

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 11

Report and Recommendations of Independent Commissioners Regarding
Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 16 and Chapter 17

Commissioners

Denis Nugent (Chair)

Paul Rogers

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PART A: INTRODUCTORY MATTERS

1. PRELIMINARY

1.1. Terminology in this Report

1. Throughout this report, we use the following abbreviations:

Act	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
ANB	Air Noise Boundary
ASAN	Activities Sensitive to Aircraft Noise
ATCZ	Arrowtown Town Centre Zone
AMUZ	Airport Mixed Use Zone
AZ	Airport Zone
BMUZ	Business Mixed Use Zone
CAA	Civil Aviation Authority
Clause 16(2)	Clause 16(2) of the First Schedule to the Act
Council	Queenstown Lakes District Council
CPTED	Crime Prevention Through Environmental Design
HSNO	Hazardous Substances and New Organisms Act 1996
KTKO NRMP 2005	Kāi Tahu ki Otago Natural Resource Management Plan 2005
LSCZ	Local Shopping Centre Zone
masl	metres above sea level
MNRMP 2008	The Cry of the People, Te Tangi a Taurira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008
NPSET 2008	National Policy Statement for Electricity Transmission 2008
NPSFM 2011	National Policy Statement for Freshwater Management 2011
NPSFM 2014	National Policy Statement for Freshwater Management 2014
NPSREG 2011	National Policy Statement for Renewable Electricity Generation 2011

NPSUDC 2016	National Policy Statement on Urban Development Capacity
NZIA	NZIA Southern and Architecture + Women Southern
OCB	Outer Control Boundary
ODP	The Operative District Plan for the Queenstown Lakes District as at the date of this report
ONF	Outstanding Natural Feature(s)
ONL	Outstanding Natural Landscape(s)
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
Proposed RPS	The Proposed Regional Policy Statement for the Otago Region Decisions Version dated 1 October 2016, unless otherwise stated
QAC	Queenstown Airport Corporation
QTC	Queenstown Town Centre
QTCZ	Queenstown Town Centre Zone
RMA	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
RPL	Remarkables Park Limited
RPS	The Operative Regional Policy Statement for the Otago Region dated October 1998
QPL	Queenstown Park Limited
SCA	Special Character Area (in QTCZ)
Stage 2 Variations	The variations, including changes to the existing text of the PDP, notified by the Council on 23 November 2017.
TCEP	Town Centre Entertainment Precinct
TCTSZ	Town Centre Transition Sub-Zone
UCES	Upper Clutha Environmental Society
UGB	Urban Growth Boundary
WSZ	Waterfront Sub Zone

WTC Wanaka Town Centre

WTCZ Wanaka Town Centre Zone

1.2. Topics Considered

2. The subject matter of the Stream 8 hearings was Chapters 12, 13, 14, 15, 16 and 17 of the PDP (Hearing Stream 8). The Chapters, as notified, covered the following matters.
3. Chapter 12 set out objectives, policies and rules for the Queenstown Town Centre seeking to ensure it continues to develop as a high quality and vibrant hub that offers a range of activities crucial to the Centre's economic viability, and which significantly contribute to the overall resilience of the community.
4. Chapter 13 dealt with the Wanaka Town Centre. The objectives for the WTCZ provide for it to continue to be the principal commercial, entertainment and cultural centre for the wider Wanaka area. The chapter provided through its policies and rules some intensification of the WTC by relaxing height and coverage in parts of the town centre.
5. Chapter 14 sets out objectives policies and rules for the Arrowtown Town Centre Zone. Arrowtown is noted for its special heritage character, attracting visitors to the district. The ATCZ provided for business and retailing for visitors and local residents at a boutique scale. Growth was anticipated within both the resident population and visitor numbers. However, the Centre's compact form was valued because it enabled access by foot.
6. Chapter 15 set out the objectives, policies and rules for the Local Shopping Centre Zone. The LSCZ included existing and proposed local shopping centres at Albert Town, Arrowtown, Fernhill, Frankton, Hawea, Sunshine Bay and Wanaka (Cardrona Valley Road). The purpose of establishing the LSCZ was to enable small scale commercial and business activities accessible to residents and travellers alike. They were located in predominantly residential locations seeking to reduce the need for residents and travellers to travel longer distances for convenience goods.
7. Chapter 16 set out the objectives, policies and rules for the Business Mixed Use Zone. The BMUZ enabled a variety of activities to occur compatible and supplementary to the activities and services provided in the town centres. The purpose of the zone was to provide for activities that contribute to economic growth without detracting from the town centres.
8. Chapter 17 set out the objectives, policies and rules for the Airport Mixed Use Zone. This zone provided for activities at Queenstown Airport, recognising the airport as a nationally significant asset providing a gateway for people and freight and generating economic and social benefits. The rules for this zone sought to provide performance standards in order to manage the effects of airport activities on amenity values within and outside of the zone.

1.3. Hearing Arrangements for Stream 8

9. The hearing of Stream 8 matters was held on 28 November to 1 December 2016 inclusive in Queenstown; and in Wanaka on 5-6 December 2016 inclusive.
10. The parties heard from on Stream 8 matters were:

Queenstown Lakes District Council

- James Winchester and Sarah Scott (Counsel)

- Dr Stephen Chiles
- Tim Church
- Tim Heath
- Jackie Gillies
- Sian Swinney
- Victoria Jones
- Amy Bowbyes
- Rebecca Holden

New Zealand Transport Agency¹

- Tony MacColl

Erna Spijkerbosch²

- Duncan Ridd

Queenstown Park Limited³, Remarkables Park Limited⁴, Queenstown Wharves GP Limited⁵

- John Young (Counsel)
- Malcolm Hunt
- David Serjeant
- Jenny Carter

Queenstown Airport Corporation⁶

- Rebecca Wolt (Counsel)
- Rachel Tregidga
- Chris Day
- John Kyle

Man Street Properties Limited⁷, Skyline Investments Limited & O'Connells Pavilion Limited⁸, Skyline Properties Limited & Accommodation Booking Agents Queenstown⁹, Trojan Holdings Limited & Beach Street Holdings Limited¹⁰, Skyline Enterprises Limited¹¹

- Graeme Todd (Counsel)

Man Street Properties Limited¹²

- Tim Williams

John Thompson and MacFarlane Investments Limited¹³

- Warwick Goldsmith (Counsel)

1 Submission 719
 2 Submission 392 and FS1059
 3 Submission 806 and FS1097
 4 Submission 807 and FS1117
 5 Submission 766 and FS1115
 6 Submission 433
 7 Submission 398 and FS1107
 8 Submission 606 and FS1239
 9 Submission 609 and FS1241
 10 Submission 616 and FS1248
 11 Further Submission 1238
 12 Submission 398, FS1107 and FS1368
 13 Submission 517 and FS1274

Real Journeys Limited¹⁴ and Te Anau Developments¹⁵

- Fiona Black
- Roger Gardiner¹⁶

Trustees of the Gordon Family Trust¹⁷

- Graeme Todd (Counsel)
- John Polkinghorne

Hawea Community Association¹⁸

- Paul Cunningham
- Dennis Hughes

Well Smart Investment Holdings Limited¹⁹

- Elliott Goldman
- Ben Farrell

Gem Lake Limited²⁰

- Ian Greaves
- Louise Wright

Imperium Group²¹

- Jayne Macdonald (Counsel)
- James Cavanagh

G H and PJ Hensman²², High Peaks Limited²³, Ngai Tahu Property Limited²⁴, Skyline Enterprises Limited²⁵, Trojan Holdings²⁶

- Jayne MacDonald (Counsel)
- Scott Freeman

1.4. Procedural Steps and Issues

11. The hearings for all of Stream 8 proceeded on the basis of the pre-hearing directions made in various memoranda issued by the Chair of the Hearings Panel and summarised in the Introductory Report (Report 1).
12. The hearings on Stream 8 did not give rise to any procedural issues.

¹⁴ Submission 621
¹⁵ Submissions 607
¹⁶ Submission 260
¹⁷ Further Submission 1193
¹⁸ Submission 771
¹⁹ Submission 308
²⁰ Submission 240
²¹ Submitter 151
²² Submission 542
²³ Submission 545/1216
²⁴ Submission 550/1228
²⁵ Submission 556/574/1236/1238
²⁶ Submission 634/1246

13. Except where necessary, this report does not include reference to all individual submissions and submission points, as these are contained in the summary of submissions and our recommendations as to whether these be accepted, accepted in part, or rejected, as contained in Appendix 7 to these recommendations.
14. Finally, in the Hearing Panel's discussion of submissions, reference is made to the section within each chapter, or the objective/policy/rule numbers in the PDP as notified. Where text changes are proposed, reference is made to the section of the chapter or objective/policy/rule numbers as amended by these recommendations. Reference should be made to Appendices 1 to 6, which set out the text of the six chapters resulting from our recommendations.
15. We would particularly wish to express its appreciation that almost all of the Counsel appearing for submitters supplied us with a synopsis of their legal submissions in advance (as requested), thereby enabling us to better understand the arguments being advanced.
16. Commissioner Ella Lawton sat and heard the submissions and took part in deliberations, but on her resignation from the Council on 21 April 2017, she also resigned from the Hearing Panel and took no further part in the drafting of this Report or its recommendations.

1.5. Stage 2 Variations

17. On 23 November 2017 the Council notified the Stage 2 variations. These proposed amendments to Chapter 12, Chapter 16 and Chapter 17. Where these proposed to delete text from the relevant chapter, we have shown the deleted text in grey. We have not considered such text any further.

1.6. Statutory Requirements and Collective Scope

18. The Hearing Panel's Report 1 contains a general discussion of the statutory framework within which submissions and further submissions on the PDP have to be considered, including matters that have to be taken into account, and the weight to be given to those matters. We have adopted the same approach as that report in our consideration of submissions and further submissions on the matters before us.
19. The Section 42A Reports provided us with a general overview of the matters of relevance to our deliberations, including summaries of the provisions of the RPS and the Proposed RPS.
20. Given the breadth of the matters covered in the Stream 8 Hearings there is little value in our summarising the points of each document of relevance – such a summary would, for instance, necessarily have to encompass many of the objectives and policies of the RPS and the Proposed RPS, as well as parts of each relevant National Policy Statement.
21. We have therefore adopted the approach of referring to the relevant documents in the context of our consideration of particular provisions of the Stream 8 Chapters.
22. As will be apparent, as part of these recommendations we have made a number of changes in response to the Section 42A Reports and the submissions that have been made, to the extent that this is possible within the scope of submissions. We address changes made to the notified provisions in terms of section 32AA which we now refer to.
23. The tests posed in section 32 form a key part of our review of the objectives, policies, and other provisions we have considered. We refer to and adopt the discussion of section 32 in the Hearing Panel's Report 3. In particular, for the same reasons as are set out in Report 3, we

have incorporated our evaluation of changes we have recommended into the report that follows as part of each suite of provisions rather than provide a separate evaluation of how the requirements of section 32AA are met.

24. As to collective scope, this issue first arose in Hearing Stream 1B, during the Chapter 3, 4, and 6 hearings. Within Report 3 the issue of collective scope is comprehensively addressed. That Hearing Panel recommended an approach to collective scope which we adopt and apply in this report.

1.7. PDP Strategic Directions Chapter 3

25. In terms of other Chapters of the PDP, Chapter 3 is an overarching strategic chapter which sits at the top of a hierarchical structure over the PDP as a whole. It follows that Chapter 3 includes relevant objectives and policies that we need to carefully consider and provide for when reaching decisions on Stream 8.
26. Of particular relevance to considering the matters in this Hearing Stream are the following recommended Objectives and Policies:
 - a. Objectives 3.2.1.2, 3.2.13, 3.2.1.4, 3.2.1.5;
 - b. Policies 3.3.1, 3.3.2, 3.3.3, 3.3.5, 3.3.9, 3.3.11.
27. Therefore, when considering issues within the Stream 8 hearings that are linked to the above described Objectives and Policies, we need to ensure the decisions we make provide for the fact Chapter 3 is a District wide strategic chapter and subsequent chapters need to both support and respect the position of Chapter 3 within that hierarchy.
28. Within her Section 42A Report, Ms Jones identified the Reply Version of the Chapter 3 objectives we have discussed above along with some additional objectives. It was her view that those objectives would be implemented by Chapter 12 as the objectives and policies within Chapter 12 provide clear and concise direction in relation to how the Council aims to maintain and enhance the existing key commercial, civic and cultural hubs of the District.
29. Overall for the reasons we provide when we are making recommendations on objectives, policies, rules and standards within Chapter 12 to 17 inclusive, we are satisfied our recommendations implement the objectives and supporting policies of Chapter 3 as recommended by the Hearing Panel.

PART B: CHAPTER 12 - QUEENSTOWN TOWN CENTRE

2. PRELIMINARY

30. Ms Vicki Jones prepared and presented the Section 42A Report for this chapter. In that report she provided a background to the QTCZ in addition to identifying the issues that arose from reviewing the ODP provisions. The PDP zone provisions sought to address those key issues. They were:
- a. A lack of capacity within the town centre and whether there was an opportunity to provide for further capacity within the existing town centre zone
 - b. Could the existing town centre be expanded in a manner that retains the compactness and walkability of the town centre, provide legible boundaries, and not exacerbate reverse sensitivity issues?
 - c. Were the existing rules, including those related to building height, bulk and location, appropriate, and would they achieve quality urban design and build efficiently and effectively, and result in efficient land use and intensification opportunities?
 - d. Management of flood risk in the QTC
 - e. Management of the interface between the town centre and lakefront
 - f. Noise and reverse sensitivity issues and acoustic insulation
 - g. The need for integrated land use and transport planning.

2.1. General Submissions

31. Some submitters²⁷ submitted generally on Chapter 12, seeking that all provisions in the chapter, not otherwise submitted on within their submission, be retained as notified unless they duplicate other provisions in which case they should be deleted.
32. E J L Guthrie²⁸ requested that the QTCZ provisions, including, but not limited to, the Zone Purpose and all Objectives, Policies and Rules, be confirmed as notified; and Tweed Developments Limited²⁹ requested the chapter be confirmed as notified as it related to the zoning of Lot 1 DP 20093 and Sections 20 & 21 Block II Town.
33. Jay Berriman³⁰ supported the Zone Purpose, although it is not clear from the submission whether he supported the geographic extent of the zoning or the zone as a whole.
34. Ms Jones recommended that those submissions seeking that the provisions be confirmed in part or whole be accepted in part and that Submission 217 supporting the zoning of certain sites be accepted. We agree with Ms Jones and recommend accordingly.

2.2. Extensions to the Queenstown Town Centre Zone

35. Ms Jones pointed out in her Section 42A Report that no submitter had opposed the notified QTC boundaries so she recommended no change in relation to the notified boundary.

²⁷ Submissions 663 (opposed by FS1139 and FS1191) and 672

²⁸ Submission 212

²⁹ Submission 617

³⁰ Submission 217

36. She traversed in her report a number of submissions³¹ supporting the notified changes to the extent of the town centre zone. Additionally, Tweed Developments Limited³² specifically sought that the notified zoning be confirmed insofar as it related to the zoning of 74 Shotover Street and 11 & 13 The Mall. We recommend that submission be accepted.
37. We agree with Ms Jones' view that the notified extent of the QTCZ is appropriate for the reasons outlined in the Section 32 Evaluation Report and we support her recommendation that the supporting submissions be accepted.

2.3. Submissions not relating to matters controlled by the PDP

38. Downtown QT³³ sought that the provisions of the PDP align with the Town Centre Strategy. Ms Jones pointed out in her Section 42A Report that the Downtown QT website³⁴ notes its strategy will be a living document and will address the look and feel, transport, parking, accessibility, lighting and future development of the town centre and provide guidance on commercial resilience and growth, local relevance and sector alignment.
39. We note that the PDP cannot be aligned with a document that is forever changing without going through the Plan Change process. No evidence was provided to clarify how exactly the QTCZ should be changed. On this basis, we recommend the submission be rejected.
40. Ms Jones drew our attention to two groups of submissions which sought amendments to notified provisions, or the inclusion of additional provisions, relating to:
- a. Car parking in the QTCZ³⁵ and
 - b. Public transport links on the water³⁶.
41. We agree that both matters are better dealt with when Chapter 29 Transport is considered for the reasons Ms Jones set out. Some of these submissions are deemed to be submissions on Chapter 29. In respect of the remainder, we note that we received insufficient evidence to justify the types of changes requested. We recommend those submissions³⁷ be rejected.

2.4. Section 12.1 – Zone Purpose

42. Kopuwai Investments Limited³⁸ sought that the words "*Precinct*" and "*has*" in the third paragraph of the zone purpose be amended to "*Precincts*" and "*have*". These are minor amendments which add no further value or clarification and therefore they are ineffective and inefficient. We reject the submission on that basis.
43. Remarkables Park Limited³⁹ sought deletion of the word "*administrative*" because it failed to recognise that as the District grows the Queenstown Town Centre may not continue to provide the administrative centre of the District. Rather that centre may be found or located in

³¹ Submitter 630 (DowntownQT) Submitters 308 (WellSmart Investment Holdings Ltd) 398 (Man Street Properties Limited) opposed by FS 1274 (John Thompson & MacFarlane Investments Ltd) Submitter 394 (Stanley Street Investments Ltd & Kelso Investments Limited) opposed by FS 1117 (Remarkable Park Limited) Submitter 574 (Skyline Enterprises Ltd) opposed by FS 1063.22 (Peter Fleming)

³² Submission 617

³³ Submission 630, opposed by FS1043

³⁴ <http://www.downtownqt.nz/about/#town-centre-strategy>

³⁵ V Jones, Section 42A Report, paragraph 17.7

³⁶ *ibid*, paragraphs 17.8 and 17.9

³⁷ Listed in Footnotes 84 and 85 of Ms Jones' Section 42A Report

³⁸ Submission 714, opposed by FS1318

³⁹ Submission 807

Frankton. The submitter was concerned to see that the PDP did not artificially constrain development in Frankton.

44. Other submitters⁴⁰ sought to clarify what the word administrative means and submitted that ambiguity could be avoided by deleting the word “*administrative*” and replacing it with the words “*Local Government*”.
45. We recommend that the word “*administrative*” be retained within the zone purpose because we consider the balance wording within the zone purpose provision supports the retention of the word administrative. As we read those words, the zone purpose is all about signalling the importance and priority of the town centre to the District. It follows that it is the principal or main location of administrative activities, whether they be civic, local government or business activities.
46. Also, we do not think that acknowledging the current reality that the existing town centre is the principal administrative centre for the District pre-determines what should happen in Frankton. However, we do accept the choice of word we recommend sends, to the extent a zone purpose can, a clear signal that the QTC is the principal or predominant centre for the District.
47. We do not see anything is gained by utilising the words “*civic*” or “*local government*”. We see these words as being more aligned to civic buildings and Council or local authority activities. Those activities, and in particular civic buildings such as libraries and the like, are only a subset of the activities and types of buildings that exist in the town centre. The existing town centre activities are much broader than civic and local government activities and related buildings, and the zone purpose provision needs to recognise and provide for that.
48. We consider our recommendation, retaining the word “*administrative*” supports the strategic directions objectives, particularly Strategic Objective 3.2.1.2 which refers to Queenstown and Wanaka being the hubs for the District, which we take to include administrative activities. We note also that new Objective 3.2.1.3 provides for the role of Frankton Flats in a more general sense.
49. Two submissions⁴¹ supported the Zone Purpose, but NZIA⁴² sought to amend the Queenstown Town Centre Guidelines 2015 by extending the application of the guidelines. Failing that the submitter sought that the Zone Purpose be amended to acknowledge the importance of natural features, existing circulation patterns, roads and pathways, grid patterns, public open spaces, the quality, scale, and configuration of the built form, experiences, and Council landscaping in achieving a well-designed, high quality Town Centre.
50. We return later to the request to extend the application of the Queenstown Town Centre Design Guidelines but we do recommend rejection of this submission point. We agree with Ms Jones that including additional statements within the Zone Purpose, as sought by this submitter, would have little statutory weight, and would complicate consenting processes as many of the design considerations of interest to this submitter are dealt with by mechanisms either outside of the District Plan or through the subdivision chapter. We also consider it would make the Zone Purpose much more complicated and complex than required.

⁴⁰ Submissions 217 and 630

⁴¹ Submissions 380 (opposed by FS1318) and 238 (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249)

⁴² Submission 238.

51. If accepted this submission would result in the guidelines applying beyond the SCA and to more than only buildings. While such an extension could be useful, guidance on such matters is already available from a range of non-statutory documents. Also we consider expansion of the guideline, while not beyond scope would not be good practice or efficient because the opportunity to undertake widespread consultation on the proposed amendments would not be available. For these reasons we recommend rejection of this submission.
52. Ms Macdonald, legal counsel for Imperium⁴³, was opposed to any reference to the TCEP within the last paragraph of section 12.1. In summary, she was concerned that Ms Jones' Section 42A Report failed to address adequately the issues faced by existing noise sensitive activities which, she submitted, as a result of the creation of the Entertainment Precinct, would be exposed to even higher levels of noise than what currently occurs.⁴⁴
53. Ms Jones⁴⁵ recommended a number of additional changes in relation to matters she had reconsidered since filing her Section 42A Report, specifically in response to evidence filed by submitters. She considered that those additional amendments would result in more appropriate provisions that would better contribute to the district wide objectives, and the purpose of the Act.
54. In that regard, Ms Jones recommended amending the Zone Purpose to acknowledge the importance of the WSZ to the QTC. In particular, she recommended that the contribution that the waterfront makes to the amenity, vibrancy and sense of place of the QTC as a whole needed to be recognised within the Zone Purpose.
55. Queenstown Wharves (GP) Limited⁴⁶ (Queenstown Wharves) sought the recognition of the waterfront's contribution to the QTC within its submission, and in a broad way within the evidence of Ms Carter.
56. We consider there is merit in that submission and merit in Ms Jones' response to it referred to above⁴⁷. We recommend the inclusion of the following words as a last paragraph to the Zone Purpose at 12.1:
- The Queenstown waterfront subzone makes an important contribution to the amenity, vibrancy and sense of place of the Queenstown Town Centre as a whole.*
57. In our view after having considered these submissions and further submissions and the officers' report and relevant replies, we consider the wording of Ms Jones's Reply version of Section 12.1 is appropriate, as it includes recognition of the importance of WSZ which is consistent with, and supports, the recognition of the importance of the waterfront to the QTC, as discussed in the evidence of Ms Carter.

3. SECTION 12.2 OBJECTIVES AND POLICIES

58. As notified there were five objectives with supporting policies.

⁴³ Submission 151, supported by FS1043

⁴⁴ We will discuss noise in greater detail, including why we support the TCEP later in this report at 12.5.11

⁴⁵ V Jones, Summary of Evidence at [6]

⁴⁶ Submission 766

⁴⁷ V Jones, Summary of Evidence at [6]

3.1. **General Drafting Improvements to the Objectives and Policies and correcting Format Errors.**

59. In her Reply Statement, Ms Jones⁴⁸ identified for us general drafting improvements to the objectives policies and rules as well as identifying and correcting formatting errors. In so far as those drafting improvements relate to the objectives and policies we recommend those improvements be adopted and have incorporated them in our recommendations above.

60. Ms Jones⁴⁹ referred us to further general amendments recommended by Mr Goldsmith within his legal submissions for Mr John Thompson and MacFarlane Investments⁵⁰. Those amendments relate to the consistent use of the term “RL” and removing all references to Otago datum. Ms Jones’ recommended acceptance and we agree. We note that for consistency this has been applied across all chapters in the Stream, and where relevant the reference in the provisions is to masl.

3.2. **Objective 12.2.1 and Policies 12.2.1.1 – 12.2.1.4**

61. As notified these read:

12.2.1 Objective

A Town Centre that remains relevant to residents and visitors alike and continues to be the District’s principal mixed use centre of retail, commercial, administrative, entertainment, cultural, and tourism activity.

Policies

12.2.1.1 *Enable intensification within the Town Centre through providing for greater site coverage and additional building height provided effects on key public amenity and character attributes are avoided or satisfactorily mitigated.*

12.2.1.2 *Provide for new commercial development opportunities within the Town Centre Transition subzone that are affordable relative to those in the core of the Town Centre in order to retain and enhance the diversity of commercial activities within the Town Centre.*

12.2.1.3 *Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur without unduly restrictive noise controls.*

12.2.1.4 *Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to the mix of activities and late night nature of the town centre.*

62. Objective 12.2.1 attracted submissions in support⁵¹ and those⁵² that sought to alter its wording by deleting the word “administrative” and replacing it with “local government”. For the same reasoning advanced when considering Section 12.1, we recommend retention of the word administrative, and therefore, recommend the objective be adopted as notified.

⁴⁸ Ibid at [2]

⁴⁹ V Jones, Reply Statement at paragraph 2.3

⁵⁰ FS1274

⁵¹ Submissions 217, 630 (opposed by FS1043 and FS1117) and 470

⁵² Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

63. NZIA⁵³ sought to amend notified Policy 12.2.1.1 to provide for intensification by requiring that such intensification be undertaken in accordance with best practice in urban design principles. The submitter considered allowing intensification on the basis of effects on public amenity and character being either avoided or satisfactorily mitigated, to be too imprecise.
64. Ms Jones recommended retaining the words “*avoided or satisfactorily mitigated*”. She was of the view the submitter’s reference to best practice urban design principles helped overcome interpretive difficulties that could arise in trying to determine whether or not the effects on key public amenity and character attributes had been satisfactorily mitigated.
65. We consider that reference to the urban design principles provides a useful touchstone to answer that question. Ms Jones also recommended in her reply evidence that the policy be expanded to separate the issue of coverage from height. In her view it was the matter of height that should be guided by best practice urban design principles. In addition, she did not consider a comparison between the coverage allowed in the PDP with that allowed in the ODP to be relevant. We accept the recommendations proposed by Ms Jones for the reasons she advances. We consider the changes give effect to the operative RPS particular those objectives and policies seeking to avoid, remedy or mitigate adverse effects of the built environment.
66. Accordingly we recommend Policy 12.2.1.1 reads as follows with our changes shown as underlined and struck out:
- 12.2.1.1 *Enable intensification within the Town Centre through: ~~providing for greater site coverage and~~*
- a. *enabling sites to be entirely covered with built form other than in the Town Centre Transition Subzone and in relation to comprehensive developments provided identified pedestrian links are retained and*
- b. *enabling additional building height in some areas provided such intensification is undertaken in accordance with best practice urban design principles and the effects on key public amenity and character attributes are avoided or satisfactorily mitigated.*
67. Ms Jones pointed out the linkage by way of subject matter between Policy 12.2.1.1 and Objective 12.2.2 and Policies 12.2.2.3 and 12.2.2.4. She made the point that Policy 12.2.1.1 seeks to address the circumstance created by the PDP no longer imposing coverage rules or recession planes within the town centre, in most instances. It was her view that Policy 12.2.1.1 is not intended to provide policy guidance when Rules 12.5.1, 12.5.9 and 12.5.10, which all relate to coverage or height, are breached. The policies that are relevant to these rules are those found following Objective 12.2.2. She said if this was unclear it may need to be clarified.
68. We do not think it necessary to link a policy to a particular rule by footnote or other method. This is because a particular rule which has been triggered should be read and interpreted within the context of all relevant objectives and policies. Which objective or policy is most relevant will be informed by the factual context that triggers the rule.
69. No submissions were received on notified Policy 12.2.1.2. However, we raised questions with Ms Jones as to how the relatively affordable opportunities referred to were to be provided.

⁵³ Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

70. She responded within her Reply, that rezoning land located at Upper Brecon Street and the Gorge Road/Memorial Avenue corner currently zoned Residential in the ODP to QTCZ would increase the supply of town centre land.⁵⁴ It was her opinion that, given the location of this land on the fringes of the existing town centre, it would be relatively affordable land, particularly when compared to land located within the QTC in the ODP.⁵⁵
71. We agree with Ms Jones, given her Reply explanation linking the rezoning of land and the likely value of that land, the policy wording is appropriate and accordingly recommend policy 12.2.1.2 be adopted as notified.
72. Multiple submitters⁵⁶ sought to retain this policy and Imperium Group⁵⁷ requested the words “*unduly restrictive*” be replaced with the words “*subject to appropriate*”. We agree with the submitter that the word “*appropriate*” means and requires an assessment of the context in which the noise is an issue and allows for imposition of a control appropriate to that context.
73. The words as they currently appear suggest, according to the submitter, that any control on noise should not be unduly restrictive implying that noise is enabled or allowed regardless of context. We agree with those concerns.
74. For these reasons we recommend rewording the policy as follows, with additional phrasing underlined and discarded wording struck-out:
- 12.2.1.3 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur ~~without unduly restrictive~~ subject to appropriate noise controls.*
75. NZIA⁵⁸ requested that notified Policy 12.2.1.4 be amended: first, by deleting reference to a lower level of residential amenity; second, by including words to the effect that residential activities and visitor accommodation would be enabled while acknowledging increased noise and activity due to a mix of activities and the late night nature of the town centre.
76. We think that this policy is trying to provide for the reality of what now occurs within the town centre. It draws attention to the potential noise effects on residential amenity contributed to by the late night nature of town centre activities.
77. Notwithstanding the purpose of the policy we agree with the submitter’s request because the wording proposed is clearer and does not allow or support noise at a level that will lower levels of residential amenity. Also, in our view, the submitter’s wording appropriately captures the status quo. In reaching this recommendation we have considered the relevant sections of the Section 32 report and the opinions of Dr Chiles⁵⁹ relevant to this point.
78. We show these recommended amendments below as underlined and strike-through. For the reasons discussed, we recommend the wording of the policy be as follows;

⁵⁴ V Jones, Reply Statement at [2.2].

⁵⁵ Ibid.

⁵⁶ Submissions 587, 589, 630, 714, and 804

⁵⁷ Submission 151

⁵⁸ Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

⁵⁹ Dr S Chiles, EiC at [6.2, 9.2]

12.2.1.4 *Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to increased noise and activity resulting from the mix of activities and late night nature of the town centre.*

3.3. **Objective 12.2.2 and Policies 12.2.2.1 - 12.2.2.9**

79. As notified these read:

12.2.2 Objective

Development that achieves high quality urban design outcomes and contributes to the town's character, heritage values and sense of place.

Policies

12.2.2.1 *Require development in the Special Character Area to be consistent with the design outcomes sought by the Queenstown Town Centre Design Guidelines 2015.*

12.2.2.2 *Require development to:*

- a. *Maintain the existing human scale of the Town Centre as experienced from street level through building articulation and detailing of the façade, which incorporates elements which break down building mass into smaller units which are recognisably connected to the viewer and*
- b. *Contribute to the quality of streets and other public spaces and people's enjoyment of those places and*
- c. *Positively respond to the Town Centre's character and contribute to the town's 'sense of place.'*

12.2.2.3 *Control the height and mass of buildings in order to:*

- a. *Retain and provide opportunities to frame important view shafts to the surrounding landscape and*
- b. *Maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36).*

12.2.2.4 *Allow buildings to exceed the discretionary height standards in situations where:*

- a. *The outcome is of a high quality design, which is superior to that which would be achievable under the permitted height*
- b. *The cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces and*
- c. *The increase in height will facilitate the provision of residential activity.*

- 12.2.2.5 *Allow buildings to exceed the non-complying height standards only in situations where the proposed design is an example of design excellence and building height and bulk have been reduced elsewhere on the site in order to:*
- a. *Reduce the impact of the proposed building on a listed heritage item or*
 - b. *Provide an urban design outcome that is beneficial to the public environment. For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:*
 - i. *Provision of sunlight to any public space of prominence or space where people regularly congregate*
 - ii. *Provision of a pedestrian link Provision of high quality, safe public open space*
 - iii. *Retention of a view shaft to an identified landscape feature*
- 12.2.2.6 *Ensure that development within the Special Character Area reflects the general historic subdivision layout and protects and enhances the historic heritage values that contribute to the scale, proportion, character and image of the Town Centre.*
- 12.2.2.7 *Acknowledge and celebrate our cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate."*
- 12.2.2.8 *Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:*
- a. *Requiring minimum floor heights to be met*
 - b. *Encouraging higher floor levels (of at least 312.8 metres above sea level masl) where amenity, mobility, and streetscape are not adversely affected and*
 - c. *Encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk."*
- 12.2.2.9 *Require high quality comprehensive developments within the Town Centre Transition subzone and on large sites elsewhere in the Town Centre."*

80. This objective is a big picture objective. It links with matters to do with building heights and setbacks view shafts and the like. Notwithstanding the scope of the objective we think that the goal or desired outcome of the objective is clear.

81. Ms Jones specifically referred us to NZIA's submission⁶⁰ which supported this objective but sought more information on what the words "*sense of place*" meant. The submitter also requested and questioned whether or not the Queenstown Town Centre Strategy needed updating. We acknowledge the updating of the Queenstown Town Centre Strategy was opposed by a number of further submissions.⁶¹ Other submitters also supported this objective as notified.⁶²

⁶⁰ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1318

⁶¹ FS1107, FS1226, FS1234, FS1239, FS1241, and FS1248.

⁶² Submissions 380 and 470

82. As Ms Jones pointed out, that because the Town Centre Strategy is not referred to within the PDP, it is beyond scope of this review.⁶³ We agree. In her Section 42A Report, she recommended accepting NZIA's request for relief and she included in an advice note in her Appendix 1 providing advice as to what the words "*sense of place*" might mean.
83. By the time her Reply Statement was provided, the advice note had been deleted. Ms Jones after reconsidering the issue recommended that matters to do with definition and explanation were best collected in one place and recommended definitions be located in her recommended reply rules 12.3.2.5 to 12.3.2.7. These rules provide for definitions applicable to Chapter 12. We do not agree that placing the definitions in one place within the Chapter assists readability and usability of the Chapter. We consider Chapter 2 to be the appropriate place for all definitions used in the PDP. To do otherwise would unnecessarily lengthen the document and potentially create ambiguities and inconsistencies.
84. For these reasons we recommend then the wording of Objective 12.2.2 remain as notified but that the definition of sense of place be included in Chapter 2 (this latter recommendation is to the Stream 10 Hearing Panel).
85. In her Section 42A Report, Ms Jones recommended amending Policy 12.2.1 in response to submissions by Lynda Baker⁶⁴ and Toni Okkerse.⁶⁵ However the submissions related to Policy 12.2.2.2. We deal with that below.
86. Some submitters⁶⁶ requested the following underlined words to be added to Policy 12.2.2.2: "12.2.2.2 Require development visible from public places to..."
87. In our view the inclusion of this wording would provide a limitation that is unnecessarily restrictive and as such we recommend this submission be rejected.
88. The issue which is perhaps not addressed is providing for development in those parts of the town centre which are located immediately adjacent to the Special Character Area.
89. Several submitters⁶⁷ considered this issue could be addressed by amending sub paragraph c. of Policy 12.2.2.2 by adding in the word "*historic*" before the word character.
90. Ms Jones recommended amending Policy 12.2.2.1 by adding words requiring development in both the Special Character Area and development adjacent to that area, a heritage precinct, or a listed heritage item, to respect its historic context. We do not think that there is scope for that relief available from the relevant submissions nor do we think it necessary.
91. We prefer to leave the wording of Policy 12.2.2.1 focused on the Special Character Area because the 2015 Guidelines only apply to the Special Character Area of the town centre as identified within the Guideline itself, and within the district plan.

⁶³ V Jones, Section 42A Report at [13.7].

⁶⁴ Submission 59

⁶⁵ Submission 82, supported by FS1265, FS1268 and FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274

⁶⁶ Submissions 663 (opposed by FS1139 and FS1191) and 672

⁶⁷ Submissions 82 (supported by FS1265, FS1268 and FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274), 59 (supported by FS1265, FS1268 and FS1063, opposed by FS1075), 206 (supported by FS1265, FS1268 and FS1063, opposed by FS1059 and FS1274) and 217,

92. In our view, some of Ms Jones' additional recommended wording is not required as the Guideline already applies to development within the SCA. The Guidelines specifically note that they have been through an RMA process to be incorporated by reference into the PDP.
93. Also the Guidelines and the PDP addressed the circumstances of providing for historic character in the areas of the town centre outside of the Special Character Area. The Guideline records that the QTCZ includes three heritage precincts, two of which are within the Special Character Area. All three are also identified as protected items in the PDP and are subject to the provisions of Chapter 26 (Historic Heritage). Development within the historic precincts must therefore adhere to the provisions of the historic heritage chapter and to Chapter 12.
94. As the PDP itself deals with development in a heritage precinct or the development of a listed heritage item already, there is no need for those reasons to alter this policy.
95. The remaining issue is, whether these two policies adequately deal with development of a site with some historic characteristic located adjacent to a Special Character Area, a heritage precinct or a listed heritage item.
96. Policy 12.2.2.2 c. is the focus for our consideration on this issue. We consider the QTC's character reflects its historic context, but historic heritage is only one element of its character. To qualify the word character by restricting it to historic character does not recognise that the character of the town centre is more than a historic heritage character. We also consider when Policy 12.2.2.2 c. is being applied to a particular context then the particular character of that part of the town centre will be relevant. It is during this application that the effects of the proposal on those characteristics will be examined.
97. In summary, we consider Policy 12.2.2.2 c. is sufficiently broad in its language to provide for the circumstance when a development occurs adjacent to the SCA, a heritage precinct or a listed heritage item. This is because Policy 12.2.2.2 c seeks to have the intended development respond to the relevant element of the Town Centres character.
98. The other key reason why we think notified Policy 12.2.2.2 c. is appropriate is because of the link to the definition of a "sense of place". This policy requires development to "positively respond" to the towns centre's character.
99. For these reasons we do not think it necessary to amend policy 12.2.2.2 c in the manner sought by the submitters⁶⁸. Nor do we consider it necessary to amend Policy 12.2.2.1 for the reasons we set out above. We recommend that both policies be adopted as notified and the submissions⁶⁹ be rejected.
100. Policy 12.2.2.3 addressed height and mass of buildings. Later we will address building height in relation to the various height precincts in the QTCZ. This policy is to provide the policy framework relating to building height.

⁶⁸ Submissions 59, and 82

⁶⁹ Submissions 59 and 82

101. Toni Okkerse⁷⁰ supported Policy 12.2.2.3, however wanted provision made for car parking based on the size of the building. We accept this submission insofar as it supports Policy 12.2.2.3. We have addressed the submission in relation to car parking above.
102. Three submissions⁷¹ sought amendments to include other matters of control, such as wind tunnel effects of buildings, or ensuring the pleasantness of the environment for pedestrians. Submissions 672 and 663⁷² noted that the intent of Policy 12.2.2.3 was to control building height and mass but were concerned that this intent was not followed through in the rules of the PDP. The submitters contended the rules would restrict building development and would not provide any certainty that new building development could occur. They wished to see this uncertainty corrected. They sought amendments to support the controlled activity status to manage effects of building height and mass on public spaces.
103. The same submissions sought amendments to provide certainty, due to costs involved and the level of investment required to fund building developments. This concern from a building developer's perspective is understandable, but we do not think that cost concern is a valid means of achieving Objective 12.2.2. However, we can accept that controlling the height and mass of a building will provide some level of certainty about a buildings height and mass. Ms Jones' recommended the inclusion in the policy of the following as subparagraph a⁷³:

Provide a reasonable degree of certainty in terms of the potential building height and mass;

104. We agree with that amendment and recommend it be adopted.
105. In relation to including reference to wind tunnel effects on pedestrian environments, we agree that this effect is appropriately connected with both Objective 12.2.2 and Policy 12.2.2.3. Ms Jones recommended the following be included as the fourth matter under this policy⁷⁴:

Minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.

106. We think that that is an appropriate matter to be included Policy 12.2.2.3 and recommend it be adopted.
107. We note Ms Jones⁷⁵ recommended a correction by deleting the word "and" after it appeared at the end of the second bullet point of notified Policy 12.2.2.3. We understood including the word "and" was a printing error; that the sub paragraphs of notified Policy 12.2.2.3 were to be read and applied as separate.
108. We agree with that amendment and recommend the deletion of the word "and" as correction of a minor error under Clause 16(2).
109. Accordingly, for the reasons provided, we recommend changes to Policy 12.2.2.3 underlined and struck out as follows:

⁷⁰ Submission 82, supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274

⁷¹ Submissions 621, 672 and 663

⁷² Opposed by FS1139 and FS1191

⁷³ V Jones, Section 42A Report, Appendix 1

⁷⁴ *ibid*

⁷⁵ In her Section 42A Report, Appendix 1

12.2.2.3 *Control the height and mass of buildings in order to:*

- a. *Provide a reasonable degree of certainty in terms of the potential building height and mass*
- b. *Retain and provide opportunities to frame important view shafts to the surrounding landscape ~~and~~*
- c. *Maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36)*
- d. *Minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.*

110. Like some other policies, the bullet points included in the notified version of Policy 12.2.2.4 were replaced with subparagraphs labelled a., b. and c. in Ms Jones' Section 42A Report version. We utilise that labelling to discuss the notified policy.
111. We consider this policy appropriately links to Objective 12.2.2 and seeks to provide for the circumstance where the building would exceed the discretionary height standards. Ms Jones made it clear that in the absence of assessment matters in the PDP, the policy should provide some guidance about how the exceedance in height would be assessed.⁷⁶ Submitters⁷⁷ sought the inclusion of words within sub paragraph a. to provide that guidance.
112. Some submissions⁷⁸ requested that the policy be removed so that there be no provision made for buildings to exceed the height limits in the CBD. This outcome would not allow for growth in the CBD. Taking into account the evidence received, we conclude that increases in height can be provided for while still achieving high quality urban design outcomes that support the town's character heritage values and sense of place.
113. Undertaking a resource consent process enables appropriate assessments to be undertaken. In addition removing Policy 12.2.2.4 would not ensure buildings did not exceed permitted heights. Applications would still be possible and there would be no guidance for decision-makers. Absence of an encouraging policy does not equate to a prohibited activity. So for these reason we recommend those submissions⁷⁹ be rejected.
114. NZIA⁸⁰ sought to add a specific reference within the PDP requiring the urban design panel to review all projects in the town centre. In this way, they said, high quality urban design outcomes would be achieved. We have earlier commented that the Guidelines are restricted in application to the Special Character Area of the QTC. Presumably the authors of the Guidelines considered that limited application was appropriate.

⁷⁶ V Jones, Section 42A Report at [10.9a]

⁷⁷ Submissions 621, 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249), 663, 672 and 630 (opposed by FS1043).

⁷⁸ Submissions 59 (supported by FS1063, opposed by FS1236), 82 (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274) and 206.

⁷⁹ Submissions 59 (supported by FS1063, opposed by FS1236), 82 (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274) and 206.

⁸⁰ Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

115. In any event, Ms Jones told us that, in her experience, most new builds and significant projects are in fact reviewed by urban design professionals or at least a single urban design professional while the project progresses through the consent phase.⁸¹ She was of the view that not all buildings in the town centre would warrant such a review. She advised that the Council can, pursuant to section 92 of the Act, commission an urban design report if the context of the application so requires.⁸²
116. Overall, she did not consider making an urban design review mandatory was appropriate primarily because mandatory reviews were not justified for all new builds and alterations.⁸³ Therefore, to do so was neither efficient nor effective. We agree. We also are persuaded to that point of view because we agree that the Council has other powers to commission urban design reports where they are warranted, for example, due to the significance of the site or the building within the town centre.
117. For these reasons we agree with her recommendation that a specific reference within subparagraph a. of Policy 12.2.2.4 requiring all buildings and alteration to obtain urban design panel approval not be included. This approach is also consistent with the approach provided for within the Guidelines themselves.
118. Two submitters⁸⁴ considered subparagraph b to be too restrictive because not increasing shading while increasing height was too difficult. They considered some degree of relaxation of the policy was necessary in order to implement the PDP's Strategic Objectives as expressed in Chapter 3 and, more particularly, Objective 12.2.2.
119. In response, Ms Jones sought to relax the policy by including words within subparagraph b acknowledging and accepting that increase in heights and individual developments may increase the shading of public pedestrian spaces.⁸⁵ However, provided that shading is limited, and provided that shading is offset or compensated for by either the provision of additional public space or a pedestrian link with the site, then that increased shading effect would be acceptable.⁸⁶
120. We agree that increases in height are likely to lead to increases in shading and we agree that limiting shading of public pedestrian space is an important matter. However, we recognise and accept that a shading effect may be offset or compensated by the provision of either additional public space or a pedestrian link with the site. Available public spaces within the town centre are relatively limited. Increasing such spaces would help contribute to a high quality urban design outcome. Pedestrian links would contribute and support the town's character and its heritage values. Such links are part of both the town character and its heritage. Both public spaces and pedestrian links help add to the town centres sense of place. For these reasons we recommend the amendments to sub paragraph b of Policy 12.2.2.4 suggested by Ms Jones, be adopted.

⁸¹ V Jones, Section 42A Report at [10.10].

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Submissions 663 (opposed by FS1139 and FS1191) and 672.

⁸⁵ V Jones, Section 42A Report at [10.9c]

⁸⁶ Ibid.

121. So for the reasons set out above we recommend the inclusion of all of Ms Jones additions to sub paragraph b. of policy 12.2.2.4 and we recommend that the submissions seeking to disallow height exceedance being included in sub paragraph a is be rejected.
122. Accordingly, we recommend Policy 12.2.2.4 read, with the additions underlined, as follows:
- 12.2.2.4 Allow buildings to exceed the discretionary height standards in situations where:*
- a. The outcome is of a high-quality design, which is superior to that which would be achievable under the permitted height; and*
 - b. The cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site and*
 - c. The increase in height will facilitate the provision of residential activity.*
123. As Policy 12.2.2.5 relates to exceeding non-complying height standards, commencing the policy with the word “allow” is challenging. Three submitters⁸⁷ recognised this. They also sought to include the circumstances where it may be appropriate to allow additional height. In the main, submitters wished to retain urban design excellence for such buildings as well as gaining additional public benefits, such as pedestrian links and the opening up of Horne Creek.
124. Other submitters⁸⁸ requested that the policy be removed in its entirety and there be no provision for buildings to exceed height limits in the CBD.
125. If growth is to be achieved, opportunity needs to be provided for that growth by way of allowing exceedance of height limits. That is provided that urban design issues are addressed to ensure the town’s character, heritage values and sense of place are respected and supported.
126. Ms Jones recommended⁸⁹ re-wording Policy 12.2.2.5 so as not to “allow”, but to “prevent” buildings exceeding the non-complying height standards, except where preconditions (a) and (b)(i) or(ii) are satisfied. We support that wording change as it clarifies the intent of the policy. As we read those preconditions, they fully support objective 12.2.2 because they focus on urban design outcomes and particularise those urban design outcomes as being beneficial to the public environment.
127. The rewording Ms Jones’ recommended set out in detail the urban design outcomes that would be beneficial to the public environment. The origins of the rewording arise from

⁸⁷ Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249), 663 (opposed by FS1139 and FS1191) and 672

⁸⁸ Submissions 59 (supported by FS1063, opposed by FS1236),⁸² (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274), 206 (supported by FS1063 and opposed by FS1236 and FS1274)

⁸⁹ V Jones, Section 42A Report at [10.13]

submissions⁹⁰ she recommended should be accepted. The submissions sought to include, as urban design benefits, new or retention of existing, uncovered pedestrian links or lanes, restoration and opening up of Horne Creek as part of the open space network where applicable, and finally, the minimising of wind tunnel effects in order to maintain pleasant pedestrian environments.

128. We consider there is merit in the submissions and in the response of Ms Jones to them. Therefore we recommend acceptance of the submission points as they provide appropriate detail on urban design outcomes that have a net benefit to the public environment so assisting in attaining Objective 12.2.2.
129. Ms Jones⁹¹ dealt with an additional urban design outcome beneficial to the public environment, namely landmark buildings. She sought to include this matter as a final bullet point. She considered landmark buildings on key corner sites would be an example of the urban design outcomes sought by this policy. She accordingly supported the submission of NZIA⁹² on this point. She also relied on the evidence of Mr Tim Williams, in particular as it related to urban design when considering additional height within the town centre environment.⁹³
130. We are satisfied that inclusion of this additional bullet point to Policy 12.2.2.5, accepting the submission of NZIA, would help implement Objective 12.2.2. In particular a reference to landmark buildings is more consistent with the Urban Design Guidelines and will potentially contribute better to the QTC's sense of place through the creation of landmark buildings.
131. We queried at the hearing if "*landmark*" **building** should be defined. Ms Jones in her reply recorded she conferred with Mr Church who seems to have supported including a definition of a "*Landmark Building*". Ms Jones accepted this view but did not consider including a definition was essential for this particular policy. She referred us to Reply Rule 12.5.9.5(d) which she considered provided clarification.
132. However she proposed to add wording to Rule 12.3.2 which is renumbered as Rule 12.3.2.4 within her reply to provide a definition of a Landmark building.⁹⁴ The rule is further renumbered 12.3.2.6 in Appendix 1. She relied on the NZIA⁹⁵ submission for scope to add this new provision. We agree a definition is required for a "*landmark building*" within the plan and given this definition applies to all of Chapter 12 then this definition applies to policy 12.2.2.5.
133. Accordingly we recommend that the amendments and additions proposed by Ms Jones to Policy 12.2.2.5 be adopted along with replacing the bullet points with labels.
134. We consequently recommend Policy 12.2.2.5 now read as follows with amendments shown as strikethrough and underlined:

⁹⁰ Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249) and 621.

⁹¹ V Jones, Summary of Evidence,

⁹² Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249)

⁹³ V Jones, Section 42A Report at [13.40-41]

⁹⁴ Section 42A Report of Ms Jones at [9.3].

⁹⁵ Submitter 238

12.2.2.5 ~~Allow~~ ~~Prevent~~ ~~buildings to~~ exceeding the non-complying maximum height standards, except that only it may be appropriate to allow additional height in situations where:

- a. ~~the proposed design is an example of design excellence; and building height and bulk have been reduced elsewhere on the site in order to~~
- b. ~~Building height and bulk have been reduced elsewhere on the site in order to:~~
 - i. ~~Reduce the impact of the proposed building on a listed heritage item or~~
 - ii. ~~Provide an urban design outcome that is~~ has a net beneficial ~~to the public environment.~~

For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:

- a. *Provision of sunlight to any public space of prominence or space where people regularly congregate*
- b. *Provision of a new, or retention of an existing, uncovered pedestrian link or lane*
- c. *Where applicable, the restoration and opening up of Horne Creek as part of the public open space network*
- d. *Provision of high quality, safe public open space*
- e. *Retention of a view shaft to an identified landscape feature*
- f. *Minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environment.*
- g. *The creation of landmark buildings on key block corners and key view terminations.*

135. Policy 12.2.2.6 did not attract any submissions. The policy was directed at the Special Character Area and in our view the wording of the policy was appropriate. We consider the policy is clear and prescribed a course of action which will implement Objective 12.2.2. We recommend this policy be adopted unaltered.

136. Ms Jones pointed out within her Section 42A Report⁹⁶ that some submitters⁹⁷ requested the deletion of Policy 12.2.2.7 as notified, stating it was too difficult to interpret or apply. Ms Jones noted that these submissions were also considered within Stream 1A Section 42A Report and Appendix 2 to that report recommended that this relief be rejected.⁹⁸ She agreed with that recommended rejection. The Stream 1A Panel did not hear any evidence on these submissions, from the submitters or the Council, and have made no recommendation on them.

137. We agree with Ms Jones and recommend retention of this policy because tangata whenua values are part of the town centre's heritage values and contribute to its sense of place.

⁹⁶ V Jones, Section 42A Report at [6.5b] and [18.14]

⁹⁷ Submissions 663 (opposed by FS1139 and FS1191) and 672

⁹⁸ V Jones, Section 42A Report at [18.14].

Notified Policy 12.2.2.7 does not place obligations on individual landowners. Expression of cultural heritage values is to occur in the design of public spaces where appropriate. The language is a little imprecise in that it is not clear how appropriateness is determined. Nevertheless we recommend retention of the policy with a minor amendment.

138. Consequently we recommend retention of this policy with our small recommended amendment struck out as follows:

12.2.2.7 Acknowledge and celebrate ~~our~~ cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate.

139. Policy 12.2.2.8 related to flooding risk which is a known risk for the QTC. Given the town centre is well established, limited options are available to address flooding effects. Minimum floor heights are an available tool, particularly where new builds or renovations to existing buildings occur. To encourage higher floor levels is also appropriate.

140. However, we also agree that amenity and access to buildings and the general streetscape are considerations when assessing the effects of higher floor levels. Given that flooding will continue to occur encouraging building design and construction techniques which include installing electrical wiring and other services in buildings well above ground and flood level are sensible and pragmatic responses.

141. Some submitters⁹⁹ requested the policy only apply to land affected by flood risk, with this identification included on planning maps. Lines could be placed on maps identifying areas of flood risk. However there is no absolute certainty that a flood event would comply with those lines.

142. We agree with Ms Jones' approach that Policy 12.2.2.8 and its related rule 12.5.7 should require minimum floor level for properties with scope through the matters of discretion to seek alternative floor levels. Whether or not an alternative is suitable will be determined by the extent to which the alternate mitigation measure will sufficiently mitigate either flood risk or effect while ensuring any adverse effects of that measure on the amenity, accessibility and safety of the town centre are acceptable.

143. We also note Ms Jones' recommendation that each of the three sub paragraphs (a), (b) and (c) in Policy 12.2.2.8 are intended to be linked through the use of the word "and", so that they are read and applied jointly.¹⁰⁰ We agree.

144. The only other matter raised in submissions¹⁰¹ was to include "character values" within subparagraph (b) as a matter for assessment of the effect of higher floor levels. We agree this is appropriate because differing floor levels can have an impact on character values justifying inclusion of this matter as a matter of assessment.

145. We recommend that Policy 12.2.2.8 read with the additions underlined as follows:

12.2.2.8 Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:

⁹⁹ Submissions 663 (opposed by FS1139 and FS1191) and 672

¹⁰⁰ V Jones, Section 42A Report, Appendix 1, at p12-3.

¹⁰¹ Submissions 663 and 672

- a. *Requiring minimum floor heights to be met; and*
- b. *Encouraging higher floor levels (of at least RL 312.8 masl) where amenity, mobility, and streetscape, and character values are not adversely affected; and*
- c. *Encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk.*

146. Several submitters¹⁰² requested either deletion of Policy 12.2.2.9 or amendment of it. The amendments sought to diminish the policy by seeking to “manage” the design of comprehensive developments within the Town Centre Transition Sub-zone.¹⁰³ The policy as notified used the word “require” in relation to high quality comprehensive developments within that transition sub-zone.
147. The TCTSZ separates the QTCZ from the immediately surrounding high density residential zone. Appropriately providing for the transitions between zones is important. The policy is, however, further focused on comprehensive developments on large sites in the QTCZ.
148. In her Reply, Ms Jones recommended that identified details be shifted from Rule 12.5.1.1 to this policy to provide greater policy direction.¹⁰⁴ She stated that these details are already in the matters of discretion included in the rule with the exception of provision of open space which she supported to be included. She recommended the addition of words that direct attention to pedestrian links and lanes, open spaces, outdoor dining and well-planned storage loading/servicing areas being provided within the development.
149. We agree with her that it is the largest sites, both within the TCTSZ and within the QTC, which offer the opportunity to make a significant and positive contribution to the overall quality and character of the town. We also agree this outcome can be achieved particularly through the provision of pedestrian links or lanes, and open spaces.
150. In our view, the policy as notified using the word “require” is appropriate, particularly when considering Objective 12.2.2. We think Ms Jones’ recommended refinement by the inclusion of additional words from Rule 12.5.1.1 within the policy is also helpful because it identifies with more precision outcomes or actions which better support Objective 12.2.2.
151. Our recommendation is to adopt Policy 12.2.2.9 with the amendments underlined as set out below:

12.2.2.9 Require high quality comprehensive developments within the Town Centre Transition Sub-Zone and on large sites elsewhere in the Town Centre, which provides primarily for pedestrian links and lanes, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development.

3.4. Additional Policy

152. NZIA¹⁰⁵ requested that a further Policy 12.2.2.10 be added in recognition that Council has a role in managing and investing in the street environment and encouraging vitality through both soft and hard landscaping.

¹⁰² Submissions 663 (opposed by FS1139 and FS1191) and 672

¹⁰³ V Jones, Section 42A at [13.14].

¹⁰⁴ V Jones, Reply Statement at [4.3a]

¹⁰⁵ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

153. Ms Jones, in her Section 42A Report, did not support the inclusion of such a policy within the QTCZ.¹⁰⁶ Nor do we, as while such council initiatives are integral to achieving the objective, the commitment to undertake such works is more appropriately determined in the Council's long term plan process. We therefore recommend this submission be rejected.

3.5. **Objective 12.2.3 and Policies 12.2.3.1 – 12.2.3.6**

154. As notified these read:

12.2.3. Objective

An increasingly vibrant Town Centre that continues to prosper while maintaining a reasonable level of residential amenity within and beyond the Town Centre Zone."

Policies

12.2.3.1 *Require activities within the Town Centre Zone to comply with noise limits, and sensitive uses within the Town Centre to insulate for noise in order to mitigate the adverse effects of noise within and adjacent to the Town Centre Zone.*

12.2.3.2 *Minimise conflicts between the Town Centre and the adjacent residential zone by avoiding high levels of night time noise being generated on the periphery of the Town Centre and controlling the height and design of buildings at the zone boundary.*

12.2.3.3 *Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:*

- a. *Enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre*
- b. *Providing for noisier night time activity within the entertainment precinct in order to minimise effects on adjacent residential zones and*
- c. *Ensuring that the nature and scale of licensed premises located in the Town Centre Transition subzone are compatible with adjoining residential zones.*

12.2.3.4 *Enable residential and visitor accommodation activities within the Town Centre while:*

- a. *Acknowledging that the level of amenity will be lower than in residential zones due to the density, mixed use, and late night nature of the Town Centre and requiring that such sensitive uses are insulated for noise*
- b. *Discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre*
- c. *Avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car*

¹⁰⁶ V Jones, Section 42A Report at [13.16].

parking, and through the careful location and design of any onsite parking and loading areas and

d. Discouraging new residential and visitor accommodation uses within the Entertainment Precinct.

12.2.3.5 Avoid the establishment of activities that cause noxious effects that are not appropriate for the Town Centre.

12.2.3.6 Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on the night sky.

155. This objective did not attract submissions in opposition¹⁰⁷. One submitter¹⁰⁸ did seek to clarify the meaning of the words “reasonable level”. That submitter sought clarification pointing out that policy 12.2.1.4 sought to enable residential activities and visitor accommodation. This raised the question as to what would a reasonable level of amenity be which would enable residential activities and visitor accommodation within and beyond the Town Centre Zone?
156. Ms Jones acknowledged the vagueness of the words. She went on to note that the vagueness was addressed when regard was had to the related policies and rules. It was her view, and we agree, that once the policies accompanying the objective and the relevant rules are considered, it is possible to better understand what is meant by the words “reasonable level”. We agree with her that a footnote clarifying what would be a reasonable level of amenity is not required because that clarification is provided through the linked policies and rules and their application.
157. At the heart of the issue is the challenge to provide for a range of activities within the town centre, some of which are directed at entertainment and supporting the tourism market, while at the same time providing a level of amenity conducive to activities such as residential and accommodation for visitors.
158. Overall Ms Jones was of the view that notified objective 12.2.3 would appropriately give effect to the Act. She contended that the related policy direction, which we discuss below, would be generally appropriate for the reasons that are referred to in the Section 32 report. We agree with her views in relation to the notified objective and recommend it be adopted as notified.
159. As notified Policies 12.2.3.1 - 12.2.3.3 established a clear hierarchy of anticipated noise levels within the Town Centre.¹⁰⁹
160. Two submitters¹¹⁰ sought deletion of Policy 12.2.3.1 and incorporation of its intent into Policy 12.2.3.3. Ms Jones recommended acceptance of those submissions¹¹¹ and we agree.
161. We do not see value in a policy that requires activities within the town centre to comply with the noise limits. That is a given. Next, to a lesser extent, if a new sensitive activity wished to locate in the town centre then the existing noise environment would need to be taken into

¹⁰⁷ Submission 380 supported the objective

¹⁰⁸ Submission 714

¹⁰⁹ Section 42A Report of Ms Jones at [12.23].

¹¹⁰ Submissions 672 and 663 (opposed by FS1191, FS1318, FS1139)

¹¹¹ Section 42A Report of Ms Jones at [12.17b].

account so as to provide for and avoid reverse sensitivity effects. Effectively a new noise sensitive activity in all likelihood would need to insulate for noise to achieve this outcome.

162. Finally, the issue of noise is really a night time noise issue. The evidence raised, in particular, the potential adverse impacts of night-time noise on amenity values and sleep disturbance for visitors within visitor accommodation in some areas of the QTC.
163. We agree with Ms Jones that this approach to sensitive uses within the town centre is best included within reworded Policy 12.2.3.3 as that policy relates to when noise is an issue, night time.
164. For these reasons we recommend that Policy 12.2.3.1 be deleted and its contents be addressed within Policy 12.2.3.3. This will cause a re-numbering of policies 12.2.3.2 to 12.2.3.7.
165. There were no submissions received on Policy 12.2.3.2 so we discuss it no further and recommend its adoption as notified.
166. We consider Policy 12.2.3.3 to be the key policy in this group. This policy recognises the importance to the Town Centre of the activities that cause that night time noise. It seeks to enable it by providing the Entertainment Precinct for noisier night time activity. We assume the expectation is, over time, those who need this noisier locality for their activities will gravitate or shift to it. At the same time the policy seeks compliance with noise limits in other parts of the QTCZ.
167. The provision of night-time entertainment, including dining and socialising indoors and outdoors, is an integral element of the town centre, adding to and supporting the vibrancy and economic prosperity of the town centre. Specifically providing for those activities as notified Policy 12.2.3.3 sought to do is important because many visitors to the QTC wish to avail themselves of night time dining and socialising.
168. Provision of such activities in the QTC is long standing and makes for an active and vibrant town centre. The availability of night time activities adds to the visitor's diversity of experience. Visitors know this offering is available in the Town Centre and will expect it be maintained. Many businesses have long standing investment in the broad entertainment activities the Town Centre offers.
169. Encouraging noisier night time activity within the TCEP in order to minimise noise effects on residential zones adjacent to the town centre is both a pragmatic and workable solution, albeit may take some time before the noisier night-time activities aggregate within the Entertainment Precinct.
170. Through controlling the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone is also, we think, a useful and appropriate course of action to ensure that residential amenity in the adjoining residential zones is supported.
171. With the expectation that the TCEP, in particular, will both attract and provide for noisier night-time activity, we think it follows that those noise sensitive uses that wish to locate in the town centre will need to be able to mitigate the adverse effects of noise through insulation, or reverse sensitivity impacts or effects will undoubtedly arise. If this were not to occur then the desired outcome provided for within Objective 12.2.3 would not be realised.

172. Several submitters¹¹² supported the intent of Policy 12.2.3.3, and Kopuwai Investments limited¹¹³ sought minor amendments to subparagraphs (b) and (c) to clarify the meaning of the policy. Imperium Group¹¹⁴ sought to delete sub paragraph (b) of this policy.
173. Evan Jenkins¹¹⁵ supported the general approach of the policies but broadly pointed out in his submission that ‘vibrant’ does not mean loud; that the town centre is for all age groups, and that unless well monitored, the less restrictive noise policy may be abused.
174. Ms Jones pointed out in her Section 42A Report that the notified policies and rules provide for the noisiest activity within the TCEP and they enable only minor noise increases beyond that in a manner that would effectively direct certain activities to the most suitable parts of the town centre.¹¹⁶ Additionally, she pointed out that greater control over licenced premises within the TCTZ will create enclaves that will appeal to the different sectors of the resident and visitor community.¹¹⁷ We also note Dr Chiles’ advice that the noise levels now proposed reflect reality and are consistent with other town centres, and that it would be possible to monitor noise levels.¹¹⁸ We accept the submission insofar as it supports Policy 12.2.3.3 and consider that, based on the conclusions of Ms Jones and the advice of Dr Chiles, that Mr Jenkins’ concerns will be addressed.
175. We earlier referred to the submissions¹¹⁹ seeking alteration to Policy 12.2.3.3 by amalgamating it with Policy 12.2.3.1 and we recommend this occur by including sub paragraphs (d) and (e) as we have set out below.
176. Accordingly the wording we recommend for Policy 12.2.3.3 is as follows;

“12.2.3.3 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:

- a. Enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre and*
- b. Providing for noisier night time activity within the entertainment precinct in order to minimise effects on ~~adjacent~~ residential zones adjacent to the Town Centre and*
- c. Ensuring that the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone result in effects that are compatible with adjoining residential zones and*
- d. Enabling activities within the Town Centre Zone that comply with the noise limits and*

¹¹² Submissions 187 (opposed by FS1318), 587 (opposed by FS1318), 589 (opposed by FS1318) and 804

¹¹³ Submission 714

¹¹⁴ Submission 151

¹¹⁵ Submission 474

¹¹⁶ Section 42A Report of Ms Jones at [12.20].

¹¹⁷ Ibid.

¹¹⁸ Evidence of Dr Chiles at [7.2].

¹¹⁹ Submissions 672, and 663 (opposed by FS1139, FS1191)

e. Requiring sensitive uses within the Town Centre to mitigate the adverse effects of noise through insulation."

177. We have already recorded the importance of residential and visitor accommodation to both the town centre and the district itself. Policy 12.2.3.4 is important because it seeks recognition of the reality that the QTCZ is a noisy and active day and night time environment. In particular, night-time activities, such as entertainment bars and outdoor dining establishments, contribute to noise and high activity levels. The night-time activities can and do take place late into the night.
178. Policy 12.2.3.4 endeavoured to paint an accurate picture about what was occurring within the town centre and to send signals discouraging residential uses, particularly at ground level, and in those locations within the QTC where bars and restaurants predominate, particularly the TCEP.
179. NZIA¹²⁰ supported Policy 12.2.3.4 but sought amendment to refer to noisy and active rather than to lower amenity levels. We accept this as the requested change simply reflects the existing reality.
180. Kopuwai Investments Limited¹²¹ sought acknowledgement of self-protection¹²¹ as a method by adding the words "*and self-protected*" to subparagraph (a) after the word '*insulated*'. We agree with Ms Jones that it is unclear what is meant by this wording and therefore that it is ineffective and inefficient.¹²² We recommend this submission be rejected for that reason.
181. Imperium Group¹²³ sought to delete notified Policy 12.2.3.4(d). Ms Jones, within her Section 42A Report agreed in part with Submitter 151 to remove part (d) of notified Policy 12.2.3.4. She recommended that it be amended to better reflect the fact that the rules do not directly discourage such uses, but rather, only anticipate such uses where sufficient insulation was provided (by making it non-complying where this was not provided).¹²⁴
182. We think this would send a clear signal that the TCEP is certainly not a preferred location for new residential and visitor accommodation. However, if that location were to be used for those activities, it would only be an appropriate location if adequate insulation and mechanical ventilation were installed. We consider Ms Jones' proposed amendments in response to this submission to be appropriate.
183. Accordingly, we recommend that Policy 12.2.3.4 be amended as underlined and struckout, to read:

12.2.3.4 Enable residential and visitor accommodation activities within the Town Centre while:

a. Acknowledging that ~~the level of amenity will be lower~~ it will be noisier and more active than in residential zones due to the density, mixed use, and late night

¹²⁰ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

¹²¹ Submission 714

¹²² V Jones, Section 42A Report at [12.17d].

¹²³ Submission 151

¹²⁴ V Jones, Section 42A Report at [12.17e]

nature of the Town Centre and requiring that such sensitive uses are insulated for noise; and

- b. Discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre; and*
- c. Avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car parking, and through the careful location and design of any onsite parking and loading areas; and*
- d. Only enabling ~~Discouraging~~ new residential and visitor accommodation uses within the Town Centre Entertainment Precinct where adequate insulation and mechanical ventilation is installed.*

184. No submissions on Policy 12.2.3.5 were received and we recommend it be adopted as notified.
185. There was only one submission received on Policy 12.2.3.6.¹²⁵ Mr Jenkins sought additional detail be included within this policy directed at fairy lighting in trees. He referred to the southern light strategy to support his views.
186. Ms Jones did not recommend any further detail be included within Policy 12.2.3.6 and we agree with her recommendation. We think the policy, as expressed, adequately provides that the issue of glare and adverse effects on the night sky be appropriately addressed.
187. We do recommend a minor change to make it consistent with similar policies recommended by differently constituted Hearing Panels. That is, it is the effect on views of the night sky which the policy should deal with.
188. We discuss this issue in greater detail when considering the glare standard now renumbered as Rule 12.5.13.1 and for the reasons we there discuss, we recommend Policy 12.2.3.5 be amended as underlined below:

Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on views of the night sky.

3.6. New Policy

189. Several submitters¹²⁶, sought the inclusion of a new policy to recognise the important contribution that sunny open spaces, footpaths and pedestrian spaces make to the vibrancy and economic prosperity of the town centre.
190. We recognise how provision of open spaces, particularly sunny open spaces, utilisation of foot paths and provision of pedestrian space allows people to enjoy the outdoor aspect of the town centre. This is particularly so for outdoor dining during summer daytime periods. Having people in public places undertaking activities of this nature does this and we think adds to the sense of vibrancy of the town centre.

¹²⁵ Submission 474

¹²⁶ Submissions 59, 82, 599, 206 and 417

191. In response to these submissions¹²⁷, Ms Jones recommended a new Policy 12.2.3.7.¹²⁸ We recommend the inclusion of this new policy as it assists in realising Objective 12.2.3. This will become Policy 12.2.3.6 with the deletion of Policy 12.2.3.1 earlier.

12.2.3.6 Policy

Recognise the important contribution that sunny open spaces, footpaths, and pedestrian spaces makes to the vibrancy and economic prosperity of the Town Centre.

3.7. **Objective 12.2.4 and Policies 12.2.4.1 – 12.2.4.6**

192. As notified these read:

12.2.4 Objective

A compact Town Centre that is safe and easily accessible for both visitors and residents.

Policies

- 12.2.4.1 *Encourage a reduction in the dominance of vehicles within the Town Centre and a shift in priority toward providing for public transport and providing safe and pleasant pedestrian and cycle access to and through the Town Centre.*
- 12.2.4.2 *Ensure that the Town Centre remains compact and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:*
- a. *Maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality*
 - b. *Requiring new pedestrian linkages in appropriate locations when redevelopment occurs*
 - c. *Strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it and*
 - d. *Encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings.*
- 12.2.4.3 *Minimise opportunities for criminal activity through incorporating Crime Prevention through Environmental Design (CPTED) principles as appropriate in the design of lot configuration and the street network, car parking areas, public and semi-public spaces, access ways/ pedestrian links/ lanes, and landscaping.*
- 12.2.4.4 *Off-street parking is predominantly located at the periphery of the Town Centre in order to limit the impact of vehicles, particularly during periods of peak visitor numbers.*
- 12.2.4.5 *Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements.*

¹²⁷ Submissions 59, 82, 599, 206 and 417.

¹²⁸ V Jones, Section 42A Report at [10.14].

12.2.4.6 *Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety and amenity of pedestrians and cyclists, particularly in peak periods.*

193. Several submitters¹²⁹ supported the objective as notified. In our view one of the key attributes of the town centre is that it is compact with the result that its small geographic size enables ease of access. Accessibility is enhanced through pedestrian walkways and laneways. This compactness and ease of accessibility is one of the features of the town centre which adds to its attractiveness and interest for both visitors and residents.
194. We agree with the submitters and recommend their submissions are accepted. We also recommend retaining Objective 12.2.4 as notified.
195. The only submission¹³⁰ on Policy 12.2.4.1 sought that it be retained. Submission 238 referred to this policy, but when the relief is examined, the reference was in error and should have referred to Policy 12.2.4.2.
196. We consider this policy is well suited and appropriate to implement Objective 12.2.4. Priorities in public transport and providing safe and pleasant pedestrian access is critical to implementing this objective. Also important is encouraging the reduction of vehicle dominance within the town centre itself.
197. Accordingly, we recommend it be adopted as notified.
198. While several submitters¹³¹ supported Policy 12.2.4.2, two¹³² also sought to change it. The Otago Regional Council¹³³ (ORC) requested the inclusion of the word “*accessibility*” into the opening paragraph. NZIA¹³⁴ requested additional bullet points relating to the promotion and encouragement of laneways and small streets being open to the sky, as well as promoting the opening up of Horne Creek as a visual feature.
199. The ORC submission sought the limitation of car parks in the periphery of the town centre so as to encourage or support the shift to shared and active transport modes. This is a transportation issue and we agree with Ms Jones that it is more appropriately considered in relation to Chapter 29 in Stage 2 of the PDP.
200. The ORC also wished to refine provisions relating to verandas within this policy, ensuring that they do not interfere with curb side movement of high sided vehicles.
201. Other submitters¹³⁵ were interested to ensure that the effects of buildings did not cause additional shading degrading the pedestrian environment or enjoyment of public spaces. Those submitters did, however, seek a trade-off where there was a small increase of shading of public pedestrian spaces such that it could be offset or compensated by the provision of additional public space or a pedestrian link within the site.

¹²⁹ Submissions 217, 380, 798 and 807

¹³⁰ Submission 719

¹³¹ Submissions 719 and 807.

¹³² Submissions 238 and 798

¹³³ Submission 798

¹³⁴ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

¹³⁵ Submissions 59, 82, 206, 417, 599, 663, 672, 59, 82, 599, 206, 417 (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249)

202. In the main, Ms Jones agreed with and supported these various submissions.¹³⁶ We agree. The addition of the word “*accessible*” derives a meaning from its context meaning the town centre is accessible to pedestrians in general. Verandas need to be sensibly designed so as not to interfere with curb side movement of high sided vehicles, although we thought this outcome would go without saying.
203. We agree that uncovered pedestrian links and lanes are both the key to, and an integral feature, of the QTC character. They should be promoted, retained and maintained. In respect of Horne Creek, we agree that all that can be achieved within the policy framework is to send the signal about promoting the opening up of Horne Creek as distinct from requiring the same.¹³⁷ We agree that those parts of the town centre where Horne Creek is opened up have a special character. The visual and aural appeal of running water in a semi natural state is a pleasing amenity feature in a busy town centre. However, given the Creek runs through both private and publicly-held land, and is partially covered over or piped, we consider the Council has no jurisdiction to require its opening, but does have the ability to promote it.
204. The final amendments link to other submissions relating to height of buildings and increasing the allowable height in various height precincts of the town centre. Increases in height lead to the need to carefully assess additional shading. Additional shading is inevitable with a height increase. That height increase enables one of the key characteristics of the town centre, namely its compact nature to be retained. We recognise an increase in height will inevitably lead to additional shading. However, the ability to offset any such effect by the provision of additional public space or pedestrian links is of value. We consider this policy, amended as recommended by Ms Jones, assists in achieving Objective 12.2.4. We recommend submissions amending Policy 12.2.4.2 be accepted.
205. We recommend Policy 12.2.4.2 read with the amendments underlined as follows:
- “Ensure that the Town Centre remains compact, accessible, and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:*
- a. Maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality;*
 - b. Requiring new pedestrian linkages in appropriate locations when redevelopment occurs;*
 - c. Strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it; ~~and~~*
 - d. Encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings; and may need to be specifically designed so as to not interfere with kerbside movements of high-sided vehicles*
 - e. Promoting and encouraging the maintenance and creation of uncovered pedestrian links and lanes wherever possible, in recognition that these are a key feature of Queenstown character;*

¹³⁶ Section 42A Report of Ms Jones at [13.19].

¹³⁷ Ibid.

- f. Promoting the opening up of Horne Creek wherever possible, in recognition that it is a key visual and pedestrian feature of Queenstown, which contributes significantly to its character; and
- g. Ensuring the cumulative effect of buildings does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site.”
206. One submission¹³⁸ sought that Policy 12.2.4.3 be amended to refer to antisocial rather than criminal behaviour, and that the CPTED principles not be applied to the design of lot configuration, the street network, car parking areas, access ways, pedestrian links and/or lanes or landscaping.
207. Like Ms Jones, we think the word “antisocial behaviour” rather than “criminal activity” is more appropriate in the policy context. We also agree with Ms Jones that lot configuration and the design of any extension to the street network will be considered through the Subdivision Chapter.¹³⁹ Therefore, those particular matters do not need to be specifically mentioned within this policy. However, notwithstanding deletion of references to lot configuration and street network, and inclusion of reference to streetscapes, these CPTED principles are still deserving of mention and reference within this policy.
208. The references in Policy 12.2.4.3 relate in the main to the public domain. Generally CPTED matters are given effect to by councils while designing public spaces. Private land owners do tend to have differing priorities more focused on security.
209. Consequently, we recommend Policy 12.2.4.3 read:
- Minimise opportunities for ~~criminal activity~~ anti-social behaviour through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of ~~lot configuration and the streetscapes network~~, carparking areas, public and semi-public spaces, accessways/ pedestrian links/ lanes, and landscaping.*
210. NZTA¹⁴⁰ submitted in favour of Policy 12.2.4.4. ORC¹⁴¹ suggested that accessibility to the Town Centre could be assisted by limiting the supply of car parks on the periphery of it. However, this submission did not directly refer to this policy and no evidence was provided in support of the submission.
211. We are satisfied this policy as worded appropriately supports the implementation of Objective 12.2.4 and accordingly recommend this policy be adopted as notified.
212. Ms Jones discussed Policy 12.2.4.5 in her Section 42A Report under Issue 9 Transportation. This policy received attention from other submitters¹⁴². However, only those submission

¹³⁸ Submission 663, opposed by FS1139 and FS1191

¹³⁹ V Jones, Section 42A Report at [13.21].

¹⁴⁰ Submission 719

¹⁴¹ Submission 798

¹⁴² Submissions 719, 238, 621 and 798.

points that related directly to the objectives and policies contained in Chapter 12 are addressed by this Report.

213. ORC observed in its submission that public transport users are multi modal. This means they generally walk or cycle to access bus services therefore developments should create active transport connection linking existing public transport services and infrastructure where possible. ORC raised the point that poorly designed shop front veranda setbacks and heights can interfere with kerbside bus movement however no specific relief was sought. We note Ms Jones, when considering both this submission and notified Rule 12.5.5, recommended inclusion of wording to deal with this concern.¹⁴³
214. NZTA¹⁴⁴ submitted in favour of retaining notified policy 12.2.4.5. NZIA¹⁴⁵ and Real Journeys Ltd¹⁴⁶ requested the policy not only be considered when designing roading improvements but also when designing any transportation related improvements, or, alternatively, when considering jetty applications.
215. Real Journeys, in particular, sought to include the consideration of jetty applications when considering current or future public transport needs. We agree with Ms Jones¹⁴⁷ that when jetty applications are being considered, it is appropriate to consider how those applications may impact on the planning for future public transport options. We consider that travel by watercraft assists in making the town centre accessible for both visitors and residents. We are satisfied that the amendments sought by the submitter support Objective 12.2.4.
216. For these reasons we recommend that Policy 12.2.4.5 be amended to include the words “*or considering jetty applications*” as shown underlined below:
- Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements or considering jetty applications.*
217. NZTA¹⁴⁸ sought amendments to Policy 12.2.4.6, while other submitters¹⁴⁹ requested the policy be deleted. The refinement sought by NZTA was to include words so as to ensure that the safety and efficiency and functionality of the roading network were matters considered when the location and design of visitor accommodation was being considered.
218. Like Ms Jones, we agree that the changes requested by NZTA are appropriate as incorporating them would help this policy better achieve Objective 12.2.4.¹⁵⁰
219. We do not support the submissions requesting that the policy be deleted because traffic issues are an important consideration for the location and design of visitor accommodation, particularly when considering safety and accessibility of both visitors and residents alike.

¹⁴³ V Jones, Section 42A Report at [13.52].

¹⁴⁴ Submission 719

¹⁴⁵ Submission 238, supported by FS1097 and FS1117, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

¹⁴⁶ Submission 621

¹⁴⁷ V Jones, Section 42A Report at [17.5]

¹⁴⁸ Submission 719

¹⁴⁹ Submissions 663 (opposed by FS1139 and FS1191) and 672

¹⁵⁰ V Jones, Section 42A Report at [15.4].

220. We recommend the Policy read with the additions underlined as follows:

Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety, efficiency, and functionality of the roading network, and the safety and amenity of pedestrians and cyclists, particularly in peak periods.

3.8. Objective 12.2.5 and Policies 12.2.5.1 – 12.2.5.6

221. As notified, these read:

12.2.5 Objective

Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment for the benefit of both residents and visitors.

Policies

12.2.5.1 *Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.*

12.2.5.2 *Promote a comprehensive approach to the provision of facilities for water-based activities.*

12.2.5.3 *Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters.*

12.2.5.4 *Retain and enhance all the public open space areas adjacent to the waterfront.*

12.2.5.5 *Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.*

12.2.5.6 *Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict location and appearance criteria.*

222. The main issues Ms Jones¹⁵¹ identified arising from the ODP were, first that the community and visual values of the land/water interface had not been properly identified in the ODP. Secondly, the extent of the Queenstown Bay Waterfront area was not clearly defined. She observed that all but one of the ODP policies had been included in the PDP.¹⁵² However, those that referred to managing the waterfront area in accordance with various foreshore management plans were not included.

223. Several submitters¹⁵³ supported Objective 12.2.5 as notified. Te Anau Developments Limited¹⁵⁴ and Queenstown Park Limited¹⁵⁵, requested that Objective 12.2.5 and the supporting policies be amended to ensure tourism activities, including the transport of passengers and supporting buildings, infrastructure, and structures, were specifically provided for.

¹⁵¹ V Jones, Section 42A Report at [16.6]

¹⁵² Ibid at [16.17].

¹⁵³ Submissions 217, 380 and 817.

¹⁵⁴ Submission 607

¹⁵⁵ FS1097

224. In response to these submissions, Ms Jones expressed the view that it was unnecessary and inappropriate to change the objective and policies to specifically provide for tourism activities as both the objectives and policies already acknowledged the area is to be managed for visitors as well as residents¹⁵⁶. We agree.
225. In addition, she suggested that an amended policy which provides for tourism, including supporting buildings and structures as sought, would be inconsistent with the rules. We will return to rules later, but we agree with Ms Jones that rules classify many buildings and structures that would arguably support tourism, as non-complying in this Sub-Zone.
226. Other submitters¹⁵⁷ sought the objective and all its related policies be amended to recognise the importance of public transport links on the water and better integration of land and water-based journeys. Ms Jones was of the view this matter was best addressed in Stage 2 of the proposed District Plan.¹⁵⁸ Consequently she recommended rejecting these particular submission points for those reasons.
227. The Stage 2 variations propose the addition of a seventh policy under this objective., relating to public ferry services. While this may satisfy the relief sought by those submitters, we recommend the submissions be rejected at this stage.
228. We recommend adoption of the objective with the minor wording changes recommended by Ms Jones to improve clarity¹⁵⁹. This change can be made pursuant to Clause 16(2). We recommend Objective 12.2.5 read, with the amendments underlined, as follows:

Objective 12.2.5

Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment ~~for the~~ that benefits ~~of~~ both residents and visitors.

229. Multiple submitters¹⁶⁰ sought to amend notified Objective 12.2.5 and associated Policies 12.2.5.1, 12.2.5.2, 12.2.5.5, and 12.2.5.6 to recognise the importance of public transport links on the water and better integration of land and water-based journeys. The amendment proposed by the Stage 2 variations confirms that this is a matter better dealt with in association with the Transport Chapter. We recommend these submissions be rejected.
230. Real Journeys Limited¹⁶¹ requested that Policy 12.2.5.2 be amended to promote the strategic comprehensive approach to the provision of facilities for water-based activities. Queenstown Wharves¹⁶² requested it be deleted.
231. Ms Jones recognised that Policy 12.2.5.2 is an important policy which both appropriately and sufficiently signals the desire for a comprehensive approach to activities within the Sub-Zone. She was of the view¹⁶³, and we agree with her, that the inclusion of the word “strategic” is unnecessary. Accordingly, we recommend that Submissions 621 and 766 are rejected.

¹⁵⁶ V Jones, Section 42A Report at [16.14a].

¹⁵⁷ Submissions 766, 798, (supported by FS1341 and FS1342) and 807.

¹⁵⁸ V Jones, Section 42A Report at [17.8].

¹⁵⁹ V Jones, Summary of Evidence, Appendix 1

¹⁶⁰ Submissions 766, 798, 807 and FS1341.

¹⁶¹ Submission 621

¹⁶² Submission 766, supported by FS1341

¹⁶³ V Jones, Section 42A Report at [16.14b].

232. Remarkables Park Limited¹⁶⁴ and Queenstown Wharves¹⁶⁵ sought that Policy 12.2.5.3, regarding conserving and enhancing the natural qualities of the foreshore and adjoining waters, be deleted. Both of these submissions consider there to be a conflict between Policy 12.2.5.1 and Policy 12.2.5.3. Policy 12.2.5.1 seeks to encourage a vibrant waterfront and whilst the submitters consider retention of the waterfront amenity values to be important, they do not consider that there should be a separate policy to “*conserve and enhance*”.
233. Real Journeys Limited¹⁶⁶ also sought that this policy be amended to conserve, maintain and enhance, as far as practical where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters.
234. Ms Jones was of the view that referencing amenity and natural qualities was important to support the relevant rules which prevent certain activities and built forms in the more natural parts of the Sub-Zone¹⁶⁷. She further considered that amending Policy 12.2.5.3 as sought by Real Journeys Limited, would weaken it because the submitter sought inclusion of the word “*maintain*” and the words “*as far as practical*”¹⁶⁸. We agree with that conclusion.
235. However, in Ms Jones’ Summary of Evidence presented at the hearing, she recommended additional wording for Policy 12.2.5.3 and Policy 12.2.5.6 to provide “more direction in terms of development within the QTC WSZ.”¹⁶⁹ Ms Jones advised that these amendments were made in response to Ms Carter’s evidence for Queenstown Wharves GP Limited.¹⁷⁰
236. In particular Ms Carter was seeking greater direction within Policies 12.2.5.1 to 12.2.5.6 in order to achieve Objective 12.2.5, and a more integrated approach within those policies.¹⁷¹ Indeed, we agree that Objective 12.2.5 seeks integrated management of the Queenstown Bay land –water interface.
237. Based on Ms Carter’s evidence and the Queenstown Wharves submission, Ms Jones recommended the inclusion of additional words to Policy 12.2.5.3, immediately following the word waters, they are:
- the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the ‘Queenstown beach and gardens foreshore area’ (as identified on the planning map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.*
238. We agree with Ms Jones’ recommendation to include these additional words based as it is on the evidence of Ms Carter, with which we agree. We accept including these words better supports Objective 12.2.5 in achieving integrated management of this important Queenstown Bay environment. In particular, these words appropriately capture the existing context of the Bay against which integrated management can be achieved.

¹⁶⁴ Submission 807

¹⁶⁵ Submission 766, supported by FS1341

¹⁶⁶ Submission 621

¹⁶⁷ V Jones, Section 42A Report at [16.14c].

¹⁶⁸ Ibid

¹⁶⁹ V Jones, Summary of Evidence at [6c].

¹⁷⁰ Submission 766

¹⁷¹ J Carter, EIC at [6.7] and [7.1-7.2].

239. Queenstown Wharves¹⁷² sought that Policy 12.2.5.4 be retained as notified.
240. Ms Jones in her Section 42A Report, recommended accepting this submission. Policy 12.2.5.4 relates to retention and enhancement of access to all public open space areas adjacent to the waterfront. We agree with the submission and Ms Jones' recommendation as access to public places adjacent the waterfront enables enjoyment of the Queenstown Bay area by both residents and visitors thus supporting Objective 12.2.5.
241. The only submission¹⁷³ on Policy 12.2.5.5 sought its amendment in relation to water transport. We agree with Ms Jones that is a matter better dealt with in the context of the Transport Chapter and recommend that submission be rejected.
242. NZIA¹⁷⁴ generally supported Policy 12.2.5.6 but requested it be amended to be read subject to the review by the urban design panel in recognition that it is not just location and appearance that is to be considered, but also the blocking of views and filling up of harbour space etc.
243. Real Journeys Limited¹⁷⁵ requested that Policy 12.2.5.6 be amended so as to provide for the development, maintenance and upgrading of structures within the Queenstown Bay waterfront area, recognising these structures are required to meet minimum safety and design standards subject to compliance with strict location and appearance criteria.
244. With regard to Policy 12.2.5.6 and the need to require structures in the Sub-Zone to be considered by the urban design panel (UDP), Ms Jones did not recommend mandating any such review through the policy in the District Plan¹⁷⁶.
245. We agree with her because we consider that matters such as potential effect on views can already be provided for in terms of the district plan. While review by the UDP may assist in decision-making, we do not consider it appropriate to make it a mandatory requirement via the PDP in the absence of clear design guidelines.
246. After considering Ms Black's evidence for Real Journeys Limited, Ms Jones recommended a limited amendment to provide more direction in terms of development within the WSZ.¹⁷⁷
247. We agree with Ms Jones' recommended amendments as they provide more clarity as to why structures are subject to bulk, location and appearance criteria.

3.9. New Policies

248. Kopuwai Investments Limited¹⁷⁸ sought the inclusion of two new policies:

12.2.5.6 Encourage the day time and night time use of outdoor areas for the use by bars and restaurants in and around the Steamer Wharf Complex with appropriate seating, tables and/or planting to enhance the vibrancy and visual amenity.

¹⁷² Submission 766, supported by FS1341

¹⁷³ Submission 766, supported by FS12341

¹⁷⁴ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

¹⁷⁵ Submission 621

¹⁷⁶ Ibid at [16.14e].

¹⁷⁷ V Jones, Summary of Evidence, at [6c].

¹⁷⁸ Submission 714, opposed by FS1318

12.2.5.7 *Ensure that residential development and visitor accommodation provide acoustic insulation over and above the minimum requirements of the Building Code to avoid reverse sensitivity.*

249. Ms Jones did not recommend adding these additional policies as she considered the intent was somewhat covered by the more general notified Policy 12.2.5.1 and Policy 12.2.3.1 respectively.

250. Further, in relation to the first suggested policy, we consider that encouraging the daytime and night-time use of these areas is not a District Plan matter, rather it is an operational matter. In respect of the second suggested policy, we cannot direct that the Building Code be exceeded in the PDP. For those reasons, we recommend these two new policies not be adopted and that the Kopuwai submission is rejected.

251. Consequently, it is our recommendation that Policies 12.2.5.1 to 12.2.5.6 as set out by Ms Jones in her reply be adopted. We set out the amended policy wording below, with the amendments underlined:

12.2.5.1 *Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.*

12.2.5.2 *Promote a comprehensive approach to the provision of facilities for water-based activities.*

12.2.5.3 *Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the 'Queenstown beach and gardens foreshore area' (as identified on the planning map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.*

12.2.5.4 *Retain and enhance all the public open space areas adjacent to the waterfront.*

12.2.5.5 *Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.*

12.2.5.6 *Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict bulk, location and appearance criteria, provided the existing predominantly open character and a continuous pedestrian waterfront connection will be maintained or enhanced.*

4. 12.3 OTHER PROVISIONS AND RULES

4.1. 12.3.1 District Wide Chapters

252. Rule 12.3.1 is a cross reference to other District Wide Chapters that may apply in addition to the rules in Chapter 12.

253. There were no submissions received nor any comment in the officer’s report relating to this section. Ms Jones recommended only minor amendments proposed in the interests of clarification and consistency with other parts of the Plan.
254. We recommend minor amendments be made as a minor change in accordance with Clause 16(2) consistent with our approach to this section throughout the PDP.
255. The recommended layout is shown in Appendix 1.

4.2. **12.3.2 Clarification and 12.3.2.3 General Rules Preliminary Matter**

256. As with other chapters, this section contains a series of provisions that establish how the rules work, including which chapters have precedence over others.
257. Within rules 12.3.2.3-.5 there are three ‘rules’. Each of them commence with the words “*For the purpose of this chapter*”. The rules then proceed to define a comprehensive development, a landmark building and finally a sense of place.
258. The status of the provisions within the notified subheading of “*Clarification*” and “*General Rules*” has arisen in the previous hearings. Mr Winchester, for the Council, reminded us in his opening that, within the residential hearing, counsel suggested, so as to provide more certainty as to the regulatory status of these provisions, that they be further reordered under additional headings “*General Rules*” and “*Advice Notes*”.¹⁷⁹ He advised that these changes do not affect the regulatory impact of these provisions and further those changes were considered to be non-substantive.¹⁸⁰
259. He further elaborated that for the business chapters the clarification provisions should be placed under the subheadings “*General Rules*” and “*Advice Notes*” advising us that changes have also been made to the PDP to align with other chapters.¹⁸¹
260. We accept Mr Winchester’s submission that altering the subheadings ‘*Clarification*’ and ‘*General Rules*’ is required to provide more certainty as to the regulatory status of the provisions. We agree also that his recommended changes are non-substantive. However we think that a sub heading should be more descriptive than simply ‘*General Rules*’ or ‘*Advice Notes*’ to provide greater clarity. In our view these provisions belong within a separate section entitled “*Interpreting and Applying the Rules*” because that is their purpose.
261. We recommend these minor amendments be made as a non-substantive change in accordance with Clause 16(2).
262. The recommended layout is shown in Appendix 1.

5. **DEFINITIONS PROPOSED TO BE INSERTED**

263. There are some definitions that are applicable to the provisions of Chapter 12. In her Reply, Ms Jones recommended that the definitions be located in Chapter 12. Ms Jones explained that in her view this was more appropriate than including these definitions in Chapter 2. This was because they are definitions for the purpose of this chapter, and they are not appropriate

¹⁷⁹ Legal Submissions of Mr Winchester at [9.6].

¹⁸⁰ Ibid.

¹⁸¹ ibid at [9.7].

to apply across all chapters in the PDP. Ms Jones recommended these definitions all sit under the heading “General Rules”.¹⁸²

264. While we do not totally disagree with Ms Jones, we understand that the officer reporting to the Stream 10 Hearing Panel (which heard submissions on Chapter 2 – Definitions) recommended that all definitions be located in that chapter. That recommendation has been accepted and we see little value in repeating definitions in this chapter also. We also note that while Ms Jones claimed the definitions were only used in this chapter, “comprehensive development” is also used in Chapter 13.
265. Our role is to consider the submissions on these definitions and recommend to the Stream 10 Hearing Panel the appropriate wording for the definitions and whether submissions are to be accepted or rejected. We discuss these definitions below.

Comprehensive Development

Comprehensive development means the construction of a building or buildings on a site or across a number of sites with a total land area of greater than 1400 m².

266. At notification, the definition of a comprehensive development, in part, resided in Rule 12.5.1. Ms Jones recommended in her Reply to locate this definition with the other relevant definitions for this chapter. We consider that removing the definition element from Rule 12.5.1 assists with the legibility of the rule and makes the provisions easier for plan users to understand. We note that the area of land to be the trigger for development was a matter of contention. We discuss this in detail in relation to Rule 12.5.1.
267. As this definition is derived from Rule 12.5.1, our reasons for recommending the wording of that rule contain the reasons for recommending the wording of this definition. On that basis, we recommend to the Stream 10 Hearing Panel that comprehensive development be defined as set out above.

Landmark Building

Landmark building means a building that is easily recognisable due to notable physical features, including additional height. Landmark buildings provide an external point of reference that helps orientation and navigation through the urban environment and are typically located on corners or at the termination of a visual axis.

268. The term “landmark building” is used in proposed Rule 12.5.8.5 (d) and its relevance is discussed in more detail when we discuss that rule. We questioned Ms Jones as to whether a definition should be included in the PDP.
269. In her Reply, Ms Jones advised that she had discussed this with Mr Church and she recommended adding a definition for the term landmark buildings.¹⁸³ She did note that whilst there was some clarification in notified Policy 12.2.2.5 and Rule 12.5.8.5(d) this definition would be useful for readers.¹⁸⁴
270. We agree that it is useful to have a definition, and, like Ms Jones, we consider the definition proposed appropriate. We consider that as the definition is primarily for clarification it can be

¹⁸² V Jones, Reply Statement at [4.3d].

¹⁸³ V Jones, Section 42A Report at [9.2]

¹⁸⁴ Ibid

included under Clause 16(2), and recommend to the Stream 10 Hearing Panel that it be so included in Chapter 2.

Sense of Place

Sense of place means the unique collection of visual, cultural, social, and environmental qualities and characteristics that provide meaning to a location and make it distinctly different from another. Defining, maintaining, and enhancing the distinct characteristics and quirks that make a town centre unique fosters community pride and gives the town a competitive advantage over others as it provides a reason to visit and positive and engaging experience. Elements of the Queenstown Town Centre that contribute to its sense of place are the core of low rise character buildings and narrow streets and laneways at its centre, the pedestrian links, small block size of the street grid and its location adjacent the lake and surrounded by the ever present mountainous landscape.

271. NZIA¹⁸⁵ submitted that it was “good to see acknowledgement of sense of place” but sought more information on what this meant. In her Section 42A Report Ms Jones recommended that an explanation for the term “sense of place” be added as an advice note to Objective 12.2.2.¹⁸⁶ She subsequently recommended it be listed as a definition within this chapter.
272. We agree that this definition assists in responding to the NZIA submission. We recommend to the Stream 10 Hearing Panel that Submission 238 be accepted in part by including this definition in Chapter 2.
273. We set out the recommended definitions in Appendix 8.

6. 12.4 RULES – ACTIVITIES

6.1. Rule 12.4.1 Activities not listed in this table and comply with all standards

274. Rule 12.4.1 effectively provides a default permitted activity status to any activity that complies with all standards and is not otherwise listed in Activity Table 12.1.
275. Peter Fleming¹⁸⁷ opposed Rule 12.4.1 but did not give any reasons for his request. In the absence of any evidence and on the basis that we consider Rule 12.4.1 appropriate, we recommend this submission be rejected.
276. At the commencement of the Stream 8 hearings, during the Council’s opening, we queried the approach taken in the various business chapters regarding the need to comply with all standards in order to be a permitted activity. In the QTC, WTC, ATC, LSC and BMU zones, activities which are not listed in this table and comply with all standards are permitted activities.
277. In the Reply Submissions, Ms Scott pointed out that default permitted activities need to state that any activity not listed must comply with all of the standards listed in the chapter, otherwise there would be no regulation around any unlisted activity at all.¹⁸⁸
278. Ms Scott, again in the Reply, set out the way in which the provisions are intended to work.¹⁸⁹

¹⁸⁵ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248.

¹⁸⁶ V Jones, Section 42A Report at [13.7b].

¹⁸⁷ Submission 599

¹⁸⁸ Submissions in Reply of Ms Scott on behalf of QLDC at [2.3].

¹⁸⁹ bid at [2.4].

- a. an activity not listed in the table must comply with all standards in order to be permitted
- b. if an activity not listed in the table breaches one of the standards, then it is no longer permitted, and a consent is required and
- c. the standard breached is what determines the basis on which consent is required (for example, if the unlisted activity breached Rule 12.5.1 then it would become restricted discretionary; if it breached Rule 12.5.10 then it would become noncomplying).

279. Ms Scott submitted that an argument that an activity does not contravene any District Rule in terms of section 9 of the Act merely because that activity is not expressly described in the table would not be tenable. She explained that this was because Rule 12.4.1 was drafted so as to capture all potential and described activities and require them to comply with a group of standards. In that respect, she said, Rule 12.4.1 is a catch- all District Rule for the purposes of section 9 of the RMA.
280. Ms Jones, in her Reply Statement, added that she considered the inclusion of this Rule at the start of the activity table in each chapter is the most legible approach.¹⁹⁰ She considered it important due to the fact that the default status varies between the zones.
281. She did point out the duplication arising from the advice note in 12.3.2.1 which also requires compliance with the standards table.¹⁹¹ She pointed out that the purpose of the advice note is more focused on identifying the non-compliant status. She was of the view the inclusion within Rule 12.4.1 of the reference to compliance with all standards to be clearer and would ensure there was no room for debate as to the correct interpretation.
282. She noted that at first blush it seemed inconsistent to have listed activities default to a non-complying status in some instances and permitted and others.¹⁹² However, she rationalised this apparent inconsistency, noting the vastly different purposes of the various zones.¹⁹³ For example, the likes of rural and residential having a relatively narrow purpose with a narrow range of uses being anticipated and the business zones being of a highly mixed use nature. Overall she did not recommend any changes to Rule 12.4.1.¹⁹⁴
283. After considering Ms Scott's submissions and the views expressed by Ms Jones we agree that the tabular approach is appropriate. Also we agree that Rule 12.4.1 does not require change for all of the reasons advanced by both Ms Scott and Ms Jones. Accordingly, we recommend retention of the table and the approach contained in the replies to determining activity status. Also we recommend retention of Rule 12.4.1 unaltered.

6.2. Rule 12.4.2 Visitor Accommodation

284. As notified, Rule 12.4.2 provided for visitor accommodation (the activity rather than the buildings) in the QTCZ as a controlled activity, with control limited to (in summary):
- a. Parking and traffic
 - b. landscaping
 - c. location, nature and scale and
 - d. noise effects when adjoining a residential zone.

¹⁹⁰ V Jones, Reply Statement at [3.3].

¹⁹¹ Ibid at [3.4].

¹⁹² Ibid at [3.5].

¹⁹³ Ibid.

¹⁹⁴ Ibid at [3.6].

285. NZTA¹⁹⁵ sought to have the rule amended to include the words “*maintaining the safety and efficiency of the roading network*”. The change to this rule mimicked the change NZTA sought to Policy 12.2.4.6.
286. Ms Jones supported the NZTA submission on this rule, considering that acknowledging the importance of the safety and efficiency of the roading network, was, while an important change, overall a minor change.¹⁹⁶
287. Downtown QT¹⁹⁷ and Queenstown Chamber of Commerce¹⁹⁸ both supported the residential and visitor accommodation provisions in the QTCZ. The Chamber added the proviso that insulation and mechanical ventilation be included with residential and visitor accommodation to prevent reverse sensitivity effects. We will return to that point when we discuss noise within the QTCZ.
288. Peter Fleming¹⁹⁹ opposed the rule relating to visitor accommodation seeking that any existing use rights regarding visitor accommodation not be diminished.
289. In considering these submissions, Ms Jones noted that the rules in the PDP were similar to those within the ODP with the main difference being that external building appearance would now be subject to a restricted discretionary consent, whereas previously it was controlled. She noted that the location, nature and scale of visitor accommodation and ancillary activities within the relevant site and in relation to neighbouring sites was a new matter of control. She further noted that matters of traffic generation and traffic demand management were new matters of control and where the site adjoined a residential zone, the hours of operation of ancillary activities and noise generation were new matters of control.
290. For these reasons, she considered that Rule 12.4.2, as amended by the NZTA submission, would provide the Council with useful additional controls in terms of encouraging site layout that benefit street scape, avoid or minimise conflict between uses and avoid or minimise potential adverse effects on the roading network and pedestrian movement. We agree with Ms Jones’ reasons.
291. As for Mr Fleming’s submission²⁰⁰ noted above, we agree with Ms Jones that it should be rejected. Adopting plan provisions only where they do not diminish existing use rights is neither a valid nor relevant consideration in determining the appropriateness of a plan provision. In any event, we observe existing use rights are provided for under section 10 of the Act and cannot be taken away.
292. We recommend the following wording for Rule 12.4.2, with our recommended amendments underlined and struck out:

12.4.2 ***Visitor Accommodation***, ~~*in respect of:*~~

Control is reserved to:

C

¹⁹⁵ Submission 719

¹⁹⁶ V Jones, Section 42A Report, Appendix 1 at p 12-6.

¹⁹⁷ Submission 630, opposed by FS1043

¹⁹⁸ Submission 774

¹⁹⁹ Submission 599

²⁰⁰ Submission 599

- a. *The location, provision, and screening of access and parking, traffic generation, and travel demand management, with a view to maintaining the safety and efficiency of the roading network, and minimising private vehicle movements to/ from the accommodation; ensuring that where onsite parking is provided it is located or screened such that it does not adversely affect the streetscape or pedestrian amenity; and promoting the provision of safe and efficient loading zones for buses*
- b. *Landscaping*
- c. *The location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses and*
- d. *Where the site adjoins a residential zone:*
 - i Noise generation and methods of mitigation;*
 - ii Hours of operation, in respect of ancillary activities.*

6.3. **Rule 12.4.3 Commercial Activities within the Queenstown Town Centre Waterfront Subzone**
 293. As notified, this rule provided for commercial activities in the QTC Waterfront Subzone (“WSZ”) as controlled activities, with control reserved to, in summary:

- a. Traffic
- b. Access and loading
- c. Temporary structures and
- d. Outdoor storage.

294. Real Journeys Limited²⁰¹ requested that subparagraph (a) be amended by including the bolded words as follows:

- a. Any adverse effects of additional traffic generation from the activity **and mitigation of those effects.**

295. Ms Jones did not consider it was necessary to add this additional wording.²⁰² We agree with Ms Jones because the assessment of effects of the additional traffic generation will take into account the mitigation in determining the actual adverse effects of such additional traffic.

296. Our recommended wording is shown below using strikethrough and underlining:

12.4.3 Commercial Activities within the Queenstown Town Centre Waterfront Subzone C
(including those that are carried out on a wharf or jetty) except for those commercial activities on the surface of water that are provided for as discretionary activities pursuant to Rule 12.4.7.2, ~~in respect of:~~

Control is reserved to:

- a. *Any adverse effects of additional traffic generation from the activity*

²⁰¹ Submission 621

²⁰² Section 42A Report of Ms Jones at [16.16].

- b. *The location and design of access and loading areas in order to ensure safe and efficient movement of pedestrians, cyclists, and vehicles and*
- c. *The erection of temporary structures and the temporary or permanent outdoor storage of equipment in terms of:*
 - i. *any adverse effect on visual amenity and on pedestrian or vehicle movement; and*
 - ii. *the extent to which a comprehensive approach has been taken to providing for such areas within the subzone.*

6.4. Rules 12.4.4 and 12.4.5 Licensed Premises

297. As notified, these rules provided for licensed premises. Rule 12.4.4 provided that a restricted discretionary consent was required for licenced premises in two circumstances:
- a. Other than in the TCTSΖ for consumption of liquor on premises between 11pm and 8am and
 - b. Within the TCTSΖ for the consumption of liquor between 6pm and 11pm.
298. In both circumstances, discretion was restricted to:
- a. Scale
 - b. Car parking and traffic
 - c. Amenity effects
 - d. Screening or buffering from residential areas
 - e. Configuration of activities
 - f. Noise and hours of operation and
 - g. Consideration of any alcohol policy or bylaw.
299. Rule 12.4.5 required a discretionary activity consent for the consumption of liquor on the premises between 11pm and 8am in the TCTSΖ.
300. The Good Group ²⁰³ submitted that the activity status of Rule 12.4.4.1 should be a controlled activity, as it was under the ODP.
301. Ms Jones supported this submission²⁰⁴. Ms Jones considered a controlled activity status would be efficient and effective, particularly where an application was in accordance with the Sale and Supply of Alcohol Act 2012 (SSAA).²⁰⁵ Ms Jones noted the SSAA enables a wider range of amenity and good order nuisance-related effects to be considered.²⁰⁶ Also, based on the opinions and evidence of Ms Swinney²⁰⁷, Ms Jones considered this approach was proving to be effective.
302. We agree and think that effects relating to amenity, layout, screening, noise and hours of operation are all able to be managed through resource consent conditions.

²⁰³ Submission 544

²⁰⁴ V Jones, Section 42A Report at [12.25]

²⁰⁵ Ibid at [12.25a].

²⁰⁶ Ibid at [12.25b]

²⁰⁷ In particular at [5.6].

303. As such, we recommend accepting the Good Group submission and changing the activity status to controlled.
304. The Good Group also sought that there be no time restriction on serving alcohol to diners. Other submitters²⁰⁸ requested a new rule enabling licensed premises to operate until 1.00am as a permitted activity and restricted thereafter, within a new Steamer Wharf Entertainment Precinct, and that the matters of discretion be amended.
305. Ms Jones addressed the issue of identifying Steamer Wharf as an entertainment precinct including extended hours of operation until 1.00am. She recommended against it on the basis of noise effects on nearby residentially zoned land.²⁰⁹ This was particularly so if hours of night time operations are extended beyond 11pm. She referred us to the noise contours in the evidence of Dr Chiles to support her view.²¹⁰
306. Currently, resource consents are required to extend hours of operation at Steamer Wharf. This approach allows assessment and the imposition of conditions to control details of the operation, and more effective and efficient monitoring and enforcement. Ms Jones also pointed out that extending operating hours for Steamer Wharf would be inconsistent with the rules that apply to licensed premises in the rest of the QTCZ.²¹¹ We agree for the reasons advanced and recommend these submissions be rejected.
307. Peter Fleming²¹² opposed notified Rule 12.4.4 specifically opposing the use of public areas for the consumption of liquor and hours of operation. Ms Jones pointed out that neither the ODP nor the PDP regulate liquor consumption in public areas.²¹³ However, both plans require a licensed premise to obtain a resource consent to operate after 11pm.
308. We recommend Mr Fleming's submission be rejected as the rule reflects the existing practice, and there was no evidence of any issues with that practice. In addition, there is a means of regulating the activity.
309. Kopuwai Investments Limited²¹⁴ sought that notified Rule 12.4.4.1 be amended and Rules 12.4.4.2 and 12.4.5 be deleted, with the effect of:
- a. Relaxing the licensed premises rule in respect of the Town Centre Transition Sub-Zone such that licensed premises would be permitted up until 11 pm and restricted discretionary activity thereafter, as opposed to requiring a restricted discretionary activity consent for such activity to occur between 6 pm and 11 pm and a full discretionary consent thereafter
 - b. Removing Council's discretion over car parking and traffic generation; the configuration of activities within the building and site (e.g. outdoor seating, entrances); and any alcohol policy or bylaw.
310. We have already recommended that the activity status of notified Rule 12.4.4 be changed from restricted discretionary activity to controlled so that deals with that part of the submission. However, we note here that we recommend a further consequential amendment following on

²⁰⁸ Submissions 587, 589 (opposed by FS1318) and 714.

²⁰⁹ V Jones, Section 42A Report at [12.27].

²¹⁰ In particular the noise contours attached to Dr Chiles' evidence as Appendix C.

²¹¹ V Jones, Section 42A Report at [12.27].

²¹² Submission 599.

²¹³ V Jones, Section 42A Report at [12.28].

²¹⁴ Submission 714.

from the change in activity status for this rule. We discuss this minor change below when we discuss Ms Jones' Reply in relation to this rule.

311. In response to the remainder of Kopuwai Investments Limited submission, Ms Jones, relying in part on the evidence of Ms Swinney, was of the opinion that it remained appropriate to apply more stringent time constraints to licensed premises within the TCTZ and to apply a stricter activity status to any such premises that wished to operate after 11.00 pm.²¹⁵ She stated this was due to the fact that these areas were located directly across the road from residentially zoned land and as such, it was important that greater control was retained in order to ensure that the layout and noise management of any such premises was able to be conditioned or declined if necessary. We agree and support that approach for the reasons she advanced.
312. In line with having changed the activity status of notified Rule 12.4.4 to controlled, Ms Jones recommended changing the status of Rule 12.4.5 to restricted discretionary activity and to apply the matters of control listed for Rule 12.4.4 as matters of discretion in Rule 12.4.5.²¹⁶ Kopuwai Investments Limited sought a change in status for Rule 12.4.5 from the notified position of discretionary to restricted discretionary which Ms Jones supported.
313. We agree with this recommendation on both the status change and the using of the same control/discretion matters. As we see it the control/discretion matters are appropriate to allow assessment of the relevant effects of the activity within the context in which they would be occurring. The change in activity status would ensure Rule 12.4.5 remained effective given the TCTSZ is closer to more noise sensitive areas. This change would also ensure a consistency of approach to status as between the two rules.
314. In response to the request to amend the matters of discretion/control in notified Rule 12.4.4.²¹⁷, Ms Jones was of the opinion that car parking and traffic generation should be removed as a matter of control as onsite parking is not required or generally provided in the Town Centre.²¹⁸ We note that the Council has notified Chapter 29 (Transport) and, as notified, item 29.9.1 in Table 29.5 specified that no parks were required in the QTCZ for any activity. Thus, we agree with Ms Jones that there is no point in having those matters listed as matters of control or discretion.
315. The configuration of "*the premises...*" should, in Ms Jones' view, remain a matter of control as the location and design of outdoor seating can exacerbate (or help alleviate) potential conflicts with neighbouring sites (especially in the TCTSZ) and affect peoples' safety/wellbeing (in terms of complying with CPTED principles).²¹⁹
316. Ms Jones recommended that consideration of any alcohol policy or bylaw be removed as a matter of control as it is unreasonably uncertain. With reference to evidence presented by Ms Swinney, Team Leader Alcohol Licensing for the Council, we agree it is not appropriate to include a matter of control as "*Consideration of any alcohol policy or bylaw*".

²¹⁵ Section 42A Report of Ms Jones at [12.31].

²¹⁶ V Jones, Section 42A Report at [12.31].

²¹⁷ Submission 599

²¹⁸ V Jones, Section 42A Report at [12.32].

²¹⁹ Ibid.

317. Ms Swinney told us that there were no current alcohol policies in place and that breach of any bylaw could result in enforcement action being required.²²⁰
318. Based on Ms Swinney's evidence we agree with Ms Jones' recommendation to remove the reference to this matter of control. Further, we agree with Ms Jones that the matters she has identified as matters of control/discretion are appropriate for the reasons she stated.
319. Because Ms Jones' recommendations in the above paragraphs were new, she undertook a Section 32AA assessment²²¹. We have considered that assessment and adopt it.
320. We also considered Rule 12.4.4.2 needed a non-substantive amendment through deleting the words "*with respect to the scale of this activity, car parking, retention of amenity, noise and hours of operation*", as these matters were already listed within the matters of control causing a duplication. We recommend that this amendment be made utilising Clause 16(2).
321. Jay Berriman²²² requested that the Council restrict the number of liquor licenses in the QTC in order to discourage increases in noise and antisocial behaviour, and to achieve a more balanced approach to the night entertainment which promotes the town's image as a high end product.
322. After referring to Ms Swinney's evidence, which outlined the issues that have arisen when others have tried to impose a cap under the LAP process, Ms Jones' opinion²²³ on limiting the number of premises is:
- a. There is no evidence that there is a clear relationship between the number of licenses and the environmental and economic effects that have been cited (relating to noise and economic and social wellbeing)
 - b. The capping of premises would need to be extremely well justified in order to be defensible under the Act and, on the face of it, does not sit well with the enabling and effects-based nature of the legislation
 - c. Such effects are more a function of how well designed, located, and managed the licensed premises are, rather than the sheer number of premises.
323. We agree with her reasoning and opinion and adopt it. In our view, simply restricting the number of liquor licences is a blunt instrument. Doing so would not allow resource consent applications to both made and assessed. Accordingly for these reasons we recommend rejection of this submission.
324. Real Journeys Limited²²⁴ requested that notified Rule 12.4.4 be amended to also apply to premises hosting off-licenses. Ms Jones advised the ODP also only regulates the effects from on-licenses - those premises licenced for the consumption of alcohol on the premises.²²⁵
325. We note that Ms Swinney's evidence²²⁶ confirmed that, in her opinion, off licenses are unlikely to result in environmental effects that cannot be adequately managed or avoided through the SSAA.

²²⁰ S Swinney, EiC at [5.32].

²²¹ V Jones, Section 42A Report, Appendix 4

²²² Submission 217

²²³ V Jones, Section 42A Report at [12.35].

²²⁴ Submission 621

²²⁵ V Jones, Section 42A Report at [12.36].

²²⁶ S Swinney, EiC at [6.43].

326. Regardless, she noted that pursuant to the SSAA, off-licenses are only able to remain open until 11.00 pm (and most close by 10.00 pm due to cost implications of staying open later) and therefore the rule would only have any effect between the hours of 6.00pm – 11.00pm within the TCTS. ²²⁷ In summary, she did not consider it necessary to require a resource consent under the District Plan for off-licenses as the effects can be adequately managed under the SSAA.
327. We agree with that view for the reasons advanced and accordingly recommend rejection of the Real Journeys Limited submission.
328. A related issue was Warren Cooper’s submission ²²⁸, requesting that the status quo be retained for outside dining hours. Queenstown Chamber of Commerce ²²⁹ specifically requested that the rules provide for extended outdoor trading to allow patrons to enjoy the evenings until 11.00 pm.
329. Ms Jones expressed the view that there is a perceived restriction on outdoor dining after 10pm. ²³⁰ While not specifically regulated in the PDP (or the ODP), this has arisen as a consequence of the restrictive noise rules which effectively prevented activity outdoors after 10.00 pm, and which have resulted in conditions on consents restricting such use under the ODP. ²³¹
330. Ms Jones further noted that notified Rule 12.4.4.1 would permit the serving of alcohol to any person (inside or outside) until 11.00 pm and to diners (inside or outside) until 12.00 am (midnight). She also observed that the more lenient noise rules (notified Rule 12.5.11) were likely to enable normal outdoor dining/ drinking activity to extend beyond 10.00 pm. Further, she considered that to be wholly appropriate given the objectives of the PDP and, for that reason recommended no change be made to these rules.
331. We agree with both her recommendation and the reasons she relied on.
332. Finally, in her reply, after considering our questions at the hearing, Ms Jones recommended Rule 12.4.4 be amended to read “*control is reserved*” rather than “*discretion is restricted*”. We agree as this wording better fits the now controlled status of the activity. We are satisfied this is a minor non-substantive change under Clause 16(2) of the First Schedule.
333. We recommend Rules 12.4.4 and 12.4.5 be adopted in the form set out below:

12.4.4	Licensed Premises	C
	12.4.4.1 Other than in the Town Centre Transition Sub-Zone, premises licensed for the consumption of liquor on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor:	

²²⁷ *ibid* at [6.4]

²²⁸ Submission 654, supported by FS1043, FS1063, and FS1318

²²⁹ Submission 774

²³⁰ V Jones, Section 42A Report at [12.37].

²³¹ *ibid*.

- a. To any person who is residing (permanently or temporarily) on the premises and/or
- b. To any person who is present on the premises for the purpose of dining up until 12am.

12.4.4.2 Premises within the Town Centre Transition sub-zone licensed for the consumption of liquor on the premises between the hours of 6pm and 11pm, provided that this rule shall not apply to the sale of liquor:

- a. To any person who is residing (permanently or temporarily) on the premises; and/or
- b. To any person who is present on the premises for the purpose of dining up until 12am.

In relation to both 12.4.4.1 and 12.4.4.2 above, control is reserved to:

- a. The scale of the activity
- b. Effects on amenity (including that of adjoining residential zones and public reserves)
- c. The provision of screening and/ or buffer areas between the site and adjoining residential zones
- d. The configuration of activities within the building and site (e.g. outdoor seating, entrances) and
- e. Noise issues, and hours of operation.

12.4.5 **Licensed Premises within the Town Centre Transition Sub-Zone** RD

Premises within the Town Centre Transition sub-zone licensed for the consumption of liquor on the premises between the hours of 11 pm and 8 am.

This rule shall not apply to the sale of liquor:

- a. To any person who is residing (permanently or temporarily) on the premises and/or
- b. To any person who is present on the premises for the purpose of dining up until 12 am.

Discretion is restricted to:

- a. The scale of the activity

- b. Effects on amenity (including that of adjoining residential zones and public reserves)
- c. The provision of screening and/ or buffer areas between the site and adjoining residential zones
- d. The configuration of activities within the building and site (e.g. outdoor seating, entrances)
- e. Noise issues, and hours of operation.

6.5. **Rule 12.4.6 Buildings- Rules 12.4.6.1 and 12.4.6.2**

334. As notified these rules read:

12.4.6 **Buildings** RD*

12.4.6.1. Buildings, including verandas, and any pedestrian link provided as part of the building/ development:

* Discretion is restricted to consideration of all of the following:
 Consistency with the Queenstown Town Centre Design Guidelines (2015), where applicable;
 External appearance, including materials and colours;
 Signage platforms;
 Lighting;
 The impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas;
 The contribution the building makes to the safety of the Town Centre through adherence to CPTED principles;
 The contribution the building makes to pedestrian flows;
 The provision of active street frontages and, where relevant, outdoor dining/patronage opportunities; and
 Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property; whether the proposal will alter the risk to any site; and the extent to which such risk can be avoided or sufficiently mitigated.

And, in addition;

12.4.6.2 In the Town Centre Transition subzone and on sites larger than 1800m², any application under this rule shall include application for approval of a structure plan in respect of the entire site and adherence with that approved plan in consequent applications under this rule.

*In addition to those matters listed in rule 12.4.6.1 above, the Council's discretion is extended to also include consideration of the provision of and adherence with the structure plan including:

the location of buildings, services, loading, and storage areas;
the provision of open and/or public spaces; and
pedestrian, cycle, and vehicle linkages

335. These rules, as notified, provided the activity status for all buildings within the QTC.
336. NZIA²³² requested restricted discretionary activity status only apply to buildings that have been to the UDP, and otherwise full discretionary status apply. The reason given in the submission was that there needed to be some incentive to have all buildings in the QTC subject to review by the UDP.
337. For a number of reasons set out in her Section 42A Report, Ms Jones did not support this submission²³³. We agree with her.
338. The key reason we recommend rejecting this submission is that for such a rule to be effective some sort of pass/fail from the UDP would be needed. That outcome would determine status and we think giving this power to a third party of deciding activity status is inappropriate. It is Council's role to determine and provide for status of an activity within its district plan. Also, having a process involving the UDP, as the submitter seeks, would, we think extend the resource consenting process raising issues as to efficiency.
339. Several submitters²³⁴ requested that notified Rule 12.4.6.1 be amended such that all buildings were controlled, rather than restricted discretionary.
340. Some of these submissions²³⁵ sought to change the matters of control (assuming status was changed to controlled), limiting them to consideration of external building design and appearance in relation to streetscape character, building design in relation to adjoining pedestrian links listed in notified Rule 12.5.8, signage platforms, and lighting. The submitters contended that it was a more succinct approach yet captured all but the natural hazard issue and provided greater certainty and would impose less cost. There were further submissions both in support and in opposition.²³⁶
341. Ms Jones pointed out that in the ODP, buildings in the SCA are a restricted discretionary activity and buildings beyond this area are a controlled activity. She agreed with the reasoning within the Section 32 report²³⁷ behind the decision to propose restricted discretionary activity status to all buildings in the QTC.
342. In summary, those reasons were that applying a restricted discretionary activity status to building(s) throughout the QTC²³⁸ would:
- a. provide greater certainty and be more effective at requiring consistency with the SCA Design Guidelines, which would enable the Council to ensure that the key character elements of the SCA were recognised and reflected in designs

²³² Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242 FS1248, and FS1249

²³³ V Jones, Section 42A Report at [13.24]

²³⁴ Submissions 606, 609, 614, 617, 596, 398, 663 (opposed by FS1139 and FS1191), 672, 724, 574, and 616.

²³⁵ Submitters 663, 672, and 724

²³⁶ Supported by FS1200 and opposed by FS1274, FS1063, FS1139, and FS1191

²³⁷ V Jones, Section 42A Report at p23-26.

²³⁸ *ibid* at [13.27].

- b. be more effective at achieving quality architecture and urban design and enable poor design to be declined
 - c. result in economic benefits to applicants and a reduction in transaction costs (and therefore the overall development costs). This conclusion was based on the fact that, even if a non-notified restricted discretionary activity consent were more costly to obtain than a controlled consent, this was counteracted by removing or relaxing the bulk and location controls of the ODP, that have routinely triggered potentially notifiable restricted discretionary activity and non-complying consents
 - d. be more efficient from a District Plan drafting and administration perspective in that it would enable a single rule to be relied on to manage the design of building(s) rather than having different rules for the SCA and the rest of the QTCZ.
343. We agree with her reasons outlined above and agree Rule 12.4.6 should have Restricted Discretionary status and so recommend.
344. Ms Jones also noted that, in the past the Council has had considerable leverage to influence design and quality at resource consent stage due to breaches in standards including building coverage standards²³⁹. Consequently, she advised, very few buildings have actually been processed as controlled activities (i.e. for design control only).
345. From Ms Jones' own experience as the Council's 'Manager: Strategy and Planning' and as a member of the UDP, she was personally aware of a number of examples where the outcome was improved greatly through a process that did not occur with controlled activity resource consents.²⁴⁰
346. Ms Jones did note that requiring a restricted discretionary consent for all buildings and external alterations will create greater uncertainty and cost. However, in her view this was justified by the importance of the QTC and the risks to the environment and the economy from poor design outcomes.²⁴¹
347. In addition, Ms Jones was of the view that the non-notification clause for restricted discretionary buildings would reduce uncertainty, cost, and time delays considerably; and the consent would likely be less onerous than ODP rules, which, she advised, routinely trigger non-complying consent status.²⁴²
348. Finally, she noted the lack of controlled activity applications being processed under the ODP meant there was no evidence of the adequacy of the ODP classification.²⁴³
349. Ms Jones considered that a relaxation of the bulk and location rules and a strengthening of design control in the manner recommended was the most appropriate method to achieve the objectives.²⁴⁴ As such, no change to the notified Rule 12.4.6 relating to status was recommended in her view.

²³⁹ *ibid* at [13.28].

²⁴⁰ *ibid* at [13.30].

²⁴¹ *ibid* at [13.31].

²⁴² *ibid* at [13.31].

²⁴³ *ibid* at [13.31].

²⁴⁴ *ibid* at [13.32].

350. Mr Church agreed with this approach as to status for similar reasons but primarily because the restricted discretionary status would allow assessment.²⁴⁵
351. Taking into account all of these matters advanced by Ms Jones, and the recommendations and opinions of Mr Church, we agree and recommend no change to activity status for notified Rule 12.4.6.
352. Downtown QT²⁴⁶ sought to provide for “pop up” buildings and art works and sculptures by providing such activities permitted activity status. The “pop up” building could be utilised for retail, bar and street entertainment purposes. For the “pop up” buildings a six month time limit would apply. The submitter contended this outcome would enable a diversity of street life. The relief sought that the rule apply to the entire QTC, or other areas such as the Lake Esplanade. The submitter suggested regulation of such activities was also provided via bylaws. Providing this exemption would help further support entertainment which is very important to the local economy.
353. In her Section 42A Report, Ms Jones agreed the exceptions sought were appropriate.²⁴⁷ She recommended ‘Pop Ups and Art Works’ be exempted from obtaining a resource consent in respect of design.²⁴⁸ We agree for the reasons advanced by the submitter and recommend this part of the submission be accepted resulting in an amendment to the notified version of Rule 12.4.6.
354. The ORC²⁴⁹ sought provision for unobstructed movement of high sided vehicles within the matters of consideration. Ms Jones signalled support for this outcome in her Section 42A Report.²⁵⁰ We agree. Efficient movement of transportation is important for the QTCZ. We recommend inclusion of this matter of consideration.
355. Finally, in relation to the matters for consideration under this rule, two submitters²⁵¹ sought minor changes to the matters relating to Natural Hazards. We see them as non-substantive changes and recommend they be adopted as they assist the legibility of that part of the rule.
356. In her Reply, Ms Jones recommended the removal of the word “remedied” from the natural hazard matter, and its replacement with the word “reduced” so as to make this provision consistence with other PDP Chapters.²⁵² We agree that the matter of discretion needs to be amended, but we adopt the wording used by the Stream 6 Panel so that administratively, natural hazard matters of discretion are included, rather than assessment matters. We consider this a non-substantive change and recommend it be made under Clause 16(2).
357. Ms Jones also recommended inclusion of additional words to the first assessment matter in rule 12.4.6.1 to make it clear the Design Guidelines related only to the SCA.²⁵³ We agree with those clarifications and recommend acceptance.

²⁴⁵ Ibid at [13.29].

²⁴⁶ Submission 630, opposed by FS1043

²⁴⁷ V Jones, Section 42A Report at [13.60].

²⁴⁸ Ibid at [13.68-69].

²⁴⁹ Submission 798

²⁵⁰ V Jones, Section 42A Report at [13.52]

²⁵¹ Submissions 621 and 798

²⁵² V Jones, Reply Statement at [2.1f].

²⁵³ Ibid at [2.1e].

Notified Rule 12.4.6.2

358. Several submitters²⁵⁴ sought the deletion of notified Rule 12.4.6.2 which required the provision of the structure plan for sites over 1800 m² in any area, or for any site within the TCTSZ. They contended the rule would not achieve efficient land use, would be inefficient as it would add additional consenting costs, and would be unnecessary given the control over building provided through rule 12.4.6.1.
359. Although not recorded in the body of her Section 42A Report, Ms Jones recommended to delete Rule 12.4.6.2 as it duplicated Rule 12.5.1.2. In her Reply she identified errors in her Section 42A Report.²⁵⁵ She recorded that paragraph 14.1(a) should have stated “*that it is recommended to remove Rule 12.4.6.2 rather than amend it.*”²⁵⁶
360. While we discuss comprehensive development later,²⁵⁷ we recommend deleting Rule 12.4.6.2, preferring instead Rule 12.5.1; in particular Rules 12.5.1.1 and 12.5.1.2.
361. Our recommended wording for Rule 12.4.6 is as follows, with our recommended amendments underlined or struck out:

12.4.6	<p><u>Buildings except temporary ‘pop up’ buildings that are in place for no longer than 6 months and permanent and temporary outdoor art installations</u></p> <p>12.4.6.1 Buildings, including verandas, and any pedestrian link provided as part of the building/ development:</p> <p>*Discretion is restricted to consideration of all of the following:</p> <ul style="list-style-type: none"> a. Consistency with the Queenstown Town Centre <u>Special Character Area Design Guidelines (2015), (noting that the guidelines apply only to the Special Character Area); where applicable</u> b. External appearance, including materials and colours c. Signage platforms d. Lighting e. The impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas f. The contribution the building makes to the safety of the Town Centre through adherence to CPTED principles The contribution the building makes to pedestrian flows and linkages <u>and to enabling the unobstructed kerbside movement of high-sided vehicles where applicable</u> 	RD*
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²⁵⁴ Submissions 398,574,663 (opposed by FS1139 and FS 1191)
²⁵⁵ Reply of Ms Jones at [13.1b].
²⁵⁶ Ibid.
²⁵⁷ Rule 12.5.1

	<p>g. The provision of active street frontages and, where relevant, outdoor dining/patronage opportunities and</p> <p>h. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area:</p> <ul style="list-style-type: none"> i. The nature and degree of risk the hazard(s) pose to people and property ii. whether the proposal will alter the risk to any site; and the extent to which iii. <u>whether</u> such risk can be avoided or sufficiently mitigated <u>remedied</u> <u>reduced</u>. <p>And, in addition;</p> <p>14.4.6.2 In the Town Centre Transition subzone and on sites larger than 1800m², any application under this Rule <u>12.2.6.1</u> shall include application for approval of a structure plan in respect of the entire site and adherence with that approved plan in consequent applications under this rule.</p> <p>*In addition to those matters listed in rule 12.4.6.1 above, the Council's discretion is extended to also include consideration of the provision of and adherence with the structure plan including: the location of buildings, services, loading, and storage areas; the provision of open and/or public spaces; and pedestrian, cycle, and vehicle linkages</p>	
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- 6.6. Rule 12.4.7 Surface of Water and Interface Activities and Rule 12.4.8 Surface of Water and Interface Activities
362. As notified, this rule read:

12.4.7	<p>Surface of Water and Interface Activities</p> <p>12.4.7.1 Wharfs and Jetties within the Queenstown Town Centre Waterfront Zone between the Town Pier and St Omer Park.</p> <p>12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Zone.</p> <p>In respect of the above activities, the Council’s discretion is unlimited but it shall consider:</p> <p>The extent to which the proposal will:</p> <ul style="list-style-type: none"> a. Create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore b. Provide a continuous waterfront walkway from Horne Creek right through to St Omer Park c. Maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities and d. Provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping. <p>The extent to which any proposed structures or buildings will:</p> <ul style="list-style-type: none"> a. Enclose views across Queenstown Bay; and b. Result in a loss of the generally open character of the Queenstown Bay and its interface with the land. 	D
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363. These rules and the related sub-rules received attention from Ms Jones within her Section 42A Report, her summary of evidence and finally within her Reply.

364. Her summary of evidence was prepared after she had reviewed the submitters’ pre-circulated evidence. This meant she was able to both update her Section 42A Report and provide a response to some of the submitter evidence when she presented her Section 42A Report at the hearing. Later she was able to further address submitter evidence and submitter legal submissions and respond to our question within her reply. As we move through these rules from beginning to end we will identify the source of Ms Jones’ suggested changes, be it her Section 42A Report, her evidence summary or her reply. We also provide discussion and comment on submissions, submitter evidence and submitter legal submissions in the sequence that they were presented.

6.7. Minor Drafting Amendments

365. Ms Jones also noticed in reviewing the chapter that, while the waterfront area is referred to as the Queenstown Town Centre Waterfront Subzone in Rule 12.4.2, it is incorrectly referred to as the Queenstown Waterfront Zone in Rules 12.4.7.1, 12.4.7.2, 12.4.8.1, 12.4.8.2 and 12.4.8.3.²⁵⁸ She advised this was a drafting error and should be corrected for consistency.²⁵⁹ She considered that this was a non-substantive change and would not affect the regulatory impact of the rule. Further she considered it would avoid any uncertainty that the QTCZ zone-wide provisions also apply to the QTCWSZ.²⁶⁰ In her Section 42A Report, she recommended it be changed by including the word “sub” before the word “zone” as that word appeared throughout the rules.
366. Ms Jones recommended in her Reply, following consideration of questions from us at the hearing, amending the headings of both Rules 12.4.7 and 12.4.8 from simply “*Surface of Water and Interface Activities*”, so that the headings more clearly reflect the content of each rule.²⁶¹ She proposed wording the headings as “*Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Subzone.*”²⁶²
367. We agree both with her amended wording and that the amendment is not substantive but would improve efficiency through increased legibility.²⁶³ We recommend adoption of these heading changes to Rule 12.4.7 and Rule 12.4.8 for these reasons. In our view, the recommended heading links much more directly to the content of the amended rules than the previous heading.

6.8. Mapping Issues

368. Next, we address mapping issues in Rules 12.4.7.1, 12.4.7.2, 12.4.8.2 and 12.4.8.3. Two submitters²⁶⁴ requested that the Queenstown Waterfront Subzone be reinstated on proposed planning maps 35 and 36 as shown in the ODP, and that the boundary be clarified particularly in relation to the boundary of St Omer Park. The submissions noted that the intention in the PDP was to retain this as per the ODP and to make no change other than to make it clearer on the planning maps. Queenstown Wharves²⁶⁵ noted in particular that it appeared from the planning maps that St Omer Park extended further than the lines denoting where the non-complying status ended.
369. Ms Jones advised in her Section 42A Report that the omission of the St Omer Park boundary was a mapping error in the notified planning maps.²⁶⁶ Due to the importance of the specific rules that apply to the waterfront subzone, she recommend that the boundary be reinstated on the planning maps as per the ODP and in the manner intended. Ms Jones said adding this subzone boundary, together with a consequential change to wording of Rule 12.4.7.1, which refers specifically to the St Omer Park boundary, should rectify the ambiguity (that as currently drafted, part of the park is within the waterfront zone and part of it is outside of it) identified by the submitter.²⁶⁷

²⁵⁸ Section 42A Report of Ms Jones at [16.5].

²⁵⁹ V Jones, Section 42A Report at [16.5].

²⁶⁰ Ibid.

²⁶¹ V Jones, Reply Statement at [5.2].

²⁶² V Jones, Reply Statement, Appendix 1 at p 12-11.

²⁶³ V Jones, Reply Statement at [5.2].

²⁶⁴ Submissions 383 and 766

²⁶⁵ Submission 766

²⁶⁶ V Jones, Section 42A Report at [16.3]

²⁶⁷ Ibid.

370. Real Journeys Limited²⁶⁸ sought Rule 12.4.7. and Rule 12.4.8 be amended to ensure that all areas referred to in the rules were accurately identified on the planning maps and that the maps be referred to in the rules. Ms Jones recommended²⁶⁹ that the reference to "*as shown on the planning maps*" be included in Rules 12.4.7.1, 12.4.7.2, 12.4.8.2 and 12.4.8.3.
371. Also in response to Submission 621, Ms Jones recognised the wording amendment she advanced for Rule 12.4.7.1, relating to including reference to St Omer Park, within her Section 42A Report was redundant.
372. Within her summary of evidence and presentation at the hearing she recommended removal of the words "between the Town Pier " and "and Queenstown Gardens" as those words would be redundant, given her recommendation to amend Rule 12.4.7.1.
373. Ms Carter, for Queenstown Wharves²⁷⁰, noted in her evidence that while Ms Jones's suggested amendments to Rule 12.4.7.1 were helpful, further clarification was required. She provided her Figure 1 to illustrate the three different areas that make up the QTCWSZ, namely the active Frontage, Queenstown beach and the Queenstown Gardens shoreline.²⁷¹
374. Ms Carter described the characteristics of those areas in her evidence and opined that those areas each had a different set of values and resource management issues.²⁷² Ms Carter recommended that a plan clearly show the three different areas within the QTCWSZ, and that the objective and associated policies and rules be re-drafted to recognise the three areas that comprise the WSZ.²⁷³
375. Ms Jones²⁷⁴ responded to Ms Carter's evidence by proposing amendments to the QTCZ purpose²⁷⁵ to acknowledge the importance of the QTCWSZ; and by amending Policies 12.2.5.3 and 12.2.5.6 to provide more direction in terms of development within the QTWSZ; adding more detail on Planning Map 35 to more clearly distinguish between the '*active frontage*' and the '*Queenstown Beach and Gardens foreshore*' areas; and by making minor non-substantive amendments to Rules 12.4.7.1 by adding reference to "*active frontage area*" and to 12.4.8.1 to refer to the two areas, "*Queenstown beach and gardens foreshore area*" in the QTCWSZ.
376. In our view the points raised by the submitters²⁷⁶, and evidence in support from Ms Carter, along with the recommendations of Ms Jones, all assist with better defining and identifying the QTCWSZ and the key elements within it compared to the notified provisions. The amendments arising from these two sources would add clarity and certainty to these rule provisions and we recommend their adoption.
377. In her Summary of Evidence, Ms Jones also recommended making moorings within the '*Queenstown beach and gardens foreshore area*' of the QTCWSZ a restricted discretionary

²⁶⁸ Submission 621, supported by FS1115

²⁶⁹ V Jones, Section 42A Report at [16.4]. 87

²⁷⁰ Submission 766

²⁷¹ J Carter, EiC at p6.

²⁷² Ibid at [4.8].

²⁷³ Ibid at [4.9]

²⁷⁴ V Jones, Summary of Evidence, at paragraph 6(c)

²⁷⁵ Section 12.1

²⁷⁶ Submission 621, and 766

activity rather than permitted as in the notified version.²⁷⁷ She reasoned that this would more effectively conserve the natural qualities and amenity values of the foreshore and adjoining waters, enable cumulative effects of such to be considered via resource consent, and be more consistent with the rules relating to moorings in the majority of the Frankton Arm.²⁷⁸

378. To include a new rule numbered 12.4.7.3 and the matters to which discretion would be restricted, Ms Jones provided a Section 32AA evaluation of her recommended amendments within her reply at Appendix 2.²⁷⁹ Having reviewed that assessment we agree with it and adopt it for the purposes of our recommendations. We agree with her recommendation and the need and wording of new Rule 12.4.7.3. We consider the assessment matters for the new rule are appropriate. The new Rule 12.4.7.3 and its related discretionary assessment matters are set out in full below.

6.9. Matters of Discretion

379. Two submissions²⁸⁰ sought expansion of the assessment matters in respect of Rules 12.4.7.1 and 12.4.7.2 when processing applications for wharfs, jetties and surface water activities. These matters were fully detailed in paragraphs 16.21 and 16.22 of Ms Jones Section 42A Report. They included provision of one central facility in Queenstown Bay for boat refuelling, bilge and sewage pumping, maintaining or enhancing public access to the lake, water quality, navigation and people's safety. Ms Jones considered inclusion of some of these further assessment matters as appropriate to more fully inform Council discretion when processing applications for wharves, jetties and commercial surface of water activities. We agree with Ms Jones and the submitters that the inclusion within the rules of these additional assessment matters is necessary to enable an appropriate assessment of activities in this zone.

380. The same submitters also sought to include a reference to Rules 12.4.7.1 and 12.4.7.2 at the commencement of those discretionary matters. This, we consider, clarifies the overall rule and assists with legibility, particularly because of the subsequent inclusion of new Rule 12.4.7.3 and the new matters of discretion relevant to that rule. We agree and also recommend inclusion of those matters of discretion that appear in the recommended version of the rule set out below.

381. Submission 810 sought a further additional matter of discretion be included, namely the extent to which any proposed wharfs and jetties would affect the values of wahi tupuna. Ms Jones in her Section 42A Report²⁸¹ noted this submission was considered in Hearing Stream 1A with the relevant Section 42A Report recommending the relief sought being rejected.

382. Ms Jones recommended inclusion of this matter of discretion.²⁸² Although she provided no explanation as to her recommendation, we agree with this inclusion. We consider that this matter of discretion would aid in achieving Objective 12.2.2 and Policy 12.2.2.7. Just as we support these provisions in recognising and providing for cultural heritage, we also acknowledge and support the rule that seeks to implement the overarching objective to contribute to the town's heritage and sense of place.

²⁷⁷ V Jones, Summary of Evidence at [6d].

²⁷⁸ Ibid.

²⁷⁹ V Jones, Reply Statement at [5.6].

²⁸⁰ Submitter 621 and 810 FS 1115.5

²⁸¹ V Jones, Section 42A at paragraph 16.21 on page 90

²⁸² ibid at [16.23].

383. Within submissions, a number of other issues were raised, such as providing for maintenance of wharves and jetties²⁸³ and that the status of activities for Rules 12.4.7.1 and 12.4.7.2 be amended from discretionary to controlled.²⁸⁴ We do not support those submissions for the same reasons as set out in Ms Jones' Section 42A Report²⁸⁵.

6.10. Other Submissions

384. Real Journeys Limited²⁸⁶ and Te Anau Developments Limited²⁸⁷ wanted all of the provisions relating to the protection, use and development of the surface of lakes and rivers and their margins to be inserted into a separate chapter. We consider that these provisions fit appropriately within this Chapter because of the relationship with the town centre. Retaining these provisions within the Chapter also aids in making the PDP more legible and giving these provisions a separate section would increase the volume of the PDP. For those reasons we recommend the submissions be rejected. This recommendation is consistent with that made by the Stream 2 Hearing Panel, where the same matter was raised.

385. Two submitters²⁸⁸ requested the amendment of Rule 12.4.7 to enable certain buildings (e.g. ticket offices) while continuing to restrict other buildings (as non-complying), with Real Journeys Limited²⁸⁹ suggesting the inclusion of a new restricted discretionary activity provision.

386. Glare and effect on navigation was discussed by Ms Black in her evidence for Real Journeys²⁹⁰. However, the focus of her evidence on glare was directed at notified Rule 12.5.14.1 which dealt specifically with glare.²⁹¹ Rule 12.4.7 is restricted in its application to wharves, jetties, commercial surface of water activities and moorings. The glare she was concerned about emanated from buildings activities and lighting located not on wharves and jetties, but from buildings, street lights and the like in the town centre.

387. In our view, this rule can only control glare for navigation purposes from wharves and jetties. Nevertheless, even accepting the limited ambit of the application of the rule and observing Council's discretion under the rule is unlimited, we note the matters of discretion would include navigation and people's safety. Thus, to a limited extent, the submitter's concerns can be dealt with in the rule.

388. Manoeuvring of TSS Earnslaw was also raised as an issue by Ms Black. She described the challenges the characteristics of the vessel caused in relation to manoeuvring it. In that regard, she supported the discretionary activity status of Rule 12.4.7 considering that the manoeuvring issues raised could be addressed when that rule was triggered.²⁹²

389. Also, Ms Black considered these manoeuvring challenges would be assisted by making all structures and moorings between the Town Pier and Queenstown Gardens a non-complying

²⁸³ Submissions 621 (supported by FS1115) and 766

²⁸⁴ Submissions 766 and 807.

²⁸⁵ at paragraph 16.19.

²⁸⁶ Submission 621

²⁸⁷ Submission 607

²⁸⁸ Submissions 621 and 766 (supported by FS1341)

²⁸⁹ Submission 621

²⁹⁰ Submission 621

²⁹¹ F Black, EIC at [3.1].

²⁹² F Black, EIC at [3.6].

activity so as to avoid a proliferation of such structures in this area.²⁹³ Ms Jones recommended the status of moorings in this area be restricted discretionary and recommended the matters of discretion include whether the structure would cause an impediment to craft manoeuvring.

390. While Ms Jones' recommendation on status differs from the submitter's relief, we think Ms Jones' recommendation strikes an appropriate balance between the competing interests and provides an efficient and effective mechanism to address issues.
391. We think that Ms Jones' recommended Rule 12.4.7.3 will be more effective and efficient at implementing revised Objective 12.2.5 and the associated policies. This new rule provides greater certainty as to what is expected to occur in the Queenstown gardens and beach part of the QTCWSZ whilst accepting that in the main the QTCWSZ would provide a dynamic environment.
392. Finally, in addition to the recommendations in response to submitters concerns, Ms Jones recommended a non-substantive change for consistency and clarity. In her Reply, Ms Jones²⁹⁴ recommended amending the assessment matters by replacing the assessment matter commencing '*the extent to which any proposed structures or buildings...*' to '*the extent to which any proposed wharfs and jetties...*'. This, she said, would make this rule consistent with the fact that the rule only relates to wharfs and jetties.²⁹⁵
393. She noted²⁹⁶ that any other buildings in the QTCWSZ are not subject to this rule but are, in fact, non-complying (under Rule 12.4.8.2) or restricted discretionary (under Rule 12.4.6). While not substantive, this minor amendment would, she said, improve efficiency by removing the existing conflict within the rule and thereby avoiding potential confusion. We agree.

Rule 12.4.8.2

394. Notified Rule 12.4.8.2 provided that any buildings located on wharves and jetties within the QTCWSZ were non-complying.
395. In addition to the restricted discretionary rule sought, Submission 621 sought to amend Rule 12.4.8.2 as follows:

Any buildings and structures, located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Zone, which are not provided for by Rule 12.4.7.

396. Queenstown Wharves²⁹⁷ sought to delete the non-complying activity rule for buildings located on jetties and wharves. Queenstown Wharves submitted that the effects from buildings could be adequately managed by Rule 12.4.7.1.
397. The submission also suggested that if the rule were to be retained, then it should be amended to exclude provision of buildings that are for the purpose of providing water based public transport facilities.

²⁹³ Ibid at [3.9].

²⁹⁴ V Jones, Reply Statement at [5.1].

²⁹⁵ Ibid.

²⁹⁶ Ibid.

²⁹⁷ Submission 766, supported by FS1341.15

398. Ms Jones did not consider that this would achieve the objectives of the PDP.²⁹⁸ In her opinion, buildings on wharfs and jetties within the QTCWS specified in Rule 12.4.8 would have the potential to have a significant effect on views, natural qualities, amenity, and pedestrian flows/accessibility in the waterfront subzone. Also, she advised that there was ample commercial capacity within the QTCZ adjacent to subzone for buildings in which ticketing and the like could occur. She did not recommend any change in this regard.²⁹⁹
399. Submitters³⁰⁰ raised the need to provide, in this part of the PDP, specific policies and rules for the provision of public transport. We agree with Ms Jones that this is a matter better dealt with in the context of the Transport Chapter and recommend those submissions be rejected.
400. In our view, redrafted Rule 12.4.7 in combination with Rule 12.4.8 would be more effective and efficient in achieving Objective 12.2.5 and associated policies. We accept that the QTCWSZ will provide a dynamic and vibrant area, but at the same time this rule provides certainty as to what is expected to occur in this area by outlining matters that will be considered in decision-making.
401. Buildings or structures in this area have the potential to impact on the views, natural qualities, amenity and accessibility of the QTCWSZ. The wording of the rule means that effects on the natural qualities of the Queenstown gardens and beach area and the views from both will be considered and conserved to a degree. Further understanding what is anticipated in the area provides some certainty also to the Earnslaw and other boating activity, that the area will be relatively free of obstacles, such as permanently moored craft.
402. In conclusion, for all of the reasons expressed above we recommend that Rules 12.4.7 and 12.4.8 be adopted in the form set out below.

²⁹⁸ V Jones, Section 42A Report at [16.26].

²⁹⁹ Ibid at [16.26].

³⁰⁰ Parts of submissions 766.2, 798.54, FS1341.1, FS1341.3 and FS1341.25, FS1342.16, 766.3, 766.5, 766.7, 766.33, FS1341.4, and FS1341.6, and 807.81 and 807.82 .

<p>12.4.7</p>	<p>Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Subzone</p> <p>12.4.7.1 Wharfs and Jetties within the ‘active frontage area’ of the Queenstown Town Centre Waterfront subzone as shown on the planning maps;</p> <p>12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Subzone, as shown on the planning maps.</p> <p>In respect of 12.4.7.1 and 12.4.7.2, the Council’s discretion is unlimited but it shall consider the extent to which the proposal will:</p> <ul style="list-style-type: none"> a. Create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore b. Maintain a continuous waterfront walkway from Horne Creek right through to St Omer Park c. Maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities d. Provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping e. Maintain or enhance public access to the lake and amenity values including character and f. Affect water quality, navigation and people’s safety, and adjoining infrastructure; g. The extent to which any proposed wharfs and jetties structures or buildings will: <ul style="list-style-type: none"> i. Enclose views across Queenstown Bay and ii. Result in a loss of the generally open character of the Queenstown Bay and its interface with the land iii. Affect the values of wahi tupuna 	<p>D</p>
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	<p>12.4.7.3 Moorings within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Subzone (as shown on the planning maps).</p> <p>In respect of 12.4.7.3, discretion is restricted to:</p> <ul style="list-style-type: none"> a. 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 b. Whether the structure causes an impediment to craft manoeuvring and using shore waters c. The degree to which the structure will diminish the recreational experience of people using public areas around the shoreline d. The effects associated with congestion and clutter around the shoreline. Including whether the structure contributes to an adverse cumulative effect e. Whether the structure will be used by a number and range of people and craft, including the general public f. The degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design. 	RD
<p>12.4.8</p>	<p>Wharfs and jetties, buildings on wharfs and jetties, and the use of buildings or boating craft for accommodation within the Queenstown Town Centre Waterfront Subzone</p> <p>12.4.8.1 Wharfs and Jetties within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Sub-Zone (as shown on the planning maps).</p> <p>12.4.8.2 Any buildings located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Sub-Zone, as shown on the planning maps;</p> <p>12.4.8.3 Buildings or boating craft within the Queenstown Town Centre Waterfront Sub-Zone if used for visitor, residential or overnight accommodation, as shown on the planning maps.</p>	NC

- 6.11. Rule 12.4.9 Industrial Activities at Ground Floor Level
- Rule 12.4.10 Factory Farming
- Rule 12.4.11 Forestry Activities
- Rule 12.4.12 Mining Activities
- Rule 12.4.13 Airports other than the use of land and water for emergency landings, rescues and firefighting
- Rule 12.4.14 Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building
- Rule 12.4.15 Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket)
- Rule 12.4.16 Any activity requiring an Offensive Trade Licence under the Health Act 1956.
- 403. Notified Rules 12.4.9 to 12.4.16 were not the subject of direct submissions but were subject to those submissions³⁰¹ requesting that all provisions not otherwise submitted on be retained as notified unless they duplicate other provisions, in which case they should be deleted.
- 404. We agree with the recommendation contained in Ms Jones' Section 42A Report that those seeking the provisions be confirmed in part or in whole are recommended to be accepted in part.³⁰²
- 405. Taking a broader view, in particular having regard to the desired purpose of the objectives and policies, we conclude that the activity status which is either non-complying or prohibited provided for by this group of rules is appropriate. This is because having provision for any of the activities provided for within this group of rules within the QTC would not achieve the desired purpose or the outcomes sought by the objectives and policies of the PDP.

7. 12.5 RULES – STANDARDS

- 7.1. Rule 12.5.1 Building Coverage in the Town Centre Transition subzone and comprehensive development of sites 1800m² or greater
- 406. As notified, this rule read:

12.5.1	<p>Building coverage in the Town Centre Transition subzone and comprehensive developments of sites 1800m² or greater</p> <p>12.5.1.1 In the Town Centre Transition subzone or for any comprehensive development of sites greater than 1800m², the maximum building coverage shall be 75%. primarily for the purpose of providing pedestrian links, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development.</p> <p>Note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as setbacks, outdoor storage areas, and pedestrian linkages might be required.</p>	RD*
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³⁰¹ Submissions 672, 663, 212 (supported by FS1117)
³⁰² V Jones, Section 42A Report at [18.15].

	<p>12.5.1.2 Any application for development within the Town Centre Transition Subzone or on a site 1800m² or greater shall be accompanied by a comprehensive Structure Plan for an area of at least 1800m².</p> <p>*In regard to rules 12.5.1.1 and 12.5.1.2, discretion is restricted to consideration of all of the following:</p> <ul style="list-style-type: none"> a. The adequate provision of pedestrian links, open spaces, outdoor dining opportunities b. The adequate provision of storage and loading/ servicing areas c. The site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, and the amenity and safety of adjoining public spaces and designated sites. 	
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407. This rule deals with two matters:
- a. Rule 12.2.5.1 provided for a maximum building coverage of 75% for sites in the Town Centre Transition Subzone, or for any development on a site greater than 1800m².
 - b. Rule 12.2.5.2 stated the need to provide a comprehensive Structure Plan when undertaking development in the Town Centre Transition Subzone, or for any development on a site greater than 1800m².
408. The maximum building coverage as notified for these described sites was 75%. Any activity that breached the 75% maximum coverage would be a restricted discretionary activity. The matters of discretion to consider related to how well the building fitted into its surrounds and in particular public access to the building.
409. By way of context the ODP provided differing building coverage percentages for differing precincts ranging from 95% to 70%. The ODP did not use a structure plan/comprehensive development approach based on site size.
410. There were several submissions received on Rule 12.5.1, both with respect to the 1800m² as the trigger site area and also the 75% maximum coverage percentage.
411. Seven submitters³⁰³ sought to remove all controls over site coverage for the majority of the QTCZ. NZIA submitted to request that development over 80% of a site in the QTCZ be a discretionary activity.
412. Redson Holdings Ltd³⁰⁴ submitted in support of the notified rule, on the proviso that there would be no restrictive site coverage provisions within the wider QTCZ on sites smaller than 1800m². The submitter owned a site in Beach Street which has an area of 555m².

³⁰³ Submissions 491, 596, 606, 609, 614, 616 and 650.

³⁰⁴ Submission 491, opposed by FS1236

413. IHG Queenstown Ltd and Carter Queenstown Ltd³⁰⁵ submitted requesting that the 75% coverage only apply to the QTCT Subzone, and not to sites over 1800m². The submitter did not consider such a restriction would promote the efficient use of land in the QTCZ.
414. NZIA³⁰⁶ requested that all development beyond 80% of a site be discretionary to allow for permeability and connections to be made through the sites. Further NZIA noted in its submission that this would align with that sought in Wanaka township.
415. Ms Jones advised that in her view it was still appropriate to enable 100% site coverage through the QTCZ, except in relation to large comprehensive developments and in the TCTZ.³⁰⁷ (our emphasis added). She based this opinion on the Section 32 Evaluation Report³⁰⁸ and Mr Church's evidence.³⁰⁹ She said although there may be some times where there is benefit in providing some unbuilt private or semi-public space, she considered these opportunities would be rare in the heart of the QTC.³¹⁰ Rather, she was of the view that on balance the environmental and economic costs associated with imposing the site coverage rule on all sites would outweigh any benefits.³¹¹
416. As such, she recommended retaining the maximum site coverage rule with some amendments as follows.

7.2. 75% Maximum Coverage

417. Ms Jones explained how the 75% maximum coverage rule was determined. In summary:³¹²
- a. She considered the building coverage in the comprehensive development in the Marine Parade/Church/ Earl/ Camp Street block³¹³ at 75% and the building coverage provided within the post office precinct development at 67% to be good examples of comprehensively planned developments;
 - b. If the recommended viewshafts on the Man Street carpark block were developed as open space (as recommended in her Section 42A Report) then the building coverage would be 72%;
 - c. Development within the PC50 area is subject to maximum coverage rules of 70-80% in the respective Lakeview and Isle Street subzones.
418. Ms Jones said that, in the absence of evidence to the contrary, she considered that retaining the 75% maximum coverage requirement was appropriate.³¹⁴ She noted that if this 75% coverage were exceeded, then the activity status would be restricted discretionary and that would not preclude proposals from being considered on a case by case basis.³¹⁵ She further noted that this would avoid almost all resource consents in the Town Centre from having to obtain a resource consent, which was the case with the ODP.³¹⁶

³⁰⁵ Submission 663, opposed by FS1139 and FS1191

³⁰⁶ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

³⁰⁷ V Jones, Section 42A Report at [14.4].

³⁰⁸ Section 32 Evaluation Report, namely at p18-19.

³⁰⁹ T Church, EIC, at [17.1-17.11]

³¹⁰ V Jones, Section 42A Report at [14.4].

³¹¹ Ibid.

³¹² *ibid* at [14.9].

³¹³ RM000902

³¹⁴ V Jones, Section 42A Report at [14.10].

³¹⁵ *Ibid*.

³¹⁶ *Ibid*.

419. Relying on the aforementioned NZIA³¹⁷ submission for scope, Ms Jones recommended reducing the site size triggering the 75% maximum coverage rule to 1400m². The NZIA submission sought all sites to be subject to an 80% coverage. That would mean all sites would be subject to a maximum site coverage restriction. As such, Ms Jones relied on that to provide scope to recommend reducing the site size that would trigger the maximum restriction in order to enable the rule to apply to more sites.
420. Ms Jones' recommendation was informed by the expert evidence of Mr Church. Ms Jones sought Mr Church's opinion as to whether the notified 75% site coverage and Structure Plan requirement for comprehensive developments was appropriate.³¹⁸
421. In his evidence, Mr Church referred to the same comprehensive developments as Ms Jones.³¹⁹ He said his understanding was that the 75% building coverage threshold was based on the recent Church Street and Ngai Tahu Courthouse developments.³²⁰ In his view, those developments represented good urban design outcomes for comprehensive development within the context of the town centre.³²¹
- 7.3. Reducing the site area trigger to 1400m²**
422. Basing his opinion on an analysis of contiguous property across the town centre he considered the 1800m² threshold should be reduced to 1400m².³²² He included in his Appendix 1 a comparison of the QTCZ to show the likely additional sites captured by this reduction, based on current property configurations.
423. Mr Church was of the view, that a 1400m² threshold would capture a better range of larger sites where there was potential for redevelopment that could contain multiple buildings, laneways, open spaces and comprehensive car parking and servicing solutions.³²³
424. Ms Jones also asked Mr Church if the proposed removal of any maximum coverage rules from the Town Centre (other than large sites/Transition area) would be appropriate.³²⁴
425. In his evidence, Mr Church noted that the QTC is the most intensive urban form in the District. Based on his experience, it was his view that areas of intensification typically transfer on-site amenity and some services into the public realm.³²⁵ He noted that Queenstown was no exception and he considered that there was a resulting heavy reliance on public amenity in the town centre, including good quality streetscape with street trees, and landscaped open spaces.³²⁶ He further noted that views to the natural landscape beyond substitute for on-site landscape and amenity and provide critical visual relief within the town centre.³²⁷

³¹⁷ Submission 238

³¹⁸ T Church, EIC at [14.2].

³¹⁹ Ibid at [14.3-14.5].

³²⁰ Ibid at [14.5].

³²¹ Ibid.

³²² Ibid at [14.6].

³²³ T Church, EIC at [14.6].

³²⁴ Ibid at [17.2].

³²⁵ Ibid at [17.3-17.4]

³²⁶ Ibid at [17.4].

³²⁷ Ibid.

426. In summary, Mr Church supported the removal of site coverage across the whole town centre and suggested 75% coverage be consistently applied to sites over the 1,400m² threshold and delivered as part of the Comprehensive Development Plan.³²⁸
427. Ms Jones, for her part, considered her re-draft of Rule 12.5.1, as per her Section 42A Report, would more effectively implement the outcomes sought by Objectives 12.2.2 and 12.2.4 and provide complementary support to Rules 12.4.6.2 and 12.5.8.
428. At the hearing several submitters presented evidence regarding site coverage.
429. Mr Richard Staniland³²⁹ gave examples on behalf of Skyline Enterprises Limited³³⁰ in relation to the O'Connells Pavilion site. Based on these examples of economic loss, it was his opinion the proposal to reduce the site size trigger from 1800 m² to 1400 m² should be rejected.
430. Mr Williams³³¹ agreed that the largest sites should be considered comprehensively with matters including mid-block connections, grain of development and massing becoming more important on those larger development sites.
431. It was his opinion that reducing the site size trigger to 1400 m² would represent an inefficient use of the town centre land resource and, moreover, it was not necessary to choose this trigger point to manage the potential effects the rule sought to manage.³³²
432. Mr Williams was of the view that the main driver of the comprehensive development rule and accompanying site coverage rules was to encourage additional lanes and pedestrian links and/or view shafts.³³³ He noted that because the planning framework sought to identify pedestrian links within plan provisions and to protect them, that outcome needed to be taken into consideration when determining whether or not the 1400 m² site size trigger was actually required.³³⁴ In other words, in his view, the outcome sought was already available via other plan provisions.

7.4. Scope for Amendments

433. Mr Todd, legal counsel for MSPL³³⁵, submitted that there was no scope for Ms Jones' recommended coverage changes to Rule 12.5.1. Mr Todd pointed out that the relief sought by NZIA was that all development in excess of 80% of the site should be a discretionary activity. Therefore he questioned how this could justify a more restrictive rule whereby all development on sites over 1400 m² would have a maximum site coverage of 75%.
434. Ms Jones relied on the submission by NZIA³³⁶ for scope for her recommended changes particularly to site size. Ms Jones considered the submission was couched in a zone –wide manner, presumably linked to the QTCZ, and provided a “reasonable argument”³³⁷ that it provided scope to amend the notified coverage rule 12.5.1.

³²⁸ Ibid at [17.11].

³²⁹ R Staniland, EIC at [4-8].

³³⁰ Submission 574.

³³¹ T Williams, EIC at paragraphs 42-50 page10

³³² Ibid at [45].

³³³ Ibid at [47].

³³⁴ Ibid.

³³⁵ Submission 398

³³⁶ Submission 238

³³⁷ V Jones Section 42A Report, at Paragraph 14.8 page 81

435. Ms Scott, in the Council's legal submissions in reply, pointed out the NZIA further submission sought an 80% coverage rule for all sites rather than being limited to only those sites in the town centre transition sub-zone and sites over 1800 m².
436. Ms Scott argued that the changes recommended by Ms Jones, principally in her Section 42A Report, also had the same effect of the NZIA submission of capturing more sites within the rule. However, she pointed out that Ms Jones took a different route to do so, being the reduction in the site size trigger to 1400 m² as distinct from 80% of site coverage across all sites as utilised by NZIA.
437. Ms Jones, in her Reply Statement, pointed out that in so far as Mr Todd's clients were concerned, the ODP already provided a 95% coverage rule for the O'Connell site with part of the site being subject to an 80% coverage rule.³³⁸ Therefore, she said, her proposed rule would not represent a change from a permitted 100% coverage for the site. She made similar points for the Stratton House site, noting that a pedestrian link was offered and accepted within a resource consent in lieu of height breaches.
438. Ms Jones revisited Rule 12.5.1.1 in her Reply and suggested two alternatives, particularly if we found her suggested amendments were not in scope.
439. The first being to amend building coverage limit to 80% as sought by NZIA; or, alternatively, apply the 75% coverage as recommended in her Section 42A Report but limit its application only to sites over 1800 m².
440. We need to decide if reducing the site size to 1400m² would be within scope, and if necessary whether the alternatives raised in Ms Jones' Reply of either 80% site coverage or 75% coverage and a site size trigger for a structure plan at 1800m² would be within scope.
441. Certainly the NZIA further submission has some clarity issues. However, of the two competing arguments on scope we prefer the view of Ms Jones and Ms Scott over that of Mr Todd. In our view Mr Todd has taken a more limited and literal interpretation of the NZIA submission.
442. We think Ms Jones and Ms Scott are correct in that the effect of the NZIA submission would be to catch more sites, just as there would be more sites caught, albeit a lesser number than that caught by the NZIA submission, if the site size trigger were reduced to 1400m². We conclude there is scope for Ms Jones' recommendations.
443. Moving to consider the options presented to us by Ms Jones, she had, within her Section 42A Report, extensively outlined her support for a 75% threshold. Further she was in support of enabling 100% site coverage on smaller sites throughout the QTCZ. Changing to 80% of all sites seemed to us to be at odds with this earlier view. Also, increasing the allowable site coverage size even by a small amount did not seem to us to support Objectives 12.2.2 and 12.2.4 nor support Rules 12.4.6.2 and 12.5.8. We also consider adopting a site size trigger of 1400m² as opposed to the notified 1800m² better supports those same objectives and related rules.
444. Further, we are not convinced that smaller sites should be subjected to a maximum site coverage of 80%. We agree with Ms Jones and consider that in order to provide the most

³³⁸ V Jones, Rely Statement at [4.2].

efficient use of land in the QTCZ there should be no site coverage rules, for those sites under the 1400m² threshold.

445. For these reasons we recommend the NZIA further submission be accepted in part and the site coverage be 75% and the site size trigger be set at 1400m². We recommend rejecting those submissions that sought to increase the site coverage to 80% or retain the threshold at 1800m².

7.5. Matters of Discretion

446. Several submitters³³⁹ sought to include additional points within the final matter of discretion. Those additional points related to listed heritage items and heritage precincts as well as consideration of shading and wind effects.

447. In her Section 42A Report, Ms Jones recommended including these in the matters of discretion. We agree. These are relevant considerations for development and recognise the importance of the QTC heritage and also recognise and provide for amenity effects on neighbouring sites from shading and wind.

448. We recommend these submissions are accepted and the additional points are included.

7.6. Rule 12.5.1.2

449. This Rule as notified required that any site to which Rule 12.5.1.2 applied should be accompanied by a comprehensive Structure Plan. Mr Church considered that based on his experience of structure planning and preparing the guidance for these, there are considerable benefits to RMA matters.³⁴⁰ Referring to the Quality Planning website, he summarised these as the ability to:³⁴¹

- a. provide integrated management of complex environmental issues
- b. coordinate the staging of development over time
- c. ensure co-ordinated and compatible patterns and intensities of development across parcels of land in different ownership, and between existing and proposed areas of development and redevelopment
- d. provide certainty regarding the layout and character of development
- e. ensure that new development achieves good urban design outcomes by defining the layout, pattern, density and character of new development and transportation networks and
- f. complement other tools such as urban design guides.

450. Mr Church noted that in some instances, namely greenfield or broad urban areas these structure planning processes can be significant undertakings.³⁴² However, both Ms Jones and Mr Church considered that the intention of the rule was not to be onerous for applicants, but rather to ensure that a *“well-considered, master planned approach is followed resulting in a plan that is carefully integrated into the town centre and surrounding context.”*³⁴³

451. Mr Church supported this approach with one recommendation to rename the term from 'Structure Plan' to a 'Comprehensive Development Plan' or similar to better describe its

³³⁹ Submissions 59, 82, 206, 417, 599 and 621.

³⁴⁰ T Church, EIC at [14.10].

³⁴¹ Ibid.

³⁴² Ibid at [14.11].

³⁴³ T Church, EIC at [14.11].

purpose.³⁴⁴ He also recommended the Council provided further guidance outside the Plan regarding the expected review process, required content of an application and interpretation of the matters of discretion, to give more certainty to future applicants.³⁴⁵

452. We recommend renaming this term as suggested by Mr Church. We also recommend that the Council consider Mr Church's recommendation to provide guidance to applicants outside of the Plan.

7.7. Minor Amendments

453. There are a number of consequential changes to the first assessment matter to include the words "*cycle and vehicle and lanes.*" This change comes about as a consequence of Ms Jones' recommendation to remove Rule 12.4.6.2.
454. The next change recommended by Ms Jones within her Reply Statement related to shifting the words "*the provision of open space within the site, for outdoor dining or other purposes:*" from within paragraph 12.5.1.2 to the list of matters informing the exercise of the discretion. We agree and recommend that change because it enhances the clarity of the rule.
455. In her Reply Statement, Ms Jones also recommended that the definition of "comprehensive development" as she enhanced it be moved to Rule 12.3.2.3. We have discussed this earlier and recommend the definition sit in Chapter 2.
456. Finally, we have identified a drafting issue with this rule. Rule 12.5.1.1 states that the maximum building coverage in the two instances discussed shall be 75%. Non-compliance is stated to be restricted discretionary and matters of discretion are listed.
457. Rule 12.5.1.2 requires that in the same two instances, a Comprehensive Development Plan is to be provided, irrespective of the maximum building coverage proposed, and non-compliance is also a restricted discretionary activity subject to the same matters of discretion. Ms Jones' recommended amendments included the statement that the Comprehensive Development Plan is "*of sufficient detail to enable the matters of discretion listed below to be fully considered*". That implies that the Comprehensive Development Plan is a necessary part of any restricted discretionary consent application, however, if the proposal involves building coverage less than 75%, the lodgement of such a plan would satisfy the standard and no consent would be required. On the other hand, failure to lodge such a plan would equally require a restricted discretionary consent application and be tested against the same matters of discretion that the plan was supposed to enable full consideration of.
458. In our view, the only practical solution to this is to delete the words quoted above, noting that such a deletion is the only amendment within the scope of the submissions. However, it seems to us that the intention was to require Comprehensive Development Plans to be subject to some form of consent, whether in every development proposal on these sites, or only when the 75% coverage limit was breached. We recommend the Council review this rule, firstly determining whether it is setting a standard or an activity, then drafting a rule that achieves the outcome desired.
459. Taking all of the above into account we recommend Rule 12.5.1 be adopted as set out below:

³⁴⁴ Ibid at [14.12].

³⁴⁵ Ibid at [14.14].

<p>12.5.1</p>	<p>Maximum building coverage in the Town Centre Transition Sub-Zone and in relation to comprehensive developments</p> <p>12.5.1.1 In the Town Centre Transition Sub-Zone or when undertaking a comprehensive development (as defined), the maximum building coverage shall be 75%.</p> <p>Advice note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as outdoor storage areas, and pedestrian linkages might be required.</p> <p>12.5.1.2 Any application for building within the Town Centre Transition Sub-Zone or for a comprehensive development (as defined) shall include a Comprehensive Development Plan that covers the entire development area.</p>	<p>RD Discretion is restricted to:</p> <ul style="list-style-type: none"> a. The adequate provision of cycle, vehicle, and pedestrian links and lanes, open spaces, outdoor dining opportunities b. The adequate provision of storage and loading/ servicing areas c. The provision of open space within the site, for outdoor dining or other purposes d. The site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, listed heritage items, and heritage precincts, and the amenity and safety of adjoining public spaces and designated sites, including shading and wind effects.
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7.8. Rule 12.5.2 Street Scene - building setbacks

460. As notified Rule 12.5.2 provided for a minimum setback of 0.8 m for buildings on the north side of Beach Street and 1 m for buildings on the south side of Beach Street. Any non-compliance with these setbacks was a restricted discretionary activity with the matters of discretion being the effects on overall streetscape.

461. Several submitters³⁴⁶ sought the removal or alteration of the setbacks on both sides of Beach Street. These submitters considered that the rule would limit the efficient use of a scarce resource and would place significant limits on development potential without any identifiable benefits³⁴⁷. They further considered that a suitable design could be achieved without arbitrarily imposing any additional bulk and location controls, and that imposing additional setbacks would not reflect the positive effects that the existing varied setbacks of the buildings have on the streetscape.

³⁴⁶ Submissions 383,606 (opposed by 1063),616.617

³⁴⁷ See Submission 616 and V Jones, Section 42A Report at [14.16].

462. Having considered the submitter's position, Ms Jones³⁴⁸ noted the most compelling reason for retaining the setbacks was that on the north-side of Beach Street they provided an indirect way of achieving two-storey buildings with 7 m high facades and a parapet at the stipulated height or within the recession plane and with minimal effect on sunlight access. However, she concluded that the setbacks on Beach Street were not the most appropriate method of achieving Objectives 12.2.2 and 12.2.4.
463. In reaching that view she relied on the evidence of Ms Gillies and Mr Church. Ms Gillies, in her evidence³⁴⁹, was very clear that because of the historic character of the heritage streetscape in Beach Street, which did not include setbacks from the street boundary, she did not support setbacks. She did observe that the ODP included a requirement for setbacks but explained that setbacks were an urban design theory designed to produce a varied frontage resulting in the visual interest and varied experiences.³⁵⁰ However, she pointed out that this was a modern theory and did not relate to historic streetscape design as existed in Precinct P5.³⁵¹
464. Mr Church expressed the view that he could see no urban design rationale for the Beach Street setbacks being retained, other than providing additional sunlight access to the street.³⁵² He was of the view that sunlight access could be addressed through the use of facade heights and recession planes.
465. Further, Mr Church noted Beach Street was now pedestrianised and therefore he saw no real merit in having the street any wider for other functions such as vehicle accessibility.³⁵³ We assumed he did not see benefit in encouraging on-site outdoor dining. More importantly, we thought, he noted the intimacy of Beach Street without setbacks added to the character of the town centre, and it was one of the few narrow streets remaining from the early morphology of the town.³⁵⁴
466. Mr Church considered stepped or uneven building setbacks were not a characteristic that predominated across the SCA. He supported Ms Gillies' view and recommended removing the provision of the 0.8 m to 1.0 m setbacks on Beach Street in combination with appropriate facade height and recession plane controls to avoid any significant loss of sunlight to the Street.³⁵⁵
467. We note that Mr Williams, who had been engaged by submitters³⁵⁶ with an interest in the Beach Street set back issue, supported Ms Jones' recommendation to remove the setback requirements for buildings on Beach Street. It was his view that those setbacks did not serve any real benefit to the built form outcomes and placed a constraint on efficient development of sites along Beach Street³⁵⁷.

348 V Jones, Section 42A Report at [14.21].

349 J Gillies, EIC at [10.1-10.3]

350 Ibid at [10.2].

351 J Gillies, EIC at [10.2].

352 T Church, EIC at [18.1 to 18.7]

353 Ibid at [18.4].

354 Ibid at [18.5].

355 Ibid at [18.7].

356 Submission 616

357 T Williams, EIC at [15].

468. Appended to her Section 42A Report, Ms Jones undertook a Section 32AA evaluation of dispensing with the street scene setback rules for Beach Street.³⁵⁸ Having considered that evaluation we accept it and adopt it.

469. Essentially for the reasons advanced by Ms Jones, Ms Gillies, Mr Church and Mr Williams, we agree that the notified Rule 12.5.2 applying to Beach Street should be deleted because it is not the most appropriate method of achieving Objectives 12.2.2 and 12.2.4.

470. We recommend the deletion of Rule 12.5.2 in its entirety.

7.9. Rule 12.5.3 Waste and Recycling Storage Space

471. This rule did not attract submissions. The only changes we recommend to it are the non-substantive minor changes to reference to the matters of discretion, consistent with the approach taken elsewhere in the PDP.

472. We recommend Rule 12.5.2 be worded as follows:

12.5.2	Waste and Recycling Storage Space	RD
	<p>12.5.2.1 Offices shall provide a minimum of 2.6m³ of waste and recycling storage (bin capacity) and minimum 8m² floor area for every 1,000m² gross floor space, or part thereof.</p> <p>12.5.2.2 Retail activities shall provide a minimum of 5m³ of waste and recycling storage (bin capacity) and minimum 15m² floor area for every 1,000m² gross floor space, or part thereof.</p> <p>12.5.2.3 Food and beverage outlets shall provide a minimum of 1.5m³ (bin capacity) and 5m² floor area of waste and recycling storage per 20 dining spaces, or part thereof.</p> <p>12.5.2.4 Residential and Visitor Accommodation activities shall provide a minimum of 80 litres of waste and recycling storage per bedroom, or part thereof.</p>	<p>Discretion is restricted to:</p> <p>a. The adequacy of the area, dimensions, design, and location of the space allocated, such that it is of an adequate size, can be easily cleaned, and is accessible to the waste collection contractor, such that it need not be put out on the kerb for collection. The storage area needs to be designed around the type(s) of bin to be used to provide a practicable arrangement. The area needs to be easily cleaned and sanitised, potentially including a foul floor gully trap for wash down and spills of waste.</p>

³⁵⁸ V Jones, Section 42A Report, Appendix 4, at p7.

7.10. Rule 12.5.4 Screening of Storage Space

473. This notified rule is carried over from the ODP. The rule attracted submissions³⁵⁹ seeking changes. In essence the notified rule required that all storage areas on sites with frontage to certain streets be located within a building, or otherwise, be screened.
474. Real Journeys³⁶⁰ sought to amend the rule to clarify that temporary storage of equipment on the wharf being transported via a vessel is either permitted or exempt from the rule. The submitter also sought to amend the rule to include a permitted rule allowing for storage of rubbish provided it was screened from neighbouring properties and public places.
475. IHG Queenstown Ltd and Carter Queenstown Ltd³⁶¹ requested that notified Rule 12.5.4.1 be deleted and that notified rule 12.5.4.2 should be applied to all sites in the zone. This would mean that storage areas would either be situated within the building or screened from view from all public places, adjoining sites including adjoining zones.
476. Ms Jones expressed the view that notified Rule 12.5.4.1 would not apply to the storage of goods on wharves as this rule only applied to sites that have frontage to Beach Street.³⁶² In other words, frontage to Beach Street (or one of the other streets listed) was required to trigger notified Rule 12.5.4.1. Goods stored on the wharf were controlled by notified Rule 12.4.3.
477. In relation to Submission 663, Ms Jones observed that the wording of notified Rules 12.5.4.1 and 12.5.4.2 had been carried over from the ODP but simplified to remove reference to street names and instead apply to the whole of the SCA. Also she ultimately agreed it was somewhat irrelevant whether the storage was within a building or within a well screened outdoor area.³⁶³ She concluded, and we agree, that relaxing notified Rule 12.5.4.2 to enable this alternative of screening without the need for the storage to be within a building would simplify the rule and provide for a greater range of suitable storage options.
478. Ms Jones had also expressed a concern that allowing outdoor storage areas could cause adverse visual effects and crime related effects.³⁶⁴ To address this concern, she recommended adding a further matter of discretion to the redraft rule relating to CPTED principles. She considered the addition of this further matter of discretion to be a consequential amendment of removing the need for storage to be within a building as required by notified Rule 12.5.4.1
479. In summary, Ms Jones recommended ³⁶⁵ removing notified Rule 12.5.4.1 and applying redrafted Rule 12.5.4.2 to all parts of the QTCZ, as well as adding a further matter of discretion to the redraft rule relating to CPTED principles.
480. We note that this redraft negates, to a degree, Ms Jones' comments that this rule would not apply to goods stored on the wharf. In our view, using the term "storage area" implies a permanent storage arrangement, not the temporary location of goods while they are waiting to be loaded onto a boat.

³⁵⁹ Submissions 621 and 663 (opposed by FS1191, FS1139)

³⁶⁰ Submission 621

³⁶¹ Submission 663, opposed by FS1139 and FS1191

³⁶² V Jones, Section 42A Report at [13.46].

³⁶³ Ibid at [13.49]

³⁶⁴ Ibid.

³⁶⁵ ibid at [13.50].

481. We have considered Ms Jones' Section 32AA assessment in relation to her recommendation described above and we agree with it for the reasons she provides. Having greater flexibility for storage options provided they are well screened is a sensible outcome and preferred over the notified Rule.

482. Accordingly we recommend Rule 12.5.4 be renumbered and amended to read:

12.5.3	Screening of Storage Areas <i>Storage areas shall be situated within a building or screened from view from all public places, adjoining sites and adjoining zones.</i>	<i>RD</i> <i>Discretion is restricted to:</i> <i>a. Effects on visual amenity</i> <i>b. Consistency with the character of the locality</i> <i>c. Effects on human safety in terms of CPTED principles and</i> <i>d. Whether pedestrian and vehicle access is compromised.</i>
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7.11. Rule 12.5.5 Verandas

483. As notified, Rule 12.5.5 required all new, reconstructed or altered buildings with frontage to listed roads to provide a veranda or other means of weather protection. Non-compliance with this required consent as a restricted discretionary activity.

484. This rule attracted a single submission³⁶⁶ that requested that buildings along Hay Street need not provide a veranda. Ms Jones explained the merit of requiring a veranda on Hay Street because it would provide an increasingly important pedestrian link to the Lakeview sub-zone. However, she also acknowledged that for practical reasons, namely the steepness of Hay Street, provision of verandas were impractical.³⁶⁷ She also noted that there was no requirement to provide verandas in the Isle Street or Lakeview Town Centre sub-zone beyond Hay Street. Finally because an all-weather pedestrian link already exists through the centre of the Man Street block, she recommended Submission 663 be accepted so that the requirement to provide a veranda on Hay Street be deleted from notified Rule 12.5.5.1.

485. We agree with that reasoning and accordingly recommend that the rule be adopted subject to deletion of Hay Street from the list of streets where verandas are to be provided, and renumbered as 12.5.4.1.

486. The ORC³⁶⁸ raised the issue of verandas potentially interfering with high-sided vehicles, in relation to notified Rule 12.5.5.2. We have discussed this issue earlier in relation to notified Rule 12.4.6.1. We are satisfied that with the amendment we are recommending to Rule 12.4.6.1, no change is necessary to this rule in response to this submission.

487. Consequently, we recommend the rule be renumbered as Rule 12.5.4, and be adopted as follows:

³⁶⁶ Submission 663, opposed by FS1139 and 1191

³⁶⁷ V Jones, Section 42A Report at [13.51].

³⁶⁸ Submission 798.

12.5.4	<p>Verandas</p> <p>12.5.4.1 Every new, reconstructed or altered building (excluding repainting) with frontage to the roads listed below shall include a veranda or other means of weather protection.</p> <ul style="list-style-type: none"> a. Shotover Street (Stanley Street to Hay Street) b. Beach Street c. Rees Street d. Camp Street (Church Street to Man Street) e. Brecon Street (Man Street to Shotover Street) f. Church Street (north west side) g. Queenstown Mall (Ballarat Street) h. Athol Street i. Stanley Street (Coronation Drive to Memorial Street). <p>12.5.4.2 Verandas shall be no higher than 3m above pavement level and no verandas on the north side of a public place or road shall extend over that space by more than 2m and those verandas on the south side of roads shall not extend over the space by more than 3m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Consistency of the proposal and the Queenstown Town Centre Design Guidelines (2015) where applicable and b. Effects on pedestrian amenity, the human scale of the built form, and on historic heritage values.
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7.12. Rule 12.5.6 Residential Activities

488. There were no submissions on this rule. The only changes we recommend to it are renumbering it as Rule 12.5.5 and those formatting changes required for consistency with the approach we have taken through the PDP. Apart from those changes, which are shown in Appendix 1, we recommend the rule be adopted as notified.

7.13. Rule 12.5.7 Flood Risk

489. There were no submissions on this rule. We recommend it be renumbering as Rule 12.5.6 and rewording the standard to make it clearer. We recommend no changes to the matters of discretion. We recommend the standard read:

No building greater than 20m² with a ground floor level less than RL 312.0 masl shall be relocated to a site, or constructed on a site, within this zone.

7.14. Rule 12.5.8 Provision of Pedestrian Links

490. As notified, Rule 12.5.8 dealt with the provision of pedestrian links for any new buildings or building development in sites identified by the rule, both in Figure 1 and listed. Where the required link was not proposed, then the rule required consent as a restricted discretionary activity.
491. The NZIA submission³⁶⁹ sought recognition of the importance of pedestrian links, particularly those that are open to the sky. Other submitters sought revisions to the pedestrian link map, complaining the link map was of an insufficient size that only detailed existing pedestrian linkages. They also suggested the map should include future linkages and encompass the Gorge Road retail area and the expanded town centre.
492. Peter Fleming³⁷⁰ sought that the pedestrian link map include legal descriptions on sites over which pedestrian links were provided. Tweed Developments Limited³⁷¹ considered that the notified Rule 12.5.8 and Figure 1 should also include pedestrian connections provided as a result of covenants and agreements between the Council and property owners.
493. Ms Gillies³⁷² expressed the view that the pedestrian links were possibly a feature unique to the Queenstown town centre. She noted some have direct links to the town centre's historic beginnings while others are much more recent in time. Some were open to the sky. In her view, the character of the existing pedestrian links was varied.
494. Ms Gillies was very clear in her opinion that any existing pedestrian links should be retained.³⁷³ She was less certain on whether or not new links should be open to the sky or closed. She agreed Figure 1 (showing the existing pedestrian links) was inaccurate and should be updated.³⁷⁴ She supported new pedestrian links being encouraged as part of new developments. However, she did not think intended or proposed links should be shown on the PDP maps.³⁷⁵ She considered that new links should evolve from an assessment of the relevant site and after careful regard of design issues arising.
495. Mr Church³⁷⁶ supported Ms Gillie's opinion on the amendments and additions to the identified pedestrian links plan.³⁷⁷ He supported the approach of a network of pedestrian links being maintained and enhanced through the targeted notified Rule 12.5.8.1.³⁷⁸
496. Mr Church also did not support potential future pedestrian links being included on the identified pedestrian links plan.³⁷⁹ He, however, noted that recording those potential future links would have the benefit of potentially expanding the pedestrian link network across the

³⁶⁹ Submission 238, supported by FS1368, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, and FS1249

³⁷⁰ Submission 599

³⁷¹ Submission 617

³⁷² J Gillies, EIC at [11.3 - 11.5].

³⁷³ Ibid at [11.2]

³⁷⁴ Ibid at [11.4]

³⁷⁵ Ibid at [11.5].

³⁷⁶ T Church, EIC at paragraphs 15.1 to 15.3

³⁷⁷ Ibid at [15.6].

³⁷⁸ Ibid.

³⁷⁹ Ibid at [15.8].

town centre which would lead, he said, to positive urban design outcomes.³⁸⁰ In his opinion it was preferred that provision of those potential future pedestrian links be reviewed more holistically with other parts of the movement and open space networks and be incorporated into non-statutory guidance, such as a revised town centre strategy or preparation of a streetscape framework.³⁸¹

497. Essentially Mr Church supported identification of potential alignment of lanes through both non-statutory documents and the use of ongoing restricted discretionary applications for comprehensive development plans, site coverage and building rules to achieve identification.
498. He was also of the opinion that utilising pedestrian links and other types of open space as an incentive to fulfilling restricted discretionary or non-complying planning requirements was appropriate.³⁸² Overall he considered this halfway house where Council identified potential alignment of lanes early through non-statutory documents and then utilised the resource consenting process, provided an appropriate balance between anticipated outcomes and provided flexibility around exact alignment for future applicants.³⁸³
499. In Mr Church's view, the benefits of lanes being open to the sky would be that it would allow the narrow width of the lane to feel more spacious and allow the users to remain in touch with changes in the external environment and activities.³⁸⁴ Being open to the sky would also allow connection with the surrounding natural and cultural landscape.
500. However, he also recognised that there was a place for covered lanes, bridging lanes and/or arcades, particularly in larger scale buildings with larger floor plates.³⁸⁵ Overall, he was of the view that any new pedestrian link should be established as a lane that was open to the sky and with a minimum width of some 4 m.³⁸⁶
501. Following consideration of the submissions and the expert evidence of Ms Gillies and Mr Church, Ms Jones made a number of recommendations:³⁸⁷
- a. Correction of the notified pedestrian link map, Figure 1, so as to improve the map, accurately capture related legal descriptions, and ensure that all formal existing laneways in pedestrian links were included;
 - b. The pedestrian link map be referred to in notified Rule 12.5.8 but the actual map be inserted at the end of Chapter 12;
 - c. Future potent links and laneways not be included on the pedestrian link map in the PDP;
 - d. Provision of links and laneways when consenting the buildings, or when development plans and building coverage applications were being considered. She agreed with Mr Church that it was appropriate that future links should be shown on documents such as the Queenstown Town Centre Strategy (2009), which document could be taken into account when consents were sought;
 - e. Amending notified Policy 12.2.2.5 (b) to specify that where such links or laneways were being offered as a trade-off for height, then those laneways should be open to the sky. She noted that this could also include the uncovering and restoration of Horne Creek;

³⁸⁰ Ibid.

³⁸¹ Ibid at [15.8].

³⁸² Ibid at [15.10].

³⁸³ Ibid at [15.10].

³⁸⁴ Ibid at [15.14].

³⁸⁵ Ibid at [15.16-15.17].

³⁸⁶ Ibid at [15.17].

³⁸⁷ V Jones, Section 42A Report at [13.56].

- f. Amending notified Rule 12.5.8 to clarify that where existing lanes and links were open to the sky, then they were to remain so. Also, if provided as part of a redevelopment of the site, lanes would be a minimum of 4 m wide, but where the existing link was covered then when the site is redeveloped it could remain covered but be at least 1.8 m wide;
- g. The pedestrian link map should not be extended beyond the town centre because to do so would be beyond the scope of Chapter 12;
- h. It was unnecessary to include text in the PDP recognising covenants or the such like because the existence of such a covenant was available as a consequence of a title search and further, the rules specify connections only need be in a general location as distinct from a specific location. (In relation to the submission by Tweed Developments Limited³⁸⁸).
502. Ms Jones considered it was preferable for lanes and links to be open to the sky.³⁸⁹ However, she recognised that existing use rights make such an outcome unrealistic, particularly in relation to existing links.³⁹⁰ Further, she considered if the nature and scale of the development with an existing link was changing then it could be opened to the sky.³⁹¹ She observed, however, that the fine grain of the SCA could limit the suitability of wider mid-block lanes in that area and narrower pedestrian lanes, even those not open to the sky made an important contribution to the town centre character.³⁹²
503. Overall, Ms Jones was of the view that, provided any redevelopment of those existing lanes was of a high quality, and importantly the CPTED principles were adhered to, then those narrower closed lanes could continue to make a positive contribution in the town centre.³⁹³ However, she was of the view that the narrower closed lanes should not be replicated in any new development areas on the periphery of the town centre where the scale of the grid and built form differs and where lanes of the sort provided in the Church Street and Post Office precincts were much more suited.³⁹⁴
504. Mr Williams, appearing for several submitters³⁹⁵, accepted the desirability of providing pedestrian links but was concerned about the economic implications for the affected landowners of providing protection for those pedestrian links.
505. He referred us to the evidence of Mr Staniland and Mr Johnston for illustrations of the significance of the financial impact of providing pedestrian links.
506. Mr Johnston³⁹⁶ made the point that a rule requiring a pedestrian link would not only greatly diminish potential future design flexibility and earning capability in the form of rental income but would be effectively a designation.³⁹⁷ He added that it would strip Trojan Holding Limited of its development rights, with that company, not the designating authority, having to bear financial responsibility for the pedestrian link.³⁹⁸ Mr Todd elaborated on this point in his legal submissions which we will return to later.

³⁸⁸ Submission 617

³⁸⁹ V Jones, Section 42A Report at [13.57].

³⁹⁰ Ibid.

³⁹¹ Ibid.

³⁹² Ibid.

³⁹³ Ibid.

³⁹⁴ Ibid.

³⁹⁵ Submissions 398, 596, 606, 609, 616 and 617.

³⁹⁶ On behalf of Trojan Holdings Limited

³⁹⁷ N Johnston, EiC at [8].

³⁹⁸ Ibid.

507. Mr Staniland³⁹⁹ was concerned that the PDP sought to formalise pedestrian links within the Skyline Arcade building. He explained that informal pedestrian access was provided as part of the development of the Arcade Building when it was erected many years ago.⁴⁰⁰
508. It was his opinion and concern that it was unfair for the Council to impose a penalty in the form of a de facto designation of a pedestrian link on the submitter because future development options would be reduced as would rental returns.⁴⁰¹ Also, because this was a de facto designation SEL would not be able to obtain compensation as would usually be the case from the designating authority.⁴⁰² He wished to see the pedestrian links proposal for the QTCZ rejected.
509. Mr Williams was concerned that while Objective 12.2.2.5 identified the potential to enable additional height, it only made reference to connections or pedestrian links if they were uncovered.⁴⁰³ He noted, insofar as his clients were concerned, the Skyline Arcade and the link through Stratton House are covered.⁴⁰⁴ He observed that those connections gave rise to a significant financial cost to development but under the objective as worded there did not appear to be methods to offset this cost or loss. As he put it, because the policy did not provide additional height when the proposed pedestrian link was covered, he considered the provision of a covered link should also enable consideration of offsets.⁴⁰⁵
510. Mr Williams also considered that, given the financial cost of providing a pedestrian link through a building, some regard should be had to already established existing pedestrian links.⁴⁰⁶
511. As an example he drew attention to the link through Stratton House, noting that link was within 15 m of another lane which provided connection from Beach Street to Cow Lane.⁴⁰⁷ He also considered the PDP needed to recognise the significant financial cost of providing links and provide methods to compensate for this loss.⁴⁰⁸
512. Mr Todd, for these submitters⁴⁰⁹, identified for us that those submitters had voluntarily provided pedestrian walkways. He identified two such pedestrian walkways within the Trojan Holdings and Beach Street Holdings Limited building known as Stratton House located between the Beach Street and Cow Lane and the other being within the Skyline Arcade between Cow Lane and the Mall.⁴¹⁰
513. In essence, Mr Todd's clients' concern was the PDP⁴¹¹ seeking to provide for the formalisation, the retention and, in some cases, enhancement to these pedestrian links and others, through various properties in the Queenstown Town Centre.⁴¹² As we understood Mr Todd's

399 On behalf of Skyline Enterprises Limited.
400 R Staniland, EIC at [12].
401 Ibid.
402 Ibid.
403 T Williams, EIC at [53].
404 Ibid.
405 Ibid.
406 ibid at [54].
407 Ibid.
408 Ibid at [55].
409 Submitters 1238, 1239, 1241, 1248 and FS606, 609 and 616.
410 Synopsis of Legal Submissions of Mr Todd at [3].
411 Suggested in the Section 42A Report.
412 Synopsis of Legal Submissions of Mr Todd at [1].

submission, identification of those pedestrian links on the pedestrian link plan amounted to the formalisation he was concerned with.

514. Mr Todd submitted that the proposal to include in the PDP rules requiring such linkages was in effect the imposition of *de facto* designations.⁴¹³ Moreover, the Council had not taken any financial responsibility or indeed offered any compensation for the offsetting of such links.⁴¹⁴ This was exacerbated by the resultant potential loss of land available for development and subsequently leasing.
515. He further submitted that such a proposal was repugnant to sound resource management practice where no compensation or incentive was offered to the affected parties in return for something for which the public would benefit.⁴¹⁵ He further noted that it would be wrong to think that the Council was doing nothing more than formalising what was in existence through promoting this rule.⁴¹⁶
516. Mr Todd submitted that it would be wrong for the Council to seek to take advantage of what is a public benefit from a developer who has chosen to provide a pedestrian link in a particular design of a building.⁴¹⁷ He referred to the Environment Court case of *Thurlow Consulting Engineers and Surveyors Ltd v Auckland City Council*⁴¹⁸ where the Court found it would be inappropriate to provide for what was effectively a designation over land providing for the identification of a future road without the Council using its designation powers to take the land and compensate the land owner.⁴¹⁹
517. Within her Reply Statement, Ms Jones carried over many of the amendments to notified Rule 12.5.7 she recommended within her original Section 42A Report. The additional changes she recommended were matters of clarification, and we consider all of her further recommended changes provided certainty and clarity.
518. We find ourselves in agreement with her recommendations primarily for the reasons she advanced within her Section 42A Report. We agree with her that correctly referring to the location of existing pedestrian links with the QTC is important. We agree with the amendments she has made to correctly identify the location of these existing pedestrian links.
519. As to the submitters' concerns that including existing pedestrian links on Figure 1 within the PDP would amount to a *de facto* designation without providing them access to compensation, we find that we disagree.
520. We prefer the approach taken by Ms Scott in her legal submissions in reply⁴²⁰. We agree that the case relied upon by Mr Todd is capable of being distinguished. We also agree that the *Thurlow* case is not about the Court refusing to uphold a rule only because it was a *de facto* designation. More correctly, the Court refused to uphold the rule because of uncertain wording of the rule.

⁴¹³ Ibid at [4].

⁴¹⁴ Ibid.

⁴¹⁵ Ibid.

⁴¹⁶ Ibid at [5].

⁴¹⁷ Ibid.

⁴¹⁸ [2001] NZEnvC 82 (substantive) and [2001] NZEnvC 97 (costs)

⁴¹⁹ Synopsis of Legal Submissions of Mr Todd at [6].

⁴²⁰ Legal Submissions in Reply of Mr Winchester at [5.13 to 5.17]

521. None of the uncertainty evident in the *Thurlow* case exists here. There is no uncertainty about the location of the existing pedestrian links. As we read the rules, it is clear that if a pedestrian link is not provided, resource consent will be required but that the link needs to be in the general rather than the exact location shown as per the Reply version of Rule 12.5.8.1.
522. Also, we think it clear from the advice note included in the rule that where an alternative link is proposed, as part of the resource consent application, which is not on the development site but achieves the same or better outcome, then that is likely to be considered appropriate.
523. There was no evidence presented to us that the pedestrian links require a designation. We accept Ms Scott’s submission that the plan provisions for pedestrian links can be compared to other built form standards and requirements. Also, provided these plan rules are related to achieving the purpose of the Act, they can be included in a district plan as a standard as they have been in this case. We think the evidence of the submitters, as well as Mr Todd’s submissions, ignore the fact that provision of new pedestrian links could result in gains for a resource consent applicant through additional height.
524. In conclusion, it is our view that the submitters’ concerns about *de facto* designations and alternative nearby pedestrian links not being properly taken into account, are unfounded.
525. Accordingly, we recommend that the changes to notified Rule 12.5.8, renumbered 12.5.7, as set out below be adopted for the reasons we have set out above.

<p>12.5.7</p>	<p>Provision of Pedestrian Links and lanes</p> <p>12.5.7.1 All new buildings and building redevelopments located on sites which are identified for pedestrian links or lanes in Figure 1 (at the end of this chapter) shall provide a ground level pedestrian link or lane in the general location shown.</p> <p>12.5.7.2 Where a pedestrian link or lane required by Rule 12.5.8.1 is open to the public during retailing hours the Council will consider off-setting any such area against development levies and car parking requirements.</p> <p>12.5.7.3 Where an existing lane or link identified in Figure 1 is uncovered then, as part of any new building or redevelopment of the site, it shall remain uncovered and shall be a minimum of 4m wide and where an existing link is covered then it may remain covered and shall be at least 1.8 m wide, with an average minimum width of 2.5m.</p> <p>12.5.7.4 In all cases, lanes and links shall be open to the public during all retailing hours.</p>	<p>RD</p> <p>Where the required link is not proposed as part of development, discretion is restricted to:</p> <p>a. The adverse effects on the pedestrian environment, connectivity, legibility, and Town Centre character from not providing the link.</p>
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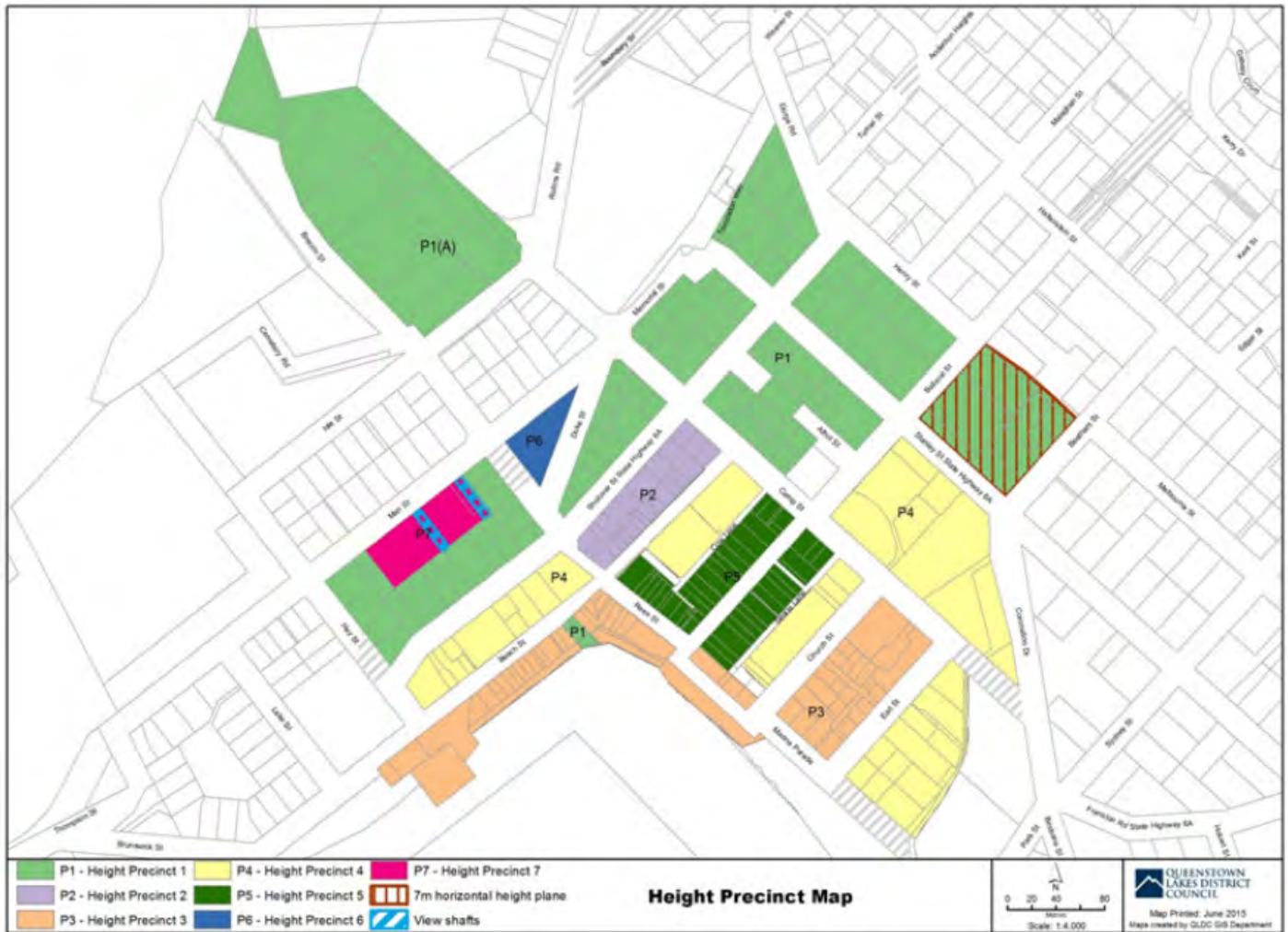
	<p>Location of Pedestrian Links within the Queenstown Town Centre.</p> <ul style="list-style-type: none"> a. Shotover St/ Beach St, Lot 2 DP 11098, Lot 3 DP 11098 b. Trustbank Arcade (Shotover St/ Beach St), Lot 1 DP 11098, Pt Sec 23 Bk VI Tn of Queenstown c. Plaza Arcade, Shotover St/ Beach St, Lot 1 DP 17661 d. Cow Lane/ Beach Street, Sec 30 Blk I Tn of Queenstown e. Cow Lane/ Beach Street, Lot 1 DP 25042 f. Cow lane/ Ballarat Street, Lot 2 DP 19416 g. Ballarat St/ Searle Lane, Sec 22 & Pt Sec 23 Blk II Tn of Queenstown h. Ballarat Street/ Searle Lane, part of the Searle Lane land parcel i. Church St/ Earl St, Lot 1 DP 27486 j. Searle Lane/ Church St, Lot 100 DP 303504 k. Camp/ Stanley St, post office precinct, Lot 2 DP 416867 l. Camp/ Athol St, Lot 1 DP 20875. <p>Advice Notes:</p> <ul style="list-style-type: none"> a. Where an uncovered pedestrian link or lane (i.e. open to the sky) is provided in accordance with this rule, additional building height may be appropriate pursuant to Policies 12.2.2.4 and 12.2.2.5. b. Where an alternative link is proposed as part of the application, which is not on the development site but achieves the same or a better outcome then this is likely to be considered appropriate. 	
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7.15. Height Rules

Height - General

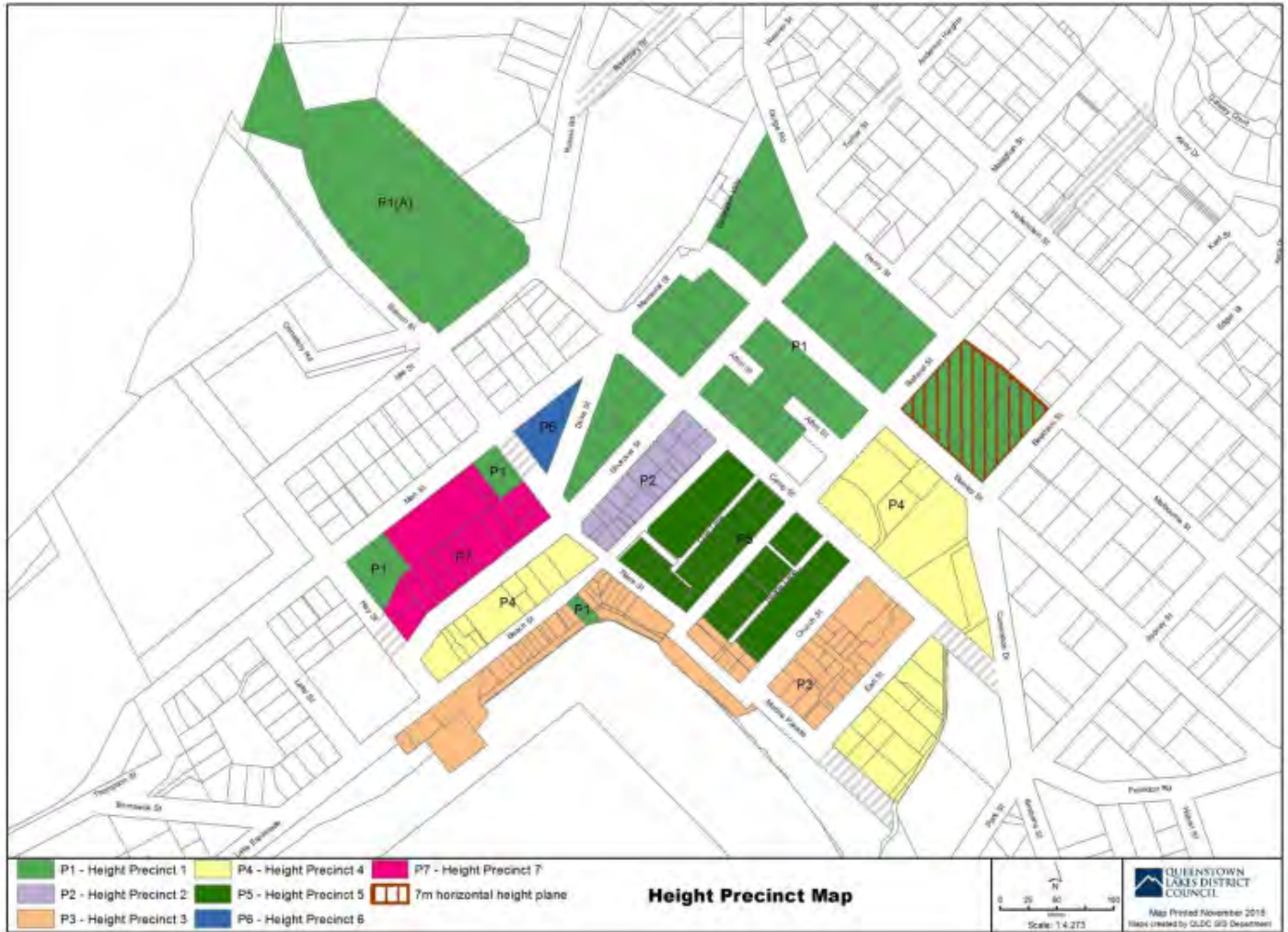
526. As notified, the QTCZ introduced the concept of mapped height precincts as a clearer way of applying different heights to the various parts of the QTC than the approach taken in the ODP.
527. The two notified Rules, 12.5.9 and 12.5.10, dealt not only with height for the various precincts, but included recession line controls. The discretionary height controls for Precincts 1 and 1A were included within notified Rule 12.5.9.1, and the recession line controls for Precinct 1A were in Rule 12.5.9.2. Non-compliance with these rules required consent as a restricted discretionary activity.
528. Notified Rule 12.5.10 included horizontal and recession plane line rules for Precincts 1, 2, 3, 4, 5, 6. This rule also provided view shaft rules for Precinct 7. We will return to these recession control sub-rules when we discuss each precinct. Rule 12.5.10 also set what was referred to in the rule as an “absolute” height limit in Precinct 1, and maximum height limits in all other parts of the QTC. Non-compliance with Rule 12.5.10 required consent as a non-complying activity.
529. Rules 12.5.9 and 12.5.10 both referred to the Height Precinct Map, Figure 2, which identified the height precincts and their locations. We will refer to this throughout our report as Figure 2, and identify which version we refer to. In addition to this, we include Figure 2 in the following discussion in order to aid the reader in understanding how the height precincts and rules evolved through the hearing process.
530. Christine Byrch⁴²¹ neither supported nor opposed notified Figure 2 and therefore we recommend this submission be rejected.
531. Notified Figure 2 was included in Chapter 12 as follows:

⁴²¹ Submission 243, opposed by FS1224



532. While out of chronological order, we note here the version of Figure 2 attached to Ms Jones Section 42A Report was inserted by error. Prior to the hearing, by memorandum of 8 November 2016, a version of Figure 2 consistent with the recommendations in her Section 42A Report, was circulated to all participants. That Map contained the following amendments to the Precincts:
- Precinct 7 was extended down to Shotover Street to include the majority of the Man/Hay/Shotover/Brecon Street Block
 - Precinct 5 was extended to include those parts of the south side of Upper Beach Street and the North side of Church Street, which were shown as Precinct 4 in the notified version
 - That part of Precinct 3 between the Mall and Church Street was extended north-east to include the adjacent sites.

533. The 8 November 2016 version of Figure 2 (S42A Figure 2) was as follows:



Background to the Notified Height Rules

534. Before we discuss the submissions, we provide some background to the notified provisions, utilising the information in Ms Jones’ Section 42A Report. Building height within the QTCZ was one of the principal issues in the Chapter 12 hearings and as such we think it important to provide a full discussion to aid in understanding the rules and the recommendations we make to amend the height rules.
535. Within her Section 42A Report, Ms Jones⁴²² helpfully included a table setting out a comparison between the ODP and PDP height rules for Precincts 1 to 7 and buildings on wharves.⁴²³ She also identified if there were submissions on the changes to the various precincts.
536. Ms Jones summarised⁴²⁴ the effect of the notified rules in the PDP, and we repeat that summary here:
- a. Permitted heights in Precinct 1/ Precinct 1A were increased by virtue of the fact that the recession plane rule had been removed and buildings between 12m and 14m (15/ 15.5m on identified sites) were restricted discretionary rather than non-complying. However, given the 4 story maximum rule, the amount of additional floor space/ mass provided for

⁴²² at Issue 2

⁴²³ V Jones, Section 42A Report at p 24-26.

⁴²⁴ Ibid at [10.20].

- by the rules was unlikely to change significantly. Of significance, Precinct 1 sites adjacent to the proposed Precinct 7 were no longer subject to a horizontal plane rule
- b. Permitted heights in Precinct 2 were increased along the Shotover Street frontage and a minor (0.5 m) height increase had been provided along the Beach Street frontage in order to achieve better design while minimising shading effects
 - c. The rules relating to Precinct 5, Precinct 6, and buildings on wharves/ jetties were unchanged and no submitter opposed those
 - d. Two large developed areas which were previously subject to restrictive (character-based) recession plane rules were now included in Precinct 4
 - e. In Precinct 7, the maximum height enabled was set at 11 m above the existing concrete slab (created by the underground carpark), which meant the height enabled a consistent building height across the site that was higher than under the ODP in some parts of the site, and possibly lower in others.
537. As to the reasons for the changes between the ODP and PDP in relation to height, Ms Jones referred us to the Monitoring Report for the town centre.⁴²⁵ She identified that between 2004 and 2011 there were a sizeable number of resource consent applications seeking to obtain consent for over-height buildings.⁴²⁶ Ms Jones also gave us a summary of development in the QTC over the last 17 years based on her own knowledge.⁴²⁷ Whilst she advised this was not an exhaustive list, we found it helpful to gain an appreciation of the extent of resource consents obtained for recently constructed buildings.⁴²⁸ She concluded that very few buildings managed to be designed within the ODP height rules and as such the emerging character of the town centre did not reflect those rules.⁴²⁹
538. Ms Jones further concluded that the height rules within the ODP were not efficient and did not provide any certainty or direction as to what level or extent of height breaches would be appropriate and why.⁴³⁰ Further, she went on to say that the ODP rules did not accurately reflect the existing character/environment. The PDP rules proposed were, she advised, a more accurate reflection of the bulk and form evolving, particularly in Precinct 1, over recent years via non-complying resource consent applications⁴³¹.
539. Ms Jones set out in detail the shade modelling⁴³² used to test the extent of additional shading under various height scenarios so as to inform the ultimate height level rules within the PDP. She noted that the model provided an indication of the outcome that could be expected in terms of bulk and mass of buildings relative to street widths, adjacent buildings and open spaces.⁴³³
540. In the case of Precinct 7 and the surrounding Precinct 1 sites (the Man Street Block), Ms Jones told us that the effects that the various height scenarios could have on visual amenity, architectural outcomes, economic viability, and public and private views within the zone were also able to be considered utilising the model.⁴³⁴

⁴²⁵ Ibid at [10.21].

⁴²⁶ Ibid.

⁴²⁷ Ibid.

⁴²⁸ Ibid at [10.21].

⁴²⁹ Ibid at [10.22].

⁴³⁰ Ibid at [10.22a].

⁴³¹ Ibid at [10.22b].

⁴³² Undertaken by the QLDC IT Department in 2014 using CityEngine software.

⁴³³ V Jones, Section 42A Report at [10.23].

⁴³⁴ Ibid.

541. Ms Jones noted that, for all areas, other than Precinct 1A, the existing built environment was included in the model.⁴³⁵ This provided a useful context in terms of the existing use rights/receiving environment of the town centre. It also demonstrated how extensively the buildings encroached beyond the ODP permitted heights.
542. For the precincts where Ms Jones recommended change, or submitters sought change, we utilised the results of the modelling to help us determine which outcome in terms of height was to be preferred. In some instances, where height had been specifically opposed by submitters, snap shots of various scenarios were created, enabling better evaluation of options. These snap shots were attached to Mr Church's evidence⁴³⁶.

Shade Modelling

543. Ms Jones described the methodology, assumptions and limitations of the model.⁴³⁷ She also detailed⁴³⁸ how the model had been utilised for the purpose of considering submissions on the notified chapter. She described for us the dates chosen for modelling and reasons why.⁴³⁹ Two dates were modelled: lunchtime on 11 July and 11 August, lunchtime being a busy time for pedestrians and diners wishing to eat outside. The July date fell within the winter peak season and coincided with New Zealand and Australian school holidays. She also provided specific details relating to the Man Street Block assessment methodology.
544. Ms Jones identified those submitters⁴⁴⁰ who had lodged general submissions in relation to the height rules either seeking significantly higher heights, or opposing building height increases. Her response to those general submissions was that she considered, in principle, building height could be increased beyond those in the ODP in some parts of the town centre in order to achieve the objectives of a high quality urban design, character, heritage values and sense of place for the town centre.⁴⁴¹

Policy Context for Consideration

545. Before turning to consider the height precincts we remind ourselves the policy settings focus on ensuring positive outcomes or net environmental benefits as a result of enabling additional height, rather than simply minimising adverse effects from allowing height increases. Also, the policy setting contemplates breaches in only exceptional circumstances and only where there are specific public benefits provided, such as pedestrian links, which outweigh negative effects. Increases in height can and do cause issues for public spaces, particularly loss of sunlight, increases in winter shading, and general reduction in amenity of those spaces. Again the policy setting recognises and addresses such issues.
546. Ms Jones discussed each of the precincts in turn in relation to the submissions received specifically on each precinct, drawing mainly on the evidence of Mr Church to develop and support her recommendations. We will discuss the issues, precinct by precinct. In doing so, we refer to them as precincts, although in the rules they are formally called Height Precincts.

⁴³⁵ Ibid.

⁴³⁶ T Church, EIC, Appendix A

⁴³⁷ V Jones, Section 42A Report at [10.25].

⁴³⁸ Ibid, at paragraph 10.26

⁴³⁹ Ibid at [10.26 b].

⁴⁴⁰ Submissions 20, 187, 438, 159, 417, (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249), 238 (supported by FS1368 and opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249)

⁴⁴¹ V Jones, Section 42A Report at [10.27].

- 7.16. Notified Rule 12.5.9 Discretionary Building Height in Precinct 1 and Precinct 1(A) and Rule 12.5.10 maximum building and façade height.
547. As notified, Rule 12.5.9 provided for heights in Precinct 1 and 1(A) as follows:
- a. In Precinct 1, buildings had a maximum permitted height of 12m, exceedance to 14m being a restricted discretionary activity, and higher than 14m being a non-complying activity. The exception being 48-50 Beach Street that had permitted height to 12m, restricted discretionary between 12m and 15m, above which was non-complying
 - b. Precinct 1(A) had a permitted height of 12m, restricted discretionary to 15.5m, above which was non-complying.

Precinct 1

548. Notified Precinct 1 included land outside the SCA which Ms Jones considered held potential for redevelopment and that would result in the least shading effects over and above the existing situation.⁴⁴²
549. In particular, Precinct 1 included most of the land fronting Shotover and Stanley Streets, the newly added (by virtue of the PDP) QTCZ on Upper Brecon Street and 48 to 50 Beach Street⁴⁴³, currently occupied by AVA backpackers, adjacent to Earnslaw Park. Ms Jones reminded us that 48 to 50 Beach Street was recognised as a unique case due to existing use rights and the opportunity that particular site provided to create a landmark building when developed in the future.⁴⁴⁴ She informed us the highest building heights in the town centre were allowed in this area.⁴⁴⁵
550. Precinct 1A was the area bounded by Isle Street, Brecon Street, and Roberts Road, all being land around and neighbouring the PC 50 land which has had its building height limits increased by that Plan Change.
551. Three submitters⁴⁴⁶ sought that the maximum height limit in Precinct 1 be changed from 12 m down to 8.5 m. The reasons given, primarily in Ms Baker-Galloway's submission⁴⁴⁷, were that an increase in height would adversely affect views, sunlight, and the quality of public spaces, and also would contradict notified Policies 12.2.2.2 and 12.2.2.3.
552. Ms Baker-Galloway was also concerned that an increase in height would, in turn, increase the number of workers and visitors to the town centre resulting in an increase in traffic congestion, pollution and parking. Peter Fleming⁴⁴⁸ also opposed the notified height in Precinct 1 because increasing height would, in his view, effect the village square proposal and the waterfront.
553. Skyline Investments Limited & O'Connells Pavilion Limited⁴⁴⁹ supported the 15m height allowance for secs 4-5 Blk XV Queenstown Tn (the lake front site adjacent to Earnslaw Park currently occupied by AVA backpackers); Skyline Properties Limited & Accommodation and

⁴⁴² V Jones, Section 42A Report at [10.29].

⁴⁴³ Legal description: sections 4-5 Blk XV Queenstown Town

⁴⁴⁴ V Jones, Section 42A Report at [10.29].

⁴⁴⁵ Ibid.

⁴⁴⁶ Submissions 59 (supported by FS1059, FS1063, opposed by FS1236, FS1075, FS1125), 82 (supported by FS1063, opposed by FS1107, FS1125, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249, FS1274), 206 (supported by FS1063, opposed by FS1060, FS1236, FS1274)

⁴⁴⁷ Submission 59

⁴⁴⁸ Submission 599

⁴⁴⁹ Submission 606 (opposed by FS1063)

Booking Agents Queenstown Limited⁴⁵⁰ supported the 14m height allowed on the Chester building site on Shotover Street; Shotover Memorial Properties Limited & Horne Water Holdings Limited⁴⁵¹ supported the inclusion of 9 Shotover St in Precinct 1 and the 14m/ no recession plane height rule that applied; and The New Zealand Fire Service⁴⁵² requested that notified Rule 12.5.9 be retained.

554. Relying upon Mr Church's evidence, and the Section 32 Report, with the exception of removing the reference to 4 storeys from notified Rule 12.5.9 and enabling the creation of landmark buildings to be considered at resource consent stage, Ms Jones considered the Precinct P1 height rules as notified (12 m) to be the most appropriate, when compared with the alternatives proposed: a maximum 8.5 m height; the ODP rules; or increase in heights beyond the 12 m height.⁴⁵³
555. Ms Jones was also of the view that the proposed height rules for Precinct 1 would be both effective and efficient at achieving the relevant objectives: Objectives 12.2.1, 12.2.2 and 12.2.4.⁴⁵⁴ Overall, she considered the rules struck a balance between the status quo and enabling some modest increases in height which would help design and efficiency, without adversely affecting shading to any extent.⁴⁵⁵
556. Ms Jones relied heavily upon Mr Church's expert evidence⁴⁵⁶ as to the results of the shade modelling and shade effects of heights at both 12 m and 14 m. She noted from these shading diagrams that buildings above 12m could potentially have unacceptable adverse effects on sunlight access to public space.⁴⁵⁷ She considered the 14m height allowance as a restricted discretionary activity sent the signal that there should be no presumption that granting consent at 14m would be appropriate in all circumstances.⁴⁵⁸ She observed beyond 14m would be subject to non-complying resource consent.
557. Ms Jones paid particular attention to the shading effects from the heights permitted by the notified rules on the sites specifically mentioned in submissions, with reference to Mr Church's evidence.⁴⁵⁹ She concluded those heights were appropriate.
558. Ms Jones described that she undertook a shading analysis using the model when drafting the provisions.⁴⁶⁰ She and Mr Church undertook a further analysis prior to preparation of both his evidence and her Section 42A Report.⁴⁶¹
559. The criteria they chose was that the maximum permitted building height should not create any more than minor additional shading on a 2.5 m strip of public pedestrian space on the opposite side of the road up until at least 12:30 PM, that is, mid lunchtime. This time would be assessed at or around the time of year that this pedestrian strip came into full sun under the ODP rules following the mid-winter months.

450 Submission 609 (opposed by FS1063)

451 Submission 614 (supported by FS1200)

452 Submission 428

453 V Jones, Section 42A Report at [10.33].

454 Ibid at [10.34].

455 Ibid.

456 In particular figures 10 and 12 in Appendix A to Mr Church's evidence.

457 V Jones, Section 42A Report at [10.36].

458 Ibid

459 Ibid.

460 Ibid at [10.37].

461 Ibid.

560. Applying that criteria, Ms Jones and Mr Church found that on most streets, this pedestrian strip would be in full shade during the busy lunch hour for many of the winter months even under the ODP rules.⁴⁶² Her conclusion was that there was little point in considering shading effects during those months as they would essentially be nil.
561. The criteria, as Ms Jones explained, was further developed so as to ensure this key pedestrian strip of public space should be in sunlight for as many months of the year as possible.⁴⁶³ She considered this outcome was important to achieve the amenity and vibrancy of the town centre, leading to its economic development and resulting in the social well-being of the wider community.⁴⁶⁴ Essentially, access to sunlight was an important component in the criteria and that access was to be extended for as many months of the year as possible. She and Mr Church concluded that a model using the equinox as the key date was of little use, because in most instances there would be little if any effect on sunlight over the critical public space at that time of year, regardless of the height being tested.⁴⁶⁵
562. Ms Jones concluded that, given the objective, which was to recognise and provide for the amenity, social and economic benefits that accrue from providing sunny outdoor space, it was inappropriate to impose heights which would provide little or no sun to key public spaces and busy foot paths for up to 6 months of the year.⁴⁶⁶ She explained this resulted in testing the model on the wider streets such as Shotover Street on 11 July, which is one of the busiest months in terms of tourism, and the narrow pedestrian streets of Beach Street and the Mall on 11 August.⁴⁶⁷
563. Taking into account Ms Jones' opinions and explanations as to the criteria chosen, how it was developed over time, the objective or outcome, and deployment of the model, we agree and accept all of these matters are appropriate to properly enable and inform choices in height for the various precincts. Our findings in this regard are also made in reliance upon Mr Church's evidence.
564. After undertaking the modelling exercises and other assessments described, Ms Jones expressed the opinion that a 14m high building could be designed to achieve a human scale and to accommodate four stories of reasonable internal quality, plus an interesting roof.⁴⁶⁸
565. Ms Jones considered that enabling a 14m height as a restricted discretionary activity, as opposed to being non-complying under the ODP, was a far more efficient outcome than triggering a non-complying consent.⁴⁶⁹ She also considered this outcome would have the indirect effect of discouraging those wishing to develop four stories from trying to squeeze them into the 12m height available under the ODP, which resulted in a relatively poor outcome.⁴⁷⁰

⁴⁶² Ibid.

⁴⁶³ Ibid at [10.38].

⁴⁶⁴ Ibid.

⁴⁶⁵ Ibid at [10.38].

⁴⁶⁶ Ibid.

⁴⁶⁷ Ibid.

⁴⁶⁸ Ibid at [10.39].

⁴⁶⁹ Ibid.

⁴⁷⁰ Ibid

566. We agree with that opinion, particularly given the resource consent history Ms Jones referred us to. We see that adopting a restricted discretionary activity status as opposed to non-complying is preferred because it would be more efficient and effective.
567. We are also satisfied that the various heights promoted by Ms Jones have been properly and robustly assessed using appropriate criteria which has been informed by the overall objective or outcome sought for Precinct 1.
568. Specifically referring to 48 to 50 Beach Street, Ms Jones agreed with Mr Church's analysis and investigations that the shading effects of the proposed height limits at 12m as per Rule 12.5.9, as compared with the ODP building height, would be minimal.⁴⁷¹
569. Ms Jones relied on Mr Church's view and opinion that the role of landmark buildings should be included as a matter of discretion in relation to whether granting restricted discretionary height is appropriate.⁴⁷² She recommended inclusion of this matter as new item d.
570. Taking all of the above into account, particularly the shading analysis, and the prior resource consent history within Precinct 1, we recommend that:
- a. the permitted height limit in Precinct 1 be 12 m;
 - b. between 12 to 14 m be a restricted discretionary activity; and
 - c. above 14 m be non-complying.
571. We also recommend that, in terms of 48 – 50 Beach Street:
- a. 12 m be the permitted height;
 - b. between 12 to 15 m be a restricted discretionary activity; and
 - c. above 15m be non-complying.
572. In coming to this conclusion, we have accepted the shading evidence of Mr Church, and the opinion of Mr Jones that these revised PDP rules would impose a lesser consenting barrier and lower consenting costs. In addition, we agree the increased height is likely to enable or encourage only a modest increase in capacity which would have no significant effect on the number of workers and visitors to the town centre, traffic congestion, pollution or parking.
573. Within Precinct 1 there is an area with a 7m horizontal plane rule, notified as a Rule 12.5.10.1 b including an explanatory diagram. That rule was not the subject of submissions. However, consequent on alterations to the Height Precinct Map, Ms Jones recommended some drafting alterations. We have suggested some clearer wording to this rule as well.
574. Our recommended wording of this rule, renumbered as Rule 12.5.9.b, is set out at the end of our discussion on height rules.

Precinct 1A

575. For Precinct 1A, QLDC⁴⁷³ requested an amendment to notified Rules 12.5.9 and 12.5.10.1 such that building height up to 12 m would be permitted, heights between 12 and 15.5 m would be restricted discretionary, and those beyond 15.5 m would be non-complying. Skyline Enterprises Limited⁴⁷⁴ opposed this relief, seeking an absolute height limit of 17.5 m over Section 1 SO 22971. We note that a further submission may only support or oppose a

⁴⁷¹ *ibid* at [10.40].

⁴⁷² *ibid*

⁴⁷³ Submission 383, opposed by FS 1236

⁴⁷⁴ FS1236

submission, not substitute a relief which goes beyond that in the original submission. We therefore disregard this request for additional height.

576. In its original submission⁴⁷⁵, Skyline Enterprises Limited sought that the proposed maximum height allowed in Precinct 1A be changed to 15.5 m.
577. Other submissions⁴⁷⁶ sought minor wording amendments to the Precinct 1A rule, which Ms Jones considered to be clarification only.
578. Ms Jones, referring to the Section 32 Evaluation Report and her further Section 32AA, said she considered the amendments sought by QLDC in terms of height within Precinct 1A to be the most appropriate compared to the alternatives of the ODP permitted building height (7-8 m), or retaining the notified PDP provisions (permitted up to 14 m and non-complying thereafter).⁴⁷⁷
579. As well, it was Ms Jones' view that the key reasons for recommending 12 m as permitted with a recession plane and up to 15.5 m as restricted discretionary, were that doing so would utilise the rule framework that was proposed for Precinct 1.⁴⁷⁸
580. That framework provided a base level of allowable height and an additional height providing the building was well designed. It also enabled more height, 15.5 m rather than 14 m, as is provided for in most parts of Precinct 1, in order to be consistent with building heights on the surrounding properties.
581. Ms Jones noted that on the surrounding properties, ODP Plan Change 50 had become operative with the effect that sites on the opposite side of Isle Street were subject to a 12 m height limit plus an additional 2 m roof bonus.⁴⁷⁹ Also height could further be extended up to 15.5 m if the site exceeded 2000 m² and fronted Isle or Man Street. She considered the ODP 7-8 m limit to be inconsistent with the heights that were enabled by Plan Change 50, which affected many of the properties adjacent to Precinct 1A.⁴⁸⁰
582. Ms Jones pointed out that the notified limits were inconsistent, in that Rule 12.5.10.1 made all buildings over 14 m non-complying, thereby making notified Rule 12.5.9.2, which in theory enabled buildings up to 15.5 m high as restricted discretionary activities, redundant.⁴⁸¹
583. In terms of the requests to increase height, Ms Jones was of the view a height of either 14 m or 15.5 m, as sought by Skyline, to be too high in the context of the site which was highly prominent from Gorge Road, Hallenstein Street and the Cemetery, and could result in unacceptable shading on Brecon Street.⁴⁸²
584. Similar alternatives to those considered in Precinct 1 were assessed. They were the ODP provisions, the notified PDP provisions, or submitter requests. Considering these available

⁴⁷⁵ Submission 574, opposed by FS1063

⁴⁷⁶ Submissions 663 (opposed by FS1139 and FS1191), 667 (opposed by FS1236) and 672

⁴⁷⁷ V Jones, Section 42A Report at [10.45].

⁴⁷⁸ Ibid at [10.46].

⁴⁷⁹ Ibid at [10.45].

⁴⁸⁰ Ibid at [10.46].

⁴⁸¹ Ibid at [10.47].

⁴⁸² Ibid.

alternatives, we agree with Ms Jones that 12 m as a permitted activity with a recession plane, and up to 15.5 m as a restricted discretionary activity, are the preferred outcomes.

585. This has the benefit of utilising the same rule framework as that recommended for Precinct 1, namely a base level of allowable height and additional height provided a building is well designed. However, in the case of Precinct 1A, more height would be allowed, 15.5 m rather than 14 m, so as to be consistent with building heights on surrounding properties.
586. We agree and accept that the ODP height limit for Precinct 1A of 7/8 m is inconsistent with heights enabled by Plan Change 50 and does not synchronise with the Precinct 1 rule framework. We also agree with and adopt Ms Jones' Section 32AA evaluation, particularly as it relates to providing discretionary activity status for height between 12 m and 15.5 m.
587. Accordingly, we recommend these heights be included in what will be a re-numbered Rules 12.5.8 and 12.5.9.
588. The final matters to address in this rule are the recession planes. As notified, the Precinct 1A recession planes were provided for within notified Rule 12.5.9.2.
589. QLDC⁴⁸³ sought to simplify and clarify that rule. Ms Jones recommended acceptance of those amendments. We agree. The amendments assist legibility and clarity of the rule.
590. We recommend adoption of notified Rule 12.5.9.2 as amended and re numbered as rule 12.5.8.2.

Precinct 2

591. Precinct 2 covered the block bounded by Shotover, Camp, Rees and Beach Streets. Ms Jones explained that it was unique in that the narrow width of Upper Beach Street meant that buildings within this precinct must adhere to shallow recession planes off boundaries, yet there were no adverse shading effects from enabling heights to extend up to 14 m, subject to complying with the recession plane.
592. QLDC⁴⁸⁴ had identified clarity issues with notified Rule 12.5.10.1. As notified, it could be interpreted that Precinct 2 would be subject to this rule, as alluded to by Rule 12.5.10.1 (d), or that it would be subject to a 12m height as per the notified Rule 12.5.10.5.
593. Ms Jones recommended this submission be accepted and referred to the reasoning set out in the Section 32 Report. She explained that greater height would be enabled in order to offset the relatively restrictive recession plane/facade height enabled on the Beach Street frontage of that block.⁴⁸⁵ This recognised, she said, that a considerable portion of ownerships within the block run through the whole block and have frontage to both streets.⁴⁸⁶
594. Trojan Holdings Limited and Beach Street Holdings Limited⁴⁸⁷ requested that notified Rule 12.5.10.1 (d), which set a maximum and minimum parapet height along part of each street, be deleted. Modelling various facade heights and differing recession planes which represent the ODP, PDP, and submitter's outcomes, was undertaken in the manner described in relation to

⁴⁸³ Submission 383

⁴⁸⁴ Submission 383

⁴⁸⁵ V Jones, Section 42A Report at [10.52].

⁴⁸⁶ Ibid.

⁴⁸⁷ Submission 616

Precinct 1. These were illustrated in the visuals attached as Appendix A to Mr Church's evidence. The outcome was that at 12:30 PM on 11 August, 2.5 m of public space was fully in sun under the ODP rules, and the only effect on sunlight access at the same time under the PDP rules was minor, along the frontage of Glassons.

595. Ms Jones told us that such minor reduction in sunlight access would remain for about a week.⁴⁸⁸ The modelling also disclosed the effect on sunlight access at the same time under a 7m high recession plane was significant. In Ms Jones' view, that was unacceptable, and not justified by the small increase in building height.⁴⁸⁹
596. For all of the above reasons and those provided with the Section 32 Evaluation Report, Ms Jones was of the opinion the proposed heights for Precinct 2 as amended and clarified as earlier described,⁴⁹⁰ were considered to be the most appropriate way of enabling development within Precinct 2 that would achieve the objectives of the PDP.
597. We accept the reasons supporting the Precinct 2 heights advanced by Ms Jones and we accept and adopt the outcomes of Mr Church's modelling. We have carried through these recommendations into our Appendix 1.
598. Turning to recession lines under notified Rule 12.5.10 d, a breach of this rule within Precinct 2 was a non-complying activity. After reviewing the evidence of Mr Williams⁴⁹¹ and Mr Farrell⁴⁹², Ms Jones accepted this recession rule was more appropriately relocated to notified Rule 12.5.9. She agreed that the breach of the rule was more appropriately a restricted discretionary activity subject to the matters of discretion provided for in Rule 12.5.9.⁴⁹³ We agree for the reasons she advanced and recommend adoption. The rule has been re numbered as Rule 12.5.8.3.

Precinct 3

599. Notified Precinct 3 covered the land directly abutting the QTCWSZ, extending from Poole Street to and including Steamer Wharf, as well as a recently developed block bound by Marine Parade, Church, Earl, and Camp Streets. This precinct allowed the lowest absolute height in the QTC by providing for a maximum height of 8m, above which was non-complying.
600. Ms Jones noted two submitters⁴⁹⁴ supported Rule 12.5.10, including removal of the ODP parapet and recession plane controls. One submitter⁴⁹⁵ sought the operative height rules for the QTC be reinstated. Another submitter⁴⁹⁶ supported the removal of the ODP parapet and recession plane controls that would otherwise be applicable to the Town Pier site and to the Eichardts site.
601. In terms of heights, for the reasons advanced by Ms Jones, we recommend a height of 8m for Precinct 3, above which it would be non-complying.

⁴⁸⁸ V Jones, Section 42A Report at [10.56].

⁴⁸⁹ Ibid.

⁴⁹⁰ 12m permitted, 12m-14m restricted discretionary and above 14m non-complying.

⁴⁹¹ Supporting Submissions 606 and 616

⁴⁹² Supporting Submission 308

⁴⁹³ V Jones, Summary of Evidence at [6(b)]

⁴⁹⁴ Submissions 606 and 609 (opposed by FS1063)

⁴⁹⁵ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁴⁹⁶ Submission 609, opposed by FS1063

602. The other issue that arose was a point of clarification around the boundaries of Precinct 3.
603. QLDC⁴⁹⁷ requested that Precinct 3 be extended to include those areas to the immediate north which are currently either included in Precinct 5 or not included within any precinct. That is, the rear parts of the Marine Parade site at the corner of Marine Parade and Church Street which have no precinct assigned to them.
604. Skyline Investments Limited and O’Connells Pavilion Limited⁴⁹⁸ sought that the same area be included within Precinct 4.
605. These sites were more particularly shown on three figures within Ms Jones’ Section 42A Report⁴⁹⁹. What was clear was that realigning the Precinct 3 boundary to include the two areas referred to above would correspond with the ODP boundary and with the physical buildings and cadastral boundaries. We consider it impractical to split these existing sites into different height precincts.
606. We therefore agree with Ms Jones’ recommendation that the Height Precinct Map be amended so as to include those sites within Height Precinct 3. We have included this site within Precinct 3 within Appendix 1 and recommend this inclusion be adopted.
607. Turning to recession and parapet rules, as notified (Rule 12.5.10.2) this precinct did not have such sub-rules. Relying on Ms Gillies⁵⁰⁰ and the scope provided by Mr Boyle’s submission⁵⁰¹, Ms Jones recommended reinstating the ODP rule specifying that a parapet be between 7.5 and 8.5 m in height and able to protrude through the maximum height plane.⁵⁰² This was because a recession plane commencing just 0.5 m below the maximum allowable height would be ineffective at mitigating shading effects or influencing design in any positive way. We agree and recommend this change to the notified rule be adopted.
608. For the reasons set out in Ms Gilles’ evidence and Ms Jones’ Section 42A Report⁵⁰³, we recommend this amendment be adopted. We have included it re-numbered Rule 12.5.9.3 set out below at the end of our discussion on height.

Precinct 4

609. Notified Precinct 4 included the land to the north of Earnslaw Park on the northern side of Beach Street, the Novotel Hotel site, the land on the north side of Camp Street and east of and including the Post Office, most of the western side of Church Street, and most of the eastern side of Upper Beach Street.
610. The ODP height rule allowed 12 m building heights with a 10m high recession plane. Ms Jones explained these areas had either been recently redeveloped or the shading effects of not imposing a recession plane were not considered acceptable.⁵⁰⁴

⁴⁹⁷ Submission 383

⁴⁹⁸ Submission 606

⁴⁹⁹ V Jones, Section 42A Report at p 39.

⁵⁰⁰ J Gillies, EIC at [7.2].

⁵⁰¹ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁵⁰² V Jones, Section 42A Report at [10.63].

⁵⁰³ Ibid.

⁵⁰⁴ Ibid at [10.66].

611. Notified Rule 12.5.10.5 carried forward the 12m height and the recession plane requirement in clause a.
612. Skyline Investments Limited and O’Connells Pavilion Limited⁵⁰⁵ sought the removal of the recession plane controls in respect of the O’Connell Street site Trojan Holdings Limited and Beach Street Holdings Limited⁵⁰⁶ supported the removal of the ODP parapet control from Stratton House.
613. Mr Boyle⁵⁰⁷, as earlier noted, sought a return to the ODP rules zone wide.
614. Ms Jones noted that both Ms Gillies⁵⁰⁸ and Mr Church⁵⁰⁹, favoured replacing Precinct 4 as applied to the majority of the north side of Church Street (the premises extending from Nomads to the Night and Day), and to the majority of the south side of upper Beach Street, with Precinct 5.⁵¹⁰ Ms Jones explained that the effect of this was that a 45° recession plane commencing at 7.5 m above the street boundary would be applied to these sites rather than the recession plane commencing at 10 m as in notified Rule 12.5.10.5 a.
615. We agree with that reasoning and we recommend a height limit of 12 m for Precinct 4 with retention of the recession line as per notified rule 12.5.10.5 a. We further recommend that those sites identified above be placed within Precinct 5.
616. Turning to recession lines, under notified Rule 12.5.10.5 a, a breach of this rule within Precinct 4 was a non-complying activity. After reviewing the evidence of Mr Williams⁵¹¹ and Mr Farrell⁵¹², Ms Jones accepted this recession rule was more appropriately relocated to notified Rule 12.5.9. Also, she agreed that the breach of the rule was more appropriately a restricted discretionary activity subject to the matters of discretion provided for in Rule 12.5.9. We agree for the reasons she advanced and recommend adoption. The rule has been renumbered as Rule 12.5.8.4.

Precinct 5

617. Notified Precinct 5 included the land either side of The Mall on Lower Ballarat Street and that area on the north eastern side of Rees Street between The Mall and Beach Street.
618. As notified, Rule 12.5.10.5 enabled buildings up to 12 m and a 7.5 m recession plane was imposed, reflecting the fact this area was at the core of the Special Character Area and within a heritage precinct, and acknowledging the narrowness of the Mall.
619. Notified Rule 12.5.10 applying to this area was unchanged from the ODP. The Rule attracted no submissions. Accordingly we recommend the notified Rule 12.5.10.5 be adopted for Precinct 5, renumbered as Rule 12.5.9.5.
620. Turning to recession lines under notified rule 12.5.10.5 b, a breach of this rule within Precinct 5 was a non-complying activity. Consistent with her approach to rules as applied to the

⁵⁰⁵ Submission 606

⁵⁰⁶ Submission 616

⁵⁰⁷ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁵⁰⁸ J Gillies, EIC at [8.1 to 8.6].

⁵⁰⁹ T Church, EIC at [18.1 to 18.7].

⁵¹⁰ V Jones, Section 42A Report at [10.69].

⁵¹¹ On behalf of Submitters 606 and 616

⁵¹² On behalf of Submitter 308

precincts previously discussed, Ms Jones accepted this recession rule was more appropriately relocated to, as it then was, notified Rule 12.5.9, as she considered that the breach of the rule would be more appropriately dealt with as a restricted discretionary activity.⁵¹³ We agree for the reasons she advanced and recommend adoption. The rule has been re-numbered as Rule 12.5.8.5.

Precinct 6

621. Notified Precinct 6 included the triangular parcel of land bound by Duke, Man, Brecon and Shotover Streets. Notified Rule 12.5.10 applied a height limit of 12m, subject to horizontal and recession plane conditions.
622. This represented no change from the ODP and did not attract any submissions.
623. Accordingly we recommend the notified Rule 12.5.10.5 applying to Precinct 6 be adopted as renumbered Rule 12.5.9.5 a.

Precinct 7 and the surrounding Precinct 1 land within the Man Street Block

The Plans and the Precincts

624. Notified Precinct 7 included the majority of the land bound by Man, Brecon, Hay, and Shotover Streets (the Man Street Block) and notified Rule 12.5.10.4 applied a range of site specific height rules to this block. The maximum height limit proposed was 11 m above 327.1 masl, except that the two view shafts identified on the Height Precinct Map imposed a limit of 4 m above 321.7 masl.
625. No recession rules were proposed for Precinct 7.
626. This precinct would apply to the Man Street car park and all of the land in the Man Street Block fronting Shotover Street. The existing Man Street car park we generally refer to as the northern area, and that area fronting Shotover Street we refer to as the southern area.
627. Under the ODP the permitted height provided was up to 8 m above ground level and up to the height allowed on any adjacent sites. Sites below the Man Street car park fronting Shotover Street could be 1.5 m above the Man Street car park. The outcome was a height of 9.5 m. Thereafter, exceedance was non-complying.
628. Under the ODP, on the sites either side of Precinct 7 (fronting Hay and Brecon Streets), buildings up to 8 m were permitted and up to the maximum height permitted on any adjacent site and non-complying thereafter. Sites on the Shotover Street frontage⁵¹⁴ were permitted to 12 m and no more than 1.5 m above Man Street and non-complying thereafter. On other sites, height was permitted to 12 m and no more than 4 m above the level of Man Street and non-complying thereafter.
629. Within the Man Street Block there were, as well, two separate areas of Precinct 1, one to the east and one to the west. To help orientate, 10 Man Street, 10 and 14 Brecon Street and the Language School were located within Precinct 1 at the eastern end of Precinct 7, adjacent the Brecon Street steps. 30 Man Street was within the other area of Precinct 1 at the western end.
630. As notified, Precinct 1, applying notified Rules 12.5.9 and 12.5.10, provided for permitted height of up to 12 m, restricted discretionary between 12m and 14m, and non-complying

⁵¹³ V Jones, Summary of Evidence at [6(b)].

⁵¹⁴ Secs 23-26 The Lofts and Hamilton Extension

thereafter. Horizontal plane requirements were not imposed in Precinct 1 as it applied to the Man Street Block.

The Man Street Block and Issues

631. The Man Street Block slopes downhill from Man Street to Shotover Street. It is understood the slope is not uniform over the whole block. The properties in the block are in different ownership.
632. The issues, as we see them in relation to this area, revolve around determining what the appropriate building heights are for the various parts of the block, and how those heights interrelate to each other and height levels beyond the block.
633. First, there is the northern part of the block, the area above the existing Man Street car park, which includes the two view shafts. The issues for this part of the block include determining height levels that are appropriate given the Man Street streetscape and the need to ensure views via the view shafts are appropriate.
634. The two Precinct 1 areas on the western and eastern end of the Man Street Block had their own separate issues, though both areas step down the slope from Man Street.
635. On the eastern end, or the Language School site, the issues related to what was the appropriate height levels given the sloping nature of the site, the sites' relationship with the adjacent Brecon Street Steps and the adjoining Sofitel Hotel site. The heights selected also needed to relate well to the heights for the balance of the block.
636. For the western end, 30 Man Street, height relative to adjoining surrounding buildings and their height was the issue. Again linkage back to the balance of the block was important.
637. On the remaining part of the block, the southern side, being the area fronting Shotover Street, the issues were: height relative to building heights on the Man Street car park; effect of height on shading Shotover Street; and the impact of differing natural ground levels on how to determine appropriate heights.
638. The first issue we deal with is, we think, a relatively minor one. QLDC⁵¹⁵ requested that the topographical error in notified rule 12.5.10.4 be amended such that the reference to 321.7 masl is changed to 327.1 masl. While this was opposed, we agree with Ms Jones that this was an error which needs correction.⁵¹⁶ Accordingly we recommend accepting that submission.

Submissions on the PDP

639. Dealing with height limits (notified Rule 12.5.10.4) for Precinct 7, Mr Boyle⁵¹⁷ requested that the maximum building heights be no greater than in the ODP and any other related, consequential or alternate relief.
640. In relation to the view shafts above the Man Street car park, Man Street Properties Limited ("MSP")⁵¹⁸ supported the notified height for Precinct 7 at 11 m but requested the view shafts on the site be confirmed or moved so that the Western most view shaft was repositioned to correspond with section 26 Block IX Town of Queenstown.

⁵¹⁵ Submission 383, opposed by FS1274

⁵¹⁶ V Jones, Section 42A Report, Appendix 1 at p12-19.

⁵¹⁷ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁵¹⁸ Submission 398, opposed by FS1274

641. In relation to the two Precinct 1 sites, MSP sought that those sites also be subject to the rules which imposed a maximum height based on specified reduced levels or RLs rather than simply allowing 12 m above ground level.
642. For 30 Man Street, at the western end within Precinct 1, MSP sought height controls alternative to those notified.
643. On the eastern end of Precinct 7, within the Language School site, Maximum Mojo Holdings Limited⁵¹⁹ sought that the building height limit for that site (10 Man Street) be the same as the height limit for Precinct 7.

Ms Jones' Section 42A Report

644. Ms Jones advised she relied on the submission of Mr Cowie⁵²⁰ to provide scope to recommend the amended heights, which may be higher than those achievable under the ODP or the PDP on some parts of the Man Street Block.⁵²¹ She also relied on the NZIA submission⁵²² to provide extra height in some areas of the Man Street car park site in lieu of lowering it on the view shafts and other parts so they could serve as open space and potentially as linkages through the site.⁵²³ We note that we return to scope later.
645. Mr Cowie⁵²⁴ sought that all areas should have significantly higher property heights, especially towards the centre of Queenstown, and far greater density with buildings of 4 to 5 storeys as the norm with hotels being higher.
646. NZIA⁵²⁵ sought relief under the zone wide height rules and suggested that there could be incentives within the rules such as an additional height in exchange for linkages offered in desired areas.
647. Ms Jones pointed out⁵²⁶, and we agree with her, that enabling buildings on the Man Street Block to extend up to heights of 14 m above original ground level, including on relatively elevated rear parts of their sites, without corresponding horizontal plane rules, would result in adverse effects on views, visual amenity, mass and bulk. Doing so would also impact on the overall quality of the resultant architectural and urban design outcomes particularly in relation to the Shotover Street frontage.
648. To address the site issues identified above, Ms Jones requested Mr Church to assess a redraft of the notified Rule 12.5.10.4 using modelled outcomes to assist in understanding the effects of those drafted rules on the matters referred to in the immediate preceding paragraphs.⁵²⁷ The modelled outcome of these rules was detailed in Appendix A of Mr Church's evidence.

⁵¹⁹ Submission 548, supported/opposed by FS1117
⁵²⁰ Submission 20
⁵²¹ V Jones, Section 42A Report at [10.82].
⁵²² Submission 238
⁵²³ V Jones, Section 42A Report at [10.82].
⁵²⁴ Submission 20.
⁵²⁵ Submission 238
⁵²⁶ V Jones, Section 42A Report at [10.83].
⁵²⁷ T Church, EiC at [12.8]

649. In Ms Jones' view, while the redrafts were worded differently to those suggested by MSP⁵²⁸, the outcome was not dissimilar to the relief sought, and in Ms Jones' opinion, was the appropriate way of addressing the submitter's key issues as well as achieving the objectives of the PDP.⁵²⁹
650. Ms Jones⁵³⁰ explained the outcome of the different height rules as they applied to labelled areas of Precinct 7 (Areas A, B, C and D) and Precinct 1. Ms Jones included a plan illustrating these areas in her Section 42A Report.⁵³¹ She recommended the plan set out in her Section 42A Report be included within Rule 12.5.10 so as to aid clarity.⁵³² We agree that showing the height areas would aid understanding the Rule.
651. For Precinct 7 Area A, being east of the central view shaft labelled D, buildings could extend to 11m above the known height of the concrete slab, in Area B to the west of the central view shaft labelled D, buildings could be 14m above the concrete slab. Ms Jones recommended Area D, the view shaft, be moved further west as sought by MSP for the reasons set out in that submission. We discuss this point further below. Ms Jones recommended that Area C, which is the eastern view shaft, have no buildings within it. For, Area D, which is the central view shaft, she recommended a maximum 3m building height.
652. This outcome, she said, would provide for two discrete building forms to be constructed of varying levels separated by view shafts/open plazas of approximately 12 m and 16 m width on this northern part of the site.⁵³³
653. In Ms Jones' opinion, this outcome would prevent a long horizontal built form stretching across this highly visible site and enable an extra floor of development in the western block⁵³⁴. This would result, she said, in more consistency with surrounding properties while still providing for three floors with uninterrupted views to the south.⁵³⁵ Also, it would provide for a better streetscape along Man Street, with the buildings on the eastern block extending between approximately 7.5 m and 11 m above street level.
654. By comparison, Ms Jones pointed out that the notified PDP rules would result in the building at the western end of the site protruding between 4.5 m and 9 m above the street, which she considered would appear something of an anomaly.⁵³⁶
655. We acknowledge that evidence⁵³⁷ promoted a different approach, proposing to remove the view shafts and, instead, promoting a comprehensive development plan rule. This evidence raised scope issues which we address subsequently. We also note the issue of the view shafts was canvassed fully in Ms Jones' Reply Statement after consideration of the submitter evidence. We will return to the matter of the view shafts subsequently.

528 Submission 398

529 V Jones, Section 42A Report at [10.83].

530 Ibid at [10.86].

531 Ibid at p43.

532 Ibid at [10.84].

533 Ibid at [10.86].

534 Ibid at [10.86(b)].

535 Ibid.

536 V Jones, Section 42A Report at [10.86(b)].

537 J Edmonds, EIC.

656. As to a height within the balance area of Precinct 7, being the southern area fronting Shotover Street, Ms Jones recommended adding a new rule and a height map which effectively was a redraft of notified Rule 12.5.10.4.⁵³⁸ She labelled these southern areas of the site fronting Shotover Street as Area E and Area F.
657. The redraft would enable buildings to extend to 12 m above (rolling) ground level. Also, it would require that within Area E, they be no more than 17 m above the level of Shotover Street adjacent to the respective site. In addition, buildings in Area F would be no more than 14 m above the level of Shotover Street adjacent to the respective site. Finally, the redraft would require buildings to comply with a 45° recession plane commencing at 10 m, which is a similar control to that within Precinct 4. She also recommended Precinct 7 be slightly expanded. She set out in detail in her report the beneficial outcomes of this redraft as she saw them⁵³⁹.
658. This recommendation was challenged in submitter evidence and subsequently addressed by Ms Jones in two memoranda we received dated 8 and 18 November 2016 and in her Reply Statement. We address this matter further below.
659. Finally, in terms of the remaining sites to the east and west of the Man Street car park, Ms Jones' recommendation⁵⁴⁰ was to retain them within Precinct 1, enabling buildings to be built to 12 m or potentially 14 m in height, as a restricted discretionary activity.
660. Ms Jones acknowledged these were higher than the heights allowed on the car park site. She did not consider those heights would be significantly inconsistent with the carpark heights or those enabled on the opposite side of Man Street under the ODP as amended by Plan Change 50.⁵⁴¹
661. Ms Jones undertook a Section 32AA assessment of her recommended redraft to notified Rule 12.5.10, which we have carefully considered. The southern part of the site, fronting Shotover Street, was also the subject of challenge and submitter evidence. The issues were the appropriate maximum height level allowed in front of the Man Street car park site, including the horizontal plane level, and the use of the district wide rolling plane height. Finally, whether or not there should be a discretionary height allowance between 12 m and 14 m as per Precinct 1.

Changes in the Officer Recommendations

662. We observe here that as the hearing advanced, Ms Jones and Mr Church re-evaluated what they considered to be the appropriate rule response to this challenging site. While, within the Section 42A Report and expert evidence presented at the commencement of the hearings, we received recommendations as to the rules, these recommendations were altered and modified as further modelling was undertaken as a consequence of some oversights in the original modelling. Also some mapping errors were addressed.
663. Before touching on the relevant submitter evidence we record two memoranda were issued by the Council. The first, which we earlier referred to, was dated 8 November 2016. The purpose of this memorandum was to provide the Panel and submitters with updated versions of the height map that replaced those provided in the recommended Chapter 12 in Appendix

⁵³⁸ V Jones, Section 42A Report at [10.87].

⁵³⁹ Ibid at [10.87(a)-(g)].

⁵⁴⁰ Ibid at [10.88].

⁵⁴¹ V Jones, Section 42A Report at [10.88]

1 of the Section 42A Report. This version of the height precinct map showed Precinct 7 as extending down to the southern part of the site, to include the majority of the Man/Hay/Shotover/Brecon Street block within Precinct 7.

664. The second memoranda was dated 18 November 2016 and this provided us with:
- a. updated versions of Figures 2, 11 and 20 in Appendix A to the statement of evidence of Mr Church; and
 - b. updated recommendations to the Queenstown Town Centre chapter in Appendix 1 of the Section 42A Report for Chapter 12.
665. This information was provided prior to the hearing to “allow submitters an opportunity to consider the updated figures and recommendations in advance of the hearing”.⁵⁴²
666. This memorandum made it clear that Ms Jones supported Mr Church’s updated Figure 20⁵⁴³ and the updated version of re-drafted Rule 12.5.10.4 as included in Appendix 2 to that memorandum. It was explained to us that, when using the Council’s shading model to undertake further assessments, both Ms Jones and Mr Church became aware that, with respect to Precinct 7, the model did not accurately represent all of the recommended rules.⁵⁴⁴
667. In particular, the original Figure 20 did not accurately reflect the fact that redraft rules 12.5.10.4 (e) and 12.5.10.4 (f) required the buildings to be no more than 12 m above ground level. In the case of areas E and F, that meant 12 m was a rolling height plane relative to the sloping ground level rather than a flat horizontal plane as was originally modelled.⁵⁴⁵ This was rectified in Mr Church’s updated Figure 20.
668. Further changes resulting from a review of the model resulted in Ms Jones updating her recommendations. In particular, Ms Jones considered it unnecessary from a shading perspective, or for any other reason, to impose a recession plane height on Precinct 7, particularly for the southern part.⁵⁴⁶ It was apparent on review of the model that removing the recession plane rule did not result in any greater shading of the opposite side of Shotover Street than resulted with the recession plane. This effectively reversed her recommendation contained within the Section 42A Report⁵⁴⁷.
669. Consequently, Ms Jones recommended further amending Rule 12.5.10.4 in order to enable a 12 m building height at the Shotover Street boundary. This provided for the same building height at the street facade as would be enabled under notified Rule 12.5.9, being 12m as permitted, 12m-14m as restricted discretionary, and above 14m as non-complying. It was pointed out to us⁵⁴⁸ that no submitter specifically sought the reintroduction of the recession plane rule but rather the general submission by Mr Boyle⁵⁴⁹ was being relied on to recommend this change.
670. Finally, upon further investigation of the reduced levels (RLs) along the Shotover Street frontage of Precinct 7, Ms Jones advised that the levels vary across the block to a greater

⁵⁴² Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [2]

⁵⁴³ Figure 20 illustrates an indicative height envelope of the Man Street block.

⁵⁴⁴ Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [6]

⁵⁴⁵ Ibid.

⁵⁴⁶ Ibid at [7a], V Jones, Reply Statement at [6.10].

⁵⁴⁷ V Jones, Section 42A Report at [10.87].

⁵⁴⁸ Ibid at [10.54].

⁵⁴⁹ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

extent than first thought.⁵⁵⁰ The result was that the built outcome enabled by redraft rules 12.5.10.4 (e) and 12.5.10.4 (f) would be reasonably uncertain.

671. Ms Jones recommended that those rules be further amended so as to ensure that the buildings would not protrude above the car park level slab in Area F, and protrude no more than 3 m in area E.⁵⁵¹
672. The diagrams attached to the 18 November 2016 memoranda provided us with a model view of the Section 42A Report recommended PDP height precincts. This was identified as Figure 2. Figure 11 provided us with a photograph showing the existing circumstances for Shotover Street in terms of street shading. That photograph was accompanied by a diagram which showed the ODP 12 m/45° height recession plane modelled at 11 August 2017 at 12:30 PM, compared with the PDP recommended 12 m height again modelled at the same time. A comparison of the two modelled results showed very little difference.
673. Mr Church's updated Figure 20 provided us with a model of the recommended Precinct 7 height controls from both a south east view and a north west view. Figure 21 related to the Man Street view shafts. The first figure was a photograph of the existing Man Street car park alongside which were human figures illustrating the recommended eastern view shaft and recommended western view shaft. We found these figures to be very helpful in both understanding perspective and evaluating the options.
674. Ms Jones confirmed at the hearing on 25 November her support for the amendments conveyed to us in both memoranda.⁵⁵²

Submitter Evidence

675. Mr Ben Farrell, a planning consultant, appeared for Well Smart Investments Limited⁵⁵³. The submitter has property interests in numbers 51 to 67 Shotover Street, within Area E of the diagram utilised by Ms Jones for notified height standard 12.5.10.4.
676. His evidence recorded many areas of agreement with Ms Jones' Section 42A Report.⁵⁵⁴
677. He disagreed with her recommendations as to height, opining that the permitted height standard should increase from 12 m to 15m, that the activity status for breaching the 10 m +45° height recession plane standard should change from non-complying to discretionary and the proposed 17 m height restriction above Shotover Street should be deleted. Mr Farrell outlined his rationale for this opinion as:⁵⁵⁵
- a. The Sofitel Hotel, Crown Plaza Hotel and Hamilton Building all exceed 17m above the height of Shotover Street;
 - b. Sites within area E, in his view, could absorb additional building height without creating significant adverse effects;
 - c. There should be a level of certainty as to the height of buildings that could be constructed without the need for public notification; and
 - d. There were no special or unique characteristics associated with the frontage of Shotover Street to justify discouraging building heights above 12m.

⁵⁵⁰ Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [7c].

⁵⁵¹ Ibid.

⁵⁵² V Jones, Summary of Evidence at [4].

⁵⁵³ Submission 308

⁵⁵⁴ Mr Farrell, EiC at [7].

⁵⁵⁵ ibid at [11].

678. Mr Williams, providing planning evidence for MSP⁵⁵⁶, agreed that retaining a specific set of height controls for the Man Street Block was the most efficient and effective way to provide certainty to landowners and the building form outcomes given the challenges around understanding of the original ground levels for this block.⁵⁵⁷

679. However, he considered that additional height on the southern side of Man Street over and above that recommended by Ms Jones should be provided.⁵⁵⁸ He was also of the view that because of the interrelationship between development on Man Street and properties fronting Shotover Street, they should be considered together given the influence the development on Shotover Street would have on the building form outcomes and views from development on Man Street.⁵⁵⁹

Ms Jones Reply - Southern Part of Man Street Block/Areas E and F

680. We do note Ms Jones was clearly alive to the need to address the interrelationship between the two parts of the site but she was of the view, as expressed in her Reply Statement, which we agree with, that the matter of views from Man Street should not trump good urban design outcomes for the entire site particularly the Shotover Street frontage.⁵⁶⁰

681. In her Reply⁵⁶¹, Ms Jones responded to Mr Farrell's evidence and questions, by recommending that Areas E and F (as shown in notified Figure 2) be removed from Precinct 7 and replaced with Precinct 1, and consequential changes be made to Rules 12.5.10.4 and 12.5.10.1. These consequential changes included adding a rule to 12.5.10.1 that no building exceed a horizontal plane at 271.1/ 330.1 masl. The recommended rules in Appendix 1 to her Reply Statement would have the effect of providing the restricted discretionary activity status to buildings between 12 and 14m above ground level as in the rest of Precinct 1, while ensuring that anything above either 14m above ground level or 271/ 330 masl respectively would be non-complying. She considered this to be more efficient and effective than redraft Rules 12.5.10.4(e) and 12.5.10.4(f) that applied to this area in the version attached to the Section 42A Report.

682. Ms Jones explained that including the 330 masl building height, as opposed by MSP⁵⁶², would be very similar to that which existed in the ODP and that which was determined through a mediated agreement of all affected parties during the resolution of appeals on submissions to the ODP.⁵⁶³

683. Ms Jones also pointed out that Mr Farrell agreed it was not unreasonably difficult to determine ground level and, from that, the permitted height for Areas E and F.⁵⁶⁴ She also observed that the rule she promoted resulted in an outcome that was relatively consistent with the approach taken for the Ballarat Street car park site, namely notified Rule 12.5.10.1.⁵⁶⁵

⁵⁵⁶ Submission 398

⁵⁵⁷ T Williams, EIC at [17].

⁵⁵⁸ Ibid at [19].

⁵⁵⁹ Ibid at [18].

⁵⁶⁰ V Jones, Reply Statement at [6.12a].

⁵⁶¹ V Jones, Reply Statement at [6.10] page 11.

⁵⁶² Submitter 398

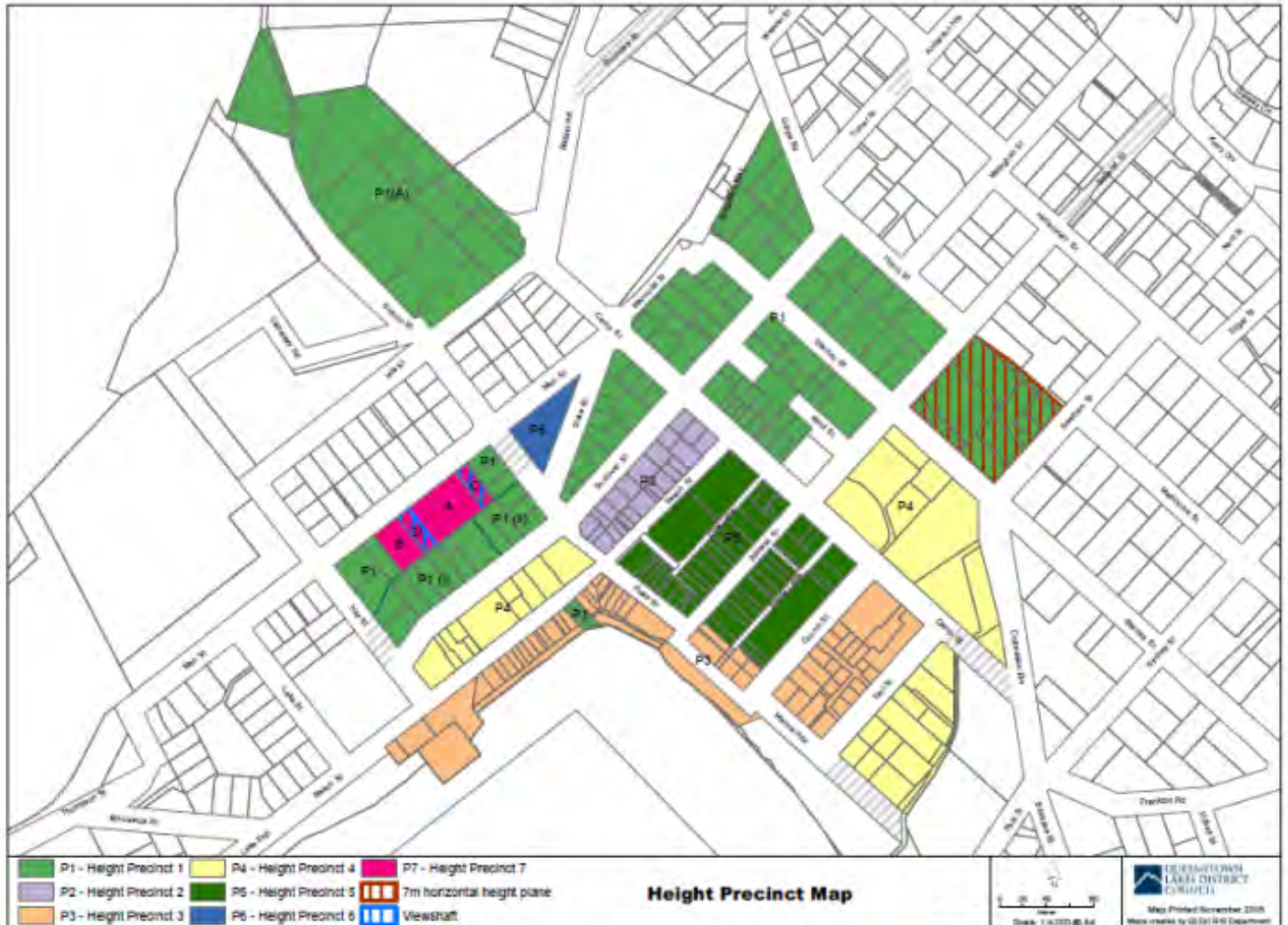
⁵⁶³ V Jones, Reply Statement at [6.12a].

⁵⁶⁴ Ibid at [6.12b].

⁵⁶⁵ Ibid at [6.12c].

Reply Figure 2

684. Included in Ms Jones' Reply Statement was her final recommended Figure 2 (Reply Figure 2). We include this below in order to aid in understanding the recommendations that follow. Reply Figure 2 is also included in our recommended Chapter 12 set out in Appendix 1.



Recommendation on Southern Parts of the Man Street Block/Areas E and F

685. Having carefully considered the evidence of Mr Farrell, the opinions of Mr Church, and in particular Mr Church's amended Figure 20⁵⁶⁶, and the reasons advanced by Ms Jones, particularly within her Reply evidence to support her amendments to the rules relating to areas E and F, we agree with her reasoning and accept the opinions of Mr Church.
686. We have paid careful attention to Ms Jones' Section 32AA evaluation which set out the costs and benefits of adopting her recommended amendments in relation to adopting Precinct 1 rules with sub-set precincts P (i) and P (ii) providing for horizontal plane requirements. These requirements were included in re-drafted rule 12.5.10.1 d. We also agree with her assessment under Section 32AA.
687. Our recommendation relating to the Southern Parts of the Man Street Block/ Areas E and F is that the Council accept the recommended rules as redrafted by Ms Jones, including removing areas E and F from Height Precinct 7 and placing them within Precinct 1 with a permitted

⁵⁶⁶ Included in Appendix 2 of the Council's Memorandum dated 18 November 2016.

building height at 12m, 12m -14m being restricted discretionary and above 14m being non-complying.

688. We also recommend the inclusion of horizontal plane requirements, with breach of them being a non-complying activity.

Ms Jones' Reply Man Street Car Park Portion

689. As to building heights for the Man Street car park, after considering Mr Todd's legal submissions and Mr Williams's evidence, Ms Jones remained of the view that her recommendations in relation to height on the Man Street car park should remain as recommended in her Section 42A Report⁵⁶⁷.

690. Ms Jones' Section 32AA report reflected this position. Her recommended amendments were, we considered, non-substantive as they updated the reference within the rule to Reply Figure 2. The remaining recommendation was to include the RL reference. We recommend both amendments be adopted.

691. We agree with Ms Jones' reasoning for her recommended changes⁵⁶⁸ and adopt it as supporting our recommendation that the wording of renumbered Rule 12.5.9.4, relating to the height of the Man Street carpark in Precinct 7, be as we have as set out in Appendix 1.

Ms Jones Reply on the View Shafts

692. The remaining issue with the Man Street car park related to the view shafts. MSP⁵⁶⁹ supported the notified height rules and sought that the position of the view shafts and figure to be confirmed to ensure the western view shaft was located to align with Section 26 Block IX Town of Queenstown. However, the legal submissions and evidence presented at the hearing promoted a different approach, seeking to remove the view shafts and support a comprehensive development rule.

693. Ms Scott⁵⁷⁰ submitted that MSP's submission did not seek removal of the second (Western) view shaft and accordingly there was no scope to do so. Ms Scott also pointed out that there were no other submitters who had sought removal of the second view shaft. We agree. Therefore, both Mr Todd's legal submissions and the evidence presented by Mr Williams in regard to the second view shaft was beyond scope and requires no consideration by us.

694. We record that Ms Jones, after considering the legal submissions from Mr Todd and the evidence of Mr Williams, advised us that her opinion on the view shafts remained unchanged. Accordingly, she maintained, it was appropriate to show both the view shafts on Reply Figure 2, as well as applying the zone wide coverage and comprehensive development rule to the site.⁵⁷¹

695. Within her Reply Statement, Ms Jones also identified the possible consequences if the key western view shaft were not identified on a planning map to compliment Rule 12.5.1 and to provide greater certainty.⁵⁷²

⁵⁶⁷ At paragraph 10.86.

⁵⁶⁸ *ibid*

⁵⁶⁹ Submission 398.

⁵⁷⁰ Submissions in Reply of Ms Scott at [5.6].

⁵⁷¹ V Jones, Reply Statement at [6.14].

⁵⁷² *Ibid* at [6.15].

Our Recommendation on View Shafts

696. We agree with Ms Jones and accept that, on this relatively large site, both view shafts serve numerous purposes and are a very important determinant of the eventual built form, effectively breaking up the site into discrete component parts, which we consider advantageous.
697. For these reasons, and the reasons Ms Jones advanced, including her Section 32AA evaluation, and for the reasons advanced by Mr Church in his evidence⁵⁷³, we recommend the adoption of Rule 12.5.9.4 as set out in Appendix 1.
698. The final issue with the view shafts related to queries we raised during the hearing about whether the view shafts should be movable or their shape able to be altered. Ms Jones was of the view that she did not consider this to be necessary as the eastern view shaft was set, and she reminded us that there were limited alternate locations for the western view shaft. Overall, she preferred fixing their position on Reply Figure 2.
699. Ms Jones did, however, reconsider the recommended location of the western view shaft (Area D), which she had moved to the location specifically sought in MSP's submission⁵⁷⁴. After taking into account Mr Williams's evidence, she recommended⁵⁷⁵ that the western view shaft be repositioned approximately 13 m to the west to avoid the lean to roof form that Mr Williams referred to in paragraph 11 of his evidence summary.
700. The consequence of this was that recommended Area B was reduced in size and, due to the rising level of Man Street, the height enabled in the view shaft could be raised by 0.5 m without impeding on views from the street. This has the added benefit of enabling more design flexibility for the first floor beneath.
701. We agree with the evidence of Mr Williams and Ms Jones on this point and accept Ms Jones' reasoning for the change in the location of the western view shaft. We recommend adoption of this change as shown on Reply Figure 2.

The Language School

702. The last issue to address is the Language School building heights. The first matter to address is one of jurisdiction. Mr Goldsmith presented legal submissions on behalf of John Thompson and MacFarlane Investments Ltd⁵⁷⁶ (John Thompson). As a general matter, he expressed concern that the height rules in his view repeated earlier mistakes and that they referred to a range of differing measurement criteria.⁵⁷⁷
703. Mr Goldsmith contended that the process by which Council had identified jurisdiction to increase height limits within the Man Street block was questionable and could present a *vires* issue.⁵⁷⁸ After setting out a range of Court authorities he submitted that for submitters to be put on notice of the issues sought to be raised, a submission must sufficiently identify issues with due particularity including the relief sought.⁵⁷⁹

⁵⁷³ particularly at paragraph 12.12

⁵⁷⁴ Submission 398

⁵⁷⁵ V Jones, Reply Statement at [6.19].

⁵⁷⁶ Further Submission 1274

⁵⁷⁷ Amended Legal Submissions of Mr Goldsmith at [10].

⁵⁷⁸ Legal Submissions of Mr Goldsmith at [11].

⁵⁷⁹ Ibid at [12-15, particularly 13].

704. He noted the Council relied upon the Cowie submission⁵⁸⁰ for jurisdiction to increase heights on the Man Street Block. He identified for us that part of the Cowie submission that he considered related to a request for relief relating to height. He submitted that the relief sought by Cowie could provide jurisdiction to increase height limits anywhere in the district by an unspecified amount. He then queried whether or not the relief sought met the relevant tests within the case law he referred us to. It was his submission that it was questionable whether Mr Cowie's submission could be relied upon as fairly and reasonably putting submitters on notice of this potential change to increase height.
705. In his Reply, Ms Scott referred directly to Mr Goldsmith's legal submissions.⁵⁸¹ We here observe that Mr Goldsmith filed these submissions on behalf of the submitter before the hearing in accordance with our Procedural Minute. He then subsequently replaced them with amended submissions at the hearing on 1 December 2016. We took from this that the earlier submissions in which this jurisdictional issue was raised had been formally replaced.
706. Like Ms Scott, we have assumed the question of whether Mr Cowie's submission provides scope for increased height limits in the QTC was not being pursued given those submissions were replaced. However, Ms Scott addressed this issue of jurisdiction in her Reply.
707. Essentially, Ms Scott pointed to the fact that the legal submissions of Mr Todd for MSP disclosed that both MSP and NZIA had made further submissions to the Cowie submission on the very matter of increased height within the QTC.⁵⁸² Ms Scott submitted, and we agree with her, that the existence of further submitters to Mr Cowie submission strongly supports the proposition that the matter of increased height limits in the QTC was a reasonably foreseeable outcome of Mr Cowie's submission.⁵⁸³
708. We agree and accept Council has jurisdiction to increase in height for the Man Street Block.
709. In her reply, Ms Jones accepted some of Mr Goldsmith's suggestions such as consistent use of the term RL throughout the rules and a removal of all references to the Otago datum level in brackets.⁵⁸⁴ These amendments have been included within our recommended rules.
710. Mr John Edmonds, on behalf of John Thompson⁵⁸⁵, presented his opinion on the appropriate approaches to height limits for the Language School site in pre-lodged evidence filed before the hearing. His evidence responded to Ms Jones' Section 42A Report and the pre-circulated urban design evidence of Mr Church. His evidence related to the properties located at 10 Man Street, 14 Brecon Street and 10 Brecon Street, collectively referred to as the "*Language School*."
711. Mr Edmonds raised several issues relating to the Language School. He was concerned about the practicality of using a sloping height limit on the Language School site.⁵⁸⁶ He had concerns relating to the uncertainty of the original ground level which would be the basis of the height limit applicable to the Language School site.⁵⁸⁷ Mr Edmonds considered that there would be

⁵⁸⁰ Submission 20

⁵⁸¹ Submissions in Reply of Ms Scott at [5.1].

⁵⁸² Ibid at [5.2].

⁵⁸³ Ibid.

⁵⁸⁴ V Jones, Reply Statement at [2.3].

⁵⁸⁵ J Edmonds, EiC

⁵⁸⁶ Ibid at [10].

⁵⁸⁷ Ibid at [11].

significant urban design issues in relation to both Brecon Street and the Man Street frontage.⁵⁸⁸ Finally, he was concerned about the very real potential for conflict arising from a contested consent application.⁵⁸⁹

712. Mr Edmonds evidence set out in a proposed alternative approach for the Language School site to address the issues he had identified. He contended his proposed alternative provided a more appropriate method for implementing Objectives 12.2.2 and accorded with Policies 12.2.2.2 and 12.2.2.3.
713. Essentially his alternative approach was that the recommended maximum height limit applicable to the Language School site change from a sloping height limit above original ground level to a flat plane height limit being a specified RL or a masl level.⁵⁹⁰
714. Mr Edmonds contended adopting this approach to determining a height limit for the Language School would be more logical and rational particularly having regard to the context of having the Sofitel Hotel with its height to the north-east and the car park to the south-west.⁵⁹¹
715. Additionally Mr Edmonds requested that area P1 in redraft Rule 10.5.10.4 be changed to Area G. He also considered that an additional sub clause be added to Rule 10.5.10.4 specifying the maximum height in Area G. In his view, the height in this Area G should be determined by Rule 12.5.10.4 rather than Rule 12.5.10.1.
716. Mr Edmonds considered that his suggested approach generally aligned with the relief sought by MSP, except with regard to the RL for the carpark building.⁵⁹²
717. Mr Williams, on behalf of MSP⁵⁹³, in his pre-circulated evidence addressed the Man/Hay/Shotover/Brecon Street block controls. He addressed these controls further in his evidence summary presented at the hearing. He detailed the agreed position between submitters MSP and Mr Thompson.⁵⁹⁴ He set out his opinion supporting, but with some exceptions, the approach recommended in the Council Memorandum dated 18 November.
718. The main exceptions were the cut of plane should avoid buildings above the Man Street Car Park Podium 327.1masl.⁵⁹⁵ Also he still preferred the use of a height cut of plane and recession plane to manage the built form in relation to Shotover Street because of uncertainty around determining ground levels.⁵⁹⁶
719. Ms Jones⁵⁹⁷, with the assistance of Mr Church, assessed this evidence and the alternate proposed approaches contained within it. She noted that there were three sites which comprise the Language School site and the site appeared to be in two separate ownerships, neither of whom had submitted on the height rules in the PDP.⁵⁹⁸ The only submission on the

588 Ibid at [13].

589 Ibid at [14].

590 Ibid at [15a].

591 Ibid at [19c].

592 Ibid at [15a].

593 Submission 398

594 T Williams, Summary of Evidence at [2] and Appendix A.

595 Ibid at [6].

596 Ibid at [10].

597 V Jones, Reply Statement at [6.20 to 6.31]

598 Ibid at [6.22].

height of the Language School site she identified for us was from Maximum Mojo Holdings limited⁵⁹⁹. The relief sought in that submission was that the height on 10 Man Street be amended to be the same as on the Man Street car park site.

720. When considering Mr Williams and Mr Edmonds' evidence, Ms Jones' conclusions were that it was likely that less development would be enabled on the Language School site under Mr Williams and Mr Edmonds' suggestions, than under the PDP rules.⁶⁰⁰
721. It was her view that following Mr Williams' and Mr Edmonds' rules, the site would have significantly lesser views of the lake due to the level plane allowed over the three lots⁶⁰¹, and the site would be likely to need to be excavated below the Man Street level to achieve a well-designed two storey development along Man Street.⁶⁰²
722. Turning to considering which rules would best achieve an acceptable outcome on Man Street and the Brecon Street steps, Ms Jones was of the view that it was not a sound assumption that the PDP provisions would result in a 14m high building on the street frontage of the Language School site⁶⁰³. She noted that, in any event, Rule 12.5.9 included discretion over urban form and specifically in relation to whether the building would respond sensitively to different heights on adjacent sites and the effect on amenity of the street.⁶⁰⁴
723. In respect of the Man Street landscape, Ms Jones did not consider that, given the Language School site was a stand-alone site with view shafts either side, consistency in height with the adjacent buildings, such as the Man Street car park, when viewed from on the street, to be the most critical issue.⁶⁰⁵ Rather, she considered the rule should enable quality building design and quality relationship between the Language School site and Man Street.⁶⁰⁶
724. Ms Jones considered the 7 m height limit on Man Street proposed by Mr Williams and Mr Edmonds to be too low, particularly in the context of the development enabled on the Man Street car park block and on the opposite side of the road enabled to by Plan Change 50.⁶⁰⁷ She agreed that a high building on the Language School site would be likely to be similar in effect to the Sofitel Hotel.⁶⁰⁸ However, she considered that the western end of the hotel was something of an anomaly and should not, in her view, lead future built form along this street edge.⁶⁰⁹
725. In terms of effects on the Brecon Street steps, Ms Jones noted that the Sofitel Hotel stepped down three times from Man Street to the narrow corner with Duke Street. She referred to this as an example of the sort of built form that can be achieved through a rule that applied a rolling height plane coupled with a horizontal high plane.⁶¹⁰ In her view it was important that

⁵⁹⁹ Submission 548. This submitter owned 19 Man St and sought that height on 10 Man Street be amended to be the same as on the carpark site.

⁶⁰⁰ V Jones, Reply Statement at [6.24].

⁶⁰¹ 10 Man, 10 Brecon and 14 Brecon Streets.

⁶⁰² V Jones, Reply Statement at [6.24].

⁶⁰³ Ibid at [6.25(a)]

⁶⁰⁴ Ibid at [6.25a].

⁶⁰⁵ Ibid at [6.25b].

⁶⁰⁶ Ibid.

⁶⁰⁷ Ibid at [6.25c].

⁶⁰⁸ Ibid.

⁶⁰⁹ Ibid.

⁶¹⁰ Ibid at [6.25d].

both sides of the Brecon Street steps bear some relationship to one another.⁶¹¹ Stepping the built form down the Brecon Street steps would result, she thought, in an appropriate outcome.⁶¹²

726. Ms Jones' primary concern with the rules proposed by Mr Edmonds and Mr Williams was that the allowed height above Brecon Street at the mid-block would be some 21.55 m above the street level.⁶¹³ She considered that to be too high, and that it would potentially create adverse visual dominance effects over Brecon Street.⁶¹⁴ She pointed out that such an outcome did not correspond with the step in the Sofitel Hotel built form, and provided some graphics to illustrate that point⁶¹⁵. Overall, it was Ms Jones' opinion that a consistent height plane across all three properties fronting Brecon Street as supported by Mr Edmonds and Mr Williams, would result in a building that was too low on Man Street to contribute positively to the streetscape.⁶¹⁶ Also it would be an inefficient use of 10 Man Street and would potentially be visually dominating on Brecon Street. She did not support such an approach.

727. We note that having conferred with Mr Church, Ms Jones confirmed the view that the application of Precinct 1 to the Language School site and sloping height plane rules for the site was appropriate.

728. Ms Jones did propose the option of a lower height plane over the two uppermost sites, 10 Man Street and 14 Brecon Street, to 335.1 masl, although this was not her preference.⁶¹⁷ This would provide, she said, a consistent 3 m step between each building height limit and to some extent would match the hotel on the opposite side of Brecon Street.⁶¹⁸ However, she considered 8 m would restrict the building height to two low stories which was not the most appropriate outcome.⁶¹⁹

Our Recommendations on 30 Man Street

729. Submitter evidence challenged Ms Jones' recommendation in relation to the appropriate heights for the Language School site, but as we understood the evidence, there was no challenge in relation to 30 Man Street. We agree with and adopt Ms Jones' recommendations in regard to 30 Man Street.

Our Recommendations on the Language School Site

730. Overall, having considered the various options presented to us by Mr Williams, Mr Edmonds and Ms Jones, we have concluded that applying the Precinct 1 height rules to this site and the adjoining two on Brecon Street would provide the most appropriate outcome. While the graphics included in Ms Jones' Reply Statement show the potential for a building on 10 Man Street to loom over any building on the adjoining 14 Brecon Street, we consider the stepped height regime of permitted, restricted discretionary and non-complying would enable a satisfactory urban design outcome along this portion of Brecon Street. Finally, we see no reason to limit the development potential of 10 Man Street solely to protect private views from another commercial property.

⁶¹¹ *ibid* at [6.25d].

⁶¹² *ibid*.

⁶¹³ *ibid* at [6.26].

⁶¹⁴ *ibid*.

⁶¹⁵ *ibid* at p17-18.

⁶¹⁶ *ibid* at [6.28].

⁶¹⁷ *ibid* at [6.29].

⁶¹⁸ *ibid*.

⁶¹⁹ *ibid*.

731. For these reasons, and for the reasons advanced by Ms Jones, we recommend that the relevant rule version we have set out below be adopted.

Recommended wording of rule 12.5.9 and 12.5.10

732. It is clear that height in the QTCZ is a key issue. These rules attracted many submissions and further submissions and much analysis in particular by Ms Jones and Mr Church.

733. We wish to thank Ms Jones and Mr Church for their input and analysis which enabled us to determine the rule wording which we consider achieves the objectives and policies and ultimately supports the zone purpose as set out earlier in this decision.

734. We recommend these rules be renumbered as Rule 12.58 and Rule 12.5.9, and be adopted with the wording set out in Appendix 1. This wording incorporates necessary consequential changes resulting from the revisions we have discussed above. We also recommend including as Figure 2 the Height Precinct Plan shown as Reply Figure 2 above.

7.17. Rule 12.5.11 Noise

735. As notified, this rule set out the standards for activities in the QTCZ regarding noise. In the PDP, the noise limits were increased slightly throughout the QTC (other than in the TCTZ). The noise rules included a newly identified TCEP where a higher level of noise was allowed in order to encourage noisier venues to locate in the most central part of town, where they would have the least effect on residential zones (within which acoustic insulation is not required).

736. The issues raised by submitters relating to noise focused on:

- a. the appropriateness of the noise levels particularly the more enabling limits relating to music, voices and loud speakers and if those new limits applied to the TCTZ;
- b. establishing the Town Centre Entertainment Precinct and its possible expansion;
- c. determining if the noise limits applied to commercial motorised water based craft was a further issue.

Town Centre Entertainment Precinct (TCEP)

737. Turning first to the issue of whether the TCEP should be established and, if so, expanded.

738. Various submitters⁶²⁰ opposed both the TCEP concept and its rules, requesting it be deleted and the whole of the QTC be subject to lower noise standards. Imperium Group⁶²¹ specifically requested that all consequential amendments necessary be made to remove the TCEP from the chapter.

739. The PDP introduced changes to noise limits resulting in a range of submitters⁶²² requesting that noise limits be lowered through the town centre. They requested the reinstatement of the ODP rules or the deletion of the exclusion of sound from the sources specified in notified Rules 12.5.11.3, 12.5.11.4, 12.5.11.1 and 12.5.11.2. Consequently, the second key issue was the appropriateness of the noise limits within the proposed rules.

740. Submitters opposing the proposed noise rules contended that raising the limits would increase adverse effects on residents and visitors staying in and around the town centre, users of the gardens and detract from amenity values generally.

⁶²⁰ Submissions 599, 151 and FS1318), 654 (supported by FS1043 and FS1063)

⁶²¹ Submission 151.

⁶²² Submissions 151, 503, 506, 654, 302, 474 and 217

741. Conversely a number of submitters⁶²³ either supported the proposed noise rules or requested more lenient noise limits. Primarily they sought extending the TCEP rules to a greater area of the town centre such as Steamer Wharf, the waterfront area, or in discreet cases, such as 1876 Speights Ale House, The Pig & Whistle and Brazz, and to both sides of Seale Lane. They also requested particular exemptions to the rules.
742. Reasons the submitters put forward for extending the TCEP to the above areas included the point that there were no accommodation providers in some of the locations referred to but, rather, these areas were characterised by patrons occupying outdoor areas. Submitters linked to Steamer Wharf explained the wharf was a proven hospitality destination with 11 established bars, a central management structure, a good alcohol record, and resource consents allowing open air bars to operate to 12 am with positive results. They also pointed out there were limited numbers of sensitive receivers in the vicinity and a low possibility of such activities establishing within the complex. Submitters also contended applying the TCEP to Steamers Wharf would result in consolidation of entertainment type activities resulting in minimising conflict with other users and also making enforcement and self-monitoring easier.
743. Including the Queenstown Bay waterfront, according to some submitters⁶²⁴, was essential to maintaining Queenstown's reputation as a premier destination. Those submitters also noted that Pog Mahones was a long-time business associated with this vibrant area and including it within the TCEP was considered appropriate.
744. Similarly with Searle Lane, submitters⁶²⁵ made the point that this was already a busy vibrant hospitality precinct. Including it in the TCEP would ensure its ongoing development. Submitters made the point that the central location of Searle Lane worked well to insulate noise from leaving this area.
745. Other submitters⁶²⁶ requested that the rules that apply to the TCEP, namely notified Rules 12.5.11.3 (a) and 12.5.11.4 (a), should apply throughout the whole QTCZ except the TCTSZ.
746. In considering and determining a response to these submissions, Ms Jones relied upon the expert evidence of Dr Stephen Chiles.⁶²⁷ As well as being well-qualified, Dr Chiles recorded in his evidence that he had worked extensively on acoustic issues in the district for over a decade.⁶²⁸ He told us his involvement in the district has been primarily with respect to disturbance or potential disturbance from various restaurants and bars at nearby residential and visitor accommodation.
747. Before evaluating the noise rules and submitter position, Dr Chiles made what we think is a very important context point: the town centre noise limits in the ODP are, according to Dr Chiles, more stringent than most other districts in New Zealand.⁶²⁹ They do not allow for the degree of night-time entertainment enabled by both the policies and rules in the PDP. The PDP, according to Dr Chiles, would provide more lenient noise limits for night-time

⁶²³ Submissions 714, 804 (opposed by FS1318), 774, 70, 247, 587, 589, 835, 839, 777, 71, 774, 596 (opposed by FS1318), 549 (supported by FS1134, opposed by FS1318)

⁶²⁴ Submissions 70, 71, 714 (opposed by FS1318), 774, 247, 587, 589, 835, 839, and 777.

⁶²⁵ Submissions 549, FS1134.2 (opposed by FS1318.14)

⁶²⁶ Submissions 250, 544 (supported by FS1134), 630 (opposed by FS1043 and FS1318)

⁶²⁷ V Jones, Section 42A Report at [12.19].

⁶²⁸ Dr S Chiles, EiC at [1.5].

⁶²⁹ Ibid at [2.1a].

entertainment.⁶³⁰ As we understood the evidence before us, we did not understand anybody to challenge Dr Chiles on these points.

748. Dr Chiles expressed the opinion that the PDP would be likely to compromise residential amenity in the QTC and to a lesser extent in nearby residential zones.⁶³¹ He went on to note that he was not aware of a practical alternative to avoid compromising either noisy or noise sensitive activities in the QTC.⁶³² He did express the opinion, however, that the proposed compromise of residential amenity in the town centre and nearby residential zones was reasonable and should be acceptable in these environments.
749. Dr Chiles was of the view the PDP noise limits were robust and practical. He noted that while bar and restaurant activity would be enabled to a greater extent than under the ODP, he pointed out that those activities would still need to be subject to standard noise management practices, such as limiting sound system volumes.⁶³³
750. In relation to the TCEP, Dr Chiles made the point that the purpose of the precinct was to provide for fewer restrictions on some bar and restaurant activities in an area.⁶³⁴ He said that area had been selected to minimise effects on residential zones and to avoid conflict with existing residential and visitor accommodation in the QTC, as far as practicable.⁶³⁵
751. Dr Chiles explained to us that due to the distribution of visitor accommodation throughout the QTCZ there were some effects that could not be avoided. This circumstance was aptly demonstrated by the Eichardt's Private Hotel (Eichardt's), given that its location at 2 Marine Parade was immediately adjacent to the proposed TCEP. Dr Chiles noted that the nearest parts of Eichardt's facing the TCEP were occupied by retail units on the ground floor.⁶³⁶ These units were not considered noise sensitive because of the nature of activities performed in them and, more importantly, because they were unlikely to be occupied at night.⁶³⁷
752. Dr Chiles noted the first floor hotel spaces appeared to have sound insulating glazing and in any event they were currently exposed to sound from people in the Mall at night.⁶³⁸ He observed that, based on his past experience, night-time noise from people in the Mall would often generate sound levels similar to or higher than those permitted by the PDP noise limits.⁶³⁹ Finally, he noted that because Eichardt's was not in the entertainment precinct itself, the more stringent noise limits in notified Rules 12.5.11.3 (b) and 12.5.11.4 (b) would apply to any sound within the TCEP received at Eichardt's.⁶⁴⁰
753. He also made the point that the precinct would serve as a guide for future developments in the QTC as the most appropriate location for both noisy and noise sensitive activities.⁶⁴¹ We understood this to mean that the existence of the precinct would encourage noisier activities to locate within it and it would discourage the location of noise sensitive activities.

630 Ibid.

631 Ibid.

632 Ibid.

633 Ibid at [2.1b].

634 Ibid at [2.1c].

635 Ibid.

636 Ibid at [10.2].

637 Ibid.

638 Ibid.

639 Ibid.

640 Ibid.

641 Ibid.

754. As to extending the TCEP to other areas in the QTC, Dr Chiles was clear that to do so would give rise to additional adverse effects.⁶⁴² Consequently, he did not support an extension of the TCEP. In respect of those submitters who sought deletion of the precinct, he responded that he considered the TCEP would serve a useful function that, based on his experience, would not be provided by assessing individual bars on a case by case basis as currently occurred under the ODP.⁶⁴³
755. Having particular regard to Dr Chiles' evidence, particularly the noise contours attached as Appendix C, we are satisfied that the effects on residential amenity as modelled of including Steamer Wharf and/or the Brazz precinct of bars and/or the whole of the QTC would be unacceptable in terms of noise effects.
756. Having carefully considered Dr Chiles' evidence, including his previous reports, we agree with Ms Jones that the location and extent of the proposed TCEP is the most appropriate response to the potential conflicts between bars and restaurants on one hand, and residential and visitor accommodation uses on the other, in and around the QTC. We have paid particular attention to the noise contours in Dr Chiles' evidence, comparing the three sets of noise contours in what he describes as his "*First 2014 letter*".⁶⁴⁴ We conclude that the contours provide compelling evidence that the proposed location of the TCEP is appropriate.
757. In respect of expanding the TCEP to both sides of Searle Lane, we accept, based on Dr Chiles' evidence, that this may not result in a significant increase in the noise received within the residential zone. We do, however, agree that to expand the TCEP would exacerbate noise effects on Nomads Backpackers and cause sleep disturbance to a large number of people.
758. We have considered the solution of retrofitting this backpacker's facility with noise insulation, but we do not consider the benefits of expanding the TCEP outweigh imposing costs on the backpacker's operator. In any event, the Council cannot compel noise insulation. It follows that we do not recommend extending the TCEP to include Pog Mahones Irish pub, or extending the TCEP as requested by the Good Group, to all of the QTC excluding the TCTSZ.
759. Also we do not support extending the TCEP to include the Pig and Whistle and historic courthouse buildings nor extending the precinct more broadly around the village green to Stanley Street. Having close regard to Dr Chiles' contours in the "*Second 2014 Letter*" and comparing them with scenario 2 in the "*First 2014 Letter*", confirms that, to extend the TCEP in the manner submitters sought, would result in sound levels that would generally be unacceptable, particularly at the interface with the residential zone around Henry Street and Melbourne Street.

Appropriateness of Noise levels

760. As notified the Noise rules provide for noise levels at differing times of the day and night for activities located within the TCZ and the TCTZ. Exceptions to these noise limits were provided for in subsequent rules. Before turning to the exceptions, if noise levels were not complied with by an activity then the status of that activity would become non complying.
761. The exceptions were more permissive enabling higher sound from music, voices and from loudspeakers within any site in the TCEP.

⁶⁴² Ibid at [2.1d].

⁶⁴³ Ibid.

⁶⁴⁴ Ibid at [1.10e].

762. Construction noise and outdoor public events pursuant to Chapter 36 were dealt with differently. As originally notified, the rules did not deal with or were unclear in terms of application to commercial motorised craft operating within the QTCWSZ.
763. Some submitters⁶⁴⁵ wished to see the notified rules reduce allowable noise, and deletion of the exclusion of sound from the sources specified in notified Rules 12.5.11.1 to 12.5.11.4. Reasons for opposing the proposed noise rules included the contention that raising limits would increase adverse effects on residents and visitors staying in and around the QTC and amenity values generally.
764. Other submitters⁶⁴⁶ requested the noise allowed within the TCEP apply throughout the QTC. Some expressed concern as to whether or not the increases would be sufficient to provide for night-time entertainment⁶⁴⁷.
765. Those seeking noise reductions included Mr James Cavanagh⁶⁴⁸ for Imperium Group⁶⁴⁹. He described the impact of existing noise on both The Spire and Eichardt Hotels. He noted both hotels prided themselves on the ability to give guests a luxurious stay without interruption or disturbance.⁶⁵⁰ He detailed instances of a number of complaints from guests regarding noise, from sources such as taking kegs out and or moving outside furniture.
766. However, as Ms Jones pointed out, the noise limits in the PDP in that regard would be the same as the ODP so there would be no change.⁶⁵¹ Also, we observe that, while the PDP does propose more permissive noise limits as usefully described in the evidence of Dr Chiles, this would not promote people shouting or loud music with open doors and windows. Furthermore, sound from patrons on public streets is not directly controlled by either noise rules in the ODP or the PDP. However, we do not doubt either the accuracy or the genuineness of Mr Cavanagh's concerns, particularly in relation to enforcement of the noise rules.
767. In legal submissions for the Imperium Group, Ms Macdonald repeated Imperium's original submission that:⁶⁵²
- a. there was no "justifiable resource management reason for providing separate and increased noise limits" for the TCEP;
 - b. making provision for higher noise limits in the TCEP would result in significant adverse effects on properties within the TCEP and in its vicinity;
 - c. there was no justification for those notified rules which would allow noise to spill over into areas outside the TCEP in a manner that would depart from standard noise provisions; and
 - d. insufficient consideration had been given to alternatives.
768. Essentially reverting to the status quo as per the ODP was sought.⁶⁵³ Ms Macdonald submitted that the adverse effects generated by the higher noise levels were significant and that they

⁶⁴⁵ Submissions 151, 503, 506, 654, FS1063, FS1318, 302, FS1043, 474, 217.

⁶⁴⁶ Submissions 544, FS1134, 630, 250 (opposed by FS1043 and FS1313).

⁶⁴⁷ Submission 630

⁶⁴⁸ J Cavanagh, EiC at [3.1 to 3.13]

⁶⁴⁹ Submission 151

⁶⁵⁰ J Cavanagh, EiC at section 3.

⁶⁵¹ V Jones, Reply Statement at [11.1].

⁶⁵² Legal Submissions of Ms Macdonald at [1a].

⁶⁵³ Ibid at [21].

had not been adequately assessed or addressed in proposed Chapter 12, Dr Chiles' evidence or Ms Jones' Section 42A Report.

769. As much as Mr Cavanagh's evidence presented concerns, we do have to consider what both Dr Chiles and Ms Jones told us about the existing noise environment.
770. In particular, as Ms Jones recorded⁶⁵⁴, in practice the rules would allow activity and noise levels of a very similar nature to what in fact has actually been able to occur regularly through non-complying resource consents over the years. We understood Dr Chiles to confirm the same point. Returning to the status quo would not appropriately deal with this circumstance. We think it more appropriate that the PDP recognise and provide for the current noise environment in a manner which both recognises that existing noise environment and provides appropriate levels of protection for noise sensitive activities. We are satisfied that the TCEP and the noise levels within the notified rules would achieve that difficult balance. We also agree with Dr Chiles that, given the current noise environment, there are very few practical alternatives available.⁶⁵⁵
771. Dr Chiles and Ms Jones pointed to the history of resource consent applications which sought to exceed the noise limits.⁶⁵⁶ This demonstrated to us those ODP plan provisions did not adequately provide for or meet the community's demand for those activities in the QTC. As well, noise assessment and controls in relation to those resource consents could be costly, inefficient and potentially ineffective.
772. It seemed to us that Dr Chiles explicitly recognised the shortcomings in this consenting approach in supporting the PDP noise rules. As we note below, he also explicitly recognised the important shift in noise-related policies because that shift would recognise the effects of the current noise environment on residential amenity and visitor accommodation is largely unavoidable. This effect on residential amenity would be specifically recognised in recommended Policies 12.2.1.4 and 12.2.3.4.
773. We do accept that notified Rules 12.5.12 and 12.5.13 would not relate to the existing critical listening areas. However, those notified rules would at least address this circumstance for a new noise sensitive activity wishing to locate either within or nearby the TCEP. We see that as an improvement.
774. Also, in our view notified Rules 12.5.11.1 to 12.5.11.5 would give effect to recommended Policies 12.2.1.3, 12.2.1.4, 12.2.3.3 and 12.2.3.4. All of these policies seek to enable bar and restaurant activity in the QTC at the expense of compromised residential amenity in the QTC, while minimising effects on nearby residential zones.
775. In respect of notified Rule 12.5.11.5, Evan Jenkins⁶⁵⁷ sought to have all outside loudspeakers banned on the basis that the noise from them could not be contained, they infected public space and disturbed customers of other establishments. The Queenstown Chamber of Commerce⁶⁵⁸ sought confirmation that the noise limits in the PDP were consistent with other resort towns. Dr Chiles confirmed the noise limits in the PDP as notified were consistent with

⁶⁵⁴ V Jones, Section 42A Report at paragraph 12.57

⁶⁵⁵ Dr S Chiles, EiC at[2(1)a].

⁶⁵⁶ Ibid at [3.2], Section 42A Report of Ms Jones at [12.61].

⁶⁵⁷ Submission 474

⁶⁵⁸ Submission 774

other towns seeking to enable night entertainment.⁶⁵⁹ He did note, however, that in the QTC outside of the TCEP, the PDP noise limits would remain relatively stringent for some restaurants and bars and would, in his opinion, still constrain activity at night.⁶⁶⁰

776. Peter Fleming⁶⁶¹ submitted that notified Rule 12.5.11 was unworkable. Dr Chiles disagreed. In his view, the rules were consistent with the approach of other towns and the noise limits are measured and assessed against relevant New Zealand Standards.⁶⁶²
777. Dr Chiles also responded that it would explicitly address several issues in making the application of the noise limits more practical, particularly in the light of experience with the ODP.⁶⁶³ For example, the outdoor loudspeaker noise limit in notified Rule 12.5.11.4 would provide a simple practical control that could be readily verified by measurements on site at the same time as there being people in the vicinity. We were satisfied by Dr Chiles' evidence on this point.
778. Dr Chiles identified a drafting issue with notified Rule 12.5.11 in that it did not give effect to the structure of noise limits as originally intended.⁶⁶⁴ The intention was for these rules not to apply within the TCTSZ so that a buffer was created between activities with more lenient noise limits and surrounding residential zones. Relying on several submissions⁶⁶⁵, Ms Jones recommended amendments to give effect to the original intention of the rules. We agree and recommend those changes.
779. While on the point of amendments, Ms Jones pointed out that notified Rules 12.5.11.3 and 12.5.11.4 potentially conflicted with Rule 36.3.2.9 in Chapter 36 (Noise). She explained that those rules do not require noise from music or voices to meet residential noise levels on the boundary of that zone, yet reply Rule 36.3.2.9 provided otherwise.⁶⁶⁶
780. Ms Jones recommended amending the notified purpose within Chapter 36 at 36.1 and amending reply Rule 36.3.2.9 to deal with this potential conflict.⁶⁶⁷ Some of the changes to Section 36.1 were promoted as non-substantive and we agree with both the amendment and the basis of that amendment.
781. Ms Jones identified the submissions⁶⁶⁸ relied on to provide scope for her recommended changes to the notified Section 36.1 and also to Rule 36.3.2.9.⁶⁶⁹ We agree with her changes and recommend to the Stream 5 Hearing Panel that those amendments be made. We have included those changes within our Appendix 8.

Noise from Commercial Motorised Craft

782. Real Journeys⁶⁷⁰ sought that vessels carrying out navigational procedures be exempt from notified Rule 12.5.11, making such noise permitted. This submission identified for Ms Jones

⁶⁵⁹ Dr S Chiles, EIC at [4.1].

⁶⁶⁰ Ibid.

⁶⁶¹ Submission 599

⁶⁶² Dr S Chiles, EIC at [4.3].

⁶⁶³ Ibid at [4.4].

⁶⁶⁴ Ibid at [4.5].

⁶⁶⁵ Submissions 151, 503, 506, 654, 302, 217

⁶⁶⁶ V Jones, Section 42A Report at [12.55].

⁶⁶⁷ Ibid.

⁶⁶⁸ Submissions 151, 503, 506, 654, 302, 474, 217.

⁶⁶⁹ V Jones, Section 42A Report at [12.52].

⁶⁷⁰ Submission 621

an inconsistency between the rules relating to vessels within the WSZ and Chapter 12.⁶⁷¹ Dr Chiles agreed.⁶⁷²

783. Ms Jones pointed out that Chapter 36 proposed a specific noise limit for commercial motorised craft on the lake.⁶⁷³ It also proposed exempting craft from other zone noise limits, whereas such craft operating in the WSZ would be subject to the general QTC noise limits of Chapter 12.

784. Dr Chiles preferred the limits and methodology contained in Chapter 36 over those contained in Chapter 12.⁶⁷⁴ Ms Jones recommended that notified Rule 12.5.11 be amended by adding a further provision exempting water and motor-related noise from commercial motorised craft within the QTZ WSZ from meeting the limits set out in Rules 12.5.11.1 and 12.5.11.2.⁶⁷⁵ This would have the effect of such noise being subject to (reply version) Rule 36.5.14. Further Purpose 36.1 and Rule 36.3.2.9 would need minor amendment to clarify this point. We agree and so recommend to the Stream 5 Hearing Panel. The changes we recommend to Chapter 36 are set out in Appendix 8.

Our Recommendations

785. In our view the noise levels within the notified rules based on the expert evidence of Dr Chiles and the opinion of Ms Jones are appropriate as they largely reflect the existing noise environment. The notified rules support the zone purpose and policy framework.

786. We consider the TCEP is also appropriate and extension or modification to allow application of it to additional areas is not warrant

787. We also consider clarifying the appropriate noise rule that applies to commercial motorised craft operating within the QTCWS is appropriate.

788. Accordingly, we recommend Rule 12.5.10 (notified Rule 12.5.11) be as set out below, with our amendments shown as strikethrough and underlined.

12.5.110	<p>Noise</p> <p>10.1.2.1 <i>Sound* from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.11.3 to 12.5.11.5 below) shall not exceed the following noise limits at any point within any other site in these zones:</i></p> <p style="margin-left: 40px;">a. daytime (0800 to 2200 hrs) 60 dB L_{Aeq}(15 min)</p> <p style="margin-left: 40px;">b. night-time (2200 to 0800 hrs) 50 dB L_{Aeq}(15 min)</p>	NC
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⁶⁷¹ V Jones, Section 42A Report at [12.54].

⁶⁷² Dr S Chiles, EiC at [8.3].

⁶⁷³ V Jones, Section 42A Report at [12.55].

⁶⁷⁴ Dr S Chiles, EiC at [8.3].

⁶⁷⁵ V Jones, Section 42A Report at [12.55].

	<p>c. night-time (2200 to 0800 hrs) 75 dB L_AF_{max}</p> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008</p>	
10.1.2.2	<p><i>Sound from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.11.3 and 12.5.11.4 below) which is received in another zone shall comply with the noise limits set for the zone the sound is received in:-</i></p>	
10.1.2.3	<p><i>Within the Town Centre Zone only <u>excluding the Town Centre Transition Sub-Zone</u>, sound* from music shall not exceed the following limits:</i></p> <p>a. 60 dB LAeq(5 min) at any point within any other site in the Entertainment Precinct; and</p> <p>b. At any point within any other site outside the Entertainment Precinct.</p> <p>i. daytime (0800 to 0100 hrs) 55 dB L_Aeq(5 min)</p> <p>ii. Late night (0100 to 0800 hrs) 50 dB L_Aeq(5 min)</p> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, and excluding any special audible characteristics and duration adjustments.</p>	
10.1.2.4	<p><i>Within the Town Centre Zone only <u>excluding the Town Centre Transition Sub-Zone</u>, sound* from voices shall not exceed the following limits:</i></p> <p>a. 65 dB LAeq(15 min) at any point within any other site in the Entertainment Precinct; and</p> <p>b. At any point within any other site outside the Entertainment Precinct.</p> <p>i. daytime (0800 to 0100 hrs) 60 dB L_Aeq(15 min)</p> <p>ii. Late night (0100 to 0800 hrs) 50 dB L_Aeq(15 min)</p> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008.</p>	

	<p>10.1.2.5 <i>Within the Town Centre Zone only excluding the Town Centre Transition Sub-Zone,, sound* from any loudspeaker outside a building shall not exceed 75 dB L_{Aeq(5 min)} measured at 0.6 metres from the loudspeaker.</i></p> <p>* measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, excluding any special audible characteristics and duration adjustments.</p> <p><u>Exemptions from Rule 12.5.11:</u></p> <p>The noise limits in 12.5.11.1 and 12.5.11.2 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999;- The noise limits in 12.5.11.1 to 12.5.11.5 shall not apply to outdoor public events pursuant to Chapter 35 of the District Plan;-</p> <p><u>The noise limits in 12.5.11.1 and 12.5.11.2 shall not apply to motor/ water noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone which is, instead, subject to Rule 36.5.13.</u></p>	
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7.18. **Rule 12.5.12 Acoustic insulation, other than in the Entertainment Precinct and Rule 12.5.13 Acoustic insulation within the Entertainment Precinct.**

789. Two submitters⁶⁷⁶ supported the new provisions for insulation and mechanical ventilation. Other submitters,⁶⁷⁷ primarily as a consequence of overarching relief, requested the deletion of notified Rule 12.5.13 which required insulation and ventilation in the TCEP. Other submitters⁶⁷⁸, as a consequence of requesting that the TCEP be extended, requested that the rule be amended to apply to those additional areas.

790. Dr Chiles explained that these rules would require both mechanical ventilation/cooling and enhanced sound insulation of facades.⁶⁷⁹ To meet the facade sound insulation requirements both inside and outside the TCEP, glazing would generally need to be a high performance secondary or triple glazed system with a large cavity of approximately 100 mm between panes of glass. He said that could be achieved by installing a second window inside the main window.⁶⁸⁰

791. Dr Chiles referred us to section 5 of the 2011 report that explained the need for the sound insulation to result in internal sound levels that should provide reasonable protection from

⁶⁷⁶ Submissions 217 and 774

⁶⁷⁷ Submissions 302 and 151

⁶⁷⁸ Submissions 714 and 774

⁶⁷⁹ Dr S Chiles, EIC at [9.1].

⁶⁸⁰ Ibid

sleep disturbance. He was clear in his view⁶⁸¹ that the acoustic treatment required by these rules was essential to give effect to notified Policies 12.2.1.3, 12.2.1.4, 12.2.3.3 and 12.2.3.4.

792. It was Dr Chiles' view that, even if the noise limits were not being increased within the PDP, it would still be appropriate to include an acoustic treatment requirement.⁶⁸² This reinforced for us the point about the already existing noisy environment.
793. Ms Jones recommended that it was essential that all new critical listening areas wishing to establish in the TCEP be required to be insulated to the standard required by these rules.⁶⁸³ It was her understanding that the costs associated with achieving the necessary insulation would not be significant in the context of a new commercial building.
794. However, she acknowledged these rules could deter some owners from developing residential and visitor accommodation within this relatively small area and instead developing upper stories for office, light manufacturing secondary retail or some other use.⁶⁸⁴
795. Ms Jones did not see this as an adverse outcome. Rather, she considered this was simply internalising the environmental and economic cost of establishing residential development within the TCEP and as such would very likely result in efficient land use in the long-term.⁶⁸⁵
796. Also, Ms Jones noted that, for those where cost does not present a financial barrier to developing residential and visitor accommodation, then these provisions would enable the development in a manner that should not result in adverse effects on health and well-being.⁶⁸⁶
797. Finally, Ms Jones reminded us that removal of this requirement would not enable the achievement of notified Objective 12.2.3, as it would not result in a reasonable level of residential amenity for those seeking to reside in the TCEP.⁶⁸⁷
798. We accept the opinions and the reasons for them as advanced by both Dr Chiles and Ms Jones in relation to acoustic installation and ventilation and we recommend inclusion of those rules as we have set out below. We think the rules advanced are realistic given the existing noise environment. We also consider these rules are appropriate and are to be preferred having considered the alternatives promoted within submissions.
799. We show our recommended wording as underlined or strikethrough, including renumbering to Rule 12.5.11 and 12.5.12 (notified Rules 12.5.12 and 12.5.13) as follows:

<p>12.5.12 <u>12.5.11</u></p>	<p>Acoustic insulation, other than in the Entertainment Precinct</p> <p><u>Where any new building is erected or a building is modified to accommodate a new activity:</u></p>	<p>RD*</p> <p><u>Discretion is restricted to:</u></p> <p>a. <u>the noise levels that will be received within the critical listening environments, with</u></p>
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⁶⁸¹ Ibid at [9.2].

⁶⁸² Ibid

⁶⁸³ V Jones, Section 42A Report at [12.67].

⁶⁸⁴ Ibid.

⁶⁸⁵ Ibid.

⁶⁸⁶ Ibid.

⁶⁸⁷ Ibid.

	<p>12.5.121.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36;</p> <p>12.5. 121.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.</p> <p>*Discretion is restricted to consideration of all of the following:</p> <ul style="list-style-type: none"> ● the noise levels that will be received within the critical listening environments, with consideration including the nature and scale of the residential or visitor accommodation activity; ● the extent of insulation proposed; and ● whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary. 	<p><u>consideration including the nature and scale of the residential or visitor accommodation activity;</u></p> <p>b. <u>the extent of insulation proposed; and</u></p> <p>c. <u>whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary.</u></p>
<p>12.5.13 <u>12.5.12</u></p>	<p>Acoustic insulation within the Entertainment Precinct</p> <p><u>Where any new building is erected or a building is modified to accommodate a new activity:</u></p> <p>12.5. 132.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36;.</p> <p>12.5. 132.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.</p>	<p>NC</p>

7.19. Rule 12.5.14 Glare

800. This Rule, as notified, raised two issues. The first was in relation to limiting effects of glare on the night sky. The reporting officers had recommended deletion of the words “*and so as to limit the effects on the night sky*” because those words were uncertain and would make the standard *ultra vires*. However, they stated, simply excising the words in the phrase would make the standard *intra vires*.

801. During the hearing we asked Mr Winchester to consider whether there was scope within submissions to delete that phrase within any submissions received. In particular, the

submissions of Grant Bisset⁶⁸⁸ and Ros and Dennis Hughes⁶⁸⁹ (Hughes). Ms Scott, in the Legal Submission in Reply, submitted that those submissions did not provide scope to delete the phrase, but they did provide scope to make the zone provisions more measurable and specific.⁶⁹⁰

802. Mr Bisset's submission stated that the night sky was a valuable resource and the ability to clearly view it was an amenity value of the district. The submission also supported the provisions controlling the effects of lighting⁶⁹¹ and stated that "*a greater level of direction is required*" to achieve this.
803. Ms Scott explained that the Hughes similarly submitted that the PDP did not adequately recognise the significance of the night sky, and sought that it be given greater prominence and recognition in the PDP.⁶⁹²
804. We agree that a consistent approach in the Plan should be taken to this phrase.
805. It is apparent that we have two alternatives. Relying upon Ms Scott's analysis that submissions do provide scope to make the provisions more measurable and specific, we could amend the relevant words in Rule 12.5.13.1 to read "*directed downward ... so as to limit effects on views of the night sky*". We think that wording is more certain.
806. The other alternative is to delete the words altogether. Doing so would conclusively address the problem but would leave a vacuum and the rule would not support Policy 12.2.3.6, which is directed at promoting lighting design that mitigates adverse effects on views of the night sky.
807. We prefer amending the wording because we think in this way the rule is made clearer and supports Policy 12.2.3.6. We have carried this recommendation through into our Appendix 1 and set it out below and we have applied this approach to this glare rule in all Stream 8 Chapters.
808. The other issue related to notified Rule 12.5.14.4. This related to reflectance and exterior materials. Several submitters⁶⁹³ opposed this rule and sought that it be deleted. Considering this issue, Ms Jones was of the view that this notified rule was not the most appropriate way of achieving the objectives.⁶⁹⁴ She noted that the QTC was a relatively shady part of the district and consequently glare was not a significant issue.⁶⁹⁵ She also considered that there were no landscape values that needed to be considered and, in her view, allowing a range of colours and materials would add vibrancy and diversity to highly urbanised areas.⁶⁹⁶

⁶⁸⁸ Submission 568.

⁶⁸⁹ Submission 340.

⁶⁹⁰ Legal Submissions in Reply of Ms Scott at [3.5].

⁶⁹¹ in Chapters 6 (Landscape) and 21 (Rural Zone).

⁶⁹² Legal Submissions in Reply of Ms Scott at [3.4].

⁶⁹³ Submissions 398 (opposed by FS1274), 606 (opposed by FS1063) 609 (opposed by FS1063), 614 (supported by FS1200), 616, 617.

⁶⁹⁴ V Jones, Section 42A Report at [13.36].

⁶⁹⁵ Ibid.

⁶⁹⁶ Ibid.

809. Also, in so far as it was necessary, Ms Jones considered Rule 12.4.6.1 provided the Council with control over colour where necessary.⁶⁹⁷ In addition, the guidelines for the SCA considered reflective colours such as cream to be appropriate from a character perspective, which she said, could be in direct conflict with the rule. Finally, she was of the view that there were no objectives or policies that supported this particular glare rule.⁶⁹⁸
810. Ms Jones' recommendation was to remove Rule 12.5.14.4, but to retain the objectives, policies and guidelines as notified in respect of this matter.
811. For all of the reasons she advanced we recommend deletion of Rule 12.5.14.4 and recommend the Council accept the submissions seeking to delete Rule 12.5.14.4 and reject those further submissions in opposition.
812. Real Journeys Limited⁶⁹⁹ requested that this rule be amended to include a standard limiting glare from the Queenstown Bay foreshore so as to avoid interference with the navigational safety of vessels. Ms Black produced evidence and photographs showing light spill over the Queenstown Bay foreshore area in calm water conditions. Ms Jones did not respond to this evidence in her reply.
813. In our view the evidence produced by Ms Black detailed an existing circumstance. It is not possible by amendment to the plan to remedy those existing navigation challenges. While Ms Black did promote additional wording⁷⁰⁰, we do not think that wording is required because the rule as we are recommending it be amended, would require that lighting be directed away from public places. The Queenstown Bay foreshore area is a public place. In that way then, while not specifically addressing the safe operation and navigation of the TSS Earnslaw, the issue of light spill effecting the TSS Earnslaw, would be partially addressed in an indirect way. In any event, perhaps this issue is best dealt with in the transport chapter. We do not recommend any change and recommend rejection of Submission 621.
814. Our recommended wording of Rule 12.5.13 is as follows:

12.5. 14 13	<p>Glare</p> <p>12.5.1413.1 All exterior lighting, other than footpath or pedestrian link amenity lighting, installed on sites or buildings within the zone shall be directed away from adjacent sites, roads and public places and downward so as to limit effects on views of the night sky.</p> <p>12.5.1413.2 No activity in this zone shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any property within the zone, measured at any point inside the boundary of any adjoining property.</p> <p>12.5.1413.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining</p>	NC
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⁶⁹⁷ Ibid at [13.37].

⁶⁹⁸ Ibid.

⁶⁹⁹ Submission 621

⁷⁰⁰ Suggested wording included in Submission #621 at p 14. "Light from any activity shall not be directed out over the water in Queenstown Bay in such a way that interferes with the safe operation and navigation of the "TSS Earnslaw"."

	<p>property which is zoned High Density Residential measured at any point more than 2m inside the boundary of the adjoining property.</p> <p>12.5.14.4 External building materials shall either:</p> <p style="padding-left: 40px;">a. Be coated in colours which have a reflectance value of between 0 and 36%; or</p> <p style="padding-left: 40px;">b. Consist of unpainted wood (including sealed or stained wood), unpainted stone, unpainted concrete, or copper;</p> <p>Except that: Architectural features, including doors and window frames, may be any colour; and roof colours shall have a reflectance value of between 0 and 20%.</p>	
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7.20. Rule 12.6 Rules - Non-Notification of Applications

815. This section provided for applications for controlled activities to proceed without any written consents and on a non-notified basis. It also provided for certain restricted discretionary activities to proceed on the same basis, and for certain restricted discretionary activities to require limited notification.

816. NZTA⁷⁰¹ requested that Rule 12.6.1 be amended to read:

“Applications for Controlled activities shall not require the written consent of other persons and shall be notified or limited-notified except for 12.6.1.1 visitor accommodation adjacent to the State highway where the road controlling authority shall be deemed an affected party”

817. Regarding the request that NZTA be notified of all visitor accommodation on state highways, Ms Jones was of the view that while it was inappropriate to deem NZTA an affected party in all instances, it was appropriate to remove from the non-notification clause, instances where visitor accommodation proposed access onto the state highway; thus enabling the Council to determine if NZTA was affected on a case by case basis, even in the absence of special circumstances.⁷⁰²

818. Ms Jones considered this was an appropriate exemption given the existing traffic congestion levels in the town centre, including on those portions of the state highway that are located within the zone and the traffic generation/disruption that can result from visitor accommodation.⁷⁰³

819. The only issue with this rule was that it contained a deeming provision that would exempt the road controlling authority from rules precluding notification or limited notification. We raised this issue through questions during the course of the hearing.

820. Ms Scott, in her Reply Submissions, agreed that section 77D does not allow a local authority to make a rule constraining, nor provide an exemption from, non-notification for particular parties.⁷⁰⁴ However, she noted Ms Jones had recommended amending Rule 12.6.1.1 so that the exemption would be framed in terms of vehicle access and egress on to a state highway.

⁷⁰¹ Submission 719

⁷⁰² V Jones, Section 42A Report at [18.5e].

⁷⁰³ Ibid.

⁷⁰⁴ Legal Submissions in Reply of Ms Scott at [3.10].

She submitted that this would be *intra vires* because it specified an activity rather than a party.⁷⁰⁵ With the addition of the word vehicle, he said, this recommendation would be consistent with what was recommended in the Reply version of the rule.⁷⁰⁶

821. We agree and recommend the change to renumbered Rule 12.6.1.1 as we have set out below.
822. Foodstuffs⁷⁰⁷ supported notified Rule 12.6.2, stating that removing the need to affected party approvals and notification for new buildings in the QTCZ would streamline decision-making process, minimise consenting risk and reduce processing costs/delays.
823. Christine Byrch⁷⁰⁸ sought that Rule 12.6.2.2 be amended to reflect that a breach of the building coverage rule in relation to large developments in the TCTSZ, and comprehensive development of sites 1800m² or more, should be notified.
824. Kopuwai Investments Limited⁷⁰⁹ sought that Rule 12.6.2 be amended to also list licenced premises and the sale and supply of alcohol within the Steamer Wharf entertainment precinct as being non-notified.
825. In response to those submissions, Ms Jones supported the non-notification clause for new buildings on the basis that it provided greater efficiencies and certainty in respect of timeframes and costs, and provided an appropriate counterbalance to the fact the activity status has changed from controlled in the ODP to restricted discretionary in the PDP.⁷¹⁰
826. Further, Ms Jones stated that, as a consequence of changing the status of licenced premises after 11:00pm (6:00pm) to controlled, such applications would not be notified unless special circumstances existed, pursuant to Rule 12.6.1.⁷¹¹
827. Ms Jones concluded, and we agree, that it is inappropriate and unnecessary to have a rule stating that certain activities will always be publicly notified⁷¹² (as requested in respect of developments that breach the building coverage rule or subject to limited notification).
828. In respect of whether a breach in building coverage should be non-notified by default, on the basis of efficiency and certainty and in order to be consistent with the approach taken for the Plan Change 50 area, Ms Jones was of the view that the clause regarding non-notification for such breaches should be retained.⁷¹³ We agree with her.
829. The final change we recommend is a clarification change by including the word height before Precinct 1 and Precinct 1A as it appears in standard 12.6.3.1.
830. Our recommended wording for rule 12.6 is:

⁷⁰⁵ Ibid at [3.11].

⁷⁰⁶ Ibid at [3.11].

⁷⁰⁷ Submissions 650 and 673

⁷⁰⁸ Submission 243, opposed by FS1224

⁷⁰⁹ Submission 714

⁷¹⁰ V Jones, Section 42A Report at [18.5a].

⁷¹¹ Ibid at [18.5b].

⁷¹² Ibid at [18.5c].

⁷¹³ Ibid at [18.5d].

- “12.6.1 Applications for Controlled activities shall not require the written approval of other persons and shall not be notified or limited-notified, except:
12.6.1.1 Where visitor accommodation includes a proposal for vehicle access directly onto a State Highway.*
- 12.6.2 The following Restricted Discretionary activities shall not require the written approval of other persons and shall not be notified or limited-notified:*
- 12.6.2.1 Buildings.*
- 12.6.2.2 Building coverage in the Town Centre Transition Sub-Zone and comprehensive developments.*
- 12.6.2.3 Waste and recycling storage space.*
- 12.6.3 The following Restricted Discretionary activities will not be publicly notified but notice will be served on those persons considered to be adversely affected if those persons have not given their written approval:*
- 12.6.3.1 Discretionary building height in Height Precinct 1 and Height Precinct 1(A).”*

7.21. Further Recommendations of the Panel

831. We have included this section in order to identify matters that we think warrant consideration but are out of scope.
832. Ms Jones considered possible amendments to provisions that would be desirable, either from an effectiveness and efficiency point of view or in order to achieve consistency between the QTCZ and other zones.
833. In particular, Ms Jones referred to Dr Chiles’ view in the Residential hearing⁷¹⁴ that he did not support the use of no complaints covenants as a tool for managing noise issues as they did not, in his view, address the noise effects other than potentially providing some forewarning for people purchasing a property. While there were no submissions in relation to this matter, it was Ms Jones’ preference, based on Dr Chiles’ view, and in respect of her own experience with such covenants, that this matter of discretion within renumbered Rule 12.5.11.2 be removed. We agree.
834. We recommend the Council consider a variation to make such a change.
835. We recommend the Council review Rule 12.5.1 where the rule drafting confuses activities and standards in such a way as to make avoidance of the intent of the rule a probable outcome. We have explained this in detail above in Section 8.1 under the heading Minor Amendments.

7.22. Recommendation to Stream 10 Hearings Panel

836. There are three definitions recommended for inclusion in Chapter 2. These are:
- a. Comprehensive development;
 - b. Landmark building;
 - c. Sense of place.

⁷¹⁴ 10 October 2016

837. These definitions and our reasoning for including them in the PDP are set out in Section 6 above. We have listed the recommended definitions in Appendix 8.
838. We recommend that the Stream 10 Hearings Panel:
- a. Include the recommended definitions as set out in Appendix 8 in Chapter 2 for the reasons we have provided in Section 6 above; and
 - b. Recommend that the relevant submissions be accepted, accepted in part, or rejected as set out in Appendix 9.

7.23. Recommendation to Stream 5 Hearings Panel

839. As noted earlier, Ms Jones identified a conflict between Rules 12.5.11.3 and 12.5.11.4 and Rule 36.3.2.9. She explained that Rules 12.5.11.3 and 12.5.11.4 did not require noise from music or voices to meet residential noise levels on the boundary of that zone, yet reply Rule 36.3.2.9 stated that:

The noise standards in this chapter still apply to noise generated within the Town Centre zones but received in other zones.

840. In order to amend this inconsistency, Ms Jones recommended amending the notified purpose within Chapter 36 at 36.1 and amending reply Rule 36.3.2.9.⁷¹⁵ Some of the changes to purpose at 36.1 were promoted as non-substantive and we agree with both the amendment and the basis of that amendment.
841. Ms Jones identified the submissions⁷¹⁶ relied on to provide scope for her recommended changes to the notified Section 36.1 and also to Rule 36.3.2.9.⁷¹⁷ We agree with her changes and recommend to the Stream 5 Hearing Panel that those amendments be made. We have included those changes within our Appendix 8.
842. Consequently, with regard to the Zone Purpose in Section 36.1 and reply Rule 36.3.2.9 as discussed above, we recommend that the Stream 5 Hearings Panel
- a. Accept the recommended provisions as set out in Appendix 8 and
 - b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 9.

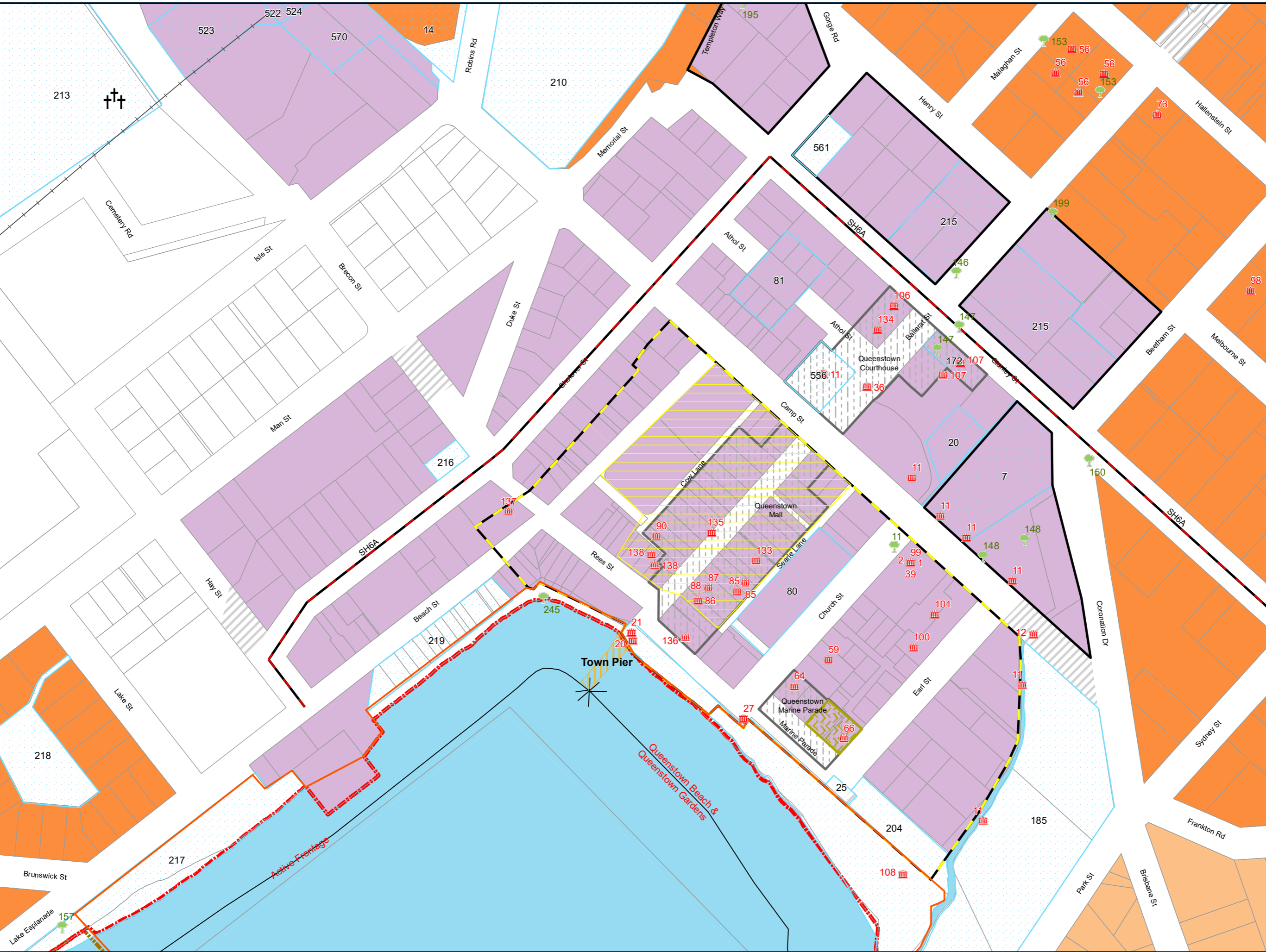
8. CONCLUSION

843. For the reasons advanced through this part of the report, we conclude that the recommended amendments support the zone purpose and enable the objectives of the chapter to be achieved and are more effective and efficient than the notified chapter and further changes sought by submitters that we recommend rejecting.
844. We consider that the amendments will improve the clarity and consistency of the Plan; contribute towards achieving the objectives of the District Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.
845. Consequently, we recommend that:
- a. Chapter 12 be adopted as set out in Appendix 1; and
 - b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 7.

⁷¹⁵ Ibid.

⁷¹⁶ Submissions 151, 503, 506, 654, 302, 474, 217.

⁷¹⁷ V Jones, Section 42A Report at [12.52].



- Legend**
- Open Cemetery
 - Historic Heritage Features
 - Protected Tree
 - Aurora Distribution Lines - For Information Only
 - State Highway
 - Queenstown Waterfront Zone
 - Parcel/Road Boundary
 - Landscape Classification (ONF, ONL, RCL)
 - Urban Growth Boundary
 - Unformed Roads
 - Designated Areas
 - Town Centre Entertainment Precinct
 - Town Centre Special Character Area
 - Town Centre Transition Sub-Zone
 - Town Centre Town Pier
 - Historic Heritage Precinct
 - Heritage Protection Order
 - Medium Density Residential
 - High Density Residential
 - Town Centres
 - Rural
 - Water (zoned Rural unless otherwise shown)

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