



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	Wanaka Watersports Facility Trust
RM reference:	RM150679
Location:	Roys Bay Recreation Reserve, east of Stoney Creek, Wanaka
Proposal:	Construct a watersports building located on the bank of Lake Wanaka that breaches at Roys Bay Recreation Reserve, east of Stoney Creek, Wanaka
Type of Consent:	Land use
Legal Description:	Section 31 Block III Lower Wanaka Survey District
Zoning:	Rural General
Activity Status:	Non-complying
Notification:	Publicly Notified 12/11/15 - 10/12/15
Commissioner:	Commissioners R Nixon & D Clarke
Date Issued:	25 July 2016
Decision:	GRANTED WITH CONDITIONS

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

Of an Application to **QUEENSTOWN LAKES DISTRICT
COUNCIL BY WANAKA WATERSPORTS FACILITY
TRUST (RM150679)**

DECISION OF COMMISSIONERS APPOINTED BY QUEENSTOWN LAKES DISTRICT COUNCIL

25 JULY 2016

Commissioners:

Robert Nixon (Chair – Christchurch)

Commissioner David Clarke

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THE HEARING AND APPEARANCES

Hearing Dates:

**30 March to 1 April 2016 at
Wanaka**

Appearances for the Applicant:

Mr Graeme Todd, Legal Counsel

Mr Glen Sinclair

Ms Jacqueline Boyd, President,
Wanaka Lake Swimmers Club

Mr Jaime Hunter, Treasurer
Wanaka Rowing Club

Mr John Hollyer, Deputy Chairman
Wanaka Watersports Facility Trust

Mr Peter Duncan, Wanaka resident

Ms Prue Wallace, Philanthropist

Mr Tom Pryde, Triathlon Organiser

Ms Victoria Murray – Orr, Race
Director, Challenge Wanaka

Mr Keith Murray, Resident and
Coast to Coast One Day
recordholder

Mr Quentin Smith, Commodore,
Wanaka Yacht Club

Ms Rachel Cassaidy, Outdoor
Educator and Adventure Therapist

Mr David Spencer, Consultant
arborist

Ms Elizabeth Steven, Registered
Landscape Architect

Mr Duncan White, Planning
Consultant, Patterson Pitts Partners

Mr Alistair Madill, Registered
Architect, and Trustee of Challenge
Wanaka Sports Trust

Ms Nic Blennerhassett (Submitter
116)

Appearances for the Submitters:

Ms Loris King for submitter Mary Gray (sub no 1021 - oppose)

Ms Sue Gregory (sub. no 839 - oppose)

Mr Graham Dickson (sub. no 101 - oppose)

Ms Laura Solbak (sub. no 219 - oppose)

Mr Russell Lovelock (sub. no 870 - support)

Mr Acton Smith (sub. no 218 - support)

Ms Jane Forsyth (sub. no 97 - oppose)

Ms Loris King (sub. no 93 - oppose)

Mr Eamon Young (sub. no 335 - oppose)

Mr Brett Simpson (sub. no 1013 - oppose)

Mr Paul Molloy (sub. no 184 - oppose)

Mr Colin Mantell (sub. no 499 - support)

Mr Julian Haworth for Upper Clutha Environmental Society (sub. no 261 - oppose)

Ms Christine Hayman (sub. no 572 - oppose)

Ms Noelene Pullar (sub. no 431 - oppose)

Ms Jan Caunter, Legal counsel for Stoney Creek Action Group (SCAG-sub. no 297 - oppose)

Dr Marion Read for SCAG (sub. no 297)

Mr Stanley Hall for SCAG (sub. nos 297 and 38)

Mr Lyall Shearer for SCAG (sub. nos 297 and 256)

Ms Sarah Ritchie (sub. no 85 - support)

Mr Michael Guest (sub. no 372 - oppose)

Mr Bruce Turnbull (sub. no 135 - oppose)

Ms Pamela Yeomans (sub. no 185 oppose)

Ms Helen Henderson (sub. no 181- oppose)

Ms Janet Malloch (sub. no 735 - support)

Ms Heidi Morris (sub. no 712 - oppose) and for C Morris (sub no 214)

Mr Derek Valentine (sub. no 697 - oppose)

Mr Don Robertson for Guardians of Lake Wanaka (sub. no 340 - oppose)

Mr Andrew Penniket (sub. no 506 - support)

Mr Gavin James (sub. no 173 - oppose)

Ms Alison Stretch (sub. no 649 - support)

Mr Quinn Curtis and Ms Aimee McArthur (sub. no 277 - support)

Ms Karin Cameron (sub. no 362 - oppose)

Mr John & Ms Marilyn Barlow (sub. no 41 - support)

Mr Ross Valentine (sub. no 628 - oppose)

Ms Jane Nimmo (sub. no 732 - oppose)

Mr Mick Hollyer (sub. no 104 - support)

Mr Alan Cutler for Warwick Thompson (sub. no 106 - oppose)

Mr John Coe (sub. no 410 - oppose) and on behalf of N Kilpatrick (sub. no 939 - oppose)

Appearances for the Queenstown Lakes District Council:

Ms Sarah Picard, Planner

Mr Richard Denney, Landscape Architect

Abbreviations

The following abbreviations are used in this decision:

Wanaka Watersports Facility Trust

“the Applicant”

Queenstown Lakes District Council

“the Council”

The Operative Queenstown Lakes District Plan

“the District Plan”

The Wanaka Lakefront Reserves Management Plan

“the Reserve Management Plan”

Outstanding Natural Landscape

“ONL”

The land subject to this application is referred to as “the site”.

INTRODUCTION AND BACKGROUND

1. The hearing took place at the Wanaka Events Centre between 30 March and 1 April 2016. The hearing was originally scheduled for 29 February – 4 March inclusive, but was adjourned prior to commencement as a result of a bereavement affecting Counsel for the Stoney Creek Action Group. The Hearings Panel visited the site itself, observed the site from surrounding areas, and other sites mentioned during the hearing, including other parts of Roys Bay, Eely Point, Lismore Park, Mount Aspiring Road, the frontage of properties opposite and in the vicinity of the site, Morrows Mead, Waterfall Creek, the lakefront, and the cycleway/walkway.
2. The application site is located along the foreshore of Lake Wanaka adjacent to Mount Aspiring Road on the eastern side of Stoney Creek. The site forms part of the Rural General Zone under the District Plan and is classified as a Recreation Reserve. It is also designated for this purpose and identified as Designation 105 under the District Plan.
3. The site adjoins two protected *Sequoiadendron giganteum* (Wellingtonia) trees identified as item 606 in the “Inventory of Protect Features” (Appendix A3 of the District Plan) and under the “Schedule of Protected Trees District Wide” (Part 32.8.1 of the Proposed District Plan).
4. The site is flat with minor undulations, and fronts a pebbly beach which extends along the frontage of the reserve along the head of Roy’s Bay. The application site located at the western end of Roy’s Bay and is characterised by the presence of large exotic trees which form a significant linear feature along the bay, especially at the western end. Towards the eastern end of Roy’s Bay the foreshore and reserve narrows and is much more developed with formal car parking, a building, a children’s play area, and slightly further east, a boat marina. To the west of the site beyond Stoney Creek is a further short stretch of pebble beach, beyond which hill slopes extend down to the lake edge. There are residences on the southern side of Mount Aspiring Road opposite the site and on the rising slopes west of Stoney Creek. There is a cycleway and walkway adjacent to the beach, and a parking area and children’s playground between the line of trees and Mount Aspiring Road.

THE PROPOSAL

5. The site itself has a wedge shaped configuration and is defined under SO17456, having an area of 2.0942 ha, located between the lake edge and Wanaka – Mount Aspiring Road. It has a length of approximately 300m (parallel to the road) and a width of approximately 45m at the eastern end, and approximately 110m at its western end adjacent to Stoney Creek. This parcel of land forms one of a number of parcels vested in the Council as reserve, and extending to both the east and the west. The applicant has obtained consent from the Council to lease an area of 800m² within the site.
6. The applicant is a Charitable Trust established to promote the construction of a multi - use building to support non-motorised water based activities on Lake Wanaka. The applicant proposes a building with a floor area of 420m² with four components, these being boat/gear storage, an exercise room, changing facilities, toilets, wash down facilities and bike racks. A veranda having a width of between 2m and 3m would extend along the lakefront edge of this building. The building itself would have a maximum length of 30.5m, and a maximum width of 14.5m.

7. The application proposes that the storage area of the building be clad in horizontal cedar slats and vertical wave shaped panels, with a naturally oxidised corten steel cladding for the boat entrances on the western side of the building. The eastern side of the building is also to be clad in corten steel and the northern facade is to be clad in naturally stained vertical cedar with a roller door to access the kayak storage area. The roof is to proposed to be profiled steel in a mid to dark grey colour, as would the gutters and downpipes. The roof would slope down towards the lake and not exceed 6m in height at any point.
8. As clarified at the hearing, it was proposed that a total of 11 trees would be removed, comprising Douglas Firs and Eucalypts.
9. This building is proposed to located between the beach frontage and the two protected sequoia trees, which would not be removed, but serve as a partial visual screen from Mount Aspiring Road and the dwellings opposite. The proposed landscaping adjacent to the building would comprise 'a tall hardy deciduous tree' on the western side of the sequoias, five kowhais to the west and north of the building, a cluster of 3 kowhais to the west of the existing car park, a southern rata at the mouth of Stoney Creek and low native planting along the small scarp between the proposed building and the mouth of Stoney Creek.
10. To address any potential flood risk from Stoney Creek, a landscaped diversion bund of approximately 0.5 m in height is proposed to be located on the southern side of the building to divert any flood flows. The application noted that resource consent had been granted from the Otago Regional Council for this work.
11. The applicant gained approval from the Wanaka Community Board in June 2015 for the lease of this part of the reserve for the building. A 33 year ground lease of 800m² had been granted for this purpose. Discussions relating to the design of the proposed building had been undertaken with the Wanaka Urban Design Panel. The application also notes that the building would infringe the site setback and walkway on its northern side into land administered by Land Information New Zealand, but that LINZ had provided affected party approval to this infringement.

Amendments made at the Hearing

12. At this point it is necessary to record a number of amendments that were made to the application (as notified) at the hearing.
13. Mr Madill, the applicant's architect, explained that the boardwalk intrusion into the foreshore had been reduced. To provide for changes to proposed kayak storage and consequent rearrangement of internal spaces, the proposed length of the building had been increased by 1m, and its width reduced by 1.4 m, but retaining an overall floor area of 420 m².
14. Ms Steven, the applicant's landscape architect, drew attention to the amended Landscape Plan. She stated that proposed tree planting now comprised two South Island kowhai adjacent to the west wall; four large grade exotic trees in a group around the south-west corner of the building; and a weeping willow now proposed replacing the two kowhai's originally proposed on the north-east corner of the lake side of the building.

Hearings Commissioners Minute and amendments made subsequent to the Hearing

15. The hearing was adjourned on 1 April pending closing submissions by Counsel for the applicant. In his closing submissions, Mr Todd raised the possibility of an amendment to the siting of the proposed building with the objective of enabling less trees having to be removed¹. Having given this some consideration, we concluded that it would be appropriate for such a plan to be prepared, subject to the qualification that any amendment to the siting be of a minor nature, that it not increase or create any further non-compliances, and that submitters and Council officers have the opportunity to comment on it before we made any final decision. We could not have allowed the applicant to make major changes, as these would be beyond scope and would require re-notification.
16. Accordingly, a Minute was issued to the parties on 4 May. This sought a detailed site plan be prepared and an accompanying arborists report was requested, given the closer proximity of the proposed building to the protected sequoia trees. The amended plan was received on 30 May and circulated to submitters for comment, closing on 20 June. Following the receipt of comments from submitters and Council officers, and final right of response from the applicant on 18 July, the hearing was formally closed.
17. The amendments were described by Mr White, the applicant's planning consultant. These comprised the following:
 - locating the building 9.5m to the east and 5m to the south;
 - the floor level to remain unaltered, but with internal changes to the layout of the building as the amended site has flatter topography;
 - primary public access would take the form of a boardwalk (minimum width 1.5m, average 3m) along the northern (lake) facade of the building, rather than around the rear of the building which would then be 0.6 m from the drip line of the protected sequoia trees;
 - the number of trees to be removed would be reduced from 11 to 5, these being three Douglas firs and two gum trees.
 - all existing trees along the edge of the lake would be maintained, hence providing greater screening from the building as seen from the foreshore and the lake, although less mitigation planting would be established.
18. An accompanying arborists report was prepared by Arborlab (Mr David Spencer). This recommended the use of the pile type foundation; the protection of trees to be retained during construction work; excavation for foundations to be done by hand or using a hydro excavation system to minimise root damage; pruning or removal of retained vegetation to be undertaken by a suitably trained person; protective fencing; protective overlay to avoid root damage; any root severance to be at the discretion of the works arborist; and the avoidance of severing roots greater than 35mm in diameter.

¹ Closing submissions from Counsel for the applicant dated 20 April 2016, paragraph 35.

19. It was made clear that the applicant's preferred option was to retain the notified position of the proposed building rather than the position contained in the amendments, although this was seen as an acceptable compromise.
20. A total of 40 responses were received from submitters, and all but two of these were from submitters in opposition who reiterated their original positions. The majority of these responses made it quite clear that their opposition was fundamentally opposed to the application site in principle, rather than alternative building locations within the same site. At this point we think it important to clarify a matter raised in the response of members of the Cameron family, and of Mr Coe, who stated that *"in response to the request from the commissioners that the applicants prepare an amended plan for the location of the proposed building"* We wish to make it quite clear that the request for an amended plan arose from a suggestion made in the right of reply of Mr Todd on behalf of the applicant, which we considered was appropriate to pursue and test further, given the concern about the effect on the numbers of trees to be removed and the related issue of potential damage to the existing root systems of these trees. The suggestion of an alternative siting did not arise from a request to the applicant from the Commissioners.
21. A number of submitters, Messrs Molloy and Coe, drew particular attention to the potential for root damage and windthrow, and Mr Molloy questioned the qualifications and competence of the applicant's arborist. Apart from repeating opposition to the site itself, relevant matters raised by submitters in response to the amended proposals were that the boardwalk along the front of the proposed building was too narrow, and would be uninviting to pedestrians and cyclists. A much greater level of concern was that the proposed building would be too close to the sequoias; the practical difficulties of establishing pile foundations without damaging the roots would be extremely difficult; there would be a potential danger from falling limbs; the sequoias would be at greater risk of wind throw damage; and that the weak soil base would exacerbate this risk.
22. Mr Spencer's response on behalf of the applicant reiterated his qualifications and experience from his statement of evidence to the hearing. He went into considerably greater detail than he did previously with respect to the basis for assessing the radial spread of the Sequoia trees root system. He insisted that the trees had adapted well to the local conditions and soils, and claimed that the Quantified Tree Risk Assessment (QRTA) method indicated that the newly calculated risk would be '1 in 400,000' which he considered acceptable.
23. Mr White on behalf of the applicant emphasised that there would be no direct access to the boardwalk, and that it could only be used to obtain access from one end of the building to the other.
24. While we appreciate that the amended proposal would have the effect of 'saving' a greater number of trees, we have concluded that the disadvantages of the amended proposal outweigh the advantages. Firstly, it would result in the proposed building being sited considerably closer to the protected sequoia trees. Given that the roots of these trees are possibly shallow and quite extensive, we consider there is greater potential for root damage to the sequoias under in this alternative scenario, even allowing for careful excavation to establish piles. Secondly, the proposed access arrangements past the building with the sharing of a 1.5 m boardwalk along the *frontage* of the building for pedestrian and cycle traffic has a

real potential to create conflict, even without direct access from the building to the boardwalk. It is also not a natural 'line' of movement, and would be quite narrow. Although a small group of submitters rather unfortunately repeated *ad hominem* attacks on the applicants and their witnesses, we consider there was some weight in opposing submitter's arguments against the amended scenario. Similar concerns were expressed in the response received from Council officers.

25. Accordingly, we do not support the amended proposal as submitted to the Council for comment on 30 May.
26. ***For that reason, all of the following assessment is based on the application as originally notified, subject to any amendments made at the public hearing.***

NOTIFICATION AND SUBMISSIONS

27. The application was publicly notified on 12 November 2015 with submissions closing on 10 December. 1042 submissions were received, 298 of which were in support and 744 in opposition. Three submissions did not specify support or opposition. 21 submissions were received out of time (14 in opposition) and were listed in paragraph 3.1.2 of the section 42a report.
28. We resolved that the late submissions be accepted under Section 37 of the Act, on the basis that there would be no prejudice to any party, particularly given the very large number of submissions both in opposition and support which had been received within the statutory timeframe. We also note that at the commencement of the hearing legal counsel for the applicant indicated that he had no opposition to their acceptance.

Written Approvals

29. The applicant has obtained written approvals from the following parties:
 - (1) Land Information New Zealand (LINZ) for an infringement into the lake foreshore, as administrators of the bed of Lake Wanaka.
 - (2) The owner and occupier of 58 Mount Aspiring Road
 - (3) The Queenstown Lakes District Council as owner of the reserve.

STATUTORY MATTERS

30. As noted previously, the application site is located within the Rural General Zone. The non-compliances were identified as follows:

Operative District Plan

Land use consent is needed in terms of the following provisions of the Rural General Zone;

- Rule 5.3.3.3 (xi) as the proposal breaches Site Standard 5.3.5.1 (ii) which specifies the maximum gross floor area of the building for recreational use is 100 m² (restricted discretionary activity). The proposed building has a total floor area of 420 m².
- Rule 5.3.3.3 (xi) as the proposal breaches Site Standard 5.3.5.1 (vi) which specifies a 15 m building setback from an internal boundary (restricted discretionary activity). The proposed

building has a setback of 1 m from an internal boundary (that parallel to the lakefront), and the boardwalk will extend across this boundary at the eastern end.

- Rule 5.3.3.3 (xi) as the proposal breaches Site Standard 5.3.5.1(ix) because the activity proposes that more than five people will be involved in a commercial recreation activity associated with a gym/exercise area, by non-club members (restricted discretionary activity). This matter is further discussed later in this decision.
- Rule 5.3.3.3 (i) as the proposal involves the construction of a building in the Rural General Zone (discretionary activity).
- Rule 5.3.3.4 (ii) (b) as the proposal involves the construction of a building on the 'bank' (shore) of Lake Wanaka (noncomplying activity).
- Rule 14.2.2.3 for car parking as the proposal involves the establishment of an activity not identified in Table 1 of Section 14 Transport (discretionary activity).

31. It was common ground between all parties that the site was located within an area identified as an Outstanding Natural Landscape (ONL).

Proposed District Plan

32. Land use consent is required in terms of the following rule which was notified having immediate effect:
- Rule 21.5.4 as the proposal involves the construction of a building within 20m of the bank of Lake Wanaka (restricted discretionary activity).

The Reserves Act 1977 and the Wanaka Lakefront Reserves Management Plan

33. The site of the application comprises a small part of a much larger area of lakefront reserve, which extends from Glendhu Bay in the west to the outlet of the Clutha River in the east. In this particular location the site forms part of the Roys Bay Reserve vested in the Council as recreation reserve. In 2014 the Reserve Management Plan became operative. Within this area the Reserve Management Plan provides for seven "zones" around Roys Bay. The application site is approximately in the middle of Zone 2, which provides for "Active Recreation"². The surface of Roys Bay in front of the application site is identified for non-motorised watersports.

Designation 105

34. The area containing the application site forms part of Designation 105 under the District Plan. Designations are contained in the District Plan under Appendix A, pages A1 – 6. There are no conditions attached to this particular designation and the purpose of the designation is given as "Recreation Reserve". However as the proposed activity would be work undertaken by a party other than the Council itself, the provisions of the Rural Zone apply. This requires all structures and buildings to be set back 20m from the boundary of a Rural and 15m from internal boundaries. The permitted building height is 8m, and the permitted building area is 100m² as specified in Chapter 5 of the District Plan³. The non-compliances of this application with these rules have been identified in paragraphs 30-32 above.

² Refer WLRMP page 48

³ refer chapter 5, pages 5 – 16 to 5 – 21

LEGAL SUBMISSIONS AND EVIDENCE

The applicant's case

35. **Mr Graeme Todd** began by outlining factors favouring the site, submitting that type of building proposed is typically located on the margins of lakes and rivers. He said the use of the proposed building had dictated its size, and that the issue was primarily a landscape case about whether the location was suitable. He said that many submitters considered the building and use were appropriate, but not in this location.
36. He said the site was a recreation reserve, not a scenic reserve, and the Council had granted a lease and licence to occupy. Further, the plan permitted buildings up to 100m² in terms of the designation over the site and the Reserve Management Plan contemplated and provides for a building on this part of the reserve. He sought to emphasise that this area was at the 'lower end' of a continuum for ONL's, and it was not typically rural, or typically ONL, in character.
37. He also submitted on the status of the application and question whether it was intended to be noncomplying under rule 5.3.3.4 (ii)(b), and suggested that while there was no definition of 'bank', he considered it was synonymous with the margin of the lake. He suggested comparison should be drawn with Rule 21.4.26 in the Proposed Plan with respect to this issue.
38. He felt that the content of the officers section 42a report predated the amendments that had been made at the hearing, ignored the fact that the reserve designation allows buildings, and that it also failed to recognise the urban context of the site. He said he was surprised that the harbourmaster was not asked to comment on the application.
39. Finally he drew attention to statutory declarations received from Jaime Matthew Hutter, Keith Innes Murray, and Michael Ian Johnston. These addressed concerns about members of the public and visitors being asked to fill in submission forms opposing the proposal, based on inaccurate information.
40. **Mr Alistair Madill**, the applicant's architect described the brief for the building design, and advised that he had consulted with other professionals respect to flooding, geotechnical, structural engineering, and landscaping matters. While the permitted building height for the zone was 8 metres, the building had been designed to a height of 5 metres above the flood level of 281.9m, and that the highest part of the building above ground level would be 6m. The brief from the client required a building of this size and in his opinion this was comparable or smaller than the buildings of the other rowing clubs he described by way of comparison. He said that the choice of colours and materials were sympathetic to the surrounding environment. The building would only be highly visible at close quarters which he said was inevitable under any scenario.
41. **Mr David Spencer** gave arboricultural evidence for the applicant. In his assessment the facility could be built without affecting trees that remain, provided a tree protection methodology was developed and followed with arboricultural supervision. He conceded that there would be some additional wind load on the Sequoias. He said the trees to be removed were 75-80 years

old, but were in fair condition and not a threat to public safety. Over time, the trees proposed by the applicant would provide some mitigation.

42. **Mr Jamie Hutter**, the Secretary of the Wanaka Rowing Club, provided an outline of the club's financial and fundraising involvement, and explained that the club's present temporary facilities on the showground site were less than adequate. He was firmly of the view that the current practice of having to carry rowing skiffs across Mount Aspiring Road to the foreshore was unsafe. He added that remaining on the Agricultural and Pastoral showgrounds did not offer a long term solution. He said that 250 of the opposing submissions supported a new building for the club *in principle*, just not on this site. He felt it was important to recognise the facility would be of wider community benefit, as well as to the rowing club.
43. **Mr Peter Duncan**, an Educationalist, emphasised the value of the proposed facility to the youth community of Wanaka, and its value for next generation, stating that 20% of population was under age of 15 and this cohort needed to be catered for. Facilities to interact with the water – wharves, jetties, marinas, ramps, and boat trailers, are anticipated features that needed to be accepted as part of interacting with the lake. He stated that part of the reserve in question has cars parked in it, and that surface deterioration meant that the grass turned to dust.
44. **Mr Quentin Smith – # 378** gave evidence both as a witness for the applicant and as a submitter in his own right. As a disabled person, he said the proposed facility could be used by disabled people to access the lake – in his case to undertake kayaking – similar to the Yacht Club, and to Cardrona with respect to skiing. In his view the site was neither pristine nor natural, but highly modified in terms of exotic vegetation – although he felt the site needed more mitigation in the form of native planting. With respect to concerns raised about precedent, he felt that it was a concept which was poorly understood in submissions.
45. **Ms Nic Blennerhassett – # 186)** also gave evidence for the applicant and as a submitter in her own right. She said she was a Committee member of Wanaka Rowing Club, and addressed the process undertaken for assessing other sites, and providing an overview of what these were, particularly the western side of Stoney Creek and a site opposite McDougall Avenue. She noted that the reserve was classified as a recreation reserve and that recreation activities are to be expected. She said the trees proposed to be removed were not specimen trees.
46. **Ms Rachel Cassaidy**, a Counsellor, noted that the proposal would be beneficial for young people in Wanaka. In her opinion, Wanaka had an issue relating to it being a 'party town' and this was a facility to encourage more healthy pursuits. She described the chosen site as one which was both practical and safe. Like Mr Duncan, she considered the proposal provided intergenerational support for facilities rather than the older generation denying facilities.
47. **Ms Jackie Boyd** for the Wanaka Lake Swimmers Club also gave evidence for the applicant. She said the lake swimmers had very limited facilities at present, and the proposal would provide safe storage for their gear, as well as the necessary privacy for changing, and be beneficial to the wider community.
48. **Lady Wallace** presented evidence for the applicant and is explained that she had been involved in rowing for many years. She was concerned about 'misinformation' about the

proposal, which she considered properly established the need for a functional practical building. The area was not a 'pristine wilderness' that must be protected from human intervention. It is a recreational reserve on the shore of a lake which provided a safe controlled environment. She said that Wanaka was an active town where people of all ages engaged in a variety of sports on land, lake and mountain.

49. **Keith and Andrea Murray** gave evidence for the applicant, with a background in multisport activities and a particular interest in kayaking. Providing this facility was seen as a once-in-a-lifetime opportunity for non - motorised watersports. Mr Murray also referred to an exchange he had had with an opposing submitter and expressed his concern with misinformation being spread about the application.
50. **Mr Glen Sinclair**, past president and coach University of Otago rowing Club also said the proposal would facilitate rowing for participants of all ages, and he strongly felt that it should not be necessary to carry skiffs long distances and across roads, a process which was cumbersome and expensive.
51. **Mr Tom Pryde** also gave evidence for the applicant, citing his involvement in multi sports events in the region since 1983. He considered that triathlons and lake swimming would greatly benefit from a facility like this noting that Wanaka has become 'triathlon capital' of New Zealand. He said that facilities of this nature will attract more events and will be good for the whole community.
52. **Ms Anne Steven** presented landscape evidence for the applicant. Given the acknowledged significance of landscape as the definitive issue in this case, it was perhaps not surprising that her evidence acted as something of a lightning rod for submitters in opposition.
53. She claimed the area containing the site of the proposed building was of limited visual or recreational value, with trees that were in themselves of limited merit and were not protected. She argued that the reserve had only moderate amenity values owing to modification, and the urban context of the area surrounding Roy's Bay. She said that the location was not a foreground to views of the lake and would not have an effect on the appreciation of features such as the lone willow located in the shallows of the bay.
54. In her opinion while the area was part of the defined ONL, it had only limited naturalness and was on the extreme edge of the ONL in contrast to the foreshore and lake itself. She said that the proposed building would only be 'prominent' within 100m to 200m proximity, and where visible beyond this, would not have a significant impact. In her view it was significant that the site was zoned as a recreation reserve and that a building and use of the nature proposed could be regarded as both expected and logical. The site adjoined an area which was specifically identified for non- motorised watersports.
55. **Mr Duncan White** appeared as the planning witness for the applicant. He said that as the Wanaka Community Board had approved a lease of an area to contain the proposed building, this clearly anticipated a building on the site. This was reinforced by the Council granting affected party approval for the construction of a building. He outlined other attempts to obtain a site, noting particularly potential sites opposite McDougall Street and west of Stoney Creek, and the difficulties these raised in terms of potential opposition. He referred to the

Reserve Management Plan that identifies seven activity areas within Roy's Bay, which included supporting infrastructure to support non-motorised watersports, including a leased area for a multipurpose watersports building.

56. He drew attention to other recreational reserves in Wanaka that contained buildings and other lakes in the area that have a rowing club on their shore. He observed that the Council could remove trees without a resource consent as a permitted activity. He said the building design was sympathetic to its surrounds and that the boardwalk had been reduced in scale from the time of notification in response to submissions, but would still be able to be used by public. He emphasised that the landscape plan had been changed in response to Mr Denney's evidence. He felt the building would read as somewhere the public can still interact with, and asserted it would enhance public access and movement through the site. While accepting that the site is within an ONL, he was of the opinion that the evidence showed that the proposed building design and mitigation were appropriate and represented an exceptional circumstance. In his assessment the application passed both limbs of the 104D tests for a non-complying activity.

Other submissions in support

57. The other submissions in support, in summary, made the following points:
- the proposal would improve safety as rowers would not have to cross Mount Aspiring Road
 - there would be significant benefits for young people, reflecting demographic change in Wanaka
 - providing such a facility would promote growth in outdoor sport generally
 - it was located adjoining an area of the lake set aside for non-motorised watersports
 - buildings such as boat sheds were not necessarily inappropriate on lakeshores having high landscape values
 - there was a need to promote interaction with the lake
 - the building was designed to be sympathetic to its surrounds
 - the rowing club may be a small organisation but its needs are still valid
 - the application would not affect iconic views, which were obtained from the shore out into the lake
 - the existing marina and yacht club facilities were located on the foreshore to provide for lake users
 - the trees to be removed were not significant specimens
 - the activity was anticipated under the Reserve Management Plan
 - there had been misinformation spread about the extent of the proposal
 - the site was part of a recreation reserve.

Submissions in opposition – Stoney Creek Action Group (SCAG)

58. **Ms Jan Caunter** appeared as legal counsel for SCAG – #297 and advised that she was also appearing for Lyall and Gaynor Shearer, Stanley and Jane Hall and Ross and Judith Young. She began by submitting that SCAG was not a 'NIMBY' group. She then went on to submit that as a matter of law, the application cannot be a compromise between landscape values and the

alleged social benefits of the facility to the town's youth; adding that there is no 'spectrum' of ONL's.

59. She strongly emphasised the significance of the *King Salmon* decision (which we address in detail later in this decision). Her point was the objectives and policies cannot be 'read down' and emphasised the objective and policy framework (particularly in Part 4) and the use of words like "preserve", "maintain", "enhance", "protect", and "avoid". She was critical of the applicant's case which she considered sought to detach the reserve area from the lake and foreshore in terms of assessing landscape effects within the ONL.
60. She said that there was a strong feeling of 'sense of place' among her clients with respect to the proposed site of the building and the informal nature of the space which allows ready circulation through it, and provision for relaxation and shaded car parking. She added that the proposed building would have moderate visual impacts on some of her clients in Mount Aspiring Road, and would be directly within view of the Shearer residence.
61. In her view the evidence of Dr Read established that the site did not have the capacity to absorb change, and that having regard to case law, the application of section 6 of the Act, and the site's location within an ONL, that consent should be declined. She added that the Proposed Plan should also be given weight and that it would only allow for 'exceptional' development within an ONL, a test which she said this application would not satisfy.
62. **Dr Marion Read** presented very detailed evidence analysing the fact she considered particularly relevant to assessing the landscape effects of this proposal. Critical to her analysis was that the site was within the lake margin which she contended was appropriately defined as being the 50 or 100 year flood level. Secondly, she argued that while Roy's Bay as a whole only had moderate perceptual naturalness overall, the western end containing the application site had high perceptual naturalness. (As we understood it, the concept of "perceptual naturalness" was strongly related to a sense of place, rather than an 'objective' analysis).
63. She explained that what constituted 'naturalness' derived from an approach that she had applied as part of a team working for the Otago Regional Council with respect to the Otago coastline⁴. She was firm in her view that the site did not have the capacity to absorb change, would diminish public character and ownership to a significant extent, and that these adverse effects could not be mitigated.
64. In her opinion the recreation reserve status over the site was largely irrelevant⁵.
65. **Mr Stanley Hall for SCAG #297 and #38-Live** opposite at 46 Mt Aspiring Road. He considered he was in a good position to observe activities undertaken on the site, and emphasised that this was a very popular reserve and the starting point for the Millennium Track. He criticised the choice of site and considered the building design and shape was inconsistent with the purpose of a recreation reserve. He said the activity would have adverse effects on the reserve and on neighbours, and was concerned about noise from rowers early in the morning, security lighting and associated light spill. He suggested that the rowing club keep using the

⁴ Refer to summary evidence of Dr Read dated 31 March, paragraph 7(i).

⁵ Refer to summary evidence of Dr Read dated 31 March, paragraph 7(v).

showgrounds or a site at the bottom of Mc Dougal Street. He was also of the opinion that the water was too shallow here.

66. **Mr Lyall Shearer for SCAG #297 and #256** opposed the facility being built 'in front of' their dwelling at 59 Mount Aspiring Road and on the western side of Stoney Creek. They did not object to a boat shed, but objected to the scale of the proposed building. They stated that the area was used by local people, and tourists for wedding photos. They claimed that the site would be highly visible and visually inappropriate as viewed from their property and that the facility would privatise a public space. In addition they were of the opinion that the proposed building would not preserve the natural character of the lake, was prone to flooding, would create adverse traffic, noise and light spill effects. They also opposed removal of trees which provided shade and character. As was the case for some other submitters, they drew attention to coaching boats being motorised.

Other submissions in opposition

67. The other submissions in opposition made the following points:
- many supported the need for a building but on another site, with the following being suggested
 - (1) on the western side of Stoney Creek
 - (2) opposite McDougall Street
 - (3) between the application site and McDougall Street, but between the trees and Mount Aspiring Road
 - (4) Eely Point
 - (5) Morrows Mead (between Stoney Creek and Edgewater Resort)
 - (6) Waterfall Creek (just beyond the western edge of Wanaka)
 - (7) the Agricultural and Pastoral site on the southern side of Mount Aspiring Road
 - the removal of trees to accommodate the proposed building
 - the loss of shade from the removal of the trees
 - conflict with other beach users
 - privatising of the beach
 - the importance of the site for families
 - only toilets and possibly a changing shed were needed in this location
 - the extent of the noncompliances in terms of setback and size of building
 - loss of car parking
 - likelihood of boats being stored on beach frontage
 - inappropriate to cater for small minority
 - building did not provide for necessary socialising place for club members
 - building unsightly
 - potential wind stress and stress on roots of Sequoia trees
 - the area is a reserve
 - the area is part of an ONL
 - the application did not comply with the rules of the District Plan
 - precedent effects

- pristine environment in this part of Wanaka
 - would detract from Wanaka's character especially for tourists
 - noise and light spill
 - this area of lake too shallow
 - easy to cross road, or provide underpass or zebra crossing on Mount Aspiring Road
 - loss of iconic views
 - is a visual renditions misleading
 - applicant seeking to degrade the status of the reserve
68. During the hearing, we sought that the District Harbour Master (Mr Marty Black) be requested to give additional evidence as part of the Council's case. This was seen as relevant to safety issues and was originally suggested by Mr Todd. No objection to this was raised by other parties.
69. Unfortunately, and perhaps understandably given the short notice, Mr Black was unable to appear, and we advised the parties that he would be submitting a written statement which became available on the last day of the hearing. His statement was that with Wanaka becoming increasingly busy with powered boats, and noting it had more such activity than Lake Wakatipu, it was important to keep all users safe. Passive activities such as swimming and rowing needed to be confined to the southern side of Roy's Bay to avoid conflict with powered craft, noting that there were 3 boat ramps and a public jetty on north side with commercial boat traffic and a ski access lane. In his view there was no other area that was as handy or as suitable as the subject site. The waterski access lane in this area was closed giving passive users a clear run.
70. We were conscious that as Mr Black was not available to be questioned, we were limited in the weight we could place on his evidence, although some of it would be uncontentious and largely reflects the District Council's established management regime for managing water sports in Roys Bay.
71. At this point it is appropriate to record an issue that arose with the evidence of Mr Alan Cutler, which we drew to his attention in the course of the hearing. Our clear understanding was that Mr Cutler was appearing both as a submitter, and as sought by him, as an expert witness. We are aware that the Environment Court has expressed concern about parties acting as 'advocates in their own cause'⁶. We stress at this point, that this is not a criticism of either his experience or qualifications. However, these circumstances significantly affected the weight we could give his evidence.

The officer's report

72. **Ms Sarah Picard** presented planning evidence, which to a significant degree was informed by the report of Mr Denney. She considered that the effect of the proposed removal of the trees, combined with adequate mitigation in the form of large replacement trees, would not have an effect which would be more than minor⁷. In her assessment, the activity fell within the ambit

⁶ E.M. Briggs and others v Christchurch City Council (formerly Banks Peninsula District Council) Decision C45/2008, paragraphs 237 – 249

⁷ Refer evidence of Sarah Picard paragraph 8.2.2.2.

of a commercial recreational activity, but she concluded that this was clearly secondary to the main use of the building for club members and that the effects of this would be no more than minor. Similarly she considered that any displacement of passive recreational opportunities by the building and its curtilage would not create a significant adverse effect given the scale of the reserve, and the fact that the recreational activities proposed through the application are anticipated in this location.

73. She also concluded that the effect of car parking and access associated with the use of the proposed building would be less than minor⁸. She was of the view that given the specific purpose of the proposed building, that it would be unlikely that a grant of consent would create a precedent.
74. Her overall conclusions were that in the absence of further mitigation, the landscape effects would be more than minor, especially in the immediate vicinity of the building.
75. **Mr Richard Denney** considered that the site was part of the broader lake landscape, and that the proposed building would be isolated from other buildings and amount to an interruption to an otherwise open landscape (in the sense of the current absence of buildings)⁹. He did not agree with Ms Steven that the site of the building and this part of the foreshore was unappealing for passive recreation. He was concerned that the building was simply too large, albeit that the proposed colour scheme was appropriate. He considered that the scale of the trees assisted in reducing the visual impact of the proposed building, although the removal of the trees was an adverse effect given that they were part of a broader collective of trees in this location.
76. He considered that as notified, the proposed planting in mitigation, and particularly the kowhais, were too small to exert a useful presence in terms of mitigation, and would reinforce the domestic nature of the building. He considered that the potential for visual clutter and recreational conflict could be addressed by limiting vehicle access near the proposed building, having a clear route for the walkway and cycling, and more extensive restoration along Stoney Creek. He also considered that reducing deck encroachment on the northern elevation, and providing for replacement trees that would be at least 25m in height, would be beneficial. Notwithstanding amendments made to the application at the hearing, his concerns with respect to the application remained largely unchanged.

Right of Reply

77. Mr Graeme Todd, in his closing submissions, sought to emphasise that buildings are not prohibited in an ONL and maintained his original submission that there was in fact a continuum within the ONL's which reflected a differing capacity to absorb development, as reflected in the policies. He questioned the relevance of *King Salmon* given its different context, noting the specific wording contained in a higher order instrument in that case, being the National Coastal Policy Statement. He added that section 6 of the Act required judgement as to what was "inappropriate" development.

⁸ Refer evidence of Sarah Picard paragraph 8.3.4 and 8.3.7.

⁹ Refer evidence of Richard Denney, paragraph 45.

78. Noting that many submitters supported the proposal but not on the proposed site, he maintained that there was a clear 'NIMBY' element involved, which he sought to illustrate by way of submissions suggesting Morrows Mead as an alternative site, and the vehement opposition to that site from at least one local submitter. He thought it significant that no parties had sought to legally overturn the Reserve Management Plan which he maintained was an important matter, given that it provided for the proposed facility in the reserve. He said that beyond the immediate vicinity of the building, an observer would only need to move a short distance before they would be unaware of its presence.

ASSESSMENT OF EFFECTS

Preliminary Matters

79. Although the application is noncomplying in status, we think it is helpful to guide the assessment process by way of reference to the relevant assessment matters contained in the District Plan.
80. From the outset of the hearing, it was apparent that the key issues relating to whether this consent should be granted or declined, primarily turned on the landscape and amenity impacts of the proposal. Accordingly, the major part of this decision is set aside discussing those issues.
81. It was readily apparent that the application had resulted in a polarising effect within the community. Many submitters supported the principle of a facility for the rowing club, but not on this site, and many suggested a range of alternative sites as listed above. Other submitters questioned the need for such a facility at all. The submitters in opposition were by no means a monolithic bloc in terms of the basis of their opposition to the proposal. Given the depth of feeling from many of the submitters who appeared before us, and bearing in mind the over 1000 submissions in all, we reminded ourselves that this is 'not a numbers game' and determining the application can only be based on the content of the evidence and submissions, the application of the relevant plan provisions, and of the Act itself. The relative number of submissions in support or opposition is irrelevant.
82. During the course of the hearing, some of the submitters in support and particularly those in opposition, questioned the motives of other submitters on a number of occasions. We have placed little or no weight on that, although we make the observation that whether in support or in opposition, the quality of submissions depends on the submitter having read the application itself and formed their own view, and not an interpretation of the application by others.

Impacts on landscape values

83. Although not the only factor, we were in no doubt that the key issue with respect to this application were the landscape impacts of the development, given its location within an ONL. That in turn requires us to particularly focus on the extent to which this particular part of the ONL has the capacity to absorb development. We were advised that the lakeshore ONL was very extensive around this part of the lake, extending from Glendhu Bay in the west, to the

outlet of the Clutha River in the east. Ecological issues were not raised as a significant factor in this case.

84. As background to the matter, we familiarised ourselves with Environment Court decisions relating to landscape issues generally, including *High Country Rosehip Orchards Ltd and Mackenzie Lifestyle Limited and others versus Mackenzie District Council – Decision No. [2011] NZEnvC 387* and *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision). We also read the findings of the Supreme Court in *Environmental Defence Society Inc. and the New Zealand King Salmon Co. Ltd and others - SC 82/2013 [2014] NZSC38*, to which our attention was drawn by Ms Caunter, counsel for the Stoney Creek Action Group. We are conscious that great caution must be exercised between drawing comparisons between cases involving different sites or different districts, but nevertheless consider it is important that we take account of the key findings applied by the Courts in cases involving landscape¹⁰, including the Upper Clutha Tracks Trust case, which involved an admittedly much larger development on a site near Glendhu Bay, and which was held to be part of an ONL in that decision¹¹.
85. In her submissions Ms Caunter notes that there is no “spectrum of ONL’s”¹² and that the status of ONL over the site cannot be dismissed as an anomaly. We are certainly aware that in drawing up the boundary of the ONL, a choice would have had to be made as to whether this followed the edge of the lake or Mount Aspiring Road – certainly some intermediate point would be difficult to identify with any legal certainty. Moreover lake levels can extend up to and even beyond the road in major flood events. Ms Steven considered that the ONL line was only at Mount Aspiring Road because that is where the zone boundary is, and that zone boundaries are not determined on a landscape basis¹³. Given the practicalities of plan drafting, we have sympathy with this view, but the site *has* been identified as being part of an ONL, and accordingly ‘is what it is’, and section 6 of the RMA is applicable.
86. Section 6 (a) and Section 6 (b) respectively require as matters of national importance that decision-makers recognise and provide for the preservation of the natural character of lakes and their margins and of outstanding natural features and landscapes from inappropriate subdivision use and development. This imposes a strong test on development within land that has been identified as an ONL, albeit that it is qualified by the word “inappropriate”. The general scheme of the District Plan is not absolute protection of land within ONL’s from all or any development, and this appeared to be accepted by some submitters opposing the application – indeed it had to be, as we were presented with extensive evidence on potential alternative sites which (with one exception) were also within the ONL. Rather the requirement is linked to the capacity of the particular part of the ONL to absorb development. We consider that within an ONL as a whole, the effect of this is that the great majority of the land within the ONL would be unsuitable for development and particularly for buildings, albeit that there are only limited direct controls over the removal of vegetation. However there is scope to

¹⁰ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 42

¹¹ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 81

¹² refer submissions of Ms Caunter, paragraph 10

¹³ Refer evidence of Ms Steven paragraph 9.2

provide for development in locations where this is “appropriate” and where there is capacity of the landscape to absorb change.

87. In terms of the capacity of a landscape to absorb development, the Environment Court noted that “..... *the test is not whether there be “no significant effects” on the landscape but whether the possible effects are inappropriate*”¹⁴. The accompanying footnote noted that significance was a “context driven word”.
88. We consider this is also reinforced by the fact that the erection of a building in an ONL generally is a discretionary, not a noncomplying activity, with noncomplying activity status in this case arising from the building being on the “bank” of the lake.
89. The relevant assessment matters are contained in Chapter 5, under Clause 5.4. Although the clause numbering system used in the operative plan is to say the least challenging, and contains excessive repetition, we have endeavoured to follow it as closely as practicable. Those assessment matters which we consider have relevance to the current application have been applied on our assessment of effects in the following paragraphs of our assessment.

5.4 Resource Consents – Assessment Matters – Rural Zones

5.4.2.2 Assessment Matters

(2) Outstanding Natural Landscapes (District Wide pp 5-26 and 5-27)

(a) Potential of the landscape to absorb development

In considering the potential of the landscape to absorb development both visually and ecologically, the following matters shall be taken into account consistent with retaining openness and natural character:

(i) whether, and to what extent, the proposed development is visible from public places;

(ii) whether the proposed development is likely to be visually prominent to the extent that it dominates or detracts from views otherwise characterised by natural landscapes.

90. We acknowledge that the values attached to a landscape can be cultural in character and do not need to be confined purely to ‘natural’ values. A landscape, including an ONL, may be valued by the community albeit that it is modified to some extent by human activity and exotic vegetation¹⁵. Large parts of the shoreline of Lake Wanaka would be at least perceived as having high natural values albeit that they have been modified by human activity - the landscape doesn’t have to be pristine and have a ‘Fiordland’ like context to be eligible for ONL status. The Environment Court has noted that “*We should reiterate strongly that it is the extent of human (or cultural) modification – on a continuum – that determines whether a landscape is natural or not*”. In the case of the application site we are required to consider the nature of the human intervention¹⁶ and the resulting level of naturalness as part of determining the capacity of the landscape to absorb change.

¹⁴ *High Country Rosehip Orchards Ltd and Mackenzie Lifestyle Limited and others versus Mackenzie District Council – Decision No. [2011] NZEnvC 387, paragraph 77*

¹⁵ *High Country Rosehip Orchards Ltd and Mackenzie Lifestyle Limited and others versus Mackenzie District Council – Decision No. [2011] NZEnvC 387, paragraph 97.*

¹⁶ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432 (interim decision), paragraphs 60 – 61.*

91. Considering firstly subclause (i) of Clause 5.4.2.2, the evidence before us was at least arguably dominated by the extent to which the proposed building would be visible from both public and private places. This included its visibility from the foreshore; from the Millennium Track and the informal cycleway/walkways past and through the site; from Mount Aspiring Road; from nearby residences; and from more distant viewpoints such as elsewhere in Roy's Bay and from elevated positions such as Lismore Park.
92. It was common ground among all expert landscape witnesses that the building would be clearly either prominent or dominant from within close proximity. We consider that it would also be clearly visible from users of the Millennium Track approaching from the west. We agree with Ms Steven that wherever a building of this nature was located it would inevitably be clearly visible in close proximity. While the application site is less modified by buildings than some other parts of the ONL along Roy's Bay, it also offers a greater degree of potential screening (relatively speaking) than other narrower and less treed parts of the reserve along the bay, which is an important consideration in terms of this assessment matter, and in terms of the objectives and policies as discussed later.
93. A matter of fundamental importance to many of the submitters in opposition was the degree to which the building would dominate a part of Roy's Bay (the western end) which is otherwise free of buildings. Dr Read's evidence was that the building would significantly diminish openness of the foreshore in the sense of absence of buildings. She noted that the building is very large compared to existing foreshore buildings, such as rowing club facility at Lake Hayes, and it would be "unexpected"¹⁷. She added that:
- "It is my opinion that a building of this size and scale is out of keeping with its context, and that this would make it become a prominent feature in this location with the subsequent alteration to the character of the vicinity. I consider that this alteration would be negative and I consider the extent of this adverse effect to be moderately significant".*
94. She also remained firmly of the view that the adverse effects could not be adequately mitigated.
95. Ms Steven responded to this point in submissions by stating that because the building was visually prominent in close proximity, this did not equate to an adverse effect.¹⁸ This contrasted with evidence strongly opposing the building based on its scale and that the rules provide for a maximum floor space of 100 m², and that the proposed building at 420m² exceeded this threshold by a significant margin. By way of contrast, there was relatively little discussion on the colour scheme or cladding proposed for the building.
96. It is common in hearings to hear that rules specifying to the size, coverage or height of buildings should be treated as a maximum limit, when they are in fact a threshold beyond which assessment is required on the merits of the case concerned. With the exception of the setback from the lake shore, any breach of these rules would make an activity either restricted discretionary or discretionary in status. Put another way, a building set further back from the lake shore, of the size proposed in this case or even larger, would 'only' be a discretionary

¹⁷ Refer evidence of Dr Read, paragraphs 6.6.3 and 7.3.1.

¹⁸ Refer evidence of Ms Steven paragraph 11.30 and 6.6.4 respectively

activity. Unfortunately however, it would also be much more visible from nearby residences and still be visible from parts of the foreshore.

97. The proposed building is however a large structure in a part of the foreshore which does not currently contain buildings – however it is proposed to have a recessive colour scheme, and does not exceed the height and site coverage requirements in the plan. We accept that the building would inevitably be visually prominent in close proximity, as it would on any site within the ONL within, or close to, Wanaka. However we think that size is not the only determinant of whether the site can visually absorb further development, as factors such as the number of buildings, their siting, the colour of buildings, and their height are all relevant. While we accept that it would be reasonable to expect that small buildings might be established by the Council in this location (e.g. a toilet block) the proposed building is a large structure, and for that reason was of some concern to us. We were left in no doubt by submitters in opposition that this factor, and the proposed building's relative isolation, were key concerns, and were ultimately the most relevant concern raised by the submitters.
98. From the eastern side of Roy's Bay, looking directly across the site, we are satisfied that the proposed building would not be a significant visual feature as claimed by Ms Steven, and largely accepted by Dr Read¹⁹.
99. Mr Denney, landscape architect for the Council, expressed the view that:

*"From the distant viewpoints the scale of the large mature trees around the site, the proposed recessive colouring of the building, and various foreground and mid-ground elements would enable the proposed building to merge into the broader landscape without undue prominence".*²⁰

100. Overall, it was apparent that from the more distant 'scenic' perspectives of Wanaka and its foreshore, the proposed building would certainly not be visually dominating or for that matter prominent. The only qualification to this was the view of Dr Read that for some permanent residents in the vicinity of Lismore Park, the building might be visible. However we were satisfied that the proposed building would have less than minor adverse visual effects from distant perspectives. Mr Denney commented that:

*"I consider the proposed development would distract from views otherwise characterised by natural landscapes to a moderate to high degree but only within the immediate area of the site as described above"*²¹.

101. From the lake itself, it is readily apparent that the building would be visible from the lake surface, at least in close proximity. Dr Read noted that in views from the lake the naturalness of the lake foreshore was *"...reduced in comparison with terrestrial locations because it is more possible to see between the trees to the vehicles and buildings behind them"*²².

¹⁹ Refer evidence of Dr Read paragraph 7.3.3

²⁰ Refer evidence of Mr Denney, paragraph 27

²¹ Refer evidence of Mr Denney, paragraph 28

²² Refer evidence of Dr Reid, paragraph 7.3.4

102. In terms of views from Mount Aspiring Road, we concluded that even during the winter, views of the proposed building would be strongly filtered by trees, and at all times of the year would be significantly screened by the two Sequoia trees. The evidence from Ms Steven and Dr Read was that any visibility would be limited to a distance of approximately 250m along the road. From McDougall Street westward, views from the road towards the lake are significantly obstructed by trees, with the only interruption being the Stoney Creek car park which provides a visual corridor through to the lake. The proposed building would have little effect on this visual corridor and we consider that any other views of the proposed building from the road would be largely fleeting.
103. In terms of visual effects of development within ONL's on residential neighbours, the District Plan is largely silent with respect to this matter, at least in terms of explicitly addressing it. On the southern side of Mount Aspiring Road there are 14 properties directly or diagonally opposite the application site (street numbers 20 – 58) and a further dwelling across Stoney Creek on the northern side of Mount Aspiring Road (number 59). We agree with the assessment of Dr Read that the primary effects would be on numbers 40 and 42, the upper storey of the dwelling at 58 Mount Aspiring Road (who have given their written consent to the application), while number 59 would be able to see the proposed building at a distance of approximately 150 m to the north. In her evidence Dr Read stated that:
- “In all the effects of the proposal on public views within the Bay is moderate and adverse. The effects on private views are lesser, except for dwellings to the immediate south of the development which would be adversely impacted to a moderate extent”.*²³
104. From visiting the residential properties, including from within the dwelling at 59 Mount Aspiring Road, we accept that the proposed building would be visible to a greater extent from parts of Mount Aspiring Road than from other residential properties. Having viewed the site from within the living area of the dwelling at 59 Mount Aspiring Road, and taking account of the intervening vegetation, it did not seem to us that the proposed building would dominate views from this property. Taking residential properties in the vicinity as a whole, and with regard to the extent of surrounding trees and vegetation, the distance to the proposed building, and the recessive colour of the building, we consider that any adverse effects on the outlook of these properties would be no more than minor.
105. We consider it is important to consider the intrinsic value of the site in landscape terms, and as Mr Denney reminded us, this cannot be determined simply from fixed viewpoints.
106. The significance of the application site within the wider landscape was an area where there was a clear dichotomy of opinion. In her evidence, Dr Read provided a summary of what she called the ‘perceptual naturalness’ of the lake margin of Roy’s Bay as a whole. In this summary she concludes that (1) Eely point has some modification, generally high perceptual naturalness and moderately high wild and scenic qualities (2) Eely Point to Bullock Creek has significant modifications to landform, perceived naturalness is moderately low, and moderate to low wildness and moderate scenic values (3) Bullock Creek to Stoney Creek exhibits significant modifications (roads, carparks and buildings) but all concentrated at the eastern end, with the

²³ Refer evidence of Dr Reid, paragraph 7.4.6.

western end (containing the application site) having a much higher level of perceptual naturalness, with the Unit as a whole having only moderate perceptual naturalness and wildness. She said:

“The roads, buildings and other accoutrements of town life domesticate the inland portion of the lake margin, while the beach and lake itself remains relatively untamed save for the town jetty and buoys towards the western end of the beach indicating the safe swimming zone”²⁴.

107. She added that this was not simply an area for viewing the lake and mountains but has scenic value in and of itself²⁵.

108. As noted in the summary of evidence, there was a somewhat vigorous debate between Ms Steven and Dr Read as to what constituted ‘naturalness’. Dr Read’s evidence appeared to rely on a model that appears to have been developed for assessing the coastline of the Otago Region. We don’t know to what extent this approach, which may prove to have considerable merit, has been accepted by the Environment Court (if at all) and no case law was cited in this respect. Consequently we had to treat this with some caution, bearing in mind previous views expressed by the Court on this subject²⁶.

109. Ms Steven expressed a contrasting view. She said the built up urban area forms the wider context to the application site. In her opinion, when walking along the lakefront, while the foreshore and lake are highly natural *“the many elements of urban landscape close at hand (such as signs, rubbish tins, picnic tables, multiple parked vehicles, sealed paving, kerbs and the many buildings visible when looking around) are simply too prevalent to call it a natural environment”²⁷.*

110. She also drew attention to the frequent presence of vehicles, camper vans and buses, and was firmly of the view that the reserve landscape (excluding the foreshore) had low naturalness and was highly modified. In terms of the large scale of the building (in terms of its floor area) it was her contention that this was not inappropriate having regard to the scale of the reserve itself and the trees within it²⁸.

111. For his part, Mr Denney stated:

“I consider existing development on land use does not represent a threshold with respect to the sites ability to absorb further change. The existing large trees provide visual buffering and scale to absorb and visually contain potential development. I consider this part of the reserve due to the large trees, is less sensitive to development than those more open and exposed areas to the east where development would be visually more prominent”²⁹.

²⁴ Refer evidence of Dr Reid, paragraph 5.4 (c)

²⁵ Refer evidence of Dr Reid, paragraph 5.4 (d)

²⁶ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 42.

²⁷ refer evidence of Ms Steven, paragraph 10.18

²⁸ refer evidence of Ms Steven, paragraph 10.35

²⁹ refer evidence of Mr Denney, paragraph 39

112. He was and remained however, critical of the application on the basis that this part of Roy's Bay was currently free of buildings, and felt that the applicant had exhibited undue negativity towards exotic vegetation. He was also of the view that the applicant had understated the existing value of the site for informal recreation.
113. In effect, the points of difference which emerged between the proponents of the application and its opponents could be summarised as follows:
- the extent to whether the site was integral to the clearly natural environment of the lake itself, or should be considered as part of the wider urban area of Wanaka;
 - the extent to which the application site in its current form was valued for recreation purposes;
 - the effect of the proposed building on amenity and tourism values affecting the site and surrounds.

A significant number of the submitters insisted it was the site, rather than the proposed building itself, which was of concern to them.

114. Turning to the first of these points, a number of witnesses took the position that the reserve area containing the application site should be regarded as an extension of the natural environment of the lake itself, with Mr Denney noting that defining the boundary of the landscape was challenging, with the lake environs ranging from pristine to urban landscapes. He went on to say:

*"The subject site is on the beach side of the reserve. I consider the site comfortably falls within the lake margin whose character is sufficiently influenced by the natural qualities associated with the lake waters, beach, green open space and mature trees such that it should be considered as part of the lake landscape"*³⁰.

115. This point was an important one, because an understanding of what was meant by "margin" was significant, particularly in Dr Read's evidence, to determining as to whether the proposed building was considered appropriate or not in this environment. Those taking an opposing position appeared to us to be arguing that if the site was seen as part of the broader ONL landscape which includes the lake, this would confer a greater degree of naturalness that would be the case if it was seen as part of the urban area of Wanaka.
116. Relying on the evidence of Dr Read, Ms Caunter claimed in her submissions that the lake margin extends to the 100 year flood level which we understood was well beyond Mount Aspiring Road. She based this on an excerpt from the *High Country Rosehip* case³¹, citing that this can be at least 20 to 50 m beyond (in this case) the wave action is of a lake. However in

³⁰ Refer evidence of our Denney, paragraphs 16 and 17

³¹ *High Country Rosehip Orchards Ltd and Mackenzie Lifestyle Limited and others versus Mackenzie District Council – Decision No. [2011] NZEnvC 387*, paragraph 140.

that case the Court immediately went on to note that *“however this opinion is obiter: the issue was not argued”*. Consequently we consider it may be a leap of faith to adopt her view

“....that the High Country Rosehip approach should be adopted in this case”³².

117. If it was the submitter’s intention that a very expansive view of what constituted the ‘lake margin’ formed the basis of an argument that an assessment of the effects of this application on the landscape could disregard any ‘connection’ with the township of Wanaka, we were not persuaded that this was the case.

118. Ms Steven was adamant that the site formed part of the urban environment of Wanaka Township. While we accepted that the area had to be regarded as part of the ONL, we consider that it was an artificial distinction to ‘ring fence’ the western end of Roy’s Bay and consider it as a separate landscape in its own right in association with the lake. We also observed that Wanaka township completely envelops the head of Roy’s Bay, notwithstanding that part of the frontage behind Mount Aspiring Road is occupied by the showgrounds and reserve. Dr Read noted that:

“Beyond the immediate lake foreshore the landforms become more modified, being the location of extensive parking areas on the reserve land, and of Lakeside Drive, Ardmore Street and Mount Aspiring Road. This more modified area provides a transitional space between the lake foreshore and the township”³³.

119. We agree that reference to a ‘transitional space’ is an appropriate description, rather than categorising the site as either part of the lake environment or part of the urban environment. However we also concluded that it supports a position that the site forms part of a *modified* ‘transitional’ environment. While the site was strongly influenced by the lake, and by the foreshore, the unspoiled nature of which was common ground among the witnesses, it was also influenced by its urban surroundings and the activities undertaken within the reserve area at the western end of the bay, which is characterised by a strong human presence, a play area, and car parking activities. This in part reflects the fact that this part of the bay is freely available and easily accessible for recreational (albeit non-motorised) activities and the people/vehicle movements associated with it.

120. Turning to the second point above, a number of submitters in opposition to the application were critical that the proponents had ‘devalued’ the significance of the application site for recreation. The applicant’s case sought to emphasise the claimed poor quality of the vegetation and trees in the area (with the exception of the sequoias).

121. We accept without hesitation that for some, perhaps many people, this part of Roy’s Bay offers opportunities for picnicking, resting on the foreshore under the shade of trees, and for shaded informal car parking. Furthermore, we accept that this is a valued quality. Related to this were concerns about perceived ‘privatisation’ of part of the lakefront.

³² refer submissions of Counsel for the Stoney Creek Action Group, paragraph 31.

³³ refer evidence of Dr Read, paragraph 6.5.6

122. Ms Steven drew attention to the presence of wet areas (seeps) and associated ground vegetation which she argued made the site relatively unattractive for recreation compared to other parts of Roys Bay, and that in her observation was little used for recreation purposes. We were somewhat surprised at the diametrically opposing opinions on this subject.
123. We agree with the point raised by some submitters, that the applicant has to some degree overstated the alleged negative qualities of the site, and understated its recreational values. As noted earlier, we have concern about the size of the proposed building. The proposed 30m long building would still be a significant physical presence in this part of Roy's Bay. However in terms of informal parking and the ability to rest under trees, the site has passive recreational value but in the context of the extensive (approximately 1500m) frontage of the Roys Bay 'beach' as a whole, any constraining effects on these activities would be limited. Quite apart from that, there are no restrictions on shore based activities involving non-motorised boating activities on this part of the bay either, which can be expected to occur on an increasing basis in conjunction with passive recreation.
124. Immediately behind the foreshore, passive recreational use (e.g. picnicking) is at least partly precluded during busy periods by informal car parking, and we do not see any reason why in a recreation reserve, informal car parking should be given any preferred status over other activities, including the promotion of recreation associated with non-motorised water sports.
125. The third issue of concern was the effect of the proposed building on amenity values, and its wider impact on amenity and tourism in Wanaka. There is no doubt that the proposed building (described by some as a 'shed') would in terms of design be a somewhat utilitarian structure, although we remain of the view that the proposed cladding materials and colour treatment would be appropriate on a site such as this. Our attention was drawn to the significance of this lake shore in terms of the seasonal variations in foliage, particularly the semicircles of poplar trees located to the east of the application site. Our attention was also drawn to the iconic willow tree located part way out into the shallow waters on the western part of the lake. Both this tree and the poplars form a backdrop to a number of postcard views (which we have seen) of Roys Bay and Wanaka, particularly during the autumn.
126. We struggle to see how views of the iconic willow tree would be adversely affected by the proposed building. From all of the images that we were presented with at the hearing, and from our site visit, it was clear that logically views would be experienced in a northerly direction out into the bay. Put another way, it seems improbable that a viewer or photographer would unavoidably have to incorporate the proposed building into the foreground, or that it would form a backdrop to a photograph. We acknowledge that for some, the knowledge 'that the building was there' may be a detraction from their experience but we do not think this is necessarily going to be the case for visitors.
127. On the same basis, we do not think that any panorama incorporating the semicircles of poplar trees to the east of the site, or for that matter from a wider perspective, would be adversely affected by the proposed building. We observed that by far the greatest concentration of visitors and photographers appeared to congregate in the vicinity of the log cabin and associated jetty, notwithstanding the much more modified environment, and large numbers of people. As noted earlier, we do not consider that building would detract from the typical 'postcard' views we were shown at the hearing.

128. In addition, with the exception of the two sequoias, none of these trees are protected (contrary to the view expressed in some submissions) and they could be removed without any need for resource consent. While some of these other trees are relatively large, they are not of exceptional quality.
129. Overall, we were of the conclusion that while the western part of Roy's Bay was less modified than the eastern part, it was nevertheless an environment significantly modified by human activity. To avoid misunderstanding on this point, this is not a case of devaluing the environment in the vicinity of the application site, but merely making the observation that in the context of the ONL as a whole, it is an environment which as a result of these modifications, has the potential to absorb a degree of change. We acknowledge that there will be a loss of trees, which in the short term at least, will not be compensated for by additional plantings. Even so, the effectiveness of trees to provide screening in this location would be greater than points further east along the bay.
130. In terms of the availability of trees to provide screening, this site is at least arguably more suitable for a larger building because of the presence of existing (many large-scale) trees and the depth of the site between the road and the foreshore. Furthermore, there is little likelihood in this location that the supplementary planting proposed by the applicant would not be given effect to, a concern that otherwise arises with respect to plantings on private property to screen development.
131. Much was made of the existing lack of buildings at this western end of the bay. However this does not mean that it is not a modified environment. While it does have natural values, these are significantly affected by the degree of human activity which takes place even at this end of the bay. It has been accepted that in terms of "domestication" – a term often used in considering resource consent applications not only in ONL's, but even in 'lower ranked' VAL's (Visual Amenity Landscapes) – activity by people, vehicles and vehicle movements are examples of domestication³⁴.
132. While we respect the thoroughness of Dr Read's evidence, under questioning she (and some other witnesses) sought to persuade us that the presence of parked motor vehicles had little or no effect on the natural values of the landscape in the vicinity of the site, arguing that vehicles were smaller than the proposed building and were only there temporarily. As well as being inconsistent with how vehicles and vehicular activity is considered in terms of other proposals in ONL's and even VAL's elsewhere in this district, we observe that the presence of vehicles will be greatest during warmer months and particularly the summer and during the day. These will be the times when parked vehicles will be most likely be present and highly visible to visitors. The colour and reflectivity of vehicles can also appear intrusive. While we readily acknowledge the convenience and advantages of providing for shaded parking (albeit on a first in, first served basis, and not exclusively for local use), it is a domesticating activity, and is not in our view to be expected in an environment which has high natural values and

³⁴ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432 (interim decision), paragraph 129.*

which has limited or no capacity to absorb change. This is not a case of devaluing the subject environment, simply recognising that it is modified.

133. In the case of a significantly larger development in Parkins Bay to the west considered by the Environment Court, including buildings close to the lake shore, the Court noted with approval evidence that on the lake shore there was no point in trying to hide buildings, but rather to celebrate their location in connection to the lake, and where designed correctly such buildings had wide public appeal³⁵.

134. With respect to concerns that the secluded, serene and tranquil character of Parkins Bay would be adversely affected, the Court observed that:

*“Further, given that Parkins Bay, with its fringe of willows and poplars, is one of the more English bays around the lake, we find the proposed clubhouse and accommodation will not be incompatible with the character of the bay”*³⁶.

135. In addition it was noted that Parkins Bay was one of the less remote and isolated bays around the lake, and was used for recreational activities. In considering cumulative effects, the Court noted that other factors included its development in a modified area³⁷ and that the site was on the edge of a much more modified area. This site is in our view on the edge of such a modified area, being the residential area to the south of Mount Aspiring Road and to the west, a factor which we think is evidenced by the concerns expressed by the involvement of the Stoney Creek Action Group in opposition to this proposal.

136. We acknowledge that the scale of the proposed building is substantial and in our opinion this does constitute an adverse effect, leaving the matter of the extent of its effects on the environment quite finely balanced. Because of the nature of the watercraft to be stored and their length, the options for reducing the size of the building are limited, and even if it were reduced in size this is unlikely to be to a level that would be acceptable to submitters in opposition. We consider the building is of a minimum size to serve its purpose efficiently. To reject it on the basis that it would be visible in close proximity clearly implies that a building anywhere near the foreshore (unless it were very small) would be unacceptable anywhere in an ONL. We consider such a conclusion would go beyond what is contemplated by the provisions of the District Plan in considering the capacity of any part of an ONL to absorb change.

137. This site forms part of a reserve specifically managed for recreation purposes and which we consider is an integral part of the surrounding large township of Wanaka, albeit a ‘transitional’ environment between the township and the lake.

³⁵ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 105.

³⁶ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 107.

³⁷ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 262.

5.4.2.2 Assessment Matters (continued)

(2) Outstanding Natural Landscapes (District Wide p5-27)

(a) Potential of the landscape to absorb development

In considering the potential of the landscape to absorb development both visually and ecologically, the following matters shall be taken into account consistent with retaining openness and natural character:

(iii) whether any mitigation or earthworks and/or planting associated with the proposed development will detract from existing natural patterns and processes within the site and surrounding landscape or otherwise adversely affect the natural landscape character.

138. During the course of the hearing concerns were raised about potential flood performance and engineering issues, associated with the proposed construction of an earth bund to divert any flood waters from the overflow of Stoney Creek away from the proposed building. As these works have been specifically approved by the Otago Regional Council, we do not consider it necessary to consider the adequacy the design of the bund to address potential flooding issues. We also note that the bund complies with the district plans rules in terms of land area and volume.
139. A related issue raised was whether the bund would create an artificial physical feature that might otherwise detract from the character and amenity of the reserve. However there was no evidence which established that any effects of this the bund (which would have a height of 0.5 m), would have any significant visual impact, and we are satisfied its effects would be less than minor.
140. The only other issue of earthworks and plantings arose with respect to the applicant providing a more 'formal' car parking area and undertaking the planting of two South Island Kowhai adjacent to the west wall, four large exotic trees in a group around the south-west corner of the building, and a weeping willow on the north-east corner of the lake side of the building. There were no concerns with respect to this planting creating any adverse effects, rather it was questioned whether these trees would be adequate to screen the proposed building, or to compensate for the trees being removed to accommodate it. There are active community group efforts in planting native species along the adjacent Stoney Creek, and we do not consider that the proposed planting to screen the building (partly exotic species) would be inappropriate in this location. Tree planting is not restricted in the reserve, except for prohibited species, some of which are proposed to be removed.
141. Insofar as the 'formality' of car parking proposed is concerned, we think it is inevitable that further rationalisation and improvement of car parking along the entire foreshore is virtually inevitable given the growth in visitor numbers and population.

(iv) whether, with respect to subdivision, any new boundaries are likely to give rise to planting, fencing or other land use patterns which appear unrelated to the natural line and form of the landscape; wherever possible with allowance for practical considerations, boundaries should reflect underlying natural patterns such as topographical boundaries;

142. No subdivision is proposed as part of this application.

(v) whether the site includes any indigenous ecosystems, wildlife habitats, wetlands, significant geological or geomorphologic features or is otherwise an integral part of the same;

143. As noted above, there is a programme of ongoing native planting is to enhance the margins of Stoney Creek. There are no other indigenous ecosystems habitats, wetlands or natural features of any significance within the site subject to the proposed building.

(vi) whether and to what extent the proposed activity will have an adverse effect on any of the ecosystems or features identified in (v);

144. The proposed building would be located on piles and would not involve earthworks for its establishment. There are no adverse effects on natural features or ecosystems.

(vii) whether the proposed activity introduces exotic species with the potential to spread and naturalise.

145. The issue of exotic versus indigenous plantings was a significant underlying issue during the hearing, noting that the amenity value of the exotics along Roy's Bay was valued by the local community and was promoted as an attractive feature of Wanaka for the purposes of tourism. This placed special emphasis on the poplars and the sequoia trees, but other trees present included willows, Kowhai, Eucalyptus and Douglas Fir. The latter is a prohibited wilding species which is included among a number of the trees to be removed as part of this proposal.

146. The applicant's proposed landscape scheme was attacked, particularly in the evidence of Mr Cutler³⁸, as having a bias towards indigenous vegetation, while others expressed varying opinions on the quality of the trees which were to be removed. Proposals finally settled upon by the applicant involve a combination of exotic species with some indigenous trees in the form of willow and Kowhai.

147. The RMA does in fact exhibit the 'bias' towards indigenous vegetation claimed by Mr Cutler, as exemplified in section 6(c) a factor which assumes greater significance in an ONL. However the primary advantage of exotic species – especially in this location where they are overwhelmingly predominant – is that of scale and their ability to establish and grow relatively quickly, which can be a factor if screening buildings is an objective. The retention of existing trees where possible (even if they are relatively mediocre in quality) does confer some benefit.

148. The next assessment matter is quite important as it relates to the "openness" of the landscape.

(b) Effects on openness of landscape p5-27

In considering the adverse effects of the proposed development on the openness of the landscape, the following matters shall be taken into account:

(i) whether and the extent to which the proposed development will be within a broadly visible expanse of open landscape when viewed from any public road or public place and in the case of

³⁸ Refer evidence of A Cutler, paragraph 69

proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, equestrian and other means of access; and

(ii) whether, and the extent to which, the proposed development is likely to adversely affect open space values with respect to the site and surrounding landscape;

149. We are aware that the Environment Court has held that “open character” is marked by few trees and a lack of houses, whereas “open space” is marked by a lack of buildings³⁹.
150. In this case the plan is referring to the openness of the ‘landscape’. However we are aware that in this district, applications (typically for rural dwellings) are assessed in terms of their visibility within what is typically a pastoral landscape, and the application of the assessment matters in the District Plan attempts to avoid dwellings and their curtilage creating an incongruous visual element in the landscape. Alternatively, mitigation is required, which again typically involves taking advantage of landscape features and to a lesser extent earthworks or planting, to conceal the building, its curtilage and its visual impacts as seen from public places. Other key features are the scale of a building, its colour, its height and siting.
151. As noted earlier, these assessment matters tend to emphasise visibility from public rather than private places. They also have the effect of discouraging the use of sites which would have an ‘open character’ as seen from such places – in other words sites which lack natural physical features or trees which can screen the visual impact of a building. In the case of this site, the width of the reserve, and the concentration of trees, does provide a degree of mitigation which would not be available at some other sites that were put to us as being preferable.
152. The proposed building is proposed to have a recessive colour scheme, which Mr Denney considered to be appropriate for a building in this location, acknowledging however his ongoing concerns about the scale of the structure and the absence of other buildings⁴⁰. The proposed building complies with the height limits specified in the District Plan, and will be at least partially screened by existing and proposed trees. However it would be a large structure, which does count against it – although it would do so on almost any site within an ONL in the vicinity of Wanaka. In terms of any freedom from buildings – if this is in fact a relevant matter under this assessment criteria – the proposed building would have to be seen as an intrusion into an area which currently does not contain buildings.
153. The building will inevitably be clearly visible in close proximity to users of the reserve and from the foreshore, which are public places, and would be a completely new building feature in what is currently an interrupted section of reserve trees created by Stoney Creek and its adjacent car park. Dr Read emphasised this point and stated that the proposed building would adversely affect visual amenity from the lakeside track and beach, but because of the screening effect of the trees and the scale of the trees which would dwarf the building, it would not have a dominant effect beyond the immediate vicinity of the building⁴¹.

³⁹ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432 (interim decision), paragraph 88.*

⁴⁰ Refer evidence of Mr Denney, paragraph 45

⁴¹ Refer summary of evidence by Dr Read, paragraph 28

154. As discussed earlier in this decision we do not think the proposed building would have a significant adverse visual impact as seen from Mount Aspiring Road. Its primary adverse effects would be on users walking and cycling through the trees at the western end of Roy's Bay, where it would appear as an interruption to an otherwise treed environment.
155. From the perspective of views from the wider public realm beyond the site, we are satisfied that the visual impacts would be less than minor in terms of the 'openness of the landscape' and concur with the comments of Mr Denney who observed that:
156. *"From the distant viewpoints the scale of the large mature trees around the site, the proposed recessive colouring of the building, and various foreground and mid-ground elements would enable the proposed building to merge into the broader landscape without undue prominence"*⁴².

(iii) whether the proposed development is defined by natural elements such as topography and/or vegetation which may contain any adverse effects associated with the development.

157. The 2.09 ha site itself is physically contained by Stoney Creek to the west, the lake to the north of Mount Aspiring Road to the south. It is adjoined by other land classified recreation reserve to the east, but has no topographical or physical constraints, and the proposed building is reliant on existing and proposed vegetation to achieve a partial degree of mitigation.

(c) Cumulative Effects on Landscape Values p5-27

In considering whether there are likely to be any adverse cumulative effects as a result of the proposed development, the following matters shall be taken into account:

(i) whether, and to what extent, the proposed development will result in the introduction of elements which are inconsistent with the natural character of the site and surrounding landscape;

(ii) whether the elements identified in (i) above will further compromise the existing natural character of the landscape either visually or ecologically by exacerbating existing and potential adverse effects;

(iii) whether existing development and/or land use represents a threshold with respect to the site's ability to absorb further change;

158. There were contrasting views expressed throughout the hearing as to the character of the site and its surrounds, with Dr Read drawing an interesting comparison between the foreshore at Wanaka and that at Queenstown. Her comment was that:

*"The presence of public facilities alongside the foreshore including these parking areas, toilets, barbecue areas and, perhaps to a lesser degree, the log cabin underpin its nature as a public space, however. The expansiveness of these spaces ensures they have a casual and relaxed feel about them. This contrasts with, say, the lake foreshore in Queenstown which has a bustling and busy feel, particularly around Earnslaw Park and Marine Parade"*⁴³.

⁴² Refer evidence of Mr Denney, paragraph 27

⁴³ Refer evidence of Dr Read, paragraph 6.5.10

159. Ms Steven sought to counter this by arguing that the presence of activities was not a disincentive to people's enjoyment of open spaces, citing the example of the popularity of tourist photography at the Wanaka jetty, and an observation that boat sheds are often the subject of artistic photographs and paintings. We entertain doubts however that whatever the merits of the proposed building design under this application, it would not convey a typical colourful 'boatshed ambience'. We were not sure however that Dr Read's comparison with Queenstown is particularly helpful either, as the two waterfronts are quite different in other ways – while that at Wanaka is more "expansive", large parts of it are taken up by formal or informal car parking, which is often extensively occupied. By contrast, while the Queenstown waterfront has a distinctly commercial backdrop, a large part of the Queenstown waterfront while being "bustling and busy" is also more pedestrian friendly.

160. We also think it is important to acknowledge that as local and international tourist numbers in the district continue to increase, and as recreational and commercial boating (whether motorised or otherwise) also increases as a direct consequence of the relationship between Wanaka and the lake, it is inevitable that there will be greater pedestrian movements, greater demand for car parking, and importantly, more recreational boating activities. This in turn leads to more demand for onshore facilities. This can be expected to include non-motorised watersport, an activity for which the western part of Roy's Bay has been specifically identified by the Council, and which is beyond our jurisdiction to review. This has been acknowledged by Mr Denney who stated that:

*"Water-based recreational activity is anticipated within the reserve by the Reserve Management Plan. The location, nature and character of such development are not defined within the management plan. I consider the existing character of the site would no longer be dominant as the change in land use would be relatively large. This change would however be very localised to the immediate area of the site"*⁴⁴.

161. Earlier we concluded that while the site has a lower level of natural character, even at its western end, as a result of domestication in the form of human activity and car parking. We consider this character means it has greater potential than many other parts of the wider ONL, and no less potential than other parts of the ONL in close vicinity to the township, to absorb change. Indeed we consider that further change and greater intensity of non-motorised watersports on the western part of the bay can be expected to continue, just as evidence at the hearing clearly indicated was the case in recent years.

(iv) where development has occurred or there is potential for development to occur (ie. Existing resource consent or zoning), whether further development is likely to lead to further degradation of natural values or inappropriate domestication of the landscape or feature.

162. There is potential for further building development to occur, although beyond specified thresholds, this would need resource consent. The Council can, through an Outline Plan process under section 176A of the RMA, also provide for its own buildings up to a floor area of 100m² and up to 8m in height. However pressure along the foreshore will inevitably lead to further development anyway in the form of more passive and recreational activities, and associated foot and cycle movement. We consider that realistically, even if this application were to fail, ultimately the consequences of increased activity of the type described above will

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lead to pressure for building within the reserve, and given the length of Roy's Bay, some of that building activity could be reasonably expected to occur at this end of the bay. That part of the bay subject to the proposed application cannot be assumed, even now, as being confined to passive recreation activities.

163. It is important to note that unless building(s) are restricted to less than 100 m² in area they will not only require resource consent, but any buildings constructed by private entities (as in this case) will also require the consent of the Council as administrators of the reserve. We go on to discuss the related but separate issue of precedent effects later in this decision.

(d) Positive Effects pp5-27 and 5-28

In considering whether there are any positive effects associated with the proposed development the following matters shall be taken into account:

(i) whether the proposed activity will protect, maintain or enhance any of the ecosystems or features identified in (a)(v) above;

(ii) whether the proposed activity provides for the retention and/or re-establishment of native vegetation and their appropriate management.

(iii) whether the proposed development provides an opportunity to protect open space from further development which is inconsistent with preserving a natural open landscape;

(iv) whether the proposed development provides an opportunity to remedy or mitigate existing and potential (ie. Structures or development anticipated by existing resource consents) adverse effects by modifying, including mitigation, or removing existing structures or developments; and/or surrendering any existing resource consents;

(v) the ability to take esplanade reserves to protect the natural character and nature conservation values around the margins of any lake, river, wetland or stream within the subject site;

(vi) the use of restrictive covenants, easements, consent notices or other legal instruments otherwise necessary to realise those positive effects referred to in (i)-(v) above and/or to ensure that the potential for future effects, particularly cumulative effects, are avoided.

164. In terms of positive effects, the criteria listed above do not take account of any positive effects for developing recreational activity. Instead they focus on natural values, including the ecology, landscape, and the ability to acquire land or impose encumbrances to facilitate protection or public access. Overall, the proposal could only be described as largely neutral in this respect, except for a minor beneficial effect with respect to indigenous planting.

5.4.2.3 Assessment Matters General

165. Clause 5.4.2.3 considers the application of general assessment matters with a much wider ambit than natural values and landscape issues, some of which are relevant and others which repeat those already addressed under 5.4.2.2 above. To avoid repetition in these instances, we will not go into detailed discussion except where this is necessary.

i General – Nature Conservation Values pp5-31 and 5-32

(a) The extent to which activities will result in opportunities for the protection and enhancement of indigenous bio-diversity or indigenous ecosystems.

ii Natural Hazards – General

(a)Whether the activity will exacerbate any natural hazard, including erosion, sedimentation, subsidence and landslips.

iv Controlled and Discretionary Activity – All Buildings (except in Ski Area Sub-Zones)

(a)The extent to which the location of buildings and associated earthworks, access and landscaping breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes.

(b)Whether the external appearance of buildings is appropriate within the rural context.

166. Beneficial elements of the proposal are very modest with respect to protection and enhancement of indigenous biodiversity. A community programme is already underway on the adjacent margins of Stoney Creek. However we saw some merit in Ms Steven's observation that planting indigenous trees adjacent to the proposed building offered an opportunity, particularly in the longer term, to integrate this voluntary work along Stoney Creek with the surrounding reserve environment.
167. The only credible evidence of natural hazards arose from possible concerns regarding surface flooding from Stoney Creek itself, and these matters have already been addressed through the resource consent granted by the Otago Regional Council. This has confirmed that the proposed earth bund will provide adequate protection. There was no evidence that the erection of the building would exacerbate flooding elsewhere.
168. The site has a rural zoning, which is something of a geographical anomaly in a location surrounded by urban development and which has no potential whatsoever for farming activity. However that remains the zoning, and the size and scale of the building is not inconsistent with what might be expected on a large rural holding. Although there was relatively little discussion at the hearing about the external appearance of the building – except its size – the proposed cladding and colour scheme is in our view appropriate in the rural zone. The site of the proposed building is not on a skyline, ridge, hill or prominent slope.

x Restricted Discretionary Activity – Tree Planting pp5-33 and 5-34

In considering the effects of plantings on the views from any public road, the Council shall take into account the following matters:

(a)The classification of the surrounding landscape, and the effects of the planting on the landscape values.

(b)The topography of the site in relation to the road.

(c)The location of the trees, including their orientation to the road.

(d)In considering the species type proposed, the Council will take into account the following matters:

- *the potential for wilding spread;*
- *the positive effects associated with the planting of indigenous species;*
- *the density of foliage;*
- *whether the species are deciduous or evergreen.*

(e)The purpose of the proposed planting; considering whether the planting is necessary for farming activities, or is for amenity purposes.

(f)Whether and to what extent the proposed plantings will, or have the potential to at maturity, block views from the public road.

169. An issue that arose repeatedly through the hearings was the proposed removal of 11 existing trees rather than new tree planting as such, although subsidiary issues were the nature of the proposed tree planting and in particular whether this should comprise native trees or deciduous or evergreen exotics. In his report, Mr Denney said that:

“Kowhai would be complimentary to the scale of the building but not to the character of the landscape resulting in the accentuation of the domestic scale of the development rather than the existing landscape. I recommend that if consent was to be granted that mitigation tree planting be of a species of comparable scale and form to the existing mature trees with a mature height of no less than 25 m”⁴⁵.

170. This had a significant influence on the applicant’s evidence to the hearing, where the proposed planting regime was changed to provide for more and larger exotics. These trees would over time have the ability to provide greater scale, and while not indigenous, would be more compatible with the dominant exotic tree environment currently present around the site, except along Stoney Creek.
171. There was a rather spirited exchange between Ms Steven and Mr Cutler about the respective merits of kowhai. The former was adamant that even in winter these trees had a significant screening effect, which was disputed by Mr Cutler. In the final analysis we did not see this as a determinative issue. The primary value of the additional trees would be to provide more screening from a north-westerly aspect across Stoney Creek. They would be a useful mitigation measure, but even in the longer term would be unlikely to fully screen the building.
172. Although Mr Denney was concerned that the permeability of the existing trees would be replaced by solid built form, from other perspectives, we consider the existing trees to be retained would provide sufficient screening so as to ensure that the building wasn’t unduly prominent from an external perspective. We do not consider that tree planting has to make the building invisible. Views towards the lake are already limited anyway, except through the corridor created by Stoney Creek and the associated carpark (where the view is frequently compromised by cars and other vehicles), and which would be largely unaffected by the proposed building.

xi Restricted Discretionary Activity – Structures p5-34

In considering the external appearance of any proposed structures, the Council shall take into account the following matters:

(a)The materials used, including their colour and permeability;

(b)Whether the structure will be consistent with traditional rural elements.

xiv Discretionary Activity – Commercial Recreational Activities (other than on the Surface of Lakes and Rivers) pp5-34 and 5-35

173. These matters have arisen under earlier assessment matters, and their overall conclusion was that if a building were to be erected on the site, that the cladding treatment and colours chosen were appropriate as being recessive and non - reflective, and that the form of the

⁴⁵ Refer evidence of Mr Denney, paragraph 33

building, although somewhat utilitarian, was consistent with traditional rural elements such as farm buildings.

174. Commercial activities are not defined in the plan, and we think there is some strength in Mr Todd's view that this activity may in fact not be "commercial" in the manner typically understood in the context of a district plan, where the rules framework is specifically directed towards retail activities and retail services. We understand that there will be no advertising on the site inviting members of the wider public to hire rowing skiffs or kayaks. However we understand there will be a fee in association with using boats that are stored in the proposed buildings. The toilet and changing facilities would be available to the public without charge.
175. We have however elected to apply the assessment matters firstly through a 'want of caution' given the potential ambiguities in the plan, and secondly from a pragmatic perspective as they form a useful framework for assessing other potential effects.
- (a)The extent to which the recreational activity will result in levels of traffic or pedestrian activity which are incompatible with the character of the surrounding rural area.*
176. Although the subject of some debate, the use of the building by rowing activities will be primarily, but not exclusively, in the early hours of the morning with kayaking and to some extent swimming activities occurring throughout the day. From questioning at the hearing we understand that the current rudimentary facility used by the rowing club on the domain attracts a small number of parked cars, which are normally gone by the time the school day starts. We did not hear any expert evidence on traffic generation and parking demand associated with the site, but we agree with the reporting planner that these are unlikely to be a significant effect. In association with an ongoing trend to more recreational activity, tourist vehicles and parking, there will be more vehicles attracted to the Roys Bay waterfront as a whole. However this pressure for parking and access will increase regardless of the outcome of this application, and the future issues associated with addressing parking are far wider than those occurring in the vicinity of the application site and Stoney Creek.
177. Of more concern is the effect on pedestrian and cycle traffic along this part of the lake frontage. The Millennium Track – at least as a 'defined' route from the west – ends at the western side of the Stoney Creek walkway/cycleway bridge, and beyond that point there appears to be (from a site visit) a more informal series of trails through and behind the trees in the direction of the town centre. In addition of course, some people will also choose to walk along the lake shore.
178. We make the observation that people undertaking recreational activities associated with rowing, kayaking and swimming currently can, and could in the future without restriction, park in the vicinity and cross the foreshore to enter or leave the water. The application will not create a new situation in this regard. Any other locations would simply displace this effect. Concerns were expressed that the building would either physically or psychologically discourage people from moving along the waterfront, because there would be a fear that it would appear 'privatised'. Some are also concerned that at high lake levels that would prevent movement across the front of the building, but we do not consider that to be a factor of such frequency or significance that it would justify influencing the outcome of the application. Private recreational buildings are not uncommon in recreation reserves (rugby and cricket

club buildings being common examples) or along the coastline or lake frontages, with surf clubs and other boating facilities such as marinas, boat sheds, and jetties.

179. While some people may be to some extent feel discouraged by the presence of the building, there could be others who would be attracted by it as a place to sit, and this is an outcome that applicants have accepted – and indeed have to accept – as it will be beyond their control. Quite apart from that, the proposed availability of toilets and changing rooms will also act to attract members of the public to the area. We are inclined to agree with Ms Steven’s observation that the use of this area is not confined to passive recreation, and that its use is a reserve management matter, *“rather than whether one activity is more legitimate than the other”*⁴⁶.
180. A related issue is whether the proposed large building would obstruct cycle and pedestrian movements, with Mr Denney expressing concern that there would be a pinch point created which would obstruct cyclists and walkers, and also raise the potential of conflict with vehicles unloading at the building.
181. We can see some merit in this argument, although it must be qualified by recognition that rowing skiffs are currently taken across Mount Aspiring Road and across to the foreshore in the early hours of the day and at other times, and from observation informal parking and associated manoeuvring by vehicles can also affect pedestrian and cycle movement around the application site, and busy at times when these activities are most likely to coincide. The displacement of a small number of informal car parks is one clear outcome from the creation of the ‘pinch point’, but that is not a use that can claim priority.

(b) Any adverse effects of the proposed activity in terms of:

- (i) noise, vibration and lighting, which is incompatible with the levels acceptable in low-density rural environment.***
 - (ii) loss of privacy or a sense of remoteness or isolation.***
 - (iii) levels of traffic congestion or reduction in levels of traffic safety which are inconsistent with the classification of the adjoining road.***
 - (iv) pedestrian safety in the vicinity of the activity.***
 - (v) litter and waste.***
 - (vi) any cumulative effect from the activity in conjunction with other activities in the vicinity.***
182. Vibration and noise were not raised as significant issues, noting that as noise from people and vehicles would likely be the primary sources of noise at present, this can continue to arise regardless of whether this application succeeded. There was no suggestion that non-motorised watersports were inherently noisy activities, and the proposed facility does not contain a social club rooms.

⁴⁶ Refer evidence of Ms Steven, paragraph 11.37

183. In terms of privacy and remoteness, again this is not a typical rural site. Those private properties most affected by the proposed buildings would be numbers 22 to 58 and 59, Mount Aspiring Road, especially 40, 42, 58 and 59. We doubt whether this criteria has a great deal of relevance to the environment surrounding the site which is residential to the south and west, is used for periodic intensive recreation activities to the east on both the showgrounds and domain, while parking, cycling, and people using the reserve mean that this area does not have any existing sense of 'remoteness'.
184. Similarly, the residential properties adjoining the site of the proposed building are not direct neighbours in the same way that an activity on a residential property would be. There is a minimum separation of approximately 70 metres from the nearest property on the southern boundary of Mount Aspiring Road, while the dwelling on number 59 would be approximately 80 metres from the proposed building. There is unrestricted public access to all parts of the reserve itself at present. If the building were sited in a position further back from the foreshore and complied with the setback requirements, the status of the application would become discretionary rather than non-complying. Ironically, although this would place the building in closer proximity to residential properties, its activity status would become more liberal.
185. Turning to traffic congestion and safety, under Appendix 6 of the District Plan, Mount Aspiring Road is classified as a 'Collector Road'. As such, it serves both as an access point for adjoining properties and local roads, as well as a through traffic function. We consider the level of vehicular traffic generation that would be created by the activities at the building would be of less than minor, except if a major regatta or other event were to be organised. Wanaka already hosts events of this nature, such as the annual triathlon, and we do not take the view that one-off events of this nature would mitigate against any grant of consent on that basis.
186. There was considerable discussion during the hearing with respect to the need for rowers to take their skiffs across Mount Aspiring Road from their current base in the showgrounds. It was suggested to us that this was a problem which could be addressed by the installation of pedestrian lights or an underpass. While we do not consider having to carry the skiffs across the road is an insuperable obstacle, from a safety perspective it is hardly ideal. Comparisons with schoolchildren crossing a road are not particularly relevant or helpful given they are not carrying long skiffs. Other examples of similar rowing facilities (e.g. at Dunedin and Lake Hayes) involve sites which have direct access to the water without having to cross intervening roads. The applicant has no control over the installation of features like pedestrian lights or an underpass, and the matter is totally outside our jurisdiction. No indication was given to us by the Council that it would contemplate the provision of these facilities.
187. In terms of pedestrian safety (and that of cyclists, although these are not listed as an assessment matter) concerns were raised that vehicles used for loading and unloading of skiffs behind the proposed building (a 'pinch point' as described by Mr Denney) might raise safety issues. As the primary purpose of the proposed building would be to store skiffs and kayaks, the need to cross the route taken by cyclists and many pedestrians would be significantly reduced. We don't think congestion in this location would be a significant issue except in the case of major events such as a regatta. We also note that there is currently potential for conflict between cyclists and pedestrians with parking and manoeuvring vehicles.

188. It is also possible that the movement of skiffs to and from the building to the lake might inconvenience members of the public using or walking along the foreshore. We note that launching skiffs or other craft would already involve traversing the foreshore to access the water. We see advantages in having direct access between the foreshore and a building to storing skiffs and other craft, as this avoids such movements having to cross cycle ways and walking paths. Such movements may not raise major safety issues, but it would have the potential to create inconvenience and conflict between cyclists, walkers, and rowers. We note that a number of the alternative sites preferred by some submitters – such as Morrows Mead and Eely Point, would result in a scenario whereby there would be an intervening cycle/walkway between the building and the lake shore.
189. Considering the issue of traffic movement and safety as a whole, we consider this would be better achieved by the building being established in its proposed location rather than further from the lake shore or across Mount Aspiring Road.
190. There was little direct evidence presented on the subject of littering. There is a possibility that people gathering in the vicinity of the building may increase the extent of littering, but there is no conclusive evidence that that would be the case. We consider it is more likely that littering would become an issue if the building involved an element of food retailing or clubhouse facilities, which is not proposed through this application. The provision of toilets has the potential to attract freedom campers, but the need for toilets may well arise in the future as a consequence of increased public need, regardless of the outcome of this application.
191. Finally in respect of this group of assessment matters, there would potentially be cumulative effects with other activities in the vicinity, which comprise active and passive recreation, including walking and cycling, a children’s play area and further beyond, residential activities. It can be expected that the existence of the purpose designed building would attract more people involved in active non– motorised watersports. This may have a cumulative effect on parking demand, and of course there is large additional building being added to the location.
192. Mr Denney was of the view that the large building and associated activities would be inconsistent with the natural character of the site albeit less so in the context of the broader landscape. In his view it could create visual clutter, which could be mitigated through improving the pathway, positioning bollards, providing clear sight lines reducing the encroachment of the deck and more comprehensive restoration of Stoney Creek⁴⁷. These matters were addressed, at least in part, through the alterations made by the applicant.
193. Ms Steven commented that:
- “The purpose of our Recreation Reserve is to provide for outdoor recreation and sport including watersports where adjacent to a lake, whilst also protecting natural and scenic values and open space”.*
194. In the context of cumulative effects, we agree with these observations.

⁴⁷ refer evidence of R. Denney, paragraphs 34 to 38

(c)The extent to which any proposed buildings will be compatible with the character of the local environment, including the scale of other buildings in the surrounding area.

(d)The extent to which the nature and character of the activity would be compatible with the character of the surrounding environment.

(e) Any adverse effects of any proposed buildings for the recreational activity having regard to the matters specified in Assessment Matter ii a.

(j) the extent to which the proposed activity will result in a loss of privacy, amenity values or sense of security for residents within the rural environment.

195. The matters raised under the first two subclauses have already been addressed earlier, particularly (c). In terms of the activity itself, given that this area has been specifically identified as a recreation reserve, and this part of Roy's Bay has been identified as suitable for non– motorised watersports, we consider the *activity* would be compatible with the character of the surrounding environment. This is however distinct from whether the *building* is compatible with the character of the local environment. The third subclause relates to natural Hazards which has been addressed earlier in this decision.

196. Mr Denney observed that the establishment of the proposed building, and the specialised function that it would serve, would result in localised dominance by water sports activities (although not continuously). He qualified this by saying that compatibility with other recreation activities in the area could be addressed through site management and design refinement in consultation with the Council as the body administering the reserve⁴⁸. Again, we agree with this observation.

197. In terms of subclause (j), privacy issues were addressed earlier in the decision, and the reserve area is already available to members of the public in unrestricted numbers. The building itself does not contained glazed areas which would enable neighbours properties to be overlooked. Surrounding residents are not located within the rural environment.

(j)The extent to which the recreational activity will adversely affect the range of recreational opportunities available in the District or the quality of experience of the people partaking of those opportunities.

(k)The extent to which the use of the land for the recreational activity will compromise levels of public safety, particularly where conflict between operators may make a reasonable level of public safety impossible or difficult to achieve.

198. The recreational opportunities which could be adversely affected by the establishment of the proposed building would be the loss of the small amount of informal parking, and – to an indeterminate extent – the degree to which people may use the area immediately in front of where the building is proposed to be located. Balanced against this will be potentially reduced activity involving rowing and kayaks elsewhere in Roy's Bay. The section of bay which is affected by activity in and around the proposed building is a very small proportion of the total length of foreshore available for public use.

⁴⁸ Refer evidence of our Denney, paragraph 47

199. As we noted previously, the site of the proposed building directly adjoins that part of Roys Bay (between 'Morrows Mead' to the west and opposite McDougall Street in the east) identified as appropriate for non– motorised watersports, as noted by Mr Denney⁴⁹. We are satisfied that as this site is adjoining the general area identified for non– motorised watersports, the activity will clearly promote and protect public safety.

xxiii Nature and Scale of Activities

- (a) *The extent to which:*
- (i) *the scale of the activity and the proposed use of buildings are compatible with the scale of other buildings and activities in the surrounding area.*
 - (ii) *the character of the site will remain dominant.*
 - (iii) *materials and equipment associated with the activity need to be stored outside of a building.*
200. Dr Read was of the view that the proposed facility appeared to be designed as a “*landmark building*”, would be appear as a destination and “.....*read as a public building containing publicly accessible facilities such as a cafe or restaurant.....*”. Further, its private nature would be incongruous with its location within the foreshore⁵⁰.
201. With respect, we think this exaggerates the position. Notwithstanding the size of the building, there would be a distinct lack of advertising which is invariably associated with commercial facilities, and its design and appearance, far from drawing attention to the building’s presence, the contrary would appear the case. Although the building would be certainly be prominent in close vicinity, we note that the 420 m² building proposed would occupy only 2% of the site area.
202. Concern was expressed by some submitters that the area in front of the proposed building would be used for storing boats and kayaks, and potentially the area at the rear of the building may also be used for this purpose pending loading and unloading. While we are conscious that this may occur, we do not think it would be frequent or prolonged, particularly bearing in mind security concerns, and the very high cost of rowing skiffs. We do not consider this is an issue of such significance that it would impact on public use of the area around the building.

a. noise and visual impact.

b. adverse effects of likely traffic generation and the ability to mitigate such effects.

203. These matters have been addressed earlier in this decision.

Earthworks

204. Provisions relating to earthworks were deleted and dealt with through Plan Change 49, which at the time of hearing this application was subject to an appeal. The only significant earthworks associated with this project was the construction of the bund, as piling was to be

⁴⁹ Refer evidence of M Denney, paragraph 49

⁵⁰ Refer evidence of Dr Read, paragraph 6.6.5.

used for the proposed building Matters relating to earthworks have been addressed in part by the Otago Regional Council and earlier in this decision. We note that the District Council has given its written approval to the application which signals to us that it has no concerns as landowner and administrator, with respect to this matter either. Similarly, although we did not hear any detailed evidence from Council witnesses relating to the effects on the sequoia trees (unfortunately it was left to Mr Spencer and Mr Molloy to argue this issue), we note that the Council has given its consent as landowner and administrator of the reserve.

Positive effects (*see also 5.4.2.2d above*)

205. The positive effects arising from the application will be to provide purpose built facilities for the storage of rowing skiffs in particular, as well as kayaks and the provision training facilities. This will be of benefit to an area with a significantly growing population, an emphasis on outdoor education and activities, and with the presence of large lakes and water bodies, activities involving watersports. It will also provide a facility directly adjacent to an area of Roys Bay identified as a space where non– motorised watersports can be undertaken without conflict with motorised sports. Other benefits include the provision of toilet and changing facilities which can be used by the wider public, and in a manner which provides privacy for lake swimmers.
206. It will also have a direct benefit to the applicant in that it will greatly improve the quality of the storage facilities and reduce periodic conflict with activities undertaken within the showground.
207. We were conscious of Ms Caunter’s caution to us that we should not seek to balance the positive social effects of the proposal against any adverse effects on landscape values. Our understanding is that in the case of a noncomplying activity, we cannot take positive effects into account. However if we consider the application passes either or both limbs of section 104D, then positive effects can be taken into account as part of our consideration under section 104.

Conclusions on effects

208. From a landscape perspective the opposition to the proposal has been neatly encapsulated in the following excerpt from Mr Cutler’s evidence when he says there was –

“..... too much emphasis and reliance on the “urban context” and the “highly modified” environment, excessive expectations relating to potential screening from retained and proposed trees, dismissal of existing natural and visual values of the existing cluster of trees and the western part of the recreation reserve and the devaluing of the potential levels of visibility of the proposed building”⁵¹.

209. Our primary concern with the proposal is the size of the proposed building. Given its specialised purpose – particularly the storage of very long rowing skiffs – even if some functions were to be stripped from the building and it was made smaller, we were convinced that this would make little difference to the opposition of many of the submitters. Regardless of the size or design of the building, the majority of submitters in opposition made it absolutely clear that they opposed it being placed in this location. This was reinforced by the (relative) lack of concern with the design external colour/ cladding, or the height of the building.

⁵¹ refer evidence of Mr A. Cutler, paragraph 1 to 2

210. We found that it was a finely balanced matter as to whether or not consent should be granted. Ultimately we found that the scales were tipped in favour of consent on the basis that the site was a transitional environment, that is, one associated with the lake but strongly influenced by the surrounding urban environment. Although the building is large, its scale is to some degree (if not entirely) mitigated by the fact that it complies with the height provisions of the District Plan and its external cladding and colour will not be visually obtrusive. In addition the depth of the reserve in this location, and the partial screening offered by trees would also provide a greater degree of mitigation than in many other parts of the reserve. Our conclusion was that this was a part of the ONL which had a greater capacity to absorb change. This is distinctly different from a conclusion that this part of the ONL, or any other parts of it, had *no* value. While we were satisfied that the applicant had understated the potential recreational value of this area to some of the submitters, in essence we did not agree with Mr Cutler's summary of the issues.
211. We also think that some weight has to be placed on the fact that this side of Roy's Bay has been specifically identified as suitable for non- motorised watersports, and we are not in a position to revisit the Council's management regime with respect to the surface of the lake. Although this does not require a site to be chosen in the exact position chosen by the applicant, it is surely logical that a shore based facility be adjacent to part of the lake identified for non- motorised watersports.
212. Finally, a very strong theme throughout submissions in opposition was the alleged availability of other suitable sites. We are not obliged to consider other sites in detail, but it would have been remiss of us to ignore whether the applicant had considered alternatives in circumstances where adverse effects may have been more than minor. We were satisfied that the applicant had taken reasonable steps to consider alternative sites, and we were forced to conclude that the case for other sites proffered by submitters were superficial, and would raise planning challenges at least as great as those on the application site. Our overall conclusion, based on these findings, was that the effects of the development would not be more than minor.

OBJECTIVES AND POLICIES

213. The objectives and policies begin with a range of high-level provisions contained in Chapter 4. There is a significant level of overlap and repetition among the objectives and policies, and to the extent necessary, we have sought to avoid repetition where subsequent policy provisions are the same or similar to those that have been subject to more detailed assessment earlier.
214. Those objectives and policies of relevance to this application are discussed below.

4.1.4 Objectives and Policies

Objective 1 – Nature Conservation Values

The protection and enhancement of indigenous ecosystem functioning and sufficient viable habitats to maintain the communities and the diversity of indigenous flora and fauna within the District.

.....

The preservation of the remaining natural character of the District's lakes, rivers, wetlands and their margins.

The protection of outstanding natural features and natural landscapes.

.....

1.5 To avoid the establishment of, or ensure the appropriate location, design and management of, introduced vegetation with the potential to spread and naturalise; and to encourage the removal or management of existing vegetation with this potential and prevent its further spread.

1.13 To maintain or enhance the natural character and nature conservation values of the beds and margins of the lakes, rivers and wetlands.

1.16 To encourage and promote the regeneration and reinstatement of indigenous ecosystems on the margins of lakes, rivers and wetlands.

1.17 To encourage the retention and planting of trees, and their appropriate maintenance.

215. This objective and its associated policies have a particular emphasis on the protection of outstanding landscapes in terms of landform⁵², with a strong emphasis on natural vegetation and ecosystems. We do not consider that they imply that all land within an ONL has to be protected in the sense that there be no buildings, as it will depend on the nature of what is meant by 'natural character' in the vicinity of the affected site, and the degree to which it exhibits this character. As we go on to discuss below, while we consider the application site exhibits natural values, albeit significantly modified, and high amenity values, it does not have such natural values as to preclude change in the manner proposed through this application.
216. An issue which figured prominently during the hearing was the effect of the proposed building on the two protected sequoia trees. The two primary concerns were the potential for windthrow arising from the removal of existing trees, or damage to their root systems as a result of the installation of piling. As discussed earlier in paragraphs 15 – 25 of this decision, we had significant concerns about the proposal put forward by the applicant following the hearing for relocating the proposed building, as this would have put it much closer to the sequoias. We note that even Mr Spencer's evidence in chief acknowledged this as a potential risk⁵³.
217. We considered that Mr Spencer for the applicant and Mr Molloy, a submitter, were best qualified to assist us with evidence with respect to the potential effect of the proposal on these trees. Although Mr Spencer's qualifications and competence were questioned by Mr Molloy, in his evidence in chief he stated he had "...been an arborist for 15 years and hold a Business Technology and Education Council (BTEC) National Diploma in Horticulture and the Technicians Certificate in Arboriculture"⁵⁴. In the applicants final right of reply received on 18 July, he stated that he had worked on numerous development projects with his experience and expertise being key factors in aiding the design and construction of buildings around trees involving projects in Auckland, Wellington in Queenstown.
218. Disputes about qualifications and experience are not arguments we can readily resolve, but we do make the observation that evidence relating to the effects on the trees should have been more comprehensively addressed at the beginning of the hearing, if not prior to this. We think that there would be some element of additional risk to the sequoia trees upon removal of the surrounding trees. Evidence as to the *degree* of this risk was contradictory and inconclusive. We do note however that:

⁵² *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432 (interim decision), paragraph 88*

⁵³ Refer evidence of in chief of David Spencer, paragraph 4.1.4

⁵⁴ *ibid*, paragraph 1.1

- (1) other than the sequoias, the existing trees are not protected and could be removed without consent;
 - (2) the Council had given its consent as landowner;
 - (3) there was no evidence that this particular species of tree was prone to windthrow, and we are aware of other large examples of the species in the District which are either isolated specimens, or in close proximity to buildings;
 - (4) despite claims of the poor subsoil conditions (pea gravel) and shoreline erosion, the existing trees seemed to be in reasonable condition and stable;
 - (5) the evidence was that that piling can be undertaken in a manner which minimises potential damage to the root system, subject to this work being carried out under arboricultural supervision.
219. We are aware that the Resource Management Act is not a “no risk” statute, and on the balance of evidence we concluded that the siting of the proposed building (as originally notified) would be acceptable, and would not conflict with the Policy 1.17.
220. With respect to natural values associated with ecosystems and indigenous species, no characteristics of any significance are identified with respect to the site chosen for the proposed building.

4.2.5 Objective and Policies

Objective

Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.

221. This objective and policy 1(a) below are of limited assistance for the assessment of this application, as they only paraphrase one of the subclauses of Section 5(2) of the RMA⁵⁵, with such provisions having been the subject of adverse comment from the Environment Court. The objective itself is not confined to ONL’s, but the policy set out below includes among other things, development within ONL’s. The most obvious guidance the objective itself offers is that it provides applicants with the options of mitigating or remedying adverse effects on landscape and visual amenity values, as well as avoiding them.

Policies

1. Future Development

(a) *To avoid, remedy or mitigate the adverse effects of development and/or subdivision in those areas of the District where the landscape and visual amenity values are vulnerable to degradation*

(b) *To encourage development and/or subdivision to occur in those areas of the District with greater potential to absorb change without detracting from landscape and visual amenity values.*

(c) *To ensure subdivision and/or development harmonises with local topography and ecological systems and other nature conservation values as far as possible.*

⁵⁵ *High Country Rosehip Orchards Ltd and Mackenzie Lifestyle Limited and others versus Mackenzie District Council – Decision No. [2011] NZEnvC 387, paragraphs 144 and 145.*

222. As expressed earlier in this decision, we consider that this particular part of Roy's Bay, has greater (but certainly not unlimited) capacity to absorb change than many other parts of the ONL because of the dominance of exotic vegetation, the depth of the foreshore reserve and the greater degree of screening, its classification as recreation reserve, the presence of the adjoining Wanaka urban area, the extent of human activity and of car parking.
223. Taking the ONL as a whole, we suspect the majority of it would not be suitable for this development, and if only a small part of it is suitable, then Roys Bay would by comparison be more suitable than most other sites. So that this observation not be misunderstood, this does not mean that it does not have an element of natural character and considerable aesthetic value. However core values such as the more outstanding exotic trees and views out into the bay and along the foreshore would not be adversely affected to any significant degree if consent were granted.
224. We note that it has been pointed out that the Courts on a number of occasions have concluded that *"a better reflection of reality (as viewed by humans) is that there is a spectrum of landscapes from pristine through highly natural, along too highly modified but looks natural through the urban"*⁵⁶. Within the very long ONL extending from Glendhu Bay to the lake outlet, it would be very surprising if the landscape exhibited a monolithic character, and the degree of naturalness within this lengthy lakeshore environment varies significantly. This reflects expected differences, not 'high' or 'low' value. The application site is certainly not without value, but in our assessment it has some ability to absorb change, particularly given the function and classification of the reserve in this location.

2. Outstanding Natural Landscapes (District-Wide/Greater Wakatipu)

- (a) To maintain the openness of those outstanding natural landscapes and features which have an open character at present.**
- (b) To avoid subdivision and development in those parts of the outstanding natural landscapes with little or no capacity to absorb change.**
- (c) To allow limited subdivision and development in those areas with higher potential to absorb change.**

225. With respect to subclause (a), we have already noted that 'open character' has been identified as meaning few trees and a lack of houses.⁵⁷ The existing environment is strongly characterised by the presence of trees, and indeed it was the very presence of these trees which is of fundamental importance to most of the submitters. Accordingly we are of the view that this subclause does not have application to this proposal because this is not an 'open landscape'.
226. We have already concluded that it would be expected that in most parts of an ONL, the development of large buildings or urban activities would be inappropriate, but there is recognition in the District Plan that some parts of an ONL would have more capacity to absorb

⁵⁶ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 56.

⁵⁷ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 88.

change than others. A theme through a number of the submissions was that development within an environment classified as an ONL was inherently inappropriate, although this assertion did not sit comfortably with numerous assertions as to the suitability of alternative sites which were also within an ONL. In his evidence Mr Cutler stated that:

“As noted, buildings are inherently inconsistent with preserving the natural character and openness of an ONL; therefore the proposed building would be an illogical and visually incoherent built form within the natural setting⁵⁸”. (Cutler paragraph 112).

227. While at a broad philosophical level we can understand this assertion, we believe it simply goes too far. Much of this is grounded in arguments that this particular part of Roy’s Bay currently lacks buildings. It can be regarded as an open space but it does not have an open character. Many parts of the ONL as a whole have an open character or are less modified. That part of Roy’s Bay to the east is even more modified, but buildings may conflict with other policy provisions because of its more ‘open’ character. Effectively anywhere within the ONL would be precluded from having buildings associated with water based recreation if the submitter’s argument were to be accepted. In practice, that means no watersport facility could be established in proximity to Wanaka.

228. Subclauses 2(b) is distinct from subclause 1(b) above, as the former seeks to “encourage” development in those parts of the “district” which have a higher capacity to absorb change, whereas 2(b) seeks to avoid it in those parts of “ONL’s” with little or no capacity to absorb change. We concluded that the application site does not have a *high* potential to absorb change, but in terms of the wording of this subclause has a *higher* potential to absorb change as it has a relatively high degree of modification and is in a transitional area between the lake and adjoining urban area. There is no doubt that the exotic trees in this part of the ONL along the shore of Lake Wanaka add significantly to the character and appeal of Wanaka as a destination. Dr Read observed that:

“While one never escapes the awareness that one is in the bay within the township while on the margins of Roy’s Bay, the views along the foreshore toward Stoney Creek are of high aesthetic merit, the trees on the lake edge screening much of the built form (and vehicle parking towards the southern corner) from view⁵⁹”.

229. We would add however that the treed environment also provides the opportunity to minimise the visual impact of the proposed building, except in close proximity, where *any* building within the ONL would also have a strong visual presence. Furthermore while we acknowledge that a building is a permanent feature, for much of the time when large numbers of the public and visitors are present, parked vehicles (such as large white campervans) are a highly visible part of the landscape in Roy’s Bay. We considered it was reasonable to conclude from Dr Read’s observation that it was not appropriate to detach consideration of this part of the ONL from the township around and beyond it.

(d) To recognise and provide for the importance of protecting the naturalness and enhancing amenity values of views from public roads.

230. We have commented earlier in this decision on the anticipated visibility of the proposed building from Mount Aspiring Road, and consider such views would be filtered and fleeting in

⁵⁸ Evidence of A Cutler, paragraph 112.

⁵⁹ Refer evidence of Dr Read, paragraph 7.3.2

nature. From public roads elsewhere, such as the eastern side of Roy's Bay, the building would be a very small element in the wider landscape.

231. Overall, we have concluded that the proposal would not be contrary to Policies 1 and 2 under Objective 4.2.5.

9. Structures

To preserve the visual coherence of:

(a) Outstanding natural landscapes and features and visual amenity landscapes by:

- *encouraging structures which are in harmony with the line and form of the landscape;*
- *avoiding, remedying or mitigating any adverse effects of structures on the skyline, ridges and prominent slopes and hilltops;*
- *encouraging the colour of buildings and structures to complement the dominant colours in the landscape;*
- *encouraging placement of structures in location where they are in harmony with the landscape;*
- *promoting the use of local, natural materials in construction.*

232. We understand this policy is aimed at ensuring that structures are not an 'incongruous' element in the landscape, which to put it another way, means they don't look obviously out of place. This was an issue which occupied a considerable amount of time during the hearings. Those aspects which can make a building inconsistent with the visual coherence of a landscape are its siting, such as being located in a very prominent and visible position visible from a wide area; having a strongly reflective or bright colour scheme; having areas of glazing that contrasts strongly with the surrounding background; the size and height of the structure; and the type of cladding used.
233. Our first comment would be that the building does not in this case comprise a structure on the skyline, a ridge, a prominent slope or hilltop.
234. We have already commented that the *size* of the proposed building is a primary issue of concern. The proposed design does not appear to take advantage of local natural materials in its construction, but the colour of the buildings and structures would appear to adequately complement the dominant colours in the landscape, and more particularly our colours which are not reflective or which contrast strongly with the background.
235. The building is intended to undertake a highly functional role primarily for boat storage, and this is reflected in the relatively simple and utilitarian design of proposed structure. As was strongly emphasised by submitters in opposition, its relative isolation and significant size do not count in its favour. However we have concluded that in policy terms it is able to 'get across the line', as even with the loss of some existing trees, it will still form part of an environment where the height and impact of the proposed building is diminished by the scale of the trees around it, and the recessive colour scheme and suitable use of materials. It is not on a highly visible slope or ridgeline, and a reasonably significant degree of screening can be achieved. The building will have an inevitably high degree of prominence from close quarters but no more, and probably so than could be achieved on other sites elsewhere in the ONL adjacent to the southern end of Lake Wanaka.
236. We are broadly in agreement with Ms Steven when she states:

“I maintain that the scale of the building is appropriate to the scale of the spaces in the reserve, and its elements particularly the large trees”⁶⁰.

The rules in the plan apply to floorspace, height, and site coverage. Taken together, the depth of the reserve in this location and a strong presence of trees provide support for Ms Stevens argument.

15. Retention of Existing Vegetation

To maintain the visual coherence of the landscape and to protect the existing levels of natural character by:

- (a) Encouraging the retention of existing indigenous vegetation in gullies and along watercourses;*
- (b) Encouraging maintenance of tussock grass-lands and other nature ecosystems³ in outstanding natural landscapes.*

237. This policy has only limited application in this case, with a programme of restoration of indigenous vegetation adjacent to Stoney Creek which would be unaffected by the proposed activity. The establishment of a small number of indigenous tree species adjacent to the proposed building would contribute (albeit in a very minor way) to integrating planting along the creek with its wider environment.

16. Wilding Trees

To minimise the adverse effect of wilding trees on the landscape by:

supporting and encouraging co-ordinated action to control existing wilding trees and prevent further spread.

238. Clearly the planting of any wilding trees is prohibited, although some existing wilding trees in the form of Douglas Firs are to be retained. While the reasons underlying the need to control the species is well understood within the district, we agree with some of the submitters in opposition that the Douglas Firs do provide an element of mass and height which can add to the values of managed lakeside reserve such as this one. Put another way, they are not necessarily a negative feature in this location, albeit they do not contribute as much to the amenity values as the Sequoia and Poplar trees. It appeared common ground among those present that there was little risk in this particular location that the existing wilding trees had the potential to spread further.

17. Land Use

To encourage land use in a manner which minimises adverse effects on the open character and visual coherence of the landscape.

239. The site does not have what is understood to be “open character” as it is a strongly treed environment. Matters relating to coherence of the landscape were addressed with respect to policy 2 above.

4.4 Open Space and Recreation

Objective 2 – Environmental Effects

⁶⁰ Refer evidence of a Steven, paragraph 11.35

Recreational activities and facilities undertaken in a way which avoids, remedies or mitigates significant adverse effects on the environment or on the recreation opportunities available within the District.

Policies:

2.1 To avoid, remedy or mitigate the adverse effects of commercial recreational activities on the natural character, peace and tranquillity of the District.

2.2 To ensure the scale and location of buildings, noise and lighting associated with recreational activities are consistent with the level of amenity anticipated in the surrounding environment.

2.3 To ensure the adverse effects of the development of buildings and other structures, earthworks and plantings in areas of open space or recreation on the District's outstanding natural features and landscapes or significant natural conservation values are avoided, remedied or mitigated.

2.4 To avoid, remedy or mitigate any adverse effects commercial recreation may have on the range of recreational activities available in the District and the quality of the experience of people partaking of these opportunities.

2.5 To ensure the development of use of open space and recreational facilities does not detract from a safe and efficient system for the movement of people and goods or the amenity of adjoining roads.

2.6 To maintain and enhance open space and recreational areas so as to avoid, remedy or mitigate any adverse effects on the visual amenity of the surrounding environment, including its natural, scenic and heritage values.

2.7 To avoid, remedy or mitigate the adverse effects of commercial recreation activities on the District's indigenous vegetation.

240. Policies 2.2 and particularly 2.3 and 2.6 are very similar to the matters subject to assessment under Objective 4.2.5 and associated policies 1 and 2 above (being landscape related issues), so no further assessment of these is required as this has already been addressed. In other respects the thrust of Objective 2 and the associated policies is directed at the effect of the proposed recreational activities in terms of effects such as noise, lighting, and effects on other forms of recreation.
241. We think it is highly significant to this application that the Council has identified the eastern portion of Roys Bay as an appropriate location for motorised water sports, and that the western part of Roy's Bay has been identified for non-motorised watersports, recognising the potential for conflict between the two, particularly with respect to water safety. This was reinforced in the statement of Mr Black, the harbourmaster. It is entirely realistic to expect that the level of all kinds of water sports activities within Roys Bay, both from visitors and from the growing population of local residents, will continue to increase. This will occur to at least some extent with or without the proposed building being established.
242. We consider it is both logical and efficient that any onshore facilities (be they for boat access/storage or swimming activities) be located adjacent to the area of Roys Bay which has been specifically identified for this purpose. We also think it is logical that if a building is to serve a range of related activities – rowing, kayaking and swimming – that these needs are more efficiently addressed through a single building rather than a range of separate buildings. The landward component of the western end of Roys Bay has also been specifically identified for non-motorised watersports activities⁶¹, albeit not necessarily on this particular site. The District Plan is silent on the type of recreational activities which are to be expected in particular locations, focusing instead on the scale, siting and size of buildings. This is a

⁶¹ Wanaka Lakefront Reserves Management Plan, page 36

common feature in district plans, where the details of how actual recreational uses are allocated is achieved through separate processes under the Reserves Act and the preparation of Reserve Management Plans.

243. Concerns have been raised in this case that some forms of passive recreation, such as picnicking, resting on the beach, or the ability to park under the trees, will be displaced by a facility used to store boats (with associated carrying, launching and recovery activities), and the provision of exercise facilities, public changing and toilet facilities. However all of these activities are to be expected in a Recreation Reserve and are not to be regarded as competing activities, with one acceptable at the expense of another. As Mr Denney pointed out, there will inevitably be a localised dominance of this segment of the shoreline, at least at certain times, by activities associated with launching and retrieving boats, but this does not in itself constitute an adverse effect. Localised dominance by a particular sport in part of a reserve is not at all uncommon in recreation reserves generally. It is a matter to be addressed through reserve management processes⁶². While we are aware that there are submitters who vehemently dispute the content of the reserve management plan, this is not a matter over which we have any jurisdiction.
244. In terms of concerns about potential loss of car parking, it is noted that the reserve management plan is seeking to prioritise pedestrian and cycle activity over motorised, and restricting vehicle access to defined roads ramps and carparks⁶³.
245. We have commented earlier as to whether this activity can be fairly described as “commercial”, but even if it were, we consider it is consistent with policies 2.2 and 2.4. In addition, as the activity does not involve motorised water sport, we do not consider there would be any significant issues relating to noise associated with the activity, except perhaps should there be a large event such as a regatta involving large numbers of people, which would be an infrequent occurrence. Some submissions made mention of a motorised control boat being used in conjunction with the rowing skiffs, but we consider that it is not an appropriate analogy to draw with the large-scale use of numerous motorised watercraft on the eastern side of the bay.
246. We could not rule out the possibility that on brief occasions, when boats are being taken to and from the proposed building, that there could be conflict between cyclists and pedestrians moving past the rear of the building between the millennium walkway and the township. However in context, we note that at the present time boats still have to be carried across the foreshore to access the water, and siting of the proposed building means that the boats would not have to be carried across an intervening walkway or cycleway to access the water. There is also the potential for safety and convenience of pedestrian or cycle access to be diminished by the presence of parked vehicles at times when such access along the waterfront is most likely to be taking place. Furthermore, the fact that these craft can be stored in the building should reduce the need for them to be moved frequently.
247. Again, except during major events such as a regatta, we consider that the traffic generation associated with this activity would have a minimal effect on the safety and efficiency of traffic movement along Mount Aspiring Road. The avoidance of the current movement of skiffs

⁶² Refer evidence of R Denney, paragraph 47

⁶³ Wanaka Lakefront Reserves Management Plan, Objectives 5.2.4.1 and 5.2.4.2, page 36

across Mount Aspiring Road will be an advantage associated with the establishment of the proposed building. We consider this is not inconsistent with Policy 2.5.

248. There is no indigenous vegetation which would be adversely affected by the proposed application, which is not contrary to Policy 2.7.
249. The primary issues raised by the activity is the scale siting and location of the building itself, and not the activities associated with it, which are anticipated in this location. We are satisfied that the application is consistent Objective 2 and its seven associated policies.

Objective 3 – Effective use

Effective use and functioning of open space and recreational areas in meeting the needs of the District's residents and visitors.

Policies:

3.1 To recognise and avoid, remedy or mitigate conflicts between different types of recreational activities, whilst at the same time encouraging multiple use of public open space and recreational area wherever possible and practicable.

3.2 To ascertain and incorporate the needs of communities by encouraging effective public participation in the design, development and management of public open space and recreational areas.

3.3 To encourage and support increased use of private open space and recreational facilities in order to help meet the recreational needs of the District's residents and visitors, subject to meeting policies relating to the environmental effects of recreational activities and facilities.

250. Matters relating to actual or potential conflicts between different types of recreational activities have been discussed under Objective 2 above. Our conclusions are that the recreational activities themselves are anticipated in this location, and would not conflict with existing recreational activities except to a very limited extent in the immediate proximity of the proposed building. The interface between different recreational activities in this area would take place over only a very small proportion of the Roys Bay waterfront.
251. We consider that the Policy 3.2 has been appropriately achieved through the Wanaka Lakefront Reserves Management Plan with respect to provision for non- motorised recreational activities on this part of Roy's Bay. This does not go so far as to endorse a building of the scale on the site proposed, but we consider it must be acknowledged that a facility of this nature is anticipated on the western side of Roy's Bay generally.
252. Policy 3.3 is relevant to the extent that it involves the establishment of private recreational facilities within a public reserve. This is a very common occurrence on recreation reserves nationally and are specifically provided for under procedures set out under section 54 of the Reserves Act 1977. This is a completely separate process to this resource consent application. As discussed in terms of the landscape effects of the proposed building, we have concluded that the environmental effects are in this case acceptable.

Objective 4 – Esplanade Access

A level of public access to and along the District's rivers, lakes and wetlands, adequate to provide for the current and foreseeable recreational and leisure needs of residents and visitors to the District.

4.5 To have regard to any adverse effects along the margins of the District's lakes, rivers and wetlands when considering resource consents.

253. This objective and policy have only limited, if any, application to this proposal as it does not involve public access to an esplanade reserve or strip. As discussed elsewhere in this decision,

we consider that physical access along the foreshore would only be restricted by the building to a very limited extent when lake levels were high, and access for cyclists and pedestrians past the rear of the building can be addressed adequately.

254. We note that the Environment Court considered foreshore structures with respect to the proposed development in Parkins Bay. As this is a building directly associated with activities undertaken on the adjoining lake surface, a building serving activities anticipated in this location is not inappropriate⁶⁴.

4.7 To consider the need for vehicle parking at public access points along esplanade reserves, esplanade strips, marginal strips and access strips when the purpose of those reserves and strips is for public access or recreation and are adjacent to arterial roads.

255. This policy relates to circumstances where land has been taken for esplanade reserves, or strips following a process of subdivision. We do not consider it any further as it is not relevant in the circumstances.

4.6 Surface of Lakes and Rivers

4.6.3 Objectives and Policies

Objectives

Recreational activities undertaken in a manner which avoids, remedies or mitigates, their potential adverse effects on:

- ***natural conservation values and wildlife habitats,***
- ***other recreational values,***
- ***public health and safety,***
- ***takata whenua values, and***
- ***general amenity values.***

The following associated objectives and policies are seen as having relevance to this application.

Policies

- 1. To identify the different types of lakes and rivers in the District and the different recreational experiences offered by these lakes and rivers, in terms of:***
 - (a) outstanding natural characteristics, wild and scenic beauty, aesthetic coherence, biological diversity, ecosystem form, function and integrity, sense of isolation and recreational amenity;***
 - (b) multiple use and proximity to population centres.***
- 2. To enable people to have access to a wide range of recreation experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.***
- 3. On each lake and river, to provide for the range of recreational experiences and activities which are most suited to and benefit from the particular natural characteristics.***
- 4. To avoid or mitigate the adverse effects of frequent, large-scale or intrusive activities such as those with high levels of noise, vibration, speed and wash.***
- 5. To avoid the adverse effects of motorised craft in areas of high passive recreational use, significant use, significant nature conservation values and wildlife habitat.***
- 6. To ensure that any controls that are imposed on recreational activities through the District Plan are certain understandable and enforceable, given the transient nature of many of the people undertaking activities on the District's lakes and rivers and the brief peak period of private recreational activity.***

⁶⁴ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432 (interim decision), paragraph 105.*

7. To avoid and protect the environment from the adverse noise effects of motorised watercraft.

12. To avoid adverse effects on the public availability and enjoyment of the margins of the lakes and rivers.

13. To ensure that the location, design and use of structures and facilities which pass across or through the surface of any lake and river or are attached to the bank of any lake and river, are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided or mitigated.

256. Starting by reference to these policies, we are confident that in terms of Policy 1, the recreational opportunities provided by in this location in immediate proximity to urban Wanaka is one characterised by multiple use than a 'remote' experience. While the site clearly has high amenity values, it is not possessed of outstanding natural characteristics, it is not "wild", possessed of biological diversity, or has a sense of isolation. It is an area which is readily accessible to large numbers of people and this is reflected in the intensity of human activity. It is identified as a recreation, not a scenic, reserve. We also consider the application is consistent with Policy 2, as Roy's Bay with its direct association with the town of Wanaka, is managed according to the intensity and nature of watersport activities, with non-motorised recreation undertaken on the western half of the bay adjacent to the application site.
257. We consider that the proposed application is entirely consistent with Policy 3, as this part of the bay is physically suitable for the activities proposed. While there are alternative sites on the western side of the bay which may also be physically suitable, they raise the same statutory tests. We do not consider a site which is located with access into the eastern side of the bay is appropriate. The Council's management regime for water sports activities on the lake is not open for us to challenge. We do not consider that there is much merit in the repeated assertion that people involved in motorised water sports are not be early risers and accordingly interfere with rowing activities should they take place on the eastern side of Roy's Bay. The location of the proposed building is consistent with the manner in which the reserve and lake surface is managed in the immediate vicinity. For this reason, we consider that the proposed activity is consistent with Policies 5 and 7.
258. The water sports activities associated with the proposed building are not anticipated to create frequent or large-scale effects such as speed, noise, wash or vibration, and are consistent with Policy 4.
259. Policy 6 is of little relevance in this case as it intended to manage the transient effects of activity is undertaken during periods of peak visitation – for example boating activities during the mid- summer period. High-intensity recreational activities are managed to take place on the eastern part of Roy's Bay and non- motorised recreation is not directly controlled by the District Plan. The matter which is controlled is the siting, location and scale of buildings which has been addressed earlier with respect to landscape impacts.
260. Policy 12 is one of key significance in the hearing, as it contrasted the views of those who value the area in the vicinity of the proposed building for passive recreation, with the higher level of water based activities associated with rowing, kayaking and swimming that would undoubtedly occur (to a greater extent) if the application succeeds. We remind ourselves that these are all permitted activities, and the approval of the application would not exclude one at the expense of the other.
261. Finally, Policy 13 has direct application because it was common ground that the proposed building would be "attached" to the bank of the lake. It would not preclude public access

along the foreshore and would not prevent public use of the lake surface in front of the building, although it can be expected that there would be a greater intensity of boating activity in the immediate vicinity of the building. Visual aspects of the proposal have been exhaustively considered earlier in this decision.

262. Taking these policies as a whole in the context of Objective 4.6.3, it was our conclusion that the establishment of this building would accord with the range of permitted recreational activities undertaken in this part of the bay, and would logically connect with that part of the adjoining lake surface identified for non-motorised and passive watersports. It would also be consistent with promoting health and safety, both by avoiding the need to cross Mount Aspiring Road, and the need to cross intervening pedestrian or cycle ways to the foreshore itself.
263. There were no submissions received on behalf of Takata Whenua to this application.
264. In terms of effects on amenity values, the building proposed is quite large and it will have a visual impact, but the extent of existing screening, the limited height of the building relative to the surrounding trees and the proposed colour scheme are such as to make the effects on the amenity values acceptable.

5.2 Rural General and Ski Area Sub-Zone – Objectives and Policies

Objective 1 – Character and Landscape Value

To protect the character and landscape value of the rural area by promoting sustainable management of natural and physical resources and the control of adverse effects caused through inappropriate activities.

Policies:

1.1 *Consider fully the district wide landscape objectives and policies when considering subdivision, use and development in the Rural General Zone.*

1.6 *Avoid, remedy or mitigate adverse effects of development on the landscape values of the District.*

1.7 *Preserve the visual coherence of the landscape by ensuring all structures are to be located in areas with the potential to absorb change.*

265. The proposed development is within the Rural General Zone. All of the above matters have been considered in full in our assessment of effects with respect to landscape objectives and policies, and of the site's potential to absorb change.

Conclusions on Objectives and Policies

266. Ms Caunter drew attention to a landmark Supreme Court case *Environmental Defence Society Inc v the New Zealand King Salmon Co Ltd and others*[2014] NZSC38 which made significant findings with respect to the interpretation of objectives and policies, particularly where a plan was subject to high-level objectives and policies in superior documents, which in that case concerned the New Zealand Coastal Policy Statement.
267. In her submissions, she said that new building of 420 m² located on the lake margin and within an ONL would not preserve the remaining natural character of the lake margin, protect the ONL, maintain or enhance the natural character of the lake margin, or preserve the visual coherence of the landscape in which it would be located. She went on to say:

“Nor is this area of the district, and this ONL, have any potential to absorb change. That consideration must also assess other parts of the District that do have higher potential to absorb change”⁶⁵.

268. She conceded that there were no national policy instruments which had application to this proposal, and there was agreement that the operative Otago Regional Policy Statement was very general in its wording and offered little guidance. She stated that the proposed Otago Regional Policy Statement did contain a policy calling for the avoidance of *“adverse effects on those values which contribute to the significance of the natural landscape”*. (We understand decisions on this plan are expected to be released in September 2016). Her key point was that objectives and policies should not be “read down” as part of a balancing exercise between the benefits of a proposal and plan provisions which strongly emphasised preservation and protection⁶⁶. To illustrate this point, she referred to evidence presented in support of the application which made reference to claimed social benefits to the youth of Wanaka which would flow from a grant of consent.
269. We entirely agree with Miss Caunter’s submissions that we could not reach a conclusion that the site had little or no capacity to absorb change, and then seek to balance this against the benefits of establishing the proposed facility, and grant consent. However the challenge we face in the context of conflicting landscape evidence, is whether the site of the application has little or no capacity to absorb change, considering the effects of the proposal and the objective and policy framework relevant to it.
270. In its decision on King Salmon, the Court said:
- “Section 6 does not, we agree, give primacy to preservation or protection; it simply means that provision must be made for preservation and protection as part of the concept of sustainable management. The fact that ss 6 (a) and (b) do not give primacy to preservation or protection within the concept of sustainable management does not mean, however, that a particular planning document may not give primacy to preservation or protection in particular circumstances. This is what policies 13 (1) (a) and 15 (a) in the NZCPS do. Those policies are, as we have interpreted them, entirely consistent with the principle of sustainable management as expressed in section 5 (2) and elaborated in s 6”.*
271. In her evidence in chief Dr Read stated that:
- “I consider that the existing land uses around the lake edge and foreshore of Roy’s Bay are close to a threshold at which further development would breach the vicinity’s ability to absorb development”, and....*
- “In conclusion the existing land uses around the foreshore of Roy’s Bay are close to the threshold beyond which further development could be absorbed without significantly altering its character and aesthetic value”⁶⁷.*
272. She concluded with a more unequivocal view that the proposed building is located within an area of the ONL which *lacks the ability to absorb development*⁶⁸ (our emphasis). This does not go as far as Ms Caunter’s submission that this area of the District, and this ONL (which extends

⁶⁵ Legal submissions of Ms Caunter, paragraph 24

⁶⁶ Legal submissions of Ms Caunter, paragraphs 16 and 17.

⁶⁷ Refer evidence of Dr Read, paragraph 8.2.4.3 and 8.2.4.5

⁶⁸ Refer evidence of Dr Read, paragraph 10.2

from Glendhu Bay to the lake outlet) lacks the ability to absorb development. This reflects our contention that the objective and policy framework does not confer absolute protection to all parts of ONL's from development which may not comply with the rules. We are also aware that the noncomplying activity status of this proposal arises from the fact that it is attached to the shoreline, not because such activities are noncomplying generally within the ONL. It seems clear to us that while development would be difficult to justify in large parts of the ONL, there are limited parts where it could be justified (depending on its nature, scale etc).

273. We have to accept that it is not appropriate to grant consent to development in situations with the objective and policy framework is clearly based on avoidance of such development. Under clause 4.1.4, Objective 1, the District Plan calls for the preservation of the remaining natural character of the District's..... lakes..... and the protection of outstanding natural features and landscapes.
274. Chapter 4.2.5, Policy (2)(a) calls for maintaining the *openness of those* natural landscapes and features *which have an open character* at present; and (b) to avoid subdivision and development *in those parts* of the Outstanding Natural Landscapes with little or no capacity to absorb change. These provisions are specific to ONL's and are not unequivocal about development.
275. The content of the objectives and policies relevant to landscape matters in the District Plan include provisions which are relevant to landscape as a whole in the District, and others specific to ONL's, particularly policies (2) (a) and (b) under part 4.2.5.
276. We do not believe it is helpful to interpret part 4.1.4, objective 1 as requiring the absolute protection of land within an ONL, noting that the inevitable consequence of this is that Policies 2 (a) and (b) of part 4.2.5 would accordingly be rendered meaningless.
277. We have endeavoured to avoid looking for conflict between the objectives and policies as they relate to the protection of landscapes (within ONL's on particular), but rather consider them as a whole, and in the context of the evidence we heard reach a determination as to whether the site of this application has potential to absorb further development. We heard conflicting evidence on this point, and note that none of the landscape architects who prepared before us concluded that development within the entire ONL was an appropriate, and some were prepared to support sites within the ONL in relatively close proximity to the applicant's chosen site.
278. Based on weighing up this evidence, we have come to the view that the ONL in the vicinity of this application site has the capacity absorb the proposed building, which is the core aspect of this application. Accordingly we have concluded that the application is not contrary to the objectives and policies.

SECTION 104D AND SECTION 104

279. Section 104D (1) provides that *"..... A consent authority may grant a resource consent for a noncomplying activity only if it is satisfied that either –*

(a) the adverse effects of the activity on the environment (other than any effect to which section 104 (3) (a) (ii) applies will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of –

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

.....

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity”.

280. In terms of the effects of the proposed activity on the environment, we have concluded that the effects will be no more than minor – although we acknowledge that the size of the building does come close to exceeding this threshold. We are satisfied however that the activity is not *contrary* to the objectives and policies, certainly to the extent that it would be ‘repugnant’ to them. The objectives and policies also clearly provide for development in those parts of an ONL which has greater capacity to absorb change. We have concluded that the application site is one of those locations. Accordingly our overall conclusion is that both limbs of section 104D have been satisfied.

Section 104

281. Even if a consent authority concludes that an application passes one or both of the two “gateway” tests under section 104D, it still has a discretion as to whether or not to grant consent under section 104. The relevant provisions of Section 104 are as follows:

“(1) when considering an application for resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to –

(a) any actual and potential effects on the environment of allowing the activity; and

(b) any relevant provisions of –

“

(v) a regional policy statement or proposed regional policy statement;

(vi) a plan or proposed plan; and

(b) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

(2) when forming an opinion for the purposes of subsection (1) (a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect”.

282. We have considered the potential effects of the proposal against an extensive range of assessment matters, and the relevant provisions of the district and regional plans. There are three other matters which remain for consideration. These include consideration of alternative sites, and the issue of possible precedent, both relevant under subclause (1) (c); and the possible application of the ‘permitted baseline’ under section 104(2).

Alternative sites

283. The evidence for the applicant was that the site had been chosen as it had access to a long sheltered reach of the lake in relatively shallow water with less potential for conflict with motorboats on the eastern shore of the Bay. It was seen as a suitable location providing calm

conditions in early mornings, and was preferred as it avoided the need to transport boats or equipment across a road or walk across the road in a wetsuit. The applicant also indicated that they preferred not to have to construct a road access across reserve land in order to provide access to the site⁶⁹. This would be necessary for a site on the western side of Stoney Creek for example, and probably at Morrows Mead.

284. During the course of the hearing we heard an extensive number of submissions in opposition stating that there was no objection to the proposed facility, but rather that it be on a different site. Ms Blennerhasset submitted a brief statement of evidence on behalf of the applicant which addressed this matter. We consider it appropriate that given that the application at least raised the possibility of significant adverse effects, that there needed to be evidence that consideration had been given to alternative sites. Having said that, an applicant does not have to prove that they have chosen the best site, but they do need to show that the site that they have chosen is suitable.
285. We also note at this point that we do not have to satisfy ourselves that the best site has been chosen on the basis of a detailed consideration of the individual merits of a range of alternative sites. However given the extent to which this matter was given prominence of the hearing, some comment is appropriate. Among the sites commonly identified were (from west to east) Waterfall Creek beyond the town boundary to the west; Morrows Mead, a site below a residential area on the western side of Wanaka; a site on the western side of Stoney Creek opposite the application site; a site or sites further back from the lake shore between the application site and a position opposite McDougall Street; a site in the central part of Roy's Bay approximately opposite McDougall Street; and a site at Eely Point on the eastern side of Roy's Bay. One other site frequently mentioned was on the showgrounds site on the southern side of Mount Aspiring Road where the rowing club has its current temporary facilities.
286. With the exception of the last mentioned, all of these sites are within the ONL. We think this is important, and was a matter which the Environment Court considered with respect to the development in Parkins Bay in 2010. The Court noted that suggesting alternative sites which were also in an ONL was not of assistance⁷⁰. Noting that there were approximately 700 submissions in opposition to this application, we attached no weight at all to assertions that alternative sites would probably attract less or even no submissions. Furthermore, the alternatives suggested took no account of the statutory tests that would be applied to any consent applied for on the alternative sites.
287. Perhaps more importantly however, all but one of the alternative sites, as well as being in the ONL, possessed a combination of *some or all* of the following characteristics;
- would be clearly visible in close proximity, a concern to many submitters and three of the landscape architects;
 - would be clearly visible from the wider area due to the lack of any suitable screening;
 - would be highly visible from the Millennium Track, from Mount Aspiring Road, or from the waterfront;
 - would entail carrying rowing skiffs across cycle/walking paths around the waterfront of the lake;

⁶⁹ refer AEE, page 6

⁷⁰ *Upper Clutha Tracks Trust, Upper Clutha Environmental Society Inc. and D Thorn v. Queenstown Lakes District Council, Decision No.[2010] NZEnvC 432* (interim decision), paragraph 230.

- would be highly visible from, or close to residential neighbours;
- would disrupt areas currently used actively for passive recreation (e.g. Eely Point);
- would be located in an area specifically managed for motorised watersport activities, and hence in conflict with the Council's lake watersport management regime and the reserve management plan (e.g. Eely Point).

288. Alternatively, a site within the showgrounds would be a noncomplying activity, would require a continuation of skiffs having to be carried across Mount Aspiring Road, and would likely raise complications with the existing Agricultural and Pastoral Association lease.

289. We were satisfied that the applicant had already considered at least some of these sites, and while a number of them *might* be better measured against individual criteria, they would be inferior measured against others. If this site is not suitable, then there is a real possibility that no other site will be suitable either, given that all but one are within an ONL, and the other is on a site where it would be a noncomplying activity.

Precedent

290. Concerns here seemed to be that an approval of the application would mean that the Council could not refuse other applications for a similar facility elsewhere along the foreshore; or possibly that if the facility became established, further extensions to it would be difficult to resist.

291. Applications for resource consent, as in this case, may be granted or refused. It is not sufficient to simply argue that if a particular activity is granted consent, that it creates an irresistible argument for any future hypothetical applicants to establish a further or similar activity. The judgement has to be made as to whether the nature of the activity concerned is such that it is likely that more and similar applications will be made. An example of such activities are rural residential subdivisions, which are commonplace and where a grant of consent against the plan provisions is likely to lead to very similar applications following.

292. This is proposed to be a specialised facility for a particular purpose and it is unlikely in our view that it would lead to similar applications for boat storage facilities for non-motorised sports in this location. Even if it did, a potential applicant also faces an additional hurdle in that they need the consent of the Council as landowner, and the grant of a lease under the Reserves Act.

The Permitted Baseline

293. We have concluded that the permitted baseline has limited application in this case. Section 104(2) provides that where application is made for an activity, the effects of that activity can be disregarded if the plan provides for another activity which has the same effects. In this case, the scope is even more limited, because as noted in the paragraph above, activities undertaken by private entities within reserves are not permitted without the Council's consent, even if they comply with all of the rules. The permitted baseline has some limited application however because it can be reasonably expected that the Council itself may erect buildings within the designated reserve, subject to compliance with any conditions attached to the designation (Designation 105 in this case). This would enable the Council to erect buildings up to 100m² in area and 8m in height, without the need for any public process.

294. The Council would need consent if it, rather than the applicant, sought to construct the building proposed in this case because it significantly exceeds the 100m² floor space condition. Alternatively, we think the prospect that the Council (or indeed any other party) might seek to erect four 100m² buildings to be somewhat fanciful. However we consider one or two buildings of the scale could be reasonably anticipated, so we take the view that building development of this nature within the reserve could be undertaken by the Council without any form of public process. The current status of this end of Roy's Bay remaining without buildings cannot be taken as a given.

PART 2 RMA

295. The Purpose of the Act under Section 5 (1) is to promote the sustainable management of natural and physical resources:

"(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment".

296. Weighing up the matters that we have heard, and their relative significance, we consider that the purpose of the Act would best be achieved by granting consent to the application. We consider that the proposed building enable people and communities, including the Wanaka community in particular, to provide for their social economic and cultural well-being and for their health and safety.
297. With respect to section 5(2)(a), we consider that the proposed activity will sustain the potential of natural and physical resources on the site and on the adjoining lake surface in a manner which will enable future generations to utilise the resource for non– motorised water sports while also enabling other recreational activities to continue to be undertaken.
298. With respect to section 5(2)(c), the proposed scale of the building is such that it will have some adverse visual impacts, but these are not of a magnitude such that the effects would be *more than minor* taking account of a degree of mitigation already provided by the scale of the reserve, and the partial screening effect of existing and proposed trees, and the intensity of non– motorised watersport activities taking place around it.
299. Section 6 "Matters of national importance" specifies that in achieving the purpose of the Act, all persons exercising functions and powers under it in relation to managing the use, development, and protection of natural and physical resources shall recognise and provide for the following (relevant) matters of national importance:
- "(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development*

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;

.....

(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers

.....”

300. As will already be apparent, we have reached the conclusion that this part of the margin of Lake Wanaka has the capacity of to absorb the development proposed through this application, and that it would be an appropriate development on the site.

301. Section 7 “Other matters” specifies that in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –

“(b) the efficient use and development of natural and physical resources

(c) the maintenance and enhancement of amenity values;

.....

(f) maintenance and enhancement of the quality of the environment”.

302. We consider that the co-location within a single building of facilities for boat storage, exercise equipment and toilets/changing facilities would represent an efficient use of natural and physical resources, compared to the alternative of scattering such facilities in separate buildings either on the site, elsewhere on the waterfront or within the township. Given the size and cost of rowing skiffs in particular, the ability to minimise the need to move these place to place would also promote efficiency, as does locating the building adjacent to an area of Roys Bay identified for non– motorised watersports.

303. On balance, we are satisfied that recognising the status of the area as recreation reserve, the site is suitable for the building proposed and that any adverse effect on amenity values and the quality of the environment will be no more than minor.

DECISION

Pursuant to sections 104, 104D, and 108 of the Resource Management Act 1991, consent is granted to application RM 150679, subject to the conditions specified below.



R.C. Nixon

Chair, Hearings Panel

25 July 2016

CONDITIONS

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans specified below:

- | | |
|--|---------------------------|
| • Sheet RC – 01 – A, dated February 2016 | Site Plan |
| • Sheet RC – 02 – A, dated June 2015 | Site Plan Trees |
| • Sheet RC – 03 – A, dated February 2016 | Floor Plan |
| • Sheet RC – 04 – A, dated February 2016 | Sections AA/BB |
| • Sheet RC – 05 – A, dated February 2016 | Section DD |
| • Sheet RC – 06 – A, dated February 2016 | Elevations North and East |
| • Sheet RC – 07 – A, dated February 2016 | Elevations South and West |
| • Sheet RC – 08, dated February 2016 | Immediate Curtilage |
| • Colour Perspective | |
| • Cedar Cladding | |
| • Corten Cladding | |
| • Corten Cladding | |
| • Landscape Concept Plan – Final A, dated 10 February 2016 | |

stamped as approved on 25 July 2016

and the application as submitted, with the exception of the amendments required by the following conditions of consent.

2. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
3. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991 and shall pay to Council an initial fee of \$290. This initial fee has been set under section 36(1) of the Act.

Landscaping

4. Landscaping shall be undertaken in accordance with the Landscape Plan approved by Condition 1.

5. All plantings as shown on the certified landscape plan shall be implemented by the consent holder within 3 months of the completion of the building and thereafter be maintained to ensure healthy growth for a period of no less than three years from the date of planting. If any tree shall die, become damaged or is no longer of healthy condition it shall be replaced as per the certified landscape plan within 3 months. After the maintenance period all planted trees shall be handed over to Council for on-going maintenance and management subject to the Council's Parks and Reserve Satisfaction that trees are to the standard specified within this condition. If any trees do not meet the stand to the satisfaction of Council's Parks and Reserve then council shall carry out replacement planting at the consent holder's as per the certified landscape plan.
6. All external lighting shall be down lighting only and not used to accentuate or highlight built form and shall be in accordance with Council's Southern Light, A lighting strategy for the Queenstown Lakes District.

Design

7. The colours and materials of the building approved under this resource consent are as follows:

Element	Material	Colour
Walls	Cedar Weatherboard Corten steel	Natural weathered
Roof	Longrun Colorsteel	Ironsand
Roller Doors	Coloursteel	Ironsand
Decking	timber	Natural weathered

Signs

8. Signs shall be limited to the name of the building in lettering on the west elevation shown in the plan 'Elevations South and West, Sheet RC-07' approved by Condition 1.

Nature and Scale

9. Hours of operation shall be between 05:00am-23:00pm

10. The facility shall not be used for any social gatherings or events, except events involving races, regattas, prizegivings, and training events associated with non– motorised watersport activities.
11. No amplified music shall be played between 20:00pm and 07:00am.
12. The activity shall be undertaken so that any sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 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

Prior to Construction

13. Prior to commencing any work on site the consent holder shall prepare a detailed Construction Management Plan (CMP). The CMP shall be submitted to the Monitoring Planner for approval. The CMP shall include but not be limited to the following:
 - Ensuring all machinery is clean and well maintained before entering the work site.
 - All practical measures to minimise the risk of contamination to any waterway (for example, but not limited to, discharge of wet concrete or fuel from machinery).
 - Spill containment and remediation materials and method
 - Tree management as required by condition 16-34

Accidental Discovery Protocol

14. If the consent holder:
 - a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder shall without delay:
 - i. notify Council, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
 - ii. stop work within the immediate vicinity of the discovery to allow a site inspection by the Heritage New Zealand Pouhere Taonga and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation. Site work shall recommence following consultation with Council, the Heritage New Zealand Pouhere Taonga, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
 - (i) stop work within the immediate vicinity of the discovery or disturbance and;
 - (ii) advise Council, the Heritage New Zealand Pouhere Taonga and in the case of Maori features or materials, the Tangata whenua and if required, shall make an application for an Archaeological Authority pursuant to the New Zealand Pouhere Taonga Act 2014 and;
 - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may only recommence following consultation with Council.

Trees

- 15. No work shall take place within the root zone and/or drip line of the trees without prior approval from the works arborist. Any amendments to the tree protection methodology shall require prior written approval from the works arborist, written confirmation of which shall be forwarded to Council.
- 16. A suitably qualified and experienced council approved arborist (works arborist) shall be engaged by the consent holder at the start of the project to supervise all works in the vicinity of the trees.
- 17. The appointed works arborist must be experienced in tree protection systems and construction methodologies, and will need to be able to coordinate site works ensuring that the tree protection methodology is correctly implemented.
- 18. Prior to works commencing, the consent holder shall arrange a pre-start meeting with the site foreman, contractor, and the appointed works arborist. An invitation to the meeting shall be given to Council's Representative with at least five working days' notice. At the meeting, the foreman shall agree with the works arborist:
 - The methodology and timing of the works
 - Site access and areas for manoeuvring vehicles and machinery
 - Areas for storing and/or stockpiling materials, spoil and equipment
 - The care needed when working around trees
 - The conditions of the resource consent

19. At the completion of works, the works arborist at his or her discretion shall “sign off” the work of the contractor, and if requested, provide a brief account of the project to the council arborist (if necessary with photos). The account of works shall include, but not be limited to:
 - The effects of the works to the subject trees
 - Any remedial work which may be necessary
20. The consent holder shall ensure and be responsible for ensuring that all persons engaged or otherwise to work on the site are made aware of the conditions of consent, and that those conditions are adhered to at all times.
21. No work shall take place within the root zone and/or drip line of the trees without prior approval from the works arborist. Any amendments to the tree protection methodology shall require prior written approval from the works arborist, written confirmation of which shall be forwarded to Council.
22. Prior to works commencing, a suitable protective fence shall be erected around the trees which are being retained. The exact location and nature of the protective fence shall first be agreed upon with the works arborist. For the duration of time the protective fence is in place, the area enclosed by the fence shall be regarded as sacrosanct, and no material is to be stored, emptied or disposed of within the area enclosed by the protective fence. No person, vehicle or machinery may enter the area enclosed by the protective fence unless otherwise authorised to do so by the works arborist.
23. If for any reason it becomes necessary to move the protective fencing, then for the duration of time that the protective fence is not in place, the area which was previously enclosed by the fence shall be regarded in the same manner as if the protective fence were still in place.
24. No material is to be stored, emptied or disposed of in or around the root zone of any of the trees unless otherwise authorised to do so by the works arborist. Any material which is to be stored or temporarily placed in or around the root zone of any of the trees shall be stored carefully on an existing or temporary hard surface such as asphalt or plywood sheets respectively.
25. If during the course of the works, machinery or vehicle access/manoeuvring is required in or around the root zone of any of the trees, then depending on the nature of the loading of the machinery or vehicle, it may be necessary to cover those areas with a protective overlay sufficient to protect the ground from being muddied, compacted, churned up or otherwise disturbed (for example “Track Mats”, or a layer of mulch or sand/SAP7 overlaid if necessary with a raft of wire planks, plywood or similar).
26. If machinery/vehicles are to be operated or stored within the root zone area on an existing or temporary load bearing surface, then the machinery/vehicle shall not cause any detrimental effect to the tree(s) through compaction, physical damage, spillage of lubricants and fuels or discharge of waste emissions.
27. All excavations which are to take place in or around the root zone of any of the trees shall be done so in conjunction with the works arborist, through a careful combination of machine excavation and hand digging, and to the satisfaction of the works arborist.

28. Any roots which are encountered during any part of the process are to be retained where possible. Every effort shall be made to retain all roots 35mm in diameter or greater. The severance of any root less than 35mm shall be done so at the discretion of the works arborist. Where roots are to be severed, they shall be cut cleanly by the works arborist with a sharp hand saw or loppers, and the area around the root shall be backfilled with the original material. When a root greater than 35mm in diameter is impeding the construction and all other alternatives to work around the root have been exhausted, the supervising works arborist shall only remove the root if he/she determines that its removal will not be detrimental to the health and stability of the tree.
29. The proposed locations for any piles which may or may not be installed during any part of this project shall first be probed and/or hand dug to check for the presence of roots, and at the discretion of the Works Arborist may installed with machinery. If significant roots (>35mm diameter) are encountered, the exact location of the pile may need to be adjusted.
30. Where roots to be retained are encountered and there is need for these roots to remain exposed in order that works are not impeded, then those roots shall be covered with a suitable protective material (such as moist Hessian, or a wool mulch) in order to protect them from desiccation and/or mechanical damage, until such a time as the area around the root can be back filled with the original material. The wrapping or covering of any roots shall be undertaken by the works arborist.
31. If during the works, there are large areas of root zones exposed, then it may be necessary to protect the exposed root zone with a protective overlay sufficient enough to protect the ground and roots from being disturbed, for example a layer of geotextile fabric laid over a 150mm thick layer of wood mulch.
32. Where concrete is to be poured into excavations containing exposed roots, then all exposed roots shall first be covered in a layer of polythene to prevent the concrete from contacting the exposed root.
33. If during the works it becomes necessary to pour concrete and/or lay asphalt directly over exposed roots, then all exposed roots shall first be covered with a layer of fine sand not less than 75mm thick and a layer geotextile fabric shall be placed over the roots prior to pouring the concrete/asphalt.

Engineering

General

34. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any resource consent.

Note: The current standards are available on Council's website via the following link:
<http://www.qldc.govt.nz/planning/resource-consents/qldc-land-development-and-subdivision-code-of-practice/>

To be completed prior to the commencement of any works on-site

35. The facility developer shall provide a letter to the Principal Resource Management Engineer at Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this development and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.7 & 1.8 of QLDC's Land Development and Subdivision Code of Practice, in relation to this development.
36. Prior to commencing works on site, the consent holder shall obtain and implement a traffic management plan approved by Council if any parking, traffic or safe movement of pedestrians will be disrupted, inconvenienced or delayed, and/or if temporary safety barriers are to be installed within or adjacent to Council's reserve or road reserve.
37. Prior to the commencement of any works on the site the consent holder shall provide to the Principal Resource Management Engineer at Council for review and certification, copies of specifications, calculations and design plans as is considered by Council to be both necessary and adequate, in accordance with Condition 34, to detail the following engineering works required:
 - a) The provision of a water supply to the development. This shall include an Acuflo GM900 as the toby valve. The costs of the connection shall be borne by the consent holder.
 - b) The provision of a foul sewer connection to the development. The costs of the connection shall be borne by the consent holder.
 - c) The stormwater outlet located on the east side of the proposed building is to be relocated to avoid compromising the foundations of the building.
 - d) The provision of a connection from all potential impervious areas within the development to the Council reticulated stormwater disposal system. The individual lateral connections shall be designed to provide adequate drainage.
 - e) The Council carpark area adjacent to the site and the western access are to be permanently sealed to Council's standards. Provision shall be made for stormwater disposal.
 - f) The provision of Design Certificates for all engineering works associated with this subdivision/development submitted by a suitably qualified design professional (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1A Certificate.

To be completed when works finish and before occupation of building

38. Prior to the occupation of the building, the consent holder shall complete the following:
- a) The submission of 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development at the consent holder's cost. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all Roads (including right of way and access lots), Water, Wastewater and Stormwater reticulation (including private laterals and toby positions).
 - b) The completion and implementation of all certified works detailed in Condition (37) above.
 - c) Detailed geotechnical assessment shall be carried out by a suitably qualified and experienced engineer to confirm the nature of materials at depth and any geotechnical constraints which may impact on building foundation design, in accordance with the recommendations of the GeoSolve Ltd report (dated June 2015, GeoSolve Ref: 140769). A geotechnical report containing the results of this assessment shall be submitted to the Principal Resource Management Engineer at Council, along with a detailed design for the building foundations and corresponding Producer Statement, to mitigate any geotechnical constraints.
 - d) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
 - e) Any power supply and/or telecommunications connections to the building shall be underground from existing reticulation and in accordance with any requirements/standards of the network provider's requirements.
 - f) The flood diversion bund shall be constructed in accordance with the recommendations made in the GeoSolve Ltd report (dated March 2015, GeoSolve Ref: 140038).
 - g) The submission of Completion Certificates from both the Contractor and Approved Engineer for all infrastructure engineering works completed in relation to or in association with this subdivision/development (for clarification this shall include all Roads, Water, Wastewater and Stormwater reticulation). The certificates shall be in the format of the QLDC's Land Development and Subdivision Code of Practice Schedule 1B and 1C Certificate.

Review

39. Within ten working days of each anniversary of the date of this decision the Council may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
- (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.

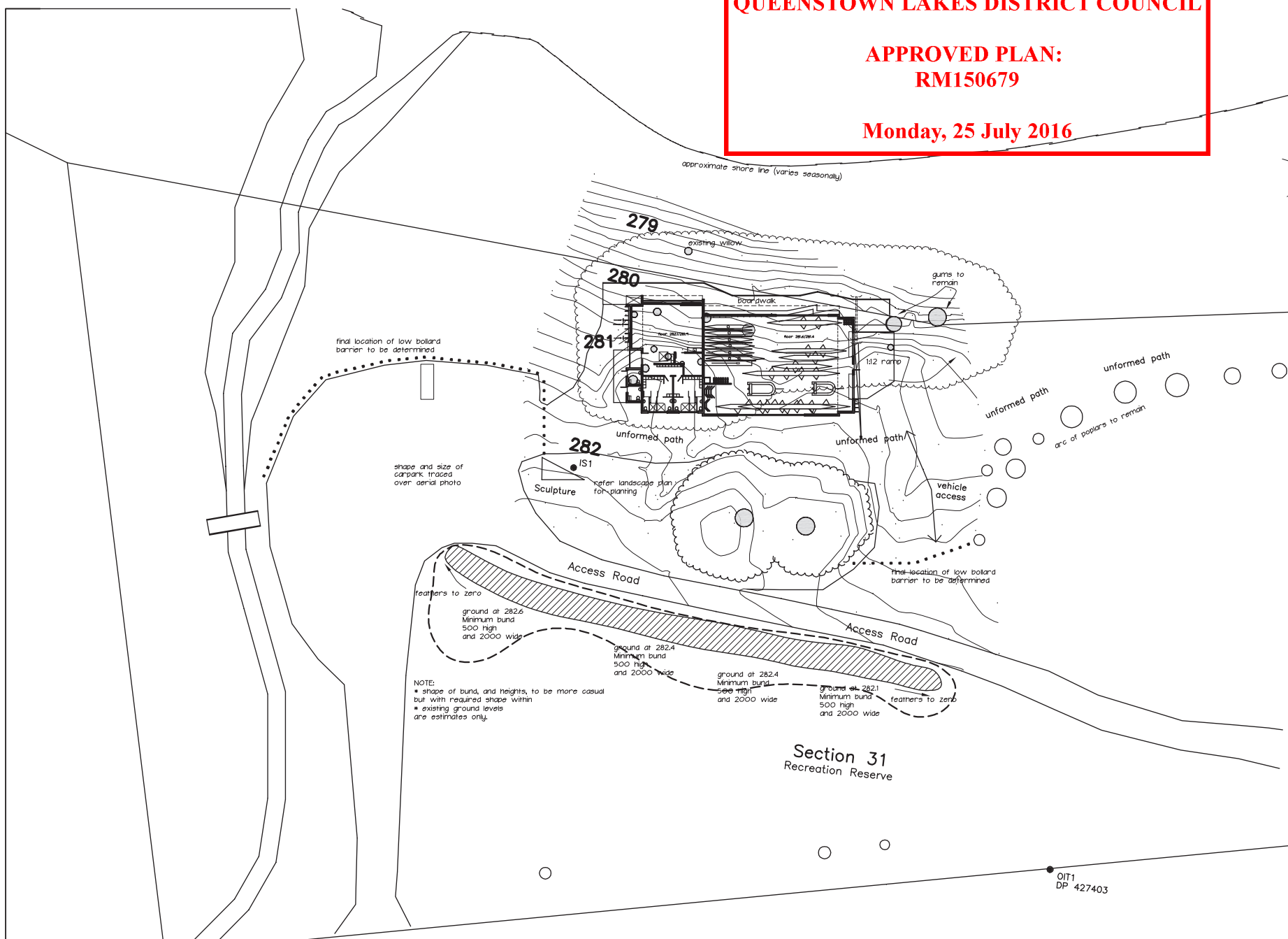
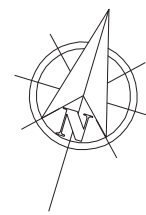
- (b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
- (c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.
- (d) With respect to the following conditions:
 - (i) Condition 9-12 in relation to operation of the facility and noise

Advice Note:

1. *This consent triggers a requirement for Development Contributions, please see the attached information sheet for more details on when a development contribution is triggered and when it is payable. For further information please contact the DCN Officer at QLDC*

APPROVED PLAN:
RM150679

Monday, 25 July 2016

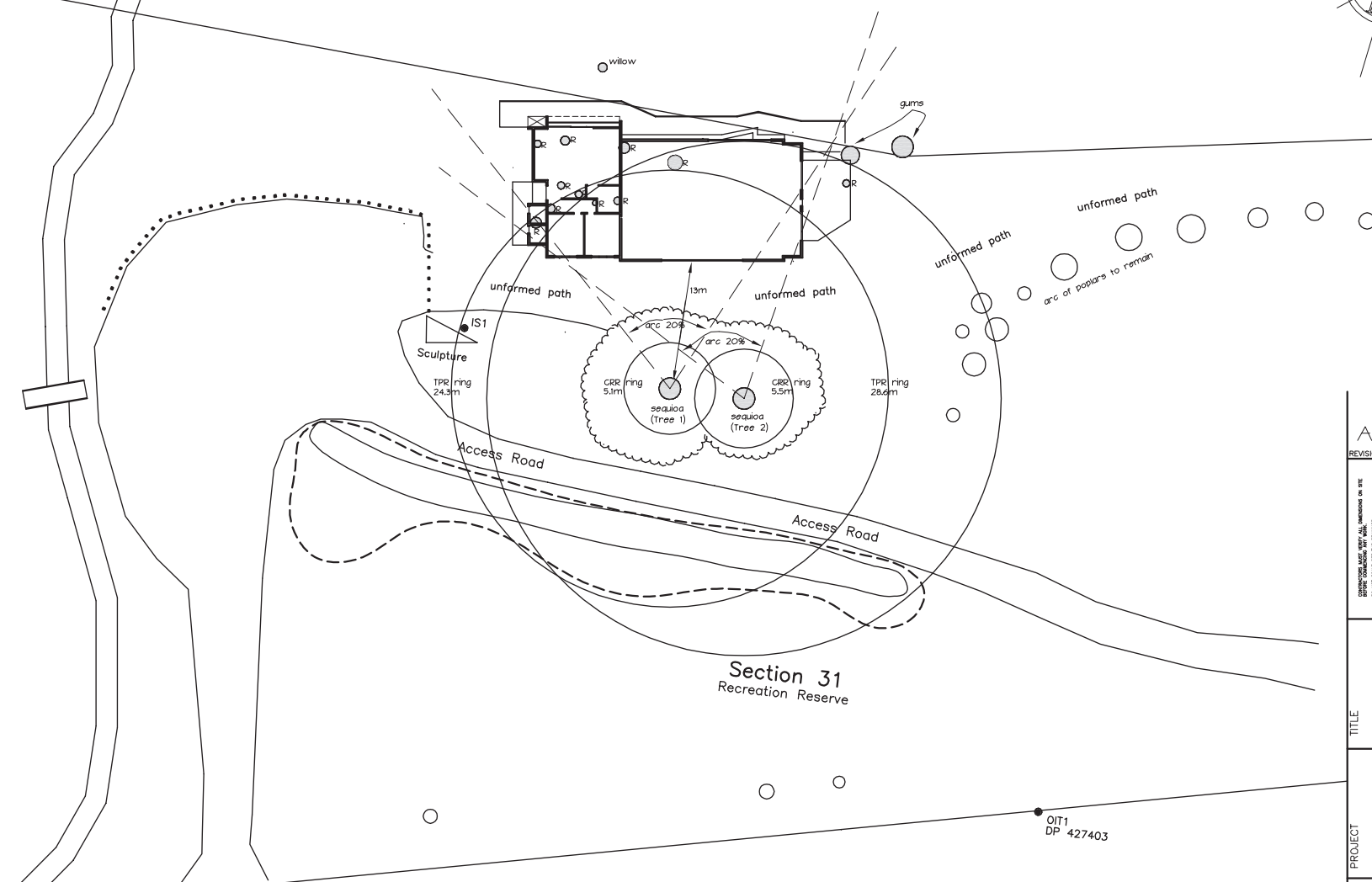
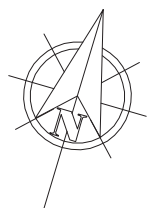


- tree trunks surveyed
- tree trunks not surveyed

<p>DATE PRINTED: FEB 2016</p> <p>DATE: FEB 2016</p> <p>CHECKED: [Signature]</p> <p>JOB No: [Blank]</p>	<p>SCALE: A1 1:250 A3 1:500</p> <p>SHEET: [Blank]</p>	<p>REVISION: [Blank]</p> <p>DATE: Feb 2016</p>
	<p>PROJECT: WANAKA WATERSPORTS FACILITY</p>	<p>TITLE: SITE PLAN INCLUDING BUND</p>
<p> AUSTINDILL ARCHITECTS TELEPHONE 03 443 9838 email@austindill.co.nz PO BOX 100 WANAKA, N.Z. </p>		

APPROVED PLAN:
RM150679

Monday, 25 July 2016



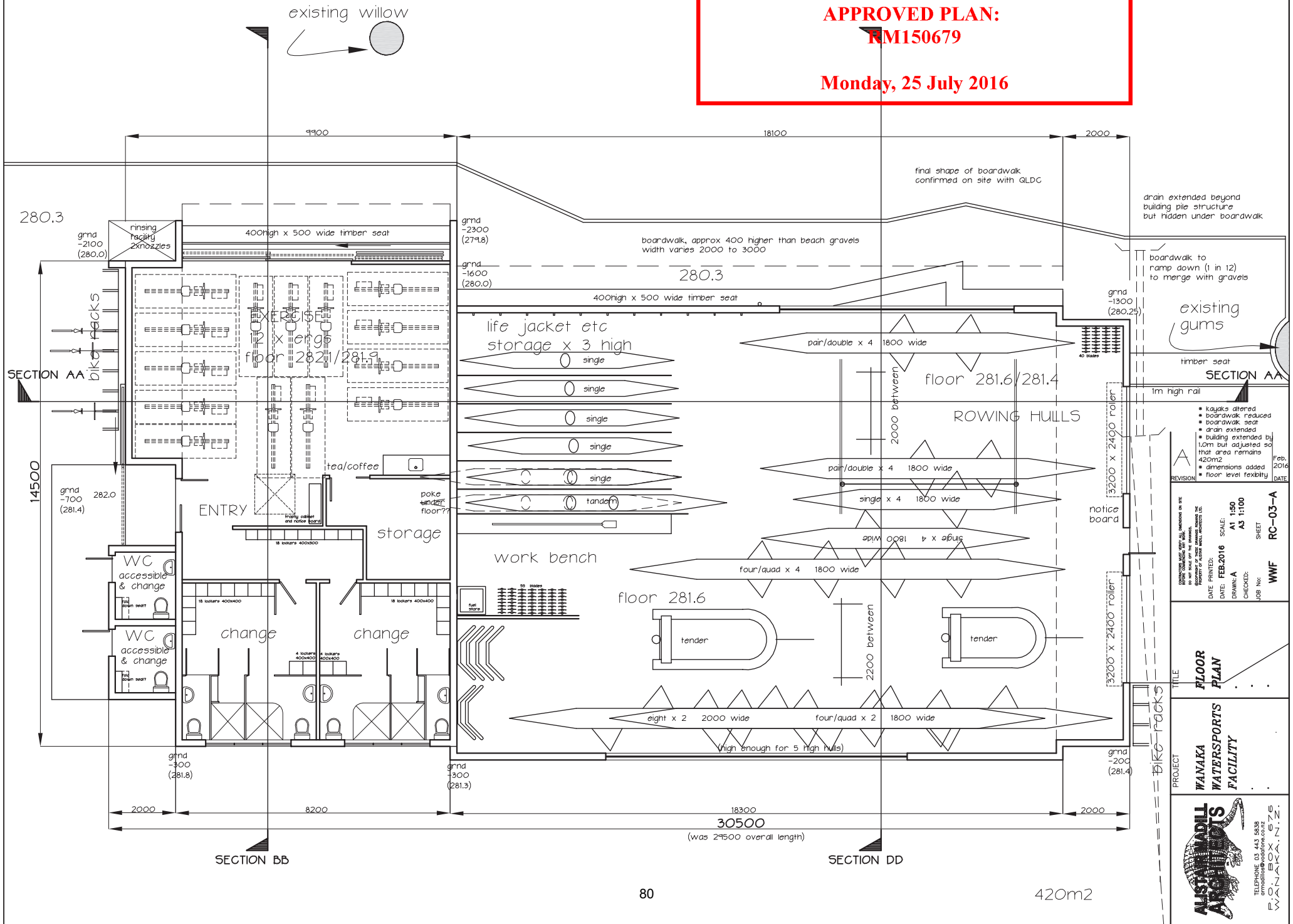
- pegs on site
- tree to remain
- _R tree removed (11 off)
- approx position of tree (not surveyed)

	AUSTIN MADDILL ARCHITECTS TELEPHONE 03 443 5838 email@austinmaddill.co.nz PO BOX 100 WANAKA, N.Z.	PROJECT	WANAKA WATERSPORTS FACILITY	TITLE SITE PLAN TREES	• •	DRAWING A1 1:250 A3 1:500			SHEET	WWF RC-02-A	Feb. 2016 DATE
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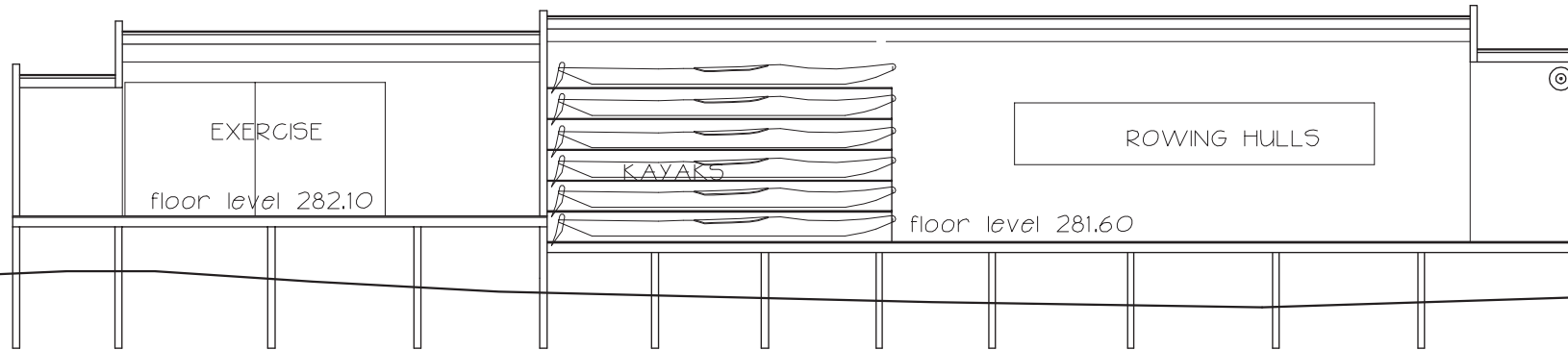
RM150679

Monday, 25 July 2016



maximum height nominated as
281.90 plus 5.0m = 286.9

281.9
flood
level



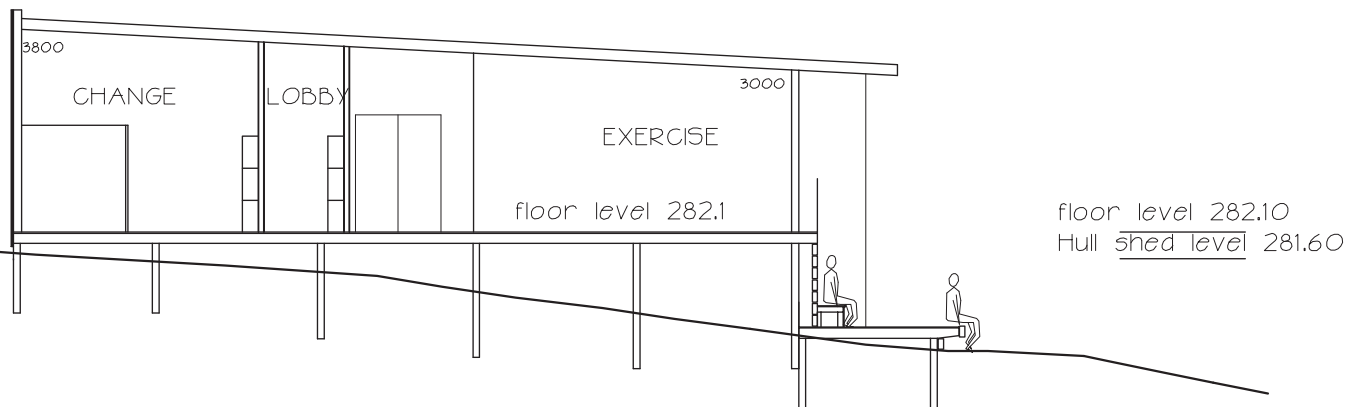
SECTION AA

QUEENSTOWN LAKES DISTRICT COUNCIL

**APPROVED PLAN:
RM150679**

Monday, 25 July 2016

maximum height nominated as
281.90 plus 5.0m = 286.9



281.9 lake
flood level

boardwalk
280.3

SECTION BB

NOTE:
281.90 is the nominated
QLDC minimum floor level
for lake flood

• bridge relocated
• path adjusted
• kayaks altered
• boardwalk reduced
• boardwalk seat
• drain extended
• building extended by
1.0m but adjusted so
that area remains
420m²

REVISION A DATE Feb. 2016

DATE: FEB 2016
DRAWN: A
CHECKED: WWF
JOB No: RC-04-A
SCALE: A1 1:50
A3 1:100
SHEET

TITLE SECTIONS
AA.BB

PROJECT WANAKA
WATERSPORTS
FACILITY

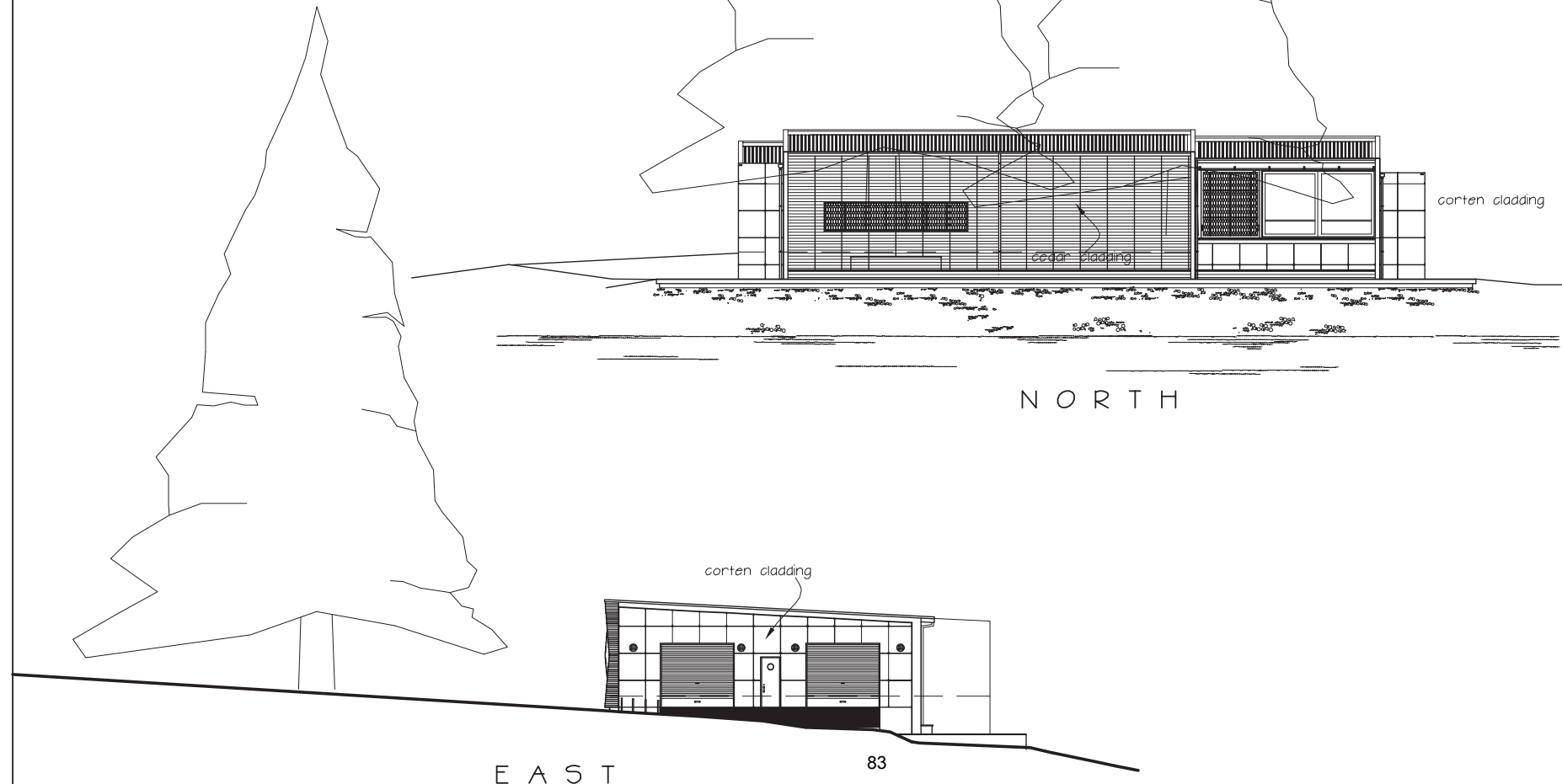
AUSTIN ADILL
ARCHITECTS
TELEPHONE 03 443 5838
email@austinadill.co.nz
PO BOX 100
WANAKA, N.Z.

APPROVED PLAN:
RM150679

Monday, 25 July 2016

MATERIALS & COLOURS:

Cedar: OILED NATURAL
Longrun roof: IRONSAND
Aluminium Framed Joinery: IRONSAND
Corten steel panels: NATURAL WEATHERED
Steel mesh screens: NATURAL WEATHERED
Roller doors: IRONSAND
Sub-structure: NATURAL WEATHERED TIMBER
(Macrocarpa)
Decking: weathered hardwood



- kayaks altered
- boardwalk reduced
- boardwalk seat
- drain extended
- building extended by 1.0m but adjusted so that area remains 420m²

REVISION A Feb. 2016 DATE

DATE PRINTED: FEB 2016
DATE: FEB 2016
DRAWN: A
CHECKED: A
JOB No: WWF
SCALE: A1 1:100
A3 1:200
SHEET: RC-06-A

TITLE
ELEVATIONS
NORTH&EAST

PROJECT
WANAKA
WATERSPORTS
FACILITY

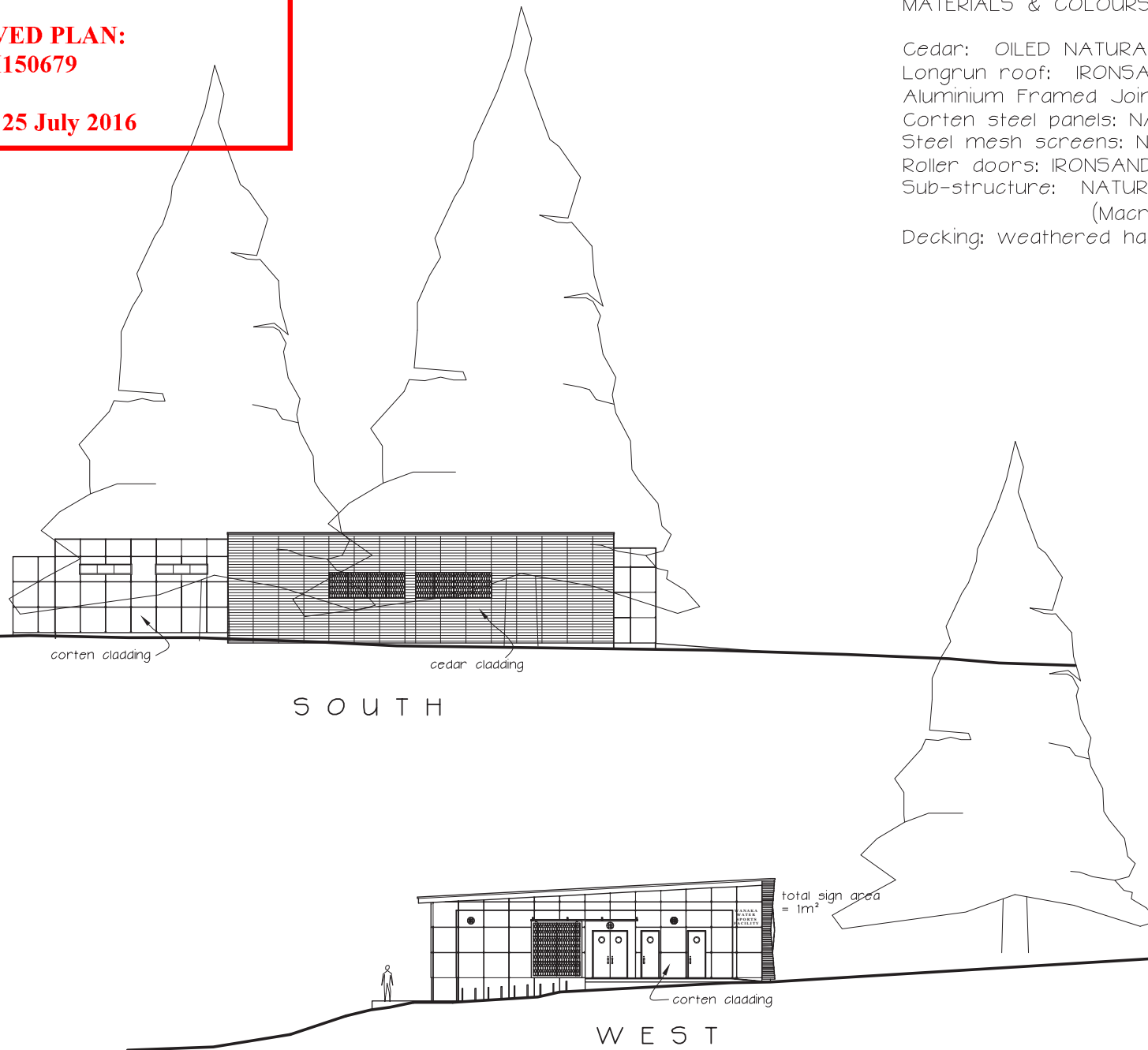
AUSTIN DILL
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PO BOX 107
WANAKA, N.Z.

APPROVED PLAN:
RM150679

Monday, 25 July 2016


MATERIALS & COLOURS:

Cedar: OILED NATURAL
Longrun roof: IRONSAND
Aluminium Framed Joinery: IRONSAND
Corten steel panels: NATURAL WEATHERED
Steel mesh screens: NATURAL WEATHERED
Roller doors: IRONSAND
Sub-structure: NATURAL WEATHERED TIMBER
(Macrocarpa)
Decking: weathered hardwood



<p>REVISION</p> <p>A</p> <p>Feb. 2016</p> <p>DATE</p>	<p>• kayaks altered • boardwalk reduced • boardwalk seat • drain extended • building extended by 1.0m but adjusted so that area remains 420m²</p> <p>DATE PRINTED: FEB 2016</p> <p>SCALE: A1 1:100 A3 1:200</p> <p>DRAWN: A</p> <p>CHECKED:</p> <p>JOB No:</p> <p>WWF</p> <p>RC-07-A</p>
<p>TITLE</p> <p>ELEVATIONS</p> <p>SOUTH & WEST</p>	<p>PROJECT</p> <p>WAIWAKA</p> <p>WATERSPORTS</p> <p>FACILITY</p>
<p>AUSTIN ADILL</p> <p>ARCHITECTS</p> <p>TELEPHONE 03 443 9838</p> <p>armadilloadkts.co.nz</p> <p>PO BOX 404</p> <p>WAIWAKA, N.Z.</p>	



	<p>PROJECT</p> <p>WANAKA WATERSPORTS FACILITY</p>	<p>TITLE</p> <p><i>IMMEDIATE CURTILAGE TREATMENT</i></p>	<p>DATE PRINTED: FEB.2016</p> <p>DATE: FEB.2016</p> <p>SCALE:</p> <p>DRAWN: A1 N.T.S.</p> <p>A3 N.T.S.</p> <p>CHECKED:</p> <p>JOB No:</p> <p>WWF</p> <p>SHEET</p> <p>RC-08</p>	<p>REVISION</p>	<p>DATE</p>
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QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM150679

Monday, 25 July 2016

A photograph of a building facade featuring horizontal wooden slats. A blue-framed window is visible on the right side. A red rectangular box is overlaid on the lower right portion of the image, containing text.

QUEENSTOWN LAKES DISTRICT COUNCIL

**APPROVED PLAN:
RM150679**

Monday, 25 July 2016

QUEENSTOWN LAKES DISTRICT COUNCIL

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Monday, 25 July 2016

QUEENSTOWN LAKES DISTRICT COUNCIL

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RM150679

Monday, 25 July 2016



KEY

- Proposed 25 metre tree - species to be confirmed
- Proposed weeping willow tree
- Proposed southern rata tree
- Proposed kowhai trees for shade
- Proposed kowhai trees
- Existing native planting programme underway down Sloney Creek (Te Kaitiaki Community Nursery and QLDC)
- Existing poplar trees
- Existing gum trees
- Existing conifers
- Existing deciduous trees
- Trees to be removed
- Boardwalk
- Grass
- Gravel
- Native seed
- Water
- Proposed native planting
- Boundary
- Rocks
- Timber bollards

Key amendments to plan - Feb 2016

- Change to deck width and configuration
- Proposed ramp shown
- Bike racks shown
- Existing poplar trees added to plan
- Bollards moved to entrance way
- 4 x proposed 25 metre high trees next to sequoia trees
- Building floor levels shown as a range - yet to be confirmed
- 2 kowhais changed to 1 x weeping willow next to adjacent existing willow



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Monday, 25 July 2016

Scale 1:250 @A1
Date 10/02/2016

Combined Water Sports Facility Building
Landscape Concept Plan - Final A