

**DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL****RESOURCE MANAGEMENT ACT 1991**

Applicant:	SCOTT FAMILY TRUST LIMITED
RM Reference:	RM 150305
Location:	35 Old School Road, Wakatipu Basin
Proposal:	Subdivision to create four allotments to be held in two computer freehold registers [titles] and to identify a residential building platform; and land use consent to breach the internal setback rule.
Type of Consent:	Subdivision and Land Use
Legal Description:	Lots 4 and 5 DP 23508 held in CFR OT 15B/738
Valuation Numbers:	2907465100
Zoning:	Rural General
Activity Status:	Non-Complying Activity & Restricted Discretionary Activity
Notification:	30 March 2016
Commissioner:	W D Whitney
Date of Decision:	26 August 2016
Decision:	Consent granted subject to conditions of subdivision consent.

A. INTRODUCTION

A.1 Background

1. The Scott Family Trust Limited has applied to the Queenstown Lakes District Council for resource consent to subdivide an existing title into four allotments and to identify a residential building platform on one of those allotments (Lot 2). The applicant has also sought land use consent to breach the minimum setback rule from internal boundaries. The site subject to this application is described as Lot 4 and Lot 5 DP 23508 as held in Computer Freehold Register Identifier OT 15B/738 in the Otago Land Registration District.
2. The site has an area of 1.8945 hectares more or less and is known as 35 Old School Road that is located within the Wakatipu Basin. The site is on an old river terrace generally to the east of and above the Shotover River delta. Access is achieved to the site via a right of way off Old School Road.
3. The site is irregularly shaped and is bisected by the right of way carriageway which serves properties to the east (being Lot 1 DP 439440 and Lot 2 DP 439440). Land generally to the south and west of the formed right of way within the site is generally flat land on the terrace tread which contains the existing dwelling, an outbuilding and extensive garden areas. Land generally to the north and east of the right of way carriageway comprises a steep terrace riser which is in rough pasture.
4. The existing dwelling is located in a central position on the site. The dwelling was authorised by RC 94/18 which was granted on 28 March 1994. The site has been subject to an earlier application for subdivision consent RM 051059 relating to the site albeit that this application was never heard or determined by the Council.
5. The site is located within an enclave or cluster of existing residential properties at Old School Road downstream of the Shotover Bridge which forms part of State Highway 6 (and which Old School Road passes under). This portion of Old School Road forms part of the “Queenstown Trail” and a

pedestrian/cycle pathway extends beyond the cul-de-sac head of Old School Road, generally to the south-east of the site.

A.2 The Proposal

6. The applicant proposes to subdivide the subject site into four allotments as follows:

Lot 1	8338m ²
Lot 2	5858m ²
Lot 3	903m ²
Lot 4	3846m ²

7. Lot 1 and Lot 4 are to be amalgamated. Lot 1 contains the existing dwelling and an outbuilding; and Lot 4 contains the larger portion of the terrace riser that is adjacent to Lot 1.
8. Lot 2 is to be amalgamated with Lot 3. Lot 2 is to contain a residential building platform which has an area of 957m² (29m x 33m). Lot 3 contains the smaller portion of the terrace riser that is adjacent to Lot 2.
9. Land use consent is sought to breach the minimum 15 metre setback from internal boundaries for buildings required in terms of Site Standard 5.3.5.1vi(a). Such breach will occur as the outbuilding on Lot 1 is located 11 metres off the proposed internal boundary between Lot 1 and Lot 2.
10. Access is to be achieved via the existing right of way off Old School Road.
11. The dwelling on Lot 1 is serviced albeit that the domestic water supply is obtained on an informal basis from the existing bore on the neighbouring property being 33 Old School Road. Lot 1 has a legal entitlement to domestic water from a private water supply scheme.
12. Services are to be provided to serve a future dwelling on Lot 2 as part of the subdivision. While use of an on-site bore on Lot 2 (which would also be shared by Lot 1) and on-site wastewater disposal is proposed; the applicant

has noted the option of connecting to Council reticulation should this become available in the near future in conjunction with the installation of reticulated gas. Power and telecommunication services will also be provided to serve Lot 2.

13. Stormwater runoff will be disposed of on-site.
14. In the application documentation and prior to and at the hearing the applicant has volunteered a range of conditions to mitigate effects. These include the following (or to like effect):
 - (i) All future buildings on Lot 2 to be constructed within the residential building platform on Lot 2
 - (ii) The maximum height of any building on Lot 2 to be 6.0 metres above original ground level.
 - (iii) All building roofs and spouting shall be finished in dark recessive colours; in the natural range of browns, greens or greys with a light reflectance value not greater than 20%.
 - (iv) All other external building materials and colours to appear appropriately recessive (less than 36% light reflectance value) in the context of the surrounding landscape and shall be in the natural range of browns, greens or greys.
 - (v) The implementation of landscaping in accordance with a landscape plan provided by the applicant on 17 November 2015; with additional native vegetation being planted along the southern boundary of Lot 2 and the provision of additional planting in, say, 2-3 plots to provide screening to complement that which exists on Lot 1 DP 439440 at the eastern boundary of Lot 2.
 - (vi) Landscaping to be maintained in perpetuity.

- (vii) The vehicle crossing which serves Lot 2 to be located within 10 metres of the common boundary of Lot 1 and Lot 2 or the portion of the right of way adjacent to Lot 2 as far as the new crossing to be appropriately resurfaced to mitigate dust.
 - (viii) Sprinklers to be established on the deer fence adjacent to the right of way adjacent to Lot 2 that are to be activated when dust emissions are high.
 - (ix) The engineering conditions as presented at Appendix 5 to Mr Woodward's section 42A report.
15. The Commission confirms that it has assessed the proposal on the basis of the application as lodged and as amended in terms of the conditions offered by the applicant prior to and at the hearing.

A.3 Zoning

16. The site is zoned Rural General as shown on Map 31 of the Operative Queenstown Lakes District Plan (Operative District Plan/District Plan).
17. Rule 15.2.3.3(vi) confirms that all subdivision and the location of residential building platforms is a discretionary activity in the Rural General Zone. For completeness the Commission notes that Rule 5.3.3.3i(b) also 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 in the Rural General Zone.
18. Zone Subdivision Standard 15.2.6.3iii(b) stipulates that every allotment created shall have one residential building platform approved at the time of the subdivision of not less than 70m² in area and not greater than 1000m² in area. In this instance no residential building platform has been identified on Lot 1. A breach of Zone Subdivision Standard 15.2.6.3iii(b) is a non-complying subdivision activity pursuant to Rule 15.2.3.4(i).

19. Site Standard 5.3.5.1vi(a) establishes that the minimum setback from internal boundaries for buildings shall be 15 metres. A breach of Site Standard 5.3.5.1vi(a) is a restricted discretionary activity in terms of Rule 5.3.3.3xi. Discretion is restricted to the matters specified in Site Standard that is not complied with.
20. It is unclear whether passing bays will be provided at an interval of no greater than 25 metres as required for 1 to 6 units by Site Standard 14.2.4.1iv. A breach of this rule would be a restricted discretionary activity pursuant to Rule 14.2.2.3ii. The Commission has considered the proposal on the basis that consent is required in terms of Rule 14.2.2.3ii to put this matter beyond any doubt.
21. The Commission has considered the proposal as an application for subdivision consent to a non-complying activity and for land use consent to a restricted discretionary activity.

A.4 Submissions

22. Two submissions were received within the statutory submission period which closed on 28 April 2016. The submission by Peter Smith and Anna Elms oppose the subdivision in its entirety. The submission by David Boyd specifically relates to those aspects of the proposal which would give rise to actual and potential adverse dust nuisance and amenity effects from increased traffic movements along the right of way.
23. The Commission has given consideration to the submissions received in response to the application.

A.5 Reports and Hearing

24. The Commission has had the benefit of a planning report dated 2 August 2016 and an Addendum to that report dated 22 August 2016 prepared by Mr Jake Woodward, a Planner with the Queenstown Lakes District Council; an Engineering Report dated 15 January 2016 from Mr Tim Dennis of Southern

Land Ltd; and a Landscape Assessment Report prepared by Ms Helen Mellsop a Registered NZILA Landscape Architect dated 2 May 2016.

25. At the hearing on Tuesday 23 August 2016 the Commission was assisted by Mr Woodward and by Ms Jo Fyfe the Team Leader Resource Consents at the Queenstown Lakes District Council. Ms Mishka Banhidi, Planning Support/EA with the Queenstown Lakes District Council, provided administrative support at the hearing.
26. Prior to the hearing the Commission had the opportunity to consider the application and supporting material; the submissions; the section 42A reports; and the pre-circulated written evidence prepared by Mr Murray for the applicant. In the company of Mr Woodward the Commissioner made a site inspection on the morning of the hearing on 23 August 2016.
27. At the hearing the applicant was represented by Mr Werner Murray, the Planning Manager at Landpro Limited who had pre-circulated his evidence prior to the hearing. Mr Grant Scott and Mrs Gaynor Scott also appeared for the applicant.
28. The submitters were not in attendance at the hearing. Correspondence from Mr Daniel Thorne of TownPlanning Group dated 1 August 2016 was tabled in support of the submission by David Boyd. This correspondence confirmed that the submitter is amenable to the mitigation offered by the applicant with respect to the dust nuisance concerns raised by the submitter.
29. The planning, engineering and landscape reports were taken as read and Mr Woodward was invited to comment following the presentation of the evidence. Following Mr Murray's reply the hearing was adjourned.

A.6 Principal Issues in Contention

30. The principal issues in contention are the effects on the environment of allowing the subdivision that makes provision for a residential building platform on Lot 2 of the proposed subdivision.

B. EFFECTS ON ENVIRONMENT

B.1 Permitted & Consented Baseline

31. Farming activities, planting (with specific exclusions), fencing and earthworks which do not breach the site standards contained within Site Standards 22.3.3i-viii are permitted activities in the Rural General Zone. Within the Rural General Zone any subdivision and any building that exceeds 5m² in area and a height of 2 metres requires resource consent and is therefore not a permitted activity.
32. Land use consent RC 94/18 granted on 30 March 1994 authorised the dwelling on Lot 1 of the subdivision. The built development on Lot 1 of the proposed subdivision forms part of the consented baseline and the existing environment.

B.2 Affected Persons Approvals

33. No affected persons approvals from other parties have been received. As the minimum setback is to be breached at the internal boundary between Lot 1 and Lot 2 the applicant is the only affected party; and as the applicant has promoted this breach it is deemed to have provided affected persons approval to such breach.
34. Section 104(3)(a)(ii) of the Resource Management Act 1991 (the Act) directs that a consent authority must not have regard to any effect on a person who has given written approval to an application when considering that application.

B.3 Assessment Matters

35. The Queenstown Lakes District Plan became fully operative on 10 December 2009. The Operative District Plan contains assessment matters in Parts 5, 14 and 15 that are relevant to subdivision and development in the Rural General Zone.
36. The officers' reports and the evidence have assessed the effects of the activity in terms of the relevant assessment matters (except for Part 14 assessment matters). This approach is appropriate in this instance, and the

Commission has assessed the actual and potential effects of the proposed activity having regard to relevant assessment matters, particularly those presented in Part 5 of the Operative District Plan.

B.4 Part 5

37. 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.
38. The applicant and Ms Mellsop agree that the subject site is in the Visual Amenity Landscape (VAL). Ms Mellsop observed that the Shotover River is an Outstanding Natural Feature (ONF); and that the site is on a river terrace approximately 200 metres from the Shotover River. Ms Mellsop observed that the proposed development is relatively well screened from the river by existing vegetation outside the site and that the proposed subdivision will not compromise the open character of the Shotover River ONF. The Commission has determined that the proposal should be assessed on the basis of being in a VAL.
39. Clause 5.4.2.2(3) contains assessment matters that apply to subdivision and development in the Rural General Zone on land categorised as VAL. Each assessment matter stated in the District Plan is presented in italics below, followed by the Commission's assessment of the proposal in terms of these matters, including a discussion of effects.
40. 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.”*

41. The Commission simply 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;”*

42. The site is on a river terrace approximately 200 metres from the Shotover River ONF. Ms Mellsop observed that the proposed development is on an upper terrace and is relatively well screened from the river by existing vegetation outside the site. The Commission concurs with Ms Mellsop that

the proposal will not compromise the open character of the Shotover River ONF.

43. Ms Mellsop has noted that the proposal is located in an area of the wider VAL that is characterised by relatively dense rural living, with a number of residential lots under 1 hectare in size and a predominance of mature and semi-mature shelter and garden vegetation. The site is centrally located within this enclave or cluster of existing rural lifestyle type residential subdivision and development; and the subdivision will create the opportunity for additional residential development on land that is currently used as garden. 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. The Commission acknowledges in this context that Ms Mellsop is of the opinion that there is no remaining pastoral character within this particular node of development.
44. While additional built development facilitated by the proposed subdivision will intensify domestication of this part of the landscape it will be relatively consistent with the existing landscape character. The Commission accepts Ms Mellsop's opinion that the proposal will not result in over domestication of the landscape or in any significant degradation of the natural or pastoral character of the wider landscape. The Commission concurs with Ms Mellsop that the subdivision is to be located within an existing node of development rather than extending this pattern of subdivision further into the surrounding more open pastoral landscape.
45. In terms of Assessment Matter 5.4.2.2(3)(a)(iv) various conditions have been offered, some to be subject to a consent notice.
46. The Commission's conclusion is that the proposed development will not have an adverse effect on the natural or pastoral character of the landscape in this vicinity.

“(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.”*

47. Ms Mellsoy considers that future residential development on Lot 2 will be at least partially visible from the following public vantage points:

- A section of State Highway 6 as it descends from Frankton Flats towards the Shotover Bridge (approximately 750 metres); and
 - Jims Way on the western side of the Shotover River above State Highway 6 (approximately 900 metres away); and
 - The public walkway from Glenda Drive (that is located within the Industrial A Zone) down to the Shotover River (approximately 850 metres away).
48. From these vantage points such development would be visible but not highly visible. Future development will be seen in the context of an existing enclave or cluster of rural living type residential development that is set amongst mature trees and shrubs. Development in the Shotover Country Special Zone is also visible in the distance from these public vantage points.
49. The Commission is satisfied that the proposed development is not likely to be visually prominent such that it detracts from public or private views otherwise characterised by natural or arcadian pastoral landscapes.
50. Ms Mellsop supports the applicant's proposal to establish Portuguese laurel along the southern boundary of Lot 2 to screen the lower part of a future dwelling from public viewpoints on the western side of the river. The Commission noted that these plantings have been established on the site during the site inspection. The Commission also acknowledges Mr Scott's proposal to establish native plantings to the south of the residential building platform on Lot 2. The Commission is satisfied that the proposed planting will not detract from or obstruct views of the existing natural topography or of cultural plantings in this instance.
51. The rural living type residential enclave of which the site forms part is enclosed by terrace risers and vegetation within the wider VAL.
52. The residential building platform will not give rise to any structures that will break the line and form of any skylines, ridges, hills or prominent slopes. The

Commission acknowledges in this context that a maximum height of 6 metres is proposed for any building on Lot 2; and that when viewed from the south any such built development would be seen against the terrace riser that is located to the north of Lot 2.

53. The Commission is satisfied that the limited earthworks and landscaping that are proposed will not change the line of the landscape or affect the naturalness of the landscape. Similarly the new boundaries, plantings and fencing will not give rise to any arbitrary lines and patterns on the landscape. The subdivision will result in an internal boundary being created between Lot 1 and Lot 2 within the established garden area.
54. The proposed development does not constitute sprawl along the District's roads in terms of Assessment Matter 5.4.2.2(3)(b)(ix).

“(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."

55. The proposed development is located on a relatively narrow river terrace where rising topography to the north limits visibility from this direction and where the steep escarpment to the south restricts views from Old School Road and the river below. The Commission accepts Ms Mellsop's opinion that the residential building platform will be within a part of the landscape that has greater potential to absorb additional development than the surrounding more open pastoral land in the VAL. Again the Commission acknowledges that development will not be highly visible when viewed from public places.

56. Access is to be achieved to Lot 2 via the existing right of way off Old School Road. Built development is to be aggregated and will make use of this common accessway.

57. The residential building platform is to be located on Lot 2 that is flat land which forms part of an existing garden. The status quo is to be maintained with respect to the rough pasture which exists on the terrace riser on Lot 3.

This is consistent with retaining areas which are more sensitive in a natural or arcadian pastoral state.

58. Ms Mellsop noted that the proposal introduces a density of development that together with the smaller lots to the east and south approaches that of urban areas. The Commission notes in this context that the average area of the computer freehold registers resulting from the subdivision will be approximately 9470m²; which the Commission considers to be more typical of a rural lifestyle type development rather than of that commonly found within urban areas.
59. Ms Mellsop advised that the residential building platform proposed on Lot 2 is within 50 metres of two other dwellings. The scale plan presented by Mr Murray at the hearing confirmed that the residential building on Lot 2 is approximately 37 metres from the existing dwelling on Lot 1 DP 439440 (the Smith & Elms property); approximately 60 metres from the existing dwelling on Lot 1; and approximately 50 metres from the dwelling on Lot 1 DP 325561 (the Boyd property). The Commission is satisfied that the proposed residential building platform is to be located inside existing development for the purposes of Assessment Matter 5.4.2.2(3)(c)(v).
60. Given the characteristics of the site and environs the Commission considers it unlikely that residential development and/or subdivision on neighbouring land will be precluded because of any adverse cumulative effects resulting from the proposal.

“(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).*

...”

61. The subdivision is to occur within an existing enclave or cluster of rural living type residential development at Old School Road. This enclave has no particular natural or arcadian pastoral character and the Commission acknowledges Ms Mellsop's opinion that any cumulative adverse effects on landscape character would not be significant in extent.
62. The Commission considers that the existing development and/or land use does not represent a threshold with respect to the vicinity's ability to absorb further change. In essence what is proposed is an “infill” type subdivision and development between two existing dwellings that are served by the right of way off Old School Road. The Commission also acknowledges that land

generally to the south of the subject site forms part of the Shotover Country Special Zone; and that development which exists within that zone is visible from public vantage points generally to the west of the subject site.

63. As noted above the proposed development is to be located within a relatively narrow river terrace, with a terrace riser to the north and a steep escarpment to the south. The subdivision and future development will be contained by these topographical features.
64. While the subdivision and future development on the residential building platform is to be serviced; such infrastructure is not consistent with that found in urban landscapes.
65. It is noted in the context of Assessment Matter 5.4.2.2(3)(d)(vii) that conditions, to be subject to the consent notice, are proposed in this instance.
66. The Commission accepts Ms Mellsop's opinion that any cumulative adverse visual effects can be effectively mitigated using the measures identified by her which can be enshrined in conditions of consent.

“(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.”*

67. In this instance the subdivision is located above Old School Road and the proposal will have no particular effect in terms of maintaining adequate and appropriate visual access to open space and views across arcadian pastoral landscapes from public roads and other public places. From adjacent land (including the Boyd property above) a dwelling on the proposed building platform will have no particular effect on the maintenance of views. Given that the site is located on a narrow river terrace with a terrace riser to the north and a steep escarpment to the south; the proposal will not have any effect in terms of compromising the ability to undertake agricultural activities on surrounding land.
68. The proposal does not require the provision of infrastructure consistent with urban landscapes.
69. Currently deer fences exist at the boundaries of Lot 1 and Lot 2. Landscape plantings exist that are to be supplemented by the additional landscape plantings proposed by the applicant. The Commission considers such fencing and planting to be consistent with traditional rural elements, particularly those found in the context of rural living development.
70. The residential building platform on Lot 2 is 17.5 metres off the boundary with Lot 1 DP 439440 (the Smith & Elms property). While future residential development on Lot 2 will reduce the rural amenity enjoyed by the neighbours to some extent; it is considered that given the existing density and nature of development in the vicinity that the adverse effects on the neighbours' rural amenities are likely to be small in magnitude. Any potential effects of new activities on the existing amenities of the neighbouring property can be further

mitigated by establishing planting adjacent to the eastern boundary which complements the existing planting (and bunding) which has been established by the neighbours on Lot 1 DP 439440.

71. The Commission's conclusion is that the proposal will have no more than a minor effect on the rural amenities enjoyed by neighbouring property owners in this locality.
72. The Commission confirms that it 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

73. 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 that are discussed above.
74. In the context of Assessment Matter 5.4.2.3ii Natural Hazards – General the Commission acknowledges that the subject site is located in an area identified on the Council's Hazards Register as being an area "Possibly susceptible" to liquefaction. Mr Dennis advised that no other hazards are shown for this site.
75. Mr Dennis recommended that a geotechnical certificate be provided to confirm that the site is suitable or to identify what (if any) mitigation measures are required at the time of building development. Such mitigation is to be confirmed by a Section 2A certificate and associated investigations. Based on adjoining sites and existing developments Mr Dennis anticipates that the site will be suitable for residential development. For completeness it is noted that the applicant provided a Geotechnical Appraisal Report prepared by Opus International Consultants Limited in 2009 for a property at 37 Old School Road. Mr Dennis has noted that the Opus report dealt with on-site

wastewater and stormwater disposal; but made no commentary with respect to liquefaction risk or general land stability.

76. In terms of Assessment Matter 5.4.2.3xxvi Residential Units – Discretionary and Non-Complying Activities the effects of future residential activity on Lot 2 have been assessed in terms of the assessment matters discussed above (acknowledging that a future dwelling on Lot 2 will be subject to a future application for land use consent pursuant to Rule 5.3.3.2i(b)); and it is acknowledged in the context of Assessment Matter 5.4.2.3xxvi(f) that services are able to be provided to the residential building platform on Lot 2.

B.5 Part 14

77. Rule 14.2.2.3 confirms that any activity which does not comply with the site standards in Part 14 shall be a discretionary activity, with the exercise of discretion being restricted to the matters specified in that standard.
78. Site Standard 14.2.4.1iv requires that formed access for 1-6 units shall provide passing bays at intervals no greater than 25 metres along the length of the accessway. The Commission considers that such provision appears excessive in the context of a rural subdivision but has considered this aspect of the proposal in terms of the relevant assessment matters detailed in Clause 14.3.2iv and v.
79. It is understood that parking bays at a maximum of 100 metres spacing are required by the Council's amendments to NZS 4404:2004. In essence the provision of parking bays (if needed) can be addressed at the time of engineering approval. In all the circumstances the Commission is satisfied that provision can be made to avoid or mitigate any adverse effects associated with this breach of Site Standard 14.2.4.1iv; and that any effects associated with a breach of this rule will be less than minor.

B.6 Part 15

80. Assessment Matter 15.2.3.6(a) contains assessment matters relating to areas of significant indigenous vegetation, heritage items and archaeological sites.

In this instance there are no identified areas of significant indigenous vegetation or heritage sites within the subject site.

81. Clause 15.2.3.6(b) contains assessment matters relating to subdivision and the location of residential building platforms in the Rural General Zone. These assessment matters are briefly discussed below, acknowledging that many of the assessment matters have already been discussed above in the context of Part 5 and Part 14 assessment matters.
82. 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 amenity; 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.
83. The proposed subdivision and the associated residential building platform will not have a significant adverse effect in terms of rural character, landscape values, visual amenity or in terms of any adverse effect on adjoining land uses.
84. The proposal will not adversely affect the life-supporting capacity of soils, vegetation and water. The Commission notes in this context that the subject site has constraints for productive use given that it has a limited area and is located within an enclave or cluster of existing rural living type residential development.
85. Services are relevant in the context of Clause 15.2.3.6(b)(iii). In this instance the proposed subdivision can be adequately serviced with a potable water supply, on-site wastewater disposal and through the provision of telecommunications and electricity services from the relevant utility providers. The applicant has noted the potential to utilise reticulated water and

wastewater services (if available to the site); or for water supply to be provided from a bore on Lot 2 along with on-site wastewater disposal. Chorus and Delta have confirmed in writing that telecommunications and electricity services can be made available to the subdivision.

86. 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 that Mr Dennis has considered hazards; and that in the context of hazards Mr Dennis anticipates that the site will be suitable for residential development.
87. 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.
88. Clause 15.2.6.4i(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.
89. The Commission considers that Lots 1 & 3 and Lots 2 & 4 are of sufficient area and dimensions to effectively fulfil the intended purpose of accommodating the existing dwelling and curtilage on Lot 1 and a residential building platform on Lot 2 and in terms of protecting rural landscape values and rural amenity.
90. The Commission considers in the context of Clause 15.2.6.4i(b)-(d) that the lots are of sufficient size for on-site disposal of wastewater and stormwater; that the lots are of a suitable slope to enable their safe and efficient use; and that the proposed lots are compatible with the pattern of adjoining subdivision and land use activities, and access.

91. Clause 15.2.7.3(i) relates to the relationship and size of the lots in terms of their solar advantage. The Commission considers that the residential building platform on Lot 2 has good potential for solar advantage.
92. 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 avoid or mitigate any adverse effects on any views enjoyed from any neighbouring properties in terms of Clause 15.2.7.3(v).

B.7 Positive Effects

93. The proposal will have a positive effect by providing for future residential activity to occur on the residential building platform nominated on Lot 2. Such development is to occur within an existing rural living type residential enclave or cluster; and the Commission concurs with Mr Woodward that such additional residential activity is to be introduced into an area that has capacity to absorb the development without leading to unnecessary sprawl into the immediate landscape.

B.8 Summary : Effects and Assessment Matters

94. The Commission finds that any adverse effects of the proposal are limited and can be satisfactorily mitigated through adherence to appropriate conditions of subdivision consent. The proposal is appropriate having regard to the relevant assessment matters stated in Parts 5, 14 and 15 of the Operative District Plan.

C. THE QLDC DISTRICT PLAN: OBJECTIVES AND POLICIES

95. Parts 4, 5, 14 and 15 of the Operative District Plan contain objectives and policies for the whole district being District Wide, for Rural Areas and in relation to Transport and Subdivision, respectively. The objectives and policies from Parts 5 and 15 have been listed in the Assessment of Environmental Effects lodged in support of the application, and to a large degree the objectives and policies relate to matters discussed in the context of the assessment matters. It is neither desirable nor necessary, therefore, to

undertake a line by line analysis of every objective and policy as this would involve a significant amount of repetition without materially advancing the Commission's analysis of this application.

C.1 Part 4

96. Clause 4.1.4 contains Objective 1 which relates to Nature Conservation Values and associated Policies. In this instance the subdivision and development is "infill" in character and will involve the establishment of a residential building platform on an existing garden area. In all the circumstances the Commission considers that the site has no particular ecological value. The Commission's conclusion is that the proposal is not contrary to Objective 1 and its associated Policies.
97. 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.
98. 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."***
99. Objective 4.2.5 is supported by a number of policies. Policies of 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 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.

100. 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.
101. 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.
102. 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.”*

103. The proposal will serve to avoid, remedy or mitigate adverse effects of subdivision and development on the VAL. A future dwelling on the residential building platform proposed on Lot 2 will not be highly visible in any public views from public places. While parts of the future dwelling will be visible from public roads any such effects will be mitigated by the plantings that have been established on the site and in the immediate environs; and by the additional plantings proposed on the site.

104. In terms of Policy 5 – Outstanding Natural Features – the Commission acknowledges that the subject site is to the north and east of the Shotover River that Ms Mellsop has identified as an ONF in terms of Policy 5. The Commission is satisfied that future built development on the residential building platform will not result in adverse effects which will be more than minor on the landscape values and natural character or visual amenity values of the Shotover River.
105. 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.
106. 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 existing and proposed plantings will serve to provide screening for future buildings on the residential building platform nominated on Lot 2.
107. The Commission is satisfied that the proposal is consistent with Policy 12 – Transport Infrastructure. An access carriageway currently exists within the right of way that serves the site and a portion of this carriageway (adjacent to Lot 2) may be resurfaced to mitigate dust effects if the access to Lot 2 is more than 10 metres from the common boundary of proposed Lot 1 with Lot 2. Any such upgrading of the right of way carriageway will have no particular effect on the open nature of the rural landscape.
108. 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.
109. Objective 4.8.3.1 and its supporting policies state as follows:

“4.8.3 Objective and Policies

Objective 1

Avoid or mitigate loss of life, damage to assets or infrastructure, or disruption to the community of the District, from natural hazards.

Policies:

- 1.1 *To increase community awareness of the potential risk of natural hazards, and the necessary emergency responses to natural hazard events.*
- 1.2 *To continually develop and refine a hazards register in conjunction with the Otago Regional Council, as a basis for Council decisions regarding subdivision and building development.*
- 1.3 *In conjunction with the Otago Regional Council to continually assess the need for additional protection measures either through the District Plan or as protection works.*
- 1.4 *To ensure buildings and developments are constructed and located so as to avoid or mitigate the potential risk of damage to human life, property or other aspects of the environment.*
- 1.5 *To ensure that within the consent process any proposed developments have an adequate assessment completed to identify any natural hazards and the methods used to avoid or mitigate a hazard.*
- 1.6 *To discourage subdivision in areas where there is a high probability that a natural hazard may destroy or damage human life, property or other aspects of the environment.*
- 1.7 *To avoid or mitigate the likelihood of destruction or damage to residential units and other buildings constructed or relocated into flood risk areas.”*

110. As previously noted the subject site is located in an area identified on the Council's Hazards Register as being “Possibly susceptible” to liquefaction. The Commission acknowledges that conditions have been promoted by Mr Dennis with respect to geotechnical certification at the time of building development. The Commission also acknowledges Mr Dennis's expectation that the site will be suitable for residential development. Accordingly the Commission finds that the proposal is not contrary to Objective 4.8.3.1 and its supporting policies.

C.2 Part 5

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

“Objective 1 – Character and Landscape Value

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

Policies:

- 1.1 Consider fully the district wide landscape objectives and policies when considering subdivision, use and development in the Rural General Zone.*
 - 1.2 Allow for the establishment of a range of activities, which utilise the soil resource of the rural area in a sustainable manner.*
 - 1.3 Ensure land with potential value for rural productive activities is not compromised by the inappropriate location of other developments and buildings.*
 - 1.4 Ensure activities not based on the rural resources of the area occur only where the character of the rural area will not be adversely impacted.*
 - 1.5 Provide for a range of buildings allied to rural productive activity and worker accommodation.*
 - 1.6 Avoid, remedy or mitigate adverse effects of development on the landscape values of the District.*
 - 1.7 Preserve the visual coherence of the landscape by ensuring all structures are to be located in areas with the potential to absorb change.*
 - 1.8 Avoid remedy or mitigate the adverse effects of the location of structures and water tanks on skylines, ridges, hills and prominent slopes.”*
112. 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 that the land has limited potential value for rural productive

activities. In terms of Policy 1.4 the character of the rural area will not be adversely impacted in this instance; and the Commission acknowledges a future building on the residential building platform on Lot 2 will not be allied to rural productive activity and worker accommodation. The Commission considers that the proposal is consistent with Policies 1.6-1.8 having regard to the matters discussed above.

113. The Commission also notes that Objective 3 and 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 objective and policies that relate to rural amenity.

C.3 Part 14

114. Part 14 contains objectives and policies with respect to Transport. The Commission considers that the proposal is consistent with the objectives and policies that relate to the efficiency, safety and environmental effects of the transportation system of the District. The Commission notes that the access to Old School Road exists; and that this access does not need to be upgraded to comply with Council's standards (albeit that passing opportunities can be addressed at the engineering approval stage).
115. The Commission is satisfied that the access will visually complement the surrounding area and mitigate visual impact on the landscape, consistent with Objective 14.1.3.3 and the associated Policy 3.4.

C.4 Part 15

116. Part 15 contains objectives and policies that relate to Subdivision, Development and Financial Contributions. Objective 15.1.3.1 and its associated policies that relate to Servicing seek to ensure necessary services are provided in anticipation of the effects of future land use activities in the context of subdivision. In this instance appropriate access and provision for water, wastewater, telecommunications and electricity services are to be

provided in the context of the subdivision, in some instances via conditions subject to a consent notice; with provision to be made for the applicant to provide water supply and wastewater disposal on-site, or for Council reticulated services to be utilised, if available.

117. 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 again notes in this context that the subdivision will not lead to a pattern of land use which will adversely affect landscape, visual, cultural and other amenity values.

C.5 Summary: Objectives and Policies

118. Following the above analysis, the Commission finds that the proposal is consistent with those objectives and policies of the Operative District Plan 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. PROPOSED DISTRICT PLAN

119. The Proposed District Plan was publicly notified on 26 August 2015 being a date subsequent to the lodging of the application on or about 27 May 2015.
120. Mr Woodward discussed the proposal in terms of Chapter 6 (Landscape); Chapter 21 (Rural Zone); Chapter 27 (Subdivision and Development); and Chapter 28 (Natural Hazards) of the Proposed District Plan. Based on this analysis Mr Woodward advised that the proposal is consistent with the relevant objectives and policies of the Proposed District Plan as discussed in his section 42A report.
121. The Commission accepts Mr Woodward's assessment.

122. For completeness the Commission notes that given the inchoate status of the provisions of the Proposed District Plan minimal weight can be given to these provisions at this early stage.
123. The Commission has concluded that the proposal will not be contrary to the objectives and policies of the Proposed District Plan.

E. OTHER MATTERS

124. 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.

E.1 Precedent

125. Precedent is a matter of particular relevance as subdivision consent is sought for a non-complying activity.
126. Non-complying status arises as no residential building platform is proposed on Lot 1. This is because Lot 1 already contains an existing dwelling and outbuilding. Given that the receiving environment includes the built development on Lot 1 it is unnecessary to provide a residential building platform on Lot 1. Accordingly the Commission considers that the absence of a residential building platform on Lot 1 will not establish a significant precedent.
127. Mr Woodward acknowledged in the context of precedent that residential activity will be established on the residential building platform within a rural area that is considered to have a character more akin to a rural lifestyle zone; having regard to the cluster of residential activities present along both the right of way and Old School Road. Given the prevailing character of the area

and the circumstances surrounding the proposal, Mr Woodward considered that the risk associated with precedent will be low in this instance noting that each application is to be assessed on a case by case basis.

128. Following consideration of the effects of the subdivision the Commission finds that the proposal will not establish a significant precedent.

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

129. The National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) came into effect on 1 January 2012. The applicant has advised that the site is not identified as contaminated or potentially contaminated; and that there is no historical evidence of land use which would trigger the NES. The applicant has provided information from the Council's Webmap of Potential Contaminated Sites dated 9 November 2015; and an email from the Otago Regional Council dated 11 November 2015 which confirms that there are no records held in the ORC's "Database of Selected Land Uses" for the site. In all the circumstances the Commission is satisfied that no Hazardous Activities and Industries List (HAIL) activities are being, have been, or are more likely than not to have been, undertaken on the subject site. The proposal can therefore be considered as a permitted activity under the NES.

130. The Commission is satisfied that it is highly unlikely that there will be a risk to human health as a result of the proposed subdivision and resulting future residential activity on the proposed residential building platform on Lot 2.

F. SECTION 104D

131. Section 104D of the Act directs that a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or that the application is for an activity that will not be contrary to the objectives and policies of both the relevant plan and relevant proposed plan.

132. The Commission has concluded in Part B.8 Summary: Effects and Assessment Matters that any adverse effects of the proposal are limited and can be satisfactorily mitigated through adherence to appropriate conditions of subdivision consent. Accordingly the Commission concludes that any adverse effects of the activity on the environment will be no greater than minor.
133. In Part C.5 Summary: Objectives and Policies the Commission has found that the proposal is consistent with those objectives and policies of the Operative District Plan that are relevant to the application; and in Part D the Commission has found that the proposal is not contrary to the objectives and policies of the Proposed District Plan. Accordingly the Commission is satisfied that the proposal will not be contrary to the objectives and policies of the Operative or Proposed District Plan.
134. The Commission therefore concludes that the proposal can pass through either of the gateway tests provided for in terms of section 104D. The Commission therefore has discretion whether or not to grant consent to the application.

G. PART 2 OF THE ACT

135. Part 2 of the Act contains sections 5 to 8. The Commission refers to them in reverse order.
136. Section 8 requires the Commission, in exercising its functions on this application, to take into account the principles of the Treaty of Waitangi. No issues were raised in reports or evidence in relation to section 8.
137. Section 7 directs that in achieving the purpose of the Act particular regard is to be had 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, C and D 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.

138. Section 6 sets out a number of matters which are declared to be of national importance and directs that these be recognised and provided for. Section 6(b) and section 6(d) confirm that the following are matters of national importance:

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

(d) The maintenance and enhancement of public access to and along... rivers.”

139. As noted above Ms Mellsop has noted that the Shotover River is an ONF; albeit that the site is on a river terrace approximately 200 metres from the Shotover River ONF. In all the circumstances the Commission finds that the proposed activity does not constitute inappropriate subdivision, use and development in terms of section 6(b) in this instance. Accordingly the Commission finds that the proposal is consistent with section 6(b) of the Act.

140. The proposed activity will not inhibit public access to and along the Shotover River in terms of section 6(d). The subject site is separated from the Shotover River by land in the Rural General Zone and the Shotover Country Special Zone, by Old School Road and by topography. As a consequence the subdivision will have no effect on public access to and along the Shotover River.

141. There are no other matters stated in section 6 which are of any particular relevance to the application.

142. Section 5 sets out the purpose of the Act – to promote the sustainable management of natural and physical resources. Taking into account the

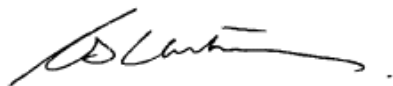
definition of sustainable management contained in section 5(2), the Commission is satisfied that the application will achieve the purpose of the Act.

143. 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 subdivision and land use activity can be avoided, remedied or mitigated by adherence to appropriate conditions of subdivision consent.

H. OUTCOME

144. Section 104 of the Act directs that when considering an application for resource consent and any submissions received in response to it, the Commission must, subject to Part 2, have regard to the actual and potential effects on the environment of allowing the activity together with the relevant provisions of the Operative District Plan and of the Proposed 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 the Commission hereby does so subject to the imposition of conditions of subdivision consent as attached in a Schedule to this decision.

This decision on RM 150305 is dated 26 August 2016.



W D Whitney
COMMISSIONER

SCHEDULE : CONDITIONS OF CONSENT FOR RM 150305: SCOTT FAMILY TRUST LIMITED

SUBDIVISION

General Conditions

1. The development shall be undertaken in accordance with the following plans:
 - a. Plan of subdivision prepared by Landpro Limited, titled, "*Lots 1-4 being a proposed subdivision of Lot 4 and 5 DP 23508 and easements over Lot 2 DP 439440*", dated 20 April 2015, Revision D (27 July 2016).
 - b. Landscape plan prepared by Landpro Limited, titled, "*Landscaping Plan for Scott Property Subdivision*", drawing 01, dated 29 October 2015.
 - c. Landscape plan prepared by Landpro Limited, titled, "*Landscaping plan for Scott Property Subdivision (Photos of existing vegetation)*", drawing 02, dated 29 October 2015.

stamped as approved on 26 August 2016 and the application as submitted, with the exception of the amendments required by the following conditions of consent.

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

Landscape & Design Conditions

3. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following to the satisfaction of Council's landscape architect:
 - a. The implementation of the new planting shown on the landscape plan approved under Condition 1b.
 - b. In addition to the planting required by Condition 3a, the consent holder shall provide for additional, native vegetation along the southern boundary of Lot 2. The species, size at planting, spacing and total number of plants shall be submitted to Council for certification that the planting meets the objective of screening development on the subject site from public vantage points prior to implementation.
 - c. Provide for additional planting along the eastern boundary of Lot 2 in, say, 2 or 3 plots to complement the screening that is already provided by the existing planting and bunding on the western boundary of Lot 1 DP 439440. The species, size at planting, spacing and total number of plants shall be submitted to Council for certification that the planting meets the objective of screening development on the

subject site from the east prior to implementation, such planting to complement the existing planting and bunding on the western boundary of Lot 1 DP 439440.

4. Prior to certification pursuant to section 224 of the Act and in accordance with section 221 of the Resource Management Act 1991, a consent notice shall be registered on the Computer Freehold Register for Lot 2 for the performance of the following conditions on an ongoing basis:
 - a. All buildings shall be contained within the approved residential building platform as shown on the approved plan of subdivision referenced in Condition 1a.
 - b. All buildings shall have a maximum height of 6.0 metres above original ground level.
 - c. All building roofs and spouting shall be finished in dark recessive colours, in the natural range of browns, greens or greys with a light reflectance value not greater than 20%.
 - d. All other external building materials and colours shall appear appropriately recessive (less than 36% light reflectance value) in the context of the surrounding landscape and shall be in the natural range of browns, greens or greys.
 - e. The landscaping undertaken in accordance with the approved landscape plan and in accordance with Conditions 3b and 3c shall be maintained in perpetuity. Any plants that die or fail to thrive shall be replaced in the next available planting season.

Engineering Conditions

5. All engineering works shall be carried out in accordance with the Queenstown Lakes District Council's policies and standards, being QLDC's Land Development and Subdivision Code of Practice adopted on 3rd June 2015 and subsequent amendments to that document up to the date of issue of any resource consent.

Advice Note:

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

Amalgamation Conditions

6. Pursuant to section 220(1)(b)(ii) of the Resource Management Act 1991:
 - i. *"That Lot 1 and 4 hereon be held in the same computer freehold register (CSN request 1341150)"*
 - ii. *That Lots 2 and 3 heron be held in the same computer freehold register (CSN request 1341150)"*

To be completed before Council approval of the Survey Plan

7. Prior to the Council signing the survey plan pursuant to section 223 of the Resource Management Act 1991, the consent holder shall complete the following:
 - a. All necessary easements shall be shown in the Memorandum of Easements attached to the survey plan and shall be duly granted or reserved.
 - b. The building platform on Lot 2 shall be shown on the survey plan.

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

8. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder shall complete the following:
 - a. The consent holder shall provide “as-built” plans and information required to detail all engineering works completed in relation to or in association with this subdivision/development to the Subdivision Planner at Council. This information shall be formatted in accordance with Council’s ‘as-built’ standards and shall include all roads (including right of ways), water, wastewater and stormwater reticulation (including private laterals and toby positions).
 - b. A digital plan showing the location of the building platform on Lot 2 as shown on the survey plan / Land Transfer Plan shall be submitted to the Subdivision Planner at Council. This plan shall be in terms of New Zealand Transverse Mercator 2000 coordinate system (NZTM2000), NZGDM 2000 datum.
 - c. Provision of a minimum supply of 2,100 litres per day of potable water to the dwelling on Lot 1 and the building platform on Lot 2 that complies with/can be treated to consistently comply with the requirements of the Drinking Water Standard for New Zealand 2005 (Revised 2008).
 - d. The consent holder shall submit to the Subdivision Planner at Council chemical and bacterial tests of the water supply that clearly demonstrate compliance with the Drinking Water Standards for New Zealand 2005 (Revised 2008). The chemical test results shall be no more than 5 years old, and the bacterial test results no more than 3 months old, at the time of submitting the test results. The testing must be carried out by a Ministry of Health recognised laboratory (refer to <http://www.drinkingwater.co.nz/mohlabs/labmain.asp>).
 - e. The consent holder shall provide evidence to the satisfaction of the Subdivision Planner at Council as to how the water supply will be monitored and maintained on an ongoing basis.

Advice Note:

Conditions 8c, 8d and 8e are deemed to be satisfied in the event that the Council's water reticulation is available to service the dwelling on Lot 1 and the building platform on Lot 2 and connections to such reticulation are provided to the Council's satisfaction to serve the dwelling on Lot 1 and the building platform on Lot 2.

- f. Written confirmation shall be provided from the electricity network supplier responsible for the area, that provision of an underground electricity supply has been made available (minimum supply of single phase 15kva capacity) to the boundary of Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- g. Written evidence shall be provided of an existing electricity connection to the building(s) on Lot 1.
- h. Written confirmation shall be provided from the telecommunications network supplier responsible for the area, that provision of underground telephone services has been made available to the boundary of Lot 2 and that all the network supplier's requirements for making such means of supply available have been met.
- i. Written evidence shall be provided of an existing telecommunications connection to the building(s) on Lot 1.
- j. The consent holder shall remedy any damage to all existing road surfaces and berms that result from work carried out for this consent.
- k. All earthworked areas shall be topsoiled and grassed or otherwise permanently stabilised.
- l. The consent holder shall provide a geotechnical completion report and a Schedule 2A "Statement of professional opinion as to suitability of land for building construction" in accordance with Section 2.6.1 of QLDC's Land Development and Subdivision Code of Practice that has been prepared by suitably qualified geotechnical engineer as defined in Section 1.2.2 and demonstrates to Council that the proposed building platform on Lot 2 is suitable for building development. In the event that the site conditions within the building platform on Lot 2 are only found to be suitable for building construction subject to certain mitigation measures and/or remedial works being carried out, then a suitably qualified and experienced professional shall submit to the Council for review and approval full details of such works. The consent holder shall be responsible for implementing all necessary mitigation measures and/or remedial works required to prepare the land for building construction.

If the aforementioned remedial works are not undertaken prior to certification under s224(c) of the RMA a consent notice condition shall be registered on the relevant Computer Freehold Register for Lot 2 in respect of which the Schedule 2A statement indicates that building construction would only be suitable if certain mitigation measures and/or remedial works were carried out

at the time of construction. The consent notice condition shall require that, prior to any construction work (other than work associated with geotechnical investigation), the owner of Lot 2 shall submit, to council for certification, plans prepared by a suitably qualified engineer detailing the proposed mitigation measures and/or remedial works AND require the owner to implement all such measures prior to occupation of any building on Lot 2.

- m. The vehicle crossing to Lot 2 shall be constructed prior to the construction of any residential dwelling on Lot 2. The vehicle crossing location shall be located within 10 metres of the common boundary of Lots 1 and 2 as shown on the approved plan of subdivision, or, should the vehicle crossing be located elsewhere along the northern boundary of Lot 2, the portion of the right of way from the common boundary of Lots 1 and 2 to the vehicle crossing shall be appropriately resurfaced to mitigate the effects of dust.
- n. The consent holder shall establish sprinklers in the locations shown on the approved plan of subdivision and such sprinklers shall be activated during periods when dust emissions are high.

Ongoing Conditions/Consent Notices

- 9. The following conditions of the consent shall be complied with in perpetuity and shall be registered on the relevant Computer Freehold Register by way of Consent Notice pursuant to section 221 of the Act.

- a. A consent notice condition pursuant to s221 of the Resource Management Act 1991 shall be registered on the Computer Freehold Register for Lot 2 providing for the performance of any ongoing requirements for building construction as outlined in Condition 8l (above).
- b. At the time a dwelling is erected on Lot 2, the owner for the time being shall engage a suitably qualified professional as defined in Section 1.7 of QLDC's Land Development and Subdivision Code of Practice to design a stormwater disposal system that is to provide stormwater disposal from all impervious areas within the site in accordance with the recommendations of the Opus International Consultants Ltd report 'Geotechnical Appraisal Report dated October 2009'.
- c. At the time a dwelling is erected on Lot 2, the owner for the time being shall engage a suitably experienced person as defined in sections 3.3 & 3.4 of AS/NZS 1547:2012 to design an onsite effluent disposal system in compliance with AS/NZS 1547:2012. The design shall take into account the site and soils investigation report and recommendations by Opus International Consultants Ltd 'Onsite wastewater Investigation November 2007'.

At such a time that Council's wastewater reticulation is available to service the lot in accordance with section 459(7)(a) and (b) of the Local Government Act 1974, the owner for the time being shall cease the use of the alternative disposal system, decommission it appropriately and connect to the Council system. The cost of making this connection shall be borne by the owner of the

lot. At this time the owner for the time being shall pay to the Queenstown Lakes District Council the applicable development contribution.

- d. At the time a dwelling/building is erected on Lot 2, domestic water and fire fighting storage is to be provided. A minimum of 20,000 litres shall be maintained at all times as a static fire fighting reserve within a 30,000 litre tank. Alternatively, a 7,000 litre fire fighting reserve is to be provided for each 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 (or superseding standard) 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 NZ Fire Service as larger capacities and flow rates may be required.

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

The connection point/coupling shall have a hardstand area adjacent to it (within 5m) that is suitable for parking a fire service appliance. The hardstand area shall be located in the centre of a clear working space with a minimum width of 4.5 metres. Pavements or roadways providing access to the hardstand area must have a minimum formed width as required by Queenstown Lakes District Council's standards for rural roads (as per QLDC's Land Development and Subdivision Code of Practice). The roadway shall be trafficable in all weathers and be capable of withstanding an axle load of 8.2 tonnes or have a load bearing capacity of no less than the public roadway serving the property, whichever is the lower. Access shall be maintained at all times to the hardstand area.

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

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

Fire fighting water supply may be provided by means other than the above if the written approval of the New Zealand Fire Service Central North Otago Area Manager is obtained for the proposed method.

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

LAND USE - Nil.

