



DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	SPEARGRASS FARMS LIMITED
RM Reference:	RM120680
Location:	Speargrass Flat Road, Wakatipu Basin
Proposal:	Subdivision to create two allotments and identification of a residential building platform on one of the allotments.
Type of Consent:	Subdivision
Legal Description:	Lot 1 DP 25424 held within Computer Freehold Register OT17C/139 and Lot 4 DP 25520 held within Computer Freehold Register OT17C/579
Valuation Numbers	2907119801 & 2907119802
Zoning:	Rural General
Activity Status:	Discretionary
Notification:	17 April 2013
Commissioners:	W D Whitney & L Cocks
Date of Decision:	10 July 2013
Decision:	Granted subject to conditions

A. INTRODUCTION

A.1 Background

1. Speargrass Farms Limited has applied to the Queenstown Lakes District Council for resource consent to subdivide two existing titles into two allotments and to identify a residential building platform on one of those allotments on a property that has frontage to Speargrass Flat Road in the Wakatipu Basin. The sites subject to the application are described as Lot 1 DP 25424 and Lot 4 DP 25520 as held in Computer Freehold Register Identifiers OT 17C/139 and OT 17C/579 respectively in the Otago Land Registration District.

2. Lot 1 DP 25424 has an area of 7826m² more or less and Lot 4 DP 25520 has an area of 43.0565 hectares more or less. The sites have a combined area of 43.8391 hectares more or less. Lot 4 DP 25520 is located on the northern side of Speargrass Flat Road and can broadly be described as being similar to the numeral “7” in configuration. Lot 1 DP 25424 is rectangular in shape and is entirely surrounded by Lot 4 DP 25520. Access is achieved to Lot 1 via a right of way from Speargrass Flat Road over Lot 4 DP 25520. The applicant owns Lot 1 DP 25424 and Lot 4 DP 25520 and the property is used for pastoral farming purposes. For convenience we hereinafter refer to the land described in this paragraph as “the site”.

3. 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. The elevated portions of the site have a hummocky topography which generally falls to the south. The flat portion of the site is an alluvial feature being a part of the outwash deposits of the Shotover River when Lake Wakatipu was higher than present.

4. A hawthorn hedge exists in the road reserve of Speargrass Flat Road, adjacent to the southern boundary of the site. The site is in open pasture with a cluster of large trees near the south-west entrance to the site and scattered trees are found elsewhere on the site including on the escarpment, and a prominent tree is located on the southern corner of Lot 1 DP 25424.

5. The site has two access points to Speargrass Flat Road. The access point at the south-west corner of the site is the primary access to the property, and this connects to a farm track which provides access to the upper portion of the site. Part of the farm track is subject to the right of way easement that provides legal access to Lot 1 DP 25424. A formed access also exists close to the south-eastern corner of the site.
6. Built development on the flats within the site includes a substantial haybarn that is located adjacent to the south-west entrance and a 5 bay shed that is located behind the hawthorn hedge. This shed was authorised by RM 100586 that was granted by Commissioner Clarke on 8 October 2010. On the upper portion of the site there is a residential building platform that was consented as RM 100774 by Commissioner Sinclair on 3 September 2012. A partially constructed building also exists on the upper portion of the site being part of a dwelling authorised by RM 010532 that was granted on 2 October 2001. Condition 4 of RM 100774 requires that prior to the registration of the building platform [authorised by RM 100774] the partially constructed building on the site shall be removed.
7. The Commission notes that other buildings are present on the site including a small hen house on the flats and farm buildings on the upper portion of the site. Deer fencing is present at the site with associated deer fence gates.

A.2 The Proposal

8. The applicant proposes to subdivide the site into two allotments being Lot 1 of approximately 34.3934 hectares and Lot 2 of approximately 7.8805 hectares. The areas of the allotments are approximate only as their combined area is 1.5652 hectares less than the total site area as stated in the relevant Computer Freehold Register Identifiers.
9. A residential building platform is proposed on Lot 2, such platform to have an area of 1000m². The residential building platform on Lot 2 is 30 metres from the Speargrass Flat Road boundary of that allotment.

10. Lot 1 includes the existing haybarn near the south-western corner of the site and the existing farm track. Lot 1 contains the majority of the site and includes Lot 1 DP 25424 and the residential building platform authorised by RM 100774.
11. Lot 2 includes the majority of the site located on the flats. Lot 2 contains the 5 bay shed authorised by RM 100586 and access to Lot 2 is to be achieved via the existing access located close to the south-eastern corner of the site.
12. Water is to be provided from an existing communal domestic supply subject to ORC Consent No: 2006.344. This authorises the extraction of ground water for a domestic supply not exceeding 16,800 litres per day. Wastewater disposal is to be via on-site treatment and disposal to ground. The applicant has provided a Site & Soils Assessment dated 18 October 2012 undertaken by Southern Monitoring Services Limited that confirms that Lot 2 contains a large area of ground with soils of adequate capacity to accommodate the treatment of effluent to land via sub-soil treatment methods in accordance with AS/NZS 1547:2012 for the residential loadings anticipated by the development.
13. Correspondence from Aurora Energy Limited dated 5 December 2011 and from Chorus dated 14 September 2009 confirm that reticulated power and telecommunication services can be provided to the subdivision.
14. In the application documentation, in documents circulated by the applicant subsequent to the lodging of submissions and at the hearing the applicant volunteered a range of conditions to mitigate effects. These include the following (or to like effect):
 - (i) The dwelling and any accessory building to be located within the residential building platform proposed on Lot 2.
 - (ii) Roof pitches and heights shall comply with the following
 - a. The maximum height of any building within the building platform shall be 7.0 metres above existing ground level, when roof pitches are between 25 and 40 degrees.

- b. Where roof pitches are as above, 20% of the building may have flat (0-5 degrees) roofs, to be used as connections between gabled forms.
 - c. Where 'mono-pitch' roofs are included, the building height shall be restricted to 5.5 metres above existing ground level.
- (iii) The maximum building footprint within the residential building platform is limited to 60% of the area of the building platform (ie. 600m²).
- (iv) All structures including dwellings, accessory buildings and water tanks shall conform to the following building design controls:
- a. Roof claddings to be in steel (corrugated or tray), slate (natural or imitation), natural grass and/or membrane.
 - b. Roof colours to be in recessive colours in greys or black with a light reflectivity less than 20%.
 - c. Wall colours to be in a recessive colour with a light reflectivity of less than 36%; to be within the tones of greys and browns, or in natural timber left to weather.
 - d. Wall cladding to be in timber, smooth plaster, stone (local schist), concrete or corrugated steel (to complement roof colours where both exist). Wall claddings are to be continuous in one cladding from ground or roof.
- None of the following shall be incorporated into the exterior of any building:
- Fibre cement weatherboards, sidings and roofing (excluding 'Linea' weatherboards).
 - Uncoated fibre material.
 - PVC sidings
 - Unpainted concrete masonry.
 - Metal weatherboards.
 - Compressed fibre mineral weatherboards.
 - Metal or asphalt based, aggregate covered tiles or shingles.
- e. All glazing in the building shall be restricted to systems with a reflected visible light of less than or equal to 8%.
- (v) All exterior lighting associated with any dwelling shall be fixed no higher than 2.0 metres above finished ground level and shall be capped, filtered or pointed downwards so as to reduce or avoid visibility from any point off-site of light sources and to minimise visibility of its areas.
- (vi) Exterior joinery shall be in timber, steel or aluminium. Joinery colours (excepting timbers) shall match roofing, gutter and spouting colours.
- (vii) All elements of domestic curtilage (such as car parking areas, lawns, domestic landscape planting, outdoor storage areas, and clotheslines) on

Lot 2 shall be contained within the curtilage area identified on the plan entitled Kampman; Speargrass – Tree Planting Plan being plan 9526-SK4 dated 5 July 2013 that was provided to the Commission subsequent to the hearing to provide details of the location, species, number and grade of trees to be planted.

- (viii) No exterior lighting on Lot 2 shall be permitted on the driveway, more than 10 metres from the dwelling or outside the curtilage area.
 - (ix) No fencing shall be permitted (including boundary fencing on Lot 2) other than fences of a traditional farming type being post and wire.
 - (x) Any entrance gates shall be designed to fit in with the rural setting.
 - (xi) The driveway to serve any building on the residential building platform on Lot 2 shall not have kerb and channel and shall be constructed of gravel or otherwise finished to fit in with the rural setting.
 - (xii) The owner of Lot 2 shall establish and maintain (and irrigate as required) all new plantings shown on the plan entitled Kampman, Speargrass - Tree Planting Plan prepared by the Baxter Design Group Limited and dated 5 July 2013.
 - (xiii) The floor level of any dwelling on the residential building platform to be 200mm above the existing ground level to provide protection from possible overland sheet flow caused by heavy rainfall events.
 - (xiv) Engineering conditions as recommended by Ms Overton except for a requirement that access to the building platform on Lot 2 be constructed to Council's standards.
15. The Commission confirms that it has assessed the proposal on the basis of the application as lodged; the further information provided on behalf of the applicant prior to the hearing; and the refined and additional conditions offered by the applicant at the hearing including the draft conditions presented as an attachment to Mr Baxter's evidence.

A.3 Zoning

16. The site is zoned Rural General as shown on Map 29 of the Operative Queenstown Lakes District Plan (Operative District Plan/District Plan).

17. Rule 15.2.3.3(vi) confirms that all subdivision and the location of residential building platforms is a discretionary activity in the Rural General Zone.

18. The Commission has considered the proposal as an application for subdivision consent to a discretionary activity.

A.4 Hawthorn Hedge Protection

19. Rule 13.2.3.2(iii) of the Operative District Plan confirms that any work including under paragraphs a) to d) of that rule "... and involving a tree or group of trees listed in Appendix 3 as heritage trees..." is a discretionary activity.

20. During the hearing it was noted that the "Protected Avenue of Trees/Veg" notation on Map 29 of the Operative District Plan applies to some properties on the north side of Speargrass Flat Road between the Domain Road and Hunter Road/Lower Shotover Road, but not to the subject site. Such omission is inexplicable given that the hawthorn hedge in the road reserve adjacent to the southern boundary of the site is simply a continuation of the hawthorn hedge that exists elsewhere on the northern side of this portion of Speargrass Flat Road. The Commission also notes that the notation adjacent to this portion of Speargrass Flat Road is referenced as Heritage Trees 209 at Appendix 3, but that Heritage Trees 209 are described as "Poplars..." and not Hawthorn Hedge.

21. Significantly the reference to Heritage Trees 208 at Appendix 3 describes the following as Heritage Trees:

"Avenue of Hawthorn Hedge (Crataegus monogyna), within triangle of Domain Road, Speargrass Flat Road and Lower Shotover Road, located on both sides of the road." (emphasis added)

22. The Commission finds that the hawthorn hedges on both sides of Speargrass Flat Road including the hawthorn hedge adjacent to the site are protected in terms of Rule 13.2.3.2(iii) of the Operative District Plan. Such protection is in addition to any that results from the fact that the hawthorn hedge adjacent to the site is on land vested in the Queenstown Lakes District Council as road.

23. The Commission's finding is relevant to our assessment of the application (below).

24. The Commission considers it appropriate to direct attention to the need for more accurate application of the "Protected Avenue of Trees/Veg" notation on Map 29 and for the more accurate identification of the location of the species described as Heritage Trees 208 and 209 in the forthcoming District Plan Review.

A.5 Submissions

25. Two submissions were received within the statutory submission period which closed on 16 May 2013. The submissions by V Buckham and S Flood opposed the application for the reasons stated in those submissions.

26. The Otago Regional Council provided a submission that was received one day late. Section 37 of the Resource Management Act 1991 (the Act) enables the Commission to waive compliance with a time limit. Having taken into account the matters listed in Section 37A(1) the Commission hereby waives compliance with the time limit for the submission lodged by the Otago Regional Council.

27. The Commission has given consideration to all submissions lodged in response to the application.

A.6 Reports and Hearing

28. The Commission has had the benefit of a planning report dated 24 June 2013 from Mr Nathan Keenan then a Planner with Lakes Environmental Limited; a Landscape Assessment report dated 26 November 2012 from Dr Marion Read, then the Principal: Landscape Architecture with Lakes Environmental Limited; and an engineering report dated 20 May 2013 from Ms Lyn Overton, then an Engineer with Lakes Environmental Limited. It is noted that subsequent to the preparation of the reports Lakes Environmental Limited was dis-established and the relevant functions of that company have now been assumed by the Queenstown Lakes District Council.

29. At the hearing we were assisted by Mr Keenan, by Mr Richard Denney a Landscape Architect with the Queenstown Lakes District Council (who had originally reviewed Dr Read's report) and by Ms Overton. Ms Paula Costello a Senior Planner with the Queenstown Lakes District Council was also in attendance. Ms Rachel Beer, the Planning Support Co-ordinator with the Queenstown Lakes District Council, provided administrative support at the hearing.

30. Prior to the hearing we had the opportunity to consider the application and supporting material including the further information filed by the applicant together with the submissions. In the company of Mr Keenan we made a site inspection on the morning of the hearing on Tuesday 2 July 2013.

31. At the hearing the applicant was represented by Mr Graeme Todd, Counsel, of GTodd Law. Mr Todd called evidence from Mr René Kampman a Director of the applicant company; Mr Paddy Baxter, Landscape Architect and Director of Baxter Design Group Limited; and Ms Annemarie Robertson a Resource Management Consultant with John Edmonds & Associates Limited. Ms Sue Jones (Mr Kampman's partner) was also in attendance. A written statement from Paula Jepson of the Town Planning Group Limited for the submitters V Buckham & S Flood was tabled at the commencement of the hearing. This statement was contained in an email dated 2 July 2013.

32. The planning, landscape and engineering reports were taken as read and Ms Overton, Mr Denney and Mr Keenan were invited to comment following the presentation of submissions and evidence. Following Mr Todd's reply the hearing was adjourned.

A.7 Principal Reasons in Contention

33. The principal issues in contention before us are the effects on the environment of allowing the subdivision and in particular the identification of a residential building platform to accommodate a future dwelling in the position nominated on Lot 2 of the proposed subdivision at Speargrass Flat Road.

B. EFFECTS ON ENVIRONMENT

B.1 Permitted & Consented Baseline

34. Farming activities, planting (with specific exclusions), fencing and earthworks which do not breach Rule 5.3.5.1(viii) are permitted activities in the Rural General Zone. Within the Rural General Zone any subdivision and any building that exceeds 5m² and a height of 2 metres requires resource consent and is therefore not a permitted activity.

35. As noted above Lot 1 DP 25424 is in a separate Computer Freehold Register Identifier and could be utilised by the current owner or a subsequent owner for any permitted activity as of right. Ms Robertson noted that permitted activities include tree planting of non-wilding species for timber production up to 0.5 hectares in area; and tree planting of non-wilding species over the entire site concerned for amenity or shelter plantings, or for orchards. Horticultural, viticultural and agricultural activities are also permitted as is fencing less than 2 metres in height. The Commission notes that the effect of the proposal is to surrender any opportunity to utilise Lot 1 DP 25424 for a permitted activity on a standalone basis by the current or any future owner.

36. The consented baseline includes the residential building platform on Lot 1 consented under RM100774.

37. While not part of the consented baseline the Commission acknowledges that a previous subdivision consent RM 030476 was granted on 25 July 2003. That subdivision consent permitted the creation of a Lot 1 adjacent to Speargrass Flat Road to replace Lot 1 DP 25424. RM030476 lapsed on or about 21 July 2008.

B.2 Affected Persons Approvals

38. No affected persons approvals have been received with respect to the proposed subdivision.

B.3 Assessment Matters

39. The Queenstown Lakes District Plan became fully operative on 10 December 2009. The Operative District Plan contains assessment matters in Parts 5, 14 and 15 that are relevant to subdivision and development in the Rural General Zone.
40. The officers' reports and the evidence presented to us have assessed the effects of the activity in terms of the relevant assessment matters. In our view this approach is appropriate in this instance, and we have assessed the actual and potential effects of the proposed activity having regard to relevant assessment matters, particularly those presented in Part 5 of the Operative District Plan.

B.4 Part 5

41. 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.
42. 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, Dr Denney and Mr Baxter 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.
43. 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 our assessment of the proposal in terms of the assessment matter, including our discussion of effects.
44. 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.”*

45. 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 has existed for many years. Ms Jones also informed us that shelter belt/amenity planting strips located between the eastern boundary of the site and Hunter Road were established prior to 28 September 2002.

“(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;*”

46. The site is not adjacent to any Outstanding Natural Landscape or Feature.
47. The residential building platform nominated on Lot 2 is located on the southern edge of an open area of pastoral land in the VAL north of Speargrass Flat Road. Mr Baxter described this open area of pastoral land as extending in a “wedge” form from Speargrass Flat Road, to the north to the base of rising land at Malaghans Ridge and to the east across Hunter Road to where the rising land meets Speargrass Flat Road east of Hunter Road. Mr Baxter explained that this area of land is approximately 2 kilometres wide west-east and approximately 500 metres in depth running north to south. He described the land as being relatively open in character, broken by shelter belts west of Hunter Road, farm fencing and the occasional farm shed and mature trees.
48. The proposed subdivision provides for most of the site that forms part of the “wedge” to be held in Lot 2, with provision being made in Lot 1 for access and the existing hay barn. That part of the site that forms part of Malaghans Ridge including the hummocky land above the escarpment is to be held in Lot 1.
49. The residential building platform nominated on Lot 2 is 30 metres from the Speargrass Flat Road boundary of the site and is located in close proximity to the 5 bay shed authorised by RM 100586. The Commission is satisfied that the proposal, including the identification of the proposed residential building platform on Lot 2, will not compromise the natural or Arcadian pastoral character of the surrounding VAL to any more than a minor extent. A future dwelling on the residential building platform will be located at the southern end of the “wedge” and will be located in close proximity to the protected hawthorn hedge and the 5 bay shed. Such location has less effect on the surrounding VAL than, say, an alternate location in a more central position within the flats on Lot 2 or, say, on

the escarpment in the event that the proposed boundary internal to the subdivision was amended to include Lot 1 DP 25424 and land of similar topography within Lot 2.

50. The Commission is satisfied that the location of the dwelling on the nominated residential building platform will not cause over-domestication of the landscape. The Commission notes in this context that Lot 2 will have an approximate area of 7.8805 hectares and that the residential building platform on Lot 1 authorised by RM 100774 is not visible from Speargrass Flat Road or any roads from which a future dwelling on Lot 2 would be visible.

51. The Commission also acknowledges the range of conditions offered by the applicant, including conditions with respect to building design and landscaping considerations. Potential effects on the natural and pastoral character of the landscape associated with the construction and use of a dwelling on the residential building platform on Lot 2 will be mitigated by adherence to the conditions offered by the applicant.

“(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.”*

52. Mr Baxter informed us that a dwelling on the residential building platform on Lot 2 would be visible at distances of between 650 and 750 metres from Hunter Road. The photographs produced at Mr Baxter’s Attachment B confirm that such dwelling would be set against the protected hawthorn hedge; and at a range of approximately 650 metres such dwelling would partially obscure the existing 5 bay shed and would be seen as part of the loose cluster of built development which includes the dwelling on the Young property that is located immediately to the west of the site on Speargrass Flat Road and buildings and building ruins (Heritage Buildings 131) at Thurlby Domain. The trees at Thurlby Domain (Heritage Trees 181, 182, 184, 185, 186, 187 and 188), along with the protected hawthorn hedge and poplars (Heritage Trees 208 and 209) would provide a treed backdrop to a future dwelling on Lot 2 when viewed from Hunter Road on the approaches to the Speargrass Flat Road intersection.

53. The Commission also notes that there are three rows of maturing shelterbelts/amenity planting strips containing 5 rows of trees located between Hunter Road and a future dwelling on the residential building platform on Lot 2.
54. The Commission concurs with Mr Baxter that a future dwelling on the residential building platform on Lot 2 will not be highly visible or visually prominent in views from Hunter Road. Given the open land that exists between the viewer and a future dwelling on the residential building platform as seen through the maturing shelterbelts/amenity planting strips, the Commission is satisfied that the proposed development will not result in an appreciable loss of the natural or Arcadian pastoral character of the landscape. The proposal will not detract from public or private views across this Arcadian pastoral landscape.
55. Dr Read advised us that a dwelling on the proposed residential building platform would be visible from Speargrass Flat Road from the east for approximately 1 kilometre at a distance of between 1.7 kilometres and 700 metres.
56. A photograph at Mr Baxter's Attachment C shows the view from Speargrass Flat Road at a range of approximately 710 metres from the proposed residential building platform on Lot 2. The Commission is satisfied that it is unlikely that a future dwelling on Lot 2 will be visible from this vantage point given the existing vegetation including the protected hawthorn hedge that exists on the north side of Speargrass Flat Road west of Hunter Road and other existing vegetation. The Commission also considers it unlikely that a future dwelling will be visible from further to the east on Speargrass Flat Road. If a dwelling were to be seen from this position the Commission is satisfied that it will not be visually prominent in the VAL.
57. Mr Baxter also provided us with a photograph at his Attachment C that shows the view through the existing hawthorn hedge from Speargrass Flat Road, directly looking into that part of the site that accommodates the residential building platform on Lot 2.

58. This photograph confirms that a dwelling will be visible through the hawthorn hedge during winter months. The Commission records that it is in an excellent position to assess this effect given that the Commission's site visit was conducted on 2 July 2013.
59. Given the screening provided by the protected hawthorn hedge the Commission is satisfied that a dwelling on the residential building platform on Lot 2 will not be visually prominent in the Arcadian pastoral landscape of the VAL. The Commission also acknowledges in this context that dwellings close to the road are not uncommon in this locality, including dwellings within the ORL that are also seen through the hawthorn hedge on the opposite side of Speargrass Flat Road and dwellings that are located to the south of Speargrass Flat Road, east of Hunter Road.
60. The Council's conclusion is that the proposed development, while visible from Hunter Road and from Speargrass Flat Road adjacent to the site, will not be visually prominent such that it detracts from public or private views otherwise characterised by natural or Arcadian pastoral landscapes.
61. In terms of Assessment Matter 5.4.2.2(3)(b)(iii) the Commission acknowledges that the plantings suggested by Mr Baxter will provide some mitigation and will not detract from or obstruct views of the existing natural topography or cultural plantings that include the protected hawthorn hedge at Speargrass Flat Road. In terms of Assessment Matter 5.4.2.2(3)(b)(iv) that part of the site to be included in Lot 2 is confined by Malaghans Ridge.
62. The Commission is satisfied that the residential building platform on Lot 2 will not give rise to any structures being located where they will break the line and form of any skylines, ridges, hills or prominent slopes. In essence the residential building platform is proposed on a relatively flat portion of the subject site.
63. The Commission concurs with Dr Read that the earthworks and proposed access will not change the line of the landscape or affect the naturalness of the landscape.

64. The proposed boundary between Lot 1 and Lot 2 is to run along the foot of the escarpment and follows the natural line of the landscape. In these circumstances the Commission concurs with Dr Read that the boundary between Lot 1 and Lot 2 will not result in any arbitrary lines and patterns in the landscape.

65. The proposal is to establish a residential building platform 30 metres from the Speargrass Flat Road boundary on a property that has a frontage of approximately 350 metres to Speargrass Flat Road. In all the circumstances, and given the screening afforded by the protected hawthorn hedge, the Commission is satisfied that the development does not constitute sprawl of built development along Speargrass Flat Road. The Commission also acknowledges in this context that subdivision having an average area of approximately 1 hectare exists in the Triangle ORL that extends from Domain Road to Lower Shotover Road, south of Speargrass Flat Road and opposite the subject site.

“(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."

66. The Commission is satisfied that the form and density of development proposed is appropriate in the context of the VAL. The proposed residential building platform on Lot 2 is located on flat land (rather than being on an elevated part of the site such as the escarpment) and will not be highly visible when viewed from public places. Access is to be achieved to the proposed residential building platform from the existing eastern access from Speargrass Flat Road. This access is in close proximity to the existing driveway serving the Flood property that we were informed accommodates a dwelling and the cleanfill landfill consented as RM 070243. Mr Baxter noted that aggregation of driveways is common on Speargrass Flat Road and he observed that in some instances multiple lots are accessed from single driveways.

67. The Commission is satisfied that the proposal is entirely consistent with Assessment Matter 5.4.2.2(3)(c)(iii) as development is to be concentrated in an area with a higher potential to absorb development while retaining areas which are more sensitive in their natural or Arcadian pastoral state. In essence the residential building platform is to be tucked against the protected hawthorn hedge

in close proximity to the existing 5 bay shed. This location is preferable to an alternate location towards the centre of Lot 2. Such location is also preferable to a position on the escarpment or, say, on the open land on properties between Lot 2 and a viewer on Hunter Road.

68. The Commission is satisfied that the proposed development does not introduce densities which reflect those characteristics of urban areas. The proposal will result in a residential building platform being identified on Lot 2 that has an approximate area of 7.8805 hectares. This density of development is not characteristic of urban areas.

69. Dr Read informed us that within 500 metres of the site there are more than 15 as yet undeveloped sites consented for residential development. These sites are generally located in the ORL south of Speargrass Flat Road. Given the ownership structure none of these sites are available to Mr Kampman for the purposes of residing upon and managing his land.

70. The Commission also acknowledges Dr Read's assessment that there are no locations within 500 metres of the site where development has not, at this point, been consented which would provide a better alternative location.

“(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).*

...”

71. Having regard to the assessment matters discussed above the Commission does not consider that granting consent will give rise to adverse cumulative effects on the natural or Arcadian pastoral character of the landscape. From Hunter Road a future dwelling on the residential building platform on Lot 2 will be seen in the distance, set against the protected hawthorn hedge and in a vista that includes existing built development on the Young property and at Thurlby Domain. Domestic activities are to be limited to the curtilage area as shown on Mr Baxter’s Attachment A as presented at the hearing which has been superceded by his plan entitled Kampman, Speargrass – Tree Planting Plan being plan 9526-SK4 dated 5 July 2013 that has been provided to the Commission. In all the circumstances the Commission is satisfied that the proposal will not result in inappropriate domestication of this VAL landscape.

72. Existing built development includes the 5 bay shed on Lot 2, the existing hay barn to be retained on Lot 1, the Young dwelling and buildings at Thurlby Domain. The open pastoral land within the wedge between the proposed residential

building platform on Lot 2 and Hunter Road is devoid of existing built development.

73. The Commission is satisfied that the proposed development will not result in 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.

74. The Commission is also satisfied that further development as proposed will not visually compromise the existing natural and Arcadian pastoral character of the landscape by exacerbating existing and potential adverse effects. Again the Commission notes that from Hunter Road a future dwelling will be seen as part of a loose cluster that includes the existing 5 bay shed, the existing hay barn on Lot 1, the Young dwelling and buildings and building ruins at Thurlby Domain.

75. The identification of a residential building platform and the demarcation of a curtilage area as shown on Mr Baxter's Attachment A and on his plan 9526-SK4 will contain development; and again it is noted that the residential building platform is proposed on the flat portion of the subject site rather than being on the escarpment.

76. The Commission is satisfied that the proposed development will not result in the need for infrastructure consistent with urban landscapes.

77. The Commission acknowledges that the building and landscape controls promoted by the applicant are to be subject to a consent notice. The Commission notes that no offer has been made with respect to controlling any future subdivision in this instance.

“(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.”*

78. 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. As noted above the residential building platform nominated on Lot 2 will be tucked against the protected hawthorn hedge when viewed from Hunter Road and that hedge will provide screening from Speargrass Flat Road when looking directly into the site.

79. The Commission is satisfied that the proposal will not compromise the ability to undertake agricultural activities on surrounding land. Ms Robertson informed us that the applicant intends to continue using the flat part of the site (ie. Lot 2) for grazing.

80. The proposed development will not require infrastructure consistent with urban landscapes. The status quo will be maintained with respect to existing accesses and the protected hawthorn hedge will provide screening at the public road frontage of the site.

81. The existing entranceways and fencing are consistent with traditional rural elements.
82. Ms Robertson informed us that the proposed residential building platform is to be 95 metres from the eastern site boundary (with Young) and 180 metres from the western site boundary (with Flood). A future dwelling on the residential building platform on Lot 2 will not be visible from the Flood dwelling that is located above the escarpment on Malaghans Ridge. Landscape plantings will mitigate any visual effects as seen from the lower portion of the Flood driveway; and the Commission notes that any views from the upper portion of the Flood driveway will encompass a vista that includes existing subdivision and development within the ORL south of Speargrass Flat Road.
83. A future dwelling will be approximately 350 metres from the Buckham dwelling and any vista from that dwelling is also likely to incorporate existing subdivision and development in the Triangle ORL.
84. The Commission is satisfied that the residential building platform on Lot 2 is located well away from property boundaries and that this will serve to avoid, remedy or mitigate potential effects of new activities on the existing amenities of neighbouring properties.
85. The Commission is satisfied that any effects of the proposed subdivision and development will be no more than minor in the context of the VAL.

Assessment Matters - General

86. 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 as to a considerable extent they overlap with the assessment matters specific to VAL discussed above.
87. In the context of Assessment Matter 5.4.2.3ii Natural Hazards – General the Commission acknowledges that the applicant has provided three reports from Royden Thomson, Geologist.

88. In his report dated 13 March 2013 Mr Thomson addressed the issue of landsliding. Mr Thomson advised that no landsliding has been identified on the steeper slopes; and that minor areas of irregular terrain presumably result from creep in superficial deposits, but that these do not constitute a mass movement of significance. Mr Thomson concluded that there is no perceived hazard to the proposed residential building platform on Lot 2 from landsliding.
89. Mr Thomson in a report dated 9 May 2013 addressed potential liquefaction hazard at the proposed residential building platform. Mr Thomson did not perceive any formations that would be subject to liquefaction; and concluded that liquefaction at the site is not expected to occur during major seismic events in the future.
90. In a report dated 28 June 2013 that was tabled at the commencement of the hearing Mr Thomson addressed potential flooding issues associated with an alluvial fan as raised in the submission by the Otago Regional Council. Mr Thomson concluded that the proposed residential building platform on Lot 2 lies outside the active alluvial fan depicted by the Otago Regional Council. Mr Thomson confirmed that it is possible that some form of sheet flow could occur at the site during rainfall events. Mr Thomson's recommendation that the final floor level of the dwelling within the proposed residential building platform be proud of the overall local terrain to ensure that it is not adversely affected by sheet flows during future rainstorm events has been accepted by the applicant. Ms Robertson presented us with a draft condition that would require that the finished floor level of any dwelling be at least 200mm above existing ground level, such condition being consistent with Mr Thomson's recommendation.
91. Ms Overton confirmed to us that she accepted Mr Thomson's conclusions and recommendations. The Commission has concluded that the activity will not exacerbate any natural hazard; and that it is appropriate to apply a condition in the event that consent is granted, consistent with Ms Robertson's suggested condition.

92. In terms of Assessment Matter 5.4.2.3xxviii Earthworks any adverse effects due to earthworks taking place can be managed and mitigated by the imposition of appropriate conditions.

B.4 Part 14

93. The existing accesses comply 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 number of accesses 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.

B.6 Part 15

94. Clause 15.2.3.6(b) contains assessment matters relating to subdivision and the location of residential building platforms in the Rural General Zone. We briefly discuss these matters below, acknowledging that many of the assessment matters have already been discussed by us above in the context of Part 5 assessment matters.

95. Clause 15.2.3.6(b)(i) requires that consideration be given to the extent to which subdivision, the location of residential building platforms and proposed development maintains and enhances rural character; landscape values; heritage values; visual amenities; life-supporting capacity of soils, vegetation and water; infrastructure, traffic access and safety; and public access to and along lakes and rivers. Clause 15.2.3.6(b)(ii) relates to the extent to which subdivision, the location of residential building platforms and proposed development may adversely affect adjoining land uses.

96. The proposed subdivision and the proposed residential building platform on Lot 2 will maintain rural character, landscape values and visual amenity in this locality; and will have no more than a minor adverse effect on adjoining land uses.

97. The proposal will not adversely affect the life-supporting capacity of soils, vegetation and water. The Commission notes in this context that most of the land in the subject site is to be retained in Lot 1 that will continue to be available for

pastoral farming purposes. Mr Kampman confirmed that the applicant will retain Lot 2 which will have an area of approximately 7.8805 hectares; and that this allotment will continue to be utilised for grazing purposes.

98. Services are relevant in the context of Clause 15.2.3.6(b)(iii). In this instance the proposed subdivision can be adequately serviced with a potable water supply, on-site wastewater disposal, and through the provision of telecommunications and electricity services from the relevant utility providers. Chorus and Aurora Energy Limited have confirmed that such services are available to the subdivision.
99. Clause 15.2.3.6(b)(iv) relates to the extent to which the subdivision, the location of residential building platforms and proposed redevelopment may be adversely affected by natural hazards or exacerbate a natural hazard situation. The Commission acknowledges again that Ms Overton is satisfied with Mr Thomson's conclusions and recommendation with respect to landsliding, liquefaction and surface flooding issues.
100. Clause 15.2.3.6(b)(v) requires consideration of the long term development of the entire property. In this instance the proposed subdivision relates to the entire property, most of which is to be retained in Lot 1.
101. Clause 15.2.6.4(i)(a) relates to whether the lot is of sufficient area and dimensions to effectively fulfil the intended purpose or land use, having regard to the relevant standards for land uses in the zone.
102. The Commission considers that Lot 1 is of sufficient area and dimensions to effectively fulfil the intended purpose of accommodating the consented residential building platform subject to RM 100774 and for on-going farming use.
103. Lot 2 is to have an area of approximately 7.8805 hectares and will accommodate the proposed residential building platform and the existing 5 bay shed consented under RM 100586. Lot 2 that has an area of approximately 7.8805 hectares and which accommodates the majority of the land in the subject site that constitutes

flat land north of Speargrass Flat Road is of sufficient area to accommodate on-going farming use.

104. The Commission considers in the context of Clause 15.2.6.4(i)(b)-(d) that the lots are of sufficient size for on-site disposal of wastewater and stormwater; that the lots are of a suitable slope to enable their safe and efficient use; and that the proposed lots are compatible with the pattern of adjoining subdivision and land use activities, and access.

105. Clause 15.2.7.3(i) relates to the relationship and size of the lots in terms of their solar advantage. Dr Read observed that the solar gain of a dwelling on the proposed residential building platform on Lot 2 would be excellent. She also observed that there will be no adverse effect on the balance lot (Lot 1) or on any adjacent properties in terms of shading.

106. The proposed subdivision and development will not result in domination of surrounding properties by buildings on the site; and the mitigation measures offered by the applicants will serve to mitigate any adverse effects on the views enjoyed from the Buckham and Flood properties. The Commission acknowledges that while no submission has been received from the Young family; the Commission is satisfied that the existing trees in the south-west corner of the site and the landscape plantings proposed by Mr Baxter as shown in his Attachment A and his plan 9526-SK4 will mitigate any adverse effects on views enjoyed from the Young property.

B.7 Positive Effects

107. The proposal will have a positive effect by providing for future residential activity to occur on the residential building platform nominated on Lot 2. This will enable Mr Kampman and Ms Jones to reside on that portion of the subject site that Mr Kampman informed us is free of snow for approximately two months per annum more than other locations on the site (ie. on Lot 1 on Malaghans Ridge). Such a location also provides benefits in terms of additional security for the equipment stored in the 5 bay shed and for stock on the flats adjacent to Speargrass Flat Road.

108. The Commission considers that a positive effect of the proposal is that the opportunity which otherwise exists for permitted activities to occur on a standalone basis on Lot 1 DP 25424 is to be surrendered. Lot 1 DP 25424 that has an area of 7826m² exists in a separate Computer Freehold Register Identifier and could be utilised for a permitted activity such as afforestation and/or amenity planting with associated fencing and earthworks. The Commission considers that such development on the escarpment would have an adverse visual effect in this VAL. The proposed subdivision is positive when compared to the status quo in that it creates allotments with a shared boundary that follows the natural line of the landscape at the foot of the escarpment.

B.8 Summary: Effects and Assessment Matters

109. The Commission finds that 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, 14 and 15 of the Operative District Plan, as discussed above.

C. THE QLDC DISTRICT PLAN: OBJECTIVES & POLICIES

110. Parts 4, 5, 14 and 15 of the Operative District Plan contain objectives and policies for the whole district being District Wide, for Rural Areas and in relation to Transport and Subdivision, respectively. The objectives and policies from Parts 4, 5, 14 and 15 have been presented in Mr Keenan'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 our analysis of this application.

C.1 Part 4

111. 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.

112. 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.”

113. 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 6 that relates to Urban Development; Policy 8 that relates to Avoiding Cumulative Degradation; Policy 9 that relates to Structures; Policy 12 that relates to Transport Infrastructure; and Policy 17 that relates to Land Use.

114. 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.

115. The Commission is satisfied that this policy is satisfied in this instance. The subdivision and development is to occur in an area with greater potential to absorb change without detracting from landscape and amenity values.

116. 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.”*

117. The proposal will serve to avoid, remedy or mitigate adverse effects of subdivision and development on the VAL. The boundary between Lot 1 and Lot 2 follows a natural line. The identification of the residential building platform on Lot 2 will facilitate future residential development that is visible at a distance from Hunter Road and which will be set against the protected hawthorn hedge and existing built development including the 5 bay shed, the barn on Lot 1, the Young residence and buildings and building ruins in the trees at Thurlby Domain. The location of the proposed residential building platform on Lot 2 and the suite of conditions offered by the applicant will ensure that any adverse effects on visual amenity landscapes will be satisfactorily mitigated.

118. In terms of Policy 6 – Urban Development – the Commission is satisfied that the subdivision, that will create an average lot area in excess of 21 hectares and which will provide for the identification of a single residential building platform on Lot 2, does not constitute urban subdivision and development.

119. 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.

120. Policy 9 – Structures – refers specifically to preserving the visual coherence of VAL by screening structures from roads and other public places by vegetation whenever possible to maintain and enhance the naturalness of the environment. In this instance the protected hawthorn hedge will provide screening of a future dwelling on the residential building platform on Lot 2 for those looking directly into the site from Speargrass Flat Road. Existing shelterbelts/amenity planting strips between the proposed residential building platform on Lot 2 and Hunter Road will provide screening and this will be complemented by the landscape plantings proposed by the applicant in the immediate vicinity of the building platform and curtilage as shown on Mr Baxter’s Attachment A and his plan 9526-SK4.

121. The Commission is satisfied that the proposal is consistent with Policy 12 – Transport Infrastructure. The access carriageway that will serve the residential building platform on Lot 2 is on the flat portion of the site; and the Commission acknowledges that access to the subdivision from Speargrass Flat Road is to be achieved utilising existing access points.

122. 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 location of the proposed residential building platform on Lot 2.

C.2 Part 5

123. Part 5 of the 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.*
- 1.5 *Provide for a range of buildings allied to rural productive activity and worker accommodation.*
- 1.6 *Avoid, remedy or mitigate adverse effects of development on the landscape values of the District.*
- 1.7 *Preserve the visual coherence of the landscape by ensuring all structures are to be located in areas with the potential to absorb change.*
- 1.8 *Avoid remedy or mitigate the adverse effects of the location of structures and water tanks on skylines, ridges, hills and prominent slopes.”*

124. 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 applicant's intention to continue farming activity on Lot 2; and the potential for farming activity to continue on the larger allotment being Lot 1. In terms of Policy 1.4 the character of the rural area will not be adversely impacted in this instance. In terms of Policy 1.5 the Commission acknowledges that the future dwelling on the residential building platform is to be used in conjunction with farming activity on Lot 2; and is to be located in close proximity to the existing 5 bay shed that is used for the storage of farming equipment on that allotment. The Commission considers that the proposal is consistent with Policies 1.6-1.8 having regard to the location of the residential building platform

on Lot 2; and again notes in this context that the absorption of Lot 1 DP 25424 into Lot 1 of the subdivision will avoid adverse effects that would otherwise result from the location of any permitted structure on the prominent slope of Malaghans Ridge.

125. 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 and the Commission finds that the proposal is in accordance with the policies that relate to rural amenity.

C.3 Part 14

126. 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 accesses to Speargrass Flat Road exist; and that Ms Overton has confirmed that the vehicle crossings exceed minimum sight distances and that such crossings meet Council standards.

127. The Commission is satisfied that the driveway that will serve a future dwelling on Lot 2 will visually complement the surrounding area and mitigate visual impact on the landscape, consistent with Objective 14.1.3.3 and the associated Policy 3.4. The driveway that will serve the residential building platform on Lot 2 will be located behind the protected hawthorn hedge and will be generally screened from public view. The Commission concurs with Ms Robertson that a condition is not required with respect to the construction of the driveway to Council engineering standards.

C.4 Part 15

128. Part 15 contains objectives and policies that relate to Subdivision, Development and Financial Contributions. Objective 15.1.3.1 and its associated policies that relate to Servicing seek to ensure necessary services are provided in anticipation

of the effects of future land use activities in the context of subdivision. In this instance appropriate access and provision for water, wastewater, telecommunications and electricity services are to be provided in the context of the subdivision, in some instances via conditions subject to consent notices.

129. Objective 15.1.3.5 and associated policies relate to Amenity Protection. The Commission is satisfied that the proposed subdivision will not be contrary to these provisions. The Commission notes in this context that the boundary to be created by the subdivision is consistent with a natural line in the landscape; that the lot sizes and dimensions will facilitate on-going grazing use; and that the subdivision is consistent with the level of open space and density of built development anticipated in this area. The Commission's conclusion is that the proposed subdivision and identification of the residential building platform on Lot 2 will serve to maintain amenities in this instance.

C.5 Summary: Objectives and Policies

130. Following the above analysis, the Commission finds that the proposal is consistent with those objectives and policies that are relevant to the application; and the Commission has concluded that this is a location in the VAL where the proposed activity is appropriate in terms of Clause 1.5.3iii(iv) of the District Plan.

D. OTHER MATTERS

131. 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.

D.1 Planning History

132. On 25 July 2003 a subdivision consent was granted to LC Weller being RM 030476. That subdivision consent authorised a boundary adjustment that in essence involved the repositioning of Lot 1 DP 25424 within Lot 4 DP 25520, to a location adjacent to Speargrass Flat Road. Such boundary adjustment had status as a controlled activity in terms of Rule 15.2.3.2(i) of the then Proposed District Plan. The Commission notes that while RM 030476 made no provision

for a residential building platform, that decision did make direct reference to potential future residential use of the new allotment adjacent to Speargrass Flat Road. A statement is made on page 5 of the Council's decision on RM 030476 in the context of "Reasons for the Decision" as follows:

"...In terms of potential future residential use of the allotment, it will be moved to a less visible area within the subject land, being repositioned from an elevated escarpment to a flat area adjacent to Speargrass Flat Road, and partially screened by a large hawthorn hedge. Though the site may be clearly viewed from Hunter Road, it is over 500m to the east across land under pasture, and the amenity of the area will not be adversely affected by this proposal...."

133. Ms Robertson informed us that the current owners purchased the site with this unimplemented consent in place. On 18 July 2005 they applied for survey plan approval under section 223 of the Act; and the survey plan was signed on 21 July 2005.

134. On 21 July 2008 an application (RM081108) was made for a time extension to the 3 year period for depositing the survey plan pursuant to section 224 of the Act.

135. Ms Robertson informed us that the applicant was subsequently advised by Lakes Environmental that RM081108 could not be processed as the original consent RM 030476 had lapsed and as there were no special circumstances which would allow for a request to extend the period for the deposit of the survey plan under section 37.

136. While the current application for subdivision consent is not for a boundary adjustment in terms of Rule 15.2.3.2(i) as a new residential building platform is proposed; the Commission acknowledges that the applicant purchased the property on the basis that provision was made for a consented allotment on the flats adjacent to Speargrass Flat Road. The Commission also acknowledges that the applicant would understandably have had the expectation that future

residential use adjacent to Speargrass Flat would be acceptable, given the positive statement with respect to potential future residential use contained in the “Reasons for the Decision” in RM030476.

D.2 Precedent

137. Precedent is a relevant matter as subdivision consent is sought for a discretionary activity. The Environment Court noted in the Scurr decision C060/2005 that in terms of the Queenstown Lakes District Plan, there is even greater reason to consider issues of precedent for discretionary activities.

138. The Commission acknowledges that the site has exceptional characteristics given the fact that two Computer Freehold Register Identifiers exist; and as Lot 1 DP 25424 exists in a prominent location on the Malaghans Ridge escarpment. As noted above a positive effect of the proposal is that the opportunity to utilise Lot 1 DP 25424 on a standalone basis for a permitted activity, with corresponding adverse effects in this VAL, will be avoided. The Commission is satisfied that this element will serve to distinguish the current proposal from future applications.

139. In all the circumstances the Commission finds that the proposal will not establish a significant precedent.

E. PART 2 OF THE ACT

140. Part 2 of the Act contains sections 5 to 8. We refer to them in reverse order.

141. Section 8 requires us, in exercising our functions on this application, to take into account the principles of the Treaty of Waitangi. No issues were raised with us in reports or evidence in relation to section 8.

142. Section 7 directs that in achieving the purpose of the Act we are 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; maintenance and enhancement of the quality of the environment; and any finite characteristics of natural and physical resources. 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.

143. Section 6 sets out a number of matters which are declared to be of national importance and directs us to recognise and provide for them. No issues were raised with us 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.
144. 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 application before us will achieve the purpose of the Act.
145. 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

146. Section 104 of the Act directs that when considering an application for resource consent and any submission received in response to it, we 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 104B the Commission has discretion to grant consent to the application and we hereby do so subject to the imposition of conditions of subdivision consent as attached in a Schedule to this decision.

This decision on RM120680 is dated 10 July 2013.

A handwritten signature in black ink, appearing to be 'W D Whitney', written in a cursive style.

W D Whitney

COMMISSIONER

For the Commission being W D Whitney and L Cocks

SCHEDULE: CONDITIONS OF CONSENT FOR RM120680: SPEARGRASS FARMS LIMITED

General Conditions

1. That the subdivision be carried out in accordance with the following plans **that are stamped as approved on 9 July 2013:**

- a. Baxter Design Group Plan 9526-100-04/ entitled Proposed New Building Platform Revised 9 August 2011 being the plan of subdivision subject to the amendment that the appellations for Lot 1 and Lot 2 be reversed.
- b. Baxter Design Group Plan 9526-SK4 entitled Kampman, Speargrass – Tree Planting Plan dated 5 July 2013.

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

2. 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

3. 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 "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.

To be completed before Council approval of the Survey Plan

4. Prior to certification of 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 providing new easements to convey water.

Note: The existing easement A and B shown on DP 25424 may need to be extinguished.
 - b) The residential building platform on Lot 2 as shown on the plan of subdivision referred to in Condition 1a. shall be identified on the survey plan.

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

5. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
 - a) The consent holder shall provide "as-built" plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development to the Principal Resource Management Engineer at the Queenstown Lakes District Council. This information shall be formatted in accordance with Council's 'as-built' standards and shall include all water, wastewater and stormwater reticulation (including private laterals and toby positions).
 - b) A digital plan showing the location of the building platform as shown on the survey plan shall be submitted to the Principal Resource Management Engineer at the Queenstown Lakes

District Council. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.

- c) The consent holder shall provide a water supply to service the building platform on Lot 2 in accordance with Council's standards. The building platform shall be supplied with a minimum of 2,000 litres per day of potable water that can be treated to comply with the requirements of the Drinking Water Standard for New Zealand 2005.
- d) 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 building platform on Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- e) 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 building platform on Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- f) All earthworked/exposed areas shall be top-soiled and grassed/revegetated or otherwise permanently stabilised.
- g) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.

Note: The building platform on Lot 1 is subject to engineering conditions included in RM 100774.

On-going Conditions/Consent Notices

- 6. In accordance with section 221 and section 224 of the Resource Management Act 1991, a consent notice shall be issued and registered on the relevant Computer Freehold Register for Lot 2 that requires the performance of the following conditions on a continuing basis:
 - a) Any dwelling and any building accessory to a dwelling on Lot 2 shall be contained within the residential building platform shown on the survey plan.
 - b) The finished floor level of any dwelling on the residential building platform on Lot 2 shall be at least 200mm above the existing ground level to provide additional security against the passage of overland sheet flow (floods) originating from the alluvial fan slopes above the site in heavy rainfall events.
 - c) At the time a dwelling is erected on Lot 2, the owner for the time being shall engage a suitably experienced person as defined in sections 3.3 & 3.4 of AS/NZS 1547:2012 to design an onsite effluent disposal system in compliance with AS/NZS 1547:2012. The design shall take into account the site and soils investigation report and recommendations by Southern Monitoring Services Ltd, dated 18 October 2012. The proposed waste water system shall be subject to the review of the Principal Resource Management Engineer at the Queenstown Lakes District Council prior to implementation and shall be installed prior to occupation of the dwelling. .
 - d) The drinking water supply is to be monitored for compliance with the Drinking Water Standard for New Zealand 2005 (revised 2008), by the owner of Lot 2, and the results forwarded to the Principal Environmental Health Officer at the Queenstown Lakes District Council. The Ministry of Health shall approve the laboratory carrying out the analysis. Should the water not meet the requirements of the Standard then the lot owner shall be responsible for the provision of water treatment to ensure that the Drinking Water Standards for New Zealand are met or exceeded.
 - e) At the time a dwelling is erected on Lot 2, domestic water and fire fighting storage is to be provided. A minimum of 20,000 litres shall be maintained at all times as a static fire fighting reserve within a 30,000 litre tank. Alternatively, a 7,000 litre fire fighting reserve is to be provided for the dwelling 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 Lot 2. 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 dwelling provides for more than single family occupation then the consent holder should consult with the New Zealand Fire Service as larger capacities and flow rates may be required.

The New Zealand 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 (within 5m) that is suitable for parking a New Zealand 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 the Queenstown Lakes District Council's standards for rural roads (as per NZS 4404:2004 with amendments adopted by the Queenstown Lakes District Council in 2005). 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 New Zealand Fire Service appliance to park on it and access to the hardstand area must be provided as above.

The New Zealand 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 Central North Otago Area Manager is obtained for the proposed method.

The fire fighting water supply tank and/or the sprinkler system shall be installed prior to the occupation of the building.

Advice Note: The New Zealand Fire Service considers that often the best method to achieve compliance with SNZ PAS 4509:2008 is through the installation of a home sprinkler system in accordance with Fire Systems for Houses SNZ 4517:2010, in each new dwelling. Given that the proposed dwelling is approximately 9km from the nearest New Zealand Fire Service Fire Station the response times of the New Zealand **Volunteer** Fire Service in an emergency situation may be constrained. It is strongly encouraged that a home sprinkler system be installed in the new dwelling.

- f) The following building design controls shall apply to any building on the residential building platform on Lot 2:
- i) Roof pitches and heights shall comply with the following
 - a. The maximum height of any building within the building platform shall be 7.0 metres above existing ground level, when roof pitches are between 25 and 40 degrees.
 - b. Where roof pitches are as above, 20% of the building may have flat (0-5 degrees) roofs, to be used as connections between gabled forms.
 - c. Where 'mono-pitch' roofs are included, the building height shall be restricted to 5.5 metres above existing ground level.
 - ii) The maximum building footprint within the residential building platform is limited to 60% of the area of the building platform (ie. 600m²).

- iii) All structures including dwellings, accessory buildings and water tanks shall conform to the following building design controls:
- a. Roof claddings to be in steel (corrugated or tray), slate (natural or imitation), natural grass and/or membrane.
 - b. Roof colours to be in recessive colours in greys or black with a light reflectivity less than 20%.
 - c. Wall colours to be in a recessive colour with a light reflectivity of less than 36%; to be within the tones of greys and browns, or in natural timber left to weather.
 - d. Wall cladding to be in timber, smooth plaster, stone (local schist), concrete or corrugated steel (to complement roof colours where both exist). Wall claddings are to be continuous in one cladding from ground or roof. None of the following shall be incorporated into the exterior of any building:
 - Fibre cement weatherboards, sidings and roofing (excluding 'Linea' weatherboards).
 - Uncoated fibre material.
 - PVC sidings
 - Unpainted concrete masonry.
 - Metal weatherboards.
 - Compressed fibre mineral weatherboards.
 - Metal or asphalt based, aggregate covered tiles or shingles.
 - e. All glazing in the building shall be restricted to systems with a reflected visible light of less than or equal to 8%.
- iv) All exterior lighting associated with any dwelling shall be fixed no higher than 2.0 metres above finished ground level and shall be capped, filtered or pointed downwards so as to reduce or avoid visibility from any point off-site of light sources and to minimise visibility of its areas.
- v) Exterior joinery shall be in timber, steel or aluminium. Joinery colours (excepting timbers) shall match roofing, gutter and spouting colours.
- g) All elements of domestic curtilage (such as car parking areas, lawns, domestic landscape planting, outdoor storage areas, and clotheslines) on Lot 2 shall be contained within the curtilage area identified on the plan entitled Kampman, Speargrass – Tree Planting Plan being plan 9526-SK4 dated 5 July 2013.
- h) No driveway lighting is permitted; and no exterior lighting on Lot 2 for landscape purposes shall be permitted more than 10 metres from the dwelling within the curtilage area or outside the curtilage area that is identified on the plan entitled Kampman, Speargrass – Tree Planting Plan being plan 9526-SK4 dated 5 July 2013 prepared by Baxter Design Group Limited.
- i) No fencing shall be permitted (including boundary fencing on Lot 2) other than fences of a traditional farming type being post and wire (including deer fencing).
- j) Any entrance gates shall be designed to fit in with the rural setting.
- k) All electricity and telecommunication lines to serve any building on the residential building platform on Lot 2 shall be underground.
- l) The driveway to serve any building on the residential building platform on Lot 2 shall not have kerb and channel and shall be constructed of gravel (except where engineering constraints require alternative treatment).

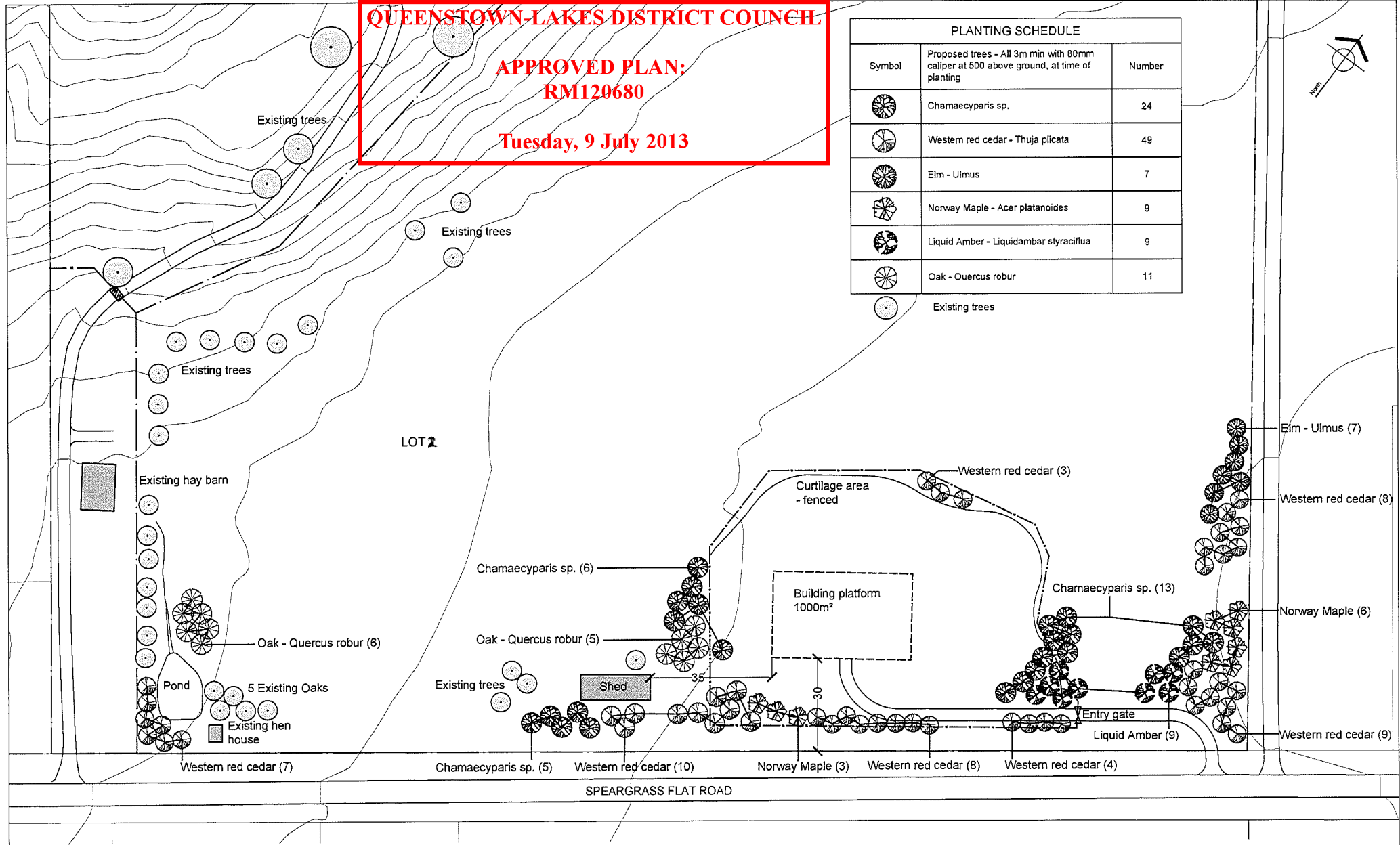
- m) The owner of Lot 2 shall establish and maintain (and irrigate as required) all plantings shown on the plan entitled Kampman, Speargrass – Tree Planting Plan being plan 9526-SK4 dated 5 July 2013 prepared by the Baxter Design Group Limited in accordance with the species, number of plants and grade specified in the Planting Schedule on that plan. Such plantings shall occur prior to the construction of a dwelling on the residential building platform on Lot 2 and such plantings shall be protected from grazing animals if required. Should any tree or shrub planted in accordance with the Tree Planting Plan die or become diseased it shall be replaced within the next available planting season.

Advice Note:

Land use consent will be required for any dwelling to be constructed on the residential building platform on Lot 2.

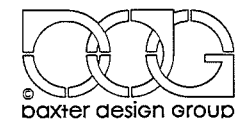
QUEENSTOWN-LAKES DISTRICT COUNCIL
APPROVED PLAN:
RM120680
Tuesday, 9 July 2013

PLANTING SCHEDULE		
Symbol	Proposed trees - All 3m min with 80mm caliper at 500 above ground, at time of planting	Number
	Chamaecyparis sp.	24
	Western red cedar - Thuja plicata	49
	Elm - Ulmus	7
	Norway Maple - Acer platanoides	9
	Liquid Amber - Liquidambar styraciflua	9
	Oak - Quercus robur	11
	Existing trees	



0 5 10 25m
 SCALE = 1:500 AT A1

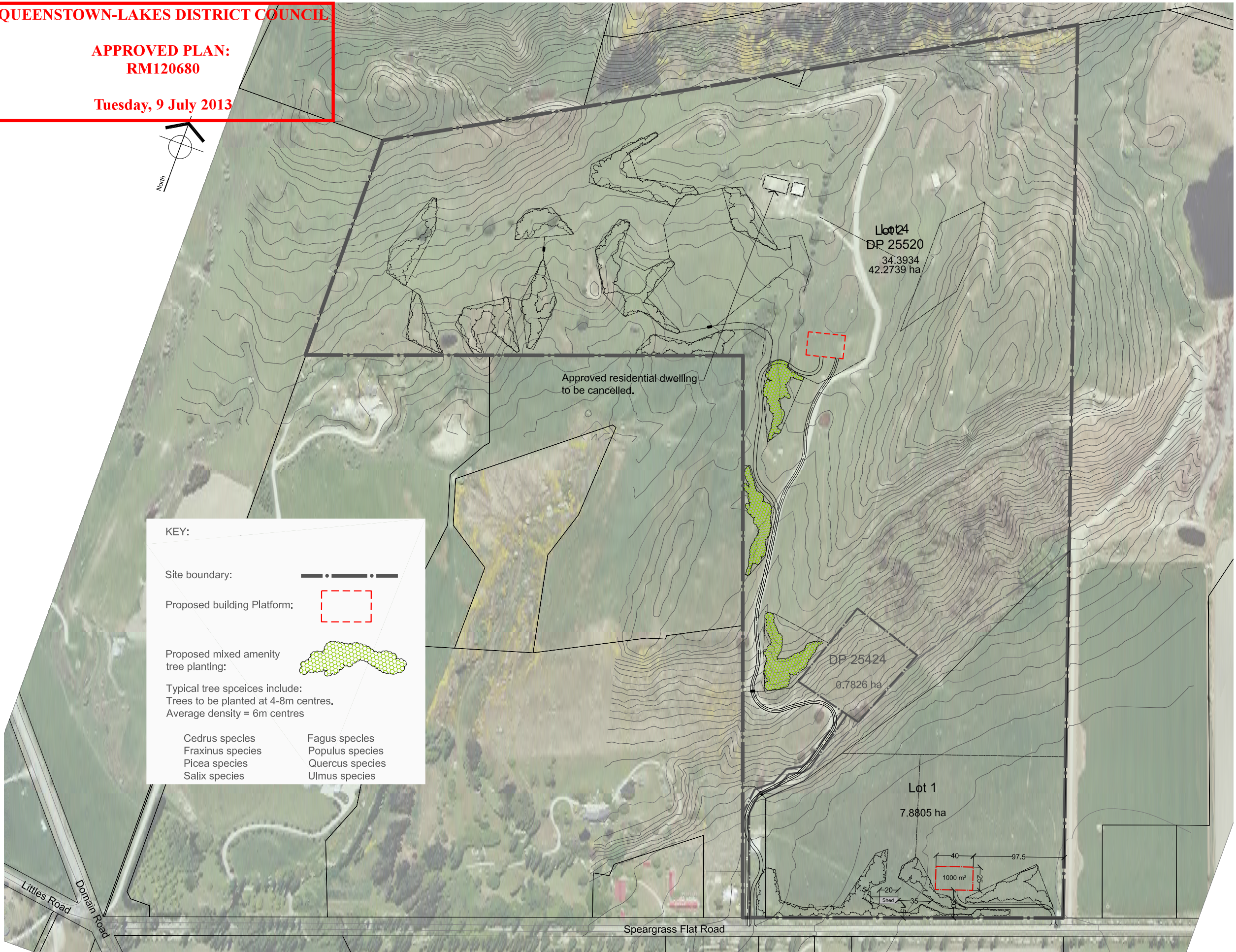
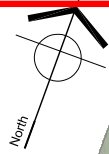
KAMPMAN, SPEARGRASS - TREE PLANTING PLAN
 REFERENCE 9524-SK4 SCALE = 1:500 AT A1 / 1:1000 AT A3 5 JULY 2013
 j:\9524 kampman - speargrass\cad\text - master skin for heading - 4 July 2013.dwg




QUEENSTOWN-LAKES DISTRICT COUNCIL


**APPROVED PLAN:
RM120680**


Tuesday, 9 July 2013



KEY:

Site boundary: 

Proposed building Platform: 

Proposed mixed amenity tree planting: 

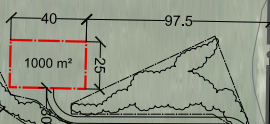
Typical tree speices include:
Trees to be planted at 4-8m centres.
Average density = 6m centres

Cedrus species	Fagus species
Fraxinus species	Populus species
Picea species	Quercus species
Salix species	Ulmus species

Lot 24
DP 25520
34.3934
42.2739 ha

DP 25424
0.7826 ha

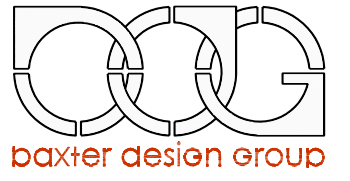
Lot 1
7.8805 ha



Approved residential dwelling
to be cancelled.

Little's Road
Domain Road

Speargrass Flat Road



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9526
**Speargrass
Farms Ltd**
9526 - 100-04/
Landscape Concept For Proposed Replacement Building Platform

CONSULTANTS

Project Managers

Architect

Engineer

Surveyor

Others

REVISIONS

Rev.	Date	Description
0	18 Oct 2010	First Issue
1	16 Mar 2011	Entry road straightened
2	08 Aug 2011	Updated as per planners instructions

Landscape Concept For Proposed Replacement Building Platform	
Scale:	As shown at A1
Date:	August 2009
Sheet Number:	WD100-04
Job Number:	Kampman
Designed:	CH / PB
Drawn:	CH
Checked:	RR

DO NOT SCALE DRAWING
CONTRACTOR TO VERIFY ALL DIMENSIONS
PRIOR TO COMMENCING WORK
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