



DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL

RESOURCE MANAGEMENT ACT 1991

Applicant:	D FINLIN
RM Reference:	RM130551
Location:	Frankton – Ladies Mile Highway (State Highway 6/Ladies Mile)
Proposal:	Subdivision to create two allotments (boundary adjustment); to create right of way easements; identification of a residential building platform and breach internal setback; and subdivision to create two allotments and to identify a second residential building platform and breach internal setback.
Type of Consent:	Subdivision & Land Use; Permission to Grant or Reserve Right of Way.
Legal Description:	Sections 56 & 64 Block III Shotover Survey District (SD), Sections 55 & 63 Block III Shotover SD, Sections 49 & 54 Block III Shotover SD, and Lot 25 DP 378242; as contained in CFRs OT 5A/263, OT 5A/264, OT 5A/265 and part 350035, respectively.
Valuation Number:	290123778, 2907123779, 2907123780 & part 2907123715
Zoning:	Rural General
Activity Status:	Discretionary
Notification:	11 September 2013
Commissioners:	W D Whitney & L Cocks
Date of Decision:	5 December 2013
Decision:	Consent is granted subject to conditions

A. INTRODUCTION

A.1 Background

1. David Finlin has applied to the Queenstown Lakes District Council for resource consent to subdivide two existing titles into two allotments; to create right of way easements pursuant to section 348 of the Local Government Act 1974; for the identification of a residential building platform and associated breach of the internal setback rule; and for a subdivision to create two allotments and to identify a second residential building platform that will breach the internal setback rule.
2. The land to be subdivided is currently held in three historic “10 acre” [4 hectare] blocks being Sections 56 & 64 Block III Shotover Survey District that is held in Computer Freehold Register Identifier (CFR) OT 5A/263; Section 55 & Section 63 Block III Shotover Survey District as held in CFR OT 5A/264; and Sections 49 & 54 Block III Shotover Survey District as held in CFR OT 5A/265. These CFRs are currently owned by Threepwood Nominees Limited and have an aggregate area of 12.4644 hectares. Mr Finlin has entered into a sale and purchase agreement to purchase the land generally to the west of the shelterbelt which bisects Sections 56 & 64; and the boundary adjustment is proposed to facilitate this sale.
3. In conjunction with the boundary adjustment right of way easements are to be created, including right of ways A, BJ and BK over the adjacent property Lot 25 DP 378242 that is part of the land held in CFR 350035. This land is owned by Meadow 3B Limited as to a 23/60 share and Threepwood Custodians Limited as to a 37/60 share. The right of way easements are to provide access to the Frankton Ladies Mile Highway (State Highway 6/Ladies Mile) via McDowell Drive being a sealed carriageway that serves the adjacent Threepwood development and which provides access to the carpark at the terminus of the Lake Hayes Track.
4. The land subject to the application (hereinafter referred to as “the site”) is located between State Highway 6 to the south and an unformed road (being an extension of Marshall Avenue) to the north. The topography of the site is flat. A mature Douglas fir shelterbelt runs in a roughly north-south direction through part of the site, separating the existing Threepwood farm building and stockyards from the remainder of the land to the west. Boundary planting on the adjacent property to

the west (the Stone property at 495 Frankton-Ladies Mile Highway) includes a conifer hedge and a row of poplars. Hedgerow planting extends along part of the State Highway 6 boundary of Section 54 at the south-western corner of the site and two Horse Chestnut trees are located in the verge of the state highway. The site is currently in pasture (apart from the existing Threepwood farm building and stockyard complex and Douglas fir shelterbelt) and is actively farmed.

A.2 The Proposal

5. The proposal is described in the application as comprising three stages. These stages are summarised as follows:

Stage 1 : Boundary Adjustment

6. The applicant proposes to undertake a boundary adjustment subdivision of Sections 55 & 63 Block III Shotover Survey District (CFR OT 5A/264) and Sections 56 & 64 Block III Shotover Survey District (CFR OT 5A/263). Lot 1 of the resulting subdivision will have an area of 6.33 hectares being land generally to the west of the existing Douglas fir shelterbelt and a stock lane that extends between the unformed legal road and the existing stockyards on Lot 2. Lot 1 is to be transferred to the applicant.
7. Lot 2 has an area of 2.11 hectares and will contain the existing Threepwood farm building and stockyards generally to the east of the stock lane and existing Douglas fir shelterbelt. Lot 2 will be retained in the ownership of Threepwood Nominees Limited.
8. The Stage 1 subdivision provides for the creation of right of way easements over Lot 25 DP 378242 and Lot 2 of the subdivision in favour of Lot 1 and Sections 49 & 54 Block III Shotover Survey District (CFR OT 5A/265). These right of way easements will provide access for those properties to State Highway 6 across the pastoral land in Lot 2 and Lot 25 DP 378242 and over McDowell Drive (being a private way in Lot 25 DP 378242). The right of way carriageway will be formed to the boundary of Lot 1, such formation consisting of a 4 metre wide gravel carriageway with provision for stormwater disposal, including the continuation of existing overland flow paths. Service easements will be extended to the boundary of Lot 1.

Stage 2A : First Residential Building Platform

9. The applicant proposes to identify a residential building platform on Sections 49 & 54 Block III Shotover Survey District (CFR OT 5A/265). This residential building platform is to be split into two buildable areas that are to be connected by a narrow strip that forms part of the residential building platform. The larger portion will accommodate a future dwelling for Mr Finlin and this is located 56 metres from the boundary with the Stone property (to the west). The smaller portion of the residential building platform has an area of 180m² and is to accommodate a utility shed in close proximity to an existing shed that is located over the boundary on the Stone property. The smaller portion of the residential building platform is approximately 7.6 metres off the boundary and breaches the required minimum setback from internal boundaries of 15 metres.
10. Access will be formed to the residential building platform and planting undertaken around the platform to provide screening between the platform and State Highway 6 and between the platform and the Stone dwelling.
11. It is proposed to amalgamate Lot 1 (created by the boundary adjustment) and Sections 49 & 64 Block III Shotover Survey District (CFR OT 5A/265); and the residential building platform will be registered on this amalgamated title.

Stage 2B : Subdivision and Second Residential Building Platform

12. Stage 2B involves the subdivision of the amalgamated title (Lot 1 plus Sections 49 & 54 Block III Shotover Survey District (CFR OT 5A/265)) into two lots. Lot 1 will have an area of 9.92 hectares (approximately) and will accommodate the residential building platform identified in Stage 2A. Lot 2 will have an area of 4000m² and will be located immediately to the west of the existing Douglas fir shelterbelt and stock lane. A residential building platform is identified on Lot 2 that will have dimensions of 30 metres x 30 metres (900m²).
13. A right of way will be created over the driveway (which is to serve the residential building platform on Lot 1) to the boundary of Lot 2. Landscape plantings are to be established to the south of Lot 2 to provide screening from State Highway 6.

14. The identified residential building platform on Lot 2 will be some 10 metres off the allotment boundary. This breaches the minimum 15 metre setback from internal boundaries for buildings.
15. Curtilages are proposed to be defined adjacent to both of the residential building platforms. Design controls are also proposed (summarised further below).
16. Lots 1 and 2 of the Stage 2B subdivision will be connected to the Council's water supply and sewer networks via the existing reticulation to the adjoining Threepwood subdivision. The Council's Infrastructure Services Committee agreed on 30 July 2013 to extend the Lake Hayes Water and Wastewater Zones to include the site. On-site water storage tanks are proposed for firefighting.
17. Stormwater disposal will be achieved via soakage pits that will be installed to dispose of stormwater from impervious areas at the time dwellings are constructed on the residential building platforms.
18. Correspondence from Aurora Energy Limited dated 12 June 2013 and from Chorus dated 17 June 2013 confirms that reticulated power and telecommunication services can be provided to the subdivision.
19. 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) All buildings to be contained within the residential building platforms.
 - (ii) Building height to be limited to 7.5 metres; except for the shed (on Lot 1 of the Stage 2B subdivision) that is to have a maximum height of 6 metres.
 - (iii) The main roof of all buildings shall be a pitched design.
 - (iv) Exterior colours and cladding materials to be dark and recessive.
 - (v) Domestic activities to be limited to the identified curtilage areas.
 - (vi) Exterior lighting to be confined to the curtilage areas.
 - (vii) Only traditional farming type fencing to be used.
 - (viii) Electricity lines to be underground.

- (ix) No tree planting or structures to be within a 50 metre strip from the State Highway 6 boundary of Lot 1 of the Stage 2B subdivision, except for a 5 metre strip along the eastern boundary that may be used for a shelterbelt.
- (x) The area within the 50 metre strip from the State Highway 6 boundary to be used for cropping or grazing activities only.
- (xi) On Lot 1 of the Stage 2B subdivision, areas in grass outside the residential building platform curtilage shall be kept free of noxious weeds and shall be periodically mown or grazed, to create a pastoral appearance.
- (xii) Mitigation tree planting to be established as shown on the Landscape Plan dated 26 November 2013.
- (xiii) Additional mitigation tree planting to be established to the north of the building platforms on Lot 1 and Lot 2 in the event a trail is formed on the unformed legal road.
- (xiv) Additional mitigation tree planting to be established to the east of the building platform on Lot 2 if the Douglas fir shelterbelt or the shelterbelt to the east of McDowell Drive is removed.
- (xv) The maximum building coverage within the dwelling portion of the split building platform on Lot 1 shall be 50%.
- (xvi) The maximum building coverage within the building platform on Lot 2 shall be 50%.
- (xvii) The applicant agrees to register a covenant (for the benefit of R & K Lemaire-Sicre who operate the Ladies Mile Pet Lodge) on the certificates of title (CFRs) for the site which restrict the present and/or future owners from doing either of the following:
 - a. making a complaint to any regulatory authority regarding the operation of the pet lodge; or
 - b. using any fireworks within the site.
- (xviii) A condition subject to a consent notice that Crossing Place 22 (to State Highway 6) is to be used for stock movements only.
- (xix) Prior to section 224(c) certification the consent holder is to supply the consent authority with a notice signed by the Minister of Transport, pursuant to section 93 of the Government Roding Powers Act 1989, confirming that the State Highway is road for the purposes of the subdivision.

- (xx) The conditions as recommended by Ms Afifi (the incorporates engineering conditions recommended by Mr Hopkins) subject to an amendment to draft conditions 26 & 7(s) that deletes the sentence “Tree planting on site shall be restricted to this plan”.

20. The Commission 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.

A.3 Zoning

21. The site is zoned Rural General as shown on Map 30 of the Operative Queenstown Lakes District Plan (Operative District Plan/District Plan).

22. Rule 15.2.3.2(i) provides for a boundary adjustment as a controlled activity.

23. Rule 5.3.3.3i(b) provides for the identification of a building platform of not less than 70m² in area and not greater than 1000m² in area as a discretionary activity.

24. Rule 5.3.5.1vi(a) provides for a minimum setback from internal boundaries for buildings of 15 metres. A breach Rule 5.3.5.1vi(a) is a discretionary (restricted) activity in terms of Rule 5.3.3.3xi.

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

26. The granting or reserving of a right of way over any private way is subject to the Council’s prior permission in terms of section 348 of the Local Government Act 1974. The Commission has been advised that any decision with respect to such permission rests with the Council’s Manager, Resource Consents. In such circumstances the Commission can only make a recommendation with respect to such permission.

27. The Commission has considered the proposal as an application for subdivision and land use consent to a discretionary activity; and as an application for prior

permission to grant or reserve a right of way pursuant to section 348 of the Local Government Act 1974.

A.4 Submissions

28. Five submissions were received within the statutory submission period which closed on 9 October 2013. The submission by MW & JC Walker supported the proposal subject to the distance between avenue trees (as originally proposed) along State Highway 6 having a 20 metre spacing rather than a 30 metre spacing.
29. The submission by M Tylden supports the proposal.
30. The submission by K & R Lemaire-Sicre opposes the proposal and has raised issues with respect to the effects of further development and domestication on the Ladies Mile Pet Lodge that the submitters operate at 465 Frankton-Ladies Mile Highway; and the submitters have raised issues with respect to potential reverse sensitivity.
31. The NZ Transport Agency (NZTA) lodged a neutral submission that originally sought three conditions. In correspondence dated 20 November 2013 that was tabled at the hearing the NZTA confirmed that conditions with respect to restricting the use of Crossing Place 22 (CP 22) for stock movements only and relating to the provision of a notice in terms of section 93 of the Government Roading Powers Act 1989, would satisfactorily address NZTA's concerns.
32. The Otago Regional Council (ORC) opposed the application and promoted that consent be refused unless the consent authority is satisfied that the proposed development will be able to satisfactorily mitigate risk from an active alluvial fan; and that a suitable rabbit proof structure be installed and maintained on the north-west boundary of the property in order to restrict the movement of rabbits.
33. The Commission has given consideration to all submissions lodged in response to the application.

A.5 Reports and Hearing

34. The Commission has had the benefit of a planning report dated 14 November 2013 from Ms Hanna Afifi a Senior Planner with the Queenstown Lakes District Council; a Landscape Assessment report dated 16 October 2013 from Ms Helen Mellsop, a Landscape Architect with the Queenstown Lakes District Council; and an engineering report dated 22 October 2013 from Mr Alan Hopkins, an Engineer with the Queenstown Lakes District Council.

35. At the hearing we were assisted by Ms Afifi, Ms Mellsop and Mr Hopkins. Ms Louise Ryan, Committee Secretary with the Queenstown Lakes District Council, provided administrative support at the hearing.

36. 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 Ms Afifi we made a site inspection on the morning of the hearing on Friday 22 November 2013.

37. At the hearing the applicant was represented by Ms Annemarie Robertson, Resource Management Consultant with John Edmonds & Associates Limited. Mr David Finlin and Mr Paddy Baxter, a Landscape Architect and Director of Baxter Design Group Limited, presented evidence in support of the application, followed by Ms Robertson.

38. Ms Keri Lemaire-Sicre appeared in support of the submission by K & R Lemaire-Sicre.

39. The planning, landscape and engineering reports were taken as read and Mr Hopkins, Ms Mellsop and Ms Afifi were invited to comment following the presentation of submissions and evidence. Following Ms Robertson's reply the hearing was adjourned.

A.6 Principal Issues in Contention

40. The principal issues in contention before us are the effects on the environment of allowing the land use activity and subdivision as proposed in terms of Stage 2A and Stage 2B of the proposal.

B. EFFECTS ON ENVIRONMENT

B.1 Permitted Baseline

41. Farming activities, planting (with specific exclusions), fencing and earthworks which do not breach Rule 5.3.5.1viii are permitted activities in the Rural General Zone. The Commission notes that planting that has status as a permitted activity includes planting trees for timber production up to 0.5 hectares in area and tree planting of non-wilding species not for the purpose of timber production over the entire site. Within the Rural General Zone any subdivision and the identification of a residential building platform requires resource consent and is therefore not a permitted activity.

42. Ms Afifi advised us that the existing Threepwood farm shed and yards on the site are lawfully established activities.

B.2 Affected Persons Approvals

43. Signed affected persons approvals have been provided from JF & SL Stone, JA and AJ Cushen, PM & SH Strain, SH Strain, Meadow 3B Limited & Threepwood Custodians Limited, and Threepwood Nominees Limited. Updated affected persons approvals were provided prior to the hearing from the Stones, the Cushens, Meadow 3B Limited & Threepwood Custodians Limited, and Threepwood Nominees Limited. These updated approvals related to amended plans of the proposal which showed amendments to Lot 2 of Stage 2B. Section 104(3)(a)(ii) of the Act directs that a consent authority must not have regard to any effect on a person who has given written approval to the application when considering that application.

B.3 Assessment Matters

44. The Operative District Plan (which became fully operative on 10 December 2009) contains assessment matters in Parts 5 and 15 that are relevant to subdivision and development in the Rural General Zone.

45. 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

46. 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.

47. 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). Mr Baxter and Ms Mellsop agreed that the subject site is in the VAL. Land generally to the north of the site comprises the Slope Hill Outstanding Natural Feature (ONF).

48. 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.

49. 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.”*

50. 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.

“(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;”*

51. The site is adjacent to the Slope Hill Outstanding Natural Feature (ONF) which has a distinctive and legible roche moutonnée landform. The Commission concurs with Ms Mellsop’s opinion that any adverse effects would be small in extent on the adjacent ONF of Slope Hill.

52. The Slope Hill ONF is clearly visible from State Highway 6 across the site and this distinguishes the site from others to the north of Ladies Mile which feature Hawthorn hedges and other vegetation at the boundary with State Highway 6. While future built development and planting on and in the vicinity of the residential building platforms will obscure in part the foot of the ONF, visual access to the foot of the ONF will be retained between the building platforms. The Commission also acknowledges that the mass of the Slope Hill ONF will remain clearly visible from State Highway 6. The Commission has concluded that the visual effects of the development proposed will not compromise the open character of the adjacent ONF.

53. The proposal will result in most of the site being included in Lot 1 of the Stage 2B subdivision. Lot 1 will have an area of approximately 9.92 hectares. The applicant proposes that the strip of land 50 metres back from the State highway frontage will be retained in open pasture or cropping albeit that allowance is made for replanting of the shelter belt adjacent to the eastern boundary. The balance of Lot 1 (beyond the curtilage area) will be available for production purposes and those parts maintained in grass are to be periodically mown or grazed to create a pastoral appearance.
54. The closest portion of a residential building platform that is to contain a dwelling (being on Lot 1) is some 245 metres from the State Highway 6 frontage of the site. The second residential building on Lot 2 is to be further back from the State highway. This will result in a situation where approximately 5 hectares of land will be retained as an open area in production between the residential building platforms and State highway 6. Tree plantings may be established beyond the 50 metre strip and plantings are to be established on and in the vicinity of the curtilages as shown on Mr Baxter's Landscape Plan (the most recent version of which is dated 26 November 2013). Substantial boundary plantings exist adjacent to the western boundary of the site (with the Stone property) and within Lot 2 of the Stage 1 subdivision (being the Douglas fir shelterbelt).
55. In all the circumstances the Commission is satisfied that the scale and nature of the development will not compromise the natural or arcadian pastoral character of the surrounding VAL in this instance. The Commission is also satisfied that the development will not degrade any natural or arcadian pastoral character of the landscape by causing over-domestication of what Mr Baxter described as "a typical VAL" landscape. The Commission notes in this context that the effect of the proposal is to subdivide three historic 10 acre [4 hectare] blocks to create an allotment that accommodates the existing Threepwood farm building and stockyards; and two allotments (to be created in Stage 2B) to accommodate residential building platforms, the average area of such allotments to be approximately 5.16 hectares. The Commission considers that this density of development does not represent over-domestication of the landscape.

56. The Commission acknowledges the range of conditions offered by the applicant, including conditions with respect to restricting elements of domestic activity to the curtilage area; maintaining the strip of land adjacent to State Highway 6 in open pasture or cropping; and maintaining areas in grass outside the residential curtilage area to create a pastoral appearance. Potential effects on the natural and pastoral character of the landscape associated with the subdivision and future development on the residential building platforms will be mitigated by adherence to the conditions offered by the applicants.

“(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.”*

57. When travelling from the direction of Queenstown on State Highway 6 (from the west) hawthorn hedgerows and other plantings adjacent to the State highway obscure any view of that portion of the subject site that is to accommodate the residential building platforms. From this direction a direct view into the site will be experienced from beyond the hawthorn hedge that exists adjacent to the south-west boundary, adjacent to the State highway.

58. From the Lake Hayes direction topography screens the site from view as vehicles ascend the horizontal curve at the 75kph bend generally to the west of Lake Hayes. On the Ladies Mile portion of State Highway 6 existing trees in the verge and shelterbelts located generally to the east of McDowell Drive provide significant screening. From about the McDowell Drive intersection the residential building platform on Lot 1 is clearly visible whereas the residential building platform on Lot 2 is obscured by the existing Douglas fir shelterbelt. As viewers move to the west of McDowell Drive on State Highway 6 the residential building platform on Lot 2 comes into view. Both residential building platforms are clearly visible from State Highway 6 adjacent to the frontage of the site.

59. While future dwellings on the residential building platforms will be visible from State Highway 6 in particular and to a lesser extent McDowell Drive and the Lake Hayes Track and its associated carpark (off McDowell Drive) the Commission concurs with Ms Mellsop and Mr Baxter that such development will not be visually prominent once mitigation planting near the platforms is established. Ms Mellsop noted that proposed design controls will ensure that only single storey dwellings are likely to be built and that roofs and wall claddings will be appropriately recessive in the surrounding environment. Ms Mellsop also noted that the evergreen hedging and exotic tree planting proposed will effectively integrate and

screen the dwellings and will appear consistent with existing rural plantings on the Frankton Flats.

60. The Commission acknowledges that the applicant originally proposed an avenue of trees along the frontage of the site to complement other avenue planting at Ladies Mile. The Commission concurs with Ms Mellsop that any benefit associated with such avenue plantings would be outweighed by the loss that would result, by obscuring the view of the Slope Hill ONF.
61. The north-west boundary of Lot 1 provides frontage to an unformed legal road that is generally unfenced and which bisects an existing paddock. Ms Mellsop noted that this unformed legal road is included in the 2004 Wakatipu Trails Trust Strategy as a potential arterial route. She noted that, should this route be developed as a cycleway/walkway in the future, a significant number of people could be using this area of unformed legal road.
62. The closest residential building platform (on Lot 2) would be approximately 110 metres from the boundary of the unformed legal road. The Commission notes that grass within Lot 1 (between Lot 2 and the unformed legal road) is to be maintained to create a pastoral appearance. The Commission also notes the applicant's willingness to establish plantings in future to provide screening for the dwellings on Lot 1 and Lot 2 from the unformed legal road, in the event that a trail is established.
63. The Commission also considers it appropriate to acknowledge that if the trail were established it would pass through and adjacent to areas where dwellings are found. This includes the Threepwood development and properties to the west of the subject site, including the Stone and Cushen properties. The Commission has also noted Ms Robertson's observation that the Wakatipu Trails Trust Strategy identifies the unformed legal road as forming part of a "commuter trail" where the focus would be on getting from one point to another as quickly as possible rather than being a trip focussed on scenic appreciation.
64. The Commission has concluded that the development will not be highly visible when viewed from any public places and that while visible from State Highway 6 and the unformed legal road, such visual effects are able to be mitigated by

location of future dwellings on the nominated residential building platforms and associated planting. The Commission is satisfied that the proposed development will not be so visually prominent that it detracts from public or private views otherwise characterised by natural or arcadian pastoral landscapes; as such landscape values are to be maintained.

65. The Commission notes that the VAL adjacent to State Highway 6 to the north of the Ladies Mile is split into compartments by vegetation, including shelterbelts and hawthorn hedges. A benefit of the suite of conditions offered by the applicant is that the open pastoral character of the site will be maintained as will views of the Slope Hill ONF from State Highway 6.

66. The building platforms are on the flat and will not give rise to any structures that break the line and form of any skylines, ridges, hills or prominent slopes.

67. The access carriageway will traverse Lot 1. The access carriageway and associated minor earthworks and the landscaping proposed in the vicinity of the residential building platforms will not change the line of the landscape or affect the naturalness of the landscape.

68. The retention of most of the site in Lot 1 will avoid the potential for plantings and fencing to give rise to any arbitrary lines and patterns on the landscape. While fencing can be anticipated around Lot 2 this is to be rural in character.

69. The Commission is satisfied that the development, which involves residential building platforms being located at least 240 metres from the State highway frontage, would not result in sprawl of built development along the roads of the District. The Commission also notes in this context the pattern of surrounding development which includes dwellings being set back by approximately the same distance from both sides of State Highway 6 at the Ladies Mile.

70. The Commission's overall conclusion is that the development will not result in any significant loss of the natural or arcadian pastoral character of the VAL landscape in this locality.

“(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.”*

71. In this instance the development is not highly visible when viewed from public places notwithstanding that the natural topography is flat and therefore provides little opportunity to screen such development.
72. Opportunity has been taken to aggregate built development. The Commission notes that the utility shed portion of the residential building platform on Lot 1 is to be located in close proximity to the existing shed on the Stone property; and that when viewed from the south-west the residential building platform on Lot 1 and built development on the Stone property will form a loose cluster.
73. The residential building platforms on Lot 1 and Lot 2 will utilise the same access carriageway; and access from State Highway 6 is to be achieved via right of way easements over Lot 2 (in Stage 1) and Lot 25 DP 378242, including McDowell Drive.
74. Development is to be concentrated in areas with a higher potential to absorb development. As noted above the residential building platform on Lot 1 will form part of a loose cluster with built development on the Stone property. The residential building platform on Lot 2 is to be tucked in against the Douglas fir shelterbelt which remains in Lot 2 of the Stage 1 subdivision. The Commission also acknowledges that much of the land in Lot 1 is to be devoid of tree planting (being the 50 metre strip) and that grassed areas are to be maintained to create a pastoral appearance across the site.
75. The Commission is satisfied that the proposed development does not introduce densities which reflect those characteristic of urban areas. As noted above an average density of one dwelling per 5.16 hectares will be maintained.
76. The proposed development is not within an existing development as defined in Assessment Matter 5.4.2.2(3)(c)(v) albeit that the residential building platform on Lot 1 is close to the existing development on the Stone property. The Commission considers however that the pattern of development proposed is appropriate having regard to the existing pattern of subdivision and development found in this locality. The Commission notes that existing dwellings are located on the Stone and Cushen properties generally to the west of the site and that residential development is provided for well back from the State highway at

Threepwood to the east. The Commission notes in this context that the effect of a Consent Order issued by the Environment Court in the context of the Threepwood development is to preclude the use of commonly held land at Threepwood (including Lot 25 DP 378242) as an alternative location for residential building platforms. The Commission also notes that alternative locations have not been promoted by the owners or occupiers of other land in this locality.

77. The Commission is satisfied that the subdivision will achieve a form and density of development that is appropriate as it will maintain the VAL character of this locality.

“(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).

...”

78. 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. The Commission concurs with Mr Baxter that the proposal is consistent with the nature and extent of existing development within the vicinity of the site; including domestic activity located to the west including the Stone and Cushen properties and the domestic activity at Threepwood that is located generally to the east of the subject site.
79. The proposal will not result in 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.
80. The proposal will not visually compromise the existing natural and arcadian pastoral character of the landscape by exacerbating existing and potential adverse effects.
81. As noted above the flat nature of the site means that there are no visually significant natural elements present; but the retention of approximately 9.92 hectares of production land in Lot 1 will serve to avoid cumulative effects of the development on the landscape.
82. The Commission notes that the infrastructure proposed is not consistent with an urban landscape.
83. The applicant proposes a suite of conditions which will serve to avoid or mitigate any potential cumulative adverse effects. Built development is to be restricted to the nominated residential building platforms. The Commission also notes in this context that the applicant has offered a condition to the effect that coverage within the nominated residential building platforms is limited to 50%. Again the Commission acknowledges the range of conditions which have been offered by the applicant and which will serve to avoid or mitigate adverse cumulative effects of development on the landscape.

84. The Commission has concluded that granting consent will not give rise to greater than minor adverse cumulative effects on the arcadian pastoral character of the landscape.

“(e) *Rural Amenities*

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

- (i) the proposed development maintains adequate and appropriate visual access to open space and views across arcadian pastoral landscapes from public roads and other public places; and from adjacent land where views are sought to be maintained;*
- (ii) the proposed development compromises the ability to undertake agricultural activities on surrounding land;*
- (iii) the proposed development is likely to require infrastructure consistent with urban landscapes such as street lighting and curb [sic] and channelling, particularly in relation to public road frontages;*
- (iv) landscaping, including fencing and entrance ways, are consistent with traditional rural elements, particularly where they front public roads.*
- (v) buildings and building platforms are set back from property boundaries to avoid remedy or mitigate the potential effects of new activities on the existing amenities of neighbouring properties.”*

85. 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. It is again noted in this context that the closest residential building platform to State Highway 6 will be some 245 metres back from the State highway frontage of Lot 1; and that the closest residential building platform to the unformed legal road will be 110 metres from that road frontage. The restriction on tree planting in close proximity to State Highway 6 and the location and design of the residential building platforms and their curtilages will serve to maintain appropriate visual access to views towards the Slope Hill ONF.

86. The proposal will not compromise the ability to undertake agricultural activities on surrounding land.

87. The proposed development will not require infrastructure consistent with urban landscapes.
88. The proposed landscaping, entranceway and fencing are consistent with traditional rural elements.
89. That portion of the residential building platform on Lot 1 that is to accommodate a dwelling is set back from the boundary with the Stone property to avoid, remedy or mitigate the potential effects of new residential activity on the existing amenities of the neighbouring Stone property. That portion of the residential building platform on Lot 1 that is to accommodate the future shed is located close to the Stone boundary. This will ensure that the utility sheds on Lot 1 and on the Stone property are clustered together.
90. The Commission also notes that the residential building platform on Lot 2 is well separated from the residential building platform on Lot 1; and that the residential building platform on Lot 2 will be screened by the existing Douglas fir shelterbelt on Lot 2 of the Stage 1 subdivision from neighbouring properties in the Threepwood subdivision.
91. The breach of the minimum setback by that part of the residential building platform on Lot 1 that is to accommodate the utility shed will have a net positive effect by facilitating clustering. The minimum setback breach on Lot 2 is internal to the subdivision and will ensure that the curtilage area to the west of the residential building platform on Lot 2 will be minimised, maximising visual access towards the Slope Hill ONF from State Highway 6 between the residential building platforms and their associated curtilages. The Commission considers that the proposed breaches of the 15 metre minimum setback will not have any adverse effects on rural amenities.
92. 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

93. 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.
94. In the context of Assessment Matter 5.4.2.3ii Natural Hazards – General the Commission acknowledges that the Otago Regional Council has submitted that consent should be declined unless the consent authority is satisfied that the proposed development will be able to satisfactorily mitigate risk from the active alluvial fan to the north-west of the subject site.
95. The Commission notes that the alluvial fan exists on the lower portion of Slope Hill and encroaches onto flat land to the north-west of the unformed legal road; beyond the land within the confines of the subject site.
96. Mr Hopkins has undertaken a site inspection to assess the risk that this hazard may pose to the proposed residential building platforms and to any future dwellings thereon. Mr Hopkins is satisfied that due to the flat grade between the toe of Slope Hill and the closest residential building platform on Lot 1 all debris will deposit prior to flows reaching any future dwelling; and that the lack of an existing debris fan in proximity to the platform confirms this assessment.
97. Mr Hopkins also advises that runoff sheet flows from Slope Hill may potentially impact on the residential building platform on Lot 1; but given the 150 metre offset and relatively free draining soils, he is satisfied that this will be minor in nature and adequately addressed through the minimum floor level requirements under NZS 3604 section E2.
98. Mr Hopkins has come to the same conclusions with respect to the proposed residential building platform on Lot 2.
99. Mr Hopkins also advised us that based on previous liquefaction hazard assessments undertaken in the vicinity, that he is satisfied that the subject site is similar in nature to those sites previously assessed as low to nil risk. Mr Hopkins

is satisfied that liquefaction hazard does not pose a significant risk to either the Lot 1 or the Lot 2 residential building platform.

100. The Commission accepts Mr Hopkins's opinion that the proposed residential building platforms are free from any specific hazard risk and are suitable for future residential construction.

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

B.5 Part 15

102. Clause 15.2.3.6(b) contains assessment matters relating to subdivision and the location of residential building platforms in the Rural General Zone. The Commission briefly discusses 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.

103. 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.

104. The proposed subdivision and the proposed residential building platforms will maintain rural character, landscape values and visual amenity in this locality; and will have no particular effect on adjoining land uses.

105. 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 and will continue to be available for production purposes; and that the area of Lot 2 is to be kept to the minimum

consistent with accommodating just the residential building platform and curtilage within the boundaries of Lot 2.

106. 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, 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.

107. 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 in this context that Mr Hopkins is satisfied that the proposed residential platforms are free from specific hazard risk and are suitable for future residential construction.

108. 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 to be transferred to the applicant, most of which is to be retained in Lot 1. This will facilitate co-ordinated management of Lot 1, including land between the residential building platforms and State Highway 6 and the unformed legal road. The Commission notes in this context the planting which is permissible in terms of the permitted baseline and which, if the status quo were maintained, could result in piecemeal development including significant tree planting that would screen views of the Slope Hill ONF from State Highway 6 in particular.

109. 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.

110. The Commission considers that Lot 1 is of sufficient area and dimensions to effectively fulfil the intended purpose of accommodating a future dwelling on the residential building platform and for production purposes.

111. Lot 2 is to have an area of approximately 4000m² and will accommodate a residential building platform and curtilage. The Commission considers that Lot 2 is also of sufficient area and dimensions to effectively fulfil its intended purpose.

112. 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 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.

113. Clause 15.2.7.3(i) relates to the relationship and size of the lots in terms of their solar advantage. In this instance both of the proposed lots are of adequate size; and the location of the proposed residential building platforms is such that both lots will retain good solar advantage. The Commission notes in this context that Mr Baxter explained that relocating the residential building platforms further to the north-west within the site (towards the unformed legal road) would result in shading from Slope Hill.

114. 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 applicant will serve to mitigate any adverse effects on the views and amenity values enjoyed from the Stone property.

B.6 Positive Effects

115. The proposal will have a positive effect by providing for future residential activity to occur on each of the residential building platforms. The proposal will result in the consolidation of three existing historic 10 acre [4 hectare] blocks and will provide for the efficient use of this land, including the majority of the site that is to be retained in Lot 1 and used for production purposes.

116. The Commission also considers that positive effects associated with the proposal will be the maintenance of views from State Highway 6 to the Slope Hill ONF; the retention of part of Lot 1 in open pasture within 50 metres of State Highway 6; the maintenance of grass on the balance of Lot 1 to maintain a pastoral appearance; and the restriction on the future use of Crossing Place 22 to stock movements only.

B.7 Summary : Effects and Assessment Matters

117. 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 and 15 of the Operative District Plan, as discussed above.

C. THE QLDC DISTRICT PLAN : OBJECTIVES & POLICIES

118. Parts 4, 5 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 Subdivision respectively. The objectives and policies from Parts 4, 5 and 15 have been presented in Ms Afifi's report, and to a large degree the objectives and policies relate to matters discussed by us 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

119. 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.

120. 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.”

121. 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 5 that relates to Outstanding Natural Features; 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.

122. 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.

123. 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.

124. 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.”*

125. The proposal will serve to avoid, remedy or mitigate adverse effects of subdivision and development on the VAL. The location of the proposed

residential building platforms on Lot 1 and 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. The Commission notes again in this context that the closest residential building platform to accommodate a dwelling will be approximately 245 metres from the State Highway 6 frontage of the site, and that the residential building platform on Lot 2 will be 110 metres from the unformed legal road. The Commission also acknowledges that appropriate planting and landscaping is proposed and that the applicant has amended the proposal to remove the linear avenue tree planting along the State Highway 6 frontage of the site, consistent with Policy 4(c).

126. Policy 5 is to avoid subdivision and/or development on and in the vicinity of distinctive landforms and landscape features including Slope Hill unless the subdivision and/or development will not result in adverse effects which will be more than minor on landscape values and natural character; and visual amenity values. In this context it is noted that Ms Mellsop and Mr Baxter agreed that any adverse effects on the natural character of the Slope Hill ONF would be small in extent; and the Commission concurs with Ms Robertson that the scale of Slope Hill is such that future buildings on the residential building platforms will only obstruct or detract from views towards the ONF to a very small degree. The conditions offered by the applicant will ensure that any adverse effects on the Slope Hill ONF resulting from the proposal will be less than the permitted baseline, which would enable substantial planting to occur on the existing historic 10 acre [4 hectare] blocks that comprise the site.

127. In terms of Policy 6 – Urban Development – the Commission is satisfied that the Stage 2B subdivision, that will create an average lot area of 5.16 hectares and which will provide for the identification of residential building platforms on Lot 1 and Lot 2, does not constitute urban subdivision and development.

128. 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.

129. 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 planting is proposed between the residential building platforms on Lot 1 and Lot 2 and State Highway 6; and the applicant is agreeable to establishing plantings between the residential building platforms and the unformed legal road if a trail is formed on that road. The applicant is also agreeable to establishing plantings to the east of the residential building platform on Lot 2 if the Douglas fir shelterbelt and the shelterbelt to the east of McDowell Drive were to be removed in future; albeit that the Commission considers that such action would be necessary in the event that the Douglas fir shelterbelt (only) was removed. The Commission has concluded that the proposal is consistent with Policy 9.

130. The Commission is satisfied that the proposal is consistent with Policy 12 – Transport Infrastructure. The access carriageway that will serve the residential building platforms is on flat land and will involve minimal earthworks.

131. 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 platforms and to the suite of conditions offered by the applicant.

132. The Commission acknowledges that objectives and policies are also presented in Part 4 relating to natural hazards and earthworks. The Commission has considered Objective 4.8.3.1 and Objective 4.10.3 and their supporting policies when assessing this application. The Commission is satisfied that the proposal is consistent with these objectives and policies.

C.2 Part 5

133. 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.*
- ...
- 1.6 *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.”*

134. 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 to use Lot 1 for production purposes. In terms of Policy 1.4 the character of the rural area will not be adversely impacted in this instance. The Commission considers that the proposal is consistent with Policies 1.6-1.8 having regard to the location of the residential building platforms; the proposal to maintain a 50 metre wide strip adjacent to State Highway 6 in open pasture or cropping; and the proposal to maintain other grassed areas in Lot 1 to create a pastoral appearance.

135. The Commission 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 15

136. 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.

137. 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 lot sizes and dimensions will facilitate on-going productive use of most of the land in Lot 1; and that the subdivision is consistent with the level of open space and density of built development anticipated in the Ladies Mile area. The Commission's conclusion is that the proposed subdivision and identification of the residential building platforms will serve to maintain amenities in this instance.

C.4 Summary : Objectives and Policies

138. Following the above analysis, the Commission finds that the proposal is generally 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

139. 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 Precedent

140. Precedent is a relevant matter as subdivision and land use 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.
141. Resource consent applications must be assessed on their merits. In this instance the Commission has found that any adverse effects of the proposal are limited and can be satisfactorily mitigated through adherence to appropriate conditions of consent. The Commission has also found that the proposal is generally consistent with those objectives and policies that are relevant to the application.
142. The Commission also acknowledges that the proposal will have positive effects in terms of maintaining a 50 metre setback adjacent to State Highway 6, such area to be used for open pastoral cropping only; and in terms of maintaining grassed areas elsewhere on Lot 1 to create a pastoral appearance. As a consequence views towards the Slope Hill ONF from State Highway 6 will be maintained as a consequence of the subdivision and development.
143. In all the circumstances the Commission finds that the proposal will not establish a significant precedent.

D.2 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

144. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) came into force on 1 January 2012. The applicant has consulted records held by the Queenstown Lakes District Council and the Otago Regional Council consistent with the method outlined in Regulation 6(2) of the NES.
145. The applicant advises that the use of the land on which the farm shed and stockyards are located (on Lot 2 of Stage 1) will not change as a result of the boundary adjustment, except that a driveway will be formed approximately 10 metres to the south of the stockyards to provide access to Lots 1 and 2 (in Stage 2B). It is not considered more likely than not that HAIL activities in terms of the

NES are occurring, or have occurred, on this piece of land. As a consequence the NES does not apply to the boundary adjustment subdivision or to the proposed earthworks. Similarly the NES does not apply to the Stage 2B subdivision and to the creation of the residential building platforms.

146. Accordingly no consent under the NES is required; and no effects are therefore anticipated with respect to contaminated soils as a result of the proposal.

D.3 Ladies Mile Pet Lodge

147. Ms Lemaire-Sicre expressed concern at activities, including fireworks, affecting animals at the Ladies Mile Pet Lodge; and at the potential for reverse sensitivity complaints to occur from future residents of dwellings on the residential building platforms.

148. The Commission notes that future dwellings on the residential building platforms will not be visible from the Ladies Mile Pet Lodge, that Lodge being located to the north-east of the intersection of Howards Drive (which provides access to Lake Hayes Estate) and State Highway 6. The Commission also notes that the Somerville, Cushen and Stone properties are located between the Ladies Mile Pet Lodge and the subject site.

149. The applicant has offered to register a covenant for the benefit of the Ladies Mile Pet Lodge. Such covenant would restrict the present and/or future owners of Lots 1 and 2 from making a complaint to any regulatory authority regarding the operation of the pet lodge; or from using any fireworks. Such a covenant would appear to satisfy the concerns of Ms Lemaire-Sicre as these relate to any effects associated with this specific proposal on the Ladies Mile Pet Lodge.

D.4 Rabbit Control

150. The Otago Regional Council (ORC) has submitted that effective rabbit control in the area will require the subdivision to have a rabbit proof structure on the north-west boundary in order to assist preventing rabbits entering the site. The ORC has also promoted that any such structure should be maintained once development is completed.

151. Ms Afifi noted that the ORC is responsible for administering Pest Management in the region and has the benefit of enforcement procedures and powers that exist to ensure successful outcomes. Ms Afifi did not consider it appropriate that conditions be imposed on a resource consent issued by the Queenstown Lakes District Council that would effectively require the District Council to monitor and enforce breaches in Pest Management practices that are already the responsibility of the ORC. Ms Afifi therefore did not support the imposition of a condition as promoted in the ORC's submission.

152. The Commission considers it appropriate to acknowledge that an effect of the subdivision is that most of the land will be contained in Lot 1 which will have an area of 9.92 hectares and which is to be used for production purposes. As noted above the unformed legal road is unfenced and flat land on both sides of the unformed legal road and the unformed legal road itself are currently managed together for farming purposes. The Commission anticipates that pest control will be undertaken on this land in the normal course of farming activity.

153. In all the circumstances the Commission does not consider it appropriate to impose a condition of consent with respect to rabbit fencing as promoted in the ORC submission.

E. PART 2 OF THE ACT

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

155. 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.

156. 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; and the maintenance and enhancement of the quality of the environment. The Commission is satisfied, having regard to the matters addressed in Parts B and C of this decision, that the proposal is consistent with the relevant matters stated in section 7 of the Act. There are no

other matters stated in section 7 which are of any particular relevance to the current application.

157. 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. While the subdivision and development is to occur in close proximity to the Slope Hill ONF the Commission does not consider the proposal to be inappropriate subdivision, use and development for the purposes of section 6(b). The Commission is satisfied that there are no other matters stated in section 6 which are of any particular relevance to the application.

158. 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.

159. 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

160. Section 104 of the Act directs that when considering an application for resource consent and any submissions 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 and

land use consent as attached in a Schedule to this decision and listed under Decision A, Decision C and Decision D.

161. The Commission also considers it appropriate to recommend to the Manager, Resource Consents that prior permission be given to the granting or reserving of right of ways over the private way pursuant to section 348 of the Local Government Act 1974 consistent with our Recommendation B in the Schedule.

This decision on RM130551 is dated 5 December 2013.



W D Whitney

COMMISSIONER

For the Commission being W D Whitney and L Cocks

Section 348 of the Local Government Act 1974

Consent to the proposed Right of Way is granted pursuant to section 348 of the Local Government Act 1974, subject to the conditions outlined in Recommendation B.



Blair Devlin

MANAGER RESOURCE CONSENTING

SCHEDULE : CONDITIONS OF CONSENT FOR RM130551 : DAVID FINLIN

Decision A – Stage 1 - Boundary Adjustment Subdivision

- (a) That the activity be undertaken in accordance with the plan entitled “Lots 1 & 2 Being a Proposed Boundary Adjustment...” being Plan 11281 01 Revision C prepared by Clark Fortune McDonald & Associates and dated 2 September 2013 (**stamped as approved on 5 December 2013**) and specifications submitted with the application, with the exception of the amendments required by the following conditions of consent.
- (b) Prior to the 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.
- (c) Prior to section 224(c) certification, the consent holder shall supply the consent authority with a notice signed by the Minister of Transport, pursuant to section 93 of the Government Roadway Powers Act 1989, confirming that the State highway is road for the purposes of this subdivision.
- (d) The following condition shall be complied with in perpetuity and shall be registered on the Computer Freehold Register for Lot 1 and Lot 2 by way of a consent notice pursuant to section 221 of the Resource Management Act 1991:

Crossing Place 22 shall be used for stock movements only.

Recommendation B – Stage 1 – Right of Way – Recommendation to Manager, Resource Consents

- 1 That the activity be undertaken in accordance with the application for the creation of the ROW easements as shown on the plan “Lots 1 & 2 Being a Proposed Boundary Adjustment...” being Plan 11281 01 Revision C prepared by Clark Fortune McDonald & Associates and dated 2 September 2013 (**stamped as approved on 5 December 2013**).
- 2 Pursuant to section 348 of the Local Government Act 1974 the Queenstown Lakes District Council hereby gives permission to the granting or reserving of Right of Way Easements BK, BJ and A on Lot 25 DP 378242 in favour of Lots 1 and 2 of Decision A and Sections 49 & 54 Block III Shotover Survey District.
- 3 A Licensed Cadastral Surveyor shall prepare all necessary documentation to enable the certification to be lodged with Land Information New Zealand.

Decision C – Stage 2A - Land Use Consent

- 1 That the activity be undertaken in accordance with the plan entitled “Amendments – Finlin, Ladies Mile – Landscape Plan” being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013 (**stamped as approved on 5 December 2013**) and specifications submitted with the application, with the exception of the amendments required by the following conditions of consent.
- 2
 - (a) 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.
 - (b) 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.
- 3 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

- 4 The owner of the land being developed shall provide a letter to the Principal Resource Management Engineer at the Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this development and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS4404:2004 "Land Development and Subdivision Engineering", in relation to this development.
- 5 Prior to any work commencing on the site, the consent holder shall provide to the Principal Resource Management Engineer at the Council for review and certification, copies of specifications, calculations and design plans as is considered by the Council to be both necessary and adequate, in accordance with Condition 4 of Decision C, to detail the following engineering works required:
 - (a) The provision of a water supply to the building platform in terms of the Council's standards and connection policy. This shall include an Acuflo CM2000 as the toby valve. A restrictor shall be fitted to limit the potable water supply to the building platform to 2,500 litres per day (over a 24 hour period). The cost of the connection shall be borne by the consent holder.
 - (b) The provision of a foul sewer connection from the building platform to the Council's reticulated sewerage system in accordance with the Council's standards and connection policy, which shall be able to drain the buildable area within the platform. The costs of the connection shall be borne by the consent holder.
 - (c) The provision of a vehicle crossing to service the building platform off McDowell Drive to be in terms of Diagram 2, Appendix 7 of the District Plan. This crossing shall be sealed for a minimum of 6m from the McDowell Drive carriageway 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. Provision shall be made to continue any roadside drainage.
 - (d) The provision of an access way from the above vehicle crossing to the building platform that complies with the guidelines provided for in the Council's development standard NZS 4404:2004 with amendments as adopted by the Council in October 2005. The access shall have a minimum formation standard of 150mm compacted AP40 with a 3.5m minimum carriageway width. Provision shall be made for stormwater disposal from the carriageway and passing bays as required.

New Building Platform to be registered

- 6 To give effect to this consent, the consent holder shall provide a "Land Transfer Covenant Plan" showing the location of the approved building platform and curtilage area as to separate covenant areas (as per the plan entitled "Lots 1 & 2 Being A Proposed Subdivision of Lot 1 RM ????? And Sections 49 & 54 Block III Shotover Survey District" Plan 11281 3 Revision C prepared by Clark Fortune McDonald and Associates dated 7 November 2013 which is to be further amended in terms of Condition 1 of Decision D). The consent holder shall register this "Land Transfer Covenant Plan" on the relevant Computer Freehold Register Identifier and shall execute all documentation required to register this plan. The costs of doing so are to be borne by the consent holder.

Prior to the registration of the building platform on the Computer Freehold Register

- 7 Prior to the building platform being registered on the Computer Freehold Register Identifier, 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 development to the Principal Resource Management Engineer at the Council. This information shall be formatted in accordance with the Council's 'as-built' standards and shall include all carriageways (including right of ways), water and wastewater (including the lateral and toby position).
 - (b) A digital plan showing the location of the building platform shall be submitted to the Principal Resource Management Engineer at the Council. This plan shall be in terms of

New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.

- (c) The completion of all works detailed in Condition 5 of Decision C.
 - (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.
 - (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.
 - (f) The boundary adjustment consented under Decision A shall be given effect to and Lot 1 of the boundary adjustment subdivision shall be amalgamated with Section 49 and Section 54 Block III Shotover Survey District (CFR OT 5A/265).
 - (g) The right of way easements detailed in Condition 2 of Recommendation B shall be registered.
 - (h) All landscaping shown on the plan entitled "Amendments – Finlin, Ladies Mile – Landscape Plan" being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013.
- 8 All future buildings shall be contained within the building platform as shown on the Land Transfer Covenant Plan (to be submitted in accordance with Condition 6 of Decision C).
- 9 There shall be no more than one residential unit constructed within the building platform.
- 10 The water supply to the building platform is limited to 2,500 litres/day of supply from the Council's reticulated water network. The owner for the time being of the lot shall be aware that a restrictor is fitted to the water supply that limits the supply of potable water to 2,500 litres per day (over a 24hour period).
- 11 Prior to the occupation of any dwelling on the building platform, 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 the site. Where pressure at the connection point/coupling is less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the New Zealand Fire Service (NZFS) as larger capacities and flow rates may be required.

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

The connection point/coupling shall have a hardstand area adjacent to it that is suitable for parking a NZFS appliance. The hardstand area shall be located in the centre of a clear working space with a minimum width of 4.5 metres. Pavements or roadways providing access to the hardstand area must have a minimum formed width as required by QLDC's standards for rural roads (as per NZS 4404:2004 with amendments adopted by QLDC 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 fire service appliance to park on it and access to the hardstand area must be provided as above.

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

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

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

- 12 The maximum height for buildings within the building platform shall be 7.5m above ground level as defined in the Queenstown Lakes District Plan with the exception of future detached accessory buildings on the western most area of the building platform (adjoining the western boundary) which shall have a maximum height of 6m above ground level.
- 13 The main roof of all buildings shall be gabled and have a pitch of between 20 and 40 degrees. Secondary roofs can be mono-pitched or flat.
- 14 Roof claddings shall be in steel (corrugated or tray), cedar shingles, slate or a 'green roof' system.
- 15 All steel roofing shall be painted or otherwise colour treated in an appropriately recessive colour within the naturally occurring range of greys, brown and greens with a Light Reflectance Value (LRV) of less than 36%.
- 16 Wall materials for all structures (other than water tanks) and buildings shall be natural timber, painted timber, stained plywood, 'Linea' weatherboard cladding systems, smooth plaster, stone, or coloured corrugated iron only. All finished wall materials shall be in an appropriately recessive colour within the naturally occurring range of greys, brown and greens with a LRV of less than 36%.
- 17 Water tanks shall be painted or otherwise colour treated in an appropriately recessive colour within the naturally occurring range of greys, browns and greens with a LRV of less than 36%.
- 18 All joinery shall be timber or aluminium in an appropriately recessive colour that is complementary to the building's cladding colour and has an LRV of less than 36%.
- 19 None of the following materials may be incorporated in the exterior of any building: fibre cement weatherboard sidings and roofing (excluding 'Linea' weatherboards), uncoated fibre materials, PVC sidings or planking, unpainted iron or steel, imitation timber, brick or masonry, metal weatherboards, compressed fibre weatherboards, any metal or asphalt based aggregate covered tiles or shingles.
- 20 All lot fencing shall be in post and wire or other typical rural fencing only. Any entranceway structures shall be to a height of no more than 1.2m, and shall be constructed of natural materials such as unpainted timber or schist stone. Any new entranceway structure that varies from those described above shall be subject to certification as appropriate by a qualified landscape architect retained by the Council to ensure that it is not visually obtrusive (monumental) and is in keeping with traditional rural elements
- 21 There shall be no driveway or road lighting; landscape lighting is permitted within the residential curtilage area only.
- 22 Electricity and telecommunication lines shall be underground.
- 23 The driveway shall not have kerb and channel and shall be constructed in gravel.
- 24 Crossing Place 22 shall be used for stock movements only.
- 25 All domestic activities, including parking, outdoor paved areas, clotheslines, play equipment, water tanks, external lighting, amenity gardens, lawns and swimming pools shall be contained within the defined residential curtilage area shown on the Land Transfer Covenant Plan (to be submitted in accordance with Condition 6 of Decision C).

- 26 The landscaping shown on the plan entitled “Amendments – Finlin, Ladies Mile – Landscape Plan” being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013 shall be maintained in perpetuity. Planting shall be physically protected from grazing animals if required. If any plant dies or becomes diseased it shall be replaced within the next available planting season.
- 27 There shall be no tree planting or structures within the area extending from the State Highway 6 road boundary to the north by 50m over the entire frontage of the site, except that a 5m strip along the eastern boundary may be used for a shelterbelt as shown on the plan entitled “Amendments – Finlin, Ladies Mile – Landscape Plan” being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013. This area within the 50m road setback shall be used for cropping or grazing activities.
- 28 Any areas maintained in grass outside the residential curtilage area shall be kept free of any noxious weeds and shall be periodically mown, or grazed, to create a pastoral appearance. For the avoidance of doubt the site may also be used for other rural productive activities as permitted by the Operative District Plan.
- 29 The maximum building coverage within that part of the building platform that is to accommodate a dwelling shall be 50%.
- 30 Prior to the registration of any building platform or prior to the construction of any residential dwelling on the site (whichever is sooner), the consent holder shall register a covenant on the Computer Freehold Register Identifier for the site, for the benefit of R & K Lemaire-Sicre operating the Ladies Mile Pet Lodge on Lot 1 DP 12822 and Lot 16 DP 12921, which shall restrict the present and/or future owners of the site from doing either of the following:
- a) making a complaint to any regulatory authority regarding the operation of the Pet Lodge; or
 - b) using any fireworks within the site.
- 31 The consent holder shall establish landscape plantings to the north of the building platform in the event that a trail is formed on the unformed legal road to the north-west of the site. The landscape plantings required in terms of this condition shall be established within the first planting season following the formation of the trail and shall provide screening of the dwelling on the building platform from the trail consistent with the degree of screening (from State Highway 6) afforded by the landscaping required in terms of Condition 26. The landscape plantings required in terms of this condition shall be maintained in perpetuity and shall be physically protected from grazing animals if required. If any plant dies or becomes diseased it shall be replaced within the next available planting season.

On-going Conditions/Covenants

- 32 At the time that the building platform is registered on the Computer Freehold Register Identifier for the site in accordance with Condition 6 of Decision C, the consent holder shall register a covenant pursuant to section 108(2)(d) of the Resource Management Act 1991 for the performance of Conditions 8 to 31 above.

Decision D – Stage 2B - Fee Simple Subdivision

- 1 That the activity be undertaken in accordance with the plan entitled “Lots 1 & 2 Being A Proposed Subdivision of Lot 1 RM ?????? And Sections 49 & 54 Block III Shotover Survey District” plan 11281 3 Revision C prepared by Clark Fortune McDonald and Associates dated 7 November 2013 that is to be further amended and submitted for approval (to be stamped as approved on 5 December 2013) to be consistent with the plan entitled “Amendments – Finlin, Ladies Mile – Landscape Plan” being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013 **(stamped as approved 5 December 2013)** and specifications submitted with the application, with the exception of the amendments required by the following conditions of consent.

Note: The amendments to be made to the plan dated 7 November 2013 are to alter the lot boundaries and area of Lot 2, to reconfigure the building platform on Lot 2 to achieve dimensions of 30m x 30m (900m²) and to reconfigure the curtilage, all as shown on the plan dated 26 November 2013.

- 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 Prior to the commencement of any works on site, the consent holder shall provide a letter to the Principal Resource Management Engineer at the Council advising who their representative is for the design and execution of the engineering works and construction works required in association with this subdivision and shall confirm that these representatives will be responsible for all aspects of the works covered under Sections 1.4 & 1.5 of NZS4404:2004 "Land Development and Subdivision Engineering", in relation to this development.
- 4 Prior to the commencement of any works on the site the consent holder shall provide to the Principal Resource Management Engineer at the Council for review and certification, copies of specifications, calculations and design plans as are considered by the Council to be both necessary and adequate, in accordance with Condition 2 of Decision D, to detail the following engineering works required:
- a) The provision of a water supply to the building platform on Lot 1 and Lot 2 in terms of the Council's standards and connection policy. This shall include an Acuflo CM2000 as the toby valve. A restrictor shall be fitted to limit the potable water supply to a maximum 2,500 litres per day (over a 24hour period). The cost of the connection shall be borne by the consent holder.
 - b) The provision of a foul sewer connection from the building platform on Lot 1 and Lot 2 to the Council's reticulated sewerage system in accordance with the Council's standards and connection policy, which shall be able to drain the buildable areas within the lots. The costs of the connections shall be borne by the consent holder.
 - c) The provision of a vehicle crossing to service the lots off McDowell Drive to be in terms of Diagram 2, Appendix 7 of the District Plan. This crossing shall be sealed for a minimum of 6m from the McDowell Drive carriageway 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. Provision shall be made to continue any roadside drainage.
 - d) The provision of an access way from the above vehicle crossing to the boundary of Lot 2 that complies with the guidelines provided for in the Council's development standard NZS 4404:2004 with amendments as adopted by the Council in October 2005. The access shall have a minimum formation standard of 150mm compacted AP40 with a 3.5m minimum carriageway width. Provision shall be made for stormwater disposal from the carriageway and passing bays as required.

To be completed before Council approval of the Survey Plan

- 5 Prior to the 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.
 - b) The building platforms and curtilage areas as shown on the plan entitled "Lots 1 & 2 Being A Proposed Subdivision of Lot 1 RM ?????? And Sections 49 & 54 Block III Shotover Survey District" Plan 11281 3 Revision C prepared by Clark Fortune McDonald and Associates dated 7 November 2013 which is to be further amended in terms of Condition 1 of Decision D shall be identified on the survey plan.

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

- 6 Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
- a) The submission of 'as-built' plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development at the consent holder's cost. This information shall be formatted in accordance with the Council's 'as-built'

standards and shall include all carriageways (including right of ways), water and wastewater (including private laterals and toby positions).

- b) The completion and implementation of all works detailed in Condition 4 of Decision D.
- c) 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 platforms on Lot 1 and Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- d) 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 platforms on Lot 1 and Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- e) The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
- f) The boundary adjustment consented under Decision A shall be given effect to.
- g) The right of way easements detailed in Condition 2 of Recommendation B shall be registered.
- h) All landscaping shown on the plan entitled "Amendments – Finlin, Ladies Mile – Landscape Plan" being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013 shall be implemented.
- i) The consent holder shall supply the consent authority with a notice signed by the Minister of Transport, pursuant to section 93 of the Government Roading Powers Act 1989, confirming that the State highway is road for the purposes of this subdivision.

On-going Conditions/Consent Notices

7 The following conditions of consent shall be complied with in perpetuity and shall be registered on the Computer Freehold Register Identifiers for Lot 1 and Lot 2 by way of consent notice pursuant to section 221 of the Resource Management Act 1991.

- a) All future buildings shall be contained within each building platforms that are shown on the survey plan.
- b) There shall be no more than one residential unit constructed within each building platform.
- c) The water supply to Lot 1 and Lot 2 is limited to 2,500 litres/day of supply from the Council's reticulated water network. The owner for the time being of Lot 1 and Lot 2 shall be aware that a restrictor is fitted to the water supply that limits the supply of potable water to 2,500 litres per day (over a 24 hour period).
- d) Prior to the occupation of any dwelling on Lot 1 or 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 the site. Where pressure at the connection point/coupling is less than 100kPa (a suction source - see Appendix B, SNZ PAS 4509:2008 section B2), a 100mm Suction Coupling (Female) complying with NZS 4505, is to be provided. Where pressure at the connection point/coupling is greater than 100kPa (a flooded source - see Appendix B, SNZ PAS 4509:2008 section B3), a 70mm Instantaneous Coupling (Female) complying with NZS 4505, is to be provided. Flooded and suction sources must be capable of providing a flow rate of 25 litres/sec at the connection point/coupling. The reserve capacities and flow rates stipulated above are relevant only for single family dwellings. In the event that the proposed dwellings provide for more than single family occupation then the consent holder should consult with the New Zealand Fire Service (NZFS) as larger capacities and flow rates may be required.

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

The connection point/coupling shall have a hardstand area adjacent to it that is suitable for parking a NZFS appliance. The hardstand area shall be located in the centre of a clear working space with a minimum width of 4.5 metres. Pavements or roadways providing access to the hardstand area must have a minimum formed width as required by QLDC's standards for rural roads (as per NZS 4404:2004 with amendments adopted by QLDC 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 fire service appliance to park on it and access to the hardstand area must be provided as above.

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

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

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

- e) The maximum height for buildings within the building platforms shall be 7.5m above ground level as defined in the Queenstown Lakes District Plan with the exception of future detached accessory buildings on the western most area of the building platform on Lot 1 (adjoining the western boundary) which shall have a maximum height of 6m above ground level.
- f) The main roof of all buildings shall be gabled and have a pitch of between 20 and 40 degrees. Secondary roofs can be mono-pitched or flat.
- g) Roof claddings shall be in steel (corrugated or tray), cedar shingles, slate or a 'green roof' system.
- h) All steel roofing shall be painted or otherwise colour treated in an appropriately recessive colour within the naturally occurring range of greys, brown and greens with a Light Reflectance Value (LRV) of less than 36%.
- i) Wall materials for all structures (other than water tanks) and buildings shall be natural timber, painted timber, stained plywood, 'Linea' weatherboard cladding systems, smooth plaster, stone, or coloured corrugated iron only. All finished wall materials shall be in an appropriately recessive colour within the naturally occurring range of greys, brown and greens with a LRV of less than 36%.
- j) Water tanks shall be painted or otherwise colour treated in an appropriately recessive colour within the naturally occurring range of greys, browns and greens with a LRV of less than 36%.
- k) All joinery shall be timber or aluminium in an appropriately recessive colour that is complementary to the building's cladding colour and has an LRV of less than 36%.
- l) None of the following materials may be incorporated in the exterior of any building: fibre cement weatherboard sidings and roofing (excluding 'Linea' weatherboards), uncoated fibre materials, PVC sidings or planking, unpainted iron or steel; imitation timber, brick or masonry, metal weatherboards, compressed fibre weatherboards, any metal or asphalt based aggregate covered tiles or shingles.
- m) All lot fencing shall be in post and wire or other typical rural fencing only. Any entranceway structures shall be to a height of no more than 1.2m, and shall be constructed of natural materials such as unpainted timber or schist stone. Any new entranceway structure that varies from those described above shall be subject to certification as appropriate by a qualified landscape architect retained by the Council to

ensure that it is not visually obtrusive (monumental) and is in keeping with traditional rural elements

- n) There shall be no driveway or road lighting; landscape lighting is permitted within the residential curtilage areas only.
- o) Electricity and telecommunication lines shall be underground.
- p) The driveway shall not have kerb and channel and shall be constructed in gravel.
- q) Crossing Place 22 shall be used for stock movements only.
- r) All domestic activities, including parking, outdoor paved areas, clotheslines, play equipment, water tanks, external lighting, amenity gardens, lawns and swimming pools shall be contained within the defined residential curtilage areas as shown on the survey plan.
- s) The landscaping shown on the plan entitled "Amendments – Finlin, Ladies Mile – Landscape Plan" being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013 shall be maintained in perpetuity. Planting shall be physically protected from grazing animals if required. If any plant dies or becomes diseased it shall be replaced within the next available planting season.
- t) There shall be no tree planting or structures within the area extending from the State Highway 6 road boundary to the north by 50m over the entire frontage of Lot 1, except that a 5m strip along the eastern boundary may be used for a shelterbelt as shown on the plan entitled "Amendments – Finlin, Ladies Mile – Landscape Plan" being a plan Reference 1938 prepared by Baxter Design Group and dated 26 November 2013. This area within the 50m road setback shall be used for cropping or grazing activities.
- u) On Lot 1 any areas maintained in grass outside the residential curtilage area shall be kept free of any noxious weeds and shall be periodically mown, or grazed, to create a pastoral appearance. For the avoidance of doubt Lot 1 may also be used for other rural productive activities as permitted by the Operative District Plan.
- v) The maximum building coverage within that part of the building platform on Lot 1 that is to accommodate a dwelling shall be 50%.
- w) The maximum building coverage within the building platform on Lot 2 shall be 50%.
- x) Prior to the registration of any building platform or prior to the construction of any residential dwelling on the Lot 1 and Lot 2 (whichever is sooner), the consent holder shall register a covenant on the Computer Freehold Register Identifiers for Lots 1 and 2, for the benefit of R & K Lemaire-Sicre operating the Ladies Mile Pet Lodge on Lot 1 DP 12822 and Lot 16 DP 12921, which shall restrict the present and/or future owners of Lot 1 and Lot 2 from doing either of the following:
 - a) making a complaint to any regulatory authority regarding the operation of the Pet Lodge; or
 - b) using any fireworks within the site.
- y) The consent holder shall:
 - i) Establish landscape plantings to the north of the building platform on Lot 1 and Lot 2 in the event that a trail is formed on the unformed legal road to the north-west of Lot 1. The landscape plantings required in terms of this condition shall be established within the first planting season following the formation of the trail and shall provide screening of the dwellings on the building platforms from the trail consistent with the degree of screening (from State Highway 6) afforded by the landscaping required in terms of Condition 7(s). The landscape plantings required in terms of this condition shall be maintained in perpetuity and shall be physically protected from grazing animals if required. If any plant dies or becomes diseased it shall be replaced within the next available planting season.
 - ii) Establish landscaping plantings to the east of the building platform on Lot 2 in the event that the Douglas fir shelterbelt on Lot 2 of the Stage 1 subdivision is removed. The landscape plantings required in terms of this condition shall be established within the first planting season following the removal of the Douglas fir shelterbelt on Lot 2

of the Stage 1 subdivision authorised by RM 130551 and shall provide screening of the dwelling on the building platform on Lot 2 from State Highway 6 and McDowell Drive consistent with the degree of screening (from State Highway 6) afforded by the landscaping required in terms of Condition 7(s). The landscape plantings required in terms of this condition shall be maintained in perpetuity and shall be physically protected from grazing animals if required. If any plant dies or becomes diseased it shall be replaced within the next available planting season.

Advice Notes (Decision C and D):

1. The water and sewer connections into this site require approval by Council under a 'Connection to Council Service Application'. It would be advisable to submit the application along with the application for engineering approval. This enables the application to be processed as part of engineering approval and avoids the need to pay the required administration fees. The approval should be obtained and construction approved by a Council Inspector prior to occupation of the dwellings.
2. It is acknowledged that satisfying the conditions stated in Decision C will largely avoid the necessity to undertake any additional works to comply with the conditions stated in Decision D as these relate to Lot 1.
3. This consent triggers a requirement for Development Contributions. For further information please contact the DCN Officer at QLDC.

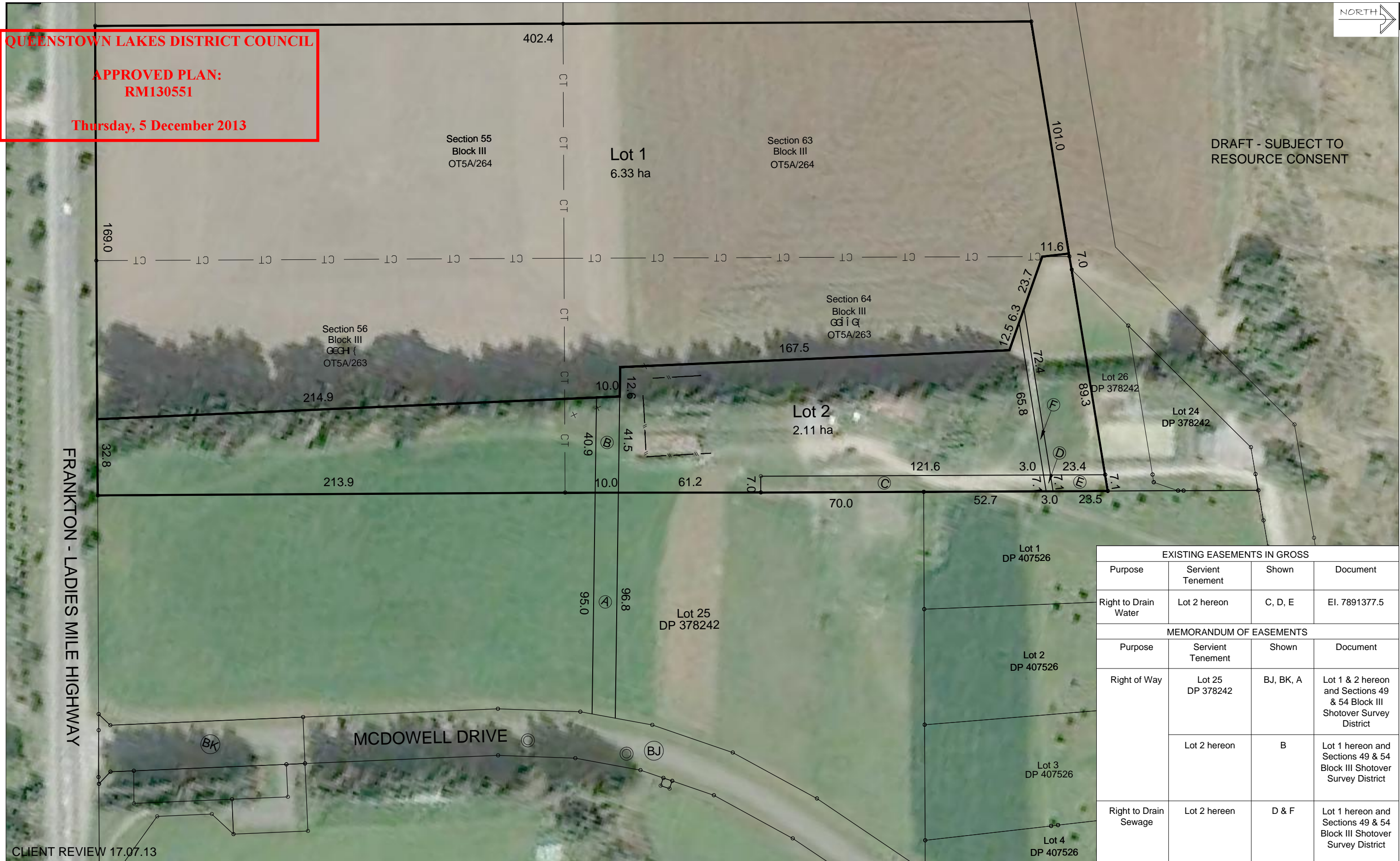


QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:
RM130551

Thursday, 5 December 2013

DRAFT - SUBJECT TO
RESOURCE CONSENT



EXISTING EASEMENTS IN GROSS			
Purpose	Servient Tenement	Shown	Document
Right to Drain Water	Lot 2 hereon	C, D, E	EI. 7891377.5
MEMORANDUM OF EASEMENTS			
Purpose	Servient Tenement	Shown	Document
Right of Way	Lot 25 DP 378242	BJ, BK, A	Lot 1 & 2 hereon and Sections 49 & 54 Block III Shotover Survey District
	Lot 2 hereon	B	Lot 1 hereon and Sections 49 & 54 Block III Shotover Survey District
Right to Drain Sewage	Lot 2 hereon	D & F	Lot 1 hereon and Sections 49 & 54 Block III Shotover Survey District

CLIENT REVIEW 17.07.13

Shotover Design Limited trading as
Clark Fortune McDonald & Associates
 Licensed Cadastral Surveyors - Land Development - Planning Consultants
 309 Lower Shotover Road, P.O.Box 553 Queenstown
 Tel. (03)441-6044, Fax (03)442-1066, Email admin@cfma.co.nz
 Shop 2, Otago House, 475 Moray Place, P.O. Box 5960
 Tel. (03)470-1582, Fax (03)470-1583, Email admin@cfma.co.nz

Rev.	Date	Revision Details	By
A	12.06.13	Amend Boundaries and Easements	JK
B	17.07.13	Amend Boundaries and Easements	JK
C	2.09.13	Remove amalgamation	CH

**LOTS 1 & 2 BEING A PROPOSED BOUNDARY ADJUSTMENT
 SUBDIVISION OF SECTIONS 55 & 63 AND 56 & 64 BLOCK III
 SHOTOVER SURVEY DISTRICT AND EASEMENTS OVER LOT 25
 DP 378242**

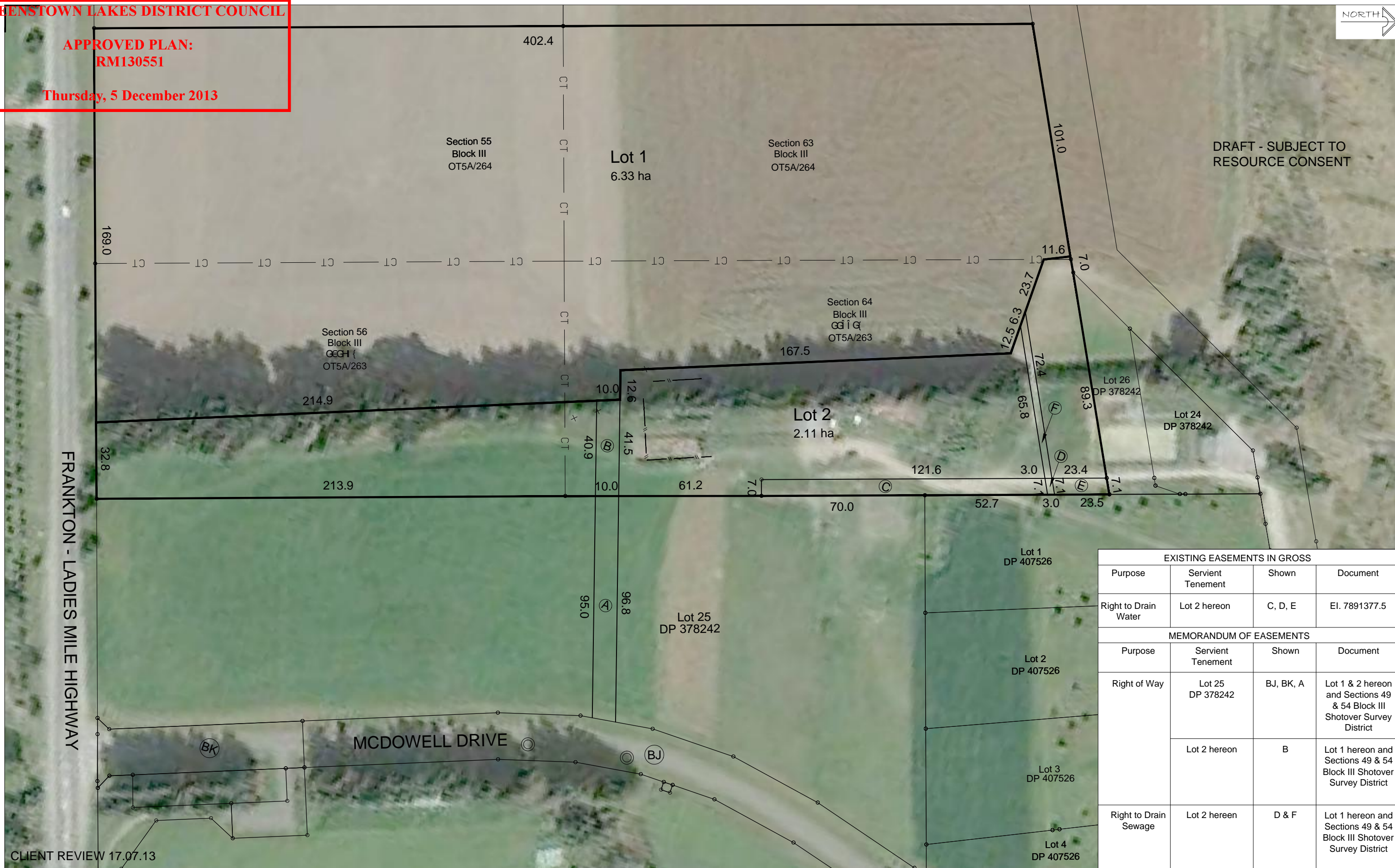
Client	Surveyed	Signed	Date	Job No.	Drawing No.
D. FINLIN	AG		24.05.13	11281	01
	Drawn	Signed	Date <td>Scale</td> <td></td>	Scale	
	JK		07.06.13	1:750 @ A1 1:1500 @ A3	
	Designed	Signed	Date <td>Datum & Level <td>Rev. </td></td>	Datum & Level <td>Rev. </td>	Rev.
				Mt Nic 2000 & MSL	C



**APPROVED PLAN:
RM130551**

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D. FINLIN	AG		24.05.13	11281	01
	Drawn	Signed	Date	Scale	
	JK		07.06.13	1:750 @ A1 1:1500 @ A3	
	Designed	Signed	Date	Datum & Level	Rev.
				Mt Nic 2000 & MSL	C

APPROVED PLAN:
RM130551

Thursday, 5 December 2013



APPROVED PLAN:
RM130551

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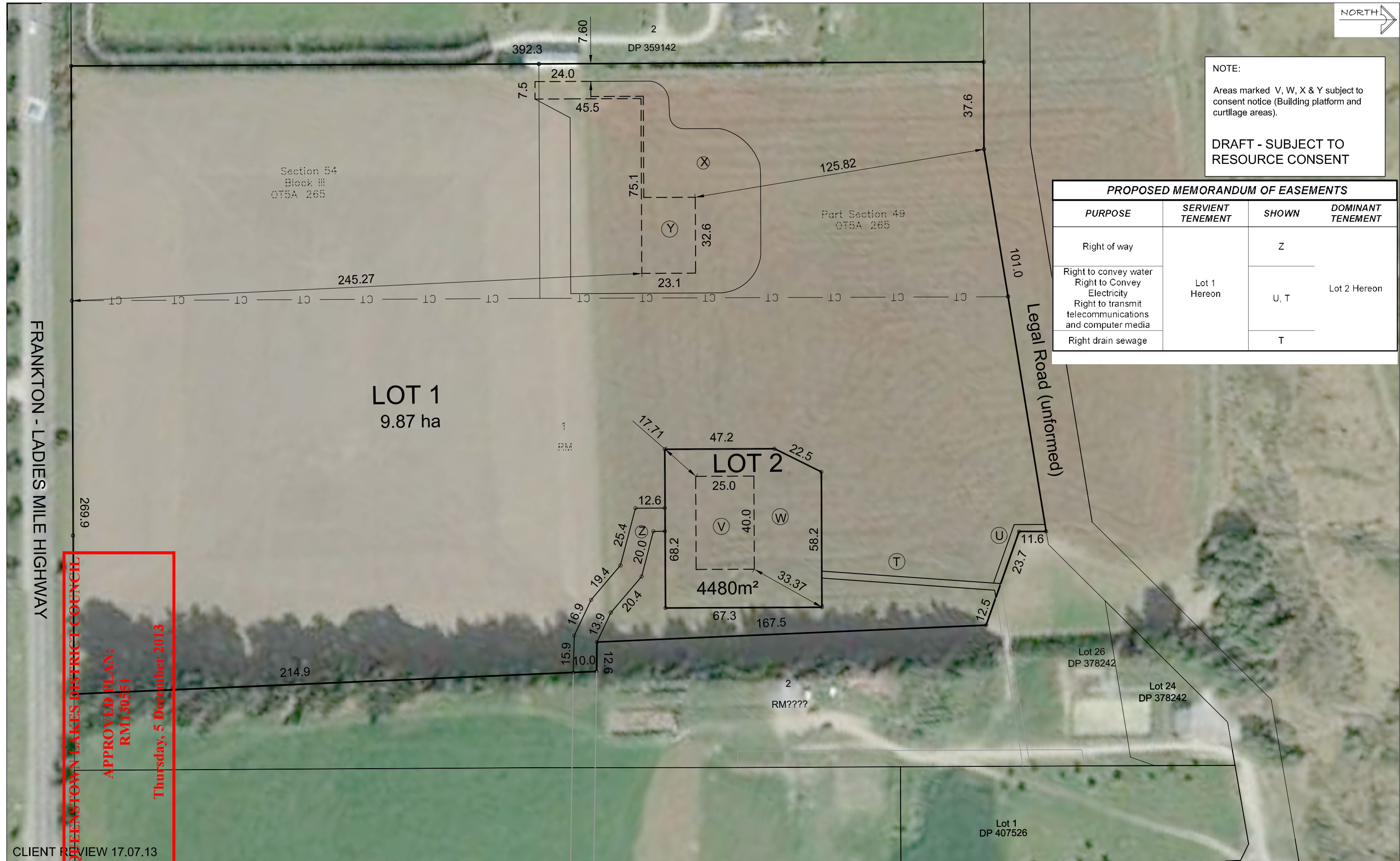




NOTE:
Areas marked V, W, X & Y subject to consent notice (Building platform and curtilage areas).

DRAFT - SUBJECT TO RESOURCE CONSENT

PROPOSED MEMORANDUM OF EASEMENTS			
PURPOSE	SERVIENT TENEMENT	SHOWN	DOMINANT TENEMENT
Right of way	Lot 1 Hereon	Z	Lot 2 Hereon
Right to convey water Right to Convey Electricity Right to transmit telecommunications and computer media		U, T	
Right drain sewage		T	



APPROVED PLAN:
RMI30551
Thursday, 5 December 2013

CLIENT REVIEW 17.07.13


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Rev.	Date	Revision Details	By
C	7 Nov. 13	Amend Lot 2	CCH

LOTS 1 & 2 BEING A PROPOSED SUBDIVISION OF LOT 1 RM????? AND SECTIONS 49 & 54 BLOCK III SHOTOVER SURVEY DISTRICT

Client	Surveyed	Signed	Date	Job No.	Drawing No.
D. FINLIN	AG		24.05.13	11281	3
	Drawn	Signed	Date	Scale	
	CH		29.08.13	1:750 @ A1 1:1500 @ A3	
	Designed	Signed	Date	Datum & Level	Rev.
				Mt Nic 2000 & MSL	C