Chapter 38 relating to this matter. We recommend it be included as Policy 6.3.3B.
240. Stream 14 have recommended to us a further policy to include in Chapter 6 to give effect to the variation and respond to the submissions lodged on this variation. We accept the reasoning provided in Report 18.1 and recommend that the following Policy 6.3.3A be included in Chapter 6:

Provide a separate regulatory regime for the Wakatipu Basin Rural Amenity Zone, within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).

¹¹³ C Edgley, Section 42A Report, paragraph 10.5

¹¹⁴ Refer Section 2.5, Report 18.1

20. VARIATIONS TO CHAPTERS 35 AND 36

241. Amendments were proposed to Rules 35.4.7 and 36.5.4 (notified Stage 1 rule numbers). No submissions were received on these variations. Rule 35.4.7 has been renumbered as 35.4.3 in the Decisions Version of the PDP and Rule 36.5.4 has been renumbered 36.5.2. We recommend that Decisions Version Rules 35.4.3 and 36.5.2 be amended as proposed in the variation.

21. AMENDMENTS TO CHAPTER 2

242. QAC¹¹⁵ requested some amendments to Chapter 2 ‘Definitions’, to add definitions for informal recreation, public amenities, parks maintenance, recreation facilities, organised sport and recreation and recreational trails. The basis of the submission was that these were new terms included within the PDP and it is difficult to interpret the meaning and intent of these provisions.
243. Ms Edgley was of the view that most of these terms will be understood within their ordinary meanings¹¹⁶. However in reviewing the submission, she noted that ‘Recreation Facilities’ is the subject of its own rule¹¹⁷, but is also included within the definition of Commercial Recreation Activity. In order to clarify potential confusion, she recommended that ‘Recreation Facility’ be defined as follows:

A facility where the primary purpose is to provide for sport and recreation activities and includes recreation centres, swimming pools, fitness centres and indoor sports centres, but excludes activities otherwise defined as Commercial Recreation Activities.

244. Related to the matter of definitions, Ms Edgley noted that a Minute from the Hearings Panel¹¹⁸ had requested the following information particularly relating to the Open Space and Recreation chapter:

Provide definitions of terms used to differentiate activities in Table 38.1, such as informal recreation, organised sport and recreation and public amenities and advise on whether scope exists to include those definitions in Chapter 2.

245. In her response to this Minute, she noted that ‘Commercial recreation’ and ‘Recreation’ are both defined in Chapter 2, however ‘Informal recreation’ and ‘Organised sport and recreation’ are not.
246. She added that scope to add some additional definitions was available under the submission by QAC. These included the following:

Informal recreation: Means a pastime, leisure, sport or exercise activity that occurs on an ad hoc basis or irregularly and contributes to a person’s enjoyment and/or relaxation. Excludes organised sport and recreation.

¹¹⁵ Submission 2618

¹¹⁶ *ibid*, paragraphs 13.14 – 13.16

¹¹⁷ Rule 38.9.6

¹¹⁸ Minute of Hearings Panel, 28 September 2018.

Organised sport and recreation: Means activities that require physical effort and skills, are competitive, occur on a regular basis, have formal rules, referees and officials, and are organised within formal structures. The activity typically involves the following:

- *exclusive use of public open space during the course of the activity;*
- *participants and spectators;*
- *use of clubrooms, changing facilities;*
- *training and practice sessions;*
- *payment of money to conduct activity;*
- *organised by a club, sporting body or group;*
- *booking and recording system of scheduled hours per week of each sport filed by the owner or administrator of the sports field.*

247. She added that these definitions were derived from the Auckland Unitary Plan. Other definitions she considered were within scope included the following:

Parks Maintenance: Means maintenance and repair undertaken within Council-controlled reserves, including:

- *maintenance and repair of any buildings and structures;*
- *maintenance and repair of foot paths and tracks;*
- *clearing or reforming drainage channels;*
- *topsoiling, reseeding, sandslitting of sports fields and grassed areas;*
- *weed management, grass mowing and planting of trees and gardens;*
- *replacement, repairs, maintenance or upgrading of existing bridges boardwalks and culverts; and resealing and sealing metalled parking and access drives and internal park roads.*

248. She also identified an issue with the activity 'Recreation Trails' in Rule 38.9.27. She said that the term "trail" is already defined in Chapter 2 and explicitly excludes public access routes over any reserve administered by the Council, the Crown or any of its entities. She recommended that Rule 38.9.27 be amended to refer to recreational tracks rather than trails. She proposed the following definition of recreational tracks:

Recreational tracks: Means a sealed or unsealed pathway or greenway within Council controlled reserves that is used for informal or organised recreational purposes such as walking, cycling, horse-riding, or fitness.

249. We concluded that Ms Edgley's approach to the submission and her suggested amendments were appropriate, apart from minor grammatical changes, and on this basis we recommend that the submission point be accepted in part.

PART C - REZONING REQUESTS

22. BASIS FOR ASSESSMENT

250. In Stage 1 the Hearings Panel set out its conclusions on the 'zoning principles' in the Queenstown rezoning recommendation report. Those matters are reproduced in Report 19.1¹¹⁹, and it is useful to repeat them, as set out below:

- a) *whether the change implements the purpose of the PDP Strategic Direction, Urban Development and Landscape and Rural Character Chapters;*
- b) *the overall impact of the rezoning gives effect to the ORPS and the PRPS;*
- c) *whether the objectives and policies of the proposed zone can be implemented on land;*
- d) *economic costs and benefits are considered;*
- e) *changes to the zone boundaries are consistent with the maps in the PDP that indicate additional overlays or constraints (e.g. Airport Obstacle Limitation Surfaces, SNAs, Building Restriction Areas, ONL/ONF);*
- f) *changes should take into account the location and environmental features of the site (e.g. the existing and consented environment, existing buildings, significant features and infrastructure);*
- g) *zone changes are not consistent with the long term planning for provision of infrastructure and its capacity;*
- h) *zone changes take into account the effects on the environment or providing infrastructure onsite;*
- i) *there is adequate separation between incompatible land uses;*
- j) *rezoning in lieu of resource consent approvals, where a portion of a site has capacity to absorb development does not necessarily mean another zone is more appropriate (i.e. rezoning of land when a resource consent is the right way to go); and*
- k) *zoning is not determined by existing use rights, but these will be taken into account.*

251. This Hearings Panel reiterates its support for these principles, and has taken these zoning principles into account, in our recommendations to the Council.

¹¹⁹ Section 2.4

23. CENTRAL QUEENSTOWN

23.1 ZJV (NZ) Limited – Submission 2485; Skyline Enterprises Limited – Submissions 574 & 2493

Property and submission information	
Further Submitters	Submission 574.5 FS1370 - ZJV (NZ) Limited – oppose FS1063 – Peter Fleming and Others - oppose Submission 2485.2 FS2777 – Skyline Enterprises Limited – oppose Submission 2493.1 FS2756 – Kiwi Birdlife Park Limited - oppose
Land area/request referred to as	Section 1 SO Plan 24832 and Section 1 SO Plan 22971 (574) BLSZ - Bob’s Peak (2485, 2493) BLSZ – Corridor Area (2485)
Area	Approximately 2645m ² (2461) (QLDC GIS)



Figure 23.1 Aerial photo of site subject to submissions, showing Ben Lomond Sub-Zone (hatched) and overlays (Pink – Bob’s Peak, Blue – BRA, Green – Gondola Corridor, Red – Lower Terminal Area).

252. These submissions relate to the Ben Lomond Sub-Zone (BLSZ), particularly around the upper area of Bob’s Peak. The BLSZ is shown as a large hatched area over part of the Informal Recreation Zone which extends over an even larger area on the western side of Queenstown. At this point we record that there are overlapping planning maps affecting this complex area of zoning and “areas”, which we have recommended that the Council rectify with the planning map of a larger scale showing the Ben Lomond Sub-Zone, and these constituent “areas”. As notified, the BLSZ includes the ‘Bob’s Peak’ Area (Rules 38.11.2, 38.11.6, 38.11.7 and 38.11.8); the ‘Gondola Corridor’ Area (Rules 38.11.2 and 38.11.7; and the ‘Lower Terminal’ Area (Rules 38.11.5 and 38.11.7). Added to this is a ‘Building Restriction Area’ which in turn is within the ‘Bob’s Peak Area’ (Rule 38.11.6).

253. The distinctions between these areas are important, because it was apparent that there was some confusion at the hearing as to the relationship between the Ben Lomond Sub-Zone and the “areas” within it, which form the basis of differences between the application of rules¹²⁰.
254. Furthermore, the complex background to the zoning of this area as set out below is closely based on the description provided in Ms Edgley’s Section 42A Report. Skyline submitted on Stage 1 of the PDP review¹²¹, seeking the rezoning of the Ben Lomond reserve area from Rural Zone (at that time) to a new ‘Commercial Tourism and Recreation Sub-Zone’. Its submission included a suite of provisions for the new zone.
255. Prior to decisions being released on Stage 1, the majority of the land referred to in Skyline’s Stage 1 submission was notified as Informal Recreation Zone, and within that overall zone, the BLSZ. The submission (as it applied to the varied land) was deemed to be on the variation under clause 16B(1) of the First Schedule to the Act, and was transferred to the Open Space and Recreation Chapter hearing for consideration.
256. Skyline also submitted on Stage 2, and its submission has effectively overtaken its Stage 1 submission as it relates to this land, as the Stage 1 submission was largely given effect to through the notification of the BLSZ in Chapter 38. Skyline noted in its Stage 2 submission that it is generally supportive of Chapter 38.
257. Part of Skyline’s Stage 1 submission, that was considered by the Hearings Panel in Stage 1 and subject to Stage 1 decisions, was its request to rezone a portion of DOC owned land immediately to the north of the land zoned BLSZ in Stage 2. The Hearings Panel decided that the most appropriate course would be to retain the existing Rural zoning to protect the landscape values of the site, and assess any potential future development through a consent process.
258. The Hearings Panel’s Minute of 16 April 2018 confirmed at paragraphs 15 – 16 that this residual area cannot be considered in isolation and should be considered as a consequential and incidental extension that is ‘on’ Stage 2.
259. Skyline, in its Stage 2 submission, again sought rezoning of this area of land, and requested that the BLSZ be extended beyond the north-eastern boundary of its lease area into the Ben Lomond Scenic Reserve, to include a possible future site for a helicopter landing area. In addition, Skyline sought that the BLSZ Bob’s Peak Area be extended immediately west of its lease area to encompass existing vehicle tracks, submitting that this is the most logical area for further development from a landscape perspective.
260. Figure 1 above shows the extent of the notified Sub-Zone, while Figures 2, 3 and 4 below show the extent of the new areas sought by Skyline in its submission and the existing lease areas on Ben Lomond. We record at this time that a further submission¹²² offering qualified support to the Skyline Enterprises submission was received from Queenstown Commercial Parapenters who operate their business from a site in close proximity to the Skyline Enterprises’ (top) Terminal building.

¹²⁰ C. Edgley, Reply Evidence, paragraph 9.1

¹²¹ Submission 574

¹²² Further Submission 2767

261. As shown on the map, the notified BLSZ follows property boundaries and Council controlled land. Extending the BLSZ to the north, as sought by Skyline would mean the BLSZ would extend over land controlled by the Department of Conservation (DOC) and also over land that is subject to a Skyline lease. Although not indicated, and not contiguous with the 'Ben Lomond Sub-Zone Building Restriction Area' it would appear logical that, given the purpose of this extension is to provide for a helipad, it would logically be included within that 'Area' (refer Figure 3).
262. Both Ms Edgley and Ms Galavazi opposed the rezonings sought through the Skyline submission. They were concerned that consultation may not have been undertaken with DOC regarding the proposed expansion to the BLSZ over Conservation land. Ms Edgley's understanding was that the Council had consulted with DOC (along with other agencies) and DOC did not seek for any of its land to be included in the Open Space and Recreation zones.

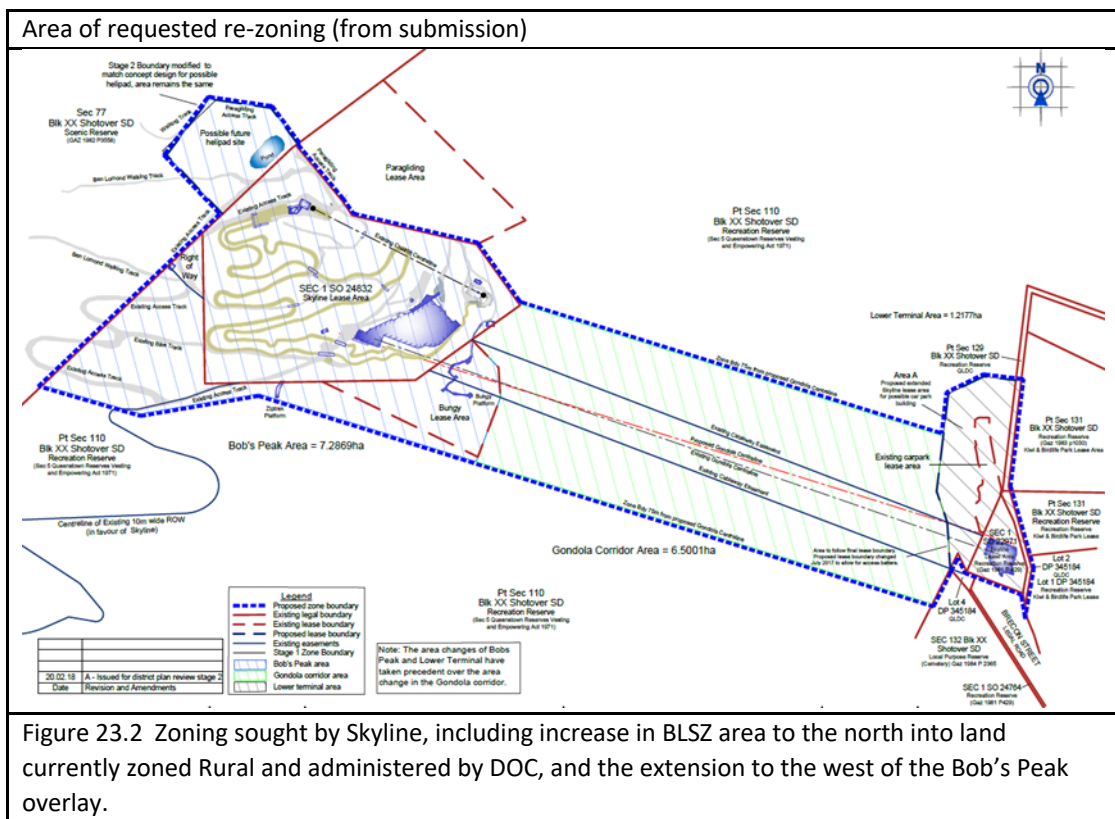


Figure 23.2 Zoning sought by Skyline, including increase in BLSZ area to the north into land currently zoned Rural and administered by DOC, and the extension to the west of the Bob's Peak overlay.

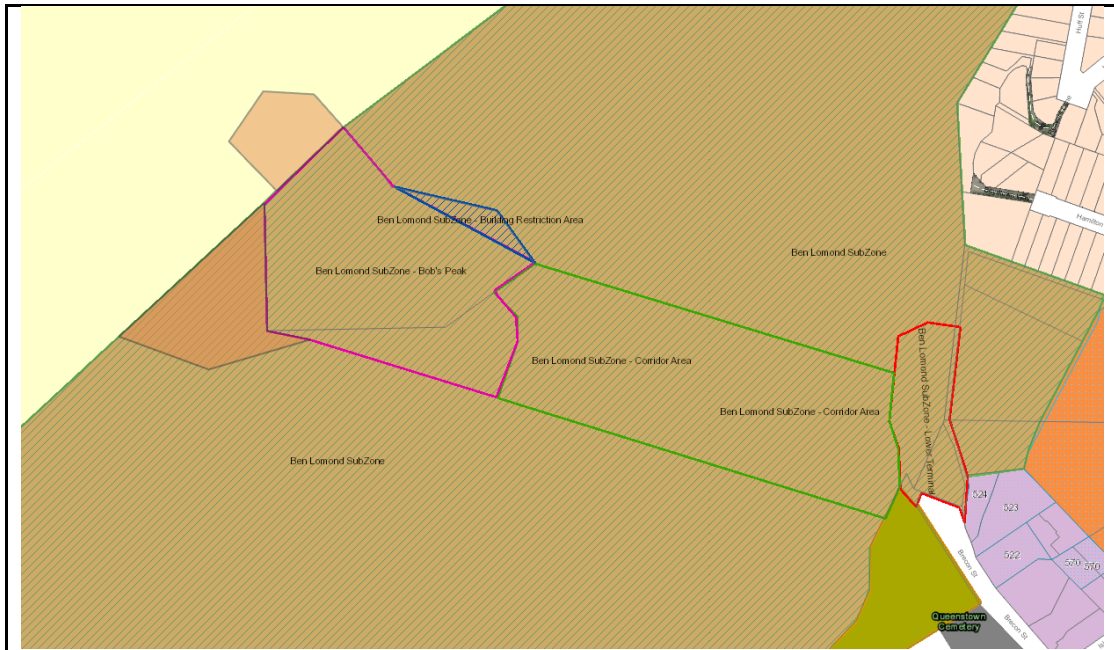


Figure 23.3 Showing current extent of BLSZ and requested increase in BLSZ area to the north into land currently zoned Rural and administered by DOC, and the extension to the west of the Bob's Peak overlay (orange).

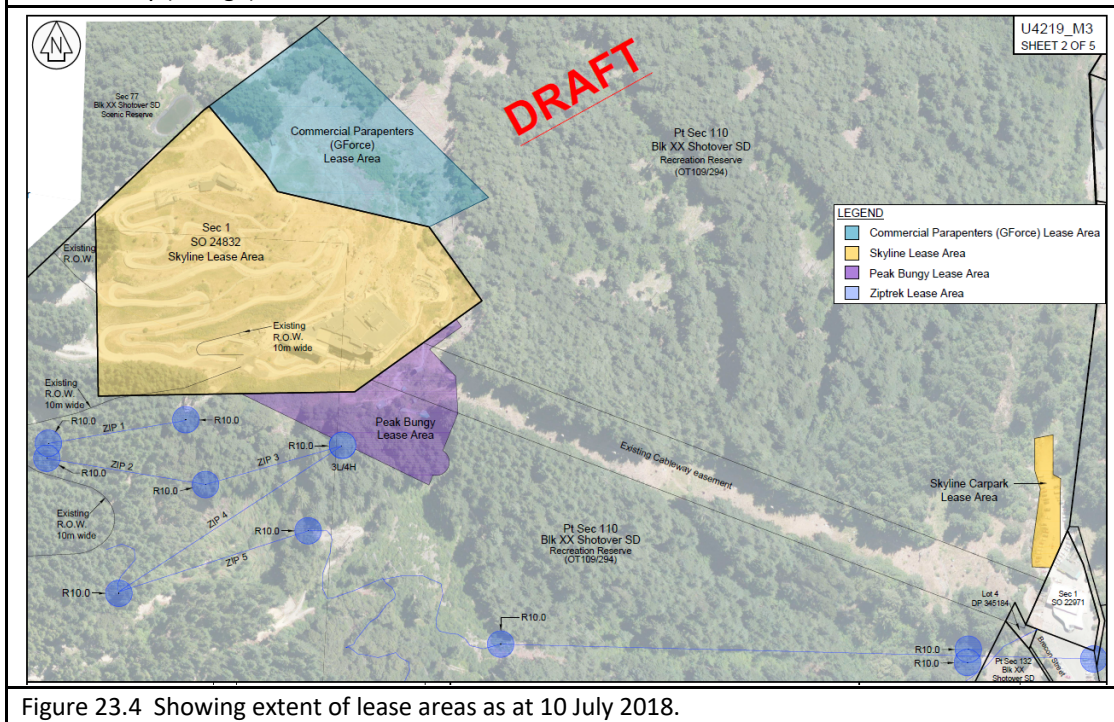


Figure 23.4 Showing extent of lease areas as at 10 July 2018.

263. She noted that the extension to the north was sought to provide for the submitter's plans for a helicopter landing area. This is a small cleared area adjacent to the upper extent of the Bob's Peak 'area' and adjacent to a fire pond. She stated Chapter 21 (Rural) includes provisions for informal airports, as a discretionary activity, as is the case under the Informal Recreation Zone as notified. (Skyline have sought Restricted Discretionary activity status for informal airports in the Sub-Zone)
264. Another issue raised by the reporting officers was the potential effects of the proposed rezoning on landscape and visual effects. Based on previous advice from the Council's consultant

landscape architect at the time (Dr Read), we consider that the proposed sub-zone would be acceptable from a visual and landscape perspective.

265. Looking firstly at the proposed northern extension onto land owned by the Department of Conservation, Mr Dent on behalf of Skyline Enterprises noted that the Department of Conservation had not opposed the submissions seeking the extension of the zone over its land. He also noted that the Conservation Management Strategy for the land identified it as an area where a concession application to land on aircraft was likely to be granted¹²³.
266. We are satisfied that this would be the most suitable site above the gondola and its large associated facilities for a helipad to be established, as likely visual impacts would not be significant, and it was the most remote site with respect to noise concerns that have been expressed by ZJV and by Kiwi Birdlife Park. With respect to the fact that the site is on Department of Conservation land, we think there is a significant distinction here between applying a zoning over this land and over private land. This is because the provisions of the Reserves Act can also be implemented in tandem with those in the PDP. There is no evidence that the Department of Conservation is either unaware or opposed to Skyline Enterprise's proposal.
267. Mr Dent sought that the establishment of a helipad (Informal Airport) on the site be a restricted discretionary activity. We consider this provides sufficient opportunity to address any adverse effects that might be associated with the facility, and particularly the frequency of flights, their approach/departure paths, and the potential for disturbance to other leaseholders within the Sub-Zone. The details of an appropriate rule have been addressed earlier in paragraphs 207 - 209 under Part 38.11 of Chapter 38.
268. Accordingly, with respect to this part of the submission by Skyline Enterprises we disagree with the reporting officer's conclusion and recommend that this part of the submission be accepted, with an appropriate amendment to the planning maps, as shown on Figure 23.5, and the addition of a new rule as set out earlier in Part 38.11.

¹²³ S Dent, EiC, paragraphs 142 – 145

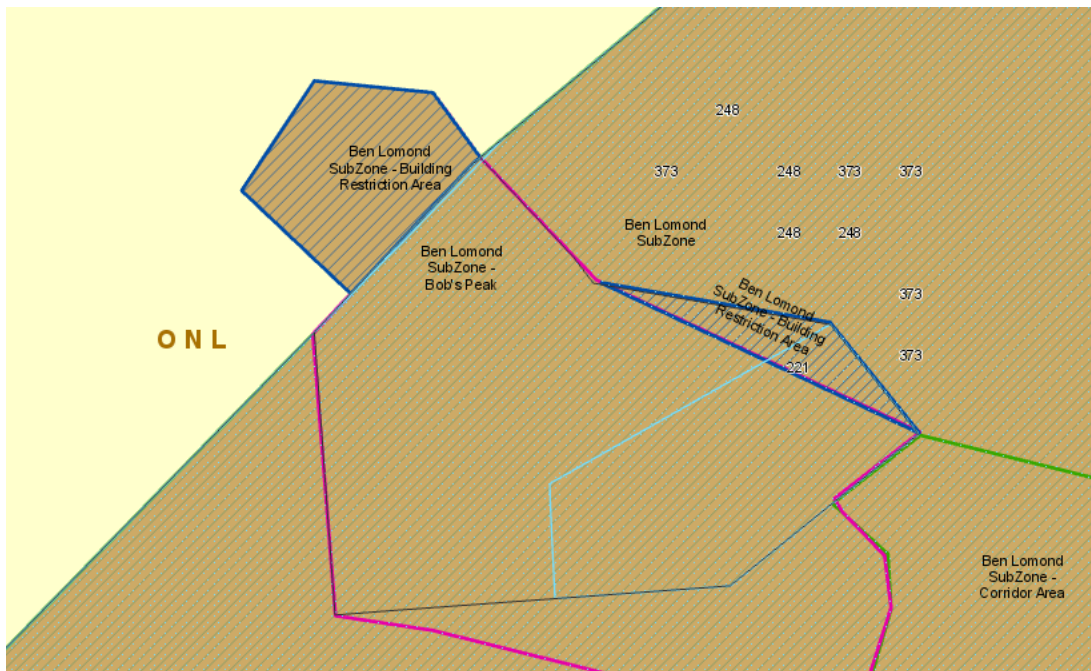


Figure 23.5: Extension of Informal Recreation Zone – Ben Lomond Sub-Zone with Building Restriction Area applied.

269. With regard to the extension to the west, this is an area which is already within the BLSZ, and what Skyline is in fact seeking is not an extension to the Sub-Zone, but to the Bobs Peak 'Area' component of that Sub-Zone. The effect of this would be that buildings would be permitted to have a maximum height of 10 metres, as opposed to 6 metres in the Sub-Zone generally, and that a 15% building coverage rule would apply. Ms Edgley noted that no landscape or visual evidence had been provided regarding the effect of this additional height in the new area. However, she conceded that earlier landscape advice¹²⁴ from Dr Read had considered the height in the Bob's Peak area in her evidence in Stage 1, and considered 10 metres height and 15% site coverage to be appropriate as a restricted discretionary activity within the Bob's Peak area of the Sub-Zone. The evidence of Ms Snodgrass for the submitter also concluded that any visual landscape effects would be minor¹²⁵. However, we were not satisfied that the submitter had provided a sufficient evidential basis for the requested extension to the Bobs Peak 'Area', or how the activities of other uses might be potentially affected. Accordingly we recommend that this submission be rejected.
270. ZJV¹²⁶ opposed the southern and western boundaries of the Ben Lomond Sub Zone – Bob's Peak 'Area' and the Corridor 'Area' and seeks a smaller area. The submission sought the reduction of the BLSZ in this area to reduce potential impacts on its operations. No reduced Sub-Zone extent was provided with the submission, and this aspect of its submission was not expanded on in Mr Brown's evidence for the submitter.
271. We recognise that an appropriate balance has to be struck between the sometimes competing interests of parties operating within the Ben Lomond Sub-Zone, particularly between the activities of Skyline Enterprises and ZJV. However, we consider that the objectives, policies and

¹²⁴ C. Edgley, Section 42A Report, paragraph 27.13

¹²⁵ M Snodgrass, EiC, paragraphs 112 – 115

¹²⁶ Submission 2485

rules as recommended to be amended through this report are appropriate in terms of providing for the multiple users within the Sub-Zone.

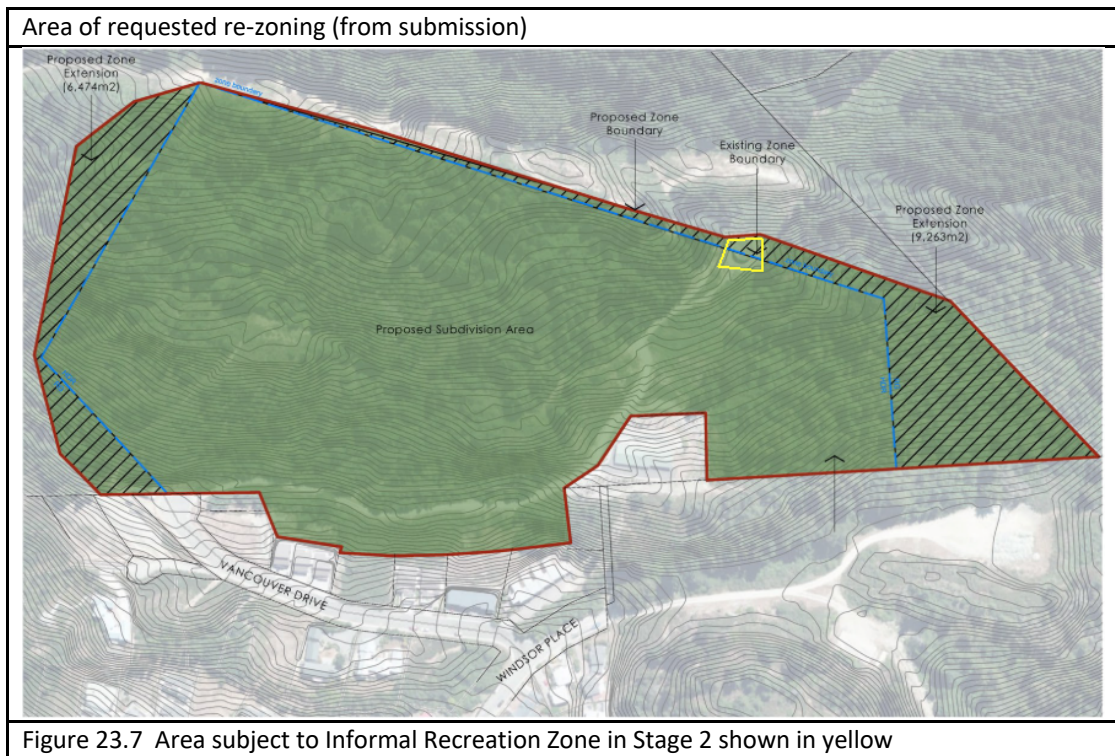
272. We recommend that this part of the ZJV submission be rejected.

23.2 Queenstown Lakes District Council – Submission 790

Property and submission information	
Further Submitters	None
Land area/request referred to as	Commonage Reserve, Section 1 SO 23185
Legal Description	Section 1 SO 23185
Area	423m ²



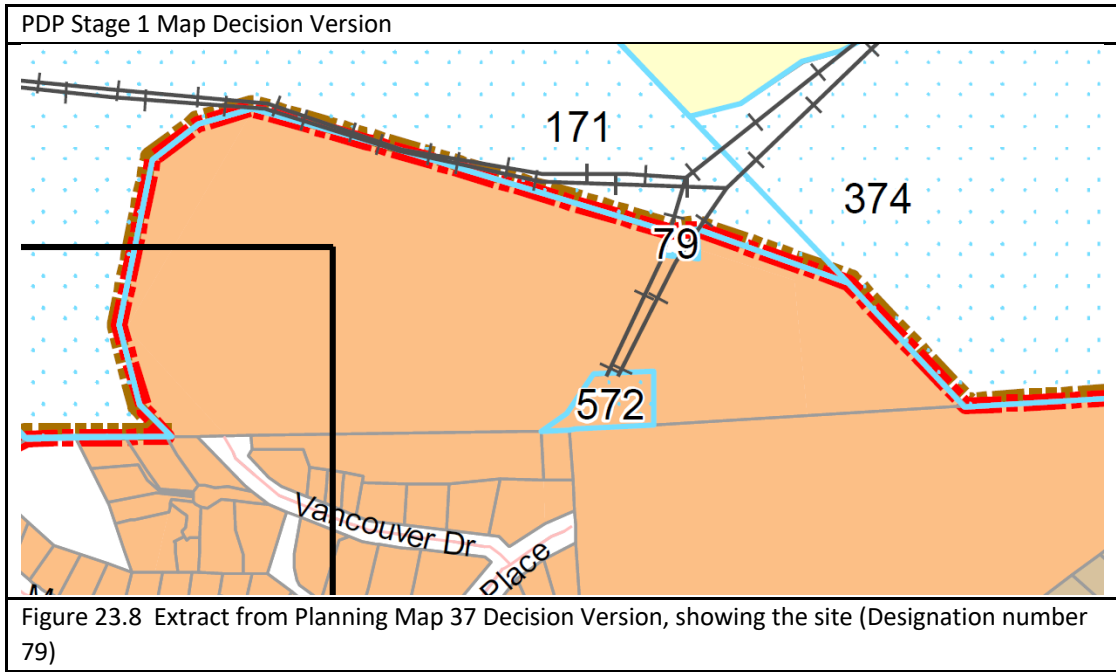
Figure 23.6 Aerial photo – site subject to submission outlined in red



273. Queenstown Lakes District Council¹²⁷ requested that the small parcel of land currently designated for Larchwood Reservoir Purposes (Designation 79, confirmed in Stage 1) be included in rezoning of the larger area of land known as ‘The Commonage’ to Medium Density Residential Zone (MDRZ). The larger area of land, located within the wider Queenstown Hill Recreation Reserve, was considered under the Stage 1 hearings and in Report 17-2 the Hearings Panel accepted the proposed rezoning of this land to MDR. The consideration of the area of land subject to Designation 79 was transferred to Stage 2, because it was varied to Informal Recreation zoning in Stage 2.
274. The Stage 1 submission asking for MDRZ was considered by both the Council’s landscape expert, Dr Marion Read, and the Section 42A Report author, Ms Devlin, in Stage 1. Dr Read considered that the inclusion of the additional areas within the MDR would not result in any adverse effects above and beyond those already facilitated by the existing zoning as notified¹²⁸. Following the release of decisions on Stage 1 of the PDP review this 423m² parcel is located within the Urban Growth Boundary and surrounded by MDRZ to the east, west and south. The adjoining land to the north is zoned Informal Recreation.

¹²⁷ Submission 790

¹²⁸ Paragraph 7.14, Statement of Evidence of Marion Read for Queenstown Mapping Hearing 24 May 2017



275. Ms Galavazi stated in her evidence that the land is not required for an open space and recreation purpose. There were no submissions opposing this rezoning, and we accept the evidence of Ms Galavazi and Ms Edgley. We recommend that the submission to rezone this land to MDRZ be accepted. The recommended zoning is shown on Figure 23.9 below.

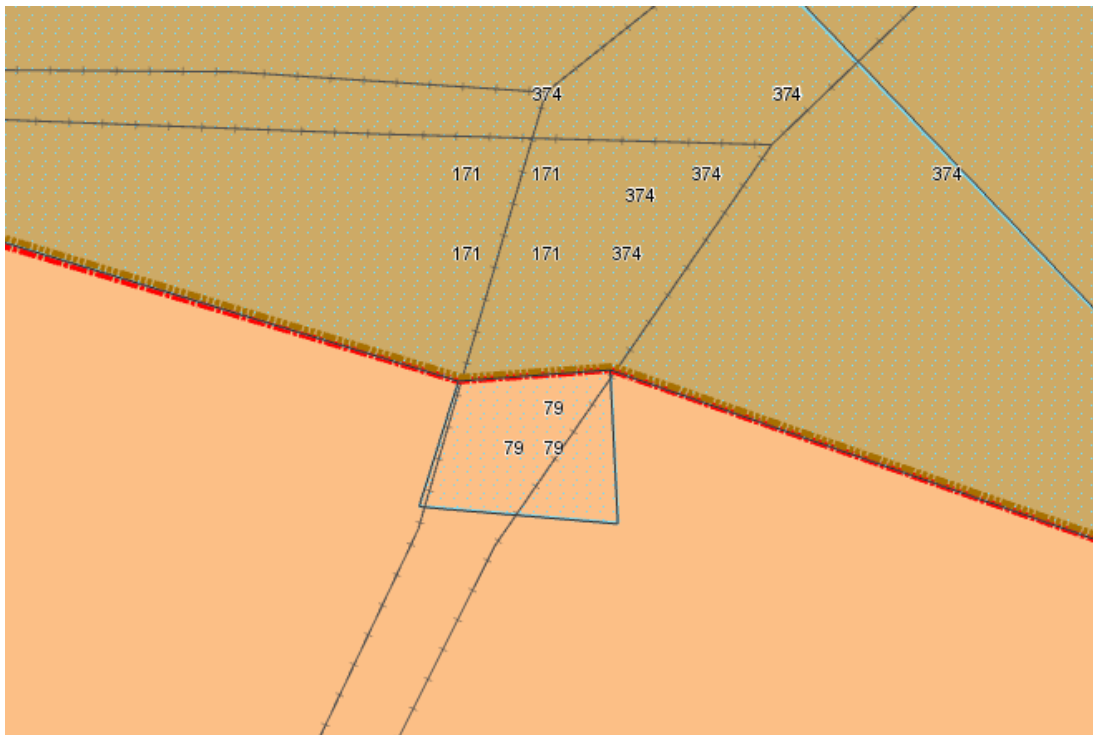


Figure 23.9: Expanded view of land showing recommended zoning and Stage 1 zoning.

23.3 Ngai Tahu Property Limited – Submission 2336

Property and submission information	
Further Submitters	None
Land area/request referred to as	Warren Park
Legal Description	Pt Lot 48 DP 8591
Area	2.4725Ha (QLDC GIS)



Figure 23.10 Aerial photo – site subject to submission outlined in red

276. The site is surrounded by the High Density Residential Zone under the ODP. This area of Gorge Road is not currently included in the PDP and is likely to be subject to Stage 3 of the PDP review. This area surrounding Gorge Road is sandwiched from the east and west by Queenstown Hill Recreation Reserve and Ben Lomond Recreation Reserve. Both of these areas are zoned Informal Recreation Zone, are relatively steep, and are utilised by existing commercial recreation leaseholders and well as more passive recreation activities such as walk and cycle tracks.
277. Ms Galavazi stated in her evidence that with the nearby Queenstown Recreation Ground there is sufficient provision for sport and active recreation facilities in the surrounding area, and Council Parks do not require Warren Park as a sports ground in the long term. The zoning of Warren Park to Informal Recreation Zone would provide a flat passive recreation space to serve the adjoining residential areas, and its proximity to Queenstown Town Centre means that it is more likely to be appropriate for commercial recreation activities (subject to a resource consent process).

278. We note that there were no submissions opposing this rezoning, and based on the evidence of Council officers, we recommend that the rezoning request to Informal Recreation Zone be accepted. The recommended zoning is shown on Figure 23.11.

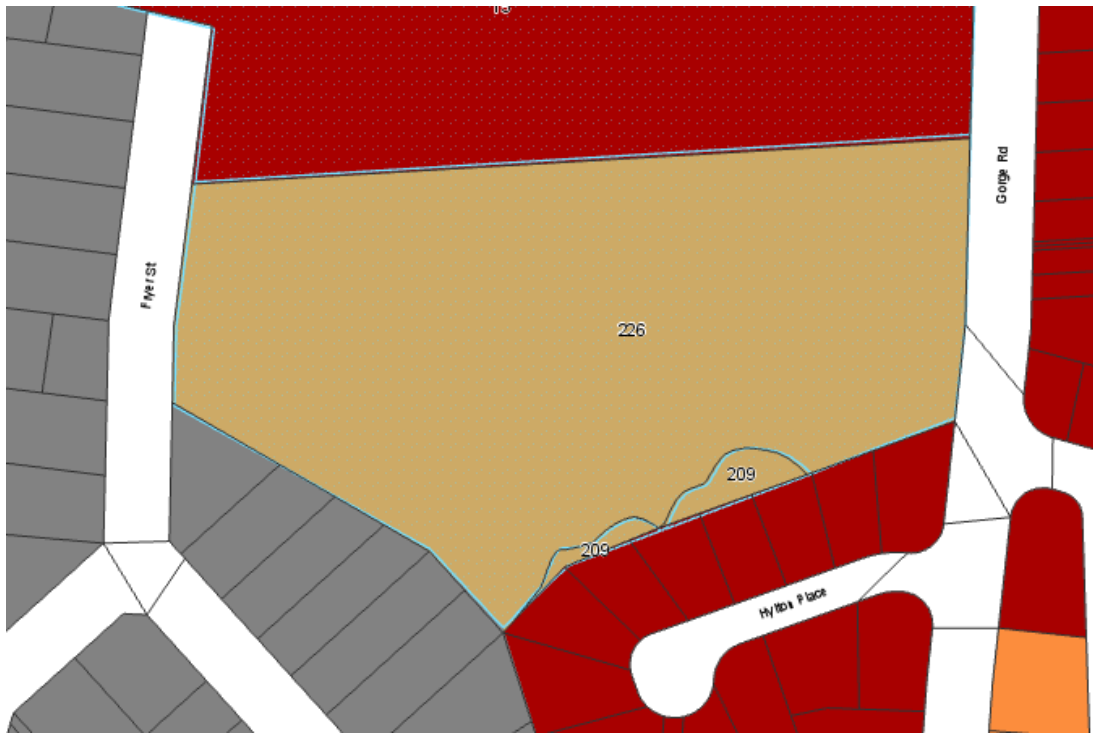


Figure 23.11: Warren Park rezoned Informal Recreation Zone

23.4 Ngai Tahu Property Limited and Ngai Tahu Justice Holdings Limited – Submission 2335

Property and submission information	
Further Submitters	None
Land area/request referred to as	Section 10 Block XVIII, Stanley Street
Legal Description	Section 10 BLK XVIII TN of Queenstown
Area	681m2 (QLDC GIS)



Figure 23.12 Aerial photo – site subject to submission outlined in red

Area of requested re-zoning (from submission)



Figure 23.13 The submission site as shown in submission 2335

279. Ngāi Tahu Property Limited and Ngāi Tahu Justice Holdings Limited opposed the proposed Informal Recreation zoning of Section 10 Block XVIII, Stanley Street as identified on PDP Map 36. The submission identified that this site is included in the redevelopment plans in the Queenstown Town Centre Masterplan as part of the 'Community Heart' precinct and is part of the preferred location for a combined Council office. The submission stated that the zoning as notified would constrain the development potential of the overall block and that a zoning of Queenstown Town Centre will provide more options for development.
280. The site is located on the corner of Gorge Road and Stanley Street and is grassed with some bench seating and a number of mature trees. It was zoned Queenstown Town Centre Zone in Stage 1 of the PDP review, and its designation was confirmed in Stage 1 of the PDP review.
281. Ms Galavazi stated that the site is not required for an open space function and that it is a freehold parcel that is not vested as Council reserve. The lack of vested reserve status means that zoning this property something other than an Open Space and Recreation zone is not inconsistent with the application of these zones, and there would be no change from the notified Stage 1 zoning of this land.
282. There are no submissions opposing this rezoning to Queenstown Town Centre, and we recommend that the submission be accepted. The recommended zoning is shown on Figure 23.14.

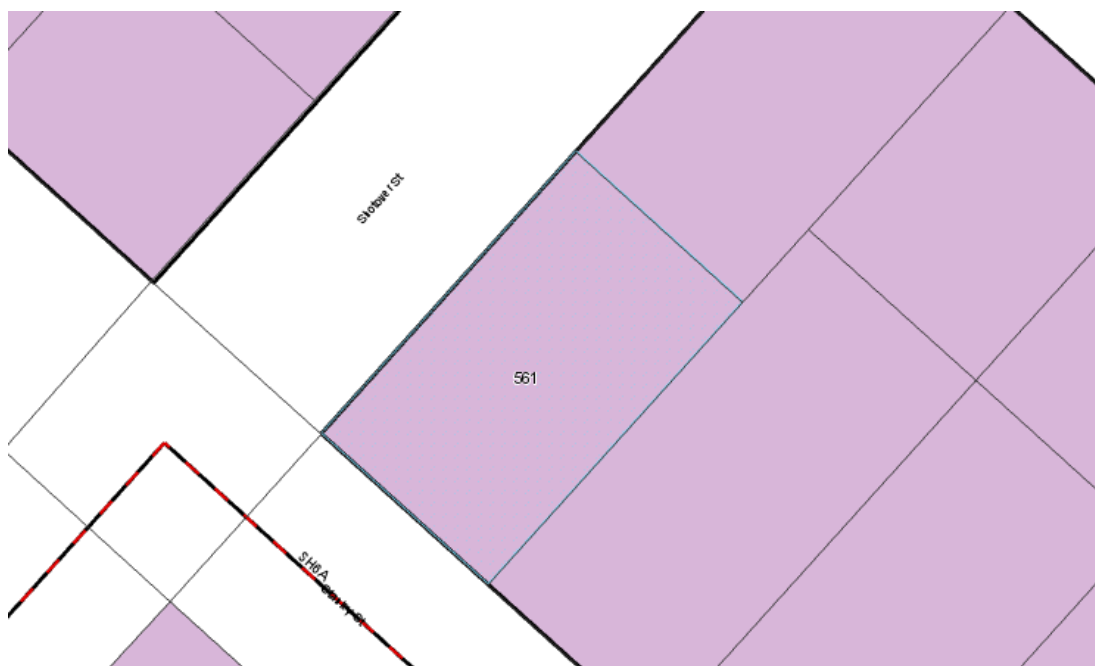


Figure 23.14: Subject site rezoned Queenstown Town Centre Zone

24. MILLBROOK AREA

24.1 Millbrook Park – Submission 2295

Property and submission information	
Further Submitters	Submission 2295.14 FS2710 McGuinness Pa Limited – support FS2745 Julie QT Limited – oppose FS2720 Boundary Trust – oppose FS2723 Spruce Grove Trust – Malaghans Road – oppose FS2724 Spruce Grove Trust – Butel Road – oppose
Land area/request referred to as	Millbrook Park
Legal Description	Section 8 SO 434963
Area	3.0211Ha (QLDC GIS)



Figure 24.1: Aerial photo – site subject to submission outlined in red

283. Millbrook Country Club submitted that the proposed Active Sport and Recreation zoning at Millbrook Park is inappropriate and unnecessary and requested that the site be zoned Millbrook Resort Zone.
284. The subject site contains a cricket field with a clubroom, practice nets and small carpark located on the western boundary. Millbrook Country Club described this reserve as a “community sports field” in its submission. This land was zoned Millbrook Special Zone and was subject to a Structure Plan in Chapter 43 prior to being included in Stage 2 of the PDP review.

285. In its submission Millbrook Country Club raised concerns about compliance with its Stakeholders Deed that it has with the Council and the application of the Reserve Management Plan. Ms Edgley stated that the Stakeholders Deed is a legal document separate from the PDP, and any issues with compliance with that document are a legal matter¹²⁹. Ms Galavazi noted in her evidence that the Reserve Management Plan for this reserve will continue to apply. The Reserve Management Plan contains a Millbrook Park-specific policy that states:

15.1 The land shall be used only for sporting activities, either organised or informal sport/recreation¹³⁰.

286. This is one of only two examples where the proposed zoning of a Council reserve has been challenged through submissions on Chapter 38. In his evidence for the submitter however Mr Edmonds' primary concern was about the classification given to the reserve as Active Sport and Recreation Zone. Among the uses of the reserve is cricket (which can be regarded as an organised sport) and hence consistent with the proposed zoning. However Mr Edmonds noted that:

This proposed zoning provides for a range of activities and buildings that can be established within the reserve that are inconsistent and at odds with the underlying Millbrook zoning, the deed that saw this land transferred to the Council, and the Reserve Management Plan. For example, buildings could be up to 10 m high with a floor area of 400m² and setback only 6 m from either Malaghans or Arrowsdown Lake Hayes Road.

287. It is apparent to us that this reserve has a very bucolic character, which is inconsistent with the Active Sport and Recreation zoning, and while used for 'organised' sport, illustrates the deficiencies associated with this particular zone classification. In short, there is a complete disjoint between the 'active sports' concept behind the zoning, and the scale of building activity permitted in the zone. While acknowledging that because the rules in the zone allow a certain scale of building, it does not necessarily follow that buildings will be built to that scale, this does not detract from the fact that the rules' framework for this land is quite inappropriate under the current zoning.

288. In response to questions however, Mr Edmonds was unable to substantiate any unforeseen consequences that would arise as a consequence of the reserve having an open space and recreational zoning, versus remaining within the Millbrook Resort Zone. However, we agree with his conclusions with respect to the appropriate zoning, and recommend instead that the reserve be zoned 'Informal Recreation Zone'. We note also that the recreation reserve at Jacks Point (subject to a submission considered below) contains a cricket pitch and other organised sport facilities, but has been zoned Informal Recreation. We consider that rezoning this land at Millbrook is within the overall scope of the submission, and on this basis we recommend that it be accepted in part by rezoning the park as Informal Recreation. The recommended zoning is shown on Figure 24.2.

¹²⁹ C. Edgley, Section 42A Report, paragraph 31.3

¹³⁰ Policy 15, Arrowsdown – Lake Hayes Reserve Management Plan 2013

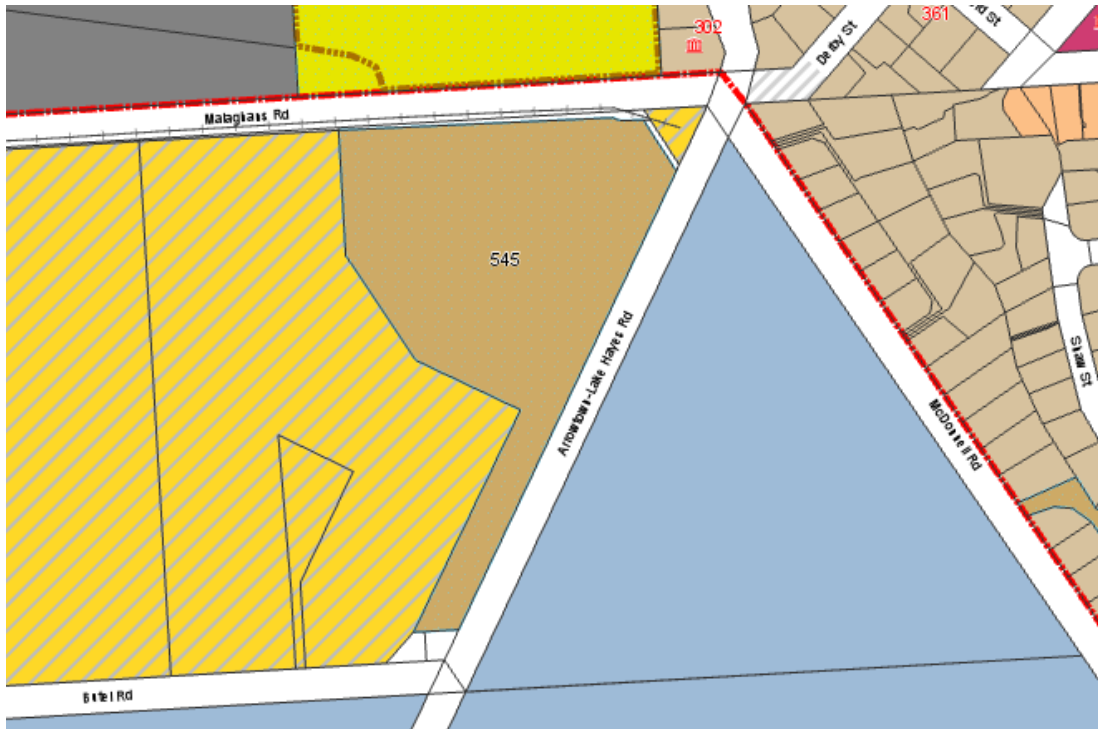


Figure 24.2: Millbrook Park zoned Informal Recreation Zone

24.2 Coronet Forest

Property and submission information	
Submissions	Millbrook Country Club – Submission 2295 TJ Investments Pte Limited – Submission 2564 C Dagg – Submission 2586 Kim Fam – Submission 2589
Further Submitters	Submission 2295.14 FS2710 McGuinness Pa Limited – support FS2745 Julie QT Limited – oppose FS2720 Boundary Trust – oppose FS2723 Spruce Grove Trust – Malaghans Road – oppose FS2724 Spruce Grove Trust – Butel Road – oppose
Land area/request referred to as	Coronet Forest
Legal Description	Sections 23-24 Block XVII Shotover SD, Lot 1 DP 21922
Area	412.82Ha (QLDC GIS)

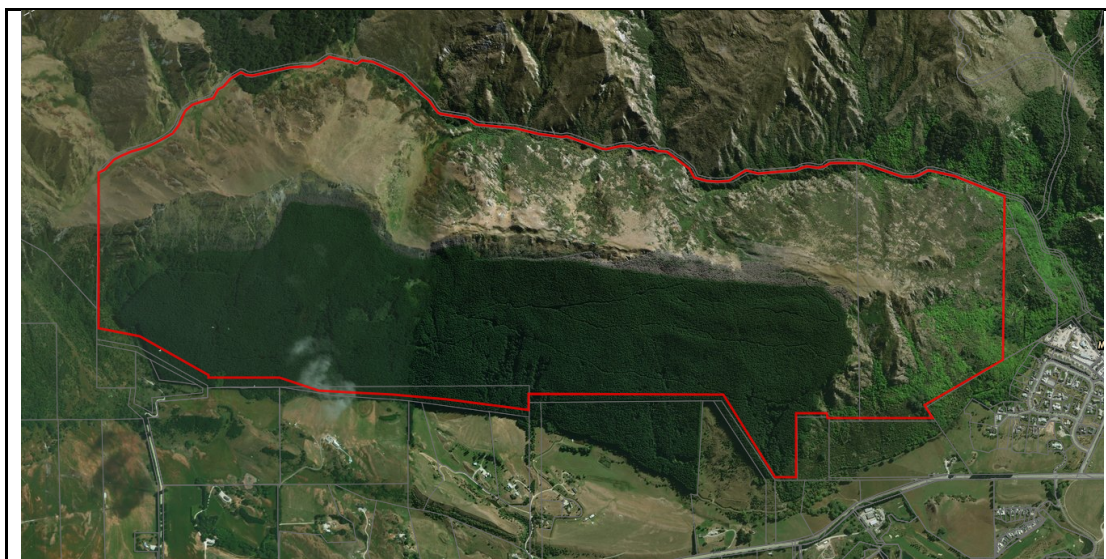


Figure 24.3: Aerial photo – site subject to submission outlined in red

289. Millbrook Country Club¹³¹ opposed the zoning of Coronet Forest as Informal Recreation Zone, and proposed instead that it be included within the Nature Conservation Zone. Submitters TJ Investments Pte Limited¹³², C Dagg¹³³, and Kim Fam¹³⁴ all lodged similar submissions also opposing the Informal Recreation zoning for landscape reasons, but did not propose a replacement zone.
290. The southern face of the feature is currently planted out in Douglas Fir pine forest. The site is subject to a designation for Forestry Operations purposes, and a portion of land on the northern

¹³¹ Submission 2295

¹³² Submission 2564

¹³³ Submission 2586

¹³⁴ Submission 2589

boundary is identified as a Significant Natural Area for its *olearia odorata–matagouri* shrubland and mountain beech forest.

291. Ms Galavazi noted in her evidence that Council Parks intend to harvest the existing forest (at the time of writing an application for Outline Plan is being prepared for this purpose) and further develop the existing horse trails with a number of biking and walking trails. The area is then likely to be replanted with a mix of indigenous vegetation and exotics.
292. Both the Informal Recreation Zone and the Nature Conservation Zone would allow for the future activities anticipated by the Council as a permitted activity. However the objectives and policies of these two zones are different in that the Informal Recreation Zone offers greater scope for development, subject to maintaining the values of the zone, whereas the Nature Conservation Zone seeks to limit development to that directly related to its natural values.
293. Only Mr Edmonds for Millbrook presented evidence on this matter at the hearing, and supported the officer’s recommendation that the Nature Conservation Zone is the most appropriate zone for Coronet Forest. We recommend that the zoning be changed accordingly to Nature Conservation Zone and that the submission of Millbrook be accepted, and those of TJ Investments Pte Limited, C Dagg, and Kim Fam be accepted in part. The recommended zoning is shown on Figure 24.4.

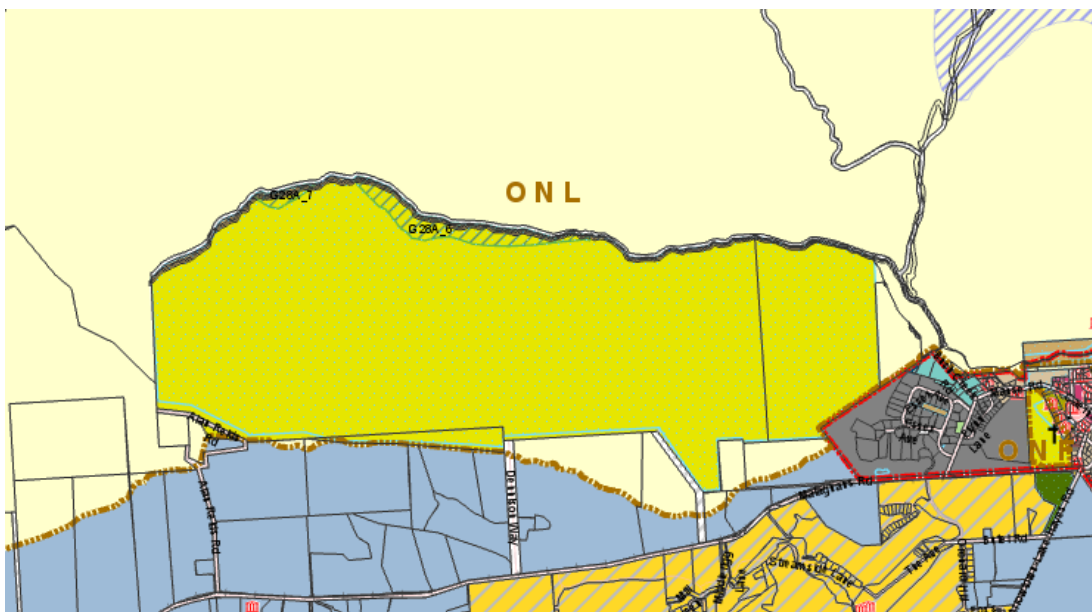


Figure 24.4: Coronet Forest zoned Nature Conservation Zone

25. JACK'S POINT

25.1 Jacks Point Reserve

Property and submission information	
Submission	Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd – Submission 2381
Further Submitters	None
Land area/request referred to as	Jacks Point Reserve
Legal Description	Lot 13 DP 364700
Area	5.417Ha (QLDC GIS)



Figure. 25.1 Aerial photo – site subject to submission outlined in red

294. The submitter¹³⁵ sought that Map 41 be amended so that the area of Informal Recreation Zone be rezoned and retained as Jacks Point Zone.
295. This property was included in the notification of Stage 1 as Jacks Point Zone, with designation 537 (Recreation Reserve). This was subsequently varied as part of Stage 2 of the PDP review which had the effect that this area of land, while no longer subject to the Jacks Point Zone provisions, was still included in the Jacks Point Structure Plan in Chapter 41 as an 'Open Space Residential Activity Area' (OSA).

¹³⁵ Submission 2381

296. The site contains a playground, a cricket/soccer field, tennis courts and associated car park. The site is primarily flat, but with a bund surrounding the sports field.
297. The submission raised concerns about the integration of the reserve land with the wider Jacks Point Zone, and the potential for the Structure Plan (which covers the extensive Jacks Point Zone) to be compromised. Mr Ferguson presented brief evidence on this matter, and was of the view that the land should remain part of the OSA 'Activity Area'. We note that the Structure Plan for Jacks Point contains 'Activity Areas' as part of the single Jacks Point Zone covering the entire area. Mr Ferguson cited provisions under Chapter 41 (Jacks Point Zone) arguing – with some justification – that the rules for the OSA Activity Area provided an adequate framework for managing the Council reserve without the need to apply an Informal Recreation zoning to the reserve.
298. In her rebuttal evidence, Ms Edgley pointed out that the "status quo" zoning as described by Mr Ferguson¹³⁶ had never in fact been the OSA Activity Area or the Jacks Point Zone, as the zoning of this land was varied prior to the decisions on Chapter 41 being released¹³⁷.
299. We consider that the zoning of the reserve as Informal Recreation means the provisions of the Structure Plan in Chapter 41 no longer apply to the reserve. Notwithstanding the objective and policy provisions cited by Mr Ferguson (e.g. Objective 41.2.1, Policies 41.2.1.1 and 41.2.1.22), there did not appear to be any conflict created with them by zoning the land as Informal Recreation. The most that could be said is that there will be a single zone (in contrast to surrounding 'Activity Areas') which may appear somewhat incongruous in mapping terms. It appears from a response to a question to Mr Ferguson that the submitter wants to perpetuate the technique of identifying Activity Areas as an alternative to zoning, notwithstanding the fact that the Activity Areas function as zones in all but name.
300. Mr Ferguson expressed concern about duplication and complexity as a result of the continued designation of this and other reserves proposed to be zoned as various forms of Open Space and Recreation Zones, and the fact that zoning the Council reserve contrasts with the adoption elsewhere within the wider Jacks Point Zone of identifying Activity Areas. Nevertheless, this is a Council reserve (other land in the Jacks Point Zone being private), and we do not agree that the sanctity of the 'Activity Area' approach justifies having this one reserve remaining outside of the zoning system applied to all other Council reserves in the district. For these reasons, we recommend that the submission point be rejected.

¹³⁶ C Ferguson, EiC, paragraph 120

¹³⁷ C Edgley, Rebuttal Evidence paragraph 3.5

26. BRIDESDALE RIVER FLATS

26.1 Bridesdale Farm Developments Ltd – Submissions 655 & 2391


Property and submission information	
Further Submitters	Submission 655.1 FS1064.1 – Martin MacDonald – oppose FS1071.2 – LHECA – oppose FS1340.129 – Queenstown Airport Corporation – oppose Submission 2391.2 FS2759 - Queenstown Airport Corporation – oppose
Land area/request referred to as	Bridesdale Farm, Lake Hayes (655) The balance of the Bridesdale Special Housing Area being the lower lying flood plain that sits above the Kawarau River (2391)
Legal Description	Lots 301, 304, 307 and 308 DP 505513 (655) Lot 400 DP 44523 and Lot 321 DP 379403 (2391)
Area	Approximately 29Ha (655) (QLDC GIS) Approximately 18Ha (2391) (QLDC GIS)
	
<p>Figure 26.1: Aerial photo – site subject to submission 655 outlined in red and showing land parcels rezoned to Informal Recreation in Stage 2</p>	



Figure 26.2: Aerial photo – Council-owned parcels subject to submission 2391 outlined in red.

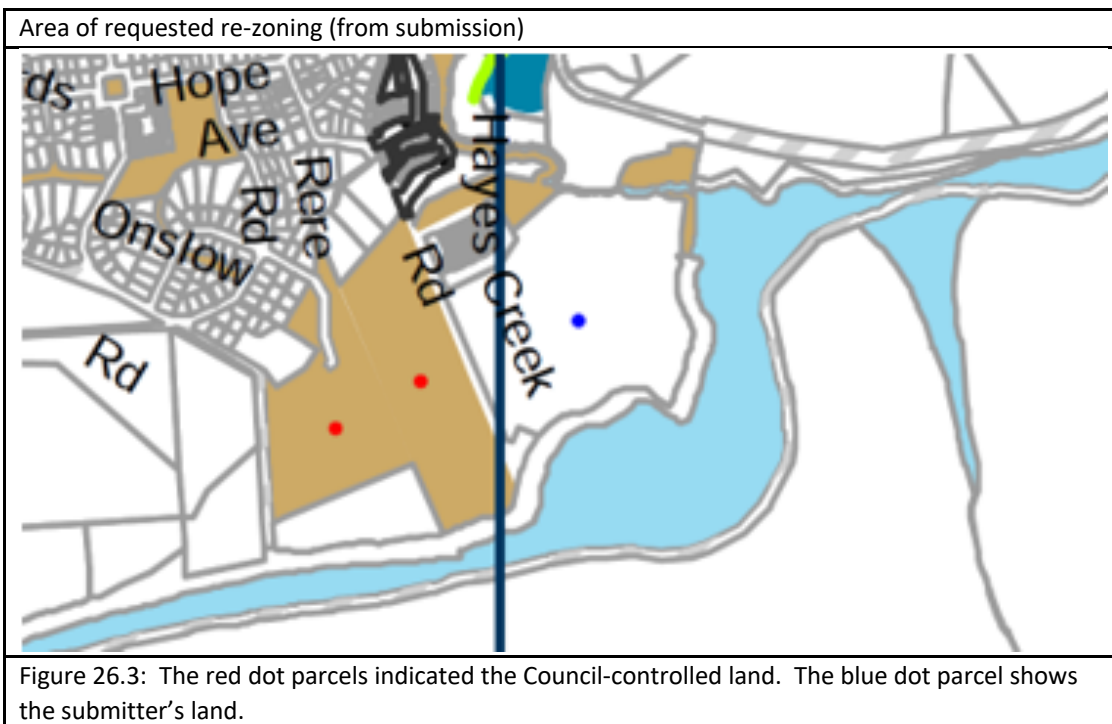


Figure 26.3: The red dot parcels indicated the Council-controlled land. The blue dot parcel shows the submitter's land.

301. This is a substantial submission affecting a large area of land adjacent to Bridesdale, a residential area on the south-eastern side of the Lake Hayes Estate subdivision. For the purpose of this report, the land will be referred to as the 'Bridesdale River Flats' in reflection of its location adjacent to the Kawarau River, and to distinguish it from the Bridesdale Special Housing area located above on the terrace to the north.
302. The Bridesdale River Flats subject to the submission includes approximately 16.8ha owned by Bridesdale Farm Developments Limited, and approximately 18ha of adjoining Council-owned land. There are also a number of other parcels of Council and reserve land in the immediate

vicinity as outlined in the table in Mr Edmonds' evidence for the submitter¹³⁸. The land is sited on the river terrace adjacent to the Kawarau River, and west of Hayes Stream draining into the Kawarau River from Lake Hayes. The land is generally flat but subject to periodic flooding during high rainfall events.

303. At present the land is undeveloped except for 137 garden allotments established as part of the Bridesdale Special Housing Area. The Council has zoned its own land on the Bridesdale River Flats as part of the Informal Recreation Zone but left the balance land owned by the submitter zoned Rural. The Council land is shown outlined in red on Figure 15 above, with the Bridesdale land comprising the large area adjacent to the east. If developed, access would either have to be obtained from Widgeon Place to the west or from Hayes Creek Road/Red Cottage Road to the east. A metalled road currently extends across the Bridesdale River Flats to the northern margins of the Kawarau River adjacent to the Twin Rivers Cycle Trail.
304. With respect to land holdings, the submission has two parts. Bridesdale Farm Developments Limited¹³⁹ submitted that the two Council owned parcels be zoned Active Sport and Recreation rather than Informal Recreation. The submitter also sought the rezoning of its own land as Active Sport and Recreation, seeking that the Council and Bridesdale land be combined to provide a large area of land to primarily meet the recreational needs of the growing communities at Lake Hayes Estate and Shotover Country.
305. As further background, we were advised that resource consent has been sought by the submitter for the development of a tennis academy on the Bridesdale land¹⁴⁰. The submitter also made a submission on Stage 1¹⁴¹, seeking the rezoning of Bridesdale land to MDRZ which is shown in Figure 14 above. This submission point has been addressed in Hearing Stream 14.
306. Ms Edgley raised the issue of whether the submission was within scope in her Section 42A Report, but after this was strongly challenged by the submitter, the Council did not pursue this matter any further. We have also concluded that there is no jurisdictional issue for us to address here.
307. The applicant presented legal submissions and produced a substantial body of expert evidence, which was not subject to challenge through similar evidence on behalf of the Council. A key issue arising in this case was whether or not it was appropriate for private land to have an open space and recreation zoning under Chapter 38. This was stoutly resisted by the reporting officers. In summary, Mr Goldsmith, in his submissions for the submitter submitted that:
- a) *the Council had failed in its section 32 analysis to justify why private land could not be zoned for open space and recreation purposes – in this case, classified as part of the Active Sport and Recreation Zone;*
 - b) *there were no provisions in Chapter 38 which precluded the zoning of private land, with the exception of a statement in the 'Purpose' for Open Space and Recreation Zones;*
 - c) *the Council's Parks and Open Space Strategy 2017 did not preclude zoning of private land;*

¹³⁸ J Edmonds, EiC, paragraph 11

¹³⁹ Submission 2391

¹⁴⁰ RM 180882

¹⁴¹ Submission 655

- d) *with reference to Objective 38.2.1 and Policy 38.4.1.6, it was apparent that the Council had simply zoned its existing reserve network and had manifestly failed to address future needs as required by the objective and policy;*
- e) *in order to meet Council aspirations for open space linkages throughout the District, it was inevitable that this would need to include private land.*

308. In response to concerns raised by the reporting officers that confusion would arise within a zone containing both privately owned and council owned land, it was contended firstly that the split zoning would be illogical, and secondly that private activities on Council land (citing the example of the Ben Lomond reserve) proved that this could be managed successfully. We were not entirely persuaded on the final point, bearing in mind that in the case of the Ben Lomond Reserve (and others containing private facilities) the provisions of the Reserves Act could still be applied and the Council could exercise ultimate control through its leasing arrangements. That would not be the case with the split land ownership at Bridesdale.
309. Nevertheless, we agree that there was some force in the arguments put forward on behalf of the submitter. A split zoning did not seem logical, and as Mr Goldsmith pointed out, if it was acceptable for the Council's land to have an Informal Recreation zoning, it was difficult to see how retaining a Rural zoning over the submitters land could be justified. This still left issues as to what kind of zoning should apply to privately owned land generally, and on this site in particular; the timing of any zoning over this land; and the kind of activities that should be provided for within it.
310. Mr Andy Carr presented traffic evidence for the submitter. He undertook an assessment of likely traffic demand on the local street network based on the activities which could occur if the Bridesdale River Flats was zoned Active Recreation and Sport, and having regard to the Council's Subdivision Code of Practice. Depending on which part of the land was accessed through either Widgeon Place or Hayes Creek Road (through Red Cottage Road), he concluded there would be sufficient capacity to accommodate between 13.8 and 35.5 ha of development¹⁴². In his opinion, the site was also well served with walking and cycling links, and public transport was available in the Lake Hayes Estate subdivision.
311. Dr Shayne Galloway of Galloway Recreation Research Limited, presented evidence relating to the demand for recreational space in the area, and how the Bridesdale River Flats could meet this demand. He noted that the Lake Hayes Estate and Shotover Country Community Association had submitted on the QLDC Long Term Plan with respect to the rapidly growing need for recreational space. He said the site was well located to serve the needs of residents in Bridesdale Farm, Lake Hayes Estate, Shotover Country, and Quail Rise. He said he was not aware of any other similar sized site in the immediate area which could meet these demands, and was of the view that the Council had not adequately provided for future needs. In support of this he cited a list of zoned land in the area¹⁴³. He said the development of the Bridesdale River Flats would be consistent with Objective 38.5 of the Active Sport and Recreation Zone.
312. In his view, the Bridesdale River Flats was ideal for recreation which required large areas of land, but not substantial buildings associated with this. With respect to the proposed tennis

¹⁴² A Carr, EiC, paragraph 5.9

¹⁴³ S Galloway, EiC, Table 1, paragraph 21

academy, he said that the buildings and courts had been designed specifically to cope with periodic flooding events.

313. Mr Stephen Skelton presented brief landscape evidence, noting that the area's landscape character had been significantly affected by development of the escarpment above it, and through the establishment of the community gardens. In his view he considered that the landscape within the Bridesdale River Flats had transitioned from a pastoral to a parkland character¹⁴⁴.
314. At this stage, we think it appropriate to observe that with respect to the differences between the Informal Recreation Zone and the Active Sports Recreation Zone, the latter provides for recreation facilities as a permitted, as opposed to a discretionary, activity. Commercial recreation activities and associated buildings are discretionary in either zone, while informal recreation and public amenities are permitted in either zone. Building coverage in the Active Sport and Recreation Zone is 400m² and a maximum height of 10m as provided for; as compared to 100m² and 6m height respectively for the Informal Recreation Zone. We add at this point that the submitter sought a height limit of 12m on the Bridesdale River Flats site on the basis that this will be needed to accommodate the buildings associated with the proposed tennis academy.
315. In response to the submitter's case, the Council strongly emphasised its opposition to the zoning of private land for Open Space and Recreation purposes. It was Ms Edgley's evidence that a number of notified provisions would not make sense if the scope of the zones were extended to cover private land, citing the example of Policy 38.2.1.6 which makes reference to the Council's functions under the Reserves Act. It was her opinion that if private land within an ONL were to be zoned Active Sport and Recreation (as in this case) the notified standard for height was unlikely to be appropriate. She also considered that the following provisions would need to be added or amended:
- a) *the permitted activity criteria under Rule 35.4.4 for temporary events;*
 - b) *Minimum areas for subdivision and maximum coverage by impervious services;*
 - c) *Minimum floor levels for buildings in flood risk areas;*
 - d) *Minimum site areas for more intensive activities;*
 - e) *building colour requirements, such as expanding Rule 38.10.10 to apply to all zones;*
 - f) *limits on hours of operation.*
316. She added that if an open space was made up of more than one legal parcel, a building of the maximum GFA could be built on each parcel regardless of its size. This was not a problem with Council reserves because subdivision of Council reserves was unusual. She suggested that if the Hearings Panel were minded to allow the submission, any buildings and recreation facilities on privately owned land in all Open Space and Recreation zones should be a fully discretionary activity.
317. We consider that the submitter put forward much more evidence than the Council with respect to the merits of this land being rezoned for recreation purposes. Even leaving aside the deficiencies discussed earlier in this report with the manner in which the Informal and Active

¹⁴⁴ S Skelton, EiC, paragraph 25

Recreation Zones have been promulgated, we consider that the most appropriate approach would be for a bespoke zone to apply to land which is in private ownership (or a combination of private and public land). Such a zoning is provided for under the Christchurch City District Plan, with its Open Space Metropolitan Facilities Zone. We reject the notion that private land cannot have an Open Space and Recreation zoning, only that it does not sit comfortably with zonings applying to Council land specifically.

318. We acknowledge that the Bridesdale River Flats have little future potential for farming activities, and defending an ongoing Rural zoning over only part of the land is undermined when the balance of it is proposed to be zoned Informal Recreation by the Council itself. Should the resource consent to establish the tennis academy succeed, the Rural zoning would be completely undermined by 'facts on the ground'.
319. There are other factors which are relevant to our recommendations. While we accept that there is likely to be increasing demand for open space facilities in what is a rapidly growing area, we note that notwithstanding the paucity of 'zoned' Active Sport and Recreation land in the area, a large part of the needs associated with this demand are met by way of the Queenstown Events Centre and surrounds, albeit that they are zoned Community Purposes. This is not to say that further land should not be zoned, but rather that in practical terms the availability of land for active sport and recreation is not as limited as might appear to be the case by the zoning classifications. We also consider that the Council is not quite as dilatory as the submitter was suggesting.
320. With respect to flood risk, we accept that buildings may be designed to cope with periodic flooding, but if a formal zoning were to be applied across the Council and private land on the Bridesdale River Flats, there would need to be some certainty as to the appropriate development plan framework for the area as a whole, given this somewhat unusual constraint. In terms of traffic, we accept that the area can be served through two possible access routes, but at this point in time the balance between these two routes and the amenity effects of this traffic on the neighbourhood through which they pass have not been discussed with the local affected community.
321. We consider these matters need to be resolved first, and that there needs to be a process whereby the local community can have formal input into such a process.
322. We think the weight of evidence clearly favours the submitter with respect to whether their land should remain zoned Rural or be used for recreational purposes. This is not a small or insignificant area of land. However, we believe its identification as a combined recreational amenity would best be achieved through a further public process and a bespoke zoning with its own objective, policy, and rules framework. The results flowing from the application for the proposed tennis academy would be a logical point at which to initiate such a process.
323. At this point we consider the proposed zoning framework put up by the submitter to be premature, and that we do not have scope available to make the necessary changes to give effect to the development of what would be a very substantial recreation facility on the Bridesdale River Flats, notwithstanding our acknowledgement that there is arguable case to do so. For these reasons we recommend that the submission be rejected.

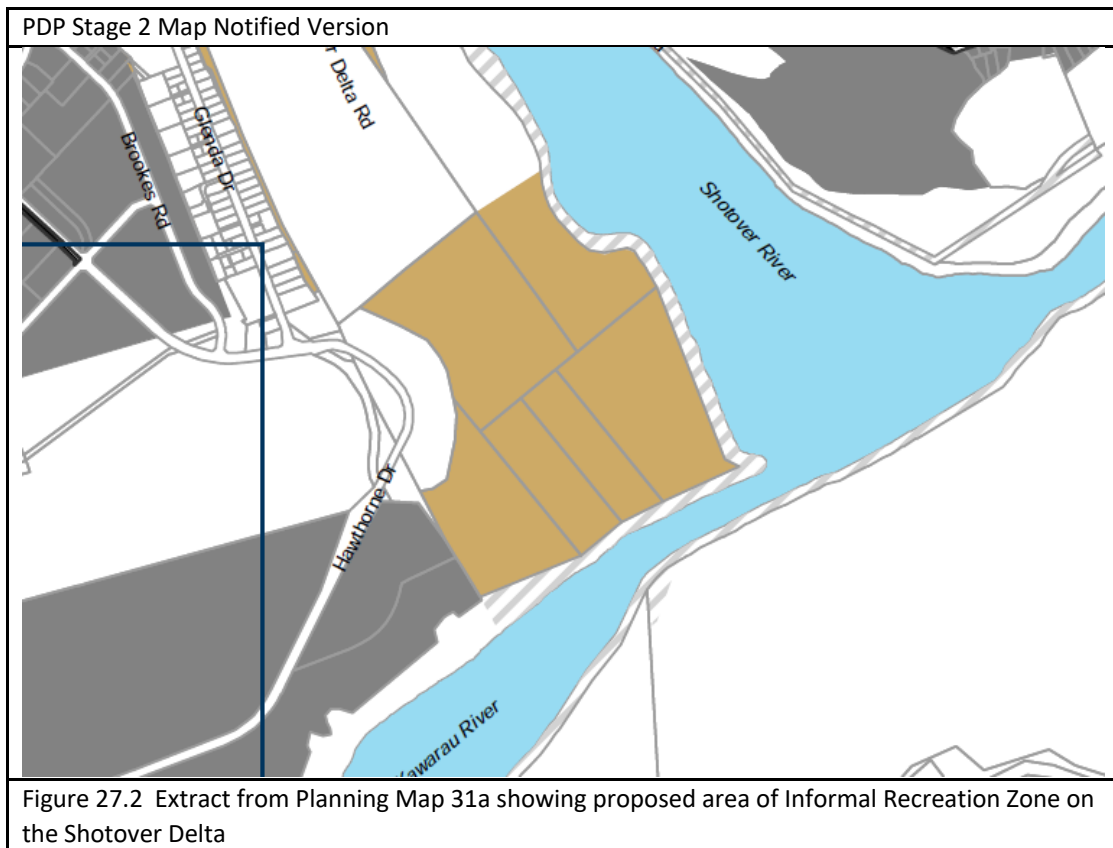
27. SHOTOVER RIVER DELTA

27.1 Queenstown Airport Corporation – Submission 2618; Queenstown Park Limited – Submission 2462; Remarkables Park Limited – Submission 2466

Property and submission information	
Further Submitters	Submission 2618.23 FS2754 - Remarkables Park Limited – Oppose FS2755 - Queenstown Park Limited – Oppose
Land area/request referred to as	The Informal Recreation zoning over the Lower Shotover Delta at the end of the Runway End Safety Area.
Legal Description	Lots 2-3 DP 422388 and Sections 143, 144 and 153 Block I Shotover SD, Section 4 SO 409393
Area	Approximately 43Ha (QLDC GIS)



Figure 27.1 Aerial photo – site subject to submission outlined in red



324. Queenstown Airport Corporation¹⁴⁵ sought that the Informal Recreation Zone over the Lower Shotover Delta, at the end of the Runway End Safety Area either retain the Stage 1 zoning of Rural, or alternatively create a new “Shotover Delta Sub-Zone” and restrict activities within this Sub-Zone to the following:

- Informal recreation (Rule 38.9.2);
- Public amenities (Rule 38.9.3);
- Parks maintenance (Rule 38.9.5);
- New buildings associated with a permitted activity, not otherwise listed in Table 38.1 (Rule 38.9.24);
- Recreation Trails (walking, horse and cycling trails) (Rule 38.9.27);
- Construction of vehicle access and car parking areas, accessory to permitted activities, up to 200m² (Rule 38.9.29); and
- All other activities should be a non-complying activity, except for ASAN, the parking or placing of any motor vehicle, boat, caravan, trailer or material for the purposes of sale or lease, or mining activities which should all be a prohibited activity.

325. Conversely, Remarkables Park Limited and Queenstown Park Limited¹⁴⁶ sought that the Shotover Delta be zoned for Active Sport and Recreation rather than Informal Recreation. The basis of this submission was that the land area involved was large and flat, was sheltered, had reasonably high amenity and was reasonably well connected to the urban environment and the presence of growing housing estates nearby.

¹⁴⁵ Submission 2618

¹⁴⁶ Submissions 2462, 2466

326. The land is located on the broad alluvial flats of the Shotover River, east of Queenstown Airport runway. It is made up of a number of legal parcels and is undeveloped but utilised extensively for passive recreation. The Queenstown Trail's Twin Rivers ride runs through the subject site.
327. Ms Galavazi advised in her evidence that the inclusion of part of Section 4 SO 409393 as Informal Recreation Zone was in error, and that parcel should be zoned entirely Rural. This is because it is not land administered by the Council and the recommended zoning for this area is shown below in Figure 19. We recommend that this be amended pursuant to Clause 16(2) on the basis that it is correcting a minor mapping error. We note also that this amendment is within the scope of the Queenstown Airport Corporation submission.
328. Turning to the relief sought in the Queenstown Airport submission, Ms Galavazi noted that (with the exception of the above minor error) all of subject land is Council-administered land. She argued that to leave it zoned Rural would be inconsistent with the intention of the Council through Chapter 38 to provide Open Space and Recreation zonings over all reserve land.
329. Ms Edgley explained that a number of activities permitted in the Informal Recreation Zone are also permitted in the Rural Zone, such as Recreational Activity, and buildings in some circumstances. She added that commercial recreation activities involving less than 12 people are permitted in the Rural Zone, whereas in the Informal Recreation Zone they are discretionary regardless of the number of people. She was of the opinion that the Informal Recreation Zoning generally provided the same level of protection as the Rural Zone.
330. QAC sought a number of amendments to protect the airport from reverse sensitivity effects, and particularly the establishment of Activities Sensitive to Aircraft Noise (ASAN). Insofar as any Open Space and Recreation zones are concerned, objective, policy, and rule provisions were sought to be added to Chapter 38 consistent with this approach. These have been addressed earlier in submissions on objectives, policies, and rules (refer Sections 9.1, 10.2 and 11.1).
331. In his evidence for the submitter, Mr Michael Clay noted that a Runway End Safety Area (RESA) was provided at the end of the runway but he added that an additional protective measure had already been implemented at some airports¹⁴⁷ to provide an additional buffer area in the event of a runway incident. The corporation was content with the use of the Shotover Delta for passive recreation, but was concerned the range of activities enabled by the Informal Recreation Zone would potentially encourage greater public presence in the area.
332. In addition to noise, the submitter was also concerned about highly unlikely but potentially serious hazard associated with an aircraft overshoot/under shoot on the approach to the main runway, and the potential for activities to attract birds and thereby create a potential bird strike hazard for aircraft.
333. We note that Queenstown Airport has designations to protect their operational requirements, and amendments have been recommended with respect to the objective, policy and rules provisions in Chapter 38 earlier in our report – for example proposed Rule 38.10.12. The submitter indicated at the hearing that they no longer see it is necessary to revert to a Rural zoning. However, while we do not have as many concerns about the concept of a bespoke zone

¹⁴⁷ M Clay, EiC, paragraph 3.4

as the reporting officers, we do not agree that it is necessary to create such a subzone to address the issues raised in the submission. We are satisfied that the Informal Recreation Zoning proposed over the site will have the effect of significantly constraining activities which could have an adverse effect on airport operations, and on the intensity of activity in the Shotover Delta.

334. With respect to the Remarkables Park submission, we do not consider that sufficient information is available to contemplate developing the Shotover Delta for active recreation, including potentially large buildings. Even if we were to disregard effects on Queenstown Airport, considerable work would need to be undertaken to establish that the site was suitable for much more intensive recreational activity, and no evidence was put before us to establish that. We recommend that the submissions of Remarkables Park and of Queenstown Airport be rejected.

335. We acknowledge the need for the rezoning of Section 4 SO 409393 to Rural, to correct a mapping error. Figure 27.3 shows the recommended zoning taking account of that correction.

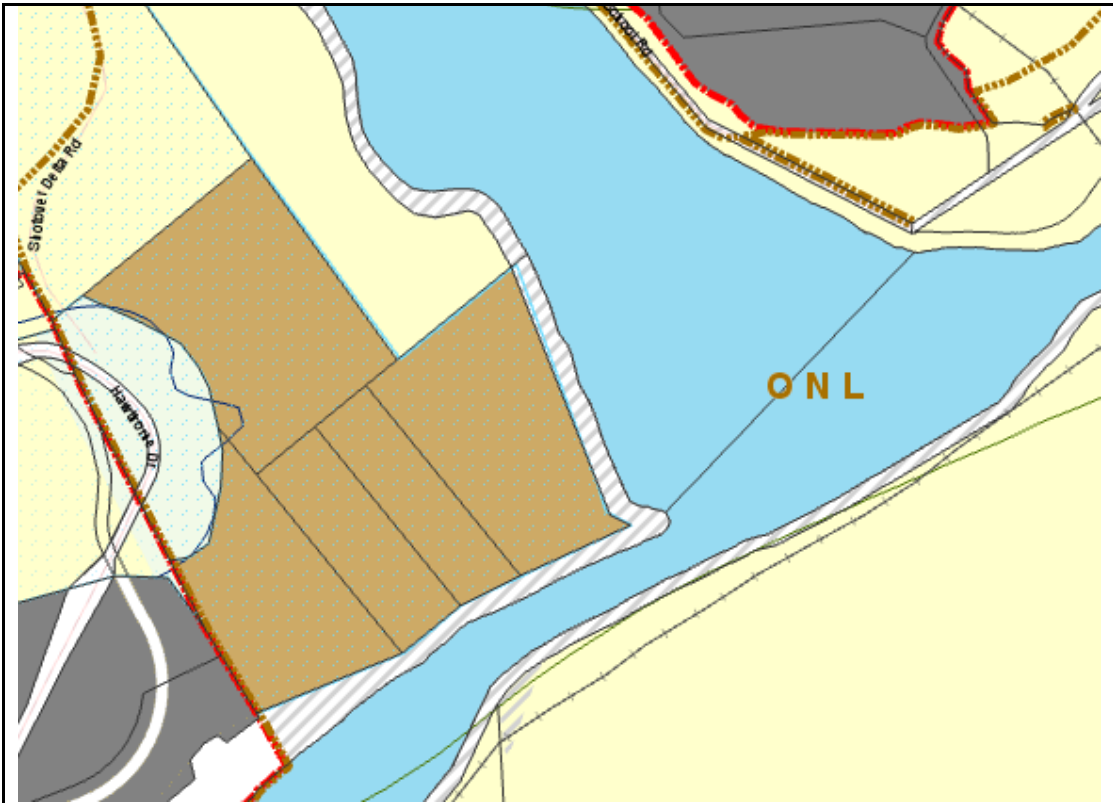


Figure 27.3 Recommended zoning to correct a mapping error.

28. FRANKTON

28.1 Frankton Community Association – Submission 2369

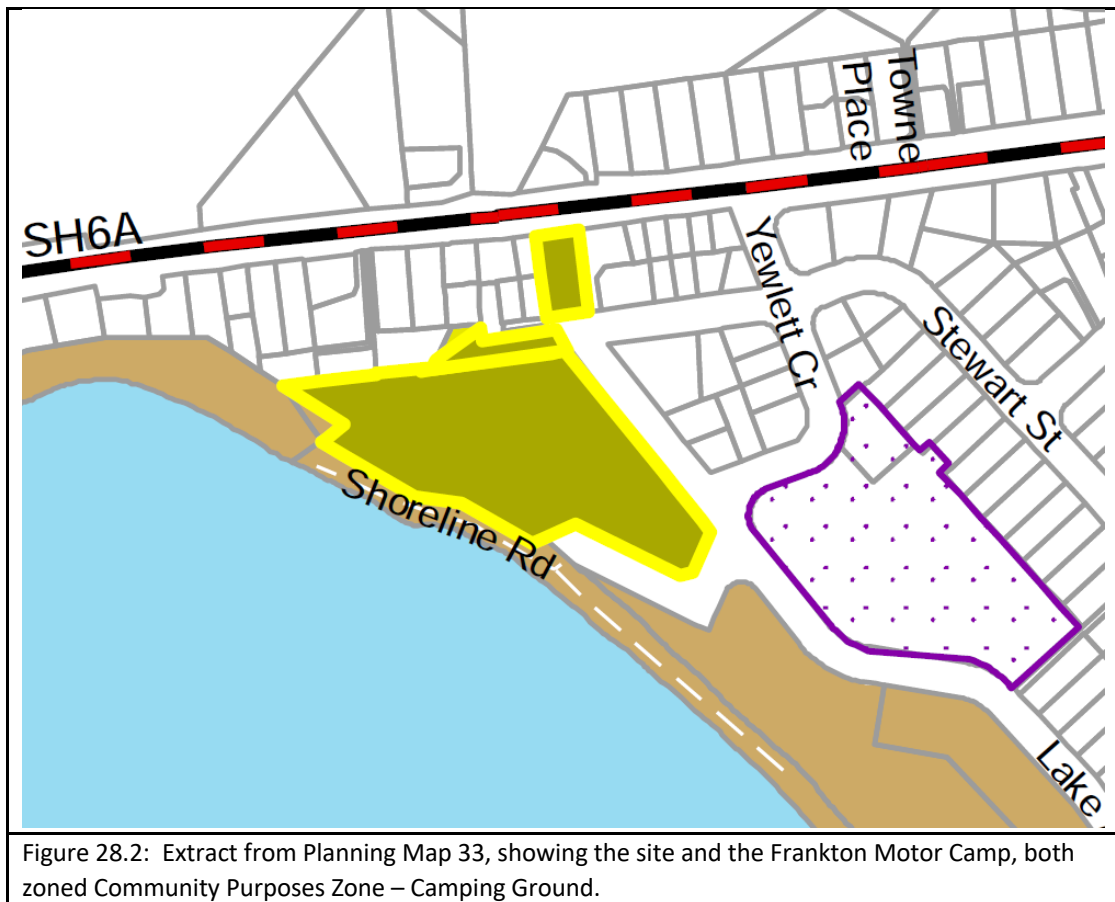
Property and submission information	
Further Submitters	None
Land area/request referred to as	8 and 10 Stewart Street, Frankton.
Legal Description	Sections 8-9 and 16-17 Block XXIV Town of Frankton
Area	1164m2



Figure 28.1: Aerial photo – site subject to submission outlined in red

336. The Frankton Community Association¹⁴⁸ sought that the proposed Community Purposes Zone - Campground zoning for the properties at 8 and 10 Stewart Street, Frankton, be rejected and replaced with Low Density Residential Zone (now known as Lower Density Suburban Residential Zone (LDSRZ) since the release of decisions on Stage 1). The properties are located between Frankton Road and Stewart Street with a residential unit on 10 Stewart Street. We understand number 8 is vacant but used in conjunction with number 10.

¹⁴⁸ Submission 2369



337. The LDSRZ provides primarily for residential activity. The reporting officers opposed the zoning of the land for residential purposes as this is not an activity that the Council undertakes on the land that it administers. It was concluded that, if the Council was to revoke the reserve status and withdraw the designation and dispose of the land, only then would the LDSRZ be the appropriate zoning.
338. There was no evidence that the land was going to be required for Campground purposes either now or in the future. Furthermore, it is physically separated from the balance of the campground. We agree with the Frankton Community Association that given the adjoining zoning pattern this land would logically be zoned Low Density Suburban Residential. We recommend that the submission point be accepted and that the land be zoned Low Density Suburban Residential. This is shown on Figure 28.3.

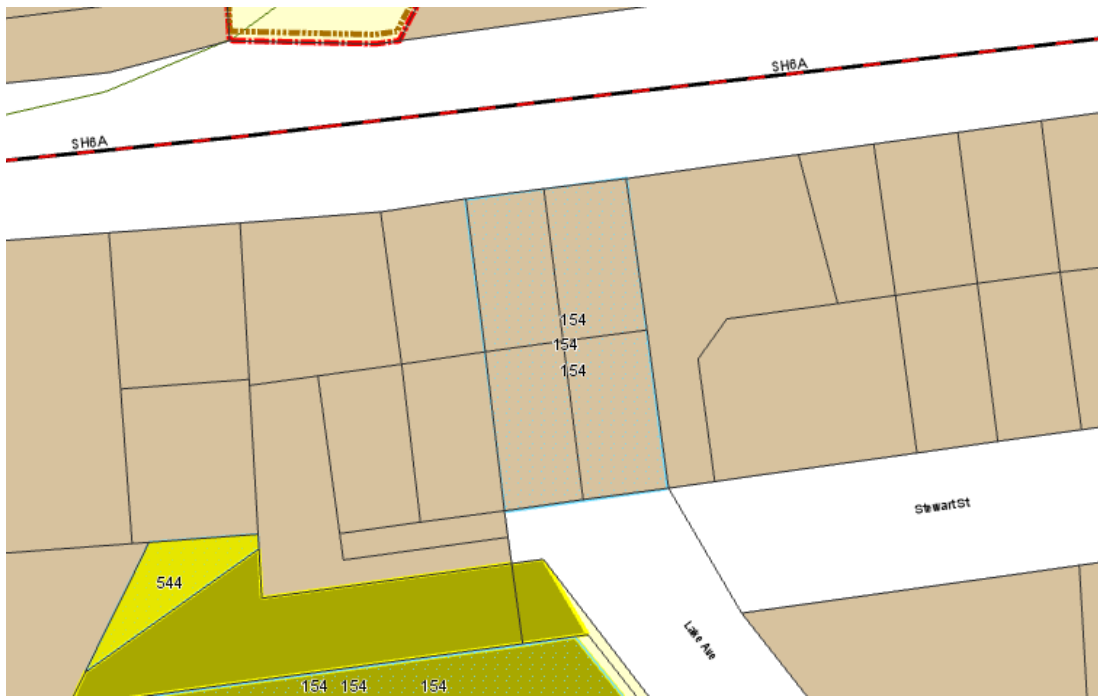


Figure 28.3: Map showing zoning in vicinity of 8 and 10 Stewart Street incorporating our recommended zoning of those sites as Lower Density Suburban Residential.

29. WANAKA

29.1 Wanaka Yacht Club – Submission 2232

Property and submission information	
Further Submitters	None
Legal Description	Sections 6, 9 and 14 Block XV Town of Wanaka
Area	Approximately 9360m ² (QLDC GIS)



Figure 29.1 Aerial photo – site subject to submission outlined in red

339. The Wanaka Yacht Club submitted that the zoning of land around Wanaka Marina be amended from Informal Recreation to Active Sport and Recreation Zone.
340. The current use of this land includes boat ramps, large areas of parking (both sealed and unsealed) for vehicles and boats, and a small toilet block. The Wanaka Yacht Club clubhouse is located towards the northern end of the site.
341. Ms Edgley explained that the Informal Recreation Zone has been applied to the shores of Lake Wanaka, reflecting that the land is highly visible, has high use by the public and is generally used for passive activities such as walking, picnicking, and admiring the view. Some activity that has a direct relation to the water may be located in these areas, for example, Wanaka Yacht Club and the proposed new Wanaka Watersports Facility. District wide Objective 38.2.4 and its related policies recognise the special natural character of waterbodies and their margins and seek to manage the interface between them.
342. Mr White represented the Yacht Club at the hearing. Apart from the intense activity in the vicinity of the site during the summer months, Mr White explained that the yacht club is likely to replace its existing club building with a larger structure. In practical terms, the proposed Informal Recreation zoning provides for a building of 100m², and a maximum height of 6m,

whereas if the site was zoned Active Sport and Recreation this would allow a building of 400 m² and a maximum height of 10m. At our request, Mr White submitted a plan identifying the actual area sought for rezoning so that it can be differentiated from the extensive linear zoning that would remain as Informal Recreation Zone. Mr White also claimed that the existing Reserve Management Plan provided for a 10 m building height. Ms Edgley advised that this was in fact a provision of the operative designation conditions for all recreation reserves¹⁴⁹.

343. It appeared the primary reason for the rezoning sought was to provide greater flexibility and an easier consenting path for future redeveloped a new yacht club building, particularly with regard to building height. We consider that this is not a sufficient reason to change from the proposed Informal Recreation zoning, and to create a 'break' in the zoning pattern along the lake shore. Furthermore, we consider that buildings of the scale allowed under the zoning sought justified a consent process being required.
344. That said, this is another example of widely varying outcomes and environments that seem to be provided for within the Informal Recreation Zone, which do not always align well with the rules' framework. Intuitively, one might expect that the intense level of activity associated with this section of the lakeshore is not consistent with what one would be led to expect by the zoning itself and rules framework within it.
345. We recommend that the submission point be rejected.

¹⁴⁹ C. Edgley, Reply Evidence, paragraph 8.4

29.2 Pembroke Park – David Gray Submission 2155

Property and submission information	
Further Submitters	None
Appears to seek that ODP be reverted to.	
Legal Description	Section 1 Block L Town of Wanaka
Area	10.52Ha



Figure 29.2 Aerial photo – site subject to submission outlined in red.

346. David Gray requested that Pembroke Park be excluded from consideration for zoning under the PDP. He raised concerns about the types of activities that have permitted, controlled or discretionary status because of the proposed Community Purposes zoning and requested that many of them be prohibited. No alternative zoning was proposed, although the submitter requested that the Council abide by the current Pembroke Park Management Plan.
347. Of the particular activities singled out for concern in the submission, some are discretionary (38.9.7 – community centres and halls, and 37.9.8 – day care facilities including buildings) which would require a resource consent. Others (38.9.16 restaurants and cafes accessory to a permitted activity, 38.9.18 – retail accessory to a permitted activity, 38.9.24 – new buildings associated with permitted activity and 38.9.28 – construction of vehicle access and car parking areas accessory to permitted activities up to 200 m²) are controlled or permitted but are all activities that must be associated with permitted activities in the zone and cannot be established in isolation.
348. We recommend that the submission be rejected. The Reserve Management Plan for this land will continue to apply as requested in the submission, and the establishment of most of the

activities of concern would require a resource consent and provide the opportunity for public involvement.

30. MISCELLANEOUS REZONING SUBMISSIONS

30.1 Remarkables Park Limited

349. Remarkables Park Limited¹⁵⁰ sought the land at the southern end of Riverside Road (that is shown as unformed road on Map 31a) to be zoned Informal Recreation Zone. Under Chapter 29 Transport, and the associated variation to Chapter 37 Designations, roads do not have a zoning. The end of Riverside Road would require to be stopped under the Local Government Act 1974¹⁵¹ before a zone could subsequently be applied. The resultant rules that would apply would then be determined in accordance with the provisions of the Transport Chapter, before a plan change to apply a zoning to that land on the plan maps. We recommend that the rezoning request be rejected.

30.2 Felzar Properties Limited

350. Felzar Properties Limited¹⁵² submitted in Stage 1 of the PDP review for the rezoning of land at the southern end of Lake Hayes from Rural to Rural Residential.

351. This land was subsequently varied in Stage 2 of the review of the PDP, and was then largely heard as part of Stream 14 submissions relating to the Wakatipu Basin. However, one parcel of that area of land was subsequently notified as Informal Recreation Zone in Stage 2 of the PDP, so that part of the land (Part Section 57 Block IX Shotover SD) therefore falls to be considered here.

352. The submitter did not make another submission in Stage 2 of the PDP review, and there has been no further evidence or appearance at the hearings to assess the rezoning request. Accordingly we recommend that the submission be rejected as it relates to Part Section 57 Block IX Shotover SD and the Informal Recreation Zone should apply.

30.3 David Crawford

353. David Crawford¹⁵³ sought to rezone land along Anderson Road in Wanaka to Medium Density Residential Zone. The majority of the submission has been struck out¹⁵⁴ as not being within scope, but the portion of the submission relating to the land notified Informal Recreation Zone in Stage 2 can be considered.

354. The land zoned Informal Recreation in the vicinity of Anderson Road is designated for a mixture of Local Purpose Reserve and Recreation Reserve purposes, with the larger area known as Domini Park. It is not clear from the submission if this land was intended to be included in the rezoning request, but with these areas currently operating as recreation and open space and no supporting evidence in the submission for the rezoning, we support the reporting officer's recommendation that it be rejected.

¹⁵⁰ Submission 2468

¹⁵¹ Section 342

¹⁵² Submission 229

¹⁵³ Submission 2325

¹⁵⁴ Decision Relating to Submissions Not "on" Stage 2, dated 16 May 2018

31. OVERALL RECOMMENDATIONS

355. Having considered the evidence and submissions before us, we are satisfied that objectives we are recommending in chapter 38 are the most appropriate way to meet the purpose of the Act in terms of the Council's reserves. We are also, to the extent provided by scope in the submissions, are satisfied that the policies, rules and other provisions to give effect to those objectives and the most effective and efficient means of doing so.
356. For the reasons set out throughout this Report, we recommend that:
- a. Chapter 38 be adopted in the form set out in Appendix 1 Part A;
 - b. The variations to Stage 1 Chapters 27, 35 and 36 as set out in Appendix 1 Part B be adopted;
 - c. The definitions set out in Appendix 1 Part C be included in Stage 1 Chapter 2; and
 - d. The submissions on these provisions be accepted, accepted in part or rejected as set out in Appendix 2.

For the Hearing Panel



Denis Nugent, Chair

Date: 11 January 2019

Appendix 1: Recommended Revised Chapter 38 Open Space and Recreation and Associated Variations

38 Open Space and Recreation Zones

38.1 Purpose

The purpose of the Open Space and Recreation Zones is to enable recreation activities and provide for associated infrastructure while protecting, maintaining and enhancing landscape values, nature conservation values, ecosystem services and amenity. The zones apply to Council administered reserves, and do not apply to water bodies (including surface of water), Conservation Land (including lakes and rivers) or private open space. In general, the zones do not apply to Crown Land (including lakes and rivers), other than for discrete situations (such as Queenstown Gardens, where the Crown Land reserve is integral and indistinguishable from the Council reserve land surrounding it). Where a reserve adjoins a water body, the reserve is zoned to recognise, and provide for, the interrelationship between the water activities and the land based component of those activities.

Open Space is a significant resource to the District and Region. This resource requires protection from inappropriate activities that could degrade its qualities, character and values.

Commercial recreation and tourism operators are located within some of the zones and a wide range of commercial recreation and tourism activities utilise the resources available within the zones. Some of these operators have substantial assets associated with the activity established within the zones. The desire for the maintenance and development of existing activities and development of further new opportunities for these activities needs to be provided for on the basis commercial activities are carefully managed to maintain and enhance the valued qualities of the zones and established operations.

The Open Space and Recreation Zones can be grouped according to the following features and uses:

- a. visual amenity (such as gardens and tree plantings, areas of indigenous vegetation and landscape values);
- b. children's play (such as playground equipment and neighbourhood parks);
- c. active sports (such as team sports, golf, and tennis);
- d. passive use of open space (such as areas for walking, running, cycling, picnicking, or enjoying a particular landscape);
- e. waterfront access (such as lakeside and riverside walkways and beaches, access to lakes and rivers for fishing and water-based sports);
- f. linkages (such as walking tracks and cycle ways);
- g. built facilities (such as halls, gymnasiums, clubrooms, swimming pools and libraries);
- h. heritage sites and heritage features;
- i. nature conservation (such as water margins, wetlands and indigenous vegetation); and
- j. commercial opportunities (such as gondolas, ziplines, events and guided walks).

The District provides a wide range of recreation opportunities. Its outstanding natural environment which includes lakes, rivers, mountains and basins provide an ideal setting for a variety of outdoor recreation activities. Together, the activities and the environments that they occur within are internationally recognised as the basis for the District's importance as a visitor destination, are crucial to the tourism industry and economy, as well as encouraging residents to settle within the District. The climate is conducive to outdoor recreation and its proximity to Mt Aspiring and Fiordland National Parks provides further opportunities for outdoor recreation.

Within the town centres, urban areas and townships, there are opportunities for indoor recreation and community activities, such as libraries, swimming pools and community halls, as well as outdoor venues for more formal sporting activities.

Open space is an important recreation and community resource. It can provide visual relief and amenity amongst the developed residential and commercial environments, opportunities for education concerning the natural environment, as well as active use (such as walking and cycling) and passive use (such as children's play, or picnicking, sitting and contemplation) for both residents and visitors.

Five zones and four sub-zones are used to manage activities on land zoned Open Space and Recreation within the District, these are:

- Nature Conservation Zone;
- Informal Recreation Zone, which includes the Ben Lomond Sub-Zone;
- Active Sport and Recreation Zone;
- Civic Spaces Zone; and
- Community Purpose Zone which includes the Community Purposes – Cemeteries, Community Purposes – Golf and Community Purposes – Camping Ground Sub-Zones.

38.2 Objectives and Policies – District Wide

38.2.1 Objective - The open space land and facilities administered by the Council make a major contribution towards meeting the needs of the District's residents and visitors for passive and active recreation.

Policies

38.2.1.1 The design, development, management and maintenance of Open Space and Recreation Zones shall provide for:

- a. the needs of the community in the area in which the zones are located, and the needs of the wider community and visitors to the District;
- b. the effective and efficient use of resources so as to ensure that Open Space and Recreation Zones are fit for purpose and safe for all users;
- c. the maintenance and enhancement of integrated public access connections to walking and cycling networks throughout the District, including along lake and river margins;
- d. recognise and provide for users of all ages and different physical capacities
- e. the location within which Open Space and Recreation Zones are situated, responding to recognised natural character, landscape and heritage values; and
- f.. the provision of infrastructure necessary to service Open Spaces and Recreation Zones, including recreation facilities and amenities.

38.2.1.2 Encourage multiple use of Open Space and Recreation Zones wherever possible and practicable.

38.2.1.3 Promote the protection of existing ecological values having regard to the purpose, objectives and policies specific to each Open Space and Recreation Zone, and opportunities for enhancing natural values-

38.2.1.4 Protect open space, recreation and amenity values by managing the adverse effects of, and conflicts between, different types of recreation activities.

38.2.1.5 Avoid activities that do not have a practical or functional need to be located within Open Space and Recreation Zones, unless a particular activity:

- a. is compatible with and does not affect the continued operation of established activities;
- b. does not preclude the development of new open space and recreation activities; and
- c. maintains ~~and~~ or enhances the recreation and amenity values.

- 38.2.1.6** Provide a District Plan framework that establishes the roles, functions and activities for each Open Space and Recreation Zones, within which the outcome of public participation into the design, development, management and enhancement of reserves can be implemented through processes other than through the Act, such as reserve management plans.
- 32.2.1.7** Provide adequate firefighting, water, and fire service vehicle access to ensure an efficient and effective emergency response.
- 38.2.2** **Objective - Recreation activities are undertaken and facilities constructed in a way that maintains or enhances the values of open space areas and the recreation opportunities available within the District.**

Policies

- 38.2.2.1** Ensure activities are undertaken, in a manner that maintains or enhances the amenity values of the relevant reserve and surrounding environment, including natural, scenic and heritage values.
- 38.2.2.2** Limit activities, buildings and structures to those compatible with the role and function of the zone, and the sensitivity of the surrounding environment, and which are necessary to maintain or enhance the anticipated use or values of the zone.
- 38.2.2.3** Require areas surrounding buildings, structures, outdoor storage and parking areas to be screened and landscaped to mitigate visual impacts and maintain or enhance amenity values.
- 38.2.2.4** Ensure the scale and location of buildings including associated structures, trails and accesses, and noise and lighting associated with recreation activities is consistent with the level of amenity anticipated in the zone and in the surrounding environment, having particular regard to the following where new buildings, structures or lighting are proposed:
- a. the purpose, number, size and location of new buildings, structures and lighting are appropriate, in terms of their function and the sensitivity of the environment;
 - b. that building design and appearance positively contributes to amenity, cultural, ecological and landscape values;
 - c. that buildings or structures do not unduly preclude or limit public access, particularly along the margins of the District's lakes and rivers;
 - d. that cumulative adverse effects of buildings and activities are taken into account; and
 - e. the provision for and standard of lighting, including:
 - i. its siting and location, in particular, how it contributes to public safety; and
 - ii. minimising upward light spill on the night sky.
- 38.2.2.5** Ensure that any buildings or structures located within, adjoining or nearby to an Outstanding Natural Feature or Landscape, protect, maintain or enhance those values by:
- a. limiting development and activities in the vicinity of water bodies to the land based components of community recreation water based activities, which have a practical and functional need to be located within these areas; (refer also to Objective 38.2.4)
 - b. preserving the natural character of the margins of waterbodies; (refer also to Objective 38.2.4)
 - c. ensuring buildings are located in areas that are least sensitive to change and have capacity to absorb development;
 - d. requiring buildings to be designed and finished so they:
 - i. avoid visual dominance; and
 - ii. mitigate or remedy adverse effects on the values of the Outstanding Natural Feature or Landscape; and

- e. ensuring trails, access and carparking areas (including associated earthworks) do not degrade visual amenity values or disrupt the natural character or landforms.

38.2.2.6 Ensure the development and use of Open Space and Recreation Zones maintains the amenity values enjoyed by residents and visitors such as walking, social activities, and the protection of, view shafts as seen from adjoining land and roads.

38.2.2.7 Ensure that the development and use of Open Space and Recreation Zones, and the interface with the surface of water bodies adjoining these zones, is managed to protect amenity values and maintaining and ensuring the safe movement of people and goods.

38.2.3 **Objective – Commercial activities are limited to those that have a functional requirement to locate within Open Space and Recreation Zones and maintain open space and recreation values.**

Policies

38.2.3.1 Ensure that commercial activities have a genuine link with the open space and recreation resource.

38.2.3.2 Ensure that commercial activities ~~do not degrade~~ maintain the quality, amenity values and landscape values of open spaces.

38.2.3.3 Provide for commercial recreation activities that maintain ~~do not detract from~~ the quality of the experience of people partaking in other commercial recreation activities and other passive and active informal recreation activities, having particular regard to the scale, intensity and cumulative effects of commercial recreation activities.

38.2.4 **Objective – The interface between activities within the Open Space and Recreation Zones are managed to protect, maintain or enhance the natural character of waterbodies and their margins (refer also to Policies 38.2.2.5 a and b).**

Policies

38.2.4.1 Provide recreation, commercial and public transport opportunities within Open Space and Recreation Zones in a manner that supports the preservation of the natural character and nature conservation values of lakes, rivers and their margins from inappropriate activities.

38.2.4.2 Recognise and provide for the maintenance and enhancement of public access to, and enjoyment of, the margins of lakes and rivers, particularly where access and enjoyment is compatible with protecting the natural character and nature conservation values of those lakes and rivers.

38.2.4.3 Enable people to have access to a wide range of community recreational experiences on the margins of waterbodies, including the limited provision of commercial recreation activities that maintain landscape, amenity and nature conservation values, especially where they integrate with recreation activities on and under the surface of the waterbody.

38.2.5 **Objective – Activities sensitive to aircraft noise within the Queenstown Airport Air Noise Boundary or Outer Control Boundary are avoided or managed to mitigate noise and reverse sensitivity effects.**

Policy

- 38.2.5.1** Require buildings that contain an Activity Sensitive to Aircraft Noise and are located within the Queenstown Airport Air Noise Boundary or Outer Control Boundary to be designed and built to achieve an internal design sound level of 40 dB L_{dn}.

38.3 Objectives and Policies – Nature Conservation Zone

Purpose

The Nature Conservation Zone primarily applies to open space and recreation areas that border lakes and rivers, or are recognised for their natural, ecological, and landscape values. The Nature Conservation Zone provides for informal recreation and access to the District's unique landscapes. These areas offer diverse recreation opportunities such as biking, walking and water activities, together with providing connections with nature.

To protect the values of the Nature Conservation Zone, recreation activities and development are limited in scale and intensity. Infrastructure, buildings, structures, and activities provided for within this zone relate specifically to conservation, recreation, and visitor information.

- 38.3.1 Objective - Use and development complements and protects the nature conservation values and natural qualities of the Nature Conservation Zone.**

Policies

- 38.3.1.1** Provide for appropriate use and development by:

- a. limiting activities, buildings and structures to those necessary to maintain or enhance the use or values of the zone and only allowing these where they cannot be located on other adjoining or nearby land for the same purpose;
- b. locating and designing new buildings, structures, additions and parking areas to protect and maintain the character and values of the zone;
- c. mitigating the visual impacts of buildings, structures and parking areas through appropriate landscaping and design responses; and
- d. identifying opportunities to enhance biodiversity and providing for these opportunities to be realised as part of the mitigation of the adverse effects of subdivision of adjoining land and use and development within the zone.

38.4 Objectives and Policies – Informal Recreation Zone

Purpose

The Informal Recreation Zone applies to open space and recreation areas that are primarily easily accessible for the immediate community and visitors or within easy walking distance for residents within the area. It provides a basic informal recreation experience, including play opportunities (such as flat, kick-around space) and offers areas for respite and relaxation. In addition, the Informal Recreation Zone is intended to provide physical links to other areas (such as by cycle ways or pedestrian access ways).

The Informal Recreation Zone encompasses both small local parks and neighbourhood reserves, through to large open areas fronting the District's Lakes. It also encompasses small reserves that provide visual relief from the built environment. While some civic activities may take place on these reserves, it is anticipated that larger and more formal civic events will occur within the Civic Spaces Zones.

The Informal Recreation Zone accommodates a number of facilities, including public toilets, children's playgrounds, public barbeques, public art, car parks, tracks and general park furniture.

The foreshore reserves such as those along Roys Bay in Wanaka and Queenstown Bay also contain the majority of the lake-related commercial leases and concessions.

Buildings and structures located on the Informal Recreation Zone are generally limited to those that support informal recreation and are typically small-scale community buildings and structures.

Much of the Informal Recreation Zone is readily accessible, and are located within and adjacent to areas of high interest, landscape and amenity values. A range of commercial recreation and tourism activities exist in the zone and there is a desire to develop existing and new activities. The scale and intensity of these activities and associated buildings and infrastructure need to be carefully managed.

The Informal Recreation Ben Lomond Sub Zone recognises and manages the existence and extent of commercial and informal recreation activities in the Ben Lomond Recreation Reserve. This site is of particular importance because of its close proximity to the Queenstown Town Centre and its popularity with visitors and residents. The Ben Lomond Recreation Reserve is also unique in terms of the breadth of activities present, which include a gondola and restaurant, luge, zipline operations, helicopter flights, parasailing, management of forestry, wildlife park and trails used for both commercial and informal recreation. Further development is contemplated where it is undertaken in a manner that is sensitive to other occupiers and users, and where it will maintain the overall landscape values, visual amenity values and recreation experiences of users of the sub zone.

38.4.1 Objective – Use and development for informal recreation maintains and enhances the environment

Policies

- 38.4.1.1** Enable a variety of informal recreation activities, including small-scale community uses and accessory activities.
- 38.4.1.2** Encourage commercial recreation activities and related commercial activities to complement and enhance other uses and experiences in the Informal Recreation Zone while at the same time maintaining or enhancing the landscape and amenity values of the zone.
- 38.4.1.3** Provide for multiple recreation activities while managing conflicts between multiple uses, and ensuring public safety and public access to informal recreational opportunities are maintained and enhanced.
- 38.4.1.4** Ensure that buildings and activities that exclude or restrict public access are limited so as to encourage public use and maintain open space for informal recreation, recognising that the existing facilities that have been established within this zone are appropriate to remain and in some instances, may be extended or redeveloped.
- 38.4.1.5** Limit the intensity of activities to minimise adverse effects such as noise, glare and traffic on amenity values, peace and enjoyment of the Informal Recreation Zones and surrounding environment.
- 38.4.1.6** Opportunities are taken to enhance recreational trail networks, cycling and walking linkages within the zone, and to other zones, to create a contiguous network to assist residents and visitors to move through and around neighbourhoods, and to other destinations, thereby providing an alternative and sustainable mode of transport.

Within the Ben Lomond Sub-Zone

- 38.4.2 Objective – Use and development of the Ben Lomond Sub-Zone provides a high-quality destination for residents, and domestic and international tourists, while maintaining the landscape values and amenity values of the surrounding Outstanding Natural Landscape.**

Policies

- 38.4.2.1** Control the visual impact of buildings, passenger lift systems, earthworks and infrastructure associated with commercial and commercial recreation activities.
- 38.4.2.2** Ensure that buildings, passenger lift systems and infrastructure associated with commercial and commercial recreation activities are not highly prominent on the skyline and remain subservient to the view of Walter Peak when viewed from the north east (Malaghans Road / Gorge Road).
- 38.4.2.3** Provide for and maintain Gondola access between Brecon Street and Bob's Peak including necessary removal of exotic conifers subject to landscape rehabilitation in the event of conifer removal.
- 38.4.2.4** Ensure the removal of exotic conifer trees in areas other than the Gondola corridor mitigates the post-harvest adverse effects on landscape and visual amenity through landscape rehabilitation.
- 38.4.2.5** Provide for the continued operation of an informal airport within the Ben Lomond Sub-Zone where the adverse effects on health, safety, and amenity are mitigated through the management of the frequency and intensity of daily and weekly flight operations, flight paths, and separation distances from incompatible activities.
- 38.4.2.6** Control the effects of commercial and commercial recreation activities on amenity values through the management of their scale, nature and intensity.

38.5 Objectives and Policies – Active Sport and Recreation Zone

Purpose

The Active Sport and Recreation Zone includes larger parks and reserves that are primarily used for organised sport and events, usually with associated buildings and structures. The zone primarily applies to open space that is easily accessible, used for indoor and outdoor organised sports, active recreation and community activities.

The Active Sport and Recreation Zone areas are designed and used for organised sport and recreation with toilets, changing facilities, car parking and turf or playing surfaces formally maintained to an appropriate standard for the relevant sports code. These include sports fields, hard-court areas, club facilities as well as associated infrastructure such as car parking and changing rooms.

Commercial activities accessory to sport and active recreation activities, such as those that provide food or beverage services to support recreational use, may be undertaken in appropriate locations within this zone.

The Active Sport and Recreation Zone applies in the main urban centres and contain provisions that recognise the intensive use made of these areas, and the need to provide sufficient facilities to support these uses, while at the same time, providing for the open space and amenity values of a park or reserve within this zone, as well as avoiding or mitigating adverse effects on the surrounding areas.

- 38.5.1 Objective - Active sport and recreation activities are provided for in appropriate locations, while managing adverse effects on surrounding areas and communities.**

Policies

- 38.5.1.1** Provide for indoor and outdoor organised sports, active recreation, recreation facilities, community activities, accessory activities and associated buildings and structures.
- 38.5.1.2** Active sport and recreation and associated buildings, structures (including additions) and car parking, are designed, located and operated to be compatible with the surrounding

environment in which they are located, particularly within or adjacent to residential environments, and to avoid or mitigate any adverse effects of the activities (such as noise, hours and frequency) and of buildings, including visual dominance, outlook from adjoining or nearby sites and buildings, and shading.

38.6 Objectives and Policies – Civic Spaces Zone

Purpose

The Civic Spaces Zone provides for civic activities.

Civic spaces contribute to the character of centres and urban areas and provide opportunities for informal recreation, social interaction and community gatherings and events. They also support local character and provide a sense of identity.

The Civic Spaces Zone receives a high level of use and the zone and facilities shall be designed, operated and maintained with a high level of service. Events are often held within civic spaces, such as festivals and markets. They are places that help to establish communities and a sense of place. These areas are typically subject to higher demand from public and commercial use and are important civic spaces that directly support the District's tourism industry.

38.6.1 Objective – Civic spaces are the community focal points for civic and community functions, events and informal recreation of benefit to both the community and the District.

Policies

38.6.1.1 Manage and promote passive recreation activities, while providing for commercial and community activities of a temporary nature that are of public benefit.

38.6.1.2 Limit buildings and structures to those that are necessary to support civic activities, and where this is demonstrated, ensure that buildings and structures enhance the amenity values, functionality and use of the zone.

38.6.1.3 Enable public amenities and the installation of artworks and interpretive signs, that enhance the use and enjoyment of civic spaces.

38.7 Objectives and Policies – Community Purposes Zone

Purpose

The Community Purposes Zone primarily accommodates open space areas that play a significant community function, including libraries, halls and recreation centres. It also provides specifically for cemeteries, golf courses, campgrounds and areas that have a significant passive recreation function that are not otherwise encapsulated in other zones, such as the Queenstown Gardens. Community buildings and associated activities are generally provided within the Community Purposes Zone.

Community Purposes Zones located within the townships and outlying settlements often have multiple activities that host a variety of passive and active activities and associated infrastructure.

Where the Community Purposes Zone is for a specific function, the zone has been broken into sub-zones for the purposes of better articulating management outcomes for each sub-zone. The three sub-zones are:

Community Purposes Zone (Cemeteries);

Community Purposes Zone (Golf); and
Community Purpose Zone (Camping Ground).

Both the Community Purposes Zone (Golf) and the Community Purposes Zone (Camping Ground), comprise the District's golf courses and campground facilities that are owned by the Council, but are leased to private interests. These two sub-zones include provisions that recognise the specialised use of these open space areas. Accordingly, the Community Purposes Zone allows for greater flexibility in the scale and nature of development of these spaces, while at the same time ensuring that development of these spaces is sympathetic to adjoining areas. As an example, this includes where a Community Purposes Zone (Camping Ground) may border one of the District's lakes or Outstanding Natural Landscapes.

38.7.1 Objective – Community activities that meet the current and future social, cultural, recreation, health and community needs of both local communities and visitors to the District are provided for within a diverse range of open spaces.

Policies

38.7.1.1 Enable community activities and associated buildings and structures (including indoor and outdoor organised sports, active recreation and recreation facilities) that contribute to the function of the zone as focal points for District and Regional activities, while ensuring that the location and design of new buildings and structures, additions to existing buildings and structures and parking areas, maintain the character and values of each Community Purposes Zone.

38.7.1.2 Enable the continued operation of the District's existing cemeteries while maintaining public access, the open space amenity, and any historic heritage values of these community spaces.

38.7.1.3 Buildings, structures and activities associated with the community activities themselves are designed and located so that any adverse effects including noise, lighting and traffic effects, are managed to maintain the level of amenity value of the surrounding environment within which they are located.

38.7.1.4 Ensure that the development of golf courses and camping ground areas continue to provide for a mixture of restricted and full public use, as well as the open space visual amenity enjoyed by the wider public.

38.7.1.5 Ensure that the development of golf courses and camping grounds maintains and enhances the landscape and amenity values of the surrounding environment.

38.8 Other Provisions and Rules

38.8.1 District Wide

Attention is drawn to the following District Wide chapters.

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes
25 Earthworks	26 Historic Heritage	27 Subdivision
28 Natural Hazards	29 Transport	30 Energy and Utilities

31 Signs	32 Protected Trees	33 Indigenous Vegetation and Biodiversity
34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings	36 Noise
37 Designations	Planning Maps	

38.8.2 Interpreting and Applying the Rules

- 38.8.2.1** A permitted activity must comply with all of the rules listed in the Rules - Activities (Table 38.1) and Rules - Standards (Table 38.2) for the Open Space and Recreation Zones and Table 38.3 for the Informal Recreation Ben Lomond Sub Zone, and any relevant district wide rules.
- 38.8.2.2** Where an activity does not comply with a standard listed in the Rules - Standards for the Open Space and Recreation Zone tables, the activity status identified by the 'Non-Compliance Status' column shall apply. Where an activity breaches more than one Standard, the most restrictive status shall apply to the activity.
- 38.8.2.3** The Ben Lomond Sub-Zone and the 3 Community Purpose Sub-Zones, being sub-zones of the Informal Recreation Zone and Community Purpose Zone, require that all rules applicable to the Zone apply. Where specific rules are identified for the sub-zone, these shall prevail over the rules of the Informal Recreation Zone or Community Purpose Zone.
- 38.8.2.4** The surface of lakes and rivers are zoned Rural, unless otherwise stated in the District Plan or identified on the Planning Map
- 38.8.2.5** Activities, buildings and structures proposed to be established within the vicinity of Queenstown Airport are referred to Figures 1 and 2 of the Planning Maps which identify the Airport Approach and Protection Measures, and Airport Protection Inner Horizontal and Conical Surfaces for Queenstown Airport. Land use restrictions associated within these areas are further described in Chapter 37: Designations, Part D.3. Persons who wish to undertake activities or develop buildings or structures which enter into these surfaces are advised to consult with the relevant requiring authority and the Civil Aviation Authority.
- 38.8.2.6** Table 38.1 specifies the activity status of land use activities in the Open Space and Recreation Zones, pursuant to section 9(3) of the Resource Management Act 1991. Notwithstanding the following rules, the Reserves Act 1977 applies to land vested under section 14 of the Reserves Act 1977. Reserves and land controlled by Council or the Department of Conservation may be subject to further controls under the Reserves Act 1977 or through Reserve Management Plans. Discussion should be held with these agencies as to the existence and nature of these controls.
- 38.8.2.7** These abbreviations are used in the Rules – Activities (Section 38.9) and Rules - Standards for the Open Space and Recreation Zone (Section 38.10) tables. Any activity which is not permitted (P) or prohibited (PR) requires resource consent.

P	Permitted	C	Controlled
RD	Restricted Discretionary	D	Discretionary
NC	Non-Complying	PR	Prohibited

- 38.8.2.8** The following abbreviations are used within this chapter.

CPZ	Community Purpose Zone
CPZ (Golf)	Community Purpose Sub Zone (Golf)
CPZ (Camping Ground)	Community Purpose Sub Zone (Camping Ground)
CPZ (Cemeteries)	Community Purpose Sub Zone (Cemeteries)

38.8.3 Advice Notes:

- 38.8.3.1** Freedom camping in the District is controlled by the Council’s Freedom Camping Control Bylaw.
- 38.8.3.2** Resource consent may be required for activities associated with telecommunications under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016. In these instances, this NES applies instead of the District Plan provisions.
- 38.8.3.3** Resource consent may be required for activities associated with electricity transmission under the Resource Management (National Environmental Standards for Electricity Transmission Activities) regulations 2009. In these instances, this NES applies instead of the District Plan provisions.
- 38.8.3.4** Land use activities within the National Grid Yard or Electricity Distribution Corridor are managed in Chapter 30 Energy and Utilities.

38.9 Rules – Activities

Table 38.1: Activities Open Space and Recreation Zones.

- a. For the activities identified in Table 38.1 as controlled activities, the Council will reserve its control to the matters in Part 38.13.
- b. For the activities identified in Table 38.1 as restricted discretionary activities, the Council will restrict its discretion to the matters in Part 38.14.

Rule	Activities	Nature Conservation Zone	Informal Recreation Zone	Active Sports/ Recreation Zone	Civic Spaces Zone	CPZ	CPZ (Golf)	CPZ (Camping Ground)	CPZ (Cemeteries)
38.9.1	Any activity not listed in Table 38.1	NC	NC	NC	NC	NC	NC	NC	NC
38.9.2	Informal recreation	P	P	P	P	P	P	P	P
38.9.3	Public amenities	P	P	P	P	P	P	P	P
38.9.4	Gardens, including botanic and community gardens	P	P	P	P	P	P	P	P
38.9.5	Parks Maintenance	P	P	P	P	P	P	P	P
38.9.6	Recreation facilities	NC	D	P	D	P	P	P	P
38.9.7	Community centres and halls	NC	D	D	D	D	NC	NC	NC
38.9.8	Day Care Facilities including buildings	NC	NC	D	NC	D	NC	NC	NC
38.9.9	Education and research facilities directly related to the open space area	P	P	P	P	P	D	D	NC
38.9.10	Art galleries, arts and cultural centres including buildings	NC	D	D	D	D	NC	NC	NC
38.9.11	Clubrooms including buildings	NC	D	P	NC	D	P	D	NC
38.9.12	Libraries including buildings	NC	NC	NC	NC	P	NC	NC	NC
38.9.13	Grandstands	NC	NC	D	NC	D	NC	NC	NC
38.9.14	Organised sport and recreation	D	<u>RDD</u>	P	D	P	P	D	NC
38.9.15	Camping grounds	D	D	NC	NC	NC	NC	P	NC
38.9.16	Restaurants and cafes that are accessory to a permitted activity and are located within 50m of a Residential Zone including buildings	NC	RD	RD	RD	RD	RD	RD	NC

Rule	Activities	Nature Conservation Zone	Informal Recreation Zone	Active Sports/ Recreation Zone	Civic Spaces Zone	CPZ	CPZ (Golf)	CPZ (Camping Ground)	CPZ (Cemeteries)
38.9.17	Retail accessory to a permitted activity that complies with the floor area standards for retail activities (Rule 38.10.9)	D	P	P	P	P	P	P	NC
38.9.18	Retail not otherwise provided for in Table 38.1	NC	D	D	D	D	D	D	NC
38.9.19	Commercial Recreation Activities and buildings associated with Commercial Recreation Activities	D	D	D	RD	RD	RD	RD	NC
38.9.20	Commercial Activities and buildings associated with, and located on the same site as recreation activities	D	D	D	RD	RD	RD	RD	NC
38.9.21	Artworks	P	P	P	P	P	P	P	P
38.9.22	Demolition of buildings (which is not a listed as a protected feature)	P	P	P	P	P	P	P	P
38.9.23	New buildings associated with a permitted activity, not otherwise listed in Table 38.1	P	P	P	P	P	P	C	P
38.9.24	Construction, addition or alteration to existing buildings	P	P	P	P	P	P	C	P
38.9.25	Conservation Planting, species protection and conservation management works, including associated trapping, restoration and re-vegetation work, noxious plant and pest control and scientific research	P	P	P	P	P	P	P	P
38.9.26	Recreation tracks (walking, horse and cycling tracks)	P	P	P	P	P	P	P	P

Rule	Activities	Nature Conservation Zone	Informal Recreation Zone	Active Sports/ Recreation Zone	Civic Spaces Zone	CPZ	CPZ (Golf)	CPZ (Camping Ground)	CPZ (Cemeteries)
38.9.27	Construction of vehicle access and car parking areas accessory to permitted activities, up to 200m ²	C	C	P	P	P	P	P	P
38.9.28	Construction of vehicle access and car parking areas accessory to permitted activities exceeding 200m ²	D	RD	RD	RD	RD	RD	RD	RD
38.9.29	Harvesting and management of existing Forestry within the Outstanding Natural Features or Landscapes	D	D	D	D	D	D	D	D
38.9.30	Planting of new Forestry within the Outstanding Natural Features or Landscapes	NC	D	D	NC	NC	NC	NC	NC
38.9.31	Farming including grazing of stock	RD	P	RD	RD	RD	RD	RD	RD
38.9.32	Cemeteries	D	NC	NC	NC	NC	NC	NC	P
38.9.33	The parking or placing of any motor vehicle, boat, caravan, trailer, or material for the purposes of sale or lease	PR	PR	PR	PR	PR	PR	PR	PR
38.9.34	Mining Activity	PR	PR	PR	PR	PR	PR	PR	PR
38.9.35	Boat Ramps, Jetties and Marinas	D	D	D	D	D	D	D	NC
38.9.36	Informal Airports	D	D	D	D	D	D	D	D

38.10 Rules - Standards for Open Space and Recreation Zones

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non- compliance Status
38.10.1	<p>Building Height</p> <p>The maximum height in the following zones shall be:</p> <p>38.10.1.1 Nature Conservation Zone: 4m.</p> <p>38.10.1.2 Informal Recreation Zone: 6m.</p> <p>Except for any aviary at Kiwi Birdlife Park, where the maximum height shall be 10 m.</p> <p>38.10.1.3 Active Sports and Recreation Zone: 10m.</p> <p>38.10.1.4 Civic Spaces Zone: 8m.</p> <p>38.10.1.5 CPZ: 10m.</p> <p>38.10.1.6 CPZ (Golf): 8m.</p> <p>38.10.1.7 CPZ (Camping Ground): 8m.</p> <p>38.10.1.8 CPZ (Cemeteries): 8m.</p>	D

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.2	<p>Ground Floor Area of Buildings</p> <p>The total maximum ground floor area of buildings per site in the following zones is:</p> <p>38.10.2.1 Nature Conservation Zone: 50m².</p> <p>38.10.2.2 Informal Recreation Zone: 100m².</p> <p>38.10.2.3 Active Sports and Recreation Zone:400m².</p> <p>38.10.2.4 Civic Spaces Zone: 100m².</p> <p>38.10.2.5 CPZ: 300m².</p> <p>38.10.2.6 CPZ (Golf): 600m².</p> <p>38.10.2.7 CPZ (Camping Ground): 600m².</p> <p>38.10.2.8 CPZ (Cemeteries): 50m².</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. Building dominance;</p> <p>b. Effects on visual amenity and landscape character values and in particular views of significance;</p> <p>c. The size, design and location of buildings relative to the public realm and adjoining properties;</p> <p>d. Consistency with the character of the locality and the role and function of the open space;</p> <p>e. Pedestrian and vehicle access;</p> <p>f. Functional needs;</p> <p>g. Scale and intensity;</p> <p>h. Cumulative effect of buildings; and</p> <p>i. Design and integration of landscaping.</p>

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.3	<p>Recession Plane</p> <p>38.10.3.1 Where a building is proposed on a site that adjoins another zone, the building shall comply with the recession plane standard for the adjoining zone, applied at the zone boundary.</p> <p>38.10.3.2 In the CPZ (Camping Ground) the following standards shall apply:</p> <ul style="list-style-type: none"> a. On boundaries adjoining a site zoned Low and Medium Density Residential Zones, buildings shall not project beyond a building envelope constructed by a recession line inclined towards the site at the following angles: <ul style="list-style-type: none"> i. Northern Boundary: 2.5m and 55 degrees; ii. Western and Eastern Boundaries: 2.5m and 45 degrees; and iii. Southern Boundary: 2.5m and 35 degrees. b. On boundaries adjoining a site zoned High Density Residential Zone, buildings shall not project beyond a building envelope constructed by a recession line inclined towards the site at the following angles: <ul style="list-style-type: none"> i. Northern Boundary: 2.5m and 55 degrees; and ii. All other boundaries: 2.5m and 45 degrees. 	D

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.4	<p>Setback from Internal and Road Boundaries</p> <p>Setback from internal boundaries</p> <p>38.10.4.1 Where a site adjoins another zone, buildings shall be setback from the boundary the same distance as required by the set back from internal boundaries of the adjoining zone.</p> <p>Setback from roads</p> <p>38.10.4.2 The minimum road boundary setbacks that apply to the open space and recreation zones, shall be the standards that apply in the adjoining zone.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Building dominance; b. Privacy effects on adjoining properties; c. Access to sunlight and impacts on shading; d. Effects on visual amenity; e. The size, design and location of buildings relative to the public realm and adjoining properties; f. Consistency with the character of the locality; and g. The historic heritage value of any adjacent heritage item and or feature.

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.5	<p>Setback of buildings from water bodies</p> <p>The minimum setback of any building from the bed of a river or lake or wetland shall be 10m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. biodiversity values; b. Public access; c. Effects on visual amenity and landscape character values; d. Open space e. The functional and locational need and interaction of the development with the water body; f. Landscaping; g. Environmental protection measures (including landscaping and stormwater management); and h. Natural hazards.

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.6	<p>Outdoor Storage</p> <p>38.10.6.1 Outdoor storage that is visible from roads or adjoining zones shall be landscaped with planting, solid walls, solid fences, or any combination of these, to 2m in height along the length of the outdoor storage area. Where such landscaping is by way of planting it shall be for a minimum depth of 3m and a height of 2m.</p> <p>38.10.6.2 Any outdoor storage area shall not be located within the minimum setbacks specified in Rule 38.10.4 and 38.10.5.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Visual amenity; b. The location relative to the public realm and adjoining residential properties; c. Consistency with the character of the locality; d. Landscaping; e. Practical and functional constraints; and f. Pedestrian and vehicle access.
38.10.7	<p>Fencing</p> <p>38.10.7.1 Fences erected on the boundary of any Open Space and Recreation Zone shall be at least 50% visually permeable.</p> <p>38.10.7.2 The maximum height of any fences erected on the boundary of any Open Space and Recreation Zone shall be 1.2m.</p> <p>38.10.7.3 At Kiwi Birdlife Park, the maximum height of any fence installed for wildlife protection shall be 2.2m, and in such a case Rules 38.10.7.1 and 38.10.7.2 do not apply.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Visual amenity values; b. Opportunities for passive surveillance; c. Consistency with any established fencing; and d. Functional constraints, including the use of land, security, and wind shelter.

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.8	<p>Lighting and Glare</p> <p>38.10.8.1 No activity on a Nature Conservation Zone, CPZ, CPZ (Golf), CPZ (Camping Ground) and CPZ (Cemeteries) shall result in a greater than 2.5 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site (when measured or calculated 2.0m inside the boundary of the adjoining property).</p> <p>38.10.8.2 No activity on an Informal Recreation Zone, Active Sports and Recreation Zone and Civic Spaces Zone shall result in a greater than a 3.0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site (when measured 2.0m inside the boundary of the adjoining property).</p>	D
38.10.9	<p>Maximum gross retail floor space</p> <p>Within the Informal Recreation Zone, Active Sports and Recreation Zone, CPZ, CPZ (Golf), and CPZ (Camping Ground) the maximum gross retail floor space associated to recreation activities permitted within these zones shall be 100m² or no more than 10% of the gross floor area (whichever is the lessor) of the building supporting the recreation and leisure activities.</p>	D
38.10.10	<p>Building Colours Within the Nature Conservation, Informal Recreation and Community Purposes (Camping Ground) Zones</p> <p>38.10.10.1 All exterior surfaces, including fences, shall be coloured in the range of browns, greens, greys or black (except soffits), with a maximum reflective value of 35%.</p> <p>38.10.10.2 All roofs shall have a maximum reflective value of 20%.</p> <p>38.10.10.3 All other surface finishes shall have a maximum reflective value of 30%.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> External appearance; Visual prominence from both public places and private locations; and Effects on visual amenity and landscape character values and in particular views of significance.

	Table 38.2: Standards for Activities in the Open Space and Recreation Zones	Non-compliance Status
38.10.11	<p>Water supply and access for firefighting</p> <p>All new buildings over 20m² in area that are not connected to the reticulated water supply must make the following provision for firefighting:</p> <p>38.10.11.1 A water supply of 45,000 litres; and</p> <p>38.10.11.2 A hardstand area adjacent to the firefighting water supply connection of a minimum width of 4.5 metres and a minimum length of 11 metres; and</p> <p>38.10.11.3 A firefighting water connection located more than 6 metres but not less than 90 metres away from the building; and</p> <p>38.10.11.4 Access from the property boundary to the firefighting water connection of a minimum width of 4.5 metres.</p>	<p><u>RD</u></p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> the extent of compliance with any national standards for firefighting water supply; the accessibility of the firefighting water connection point for fire service vehicles; whether and the extent to which the building is assessed as a low fire risk. any advice that may have been received from Fire and Emergency New Zealand.
38.10.12	<p>Activities Sensitive to Aircraft Noise</p> <p>New buildings or additions to existing buildings containing Activities Sensitive to Aircraft Noise located within the Queenstown Airport Air Noise Boundary or Outer Control Boundary shall be designed to achieve an Indoor Design Sound Level of 40dB within any Critical Listening Environment (based on the 2037 Noise Contours) and ventilated in accordance with Rule 36.6.2.</p>	<p><u>NC</u></p>

38.11 Informal Recreation Zone: Ben Lomond Sub Zone

Table 38.3: Activities and Standards for Activities in the Ben Lomond Sub Zone		Activity or Non-compliance Status
	Activity	Activity Status
38.11.1	<p>Buildings</p> <p>Construction, relocation, addition or alteration of any building.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Landscape and visual amenity values; b. Scale, intensity and cumulative effects; c. Associated earthworks and landscaping; d. Lighting; e. Provision of water supply, sewerage treatment and disposal, storm water disposal, electricity and communication services; f. Natural Hazards; and g. Effects on the transportation network. h. Public access to, and the use of, open space.

	Table 38.3: Activities and Standards for Activities in the Ben Lomond Sub Zone	Activity or Non-compliance Status
38.11.2	<p>Passenger Lift Systems</p> <p>Passenger Lift Systems within the 'Bob's Peak' area and the 'Gondola Corridor' area of the Ben Lomond Sub Zone.</p>	<p>C</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. Location, external appearance and alignment; b. Other occupiers or users; c. Night lighting; d. Height; e. Associated earthworks; and f. Natural Hazards.
38.11.3	<p>Commercial recreation activity and ancillary Commercial activity</p> <p>38.11.3.1 Commercial recreation activity</p> <p>38.11.3.2 Commercial activity only where the commercial activity is ancillary to, and located on, the same site as, the commercial recreation activity</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Intensity and scale of the activity and effects on recreation use and amenity values; b. Noise; c. Public access to, and use of the open space; d. Other occupiers or users of the site or adjoining sites; e. Infrastructure; f. Access and parking; and g. Effects on the transportation network.

	Table 38.3: Activities and Standards for Activities in the Ben Lomond Sub Zone	Activity or Non-compliance Status
38.11.4	Harvesting and management of existing Forestry	<p>C</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. Hours of operation; b. Noise; c. Health and safety; d. Traffic generation; e. Earthworks; f. Soil erosion, sediment generation and run-off; g. Debris flow and rock fall hazards and nong- term slope stability; h. Landscape rehabilitation; and i. Effects on the amenity values of the forest and other users of the reserve
38.11.5	Parking within the Lower Terminal area of the Ben Lomond Sub Zone.	<p>C</p> <p>Control is reserved to Landscaping.</p>
38.11.6	<p>Building within the Building Restriction Area: Bob's Peak Area</p> <p>Any building within the Building Restriction Area, excluding retaining walls.</p>	PR
38.11.7	<p>Building within the Gondola Corridor Area</p> <p>Any building within the Gondola Corridor Area excluding passenger lift systems.</p>	NC

	Table 38.3: Activities and Standards for Activities in the Ben Lomond Sub Zone	Activity or Non-compliance Status
38.11.8	<p>Informal Airport Located within the Future Helipad Area</p> <p>The information requirements for aviation safety shall include provision of either a PT157 Determination issued by the Director of Civil Aviation New Zealand or an independent aviation safety assessment prepared by a suitably qualified professional.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Aviation safety including helicopter landing area design and proximity to on ground structures and track networks; b. The frequency and intensity of daily and weekly flight numbers; c. Separation distance and potential effect on the operation of other existing or incompatible occupiers within the Ben Lomond Sub-Zone. d. Helicopter flight paths
38.11.9	Two or More Informal Airports within the Bob's Peak Area of the Ben Lomond Sub-Zone	NC
	Standards	Non-Compliance Status
38.11.10	<p>Building Height</p> <p>The maximum height of buildings and structures as specified shall be:</p> <ul style="list-style-type: none"> a. Buildings within the Bob's Peak Area: 10m. b. Passenger Lift Systems within the Bob's Peak Area: 12m. c. Buildings within the Lower Terminal Area: 18.5m. 	D
38.11.11	<p>Building Coverage</p> <p>The maximum building coverage within the Bob's Peak Area shall be 15%</p>	D

38.12 Rules - Non-notification of Applications

All applications for controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited-notified, except for the following:

38.12.1 Restricted discretionary activities within the Informal Recreation Ben Lomond Sub-Zone.

38.13 Matters of control for Controlled Activities identified in Table 38.1

The Council will reserve its control to the following matters when assessing a controlled activity resource consent application.

Table 38.4: Matters of Control for Activities in the Open Space and Recreation Zones	
38.13.1	<p>Rule 38.9.16: Restaurants and cafes that are accessory to a permitted activity and are located further than 50m from a Residential Zone in the Civic Spaces Zone, Informal Recreation Zone, Active Sports and Recreation Zone, CPZ, CPZ (Golf), CPZ (Camping Ground):</p> <ul style="list-style-type: none"> a. Scale and intensity of the activity on recreation use and amenity values; b. Public access to, and use of the open space; c. Traffic generation, access and parking; and d. Infrastructure and servicing, including the provision of storage and loading/service areas.
38.13.2	<p>Rules 38.9.24 and 38.9.25: Construction and alteration of buildings in the Community Purpose Camping Ground Zone:</p> <ul style="list-style-type: none"> a. Building location, character, scale and form. b. External appearance including materials and colours. c. Infrastructure and servicing, access and parking. d. Natural hazards.
38.13.3	<p>Rule 38.9.28: Construction of vehicle access and car parking areas accessory to permitted activities up to 200m²:</p> <ul style="list-style-type: none"> a. Traffic generation, access and parking; b. Public access to, and use of, the open space; c. Pedestrian and vehicle access; and d. Landscaping.

38.14 Matters of discretion for Restricted Discretionary Activities identified in Table 38.1

The Council will restrict its discretion over the following matters when assessing a restricted discretionary activity resource consent application.

	Table 38.5: Matters of Discretion for Activities in the Open Space and Recreation Zones
38.14.1	<p>Rule 38.9.17: Restaurants and cafes that are accessory to a permitted activity and are located within 50m of a Residential Zone in the Civic Spaces Zone, Informal Recreation Zone, Active Sports and Recreation Zone, CPZ, CPZ (Golf), CPZ (Camping Grounds):</p> <ul style="list-style-type: none"> a. Intensity and scale of the activity on recreation use and amenity values; b. Public access to, and use of, the open space; c. Location, in particular distance from adjoining properties; d. Traffic generation, access and parking; e. Noise; and f. Infrastructure and servicing, including the provision of storage and loading/service areas.
38.14.2	<p>Rules 38.9.20 and 38.9.21: Commercial recreation activity including commercial activities associated with and located on the same site as recreation activities, including buildings in the Civic Spaces Zone, CPZ, CPZ (Golf), CPZ (Camping Grounds):</p> <ul style="list-style-type: none"> a. Intensity and scale of the activity on recreation use and amenity values; b. Public access to, and use of the open space; c. Other occupiers or users of the site or adjoining sites; d. Traffic generation, access and parking.
38.14.3	<p>Rule 38.9.29: Construction of vehicle access and car parking areas accessory to permitted activities exceeding 200m² in respect of all Open Space and Recreation Zones (except the Nature Conservation Zone):</p> <p>Location of facility and access;</p> <ul style="list-style-type: none"> a. Number, design and layout of car parks and associated manoeuvring areas; b. Surface treatment of parking facility and access; c. Landscaping; and d. Cumulative effect of the number of car parking facilities within the Zone.

Table 38.5: Matters of Discretion for Activities in the Open Space and Recreation Zones	
38.14.4	<p>Rule 38.9.32: Farming including grazing of stock</p> <ul style="list-style-type: none"> a. Intensity and duration; b. Public access to, and use of the open space; c. Pest and wilding pine control; d. Maintenance of landscape values; and e. Restriction of areas to protect or restore indigenous biodiversity values.

38.15 Landscape Assessment Matters for Discretionary Activities

The following assessment matters apply to any discretionary activity within an Open Space and Recreation Zone where the land involved is subject to one of the landscape classifications.

Table 38.6: Landscape Assessment Matters for Discretionary and Non-Complying Activities in the Open Space and Recreation Zones	
38.15.1	<p>Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).</p> <p>38.15.1.1 Effects on landscape quality and character</p> <p>In considering whether the proposed development will maintain or enhance the quality and character of Outstanding Natural Features and Landscapes, the Council shall be satisfied of the extent to which the proposed development will affect landscape quality and character, taking into account the following elements:</p> <ul style="list-style-type: none"> a. Physical attributes: <ul style="list-style-type: none"> i. Geological, topographical, geographic elements in the context of whether these formative processes have a profound influence on landscape character; ii. Vegetation (exotic and indigenous); iii. The presence of waterbodies including lakes, rivers, streams, wetlands. b. Visual attributes: <ul style="list-style-type: none"> i. Legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes; ii. Aesthetic values including memorability and naturalness; iii. Transient values including values at certain times of the day or year; iv. Human influence and management – settlements, land management patterns, buildings, roads. c. Appreciation and cultural attributes: <ul style="list-style-type: none"> i. Whether the elements identified in (a) and (b) are shared and recognised; ii. Cultural and spiritual values for Tangata whenua;

Table 38.6: Landscape Assessment Matters for Discretionary and Non-Complying Activities in the Open Space and Recreation Zones	
	<p>iii. Historical and heritage associations.</p> <p>The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.</p> <p>d. In the context of (a) to (c) above, the degree to which the proposed activity or development will affect the existing landscape quality and character, including whether the proposed activity or development accords with or degrades landscape quality and character, and to what degree.</p> <p>38.15.1.2 Effects on visual amenity</p> <p>In considering whether the potential visibility of the proposed activity or development will maintain and enhance visual amenity, values the Council shall be satisfied that:</p> <p>a. the extent to which the proposed activity or development detracts from visual amenity values as viewed from public roads and other public places;</p> <p>b. the proposed development will not be visually prominent such that it detracts from public or private views of and within Outstanding Natural Features and Landscapes;</p> <p>c. the proposal will be appropriately integrated, screened or hidden from view by elements that are in keeping with the character of the landscape;</p> <p>d. the proposed activity or development will not reduce the visual amenity values of the wider landscape (not just the immediate landscape);</p> <p>e. structures will not be located where they will break the line and form of any ridges, hills and slopes;</p> <ul style="list-style-type: none"> • any carparking, access, lighting, earthworks and landscaping will not reduce the visual amenity of the landscape.
38.15.2	<p>Rural Character Landscapes (RCL)</p> <p>38.15.2.1 Effects on landscape quality and character</p> <p>The following shall be taken into account:</p> <p>a. where the site is adjacent to or nearby an Outstanding Natural Feature or Landscape, whether and the extent to which the proposed development will adversely affect the quality and character of the adjacent Outstanding Natural Feature or Landscape;</p> <p>b. whether and the extent to which the scale and nature of the proposed activity or development will degrade the quality and character of the Open Space Zone or the surrounding Rural Character Landscape;</p> <p>c. whether the design and any landscaping would be compatible with or would enhance the quality and character of the Open Space Zone or the Rural Character Landscape.</p> <p>38.15.2.2 Effects on visual amenity:</p> <p>Whether the activity or development will result in a loss of the visual amenity of the Open Space Zone or the Rural Character Landscape, having regard to whether and the extent to which:</p>

Table 38.6: Landscape Assessment Matters for Discretionary and Non-Complying Activities in the Open Space and Recreation Zones	
	<ul style="list-style-type: none"> a. the visual prominence of the proposed development from any public places will reduce visual amenity; b. the proposed development is likely to be visually prominent such that it detracts from private views; c. any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Character Landscape from both public and private locations; d. the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations; e. any proposed carparking, planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns; <p>38.15.2.3 Tangata Whenua, biodiversity and geological values:</p> <ul style="list-style-type: none"> a. whether and to what extent the proposed development will degrade Tangata Whenua values including Tōpuni or nohoanga, indigenous biodiversity, geological or geomorphological values or features and, the positive effects any proposed or existing protection or regeneration of these values or features will have. <p>The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.</p>
38.15.3	<p>Other factors and positive effects, applicable in all the landscape categories</p> <p>38.15.3.1 The extent to which the proposed activity or development detracts from, or enhances the amenity of the Open Space Zone and wider natural or rural environment with particular regard to the experience of remoteness or wildness.</p> <p>38.15.3.2 The extent to which cumulative effects of activities will adversely affect landscape quality, character or visual amenity values.</p> <p>38.15.3.3 In considering whether there are any positive effects, or opportunities for remedying or mitigating the continuing adverse effects of activities, the Council shall take the following matters into account:</p> <ul style="list-style-type: none"> a. whether the proposed activity would enhance the character of the landscape, or assists with the protection and enhancement of indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status; b. any positive effects including environmental compensation, enhanced public access such as the creation or improvement of walking, cycling or bridleways or access to lakes, rivers or conservation areas; c. where adverse effects cannot be avoided, mitigated or remedied, the merits of any compensation.