



DECISION OF THE QUEENSTOWN-LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	G & M Inglis
RM reference:	RM120716
Location:	Frankton Arm of Lake Wakatipu, northwest of 63 Loop Road, Kelvin Heights, Queenstown.
Proposal:	Establish a jetty on Lake Wakatipu
Type of Consent:	Land Use
Legal Description:	Lake Wakatipu
Valuation Number:	N/A
Zoning:	Rural General
Activity Status:	Discretionary
Notification:	Publicly Notified
Commissioner:	Commissioner Sinclair
Date Issued:	11 July 2013
Decision:	Granted with conditions

This is an application for resource consent under Section 88 of the Resource Management Act 1991 to establish a jetty on Lake Wakatipu. The application was considered under delegated authority pursuant to Section 34 of the Resource Management Act 1991 on 11 July 2013. This decision was made and its issue authorised by Jane Sinclair, Independent Commissioner, as delegate for the Council.

Notification, Assessment and Section 100 of the RMA

The application was publically notified on 1 May 2013. No submissions were received. A Section 42A report has been prepared (Attachment 1), which outlines the assessment that has been undertaken of the proposal against the provisions of the District Plan and Resource Management Act 1991 (RMA).

The RMA allows for consideration of this application without a hearing under Section 100 which states:

100. Obligation to hold a hearing

A hearing need not be held in accordance with this Act in respect of an application for a resource consent [...] unless –

- (a) The consent authority considers that a hearing is necessary; or*
- (b) Either the applicant or a person who made a submission in respect of that application has requested to be heard and has not subsequently advised that he or she does not wish to be heard.*

The applicant has not requested to be heard.

Given the conclusions contained in the s.42A report (Attachment 1), it is considered that a formal hearing of the application is not necessary for the substantive determination of the application.

In this particular case, and given the circumstances outlined above, the consent authority does not consider a hearing necessary.

The Independent Commissioner has reviewed the Section 42A recommendation prepared for this application, and has undertaken a site visit on 11 July 2013. The Independent Commissioner has decided that the application can proceed without the need for a formal hearing under Section 100 of the Act. A memo outlining the Commissioner's decision under section 100 of the Act is attached to this decision (Attachment 2).

Decision

Consent is GRANTED pursuant to Section 104 of the Act, subject to the following conditions imposed pursuant to Section 108 of the Act:

General Conditions

1. That the development must be undertaken/carried out in accordance with the plans:
 - **Asset Management Services: Plan Planting Overlaid.**
 - **Asset Management Services: Jetty No 112 Rebuild S1 Elevations**
 - **Asset Management Services: Jetty No 112 Rebuild S2 Location**

(stamped as approved on 9 July 2013) and the application as submitted, with the exception of the amendments required by the following conditions of consent.

- 2a. This consent shall not be exercised and no work or activity associated with it may be commenced or continued until the following charges have been paid in full: all charges fixed in accordance with section 36(1) of the Resource Management Act 1991 and any finalised, additional charges under section 36(3) of the Act.

- 2b. The consent holder is liable for costs associated with the monitoring of this resource consent under Section 35 of the Resource Management Act 1991 and shall pay to Council an initial fee of \$100. This initial fee has been set under section 36(1) of the Act.

Specific Conditions

3. The Consent Holder shall surrender the licences applicable for the existing Jetties Numbered 112 and 113, and shall not commence construction of the jetty approved by this consent until Jetties 112 and 113 have been entirely removed.
4. The jetty shall be available for public use, although the consent holder may have priority for one berth.
5. Signs of approximately 0.25m² each shall be erected (and maintained) at each end of the jetty so as to be visible from the immediate shore in one case and the water beyond the jetty in the other. The signs shall be light coloured text on a dark background and be of an easily read font such as Ariel and shall state: "*This jetty is available for public use. Overnight mooring of a vessel is prohibited.*"
6. There shall be no overnight mooring.
7. The consent holder shall ensure that any contractors engaged to undertake work authorised by this consent abide by the conditions of this consent.
8. The consent holder shall install measures to control and/or mitigate the effects of any dust, silt run-off and sedimentation that may occur during construction and in particular to ensure that no such material enters the waters of the Lake, either directly or indirectly. 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.

Landscape Conditions

9. A single access track shall be formed to the jetty to a maximum of 0.5 meters in width. The access track shall be top soiled and re-grassed to minimize adverse effects on the natural character of the foreshore reserve. Should steps be required, these shall be constructed from on-site stone.
10. All existing indigenous vegetation within the foreshore reserve shall be retained and protected during development.
11. The approved landscaping plan shall be implemented within the first planting season of approval, and the plants shall thereafter be maintained and irrigated in accordance with that plan. If any plant or tree should die or become diseased it shall be replaced.

Kai Tahu Ki Otago Conditions

12. The consent holder shall ensure the following:
 - (a) That any disturbance to the bed is limited to the extent required to undertake the works and as described in the application.
 - (b) That all machinery is clean and well maintained before entering the work site.
 - (c) That all practical measures are undertaken to minimise contamination to the waterway, i.e. discharge of wet concrete is avoided.
 - (d) That all practical measures are undertaken during proposed works to minimise sedimentation in the waterway.

Review

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

Reasons for the Decision

Assessment

The section 42A report prepared for Council (attached as Appendix 1) provides a full description of the proposal, site and surrounds, and assessment of the application. A summary of the assessment and subsequent conclusions of that report is outlined below:

G & M Inglis have applied for resource consent to establish a jetty on Lake Wakatipu.

It is my conclusion that the jetty as proposed is appropriate in this location. The reasons for this conclusion are as follows:

- *Subject to conditions, the proposal will not result in significant adverse effects on the character and amenity values of the Outstanding Natural Landscape of Lake Wakatipu.*
- *The establishment of a jetty at the site will provide a useful facility for public and recreational use.*
- *The proposal fulfils the objectives and policies for the zone and sufficient mitigation measures exist, such that the proposal can align with District Wide objectives and policies.*

Therefore, in accordance with Section 104B of the Resource Management Act, in my opinion the proposed development can be granted resource consent subject to appropriate conditions.

In summary, for the reasons outlined above, the proposal is considered to be consistent with the relevant provisions of the District Plan and can meet the purpose of the Act.

Other Matters

Local Government Act 2002: Development Contributions

In granting this resource consent reference was made to Part 8 Subpart 5 Schedule 13 of the Local Government Act 2002 and the Council's Policy on Development Contributions contained in Long Term Council Community Plan (adopted by the Council on 25 June 2004).

This proposal is not considered a "Development" in terms of the Local Government Act 2002 as it will not generate a demand for network infrastructure and reserves and community facilities.

For the forgoing reasons a Development Contribution is not required.

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

Should you not be satisfied with the Commission's decision an appeal may be lodged with the Environment Court, Justice Department, PO Box 2069, Christchurch, telephone 03 9624170 and all parties, not later than 15 working days from the date this notice is received.

You are responsible for ensuring compliance with the conditions of this resource consent. The Council will contact you in due course to arrange the required monitoring. It is suggested that you contact the Council if you intend to delay implementation of this consent or reschedule its completion.

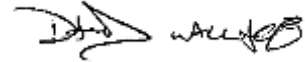
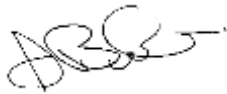
Please contact the Council when the conditions have been met or if you have any queries with regard to the monitoring of your consent.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of Section 125 of the Resource Management Act 1991.

If you have any enquiries please contact Aaron Burt on phone (03) 450 0322 or email aaron.burt@qldc.govt.nz

Prepared by

Reviewed by



Aaron Burt
PLANNER

David Wallace
PLANNER

Attachment 1:
Attachment 2:

Section 42A Report
Commissioner's Memo

Attachment 1: Section 42A Report

FILE REF: RM120716

TO Commissioner Sinclair
FROM Aaron Burt
SUBJECT Report on a notified consent application to establish a jetty in the Frankton Arm of Lake Wakatipu

SUMMARY

Applicant: G & M Inglis
Location: Frankton Arm of Lake Wakatipu, northwest of 63 Loop Road, Kelvin Heights, Queenstown
Proposal: Consent is sought to establish a jetty on the Lake Wakatipu foreshore, northwest of 63 Loop Road, Kelvin Heights
Legal Description: N/a
Zoning: Rural General
Public Notification Date: 1 May 2013
Closing Date for Submissions: 29 May 2013
Submissions: No submissions were received

Implications For:

i)	Policy	No
ii)	Annual Plan	No
iii)	Strategic Plan	No

RECOMMENDATION

That the application by G & M Inglis to establish a jetty on Lake Wakatipu foreshore northwest of 63 Loop Road, kelvin Heights be GRANTED pursuant to section 104 of the Resource Management Act 1991 for the following reasons:

1. The adverse effects of the activity can be adequately mitigated so that effects on the wider environment are not significant.
2. The proposal is consistent with the objectives and policies for the Rural General zone.
3. The proposal is consistent with Part 2 of the Resource Management Act 1991 (the Act).

INTRODUCTION

My name is Aaron Burt and I hold a Bachelor of Resource Studies from Lincoln University. I have approximately fourteen years experience as a planner in roles within the Department of Conservation and various Councils in New Zealand and the United Kingdom. I have worked for Lakes Environmental/Council as a Resource Consents Planner since September 2007.

This report has been prepared to assist the Commissioner. It contains a recommendation that is in no way binding. It should not be assumed that the Commissioner will reach the same conclusion.

REPORT

1.0 SITE & ENVIRONMENT

1.1 SITE DESCRIPTION

Lakes Environmental's Landscape Architect has described the site and surrounds as follows:

The application site is on the southern side of the Frankton Arm, below the applicant's property at No. 63 Loop Road. The foreshore reserve has a steep contour in this location, and a public walking and cycling track runs approximately 8 metres above the lake surface. Schist outcrops and loose boulders are present amongst the vegetation and along the lake edge. Site vegetation includes clumps of exotic trees, native shrubs and more recently planted native trees (beech, cabbage tree and lancewood). Two small existing jetties are present west and east of the proposed jetty location. These jetties are both owned by the applicant. The landscape context to the south consists of conventional density residential development overlooking the lake.

In addition to the above, it is determined that the site forms part of an Outstanding Natural Landscape (ONL) as identified in the Queenstown Lakes District Plan.

1.2 SITE HISTORY

The applicant has two existing jetties in the vicinity of the proposed jetty which are licensed as jetties No 112 and No 113. These jetties will be removed and the proposed jetty will replace these two smaller structures.

2.0 PROPOSAL

Consent is sought to establish a timber jetty on the Lake Wakatipu foreshore, northwest of 63 Loop Road, Kelvin Heights.

The proposed jetty will be an L-shaped timber design, with a 7.2-metre long perpendicular section and a 7-metre long return. The jetty would be 1.45 metres in width, including posts, and would be constructed at two levels the higher of which would be about 1 metre above the nominal low lake level and about 15cm below the nominal high level. Timber posts would be 1 metre above deck level, apart from a single pole 2 metres above deck level. The applicant's existing jetties to the west and east would be removed and their licences surrendered.

A 0.5 metre wide access track to the jetty will be created from the adjacent Kelvin Peninsula walking track. Landscaping is proposed to partially screen the jetty and to enhance the foreshore area.

The jetty will be available at all times for public use.

3.0 SUBMISSIONS

No submissions were received.

4.0 CONSULTATION/AFFECTED PERSONS CONSENTS

Written approval has been provided from the following parties:

- Queenstown Lakes District Council
- Te Runanga o Ngai Tahu
- Kai Tahu ki Otago Limited
- Land Information New Zealand
- Otago Fish and Game

5.0 RELEVANT PLANNING DOCUMENTS

5.1 OTAGO REGIONAL COUNCIL – REGIONAL PLAN: WATER

In 1994, the Otago Regional Council (ORC) transferred its responsibilities under section 13(1)(a) of the Resource Management Act 1991 to the Queenstown Lakes District Council (QLDC). Responsibilities include those relating to the use, erection, reconstruction, placement, alteration, extension, removal or demolition of any structure or part of any structure in, on, or over the lakebed in accordance with Section 13 of the Resource Management Act 1991.

As the proposal meets the above summary, it can be inferred that the ORC has delegated its powers of authority.

The following sections of the Regional Plan: Water, are therefore relevant:

13.2 The erection or placement of a structure

13.2.2 Restricted discretionary activities: Resource consent required.

*13.2.2.1 Except as provided for by Rules 13.2.1.1, 13.2.1.2 and 13.2.1.5 to 13.2.1.7, the erection or placement of any fence, pipe, line, cable, whitebait stand, eel trap, maimai, jetty, bridge or culvert in, on, under, or over the bed of any lake or river, is a **restricted discretionary activity**.*

Restricted Discretionary Consent is required pursuant to Rule 13.2.2.1 with Council's discretion limited to the following matters:

In considering any resource consent for the erection or placement of any fence, pipe, line, cable, whitebait stand, eel trap, maimai, jetty, bridge or culvert in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) Any adverse effects of the activity on:
 - (i) Any natural and human use value identified in Schedule 1 for any affected water body;
 - (ii) The natural character of any affected water body;
 - (iii) Any amenity value supported by any affected water body; and
 - (iv) Any heritage value associated with any affected water body; and
- (b) Flow and sediment processes; and
- (c) Any adverse effect on a defence against water; and
- (d) Any adverse effect on existing public access; and
- (e) Fish passage; and
- (f) The method of construction; and
- (g) The duration of the resource consent; and
- (h) The information and monitoring requirements; and
- (i) Any existing lawful activity associated with any affected water body; and
- (j) Any bond; and
- (k) The review of conditions of the resource consent.

Applications will be considered without notification and without the need to obtain written approval of affected persons in accordance with the Resource Management Act, unless the Council considers that special circumstances apply.

13.3.2 Restricted discretionary activities: Resource consent required

13.3.2.1 *Except as provided for by Rules 13.3.1.1 and 13.3.1.2, the extension, alteration, replacement or reconstruction of any structure, fixed in, on, under or over the bed of any lake or river, is a restricted discretionary activity.*

In considering any resource consent for the extension, alteration, replacement or reconstruction of any structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) *Any adverse effects of the activity on:*
 - (i) *Any natural and human use value identified in Schedule 1 for any affected water body;*
 - (ii) *The natural character of any affected water body*
 - (iii) *Any amenity value supported by any affected water body; and*
 - (iv) *Any heritage value associated with any affected water body; and*
- (b) *Flow and sediment processes; and*
- (c) *Any adverse effect on a defence against water; and*
- (d) *Any adverse effect on existing public access; and*
- (e) *The method of construction; and*
- (f) *The duration of the resource consent; and*
- (g) *The information and monitoring requirements; and*
- (h) *Any existing lawful activity associated with any affected water body; and*
- (i) *Any insurance or other appropriate means of remedying the effects of failure; and*
- (j) *Any bond; and*
- (k) *A financial contribution if the structure is a dam, or an activity that adversely affects any Type B wetland value; and*
- (l) *The review of conditions of the resource consent.*

Applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.

In summary, the application is considered to be a **restricted discretionary** activity in terms of the provisions of the Regional Plan: Water for Otago.

5.2 THE QUEENSTOWN LAKES DISTRICT COUNCIL DISTRICT PLAN

The site is zoned Rural General under the District Plan. The purpose of the Rural General zone is to manage activities so they can be carried out in a way that:

- protects and enhances nature conservation and landscape values;
- sustains the life supporting capacity of the soil and vegetation;
- maintains acceptable living and working conditions and amenity for residents of and visitors to the Zone; and
- ensures that a wide range of outdoor recreational opportunities remain viable within the Zone.

Part 5 of the Plan provides for activities on the surface of Lakes and Rivers as discretionary activities.

Rule 5.3.3.3 states that:

*The following shall be **Discretionary Activities**, provided that they are not listed as a **Prohibited** or **Non-Complying** Activity and they comply with all of the relevant **Zone Standards**; and they have been evaluated under the assessment criteria in rule 5.4.*

iv *Surface of Lakes and Rivers*

(a) *Any structure or mooring which passes across or through the surface of any lake and river or is attached to the bank of any lake and river, other than where fences cross lakes and rivers, except in those locations where such structures or moorings are shown on the District Plan Maps as being non-complying.*

The proposal is a **discretionary** activity under the District Plan.

6.0 INTERNAL REPORTS

Consultant Landscape Architect for Lakes Environmental, Ms Helen Mellsop, has assessed the application and provided a report (see Appendix A).

The Landscape Architect's report identifies that the surface of Lake Wakatipu is an Outstanding Natural Landscape and concludes that;

"The proposed jetty replaces two existing small jetty structures but would be significantly more visually prominent than both of these structures combined when viewed from the adjacent public walking and cycling track. It would not however be visually dominant or detract from the recreational experience of people using the track. Provision of access to the jetty could adversely affect the natural character of the foreshore reserve and the jetty itself would contribute to visual clutter of structures and moorings along the foreshore.

In order to mitigate identified adverse effects on the natural character and visual amenity of the landscape, reductions in the scale of the jetty and height of piles are recommended as well as controls on the nature of the access track and mitigation planting on the reserve."

Subsequent to the above advice, Lakes Environmental's Principal Landscape Architect, Dr Marion Read, provided the following advice:

I understand that Ms Mellsop raised a number of issues in her report on this jetty. Two of these were that the pile height of 1m above the deck height and the length of the return should both be reduced. She considered that these aspects of the proposal would result in the jetty potentially having an adverse effect on the natural character of the foreshore and that it would contribute to the visual clutter around the lake margin. I also note that she considered that while the proposed jetty would be considerably more prominent than the two existing jetties it is to replace, it would not be visually dominant nor detract from the recreational experience of the users of the Frankton Track. It is this which I consider to be the dominant finding of her assessment.

No other internal reports were commissioned.

7.0 STATUTORY CONSIDERATIONS

This application must be considered in terms of Section 104 of the Resource Management Act 1991.

Subject to Part 2 of the Act, Section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any relevant provisions of:
 - (i) a national policy statement
 - (ii) a New Zealand coastal policy statement
 - (iii) a regional policy statement or proposed regional policy statement
 - (iv) a plan or proposed plan; and
- (c) any other matters the consent authority considers relevant and reasonably necessary to determine the application.

Following assessment under Section 104, the application must be considered under Section 104B of the Act.

Under Section 104B of the Resource Management Act 1991, the Council may grant or refuse consent and if granted may impose conditions under Section 108.

The application must also be assessed with respect to the purpose of the Act which is to promote the sustainable management of natural and physical resources. Section 8.3 of this report outlines in more detail Part 2 of the Act.

8.0 ASSESSMENT

It is considered that the proposal requires assessment in terms of the following issues:-

- (i) Effects on the Environment
- (ii) Objectives and Policies
- (iii) Part 2 of the Act

8.1 ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

Construction and Effects to Water Quality

The construction of jetties is not uncommon and it is anticipated that because of the scale and short duration of works, any disturbance to fauna and wildlife will not be significant and any effects on the bed of the lake will be minimal. The jetty will not affect the passage of fish.

Some earthworks are proposed to establish the track to the jetty, however standard conditions associated with works in proximity to waterways will be sufficient to mitigate any potential sedimentation and disturbance.

Any effects will be appropriately mitigated by conditions of consent.

Function and Effects to Users of the Lake

Recreational use of the lake in the vicinity could include swimming, fishing, and the use of non-motorised craft. The shoreline is clear for a reasonable distance either side of the jetty and it is unlikely that persons engaging in such activities could be affected by the presence of the jetty or craft that it will attract. Also, because the land adjacent to this area of shoreline is very steep, it is currently not as likely to be readily accessed.

The Queenstown Harbourmaster (Mr Marty Black) advises that he has no concerns with the size of the planned structure and that the jetty needs to be of the size proposed to ensure that boats can use the jetty in moderate to low lake conditions. The Harbourmaster also advises that the piles need to be the size proposed in the application to ensure that boats can use the jetty in moderate to low lake conditions.

The jetty will be available at all times for public use, and that such use will not be discouraged. No overnight mooring is proposed. A condition of consent is recommended that signage is erected for the jetty to advise that no overnight mooring is permitted.

Amenity

Careful consideration has been afforded to impacts to amenity and the attached Landscape Architect's report (Appendix A) discusses potential impacts in context with mitigation.

When viewed from the lake, the jetty will be viewed against the backdrop of a rocky shoreline and a steep vegetated bank. It is determined that effects to amenity when viewed from the lake will be minimal, and the structure will rest well in context with the environment when viewed against the backdrop of the adjacent land. It will not appear as an obtrusive element.

When viewed from the adjacent public walking track, views will be down onto the structure given the elevated position of that vantage, and the Landscape Architect advises that the jetty would be clearly visible along a 40 metre section of the track.

The Landscape Architect finds that proposed jetty would be visually prominent from the track and would detract from the natural character of the landscape and the visual amenity of the foreshore reserve. However, the Landscape Architect determines that the jetty would not appear dominant in this particular context, as similar jetties form an accepted part of the landscape context and the timber construction would weather over time to appear more consistent with the surrounding natural environment. The Landscape Architect's assessment provides the following conclusions:

The proposed jetty replaces two existing small jetty structures but would be significantly more visually prominent than both of these structures combined when viewed from the adjacent public walking and cycling track. It would not however be visually dominant or detract from the recreational experience of people using the track. Provision of access to the jetty could adversely affect the natural character of the foreshore reserve and the jetty itself would contribute to visual clutter of structures and moorings along the foreshore.

In order to mitigate identified adverse effects on the natural character and visual amenity of the landscape, reductions in the scale of the jetty and height of piles are recommended as well as controls on the nature of the access track and mitigation planting on the reserve.

Having regard to the above, a landscape plan has been provided and this is determined fulfil the objectives of enhancing the natural character of the foreshore reserve and providing partial vegetative screening of the jetty and access track. This will assist to maintain the amenity of the locale.

Subsequent to the findings of the Landscape Architects assessment, the advice regarding the height of the piles and the length of the jetty return has been reconsidered. The Landscape Architect advised that if the pile height and return length are required for safer access, then this can be balanced against the adverse effects to amenity. In this regard, the Queenstown Harbourmaster provided the following advice:

I have no concerns with the size of this planned structure as the applicant is removing one jetty completely plus the fact the Jetty needs to be this size to ensure boats can use Jetty in moderate to low Lake Conditions. Also the piles need to be the size as shown on the plan otherwise as Nick Knowles states they could become a hazard.

It is acknowledged that the pile height is necessary to facilitate safe access to the jetty. Whilst a lower pile height would assist in reducing the visual prominence of the jetty, the pile height proposed would not result in unacceptable adverse effects or make the jetty appear substantially more prominent. Similarly, it is accepted that the length of the return assists berthing in adverse lake conditions and the split level of the decking height provides for safer access.

It is concluded that the design and scale of the jetty, when considered in conjunction with the mitigation afforded by landscaping, will ensure that any adverse visual effects will not be significant, and the jetty will not appear visually dominant, nor detract from the recreational experience of the users of the Frankton Track.

Culture

The site is of special significance to Ngai Tahu and Kai Tahu Ki Otago. This is acknowledged in the Ngai Tahu Claims Settlement Act 1998. Te Runanga o Ngai Tahu has provided written approval for

the activity. Kai Tahu Ki Otago Limited as also provided approval subject to conditions concerning accidental discovery protocols for koiwi, and the protection of the water from contamination, sedimentation and unnecessary disturbance. These conditions are recommended as conditions of consent.

Positive Effects

The jetty will provide a useful temporary berth for the public and will afford public access. The jetty could be popular with lake users including those wanting to go fishing, or take in the surrounding sights from an alternate vantage as well as enhancing access to the foreshore for passive recreation.

The jetty will enable water transport services to access the site.

Overall, it is considered that subject to conditions, any effects will be less than minor.

8.2 OBJECTIVES, POLICIES AND RULES

8.2.1 Otago Regional Council, Regional Plan: Water

Part 8 of the Regional Plan: Water provides the Objectives and Policies relevant to the proposed activity. With respect to this proposal, the following provisions are considered relevant:

8.3 Objectives

8.3.1 To maintain:

- (a) The stability and function of existing structures located in, on, under or over the bed or margin of any lake or river;**
- (b) The stability of the bed and bank of any lake or river**

This objective recognises that structures in, on under or over the bed of a lake can potentially modify hydrological and fluvial processes in the event that water or sediment flow is impeded. This in turn can exacerbate flooding, erosion or other hazards.

The jetty will be supported by piles and these will not affect the stability of the lake and shoreline.

8.3.2 To minimise reduction in water clarity caused by bed disturbance

Works associated with the establishment of jetties typically only have temporary effects associated with water disturbance. It is not anticipated that the construction phase of the jetty establishment will not have any significant adverse effects on water clarity.

8.5 Policies applying to structures:

8.5.1 To require, where necessary and practicable, any structure in or on the bed of any lake or river to provide for fish migration through or past it

The jetty will not significantly impede the passage of fish and Otago Fish and Game have provided written approval.

8.6 Policies applying to bed or margin disturbance

8.6.1 In managing the disturbance of the bed or margin of any lake or river, to have regard to any adverse effect on:

- (b) Bed and bank stability;**
- (c) Water quality; and**
- (d) Amenity values caused by any reduction in water clarity...**

The jetty will be constructed upon piles and will not affect the stability of the lake bed. Whilst there will be some disturbance and effects to water quality, these will be temporary and associated with the

construction phase. There may be adverse effects associated with the creation of the adjacent track, however conditions can be imposed to ensure that no runoff or sediment enters the lake

The proposal is consistent with the above policy.

8.6.2 To promote best management practices for activities that occur within or adjacent to the bed of lakes and rivers in order to avoid, remedy or mitigate any adverse effect

The work required to establish the jetty is limited to the immediate location, in addition to the creation of the access track. Conditions of consent can ensure that works associated with establishing the jetty will not result in adverse effects.

Overall, the proposed activity will fulfil the above objectives and policies.

8.2.2 Queenstown Lakes District Council District Plan

The relevant provisions of the District Plan are found in Parts 4 (District Wide Issues) and 5 (Rural Areas) of the Plan, and are summarised and discussed below.

Part 4 - District Wide Issues

Objective 1 - Nature Conservation Values

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

The protection of outstanding natural features and natural landscapes.

No significant nature conservation values are identified in the general vicinity and it is unlikely that the jetty would adversely impact upon such values.

Subject to conditions, the proposal is aligned to the above objective.

4.2 Landscape and Visual Amenity (District-Wide)

1 Future Development

- (a) *To avoid, remedy or mitigate the adverse effects of development and/or subdivision in those areas of the District where the landscape and visual amenity values are vulnerable to degradation.*
- (b) *To encourage development and/or subdivision to occur in those areas of the District with greater potential to absorb change without detracting from landscape and visual amenity values.*
- (c) *To ensure subdivision and/or development harmonises with local topography and ecological systems and other nature conservation values as far as possible.*

The jetty will be of a conventional design utilising wooden piles and decking. Such jetties are not uncommon and weather over time. The jetty location is not in an area vulnerable to degradation, and whilst the Landscape Architect identified that a reduction in the return length would be appropriate to mitigate adverse effects, it is now accepted that the scale of the jetty is acceptable and will allow for a greater functionality in variable lake levels.

The proposal will not degrade the amenity values persons might appreciate when looking along the shoreline.

2. Outstanding Natural Landscapes (District-Wide)

- (a) To maintain the openness of those outstanding natural landscapes and features which have an open character at present.*
- (b) To avoid subdivision and development in those parts of the outstanding natural landscapes with little or no capacity to absorb change.*
- (c) To allow limited subdivision and development in those areas with higher potential to absorb change.*
- (d) To recognise and provide for the importance of protecting the naturalness and enhancing amenity values of views from public places and public roads.*

The jetty will not appear as an obtrusive element that might otherwise significantly detract from amenity values of views from the public walking track. The location currently has an open character, but the jetty will not result in significant adverse effects that might otherwise detract from this openness. The jetty would be relatively recessive when viewed from the lake surface and therefore would not detract from amenity values associated with those views.

9. Structures

To preserve the visual coherence of:

- (a) outstanding natural landscapes and features and visual amenity landscapes by:*
 - encouraging structures which are in harmony with the line and form of the landscape;*
 - avoiding, remedying or mitigating any adverse effects of structures on the skyline, ridges and prominent slopes and hilltops;*
 - encouraging the colour of buildings and structures to complement the dominant colours in the landscape;*
 - encouraging placement of structures in locations where they are in harmony with the landscape;*
 - promoting the use of local, natural materials in construction.*

The proposal is consistent with the above policies.

17. Land Use

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

The jetty will not be visually dominant and conditions of consent can ensure that landscaping enhances the natural character of the foreshore reserve and affords a degree of screening for the jetty and access track. This will ensure that the structure will rest more comfortably with its surrounds, and not significantly diminish the character or coherence of Lake Wakatipu.

4.6.3 Surface of Lakes & Rivers

Objective 1

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

- *natural conservation values and wildlife habitats,*
 - *other recreational values,*
 - *public health and safety,*
 - *takata whenua values, and*
 - *general amenity values.*
- 2 *To enable people to have access to a wide range of recreation experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.*
- 12 *To avoid adverse effects on the public availability and enjoyment of the margins of the lakes and rivers.*
- 13 *To ensure that the location, design and use of structures and facilities which pass across or through the surface of any lake and river or are attached to the bank of any lake and river, are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided or mitigated.*

The jetty will be available for public use and no restrictions are proposed that would dissuade the public from walking out on to the jetty or using it for a temporary berth. It is also likely that the jetty would enable wider recreational activities such as fishing.

Jetties are not uncommon in the district and are generally not thought to pose a hazard to public health and safety. Given the jetty's size, location and proximity to the shore, it is not considered that any potential adverse effects to safety will arise.

Part 5 – Rural Areas

Objective 1 - Character and Landscape Value

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

Policies:

- 1.1 *Consider fully the district wide landscape objectives and policies when considering subdivision, use and development in the Rural General Zone.*
- 1.6 *Avoid, remedy or mitigate adverse effects of development on the landscape values of the District.*
- 1.7 *Preserve the visual coherence of the landscape by ensuring all structures are to be located in areas with the potential to absorb change.*

As discussed, subject to conditions to mitigate visual effects, the jetty will not result in significant adverse effects to character or landscape value. The jetty is located at a site with the ability to absorb change.

8.3 PART 2

8.3.1 Sustainable Management

The purpose of the Act is to promote the sustainable management of natural and physical resources. The definition of sustainable management is:

“managing the use, development and protection of natural and physical resources in a way or at a rate which enables people and communities to provide for their social, economic and cultural well being and for their health and safety while:

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations: and*
- b) safeguarding the life-supporting capacity of air, water, soil and ecosystems: and*
- c) Avoiding, remedying, or mitigating any adverse effect of activities on the environment.*

The establishment of a jetty will not diminish the ability of natural and physical resources to meet the needs of future generations.

The establishment of a jetty will not diminish the life-supporting capacity of air, water soil and ecosystems.

Adverse effects on the environment have been mitigated.

I therefore consider the proposal promotes the sustainable management of natural and physical resources and as such is consistent with the purpose and principles of the Act.

8.3.2 Matters of National Importance

Relevant provisions of Section 6 read:

In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development.*

Subject to conditions the proposed jetty is not considered to constitute an inappropriate use of the site and existing natural character will be preserved.

- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.*

The jetty is not considered an inappropriate use of the site.

- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.*

The location is not identified as possessing any significant indigenous ecosystem or habitat.

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

Public use of the jetty is not discouraged and access to the outer lake margin is improved as a consequence.

- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

Lake Wakatipu is a Statutory Acknowledgement Area, in terms of the Ngai Tahu Claims Settlement Act 1998. Te Runganga o Ngai Tahu and Kai Tahu Ki Otago Limited have considered the proposed activity and provided written approval subject to the inclusion of appropriate conditions accidental discovery protocols for koiwi, and the protection of the water from contamination, sedimentation and unnecessary disturbance.

8.3.3 Other Matters

The Commission must also have regard to the relevant matters listed in Section 7 of the Act. These matters include:

- “(b) the efficient use and development of natural and physical resources;*
- (c) the maintenance and enhancement of amenity values;*
- (f) maintenance and enhancement of the quality of the environment”*

It is my opinion that the proposal constitutes an efficient use of natural resources as the scale and design of the jetty will not substantially impact upon the amenity values of Lake Wakatipu and the surrounding area.

Overall, subject to conditions, the application meets the purpose and principles of sustainable management set out in Part 2 of the Act.

9.0 RELEVANT NON STATUTORY DOCUMENTS

Wakatipu Transportation Strategy

The Wakatipu Transportation Strategy identifies a potential ferry service to Kelvin Heights (near Bay View Road) as a longer term goal from ‘now to 2026’. The establishment of the jetty is not contrary to the Transportation Strategy.

Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu

This policy provides guidance for the Queenstown Lakes District Council when considering jetties and moorings, and includes criteria specific to jetties. With regard to the proposed jetty, whilst it might not completely accord with all policies, the jetty is not contrary to the greater intent of the policy. The effects of the structure will not be substantial, and the Jetties and Moorings Policy will not be undermined.

10.0 CONCLUSION

G & M Inglis have applied for resource consent to establish a jetty on Lake Wakatipu.

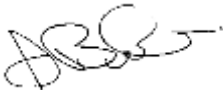
It is my conclusion that the jetty as proposed is appropriate in this location. The reasons for this conclusion are as follows:

- Subject to conditions, the proposal will not result in significant adverse effects on the character and amenity values of the Outstanding Natural Landscape of Lake Wakatipu.
- The establishment of a jetty at the site will provide a useful facility for public and recreational use.
- The proposal fulfils the objectives and policies for the zone and sufficient mitigation measures exist, such that the proposal can align with District Wide objectives and policies.

Therefore, in accordance with Section 104B of the Resource Management Act, in my opinion the proposed development can be granted resource consent subject to appropriate conditions.

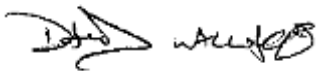
In summary, for the reasons outlined above, the proposal is considered to be consistent with the relevant provisions of the District Plan and can meet the purpose of the Act.

Prepared by:



Aaron Burt
PLANNER

Reviewed by:



David Wallace
PLANNER

Attachments: Appendix A Landscape Architect's Report

Report Dated: 9 July 2013

APPENDIX A – Landscape Architect’s Report

FILE REF: RM120716 Inglis
TO: Aaron Burt - Planner
FROM: Helen Mellsop – Registered NZILA Landscape Architect
DATE: 21 February 2013

INTRODUCTION

1. An application has been received by Lakes Environmental for consent to construct a jetty on the southern shore of the Frankton Arm of Lake Wakatipu, opposite No. 63 Loop Road, Kelvin Heights. The jetty would be attached to the foreshore esplanade reserve, which is under the management of Queenstown Lakes District Council.
2. In terms of the Queenstown Lakes District Council District Plan, Lake Wakatipu and the adjacent foreshore reserve are zoned Rural General. I understand that discretionary activity consent is required for the jetty pursuant to Rule 5.3.3.3 iv (a) of the District Plan.

SITE DESCRIPTION

3. The application site is on the southern side of the Frankton Arm, below the applicant's property at No. 63 Loop Road. The foreshore reserve has a steep contour in this location, and a public walking and cycling track runs approximately 8 metres above the lake surface. Schist outcrops and loose boulders are present amongst the vegetation and along the lake edge. Site vegetation includes clumps of exotic trees, native shrubs and more recently planted native trees (beech, cabbage tree and lancewood). Two small existing jetties are present west and east of the proposed jetty location (see photographs below). These jetties are both owned by the applicant. The landscape context to the south consists of conventional density residential development overlooking the lake.



Existing jetty east of the proposed jetty location



Existing jetty west of the proposed jetty location

PROPOSAL

4. The proposal involves construction of an L-shaped timber jetty, with a 7.2-metre long perpendicular section and a 7-metre long return. The jetty would be 1.45 metres in width, including posts, and would be constructed at two levels the higher of which would be about 1 metre above the nominal low lake level and about 15cm below the nominal high level. Timber posts would be 1 metre above deck level, apart from a single pole 2 metres above deck level. Existing jetties to the west and east would be removed.
5. A clump of vegetation immediately west of the jetty would be cleared to provide access. Replacement planting of kowhai is proposed.
6. Affected party approval for the proposal has been provided by QLDC.

LANDSCAPE CLASSIFICATION

7. The landscape context of the application is that of the Frankton Arm of Lake Wakatipu. The landscape classification of this part of the lake has not been determined through any Environment Court decision, and a number of different classifications have been applied in previous consents. In my opinion this part of the lake and the adjoining esplanade reserve forms part of the outstanding natural landscape of the Wakatipu Basin. Lake Wakatipu, including the Frankton Arm, has a high level of natural character and aesthetic value and is a significant feature within the region.

ASSESSMENT

- 8. The relevant landscape assessment matters for this application are found in Section 5.2.4.3 xvi of the District Plan. I have also considered the Objectives and Policies relating to outstanding natural landscapes, structures and the surface of lakes and rivers in Section 4 of the plan, and the provisions of the non-statutory QLDC document *Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu*.
- 9. The proposed jetty would be clearly visible from an approximately 40-metre section of the adjacent public walking and cycling track, which has a high level of use. It would also be seen from the lake surface and from points on the northern and eastern side of the Frankton Arm, including Frankton Beach and the Frankton Track (see photographs below). The jetty would be significantly more visually prominent than the two small jetties to be removed. These structures have a lower relative level, only extend up to 4 metres into the lake, are largely screened from the walking track by vegetation, and are not visible from the other side of the Frankton Arm.



View from walking and cycling track to proposed jetty location



View from opposite side of Frankton Arm to proposed jetty location (photograph taken at 105mm equivalent focal length)

1. The proposed jetty would be visually prominent from the track and would detract from the natural character of the landscape and the visual amenity of the foreshore reserve. I do not consider it would appear dominant in this particular context, as similar jetties form an accepted part of the landscape context and the timber construction would weather over time to appear more consistent with the surrounding natural environment. Nevertheless I recommend that mitigation measures be implemented to minimise the adverse visual effects of the structure. Visual prominence could be minimised by reducing the height of the supporting piles (apart from the navigational safety pile) to 300-500mm above deck height rather than 1 metre. This would be consistent with other nearby structures (see photograph below). The higher part of the jetty could also be reduced in length. Although this may limit mooring capacity to a single boat, there are numerous publicly available jetties in close proximity that would provide alternative safe public mooring facilities.



Existing jetty 70m west of proposed site, with low piles

2. Clearance of a clump of vegetation is proposed to provide access to the jetty. This clump consists of hawthorn and willow, as well as flax and native *Coprosma* species. I consider that all native shrub species adjacent to the lake should be retained and that additional shrub and tree planting should be implemented in addition to the proposed kowhai. This additional planting should provide effective replacement screening between the proposed jetty and the walking track. I recommend that a condition be included in any consent requiring submission of a landscape plan for approval prior to any jetty construction.
10. The plans submitted with the application show existing tracks leading to the proposed jetty location. However I was unable to identify any usable tracks on site and access to the jetty was steep and difficult. It is likely that formation of some kind of path would be necessary to provide private and public access to the jetty. This path has the potential to adversely affect the natural character of the foreshore reserve and its effects would be cumulative with those of existing development on the reserve. I consider that there should be only a single access track to the jetty, that it should be a maximum of 0.5 metres in width and that it should be topsoiled and re-grassed to mitigate adverse effects on natural character and visual amenity. I also recommend that the route and specifications for the access path be included on a landscape plan submitted prior to development commencing.
12. The proposed jetty is, in my opinion, unlikely to detract from the recreational experience of people using the foreshore walkway. Jetties are frequent and expected structures along this particular stretch of the Frankton Arm and two existing jetties would be removed. The structure is unlikely to enhance recreational experience or amenity. The access would be steep and difficult and there are numerous other jetties in the vicinity that have easier access and are significantly more likely to be used by members of the public.
13. Although the proposed jetty would replace two existing structures, it would be more prominent than these structures combined. There are two existing jetties 70 and 220 metres east of the proposed site, one of which is a large structure with two return sections. A floating pontoon jetty has recently been consented (RM120474) for a site 130 metres to the west. There are also at least two boat moorings west of the site. The existing situation is therefore inconsistent with Council's jetties and moorings policy, which specifies a separation distance of at least 200metres between jetties.
14. While the jetty would add to visual clutter around the shoreline, particularly when viewed from the water surface, Frankton beach and the opposite side of the Frankton Arm, I do not consider the adverse cumulative effects would be significant in extent if the height of the piles is reduced and/or the scale of the jetty is reduced. This is primarily because the jetty would replace two existing structures.
15. Overall I consider the current proposal is not completely compatible with the scenic and amenity values of the Frankton Arm, which forms part of an outstanding natural landscape. I recommend that the mitigation measures identified above be included in the proposal to ensure that potential adverse effects on natural character and visual amenity are reduced to an acceptable level.

CONCLUSIONS

16. Consent is sought to construct a new jetty on the southern shore of the Frankton Arm near No. 63 Loop Road, Kelvin Heights. The site is zoned Rural General and the proposal requires discretionary activity consent as a structure passing through or on a lake.
17. The proposed jetty replaces two existing small jetty structures but would be significantly more visually prominent than both of these structures combined when viewed from the adjacent public walking and cycling track. It would not however be visually dominant or detract from the recreational experience of people using the track. Provision of access to the jetty could adversely affect the natural character of the foreshore reserve and the jetty itself would contribute to visual clutter of structures and moorings along the foreshore.

18. In order to mitigate identified adverse effects on the natural character and visual amenity of the landscape, reductions in the scale of the jetty and height of piles are recommended as well as controls on the nature of the access track and mitigation planting on the reserve.

RECOMMENDATIONS

Should consent be granted I recommend that the following conditions be included:

1. A single access track shall be formed to the jetty to a maximum of 0.5 metres in width. The access track shall be topsoiled and re-grassed to minimize adverse effects on the natural character of the foreshore reserve. Should steps be required, these shall be constructed from on-site stone.
2. All existing indigenous vegetation within the foreshore reserve shall be retained and protected during development.
3. A landscape plan shall be submitted to the Principal Landscape Architect, Queenstown Lakes District Council for approval prior to development commencing. The approved landscape plan shall be implemented within the first planting season from completion of construction, and maintained in accordance with the plan for a period of 2 years. If any tree or plant shall die during this period it shall be replaced in the next available planting season. In this instance the landscape plan shall identify the species, size at planting and number of plants to replace the clump of exotic vegetation marked for removal on the approved site plan (**xxxx**) which achieves the following objectives:
 - Enhances the natural character of the foreshore reserve (ie consists of indigenous species that would naturally grow in the particular location);
 - Partially screens the jetty and access track from the adjacent public walkway and cycling track and provides a similar level of screening to the existing vegetation.
 - The plan shall also show the location and specifications of the access track referred to in Condition **x**.



Helen Mellsop
BLA, BHB, Dip Hort (Distinction)
Registered NZILA Landscape Architect

Reviewed by:



Marion Read
Principal: Landscape Architecture, Lakes Environmental Ltd

Attachment 2: Commissioner's Memo

Decision of Independent Commissioner Jane Sinclair under section 100 of the Resource Management Act 1991

Date: 11 July 2013

Consent Reference: RM120716

Applicant: G and M Inglis

Site Location: Frankton Arm foreshore, north west of 63 Loop Road, Kelvin Heights, Queenstown

Proposal: To establish a new jetty in replacement of two existing jetties.

Activity Status: Discretionary Activity

Zoning: Rural General

Public Notification Date: 1 May 2013

Submissions: There were no public submissions received in relation to the application.

Decision

I find that the application can be processed in accordance with the provisions of section 100 of the Resource Management Act 1991, whereby there is no requirement to hold a hearing.

Reasons for the Decision

I have read the application as lodged and all the associated reports and correspondence from Council's (formerly Lakes Environmental Ltd) reporting Planner, Mr Aaron Burt and Landscape Architects, Dr Marion Read and Ms Helen Mellsop.

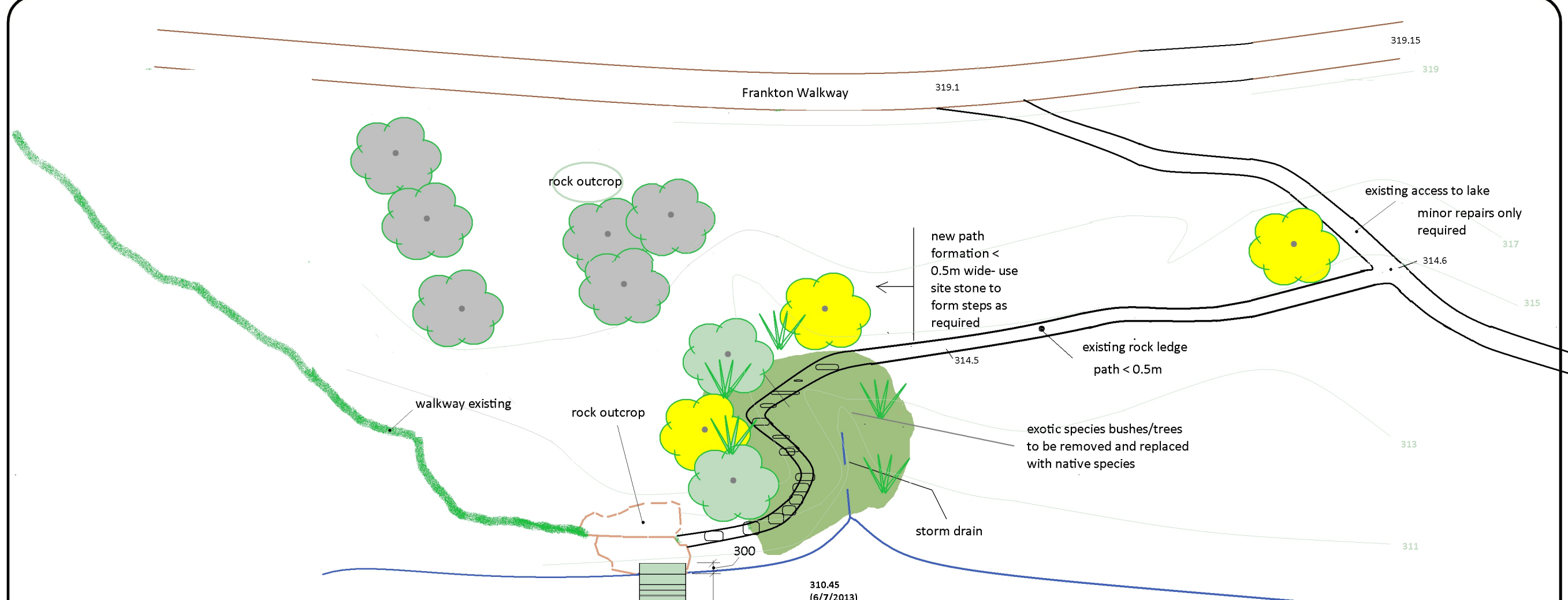
I undertook a site visit on 11 July 2013.

I am in agreement with the recommendation of the reporting planner that any adverse effects from the activity can be adequately mitigated so that the effects on the environment are not significant. The proposal is not contrary with the objectives and policies of the Rural General zone and is consistent with Part 2 of the Resource Management Act 1991.

Given this recommendation, and the fact that there were no public submissions either for or against the application, and that the applicant does not wish to be heard. I do not consider that anything further would be gained by conducting a public hearing. I therefore find that the application can be processed in accordance with section 100 of the Resource Management Act 1991 without the need to hold a public hearing.



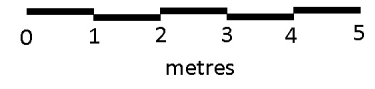
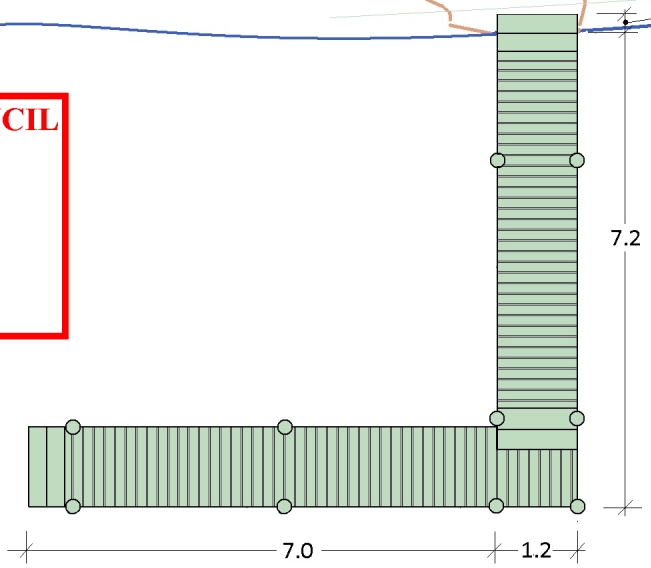
Jane Sinclair
Independent Commissioner
11 July 2013


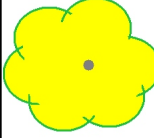
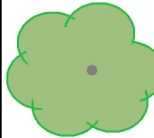
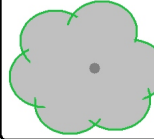


QUEENSTOWN-LAKES DISTRICT COUNCIL

**APPROVED PLAN:
RM120716**

Tuesday, 9 July 2013



Planting Schedule/Legend			
	lift existing harakeke/ flax and divide.		New planting 5 number
	Sophora microphylla	3number	pb12 80/100cm
	cordyline australis	2 number	pb8 70/80cm
	existing plantings of cordyline australis and horoeka/lancewood		

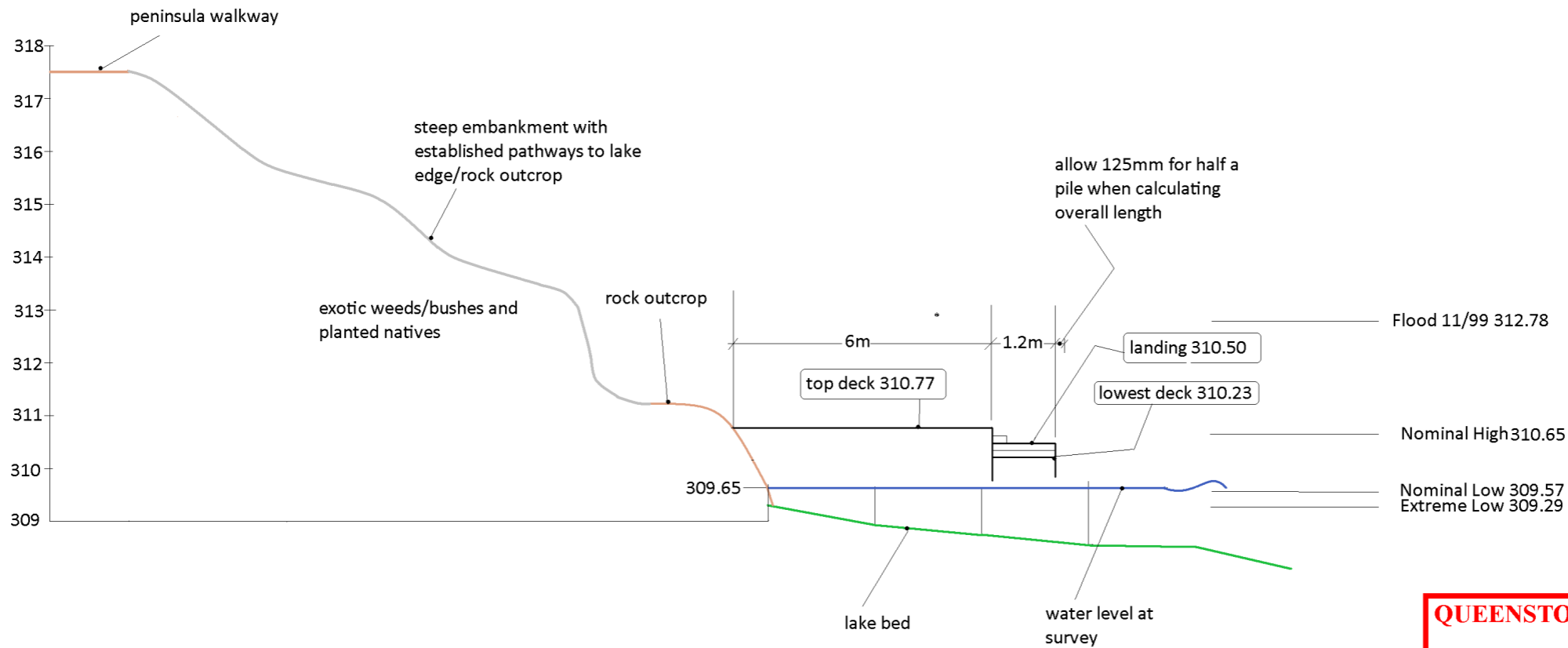
Date: 9/9/2013
Revision:

Jetty No 112 Rebuild

Plan Planting overlaid

Asset Management Services Ltd
Box 10 Cromwell 0212232221
highbannockburn@xtra.co.nz

Drawing Number
S2 PL

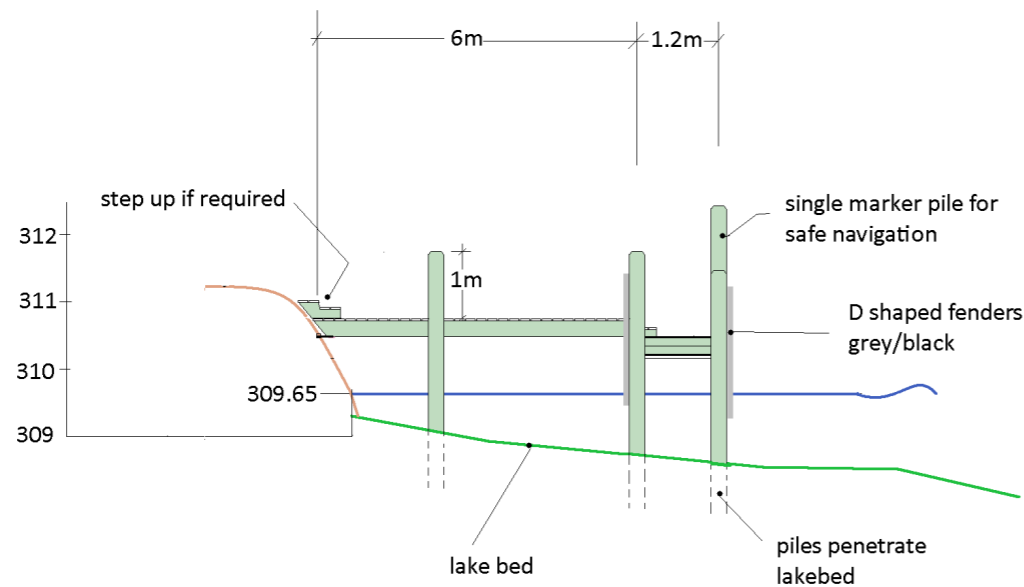


Setting Out Elevation

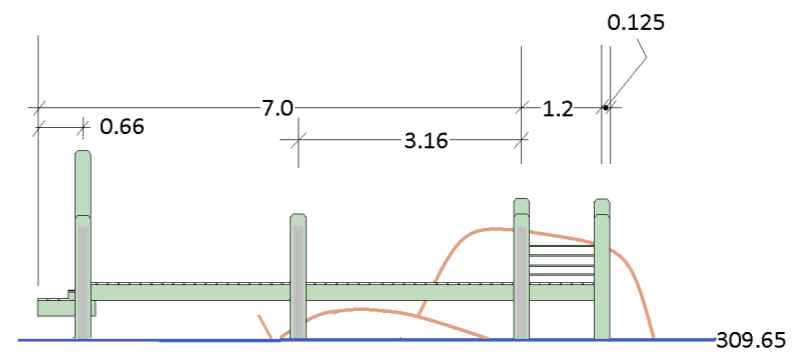
QUEENSTOWN-LAKES DISTRICT COUNCIL

**APPROVED PLAN:
RM120716**

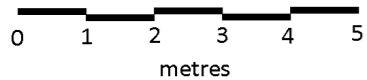
Tuesday, 9 July 2013



Elevation



View from Lakeside

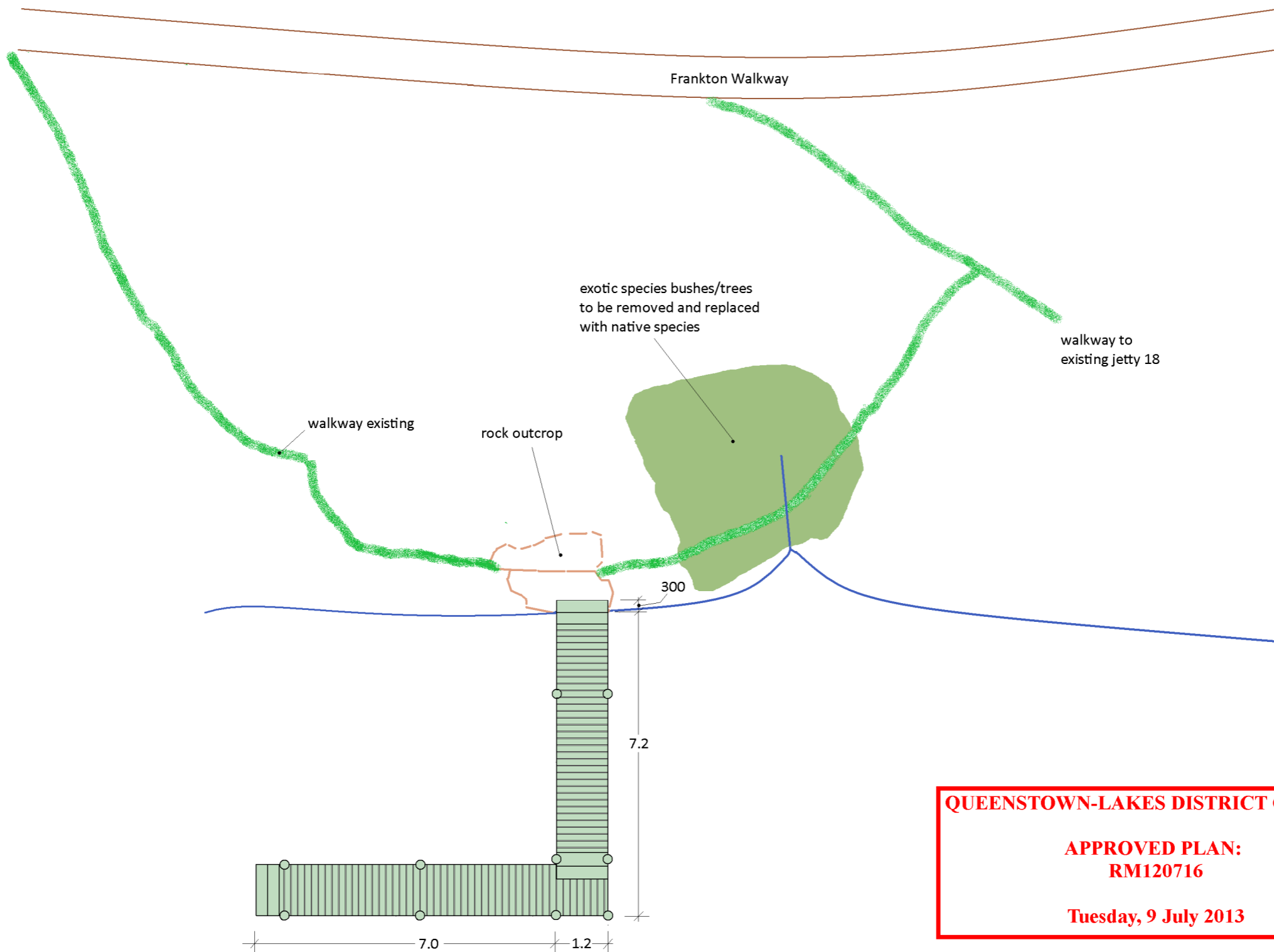


Date: 21/8/2012
Revision:

Jetty No 112 Rebuild

Asset Management Services Ltd
Box 10 Cromwell 0212232221
highbannockburn@xtra.co.nz

Drawing Number
S1



QUEENSTOWN-LAKES DISTRICT COUNCIL

**APPROVED PLAN:
RM120716**

Tuesday, 9 July 2013

0 1 2 3 4 5
metres

Date: 24/8/2012
Revision:

Jetty No 112 Rebuild

Plan

Asset Management Services Ltd
Box 10 Cromwell 0212232221
highbannockburn@xtra.co.nz

Drawing Number

S2