

Queenstown Lakes District Proposed District Plan – Stage 1

Section 42A Hearing Report For Hearing commencing: 17 October 2016

Report dated: 23 September 2016

Report on submissions and further submissions
Chapter 37- Designations (QLDC)

File Reference: Chp.37S42A(QLDC)

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1.0 EXECUTIVE SUMMARY

- 1.1 A designation is a 'spot zoning' over a site or area that authorises a requiring authority's work and activities without the need to comply with the zone rules or obtain a land use consent. It also constrains the carrying out of activities by third parties that may be incompatible with the designated purpose. Requiring authorities include Ministers of the Crown, local authorities and network utility operators approved as requiring authorities under the Resource Management Act 1991 (**RMA**). Conditions of designations set parameters for which activities can occur in accordance with the purpose of designations.
- 1.2 Pursuant to Clause 4 of Schedule 1 of the RMA, the designations within the Operative District Plan (**ODP**) that Queenstown Lakes District Council (**QLDC**) is responsible for and that had not lapsed were included in the Proposed District Plan (**PDP**), some without modification and some with modification, as requested by QLDC.
- 1.3 QLDC also included 181 new designations within the PDP to ensure the safe and efficient functioning and operation of its infrastructure assets as well as its parks and reserves.
- 1.4 A number of submitters sought relief in the form of correcting errors or making minor amendments to QLDC designations. I consider most of these changes to be appropriate and I have made the relevant changes in the revised chapter attached as **Appendix 1** to this evidence. Many of these relate to minor changes to legal descriptions, wording changes, cancellations of conditions that are no longer appropriate or corrections to mapping errors.
- 1.5 I have considered the effects on the environment of each new QLDC designation as well as QLDC's existing designations pursuant to Clause 9 of Schedule 1 and section 168A of the RMA. I have made relevant changes in the revised chapter attached as **Appendix 1** where I consider doing so gives effect to the purpose of the RMA. Overall, I consider that the revised chapter better meets the purpose of the RMA.

2.0 INTRODUCTION

2.1 My full name is Rebecca Dawn Holden. I have been employed by the QLDC since October 2014. During this time I have worked as both a Planner and Senior Planner within the Resource Consents Team, and currently hold the position of Senior Planner within the Policy Team.

2.2 In 2004 I graduated from the University of Canterbury with a Bachelor of Arts (Hons) degree in Geography and Anthropology. Since 2005, I have been an Associate Member of the New Zealand Planning Institute primarily working in a Local Government context in both the United Kingdom and New Zealand where I have held a number of planning roles associated with monitoring and research, policy development and resource consent processing.

2.3 I have held my current role of Senior Planner (Policy) since August 2016. When I moved into this role, I became responsible for Chapter 37 – Designations of the PDP representing the territorial authority (regulatory arm of QLDC, as opposed to QLDC as requiring authority).

3.0 CODE OF CONDUCT

3.1 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

3.2 I am authorised to give this evidence on the QLDC's behalf.

4.0 BACKGROUND – SCHEDULE 1 PROCESS FOR DESIGNATIONS

4.1 Section 168 of the RMA enables a local authority that has financial responsibility for a public work to give notice in the prescribed form to a territorial authority of its requirement for a designation for a public work, or in respect of any land, water, subsoil, or airspace where restriction is necessary for the safe or efficient functioning or operation of a public work.

- 4.2** Clause 4(6) of Schedule 1 of the RMA provides that a territorial authority may include, in its proposed plan, any requirement for a designation or any existing designations that the territorial authority has responsibility for in its district. Accordingly, after receiving notice from QLDC as requiring authority, QLDC, as territorial authority, included the requirement for all existing QLDC designations (that were not withdrawn) in the PDP, including any requested modifications.
- 4.3** In addition to those designations that were rolled over from the ODP, 181 requirements for new QLDC designations were included in the PDP when it was notified. These requirements relate to land containing public works within the Queenstown Lakes District (**District**) that QLDC has financial responsibility for, as well as land, water, subsoil or airspace where a restriction is necessary for the safe or efficient functioning or operation of such a public work.
- 4.4** Information was publicly available from the date of notification of the PDP. The detail of every modification to a rolled over designation and the reason for it was provided as part of the notification of the PDP. Further each new NoR was publicly notified. These Notice of Requirements (**NORs**) include a description of the site as well as an assessment of potential effects on the environment. Where applicable, an assessment of alternative sites was also provided.
- 4.5** Clause 9(2) of Schedule 1 of the RMA provides that when a designation of a territorial authority is included in a proposed plan, that territorial authority must make its decision on that designation in accordance with section 168A(3) of the RMA. Section 168A(3) of the RMA provides that:
- (3) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—*
 - (a) any relevant provisions of—*
 - (i) a national policy statement:*
 - (ii) a New Zealand coastal policy statement:*
 - (iii) a regional policy statement or proposed regional policy statement:*
 - (iv) a plan or proposed plan; and*
 - (b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—*
 - (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or*

- (ii) it is likely that the work will have a significant adverse effect on the environment; and*
- (c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.*

4.6 Section 168A(4) of the RMA provides that:

- (4) The territorial authority may decide to—*
 - (a) confirm the requirement:*
 - (b) modify the requirement:*
 - (c) impose conditions:*
 - (d) withdraw the requirement.*

4.7 Accordingly, the following sections of my evidence provide my views and reasons to the Panel on whether the QLDC requirements need be confirmed, modified, withdrawn or conditions imposed. My evidence also addresses the relief sought by submissions and further submissions.

5.0 SCOPE

5.1 This s42A report relates to the QLDC designations contained in the Designations Chapter 37 of the PDP only. This report addresses submissions and further submissions received on the QLDC designations and any subsequent amendments to the planning maps in order to remove or amend the annotation of designated areas on those maps. I have addressed the relief sought by each submitter at section 7 of my evidence.

5.2 The Table in **Appendix 2** of this report outlines whether individual submissions are recommended to be accepted, accepted in part, rejected, considered to be out of scope or should be transferred to another hearing stream.

5.3 Unless stated otherwise, where I have recommended making minor modifications the reason for this is noted in **Appendix 2** of my evidence and not in this report. The recommended changes are shown within the revised chapter in **Appendix 1**.

- 5.4** Where a submission was received from QLDC as requiring authority stating a designation is no longer required, I have removed this designation from schedule 37.2 (pursuant to Clause 4(9) of Schedule 1 of the RMA), as marked within the revised chapter attached and have made note of this in **Appendix 2**.
- 5.5** To clarify, this report will not address designations which have been rolled over from the ODP without modification and where no submissions were received.
- 5.6** Where QLDC, as requiring authority, has included an existing designation in the proposed plan with modifications or a new requirement has been included in the PDP, reasons needed to be included in the QLDC's written notice. As such, where the effects on the environment have been considered by QLDC as requiring authority, unless otherwise specified, I adopt the assessment provided in the written notice. As such, my evidence will only address new and modified designations where my opinion differs from the assessment of effects provided by QLDC in the respective NoR.
- 5.7** I note that a number of submitters, who are not requiring authorities, seek the inclusion of additional designations. I consider that there is no jurisdiction to consider these submissions. Only a Minister of the Crown, a local authority or a network utility operator approved as a requiring authority under s167 of the RMA can give a NoR to designate land for a particular purpose.
- 5.8** I note that the Panel has delegated authority to make a decision pertaining to all QLDC designations.
- 5.9** As outlined in section 4 of this report, pursuant to s168A(4) of the RMA, the Panel may decide to:
- a. confirm the requirement;
 - b. modify the requirement;
 - c. impose conditions; or
 - d. withdraw the requirement.
- 5.10** As stated above, I have provided a revised chapter attached as **Appendix 1** to this evidence. The information pertaining to each NoR can be found within **Appendix 3** to this evidence. Revised planning maps will also be filed in the lead up to the hearing.

6.0 NEW REQUIREMENTS

- 6.1** As part of the notification of the PDP, QLDC, as requiring authority prepared, NoRs for 181 new sites. These were in addition to the existing designations that were notified to be rolled over from the ODP. The link to each NoR can be found in **Appendix 3** to my evidence.
- 6.2** QLDC, as requiring authority, advised that the majority of these new designations are required to identify and protect QLDC's existing engineering infrastructure assets as well as new parks and reserves.
- 6.3** Many of these new designations are placed over sites containing existing infrastructure facilities, often created through subdivision as the District has developed. QLDC seeks to designate these pieces of land to ensure the protection and effective operation of the relevant facilities.
- 6.4** Similarly, QLDC wishes to designate a number of reserves that have recently been vested in QLDC through subdivision in order to ensure their protection and operation into the future. I understand that this is consistent with the approach taken by the QLDC toward designating reserves in the past.
- 6.5** As outlined in paragraph 1.1 above, designating land is a powerful planning tool that enables requiring authorities to carry out works in accordance with the designation purpose, without the need to comply with the underlying zoning provisions. Conditions on a designation are often agreed to by a requiring authority to set parameters and maintain a degree of amenity within the underlying zone.
- 6.6** I note that QLDC seeks to designate a number of new sites, without volunteering any associated conditions to avoid, remedy or mitigate adverse effects on the environment. In some instances, due to the purpose of the designation, I consider this an acceptable approach and to be consistent with the approach taken for similar designations rolled over from the ODP. Designations that I do not consider need conditions to mitigate adverse effects include designations, for the following purposes:
- a. stormwater detention and treatment;

- b. soakage pits and soakage ponds;
- c. water reservoirs;
- d. landfills;
- e. local purpose reserves – esplanade, access, walkway, pedestrian, beautification, scenic, car park, gravel, cemetery, drainage, road, public well, tree planting;
- f. historic reserves; and
- g. segregation strips.

6.7 I consider it unnecessary to have conditions attached to designations for these purposes mainly because built form is not usually associated with these purposes. Additionally, for reserves classified as local purpose under the Reserves Act 1977 (**Reserves Act**) there is an added layer of protection afforded in that the Reserves Act requires these reserves to be administered and maintained to the extent compatible with their primary purpose, as specified in its reserve classification.

6.8 However, in some instances, I consider the imposition of conditions on QLDC designations for utility or reserve functions is appropriate in order to maintain the anticipated amenity values of the underlying zone. Including conditions within these designations would also be consistent with other QLDC designated sites that have the same purpose and that have been rolled over from the ODP.

6.9 I do not consider it necessary to outline detailed reasons why I consider conditions appropriate for each designation. Rather, to assist the Panel, I have grouped these designations into two categories being:

- a. Recreation reserves; and
- b. Utilities involving noisy structures e.g. pump stations.

Recreation Reserves

6.10 Given an activity or structure could potentially occur or be built within a recreation reserve (so long as any development is also consistent with the parameters set by the Reserves Act 1977), I see it as appropriate to make reference to Part B of Chapter 37 being conditions relating to reserves in all new designations relating to recreation reserves. In other words, I recommend that conditions be added to all new designations relating to recreation reserves.

6.11 Part B of Chapter 37 contains conditions (as notified within the PDP) to appropriately manage the bulk and location of any building, while also managing activities that may lead to adverse effects on neighbouring properties.

6.12 Conditions in Part B of Chapter 37 relate to the following:

- a. setbacks from roads and neighbours;
- b. maximum building height;
- c. site coverage;
- d. access and parking;
- e. impervious surface;
- f. glare limitations;
- g. noise; and
- h. hours of operation.

6.13 I consider that these conditions will provide an appropriate degree of protection to amenity when reserves are used for their designated purposes while still enabling QLDC as requiring authority to achieve its objectives for the designation.

6.14 In order to assist the Panel, I have included a table below which summarises the designations which I recommend conditions be added to.

No.	Designation Purpose	Conditions
492	Local Purpose Reserve	B
493	Reserve for Public Purposes	B
494	Local Purpose Reserve (Public Hall)	B
495	Cardrona Hall Toilets	B
522, 523, 524	Recreation Reserve, Local Purpose Reserve (Child Care Centre), Local Purpose Reserve (Education)	B
532	Glenorchy Fire Station	B
533	Glenorchy Town Hall	B
561	Recreation Reserve	B
562	Local Purpose Reserve (Recreation)	B

Utilities

6.15 Utility infrastructure, such as sewage stations, water pump stations, and water intakes, have the potential to cause adverse noise effects on sensitive receiving

environments, such as residential activities. As such, I consider that it is appropriate for condition C.17 to apply to all new designations for noise creating utilities, noted in the table below. Condition C.17 seeks to mitigate any adverse noise effects on these environments by imposing noise limits as follows:

Noise:

- (a) *Sound shall be measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 and shall not exceed the following noise limits at any point within the notional boundary of any residential unit:*
 - (i) *daytime (0800 to 2000 hrs) 50 dB LAeq(15 min)*
 - (ii) *night-time (2000 to 0800 hrs) 40 dB LAeq(15 min)*
 - (iii) *night-time (2000 to 0800 hrs) 70 dB LAFmax*
- (b) *The noise limits in (a) shall not apply to:*
 - *Construction sound which shall be assessed in accordance and comply with NZS 6803:1999.*
 - *The use of an electricity generator for emergency use.*

6.16 I consider this condition to be an appropriate mechanism to mitigate adverse noise effects resulting from noise producing infrastructure contained within designated sites. This condition was adopted by designations within the ODP. As such I recommend to the Panel that this condition is added to the relevant new utility designations that were notified without these conditions.

6.17 I have provided a revised chapter attached as **Appendix 1** to this evidence which marks the recommended changes.

Designations #526, #528 and #529 – Civic Offices

6.18 QLDC's submission (383) seeks to merge Designations #526, #528 and #529 to create one designation covering three parcels of land, being identified as Designation #527. I recommend to the Panel that, in this respect, the submission of QLDC be accepted. This approach is consistent with other designations that cross multiple pieces of land elsewhere in the district. It also provides more clarity as these three designations as notified are for the same purpose (Civic Offices).

6.19 However, I note that no conditions have been volunteered by QLDC for these designations (#526, #528 and #529 (Civic Offices)). The NoR states that the purpose of this designation is to clearly identify the affected land to the

community, offering certainty regarding the expectations for use of this land. In the absence of conditions however, no certainty is provided regarding the scale, design and location of any future building or use of land if this site was to be redeveloped.

- 6.20** While recognising the importance of the Civic Offices, I note that the assessment of the potential effects on the environment contained within the NoR does not take into consideration effects of redeveloping this site, noting that the Civic Offices already exist and operate from the site. Therefore the NoR concludes that designating the site will result in negligible potential adverse effects on the environment.
- 6.21** I agree with this assessment in so far as the existing built form is already established. However, as outlined above, this assessment does not take into consideration potential future redevelopment of the site in accordance with the designation purpose.
- 6.22** Subject to consideration of evidence from QLDC as requiring authority as to the need for such conditions, I recommend to the Panel that it could be appropriate to attach conditions such as those which I have suggested at C.83 of the revised chapter at **Appendix 1**.
- 6.23** I am of the opinion that adding conditions to Designation #527 like those suggested in **Appendix 1** to this report, will ensure that the bulk and location of any future building is in keeping with that anticipated within the Town Centre Zone, ensuring that a degree of amenity is maintained. It would also be consistent with the approach taken in terms of other designations throughout the District.

Designations #522, #523 and #524 - Recreation Reserve, Local Purpose Reserve (Child Care Centre), Local Purpose Reserve (Education)

- 6.24** Designations #522, #523 and #524 are identified on Planning Map 35 of the PDP being designated for the purposes of Recreation Reserve, Local Purpose reserve (Child Care Centre), Local Purpose Reserve (Education). No conditions were notified as being associated with these designations. However, as described above for Designation #527, as there is existing built form associated with the land use activities being carried out within these sites, I recommend that the Panel consider attaching conditions to the designations to ensure that the

amenity of the underlying zone is retained if redevelopment of these sites occurs in the future. These could be similar to the conditions that I have recommended be attached to Designation #527 (#526, #528 and #529).

- 6.25** Considering the factors under s168A(3) of the RMA, my view is that the proposed conditions would protect the town centre environment from adverse effects on amenity while at the same time allowing for the QLDC to achieve its objectives for the designation as noted in the NoR.
- 6.26** The purpose of this designation is to formally identify the QLDC reserves and associated facilities to offer certainty and expectations for use of this land to the community. In this case, this designation is to specifically provide for a child care and education centre to be contained within this site. Further, designating the site will formally restrict any other party from carrying out work on the site that could prevent or hinder the continued use of the reserve without the requiring authorities' permission.
- 6.27** The revised chapter contained within **Appendix 1** includes these provisions (including recommended changes for the Panel to consider).
- 6.28** Additionally, I note that the area of land identified on Planning Map 35 in relation to Designations #522, #523 and #524 does not match that identified in the NoR for these designations. I can confirm, however, that the legal descriptions provided in Schedule 37.2 match those within the NoR pertaining to these sites. Figure 1 below highlights the parcels of land included within the NoR (using blue lines), whereas Figure 2 below shows those identified on Planning Map 35. In my view Planning Map 35 should be amended to reflect the legal descriptions for the designations.

Designation #532 (Glenorchy Fire Station) and Designation #533 (Glenorchy Town Hall)

- 6.29** No conditions were proposed for Designation #532 (Glenorchy Fire Station) and Designation #533 (Glenorchy Town Hall). These designations are located within the Glenorchy Township Zone (ODP), which I understand is to be notified as part of Stage 2 of the PDP.¹ Both sites are under the ownership of QLDC.
- 6.30** I have reviewed the titles for these two sites and do not see reference to either of them being gazetted as reserves. The NoR states that the purpose of this designation is to clearly identify the affected land to the community, offering certainty regarding the expectations for use of this land. In the absence of conditions however, no certainty is provided regarding the scale, design and location of any future building or use of land if this site was to be redeveloped.
- 6.31** As discussed in relation to Designations #526, #528 and #529 above, I note that the assessment of the potential effects on the environment contained within the NoR does not take into consideration effects of redeveloping these sites and only notes the existing activities (Fire Station and Town Hall). The NoR concludes that designating these sites will result in negligible potential adverse effects on the environment.
- 6.32** I agree with this assessment in so far as the existing built form is already established. However, I am of the opinion that attaching conditions to these designations could be beneficial. By having conditions associated with this designation, the community will have certainty regarding the expected use of this site, now and in the future if it is ever further developed. Considering the factors under s168A(3) of the RMA, my view is that, subject to consideration of evidence from QLDC as requiring authority as to the need for such conditions, associated conditions would allow for the QLDC to achieve its objectives for the sites (being the continued use of the site for the purposes specified) without necessitating a land use consent.
- 6.33** I have noted that although the correct site is identified as being designated, the annotation for Designation #532 is missing from Planning Map 25b. I recommend to the Panel that this minor mapping error be corrected. The image below is taken from the PDP as notified with Designation #532 being circled in red:

¹ As depicted on Planning Map 25b (PDP).



Figure 3: Designation #532 (circled in red) as shown within Planning Map 25b

#462 – Storm Water Soak Pit/Waste Water Pump Station

- 6.34** Designation #462 relates to a storm water soak pit and waste water pump station at Lake Hawea.
- 6.35** I advise the Panel that there is a duplication of Designation #462 within Schedule 37.2. This designation should in fact be listed as two separate designations, one pertaining to a storm water soakage pit with no associated conditions, and the other a waste water pump station referring to conditions contained within C.17.
- 6.36** Planning Map 17 shows Designation #462 to be located at the end of Nicol Street, Lake Hawea, as described in the site description. However, two annotations should be shown, one pertaining to the soak pit and the other to the pump station. The figure below illustrates this designation on Planning Map 17 as notified, with Designation #462 being circled in red:



Figure 4: Designation #462 (circled in red) as shown within Planning Map 17

6.37 This duplication has been confirmed as an error by QLDC as requiring authority, who acknowledge that there should be two designations. Accordingly, I have amended Schedule 37.2 in the revised chapter at **Appendix 1** by inserting an additional designation reference for the Waste Water Pump Station with the reference #586. I further recommend to the Panel that Designation #586 be included in Planning Map 17.

#585 – Recreation Reserve (Sports and Recreation Centre)

6.38 The ODP contains Designation #585 being a Recreation Reserve at Jack Reid Park in Arrowtown. When rolling over designations, the requiring authority did not request for this designation to be included in the PDP.

6.39 This designation was not notified in Schedule 37.2 nor on any Planning Map. However, I advise the Panel that in drafting this report I have noted that conditions for Designation #585 were included in Chapter 37 of the PDP under the reference C.82.

6.40 QLDC as requiring authority has confirmed that this omission was an error. As such, I am of the understanding that this designation will have to be re-notified as part of Stage 2 of the District Plan review if it is to be included in the PDP.

General Mapping Errors

6.41 I have also noted a number of mapping errors associated with the following new designations. The table below outlines these designations, the relevant Planning Map, a description of the error and proposed correction.

No	Map referenced	Purpose	Description of error and proposed correction
439	39b	Kingston Closed Landfill	No such map as 39b. Additionally, this designation is not annotated on Map 39 or 39a. Recommend to the Panel that Designation #439 be shown on Map 39a (discussed further below).
444	39a	Waste Water Pump Station	This designation is annotated correctly on Map 39 (Arthurs Point). The reference to 39a (Kingston) is an error. Recommend that the map reference within Schedule 37.2 is corrected to Map 39.
457	18, 23	Waste Water Pump Station	This designation is annotated on Map 18 (Wanaka Rural, Hawea Flat), but not on Map 23 (Wanaka) as it is outside the area that Map 23 depicts. Recommend that reference to Map 23 is removed from the Schedule 37.2.
586	17	Waste Water Pump Station (Nichol Street)	As discussed in detail above, this designation was duplicated as Designation #462 and is therefore not annotated as #586 on Map 17 (Hawea). I recommend to the Panel that Designation

			#462 pertaining to the pump station on Map 17 is updated to reference #586.
479	18	Water Intake (Beacon Point)	Is not annotated on Map 18 but is on Map 19. Recommend that this designation is correctly referenced in Schedule 37.2 to refer to Map 19.
532	25	Glenorchy Fire Station	Designation #532 is not annotated on Map 25. Recommend that reference to Designation #532 is added to Map 25.
564	24	Recreation Reserve, Sherwin Avenue, Albert Town	Location on Map 24 annotated twice (once correctly and once incorrectly (Fig. 5 below)). The second annotation is shown in the Rural Zone even though the site is actually located on the periphery of the township. Recommend to the Panel that the second reference located in the Rural Zone be removed.

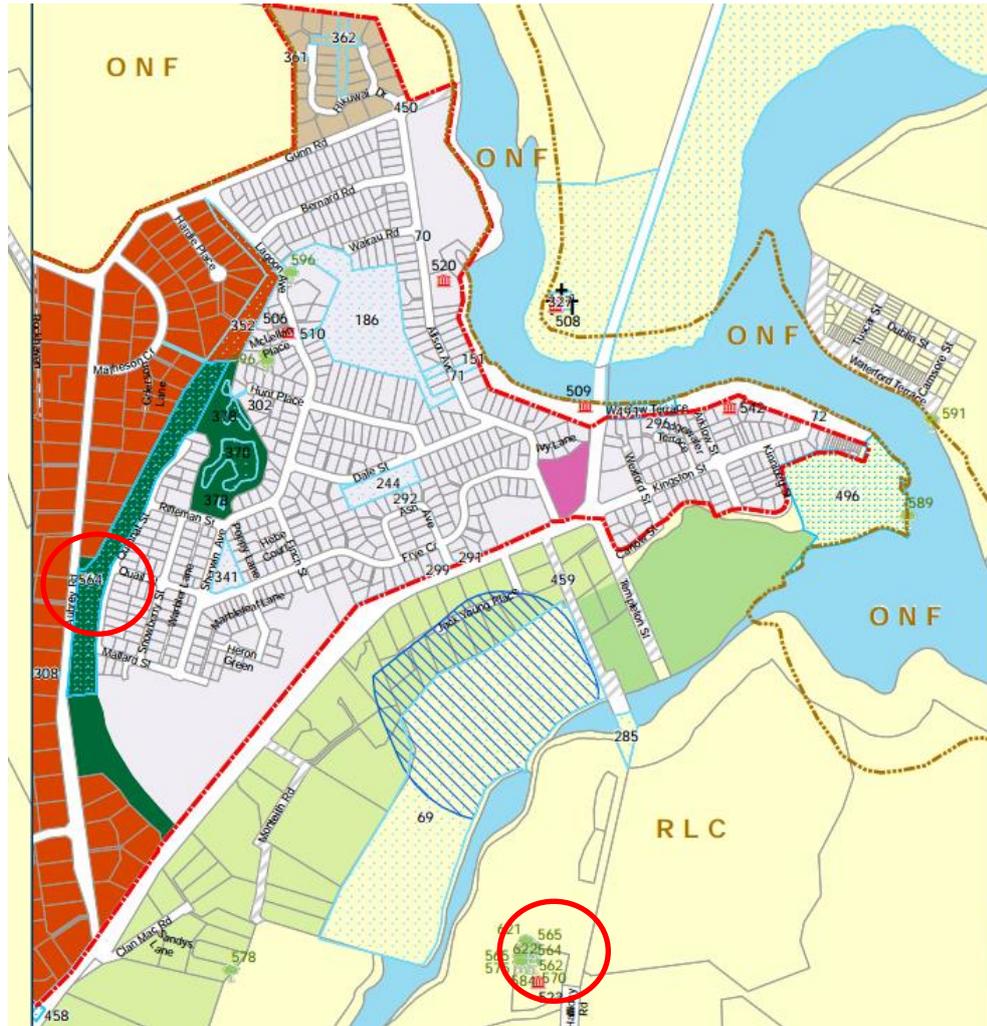


Figure 5: Designation #564 – Recreation Reserve – within Planning Map 24 (Albert Town) (annotated twice circled in red)

6.42 I recommend to the Panel that the minor mapping errors in the above table be made amended.

Designation #439 – Kingston Closed Landfill

6.43 As noted in the table above, I bring to the Panel’s attention that Designation #439 (Kingston Closed Landfill) is not identified on Map 39 as noted in Schedule 37.2.

6.44 The purpose for this designation, as outlined in the NoR for this site, is to maintain consistency with other closed landfills in the District by formally identifying the closed landfill area. In the past, QLDC have taken the approach of designating these areas of land to alert the public to their location and potential effects on the environment. Designating the site will also enable QLDC to

undertake future remedial works (if required) without the need to obtain land use consent.

6.45 Further, I advise the Panel that QLDC holds a publicly available Hazards Register that alerts current and future landowners to a potentially contaminated piece of land, or land that is subject to risk from a natural hazard. This register does not form part of the ODP or PDP, rather is a non-statutory tool for alerting the public to a potential risk. Hazards Register information is also included on any Land Information Memorandum.

6.46 The Hazards Register identifies the closed landfill at Kingston as being a potentially contaminated site, with the reference LFL010 as shown in the image taken from the Hazards Register below (dashed red line):



Figure 6: Kingston Landfill site (circled red) as shown with QLDC Hazards Register

6.47 The closed landfill is located within a site that is not owned by the QLDC. Although identified in the schedule, this designation was not identified on Planning Map 39a of the PDP.

6.48 As such, I recommend to the Panel that Designation #439 be shown on Planning Map 39a to the extent shown on the QLDC Hazards Register, outlined in Figure 6 above.

7.0 ANALYSIS OF MODIFICATIONS SOUGHT THROUGH SUBMISSIONS TO QLDC DESIGNATIONS – IN ORDER OF DESIGNATION

7.1 The following section of my evidence addresses relief sought by submissions and further submissions in relation to the QLDC designations, including both new designations and designations that were rolled over with or without modification.

Minor Amendments

7.2 The corporate submission by QLDC (submission 383) seeks a number of typographical corrections be made to Schedule 37.2 of the PDP, along with the removal of a number of designations identified within. As no revised schedule marking these errors was included with submission 383, I have attempted to identify and correct these minor errors.

7.3 Minor changes to designations include updates to legal descriptions (not affecting the boundary of a designation), notation, addresses, correction of typos, mapping errors and other minor matters which did not alter the substance of a designation. These minor amendments are noted in **Appendix 2** attached.

7.4 In addition, changes to a requiring authority's name through notification in the New Zealand Gazette, or reductions in the extent of a designation boundary are similarly regarded as a minor change.

7.5 The relief requested by QLDC includes the use of explanatory and procedural text to the beginning of the chapter to provide clarification. I recommend to the Panel that this relief should be accepted. To assist the Panel, I have included some suggested wording in the Revised Chapter before Schedule 37.2, attached as **Appendix 1**.

7.6 The QLDC corporate submission (383) also seeks changes to Designation #282 in terms of the reference to condition H (Recreation Reserves). In the notified schedule, this designation refers to Conditions G and H being conditions relating to Recreation Reserves (G), and Lot 13 DP 322851 & Lot 312 DP 329276 relating

to Transpower's transmission lines running through these sites (H). I recommend to the Panel that this submission point is accepted.

7.7 I note that the title for Condition H referred to legal descriptions of sites affected. These legal descriptions have been changed through subdivision. Therefore I recommend to the Panel that this heading is changed to "Transpower's Development Free Zone".

7.8 In relation to the relief sought by submission 383, on further investigation, I note that Condition G (as notified) appears to be a duplication of Condition B and therefore I recommend to the Panel that Condition G also be deleted with reference being made to condition B instead. Consequential changes throughout Chapter 37 in terms of reference to Condition B instead of G will subsequently need to be made, as marked in the revised chapter attached.

Designation #29 – QLDC Events Centre and Aquatic Centre

7.9 Designation #29 relates to the Queenstown Event Centre (QEC) and Aquatic Centre, located at the entrance to Frankton along Ladies Mile (SH6). This designation was rolled over from the ODP with modification.

7.10 The NoR prepared by QLDC as part of the PDP for Designation #29 noted a number of modifications to this designation compared to that within the ODP. These modifications can be summarised as follows:

- a. inclusion of additional land;
- b. removal of a triangular portion of land (see red shaded area in Figure 7 below);
- c. enable future development opportunities; and
- d. significantly alter the existing conditions.

7.11 Below I have structured my evidence to address the following themes raised in submissions relating to Designation #29:

- a. minor amendments;
- b. boundary and legal descriptions of land within Designation #29;
- c. conditions of designation; and
- d. relationship with Plan Change 35 and Lot 6 NoR.

Minor amendments

7.12 Submitter 719 being the New Zealand Transport Agency (**NZTA**), opposes Designation #29 identifying a number of minor errors within the conditions as follows:

- a. delete Heading "A. Conditions for the Events Centre;"
- b. condition 1: Correct legal descriptions included on page 37-41; and
- c. condition 11(b), 12(b) and 13(d): Remove reference to SH6A as designated site does not have frontage to this highway.

7.13 I agree that the legal descriptions contained under heading "A. Conditions for the Events Centre" do not match with those listed in Condition 1 of C.22 or those within Schedule 37.2. I confirm that the correct legal descriptions for land within Designation #29 are those contained at Condition 1 which are:

- a. Lot 1 DP 25073;
- b. Lot 100 DP 468142;
- c. Lot 2 DP 476309;
- d. Sections 49, 50, 61-62 and 149 Block I Shotover Survey District;
- e. Part Section 63 Block I Shotover Survey District; and
- f. Section 5 and 6 Block XXXIII Town of Frankton.

7.14 I recommend to the Panel that the submission from the NZTA (719) is partly accepted in that the blurb above Condition 1 listing the legal descriptions is removed, as marked in the Revised Chapter attached at **Appendix 1**.

7.15 NZTA also request changes to conditions 11(b), 12(b) and 13(d) which reference SH6A. NZTA note that the QEC is not accessed via SH6A, rather SH6, and therefore this reference should be removed. I consider the NZTA submission on this matter is correct and should be accepted in this regard.

7.16 Overall, I consider the corrections requested by NZTA (719) to improve to the chapter. As such, I recommend to the Panel that these points be accepted. The requested changes are marked in the Revised Chapter, attached as **Appendix 1**.

Boundary of Designation #29 (as shown on Planning Map 33)

7.17 Submitter 433 (Queenstown Airport Corporation (**QAC**)) requests that the boundary of the designation on Map 31a be amended to correctly illustrate the extent of the designation. QAC submits that the planning map currently contradicts the extent of the designation described within the NoR.

7.18 I have reviewed the NoR pertaining to this designation. Herein it is clearly stated that as part of the NoR, it is proposed to remove:

“a large triangular shaped piece of land that is contained within both Designation 29 and Designation 2 (Aerodrome Purposes). This land is located in the south-eastern corner of the existing Designation 29 (and to the west of Grant Road). This land includes portions of Section 61-61 Block I Shotover Survey District and Part Section I Block I Shotover Survey District.”

7.19 I advise the Panel that I have noted an error within the legal descriptions cited above which are contained within the NoR for this designation. The triangular piece of land (marked in Figure 7 below in a red dashed outline) contains portions of land legally described as (recommended changes shown as deleted text ~~struck through~~, added text underlined):

- a) *Part Section ~~I~~ 63 Block I Shotover Survey District*
- b) *Section 61-612 Block I Shotover Survey District*

7.20 To clarify, Schedule 37.2 and the legal descriptions cited in Condition 1 of the designation correctly describe this land. I am satisfied that given the northern parts of these pieces of land are contained within Designation #29, the legal descriptions should be noted within both Schedule 37.2 for Designation #29 as well as Condition 1 associated with this designation. However, I recommend to the Panel that a note is added to provide clarity that Designation #29 applies to only part of these land parcels, as marked in the revised chapter attached at **Appendix 1**

7.21 Additionally, I note that it is unclear whether Planning Map 33 of the PDP displays this piece of land being subject to Designation #29 or Designation #2, as shown in the figure below:

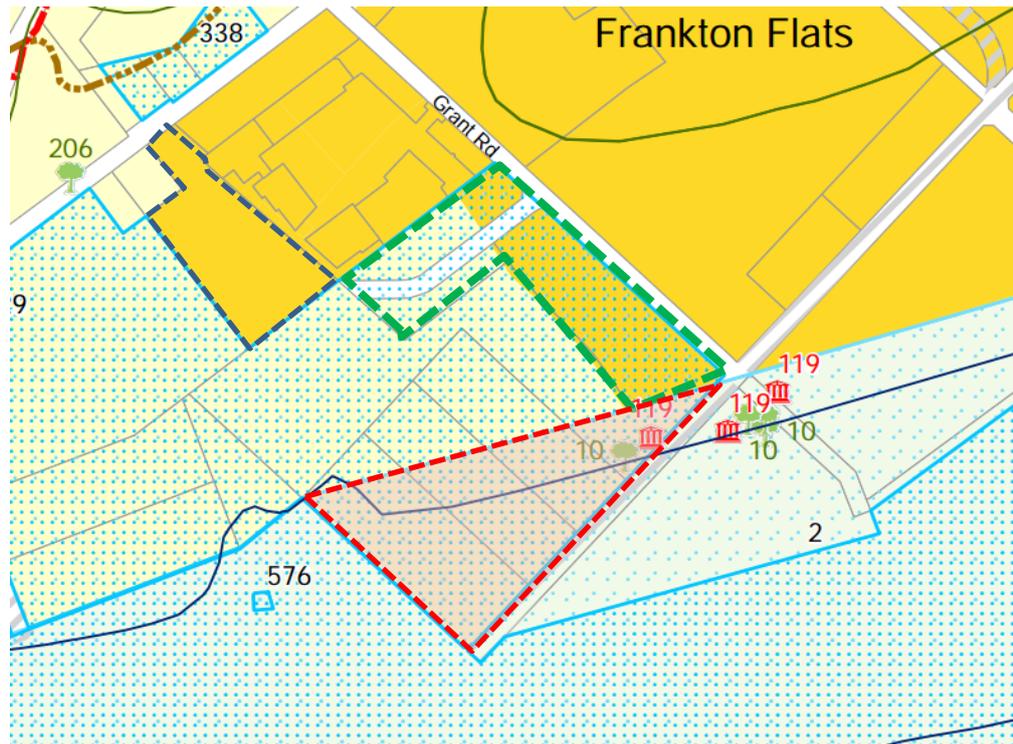


Figure 7: North-eastern corner of Designation #29 as shown on Planning Map 33

- 7.22** Accordingly, I recommend to the Panel that this map be amended to clearly depict that Designation #29 does not include the triangular piece of land and to clarify that this land is included in Designation #2.
- 7.23** As discussed above, NZTA (submitter 719) has raised an issue to do with the legal descriptions listed in Schedule 37.2, the legal descriptions listed on page 37-41, and those within condition 1 of the designation. I have confirmed that the legal descriptions contained in Schedule 37.2 and Condition 1 of C.22 are correct. I have used the QLDC's Geographic Information System (**GIS**) to compare these legal descriptions with the extent of the designation shown on Map 33.
- 7.24** I note that the NoR clearly states that the 'L' shaped piece of land that adjoins Grant Road, being legally described as Lots 4-6 DP 476309 and Lot 100 DP 476309 is to be removed from Designation #29. I confirm that this legal description has been removed from Condition 1 of C.22 and Schedule 37.2. However, I advise the Panel that these pieces of land are still shown on Planning Map 33 as being designated. I have outlined this area in green within Figure 7 above. I recommend to the Panel that this area of land is removed from Planning Map 33.

- 7.25** I also note that the schedule identifies Lot 100 DP 468142 as being included in Designation #29. However, I advise the Panel that this piece of land is not included within the designated area shown on Planning Map 33. I have outlined this parcel of land with a blue dashed line in Figure 5 above. I recommend to the Panel that this area of land be added to Planning Map 33.
- 7.26** I note that this parcel of land is owned by QLDC and currently contains sports fields. This piece of land is located within the 'Wider Grounds Area' (WGA) as depicted on 'Attachment B Designation Plan' of the NoR, encompassing the sports playing fields and other small amenities. The NoR describes the intention of the WGA to allow flexibility of location and use for buildings that are required to be established that specifically support activities undertaken in this area i.e. changing facilities, toilets and clubrooms.
- 7.27** The submission received from the NZTA (submission 719) requests that the Structure Plan referred to in Condition 2 of the designation (C.22) be inserted into the Plan. I recommend to the Panel that this submission point be accepted. Accordingly, I have included the relevant plan at the end of Chapter 37, which is consistent with plans relating to other designations within this chapter.
- 7.28** To summarise, I recommend to the Panel that Planning Map 33 is amended as follows:
- a. The triangle shaped piece of land that I have outlined in red within Figure 5 above is annotated to clearly state that it is part of Designation #2; and
 - b. That the 'L' shaped piece of land, outlined in green in Figure 1 above is removed from Planning Map 33.
 - c. That Planning Map 33 is amended to include Lot 100 DP 469142 within Designation #29 as outlined in blue in the Figure above.
- 7.29** Additionally, I recommend to the Panel that a note be added to both the schedule and Condition 1 of the designation to provide clarity that Designation #29 applies to only part of the land parcels described above, as marked in the revised chapter attached at **Appendix 1**

Relationship between Plan Change 35 and Lot 6 NoR

7.30 I note that both further submissions 1117 (Remarkables Park Limited) and 1097 (Queenstown Park Limited) oppose any amendment within Chapter 37 that undermines or circumvents the Plan Change 35 and Lot 6 NoR proceedings that are currently before the Environment Court. I note that Designation #29 has no bearing on these proceedings and therefore recommend to the Panel that both of these further submissions be rejected in relation to Designation #29.

Changes to Conditions of Designation

7.31 The NZTA (719) requests that changes should be made to the conditions established with the QEC designation. Specifically, amendments are sought in relation to condition 23 and 25 of C.22.

7.32 Condition 23 of Designation #29 as notified permits the ongoing operation of the existing main entry sign located near the intersection of Joe O'Connell Drive and State Highway, subject to conditions.

7.33 In their submission, NZTA note that non-site related signage can have an effect on road safety and, as such, condition 23 of the designation should stipulate that messages relating to the site can only be displayed. I agree that the main entry sign could cause adverse effects on safety, and I recommend to the Panel that this submission point be accepted. As above, this change has been marked in the revised chapter attached at **Appendix 1**.

7.34 Condition 25 of Designation #29 further permits an entry sign to be established which advertises activities undertaken within the QEC, if Grant Road is utilised for providing vehicular access to this site.

7.35 In their submission, NZTA also seek to restrict the location of a further entry sign to the QEC, to the entrance off Grant Road, should the existing vehicular access from SH6 be closed or restricted in the future resulting in Grant Road being utilised for access.

7.36 I recommend to the Panel that NZTA's request to amend Condition 25 be accepted. The amendments requested by NZTA provide clarity should Grant

Road be utilised to access the QEC. I agree with the reasons provided by NZTA in their submission in terms of traffic safety.

- 7.37** Additionally, the NZTA seek the inclusion of an advice note to Part C.22 in relation to early engagement with NZTA if events on site generate traffic that may change the normal operation of SH6, and the timeframe for which this process could take.
- 7.38** If inappropriately managed, temporary events have the potential to create adverse effects on the environment associated with additional vehicle movements, disruptions to the roading network, or demand for parking. Objective 35.2.1 and policy 35.2.1.5 of Chapter 35 – Temporary Activities and Relocated Buildings of the PDP seeks to ensure that temporary activities are managed to minimise adverse effects on the environment by requiring appropriate traffic management.
- 7.39** Considering the factors under s168A(3) of the RMA, my view is that NZTA's proposed amendments to the conditions in C.22 would reduce potential adverse safety effects while at the same time allowing for the QLDC to achieve its objectives for the designation, which are to provide a multi-purpose indoor and outdoor recreation, cultural and conference complex for the public benefit, while allowing the QEC to develop and operate efficiently.
- 7.40** Accordingly, I recommend to the Panel that the submission of NZTA be accepted and the advice note included in the Revised Chapter to encourage best practice and early consultation with the NZTA. This change has been marked in the Revised Chapter attached at **Appendix 1**.
- 7.41** The submission received from the QAC (433), also seeks changes to be made to the conditions of Designation #29. Recognising that Condition 7 of the designation as notified provides for 'community activities' that support the overall operation of the QEC, QAC (433) also seek the insertion of an additional condition to ensure that any building containing Activities Sensitive to Aircraft Noise (**ASAN**) are designed to achieve an "Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the 2037 Noise Contours".

- 7.42** Given the event centre and aquatic centre have already been established on site, I recommend to the Panel that QAC's submission (433) be partly accepted in relation to Condition 7, in that this condition be applicable to new or altered parts of buildings only. Additional changes to Condition 7 are sought by QAC which I discuss further below.
- 7.43** QAC also requests that Condition 4 of Designation #29 is amended to allow children to attend the day care facility only when their parent or guardian is using the site for its designated purpose (i.e. remain on site).
- 7.44** I recommend to the Panel that these submission points be accepted. In my view, even if the acoustic standards of the building are met in accordance with the proposed requirement that "*Any rooms containing Activities Sensitive to Aircraft Noise [are] designed to achieve an Indoor Design Sound Level of 40dBLdn within any Critical Listening Environment*", adverse noise effects on this sensitive activity could be exacerbated if a parent or guardian was able to leave the site i.e. the duration of exposure to aircraft noise would increase while the child was left within the day care facility. Additionally, this condition is in accordance with the parameters imposed around Designation #29 within the ODP, specifically Condition 16.
- 7.45** Furthermore, no evidence from the requiring authority has been provided from a suitably qualified noise expert to advise that this condition is not necessary in terms of mitigating any adverse noise effects on users of the day care facility (classified as an ASAN). As such, I recommend to the Panel that these submission points from QAC (433) be accepted in part.
- 7.46** QAC also requests that Condition 7 of the designation restrict the provision of community facilities to those directly related or ancillary to the operation of the QEC. I am of the opinion that given any activity carried out by QLDC would still need to be in accordance with the purpose of its designation, being the "*Multi Purpose indoor and outdoor recreation, cultural and conference complex*", the change requested by QAC in their submission (433) should be rejected by the Panel.
- 7.47** I note that QAC's (433) submission is supported by further submission 1077 (Board of Airline Representatives New Zealand (BARNZ)) who request that the

changes proposed by QAC are inserted into the PDP in relation to Designation #29. Similarly, I recommend that the Panel reject this further submission.

- 7.48** Considering the factors under s168A(3) of the RMA, my view is that including additional conditions pertaining to acoustic insulation standards would protect persons from adverse noise effects. At the same time it would also allow the QLDC to achieve its objectives for the designation, which are to enable the continued operation and appropriate expansion of the existing multi-purpose indoor and outdoor recreation, community, cultural and conference complex. Accordingly, I recommend to the Panel that QAC's submission be partly accepted.
- 7.49** As I have noted above, further submissions 1097 (Queenstown Park Limited) and 1117 (Remarkables Park Limited) oppose QAC's submission to the extent that the modifications sought by QAC circumvent PC35 and Lot 6 NoR proceedings. As noted above, Designation #29 has no bearing on these proceedings, therefore recommend to the Panel that both of these further submissions be rejected in relation to Designation #29.

Additional condition regarding Airport Approach and Land Use Controls (Designation #4)

- 7.50** As the QEC site is located beneath the Airport Approach and Land Use Control (Designation #4), QAC seek an additional condition be attached to Designation #29 to ensure that Designation #4 is not compromised. Designation #4 is located at a height ranging from 5 metres to 45 metres above the airport datum level across the site.
- 7.51** As outlined in the submission from QAC (433), depending on the location, a building with a height of 18m, and/or construction machinery may intrude into the airspace which Designation #4 occupies. Further, it is noted that Conditions 13 and 19(g) of Designation #29 within the ODP protect Designation #4 by prohibiting any buildings, structures (temporary or permanent), facilities or landscaping constructed, erected or permitted to grow, in any position from penetrating the airport approach or transitional protection surfaces at Queenstown Airport. These conditions were not rolled over into the PDP when notified, and therefore, there is no protection afforded to Designation #4 pertaining to activities within Designation #29.

7.52 Overall, I agree with this submission point to the extent that an additional condition would provide clarity and consistency with Designation #4, which could otherwise be overlooked by the requiring authority or a Planning Officer processing an Outline Plan associated with Designation #29. As such, I recommend to the Panel that submission 433 be accepted in relation to the amendments to Condition 14, as marked in the Revised Chapter attached at **Appendix 1**.

Designations #105, #110, #111 and #113 – Recreation Reserves

7.53 Designations #105, #110, #111 and #113 are for the purpose of 'Recreation Reserve' on Planning Maps 7, 18, and 22. These designations run along the foreshore of Lake Wanaka from the Log Cabin to Glendhu Bay.

7.54 As well as being the requiring authority responsible, I note that the land subject to these designations is vested in the QLDC as a Recreation Reserve under the Reserves Act. Through the special consultative process provided for under the Reserves Act, QLDC adopted the 'Wanaka Lakefront Reserves Management Plan' in October 2014 (**Wanaka Lakefront Management Plan**). This plan identifies the key objectives and policies for the management, protection and development of the Wanaka lakefront reserves.

7.55 Ross & Judith Young Family Trust (submitter 704) has raised concerns regarding the conditions relating to these designations along the foreshore of Lake Wanaka. In particular, the submitter notes that the underlying zone for these designations is Rural, however the conditions associated with this designation allow buildings of up to a 100m² footprint, and a maximum height of 10m, to be located within these reserves along the lake front ((Designations #105, #110, #111 and #113). This submitter is of the view that buildings should be excluded from these reserves, and that a condition placing controls over the size and scale of buildings raises the expectation of buildings being able to be constructed within the reserves.

7.56 Specifically, I note that Objective 5.2.3 of the **Wanaka Lakefront Management Plan** seeks to manage the impact on the natural amenity values of the lakeside reserves by minimising buildings and positioning them appropriately. *Section 4.2 – Recreation* of the Wanaka Lakefront Management Plan acknowledges that

activities along the lakefront are supported by facilities such as boat launching, children's play equipment, formed pathways and tracks, barbeque equipment, toilets, car parking and buildings.

7.57 It is my view that community expectation of what could be built within these lakefront reserves is jointly addressed by the District Plan and through the Wanaka Lakefront Management Plan prepared for these areas. Specific provisions within the Wanaka Lakefront Management Plan seek to “*manage the impact on the natural amenity values of these lakeside reserves by minimising buildings and positioning them appropriately*”. I consider that there is a dual layer of protection afforded to these lakefront reserves by both the RMA and Reserves Act. As such, I recommend to the Panel that submission 704 is rejected.

7.58 I agree with Further Wanaka Watersports Facility Trust (submitter 1305) who opposes the relief sought by Ross & Judith Young Family Trust (submitter 704). This further submission notes that in some cases it may be appropriate to locate buildings within these reserves when they are associated with the use of that reserve. Similarly, this further submission refers to the the Wanaka Lakefront Management Plan as being the appropriate forum to address the relief sought by submitter 704 (Ross & Judith Young Family Trust). As such I recommend to the Panel that Further Submission 1305 (Wanaka Watersports Facility Trust) is accepted.

7.59 In conclusion, I recommend to the Panel that Designations #105, #110, #111 and #113 be confirmed as detailed in the revised chapter, attached as **Appendix 1**.

Designation #175 – Part of Hawea Recreation Reserve (Motor Park)

7.60 Sarah Burdon (submitter 282) requests that Designation #175 be extended to cover the whole of the Hawea Camping Ground, which is vested in QLDC as a Recreation Reserve, a portion of which is leased by the submitter who operates the camping ground activity. The submitter seeks the extension of the designation in order to expand the provision of accommodation within the site.

7.61 I note that the site containing the Hawea Camping Ground is legally described as Section 2 Block II Lower Hawea Survey District being held in Computer Freehold Register 370244. This title confirms that the entire site is vested in Council as Recreation Reserve and is subject to the Reserves Act.

Although designating the entire site on Planning Maps 8 and 17 for the purpose of Recreation Reserve would align with the approach taken toward other sites in the district which are similarly vested as 'Recreation Reserve' under the Reserves Act, I am of the understanding that the underlying rationale for the expansion of this designation may not satisfy the relief sought by submitter 282 in terms of allowing further development of accommodation options within the camping ground.

7.62 Considering the factors under s168A(3) of the RMA, my view is that as the QLDC have not asked for this site to be designated, and there is no evidence to support that designating the entire site is necessary for the safe or efficient functioning or operation of public work, therefore submission received from Sarah Burdon (282) should be rejected.

7.63 I recommend to the Panel that Designation #175 be confirmed as notified.

Designation #239 – Recreation Reserve (Aerodrome)

7.64 Wyuna Preserve Residents Association Incorporated (submitter 744) seeks that conditions are imposed on Designation #239 in relation to the Glenorchy Airstrip, as identified on Planning Map 9. Specifically, they request conditions be added to manage the adverse effects of the designation on the environment and neighbouring properties by imposing conditions related to the following:

- a. hours of operation;
- b. 'no fly' zones and prohibition of circulatory flights over Glenorchy Township or Wyuna Preserve;
- c. number of leases/licences; and
- d. maximum number of flights.

7.65 Wyuna Preserve Residents Association Incorporated (submitter 744) is supported by a further submission from Blanket Bay Lodge (submitter 1308).

7.66 However, I note that submission 744 is opposed by Further Submission 1345 (Skydive Queenstown Limited) who consider the Reserves Management Plan is a better mechanism for managing the Glenorchy airstrip than imposing conditions on the designation.

- 7.67** I advise the Panel that the 'Reserves Management Plan, Glenorchy Airstrip' (**Glenorchy Reserves Management Plan**) referred to in Further Submission 1345 relates to the land which also contains Designation #239 (Local Purpose Reserve (Airport)). This management plan was adopted by Council at the meeting held on 24 August 2016. The key objectives, noted as being associated with the purpose of this reserve include facilitating "*existing emergency community, recreational and low intensity commercial tourism aviation as the principle purpose of the reserve*" and ensuring that "*the Reserve is managed and maintained so that the use remains compatible with the surrounding environment.*" A number of actions are identified to give effect to the objectives and policies of the plan. These actions include aligning the Designation provisions with the Glenorchy Reserves Management Plan.
- 7.68** I have been informed by the QLDC as requiring authority that it agrees to impose some controls within the conditions of the designation to manage noise effects generated by aircrafts using the airstrip. These include a condition restricting the hours of operation, and a condition requiring aircraft operators to plan routes and operate their aircraft in accordance with the "Fly Neighbourly" guidelines, with the exception of reasons associated with emergency and safety.
- 7.69** I am of the opinion that some parameters should be placed around the operation of this informal airstrip due to its proximity to sensitive activities (e.g. Wyuna Preserve). I note that the Glenorchy Reserves Management Plan refers to maintaining the "*nature, scale and intensity of the use of the airstrip*" which is to "*remain generally unchanged from the level that exists from the date of adoption of this plan*". However, without baseline information to establish the existing nature and scale of the activity, it is difficult to measure how the nature, scale and intensity of the use of the airstrip may change over time.
- 7.70** I am of the opinion that there is not sufficient baseline information regarding the current nature and scale of commercial activities utilising this airstrip (i.e. number of flights, noise received at the notional boundary of residential units etc) in order to impose conditions relating to the frequency of flights, noise limits etc. Furthermore, I do not consider that imposing conditions within the designation is the appropriate mechanism for managing the effects associated with flight paths or number of leases/licences.

7.71 Therefore my recommendation to the Panel is that submission 744 is partly accepted, with the conditions volunteered by QLDC being included in the Revised Chapter attached as **Appendix 1**.

7.72 I note that the submission provided by Skydive Queenstown Limited (submitter 23) also seeks to correct the purpose of Designation #239 in the Schedule to more accurately state 'Local Purpose Reserve (Airport)'. This piece of land has been vested in the QLDC under the Reserves Act through Gazette Notice dated 13 June 2013 where it was classified as Local Purpose (Airport) Reserve. As such, I recommend to the Panel that this part of the relief sought by Skydive Queenstown Limited be accepted. This would involve the amendment to the designation purpose as requested and marked within the revised chapter attached at **Appendix 1**.

7.73 In addition, Skydive Queenstown Limited has identified that Planning Map 25a identifies only the runway as being designated and not the balance of the aerodrome comprised in Section 11 SO Plan 443869. The submitter notes that this is inconsistent with the Gazette Notice which vests Section 11 in the QLDC as a reserve in its entirety, as well as the definition of Aerodrome contained within *Chapter 2 – Definitions* of the PDP which states:

“Means a defined area of land used wholly or partly for the landing, departure, and surface movement of aircraft including any buildings, installations and equipment on or adjacent to any such area used in connection with the aerodrome or its administration”

7.74 I am of the understanding that the Gazette Notice classifies this entire piece of land as Local Purpose Reserve under the Reserves Act, which is a separate process to the designation process under the RMA. The QLDC does not seek to designate the entire site for aerodrome purposes. Rather, it is only its intention to designate the airstrip in order to facilitate the landing and take-off of aircraft from/to the site.

7.75 As discussed in relation to Designation #175 above, after considering the factors under s168A(3) of the RMA, my view is that although inconsistent with other designations throughout the district, the QLDC have not asked for this site to be designated and there is no evidence to support that designating the entire site is necessary for the safe or efficient functioning or operation of public work. As

such, I recommend to the Panel that this part of submission 23 from Skydive Queenstown Limited be rejected.

- 7.76** Overall I recommend to the Panel that Designation #23 be confirmed with the modifications marked within the revised chapter, attached as **Appendix 1**.

Designations #389 and #390 – Local Purpose Reserves (Storm Water Soakage Basin)

7.77 Crescent Investments Limited (submitter 270) seeks the withdrawal of Designations #389 and #390, both of which are designated as local purpose reserves (Storm Water Soakage Basin) in private ownership. These designations relate to a stormwater detention area within the Kirimoko Park subdivision.

7.78 The QLDC has since advised that, given these local purpose reserves will remain in private ownership, they have decided to withdraw these designations pursuant to Clause 4(9) of Schedule 1 of the RMA. Accordingly, I have noted this change to the revised chapter within **Appendix 1**.

Designation #428 – Glenorchy Closed Landfill

7.79 Designation #428 relates to the closed landfill site within the Glenorchy Township. The NoR for this designation states that condition 2 of Otago Regional Council (ORC) discharge permit 13.396.01 requires that the closed landfill area be recorded in the PDP. For completeness, I advise the Panel that Condition 2 of discharge permit 13.396.01 states:

The consent holder shall ensure that the site is recorded in the Queenstown Lakes District Plan as a “closed landfill”

7.80 Although this condition of the discharge permit does not state that the site is to be ‘designated’, to accord with the approach taken for other closed landfills throughout the district, QLDC has chosen to identify this site as a new designation within the PDP. Designating land is an additional mechanism to bring to the attention of future land owners or a planning officer that this potentially hazardous activity is located within this site.

7.81 As outlined above, the closed landfill is identified on the QLDC’s Hazards Register. This register also alerts current and future landowners to a potentially

contaminated piece of land, or land which is subject to risk from a natural hazard. On this register, the area of land comprising the closed landfill is referenced as 'LFL011 (Former Glenorchy Landfill)'.

Cabo Limited (submitter 481) requests that this designation be refined to accurately depict the area and extent of the former landfill within their site, given that the location of the designation does not marry up with the extent of the closed landfill which is more accurately depicted on the QLDC Hazard Maps.

7.82 Similarly, Island Capital Limited (submitter 769) seeks changes to Designation #428 in so far as the extent to which Planning Map 25 shows this designation covering their land. As for the relief sought by submitter 481 described above, submitter 769 requests that the area of Designation #428 is reduced to align with the extent of the closed landfill shown on the QLDC Hazard Map depicted within the red hashed line below:



Figure 8: Glenorchy Closed Landfill site (circled red) as shown with QLDC Hazards Register

7.83 Accompanying submission 769 is a Preliminary Site Investigation (**PSI**) prepared by Glen Davis of Davis Consulting Limited. This PSI confirms that landfill sites are an activity identified on the Hazardous Activity and Industries List (**HAIL**). The PSI also refers to the QLDC's Hazards Register which identifies the former landfill as reference LFL011.

- 7.84** Based on the evidence provided by submitter 769 (Island Capital Limited) and the record within the QLDC Hazard Register relating to the site, I recommend to the Panel that submission 769 (Island Capital Limited) be partially accepted and the submission of submitter 481 (Cabo Limited) be accepted. I recommend that the Designation #428 annotation on Planning Map 25 be amended to accurately depict the extent of the closed landfill, as identified on the QLDC Hazard Map.

Designation # 429 - Luggate Closed Landfill

- 7.85** As part of the notification of the PDP, the QLDC lodged a NoR for the closed landfill at Luggate, a site which is not currently designated in the ODP. Condition 3 of ORC consent 11.029.013 requires the site to be identified in the District Plan as a closed landfill. Condition 3 states:

“The consent holder shall ensure that the site is recorded in the Queenstown Lakes District Plan as a ‘closed landfill’.

- 7.86** The QLDC Hazard maps identify the closed landfill area with the reference LFL013 (Former Luggate Landfill). The purpose of this designation is to comply with the ORC Discharge Permit and to provide an additional mechanism to bring to the attention of Planning Officers or future landowners its existence. Figure 9 below shows the extent of the closed landfill within the QLDC Hazards Register using the red hashed line.

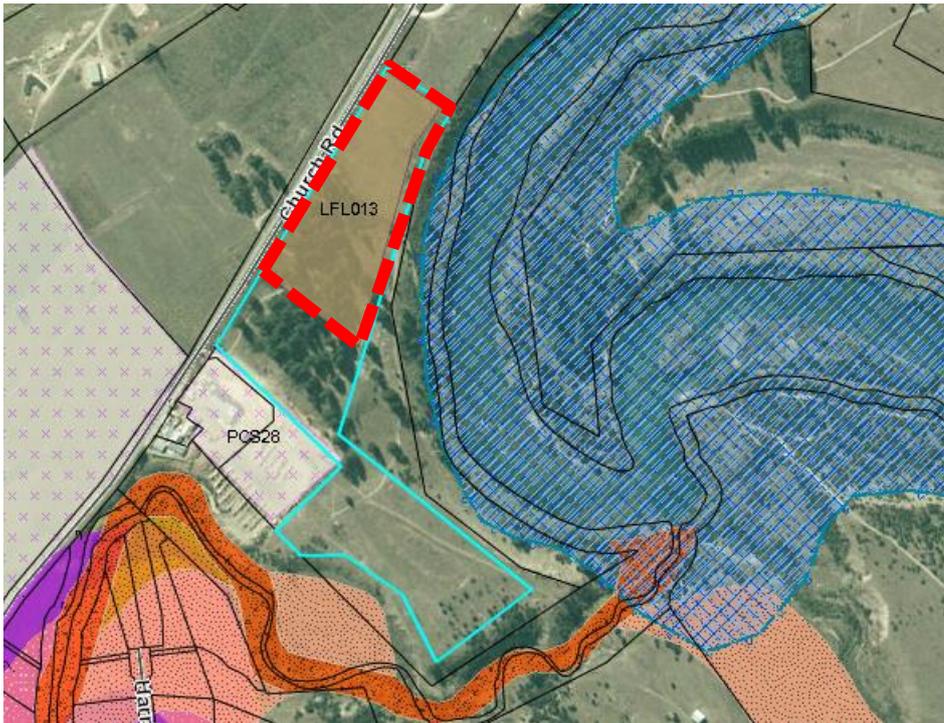


Figure 9: Luggate Closed Landfill site (dashed red line) as shown with QLDC Hazards Register

7.87 Wakatipu Holdings Limited (submitter 314) seeks relief in the form of correctly mapping the extent of the closed landfill on their land. Currently Planning Map 11 identifies the whole of Lot 1 DP300025 as being designated. This does not align with the QLDC Hazard Maps which depicts only the area which the closed landfill occupies as being potentially contaminated.

7.88 As such, I recommend to the Panel that submission 314 (Wakatipu Holdings Limited) is partly accepted to the extent that Designation #429 (Luggate Closed Landfill) is correctly mapped to correlate with the QLDC hazard register.

#560 – Local Purpose (Repeater Site)

7.89 The PDP identifies Designation #560 on Planning Map 37 for the purposes of “Local Purpose (Repeater Site)” with the authority responsible being listed as QLDC. Although the QLDC owns the land, Radio New Zealand (**RNZ**) (submitter 377), lease this piece of land from the QLDC for their existing radio transmission facility.

7.90 As the QLDC does not operate the radio transmission facility and would not have financial responsibility for it, designating this leased area of land serves no

purpose; particularly given the transmission facility is owned and operated by RNZ.

- 7.91** As such, pursuant to clause 4(9) of Schedule 1 of the RMA, the QLDC have decided to withdraw Designation #560. As such, the relief sought by submitter 377 (RNZ) has been met.

8.0 QLDC ROADS

Deeming provisions

- 8.1** The first paragraph of Section 'A Roads', located on page 37-41 of the PDP, makes the following statement:

"All Queenstown Lakes District Council Roads are deemed to be designated for the purpose of road."

- 8.2** It is my view that the validity of this statement is uncertain as designations cannot be deemed. The process provided in the RMA must be followed for all designations. For QLDC designations this process is outlined within s168A and Schedule 1 of the RMA.
- 8.3** Although this provision appeared word for word within the 1995 Queenstown Lakes District Plan, I have been unable to locate the NoR pertaining to roads vested in QLDC. Further, no notice was given by QLDC, prior to the notification of the PDP, for the rollover of designations over QLDC roads.
- 8.4** Section 4 of my evidence describes the RMA process for territorial authority designations. I am of the opinion that, a NoR would need to be submitted to designate QLDC roads.
- 8.5** Accordingly, I recommend to the Panel that, unless evidence is provided by QLDC as requiring authority to establish that the RMA designation process was followed to designate roads and that this designation was requested to be rolled over into the PDP, the statement quoted above should be removed from Chapter 37. It may be possible to include a requirement for all roads in the PDP as part of Stage 2 of the PDP.

Stopped Roads

8.6 The following deeming statements (underlined) located within 'Section A.1 Stopped Roads' located on page 37-41 of the PDP could be used to change the Plan without using Schedule 1 RMA process:

- (i) Zoning shall be that which best accommodates any existing land use activities on the site of the stopped road, and which cause no more than minor effect to the environment; and/or
- (ii) Zoning shall reflect any topographical or natural features that constitute logical reason for zoning; and/or
- (iii) Stopped roads shall be zoned in accordance with the adjoining zone of least intensive development potential (refer to Table A.1).

Table A.1 – Least Intensive District Zoning to most Intensive District Zoning

- | | |
|--------|---|
| (i) | Rural |
| (ii) | Gibbston Character |
| (iii) | Rural Lifestyle/Bendemeer |
| (iv) | Rural Residential |
| (v) | Resort/Rural Visitor |
| (vi) | Arrowtown Residential Historic Management |
| (vii) | Township |
| (viii) | Low Density Residential/Penrith park |
| (ix) | High Density Residential/Medium Density |
| (x) | Corner Shopping Centre |
| (xi) | Industrial |
| (xii) | Business |
| (xiii) | Remarkables Park |
| (xiv) | Town Centre |
| (xv) | Airport Mixed Use |

8.7 As way of background to the provision, since 1998 QLDC roads have not been zoned. This came about because when the Council notified the PDP in 1995, all roads in the District were assigned an underlying zone. However, in 1998 when the PDP was re-published after the decisions on submissions, the Planning Maps were re-formatted and printed in colour, with each zone being indicated by a different colour and roads being shown in white. As a result, the change in presentation meant that no underlying zone was indicated for roads on the Planning Maps and consequently no zoning applied.

8.8 The provisions within Section A.1 were inserted by Variation 4C to the QLDC Proposed District Plan (1998). The purpose of Variation 4 was:

“... to clarify control over activities that may potentially occur on stopped roads, so as to avoid, remedy or mitigate adverse effects on the natural and physical environment.”

8.9 To summarise this decision, QLDC was of the view that the most effective method of achieving the purpose of Variation 4c was to apply appropriate zoning to roads at the time they were stopped. As no underlying zone applied to land designated as road, the provisions were designed to indicate how the zoning of a stopped road would be determined.

8.10 Attached to my evidence as **Appendix 4** is the QLDC Variations Hearing Committee report, dated 22 October 2002, which provides more background to the variation.

8.11 I understand that, to be valid, deeming provisions that seek to provide for a change in zoning without going through the Schedule 1 process should be certain and avoid the exercise of Council's discretion. Despite the history of the zoning provisions above, I have concerns that the underlined provisions contain a level of uncertainty and discretion and, therefore, appear invalid for their purpose.

8.12 As such, my view is that the provisions underlined above should be removed from Chapter 37 of the PDP as marked in **Appendix 1**.

9.0 CONCLUSION

9.1 On the basis of my analysis within this evidence, I recommend that the changes within the revised chapter in **Appendix 1** are accepted, and that pursuant to s168A(4) of the RMA, the Panel confirm the QLDC designations contained within the Revised Chapter.

- 9.2** The changes will improve the clarity and administration of the Plan; contribute towards achieving the objectives of the Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.



Rebecca Holden

Senior Planner

23 September 2016

Appendix 1. Revised Chapter

Appendix 1 applies to all three s42A reports for Chapter 37: Designations

Appendix 2. List of Submitters and Recommended Decisions

Appendix 2 applies to all three s42A reports for Chapter 37: Designations

Appendix 3. QLDC Cover Letter and Appendices

QLDC Stage 2 cover letter and appendices can be found on the QLDC website [here](#).

**Appendix 4. QLDC Variations Hearing Committee Report dated
21 October 2002**

QUEENSTOWN LAKES DISTRICT COUNCIL

VARIATIONS HEARING COMMITTEE

DECISION FOR: Variation 4C

ISSUE: Road Zoning

REPORT DATED: 21 October 2002

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1.0 INTRODUCTION

This decision sets out the considerations and decisions on submissions lodged to Variation 4c *Road Zoning* of the Proposed District Plan.

The relevant provisions of the Queenstown Lakes District Council's Proposed District Plan are:

Plan Section	Provision
Appendix 1	Part A.1 – Stopped Roads

Submissions are assessed either individually or grouped where the content of submissions is the same or similar.

In summarising submissions, the name of the submitter is shown in **bold**, with their submission number shown in normal font within square brackets. In summarising further submissions, the name of the further submitter is shown in ***bold italics***, with their submission number shown in *italics* within square brackets.

In making decisions the Council has:

- (i) been assisted by a report prepared by its planning staff. This report was circulated to those persons and bodies seeking to be heard at the hearing, prior to the hearing taking place;
- (ii) had regard to all those matters raised by submitters and further submitters in their submissions and further submissions and at the Council hearing; and

(iii) had regard to the provisions of Section 32 of the Resource Management Act 1991.

All decisions to submissions are included within a box headed 'Decision'. Where there are changes to be made to the Proposed District Plan these are shown as underlined text. This indicates where specific text is to be included in the Proposed District Plan. Text that is shown as struck out (ie with a line through it) indicates where text is to be removed from the Proposed District Plan.

2.0 BACKGROUND

The Proposed District Plan Maps notified by the Council in 1995 were printed in black and white. The maps indicated property boundaries by thin black lines and zone boundaries by thick black lines. The effect of these annotations was that all roads in the District were assigned an underlying zone, the provisions of which would apply in the event that the land designated as road was used for a purpose other than a road.

When re-publishing the Proposed District Plan in 1998 after the decisions on submissions, the Council re-formatted its Planning Maps. The 1998 maps were printed in colour, with each zone indicated by a different colour and the roads shown in white. Property boundaries continue to be shown as thin black lines. The effect of this change in presentation is that no underlying zone is now indicated for roads on the Planning Maps and consequently no zoning applies to areas that are designated as roads.

The Queenstown Lakes District Council is content that land remains unzoned whilst it is designated for the purpose of a road. However, if and when a road is stopped it is necessary to apply a zoning to that land to ensure that future land use activities can be controlled in a manner that avoids, remedies or mitigates potential adverse effects on the environment. For this reason the Council initiated a Variation where the purpose is –

“... to clarify control over activities that may potentially occur on stopped roads, so as to avoid, remedy or mitigate adverse effects on the natural and physical environment.”

A detailed analysis of alternative options, including costs and benefits of each, has been undertaken in accordance with section 32 of the Resource Management Act 1991 (RMA). The outcome of the section 32 analysis has led the Council to believe that the most effective method of achieving the purpose of Variation 4c is to apply appropriate zoning to roads at the time they are stopped. To provide certainty to district plan users and other interested parties Council has elected to provide provisions within the Proposed District Plan indicating how the zoning of a stopped road will be determined. Taken from Appendix 1 *Designations*, these are:

- “i) Zoning shall be that which best accommodates any existing land use activities on the site of the stopped road, and which cause no more than minor effect to the environment; and/or*
- ii) Zoning shall reflect any topographical or natural features that constitute logical reason for zoning; and/or*
- iii) Stopped roads shall be zoned in accordance with the adjoining zone of least intensive development potential (refer to Table A.1).”*

To provide further clarity to district plan users and other interested parties the Council, through the Proposed District Plan, has stated as a matter of fact, that –

“Council shall stop all roads in accordance with the Local Government Act 1974 or the Public Works Act 1981.”

Two submissions were received in regard to Variation 4c – *Road Zoning*. Part 3.0 of this report lists all those persons or parties that have made a submission to the Variation.

3.0 List of Submitters

Original Submitters

Remarkables Park Limited

Submission

4c/1/1

Further Submitters

Transit New Zealand

Further Submission

317/4c/1/1

4.0 THE HEARING

The Hearing to consider submissions and further submissions to Variation 4c – *Road Zoning* of the Queenstown Lakes District Plan commenced at 9am, 21 October 2002 at the Queenstown Lakes District Council Chambers, Gorge Road, Queenstown. The Hearings Panel consisted of Mayor C Geddes (Chairperson) and Councillors G Macleod and R Pettit. In attendance at the Hearing was C Lucca (Policy Planner) and C Mead (Panel Secretary).

The following written evidence was presented to the Panel:

4.1 Remarkables Park Limited [4c/1/1], represented by Brookfields Lawyers, forwarded correspondence to the Hearings Panel for their consideration. Accordingly, that correspondence was tabled, and in summary, made the following points:

- (a) RPL supports the use of the Local Government Act 1974 for stopping roads in the district because it provides an opportunity for the public to make submissions, whereas the Public Works Act 1981 process only requires adjoining owners consent to the stopping in circumstances where adequate access to their land is not provided. However, RPL does appreciate that at times the Public Works Act 1981 will be a more appropriate process to follow but those circumstances should be the exception rather than the rule. As such, RPL requests that the following sentence be included in Variation 4c:

“Council shall stop all roads in accordance with the Local Government Act 1974 or the Public Works Act 1981. The Local Government Act 1974 process should be used in preference to the Public Works Act 1981 unless there are clear reasons which justify the Public Works Act 1981 process.”

5.0 DECISIONS

5.1 Issues

There are no proposed additions or amendments to the Issues of the Proposed District Plan.

5.2 Objectives

There are no proposed additions or amendments to the Objectives of the Proposed District Plan.

5.3 Policies

There are no proposed additions or amendments to the Policies of the Proposed District Plan.

5.4 Methods

There are no proposed additions or amendments to the Methods of the Proposed District Plan.

5.5 Rules

There are no proposed additions or amendments to the Rules of the Proposed District Plan.

5.6 Assessment Matters

There are no proposed additions or amendments to the Assessment Matters of the Proposed District Plan.

5.7 General

5.7.1 Submissions – Mechanisms to Stop Roads

Remarkables Park Limited [4c/1/1] supports Variation 4c in part, to the extent that the changes sought by the same are accepted. Remarkables Park Limited have stated that it is inappropriate to stop any road adjoining or extending from the south bank of the Kawarau River or any reserve adjoining the south bank of the Kawarau River in accordance with the Public Works Act 1981. Remarkables Park Limited seeks a change to the Variation that will ensure any roads stopped in that area described above shall be stopped in accordance with the Local Government Act 1974 and not the Public Works Act 1981.

Section 4.1 of this report summarises the written evidence tabled at the Hearing by Remarkables Park Limited, made in response to the Planner's Report.

Transit New Zealand [317/4c/1/1] opposes this submission. Transit New Zealand considers that the district planning process under the Resource Management Act 1991 does not provide consent authorities with an ability to impose limits on the use of legislation such as the Local Government Act 1974 and the Public Works Act 1981.

5.7.2 Consideration

The Local Government Act 1974 and the Public Works 1981 provide the Queenstown Lakes District Council with two alternative mechanisms (ie legal processes) to stop roads under their jurisdiction. While the Local Government Act provides an opportunity to the public to make a submission on the proposed stopping of a road, the Public Works Act does not.

Remarkables Park Limited submit that it would be inappropriate, in most circumstances, to stop any road in accordance with the Public Works Act 1981, as this process does not allow for public submission, and only requires consultation with adjoining landowners.

In the majority of cases where a road is stopped it is likely to be preferable for the Council to stop roads in accordance with the Local Government Act 1974, thus providing an opportunity for public submission. However, there are certain situations where it may be more appropriate to utilise the provisions in the Public Works Act 1981 for stopping roads. This is recognised by the submitters, as can be read in their submissions.

Notwithstanding the above, it is considered inappropriate and potentially ultra vires for the Council to specify one legislative method of stopping roads over another within the Proposed District Plan.

5.7.3 Decision

That the submission by **Remarkables Park Limited** [4c/1/1] be **rejected** and that the further submission by **Transit New Zealand** [317/4c/1/1] be **accepted**, and accordingly, no amendment be made to the Variation as notified.

Reasons for Decision

Those roads specified in the submission by Remarkables Park Limited are not subject to any special circumstances that would require treatment different from other roads in the District.

It is considered inappropriate and potentially ultra vires for the Council to specify one legislative method of stopping roads over another within the Proposed District Plan.

There are certain situations where it may be appropriate to utilise the provisions in the Public Works Act 1981 for stopping roads.