

## Memo

**To:** Independent Hearings Panel on behalf of QLDC  
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**From:** Ben Farrell

**Date:** 1 September 2025

**Re:** Proposed Queenstown District Plan – Urban Intensification Variation  
***Section 32AA for the updated relief sought by Well Smart (submitter 1168)***

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May it please the panel

1. This memo responds to the invitation by Ms Corinne Frischknecht to provide s32AA in relation to the updated relief sought by Well Smart as outlined in my memo dated 27 August 2025.
2. This memo is set out in three parts:
  - a. Overview of s32AA requirements relevant to the updated relief being sought
  - b. s32AA in relation to building height rule 12.5.9
  - c. s32AA in relation to construction noise standards

### Overview

3. In accordance with section 32AA(1)(a), a further evaluation is required in respect of the amendments made to the existing proposal since the s32 evaluation was completed. Section 32AA(1)(b) states that the further evaluation must be undertaken in accordance with sections 32(1) to (4), while section 32AA(c) requires that the level of detail must correspond to the scale and significance of the changes.
4. In summary the duty under s32(1)(b) is to examine whether the provisions of the proposal are the most appropriate way to achieve the objectives, by identifying other reasonably practicable options for achieving the objectives and assessing the efficiency and effectiveness of the provisions in achieving the objectives. Under s32(1)(c), the costs and benefits of the environmental, economic, social and cultural effects anticipated from implementation of the provisions must be identified and assessed.
5. For the purposes of section 32(3) the amendments sought are understood to be 'amending proposals' because it will amend the PDP provisions. In this case the amending proposals do not seek to amend any existing objectives under the PDP, so the relevant existing PDP objectives are those to be considered. The key objectives, with their supporting policies, are identified respectively below.

## QTCZ Maximum Building Height Standard 12.5.9

### Options considered

6. In this evaluation, three options are evaluated under s32AA below. They are the existing proposal, and the two alternative options sought by Well Smart above:
- a. The **existing proposal** is activity standard 12.5.9 in relation to maximum building height within “Height Precinct 3” of the PDP;
  - b. The **amending proposal** is the specific relief sought by Well Smart in relation to rule 12.5.9 outlined in the Memo by Ben Farrell dated 27 August 2025, as follows:

#### **12.5.9 Maximum Building Height**

*Maximum height limit of:*

- i. 8m in Height Precinct 1.
- ii. 12m in Height Precinct 2.
- iii. 20m in Height Precinct 3.
- iv. 24m in Height Precinct 4.
- v. 16m in Height Precinct 5.
- vi. 8m in Height Precinct 6.
- vii. *In Height Precinct 3 (Man Street), in Area A shown on the Height Precinct Map, the maximum height shall be 20m, above RL 327.1 masl*
- viii. *In Height Precinct 3 (land contained in Title 1069803), the maximum height shall be 20m above the original ground level at 6m setback from the south-western boundary with a perpendicular horizontal plane*

*Or alternatively:*

*In Height Precinct 3 (land contained in Title 1069803), the maximum height shall be 24m.*

7. The existing proposal is a 20m height limit measured from original ground level respectively across the site. The amending proposals sought by Well Smart seek to achieve a maximum height limit specifically for their site that provides for buildings to be constructed up to 20m height above original ground level, when measured from adjoining road boundaries as anticipated by the existing proposal. To achieve this, two options have been provided.
- a. The first option provides a horizontal plane approach, as has been adopted for the site and neighbouring sites in previous district plan rules. This approach, while appearing relatively complicated, is a simple approach once the respective masl is identified. The proposed approach is to apply a 20m height limit from the original ground level measured 6m internal to the sites’ western boundary along Hay Street. This approach results in 20m high buildings when viewed from public roads noting higher building façade (up to 27m) would be provided for along the sites eastern boundary common with the Man Street Carpark and the Lofts Apartments. Depending on development at these two private properties, this option could result in a building façade higher than 20m being visible from parts of Shotover Street.
  - b. The second option is simply to apply a 24m maximum height limit, on the basis that a 24m building could not practically comply within this height limit (for the same reasons as a 20m could not comply with a 20m height standard).

## Evaluation – s32(1)(b)

8. For the reasons set out by QLDC before the panel on numerous occasions<sup>1</sup> Well Smart generally agrees buildings up to 20m above street level setback 6m from the road boundary are appropriate, and that ordinarily to achieve a 20m high building a 20m height limit maximum would be appropriate. However, due to the sloping nature of the Well Smart site, the proposed 20m height limit does not actually enable 20m buildings to be constructed on this site.
9. The following PDP objectives, and their supporting policies respectively, are considered most relevant to this evaluation:

**Objective 12.2.1** 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.

**Policy 12.2.1.1:** Enable intensification within the Town Centre through: (a) enabling sites to be entirely covered with built form other than in the Town Centre Transition Sub-Zone 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.

**Policy 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.

**Objective 12.2.2** Development that achieves high quality urban design outcomes and contributes to the town's character, heritage values and sense of place.

**Policy 12.2.2.2** Require development to: (a) maintain the 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'.

**Policy 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; and or (b) retain and provide opportunities to frame important view shafts from public places to the surrounding landscape; and or (c) maintain sunlight access to land zoned Open Space public places and to footpaths, and with a particular emphasis on retaining solar access into the Special Character Area (as shown on the District Plan web mapping application); and or (d) minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.

**Policy 12.2.2.4** In respect of buildings that exceed the non-complying height standards:

- (i) (a) Allow buildings other than those on jetties and wharves to exceed the maximum height standards in the following instances: 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) 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. For the purpose of this policy, urban design outcomes that are beneficial to the public environment include, as appropriate: (d) provision of sunlight to any public space of prominence or space where people regularly congregate; (e) provision of a new or retention of an existing uncovered pedestrian link or lane; (f) where applicable, the restoration and opening up of Horne Creek as part of the public open space network; (g) provision of high quality, safe public open space; (h) retention of a view shaft from a public place to an identified landscape feature; (i) minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environments. (j) 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.

**Objective 12.2.3** An increasingly vibrant Town Centre that continues to prosper while maintaining a reasonable level of residential amenity within and beyond the Town Centre Zone.

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<sup>1</sup> For example, QLDCs Section 32 Analysis, evidence in chief and rebuttal evidence respectively of Amy Bowbyes, Corinne Frischknecht, and Cam Wallace 6 June & 24 July 2025

**Policy 12.2.3.3** Enable residential and visitor accommodation activities within the Town Centre while: (a) acknowledging that it will be noisier and more active 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; and (b) ensuring appropriate level of amenity for occupants through building layout and design that provides for privacy, outlook space and access to sunlight; and (c) discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre; and (d) 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 (e) through the careful location and design of any onsite parking and loading areas; and only enabling new residential and visitor accommodation uses within the Town Centre Entertainment Precinct where adequate insulation and mechanical ventilation is installed.

**Policy 12.2.3.6** Recognise the important contribution that sunny open spaces, footpaths, and pedestrian spaces makes to the vibrancy and economic prosperity of the Town Centre.

10. A 24m height limit would not result in buildings to be 24m above the Man Street or Hay Street level. Rather, due to the sloping nature of the site a 24m height limit would generally provide for buildings to be 20m above original ground level measured from the street level (more or less).
11. For the above reasons, either of the two options sought by Well Smart would be more aligned with PDP objectives and supporting policies compared to the existing proposal. Both amending proposal options are appropriate means of achieving the Objectives of the PDP and, hence, the purpose of the Act.

### **Costs**

12. The costs of the existing proposal are that it restricts development on the site such that 20m building cannot comply with the maximum height standard which has been deemed generally appropriate for this part of the Queenstown Town Centre.
13. The amending proposal has a limited potential cost in that, theoretically, parts of the site could be developed with buildings that exceed 20m above ground level along the sites eastern boundary, which may or may not have discernible adverse effects on Man Street Carpark and the Lofts Apartments, and wider streetscape character impacts when viewed from along Shotover Street. Irrespective, these costs are mitigated by the fact that buildings above 12m height are not permitted and building design would still be subject to a restricted discretionary activity under rule 12.4.7. in this regard costs are considered to be negligible.

### **Benefits**

14. The benefit of both the amending proposal options are that they clearly signal that buildings setback from the road boundary are anticipated up to 20m height. Both amending proposal options will reduce the cost and effort of Well Smart designing and trying to consent a 20m high building, as the existing proposal does not effectively allow a 20m building on the site.

### **Risk of acting or not acting**

15. There is no significant risk of acting (i.e. proceeding with this amending proposal). If the maximum height remains at 20m then Well Smart will have to choose between:
  - a. Proceeding with a non-complying resource consent application for a 20m high building because it exceeds the maximum height limit standard, thus unnecessarily increasing consenting risks and costs on Well Smart and other parties involved in the consenting process; or
  - b. Designing a building that complies with the existing 20m height standard forgoing the associated development opportunities and benefits.

## Overall conclusion

16. The above evaluation has examined the relief sought by Well Smart to amend Rule 12.5.9 under Section 32AA of the Act. The broad conclusions are that:
  - a. Due to the sloping nature of the site, 20m high buildings cannot practically be constructed to comply with the 20m building height standard.
  - b. The suggested amendment is to apply the 20m height limit from the original ground level at a location 6m internal to the sites Hay Street Road boundary (the sites western boundary) or provide a simpler alternative option to amend the Maximum height limit for the site to 24m.
  - c. The amending proposal options are both appropriate methods for achieving the existing PDP objectives, and more appropriate compared to the existing proposal which limits appropriate development opportunities on the site.
  - d. The amending proposal will be more efficient and effective in achieving the PDP's objectives, taking into account their costs and benefits including the environmental, social and economic costs and benefits, and the opportunities for economic growth anticipated; and
  - e. There is no significant risks to acting or not-acting, however the risks of not acting impose unnecessary costs (including opportunity costs) on Well Smart and the broader environment by not enabling development up to 20m height.
17. Overall, for the reasons expressed above, either of the two amending proposal options sought by Well Smart will more appropriately achieve the PDP objectives and the purpose and principles of the RMA compared to the existing proposal.

## Section 32AA – Construction Noise Standard

### Options considered

18. In this evaluation, the existing proposal are the provisions that enable earthworks and building development as a controlled or restricted discretionary activity, respectively throughout the district plan, and construction noise standard 36.5.13. The amending proposal is the specific relief sought by Well Smart in relation to these rules, including particularly rule 9.4.5, 9.4.6, 12.4.7, 25.7.1 and 36.5.13 outlined in the Memo by Ben Farrell dated 27 August 2025, listed below:

Insert the text “*management of noise construction effects*” to the matters of discretion under existing rules that provide for the construction of buildings or earthworks as a restricted discretionary activity within respective zones. For Well Smart, this would be:

*Rule 9.4.5*, in relation to residential buildings in the High-Density Residential Zone

*Rule 9.4.6*, in relation to visitor accommodation buildings in the High-Density Residential Zone

*Rule 12.4.7*, in relation to buildings in the Queenstown Town Centre Zone

*Rule 25.7.1*, in relation to earthworks

#### **Rule 36.5.13 Construction Noise**

*Construction sound must be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise. Construction sound must comply with the recommended upper limits in Tables 2 and 3 of NZS 6803. Construction sound must be managed in accordance with NZS 6803.*

*This rule shall not apply to the construction of buildings and associated earthworks that are provided for as a controlled or restricted discretionary activity by a rule in this plan.*

19. The two options being evaluated under s32AA are the existing proposal and the amending proposal, amending rule 36.5.13 so that it does not apply to development of buildings and earthworks where resource consent is already required for a controlled or restricted discretionary activity. No other options were considered.

### Evaluation

20. The following Objective and supporting policies are set out in Chapter 36 Noise, and are relevant to this evaluation. Numerous other provisions that relate to enabling and managing environmental effects of earthworks and building development in respective zones are also relevant, but have not been individually singled out below – as to do so would be relatively time consuming:

**Objective 36.2.1** The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.

**Policy 36.2.1.1** Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.

**Policy 36.2.1.2** Avoid, remedy or mitigate adverse noise reverse sensitivity effects.

21. It is appropriate for decision makers on resource consent applications for controlled and RDA developments (earthworks and buildings) to consider the effects of construction noise and ensure such effects are managed through resource consent conditions. Construction effects, and often earthworks requiring resource consent, are unavoidable. However, the effects can be managed to avoid, remedy or mitigate effects such that they are appropriate on a case by case basis. While each case will be different, and nuanced, the matters that need to be identified and managed will be similar, and consistent with orthodox resource consent conditions namely preparation and adherence to a construction management plan.
22. Both proposals implement the PDP objectives. The amending proposal is more aligned with PDP objectives and their supporting policies (including Objective 36.2.1 above) because the amending proposal better enables development without risking any additional adverse effect or inappropriate outcome.

## **Costs**

23. The amending proposal has no costs.

## **Benefits**

24. The existing proposal creates a framework where a resource consent application that would otherwise be provided for as a controlled or RDA activity might become full discretionary. This is an unhelpful and unnecessary 'distraction' that requires effort on determining compliance with noise limits rather than focusing effort on appropriately avoiding, remedying or mitigating noise effects. The benefit is to simplify and improve the workability of the PDP provisions, namely in relation to the consent process for development that requires resource consent. This reduces costs to all participants in the resource consent process. Importantly, all noise effects from a controlled or RDA activity (construction or operational) can be appropriately avoided, remedied or mitigated through standard conditions of resource consent, namely via preparation of and adherence to construction and operational noise management plans respectively.

## **Risk of acting or not acting**

25. There is no significant risk of acting (i.e. proceeding with this amending proposal) or not activity, just the lost opportunity to improve the workability of the PDP and reduce costs on applicants.

## **Overall Conclusion**

26. The above evaluation has examined the rezoning under Section 32AA of the Act. The broad conclusions from that evaluation are that:
- a. There is no need for developments that 'already' require resource consent to also be subject to the construction noise standards in rule 36.5.13, especially where the development is provided for as a controlled or restricted discretionary activity.
  - b. For these activities, construction noise can be managed through resource consent conditions, with consideration of the appropriate construction noise impacts provided as a matter of control or discretion.
  - c. The provisions under the existing and amending proposal are both appropriate methods for achieving the existing PDP objectives
  - d. The amending proposal will be more efficient and effective in achieving the PDP's objectives, taking into account their costs and benefits including the environmental, social and economic costs and benefits, and the opportunities for economic growth anticipated; and
  - e. There is no significant risks to acting or not-acting, however the risks of not acting impose unnecessary costs and delays on participants in resource consent applications for developments already provided for in the PDP as controlled or RDA activities.
27. Overall, for the reasons expressed above, the amending proposal by Well Smart will more appropriately achieve the PDP objectives and the purpose and principles of the RMA, compared to the existing proposal.

Signed



**Ben Farrell**

1 September 2025