



## **DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL**

### **RESOURCE MANAGEMENT ACT 1991**

<b>Applicant:</b>	Frankton Trading Trustee Company Limited
<b>RM Reference:</b>	RM170931
<b>Location:</b>	18 - 24 Frankton Road Queenstown
<b>Proposal:</b>	To construct and operate a 131 room hotel and two residential apartments, a restaurant, conference rooms with associated sale of liquor, signage, works within the dripline of a protected tree and earthworks.
<b>Legal Description:</b>	Section 2 and Part Section 1 Block XXXVII Town of Queenstown
<b>Operative Zoning:</b>	High Density Residential (Sub-Zone A)
<b>Proposed Zoning:</b>	High Density Residential
<b>Activity Status:</b>	Non-complying
<b>Public Notification:</b>	20 September 2017
<b>Commission:</b>	Dr Lee Beattie and Jane Sinclair
<b>Date of Decision:</b>	<b>21 February 2018</b>
<b>Decision:</b>	<b>CONSENT IS REFUSED</b>



**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

Of an Application to **QUEENSTOWN LAKES DISTRICT  
COUNCIL** by **FRANKTON TRADING TRUSTEE  
COMPANY LIMITED**

**(RM170931)**

**DECISION OF COMMISSIONERS DR LEE BEATTIE AND JANE SINCLAIR APPOINTED BY QUEENSTOWN  
LAKES DISTRICT COUNCIL**

## **The Hearing and Appearances**

### **Hearing Date:**

Thursday 7 December 2017 in  
Queenstown

### **Appearances for the Applicant:**

Ms Jayne Macdonald, Legal Counsel

Mr Robert Neil, Director of Safari  
Group Limited

Mr David Finlin, Arborist and  
Director of Tree Care Limited

Mr Gary Bickerton, Architect and  
Director of Studio 37

Mr Jamin Atkins, Architect and  
Director of Plus Architecture

Ms Rebecca Lucas, Landscape  
Architect

Ms Rebecca Skidmore, Urban  
Designer and Director of R.A.  
Skidmore Urban Design

Mr Nevil Hegley, Acoustic Engineer  
and Director of Hegley Acoustic  
Consultants

Mr Jason Bartlett, Traffic Engineer  
and Director of Bartlett Consulting  
Limited

Mrs Jennifer Carter, Planning  
Consultant and Director of J Carter  
Planning Limited

### **Appearances for the Queenstown Lakes District Council**

Mr Andrew Woodford, Senior  
Planner

Ms Stella Torvelainen, Land  
Development Engineer

Mr Tim Errington, Arboricultural  
Officer

Ms Jane Rennie, Senior Principal  
Urban Designer for Boffa Miskell

Mr Mike Smith, Principal Transport  
Engineer for Stantec

Dr Steven Chiles, Acoustic  
Consultant

**Appearances for Submitters:**

Mr Alastair Clifford, Skyline  
Enterprises Limited trading as Blue  
Peaks

Ms Annette (Gin) Macalister for the  
Wakatipu View Body Corporate

**Abbreviations**

The following abbreviations are used in this decision:

Frankton Trading Trustee Company Limited	‘the Applicants’
Queenstown Lakes District Council	‘the Council’
The Operative Queenstown Lakes District Plan	‘the ODP’
The Proposed Queenstown Lakes District Plan	‘the PDP’
Assessment of Environmental Effects	‘AEE’
Resource Management Act 1991	‘RMA’

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

The hearing was closed on 23 January 2018, following receipt of the comments on the further information supplied in reply in writing on behalf of the applicant.

## **INTRODUCTION AND BACKGROUND**

1. This decision is made on behalf of the Queenstown Lakes District Council ('the Council') by Independent Hearing Commissioners Dr Lee Beattie and Ms Jane Sinclair, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ('the RMA').
2. The site is located at 18 to 24 Frankton Road Queenstown. It has a legal description as Section 2 and Part Section 1 Block XXXVII Town of Queenstown. The site comprises a total area of 2179m<sup>2</sup>.
3. The site is located close to the centre of Queenstown and has two street frontages. The north-eastern frontage is to Stanley Street, the main entry point into Queenstown, and part of State Highway 6A. The south-east frontage is to Frankton Road. There is a shared common boundary with Blue Peaks Motel to the north-west. The site slopes down from Stanley Street side to the Wakatipu View Apartments on the south-west common boundary.
4. The site is currently vacant of built form and used as a surface grade short-term car parking facility. We are unclear if this use was lawfully established. However, as this issue was not raised by any of the parties we will not comment further. A key feature of the site is the large scale protected Wellingtonia Tree, which dominates the site and the long views. The site and the surrounds have been set out in detail within Mrs Jennifer Carter's AEE at page 9. There was no disagreement between the parties over her site and location description and therefore Mrs Jennifer Carter's description is adopted for this decision.
5. In reaching this decision we have considered:
  - a. The application, its AEE and all its supporting documents;
  - b. The Council officer's s.42A report, with supporting reports attached to his s.42A report;
  - c. The pre-circulated evidence from the applicant;
  - d. The Joint Expert Witness Statements, which were pre-circulated;
  - e. The written submissions from the submitters to the application;
  - f. The submissions (both from the applicant and submitters) and evidence provided at the hearing;
  - g. The responses to our questions during the hearing process
  - h. The Applicant's right of reply,
  - i. An Addendum report prepared by Council officer's,
  - j. The further comments received from submitters,
  - k. The site visit; and
  - l. The relevant provisions of the both the Proposed and Operative Queenstown Lakes District Plan.

## **THE PROPOSAL**

6. The proposed development is for a five storey 'Ramada' Hotel and is described in detail within the Mrs Jennifer Carter's AEE and Mr Andrew Woodford's S.42A report. The proposed hotel would be a 'full-service hotel' and comprises the following key features:

- 131 guestrooms of varying size;
  - Two residential apartments located on level five (the top level);
  - A restaurant and reception area with the primary access from Stanley Street;
  - A conference and meeting rooms;
  - A one way vehicle system with access from Stanley Street and exit onto Frankton Road;
  - Coach parking loading area;
  - On-site car parking for 44 cars, with 11 contained in an underground car park stacker accessed via hotel staff; and
  - Accompanying landscape and site works.
7. There was no disagreement between the parties over Mr Andrew Woodford's description of the proposal and it is therefore adopted for this decision, apart from the amendments to the application considered below.

### **Amendments to the Application**

8. At this point it is necessary to record a number of amendments made since the application was notified, which were drawn to our attention at the beginning of the hearing. These were a result of the Expert Joint Witnesses Statement process and are discussed throughout this decision. In essence, they include amendments to the building design, amended entry treatments to the Hotel and landscaping matters.
9. Finally, as will be considered in detail below within the applicant's right of reply section (paragraphs 72 to 82 the applicant sought to amend the on-site vehicle parking arrangements for both coach and cars as part of their right of reply.
10. We are of the view that the proposed changes are generally within the scope of the application as notified.

### **NOTIFICATION AND SUBMISSIONS**

11. The application was publicly notified on 20 September 2017, with submissions closing on 18 October 2017.
12. 11 submissions were received. Six were in support of the proposal and five in opposition. Of the five in opposition, Millennium Hotels and Resort withdrew its submission via email dated 4 Dec 2017. The New Zealand Transport Agency, following discussions with the applicant, amended their submission to a neutral position via a letter dated 4 Dec 2017. Mrs Armitage on behalf of herself and her partner (Mr Oellerman) advised just before the start of the Hearing via telephone to Ms Evans (Planning Support Officer) that she no longer wished to be present or be heard at the hearing. While she was not present nor presented evidence at the hearing we did consider her submission as this was not formally withdrawn or amended.

13. This left Mr Alastair Clifford of Skyline Enterprises Limited trading as Blue Peaks and Ms Annette Macalister from the Wakatipu View Body Corporate submissions still in opposition. Both these parties provided submissions and lay evidence at the hearing.
14. In essence, their primary concerns outlined in their submissions covered:
  - The potential adverse shading and visual effects on their properties and activities;
  - Building height;
  - Noise and how this would impact on the use of their sites;
  - Visual amenity and urban design;
  - Traffic effects and the potential loss of on-street parking in the area;
  - Need to provide more on-site parking; and
  - Impact on the tree.

## STATUTORY MATTERS

15. The site is zoned High Density Residential – Sub Zone A, under the ODP. The non-compliances were specified in detail within part 5.1 of Mr Andrew Woodford’s s.42A report, including the assessment matters contained in the Operative District Plan. There was no disagreement between the parties as to the range of consent required. As a result we adopted these for this decision, noting that the activity overall must be assessed as a ***Non-complying activity***.
16. As such the application would be subject to a s.104D gateway assessment before a s.104 determination could be made. In essence, s.104D requires the applicant to show that the adverse effects on the environment are no more than minor (noting that there is no balancing between positive and adverse effects) and that the proposal is not contrary to the objectives and policies of the Operative and Proposed District Plans. Our decision will follow this format and only undertake a s.104 determination if one or both of the s.104D gateway test are met.
17. For completeness, based on Council records it appears more than likely that the proposed activity would be on a piece of land that is considered to be a *HAIL* site. Accordingly, consent is required as a Discretionary Activity pursuant to Clause 8 of the National Environmental Standard.

### ***The Proposed Plan***

18. We were advised that there are no rules in the PDP which have immediate legal effect. There was no disagreement between the parties and as a result, we only considered the Proposed District Plan’s policy framework (Objectives and policies) with the appropriate weight, a point we will return to later in our decision.
19. We were advised by the Council officers that the provisions of the 2017 amendments could not be taken into account as the application was notified before these amendments passed into law. Again, there was no disagreement between the parties and we shall consider the application in accordance with the RMA pre its 2017 amendments.

## JOINT EXPERT WITNESS STATEMENTS

20. At this point in time we should acknowledge that the Applicant's and the Council's traffic, urban design (and architecture) and noise experts undertook pre-hearing conferencing in order to produce Joint Expert Witness Statements in these areas. We thank the applicant's and Council's witnesses for their work and making themselves available to undertake this process. It enabled the hearing process to concentrate on the areas of disagreement between the expert witnesses and significantly reduced the length of the hearing.
21. In this regard our summary of the evidence heard below will reflect the relevant witness's rationale for the outstanding areas of disagreement between the experts. For the evidence not subject to this process, will be set out in the normal way.
22. All the submitters were invited to join the Joint Expert Witness Statements process, as per our directions (Minute dated 1 Dec 2017). However, as the submitters did not call any expert witnesses to support their cases they were not involved in developing Joint Expert Witness Statements.
23. A summary of the areas of agreement and disagreement within the Joint Expert Witness Statements is provided below.

### Urban Design

24. The following issues were agreed to between Ms Rebecca Skidmore (Urban Designer), Ms Jane Rennie (Urban Designer) and Mr Jaimin Atkins (Architect)
  - Building Height: It was agreed that the site characteristics enabled a height above the permitted Operative and Proposed District Plan Standards. As will become clear through the rest of this decision we agree with this view and agree that this site can accommodate the building height proposed.
  - Amendments to the Building Roofline: It was agreed that introduction of variation in the roof line on the corner with Frankton Road, with additional space for planting would be appropriate in design terms. The amended plans reflecting these change were submitted as part of Ms Jayne Macdonald's legal submissions.
  - Amendments to the Entry Treatment: All the witnesses supported the removal of the canopies and the introduction of new timber entry 'portal' for the Stanley Street entrance. We agree with these design amendments and an amended plan to this effect was submitted as part of Ms Jayne Macdonald's legal submissions.
  - Amended Landscape Design: Further opportunities for landscape treatments were agreed, including the replacement of the timber planting box with steel planting boxes fronting the Stanley Street and Frankton Road to reflect the building materials used. We agree with these design amendments and an amended plan to this effect was submitted as part of Ms Jayne Macdonald's legal submissions.
25. The following issues were not agreed to between Ms Rebecca Skidmore (Urban Designer), Ms Jane Rennie (Urban Designer) and Mr Jaimin Atkins (Architect)
  - The Design of the South and West Elevations of the Building: In essence this relates to disagreement over the need to include further vertical modulation in the Frankton



Road elevation and articulation of the proposal through the use and type of building materials proposed along the Frankton Road and south western elevations.

- Landscape Design: In essence, this is a disagreement over the level of detail that should be provided through the hearing process opposed to addressed as conditions of consent.
- Tree Planting along the Rear Boundary: This relates to the level of landscaping that should be provided on the common boundaries with the adjoining sites, especially along the South West boundary to reduce the bulk and massing of the proposal and to assist its integration into the existing urban form. This includes the treatment of the proposed fencing arrangement on these common boundaries.

## Noise

26. The Following issues were agreed between Mr Nevil Hegley (noise expert) and Dr Stephen Chiles (noise expert):
- Noise Levels: That compliance with the Operative District Plan's operational and construction limit would be acceptable in this location.
  - Building Services: Building services equipment can be designed to meet the operational noise limited using standard best practice.
  - Vehicles: Agree that a 2.4 metre high fence on the Blue Peak's boundary would reduce the noise levels from vehicles to an acceptable level. The fence height was supported by Blue Peaks. Delivery and service vehicles and coaches shall be limited to between 8.00am and 8.00pm seven days a week.
  - Café/restaurant: there shall be no loudspeaker, live or amplified music in the outdoor areas, and that outdoor seating area shall be closed between 10.00pm and 8.00am seven days a week.
27. The Following issues were not agreed to between Mr Nevil Hegley (Noise expert) and Dr Stephen Chiles (Noise expert):
- Noise levels: While they agree that compliance with the Operative District Plan's noise standards would be acceptable they disagree over whether the proposal will meet these standards. However, they do agree that the potential adverse noise effects can be managed through appropriate use of conditions of consent
  - Noise management controls: There is disagreement over the need for a physical barrier to prevent bus access to the site between 8.00pm and 8.00am.

## Traffic

28. The Following issues were agreed to between Mr Jason Bartlett (traffic engineer) and Mr Mike Smith (traffic engineer)
- Access: That additional sign/making would be needed at the entry and exit points on Stanley Street and Frankton Road.
  - Stanley Street Entry: That the proposed entry (as shown on Figure 109) is in the appropriate position for the activity proposed.
  - Frankton Road Exit: That the proposed exit (as shown on Figure 109) is in the appropriate position for the activity proposed. However, to facilitate the left hand

turn out for tour coaches a section of road reserve will be affected and could lead to a loss of on-street carparks.

- Disability Parking: The location of disability car parking is appropriate and access to the basement car park should meet a minimum headroom height of 2.2 metres.
- Basement Parking: that the basement height of 3.4 metres shall be provided for the car stacks to be able to accommodate vehicles 1.5 metres in height on the bottom and 1.7 metres on the top, and that access to the car parking stackers shall be limited to hotel staff only.
- Landscaping: Should not impact on safe vehicle movements to and from the site.

29. The Following issues were not agreed to between Mr Jason Bartlett (traffic engineer) and Mr Mike Smith (traffic engineer)

- Parking for People with Disabilities: There was disagreement over the definition of the requirement for parking with disabilities and whether that needed to be exclusively available to these people.
- That the on-site (external) car parking and access design does not meet the requirements of the Operative District Plan for the size of the car parks and the circulation areas, with the Applicant proposing to use standards defined in AS/NZS2890.1:2004. There is agreement that the values used are the minimum required values for car parking off-set and parking bay widths, and that the aisle width is below the required standard;
- Mr Bartlett is of the opinion that the use of multiple minimum standards, and the use of a below minimum standard will result in an acceptable design for car parking and coach movements. In contrast, Mr Smith is of the opinion that using multiple minimum standards and below standard will result in an unusable parking and manoeuvring layout, and that the conditions volunteered do not adequately avoid, remedy or mitigate the adverse effects.

## LEGAL SUBMISSIONS AND EVIDENCE

### For the Applicant

30. **Ms Jayne Macdonald** introduced the application with brief legal submissions. She emphasised that the hotel would be located within a visitor accommodation hub on a 'landmark' site defining the entry into Queenstown. She submitted that the location of the Wellingtonia tree and the site's landmark entry location enable extra building height, subject to the appropriate urban design solution for the site.
31. She then addressed the submissions of neighbouring Wakatipu View Body Corporate and Skyline Enterprises trading as Blue Peaks. In doing so, she acknowledged that dialogue had been ongoing with the Blue Peaks and that the evidence would demonstrate that adverse traffic, noise and shading effects on their adjoining motel could be mitigated. In terms of Wakatipu View Body Corporate she suggested that they had taken a "scatter-gun" approach to their submission and questioned why their submission was not supported by expert evidence.
32. She addressed us on the weighting that should be afforded the Proposed District Plan and the Council's approach to visitor accommodation in its newly notified parts of the district plan process. She highlighted a range of positive benefits that the proposal would bring to

Queenstown, including the provision of much needed visitor accommodation and ensuring the protection of the significant Wellingtonia tree.

33. Finally, she provided us with an amended set of plans which incorporated the agreed design changes that had arisen through the three Joint Expert Witness Statements.
34. **Mr Robert Neil** explained his role within the Safari Group, the basis for the proposed Hotel development and the site selection criteria. He also highlighted the benefits the proposal would have in addressing Queenstown's hotel room shortage. He said that the Group had extensive experience in developing, operating, and owning hotel facilities throughout New Zealand. He drew our attention to the discussions he had had with senior Council officials regarding the proposal.
35. He acknowledged the Operative District Plan constraints for the site regarding building height and the need to protect the significant Wellingtonia Tree, but he explained how he had sought professional advice from a range of professionals to address these issues in order to develop a proposal which was both economically viable and provided significant benefits to Queenstown generally. Finally, he outlined his on-going discussions with the owners of the Blue Peak Motel, which had resulted in changes to the use and design of the proposal to address their concerns.
36. **Mr David Finlin's** evidence was taken as read and he confirmed through our questioning that the proposal would be acceptable, subject to the imposition of the appropriate conditions of consent to protect the health and safety of the significant Wellingtonia Tree. His view was confirmed by the Council's Arboricultural Officer Mr Tim Errington. As a result we find that the proposal, subject to the imposition of the appropriate conditions of consent would not affect the health and safety of the significant Wellingtonia Tree and no further discussion on this issue is required.
37. **Mr Gary Bickerton's** evidence was taken as read and he was not asked any questions by the Commissioners. In essence, his evidence detailed the proposal and also modelled the potential shading and loss of sun light effects on the adjacent properties in differing times throughout the year. This included comparing the differences in height effects between the Operative and Proposed District Plan height controls and the proposal.
38. **Mr Jaimin Aktins**, a Director of Plus Architecture was engaged to undertake architectural peer-review of the proposed building design following the Council's Urban Design Panel's June 2017 review of the proposed. We noted that the Council's Urban Design Panel process is a confidential review and we were not provided with either their Minutes or review comments. However, a number of witnesses referred to this review in their evidence.
39. Mr Aktins's evidence (evidence in chief) was circulated prior to the completion of the Joint Witnesses Statement and this evidence in chief addressed a number of designed changes suggested by Council's Urban Design Peer-Review undertaken by Ms Jane Rennie (Boffa Miskell) dated 6 Nov 2017. In doing so, he set out his rationale why some of these changes were not warranted and would undermine the design approach used for the hotel. Mr Aktins suggested that the need for further vertical modulation in the Frankton Road elevation could be addressed through extending the rear three storey element, adding two more window bays

along the Frankton Road elevation and introducing a new, but aligned façade treatment would achieve a shorter homogeneous façade treatment. This became known as the corner treatment or element. The amended plan submitted by Ms Jayne Macdonald highlighted these suggested design changes.

40. As we have considered above, a number of these issues were still not resolved through the Joint Witnesses Statement process, including the need for further vertical modulation in the Frankton Road elevation. Through the Commissioner's questions Mr Aktins's reinforced his view that the introduction of further vertical modulation in the Frankton Road elevation would undermine the architectural language and approach used seeking to create three distinct vertical layers in Frankton Road and Stanley Streets elevations.
41. **Ms Rebecca Lucas** presented evidence on the landscape issues, including providing us with an amended landscaping plan dated 15 Aug 2017, updated 20 Nov 2017, responding to the landscape issues raised in the urban design and architectural Joint Witnesses Statements. In essence, it was her view that the proposed landscaping issues arising from this statement were appropriate and could be supported in landscaping terms. It was her view that the proposed hotel was appropriate to its location from a landscape point of view, including the visual building mass in both the short and long views.
42. Ms Lucas acknowledged through our questioning that adding landscape treatments to both sides of the proposed fencing on the common boundaries with both the Blue Peak Motel and Wakatipu View Body Corporate property would be appropriate and assist in mitigating the visual effects on these properties. This could include the use of 'climbing' plant species which require little planting space and would reduce the impact on the proposed car/bus parking and circulation areas. As we have considered below, this suggestion was supported by both the Blue Peak Motel and Wakatipu View Body Corporate.
43. **Ms Rebecca Skidmore** presented a summary of her evidence which covered the key points of her evidence in chief, the Joint Witness Statement and her rationale for the areas of outstanding disagreement. Ms Skidmore acknowledged the site's strategic location as being a 'gate way' site into Queenstown township itself. She believed that the proposal had addressed this and with the scale of Wellingtonia Tree the site was capable from an urban design point of view of accommodating the bulk, height, massing and design proposed for the site. Through questioning she confirmed that the design solution was 'strong enough' to address the significance of the Stanley Street/Frankton Road corner.
44. As set out in the Joint Witness Statement, she did not agree with the need for further vertical modulation in the Frankton Road elevation, nor Ms Jane Rennie's concerns about the materials used and the need to 'wrap' these around the south western elevation as part of the corner treatment. She noted that there is rarely one acceptable design solution for each site and in her view that the current proposal (as amended through the Joint Witness Statement) was appropriate in urban design terms. It was her view that the proposed new corner element would introduce a visual break in the Frankton Road elevation. This would also ensure that the south western elevation would be read as less visually dominant feature from the Wakatipu View Body Corporate site.

45. Finally, in terms of the outstanding landscape issues, she believed these could be addressed through the conditions of consent. Through our questioning, Ms Skidmore agreed that the introduction of further landscaping treatment along the common boundaries as discussed with Ms Rebecca Lucas for Wakatipu View Body Corporate and Blue Peaks Motel would be appropriate.
46. **Mr Nevil Hegley** provided pre-circulated evidence which was taken as read. However, as set out in the Noise Joint Witness Statement above, the majority of the issues were now resolved between them. Mr Hegley answered our questions surrounding the outstanding issues of disagreement, acknowledging that the height of the 2.4 metre acoustically designed fence, with the conditions of consent would address the potential noise impacts on the Blue Peak Motel. However, he still disagreed that a gate or other mechanism controlling coach access into the site between 8.00pm to 8.00am was required as suggested by Dr Chiles. He believed this could be controlled by the hotel management controlling coach pick up and drop offs. He was asked a question about how the hotel management could actually control this when there may be bus trips starting before 8.00am going to places such as Milford Sound. Again, he was of the view that this was a hotel management issue, and that buses could use the existing bus stop on Stanley Street for pick up before 8.00am.
47. **Mr Jason Bartlett** presented a summary of his evidence which covered the key points of his evidence in chief, the Joint Witness Statement and his rationale for the areas of outstanding disagreement. He highlighted that NZTA had amended their submission to neutral in light of the revised access arrangement, considered in the Joint Witness Statement. He then considered the degree of no stopping areas on the existing road network required for the access arrangements. This was agreed with the Council expert Mr Smith and within the power of the Council as the road controlling authority. In questioning he did not believe that the reduction in on street parking resulting from the no stopping required would have an impact on the local car parking arrangements and must be seen in light of the Council's wider approach to car parking in this part of Queenstown.
48. He maintained his view that the external on site access and manoeuvring was appropriate but would require management by the hotel and that conditions are required to ensure that all on-site parking is managed to maintain access. Mr Bartlett maintained his view that it was appropriate in this instance, that the disabled car park be a shared space and that this could be managed by the hotel. Finally, Mr Bartlett maintained his position that although tight the coach parking, loading and unloading areas are appropriate, and that with an appropriate transport management plan, the hotel will be able to manage on site drivers to ensure adverse effects are minimised.
49. **Mrs Jennifer Carter** provided a summary of her evidence which covered the key points of her evidence in chief and took us through the agreed amendments generated from the three Joint Witness Statements, their impact from a planning point of view and why it was her view that they were appropriate and positively added to the proposed design. She confirmed that in her view the proposal met both of the s.104D gateway tests. She then reinforced why, in her view she preferred the traffic and urban design advice of Mr Jason Bartlett and Ms Rebecca Skidmore over that of Mr Mike Smith and Ms Jane Rennie.

50. She also addressed the submissions highlighting how the Millennium Hotel had withdrawn their submission against the proposal and how the New Zealand Transport Agency had amended their submission to a neutral position. She highlighted how Mr Bickerton's shade analysis had shown that there were no shading effects on the Blue Peak's site. Moreover, based on Ms Skidmore evidence and Mr Bickerton's shade analysis the impacts on the Wakatipu View Body Corporate site were minor.
51. Finally, she acknowledged the positive effects the proposal would generate, and outlined a range of suggested amended conditions of consent following the Joint Witness Statements, and how these would mitigate the potential and actual adverse effects of the proposal.

#### **For the Submitters**

52. **Mr Alastair Clifford**, Property Manager for Skyline Enterprises (owners of the Blue Peak Motel) presented a submissions on behalf of the Blue Peak Hotel. He stressed that Skyline Enterprises were not opposed to a hotel on this site, and had recently supported the Holiday Inn proposal 'across the road' on Stanley Street, and as such their objection was not trade related. However, their concerns were around construction effects, noise generated by the use of the hotel and the scale (height) of the building.
53. He supported the construction of the 2.4 metre high acoustic designed fence on their common boundary and through our questioning he agreed that the height of this fence would not affect the use of the Blue Peaks Motel in terms of visual dominance and outlook. He also supported the inclusion of the proposed landscaping of the acoustic designed fence considered with Ms Rebecca Lucas. However, he believed that this fence would not successfully screen the Blue Peaks from the noise impacts generated from coach parking and vehicle access directly adjacent to their property, especially when parking. While he welcomed the restriction of coach movements between 8.00pm and 8.00am, this did not cover the time that it took to start and 'warm up' a coach, which could be as much as 15 minutes, and questioned how this could be effectively managed and how it would be possible to prevent a coach from arriving after this time and parking on the street.
54. He also expressed concerns over the proposed building height and how this would allow direct overlooking into a number of the Blue Peak rooms, especially rooms 108, 109, 211 and 212 from the upper top floors of the proposal. In his view, this was only enabled by the significant infringement of the Operative District Plan's height control.
55. He expressed his concerns about the construction effects and that this would impact on the users of the Blue Peak's Motel. While the applicant had proposed a Construction Noise and Vibration Management Plan, this still does not address their concerns, especially about the hours from construction and when asked by the Commissioners over the appropriate start time he suggested 9.00am. Based on these concerns he suggested that the application should be refused consent.
56. **Ms Annette (Gin) Macalister**, Chair of the Wakatipu View Body Corporate read a statement which appeared to be written by her (or the Body Corporate's) legal representative. In her statement she explained that she has personally owned an apartment in the complex since 2011, and that about 50% of the units in the complex were long term rentals, or owner

occupied, with the remaining six units used as short term (Airbnb etc.) rentals. She advised she had the authority to speak for other residents of the site and outlined their concerns, which predominately related to adverse traffic, visual dominance and shading effects.

57. She stressed that car parking was currently an issue in Frankton Road and the removal on street car parking to provide for the safe exiting of vehicles from the site would only add to this parking stress, especially considering the impacts of the other existing hotels and recently granted ones within the local environment. This, with the congested nature of Stanley Street, would make vehicle access to the site very difficult. She also outlined serious concerns about the noise impacts from coaches and other vehicles on site. Through questioning, while supporting the proposed landscape treatment and the 2 metre high fence on the common boundary, she did not believe this would address her concerns in regard to vehicle noise.
58. She was very concerned about the proposed height and how this would impact on sun and daylight access to their units. The units were 30 years old and single glazed, relying on the sun to warm the units. This with the shading effects on their properties, especially in the winter months, would impact on the use and enjoyment of their properties. She suggested that the owners of the Body Corporate were entitled to rely on the District Plan provisions, including maximum height.
59. **Ms L Armitage's** written submission on behalf of herself and Mr Karl Oellermann, who live at 4/22 Hallenstein Street was taken as read. In essence, her submission highlighted their concerns about the potential loss of view of the lake from their apartment that the proposal would create.

#### **The Council**

60. **Mr Andrew Woodford** had concluded in his s.42A report that the proposed hotel would generate adverse bulk and massing, noise and traffic effects on the environment which were more than minor, and that the proposal was contrary to the objectives and policies of the Operative District Plan. After listening to all the applicant's case and the submissions, he was asked by the Commissioners if he maintained the same opinion expressed in his s.42A report. He reaffirmed this view, that he considered the adverse urban design and traffic effects were more than minor and that the proposal was contrary to the objectives and policies of both the Operative and Proposed District Plans. As a result, in his view, the proposal failed to meet both threshold tests under s.104D. He recommended that the application should be refused consent.
61. His conclusions were informed by his own professional judgement, responses to questions by our questions, and the Council experts and/or external consultants views. He noted that the Council's Urban Design Consultant, Ms Jane Rennie, still had significant concerns regarding the Frankton Road elevation, materials used and that the proposed corner treatment did not address her concerns. He was now not concerned over the proposed building height, subject to Ms Jane Rennie's issues being resolved. However he did advise that the proposed 2.4 metre high fence would technically require land use consent, and if we were of a view to grant consent this should be included in our decision.

62. In terms of the potential adverse traffic effects, he, like Mr Mike Smith was significantly concerned about the onsite coach and vehicle parking and believed that these issues could not be mitigated through conditions of consent.
63. **Mr Mike Smith's** traffic assessment attached to Mr Andrew Woodford s.94A report, was taken as read, as was the Joint Witness Statement. He was then asked to outline his concerns and rationale for the areas of disagreement with Mr Jason Bartlett in the Joint Witness Statement. Mr Smith maintained his concerns in regard to the coach park/drop off area and design of the car parking area, and the adequacy of the on-site circulation and manoeuvring areas. Mr Smith remained of the opinion that the adverse effects could not be appropriately mitigated by conditions of consent.
64. **Dr Steven Chiles**, Consultant Noise Expert assessment was attached to Mr Andrew Woodford's s.94A report was taken as read, as was the Joint Witness Statement. Given the areas of disagreement with Mr Hegley were limited, the Commissioners asked him to outline his concerns and rationale for this.
65. In terms of the noise effects and whether the proposal could operate within the relevant District Plan standards he suggested that some of the applicant's proposed conditions of consent, including condition 36, may not be achievable and would not address the potential adverse noise impact on Blue Peaks Motel, especially from vehicle movements, to a degree which could be considered to be minor. He suggested amending the noise limits which could address this issue.
66. He did not support Mr Clifford's suggestion about amending the construction hours of operation, and as he rightly pointed out there is a trade-off between the hours of construction and the length of the overall project. He supported retaining these at an 8.00am start.
67. He maintained his concern about preventing coach access to the site after 8.00pm and achieving this through the use of a physical barrier. This way the coaches would be physically prevented from entering the site, which would be more effective than by hotel management control. He also reinforced the need to ensure coach movements including coach start-up be limited to the times suggested, that is, not before 8.00am. Through our questioning, he was asked about the impact service vehicles could have, including accessing the basement parking, to which he suggested that this should be limited to 8.00am to 8.00pm. He also suggested the same for rubbish removal times.
68. **Mr Tim Errington**, Arboricultural Officer, was present at the hearing and was asked if he agreed with the applicant's arboricultural assessment. He confirmed his view that subject to the appropriate conditions of consent his issues were adequately addressed.
69. **Ms Stella Torvelainen**, Land Development Engineer, was present at the hearing, and her report attached to Mr Andrew Woodford s.94A report was taken as read. She confirmed through our questioning that subject to the appropriate conditions of consent being imposed, there was no engineering reasons which would prevent consent being granted.
70. **Ms Jane Rennie's** urban design assessment was attached to Mr Andrew Woodford s.94A report and was taken as read, as was the Joint Witness Statement. She was asked to outline



her concerns and rationale for the areas of disagreement with Ms Rebecca Skidmore and Mr Jaimin Aktins in the Joint Witness Statement and was asked a range of questions by the Commissioners. She maintained her view that further vertical modulation in the Frankton Road elevation was required, given it was over 37.5 metres long and this would break down the bulk and massing of the building in this street elevation and create a better urban design solution for the site.

71. She also believed that the schist base treatment should be wrapped around the south-western elevation, and that the corner treatment did not address her concerns about the appearance of the building in the south west views and upon the Wakatipu View Body Corporate site.

### **Right of Reply**

72. Ms Jayne Macdonald addressed a number of issues in her right of reply, which we will consider in turn below, including providing us with an amended set of suggested conditions of consent. However, in doing so, she introduced a revised onsite vehicle layout plan which amended some of the on-site coach and vehicle arrangements. In order to ensure fairness to all parties, we issued a Minute dated 10 Jan 2018, directing that the submitters and Council officers be given until 12 noon on Monday 22 January 2018 to provide comments on the revised vehicle and coach layout. We will comment on their responses, following addressing the applicant's right of reply.
73. The revised onsite and bus parking plan sought to:
- Provide 'off site' overnight bus parking and remove the provision of onsite coach parking,
  - Provide an onsite loading area for loading and unloading of buses,
  - A new layout for the 44 car parking spaces on site, with these new car parking spaces being used for overnight car parking in the bus loading area, and
  - The removal of on-site bus storage sought to reduce the noise impact on the adjacent properties.
74. To give effect to the amended plan, the applicant has also been in discussions with the Council about the ability to create a coach pick up and drop off facility in front of the site on Stanley Street. However, as discussed in the Council's response section below, this approach was not supported by the Council. The applicant acknowledged that possibility in their right of reply and stressed that the amended proposal would still provide on-site loading and unloading within the agreed hours between 8.00am and 8.00pm for guests arriving by bus. Ms Jayne Macdonald also submitted that the applicant could use the existing bus stops within the local area as well for loading and unloading of hotel guests and these could be used for tours that started before 8.00am, and provided us with a map showing their locations.
75. Ms Jayne Macdonald submitted that the Operative District Plan made provision (Rule 14.2.4.ii(e)) for visitor accommodation such as that proposed to provide for all of their parking requirements 'off site' and there were current examples within the district approved by the Council, such as Wyndham Gardens developments at Remarkable Park where this has been undertaken. She then turned to the issue of disabled car parking spaces, submitting that the evidence had shown that this could effectively be used as part of the drop off arrangements

for the hotel as well as being used as a disabled car parking space. However, the applicant would accept a condition that this space be for the sole use of disabled card holders, if required.

76. She submitted that while there may be demand for guest's parking SUV style vehicles, and some of these vehicles may not be able to be accommodated within the proposed car stackers, the car stackers as proposed by the applicant did meet the relevant Operative District Plan standards. Moreover, there was no evidence given to the Commissioners confirming this point.
77. In terms of noise, while not retreating from Mr Hegley's evidence, she confirmed that the applicant would be willing to accept the noise levels suggested by Dr Chiles and had included an amended suggested condition of consent to this effect. She also clarified the issues surrounding service vehicles and rubbish collection. It was not the applicant's intention to use the basement area for service deliveries and rubbish collection. This would occur in the proposed circulation areas around the site.
78. Ms Jayne Macdonald submitted that removing the on-site coach parking provided greater opportunities for landscaping on site and she introduced a new landscaping plan which addressed a number of the issues considered throughout the hearing, including
- Further planting at the south access to Frankton Road,
  - Extending the proposed planting plan, and
  - Providing for climbers on the common boundary fences with Blue Peaks and the Wakatipu View Body Corporate.
79. She submitted that we should prefer the urban design evidence of Ms Rebecca Skidmore and Mr Aitkin's over Ms Jane Rennie for the reasons set out in their evidence and as part of the their rationale in the areas of disagreement in the Joint Witnesses Statements.
80. She addressed the submitters concerns, beginning with Wakatipu View Body Corporate, submitting that the evidence had shown that the effects on them would be minor. Turning to the Blue Peaks, she reinforced the amended fence design which included the climbers and how this would reduce the visual impact of their properties. She highlighted that the issue of height and visual dominance on the Blue Peak property had not been raised by any of the urban design and planning experts, including the Council's and that the proposed hotel design would ensure that these rooms would not overlook the Blue Peak Motel Units.
81. Finally she covered a few other issues including clarifying that the front desk staff would number between two and three persons, enabling one of them to provide the valet parking for the car stackers at all times.

#### **Blue Peaks response to the amended plan**

82. Blue Peak's response covered a number of issues raised within the applicant's right of reply beyond the scope of the amended plans. In essence, these reinforced their concerns as set out within their submission presented to the Commissioners at the hearing. Finally we noted

that none of the amendments suggested by the applicant's right of reply addressed their concerns.

83. We note for completeness that the Wakatipu View Body Corporate did not provide any comments on the amended plans.

#### **Council's response**

84. The Council, through Mr Andrew Woodford welcomed the landscaping and noise changes as proposed, but maintained, based on Ms Rennie's advice, concerns about the Frankton Road elevation and use of building materials.
85. In terms of traffic engineering, Mr Smith's comments identified that the site was now non-compliant in regard to two coach parking spaces. He raised concerns that if on street coach parking was used it could impact on the operation of the public bus service and potentially block sight lines resulting in conflicts with pedestrians and vehicles on the footpath. In addition Mr Smith maintained his concerns with the coach loading/unloading area and potential safety effects, and that the amended car parking design only provided one pick up car parking space, which could result in conflict between pedestrians and vehicles and create safety issues. Mr Smith maintained his position that the circulation areas and aisle widths were not adequate and further that the car park design would not adequately cater for larger SUV's.

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#### **SECTION 104D ASSESSMENT**

86. As considered above, it was common ground between the parties that the application was a Non-Complying Activity under both the Operative and Proposed District. Noting, that even if we considered that the application satisfied one or other of the gateway tests under s.104D we still have the discretion as to whether or not to grant consent under s.104. We have undertaken a S.104D assessment and if this shows to us that the application meets one or both of these gateway tests, we shall proceed to a s.104 determination.

#### **The Weight to be Given to the Operative and Proposed District Plans**

87. Stage 1 of the review of the PDP was notified on 26 August 2015. This notification included the zoning of the area under Chapter 9 of the PDP within which the site is located, as 'High Density Residential', very similar to the existing zoning under the ODP. This included provision for visitor accommodation as a controlled activity. However on 23<sup>rd</sup> of October 2015 the Council withdrew the provisions in the PDP as they relate to visitor accommodation, to address issues relating to the use of residential properties for accommodation purposes (e.g. Airbnb), and *not* to restrict visitor accommodation in the form of hotels in the High Density Residential Zone. However the withdrawal of the provisions relating to visitor accommodation generally also captured 'regular' visitor accommodation facilities such as hotels. A variation to Stage 1 of the PDP to reintroduce amended provisions relating to visitor accommodation was the subject of a report to the Council on 8 November 2017, and we

understand notification took place at the end of November 2017, with submissions closing later on this year.

88. The applicant's legal submission stressed that the scale and design of the proposed hotel resulting from the plan review process, which would be significantly more liberal than the Operative District Plan, particularly with respect to matters such as height and height to boundary controls. However, as agreed by the parties, the Proposed District Plan rules have no legal effect.
89. In terms of the Proposed District Plan's objectives and policies, we find that while we have regard to these, far more weighting should be given to the Operative District Plan provisions, especially when considering the issues of visitor accommodation.

#### **Principal areas in contention**

90. We find that the following areas are matters in contention between the parties:
- Urban Design issues, including the height of the building, its impact on the adjacent properties in terms of shading effects, loss of daylight and sunlight; and the building's appearance in the streetscene;
  - Landscaping issues;
  - Construction effects, including the hours of operation and noise levels; and
  - Traffic engineering issues, including on-site and off-site vehicle parking; access, circulation and exit arrangements; and noise from traffic generation
91. We record that matters relating to earthworks (related effects of land stability, runoff, dust, storm water, wastewaters etc.), the protection of the Wellingtonia tree, tree removal on the common boundary between Blue Peaks Motel, signage and the use of the site for a hotel activity were not in contention between the parties. We agree with this, and find that these issues can be addressed through the appropriate conditions of consent. For completeness, we also find that the site is an appropriate location for a hotel of this type and it would go some way in addressing Queenstown's hotel room shortage.

#### **Main findings on the principal issues in contention and reasons**

92. Our main findings on the principal issues that were in contention and reasons are addressed below. However, as will become apparent through our s.104D assessment, a number of these issues could have been addressed through the appropriate conditions of consent should the application been considered under s.104.

#### **Urban Design issues**

93. The issues associated with urban design raises a number of areas of concern, which include:
- The building's height;
  - The building's impact on adjacent properties in terms of its visual dominance, overlooking, shading and loss of daylight and sunlight; and

- The building's contribution and appearance in the streetscene and the local environment generally.

94. However, in determining whether consent should be granted or whether the proposal meets the gateway tests of s.104D it is not simply a matter of identifying non-compliances, or even the extent of them, but how the proposed design adequately addresses adverse effects and potentially contributes to the wider townscape. We also consider the existing character of the built environment surrounding the site as a relevant issue given the site's significant as a gateway site into the Queenstown township. In this respect, even though the activity is for a Non-Complying Activity, the Controlled Activity assessment matters requirements for assessing visitor accommodation provide us with a useful guide in our decision-making process. These are contained under clause 7.7.2ii (a).

*ii Controlled Activity – Visitor Accommodation*

*Conditions may be imposed to ensure that:*

- (a) Compatibility with amenity values of the surrounding environment considering the visual amenity of the street, neighbouring properties or views of the lake; and*
- (i) The character, scale and intensity of the proposed use and its compatibility in relation to surrounding and/or adjoining residential neighbourhoods*
- (ii) The nature of the development in the context of the permitted future uses on nearby sites*
- (iii) Loss of privacy*
- (iv) The proximity of outdoor facilities to residential neighbours*
- (v) Hours of operation*
- (vi) The ability to landscape/plant to mitigate visual effects*
- (vii) Whether the external appearance of the buildings complements the surrounding landscape and urban character, including when viewed from the lake*
- (viii) Compatibility with the New Zealand Urban Design Protocol having regard to those assessment matters under 7.7.2 xiii Urban Design Protocol.*

95. This assessment criteria provides clear direction that seeks to ensure any proposed visitor accommodation development is appropriate and positively contributes to its context, with special regard given to views from the lake. It requires us to consider the impact of privacy issues on the adjacent properties. Finally, it also refers us to the 'Seven C's' set out within the New Zealand Urban Design Protocol. While this is helpful, we do not believe a detailed consideration of each of the Seven C's would add value to meaningful evaluation of the proposal, save to say these issues have influenced our consideration of the proposal. We shall use this assessment criteria as relevant through our consideration of the urban design issues in contention.

### Building Height

96. The proposed building height is significantly above the Operative District Plan 8 metre limit, being 17.5 metres (in parts). Noting that the Proposed District Plan is to 15 metres, a point we shall return to later on in this decision. This, with the issues of visual dominance and overlooking, were areas of significant concern for both Mr Alistair Clifford presenting for the Blue Peaks Motel and for the Wakatipu View Body Corporate. In addressing the issue of building height, Ms Jayne Macdonald reminded us within her right of reply that none of the urban design, architectural or planning witnesses raised this as a matter of concern. Moreover, each of the urban design witnesses were of the view that the site, given the height of the Wellingtonia Tree, its location on the corner of Stanley Street and Frankton Road and surrounding context could accommodate a building of the height proposed. Noting Ms Rennie's concern about some of the design elements. Ms Rebecca Skidmore's evidence in chief, provided us with a 'figure ground' map highlighting the scale of the built form in the local environment, with an analysis of land use. This highlighted the strong presence of visitor accommodation in this part of Queenstown and the range of varied building heights present.
97. While we acknowledge the concerns of Mr Alistair Clifford and the Wakatipu View Body Corporate regarding building height, we favour the evidence of Ms Skidmore, Ms Rennie, Mr Aitkins, Mrs Carter and Mr Woodford and find that the site can accommodate a building of this height, subject to the appropriate design. However, as we will consider below, we have concerns about the building's appearance and how the Frankton Road elevation relates to the streetscene.
98. Before we leave the issue of building height, we are reminded by the visitor accommodation assessment criteria that views from the Lake are of importance. We agree with this approach and while not covered in a direct way in the evidence presented to us, we find a building of five stories in height, with a recessed top floor, as proposed, will sit comfortably within this part of Queenstown's townscape when viewed from the lake. The site is situated in a position elevated above Queenstown's town centre, with a range of two/three/four storey buildings forming part of the visual background, framing and sitting behind the town centre when viewed from the lake and its edges. This creates a degree of bulk and massing similar to that currently proposed and in our view the proposal will not be out of character, nor visually intrusive when viewed from the lake or other parts of the Queenstown town centre.

### Visual dominance, Overlooking, Shading and Loss of Daylight and Sunlight

99. Mr Alistair Clifford outlined his concerns about the visual dominance and potential overlooking impacts that could be generated from people looking down from the upper floors on some of the Blue Peaks Motel units. We acknowledge this issue is interrelated with the issue of building height. Mr Alistair Clifford did not raise the issue of shading, which was appropriate given Mr Gary Bickerton's shade analysis has shown the impacts on the Blue Peaks Motel would be very limited, or as Mrs Carter suggested, that there would be no shading effects.
100. Ms Skidmore, Mr Aitkins and Mrs Carter were of the view that there was sufficient separation distance created by the vehicle circulation space between the proposed building and Blue Peaks Motel and that this would reduce the visual dominance and potential overlooking

effects to a degree which could be considered minor. This was also assisted by the amended on-site coach and vehicle layout providing further opportunities for planting directly adjacent to the Blue Peak boundaries. We accepted this evidence and find that in conjunction with the building design, especially with the upper level set back from the Blue Peak Motel boundary, and the further planting opportunities, that the adverse visual, dominance and overlooking effects will be minor and acceptable.

101. In turning to the impacts on the Wakatipu View Body Corporate site, Ms Gin Macalister provided us with a detailed understanding of the age, basic construction and use of their units. In doing so, she advised that the units had single glazing and relied on the natural sunlight to 'warm' the units. She also raised the issue of visual dominance and how this, in conjunction with the shading effects would reduce the enjoyment of their properties.
102. Ms Jayne Macdonald had submitted that if the Wakatipu View Body Corporate was concerned about height and visual dominance within the High Density Residential Zone why they hadn't lodged a submission to the Proposed District Plan to that effect, given the Proposed District Plan sought a new 15 metre height limit. It was common ground between the planning witnesses that the submissions lodged against the 15 metre height limit in the zone, were site specific and did not relate in this context. While we accept that the height control is subject to an examination by the Proposed District Plan Hearings Commissioners, (nor do we seek in any way to influence their decision), it does however, give us a direction of the Council's future thinking toward height in the zone. In our view, this is appropriate given this is a high density residential zone and a 8 metre height limit would reduce the range of typologies and land use able to be achieved in this type of zone. Noting, that the introduction of a 15 metre height limit would lead to building opportunities significantly more bulk, mass and height on this site and with the new zone generally.
103. Turning to the evidence, all of the urban designers, architect and planning witness, were of the view that the proposed building design, subject to amendments, as it relates to the Wakatipu View Body Corporate site were acceptable and that the adverse visual, dominance and shading effects were minor. We accept this view, and find that the adverse visual, dominance and shading effects on the Wakatipu View Body Corporate site are minor. As we have considered above, while the actual outcome has not been determined, it is our view that the future planning environment will involve high density and height, all of which are likely to have an impact on sites like the Wakatipu View Body Corporate in the future.

#### *The Building Contribution and Appearance in the Streetscene*

104. This was subject to a great deal of the evidence received and questioning even following the Joint Witness Statement, which had significantly reduced the areas of disagreement between the parties. In essence, the fundamental areas of outstanding disagreement related to the need for further vertical modulation in the Frankton Road elevation and a requirement to continue the façade treatment of the southwest corner to the third level. Ms Rennie was of the view, that this was required to provide relief in the 37 metre long elevation. Ms Rebecca Skidmore was of a different view as set out in her evidence. This leaves us to make a determination as to whose evidence we favour.

105. In reaching our view we have taken into consideration Rule 7.5.3.4(vi) of the Operative District Plan which seeks to prevent long unbroken elevations in the streetscene. While, as we have acknowledged above, compliance with a rule is not a measure of its effects, it does however, provide us with the intended planning outcome sought by the Operative District Plan. In this situation we favour Ms Rennie's and Mr Woodford's evidence and believe that further vertical modulation in the Frankton Road elevation as suggested by Ms Rennie, especially in this 'gateway' location would significantly improve the visual appearance in the streetscene. In our view, this design amendment in conjunction with the amended design achieved through the Joint Witness Statement would ensure that the adverse effects on the streetscene were minor and that the building positively contributes to the wider environment. In our view, this could be achieved through the use of a condition of consent requiring the redesign of this elevation should the proposal be able to be considered under s.104. We are not of the view that this is beyond the scope of a condition of consent. However, as it stands we are of the view that the proposed building design will have a more than minor effect on the streetscene in this location.
106. For completeness, we find that the proposed building design, subject to the changes outlined above, would be of a design and appearance which would positively contribute to the streetscene when viewed in the short and long views and the local environment generally. We are of the view that the proposal is appropriate in its scale, bulk, height and massing for its location being in close proximity to the town centre.
107. As a result we find that there are some limited urban design effects which are more than minor. However, these could be addressed through the appropriate use of conditions of consent.

### **Landscaping effects**

108. Landscaping was a minor area of disagreement at the hearing. In essence, the disagreement related to the location and design of planter boxes in 'front of the building' (on the Stanley Street and Frankton Road frontages), use of climbers on the common boundary between the Blue Peak Motel and the Wakatipu View Body Corporate site, and the potential for further planting along the Blue Peak boundary. In turning to the planter boxes, we agree with Ms Skidmore and believe this could be addressed through appropriate conditions of consent. Moreover, we find that this impact of their location and materiality would be less than minor.
109. The amended landscaping plan submitted in Ms Jayne Macdonald's right of reply appears to have addressed the landscaping issues along the Blue Peaks boundary and, while not addressing their concerns mitigating noise effects, was welcomed by the Blue Peak Motel. It was also supported by Ms Jane Rennie. We find the opportunity for further planting is a positive development and would also assist in mitigating the minor visual effects upon Blue Peak Motel. However, the Blue Peak Motel should be able to have some input to the type of species proposed in this location. This could be addressed through appropriate conditions of consent.
110. Finally, in terms of the climbers along the boundary fences between Blue Peak Motel and the Wakatipu View Body Corporate boundaries we find that this will assist in reducing the visual impact on these sites. However, we believe this could be a continuous green wall along these



boundary fences and of sufficient density to be read as such. The final details of these should be undertaken in conjunction with the Blue Peak Motel and the Wakatipu View Body Corporate. This could be addressed through appropriate conditions of consent.

111. As a result we find that landscape effects are minor.

#### Construction Effects

112. The potential adverse construction effects were a major concern for the Blue Peak Motel. Mr Clifford outlined his concerns and that these effects could impact on their Motel guests, especially the 8.00am start, with his preference being for a 9.00am start. As considered above, the noise experts agreed in their Joint Witness Statement that construction noise effects could be addressed through the appropriate use of conditions of consent. This point was reinforced in Ms Macdonald's right of reply confirming that the applicant was willing to accept the noise levels suggested by Dr Chiles.

113. While we understand Mr Clifford's concerns, the impacts generated from construction activities would be present with any redevelopment proposed on this site. This is a by-product of development, especially in areas facing significant growth pressures. In our view, the question is how the application mitigates those impacts to a level which can be considered minor and acceptable. In this case, we agree with the noise experts and find that the noise generated from the construction activities can be made minor through the appropriate use of conditions of consent. Moreover, we agree with Dr Chiles and find that the construction hours should remain from 8.00am to 6.00pm, Monday to Saturday.

As a result we find that the potential adverse construction effects are minor.

- 114.

#### **Traffic engineering issues**

115. It was common ground that the site is constrained, however the Applicant's experts (traffic, architectural and planning) were of the opinion that it is still feasible to achieve a car park design and access that is both safe and effective. The potential adverse effects on traffic, traffic movements, access, car and coach parking and their associated nuisance was a concern raised by the opposing submitters and Council officers, including Mr Smith and Woodford.
116. We have identified the following matters as the principal issues of contention when it comes to traffic engineering issues, being:
- The car park design and its usability,
  - On-site vehicle circulation and manoeuvring,
  - Coach parking and loading,
  - Adequate disabled car parking spaces,
  - Traffic safety,
  - Effects on surrounding properties, and
  - Whether these adverse effects associated with these issues be avoided, remedied or

mitigated.

117. As discussed above, in response to the issues raised in Mr Woodford's s. 42A Planning Report, the traffic engineers undertook witness caucusing and prepared a Joint Witness Statement. This process led to the introduction of plans making the following changes:
- Overnight coach parking will be provided off-site at an unidentified location. The removal of overnight coach parking results in additional car parking and avoids noise associated with coach 'start ups' in the morning;
  - The provision of an on-site loading area for buses/tour coaches to load and unload passengers; and
  - The provision of 44 on-site car parks
118. In response to the issues raised during the hearing, the Applicant revised the car and coach-parking layout in Ms Macdonald's right of reply, trying to achieve a more workable solution for parking and on-site manoeuvring and to reduce the reliance of on-site management. The revised layout is shown in the following Bartlett Consulting Plans:
- *Vehicle Swept Paths on Street Loading Zone, Figure 108, December 2017,*
  - *Vehicle Access and Parking Revised Parking Layout, Figure 109, December 2017, and*
  - *Vehicle Access and Parking Swept Path - RTS18 Tour Coach, Figure 110, December 2017*
119. Mr Woodford prepared an Addendum report dated 18 January 2017 (Council's comments to the applicant's right of reply), which provided assessment of the revised car and coach parking layout, including updated assessments from the various Council reporting officers (Mr Smith, Dr Chiles and Ms Rennie).
120. Just as with the urban design issues, to assist with our consideration of the proposal, we were guided by Assessment Matters contained in Part 14: Transportation of the Operative District Plan. We have identified the following assessment matters as relevant to our consideration of the proposal:
- *14.3.2(iii) Parking and Loading Provision,*
  - *14.3.2(iv) Parking, Loading and Entranceway Design, and*
  - *14.3.2(v) Access*
121. We note that Mr Woodford did not include Assessment Matter *14.3.2(iv) Parking, Loading and Entranceway Design* in his assessment of the application. We are of the view that this assessment matter is relevant as it covers the issues we have found are in contention and expresses the District Plan's approach to such matters.
122. We are of the opinion that the assessment matters are grouped into two issues, firstly assessment matter 14.3.2(iii) is concerned with the ability to provide car parking and loading spaces on site, and if car parking or loading spaces are not available on site, then the ability to

provide parking off-site. In comparison, assessment matter 14.3.2(iv) is concerned with the actual design characteristics of car parking spaces, loading spaces and entranceways. We consider these issues in turn below:

*Parking and Loading Provision*

123. Assessment matter 14.3.2(iii) *Parking and Loading Provision* requires us to have regard to (a) the ability to provide parking on site, (b) alternative supply of parking, (c) parking availability on another site, (d) parking demand, (e) future public parking areas, (f) effects on amenity and safety of not providing the parking and loading areas, (g) effects on the road network, (h) cumulative effects, (i) existing public transport, (j) proximity of other activities, (k) coach parking, (l) reverse manoeuvring on rear sites, (m) roof top car parking and (n) if the visitor accommodation activity can demonstrate a lesser parking demand, or that conversion to a residential use is precluded.
124. We consider that as the proposal complies with the amount of on-site car parks required by the Operative District Plan, which is appropriate, a number of these assessment matters are not particularly relevant. However, the assessment matters are relevant in respect to the shortfall in on site coach parks.
125. In regard to assessment matter (a) we accept that the retention of the protected Wellingtonian tree has resulted in design constraints to the development of the site. Although the proposal has achieved compliance with the number of car parks provided on site, the design and layout of the carpark, access and coach parking does not comply with Operative District Plan standards.
126. Although not part of the application, the amended proposal through Ms Macdonald's right of reply references that four coaches/buses could park in the existing bus stop or a proposed new bus stop located on Stanley Street. We note that assessment matter (b) specifically states that on-street parking is not an acceptable alternative to providing on-site parking. We agree with this approach.
127. It was common ground that the proposal requires consent for a shortfall in coach parking. The ability to provide secured parking off site is referenced in assessment matters (c) and (k). The revised application includes a loading area for coaches and removes the parking of coaches overnight. Although no details of an alternative site have been provided, the Applicant promotes that an off-site arrangement could be secured by a condition of consent, whereby the Applicant would provide to Council, prior to occupation of the hotel, evidence of an approved lease valid for the duration of the hotel activity. We agree that such a condition offered by the applicant would be appropriate, if consent was granted, and concur that this would avoid or mitigate adverse effects associated with coaches/buses parking on the site over-night.
128. There is agreement that the proposal complies with the number of on-site car parking spaces. We note that the amended design reduces the amount of car parking spaces by one, to 44 spaces. The deleted car park space was proposed to be used as a 'pick up' space for departing guests and Mr Smith is of the opinion that with this reduction there will only be one 'pick up' space. In his opinion, valet staff will now only be able to deliver one vehicle at a time and

guests will have to wait around the pick-up area for their cars resulting in potential conflict with vehicle movements. Ms Macdonald's right of reply confirms that 2-3 front desk staff are required for the operation of the valet parking service, plus one additional staff member for the actual valet parking. We are concerned that with one staff member for valet parking this will result in delays with the delivery of guests cars and result in a people waiting outside the hotel for their vehicles, especially when multiple guests check out or depart the hotel at the same time. We also note that the proposal does not provide a waiting area. We agree with the further comments received from Mr Clifford representing Blue Peak Motel where they state:

*"it is feasible that multiple guests could be waiting outside the hotel, as to bring a car to the front of the hotel the valet staff member would need to first enter the locked car park facility, potentially manoeuvre vehicles in the car park in order to access a vehicle off an upper stacker, drive out onto Frankton Road, turn left into Stanley Street, turn left into the hotel and then park in the one hotel loading zone space (if this space is actually available). He/she is then required to continue this procedure for the next guest."*

129. In addition to these concerns, we observed during our site visit that traffic frequently queues along Stanley Street on the approach into town. We understand that this situation is not uncommon. This traffic congestion would create a delay in carrying out the left hand turn into Stanley Street, resulting in a slower delivery time for the valet service.
130. Dr Chiles is of the opinion that as multiple people will be waiting for their cars, adverse noise effects could occur on the adjoining properties. Dr Chiles supports the removal of over-night coach parking but remains of the opinion that time restrictions will need to be enforced for coaches and delivery vehicles. He also advises that noise associated with loading has the potential to exceed the noise limits causing adverse effects on the neighbouring properties.
131. We agree with the conclusions of Dr Chiles and Mr Smith and find that the proposal will result in adverse effects that are more than minor on traffic safety and amenity values for the adjoining properties.
132. Assessment matter (g) is concerned with the extent to which the safety and efficiency of the surrounding roading network would be adversely affected by parked and manoeuvring vehicles on the road. The revised proposal references the use of existing bus stops and a proposed new bus stop located on Stanley Street. We accept Mr Smith's opinion that these bus stops are critical to the efficient operation of the new bus service for Queenstown, and the use of these stops by tour buses loading and unloading could negatively impact on this public bus service. Further, we accept Mr Smith's concern that a coach parked in the proposed public bus stop could block sightlines while another vehicle makes a left turn in, resulting in vehicle/pedestrian conflicts on the footpath, and that no sightline assessment of this issue has been submitted.
133. In regard to assessment matters (i) and (j), we agree with Mrs Carter, that the location of the hotel is appropriate as it is located in close proximity to bus stops; on a major transport route into Queenstown; and is a short walking distance to the CBD. We also agree with Mrs Carter that the use of public transport should be encouraged, but we find that the use of the public

bus stop for the proposed hotel pick-up and drop-off could impact to the use of public transport.

134. We consider that assessment matters (l), (m) and (n) are not relevant to our considerations of the proposal.
135. Of the relevant matters specified, we find that the proposal is generally aligned with the assessment matters in regard to the number of on-site car parks provided, the location of the hotel and that secured over-night coach parking can be provided off-site. However, we find that the proposal is not aligned with traffic safety associated with on-site vehicle movements and potential conflicts at the site entrance if buses are parked on Stanley Street. In addition, we find that there will be adverse noise effects associated with loading areas on the adjoining properties, including the Blue Peaks and the Wakatipu View Body Corporate site.

*Parking and Loading Area and Entranceway Design*

136. The design of the car park and loading area and on-site circulation and manoeuvring is a key issue for assessment and concern to us. Assessment matter *14.3.2iv Parking and Loading Area and Entranceway Design* requires us to have regard to:
- (a) the safety and security of people and vehicles using the facility,*
  - (b) the extent to which safety of pedestrians on and off site will be affected,*
  - (c) adverse effects on the amenity and character of surrounding properties and public areas,*
  - (d) Adverse effects on the safety and efficiency of the frontage road;*
  - (e) The extent to which any reduction in the design characteristics could result in the parking and loading area and/or access manoeuvring areas being impractical, inconvenient or unsafe being used by vehicles or pedestrians; and*
  - (f) Any cumulative effects of the reduction in the design characteristics in conjunction with the effects generated by other activities on the frontage road*
137. We accept the advice of the traffic experts that the location of the entry and exit points are acceptable, subject to minor amendments. We also accept the advice of the traffic experts that the disabled parks are located in an appropriate position.
138. Vehicle circulation and on-site manoeuvring were identified as key issues in Mr Woodford's s.42A Planning Report, Mr Smith's evidence and during the hearing. While compliance with car parking numbers can be achieved, it has been identified that the proposal does not comply with the design of the car park, aisle width and access. Mr Smith concludes that the car park design will be unusable and that the on-site layout and manoeuvring areas will be unsafe for both pedestrians and vehicles. The layout includes parallel parking on both sides and Mr Smith identifies that the aisle width is too narrow and will not provide an acceptable design for car parking and coach vehicle movements. We accept this advice.

139. Mr Smith advises that tour coaches would have to carry out a reverse manoeuvre to access the coach park, in an area also used for vehicle pick-ups. Mr Smith identifies that this area is likely to have multiple people standing around the tour coach while passengers and luggage are being loaded/unloaded, potentially at the same time as cars are being picked up. In regard to assessment matters (a), (b) and (e) we agree with Mr Smith and conclude that the proposal could result in adverse effects on pedestrian safety, the security of vehicles, and amenity effects on the adjoining properties that are more than minor.
140. In regard to (c) effects on the amenity of surrounding sites, Dr Chiles has assessed the amended proposal and supports the removal of over-night coach parking and that this avoids a potential adverse noise source. However, he remains of the opinion that time restrictions will need to be enforced for coaches/buses and delivery vehicles entering the site and that a physical barrier should be installed. Dr Chiles remains of the opinion that noise associated with loading has the potential to exceed the noise limits and that this effect has not been adequately assessed in relation to vehicle size, timing and frequency. We accept this advice and are of the view that the amenity of the adjoining sites will be affected to a more than minor degree.
141. In regard to (a), (b) and (e), we accept the evidence of Mr Smith that the revised landscaping (although assisting to mitigate the design of the building) could block drivers visibility of people on the footpath and result in people parking their cars further away from the proposed fence/wall to avoid stepping into the garden area or damaging their cars, and this greater off set could impact on the efficiency of on-site vehicle circulation.
142. In light of the evidence presented, we consider that assessment matter (e) and (f) are particularly relevant. Although compliant with car parking numbers, we are of the view that car parking needs to be workable, safe, efficient, easily accessible and convenient to minimise the amount of on-street parking, which protects traffic function of the road network and the amenity values of the town and residential areas. We also accept the evidence of Mr Smith that the adoption of multiple minimum standards and the use of below standard for the aisle width design has resulted in an unacceptable design for car parking and coach vehicle movement. Mr Smith is of the opinion that the parking and manoeuvring layout will be unusable and could be unsafe for both pedestrians and vehicles. We accept this advice. Mr Woodford concludes that this will result in adverse effects that are more than minor, and we concur with this opinion.
143. In the amended proposal, Ms Macdonald maintains it is unnecessary and inefficient to provide a dedicated exclusive use disabled car park. We accept the advice of the traffic experts, that the location and design of the disabled parking spaces is appropriate, but prefer the evidence of Mr Smith that disabled parking spaces should be for the exclusive use of people with disabilities, rather than Mr Bartlett's opinion, that in this case, a shared use is appropriate. We note that Ms Macdonald's right of reply suggested that the applicant would accept a condition to this effect if we came to this view. We agree that people with disabilities should have easy unrestrictive access to car parks designed for their needs. We acknowledge that the Applicant is prepared to offer an exclusive use disabled park, and that this could be achieved by a condition of consent, in the event that consent is granted. We agree with this approach.

144. We understand that there will be no public access to the basement car park area. After hearing the evidence, we are concerned that the design of the car park stackers restricts vehicles of a certain size, specifically larger SUV's or vehicles fitted with a roof box that exceed 2.2m in height. Mr Smith does not dispute the height requirement of 2.2m, but is concerned that vehicles taller than 2.2m, or a vehicle fitted with a roof box that exceeds 2.2m in height could not fit into the basement car park. We acknowledge that there are limited car parking spaces available elsewhere on site that can accommodate these types of vehicles. However, the Addendum report by Mr Woodford identifies an inconsistency over the actual number of external car parks available for larger type vehicles. In Ms Macdonald's right of reply she states that there are two non-stacker parks in the basement and 10 car parks at ground level. Mr Smith identifies that Plan 109 - *Vehicle Access and Parking Revised Parking Layout, December 2017*, shows six car parks available on the ramp, of which one park is allocated as staff car park, two parks allocated as drop off, one car park allocated for disabled parking and one car park allocated for pick-ups. We are of the view that these proposed uses reduces the availability of car parking spaces for larger type vehicles.
145. Further to the above, Mr Smith is of the opinion that Queenstown is an Alpine resort and as such, the proportion of vehicles that exceed 2.2m (especially during the winter months) would be greater than other places, and that in his opinion, the proposal does not provide sufficient ability to cater for these larger vehicles. We acknowledge that no specific evidence was presented on the numbers of larger SUV type vehicles that use hotels, but accept Mr Smith's opinion, and based on their own observations and experience, larger rental SUVs, including those fitted with roof boxes are a common sight in Queenstown, especially during the ski season.
146. Overall, we find that the proposal is not aligned with a number of the relevant assessment matters, particularly in regard to safety of pedestrians on site, and that the car park design will be unusable and that the site layout and manoeuvring areas will be unsafe for both pedestrians and vehicles. We find that the adverse effects will therefore be more than minor.
147. Other relevant assessment matters are contained in 14.3.2 v Access. These assessment matters are concerned with adequate sightlines, safety and efficiency of the road, potential conflicts, operating hours and peak flows, speed and volume of vehicles, geometry of the road, public transport, proximity of other uses, off site coach parking, reverse manoeuvrings, width of access, potential future development and redesign.
148. We acknowledge that some of these assessment matters are similar to the assessment matters contained in 14.3.1 (iii) Parking and Loading, such as (i) proximity to existing public transport, (j) proximity to residential areas, visitor accommodation, commercial offices and town, and (k) ability for coach parking to be provided off site. To avoid repetition, a further assessment of these matters will not be repeated.
149. In regard to assessment matters (a) and (b), we accept the advice that the location of the entry and exit points are appropriate, and that the safety and efficiency of Stanley Street and Frankton Roads will not be compromised. We also accept that given the site constraints and the mitigation proposed, the distance of the vehicle crossing to the intersection is appropriate, subject to the conditions imposed on any consent granted.

150. Assessment matter (c) is concerned with the extent to which conflicts between vehicles could be created by vehicles queuing across the vehicle crossing and confusion between vehicles turning at the crossing thereby adversely affecting the safety of the road. This issue has been assessed above and will not be repeated here.
151. We are of a view that assessment matters (d), (e) and (f) are not particularly relevant to the assessment of the application. The site is not a rear site, and the Commission are of the view that assessment matter (l) is not relevant.
152. We are of the opinion that assessment matters (m), (n), (o), (q), (r) and (s) are not relevant as they relate to the effects of a reduced width of access, future development and the reduced width being mitigated by passing areas and turning heads. We also find that assessment matter (p) and (t) are not relevant.
153. Accordingly, we have concluded that irrespective of complying car park numbers, the car park design will be unsuitable for the needs of the proposed hotel and that the on-site layout and manoeuvrings areas will be unsafe for both pedestrians and vehicles and the resultant traffic safety effects that will occur as well as the adverse effects on amenity of the adjoining properties will be more than minor. Moreover, we believe that adverse effects could not successfully be remedied or mitigated through the use of conditions.

#### **Section 104D Effects assessment**

154. Based on the areas of contention we find that the adverse effects in terms of traffic and urban design are more than minor. Noting that the urban design issues could be addressed with minor design amendments. As a result, the proposal fails the adverse effects gateway test pursuant to s.104D. We shall now turn to the issue of whether the proposal is contrary to the objectives and policies of the Operative and Proposed District Plans, noting the appropriate weighting to be assigned to the Proposed District Plan.

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#### **OBJECTIVES AND POLICIES**

155. It was common ground between the planning witnesses that relevant plan provisions include those in the Operative District Plan, the Proposed District Plan, and relevant provisions of the Otago Regional Policy Statement. Given the current status of the Proposed District Plan, as we have considered above, we find that the Operative District Plan has far more statutory weight than the Proposed District Plan. However, the Proposed District Plan is still a relevant consideration.

#### **Operative District Plan**

156. The planning witnesses (Mr Woodford and Mrs Carter) were in general agreement over which Operative District Plan objectives and policies were relevant to this application.<sup>1</sup> These include objectives and policies in Parts 4 (District wide), 7 (Residential), 13 (Heritage), 14 (Transportation) 18 (Signs) and 22 (Earthworks) of the Operative District Plan. We have not

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<sup>1</sup> Paragraph 7.2.1 of Mr Woodford's 42A report and Part 8 of Mrs Carter's planning evidence in chief.



set these out in detail here, as they are contained within Appendix 8 of Mr Woodford's s.42A report for reference.

157. It was also common ground between the planning witnesses (Mr Woodford and Mrs Carter) that the proposal was consistent with the objectives and policies in Parts 4 (District wide), 13 (Heritage), 18 (Signs) and 22 (Earthworks) of the Operative District Plan. We agree, and based on the planning witnesses' evidence we find that the use of the site for visitor accommodation of this type is appropriate in this location and meets the intentions of the objectives and policies of Part 4 of the Operative District Plan. We find that the protection of the Wellingtonia Tree as proposed meets the intentions of the objectives and policies in Part 13 of the Operative District Plan. We also find that the proposed signage is appropriate and meets the objectives and policies in Part 18 of the Operative District Plan. Finally, we find that the proposed earthworks are appropriate in scale to the activity and meets the objectives and policies of Part 22 of the Operative District Plan.
158. This leaves Parts 7 and 14 of the Operative District Plan which reflect the areas of contention between the parties in terms of urban design (as described above), landscaping and traffic engineering.

#### **Part 7: Residential**

159. In turning to Part 7 (Residential) it was common ground between the planning witnesses (Mr Woodford and Mrs Carter) that the proposal was consistent with Objective 1 (Availability of Land) and its supporting policies. We agree, and find that the proposal consistent with this objective and supporting policies.
160. Mrs Carter referred us to Objective 2 (Residential Form) and its supporting policies and it was her view that the proposal is consistent with these. Mr Woodford does not include them within the objective and policy assessment in his S.42A report. We agree with Mrs Carter, and based on this, with our own reading of this policy framework, we find that the proposal is consistent with Objective 2 and its supporting policies.
161. There was significant disagreement between the planning witnesses as to whether the proposal is consistent with Objective 3 (Residential Amenity) and its supporting policies. In saying this the major disagreement appears to be around policies 3.4, 3.9 and 3.13. Mrs Carter, relying on the evidence of Ms Skidmore and Mr Bartlett is of the view that the proposal is consistent, whereas Mr Woodford takes a different view.
162. Policy 3.4 seeks to ensure *"that the external appearance of buildings reflects the significant landscape values and enhance a coherent urban character and form as it relates to the landscape"*. We find that this policy is primarily aimed at ensuring the building reflects the appropriate landscape issues as opposed to the urban design issues associated with bulk and massing, street character and urban fabric. As a result, we agree with Mrs Carter and find that the proposal is consistent with this policy.
163. Policy 3.9 seeks to provide for on-site parking, with options of off-site parking arrangements in close proximity to the site to ensure residential amenity and functioning of the street are

maintained. As we expanded upon in our analysis of Part 14 (Transportation), based on the evidence of Mr Smith we find that the proposal is contrary to this policy.

164. Policy 3.13 *“require an urban design review to ensure that new developments satisfy the principles of good design”*. As we considered in detail in the urban design effects assessment above, we found that the urban design effects were more than minor as it relates to the Frankton Road elevation treatment. As a result, we find that the proposed is contrary to this policy.

#### High Density Residential Zone

165. In terms of the High Density Residential Zone, Mrs Carter is of the view that the proposal is consistent with Objective 1 (Amenity Values) and its supporting policies. Mr Woodford does not make reference to these in his s.42A report. This may have to do with the point that this objective and supporting policies are aimed at ‘high density’ residential developments. We agree with this view and find that the policy framework is not relevant to our consideration of the proposal.
166. However, we do find that Objective 3 (Vitality of Town Centres) and supporting policy 3.1 are relevant. We also find that the proposal, which does provide for further visitor accommodation in close location to the Queenstown town centre is consistent with this policy framework.

#### **Part 14: Transportation**

167. The relevant objectives and policies are set out in Part 14 Transportation, which will be considered in detail below, given our finding regarding the adverse traffic engineering effects.
168. We consider that the proposal is generally aligned with Objective 1 – Efficiency, which seeks to achieve an efficient use of the District’s existing and future transportation resource and in particular, Policy 1.3, as we accept that the activity is compatible with the capacity of the road and its function. We are also of the view that the proposal is aligned with Policy 1.4 in that the safety and efficiency of traffic on the State Highway and arterial roads will not be affected by the access which is also supported by the amended neutral submission from the NZTA. However, we note Mr Smith’s concerns regarding coaches parking on the road which may have an adverse effect the road network. Further to the above, we agreed that the location of the hotel is appropriate. We are of the view that the proposal is not aligned with Policy 1.9, where although car parking numbers are compliant with District Plan minimum parking numbers, we accept the advice of Mr Smith and Mr Woodford that the loss of safety and efficiency on site could affect the efficiency of the adjoining roads. We agree that the proposal is consistent with Policy 10 in regard to the access to the property.
169. Objective 2 – Safety and Accessibility seeks to ensure maintenance and improvement of access, ease and safety of pedestrians and vehicle movements. With reference to Policy 2.2 we accept that the activity is compatible with the road capacity and function. However, accepting Mr Smith’s evidence we are concerned with vehicle and pedestrian safety. We have concluded that the imposition of a suitably worded condition will ensure that the disabled park is for the exclusive use of people with disabilities, therefore satisfying Policy 2.3.

170. We accept Mr Smith's advice that if a coach is parked on Stanley Street, it could impact on sight lines and result in conflict between pedestrians and vehicles (Policy 2.6).
171. Objective 5 – Parking and Loading General is concerned with making sure that there is sufficient accessible parking and loading facilities to cater for the demand created by the activity, whilst controlling adverse effects. We do not consider that car parking is available, convenient and accessible for the users and that the proposal does therefore not satisfy Policy 5.3.
172. Further, we do not accept that the design of the car park, layout, manoeuvring and circulation areas will ensure the safety of pedestrians and vehicles as sought by Policy 5.5. We are of the opinion that a well-managed on site transport system needs to maximise safety, adequately cater for parking requirements and minimise adverse effects.
173. We accept that with the location and use of public transport the proposal is not contrary to Objective 6 – Pedestrian and Cycle Transport, but note that there is a potential safety issue if a coach is proposed to be parked on the road. Further we accept that the proposal is not contrary to Objective 7 in regard to public transport.
174. Overall, we agree with Mr Woodford's evidence and find the proposal contrary to a number of key objectives and policies contained in Part 7 and Part 14 of the Operative District Plan. While we accept a policy assessment is not a numbers game and the District Plan must be read as a whole, we find that the objectives and policies which relate to the key issues of urban design and especially traffic engineering leave us with a finding that the proposal is contrary to the Operative District Plan, especially in the area of traffic engineering.
175. As a result, we find that the proposal is contrary to the objectives and policies of the Operative District Plan and fails the second gateway test of s.104D.

### **The Proposed District Plan**

176. The PDP was publicly notified on 26 August 2015, and its provisions are currently subject to ongoing hearings. Because no decisions have been issued on the Proposed District Plan, we have found little weight can be placed on its content.
177. Part 2 of the PDP (Strategic Directions) promotes containment of urban growth and compact development patterns subject to high quality urban design (e.g. Objective 3.2.2.1, Objective 3.2.3.1). Increased density is also anticipated in certain locations (Policy 3.2.3.1.2) and under Part 4 (Urban Development) by reference to Objectives 4.2.3 and 4.2.4. These have an indirect application to the pattern of development in central Queenstown. We find that the proposal is consistent with the objectives and policies which relate to the urban design associated with the appearance of building form in the public domain.
178. As already noted above, those provisions relating to visitor accommodation in Part 9 have been withdrawn from the Proposed District Plan with submissions about to close on a proposed variation. As a result, we find that very little weight can be assigned to this. We noted for completeness that while the policy framework is different, the proposal would suffer the same problems as those under the Operative District Plan

179. Stage 2 of the Proposed District Plan contains Part 29 Transport. This part of the Plan seeks a well-managed transport network that needs to be safe and efficient and provide for all modes of transport. Key changes in this part of the Plan relate to new rules to better enable new car parking, park and ride, ferry services and public transport facilities, reduced parking requirements, specific consents required for high traffic generating activities and updated road classifications. We are of the view that objective 29.2.2 is relevant which seeks parking, loading, access and on-site manoeuvring that are consistent with the character, scale, intensity and location and contribute towards a safe and efficient transport network, compact urban growth, economic development, and facilitating an increase in walking and cycling and achieving residential amenity. In particular Policy 29.2.2.1 is concerned with the type and design of parking and access and seeks to ensure it is safe and efficient for users. In our view these Objectives and supporting Policies are similar to the Operative District Plan and we find that the proposal would be contrary to Part 29 of the Operative District Plan.

### **The Proposed Otago Regional Policy Statement (PRPS)**

180. Although a reasonably substantial development, we do not consider that the proposal raises issues of regional significance.
181. **SECTION 104D DETERMINATION**
182. Based on our assessment above, we have concluded that the proposed activity will have more than minor adverse effects and that the proposal is contrary to the objectives and policies of the Operative District Plan and the Proposed District Plan.
183. Accordingly, we do not have the jurisdiction to undertake a s.104 assessment and the application must be refused consent. However, we note for completeness that while we did not undertake a s.104 assessment we had come to the initial view, based on our traffic engineering assessment that the adverse traffic engineering effects could not be mitigated through the appropriate conditions of consent, unlike urban design and would therefore have most likely refused consent on these grounds.

### **DECISION**

Pursuant to Section 104D of the Resource Management Act 1991, for the reasons considered above the application is **Declined Consent**.

**Commissioner (Chair) Dr Lee Beattie**

**Commissioner Ms Jane Sinclair**

Date 20 Feb 2018