



**DECISION OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**RESOURCE MANAGEMENT ACT 1991**

<b>Applicant:</b>	<b>Northlake Investments Limited</b>
<b>RM Reference:</b>	RM181451
<b>Location:</b>	Northern side of Northlake Road, extending to Outlet Road, Wanaka
<b>Proposal:</b>	Land use consent sought for 175 residential units (residential activities excluding buildings)
<b>Legal Description:</b>	Lot 2004 DP 526557
<b>Operative Zoning:</b>	Northlake Special Zone
<b>Proposed Zoning:</b>	Northlake Special Zone as amended by PC53
<b>Activity Status:</b>	Discretionary
<b>Notification:</b>	Publicly Notified
<b>Commissioners:</b>	Denis Nugent (Chair) and Dr Lee Beattie
<b>Date of Decision:</b>	18 April 2019
<b>Decision:</b>	<b>Granted Subject to Conditions</b>

## REASONS FOR THE DECISION

### The Hearing

1. The hearing was held in Wanaka on Thursday 7 March 2019. Appearances were as follows:

#### Applicant:

- Warwick Goldsmith - Counsel
- Alex Todd – Land Development Engineer
- Andrew Carr – Transportation Engineer
- Garth Falconer – Urban Designer
- Nicholas Barratt-Boyes – Architect
- Marc Bretherton – Manager of Applicant Company
- Duncan White – Consultant Planner

#### Council:

- Dhanesh Amerasingam – Consultant Urban Designer
- Chris Rossiter – Consultant Traffic Engineer
- Cameron Jones – Land Development Engineer
- Wendy Baker – Consultant Planner

2. We were advised that two submissions were originally lodged, but these were both subsequently withdrawn.
3. Ms Charlie Evans was the hearing administrator.
4. As required by the Act, we received the Council's section 42A report and the applicant's evidence in advance. We read that in advance and at the hearing, other than hearing Mr Goldsmith's legal submissions in full, we took the evidence as read and proceeded directly to discuss with the witnesses any queries we had about their evidence. We note that Mr Bretherton did not lodge a statement of evidence and that his appearance was to clarify matters of detail about future development intentions within the land subject to the application.
5. At the conclusion of the hearing we directed Messrs Falconer, Barratt-Boyes and Amerasingam to prepare a joint witness on the urban design issues. We also requested that Mr White and Ms Baker prepare an agreed set of draft conditions, highlighting any points of difference.
6. Mr Goldsmith requested the opportunity to file written reply submissions and to lodge a brief of evidence in reply by Mr Carr. We granted that request and that additional material was received on 25 March 2019.
7. Mr Goldsmith sought leave to lodge a replacement set of plans on 28 March 2019. The amendments related to labelling rather than substantive changes. We granted leave for those plans to be substituted for those provided at the hearing.

### Site Visit

8. We undertook a site visit immediately prior to the hearing. We were driven around the site by Mr Todd and accompanied by Ms Baker.

### The Proposal

9. The applicant sought land use consent for 175 residential activities (excluding buildings) to be established on 21.976 ha of land. As part of the application, the applicant proffered an outline development plan ("ODP") illustrating the proposed layout of the residential activities, roading to provide access to those activities, and reserve areas. It was apparent from the ODP that the intention was that each residential unit would ultimately be located on its own allotment, and

that, in a general sense, the intensity of development would mainly be based on each residential unit being associated with 300m<sup>2</sup> of land, with some areas of more intense development (referred to in the application as “Duplex lots”).

10. As originally lodged the application form stated that the application was for consent for “Outline Development Plan – Northlake Special Zone”. It was Mr Goldsmith’s submission that the expression was shorthand for the requirement for a land use consent to be obtained for residential activities, which were to be in accordance with a lodged ODP.
11. We sought legal advice as to whether the application was in fact for residential activities as an ODP is not a land use for which consent could be granted. That advice, which we accept, was that the listing of the consents required in Section 6 of the documentation attached to the application form made it clear that consent was sought for residential activities.
12. The applicant amended the application as lodged, largely in response to the urban design assessment undertaken by Mr Amerasingam on behalf of the Council. The amendments amounted to a change in the proposed layout of activities on the ODP and did not alter the scale or overall intensity of the residential activities. The amended ODP was lodged with the Council on 20 February 2019. We granted an extension of time<sup>1</sup> to the applicant to lodge its evidence on 27 February 2019 so that its evidence was based on the revised ODP.
13. The area the proposal related to is bounded by Outlet Road to the north, Mount Burke Street to the east, and Northlake Drive to the south. Along the western edge is a proposed road (Road 19) linking Outlet Road to Northlake Drive. Within this area it is proposed that the residential activities be served by a series of roads (Roads A, B, C, D, E and F) laid out largely in a grid fashion. Of these, only Roads A and D intersect with Mount Burke Street, and Roads A, C and F intersect with Road 19. Road B runs parallel to Road 19 south from Road A, but does not intersect Northlake Drive. This creates a small cul-de-sac at the south end of Road B.
14. In the southeast corner of the area a large reserve area is proposed to serve the residential activities. It is proposed to link this reserve area to nearby reserve areas and cycleways/walkways via a shared pathway along parts of Roads B and C, and a dedicated cycleway/walkway within a 7m width reserve running from the reserve area to Outlet Road crossing Roads D, C and A.
15. It was proposed that those residential units on the land between Road A and Outlet Road, which front both roads, would have no access to Outlet Road. In the block bounded by Mount Burke Street and Roads A, E and D, some 9 residential units would have access to either Road E or Mount Burke Street (referred to in this decision as “dual access lots”. We understood the intention was that all of these would access the same street ultimately, but that no conclusion as to which had been made at present.
16. We noted above the proposed distribution within the general layout of residential activities included areas of higher density medium density development, shown on the ODP as Duplex lots. These were limited to parts of Roads D and B opposite the large reserve area, or on Road 19 opposite Activity Area E1, which we understand is intended to be future reserve area. We understand from the plans that 40 residential units will be accommodated within those Duplex lot areas.

#### District Plan Rules Affected

17. At the time the application was lodged, the area this application relates to fell within four Activity Areas delineated on the Northlake Special Zone Structure Plan (Activity Areas D1, C2, B3 and E1). This zone was specifically excluded from the District Plan Review by Council resolution on 29 September 2016.

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<sup>1</sup> Minute dated 15 February 2019

18. Section 6.1 of the AEE determined that overall consent was required as a non-complying activity, listing the consents required as follows:
- a) **Restricted discretionary activity** under Rule 12.34.2.3(i) for Residential Activities (excluding buildings) in Activity Areas B3 and C2;
  - b) **Restricted discretionary activity** under Rule 12.34.2.3(ii) for Residential Activities (excluding buildings) in Activity Area D1;
  - c) **Discretionary activity** under Rule 12.34.2.4 for Residential Activities (excluding buildings) in Activity Areas B3, C2 and D1 where an Outline Development Plan is proposed for only part of the Activity Areas;
  - d) **Non-complying activity** under Rule 12.34.2.5(xi) for a breach of zone standard 12.34.4.2(i) by development not being in accordance with the Structure Plan; and
  - e) **Non-complying activity** under Rule 12.34.2.5(xi) for a breach of zone standard 12.34.4.2(iii) Density for Activity Areas B3 and C2.
19. There was no disagreement between the applicant and the Council that at the time of lodgement the application fell to be considered as a non-complying activity.

### Relevance of Plan Change 53

20. Plan Change 53 ("C53") was a private plan change sought by Northlake Investments Limited which involved amendments to the policies and rules of the Northlake Special Zone along with a replacement Structure Plan. At the time this application was lodged, the Council had been provided with the Hearing Panel's report on the plan change but the Council had not made a decision on that report (under clause 10 of the First Schedule to the Act). That decision was made on 13 December 2018 and by the time we heard this application the appeal period had closed and no appeals had been lodged. However, the Council had not approved the plan change under clause 17 of the First Schedule, nor publicly notified that the change was operative under clause 20. We understood from information provided by Ms Baker that Council approval would occur at its ordinary meeting on 18 April 2019, with public notice of its operative status occurring after 25 April 2019.
21. Among the amendments PC53 made to the Northlake Special Zone, was an amendment to the layout of the Activity Areas such that this application would fall entirely within Activity Area D1. That would have the effect of making the activity sought by this application a discretionary activity rather than a non-complying activity.
22. It is accepted law that the rules in a private plan change have no effect until they are made operative, and this was the position put to us by Mr Goldsmith in his opening submissions. He went on to submit that PC53 was a relevant matter we could consider under section 104(1)(c) of the Act, particularly the fact that the activity status would change<sup>2</sup>.
23. We discussed with Mr Goldsmith whether the terminology used in section 43AAC(1) of the Act in defining "proposed plan" left open the possibility that by the operation of section 86F the rules in PC53 could be treated as operative. Mr Goldsmith addressed this in his reply submissions. He concluded:
- Counsel cannot think of any circumstance or reason why s86F should not apply to a private plan change which is beyond challenge and must inevitably become operative.*
24. We agree with Mr Goldsmith's submissions and conclusion. We take the view that it would be poor resource management practice to ignore the amended rules in a private plan change that are awaiting a purely administrative function of the Council and cannot be amended or altered other than by variation. It is our view that this is one situation where the factual context does require

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<sup>2</sup> Legal submissions at paragraph 13

the definition of “proposed plan” to vary from that set out in clauses (a) or (b) of section 43AAC(1), and for it to include a plan change under Part 2 of the First Schedule. We could achieve the same outcome by delaying issuing this decision until after the Council has notified PC53 as operative. It is our view that accepting that PC53 is now a proposed plan with section 86F applying is more consistent with the principles set out in sections 18A and 21, which are focused on minimising delay in processes, than delaying the decision by several weeks to achieve the same outcome.

25. We note that the Environment Court has held that where, by virtue of the operation of section 86F, a rule in a proposed plan is to be treated as operative and the former rule as inoperative, it is only the classification afforded by the proposed plan rule which is to apply<sup>3</sup>.
26. The question arises whether the change to the Structure Plan in Section 12.34 constitutes a change to a rule. We conclude that it does as the Structure Plan is incorporated as part of zone standard 12.34.4.2 i which states:

*All activities and developments must be carried out in accordance with the Structure Plan, ...*

27. Consequently, we conclude that the former zone standard which incorporated the Structure Plan made operative in December 2015 has been made inoperative through the operation of section 86F, and the zone standard which is to be treated as operative is that incorporating the Structure Plan in PC53. Thus the matters enumerated (a), (d) and (e) in the list of consents required, set out above, no longer apply. The application therefore falls to being for a discretionary activity as the ODP proposed does not apply to all of Activity Area D1 (clause (c) in the list of consents set out above).

### Summary of Evidence

28. Mr Todd’s evidence was directed to whether the proposed stormwater infrastructure incorporated low impact design techniques. It was his view that the use of land disposal via an extended pit on the north side of Outlet Road constituted a low impact design solution.
29. Mr Carr adopted his reports lodged with the application as part of his evidence, but the focus of his evidence at the hearing was on the quantum of on-street parking that should be required. To assist his analysis, Mr Carr prepared a plan showing how on-street parking could legally be located given the expected layout of residential activities and the proposed roading and reserves. He concluded that an overall parking ratio of 0.72 on-street parking spaces per residential unit could be achieved.
30. Mr Carr also undertook surveys of Shotover Country and Stackbrae subdivisions to determine what demand for on-street parking could be expected. He concluded, based on those surveys, that even when allowing for a proportion of on-street parking spaces to be unoccupied, a ratio of 0.3 to 0.4 per lot would be appropriate. He commented that from his observations in Shotover Country, many people were choosing to park on-street rather than use both required on-site parking spaces.
31. Mr Faulkner’s evidence addressed:
  - Urban design considerations;
  - District Plan urban design assessment matters;
  - Townscape;
  - Parking requirements; and
  - CPTED considerations.
32. Mr Barratt-Boyes evidence outlined the peer review work he undertook of the urban design process.

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<sup>3</sup> *Infinity Investment Group v Canterbury RC* [2017] NZEnvC 35 at [75]

33. As the three urban design experts provided a joint statement, we summarise that below as an overall summary of the urban design evidence. We note at this point, however, that we were advised by Mr Bretherton that NIL implement design controls on buildings whether built by NIL or otherwise, and that there is an independent review of building designs.
34. Mr White outlined the application process and the ODP design. He told us that it was his view that an approved ODP was only intended to be a high level indication of future land use, to be refined by subsequent site-specific resource consents. He saw the role of the ODP as primarily to achieve high level integration of land use activities and to indicate the general (not specific) location of future activities and built form. He expected it to be likely for some design changes to be necessary prior to subdivision once detailed technical inputs relating to servicing, earthworks, lot dimensions and roading designs had been considered.
35. Mr White undertook a detailed analysis of the issues in respect of on-street parking requirements. It was his conclusion that future subdivision applications should be designed to a ratio of 0.6 on-street car parks per residential unit (excluding the car parks required for the reserve) and recommended a condition to that effect.
36. Mr White provided his view on the objectives and policies in Parts 12.34 and 15 of the Operative District Plan which Ms Baker, in the section 42A report, had considered the proposal neutral or contrary to. Much of Mr White's evidence on these has been overtaken by our determination that the proposal is to be assessed only against Part 12.34 as amended by PC53, and by the joint urban design statement we discuss below.
37. Mr White also discussed the provisions in Chapters 3 and 4 of the Proposed District Plan, again in response to the contents of the section 42A report. We note at this point that it is our view, based on the wording of the Council resolution of 29 September 2016 referred to above, that Chapters 3 and 4 (or any other chapter in the Proposed District Plan) are not applicable to the Northlake Special Zone. Therefore we have taken no account of Mr White's comments on Chapters 3 and 4 of the Proposed District Plan.
38. Mr White provided us with a draft set of conditions he considered appropriate.
39. Mr Carr provided a supplementary statement of evidence after the hearing. This was directed at whether the conditions provided with the reply achieved the ratio of on-street parking proposed by Mr White, and how to ensure that the on-street parking was appropriately distributed over the whole ODP area.
40. Turning to the Council evidence, we note first that the section 42A report and technical reports it was based upon were all directed to the application as notified. The amended ODP lodged on 20 February 2019 responded to much of the criticism in those reports. This meant that we needed to allow the Council witnesses to provide an oral assessment of the revised layout at the hearing.
41. Mr Amerasingam was a party to the joint witness statement on urban design. It is appropriate that we summarise that statement at this point. The urban design experts agreed:
  - a) The application was consistent with the Northlake Structure Plan;
  - b) The increased size of the main reserve and its reconfiguration provided a better urban design outcome;
  - c) The reduction in number of single sided lots was a better urban design outcome;
  - d) A condition to control fence heights on single sided lots would be a positive outcome;
  - e) The revised position of the medium density development areas configured around the main reserve aligns with best practice;
  - f) Duplex housing rather than terrace housing would be a more appropriate model for the medium density development areas;
  - g) The increased size, role and integration of the main reserve into the street network renders a roading connection between Road C and Mount Burke Road as non-essential;

- h) A direct cycle walking connection from Road 19 to Northlake Drive is a positive addition;
  - i) Improved legibility of the shared path has been achieved predominantly by the reconfiguration of the main reserve;
  - j) CPTED issues around the 7m cycle and walkway reserve have been addressed in the revised Design Controls by stipulating that a living room as well as a habitable room must be located directly adjacent to the cycle and walkway reserve;
  - k) The removal of triangular pocket parks along Road B provides a better urban design outcome;
  - l) The townscape vision and overall urban form has been adequately addressed and articulated;
  - m) Mr Carr's plan demonstrates that on-street car parking can be provided with an appropriate level of variation in the layout of homes, and parking layout (on-site) of narrower lots satisfactorily addresses potential issues on the street and access to individual lots;
  - n) A condition can adequately address the avoidance of tall fences on the road boundaries of single loaded blocks and adjacent to the walkway areas.
42. The one area of disagreement was the provision of additional pocket parks and reserve space within the overall area. The joint statement noted in particular Mr Amerasingam's view that there are a range of benefits that smaller more diverse spaces provide, that larger spaces often do not. However, he was satisfied that the proposed approach to open space was appropriate and would result in positive Urban Design outcomes. We took from this concession by Mr Amerasingam that while he considered improvements were possible, the revised ODP was satisfactory from an urban design perspective. We are satisfied that the revised ODP is appropriate and consider little would be added by seeking to have additional small reserve areas included.
43. Mr Rossiter explained to us the sources of demand for off-site parking in response to Mr Carr's evidence concerning residents using on-street parking in place of on-site parking. He was not sure that a simple ratio of on-street carparks per lot would be practical and useable. He considered there should be an overall average with a minimum on each street. He also considered that it was impractical to require that on-site car parking spaces remain available for car parking.
44. Mr Rossiter and Mr Jones noted that there was no existing or proposed public transport in Wanaka that would assist in reducing the demand for private vehicle transport.
45. Ms Baker advised that, having had the opportunity to consider the revised ODP lodged and having the applicant's evidence, her recommendation had changed to support the proposal subject to the conditions being adequate. She advised us that she was comfortable with the 0.6 ratio of on-street carparking per residential unit as proposed by Mr White. In her view, if the conditions could "lock down" where the higher density areas were located, then the ultimate configuration was not such an issue.
46. In terms of design controls, Ms Baker considered they could only be imposed by covenant. In her view the important issues regarding design were to do with fences and ground floor habitable rooms.

### Major Issues in Dispute

47. The draft conditions proposed by Mr White and Ms Baker disclosed two areas of disagreement:
- a) The extent to which roading alignment could vary from that shown on the ODP; and
  - b) The distance from street intersections that on-street car parking can be located outside the length of street it is intended to serve.
48. Ms Baker helpfully set out the reasoning for disagreement between the parties in the draft set of conditions she filed.

## Relevant Statutory Provisions

49. As the application is for a discretionary activity, we are required to consider the application under section 104. Under section 104B we may either grant or refuse consent, and if consent is granted we may impose conditions under section 108.

### **National Policy Statement on Urban Development Capacity**

50. We adopt with Ms Baker's conclusion<sup>4</sup> that this proposal is consistent with, and gives effect to, the NPSUDC.

### **Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011**

51. It was identified in the Assessment of Environmental Effects accompanying the application that this matter had been addressed in a previous application relating to this land (RM160152). There is no record of HAIL activity having been undertaken on the land subject to this application.

### **Otago Regional Policy Statement**

52. We have considered the Partially Operative Regional Policy Statement 2018 and agree with Ms Baker's assessment<sup>5</sup> that any policies which may be relevant are at such a broad and high level to have no impact on our decision-making.

### **Objectives and Policies of the Operative District Plan**

53. We have considered the District Wide objectives and policies<sup>6</sup> and find that the development of this land for residential activities is consistent with the urban growth objectives and policies, particularly policies 4.9-3.2 and 3.3.
54. Turning to the specific objectives and policies of the Northlake Special Zone, we find that this proposal, by proposing higher density residential activities within Activity Area D1 gives effect to Policies 1.2 and 1.6. The proposal is generally consistent with the Structure Plan, giving effect to Policy 2.2. The proposal includes an ODP which, in a general sense, gives effect to Policy 2.3. The urban design experts agree that, to the extent possible under this consent, those matters listed in Policy 2.4 are achieved.
55. The proposed roading, cycleway and walkway layout is consistent with the direction sought by Objective 3 and Policies 3.1, 3.2, 3.3, 3.4 and 3.6. The proposed main reserve and the linear reserve along the proposed cycleway/walkway to Outlet Road are consistent with Objective 5 and Policies 5.1 and 5.2. The applicant's undertaking to vest the reserve as part of stage 1 of the development of this area is consistent with Policy 5.4.
56. The roading layout, including the street typologies proposed, give effect to Policy 6.3. Although there was discussion of whether the proposal achieved the low impact solution of stormwater disposal discussed in Policy 6.4, we are not sure that this consent is the appropriate time to make a finding on that. As the activity consented excludes buildings and only provides for an outline of the layout of roads, it is not apparent to us that stormwater infrastructure and disposal is actually a consequence of this activity, but rather should be dealt with in later consents, such as those for subdivision.
57. Overall, having considered the objectives and policies relevant to this application, we are satisfied the proposal either gives effect to or is consistent with the policy direct set by the District Plan.

### **Objectives and Policies of the Proposed District Plan**

58. As we noted above, the Council has specifically resolved to exclude the land affected by the Northlake Special Zone from the District Plan Review. We understand that land is therefore

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<sup>4</sup> Section 42A Report, Section 8.3

<sup>5</sup> *ibid*

<sup>6</sup> Section 4



contained within the volume of the district plan separate from that affected by the proposed district plan. For those reasons we have not given any consideration to the proposed district plan.

#### **12.34.5 Assessment Matters**

59. No assessment matters are listed specifically for Rule 12.34.2.4 ii. However, we consider it relevant to consider the assessment matters applicable to the restricted discretionary activity Rule 12.34.2.3 ii which this proposal would fall to be considered under if the ODP covered all of Activity Area D1. We will return to these after considering the effects of the proposal on the environment.

#### **Effects of the Proposal on the Environment**

60. The application was accompanied by a comprehensive assessment of the effects of the proposal on the environment. Despite the proposed layout of the proposed residential activities, roading and reserves being changed in the revised ODP lodged on 20 February 2019, that analysis remained relevant. If anything, the revision reduced effects arising from the initially proposed layout. We see no need to repeat that analysis in full here, but rather consider it more worthwhile to focus on the single issue of effects at dispute: the on-street parking provisions.
61. The requirement for a minimum level of on-street parking within each street segment could affect the layout of future lots to accommodate the residential activities for which consent is sought. It appears that either: the layout proposed in the ODP is largely predicated on the condition sought by the applicant - that any spill over of parking be within 50m of the end of each section of road; or the condition responds to the proposed layout.
62. We accept that the availability of on-street parking is an amenity issue, being a characteristic that contributes to people's appreciation of the pleasantness of the proposed development. Those people may not be limited to residents of the proposed residential activities but may include visitors to those residents.
63. Mr Carr's draft layout of on-street parking, which we accept is not part of the application but as illustrating a plausible solution, does identify a paucity of on-street parking possible in Roads A and C in particular. For example, on Road A between Road B and Road E some 37 residential units are proposed, with 10 on-street parking spaces: a ratio of less than 0.3. While Mr Carr has correctly noted that a distance of 50m adds 30 seconds of walking time, the distance between Roads B and E along Road A means that some units could be served by on-street parks up to 200m distant. Road C between Roads B and E has a lower ratio of on-street parking, but the distances to adjacent parks are not quite so long.
64. Turning to Mr Rossiter's position that only the on-street parks within 25m of a street end be counted, we had no evidence that that proposition could be achieved without a re-arrangement of the roading, which may result in a revision to the ODP. In this sense there is a potential conflict between Mr Rossiter's proposal and the agreed position of the urban design experts.
65. Looking at the proposal holistically, we note that Outlet Road to the north and Northlake Drive to the south both provide additional opportunities for on-street parking not factored into Mr Carr's analysis. We also conclude that if the density of development proposed in this application is to be achieved, there must be some trade-offs. It is our view that the urban design benefits of the proposed layout of the activities are of greater value than the convenience factor of closer on-street parking. We therefore conclude that the condition as proposed by the applicant is appropriate.
66. On that basis we will consider the proposal against the Assessment Matters in Part 12.34.5.2 ii.

#### **Indicative subdivision design (12.34.5.2.ii (a))**

67. The inclusion of the walkway from the main reserve to Outlet Road means that the longest street blocks are intersected by a cycleway/walkway providing reasonable walking opportunities throughout the proposal.

- 68. No rear sites are included.
- 69. The layout responds to the sloping nature of the ground by stepping development down low terraces.
- 70. The semi-grid layout does provide opportunity for solar access, although that is ultimately dependent on building design which is not part of this application.
- 71. The undisputed evidence was that the reserves and walkways would feel safe if building orientation along the cycleway/walkway provided for passive surveillance from adjacent residential activities. We are unsure as to how an application for an activity that specifically excludes buildings can be conditioned to control building design, but the applicant has volunteered such conditions and we will accept those on an *Augier* basis<sup>7</sup>. It seems that is the only way this criterion can be satisfied.
- 72. The edges of the ODP are designed to relate to the adjoining land.

**Roading pattern and vehicle access arrangements (12.34.5.2.ii (b))**

- 73. The roading layout achieves all the matters sought in criteria (i) through (v). We do not consider future bus stops relevant within this area.

**Road and street designs (12.34.5.2.ii (c))**

- 74. We are satisfied that criteria (i) through (iv) and (vi) are satisfactorily dealt with in the ODP. Criterion (v) is not relevant.

**Open space areas, pedestrian and cycle links (12.34.5.2.ii (d))**

- 75. The proposal involves the creation of a large reserve area (to be vested early in the development process) along with a open space corridor containing a cycleway/walkway. The main reserve will create a place of public enjoyment and the corridor will create a connection as an alternative to roads through the development. While the proposal does not incorporate a range of open spaces, as discussed by Mr Amerasingam, we have set out above our reasons why we consider the proposed layout satisfactory.

**Infrastructure (12.34.5.2.ii (e))**

- 76. There is no issue with ability for infrastructure provision.

**Approaches to stormwater disposal (12.34.5.2.ii (f))**

- 77. We are satisfied that the proposed disposal to ground option amounts to a low impact design, but as noted before, consider the overall issue of stormwater disposal to be a subdivision consent issue, not an issue for a consent for residential activities excluding buildings.
- 78. Matters (g) and (h) are not relevant to this land.

**Controls on built form in Activity Area D1 (12.34.5.2.ii (i))**

- 79. As we have noted above, we do not consider that a condition can be placed on an activity which specifically excludes buildings that controls building design. However, the applicant has volunteered such a condition and we accept it on an *Augier* basis.
- 80. Matter (j) is not relevant to this application.

**Where consent with an Outline Development Plan has previously been granted (12.34.5.2.ii (k))**

- 81. Part of the land subject to this application was subject to the ODP granted under RM160152 in June 2016. This proposal integrates into the development that has occurred (along Mount Burke Street and Northlake Drive in particular) and the residential nature of the development is consistent with that consented previously.

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<sup>7</sup> *Augier v Secretary of State for the Environment* (1978) 38 P&CR 219 (QBD)

### **Overall Conclusion on Effects and Assessment Matters**

82. Our overall view of the effects of the proposal is that as the residential development of this land to the intensity proposed is expected by the District Plan, the adverse effects of it in the form proposed are minor, less than minor or nil as concluded in the Assessment of Effects on the Environment. Overall, the proposal is consistent with the assessment matters.

### **Purpose of an Outline Development Plan**

83. As we understand the provisions of the Northlake Special Zone, compliance with an ODP is made a condition of consent for residential activities to ensure the zone is developed in an integrated manner. It therefore is to provide more guidance and certainty than the Structure Plan.
84. This understanding is critical for determining the other issue of dispute: the extent to which roads may be varied from the position shown on the ODP. In this matter Mr White has proposed a condition that the centreline of roads and intersections may be varied by up to 25m from the position shown on the ODP, while the Ms Baker considers 10m to be more appropriate.
85. We note that Rule 12.34.4.2.ii allows walkway/cycleway links and roading links to be varied by up to 50m from the position shown on the Structure Plan.
86. The layout of roads, walkways and cycleways has been put to us as an urban design solution that is most appropriate for the site and the intensity of development proposed. Thus we would expect the delivery of that solution to involve minimal amendment to the location of roads. We note also from our site visit that the roads are generally in place, albeit not yet formed completely.
87. Given those factors we consider that variation of road alignments by up to 25m to be excessive and determine that 10m, as proposed by Ms Baker, is more appropriate.
88. We consider that the location and size of the proposed reserve is also integral to the design solution. Consequently, we consider a similar limitation on varying the location of the reserve boundaries is required, as well as a limitation on potential to reduce the area of the reserve. For those reasons we have inserted a condition imposing such limits.
89. Given also that the ODP is to be a condition on the consent, we consider that the condition proposed should reflect that rather than suggest the ODP is the consent.

### **Comments on Conditions**

90. We have discussed above the addition of a condition limiting changes to the dimensions of the main reserve area and our conclusion that the road centrelines not be changed by more than 10m. We have incorporated those changes in the conditions.
91. The other amendments we have made from those agreed between Mr White and Ms Baker are:
- a. We have provided better definition of the area the consent applies to in condition 1;
  - b. We have made clear in condition 5 that where sites have dual frontages (other than corner sites) all residential activities within a block are dealt with consistently;
  - c. We have noted for conditions 5 (in part), 6 and 8 that those conditions have been volunteered by the applicant.

### **Decision**

92. For the reasons given above, pursuant to section 104B of the Act land use consent is granted to application RM181451 by Northlake Investments Limited for 175 residential activity units (excluding buildings) in the area bounded by Outlet Road, Mount Burke Street, Northlake Drive and Road 19, Northlake subject to the conditions set out in the attached Schedule.

For the Hearing Commissioners

A handwritten signature in blue ink, appearing to read 'Nugent', is positioned below the text 'For the Hearing Commissioners'.

Denis Nugent (Chair)  
18 April 2019

**APPENDIX 1 – Consent Conditions**

## **APPENDIX 1 – CONSENT CONDITIONS**

### **General Conditions**

1. That residential activities within the area shown on 'Northlake D1 Activity Area Staging Plan', Sheet 3, 13 March 2019 as 'Current ODP' shall be undertaken/carried out in general accordance with the plans:

#### **Reset Urban Design**

- 'Northlake D1 Activity Area Outline Development Plan', 13 March 2019
- 'Northlake D1 Activity Area Site Location', Sheet 2, 13 March 2019
- 'Northlake D1 Activity Area Staging Plan', Sheet 3, 13 March 2019
- 'Northlake D1 Activity Area Masterplan', Sheet 4, 13 March 2019
- 'Northlake D1 Activity Area Road Hierarchy', Sheet 5, 13 March 2019
- 'Northlake D1 Activity Area Pedestrian and Cycle Connections', Sheet 6, 13 March 2019
- 'Northlake D1 Activity Area Open Space', Sheet 7, 13 March 2019
- 'Northlake D1 Activity Area Indicative Street Tree Planting', Sheet 8, 13 March 2019
- 'Northlake D1 Activity Area Indicative Road Sections – Type A', Sheet 9, 13 March 2019
- 'Northlake D1 Activity Area Indicative Road Sections – Type B', Sheet 10, 13 March 2019
- 'Northlake D1 Activity Area Indicative Reserve Cycleway/Walkway Section', Sheet 11, 13 March 2019

**stamped as approved on 15 April 2019**

and the application as submitted, with the exception of the amendments required or allowed 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.

### **Design**

3. Variations to the Outline Development Plan ("ODP" in these conditions) design detailed in the Masterplan (Sheet 4, 13 March 2019) are permissible provided that:
  - a) the maximum number of residential activities created shall be 175;
  - b) the centreline of the roads and intersections shall be within 10 metres of the locations shown on the ODP plans;
  - c) the location of each group of Proposed Duplex Lot residential activities shall not vary by more than 15 metres in any direction;
  - d) the boundaries of the main reserve area shall be within 10 metres of the locations shown on the ODP plans, and any amendment to the boundaries of the main reserve area shall not reduce its size by more than 5% of the area shown on the ODP plans

4. No residential activity within the ODP area shall have direct vehicle access to Outlet Road.
5. Future development, particularly access and landscape design, of any residential activity with two road frontages (excluding any corner residential activity) shall ensure that for all such activities on a section of road bounded by two intersections:
  - a) vehicle access is across one of the road frontages;
  - b) pedestrian access is provided for off the other road frontage and a habitable space (living room, kitchen, bedroom or entranceway) at ground floor level faces out towards that road frontage.

This condition as it relates to the design of buildings has been volunteered by the applicant.

6. Future development of any residential activity adjoining a cycleway/walkway reserve shall include a habitable space (living room, kitchen or bedroom) which faces and looks out towards the cycleway/walkway reserve.

Condition 6 has been volunteered by the applicant.

#### Boundary Treatment

7. Fencing and planting boundary shall be designed such that:
  - a) no fencing over 1.2m is permitted along or within 1m of any road boundary or cycleway/walkway reserve boundary;
  - b) any boundary adjoining a road or a walkway/cycleway reserve shall be planted with a *Griselinia littoralis* or *Prunus lustanica* hedge along and adjoining the full length of that boundary;
  - c) Hedging required by Condition 7(b) (above) shall be maintained at a maximum height of 1.2 metres.

#### Design Control

8. Prior to the first application for building consent for residential units within the ODP area a set of building design and landscaping controls (Design Controls) for residential lots, in the form of the 'Design Control Guidelines' dated 13/03/2019 (copy attached), shall be submitted to Council for approval.

Condition 8 has been volunteered by the applicant.

#### Engineering

9. All engineering infrastructure associated with future development under RM181451 shall be designed in accordance with the Queenstown Lakes District Council District Plan and the Queenstown Lakes District Council's policies and standards, being the Queenstown Lakes District Council – Land Development & Subdivision Code of Practice adopted on 3rd May 2018 and subsequent amendments to that document up to the date of issue of any resource consent, except amendments to these agreed to by Council or arising from these conditions of consent.

### On-Street Parking

10. Future applications for Engineering Approval within the ODP area shall provide plans that demonstrate provision of on-street parking at an overall average ratio over the entire ODP area of at least 0.6 spaces per residential activity, plus at least six additional spaces for use by people visiting the primary reserve. For the purpose of this condition the total number of residential activities within the ODP area shall include an allowance for 11 future residential activities located west of and adjoining Road 19.
11. As part of the Condition 10 on-street carparking requirement, a minimum ratio of 0.5 on-street parking spaces per residential activity shall be achieved within, and in close proximity to, each section of road within the ODP area. This ratio is to be calculated by:
  - a) Dividing each road into sections, starting at the centre of one intersection and finishing at the centre of the next intersection;
  - b) Calculating the number of residential activities that have vehicle crossings onto each section of road;
  - c) Calculating the number of on-street parking spaces on each section of road plus the number of on-street parking spaces within 50 metres of the end of each section of road;
  - d) Dividing the number of on-street spaces (found under Step c) by the number of residential activities (found under Step b) to achieve the required minimum 0.5 ratio.

### **ADVICE NOTES**

#### Staging

1. The central reserve is expected to be vested in Council as part of the first stage of subdivision within the ODP area.
2. The requirements of Conditions 5-7 (inclusive) are expected to be included as a condition of the subsequent subdivision consent to be registered as a consent notice on the relevant residential lots.
3. Any application for subdivision (excluding boundary adjustments) is expected include a detailed landscape plan for open space areas within the application area that meets the following objectives:
  - Identifies the intended purpose of the open space
  - Contains landscaping that is appropriate to the purpose of the space
  - Identifies all plant species
  - Identifies long-term management considerations
  - Integrates with adjoining land uses
  - Is consistent with Crime Prevention through Environmental Design (CPTED) principles.



# NORTHLAKE D1 ACTIVITY AREA OUTLINE DEVELOPMENT PLAN

13 MARCH 2019



QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM181451

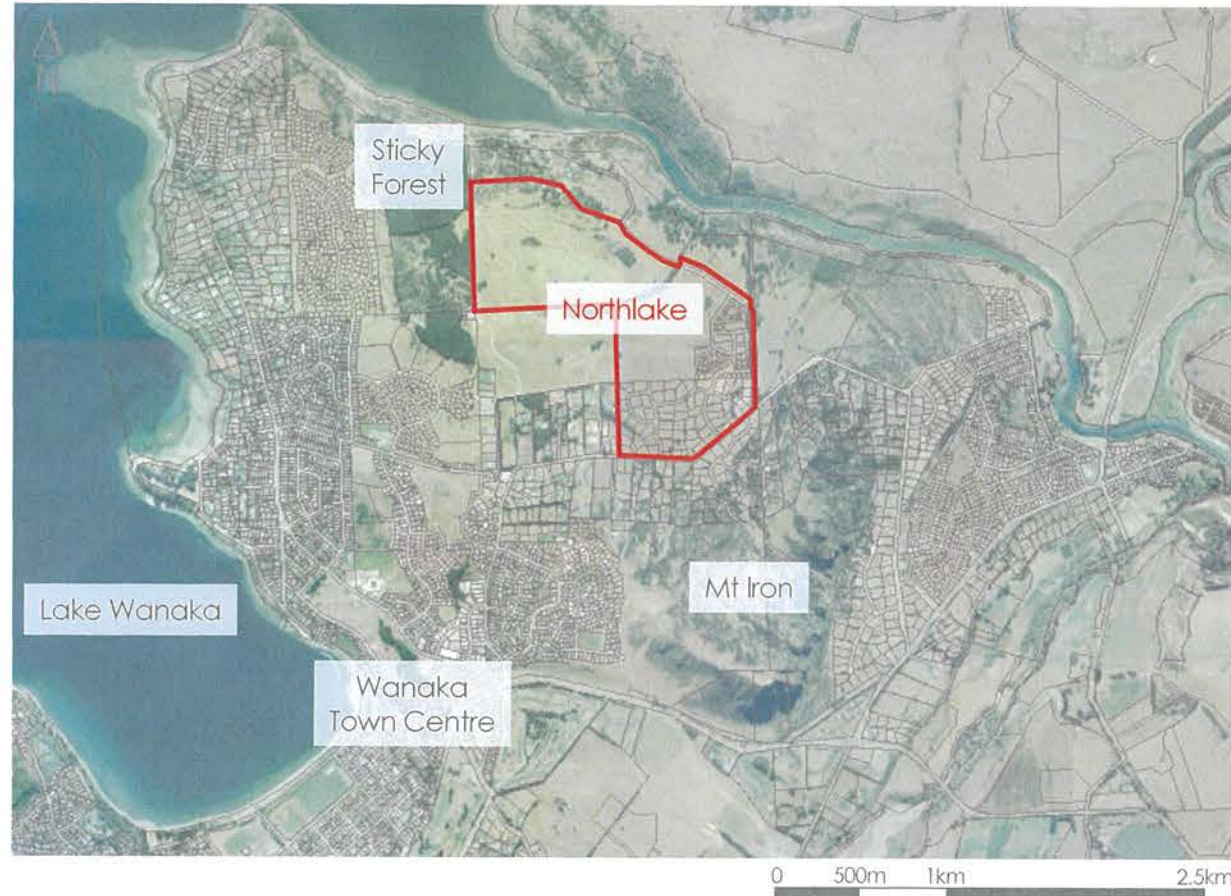
Monday, 15 April 2019



# NORTHLAKE

## D1 ACTIVITY AREA SITE LOCATION

### LOCATION

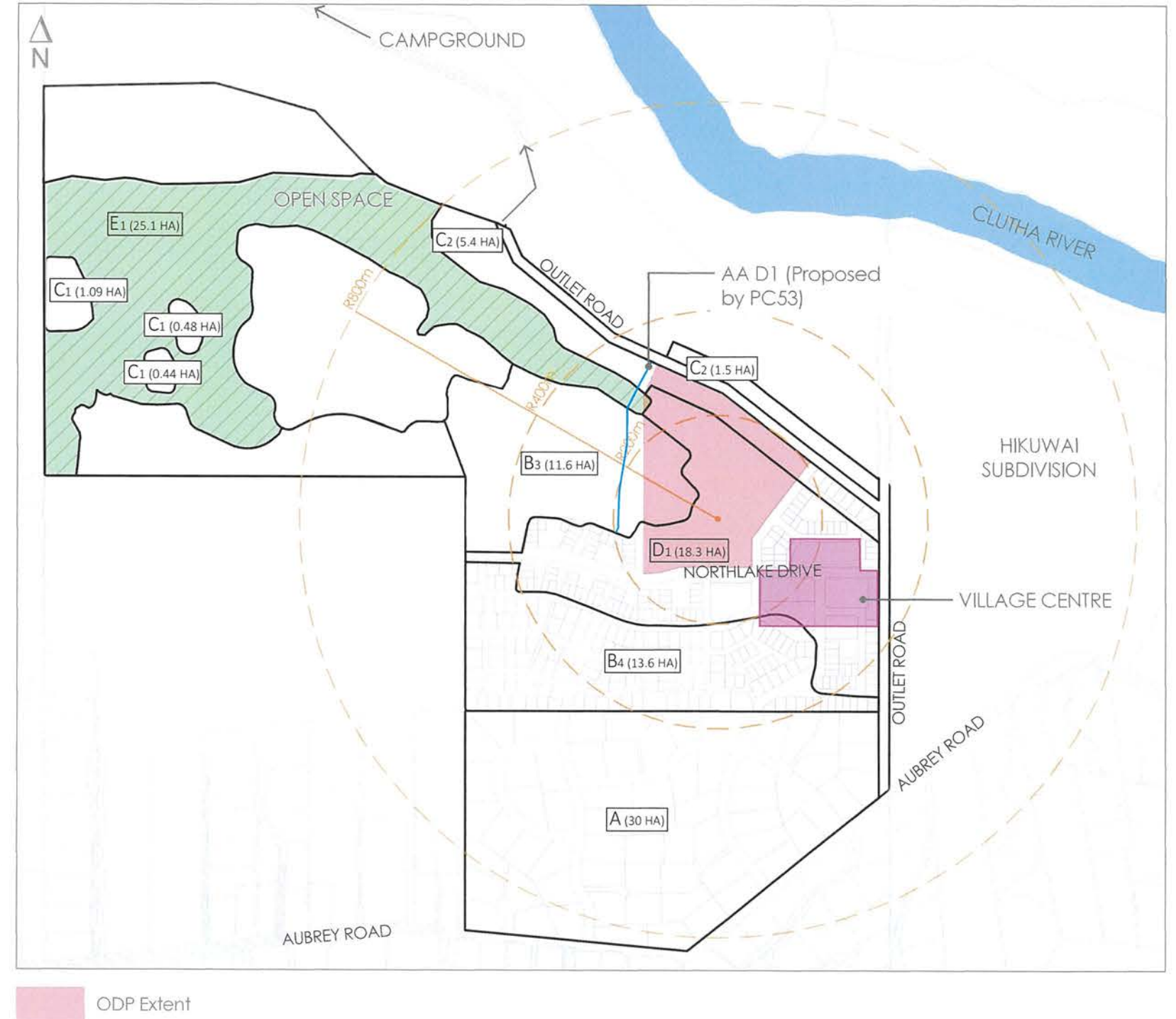


**QUEENSTOWN LAKES DISTRICT COUNCIL**

**APPROVED PLAN:  
RM181451**

**Monday, 15 April 2019**

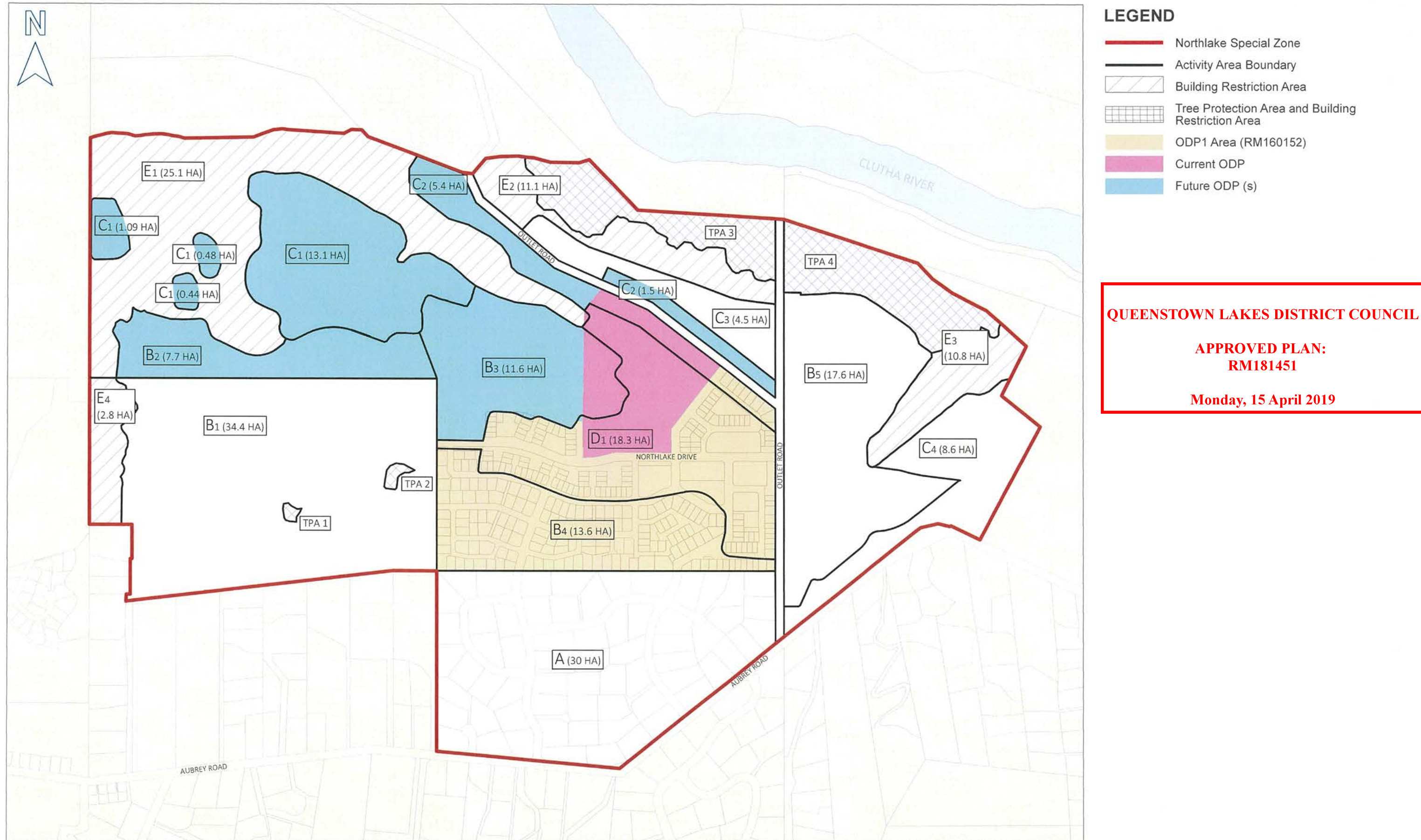
### NORTHLAKE FIRST STAGES - STRUCTURE PLAN





# NORTHLAKE

## D1 ACTIVITY AREA STAGING PLAN





# NORTHLAKE

## D1 ACTIVITY AREA MASTERPLAN





# NORTHLAKE

## D1 ACTIVITY AREA ROAD HIERARCHY



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Monday, 15 April 2019



# NORTHLAKE

## D1 ACTIVITY AREA PEDESTRIAN & CYCLE CONNECTIONS



QUEENSTOWN LAKES DISTRICT COUNCIL

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RM181451

Monday, 15 April 2019



# NORTHLAKE

## D1 ACTIVITY AREA OPEN SPACE

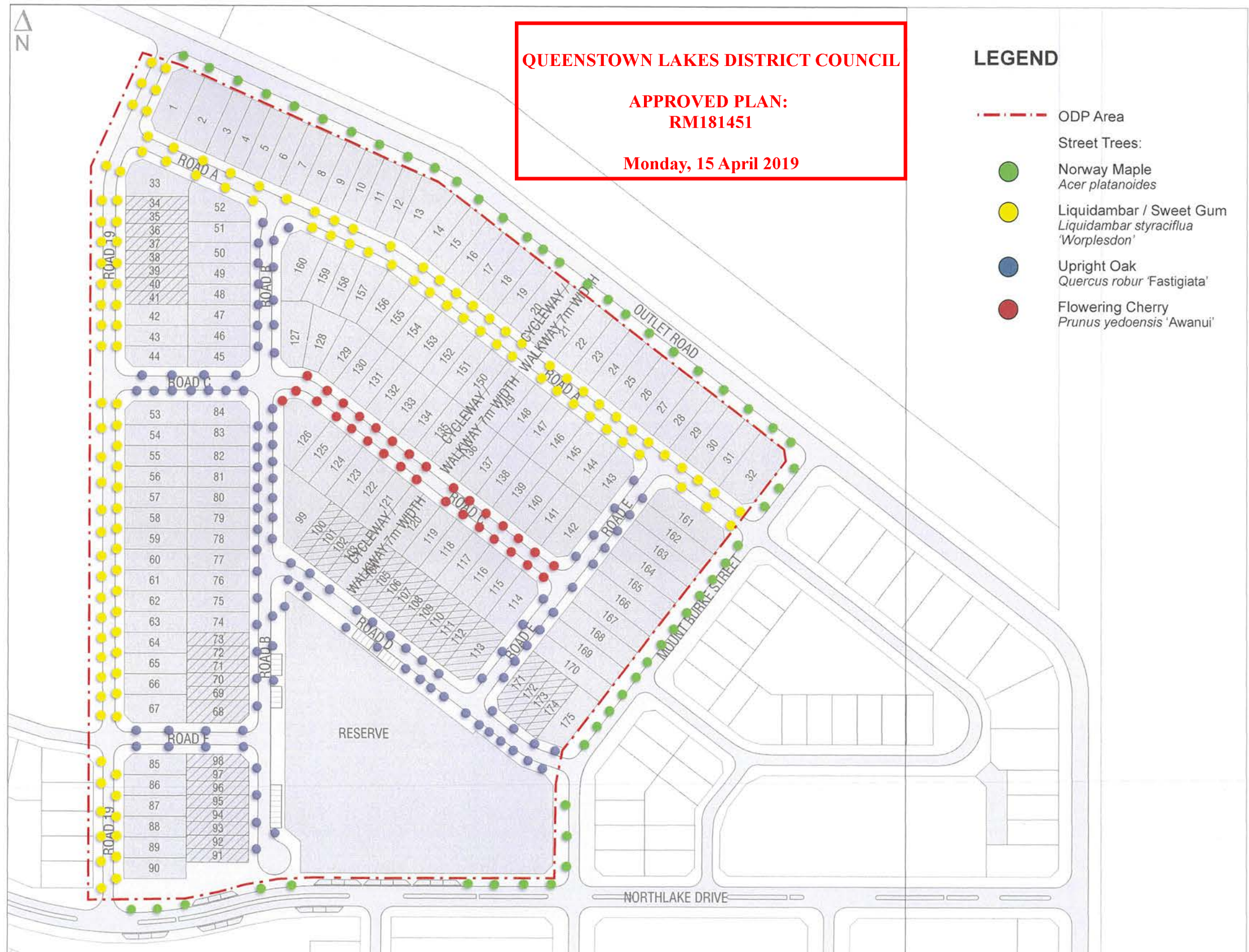


Scale 1:2000 @ A3



# NORTHLAKE

## D1 ACTIVITY AREA INDICATIVE STREET TREE PLANTING



Scale 1:2000 @ A3



Norway Maple  
*Acer platanoides*



Liquidambar / Sweet Gum  
*Liquidambar styraciflua* 'Worplesdon'



Upright Oak  
*Quercus robur* 'Fastigiata'



Flowering Cherry  
*Prunus yedoensis* 'Awanui'  
Grafted / 1.8m graft



# NORTHLAKE

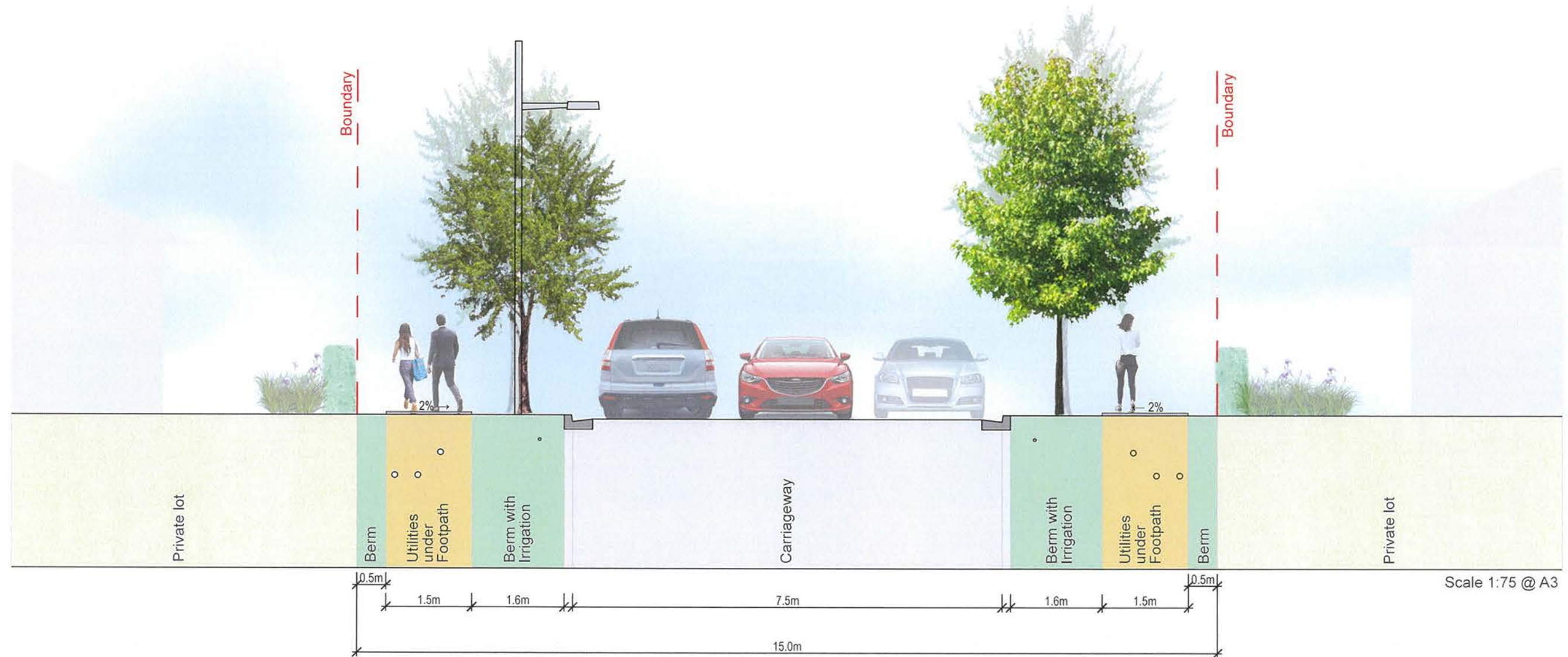
## INDICATIVE ROAD SECTIONS TYPE A

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM181451

Monday, 15 April 2019

15.0m ROAD RESERVE



- Continuous three vehicle width which allows for intermittent parking on one side or the other, which will further enhance the slow-speed traffic calmed environment.



# NORTHLAKE

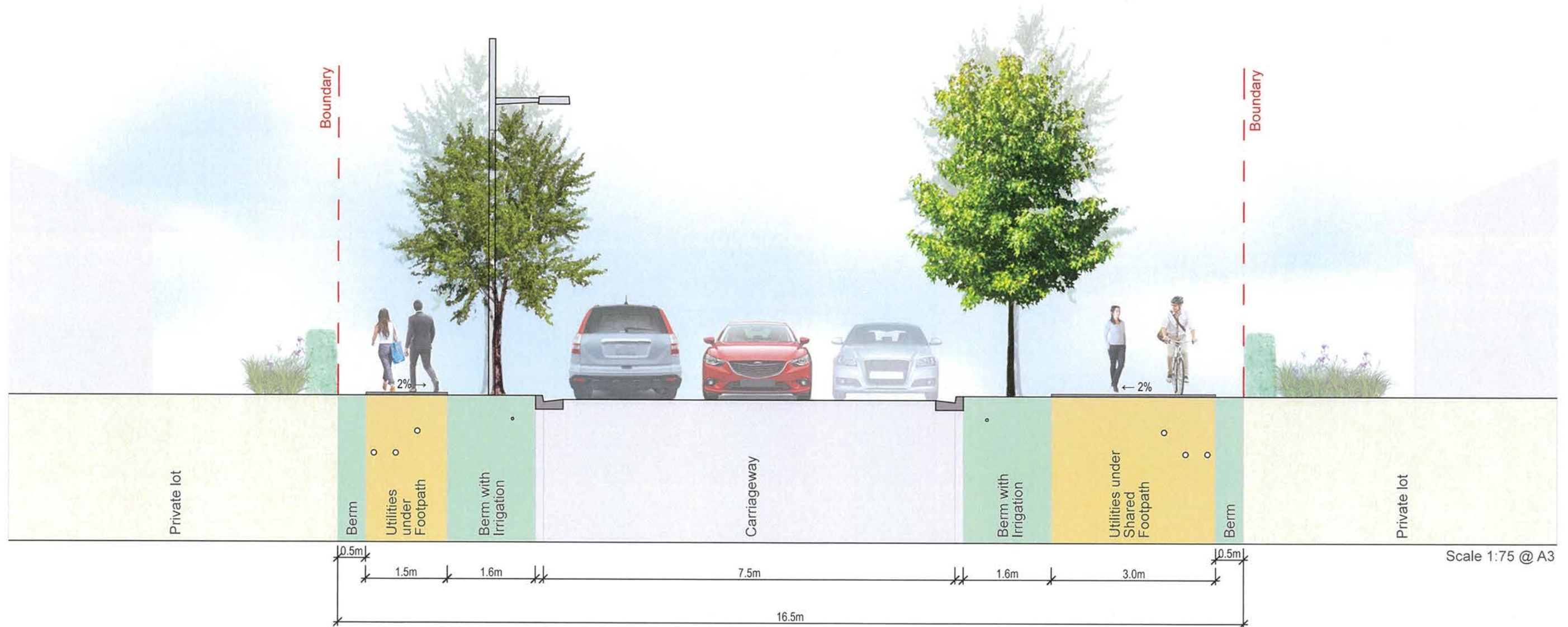
## INDICATIVE ROAD SECTIONS TYPE B

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM181451

Monday, 15 April 2019

16.5m ROAD RESERVE & SHARED PATH



- Continuous three vehicle width which allows for intermittent parking on one side or the other, which will further enhance the slow-speed traffic calmed environment.

# NORTHLAKE

## INDICATIVE RESERVE CYCLEWAY / WALKWAY SECTION

QUEENSTOWN LAKES DISTRICT COUNCIL

APPROVED PLAN:  
RM181451

Monday, 15 April 2019

7.0m RESERVE WIDTH

