



**DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**RESOURCE MANAGEMENT ACT 1991**

<b>Applicant:</b>	<b>S FLOOD</b>
<b>RM Reference:</b>	RM 130654
<b>Location:</b>	Speargrass Flat Road, Wakatipu Basin
<b>Proposal:</b>	Undertake earthworks being the placement of cleanfill.
<b>Type of Consent:</b>	Land use
<b>Legal Description:</b>	Lot 3 DP 25520
<b>Valuation Number:</b>	2907119504
<b>Zoning:</b>	Rural General
<b>Activity Status:</b>	Restricted Discretionary Activity
<b>Limited Notification:</b>	8 May 2014
<b>Commissioner:</b>	W D Whitney
<b>Date of Decision:</b>	26 November 2014
<b>Decision:</b>	<b>Consent is granted subject to conditions.</b>

## **A. INTRODUCTION**

### **A.1 Background**

1. Mr S Flood has applied to the Queenstown Lakes District Council for resource consent to undertake earthworks being the placement of cleanfill on a property that has frontage to Speargrass Flat Road in the Wakatipu Basin. The site subject to the application is described as Lot 3 DP 25520 as held in Computer Freehold Register Identifier OT 17C/578 in the Otago Land Registration District.
2. Lot 3 DP 25520 has an area of 20.2791 hectares more or less. The site includes a portion of the flats to the north of Speargrass Flat Road and the southern side of the landform that is known as Malaghans Ridge that is a glacial feature which has ice scoured cliffs on its northern side and soft moraine ridges running parallel to the ridgeline along its southern side. A gully cuts through the escarpment on the southern side one quarter of the way from the western boundary of the site. The gully forms a deep double slash (or cleft) in the hillside.
3. A hawthorn hedge exists in the road reserve of Speargrass Flat Road, adjacent to the southern boundary of the site. The elevated parts of the site are in open pasture and a paddock between the foot of the hill and Speargrass Flat Road has been cultivated. The Commission notes that this paddock incorporates Lot 2 DP 25424 being a separate rectangular shaped title owned by the applicant.
4. The site has an existing access to Speargrass Flat Road. A metalled entrance exists between the seal edge of Speargrass Flat Road and a cattle stop at the site boundary. A metalled access carriageway is located adjacent to the western boundary of the site on the flat and this traverses the hillside to provide access to the cleanfill deposition area in the gully and to a dwelling under construction on the upper portion of the property.
5. The dwelling was authorised by RM 041132; and this consent was subject to a variation (change) to condition being RM 100408. The Commission notes that a previous resource consent (RM 990389) which was subject to two time extensions previously authorised the erection of a dwelling on the subject site.

6. RM 070028 authorised the construction of a barn and associated stockyard on an adjacent site owned by the current applicant being Lot 2 DP 25520. No works have been undertaken in terms of that consent.
7. A small dark green building on skids is located adjacent to the access carriageway in close proximity to the site entrance from Speargrass Flat Road. It appears that this structure is not authorised by any resource consent.
8. On 2 July 2007 RM 070243 was granted to the applicant to undertake earthworks to restore a hillside with imported cleanfill. The Commission was advised at the hearing that that consent was applied for and consented on the basis that it would authorise a total volume of earthworks of some 28,000m<sup>3</sup> over a total area of 9000m<sup>2</sup> to be undertaken during a 12 month period; and that some 3821m<sup>3</sup> of cleanfill was deposited on the site in the first year of deposition (as authorised by RM 070243). The Commission was advised that earthworks were undertaken in subsequent years (being approximately 15,988m<sup>3</sup>) albeit that these earthworks were not authorised by RM 070243 as they were undertaken outside the 12 month period. A retrospective consent for earthworks undertaken in excess of those permitted in terms of the Operative Queenstown Lakes District Plan (Operative District Plan/District Plan) is sought in the context of the current application.
9. It is debateable whether RM 070243 is limited to a 12 month term. The Commission comes to this view having regard to the fact that there is no explicit statement in RM 070243 or in any condition of that consent which specifies that such land use consent was granted for a limited period pursuant to section 123(b) of the Resource Management Act 1991 (the Act). The Commission also notes that Condition 16 of RM 070243 provides for a review of conditions within 10 working days “of each anniversary of the date of this decision”; such condition implying that the term of the consent RM 070243 is unlimited.
10. The Commission acknowledges that the Council’s reporting officers have assessed the current application on the basis that there is a retrospective element to the consent sought. The Commission also acknowledges that the applicant, through Mrs Macdonald, has advised the Commission that the applicant accepts, on a precautionary basis, that RM 070243 authorised earthworks for a 12 month term only.

11. The Commission has considered the proposal on the basis that retrospective consent is sought for earthworks, notwithstanding the matters raised in paragraph 9 (above).

## **A.2 The Proposal**

12. The filling of the existing gully on the subject site was commenced as authorised by RM 070243. The applicant proposes to complete filling of the existing gully with cleanfill. As noted above retrospective consent is sought for the cleanfill deposited following the 12 month period authorised by RM 070243; and the deposition of additional cleanfill is also proposed in the context of the current application.

13. As noted above some 3,821m<sup>3</sup> of cleanfill was deposited on the site within the 12 month period authorised by RM 070243. Records provided by the applicant to the Council advise that a total of approximately 15,988m<sup>3</sup> of earthworks were undertaken over the five year period following the lapsing of RM 070243, 1,500m<sup>3</sup> (or 300m<sup>3</sup> per year) of which was permitted by the District Plan. Retrospective resource consent is therefore required to authorise the approximately 14,488m<sup>3</sup> of unconsented earthworks being the deposition of cleanfill on the application site.

14. The applicant also proposes to undertake 45,000m<sup>3</sup> of further earthworks over a 4 year period to complete filling of the existing gully. Overall this brings the total quantity of earthworks proposed in the context of the current application to approximately 59,500m<sup>3</sup>.

15. Only trucks carrying up to 8m<sup>3</sup> of fill will be used for the fill operation resulting in an anticipated 6 truck movements per day to the site over a 4 year period delivering cleanfill Monday to Friday, excluding public holidays. The cleanfill will be imported from earthworks being undertaken throughout the District and beyond. Trucks will utilise the existing access from Speargrass Flat Road and the access driveway within the site.

16. The proposal includes the deposit of cleanfill, the application of topsoil and the revegetation of the surface to provide ground cover to match the existing pasture adjacent to the gully.

17. In the application documentation and at the hearing the applicant volunteered a range of conditions to mitigate effects. These include the following (or to like effect):

- (i) At the time a residential dwelling is occupied on the building platform approved under RM 120680 [on the Kampman property] the fill work shall cease and the earthworks shall be deemed to be completed whereupon the consent holder shall comply with conditions relating to site remediation. Remedial works shall be completed within six months to the satisfaction of the Planning and Development Manager, Queenstown Lakes District Council.
- (ii) Conditions as detailed in the application.
- (iii) Conditions as presented in Mr Wardill's engineering report.
- (iv) Conditions consistent with those applied in the context of RM 070243 which includes a review condition.
- (v) The application and maintenance of "Ottaseal" or similar proprietary treatment upon the trafficable surface of the access driveway adjacent to fill areas.
- (vi) A maximum speed of 15 kph along the access carriageway.

18. The Commission confirms that it has assessed the proposal on the basis of the application as lodged and the refined and additional conditions offered by the applicant at the hearing, including the draft conditions presented as an attachment to Mr Geddes's evidence.

### **A.3 Zoning**

19. The site is zoned Rural General as shown on Map 29 of the Operative District Plan.

20. The proposed earthworks exceed the limitations in terms of area, volume and height of fill stipulated in Rule (Site Standard) 5.3.5.1viii1(a) & (b) and 2(c). In this instance the earthworks may exceed a maximum area of bare soil exposed of 2500m<sup>2</sup> within any one 12 month period; earthworks will exceed a maximum volume of 1,000m<sup>3</sup> within any consecutive 12 month period; and the maximum height of fill will exceed 2 metres.

21. The Commission notes that a condition offered by the applicant will ensure that the area of fill exposed shall not exceed 2,500m<sup>2</sup> at any one time; but that the maximum

area of bare soil exposed is likely to exceed 2,500m<sup>2</sup> in any 12 month period. The total volume of earthworks of approximately 59,500m<sup>3</sup> includes some 45,000m<sup>3</sup> to be deposited over the next 4 years; and equates to an average of 11,250m<sup>3</sup> per annum. It is also noted that the maximum height of fill will be 18 metres. A breach of Rule 5.3.5.1viii is a restricted discretionary activity in the Rural General Zone pursuant to Rule 5.3.3.3xi.

22. The Commission has considered the proposal as an application for land use consent to a restricted discretionary activity.

#### **A.4 Submission**

23. The application was notified on a limited basis and one submission was received within the statutory submission period which closed on 6 June 2014. The submission by R Kampman who is a Director of Speargrass Flat Farms Limited opposes the application for the reasons stated in the submission.

24. The Commission has given consideration to the submission lodged in response to the application.

#### **A.5 Reports and Hearing**

25. The Commission has had the benefit of a planning report dated 20 June 2014 from Mr David Wallace a Senior Planner with the Queenstown Lakes District Council; a Landscape & Visual Assessment Report dated 15 October 2013 from Dr Marion Read, the Principal of Read Landscapes; and an engineering report prepared by Mr Michael Wardill an Engineer with the Queenstown Lakes District Council. The Commission also had the benefit of email correspondence between Dr Read and Mr Wallace dated 7 May 2014 and 11 June 2014.

26. At the hearing the Commission was assisted by Mr Wallace and Mr Wardill. Dr Read was available via telephone in the event that any matter required clarification by her. Ms Rachel Beer, the Planning Support Co-ordinator with the Queenstown Lakes District Council, provided administrative support at the hearing.

27. Prior to the hearing the Commission had the opportunity to consider the application and supporting material including the further information filed by the applicant together with the submission. In the company of Mr Wallace the Commissioner made a site inspection on the morning of the hearing on Tuesday 18 November 2014.

28. At the hearing the applicant was represented by Mrs Jayne Macdonald, Counsel, of Macalister Todd Phillips who called evidence from Mr Nick Geddes a Planning Consultant with Clark Fortune McDonald & Associates Limited. Mr René Kampman appeared at the hearing and presented a written statement in support of his submission.

29. The planning, landscape and engineering reports were taken as read and Mr Wardill and Mr Wallace were invited to comment following the presentation of submissions and evidence. Following Mrs Macdonald's reply the hearing was adjourned.

## **A.6 Principal Issues in Contention**

30. The principal issues in contention are the effects on the environment of the earthworks activity, including the immediate effects associated with the deposition process and the long term effects on the landscape resulting from the earthworks.

## **B. EFFECTS ON ENVIRONMENT**

### **B.1 Permitted & Consented Baseline**

31. Farming activities including the cultivation of land, the routine repair of operational farm tracks and earthworks of under 300m<sup>3</sup> over an area of less than 1,000m<sup>2</sup> in one year are permitted activities in the Rural General Zone.

32. The consented baseline includes the earthworks which were consented under RM 070243. This includes the deposition of some cleanfill on the upper part of the existing gully.

### **B.2 Affected Persons Approvals**

33. An affected persons approval has been received with respect to the proposed land use activity from Fred and Diane van Brandenburg who are the owners of Lot 1 and Lot 2 DP 359067.

### **B.3 Assessment Matters**

34. The District Plan became fully operative on 10 December 2009. The Operative District Plan contains assessment matters in Parts 5 and 14 that are relevant to development generally and to earthworks in particular in the Rural General Zone, and to Transport.

35. The officers' reports and the evidence presented at the hearing have assessed the effects of the activity in terms of the relevant assessment matters in Part 5. This approach is appropriate in this instance, and the Commission has assessed the actual and potential effects of the proposed activity having regard to relevant assessment matters.

### **B.4 Part 5 : VAL**

36. Clause 5.4.2.1 advises that there are three steps in applying the assessment criteria. These include Step 1 – Analysis of the Site and Surrounding Landscape, Step 2 – Determination of Landscape Category and Step 3 – Application of the Assessment Matters.

37. The Landscape Categorisation in the Wakatipu Basin is shown at Appendix 8A – Map 2 in the District Plan. This shows the subject site as being Visual Amenity Landscape (VAL). Dr Read and Baxter Design Group (in a Landscape Assessment Report dated September 2013 that accompanied the application) agreed that the subject site is in the VAL. Land opposite the site on Speargrass Flat Road is classified as being Other Rural Landscape (ORL) as confirmed in the decisions of the Environment Court in Hawthorn v QLDC Dec C83/2004 and Lakes District Rural Landowners Society Incorporated & Others v QLDC Dec C75/2001.

38. Clause 5.4.2.2(3) contains assessment matters that apply to development in the Rural General Zone on land categorised as VAL. Each assessment matter stated in the District Plan is presented in italics below, followed by the Commission's assessment of the proposal in terms of the assessment matter.

39. The opening paragraphs of Assessment Matter 5.4.2.2(3) state as follows:



*“These assessment matters should be read in the light of the further guiding principle that existing vegetation which:*

- (a) was either*
  - planted after; or*
  - self seeded and less than 1 metre in height at*
    - 28 September 2002; and*
- (b) obstructs or substantially interferes with views of the landscape (in which the proposed development is set) from roads or other public places*
- shall not be considered:*
  - (1) as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and*
  - (2) as part of the permitted baseline.*
- nor shall removal of such vegetation be considered as a positive effect of any proposal.”*

40. The Commission acknowledges that the assessment matters in Assessment Matter 5.4.2.2(3) are to be read in light of the above guiding principle. The hawthorn hedge adjacent to the southern boundary of the site and adjacent sites on the north side of Speargrass Flat Road has existed for many years. It was found in the context of RM 120680 which related to the adjacent Kampman/Speargrass Farms Limited property that the hawthorn hedges on both sides of Speargrass Flat Road including the hawthorn hedge adjacent to that site are protected in terms of Rule 13.2.3.2(iii) of the Operative District Plan; and that such protection is in addition to any protection that results from the fact that the hawthorn hedge on the north side of Speargrass Flat Road is on land vested in the Queenstown Lakes District Council as Road.

*“(a) Effects on natural and pastoral character*

*In considering whether the adverse effects (including potential effects of the eventual construction and use of buildings and associated spaces) on the natural and pastoral character are avoided, remedied or mitigated, the following matters shall be taken into account:*

- (i) where the site is adjacent to an Outstanding Natural Landscape or Feature, whether and the extent to which the visual effects of the development proposed will compromise any open character of the adjacent Outstanding Natural Landscape or Feature;*
- (ii) whether and the extent to which the scale and nature of the development will compromise the natural or arcadian pastoral character of the surrounding Visual Amenity Landscape;*

- (iii) *whether the development will degrade any natural or arcadian pastoral character of the landscape by causing over-domestication of the landscape;*
- (iv) *whether any adverse effects identified in (i) – (iii) above are or can be avoided or mitigated by appropriate subdivision design and landscaping, and/or appropriate conditions of consent (including covenants, consent notices and other restrictive instruments) having regard to the matters contained in (b) to (e) below;”*

41. The site is not adjacent to any Outstanding Natural Landscape or Feature.

42. During the period when cleanfill is deposited at the site there will be a temporary effect on natural and pastoral character. The Commission considers that any such effect will be limited having regard to the relatively small area to be used for deposition in the context of the Malaghans Ridge landform and having regard to the complex backdrop afforded by the mountains behind which includes a mixture of cover including conifer forest (some of which appears to have been sprayed) and rocky faces. The Commission also acknowledges in this context that RM 070243 has authorised earthworks on the upper portion of the gully and that deposition is to proceed down the gully with land being progressively restored.

43. Once completed the finished and contoured area of earthworks will seamlessly blend into the surrounding pastoral landscape and will be indiscernible from the surrounding landscape. The Commission is satisfied that once completed the proposed earthworks will not significantly compromise the natural or Arcadian pastoral character of the surrounding VAL. They will not have a domesticating effect on the landscape. Adherence to conditions with respect to restoration and revegetation of the land will ensure that any adverse effects of the completed earthworks on natural and pastoral character will be appropriately mitigated.

*“(b) Visibility of Development*

*Whether the development will result in a loss of the natural or arcadian pastoral character of the landscape, having regard to whether and the extent to which:*

- (i) *the proposed development is highly visible when viewed from any public places, or is visible from any public road and in the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and*

*likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, equestrian and other means of access; and*

- (ii) the proposed development is likely to be visually prominent such that it detracts from public or private views otherwise characterised by natural or arcadian pastoral landscapes;*
- (iii) there is opportunity for screening or other mitigation by any proposed method such as earthworks and/or new planting which does not detract from or obstruct views of the existing natural topography or cultural plantings such as hedge rows and avenues;*
- (iv) the subject site and the wider Visual Amenity Landscape of which it forms part is enclosed by any confining elements of topography and/or vegetation;*
- (v) any building platforms proposed pursuant to rule 15.2.3.3 will give rise to any structures being located where they will break the line and form of any skylines, ridges, hills or prominent slopes;*
- (vi) any proposed roads, earthworks and landscaping will change the line of the landscape or affect the naturalness of the landscape particularly with respect to elements which are inconsistent with the existing natural topography;*
- (vii) any proposed new boundaries and the potential for plantings and fencing will give rise to any arbitrary lines and patterns on the landscape with respect to the existing character;*
- (viii) boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape and/or landscape units;*
- (ix) the development constitutes sprawl of built development along the roads of the District and with respect to areas of established development.”*

44. For the duration of the process of deposition persons on nearby roads and public places will see the cleanfill operation. The protected hawthorn hedge on the north side of Speargrass Flat Road will block views of the cleanfill operation for those travelling west from the junction of Speargrass Flat Road with Lower Shotover Road and Hunter Road. The cleanfill operation will be visible from Speargrass Flat Road to the east of the Speargrass Flat Road/Lower Shotover Road/Hunter Road intersection as vehicles travel west. The Commission notes in this context that drivers concentration is likely to be focussed on bends in the road and on the approaching controlled “stop” intersection. Views from Lower Shotover Road are limited except at the intersection due to the protected hawthorn hedge on the roadside. Views from Hunter Road (on the flat portion) are intermittent given that there are established trees

adjacent to the road; and the earthworks will be screened by topography and mature trees where Hunter Road traverses Malaghans Ridge.

45. The Commission is satisfied that visual effects associated with the cleanfill deposition operation are moderate. This includes the deposition of cleanfill on the site and the associated use of machinery and trucks. The Commission also acknowledges that these effects will be experienced for a limited period of 4 years only.

46. Following deposition the earthworks will not be prominent as the finished ground is to be revegetated so that it blends with the adjacent pasture cover on Malaghans Ridge, being a continuation of the pasture on the hillside to the east of the gully. The Commission acknowledges in this context Dr Read's opinion that the long term adverse effects on the environment from the removal of the gully on site will be minor, as confirmed in the email correspondence between Dr Read and Mr Wallace dated 7 May 2014.

*“(c) Form and Density of Development*

*In considering the appropriateness of the form and density of development the following matters the Council shall take into account whether and to what extent:*

- (i) there is the opportunity to utilise existing natural topography to ensure that development is located where it is not highly visible when viewed from public places;*
- (ii) opportunity has been taken to aggregate built development to utilise common access ways including pedestrian linkages, services and open space (ie. open space held in one title whether jointly or otherwise);*
- (iii) development is concentrated in areas with a higher potential to absorb development while retaining areas which are more sensitive in their natural or arcadian pastoral state;*
- (iv) the proposed development, if it is visible, does not introduce densities which reflect those characteristic of urban areas.*
- (v) If a proposed residential building platform is not located inside existing development (being two or more houses each not more than 50 metres from the nearest point of the residential building platform) then on any application for resource consent and subject to all the other criteria, the existence of alternative locations or methods:*

- (a) *within a 500 metre radius of the centre of the building platform, whether or not:*
    - (i) *subdivision and/or development is contemplated on those sites;*
    - (ii) *the relevant land is within the applicant's ownership; and*
  - (b) *within 1,100 metre radius of the centre of the building platform if any owner or occupier of land within that area wishes alternative locations or methods to be taken into account as a significant improvement on the proposal being considered by the Council*
- must be taken into account.*
- (vi) *recognition that if high densities are achieved on any allotment that may in fact preclude residential development and/or subdivision on neighbouring land because the adverse cumulative effects would be unacceptably large."*

47. The only relevant part of this assessment matter is whether the development is being undertaken in an area with the potential to absorb change. In this instance the cleanfill can be accommodated in the gully without giving rise to significant adverse effects on the landscape; and adjacent areas are to be retained in their natural or Arcadian pastoral state.

*"(d) Cumulative effects of development on the landscape*

*In considering whether and the extent to which the granting of the consent may give rise to adverse cumulative effects on the natural or arcadian pastoral character of the landscape with particular regard to the inappropriate domestication of the landscape, the following matters shall be taken into account:*

- (i) *the assessment matters detailed in (a) to (d) above;*
- (ii) *the nature and extent of existing development within the vicinity or locality;*
- (iii) *whether the proposed development is likely to lead to further degradation or domestication of the landscape such that the existing development and/or land use represents a threshold with respect to the vicinity's ability to absorb further change;*
- (iv) *whether further development as proposed will visually compromise the existing natural and arcadian pastoral character of the landscape by exacerbating existing and potential adverse effects;*

- (v) *the ability to contain development within discrete landscape units as defined by topographical features such as ridges, terraces or basins, or other visually significant natural elements, so as to check the spread of development that might otherwise occur either adjacent to or within the vicinity as a consequence of granting consent;*
  - (vi) *whether the proposed development is likely to result in the need for infrastructure consistent with urban landscapes in order to accommodate increased population and traffic volumes;*
  - (vii) *whether the potential for the development to cause cumulative adverse effects may be avoided, remedied or mitigated by way of covenant, consent notice or other legal instrument (including covenants controlling or preventing future buildings and/or landscaping, and covenants controlling or preventing future subdivision which may be volunteered by the applicant).*
- ...

48. The development is to be contained within the existing gully. Any adverse cumulative effects associated with the existing and proposed earthworks (including the earthworks subject to the application for retrospective consent) and the existing access carriageway are considered to be minor as the area can absorb the cleanfill to be deposited; and once completed the revegetated earthworks will blend with the landscape and will not give rise to adverse cumulative effects on the natural or Arcadian pastoral character of the landscape.

**“(e) Rural Amenities**

*In considering the potential effect of the proposed development on rural amenities, the following matters the Council shall take into account whether and to what extent:*

- (i) *the proposed development maintains adequate and appropriate visual access to open space and views across arcadian pastoral landscapes from public roads and other public places; and from adjacent land where views are sought to be maintained;*
- (ii) *the proposed development compromises the ability to undertake agricultural activities on surrounding land;*
- (iii) *the proposed development is likely to require infrastructure consistent with urban landscapes such as street lighting and curb [sic] and channelling, particularly in relation to public road frontages;*
- (iv) *landscaping, including fencing and entrance ways, are consistent with traditional rural elements, particularly where they front public roads.*

- (v) *buildings and building platforms are set back from property boundaries to avoid remedy or mitigate the potential effects of new activities on the existing amenities of neighbouring properties.”*

49. The Commission considers that the proposed development maintains adequate and appropriate visual access to open space and views across the Arcadian pastoral landscape from public roads and other public places; and from adjacent land. Again the Commission acknowledges that the cleanfill operation is to be located within a discrete area (being the gully) and that in the long term the revegetated earthworks will blend with the existing pasture cover on adjacent land at Malaghans Ridge.
50. The Commission is satisfied that the proposal will not compromise the ability to undertake agricultural activities on surrounding land.
51. The proposed development will not require infrastructure consistent with urban landscapes. The status quo will be maintained with respect to the existing access and the protected hawthorn hedge will provide screening at the public road frontage of the site.
52. No buildings and building platforms are proposed in this instance.
53. The Commission is satisfied that any effects of the proposed development will be no more than minor in the context of the VAL.

## **B.5 Assessment Matters General**

54. Assessment Matter 5.4.2.3 contains Assessment Matters – General which have been considered by the Commission. The Commission does not propose to reproduce these assessment matters in detail (except for those that relate to earthworks) as to a considerable extent they overlap with the assessment matters specific to VAL discussed above.
55. In the context of Assessment Matter 5.4.2.3ii Natural Hazards – General the Commission acknowledges that the activity has the potential to exacerbate sedimentation; but such effects can be mitigated by adherence to appropriate conditions of consent. Mr Wardill advised the Commission in this context that no excavations are proposed that would jeopardise the stability of neighbouring

properties; and that there remains a 200 metre long “run out” at the bottom of the gully into a large paddock which is currently being cultivated. In the event that the fill is destabilised and slips downstream Mr Wardill advised us that the paddock is vacant and there are no residential properties at risk due to any such fill destabilisation.

56. The Commission has given particular consideration to the proposal in terms of Assessment Matter 5.4.2.3xxviii Earthworks. These assessment matters are reproduced below, followed by the Commission’s assessment of the proposal in terms of the assessment matter.

*“1. Environmental Protection Measures:*

- (a) Whether and to what extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on-site.*
- (b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.*
- (c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.*
- (d) Where earthworks are proposed on a site gradient > 18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.*
- (e) Whether measures to minimise dust emissions are proposed and to what extent these mitigation measures are effective.*
- (f) Whether and to what extent any groundwater is likely to be affected, and if any mitigation measures are proposed to address likely effects.*
- (g) Whether and to what extent earthworks are necessary in order to undertake flood protection works recognising the long-term benefits of effective flood mitigation measures on the surrounding environment.”*

57. Environmental protection measures are proposed in accordance with a Site Management Plan (SMP) provided with the application. Mr Wardill is satisfied that this SMP and compliance with the relevant requirements of NZS 4404:2004 will provide suitable control of the effects of sedimentation and dust on site. A suite of conditions of consent have been recommended by Mr Wardill that will ensure appropriate environmental protection measures are in place and the applicant is agreeable to these.



58. In terms of stormwater and overland flow paths the applicant has proposed site inspections of the proposed drainage after every rainfall event to ensure overland flows and drainage are working effectively. Mr Wardill considers that this, combined with engineering supervision of the works, will provide suitable mitigation in relation to any adverse effects arising from overland flow paths, stormwater and instability at the site caused by flow of water; and he has noted the methodology for the deposition of fill, being from the top down, that can cause steep slopes. Again conditions have been recommended by Mr Wardill which are supported by the applicant.
59. Mr Wardill advised that a geotechnical report was not considered necessary in the context of RM 070243. Mr Wardill also considers that a geotechnical report is not required in the context of the current application as no excavations are proposed and as a consequence there is nothing to jeopardise the stability of neighbouring properties. Mr Wardill also noted that sections of fill may provide additional support to the existing access carriageway shoulders.
60. Originally the applicant proposed to “oil” the upper portion of the access carriageway. At the hearing Mr Geddes confirmed that the applicant now proposes to apply “Ottaseal” or similar proprietary treatment on the trafficable surface of the access driveway adjacent to the fill area. Mr Wardill is satisfied that this is a suitable form of dust suppressant.
61. Groundwater is not expected to be affected.

*“2. Effects on landscape and visual amenity values, in particular Outstanding Natural Features and Outstanding Natural Landscapes.*

- (a) *Whether and to what extent the scale and location of any cut and fill will adversely affect:*
- *the visual quality and amenity values of the landscape;*
  - *the natural landform of any ridgeline or visually prominent areas;*
  - *the visual amenity values of surrounding sites.*
- (b) *Whether the earthworks will take into account the sensitivity of the landscape.*
- (c) *The potential for cumulative effects on the natural form of existing landscapes.*

- (d) *The proposed rehabilitation of the site and to what extent re-vegetation will mitigate any adverse effects.*
- (e) *Whether and to what extent the earthworks create an area that is inconsistent with the character of the surrounding landscape.*
- (f) *Whether the location and/or design of any new tracking can be modified in order to decrease the effects on the stability, visual quality and amenity values of the landscape.”*

- 62. Effects on landscape and visual amenities have been addressed in Section B:4 of this decision. Mr Wallace drew our attention to the visual effects on neighbours on the south side of Speargrass Flat Road (referred to as the “southern neighbours” in his report); and on the Kampman property that is located immediately to the west of the subject site.
- 63. The deposition area will be screened by the protected hawthorn hedge from properties immediately to the south of Speargrass Flat Road.
- 64. The southern neighbours further to the south will have a clear view of the deposition area. It is acknowledged in this context that the southern neighbours in the Clifton Estate subdivision will have a clear view of the area within which deposition is to occur; and that none of these parties chose to lodge a submission in response to the proposal albeit that they received notice of the application as part of the limited notification process.
- 65. During the deposition process the southern neighbours at the Clifton Estate subdivision will have a view of the cleanfill landfill and of the machinery and trucks operating in conjunction with that activity. From this perspective the cleanfill operation will be viewed against the backdrop of the mountain range that includes Coronet Peak behind. It is also acknowledged that as the cleanfill landfill progresses down the gully that this activity will progressively drop from sight as it will become screened by the protected hawthorn hedge.
- 66. Upon completion of the cleanfill operation and revegetation of the site the southern neighbours will view pasture on the earthworks that will blend with adjacent pasture on the hillside and appear characteristic of the surrounding landscape. The Commission is satisfied that any adverse effects on the visual quality and amenity qualities of the

landscape; the natural landform of the ridgeline; and the visual amenity values of the sites occupied by the southern neighbours will be no greater than minor.

67. A residential building platform (RBP) was consented on the Kampman property by RM 120680 on 10 July 2013. This residential building platform is located 97.5 metres to the west of the access carriageway on the subject site that is to be utilised as part of the cleanfill operation. Plantings have been established on the Kampman property between the RBP and the eastern boundary that is shared with the subject site. Other built development on the flat portion of the Kampman property includes a five bay shed authorised by RM 100586.
68. As noted above the applicant has offered a condition to the effect that fill works shall cease upon occupation of a residential building on the RBP approved under RM 120680. Such condition will serve to avoid effects on the occupants of a future dwelling on the Kampman RBP. Such effects would otherwise include visual effects associated with works at the cleanfill deposition area; and noise, dust and vibration effects associated with truck movements using the access carriageway. The Commission considers that these effects will be mitigated, to some extent, by adherence to the 15 kph speed restriction that has been offered by the applicant within the subject site.
69. Mr Kampman advised that a real estate sign on his property (which had been referred to by Mr Geddes) relates to the sale of the larger allotment created by RM 120680. Mr Kampman also advised that the dwelling proposed for the RBP is being designed by an architect at present and that the Kampman family will reside in temporary accommodation until the dwelling is built. The effect of the condition offered by the applicant may well result in the cleanfill deposition activity occurring for a much more limited period than the four years for which consent has been sought.
70. Prior to the occupation of a dwelling on the RBP on the Kampman property the cleanfill deposition activity and associated truck movements will occur. The Commission considers that the effects of such activity on the Kampman property will be limited having regard to the fact that residential activity is not present on that part of the Kampman property from which the deposition area and the driveway are visible. The Commission also notes in this context that the access driveway on the flat is

located within an avenue of trees that are planted on both sides of the driveway. As noted above a 15 kph speed limit on the access driveway will serve to mitigate noise, dust and vibration effects on the neighbouring property.

71. Any visual effects associated with the deposition area are likely to be limited. As noted above cleanfill has occurred as authorised by RM 070243 and the proposal is to complete filling of the gully below that area. The Commission also acknowledges that the deposition area is not located on a skyline and that the mountain range behind provides a visual backdrop that has complex topography and vegetation cover.
72. Following the completion of the cleanfill deposition activity the existing partial gully will no longer exist and will be replaced with sloping pasture that will form a continuation of the existing hillside.
73. The Commission's conclusion is that any effects on the landscape and visual amenity values enjoyed by the Kampman property will be limited.
74. It is again acknowledged that Lot 2 DP 25424 (being the land immediately to the east of the access carriageway that has frontage to Speargrass Flat Road) is owned by the applicant; and that the applicant also owns Lot 4 DP 25520 being an adjoining property to the east of the subject site.

*"3. Effects on adjacent sites*

- (a) Whether the earthworks will adversely affect the stability of neighbouring sites*
- (b) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.*
- (c) Whether cut, fill and retaining are done in accordance with engineering standards."*

75. The area of earthworks is not adjacent to other sites. The Commission notes that the applicant has proposed a condition that no more than 2,500m<sup>2</sup> of earth be exposed at any one time to assist in mitigating the effects of sedimentation runoff. As previously noted a suite of conditions of consent have been recommended by Mr Wardill which the applicant is agreeable to and the works are to be undertaken in accordance with engineering standards.

*“4. General Amenity Values*

- (a) Whether the removal of soil to or from the site will affect the surrounding roads and neighbourhood through the deposition of sediment, particularly where access to the site is gained through residential areas.*
- (b) Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.*
- (c) Whether natural ground levels will be altered.”*

76. A condition of consent has been recommended by Mr Wardill which will ensure that surrounding roads will not be affected by the deposition of material.
77. The condition offered by the applicant with respect to ceasing fill works at the time that a residential dwelling is occupied on the RBP approved under RM 120680 on the Kampman property will avoid noise, vibration and dust effects which could detract from the amenity values of the occupants of that RBP. Any noise, vibration and dust effects on the wider surrounding area are considered to be minor.
78. An effect of the earthworks is to alter natural ground levels to the extent that the existing partially filled gully will be filled with cleanfill over time and revegetated to present an appearance similar to the adjacent hillside. Dr Read considers that the long term adverse effects on the environment from removal of the gully on site would be minor.

*“5. Impacts on sites of cultural heritage value:*

- (a) The extent to which the activity modifies or damages Waahi Tapu or Waahi Taoka, and whether tangata whenua have been notified.*
- (b) The extent to which the activity affects Ngai Tahu’s cultural and traditional association with the Statutory Acknowledgement Area.*
- (c) Whether the subject land contains a recorded archaeological site, and whether the NZ Historic Places Trust has been notified.”*

79. The site is not known to have any specific cultural heritage value. As the application is to deposit cleanfill rather than to extract earth Mr Wallace advised the Commission

that it is not necessary to impose conditions with respect to an accidental discovery protocol.

**“6. Activities**

- (a) *Whether the proposed tracking or other earthworks is necessary or desirable for the ongoing and reasonable maintenance and use of the land.*
- (b) *Whether the proposed tracking or other earthworks are necessary or desirable to achieve a reasonable or appropriate use of the land for the proposed activity.”*

80. No new tracking is proposed. Access to the cleanfill deposition area will be achieved utilising the existing access carriageway that also serves the dwelling authorised by RM 041132 (as changed by RM 100408).

**B.6 Part 14**

81. The existing access complies with the minimum sight distances in terms of the Operative District Plan. Given that the status quo is to be maintained with respect to the access onto Speargrass Flat Road no further detailed consideration is required in terms of the assessment matters stated in Part 14 of the Operative District Plan. For completeness it is noted that Mr Wardill has advised that the level of traffic generation (six trucks per day) is not unusually excessive for the area and can be easily absorbed with normal traffic flows.

**B.7 Positive Effects**

82. The proposal will have a positive effect by completing the fill of a partially filled gully and ensuring that this land is restored and revegetated to blend with the adjacent hillside on Malaghans Ridge which is in pasture. The proposal has positive effects when compared with the earthworks consented by RM 070243.

83. The proposal will also have a positive effect by providing an opportunity for cleanfill to be disposed of at a suitable location within the Wakatipu Basin, reducing requirements to cart cleanfill material to a more remote disposal area.

## **B.8 Summary : Effects and Assessment Matters**

84. The Commission finds that overall any adverse effects of the proposal are limited and can be satisfactorily mitigated through adherence to appropriate conditions of consent. The proposal is appropriate having regard to the relevant assessment matters including those stated in Parts 5 and 14 of the Operative District Plan, as discussed above.

## **C. THE QLDC DISTRICT PLAN : OBJECTIVES & POLICIES**

85. Parts 4, 5 and 14 of the Operative District Plan contain objectives and policies for the whole district being District Wide, for Rural Areas and in relation to Transport respectively. The objectives and policies from Parts 4 and 5 have been presented in Mr Wallace's report, and to a large degree the objectives and policies relate to matters discussed in the context of the assessment matters. It is neither desirable or necessary, therefore, to undertake a line by line analysis of every objective and policy as this would involve a significant amount of repetition without materially advancing the Commission's analysis of this application.

### **C.1 Part 4**

86. Clause 4.2.4(3) confirms that the Visual Amenity Landscapes (VAL) are those landscapes which wear a cloak of human activity much more obviously [than outstanding natural landscapes] being pastoral or arcadian landscapes with more houses and trees, greener (introduced) grasses; and VAL tend to be on the District's downlands, flats and terraces. The key resource management issues for VAL are managing adverse effects of subdivision and development (particularly from public places including public roads) to enhance natural character and to enable alternative forms of development where there are direct environmental benefits.

87. Objective 4.2.5 is:

***“Objective:***

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

88. Objective 4.2.5 is supported by a number of policies. Policies of potential relevance include Policy 1 Future Development which relates to the effects of development;

Policy 4 which relates to Visual Amenity Landscapes; Policy 8 that relates to Avoiding Cumulative Degradation; and Policy 17 that relates to Land Use.

89. Policy 1 – Future Development – is to avoid, remedy or mitigate the effects of development and/or subdivision in those areas of the District where the landscape and visual amenity values are vulnerable to degradation; to encourage development and/or subdivision to occur in areas of the District that have a greater potential to absorb change without detracting from landscape and visual amenity values; and to ensure that subdivision and/or development harmonises with local topography and ecological systems and other nature conservation values as far as possible.
90. The Commission is satisfied that this policy is satisfied in this instance. The cleanfill deposition is to occur in a partially filled gully which is an area with greater potential to absorb change without detracting from landscape and amenity values.
91. Policy 4 – Visual Amenity Landscapes states as follows:

***“4. Visual Amenity Landscapes***

- (a) *To avoid, remedy or mitigate the adverse effects of subdivision and development on the visual amenity landscapes which are:*
- *highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); and*
  - *visible from public roads.*
- (b) *To mitigate loss of or enhance natural character by appropriate planting and landscaping.*
- (c) *To discourage linear tree planting along roads as a method of achieving (a) or (b) above.”*

92. The proposal will serve to avoid, remedy or mitigate adverse effects of development on the VAL. The cleanfill deposition activity is to occur within a partially filled gully and will not be highly visible from public roads; and where it is visible, any effects will be limited as people will be travelling on roads where their focus will be on the driving environment. The protected hawthorn hedge will provide screening from Speargrass Flat Road immediately adjacent to the subject site.



93. In terms of Policy 8 – Avoiding Cumulative Degradation – the Commission is satisfied that the proposed density of development will not increase to the point where the benefits of further planting and building are outweighed by adverse effects on landscape values of over-domestication of the landscape. Domestication is not proposed in this instance.
94. Policy 17 – Land Use – encourages land use in a manner which minimises adverse effects on the open character and visual coherence of the landscape. The Commission is satisfied that the proposal is consistent with this policy having regard to the applicant’s intention to restore the land upon completion of the earthworks and to revegetate the land to be consistent with the pasture cover of the adjacent hillside on Malaghans Ridge.
95. Objective 4.11.3 is an objective specific to earthworks which is supported by various policies. Objective 4.11.3 states as follows:

***“To avoid, remedy or mitigate the adverse effects from earthworks on:***

- (a) Water bodies***
- (b) The nature and form of existing landscapes and landforms, particularly in areas of Outstanding Natural Landscapes and Outstanding Natural Features.***
- (c) Land stability and flood potential of the site and neighbouring properties.***
- (d) The amenity values of neighbourhoods.***
- (e) Cultural heritage sites, including waahi tapu and waahi taoka and archaeological sites.***
- (f) The water quality of the aquifers.”***

96. The matters raised in Objective 4.11.3 and its associated policies have been addressed in the context of assessment matters (above). The Commission finds that the conditions recommended by Mr Wardill will ensure that sediment run-off and the area of bare soil exposed are minimised. The Commission also acknowledges that the condition offered by the applicant with respect to ceasing fill when a dwelling on the RBP on the Kampman property is occupied is entirely consistent with Policy 7

which is to ensure that techniques are adopted to minimise dust and noise effects from earthwork activities.

## **C.2 Part 5**

97. Part 5 of the Operative District Plan contains objectives and policies that specifically relate to Rural Areas. Objective 1 and its associated policies seek to allow the establishment of a range of activities that are managed in such a way as to protect the character and landscape values of the rural area:

***“Objective 1 – Character and Landscape Value***

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

***Policies:***

- 1.1 Consider fully the district wide landscape objectives and policies when considering subdivision, use and development in the Rural General Zone.*
- 1.2 Allow for the establishment of a range of activities, which utilise the soil resource of the rural area in a sustainable manner.*
- 1.3 Ensure land with potential value for rural productive activities is not compromised by the inappropriate location of other developments and buildings.*
- 1.4 Ensure activities not based on the rural resources of the area occur only where the character of the rural area will not be adversely impacted.*
- ...*
- 1.6 Avoid, remedy or mitigate adverse effects of development on the landscape values of the District.*
- ...”*

98. In terms of Policy 1.1 the district wide landscape objectives and policies have been considered fully above. In terms of Policies 1.2 and 1.3 the Commission acknowledges the potential for more productive use to be made of the land as pasture is to be established on the earthworks. In terms of Policy 1.4 the character of the rural area will not be significantly adversely affected in this instance. The Commission considers that the proposal is consistent with Policy 1.6 having regard to the restoration and revegetation that will result in a sloping pasture that will be similar in appearance to the adjacent hillside on Malaghans Ridge.

99. The Commission also notes that Objective 3 and the associated policies seek to avoid, remedy or mitigate adverse effects of development and activity on rural amenity. In this instance the adverse effects of the proposed development on rural amenity are sufficiently avoided, remedied or mitigated as a consequence of the conditions that have been offered by the applicant, particularly that fill activities will cease upon occupation of a dwelling on the RBP approved under RM 120680; and the Commission finds that the proposal is in accordance with the policies that relate to rural amenity.

### **C.3 Part 14**

100. Part 14 contains objectives and policies with respect to Transport. The Commission considers that the proposal is consistent with the objectives and policies that relate to the efficiency, safety and environmental effects of transportation. In this context the Commission again acknowledges that the access to Speargrass Flat Road exists; and that Mr Wardill considers that the level of traffic generation proposed is not unusually excessive for the area and can be easily absorbed with normal traffic flows.

### **C.4 Summary : Objectives and Policies**

101. Following the above analysis, the Commission finds that the proposal is consistent with those objectives and policies that are relevant to the application.

## **D. OTHER MATTERS**

102. Section 104(1)(c) of the Act requires the consent authority to have regard to any other matter the consent authority considers relevant and reasonably necessary to determine the application. No such other matters were referred to in the reports presented to the Commission on this application.

## **E. PART 2 OF THE ACT**

103. Part 2 of the Act contains sections 5 to 8. These are referred to in reverse order.

104. Section 8 requires the Commission, in exercising its functions on this application, to take into account the principles of the Treaty of Waitangi. No issues were raised in reports or evidence in relation to section 8.
105. Section 7 directs that in achieving the purpose of the Act the Commission is to have particular regard to certain matters which include, of relevance here, the efficient use and development of natural and physical resources; the maintenance and enhancement of amenity values; and the maintenance and enhancement of the quality of the environment. The Commission is satisfied, having regard to the matters addressed in Parts B and C of this decision that the proposal is consistent with the relevant matters stated in section 7 of the Act. There are no other matters stated in section 7 which are of any particular relevance to the current application.
106. Section 6 sets out a number of matters which are declared to be of national importance and directs that these be recognised and provided for them. No issues were raised in reports or evidence in relation to section 6. The Commission is satisfied that there are no matters stated in section 6 which are of any particular relevance to the application.
107. Section 5 sets out the purpose of the Act – to promote the sustainable management of natural and physical resources. Taking into account the definition of sustainable management contained in section 5(2), the Commission has reached the view that the land use activity subject to this application will achieve the purpose of the Act.
108. Sustainable management means managing the use, development and protection of natural and physical resources within certain parameters. The physical resources of this site will be developed in such a way that the social and economic wellbeing of the applicant is provided for, while the potential of natural and physical resources will be sustained to meet the reasonably foreseeable needs of future generations. Any adverse effects of the activity can be avoided, remedied or mitigated by adherence to appropriate conditions of consent.

## **F. OUTCOME**

109. Section 104 of the Act directs that when considering an application for resource consent and any submission received in response to it, the Commission must, subject to Part 2, have regard to the actual and potential effects on the environment of allowing the activity together with the relevant provisions of the Operative District Plan. In the course of considering the application and submissions and in reaching this decision the Commission has followed this process. Under section 104C the Commission has discretion to grant consent to the application and the Commission hereby does so subject to the imposition of conditions of land use consent as attached in a Schedule to this decision.

This decision on RM 130654 is dated 26 November 2014.

**W D Whitney**  
**COMMISSIONER**

## **SCHEDULE : CONDITIONS OF CONSENT FOR RM 130654 : S FLOOD**

### ***General Conditions***

1. That the land use activity be carried out in accordance with the plans **that are stamped as approved on 21 November 2014:**
  - a. Clark Fortune McDonald & Associates plan dated 2 September 2013 entitled Proposed Contours which shows the extent of the area to be filled;
  - b. Clark Fortune McDonald & Associates plan dated 2 September 2013 entitled Proposed Contours which shows the areas to be filled over time subject to the amendment that the appellations '13' – '18' are now deemed to be '14' – '19', respectively;

and the application as submitted, with the exception of the amendments required by the following conditions of consent.
2. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.
3. The consent holder is liable for costs associated with the monitoring of this resource consent under section 35 of the Resource Management Act 1991 and shall pay to Council an initial fee of \$100. This initial fee has been set under section 36(1) of the Act.
4. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being New Zealand Standard 4404:2004 with the amendments to that standard adopted on 5 October 2005, except where specified otherwise.

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

5. At least 7 days prior to commencing excavations, the consent holder shall provide the Principal Resource Management Engineer at the Queenstown Lakes District Council with the name of a suitably qualified professional as defined in Section 1.4 of NZS 4404:2004 and who shall supervise the filling procedure, ensuring safe operation of the site and adjacent land stability.
6. The consent holder shall install measures to control and/or mitigate any dust, silt run-off and sedimentation that may occur, in accordance with NZS 4404:2004 and in accordance with the Site Management Plan dated 24<sup>th</sup> March 2014 prepared by Clarke Fortune McDonald & Associates. 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. These measures shall also specifically include;
  - Emptying the sedimentation pond prior to works starting and ongoing maintenance to ensure effective sedimentation capture;
  - Inspection of the cut off drain by a site supervisor after every rain event;
  - Adjusting stormwater drainage as works progress.
  - Application and maintenance of 'Ottaseal' or similar proprietary treatment, upon the trafficable surface of the access driveway adjacent to fill areas.

### ***To be monitored throughout earthworks***

7. The engineer specified in Condition 5 shall continually assess the condition of the excavation and implement any design changes / additions if and when necessary to ensure continuous safe operation of the site and adjacent land stability. The engineer shall assess the most suitable location for

progressive filling of the site with deference given to minimizing environmental issues within the site and overall site stability.

8. Only clean fill material shall be deposited at the site. Clean fill material is defined as material that when buried/placed will have no adverse effect on people or the environment, and includes virgin natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of;
  - combustible, putrescible, degradable or leachable components;
  - hazardous substances;
  - products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;
  - materials that may present a risk to human or animal health such as medical and veterinary waste, asbestos or radioactive substances;
  - liquid waste.

Acceptable materials include bricks, pavers, masonry blocks, ceramics, un-reinforced concrete, reinforced concrete where any protruding steel is cut off at the concrete face, fibre cement building products, road sub-base, tiles and virgin soils (including rock, sand, gravel, clay) - provided they are uncontaminated. Any other materials will require the prior written approval of the Queenstown Lakes District Council prior to disposal at the site. Topsoil shall be used for final cover only.

9. 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. The loading and stockpiling of earth and other materials shall be confined to the subject site.
10. The area of fill exposed shall not exceed 2500m<sup>2</sup> at any one time. On completion of each section of fill and at least once yearly, earth-worked area shall be progressively restored to ensure:
  - the long term stability of the site;
  - that landforms and vegetation are visually integrated;
  - the final surface is contoured to provide uniform grades and surface drainage;
  - top soil is placed and sown in grass to match the appearance of the pasture on the hillside to the east of the existing gully;
  - erosion due to stormwater scouring is minimised.
11. No earthworks, temporary or permanent, are to breach the boundaries of the site.
12. The consent holder shall maintain adequate documentation of materials accepted at the clean fill. Information to be provided shall include:
  - date of waste acceptance;
  - contractor's name;
  - description of the waste type;
  - verification that the waste type complies with the clean fill criteria;
  - source of waste;
  - quantity of waste;
  - any noticeable characteristics of the waste;
  - details of specific waste disposal agreements.

For all loads that arrive at the site, the waste generator/contractor shall provide the above information and sign a declaration that the load to be disposed meets the clean fill criteria given in Condition 8 above.

Where specific contractors regularly use the site, the individual load declaration may be replaced with a formal agreement between the consent holder and the contractor to use the facility, which states that only waste which meets the clean fill criteria will be disposed of. The consent holder shall make copies of any formal agreements or load declarations available to the Queenstown Lakes District Council at its request.

13. The consent holder shall remedy on an ongoing basis any damage to all existing road surfaces and berms that result from work carried out for this consent.

***On completion of earthworks***

14. On completion of the earthworks, the consent holder shall complete the following:
  - a) All earthworked and/or exposed areas shall be top-soiled and sown in grass to match the appearance of the pasture on the hillside to the east of the existing gully.
  - b) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
15. Within 8 weeks of completion of the filling operation, the consent holder shall undertake the following:
  - a) The consent holder shall submit to the Queenstown Lakes District Council an as built plan of the fill. This plan shall be prepared by a suitably qualified surveyor or engineer and shall show the contours indicating the depth of fill. Any fill that has not been certified by a suitably qualified and experienced engineer in accordance with NZS 4431 shall be recorded on the as built plan as "uncertified fill".
  - b) A covenant pursuant to section 108(2)(d) of the Resource Management Act 1991 shall be registered on the Computer Freehold Register Identifier for Lot 3 DP 25520 in favour of the Queenstown Lakes District Council to provide advice to future land owners that the site contains uncertified fill which may be susceptible to subsidence, and that any future buildings will require foundation design by a suitably qualified engineer. The costs of registering the covenant shall be borne by the consent holder.
  - c) A suitably qualified professional engineer shall provide certification confirming the long-term stability of the filled area and end batters.

***Other***

16. At the time a residential dwelling is occupied on the building platform approved under RM 120680 the fill works shall cease and the earthworks shall be deemed to be completed whereupon the consent holder shall comply with Conditions 14 and 15. Remedial works required in terms of Condition 14 shall be completed within 6 months of the cessation of fill works to the satisfaction of the Planning and Development Manager of the Queenstown Lakes District Council.
17. No trucks shall exceed a speed of 15 kph on the access carriageway within the site.
18. The consent holder shall erect suitable signs at the site entrance and in the vicinity of the fill deposition area which advises those operating trucks on the access carriageway that a speed limit of 15 kph applies.
19. The on-site operation of trucks and machinery is permitted only between the hours of 8:00am and 5:00pm Monday to Friday and shall not occur on Saturdays, Sundays and public holidays. Trucks shall not enter or exit the site before 9:00am or after 3:00pm.
20. No trailer units shall enter or leave the site in conjunction with the activity authorised by this consent.



21. No machinery or equipment is to be parked or stored on the site overnight.
22. Water shall be available at the site to suppress dust if necessary; and sprinklers shall be used to assist in rapid grass strike on areas sown in grass in terms of Conditions 10 and 14.

### ***Review***

23. Within ten working days of each anniversary of the date of this decision the Queenstown Lakes District Council may, in accordance with sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
  - (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent which were not foreseen at the time the application was considered and which it is appropriate to deal with at a later stage.
  - (b) To deal with any adverse effects on the environment which may arise from the exercise of the consent and which could not be properly assessed at the time the application was considered.
  - (c) To avoid, remedy and mitigate any adverse effects on the environment which may arise from the exercise of the consent and which have been caused by a change in circumstances or which may be more appropriately addressed as a result of a change in circumstances, such that the conditions of this resource consent are no longer appropriate in terms of the purpose of the Resource Management Act 1991.

### ***Duration of Consent***

24. Pursuant to section 123(b) this land use consent is granted for a period that is limited to 4 years from the date of commencement of this consent.

### ***Advice Notes***

- a) The consent holder is advised to consult with the Otago Regional Council and obtain any necessary permits or consents from that Council.
- b) The duration of this consent (in terms of Condition 24) may be effectively reduced upon occupation of a residential dwelling on the residential building platform approved under RM 120680 - see Condition 16.



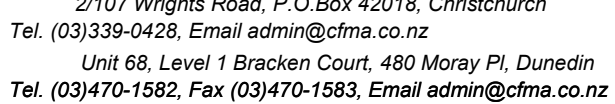
**APPROVED PLAN:  
RM130654  
21 November 2014**

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Iss.	Date	Revision Details	By	Ver.	App.
Rev.	Date	Revision Details	By	Ver.	App.

SIMON FLOOD

Surveyed	Signed	Date
Drawn CCH	Signed	Date 2 SEP 13
Designed	Signed	Date
Approved	Signed	Date

## PROPOSED CONTOURS



