



DECISION OF THE QUEENSTOWN LAKES DISTRICT COUNCIL
RESOURCE MANAGEMENT ACT 1991

Applicant:	Longshot Limited
RM Reference:	RM160684
Location:	54 Old School Road, Queenstown
Proposal:	Consent is sought to subdivide Lot 2 DP27251 and Pt Section 140 Blk 111 Shotover SD, to create three lots (within two titles) and to identify a residential building platform on proposed Lots1 and 2
Zoning:	Rural General
Activity Status:	Non-complying
Notification:	Public
Commission:	David Clarke and Jan Caunter
Date	8 May 2017
Decision	GRANTED

Under the Resource Management Act 1991

IN THE MATTER OF an application by Longshot Limited to the Queenstown Lakes District Council for consent subdivide Lot 2 DP27251 and Pt Section Blk 111 Shotover SD and create three lots and to identify a residential building platform on Lots 1 and 2.

Council File: RM160684

DECISION OF DAVID CLARKE AND JAN CAUNTER HEARING COMMISSIONERS APPOINTED PURSUANT TO SECTION 34A OF THE RESOURCE MANAGEMENT ACT 1991

INTRODUCTION AND BACKGROUND

1. The hearing took place at the Crowne Plaza Hotel, Queenstown, on 6 March, 2017. We undertook a site visit prior to the hearing, viewing the proposal from Old School Road and walking across the site, identifying the proposed Lot 3, the building platform on Lot 2 and the existing dwelling on Lot 1. We also noted the location of the Shotover River in relation to the site and the public access from Old School Road to the river.
2. Appearances were made by the following parties for the applicant. Mr Graeme Todd, legal counsel; Mr Tim Williams, planner; Mr David Hamilton, consulting engineer and Mr Ben Espie, landscape architect. The applicant, Mr George Wilson also offered information during the hearing.
3. Appearances were made by submitters on behalf of the Otago Regional Council (ORC) which opposed the application. They were Professor Tim Davies (via speaker phone) a Professor in the Department of Geological Sciences at the University of Canterbury; Mr Fraser McRae Director of Policy, Planning and Resource Management at the Otago Regional Council and Dr.Gavin Palmer a Civil Engineer and Director, Engineering, Hazards and Science at the Otago Regional Council.
4. QLDC staff present at the hearing included Ms. Katrina Ellis, processing planner (note: Mr Jake Woodward produced the s42A report but left the employ of QLDC and Ms Ellis took over the application) and Mr Alan Hopkins consultant engineer. Ms Rebecca Nash-Jones

was the committee secretary. Ms Helen Mellsop was the council's consultant landscape architect for the hearing but was not present at the hearing.

5. Papers from the applicant and submitters had been pre-circulated, with additional papers tabled at the hearing.
6. The hearing was adjourned on 6 March. As the hearing ran all afternoon, the Council required time to prepare written closing comments. We received these on 7 March. The applicant's counsel also sought to provide a written 'right of reply'. This reply was received by the panel on 28 March and deliberations were then undertaken. Further information was sought in relation to consent conditions and the hearing was formally closed for decision drafting on 10 April 2017.
7. During the drafting of the decision an inconsistency was noted in the reflectivity values identified by the applicant on wall and roof cladding. The percentage values changed between the landscape structure plan attached to the application and an amended plan presented at the hearing. The Commission sought that the values originally submitted be reinstated on a revised landscape structure plan and a minute was sent on May 1 to the applicant via the processing planner to request this. A revised plan was sent to the Commission on May 3.

THE PROPOSAL

8. Consent is sought to subdivide Lot 2 DP27251 and Pt Sec 140Blk 111 Shotover SD to create three lots that will be held within two Computer Freehold Registers, and to identify a residential building platform on proposed lots 1 and 2. It is proposed to access the sites via Old School Road.
9. Lot 3 is to be amalgamated with Lot 1 and no residential building platform is proposed for Lot 3.
10. A residential platform is proposed around the existing dwelling on Lot 1. It is proposed that this platform will have an area of 500m². The applicant seeks a 6.1m height limit for built development on this platform.
11. Lot 2 is to contain a residential building platform of 647m². The platform will be located within the 15m internal setback as well as the 20m road setback. The proposal includes volunteered landscaping and design controls for buildings on proposed Lot 2. This includes a maximum height of 5.0m above the modified ground level with one element of the building (up to 45m²) being up to 7.0m in height.
12. Servicing for water will be via a new bore. Wastewater servicing will be via a new reticulated network proposed to be installed. Storm water disposal will be achieved via an onsite soakage pit. Power and telecom will be provided from public reticulated network.
13. The land presently contains additional dwellings, storage facilities, machinery and a number of other buildings including dwellings. We are unsure of the exact status of some of these buildings, but the s42A report indicated that some of them were unconsented and had been subject to past QLDC enforcement action.
14. In relatively close proximity to the site to the east, is the Shotover Country housing development (Stage 14) where dwellings are currently being constructed. Next to that and

closer to the subject site is the proposed Shotover Country Special Housing Area (SHA) where 101 lots are sought. This application (SH160139) was granted on 4 May 2017.

NOTIFICATION AND SUBMISSIONS

15. The application was publicly notified by the QLDC on 5 October 2016 with submissions closing on 3 November 2016. Two submissions were received by the closing date, with one additional submission received out of time. Avi and Wendy Yochay supported the application and the ORC opposed the application. The late submission by Helen and Preston Stevens also opposed the application. This late submission was received and considered under Section 37 of the RMA.
16. The submission in opposition from the ORC relates to natural hazard concerns, while the submission from Helen and Preston Stevens relates to ad hoc further development along Old School Road.

WRITTEN APPROVALS

17. The applicant provided written approvals from Alan and Rebecca Paris and Shotover Country Limited. Any adverse effects on these parties have not been considered.

SUBMISSIONS AND EVIDENCE

18. **Mr Todd** presented oral legal submissions for the applicant. He told us the applicant had lived on the site for many years and had been present during the 1999 flood. The existing house and site was not subject to inundation. He noted the ORC had undertaken river training works and that the Queenstown Lakes District Council had constructed the new sewerage works across the river at a level lower than this site. The buildings on Lot 3 of the applicant's site are proposed to be removed, although Mr Todd did raise the question of existing use rights for these buildings as they once used as a campground.
19. Mr Todd submitted that the Otago Regional Policy Statement allowed for the mitigation of natural hazards and was not focused on avoiding risk. He suggested there could be a consent notice or advice note included within consent conditions warning of the possibility of flooding. The applicant did not think this was necessary, but it was volunteered.
20. **Mr Wilson**, the applicant, provided oral evidence on the floods he had experienced at the site, bank erosion and the fencing. He confirmed he was happy to volunteer a statement be put on the title warning of the potential for flooding. He confirmed the concrete fence was mostly within the road reserve and was designed to keep horses out, and accepted this fence should be removed. The cycleway was accurate to the boundary. He accepted he would have to move the fences back from the river boundary.
21. **Mr Hamilton** presented a summary of his written evidence and read out a supplementary statement addressing the building floor level, the hydraulic modelling, the section 42A report, climate change, erosion and responded to the evidence lodged by the ORC. He concluded that the mitigation for the flood hazard proposed through the minimum building platform level was suitable for the site.

22. **Mr Williams** provided a summary of his written evidence and concurred with the Council's assessment of the Otago Regional Policy Statement and precedent effects, which had not been addressed in the application.
23. **Professor Davies** gave evidence for the ORC. He spoke to his written evidence via teleconference. He was of the opinion that the most serious threat to the proposed development was a major sediment input to the gorge reach of the Shotover River which would lead to a major episode of aggradation to the delta. He noted it was not possible to credibly estimate the probability of major landslides into the Shotover gorge in the next 100 years and therefore, in his opinion, a risk-based approach was not possible. There was a lack of record of events from the past and an unknown degree of seismic activity in the area. He noted that in the high country areas of the South Island, an earthquake could occur just about anywhere. He concluded that there was a possibility of a landslide which would cause the delta to increase in level, such that it could generate large flows of water and sediment.
24. **Dr Palmer** provided a summary of his written evidence. He noted the delta was dynamic and changed, and was difficult to predict. He noted the more up to date information now available on climate change, which forecast more rain in coming years for this part of the country. Dr Palmer was of the view that any building level on this site should be raised if the risk from the river increased. He was of the view that a properly engineered platform would provide more assurance than a building on piles. He considered the development would put people and property into a dynamic environment with limited ability to adapt to future changes in the environment and that consent should be declined.
25. **Mr McRae** provided a summary of his planning evidence and noted with us the intent behind the proposed regional policy statement to avoid risk. He was of the opinion that the site was already exposed to flooding risk.
26. For the Council, **Mr Hopkins** did not resile from his original report and addressed the engineering evidence of the applicant and ORC. He remained of the view that there was sufficient evidence to demonstrate that a future dwelling on Lot 2 would be free from significant flood risk based on accepted best practice, that the unquantifiable risk could be accepted and that the likelihood of a natural hazard event was significantly low.
27. **Ms Mellsop's** written report confirmed a significant level of agreement with the landscape assessment of the applicant, subject to some matters being addressed, namely the height of the building on Lot 2, the removal of structures on Lot 3 and details of the planting plan. She later confirmed that the revised planting plan addressed most of her concerns, subject to the roof materials having a LRV of 20% or less, as stated in the application. She supported the proposed height limit of 5.9m from RL 316.45 for Lot 2. She confirmed to Ms Ellis that the comments in her original report relating to structures on the site was intended to cover both materials and structures.
28. **Ms Ellis** referred us to the written report prepared by Mr Woodward which she had adopted and noted her opinion that a house on piles would be easier to shift under an adaptive management regime than concrete slab foundations. She was of the opinion that if a hazard event did occur, there would be time to get people off the site. She otherwise addressed the proposed consent conditions.
29. The above evidence will be addressed in more detail as we evaluate the proposal.

RECOMMENDATION OF THE PROCESSING PLANNER

30. Mr Woodward recommended that the application overall could be granted subject to conditions. This conclusion was reviewed and adopted by Ms Ellis.

ASSESSMENT FRAMEWORK

31. The subject site is zoned Rural General in the Operative QLDC District Plan. The purpose of the Rural General zone is outlined in the Plan. The zone is characterised by farming activities including horticulture and viticulture but also includes alpine ski areas and national park land.
32. The site is a narrow piece of land that while zoned Rural General could not be considered large enough to be utilised for any farming or horticultural activities. It is an extension of residential development on Old School Road, more akin to rural residential or rural lifestyle zoning. It also sits adjacent to the Shotover Country Special Zone, a zone established on former Rural General land.
33. The application requires a resource consent for both land use and subdivision for the following reasons as outlined in the s42A report.

Land Use

- A **restricted discretionary activity** pursuant to Rule 5.3.3.3(xi) for any activity that complies with the relevant Zone Standards, but does not comply with one or more of the relevant Site Standards
- A **non-complying activity** pursuant to Rule 5.3.3.4 (vi). The proposed residential building platforms on Lots 1 and 2 do not conform to Zone Standards 5.3.5.2(ii) with respect to setback from the road boundaries (20 metres). The proposed platform on lot 1 will be located 5.63 metres from the sites southern legal road boundary and the proposed building platform on lot 2 will be located 4.5 metres both from the northern and eastern legal road boundaries.

Subdivision

- A **discretionary activity** pursuant to Rule 15.2.3.3(vi) for all subdivision in the Rural General Zone and location of residential building platforms.

ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

34. We concur with the planners that the actual and potential effects relate to:
- Landscape Effects
 - Traffic Generation and Vehicle Movements, Parking and Access
 - Infrastructure
 - Subdivision design and layout
 - Earthworks
 - Natural Hazards

Landscape Effects

35. The applicant presented a landscape report by Mr Smith of landscape architectural firm, Vivian and Espie. His conclusion was:

“that the proposed development will have a slight to less than moderate degree of effect on the landscape character of the site and on the visual experience of users of surrounding public and private places¹”

36. With regards to visual effects he accepted that the proposed building platform will be visible from a 450m section of the Twin River Cycle Trail. Vegetation would screen the proposal from the river reserve land. The site would be visible from SH6 in glimpses, but this would be viewed in the context of surrounding trees and a number of other dwellings in the immediate vicinity on Old School Road.

37. A structural landscape plan was attached to his evidence (1063-SLP-PP Dated 22-03-2016). It contained building conditions and restrictions for landscaping and built development on Lot 2. These conditions were:

- Buildings to be gabled form with roof pitches between 30 and 45 degrees
- Flat roof areas are permissible as linking elements between gabled form but shall not constitute more than 15% of the overall roof area
- All built form within the building platform shall be no greater than 5 metres in height above the existing ground level
- One element of built form may extend to a maximum height of 7 metres above existing ground level
- Building materials should be stacked local stone, corrugated iron, solid plaster or similar with a light reflectance value of 36%
- Roofing shall be of steel, timber shingles or slate. Roof cladding materials shall have a LRV of 20% or less
- Landscape planting to be done in accordance with the Structure Landscape Plan
- All outdoor activities (including paved areas, decks, carparking, play equipment, outdoor living areas and outdoor storage areas) are to be contained within the curtilage area detailed on the Structural Landscape Plan.

38. Ms Mellsop, consulting landscape architect for QLDC, presented a written assessment of the application. She largely agreed with the findings of Mr Smith’s report with the following exceptions:

- The proposed 7 metre section of any new dwelling on Lot 2 would inappropriately increase the prominence of the dwelling in a sensitive location beside the Shotover River. Ms Mellsop did not believe this higher part of the building could be adequately screened or mitigated and sought a 5 metre height restriction to any built form on Lot 2
- The need for the removal of *unconsented domestication, built form and outdoor storage of materials in the southern part of the application site and on road reserve and riverside public land²*
- The removal of any fences that restrict access to public land.

¹ Paul Smith Landscape report for applicant Para 62

² Mellsop Report Para 10

39. At the hearing Mr Ben Espie of Vivian Espie presented a revised landscape plan for Lot 2 (1063-SLP-PP3 Dated 03-03-2017). It included the maximum height restriction sought by Ms Mellsop and additional planting especially on the riverside boundary. The plan outlined the planting grades of the trees and shrubs to be planted and a slightly revised suite of building conditions and restrictions. There was one notable change, whereby the reflectivity of any roof materials were identified as the same 36% or less value of any wall cladding material. Previously the reflectivity of roofing material had been identified at 20% or less. Ms Mellsop considered that 20% or less reflectivity offered for the roof and 36% or less reflectivity offered for the wall cladding, was appropriate and should be retained.
40. We note at the hearing it was identified that the finished platform height should be RL316.45 amsl and not RL316.49 amsl. This is explained later in the decision.
41. We agree that the revised landscaping plan is appropriate. Rowan trees were identified on the original landscape plan and as Rowan trees are now considered a wilding species, these need to be replaced with another species. We also agree with Ms Mellsop that the maximum height for any built form on Lot 2 should be 5 metres above the ground level of RL316.45amsl.
42. In his right of reply, Mr Todd attached a revised landscaping plan,(1063 SLP-PP3 Dated 14-03-2017) which shows the rowan trees replaced with Gleditsia trees.
43. To resolve the reflectivity issue, a revised landscape structure and planting plan was sought (as per paragraph 7) and this was received and is to our satisfaction. This plan (1665-SLP-PP6 Dated 01-05-2017) is now the landscape structure plan attached to the decision.
44. In Mr Smith's landscape report for the applicant *the removal of sheds, containers, vehicles, equipment, materials and the like and a general tidy up of the locality of the proposed building platform*³ is offered. We note that this offer was not included in the applicant's AEE.
45. In order to avoid, remedy or mitigate adverse effects on the landscape character and on views and visual amenity we support Ms Mellsop's recommendations regarding the removal of unconsented (our emphasis) structures and the removal of any fences that restrict access to public land. We note that alternative access may be provided through the site to the river reserve and if this occurs it needs to be easily identifiable as public access and not read as private land.
46. In his right of reply, Mr Todd suggested there may be some form of existing use rights for buildings on the site and suggested that consideration be given to allow them to remain, given no submitters objected to them and that in some cases the huts/houses are providing affordable living. There was no evidence presented at the hearing regarding this and as outlined above, both Mr Smith and Ms Mellsop's respective reports suggest the removal of unconsented structures is required to mitigate adverse effects.
47. All other landscape and building conditions and restrictions are appropriate and this is covered by conditions of consent.
48. We consider that with the changes made as outlined above, the proposal will mitigate any adverse landscape effects.

³ Smith assessment Para4

Traffic and Vehicle Effects

49. Mr Hopkins did not raise any concerns relating to traffic and vehicle issues, nor did Mr Woodward. A vehicle access already exists to proposed Lot 1 and the dwelling located there and this driveway will be used to service proposed Lot 2. One new dwelling on Lot 2 will introduce a minimal amount of new traffic onto Old School Road. We note that the Twin Rivers cycle trail and walkway continues on from Old School Road in the vicinity of the subject site. We do not anticipate any issues arising from additional traffic movements generated by one extra dwelling.
50. Lot 3 is to be amalgamated with Lot 1 and will not require an access way, but will be accessible via internal access.
51. As noted, the proposal breaches road boundary site standards. We do not consider that these breaches will have any effect on either amenity values or the functioning of the roading network.
52. We find that the proposal will not generate any adverse traffic and vehicle effects.

Infrastructure

53. Mr Hopkins considered that the site can be adequately serviced in terms of telecommunications and power and this has been confirmed by the suppliers Chorus and Aurora. A condition of consent will be that these services are provided to the boundary of Lot 2 before s224c certification.
54. A new water main has been installed by QLDC in Old School Road. It is not yet operational but QLDC has confirmed both Lots 1 and 2 can be connected in the future. Presently the dwelling on Lot 1 is serviced by a bore and it is proposed to use this bore to service Lot 2 until such time as the public reticulated system is put in place. Firefighting capacity will also be required in the interim and a 20,000 litre tank is proposed.
55. Wastewater disposal is also being supplied to the neighbouring Shotover Country development and the applicant will be able to connect to this system when it is operational. In the interim the applicant has demonstrated to Mr Hopkins satisfaction that onsite wastewater treatment can be achieved.
56. Stormwater control for proposed Lot 2 will be via a soakage pit and to ground.
57. The above measures are considered acceptable to Mr Hopkins.
58. We find that the proposal can be serviced by appropriate infrastructure and that there will be no adverse effects in doing so.

Subdivision Design and Layout

59. The subdivision design has been identified by the reporting planner as being somewhat unusual in that Lot 1 and Lot 3 are to be amalgamated whilst remaining physically separated by Lot 2. There is no vehicle access proposed to Lot 3 although access is available by foot via the legal road. Access, along with an electrical transformer being located onsite, limits any future building potential. While the reporting planner has some concerns about the ongoing maintenance of Lot 3, the owners of Lot 1 will be legally

responsible for its care. From our site visit observations we did not have any concerns about the proposed subdivision layout.

Earthworks

60. Due to potential flood risk to the site any building platform on Lot 2 is to be raised to RL316.45 (note this level was changed during the hearing process). The earthworks required to achieve this are not considered to create any adverse effects subject to construction conditions. Mr Hopkins recommends that conditions be put in place to ensure that any fill is compacted to the appropriate engineering standards and certified prior to 224c certification.
61. We find that the proposed earthworks will not create any adverse effects.

Natural Hazards

62. The issue of natural hazards is central to whether this application can be granted or not. It is agreed by all parties that the site is to some degree at risk of flooding, the erosion of the river bank adjacent to the site and liquefaction. The applicant and his expert witnesses are of the view that any risk to the proposed development site is negligible, given the history of the site and the mitigation proposed.
63. The Otago Regional Council's experts consider that the hazards are real and that the site is not suitable for development and the application should be declined.
64. We had the benefit of the applicant's knowledge of the site and the river dynamics as he has lived in the dwelling on Lot 1 for many years and he stated that he had not seen the site flood, even during the 1999 flood.
65. During the hearing, evidence was presented predominantly relating to two potential causes of flooding. One was from rainfall events exacerbated in part by global warming and the other was from potential landslide dams created by upstream slips and seismic activity.
66. In his supplementary evidence Mr Hamilton outlined the reasons for the proposed floor level on Lot 2. Based on 2013 Geosolve Ltd modelling of potential flooding to the neighbouring Shotover Country development and a flood level of RL315.74 amsl emanating from Mr Hamilton's modelling on 2060 river bed levels, Geosolve suggested a freeboard of 0.75 for a finished floor level of RL316.49 amsl.
67. In 2016 further modelling was done by Mr Hamilton for Shotover Country Limited and taking into account a gradual lowering over time of the river bed since the 1999 flood, Mr Hamilton suggested a minimum floor level for Lot 2 of RL 316.2 amsl allowing for a freeboard of 0.8 m. Mr Hamilton referred to the QLDC Code of Practice that identifies the minimum freeboard as being 0.5m to the underside of the floor. Allowing for a 200mm floor slab.
68. In his report Mr Hopkins adopted a more conservative approach and recommended a minimum level of RL 316.25 amsl under the slab and 316.45 to the finished floor level. This provides a freeboard of 1.05m above modelled flood levels. This level became the accepted level promoted by the applicant.
69. Mr Hamilton presented evidence relating to climate change using MfE guidance. This indicated that given predicted temperature increases, high intensity rainfall induced flood flows could be anticipated in the future. Mr Hamilton considers that the floor level proposed

of RL316.45amsl would still provide plenty of free board to cater for future climate change related weather events.

70. Mr Hamilton attached a report by Mr Jeff Bryant of GeoConsulting Ltd. considering potential upstream landslide dams. The general concern from the submitter in opposition is if such a dam blockage occurred and there was a catastrophic failure of the dam, it could result in any impounded water depositing sediment into the delta, increasing water levels and flooding the site.
71. Mr Bryant and Mr Hamilton both consider any dam formed would be a considerable distance upstream on the Shotover River and if it breached suddenly much of the sediment would be deposited on the open beaches of Big Beach and Tucker Beach before it reached the Delta and even then sediment depositing would be to a lesser extent than submitted by the ORC experts and flooding would not occur. Mr Bryant considered that even if a catastrophic breach happened, it is more likely that a dam failure would be gradual as the river eroded the wall over a long period of time and slowly drained any formed lake. If there was a flood risk the occupants in the two proposed dwellings would have plenty of time to vacate. If Old School Road was cut off by any rising river, the residents, along with all the other residents on Old School Road, have alternative access via driveways, to higher ground.
72. Mr Bryant considered a landslide event in the Kawarau River, downstream of the Shotover outlet would have greater implications for flooding in lakeside communities like Queenstown and Glenorchy and if the Shotover River and Lake Wakatipu rose to the level of the proposed platform much of the downtown Queenstown CBD would be under water. He considered any such blockage would be cleared as a matter of urgency by the relevant authorities.
73. Both Mr Bryant and Mr Hamilton concluded that both the existing dwelling on Lot 1 and the proposed raised platform level for Lot 2 provides considerable freeboard and that flood mitigation proposed, is suitable for the site.
74. Bank erosion was not considered to be an issue as the subject site is on the inside of the bend and it is more likely that erosion will occur on the outside of a bend. The building site is 80m from the river edge and bank erosion was not seen to be an issue. Mr Wilson noted at the hearing that from his observations over many years, bank erosion was more likely to come from the wave action of passing jet boats than high river levels.
75. Liquefaction could occur on the site and this has been identified on the QLDC Hazard maps. The applicant accepts that future design of any building and its foundations will be engineered to account for potential liquefaction.
76. Mr Hopkins accepted the evidence of Mr Hamilton and Mr Bryan in relation to river levels and also assessed the risks of liquefaction. Subject to suitable conditions he stated:

*"I am satisfied that construction on the site is feasible."*⁴
77. As already partially outlined above the ORC considered the proposed development had too much risk attached and in the words of Dr. Palmer:

⁴ S42A reportP56 Hopkins

“The modern approach to natural hazard risks is to keep people away from the hazard rather than to try and keep the hazard away from the people”.⁵

78. Professor Davies evidence outlined the Shotover River mechanics, especially in relation to sediment deposit and how sediment deposit from the failure of a landslide dam upstream of the subject site could impact on the level of aggradation in the Shotover delta and thus increase the risk of flooding. He also considered excess river flow could inundate the site.
79. He considered that while the assessment undertaken by Hamilton and Associates conducted for the Shotover Country Development dealt adequately with excess flow rates,⁶ his concerns regarding potential landslide dams remained.
80. While Professor Davies outlined potential threats, he acknowledged:

“that the probability of a major landslide into the Shotover gorge is unknown but not necessarily very low. Further, there is no obvious way to remedy this lack of knowledge. Thus the risk to the proposed development from a major aggradation episode on the Shotover delta is also unknown.”⁷
81. Mr McRae concentrated largely on the provisions of the Otago Regional Policy Statements relevant to the application, concluding that the proposal was not consistent with some objectives and policies and thus should be declined. This is discussed later in the decision.
82. Dr Palmer outlined the river dynamics of the Shotover Delta stating that in high rainfall events the Shotover River flowed bank to bank and would not have to move very far to inundate the site. He also considered eastern bank erosion could occur progressively over time or even in a single flood. Given the narrow nature of the site the owners would not be able to ‘retreat’ to another part of the site should flooding occur.
83. Dr Palmer noted the proposed floor levels were intended to keep flood water out of the dwelling on Lot 2, but no measures were proposed to protect the riverside boundary from erosion. He also disagreed with much of Mr Hamilton’s evidence relating to calculating potential flood levels.
84. We have carefully considered the evidence put before us and consider the applicant has taken a precautionary approach and accepted that the site is at risk of flood, but that the risk is very low. To compensate the applicant has suggested a minimum floor level for the dwelling on Lot 2 that exceeds what is required and satisfies the council’s engineer, Mr Hopkins. The evidence of the applicant is that during his time living beside the Shotover River, it has not flooded the site and no evidence was offered that it has ever flooded even during the 1 in 100 year floods of 1878 and 1999, floods that both inundated Queenstown and other lakeside settlements.
85. In contrast the ORC evidence was that flooding on the site was a real possibility but when this could occur could not be predicted with any certainty. To ensure the elimination of risk, the ORC considered the application should be declined.
86. We found ourselves asking where in the Wakatipu region a person could build that was completely risk free. The district is full of natural hazards. Building on the lake edge

⁵ Dr Palmer ORC evidence Para 40

⁶ Professor Davies evidence P3

⁷ Professor Davies evidence P5

presents risk from a rising lake and potential liquefaction in many locations. Risk could emanate from an earthquake event, landslide or rock fall. The requirement is to mitigate the risk to a satisfactory level. We find that the flood protection proposals put forward by the applicant are prudent and conservative. Mr Hopkins agrees with those proposals.

87. During the hearing, the applicant offered to include an advice note to be attached to the decision acknowledging the potential flood risk. Ms Ellis was tasked with providing the commissioners with some suitable wording around this. On further consideration we felt such information would be better attached to the Land Information Memorandum (LIM) that forms part of the council's records. How this is to be achieved is discussed later in the decision.
88. In terms of the submission in opposition from Helen and Preston Stevens and their concerns that the application represents further ad hoc, unsustainable, small scale subdivision of rural general land, we consider that the site can absorb one additional dwelling with its associated infrastructure without creating more than minor adverse effects. The application is in fact an opportunity to tidy up the site, implement significant new landscaping, remove unconsented structures and create better links for public access to the river.

Summary

89. In assessing the evidence presented, we find that any adverse effects of the proposal in terms of landscaping, subdivision design and infrastructure will be less than minor. The exception is natural hazards, which was the main point of difference between the applicant and the ORC. We accept the applicant's evidence that any potential risk from flooding can be mitigated and managed to a degree that gives us the ability to grant consent.

STATUTORY CONSIDERATIONS

90. As a non-complying activity, the proposal must satisfy one of the two thresholds set out in section 104D of the Act, namely:
 - (a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or
 - (b) the application is for an activity that will not be contrary to the objectives and policies of –
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.
91. We must also consider section 104 of the Act, the following parts of which are of relevant:
 - (a) any actual and potential effects on the environment of allowing the activity; and
 - (b) any relevant provisions of-
 -
 - (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan.

92. Section 104B of the Act allows us to either refuse or grant consent to the application, and if granting, impose conditions under section 108.
93. Given the concerns raised about natural hazards, section 106 is also relevant. It states:
- “(1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that –
 - (a) the land in respect of which a consent is sought, or any structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or
 - (b) any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to the land, other land, or structure by erosion, falling debris, subsidence, slippage, or inundation from any source; or
 - (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.
 - (2) Conditions under subsection (1) must be –
 - (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and
 - (b) of a type that could be imposed under section 108.”
94. Sections 108 and 220 provide us with the power to impose conditions on a resource consent.
95. Section 3 of the Act defines effects as follows:

3 Meaning of “effect”

In this Act, unless the context otherwise requires, the term **effect**...includes –

- (a) any positive or negative effect; and
- (b) any temporary or permanent effect; and
- (c) any past, present, or future effect; and
- (d) any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect, and also includes-
- (e) any potential effect of high probability; and
- (f) any potential effect of low probability which has a high potential impact.

District Plan

96. The Council currently has both an Operative District Plan and a Proposed District Plan, the latter of which was notified in August 2015. The Proposed District Plan is currently subject to the submissions and hearing process. As there are no decisions yet available, we consider this plan must be given less weight than the Operative District Plan.

Operative District Plan (ODP)

97. There was no dispute between the planners appearing for the applicant and the Council on the assessment of this application against the ODP objectives and policies. The relevant chapters of the ODP are Chapter 4 (District Wide Issues), Chapter 5 (Rural Areas) and Chapter 15 (Subdivision, Development and Financial Contributions).

98. The site is located in a Visual Amenity Landscape (VAL). Policy 4 of Chapter 4 therefore applies. It requires that adverse effects of subdivision or development which are highly visible from public places and other places frequented by members of the public generally and which are visible from roads are avoided, remedied or mitigated; that there is mitigation of any loss of or enhancement of natural character by appropriate planting and landscaping; and that linear tree planting along roads as a method of achieving these requirements is discouraged.
99. The landscape experts agreed that the proposal will not detract from the VAL. Its effects can be remedied or mitigated through appropriate conditions of consent, including landscaping, subject to the maximum height being 5m above the proposed ground level. Ms Mellsop was of the view that existing, unconsented structures and buildings should be removed if this consent is to be granted. The applicant has agreed with this recommendation.
100. Policy 5 of Chapter 4 of the ODP addresses Outstanding Natural Features. It requires that subdivision and/ or development be avoided on and in the vicinity of distinctive landforms and landscape features unless the subdivision/ development will not result in more than minor adverse effects on landscape values and natural character, and visual amenity values. There was no debate that the Shotover River is an ONF in this district. We are satisfied that the development will cause no more than minor effects on the ONF provided the conditions recommended by Ms Mellsop and agreed by the applicant are in place.
101. Part 4.8 of the ODP addresses natural hazards. Amongst other things, these seek to avoid or mitigate the potential risk of damage to human life, property and other aspects of the environment and also discourage subdivision in areas where there is a high probability of a natural hazard having the potential to destroy or damage human life, property or other aspects of the environment. We have addressed the natural hazard issue above in our discussion of environmental effects. We are satisfied that the higher building platform, foundation design and liquefaction assessment will ensure these objectives and policies are met. There was no evidence put before us of a high probability event, rather the risk was described by witnesses as of low probability.
102. Part 5 of the ODP contains objectives and policies which are intended to protect the character and landscape values of the rural area, to manage effects of activities on rural amenity and to retain the life supporting capacity of soils and vegetation. There was no disagreement between the landscape experts that the maximum height of buildings at 5m and the removal of the non-consented structures and buildings on the site will ensure the activity is not contrary to these objectives and policies.
103. We are satisfied that the proposal is not contrary to the Operative District Plan provisions.

Proposed District Plan (PDP)

104. Chapter 28 of the PDP seeks that the effects of natural hazards on the community and built environment are minimised to tolerable levels, and that development on land subject to natural hazards shall only occur where the risk to the community and built environment are avoided or appropriately managed or mitigated. Policy 21.2.8 allows subdivision and development of land where the proposed activity does not accelerate or worsen the natural hazard and/ or its potential impacts, expose vulnerable activities to intolerable natural hazard risk, create an unacceptable risk to human life, increase the natural hazard risk to other properties or require additional works and costs that would be borne by the

community. Policy 28.3.2.3 requires a comprehensive assessment of natural hazards for land that is subject to that risk.

105. The applicant provided a comprehensive assessment of the natural hazard risk as part of its application and this was reviewed by Council staff. This has been discussed above.
106. Under the PDP, this site is zoned Rural Landscape. Chapter 6 of the PDP seeks to ensure that subdivision and development does not degrade the character and diminish the visual amenity values of the Rural Landscape.
107. Overall, we are satisfied that the proposal is not contrary to the relevant objectives and policies of the ODP and the PDP.

Regional planning instruments

108. The Otago Regional Policy Statement (ORPS) comes in both operative and proposed form. We will refer to both in this decision. The Proposed Regional Policy Statement has been through the submission/ decision process and is currently subject to appeals to the Environment Court, which, we were informed, are likely to be heard in July this year if not settled at mediation.

Operative Regional Policy Statement (October 1998)

109. Chapter 6 of the OPRS addresses water and includes Objective 6.4.6:

“To mitigate the threat of flooding and riverbank erosion resulting from the use, development or protection of Otago’s water bodies and lake beds.”

110. Policy 6.5.9 allows for the community’s use, development or protection of the beds and banks of Otago’s water bodies provided various requirements are met, including:

“(c) Considering the need to provide mitigation to lessen the threat posed by flooding and riverbank erosion.”

111. Chapter 11 of the ORPS addresses natural hazards. Objective 11.4.2 states:

“To avoid or mitigate the adverse effects of natural hazards within Otago to acceptable levels.”

112. Mr McRae, a planning witness for the ORC, accepted that the above objective and policy allowed an individual response to hazards. However, he pointed us to what he described as “a higher community view” that future demand for protection works should be avoided. In this, he relied on Policy 11.5.2 and Policy 11.5.3.

113. Policy 11.5.2 states:

“To take action necessary to avoid or mitigate the unacceptable adverse effect of natural hazards and the responses to natural hazards on:

- (a) Human life; and*
- (b) Infrastructure and property; and*
- (c) Otago’s natural environment; and*
- (d) Otago’s heritage sites.”*

114. Policy 11.5.3 states:

“To restrict development on sites or areas recognised as being prone to significant hazards, unless adequate mitigation can be provided.”

115. The Method to implement these two policies states:

“Consider including conditions on resource consents or consider declining such consents as necessary to avoid or mitigate the threat of natural hazards.”

116. As a whole, we read the operative ORPS objectives and policies as providing for mitigation of natural hazards, rather than simply requiring that such hazards be avoided. Method 11.6.21 enables either consent conditions to be imposed to address any hazard, or to decline the consent in question. In our view, Policy 11.5.3 breaks down into two distinct elements:

- The restriction (not avoidance) of development where there is recognition of an area prone to a significant hazard;
- Unless adequate mitigation can be provided.

117. The evidence we have heard demonstrates that this site is not subject to a significant natural hazard. The applicant has offered mitigation to address the level of risk that does exist. We do not accept Mr McRae’s opinion that “the subdivision of land for a building platform, and construction of a dwelling will be impacted by the river processes and may ultimately end in a call for community supply of hazard protection works” and that we should use Method 11.6.21 to decline the consent.

Proposed Regional Policy Statement – Decisions Version (1 October 2016)

118. The Decisions version of the ORPS was notified on 1 October 2016. Its objectives and policies seek to strengthen the approach to risk.

119. Objective 4.1 requires that the risk natural hazards pose to Otago’s communities are minimised and is supported by policies requiring the identification of natural hazards, their likelihood and consequence, and assessing activities for natural hazards risk. Relevant policies include:

Policy 4.1.7 – avoiding increased natural hazard risk;
 Policy 4.1.8 – reducing existing natural hazard risk;
 Policy 4.8.9 – precautionary approach to natural hazard risk.
(our emphasis)

120. In support of his concerns about community risk and with reference to Policies 4.1.1-4.1.8, Mr McRae referred us to “the burden of cost”. When questioned on this, Mr McRae said this burden was multi-faceted. For the developer of the land in question, the burden was on-site mitigation measures to protect against the hazard. For occupiers of the land, the burden was the cost of relocation or repair if the property was damaged. For the wider community, the burden was the protection works that could be required if the property required protection. Overall, it was the ORC’s position that this proposal did not avoid significantly increasing the risk of the natural hazard. Declining the activity would discourage such activity.

121. We do not agree with that position. There is no sound evidence that this proposal will significantly increase the risk of natural hazard and subsequent damage to the property. Nor is there evidence that the decline of this application will decline the level of risk existing at present.
122. As we have said, the proposed ORPS is subject to appeals at present. Those appeals challenge in part the Council's new approach to risk and its policies encouraging the avoidance of risk. While we must give the proposed ORPS some weight due to the fact that decisions have been released, significant parts of the plan provisions could change through the appeal process. We have therefore given more weight to the operative OPRS as it is beyond challenge.
123. Overall, we are satisfied that the proposal is not contrary to the objectives and policies of the operative and proposed OPRS.

Regional Plan: Water for Otago

124. We were also referred to the Regional Plan: Water for Otago, which addresses all freshwater resources in the Otago region. Objective 5.3.8 requires the avoidance of the exacerbation of any natural hazards or the creation of a hazard associated with the region's lakes or rivers. Policy 5.4.2 refers to giving preference to avoiding, rather than remedying or mitigating, effects that cause or exacerbate flooding, erosion, land instability, sedimentation or property damage.
125. Mr McRae expressed the opinion that "The proposal will place an additional dwelling and its occupants into a situation where safety may be greatly reduced by a single or combination of natural events." We are of the view that this overstates the effects and the risk. We do not consider that the addition of one dwelling will cause or exacerbate a natural hazard risk.
126. We are satisfied that the proposal is not contrary to the objectives and policies of the Regional Plan: Water.

Section 3 of the Act and risk

127. Aside from the usual consideration of effects specified in various sections of the Act, we are required under section 3 to consider whether this proposal raises a highly probable potential effect or a potential effect of low probability but with high potential impact.⁸
128. Ms Ellis concluded that there is always a residual risk of a hazard and that if a large natural hazard event did occur, such as a large dam break flow, the risk would be to property but not to people as there would be time to get people off the site. Mr Todd made the same point in his reply submissions. There was general agreement between the parties that the risk of a natural hazard event was of low probability, with the evidence that is available. We agree.
129. Ms Ellis proposed an Advice Note be added to the consent conditions advising of the property's location in the Shotover River 100 year flood risk area and that the dwelling height imposed through the conditions was based on the identification of this flood risk. While that suggestion has some attraction, we are of the view that this lies outside our statutory powers under section 221 of the Act. It provides for consent notices to be imposed as a condition, but does not provide for advice notes.

⁸ Section 3(e) and (f) RMA

130. In any event, we consider it would be more beneficial to record this matter on Council records so that any potential purchaser is fully alerted to the flooding risk. In that regard, section 44A of the Local Government Official Information and Meetings Act 1987 provides for statements to be made on a Land Information Memorandum, including:

“(2)(a) Information identifying each (if any) special feature or characteristic of the land concerned, including but not limited to potential erosion, avulsion, falling debris, subsidence, slippage, alluvion, or inundation... that-

- (i) is known to the territorial authority; but*
- (ii) is not apparent from the district scheme under the Town and Country Planning Act 1977 or a district plan under the Resource Management Act 1991.”*

131. We direct that the Council include the following wording on the LIM for proposed Lot 2:

“This property is identified as being within the Shotover River ‘100 year flood’ risk area. The finished floor level of RL 316.45amsl for a dwelling on this property has been identified based on the predicted 100 year flood levels modelled at the time of resource consent RM161684 being assessed and granted. It is possible that flood events could exceed this finished floor level. Any buildings, materials or structures located below this floor level height may be subject to increased flood risk.”

132. We have considered whether the Environment Court’s decision in Holt v Otago Regional Council [2010] NZEnvC 120 has any bearing on our decision. In that case the Court addressed an application to build a residential dwelling on land with a known history of inundation from tidal surges. The Court held that it was the landowner’s risk to assume that risk and granted consent to the development, requiring the dwelling to be built on piles. We consider the case to be distinguishable, given it addressed the risk of inundation in a coastal environment and on a site with a clear history of inundation. This site does not have that history or the same element of risk. We do not consider it relevant to our decision.

SUMMARY OF ASSESSMENT

133. We find that the amended proposal is not contrary to the relevant objectives and policies of the relevant plans and that the environmental effects of the proposal are no more than minor. The proposal meets both gateway tests outlined in section 104D.
134. We are also required to consider section 104. For the reasons outlined in this decision, we find the proposal satisfies the relevant provisions of section 104.
135. Under section 106, we accept the applicant’s evidence on natural hazards and consider this section is met. A number of conditions are proposed to address natural hazard effects.

PART 2

136. We have not considered it necessary to assess this application against Part 2 in light of the recent High Court decision RJ Davidson v Marlborough District Council.⁹ Our understanding

⁹ R J Davidson Family Trust v Marlborough District Council [2017] NZHC 52

of that decision is that a Part 2 assessment is not required unless the governing plan contains some invalidity, incompleteness or ambiguity. We find the relevant plans are not subject to those caveats. The relevant provisions of those plans have already given substance to the principles in Part 2 of the Act.

DECISION

123. Consent is granted to the proposal subject to ss.104 and 104D and the conditions imposed under ss.108 and 220 which are attached as Appendix 1.

Dated 8 May 2017

David Clarke

Jan Caunter

Independent Hearings Commissioners

APPENDIX 1 – Consent Conditions

APPENDIX 1 – CONSENT CONDITIONS

Subdivision

General Conditions

1. The development shall be undertaken in accordance with the following plans:
 - a) Scheme Plan, titled “Proposed Subdivision of Lot 2 DP 27251 and Part Section 140 BLOCK III SHOTOVER SURVEY DISTRICT 54 OLD SCHOOL ROAD” Prepared by CFMA Ltd, reference 12026 drawing 02, dated 31.08.16, revision B.
 - b) Structural Landscape Plan – Planting Plan, prepared by Vivian Espie Ltd, dated 01/05/2017, reference 1665-SLP-PP6.

stamped as approved on 8 May 2017

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

2. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
3. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council’s policies and standards, being QLDC’s Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any subdivision consent.

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

Earthworks Conditions for the Lot 2 building platform

4. The consent holder shall install measures to control and/or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with QLDC’s Land Development and Subdivision Code of Practice and ‘A Guide to Earthworks in the Queenstown Lakes District’ brochure, prepared by the Queenstown Lakes District Council. These measures shall be implemented **prior** to the commencement of any earthworks on site and shall remain in place for the duration of the project, until all exposed areas of earth are permanently stabilised.
5. The consent holder shall implement suitable measures to prevent deposition of any debris on surrounding roads by vehicles moving to and from the site. In the event that any material is deposited on any roads, the consent holder shall take immediate action, at his/her expense, to clean the roads.
6. No earthworks, temporary or permanent, are to breach the boundaries of the site.

7. Hours of operation for earthworks, shall be:

- Monday to Saturday (inclusive): 8.00am to 6.00pm.
- Sundays and Public Holidays: No Activity

In addition, no heavy vehicles are to enter or exit the site, and no machinery shall start up or operate earlier than 8.00am. All activity on the site is to cease by 6.00pm.

To be completed before Council approval of the Survey Plan

8. Prior to the Council signing the Survey Plan pursuant to Section 223 of the Resource Management Act 1991, the consent holder shall complete the following:

- a) All necessary easements shall be shown in the Memorandum of Easements attached to the Survey Plan and shall be duly granted or reserved.

This shall include a right to convey water easement over Lot 2 to secure the water supply for Lot 1 hereon from the existing bore.

Amalgamation Condition

9. The following shall be registered with Land Information New Zealand (CSN XXXXX):

“That Lots 1 & 3 hereon be held in the same Computer Freehold Register”

To be completed before issue of the s224(c) certificate

10. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:

- a) Implementation of the structural landscape plan approved pursuant to Condition (1) above.
- b) Removal of all unconsented structures and buildings from the site.
- c) Removal of any fences that restrict access to public land.
- d) The submission of ‘as-built’ plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development at the consent holder’s cost. This information shall be formatted in accordance with Council’s ‘as-built’ standards and shall include Water, and Wastewater reticulation (specifically laterals and toby positions).
- e) A digital plan showing the location of the two building platforms as shown on the survey plan / Land Transfer Plan shall be submitted to the Subdivision Planner at Council. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.
- f) The provision of a water lateral from the QLDC main on Old School Road to the boundary of Lot 2 in terms of Council’s standards and connection policy. This shall include an Acuflo CM2000 as the toby valve and an approved water meter as detailed in QLDC Water Meter Policy, dated August 2015 and the consent holder shall ensure inspection by Council Subdivision Engineer(s) at the time of connection/trenching.

- g) The provision of a minimum 32 mm PE PN12.5 pressure sewer lateral from the 63 mm QLDC pressure main on Old School Road to the boundary of Lot 2. The lateral shall be capped on the boundary and installed in terms of Council's standards. The consent holder shall ensure inspection by Council Subdivision Engineer(s) at the time of connection/trenching.
- h) Written confirmation shall be provided from the electricity network supplier responsible for the area, that provision of an underground electricity supply has been made available (minimum supply of single phase 15kva capacity) to the boundary of Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- i) Written confirmation shall be provided from the telecommunications network supplier responsible for the area, that provision of underground telephone services has been made available to the boundary of Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- j) Provision of finished contour plan and surveyor certification that confirms finished ground levels within the entire area of the Lot 2 building platform are a minimum 316.45m amsl.
- k) All earthworks and fill certification on Lot 2 shall be carried out under the guidance of suitably qualified and experienced geotechnical professionals as described in Section 2 of the Queenstown Lakes District Council's Land Development and Subdivision Code of Practice. This shall include the issue of a Completion Report and Schedule 2A certificate, with the Schedule 2A certification including a statement under Clause 3(e) covering Section 106 of the Resource Management Act 1991. Any remedial works outlined on the Schedule 2A certificate that requires works across lot boundaries shall be undertaken by the consent holder prior to 224(c) certification being issued.
- l) The provision of a site specific liquefaction hazard assessment for Lot 2 undertaken by a suitably qualified professional to determine any ground improvement of specific foundation design required to accommodate a standard residential dwelling. Any specific recommendations of this report shall be secured against the property title by way of a consent notice.
- m) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

Ongoing Conditions/Consent Notices

- 11. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice pursuant to s.221 of the Act.
 - a) For Lot 1 RM160684 all future buildings shall be contained within the Building Platform as shown as Covenant Area X as shown on Deposited Plan XXXXX.
 - b) For Lot 2 RM160684 all future buildings shall be contained within the Building Platform as shown as Covenant Area X as shown on Deposited Plan XXXXX.

12. For Lot 2 RM160684, in the event that the Schedule 2A certificate issued under Condition 10.k. contains limitations or remedial works required, then a consent notice shall be registered on the relevant Computer Freehold Registers pursuant to s221 of the RMA. The consent notice condition shall read; "Prior to any construction work (other than work associated with geotechnical investigation), the owner for the time being shall submit to Council for certification, plans prepared by a suitably qualified engineer detailing the proposed foundation design, earthworks and/or other required works in accordance with the Schedule 2A certificate attached. All such measures shall be implemented prior to occupation of any building."
13. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice pursuant to s.221 of the Act.
 - a) Prior to any new building being constructed within the Residential Building Platform on Lot 1 RM160684, the landowner shall engage a suitably qualified professional (as defined in Section 1.7 of QLDC's Land Development and Subdivision Code of Practice) to assess and mitigate potential flooding, liquefaction and erosion hazard risks as they relate to any proposed building on Lot 1. The assessment and proposed mitigation measures shall be subject to the review and acceptance of the Manager of Resource Management Engineer at Council prior to implementation and shall be subsequently implemented prior to occupation of the dwelling.

Advice Note for Condition 13a:

Should any mitigation measures required to adequately mitigate the risk of natural hazards for any new building on Lot 1 RM160684 require additional engineering design (such as Schedule 2A certification for fill, should fill or raising the ground level be proposed), these measures shall be required to be assessed and accepted by Council in order to satisfy Condition 13a.

- b) At the time a dwelling is constructed on Lot 2, the recommended ground improvement or specific foundations design measures as determined under Condition 10.l. to address potential liquefaction risk (if any) shall be undertaken.
- c) The owner of Lot 2 shall be aware that ground levels within the building platform have been constructed to avoid potential flood hazard. The current building platform level shall not be reduced below the current RL 316.45m level.
- d) At the time a dwelling is constructed on Lot 2, and directly prior to occupation of the dwelling, the owner for the time being shall either:
 - i. confirm that the QLDC reticulated water lateral to the boundary is live and connect the dwelling to this service. Connection to this service shall include payment of any outstanding development contributions to QLDC in this respect.

OR

- ii. If directly prior to occupation of the dwelling the QLDC main and associated lateral to the site is uncommissioned (not live), the owner for the time being shall temporarily supply the dwelling from the existing private water bore located within the site. As required by the Local Government Act Section 459(7)(a)(b), at such a time as the QLDC water main and associated lateral to the site is made live the private bore supply shall cease and the dwelling shall be connected to the reticulated water lateral and associated toby at the property boundary in accordance with Council standards. Connection to this service shall include payment of any outstanding development contributions to QLDC in this respect.

If a private water supply is utilised the owner of the lot shall be aware of the need to comply with the ongoing requirements of the New Zealand Drinking Water Standard.

- e) At the time a dwelling is constructed on Lot 2, and directly prior to occupation of the dwelling, the owner shall either:

- i. confirm that the QLDC wastewater pressure main in Old School Road has been connected to the Shotover Country gravity reticulation and thereby made live.

OR

- ii. If the QLDC pressure main is confirmed as live the owner shall install a private package wastewater macerating pump station and connect to the pressure lateral on the property boundary. This system shall include a valve and valve box on the boundary. The design shall be approved by QLDC prior to installation and any required development contributions shall be paid with respect to this new connection.

If the QLDC pressure main has not yet been made live, the owner shall temporarily service the dwelling via a private on-site wastewater treatment plant and effluent disposal field. The design of this on-site treatment and disposal system shall be in accordance with NZS1547:2012 and reviewed and approved by the Principal Resource Management Engineer at Council prior to installation. As required by the Local Government Act Section 459(7)(a)(b), at such a time as the QLDC pressure main and associated lateral to the site is made live the private on-site treatment and disposal shall cease and the dwelling shall be connected to the pressure main lateral via a private package pump station in accordance with Council standards. The design of the package pump station shall be approved by QLDC prior to installation and any required development contributions paid.

- f) At the time a dwelling is constructed on Lot 2, the owner for the time being shall engage a suitably qualified professional (as defined in Section 1.7 of QLDC's Land Development and Subdivision Code of Practice) to design a stormwater disposal system that is to provide stormwater disposal from all impervious areas within the site. The proposed stormwater system shall be subject to the review of the Principal Resource Management Engineer at Council prior to implementation and shall be installed prior to occupation of the dwelling.

- g) At the time a dwelling is constructed on Lot 2, and directly prior to occupation of the dwelling, the owner for the time being shall confirm that the QLDC water main and associated fire fighting hydrants on Old School Road are live.

If the QLDC main and hydrants have not yet been made live the owner shall install a minimum of 20,000 litres of static fire fighting reserve within a tank. Alternatively, a 7,000 litre fire fighting reserve is to be provided in association with a domestic sprinkler system installed to an approved standard. A fire fighting connection in accordance with Appendix B - SNZ PAS 4509:2008 is to be located no further than 90 metres, but no closer than 6 metres, from any proposed building on the site. Where pressure at the connection point/coupling is less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the NZFS as larger capacities and flow rates may be required.

The Fire Service connection point/coupling must be located so that it is not compromised in the event of a fire.

The connection point/coupling shall have a hardstand area adjacent to it that is suitable for parking a fire service appliance. The hardstand area shall be located in the centre of a clear working space with a minimum width of 4.5 metres. Pavements or roadways providing access to the hardstand area must have a minimum formed width as required by QLDC's standards for rural roads (as per QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any subdivision consent). The roadway shall be trafficable in all weathers and be capable of withstanding an axle load of 8.2 tonnes or have a load bearing capacity of no less than the public roadway serving the property, whichever is the lower. Access shall be maintained at all times to the hardstand area.

Underground tanks, or tanks that are partially buried (provided the top of the tank is no more than 1 metre above ground), may be accessed by an opening in the top of the tank whereby couplings are not required. A hardstand area adjacent to the tank is required in order to allow a fire service appliance to park on it and access to the hardstand area must be provided as above.

The Fire Service connection point/coupling/fire hydrant/tank must be located so that it is clearly visible and/or provided with appropriate signage to enable connection of a fire appliance.

Fire fighting water supply may be provided by means other than the above if the written approval of the New Zealand Fire Service Operational Planning Officer for the Southern Fire Region is obtained for the proposed method.

Once the QLDC hydrants on Old School Road have been made live the required static firefighting storage tank on Lot 2 can be removed.

14. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice pursuant to s.221 of the Act.
- a) All landscaping as shown on the final approved Structural Landscaping Plan for RM160684 shall be maintained in perpetuity.
 - b) The maximum height of all structures within the residential building platform on Lot 1 shall be 6.1 metres above original ground level. Original ground level shall be as defined in the Operative Queenstown Lakes District Plan.
 - c) The maximum height of a building within the residential building platform on proposed Lot 2 RM160684 shall be no greater than 5.0 metres as measured from RL 316.45m amsl.
 - d) The following design controls shall apply to any buildings constructed on the building platforms within Lot 2:
 - i. The roof pitches for all buildings shall be between 30 and 45 degrees with flat roofs for joining elements equating to no more than 15% of the roof area;
 - ii. Exterior roof & wall cladding for all buildings shall be limited to timber, stacked stone, corrugated iron, solid plaster, or a similar suitable material certified by QLDC;
 - iii. Exterior roof cladding for all buildings shall be finished in the range of browns, greens and greys with a Light Reflectance Value (LRV) of no greater than 20%;
 - iv. Exterior wall cladding for all buildings shall be finished in the range of browns, greens and greys with a Light Reflectance Value (LRV) of no greater than 36%;
 - v. All joinery shall be matching or darker than the elected roof or wall colour, and within the natural range of browns, greens or greys;
 - vi. Exterior lighting shall be down lit;
 - vii. All domestic activity shall be contained within the curtilage area as shown on the Structural Landscaping Plan prepared by Vivian Espie Ltd (RM160684) listed in Condition 1.
15. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Titles by way of Consent Notice for Lot 3 RM160684 pursuant to s.221 of the Act:
- a) There shall be no further subdivision of **Lot x Deposited Plan xxxxx**.

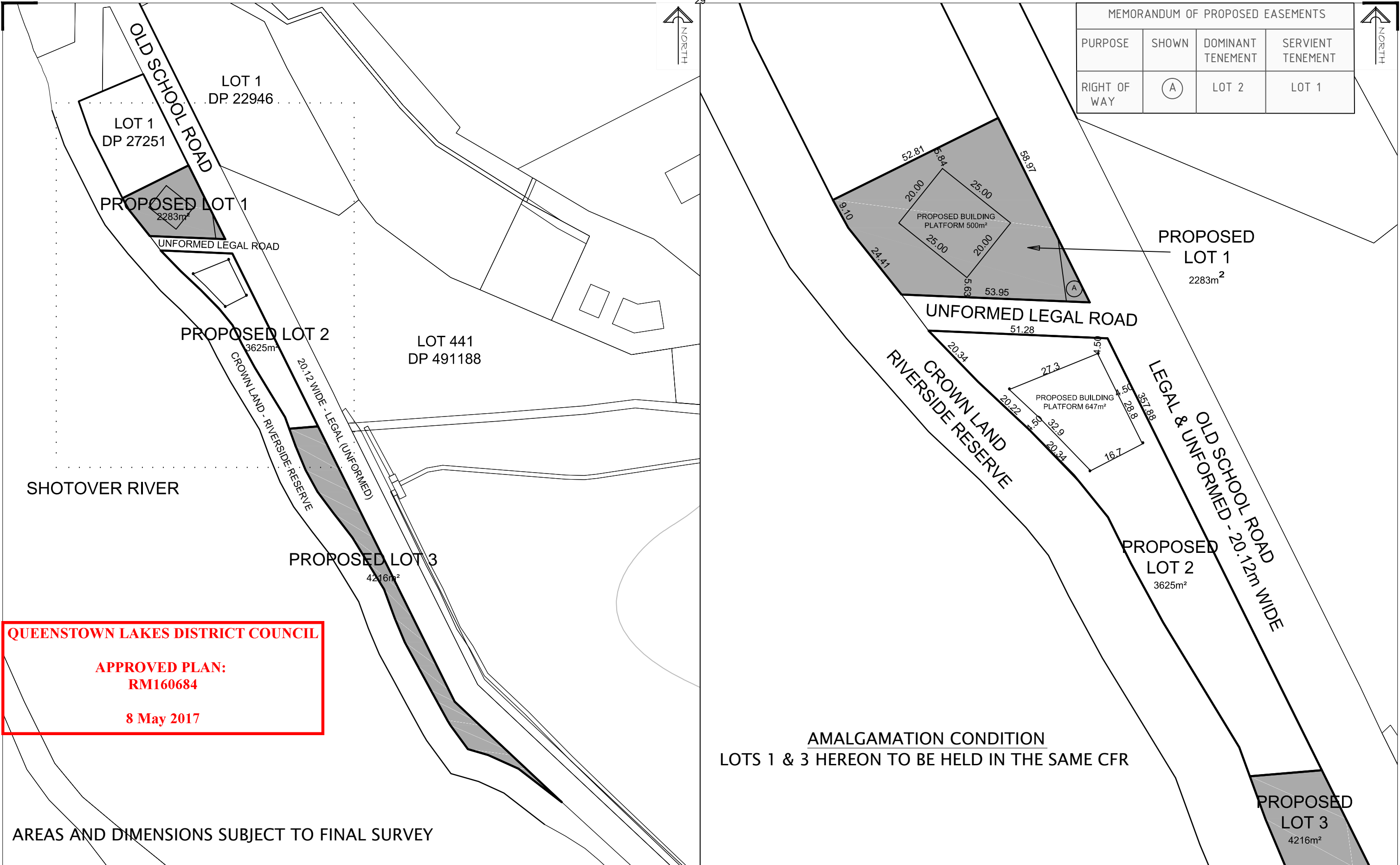
Advice Note:


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

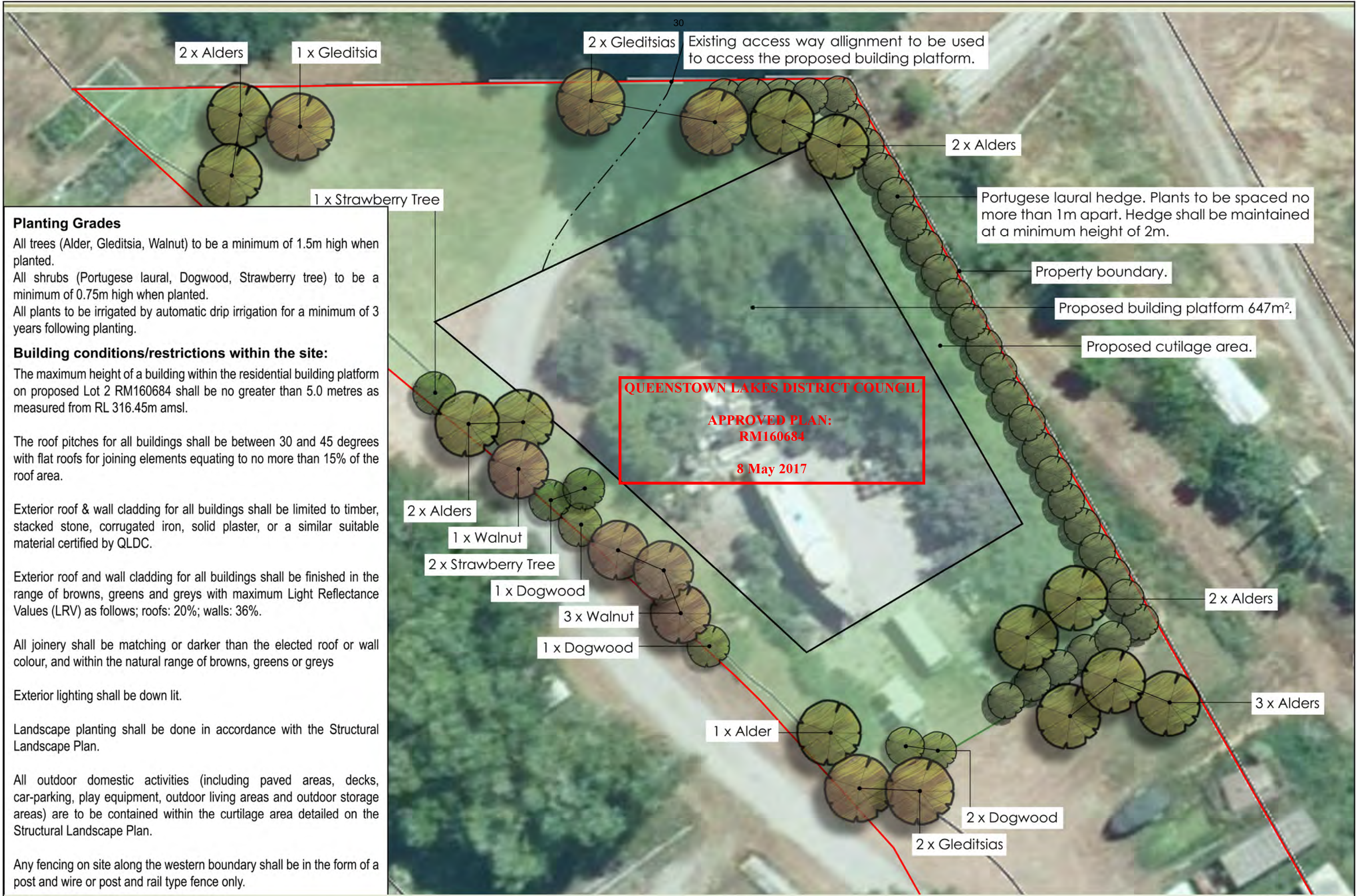
Land Use Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - a) Scheme Plan, titled "Proposed Subdivision of Lot 2 DP 27251 and Part Section 140 BLOCK III SHOTOVER SURVEY DISTRICT 54 OLD SCHOOL ROAD"
Prepared by CFMA Ltd, reference 12026 drawing 02, dated 16/02/16, revision B.

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



<div><div><div>Clark Fortune McDonald & Associates</div><div>Licensed Cadastral Surveyors - Land Development - Planning Consultants</div><div>309 Lower Shotover Road, P.O.Box 553 Queenstown</div><div>Tel. (03)441-6044, Fax (03)442-1066, Email admin@cfma.co.nz</div><div>Shop 2, Otago House, 475 Moray Place, P.O. Box 5960</div><div>Tel. (03)470-1582, Fax (03)470-1583, Email admin@cfma.co.nz</div></div></div>	Rev.	Date	Revision Details	By
	A	2.02.16	REVISED BUILDING PLATFORM	BP
	B	31.08.16	LOT 1 BUILDING PLATFORM	BP
<div>PROPOSED SUBDIVISION OF LOT 2 DP 27251 and PART SECTION 140 BLOCK III SHOTOVER SURVEY DISTRICT 54 OLD SCHOOL ROAD</div>				
Client		Longshot Ltd	Surveyed	Signed
			BP	
			Drawn	Signed
			BP	
			Designed	Signed
			-	
Notes:				
All dimensions shown are in meters unless shown otherwise.				
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Date		22.09.15	Job No.	12026
Date		16.02.16	Scale	1:1250 @ A1 1:2500 @ A3
Date		-	Datum & Level	Mt Nic 2000 & MSL
			Rev.	B



Planting Grades

All trees (Alder, Gleditsia, Walnut) to be a minimum of 1.5m high when planted.
All shrubs (Portugese laural, Dogwood, Strawberry tree) to be a minimum of 0.75m high when planted.
All plants to be irrigated by automatic drip irrigation for a minimum of 3 years following planting.

Building conditions/restrictions within the site:

The maximum height of a building within the residential building platform on proposed Lot 2 RM160684 shall be no greater than 5.0 metres as measured from RL 316.45m amsl.

The roof pitches for all buildings shall be between 30 and 45 degrees with flat roofs for joining elements equating to no more than 15% of the roof area.

Exterior roof & wall cladding for all buildings shall be limited to timber, stacked stone, corrugated iron, solid plaster, or a similar suitable material certified by QLDC.

Exterior roof and wall cladding for all buildings shall be finished in the range of browns, greens and greys with maximum Light Reflectance Values (LRV) as follows; roofs: 20%; walls: 36%.

All joinery shall be matching or darker than the elected roof or wall colour, and within the natural range of browns, greens or greys

Exterior lighting shall be down lit.

Landscape planting shall be done in accordance with the Structural Landscape Plan.

All outdoor domestic activities (including paved areas, decks, car-parking, play equipment, outdoor living areas and outdoor storage areas) are to be contained within the curtilage area detailed on the Structural Landscape Plan.

Any fencing on site along the western boundary shall be in the form of a post and wire or post and rail type fence only.