

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of appeals under clause 14 of the First
Schedule of the Act
BETWEEN QUEENSTOWN WHARVES GP LIMITED
(ENV-2018-CHC-142)
REAL JOURNEYS LIMITED
(ENV-2018-CHC-131)
REAL JOURNEYS LIMITED (TRADING AS
GO ORANGE LIMITED)
(ENV-2018-CHC-138)
REMARKABLES PARK LIMITED
(ENV-2018-CHC-126)
Appellants
AND QUEENSTOWN LAKES DISTRICT
COUNCIL
Respondent

Environment Judge J J M Hassan – sitting alone pursuant to s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 17 June 2020

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court,
by consent, orders that:

- (1) the appeals are allowed to the extent that the Queenstown Lakes District
Council is directed to amend Chapter 12 of the Proposed Queenstown



Lakes District Plan, as set out in Appendix A, attached to and forming part of this order;

(2) the appeals otherwise remain extant.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns appeals by Queenstown Wharves GP Limited, Real Journeys Limited, Real Journeys Limited (trading as Go Orange Limited) and Remarkables Park Limited against parts of a decision of the Queenstown Lakes District Council on Chapter 12 of the proposed Queenstown Lakes District Plan – Stage 1. In particular, it relates to Topic 8 Subtopic 2 (Queenstown and Wanaka Town Centres).

[2] On 23 July 2019, a joint memorandum was filed seeking to partially resolve these appeals. Consideration of this consent memorandum was put on hold pending determination of some related aspects of Topic 2. Decisions on those aspects have now issued. Now that two appeals lodged with the High Court on those decisions have been withdrawn, the court is in a position to consider the consent memorandum.

Other relevant matters

[3] The following parties have given notice of their intention to become a party to the parts of the appeals in Topic 8 Subtopic 2 under s274 of the Resource Management Act 1991 ('the RMA') and have signed the memorandum setting out the relief sought:

- (a) Coneburn and ors;
- (b) Darby Planning LP;
- (c) Kawarau Jet Services Holdings Limited;
- (d) Otago Regional Council;
- (e) Queenstown Park Limited;
- (f) Real Journeys Limited;
- (g) Real Journeys Limited (trading as Go Orange Limited);
- (h) Remarkables Park Limited;
- (i) Te Anau Developments Limited.



[4] I have picked up some minor typographical errors in Appendix A and, hence, make these orders on the basis that this decision now corrects them. At Policy 12.2.4.1 amend "though" to "through". Renumber the subclauses of Policy 12.4.10 following the deletion of 12.4.10(b),(d) and (g). Relabel 12.4.11(h)-(m) as (a)-(f).

Orders

[5] The court makes this order under s279(1) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order; and
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA including, in particular, pt 2.



J J M Hassan
Environment Judge



APPENDIX A

Amendments agreed in mediation on the appeals contained in Subtopic 2	Black <u>underline</u> and strikethrough text
Amendments agreed in mediation on Well Smart appeal ENV-2018-CHC-128 (subtopic 5)	Red <u>underline</u> and strikethrough text
Amendments agreed in mediation on Ngāi Tahu ENV-2018-CHC-085 appeal (subtopic 3)	Green <u>underline</u> and strikethrough text

Notes for clarity:

1. Decisions version rules 12.4.7.2 and 12.4.7.3 have been moved and become new rules 12.4.10 and 12.4.11;
2. Decisions version rule 12.4.8.3 has been moved to become new Rule 12.4.12
3. Consequential re-numbering of Decision version rules will be required due to the insertion of additional rules through this consent order



QUEENSTOWN TOWN CENTRE 12

12 Queenstown Town Centre

12.1 Zone Purpose

Town centres provide a focus for community life, retail, entertainment, business and services. They provide a vital function for serving the needs of residents, and as key destinations for visitors to our District, they provide a diverse range of visitor accommodation and visitor-related businesses. High visitor flows significantly contribute to the vibrancy and economic viability of the centres.

Queenstown will increasingly become a dynamic and vibrant centre with high levels of tourism activity that provides essential visitor-related employment. It serves as the principal administrative centre for the District and offers ~~the greatest~~ a wide variety of activities for residents and visitors. It has a range of entertainment options and serves as a base for commercial outdoor recreation activities occurring throughout the Wakatipu Basin. Visitor accommodation is provided within and near to the town centre. Over time, Queenstown town centre will evolve into a higher intensity and high quality urban centre.

Development within the Special Character Area of the Town Centre Zone (shown on Planning Maps) is required to be consistent with the Queenstown Town Centre Design Guidelines 2015, reflecting the specific character and design attributes of development in this part of the Town Centre. The Entertainment Precinct (also shown on Planning Maps) has permitted noise thresholds that are higher than other parts of the Town Centre in order to encourage those noisier operations to locate in the most central part of town, where it will have least effect on residential zones.

The Queenstown waterfront Sub-Zone makes an important contribution to the amenity, vibrancy, and sense of place of the Queenstown Town Centre as a whole.



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12.2 Objectives and Policies

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

....

12.2.2.5 In respect of buildings that exceed the non-complying height standards:

(i) Allow ~~Prevent~~ buildings other than those on jetties and wharves to exceeding the maximum height standards ~~except that it may be appropriate to allow additional height in situations wherein the following instances:~~

- a. where the proposed design is an example of design excellence; and
- b. where there is an adverse effect on the public environment from the increase in height, the proposed development provides an urban design outcome that has a net benefit to the public environment; and
- c. ~~b.~~ where relevant, where building height and bulk have been reduced elsewhere on the site in order to: reduce the impact of the proposed building on a listed heritage item.
 - i. ~~reduce the impact of the proposed building on a listed heritage item; or~~
 - ii. ~~provide an urban design outcome that has a net benefit to the public environment.~~

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

- 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 environments.
- g. the creation of landmark buildings on key block corners and key view terminations.

(ii) Recognise that the efficient utilisation of land that would otherwise be underdeveloped or developed to a lesser design quality may enable excellent design outcomes.



QUEENSTOWN TOWN CENTRE 12

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, facilitating shared transport, and providing safe and pleasant pedestrian and cycle access to and through the Town Centre.

...

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 or considering jetty applications for wharves, jetties, moorings, and water based transport.



QUEENSTOWN TOWN CENTRE 12

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 that benefits both residents and visitors.

Policies

12.2.5.2 Recognise the benefits of ~~Promote~~ an ~~comprehensive~~ integrated approach to the provision of facilities for water-based activities, including avoiding the adverse congestion effects on the surface of water and the adjoining waterfront of more than one petrol and diesel refuelling facility establishing within the Queenstown Bay Waterfront Subzone.

...

12.2.5.3 Conserve ~~Maintain~~ and ~~or~~ enhance, where appropriate, the natural qualities of the 'Queenstown beach and gardens foreshore area' and adjoining waters, and amenity values of the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped ~~unbuilt~~ 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.

...

12.2.5.6 Provide for structures (~~including moorings, jetties and wharves~~) within the Queenstown Bay waterfront area subject to ~~compliance~~ ~~complying with~~ strict bulk, location and appearance controls (if specified) and ~~maintaining or enhancing~~ criteria, ~~provided the existing predominantly open character, and a continuous pedestrian waterfront connection, and navigational safety will be maintained or enhanced.~~

XXXX Recognise the contribution that wharves and jetties within the 'active frontage area' make to supporting recreation, tourism, transport, and general public uses of the surface of the lake activities.

XXXX Require that buildings on wharves and jetties be located and designed in a manner that minimises impacts on views from waterfront public spaces to the lake, gardens and mountains beyond, and maintains and encourages public access onto the wharves.

12.2.5.8 Manage commercial surface of water activities within the Queenstown Bay Waterfront Subzone in a manner that ensures navigational safety, having particular regard to compatibility with existing activities.

12.2.5.9 Enable the use of wharves and jetties within the 'active frontage area' to support commercial activities and public transport and recognise that the active frontage area is expected to continue to provide for this function.



QUEENSTOWN TOWN CENTRE 12

12.4 Rules - Activities

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.1	Activities which are not listed in this table and comply with all standards	P
XXX	<u>Minor repairs and maintenance of existing wharves and jetties and minor alterations to existing wharves and jetties that are required for operational reasons and do not restrict public access to the wharf or jetty.</u>	P
	...	
12.4.3	<p>Commercial Activities within the Queenstown Bay Town Centre Waterfront Sub-Zone (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 <u>12.4.7.2.12.4.10</u></p> <p>Control is reserved to:</p> <ol style="list-style-type: none"> a. <u>The management of the volume, timing and safety any adverse effects of additional traffic generation from the activity within or adjacent to the Queenstown Bay Waterfront Subzone;</u> 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: <ol style="list-style-type: none"> 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. 	C
	...	
12.4.6	<p>Buildings except wharves and jetties, buildings on wharves and jetties, temporary 'pop up' buildings that are in place for no longer than 6 months, and permanent and temporary outdoor art installations</p> <p>Buildings, including verandas, and any pedestrian link provided as part of the building/ development.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. consistency with the Queenstown Town Centre Special Character Area Design Guidelines (2015), (noting that the guidelines apply only to the Special Character Area); 	RD



QUEENSTOWN TOWN CENTRE 12

	Activities located in the Queenstown Town Centre Zone	Activity status
	<ul style="list-style-type: none"> 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; g. the contribution the building makes to pedestrian flows and linkages and to enabling the unobstructed kerbside movement of high-sided vehicles where applicable; h. the provision of active street frontages and, where relevant, outdoor dining/patronage opportunities; and i. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: <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 iii. the extent to which such risk can be avoided or sufficiently mitigated. 	
<p>12.4.7</p>	<p><u>Wharves and jetties, commercial surface of water activities, and moorings within the 'Active Frontage Area' of the Queenstown Town Centre Bay Waterfront Sub-Zone</u></p> <p>12.4.7.1 Wharves and Jetties within the 'active frontage area' of the Queenstown Town Centre Bay Waterfront Sub-Zone as shown on the Planning Maps.</p> <p><u>Discretion is restricted to the effects (including cumulative effects) relating to the following:</u></p> <ul style="list-style-type: none"> a. <u>external appearance, including materials and colours and any effects on the character and amenity of the Queenstown Bay Waterfront Subzone;</u> b. <u>the scale, location, and orientation of wharves and jetties in relation to the shoreline and existing jetties and the extent to which it affects views from the waterfront public spaces to the lake, gardens, and the mountains beyond; the character and amenity of the Queenstown Bay Waterfront Subzone; and navigational safety;</u> c. <u>lighting;</u> d. <u>people's safety and adherence to CPTED principles;</u> 	<p>Ø RD</p>



QUEENSTOWN TOWN CENTRE 12

	Activities located in the Queenstown Town Centre Zone	Activity status
	<p>e. <u> navigational safety; </u></p> <p>f. <u> any proposed outdoor storage or street furniture located on the structure and the extent to which it is integrated into the design; </u></p> <p>g. <u> the use of public areas around the shoreline, including maintaining or enhancing the provision of a continuous public waterfront walkway from Horne Creek to St Omer Park and public access to the lake; </u></p> <p>h. <u> any proposed boat refuelling, bilge pumping, and sewage pumping facilities as part of the proposed jetty or wharf; </u></p> <p>i. <u> the values of wāhi Tūpuna. </u></p>	
<p style="text-align: center;"><u>12.4.8</u></p>	<p><u>Buildings that meet specified criteria on jetties and wharves within the ‘active frontage area’ of the Queenstown Bay Waterfront Subzone</u></p> <p><u>Buildings on jetties and wharves within the ‘active frontage area’ of the Queenstown Bay Waterfront Subzone for the purpose of carrying out activities with a functional need associated with surface of water activities less than 15m² in area and no more than 3m in height above the floor level of the jetty or wharf and limited to one building per jetty or wharf.</u></p> <p><u>Discretion is restricted to:</u></p> <p>a. <u> the extent to which design, location, scale, height and external appearance integrates with the use, enjoyment, and character of waterfront environment;</u></p> <p>b. <u> the impact on pedestrian flows;</u></p> <p>c. <u> lighting;</u></p> <p>d. <u> signage platforms;</u></p> <p>e. <u> the cumulative effects of multiple buildings on jetties and wharves;</u></p> <p>f. <u> views from the waterfront public spaces to the lake, gardens, and the mountains beyond;</u></p> <p>g. <u> outdoor storage;</u></p> <p>h. <u> the contribution that the building makes to the safety of the town centre through adherence to the CPTED principles; and</u></p> <p>i. <u> the contribution that the building makes to the vibrancy of the waterfront and to facilitating public access to the water.</u></p>	<p style="text-align: center;">RD</p>



QUEENSTOWN TOWN CENTRE 12

	Activities located in the Queenstown Town Centre Zone	Activity status
<p>12.4.8 <u>12.4.9</u></p>	<p>Wharves and jetties, and buildings on wharves and jetties, and the use of buildings or boating craft for accommodation within the Queenstown Town Centre Bay Waterfront Sub-Zone</p> <p>12.4.8.1 Wharves and Jetties within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Bay Waterfront Sub-Zone as shown on the Planning Maps.</p> <p>12.4.8.2 Any buildings located on Wharves and Jetties within the Queenstown Town Centre Bay Waterfront Sub-Zone, <u>except buildings provided for under Rule 12.4.8 (restricted discretionary buildings on wharves).</u></p>	<p>NC</p>
<p><u>12.4.10</u></p>	<p><u>Commercial surface of water activities within the Queenstown Bay Waterfront Subzone</u></p> <p>12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Bay Waterfront Sub-Zone as shown on the Planning Maps.</p> <p>In respect of 12.4.7.1 and 12.4.7.2 tThe Council's discretion is unlimited but it shall consider the extent to which the proposal will:</p> <ol 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; f. <u>affect water quality; navigation and people's safety, having particular regard to compatibility with existing activities, and adjoining infrastructure; and</u> g. the extent to which any proposed wharfs and jetties structures or buildings will: <ol style="list-style-type: none"> i. enclose views across Queenstown Bay; and 	<p>D</p>



QUEENSTOWN TOWN CENTRE 12

	Activities located in the Queenstown Town Centre Zone	Activity status
	<ul style="list-style-type: none"> ii. result in a loss of the generally open character of the Queenstown Bay and its interface with the land; iii. g. affect the values of wāhi Tūpuna. 	
<p><u>12.4.11</u></p>	<p><u>Moorings within the Queenstown Bay Waterfront Subzone</u></p> <p>12.4.7.3 Moorings within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Bay Waterfront Sub-Zzone (as shown on the Planning Maps).</p> <p>In respect of 12.4.7.3 <u>D</u>iscretion is restricted to:</p> <ul style="list-style-type: none"> h. 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; i. whether the structure causes an impediment to craft manoeuvring and using shore waters; j. the degree to which the structure will diminish the recreational experience of people using public areas around the shoreline; k. the effects associated with congestion and clutter around the shoreline, including whether the structure contributes to an adverse cumulative effect; l. whether the structure will be used by a number and range of people and craft, including the general public; and m. the degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design. 	<p>RD</p>
<p><u>12.4.12</u></p>	<p><u>The use of buildings or boating craft for accommodation within the Queenstown Bay Waterfront Sub-zone</u></p> <p>12.4.8.3 Buildings or boating craft within the Queenstown Bay Waterfront Subzone if used for visitor, residential or overnight accommodation.</p>	<p>NC</p>



QUEENSTOWN TOWN CENTRE 12

12.5 Rules - Standards

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.3	<p>Screening of Storage Areas</p> <p>Storage areas shall be situated within a building or screened from view from all public places, adjoining sites and adjoining <u>zones, except this standard does not apply to the storage of goods on a wharf for up to three (3) hours prior to or following such goods being transported by boating craft.</u></p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. effects on visual amenity; b. consistency with the character of the locality; c. effects on human safety in terms of CPTED principles; and d. whether pedestrian and vehicle access is compromised.

...

12.6 Rules - Non-Notification of Applications

...

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, with the exception of wharves and jetties, and buildings on wharves and jetties, in the Queenstown Bay Waterfront Subzone.

Chapter 2

<u>Minor repairs, maintenance and alterations (for the purpose of Chapter 12)</u>	<u>Means the repair, maintenance, and alteration of jetties and wharves where the scale and dimensions are not changed by more than 5% and any replacement materials are of the same or a closely matching material or texture and the same or closely matching colour.</u>
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