



# Section 32 Evaluation Report

## Surface of Water on Rivers and Lakes

### Contents

Section 32 Evaluation Report: Surface of Water on Rivers and Lakes.....	2
1. Strategic Context .....	2
2. Iwi Management Plans .....	2
3. Regional Planning Documents .....	4
4. Non-statutory Policy Context .....	7
5. Transfer of functions with the Otago Regional Council .....	8
6. Resource Management Issues .....	8
7. Purpose and Options .....	11
8. Scale and Significance Evaluation .....	18
9. Evaluation of proposed Objectives Section 32 (1) (a) .....	19
10. Evaluation of the proposed provisions Section 32 (1) (b).....	23
11. Efficiency and effectiveness of the provisions .....	36
12. The risk of not acting .....	36
References .....	36

# Section 32 Evaluation Report: Surface of Water on Rivers and Lakes

## 1. Strategic Context

Section 32(1)(a) of the Resource Management Act 1991 requires that a Section 32 evaluation report must examine the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act.

The purpose of the Act requires an integrated planning approach and direction:

### **5 Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The National Policy Statement on Freshwater Management 2014 contains national objectives and policies to protect water quality and provide for the efficient allocation of water. It also contains objectives and policies to ensure integration between the Coastal Marine Area and freshwater lakes and rivers; and objectives and policies on tangata whenua values as they relate to water. The National Policy Statement must be given effect to in regional and district planning documents.

## 2. Iwi Management Plans

When preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Council's must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

The following iwi management plans are relevant:

*The Cry of the People, Te Tangi a Taurira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008)*

Section 3.4, Takitimu Me Ona Uri: High Country and Foothills contain the following policies:

### 3.4.8 Access and Tourism

*Policy 6. Instream values should be protected against negative impacts of new development, particularly with respect to appropriateness, discharges, abstraction, and effects over time.*

### 3.4.14 Protecting Sites of Significance in High Country and Foothill Areas

*Policy 6. Avoid compromising unidentified, or unknown, sites of cultural significance as a consequence of ground disturbance associated with land use, subdivision and development.*

Section 3.5, Southland Plains: Te Rā a Takitimu includes the following policies:

Part 3.5.10: General Water Policy: includes,

Policies:

3. *Protect and enhance the mauri, or life supporting capacity, of freshwater resources throughout Murihiku.*
4. *Manage our freshwater resources wisely, mō tātou, ā, mō ngā uri ā muri ake nei, for all of us and the generations that follow.*
5. *Promote the management of freshwater according to the principle of ki uta ki tai, and thus the flow of water from source to sea.*
6. *Promote catchment management planning (ki uta ki tai), as a means to recognise and provide for the relationship between land and water.*
16. *Prioritise the restoration of those waterbodies of high cultural value, both in terms of ecological restoration and in terms of restoring cultural landscapes.*
17. *Ensure that activities in upper catchments have no adverse effect on mahinga kai, water quality and water quantity in lower catchments.*

### 3.5.2 Wastewater

9. *Encourage creative, innovative and sustainable approaches to wastewater disposal that make use of the best technology available, and that adopt principles of waste reduction and cleaner production (e.g. recycling grey water for use on gardens, collecting stormwater for a pond that can then be used for recreation in a new subdivision).*

### Kāi Tahu ki Otago Natural Resource Management Plan 2005 (KTKO NRMP 2005)

Part 10: Clutha/Mata-au Catchments *Te Riu o Mata-au* outlines the issues, and policies for the Clutha/Mata-au Catchments. Included in this chapter is a description of some of the Kāi Tahu ki Otago values associated with the Clutha/Mata-au Catchments. Generic issues, objectives and policies for all catchments across the Otago Region are recorded in Chapter 5 Otago Region.

The following policies are of particular relevance;

#### Land Use 10.2.3 Wai Māori Policies in the Clutha/Mata-au Catchment

9. *To encourage the adoption of sound environmental practices, adopted where land use intensification occurs.*
10. *To promote sustainable land use in the Clutha/Mata-au Catchment.*

#### 10.5.3 Cultural Landscape Policies in the Clutha/Mataau-au Catchments

*Jetties and Moorings:*

6. *To require the development of a strategy in conjunction with the Queenstown Lakes District Council to investigate the viability of public moorings in the Queenstown Lakes District.*
- 7 *To require that all moorings situated in the vicinity of nohoaka and camping sites to be publicly available.*
8. *To require jetties to be at a fixed location and any effects of earthworks or from the ongoing operation of jetties and be remedied or mitigated.*

9. To require jetties and moorings to be located where they will not impede or restrict access to lakes, rivers and wetlands.

### 3. Regional Planning Documents

#### Operative Regional Policy Statement 1998

Section 74 of the Act requires that a district plan prepared by a territorial authority must “give effect to” any operative Regional Policy Statement. The operative *Otago Regional Policy Statement 1998* is the relevant regional policy statement to be given effect to within the District Plan.

The RPS contains issues, objectives, policies and methods on two subjects of relevance to the surface of lakes and rivers. These are the subjects of water and biota, which are discussed in Chapters 6 and 10 respectively.

#### Proposed Regional Policy Statement 2015

Section 74 of the Act requires that a District Plan must “have regard to” any proposed regional policy statement.

The Proposed RPS was notified for public submissions on 23 May 2015, and contains the following objectives and policies relevant to landscape and the Rural Zone where the surface water rivers and lakes are at issue.

Proposed RPS 2015 Objective	Objectives	Policies	Relevance to the review of the surface of rivers and lakes
The principles of Te Tiriti o Waitangi are taken into account in resource management decision.	1.1	1.1.1, 1.1.2	The Ngai Tahu Claims Settlement Act Statutory Acknowledgments – these are pursuant to the Ngai Tahu Claims Settlement Act 1998 and apply to the following lake and rivers within the Queenstown Lakes district: <ul style="list-style-type: none"> <li>• Lake Hawea</li> <li>• Lake Wanaka</li> <li>• Lake Wakatipu</li> <li>• Clutha River</li> </ul>
Kai Tahu values, rights and customary resources are sustained	1.2	21.2.1, 1.2.2, 1.2.3	The council's function is to control any actual or potential effects of activities in relation to the surface of water in rivers and lakes. These areas are of interest and value in terms of culture and practices, ancestral lands, water, site, wahi tapu and other taoka.
The values of Otago's natural and physical resources are recognised, maintained and enhanced	2.1	2.1.1, 2.1.2, 2.1.5, 2.1.6, 2.1.7	Without falling out of scope or unnecessarily duplicating functions, the integrated management of resources includes the management of activities with regard to freshwater values, margins of water bodies, soil values, ecosystem and biodiversity values, recognising values of natural features and landscapes.

Otago's significant and highly-valued natural resources are identified, and protected or enhanced	2.2	2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.2.13. Schedule 5	The Rural Zone, in which the surface water of rivers and lakes are zoned, contains the majority of the District's land that contains significant natural areas. Outstanding natural features and landscapes.
Natural resource systems and their interdependencies are recognised.	2.3	2.3.1, 2.3.2, 2.3.3	Applying an integrated approach to the management of Otago's physical resources to achieve sustainable management.
Protection, use and development of natural and physical resources recognises environmental constraints.	3.1	3.1.1	Surface water of rivers and lakes contain areas of varying sensitivity that may create opportunities or constraints for activities seeking to utilise the respective resource.
Risk that natural hazards pose to the communities are minimised.	3.2	3.2.1, 3.2.2, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, 3.2.10, 3.2.11	Surface of water in rivers and lakes are part of the District's natural processes and these can be attributed to many of the natural hazards that can affect communities.
Good quality infrastructure and services meet community needs. Infrastructure of national and regional significance is managed in a sustainable way. Energy supplies to Otago's communities are secure and sustainable.	3.4 and 3.5	3.4.1, 3.4.2, 3.4.3, 3.4.4, 3.5.1, 3.5.2, 3.5.3,	While much of the District's infrastructure is located on land and within urban areas. The infrastructure and its performance can affect surface water of rivers and lakes.
Energy Supplies to Otago's communities are secure and sustainable	3.6	3.6.1, 3.6.2, 3.6.3, 3.6.4, 3.6.5, 3.6.6	Much of the District's energy supplies are located within the Rural Zone, noting the Hydro Generation zone is not in the scope of stage 1 of review.
Public access to areas of value to the community is maintained or enhanced.	4.1	4.1.1	Public trails are contained within the rural zone and people seek out access to rivers and lakes. Public access is often raised as an issue that presents both opportunities and constraints for development proposals and the maintenance of productive activities.
Otago's communities can make the most of the natural and built resources available for use.	4.4	4.4.1	While water allocation and use is not within the scope of the District Plan or territorial authority, structures associated with the resource use comes under the

			ambit of the District plan.
Adverse effects of using and enjoying Otago's natural and built environment are minimised	4.5	4.5.1, 4.5.4, 4.5.5, 4.5.6,	Water take and discharges to water are not within the scope of the District Plan territorial authority however the integrated management of resources are a function of the Council. People are drawn to the surface water of rivers and lakes for a wide range of recreation and entrepreneurial opportunities and recreational activities. How these activities are managed will impact the communities' experience of the resource.

The evaluation and provisions have regard to the Proposed RPS. In particular, there are consistencies in the application of the Proposed RPS Schedule 4 '*Criteria for the identification of outstanding natural features and landscapes*' and the proposed District Plan assessment matters in outstanding natural landscapes and features, for guiding decision makers when considering proposals for activities within identified outstanding natural landscapes and features.

#### **The Otago Regional Plan: Water**

The Otago Regional Plan: Water became operative on 1 January 2004. It contains objectives and policies relating to water that are similar in intent to the matters listed above from sections 6 and 7 of the RMA. The regional plan contains rules in Part 13: Land use on Lake or River Beds which outlines the activity status for the erection or placement of structures within lakes and rivers. The rules of most relevance with regard to the surface of lakes and rivers are as follows:

- (a) The erection or placement of any fence, pipe, line or cable over the bed of a lake or river is a permitted activity subject to certain listed requirements (Rule 13.2.1.1).
- (b) Minor structures (such as fences, pipes, lines and cables which do not comply with the listed requirements), whitebait stands, eel traps, maimai, jetties, bridges or culverts in, on, under, or over the bed of any lake or river are a restricted discretionary activity (Rule 13.2.2).
- (c) All other activities require a discretionary activity resource consent from the Otago Regional Council (Rule 13.2.3).

The Otago Regional Plan: Water, also contains other rules of relevance to the surface of lakes and rivers relating to alterations, demolition activities; and rules relating to the introduction or planting of vegetation.

There are several other statutory documents that apply to specific parts of the district which are also relevant to activities on, or in, the surface of lakes and rivers. These include:

- (a) *Water Conservation (Kawarau) Order 1997* – This requires the outstanding amenity and intrinsic values of the Kawarau River to be protected.
- (b) *Lake Wanaka Preservation Act 1973* – This Act establishes 'Guardians of Lake Wanaka' to protect water quality and ensure that the lake levels of Lake Wanaka are retained.

- (c) *Ngai Tahu Claims Settlement Act Statutory Acknowledgments* – these are pursuant to the Ngai Tahu Claims Settlement Act 1998 and apply to the following lake and rivers within the Queenstown Lakes district:
- Lake Hawea
  - Lake Wanaka
  - Lake Wakatipu
  - Clutha River
- (d) *QLDC Navigation Safety Bylaws, 2009 and 2011* – these contain rules, pursuant to the Harbours Act 1950, relating to navigation and water activities, including access lanes and reserved areas, moorings and foreshore structures, and commercial activities.
- (e) *QLDC Proposed Navigation Safety Bylaw 2014* – notified for public submissions on 5 July 2014. Forty two submissions were received, 24 in support, 9 opposed and 9 partially opposed. The integration of the Bylaw and District Plan provisions are discussed in part 5 of this report.
- (f) *Shotover River Bylaw 2009* – this Bylaw relates to Shotover Jet Limited to operate on the Shotover River.
- (g) *Sunshine Bay, Queenstown, Frankton, Kelvin Heights Foreshore Management Plan, 1991* – this reserve management plan prepared by the QLDC pursuant to the Reserves Act 1997, relates to Queenstown Bay. It contains key issues, objectives and policies relating to the foreshore of the areas referred to in its title, with some policies also referring to specific portions of Lake Wakatipu and Queenstown Bay.

It is noted that other QLDC reserve management plans contain objectives, policies and methods relating to the district's foreshore and waterways. These are not referred to in the District Plan but are occasionally used to assist in decision making on resource consent applications.

#### **4. Non-statutory Policy Context**

The following QLDC non-statutory documents have also been reviewed:

- (a) *Queenstown Bay Waterfront Development Plan* (undated) - This specifies areas in which various activities can occur in Queenstown Bay and contains objectives that are used by Council in processing resource consent applications within the area. It is noted that some of the objectives and methods in this document are now considered to be out of date.
- (b) *Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu* (undated) – This non-statutory document specifies rules applicable to jetties, moorings and boat sheds, relating to engineering and amenity issues, ownership and management of these structures. It is noted that the document specifies that jetties must be wooden and attached to the lake foreshore. However, since this document was prepared, the technology relating to jetties has changed, and jetties can now be constructed from lighter metals and float, rather than be fixed to the waterway bed. The document also specifies that jetties should be located 200 metres apart, whilst the RMA has shifted to requiring an effects based assessment, rather than determining applications based on fixed measurements.
- (c) *Amenity Issues Relating to Jetties and Moorings in the Frankton Arm of Lake Wakatipu* (undated) – This contains a landscape assessment of the character and amenity of the Frankton Arm foreshore, issues and problems, and options for processing applications for jetties and moorings. This document was used to formulate the Jetties and Moorings Policy. It is noted that some of the landscape information in this document is becoming dated.

## 5. Transfer of functions with the Otago Regional Council

The Council and Otago Regional Council share a deed made on the 23<sup>rd</sup> of March 1994 that transfers the functions of the Otago Regional Council to the Council for the administration of resource consent applications under s13(1)(a) of the RMA for structures which states:

*13 Restriction on certain uses of beds of lakes and rivers*

*1) No person may, in relation to the bed of any lake or river,—*

*(a) use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or*

...

The deed requires the Council to provide a copy of the application to the Otago Regional Council in the following instances, where the Otago Regional Council has discretion to resume processing of the application:

- (a) Are located or proposed to be located on the bed of rivers
- (b) Are solid or effectively solid structures (as distinct from open piled structures)
- (c) Involve excavation of the bed, disturbance of the shoreline or significant disturbance to the lake bed; or
- (d) Are owned or proposed by the District.

This process appears to have resulted in efficiencies and avoided overlaps between district council and regional council regulations with regard to structures on water bodies, particularly in case of applications for jetties and moorings on lakes.

## 6. Resource Management Issues

This review seeks to address a number of key issues (detailed below), whilst also strengthening the existing provisions by providing more targeted objectives and policies, making the Plan easier to understand and improving certainty to what activities are permitted in the zones and whether they require a resource consent.

The resource management issues set out in this section have been identified from the following sources:

- Community consultation, Council workshops and a meeting of the Council's Resource Management Focus Group
- Public drop in sessions
- Workshops
- Meeting with the QLDC Harbourmaster – Marty Black 4/3/13
- Otago Regional Council Regional Policy Statement 1998
- Kai Tahu ki Otago Natural Resource Management Plan, 2005
- Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2000
- QLDC Resource consent decisions relating to boating activities, jetties, moorings and marinas
- Environment court case law
- Read Landscapes Limited 'Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment' 2014
- Read Landscapes Limited 'Report to Queenstown Lakes District Council on appropriate landscape classification boundaries within the District, with particular reference to Outstanding Natural Landscapes and Features' 2014.

- Peer review on Wakatipu component by Ben Espie landscape architect
- Peer review on Wanaka/Upper Clutha component by Anne Steven landscape architect
- Relevant legislative changes enacted since the Plan became operative
- January 9 – February 10 2015 Draft provisions and Section 32 reports placed on the Council’s website and circulated to persons on the Council’s District Plan Review distribution list, persons with an interest in the changes and statutory consultation parties required by the RMA

The key issues are:

**Issue 1: Activity status of resource consents/rules relating to boating activities**

The current District Plan rules relating to boating activities treat commercial non-motorised boating activities (such as rafting, paddle boarding and kayaking) in the same manner as motorised boating activities (such as jet boats). Both activities currently require a discretionary activity consent pursuant to Rule 5.3.3.3(iv)(b).

Non-motorised boating activities generally have a lower magnitude of effects on the environment, such as less noise, boat wake, vibration, lighting and passenger numbers, and there is more certainty over the type and scale of adverse effects that can arise from non-motorised commercial activities, than motorised. Accordingly it is considered that the rules relating to non-motorised boat activities could be amended to provide for these as a restricted discretionary activity. This still enables Council to undertake an assessment of the potential effects, notify and decline applications if necessary. However, the restricted discretionary regime provides an applicant a more defined scope of the issues that may need to be addressed. This may encourage potential operators to set up small scale tourism activities. The potential impacts from non-motorised activities are more predictable, and not likely to be as variable or have the same potential to be as widespread as motorised boating activities.

Currently District Plan Rule 5.3.3.5 prohibits all commercial boating including non-motorised boating activities on Lake Hayes, although these activities are not prohibited from occurring on all other waterways. It is considered appropriate that this rule is amended to enable non-motorised activities to occur on Lake Hayes, subject to obtaining a resource consent, as outlined above.

The requirement for commercial boating activities to require a discretionary class of resource consent appears to be appropriate and is not recommended to change. The location, nature, scale and intensity of commercial boating activities is variable and the discretionary status enables the Council the ability to look at matters that are relevant to the circumstance. In this regard, the discretionary status also enables the Council to consider the matter of cumulative effects where this relates to matters set out in the policy framework.

**Issue 2: The management of jetties within the Frankton Arm and consistency with QLDC policy documents**

Monitoring has identified that there is concern about the appearance of jetties within the Frankton Arm, and also that in some areas, too many jetties are located too close together creating an adverse cumulative effect, by having a proliferation of structures in close proximity along the foreshore. Currently new jetty applications within the Frankton Arm are assessed against the District Plan provisions, and also the Council’s non-statutory policy document titled ‘Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu’.

This document outlines Council’s policies relating to jetties and this includes requirements relating to jetty appearance and clutter. It is considered appropriate to include the applicable policies from the non-statutory policy document in the District Plan. This encourages proposals for jetties to be compliant with the policy and ensures that these issues are given appropriate consideration during resource consent processing and provides greater certainty to applicants who wish to apply for a new jetty. It also provides for Council policy on the subject to be contained in one document.

It is acknowledged in the Read Landscapes landscape classification boundaries report and in the peer review by Ben Espie the character of Frankton Arm has a different landscape character to the remainder of Lake Wakatipu. It is enclosed, surrounded by urban density residential development (with the exception being the north eastern side of the Kelvin Peninsula. There are large numbers of boat moorings, jetties, slipways and boat sheds.

The margins and surfaces of lakes and rivers are zoned Rural General and a landscape classification is required, with lakes and rivers generally being classified as an outstanding natural landscape. Whilst the Frankton Arm has a high amenity value, the landscape character is different to that of the remainder of the District's lakes. Generally, visual assessments in this area are based on the landscape classification and assessment criteria for outstanding natural features. While these are appropriate in other places throughout the District, which are often in remote places with a high natural value, it is considered a different management is suitable for this area.

It is considered that more efficient, but no less effective management of jetties and moorings in the Frankton Arm can be achieved by requiring jetties and moorings in this location obtain a restricted discretionary activity resource consent, and compliance with elements of the Jetties and Moorings Policy be a requisite for non-complying activity status.

### **Issue 3: Assessment criteria relating to activities on or in lakes and rivers**

The existing District Plan provisions are overly long. It is considered that the assessment matters for specified discretionary and non-complying activities can be removed and the policies can be utilised as the primary guide for decision makers to evaluate the nature and scale of the adverse effects of a proposal.

### **Issue 4: Historic consents issued for boating activities on the Kawarau and the Lower Shotover River**

A combination of concern about safety issues, and trade competitor conflict, particularly with regard to the Kawarau and Shotover rivers, has resulted in a number of appeals to the Environment Court. These appeals have highlighted that historically a number of consents have been obtained to operate boating activities in these locations, with no lapse dates on the consents issued.

The result has been that there are a high number of boat trips consented, which have never been utilised, and for which it is impossible to determine if the consent has ever been activated. This has caused issue with the opportunity for new operators to establish in these locations. As these consents have already been granted, this issue cannot be resolved through the District Plan review process. However, it does highlight the need to include conditions relating to lapsing of the consent on any future applications. This is a District Plan administration matter.

### **Issue 5: Consistency with the Navigational Safety Bylaw 2014.**

The Council is responsible for the management of navigation safety throughout the district. The Bylaw enables the Council to control the speed of vessels and to exclude their use on specific waterways, with particular regard to safety.

The operative District Plan provisions also control the use of vessels on specific waterways, including recreational use by identifying the operation of boats on specific rivers, or at certain times of the year as a prohibited activity.

The District Plan provisions should be consistent with the Bylaw, where applicable.

### **Issue 6: Miscellaneous and existing Provisions**

The operative provisions provide for a range of controls. These issues remain valid and are not considered to be necessary to change.

A number of amendments are also proposed to the objective, policies, rules and other methods to clarify the current District Plan provisions, delete unnecessary text, and to update references, including those relating to policy documents that may alter in the future.

The proposed structure of the Rural Zone provisions, where the surface of lakes and rivers policy will be located, has a more prescriptive focus than the operative District Plan provisions. Where an activity is not covered by the provisions a resource consent would be required as a non-complying activity.

This framework is also appropriate for activities relating to lakes and rivers because of the high natural values in many of the Districts waterbodies. An example of a non-specific activity that would require resource consent may include situations where a sunken boat or vehicle is intended to be left in-situ.

Another example is where a vessel may be hauled up onto shore on a permanent basis and was outside the ambit of the District Plan's rules for temporary activities (Temporary Storage), which requires that the item is not stored for longer for three months.

This framework is logical and provides clarity and assists with understanding whether or not an activity requires a resource consent or not. In addition, it is difficult to anticipate every potential activity that may seek to locate within the surface and margins of waterbodies and the non-complying status directs attention<sup>1</sup> to the objectives and policies of the District Plan. In this regard the applicable Strategic Direction, Landscape and Rural Zone policies allow a holistic view to be taken of whether an activity is appropriate.

## **7. Purpose and Options**

The overarching purpose of the provisions is to control any actual or potential effects of activities in relation to the surface of water in rivers and lakes. .

### **Strategic Directions**

The objectives and policies of the Strategic Directions chapter of the proposed District Plan are relevant to this assessment.

In general terms, and within the context of this review, these goals and objectives are met by:

- Retaining the control of all commercial activities on the surface of lakes and rivers by requiring resource consent is obtained.
- Retaining a range of activities in specific locations as prohibited, providing this does not conflict or duplicate the rules in the Navigational Safety Bylaw.
- Protecting amenity values.
- Providing objectives in the Landscape chapter associated with activities and structures on the surface of lakes and rivers.
- Confirming provisions that categorise lakes and rivers as outstanding natural landscapes.

Determining the most appropriate methods to resolve the issues identified will enable the Plan to give effect to the Otago RPS, the relevant parts of the Strategic Directions chapter, and ultimately meet the purpose of the RMA.

As required by section 32(1)(b) RMA, the following section considers various broad options considered to address each issue, and makes recommendations as to the most appropriate course of action in each case.

---

<sup>1</sup> Section 76(4)(e) and Section 104D RMA 1991

## Broad options considered to address issues

### Issue 1: Activity status of resource consents/rules relating to boating activities

Option 1: Retain the operative provisions.

Option 2: Amend the operative provisions to require a restricted discretionary resource consent for non-motorised commercial boating activities (**Recommended**).

Option 3: Change the entire suite of provisions for both motorised and non-motorised commercial boating activities.

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Amend operative provisions</b>	<b>Option 3: Comprehensive changes</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>The objectives and policies do not recognise the difference in potential scale, intensity, noise, and infrastructure impacts between motorised and non-motorised commercial boating activities.</li> <li>May discourage potential small scale operators</li> </ul>	<ul style="list-style-type: none"> <li>Costs associated with going through the District Plan Review process (but this is required by legislation).</li> </ul>	<ul style="list-style-type: none"> <li>Costs associated with going through the District Plan Review process (but this is required by legislation).</li> <li>High costs for Council from potential litigation.</li> <li>Little benefit to be gained as there is already a high level of intervention.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Retains the established approach which parties are familiar with.</li> <li>Low cost for Council.</li> </ul>	<ul style="list-style-type: none"> <li>Recognises that non-motorised activities likely to have limited impact compared to motorised boating activities.</li> <li>Enables economic development and investment.</li> <li>Provides the Council with discretion to review relevant matters including safety, serve notice on affected persons, notify applications and decline applications.</li> <li>Consistent with the Strategic Directions Chapter.</li> </ul>	<ul style="list-style-type: none"> <li>May be easier for Council to decline applications.</li> </ul>
<b>Ranking</b>	<b>2</b>	<b>1</b>	<b>3</b>

**Issue 2: The management of jetties within the Frankton Arm and consistency with QLDC policy documents**

Option 1: Retain the operative provisions

Option 2: Include provisions that encourage consistency with the jetties and moorings policy (**Recommended**)

Option 3: Change the entire package of rules

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Include provisions relevant to the jetty and mooring policy</b>	<b>Option 3: Change the entire package of rules</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>Lack of consistency with other QLDC policy guidance.</li> <li>Lack of clarity associated with the weight afforded to the jetty and mooring policy.</li> </ul>	<ul style="list-style-type: none"> <li>The content of the jetty and mooring policy may be outdated or not reflect the anticipated outcome.</li> <li>Costs for Council to change the existing provisions.</li> </ul>	<ul style="list-style-type: none"> <li>Higher costs for the Council.</li> <li>The existing structure is established and provides for a high degree of intervention.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Retains the established approach which parties are familiar with.</li> <li>Low cost for Council.</li> </ul>	<ul style="list-style-type: none"> <li>Encourages persons to propose jetties and moorings that are consistent with the policy.</li> <li>Strengthens relationship between the policy and District Plan.</li> <li>Including provisions consistent with the policy gives effect to the policy and allows proposals to be considered against the merits of the policy.</li> </ul>	<ul style="list-style-type: none"> <li>Greater clarity and efficiency could be obtained from changing the rules which relate to jetties and moorings in the Frankton Arm.</li> </ul>
<b>Ranking</b>	<b>3</b>	<b>1</b>	<b>2</b>

**Issue 3: Assessment criteria relating to activities on or in lakes and rivers**

Option 1: Retain the operative assessment criteria.

Option 2: Amend the operative assessment criteria.

Option 3: Remove the operative assessment criteria **(Recommended)**..

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Amend Operative provisions</b>	<b>Option 3: Remove Criteria and rely on policy</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>The existing criteria are too broad and do not provide adequate guidance to the likely range of activities, structures, commercial activities (motorised and non-motorised).</li> </ul>	<ul style="list-style-type: none"> <li>Specificity can result in some activities being missed.</li> <li>Has costs associated with going through the District Plan Review process (but this is required by legislation).</li> </ul>	<ul style="list-style-type: none"> <li>Lack of guidance for applicants and decision makers.</li> <li>Removes established parameters for assessing the merits of applications.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Retains the established approach which parties are familiar with.</li> <li>Low cost for Council.</li> </ul>	<ul style="list-style-type: none"> <li>Recognises the likely impact between separate activities.</li> <li>Helpful for applicants to form assessment of effects on the environment statements.</li> </ul>	<ul style="list-style-type: none"> <li>Rely on policy to help gauge the effects of applications.</li> <li>Less prescriptive text in the District Plan.</li> <li>Discretionary activities are not restricted to prescribed matters, it is not compulsory to have these assessment criteria in the District Plan.</li> </ul>
<b>Ranking</b>	<b>3</b>	<b>2</b>	<b>1</b>

**Issue 4: Historic consents issued for boating activities on the Kawarau and the Lower Shotover River**

Option 1: Retain the operative provisions (**Recommended**).

Option 2: Remove the operative commercial boating activities and control these through a bylaw.

Option 3: Avoid any further proposals for commercial boating activities in certain locations by making new applications prohibited.

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Remove rules from District Plan and control through a bylaw</b>	<b>Option 3: Avoid any further proposals for commercial boating activities.</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>On-going potential for resource consent decisions to be appealed due to existing users activities being constrained.</li> </ul>	<ul style="list-style-type: none"> <li>High potential cost for Council and operators.</li> <li>Loss and uncertainty to operators who have existing resource consents.</li> <li>Uncertainty with the legal ability to remove existing activity rights</li> </ul>	<ul style="list-style-type: none"> <li>Restrict viability for other commercial operators.</li> <li>High cost for Council to review the rule.</li> <li>Does not provide for activities with potential to establish that may be appropriate</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Certainty for established operators.</li> <li>Enabling the opportunity to apply for resource consent retains the ability to consider the merits of applications, whether it be in the context of established activities that may constrain other prospective operators.</li> </ul>	<ul style="list-style-type: none"> <li>Establishing new authorisations through a bylaw could create an equitable spread of activities and remove the potential for the Council to be involved in RMA litigation.</li> <li>Bylaw control has limited scope for approvals/authorisation compared to RMA process. Reduced costs for the Council associated with RMA applications.</li> </ul>	<ul style="list-style-type: none"> <li>Removes the potential for litigation associated with Council decisions on resource consents affecting existing operators without specific limits on the intensity and duration of their consents.</li> </ul>
<b>Ranking</b>	<b>1</b>	<b>2</b>	<b>3</b>

**Issue 5: Consistency with the Navigational Safety Bylaw 2014.**

Option 1: Retain the operative provisions.

Option 2: Amend to make consistent with the Navigational Safety Bylaw **(Recommended)**.

Option 3: Comprehensive review of all provisions.

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Amend to make consistent with the Navigational Safety Bylaw</b>	<b>Option 3: Comprehensive review of provisions</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>Retain and/or create the potential for inconsistency with the Navigational Safety Bylaw.</li> <li>Duplication of regulation.</li> <li>Users need to refer to two separate rules to determine what activities are excluded from certain areas.</li> </ul>	<ul style="list-style-type: none"> <li>Cost for amending the provisions.</li> <li>Potential to create a loophole not covered by the bylaw if an activity is removed from operative District Plan list of prohibited activities.</li> </ul>	<ul style="list-style-type: none"> <li>Higher cost compared to the benefits gained.</li> <li>Excessive reviewing, only some provisions have been identified as being inefficient.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Lower cost for Council to change operative provisions.</li> </ul>	<ul style="list-style-type: none"> <li>Removes inconsistencies between bylaw and operative rules for prohibited activities.</li> <li>Removes duplication of regulation.</li> <li>Enables more efficient review and community involvement because the bylaw is reviewed every 5 years, compared to the ten years for the District Plan, exemptions can be granted for non-compliant bylaw activities while no application can be made for District Plan prohibited activities.</li> </ul>	<ul style="list-style-type: none"> <li>Creates opportunity to revisit entirety of provisions and whether they would be better managed via a bylaw.</li> </ul>
<b>Ranking</b>	<b>3</b>	<b>1</b>	<b>2</b>

**Issue 6: Miscellaneous and existing Provisions**

Option 1: Retain the operative provisions.

Option 2: Amend to improve phrasing, effectiveness and formatting (**Recommended**).

Option 3: Comprehensive changes

	<b>Option 1: Status quo/ No change</b>	<b>Option 2: Minor Changes</b>	<b>Option 3: Comprehensive amendments</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>Identified inefficiencies will remain.</li> </ul>	<ul style="list-style-type: none"> <li>Cost for Council to change.</li> </ul>	<ul style="list-style-type: none"> <li>High cost and reviewing input relative to the changes required.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>Familiarity with existing approach.</li> <li>Low costs</li> </ul>	<ul style="list-style-type: none"> <li>Appropriate opportunity to correct deficiencies.</li> <li>Lower cost for Council than a separate review plan change.</li> </ul>	<ul style="list-style-type: none"> <li>Creates opportunity to revisit entirety of provisions and whether they would be better managed via a bylaw.</li> </ul>
<b>Ranking</b>	<b>2</b>	<b>1</b>	<b>3</b>

## 8. Scale and Significance Evaluation

The level of detailed analysis undertaken for the evaluation of the proposed objectives and provisions has been determined by an assessment of the scale and significance of the implementation of the proposed provisions. In making this assessment, regard has been had to the following, namely whether the objectives and provisions:

- Result in a significant variance from the operative District Plan.
- Have effects on resources that are considered to be a matter of national importance in terms of section 6 of the Act
- Adversely affect those with specific interests, e.g., Tangata Whenua, recreational and commercial users of the rivers and lakes.
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

The level of detail of analysis in this report is moderate-high. The landscape and Rural Zone Chapters primarily manage activities on the surface of water in rivers and lakes. Many elements of the Landscape and Rural Zone chapters build on existing approaches within the operative District Plan, so there is not a significant change in policy direction.

However, a number of the provisions take general existing approaches further in terms of implementation. For example, the Operative District Plan sets out a framework of none, or very limited development right for commercial activities on the surface of water of rivers and lakes. The objectives take these established provisions further by providing for advancements including: the identification of landscape classifications (lines) and providing more targeted, informed policy for activities that could be contemplated in these areas..

Other reasons for the moderate-high detail of analysis include that the provisions set an important direction for the balance of the District Plan. The District's economy is largely based on the benefits derived from tourism and the landscape resource.

The detail of analysis is high. The provisions are both high level and detailed in terms of the application and administration of the rules and assessment

## 9. Evaluation of proposed Objectives Section 32 (1) (a)

The identification and analysis of issues has helped define how Section 5 of the RMA should be articulated in terms of managing activities on the surface of water rivers and lakes. This has informed determination of the most appropriate objectives to give effect to Section 5 of the RMA in light of the issues.

Section 32(1)(a) requires an examination of the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act. The following objectives serve to address the key Strategic issues in the District:

<i>Proposed Objective</i>	<i>Appropriateness</i>
<p><b>21.2.9 (Rural Zone)</b></p> <p><b>Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.</b></p>	<p>The objective is the most appropriate in terms of achieving the purpose of the RMA because it establishes that the location, scale and intensity of commercial activities can affect rural amenity, constrain established rural activities and compromise the vitality of zones where commercial activities are anticipated.</p> <p>Strategic Directions: Relevant to Objective 3.2.4.6 - Maintain or enhance the water quality of our lakes and rivers.</p> <p>Gives effects to RPS objectives 5.4.1, 5.4.3 and policies 5.5.2, 5.5.3 and 5.5.4 (Land)</p> <p>Gives effect to RPS objective 9.4.3 and policy 9.5.4 (Built Environment)</p> <p>Has regard to the Proposed RPS 2015:</p> <ul style="list-style-type: none"> <li>• Objective 2.2 – Otago’s significant and highly-valued natural resources are identified, and protected or enhanced.</li> <li>• Objective 2.3 Natural Resource systems and their interdependence are recognised</li> </ul>
<p><b>21.2.12 (Rural Zone)</b></p> <p><b>Protect, maintain and enhance the surface of lakes and rivers and their margins.</b></p>	<p>The surfaces of rivers and lakes have high nature conservation, recreational and passive recreational amenity values. Controls over water-based activities are necessary to manage:</p> <ul style="list-style-type: none"> <li>• Adverse effects on water quality, visual amenity, recreational and passive amenity values</li> <li>• Safety and congestion associated with commercial boating operations</li> <li>• Structures and mooring lines</li> <li>• Managing effects from recreational boating activities.</li> </ul> <p>For these reasons, the objective is the most appropriate way to meet the purpose of the RMA. The Objective recognises and provides for Section 6 – Matters of National Importance. In particular Sections 6(a), (b), (d), (e) and (g).</p>

	<p>Strategic Directions: Relevant to Objective 3.2.4.6 - Maintain or enhance the water quality of our lakes and rivers.</p> <p>Gives effect to RPS objective 5.4.3 and policies 5.5.1, 5.5.5 and 5.5.6 (Land).</p> <p>Gives effect to RPS objectives 6.4.4, 6.4.5, 6.4.7 and 6.4.8, and policies 6.5.1, 6.5.7, 6.5.9 and 6.5.10.</p> <p>Has regard to the Proposed RPS 2015:</p> <ul style="list-style-type: none"> <li>• Objective 1.2 – Kai Tahu values, rights and interests and customary resources are sustained</li> <li>• Objective 2.1 – The values of Otago’s natural and physical resources are recognised, maintained and enhanced</li> <li>• Objective 2.2 – Otago’s significant and highly-valued natural resources are identified, and protected or enhanced.</li> <li>• Objective 2.3 Natural Resource systems and their interdependence are recognised</li> </ul>
<p><b>6.3.6 (Landscape)</b></p> <p><b>Protect, maintain and enhance the landscape values of the lakes and rivers and their margins from the effects of structures and activities.</b></p>	<p>Recognises the importance of the District’s lakes and rivers and their contribution to the landscape resource.</p> <p>The proposed objective is the most appropriate way to achieve the purpose of the Act because it recognises the importance of the landscape resource to the District and that the adverse effects of activities on the District’s landscapes are avoided, remedied or mitigated (S5(2)(c) RMA).</p> <p>The lakes and rivers both on their own and, when viewed as part of the distinctive landscapes are a significant element to the national and international identity of the District and provide for a wide range of amenity and recreational opportunities. They are nationally and internationally recognised as part of the reasons for the District’s importance as a visitor destination, as well as one of the reasons for residents to belong to the area. Managing the landscape and recreational values on the surface of lakes and rivers is an important district plan function.</p> <p>The landscape values of the surface of lakes and rivers are a matter of national importance under section 6(b) of the RMA.</p> <p>Establishes a basis for the policy of the management of activities, subdivision and development which has the potential to affect the landscape values of the surface of lakes and rivers.</p> <p>Strategic Directions:</p> <ul style="list-style-type: none"> <li>• Consistent with Objective 3.2.2.1 ‘Ensure Urban development occurs in a logical manner’.</li> <li>• Consistent with Objective 3.2.5.1 ‘Protect the natural character of Outstanding Natural Landscapes and</li> </ul>

	<p>Outstanding Natural Features from subdivision, use and development’.</p> <ul style="list-style-type: none"> <li>• Consistent with Objective 3.2.5.2 - Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.</li> <li>• Consistent with Objective 3.2.5.3 - Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values.</li> <li>• Consistent with Objective 3.2.5.4 - Recognise there is a finite capacity for residential activity in rural areas if the qualities of our landscape are to be maintained.</li> <li>• Consistent with Objective 3.2.5.5 - Recognise that agricultural land use is fundamental to the character of our landscapes.</li> </ul> <p>Gives effect to the RPS:</p> <ul style="list-style-type: none"> <li>• Objectives 4.4.1, 4.4.2, 4.4.3 and 4.4.5 (Manawhenua).</li> <li>• Objective 5.4.3 and policies 5.5.1 and 5.5.6 (Land).</li> <li>• Objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</li> </ul> <p>Has regard to the Proposed RPS 2015:</p> <ul style="list-style-type: none"> <li>• Objective 1.2 – Kai Tahu values, rights and interests and customary resources are sustained</li> <li>• Objective 2.1 – The values of Otago’s natural and physical resources are recognised, maintained and enhanced</li> <li>• Objective 2.2 – Otago’s significant and highly-valued natural resources are identified, and protected or enhanced.</li> <li>• Objective 2.3 Natural Resource systems and their interdependence are recognised</li> </ul>
<p><b>6.3.8 (Landscape)</b></p> <p><b>Recognise the dependence of tourism on the District’s landscapes.</b></p>	<p>The District relies, in large part for its social and economic well being on the quality of the landscape, open spaces and environmental image.</p> <p>The Objective acknowledges the existence of established skiing activities within established locations identified as sub-zones and their location amidst the District’s outstanding natural landscapes.</p> <p>The objective also recognises that a wide range of both passive and active activities seek to locate and utilise the District’s lakes and rivers for a wide range of tourism based ventures.</p> <p>The proposed objective is the most appropriate way to achieve the purpose of the Act because it recognises the importance of the landscape resource to the District and that the adverse effects of activities on the District’s landscapes are avoided, remedied or mitigated (S5(2)(c) RMA).</p> <p>The objective has regard to section 7(b) RMA.</p>

	<p>Strategic Directions:</p> <ul style="list-style-type: none"> <li>• Relevant to 3.2.1.1 - Recognise, develop and sustain the Queenstown and Wanaka central business areas as the hubs of New Zealand's premier alpine resorts and the District's economy.</li> <li>• Relevant to 3.2.1.3 - Enable the development of innovative and sustainable enterprises that contribute to diversification of the District's economic base and create employment opportunities.</li> <li>• Relevant to 3.2.1.4 - Recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided a sensitive approach is taken to rural amenity, landscape character and healthy ecosystems.</li> <li>• Consistent with Objective 3.2.2.1 'Ensure Urban development occurs in a logical manner'.</li> <li>• Consistent with Objective 3.2.5.1 'Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development'.</li> <li>• Consistent with Objective 3.2.5.2 - Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.</li> <li>• Consistent with Objective 3.2.5.3 - Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values.</li> <li>• Consistent with Objective 3.2.5.4 - Recognise there is a finite capacity for residential activity in rural areas if the qualities of our landscape are to be maintained.</li> <li>• Consistent with Objective 3.2.5.5 - Recognise that agricultural land use is fundamental to the character of our landscapes.</li> </ul> <p>Gives effect to the RPS:</p> <ul style="list-style-type: none"> <li>• Objectives 4.4.1, 4.4.2, 4.4.3 and 4.4.5 (Manawhenua).</li> <li>• Objective 5.4.3 and policies 5.5.1 and 5.5.6 (Land).</li> <li>• Objective 9.4.1 and 9.4.3 and policy 9.5.4 (Built Environment).</li> </ul> <p>Has regard to the Proposed RPS 2015:</p> <ul style="list-style-type: none"> <li>• Objective 1.2 – Kai Tahu values, rights and interests and customary resources are sustained</li> <li>• Objective 2.1 – The values of Otago's natural and physical resources are recognised, maintained and enhanced</li> <li>• Objective 2.2 – Otago's significant and highly-valued natural resources are identified, and protected or enhanced.</li> <li>• Objective 2.3 Natural Resource systems and their interdependence are recognised</li> </ul>
--	---

The above objectives are considered to be the most appropriate methods of achieving the purpose of the Act, as they identify and give direction as to the how the specific issues that pertain to the management of activities on the surface of lakes and rivers, and any activities that have the potential to affect the District's landscape resource are addressed.

## **10. Evaluation of the proposed provisions Section 32 (1) (b)**

The following tables consider whether the proposed provisions are the most appropriate way to achieve the relevant objectives. In doing so, it considers the costs and benefits of the proposed provisions and whether they are effective and efficient. For the purposes of this evaluation the proposed provisions are grouped by the resource management issue.

*(Also refer to the Table detailing broad options considered in Section 5, above)*

### **Issue 1: Activity status of resource consents/rules relating to boating activities**

#### **21.2.9 (Rural Zone)**

**Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.**

#### **21.2.12 (Rural Zone)**

**Protect, maintain or enhance the surface of lakes and rivers and their margins.**

#### **6.3.6 (Landscape)**

**Protect, maintain or enhance the landscape values of the lakes and rivers and their margins from the effects of structures and activities.**

#### **6.3.8 (Landscape)**

**Recognise the dependence of tourism on the District's landscapes.**

Summary of proposed provisions that give effect to these objectives:

- Retain the requirement for a discretionary resource consent for commercial motorised boating activities
- Introduce a new policy to take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.
- Create a new restricted discretionary activity resource consent for non-motorised commercial activities.
- Create the opportunity for resource consent to be obtained for non-motorised commercial activities on Lake Hayes. Currently all commercial boating activities

are on Lake Hayes are prohibited.

- Require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.

**Policies:**

Landscape

6.3.6.1 to 6.3.6.3, 6.3.8.1, 6.3.8.2

Rural Zone

21.2.9.1, 21.2.9.2 and 13.3.9.6, 21.2.12.1 to 21.2.12.10

**Rules:**

21.4.2.1, 21.4.2.24, Table 9

<b>Proposed new/altered provisions</b>	<b>Costs:</b>	<b>Benefits</b>	<b>Effectiveness &amp; Efficiency</b>
<p><b>Rule 21.5.1.39</b></p> <p><b>Commercial non-motorised boating activities.</b></p> <p>Restricted Discretionary activity class of resource consent with discretion restricted to:</p> <ul style="list-style-type: none"> <li>• Whether they are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place, including whether they are situated in natural bays and not headlands.</li> </ul>	<p><b>Environmental</b></p> <p>Potential for more non-motorised commercial activities could lead to a higher potential for commercial operators to establish on the margins of lakes and rivers on recreation reserves, creating amenity and safety effects. However, the status of resource consent defines the terms that can be assessed, not either the notification process or the substantive merits of the proposal.</p> <p><b>Economic</b></p> <p>Perceived economic costs through other operators, noting that trade competition effects are not within the scope of the RMA.</p>	<p><b>Environmental</b></p> <p>Would protect the landscape resource which the District relies on for tourism, while enabling more passive, less intrusive commercial activities.</p> <p><b>Economic</b></p> <p>Resource consent application and process for non-motorised activities are likely to be less complex, require less technical assistance/expert advice and may be less likely to discourage commercial operators.</p> <p><b>Social &amp; Cultural</b></p> <p>Potential to enable more persons to engage in non-motorised commercial activities.</p>	<p>The proposed provisions introduce clearer parameters for the different types of commercial activities and distinguish between the likely impacts associated with non-motorised and motorised activities. The proposed changes create efficiencies for non-motorised commercial activities.</p> <p>The proposed changes would be effective at providing safeguards through restricted discretionary resource consent.</p>

<ul style="list-style-type: none"> <li>• Whether the structure causes an impediment to craft manoeuvring and using shore waters.</li> <li>• The degree to which the structure will diminish the recreational experience of people using public areas around the shoreline.</li> <li>• The effects associated with congestion and clutter around the shoreline. Including whether the structure contributes to an adverse cumulative effect.</li> <li>• Whether the structure will be used by a number and range of people and craft, including the general public.</li> <li>• The degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design.</li> </ul>	<p><b>Social &amp; Cultural</b>  Creating more enabling provisions for non-motorised commercial activities has the potential for more resource consents to be granted and this could reduce amenity values. However the ability to consider cumulative effects will be facilitated.</p>	<p>Retaining discretionary activity status for motorised activities provides safeguards for safety, amenity and cultural values.</p> <p>The changes to the provisions would not affect the obligation for the Council to consult with iwi as required by the statutory acknowledgement processes.</p>	
<p><b>Proposed new/altered provisions</b></p>	<p><b>Costs</b></p>	<p><b>Benefits</b></p>	<p><b>Effectiveness &amp; Efficiency</b></p>

<p><b>Rule 21.5.1.42</b></p> <p><b>Recreational and commercial boating activities</b></p> <p>The use of motorised craft on the following lakes and rivers is prohibited, except where the activities are for emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities.</p> <p>...</p> <p>(b) Commercial boating activities on Lake Hayes.</p>	<p><b>Environmental</b> Opening the opportunity for resource consent to be obtained will have an effect compared to the existing rules that prohibit all commercial activities on Lake Hayes.</p> <p>There will be a potential for a decrease in amenity values, however this is mitigated by the retention of the rule prohibiting motorised craft.</p> <p><b>Economic</b> None identified.</p> <p><b>Social &amp; Cultural</b> Will provide opportunities for non-motorised operators and participants.</p>	<p><b>Environmental</b> Proposals would still require a restricted discretionary resource consent that could be processed on a notified basis and declined.</p> <p>Would protect the landscape resource which the District relies on for tourism, while enabling more passive, less intrusive commercial activities.</p> <p><b>Economic</b> Resource consent application and process for non-motorised activities is likely to be less complex, require less technical assistance/expert advice and may be less likely to discourage commercial operators.</p> <p><b>Social &amp; Cultural</b> Potential to enable more persons to engage in non-motorised commercial activities.</p> <p>The changes to the provisions would not affect the obligation for the Council to consult with iwi as required by the statutory acknowledgement processes.</p>	<p>The proposed provisions introduce the opportunity to obtain resource consent for non-motorised commercial boating activities. Being non-motorised the scale and impact of these activities will be minimal and the consent process would ensure the environmental standards and levels of amenity are effectively managed.</p> <p>The scale and intensity of non-motorised activities is not as variable as motorised forms and the restricted discretionary activity class of resource consent is efficient because it provides more certainty as to the matters at issue.</p>
<p><b>Proposed new/altered provisions</b></p>	<p><b>Costs</b></p>	<p><b>Benefits</b></p>	<p><b>Effectiveness &amp; Efficiency</b></p>
<p><b>Policy 21.2.12.9</b></p> <p>Take into account the potential adverse effects on nature conservation values from the boat wake of</p>	<p><b>Environmental</b> None identified.</p> <p><b>Economic</b> Potential economic cost for applicants who may need to obtain expert evidence to</p>	<p><b>Environmental</b> Introducing a new policy to consider the potential effects of commercial boating activities causing bank erosion and turbidity provides the opportunity to assess and manage the scale and</p>	<p>The proposed changes would be effective at providing safeguards to prevent turbidity and bank erosion.</p> <p>The proposed provisions are efficient as a policy because not all applications for</p>

<p><i>commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.</i></p>	<p>ensure that the proposed activity does not cause erosion and turbidity. However, the policy would only need to be applied in situations where this was likely to occur and is likely to affect a relatively small number of operators, in situations where this is a possibility. For example, the policy would only be likely to need to be addressed where jet boats were operating in a river or lake system where this was a possibility and the speed or actions of the boats had the potential to create adverse effects.</p> <p><b>Social &amp; Cultural</b> Potential social cost to applicants associated with addressing the policy where it could create uncertainty.</p>	<p>intensity of commercial boat activities and ensure that they do not cause erosion and turbidity of the banks of waterbodies.</p> <p><b>Economic</b> Addressing this matter ‘up-front’ at the time of resource consent applications and assessment prevents having to assess this matter if commercial boating activities are causing turbidity and erosion.</p> <p><b>Social &amp; Cultural</b> Benefits to persons concerned with the intrinsic value of water bodies and ensuring commercial motorised boating activities have a limited environmental impact.</p>	<p>motorised commercial boating activities would need assessment</p>
<p><b>Alternative options considered less appropriate to achieve the relevant objectives and policies:</b></p>			
<p><i>Option 1: Control all boating activities through a bylaw</i></p>	<ul style="list-style-type: none"> <li>• <i>A bylaw would not enable the ability for public input where required for activities that are likely to have a more than minor adverse effect.</i></li> <li>• <i>A bylaw would provide more certainty for the public, established and existing operators, however the ability to assess the merits and effects on the environment are constrained compared to through the resource consent and RMA processes.</i></li> </ul>		

**Issue 2: The management of jetties within the Frankton Arm and consistency with QLDC policy documents**

**21.2.12 (Rural Zone)**

**Protect, maintain or enhance the surface of lakes and rivers and their margins.**

**6.3.6 (Landscape)**

**Protect, maintain or enhance the landscape values of the lakes and rivers and their margins from the effects of structures and activities.**

Summary of proposed provisions that give effect to these objectives:

- New provision being a restricted discretionary activity resource consent status for jetties in the Frankton Arm.
- New provision requiring non-complying resource consent if proposed jetty does not achieve performance standards based on the Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu.
- Retain discretionary resource consent status for structures in all other areas.
- Unlike most of the surface of lakes and rivers and their margins, the Frankton Arm will not have an outstanding natural landscape classification, assessment of jetties would be restricted to the matters specified in the rule and would not be subject to the assessment criteria. However, other structures such as boat sheds, slipways would require a discretionary activity resource consent.
- Integrates the desired outcomes of the Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu.
- New policy in the landscape section recognising the unique character of the Frankton Arm.

<b><i>Proposed provisions</i></b>	<b><i>Costs</i></b>	<b><i>Benefits</i></b>	<b><i>Effectiveness &amp; Efficiency</i></b>
<p><b>Policies:</b></p> <p>21.2.12.1, 21.2.12.3, 21.2.12.5, 21.2.12.6 21.2.12.7, 21.2.12.8. 6.3.7.1-6.3.7.2.</p> <p><b>Rules:</b></p> <p>6.4.1(c) ii.</p>	<p><b><i>Environmental</i></b></p> <p>Potential for less control on landscape effects of jetties in the Frankton Arm, however the matters of discretion are considered adequate.</p> <p><b><i>Economic</i></b></p> <p>Potential costs to applicants unable to gain permission for a jetty where a cumulative effect has been crossed.</p>	<p><b><i>Environmental</i></b></p> <p>Restricted discretionary resource consent for jetties and discretionary status for other structures provides appropriate safeguards to assess potential adverse effects.</p> <p>Non-complying Jetties require additional justification for having potential higher adverse effects.</p>	<p>Removes requirement for resource consents for jetties to be subject to the ONL assessment criteria and input from landscape architect will increase efficiencies.</p> <p>Specific matters for restricted discretionary activities and, performance standards for non-complying activities provide clear and effective parameters as to whether</p>

<p>21.4.2.1, 21.4.2.69. 21.4.2.75</p>	<p><b>Social &amp; Cultural</b> Potential for jetties to be declined due to cumulative effects, at some point the number of jetties will reach a threshold and application will be declined, therefore limiting the ability for further jetties to be constructed at some point.</p>	<p><b>Economic</b> Reduced costs for applicants for jetties by not requiring assessment against the assessment criteria and probable expert landscape architect input. Frankton Arm not classified as ONL so input from landscape architects would not typically be required,  Clearer parameters for applicants of jetties. Reduced costs for applicants through resource consents and monitoring fees.</p> <p><b>Social &amp; Cultural</b> More certainty for applicants. Retains ability to assess and decline jetties if they are not considered appropriate.</p>	<p>resource consent applications are likely to be complex or contentious</p> <p>Ability to decline consents maintains effective safeguards. Non-complying status for jetties that do not comply with performance standards gives an indication of cumulative effects or jetties that may have a high adverse effect because they are not contemplated in those circumstances.</p>
<p><b>Alternative options considered less appropriate to achieve the relevant objectives and policies:</b></p>			
<p><i>Option 1: Retain existing discretionary rule and retain ONL landscape classification status for the Frankton Arm.</i></p>	<ul style="list-style-type: none"> <li>• <i>Would not recognise the different character of Frankton Arm from the more rural and remote character of lake margins elsewhere.</i></li> <li>• <i>Retains potential for excessive landscape architect input.</i></li> </ul>		
<p><i>Option 2: Make activities that do not comply with the Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu a prohibited activity.</i></p>	<ul style="list-style-type: none"> <li>• <i>Does not provide for applications to prove that while potential at odds with the policy, the activity is appropriate or has unique attributes that mean it is not contrary to District Plan policy and the adverse effects are not more than minor.</i></li> </ul>		

**Issue 3: Assessment criteria relating to activities on or in lakes and rivers**

**21.2.9 (Rural Zone)**

**Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.**

**21.2.12 (Rural Zone)**

**Protect, maintain or enhance the surface of lakes and rivers and their margins.**

**6.3.6 (Landscape) Objective 6**

**Protect, maintain or enhance the landscape values of the lakes and rivers and their margins from the effects of structures and activities.**

**6.3.8 (Landscape) Objective 8**

**Recognise the dependence of tourism on the District's landscapes.**

Summary of proposed provisions that give effect to these objectives:

- Remove assessment criteria and rely on policy for direction to assess the nature and scale of adverse effects on the environment.

<b><i>Proposed provisions</i></b>	<b><i>Costs</i></b>	<b><i>Benefits</i></b>	<b><i>Effectiveness &amp; Efficiency</i></b>
<b>Policies</b> 6.3.6.1 to 6.3.6.3 6.3.8.1 to 6.3.8.2 21.2.9.1, 21.2.9.2, 21.2.9.6. 21.2.12.1 to 21.2.12.10	<b><i>Environmental</i></b> Potential for effects not able to be specific in the matters of discretion for non-motorised commercial activities.  <b><i>Economic</i></b> None identified  <b><i>Social &amp; Cultural</i></b> None identified	<b><i>Environmental</i></b> Maintains a range of potential effects to be considered.  <b><i>Economic</i></b> Clarity and clearer parameters for applicants and resource consent processing.  <b><i>Social &amp; Cultural</i></b>	Efficient District Plan formulation and administration of resource consents and effective guidance for decision makers.

		Certainty and confidence in the potential effects of the activity.	
<b>Alternative options considered less appropriate to achieve the relevant objectives and policies:</b>			
<i>Option 1: Retain existing assessment criteria</i>		<ul style="list-style-type: none"> <li>• <i>These are not considered necessary on the basis of the proposed policy to help inform and gauge decision making as to whether the activity meets the purpose of the RMA.</i></li> </ul>	

**Issue 4: Historic consents issued for boating activities on the Kawarau and the Lower Shotover River**

**21.2.9 (Rural Zone)**

**Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.**

**21.2.12 (Rural Zone)**

**Protect, maintain or enhance the surface of lakes and rivers and their margins.**

**6.3.6 (Landscape)**

**Protect, maintain or enhance the landscape values of the lakes and rivers and their margins from the effects of structures and activities.**

**6.3.8 (Landscape)**

**Recognise the dependence of tourism on the District's landscapes.**

Summary of proposed provisions that give effect to these objectives:

- New policy recognising the contribution tourism and commercial recreation activities make to the District.
- Retain existing rules requiring a discretionary resource consent is required for motorised commercial activities.

<b>Proposed provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Effectiveness &amp; Efficiency</b>
<p><b>Policies:</b></p> <p>6.3.6.1 6.3.8.3 21.2.12.1 to 21.2.12.10</p> <p><b>Rules:</b></p> <p>6.4.1(c) and (d) 21.4.2.1. 21.4.2.24. Table 9.</p>	<p><b>Environmental</b> None identified</p> <p><b>Economic</b> Potential costs for council and other stakeholders through resource consents and appeals.</p> <p><b>Social &amp; Cultural</b> None identified</p>	<p><b>Environmental</b> Maintains control on commercial boating activities.</p> <p><b>Economic</b> None identified</p> <p><b>Social &amp; Cultural</b> None identified.</p>	<p>The situation is a result in large part through existing resource consents having no limits on the intensity and duration of the activity, this provides uncertainty for new proposals to be assessed against how these may affect established operations.</p> <p>This matter cannot be resolved by District Plan provisions.</p> <p>This has the potential to constrain other potential commercial operators in some locations. However it must be realised the resource has a finite capacity.</p>
<p><b>Alternative options considered less appropriate to achieve the relevant objectives and policies:</b></p>			
<p><i>Option 1: Make commercial activities in certain areas regulated through a bylaw</i></p>		<ul style="list-style-type: none"> <li>• <i>Has the potential to diminish the ability for holders of existing resource consents to undertake activities. This would impinge on established businesses and potentially constrain the use of established infrastructure and investment.</i></li> </ul>	

**Issue 5: Consistency with the Navigational Safety Bylaw 2014.**

**21.2.12 (Rural Zone)**

**Protect, maintain or enhance the surface of lakes and rivers and their margins.**

Summary of proposed provisions that give effect to these objectives:

- The removal of some prohibited activities that are regulated under the bylaw to remove duplication and inconsistent regulation.

<b>Proposed provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Effectiveness &amp; Efficiency</b>
<p><b>Policies:</b> 21.12.1 to 21.12.12</p> <p><b>Rules:</b> Table 9</p>	<p><b>Environmental</b> Potential for adverse effect where a activity prohibited under the operative provisions is removed, but not regulated by the Bylaw.</p> <p><b>Economic</b> None identified</p> <p><b>Social &amp; Cultural</b> Potential for effects on amenity and cultural values from the removal of the prohibited status for activities. Notwithstanding these activities would be controlled through the bylaw.</p>	<p><b>Environmental</b> The Bylaw provides effective and clear parameters for controlling the location of vessels in waterways, where safety is the primary matter at issue.</p> <p><b>Economic</b> Reduced duplication removes costs for the Council and operators dealing with two regulations.</p> <p><b>Social &amp; Cultural</b> The Bylaw can provide for social and cultural considerations by excluding boat access from certain locations.</p>	<p>The Bylaw is considered a more effective regulation to control the location of boats, especially recreational boating. It is preferred to use the Bylaw where applicable.</p> <p>Reducing inconsistencies would remove the potential for instance where a exemption/uplifting is provided under the bylaw, but the activity still remains prohibited in the District Plan. This would have significant gains in efficiency.</p>

**Alternative options considered less appropriate to achieve the relevant objectives and policies:**

<p><i>Option 1: Make activities not specified under the bylaw that would be prohibited in the District Plan a non-complying activity.</i></p>	<ul style="list-style-type: none"> <li>• <i>Would enable the opportunity to obtain a resource consent in instances where an exemption is granted under the bylaw.</i></li> <li>• <i>Would involve a duplication of regulation.</i></li> <li>• <i>Unreasonable and impractical for recreational boaters to apply for a resource consent for a one-off activity.</i></li> </ul>
---	---

## **Issue 6: Miscellaneous and existing Provisions**

### **21.2.9 (Rural Zone)**

**Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.**

### **21.2.12 (Rural Zone)**

**Protect, maintain or enhance the surface of lakes and rivers and their margins.**

### **6.3.6 (Landscape)**

**Protect, maintain or enhance the landscape values of the lakes and rivers and their margins from the effects of structures and activities.**

### **6.3.8 (Landscape)**

**Recognise the dependence of tourism on the District's landscapes.**

Summary of proposed provisions that give effect to these objectives include:

- Retention of existing policies which recognise iwi values, white water values on the Kawarau River, maintain recreational values, controls the effects of structures, and manages safety and amenity effects of commercial boating operations.
- Retention of rules that control boating craft used for accommodation.
- Require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.

<b>Proposed provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Effectiveness &amp; Efficiency</b>
<b>Policies:</b> 6.3.7.1 to 6.3.7.2 6.3.8.3 21.2.12.1-21.2.12.10  <b>Rules:</b> 21.4.2.1 21.4.2.24 Table 9.	<b>Environmental</b> None identified  <b>Economic</b> None identified  <b>Social &amp; Cultural</b> None identified	<b>Environmental</b> Maintains existing safeguards and ability to assess merits of activities through the resource consent process.  <b>Economic</b> None identified.  <b>Social &amp; Cultural</b> None identified	The existing operative provisions which have not been identified as having issues that necessitate change.  The existing operative provisions that are not being substantially altered are considered effective and efficient.
<b>Alternative options considered less appropriate to achieve the relevant objectives and policies:</b>			
None identified			

## 11. Efficiency and effectiveness of the provisions

The above provisions are drafted to specifically address the resource management issues identified with the current provisions, and to enhance those provisions that already function well. A number of areas of the existing chapter have been removed to aid the readability of the Plan by keeping the provisions at a minimum, whilst still retaining adequate protection for the resource.

By simplifying the objectives, policies and rules (the provisions), the subject matter becomes easier to understand for users of the Plan both as applicant and administrator (processing planner). Removal of technical or confusing words and phrases also encourages correct use and interpretation. With easier understanding, the provisions create a more efficient consent process by reducing the number of consents required and by expediting the processing of those consents.

## 12. The risk of not acting

Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is not considered that there is uncertain or insufficient information about the subject matter of the provisions.

The issues identified and options taken forward are the most appropriate way to achieve the purpose of the RMA. If these changes were not made there is a risk the District Plan would fall short of fulfilling its functions.

## References

Also refer to any footnotes within the text

1. Read Landscapes Limited 'Report to Queenstown Lakes District Council on appropriate landscape classification boundaries within the District, with particular reference to Outstanding Natural Landscapes and Features' 2014. - [link](#)
  - a. Peer review on the Wakatipu component by Ben Espie landscape planner - [link](#)
  - b. Peer review on the Wanaka/Upper Clutha component by Anne Steven landscape architect - [link](#)
  - c. Read Landscapes Limited. Post review amendments 16 October 2014 - [link](#)
  - d. Landscape assessment of Criffel Station and terrace escarpments near McKay Road 'QLDC Landscape categorisation Lines' by Paul Smith landscape Architect. 20 July 2015 - [link](#)
2. Read Landscapes Limited 'Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment' June 2014 - [link](#)
3. 'High Level Review of Proposed District Plan Provisions – Landscape Issues' Ben Espie Landscape Planner. 20 November 2014 - [link](#)
4. Ministry for the Environment. 2014. A guide to section 32 of the Resource management Act: incorporating changes as a result of the Resource Management Amendment Act 2013. Wellington. Ministry for the Environment - [link](#)